JAN 2 1 2022

A BILL FOR AN ACT

RELATING TO FAIR COMPETITION.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:

1	SECTION 1. The purpose of this Act is to:		
2	(1)	Protect and preserve competition within mobile app	
3		stores for the benefit of consumers and developers;	
4	(2)	Prevent dominant app stores from distorting	
5		competition and exploiting developers and consumers;	
6		and	
7	(3)	Promote healthy competition across the entire mobile	
8		app ecosystem.	
9	SECT	ION 2. The Hawaii Revised Statutes is amended by	
10	adding a new chapter to be appropriately designated and to read		
11	as follows:		
12		"CHAPTER	
13	RELATING TO COMPETITION WITHIN MOBILE APP STORES		
14	§	-1 Short title. This chapter may be cited as the	
15	Mobile App Store Competition Act.		
16	§	-2 Definitions. As used in this chapter:	



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"App store" means a digital distribution platform for
 applications and services provided to users on general-purpose
 hardware including mobile phones or smartphones, tablets,
 personal computers, or other general-purpose devices connected
 to the Internet, and any person affiliated or acting in concert
 with the platform.

7 "Developer" means any creator of software applications made8 available for download by users through an app store.

9 "In-app payment system" means an application, service, or
10 user interface to process the payments from users to developers
11 for software applications and digital and physical products
12 distributed through software applications.

13 "Special-purpose app store" means a digital distribution 14 platform for single or specialized categories of applications, 15 software, and services provided to users of special purpose 16 hardware such as gaming consoles, music players, or other 17 special-purpose devices connected to the Internet.

18 § -3 Obligations for ensuring interoperability. (a) An
19 app store that receives cumulative gross receipts from sales on
20 the app store to customers in the State in excess of \$10,000,000
21 in the previous or current calendar year shall:



Allow developers and providers of ancillary services
 fair, reasonable, and non-discriminatory access to,
 and interoperability with, the same operating system;
 technical and other information; and hardware and
 software features that are available or used in the
 provision of any ancillary services by the app store
 owner; and

8 (2) Allow and provide the means for end users to choose
9 third party apps as defaults and to hide or delete
10 apps provided by the app store.

11 (b) Any agreement containing terms that violate this12 section shall be unenforceable.

13 § -4 Prohibited acts. (a) An app store that receives
14 cumulative gross receipts from sales on the app store to
15 customers in the State in excess of \$10,000,000 in the previous
16 or current calendar year shall not:

17 (1) Require developers to use a specific app store as the
18 exclusive mode of distribution for an app used on any
19 platform, device, or operating system owned or sold by
20 the owner of the app store;

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1	(2)	Require developers to use an in-app payment system as
2		the exclusive mode of accepting payments by users for
3		download of a software application, including
4		unlocking features, in-app currency, premium content,
5		or additional functionality;
6	(3)	Retaliate or take any punitive action against any
7		developer for choosing to use alternative app stores
8		or in-app payment systems;
9	(4)	Impose restrictions, conditions, or prohibitions on
10		developers from communicating through the app store
11		with users or customers of the app store, including
12		legitimate business offers or communications;
13	(5)	Use a developer's data, or information derived from
14		the developer or the developer's application, to
15		compete with the developer;
16	(6)	Engage in self-preferencing the app store's
17		applications or services; or
18	(7)	Exclude any developer from the app store for reasons
19		other than failing to meet fair, objective, and
20		nondiscriminatory standards for privacy, security,
21		quality, content, and digital safety.



The prohibitions in paragraphs (1) through (3) shall not apply
 to special-purpose app stores.

3 (b) Any agreement containing terms that violate this4 section shall be unenforceable.

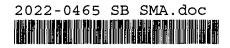
5 § -5 Enforcement. (a) The attorney general shall
6 receive complaints and investigate violations of this chapter.

7 (b) The attorney general may bring an action in any court 8 of competent jurisdiction to obtain legal or equitable relief, 9 including injunctive relief to prevent any offending conduct, on 10 behalf of an individual or group of individuals aggrieved by the 11 violations.

12 (c) In an action described in this section, the court 13 shall impose a civil fine on any violators of this chapter in an 14 amount of at least \$ for each day that the violation 15 continues. The fine shall be paid to the person aggrieved by 16 the violation."

SECTION 3. This Act does not affect rights and duties that matured, penalties that were incurred, and proceedings that were begun before its effective date.

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1 SECTION 4. This Act shall take effect upon its approval.

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INTRODUCED BY: 34-56



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Report Title: Fair Competition; Mobile App Stores

Description: Protects competition for the benefit of consumers and developers by preventing certain app stores from distorting competition.

The summary description of legislation appearing on this page is for informational purposes only and is not legislation or evidence of legislative intent.

