**Australian Competition
& Consumer Commission
Submission On The Developer Community's Thoughts On Market Dynamics And
Consumer Choice Screens In Search Services And Web Browsers**

April 15, 2021

The Developer Community's Thoughts On Market Dynamics And Consumer Choice Screens In Search Services And Web Browsers

The Developers Alliance welcomes the opportunity to submit comments to the Australian Competition & Consumer Commission concerning app developers' experience with the market dynamics around search apps on behalf of our membership of more than 70,000 software developers, app publishers, and stakeholders in the mobile ecosystem,

The Developers Alliance appreciates the Commission's examination of potential competition and consumer issues related to the mobile ecosystem and urges the Commission to continue to recognize the vital role of software developers in ensuring the creation of effective policy in this area. We previously submitted comments in the Commission's inquiry into app marketplaces. In the wake of similar inquiries in other jurisdictions, we'd like to again highlight our appreciation of the balance and neutrality of the questions presented.

Background

The Developers Alliance (the "Alliance"), founded in January 2012, is an industry association operating in Australia, the United States, the United Kingdom, and the European Union that supports software developers as entrepreneurs, innovators, and creators. The Alliance supports developers and the app ecosystem by (i) promoting innovation and growth through collaboration, networking and education; (ii) delivering resources and support that enable developers to advance in their areas of expertise; and (iii) advocating for policies that promote developers' interests, including in the areas of data privacy and security, intellectual property, competition, and innovation.

The ACCC's inquiry highlights the European Commission's Android decision of July 2018. The Alliance is an active Intervenor in the appeal of the Commission's decision. Our intervention is based in large measure on our opposition to certain conclusions the EC made about the developer marketplace that run directly counter to evidence that was then before the Commission. Our comments below are informed by our deep analysis and understanding of the EC's opinion in this area.

Of significance, in a study we published in August of 2016, we found the "pre-loading" of apps (which includes apps set as defaults) accounted for only 9% of app distribution, compared with 77% that were downloaded from Google and/or Apple app stores, and 14% side-loaded (i.e. downloaded from the internet).[1]

---

[1] Developers Alliance, The Competition in the Mobile App Ecosystem Report (report based on a survey of 673 developers), September 2016.

In addition, a consumer survey of 2,000 Android users conducted by the Alliance in 2018 showed that 29% of Android users at the time had more than 26 additional apps (in addition to preinstalled apps) downloaded onto their mobile devices, including apps that compete with preinstalled apps. That survey also reported the wide variety of apps that users download and store on their home screen.[2,3]

While our research is dated, we have no doubt that its underlying findings remain unchanged: preinstallation places no limits on the apps that users eventually download and use. In fact, across 15 categories/functions of apps we studied in 2016, the majority of users of almost every leading Android app also used another competing app in the same category.

Consumers And General Search

Missing from the ACCC's inquiry is the question "what do consumers get from the preinstallation of apps and services?" Our research into user behaviour and our testimony before the EC highlighted that consumers overwhelmingly expect new smartphones to provide a base level of functionality when they are first activated. While virtually all consumers quickly customize their devices by adding and deleting apps, they expect foundational capabilities (email, browser, search, maps, media players, etc.) to be available even before they access the app stores for the first time. Thus the question becomes not whether these default services should be available - consumer expectation is that they must - but rather which company's applications should be available at first activation. The fact is that the lack of pre-installed apps and services can function as barriers to consumer satisfaction and device uptake.

Consumers expect a new device to come with web browsing and search preinstalled alongside a number of other basic capabilities. While we voice no opinion and have no quantitative analysis that can put a value on this, we do know that consumers quickly customize their devices, often downloading two or three competing apps for important functions. This ability to customize and to bring forward a user's preferred applications from an old device to a new one means that for many default apps any advantage is transient at best. Today's smartphones are often designed to import default apps and preferences from a user's old device before the first use, essentially negating the value of whatever defaults would have been presented to a novice user upon first activation.

To the extent that default apps have some advantage, developers are generally comfortable with the arrangement that provides the OS/device supplier with default positioning as a mechanism that subsidizes the ecosystem in some small measure. Developers are also generally comfortable that the ease of adding and removing apps is such that a "better" app can easily displace a poorer one provided with the device.

The Market For Search

The Commission acknowledges the fundamental role a browser and search capabilities are to consumer devices and the modern internet and uses words like "popular" to characterize market share differences. This is appropriate since the competition for browser market share often boils down to consumer preference. Like most applications, user preference and market success is a combination of both the functional capabilities of an app and the user interface/ease of use that allows it to translate consumer actions into desired outcomes. All browsers can display web pages, but each has an interface of its own and interacts with the user differently. All search engines provide search results, but both the results and the presentation can differ across apps. In some ways then, the ability to present an internet URL is a commodity service, while search is more differentiated.

But the evolution of search services has progressed far beyond the browser, and in many ways this inquiry is backward-looking. Many homes, vehicles and devices already use

[2] Developers Alliance, Report on Android Device Customization (US consumer study of 3000 Android users), November 2016.

[3] Developers Alliance, Report Refresh on Android Device Customizaton and Consumers' Choices (European consumer study of 2,000 Android users based in France, Germany, Italy, and Spain), July 2018.

voice interfaces to search for content or information. In turn, many of these services are tailored to the user's personal preferences, such that general-purpose search is no longer the cutting edge of application development. Computer operating systems have long had search capabilities for local files, and increasingly web results are included in localized queries. An assessment of text-based internet search is likely to become quickly irrelevant as these technologies become widely embedded.

The developer community relies on the stability of commercial browsers, most based on open-source software when implementing services that are delivered through the browser rather than independent apps. This now includes cloud services spanning the complete range of productivity and entertainment apps as well as media and gaming. As wireless and broadband networks continue to develop, the dividing line between local apps and remote web-based apps with local interfaces will continue to become less relevant for many purposes. In this regard, consumers will increasingly view the browser as simply a one-time step on the way to getting to the service they do in fact desire.

Ecosystems

Device ecosystems, like browsers, are less and less coupled to defined hardware categories. The media system in a modern car is as likely to be based on Android or run iOS applications as it is to run the manufacturer's OS. A home audio system may respond to voice queries using Amazon's Alexa. We would thus recommend framing the commission's conclusions in broader terms, where ecosystems are defined as the many hardware and software platforms on which consumers and applications interact. Presenting conclusions based on legacy categories like phones and computers is unlikely to provide policymakers with the intelligence they need to regulate wisely.

Under this reframing, a generalized search can be differentiated from a specialized search which tends to be more tightly coupled to the context surrounding user interaction. A smart refrigerator voice query for "how many apples do I have" might thus provide a different answer from the one Siri provides to your purchase history online. Search becomes more of a functional element inside the ecosystem versus a generalized service competing for consumers. This means that specialized search is increasingly important inside an ecosystem, while generalized search becomes a smaller part of overall search service usage over time. As an example, searches for books or movies tend to take place inside services where books or movies are available.

With ecosystems redefined as consumer/platform/service interaction points, the ability to embed search inside the ecosystem is very important. More important still is the ability for specialized ecosystems to interoperate - leading to smart home platforms, in-vehicle systems, medical and fitness systems, and the like. Our conclusion from this is that, over time, the importance of legacy capabilities like browsers will likely wain. Regulatory actions taken to manage these legacy systems are thus better to be based on principles of fair competition versus hard rules and prohibitions.

Conclusion

The modern application ecosystem is highly dynamic, competitive, and has been a global success story. One need only look at consumer uptake and the impact on our lives to see the tremendous value these products and services drive. That does not mean, however, that the shift from a goods economy to a digital economy has been smooth, or that we fully understand the implications of these new services on market competition.

Academics remain divided on whether new rules and models are required to understand the market dynamics being observed. Digital markets are often very low friction, multi-sided, and exhibit strong network efficiencies. The ability of one or two competitors to fully satisfy a global market segment is still being hotly debated, and opinions vary as to whether what we see is a competition law failure or a leap in efficiency and value.

Developers in Australia and elsewhere are active and willing participants in the digital economy. Most accept what scholars continue to debate; that the path to business success starts with a race to become the #1 or #2 app in a category. All would agree that once a winner is declared, the best way to compete is to target an adjacent niche or move on. Without patent protection, and with millions of smart developers out there, the ability to win demands speed and strong execution, and developers are largely comfortable with that.

In a 2021 research study of developers in the US, EU and Australia, we asked developers what would prevent them from starting a new software company around their cool new app. While finding financing was the number one response, almost 40% said that current regulation and a fear of future regulation would stop them from even starting. While current regulation is a known cost of business and one that startups can balance against their other costs, future regulation is a government-imposed risk premium that is forever unknowable.

By promoting dialogue and seeking to ground regulation in evidence-based research, the Commission is a critical participant in Australia's growth and potential for prosperity. We thank you for the opportunity to provide perspective and welcome the opportunity to participate in this important endeavour.