

Appendix H: in-app purchase rules applied by Apple and Google to app developers distributing apps through Apple's and Google's app stores

Introduction

1. As noted in Chapter 6 of our interim report, both Apple and Google require that certain in-app payments must be processed through their respective in-app payment systems. This appendix sets out their respective rules in greater detail.

Apple's in-app purchase rules

Apple's rules relating to in-app purchase of digital content

2. App developers with apps on the App Store must adhere to the terms and conditions set out in Apple's Developer Program License Agreement ('DPLA')¹ and Apple's App Store Review Guidelines (the 'Guidelines').² Apple retains the unilateral power to decide whether an app may be distributed via the App Store and whether any amendments to an app are acceptable on the basis of its interpretation of the Guidelines.
3. The following paragraphs describe the key rules set by Apple which govern the way in which in-app payments can be offered within apps.
4. Both the DPLA and Guidelines distinguish between apps which allow goods and services to be consumed outside of an app (for example, Amazon selling physical goods, Deliveroo providing food delivery, or Uber providing taxis) and those apps, defined in the Guidelines, as allowing users 'to unlock features or functionality within your app, (by way of example: subscriptions, in-game currencies, game levels, access to premium content, or unlocking a full version)' (referred to, for these purposes, as 'digital content').

Commercial terms applicable

5. The DPLA is a limited license allowing app developers to use Apple software to develop one or more native apps to be made available on Apple-branded products. Apps meeting Apple's documentation and program requirements (as set out under the DPLA) may then be submitted to Apple to be reviewed

¹ Publicly available on Apple's website [here](#) and [here](#). Last accessed on 9 December 2021.

² Publicly available on Apple's website [App Store Review Guidelines - Apple Developer](#) (October 22, 2021 Update). Last accessed on 9 December 2021.

and for beta-testing. The DPLA also contains details regarding use of each of Apple's Application Programming Interfaces (APIs) and the functionality of apps within the App Store.³ The DPLA specifies that all use of 'In-App Purchase APIs' by app developers must be in accordance with the terms of the DPLA.⁴

6. Attachment 2 to the DPLA contains 'Additional Terms for Use of the In-App Purchase API' and sets out rules which apply to apps containing digital content or functionality. For example:⁵

- Use of the In-App Purchase API: In-app purchase may only be used to enable end-users to access or receive content, functionality, or services made available for use within an app (eg digital books, additional game levels, access to a turn-by-turn map service). It may not be used to offer goods or services to be used outside of the app. App developers must submit to Apple for review and approval all content, functionality, or services that app developers plan to provide through the use of the In-App Purchase API.
- Additional restrictions on use include:
 - App developers are prohibited from using Apple's in-app purchase system to enable an end-user to set up a pre-paid account to be used for subsequent purchases of content, functionality, or services, or otherwise create balances or credits that end-users can redeem or use to make purchases at a later time.
 - App developers are prohibited from issuing any refunds to end-users of apps, and app developers agree that Apple may issue refunds to end-users in accordance with the terms of Schedule 2.

7. The DPLA requires app developers to enter into an additional agreement, 'Schedule 2', with Apple if making available apps that charge iOS users a fee of any kind for the app or within the app through the use of the In-App Purchase API.⁶ Under the terms of Schedule 2, app developers must appoint

³ Section 3.3.3 provides: 'Without Apple's prior written approval or as permitted under Section 3.3.25 (In-App Purchase API), an Application may not provide, unlock or enable additional features or functionality through distribution mechanisms other than the App Store, Custom App Distribution or TestFlight.' Publicly available on [Apple's website](#). Last accessed on 9 December 2021

⁴ As set out in section 3.3.25 and further terms contained in Attachment 2 to the DPLA. Publicly available on [Apple's website](#). Last accessed on 9 December 2021

⁵ Publicly available on Apple's website [here](#) and [here](#). Last accessed on 9 December 2021.

⁶ Section 7.2 of the DPLA provides: 'If Your Application qualifies as a Licensed Application and You intend to charge end-users a fee of any kind for Your Licensed Application or within Your Licensed Application through the use of the In-App Purchase API, You must enter into a separate agreement (Schedule 2) with Apple and/or an Apple Subsidiary before any such commercial distribution of Your Licensed Application may take place via the

Apple Distribution International Limited as their commissionaire for the distribution of apps and pay a commission fee to Apple on each app sale, annual subscription and in-app purchase involving digital paid content collected via Apple's in-app purchase system ('Apple IAP'). We understand that being commissionaire means that Apple is the merchant of record for the relevant transaction (as further explained below).⁷

8. In addition to the contractual terms contained in the DPLA and Schedule 2, app developers must also adhere to the rules set out in the Guidelines. In particular, Apple mandates that app developers making available digital content are obliged to use only Apple IAP for all transactions within the app.
 - Section 3.1.1 and 3.1.3 of the Guidelines contain specific rules regarding apps as follows:
 - Apps offering digital content must exclusively use Apple IAP for app-related payments.
 - Payments made using Apple IAP are subject to a 30% commission – unless a particular exemption or reduced rate of 15% applies. Over time, Apple has introduced and extended the application of its exemptions and the apps which benefit from the reduced rate.
 - Apple also restricts app developers offering digital apps from informing iOS customers within an app about payment options for paid digital content outside of an app. Again, these restrictions have changed over time, with a number of recent amendments and some still to be implemented.
9. Apple has explained that it 'monitors compliance with Section 3.1.1 and 3.1.3 through the app review process'.⁸ The terms of the DPLA list the scenarios which require an app developer to request that Apple reviews the app, each of which provides an opportunity for Apple to assess whether the app continues to comply with Apple's contractual terms contained within the DPLA and the Guidelines.⁹

App Store or before any such commercial delivery of additional content, functionality or services for which You charge end-users a fee may be authorized through the use of the In-App Purchase API in Your Licensed Application.' Publicly available on Apple's website [here](#) and [here](#). Last accessed on 9 December 2021.

⁷ Publicly available on Apple's website [here](#) and [here](#). Last accessed on 9 December 2021.

⁸ Chapter 6 of our interim report provides a detailed explanation of Apple's app review process.

⁹ Section 6.1 of the DPLA stipulates that any changes made by an app developer to an app, 'including to any functionality made available through use of the In-App Purchase API' after the initial submission to Apple require the app developer to re-submit the app for review. Similarly, all bug fixes, updates, upgrades, modifications, enhancements, supplements to, revisions, new releases and new versions of an app must be submitted to Apple for review in order for them to be considered for distribution via the App Store. Publicly available on Apple's website [here](#) and [here](#). Last accessed on 9 December 2021.

10. Further practical information relevant for app developers using Apple's IAP is made available via the Apple Store Connect tool. For example, the Apple Store Connect tool contains information on the price tiers available for app developers to charge for in-app purchases (subject to change by Apple from time to time). App developers can also access data concerning their app's financial performance and user engagement using App Analytics, Sales and Trends, and Payments and Financial Reports.¹⁰

Payment processing under Apple IAP

11. Apple acts as the merchant of record¹¹ for Apple IAP transactions: this effectively means that Apple is the direct seller in the transaction and has the contractual relationship with the user buying content. Apple issues a digital receipt to the app developer, after which point the app developer unlocks purchasable functionality. As Apple is the seller, it is liable for refunds and customer support and also has valuable billings data in relation to the user's purchase.
12. Apple has indicated that the billings data is processed by a dedicated team within Apple which forms part of the App Store, and is not shared with any other business units within Apple. App developers have indicated that limited information is passed on to them beyond a receipt from Apple stating that a transaction has taken place and, subsequently, the remitted proportion of funds due to them. Some app developers told the CMA that data in relation to the customer (for example, the iOS user's full name, email address and credit card details) is retained by Apple and is not passed on to the app developer. Apple has submitted that transaction-specific data includes the date of the transaction, the price paid, and the content sold, etc.
13. Conversely, apps which allow Apple users to purchase physical goods and services (which Apple determines are consumed by users outside of the app) cannot use Apple IAP and must use other payment methods. Guideline 3.1.3(e) provides: 'If your app enables people to purchase physical goods or services that will be consumed outside of the app, you must use purchase methods other than in-app purchase to collect those payments, such as Apple Pay or traditional credit card entry.' Furthermore, Guideline 3.1.3(d) specifies that apps that enable the purchase of real-time person-to-person services

¹⁰ Exhibit F of Schedule 2 provides that app developers 'can obtain all of Your Licensed Application's financial results for individual app sales and in-app purchases (including subscriptions) in Sales and Trends, or download the data from Financial Reports; and You can view App Analytics for non-personally identifiable data that allows You to understand how consumers engage with your Licensed Applications. More information can be found at <https://developer.apple.com/app-store/measuring-app-performance/>. Publicly available on Apple's website [here](#) and [here](#) Last accessed on 9 December 2021.

¹¹ For these purposes 'merchant of record' means the business accepting a payment and the party selling goods or services to a cardholder and to whom the cardholder owes payment for such goods and services.

between two individuals (for example tutoring students, medical consultations, real estate tours, or fitness training) may use purchase methods other than Apple IAP.

14. Therefore, where goods and services are consumed by users outside of an app, the app developer has a choice as to how it collects money from the user and, as a result, the user may also choose between available purchase options. For example, the user may enter their card details with the app developer directly, while an acquirer such as Worldpay or Chase is used to process the payment (in a similar way to Apple); or the developer may use vertically integrated payment service providers (PSPs) such as Adyen or Stripe who process the payment as well as offering a payment gateway at the point of purchase. In effect, Apple places itself between the iOS app developer and the iOS user: taking on responsibility for all billing and related communications.

The Apple IAP requirement does not apply to certain types of digital content apps

15. Some types of app developers choose to develop or modify apps not to offer paid features, content or subscriptions in-app, thereby avoiding Apple IAP and the associated commission.¹² App developers may instead take payments on a related website, and users are then able to access features, content or subscription options when they log in to the relevant app on iOS.
16. Currently, Apple permits the following types of apps to provide consumers with access to digital content without using Apple IAP and paying the associated commission, in the following limited circumstances:
 - **Reader apps:** under Guideline 3.1.3(a), Reader apps are those which ‘allow a user to access previously purchased content or content subscriptions (specifically: magazines, newspapers, books, audio, music, and video). Reader apps may offer account creation for free tiers, and account management functionality for existing customers.’ (the ‘Reader Rule’). In effect, Apple permits Reader apps to avoid Apple IAP if offering content which has been previously purchased outside of the App Store iOS app.
 - **Multiplatform apps:** Under Guideline 3.1.3(b), Multiplatform Service apps – those ‘that operate across multiple platforms’ – are permitted to allow users to access content, subscriptions, or features they have acquired in an app on other platforms or an app developer’s website, including

¹² For example, Spotify modified its business model in 2016, effectively disabling Apple IAP so that it could fall within the Reader Rule exemption explained below.

consumable items in multi-platform games, provided those items are also available as Apple IAP purchases within the App Store iOS app.

- **Enterprise Service apps:** Guideline 3.1.3(c) defines Enterprise Service apps as those ‘only sold directly by [the app developer] to organizations or groups for their employees or students (for example professional databases and classroom management tools)’. In this case app developers are permitted to allow enterprise users to access previously purchased content or subscriptions. However, consumer, single-user, or family sales must use Apple IAP.
 - **Person-to-Person Services apps:** Under Guideline 3.1.3(d), a Person-to-Person Services app as one which ‘enables the purchase of real-time person-to-person services between two individuals (for example tutoring students, medical consultations, real estate tours, or fitness training), you may use purchase methods other than in-app purchase to collect those payments’. However, ‘one-to-few’ and ‘one-to-many real-time services’ must use Apple IAP, subject to a temporary deferral by Apple of this rule.¹³
 - **Free Stand-alone apps:** Such apps are defined under Guideline 3.1.3(f) as those apps ‘acting as a stand-alone companion to a paid web-based tool (eg VOIP, Cloud Storage, Email Services, Web Hosting)’ These apps ‘do not need to use Apple IAP, provided there is no purchasing inside the app, or calls to action for purchase outside of the app’.
17. Apple explained that it created the Reader Rule as it ‘facilitated access to content within the app that was purchased outside the app’. As described more fully below, for app developers benefitting from the Reader Rule, the application of Apple’s anti-steering rules means that publishers could no longer provide links in their apps (to a website, for example) which would allow a customer to purchase content or subscriptions outside of the app.
18. Apple has submitted that ‘the Reader Rule came about as a result of the evolution of the way users used Amazon’s Kindle Reader app as users were beginning to read books on their iOS devices. The rationale for the Reader Rule was therefore to allow the types of digital content that users might typically purchase access to or subscribe to outside of an app, or already

¹³ Note that in 2020, as a result of the COVID-19 pandemic, Apple temporarily deferred the requirement to offer paid online group events through Apple IAP only. In November 2020 Apple extended that deadline to June 2021, and in April 2021 Apple extended it again to 31 December 2021. Apple has explained that apps offering real-time person-to-person services between two individuals (for example, tutoring students, medical consultations, real estate tours, or fitness training) can continue using purchase methods other than in-app purchase. See [Online group event in-app purchase requirement reminder - News - Apple Developer](#).

have an existing subscription for, to be read in an iOS app even if that content was purchased elsewhere. This included books, magazines and newspapers.'

19. The Reader Rule was subsequently used by other content companies, such as Netflix and Hulu, to permit users to watch video content in the app based on a video subscription that had been purchased on a user's computer. In June 2011, the Guidelines were updated to reflect that Reader apps without an in-app subscription did not need to use Apple IAP but could still use the Reader Rule to play content purchased outside of the app.
20. The Reader Rule has also been modified to include different categories of content subscription and, in some cases, Apple has subsequently created separate categories of apps which are not required to use Apple IAP. The main changes include the following:
 - In 2012 cloud storage was added to the content categories eligible for the Reader Rule, although later this content type became covered under the Free Stand-alone Apps Rule.
 - In 2013 Apple 'clarifie[d] that Enterprise apps intended for use by company employees do not need to use IAP, and may support login for accounts created by the company'. In 2020 Apple created the Enterprise Services, Free Stand-alone Apps, and Person-to-Person Experiences exceptions to facilitate access to content, further limiting the scope of apps subject to a commission.
 - In 2016 access to professional databases, VoIP, and approved services such as educational apps that manage student grades and schedules were added to the content categories eligible to benefit from the Reader Rule, although later these content types were covered under the Free Stand-alone Apps rule.
 - In 2017 Apple modified the Reader Rule to allow users to access consumable items in multiplatform games. Apple explained that 'this change allows, for example, digital currency purchased within a game on another platform (eg Android, PC, Xbox etc.) to be available if the user accesses the same game on iOS.' In 2018, Apple created a new sub-category of exemption for Multiplatform Service apps, codifying this rule.
21. In terms of the rationale for both the Reader Rule and the Multiplatform Service apps exemption, Apple submitted that it 'has long recognised that developers may acquire customers outside the apps and their customers may access the developer's content on multiple devices; in these instances, Apple does not collect a commission. If, however, the customer is acquired through

the App Store (in the developer's iOS app), then Apple earns a commission on sales of digital content.'

Commission for the use of Apple's In-App Purchase system

22. The commission deducted by Apple from every payment for digital content collected by Apple using Apple IAP is 30% except in the limited circumstances where Apple has determined that a lower commission rate of 15% will apply, as explained below.
23. In terms of the rationale for Apple initially choosing the 30% commission rate, Apple has explained that when it launched the App Store in 2008, Apple chose 30% and submitted to us that this was 'set to be substantially less than the 50% or 70% industry revenue standard charged in traditional physical retail channels that dominated software distribution at that time.'
24. In 2009, Apple introduced in-app purchase and payment functionality that allowed developers to sell additional digital content and features from within an app, by releasing the In-App Purchasing API in iOS 3.0. Later in 2009 Apple also introduced a contractual obligation that app developers offering digital goods and services must use Apple IAP to complete such a process and thereby pay Apple a 30% commission fee in relation to all sales of digital content made via an app, including free apps.
25. On 15 February 2011, the 30% commission fee was extended to include subscriptions to access content-based apps such as magazines, newspapers, video and music. Apple issued a press release at the time, which quoted Steve Jobs, Apple's CEO, as saying: 'Our philosophy is simple – when Apple brings a new subscriber to the app, Apple earns a 30 per cent share; when the publisher brings an existing or new subscriber to the app, the publisher keeps 100 per cent and Apple earns nothing ... All we require is that, if a publisher is making a subscription offer outside of the app, the same (or better) offer be made inside the app, so that customers can easily subscribe with one-click right in the app. We believe that this innovative subscription service will provide publishers with a brand new opportunity to expand digital access to their content onto the iPad, iPod touch and iPhone, delighting both new and existing subscribers.'¹⁴
26. Apple applies a lower commission of 15% in the following limited circumstances and to qualify for this lower rate app developers must

¹⁴ Apple press release dated 15 February 2011: [Apple Launches Subscriptions on the App Store](#).

demonstrate in advance that they meet the relevant criteria before Apple approves that it will apply:

- **Subscriptions after the first year:** for auto-renewing subscription purchases made by customers who have accrued greater than one year of paid subscription service, Apple's commission rate is reduced to 15% for all prices payable for each subsequent renewal (as set out in Section 3.4 of Schedule 2 to the DPLA).¹⁵
- **Video Partner Program:** the program is available for apps featured in the Apple TV app and approved partners pay a 15% commission to Apple when users sign up using Apple IAP. Subscribers acquired via another platform, such as a developer's website, can use payment methods other than Apple IAP. As of autumn 2020, over 130 premium subscription video entertainment providers had been approved to participate in this program, including Amazon Prime Video and Disney+.¹⁶
- **Small Business Program:** app developers that earned no more than \$1 million in developers' earnings (ie the amount after the deduction of the commission fee) on all of their apps in total in each of the previous year and the current calendar year and app developers new to the App Store can qualify for the program and a reduced commission of 15%. If a participating developer surpasses the \$1 million threshold, the standard commission rate will apply to future sales. If a developer's proceeds fall below the \$1 million threshold in a future calendar year, they can re-qualify for the 15% commission the year after.¹⁷
- **News Partner Program:** app developers which are subscription news publications providing their content to Apple News in Apple News Format may qualify for the 15% commission rate on 'qualifying in-app purchase subscriptions.' To be eligible: (a) app developers must maintain a robust Apple news channel in Australia, Canada, the United States and the United Kingdom, and publish all content to that channel in Apple News Format; (b) the primary function of the app must be to deliver original, professionally-authored news content; (c) the app must be available on the App Store and allow users to purchase auto-renewable subscriptions

¹⁵ See [Auto-renewable Subscriptions - App Store - Apple Developer](#). This subscription renewal reduced rate has applied since 2016.

¹⁶ See [Apple Video Partner Program - Apple Developer](#). The Video Partner Program has been effective since 2016.

¹⁷ See [App Store Small Business Program - Apple Developer](#). The Small Business Program has been effective since 1 January 2021. In August 2021 pursuant to the settlement in *Cameron et al v. Apple Inc.*, Apple agreed to maintain the program in its current structure for at least the next three years.

through Apple IAP; and (d) the app developer must agree to a separate addendum to the DPLA.¹⁸

27. App developers cannot automatically benefit from the reduced 15% commission rate ‘programs’. App developers must apply to Apple in advance and demonstrate that they meet the relevant eligibility criteria. Apple subsequently determines whether they are permitted to join the program and will review the app developers’ compliance with the program.
28. In relation to the Small Business Program, Apple has submitted that it has ‘also structured eligibility requirements to minimize fraud. To be eligible developers must identify all associated developer accounts and compute their net revenue based on the sum of revenues from all associated accounts. This approach to eligibility prevents fraudulent accounting by ineligible developers.’ Apple’s press release on launching the Small Business Program indicated that the ‘vast majority’ of developers who sell digital content within their apps are eligible to apply for the program.¹⁹

Apple’s anti-steering rules

Current anti-steering rules, including recent amendments

29. The current wording contained in the Guidelines is:

‘3.1.1: [...] Apps and their metadata may not include buttons, external links, or other calls to action that direct customers to purchasing mechanisms other than in-app purchase’;

‘3.1.3: [...] Apps in this section [ie which are permitted not to use Apple IAP or – in the case of apps offering goods and services outside the app –are prohibited from using it] cannot, within the app, encourage users to use a purchasing method other than in-app purchase. Developers can send communications outside of the app to their user base about purchasing methods other than in-app purchase.’²⁰
30. These rules, referred to in this appendix and our interim report as ‘Apple’s anti-steering rules’ mean that it is not possible to encourage users – within the app – to pay through other ways, for example through a website, or to inform users whether alternative ways to pay would be cheaper. Apple has applied

¹⁸ See [News Partner Program - Apple Developer](#). The News Partner Program was launched on 26 August 2021.

¹⁹ See Apple press release: <https://www.apple.com/uk/newsroom/2020/11/apple-announces-app-store-small-business-program/>

²⁰ Guideline 3.1.3 includes a list of seven examples of ‘dos’ and ‘don’ts’. This list has grown over time and reflects new functionality available within apps.

the anti-steering rules since the introduction of Apple IAP in 2009 and they apply on a worldwide basis.

31. Apple submitted that: ‘The corollary to this ‘free-of-charge’ approach is that developers should not free-ride on Apple’s investments by deliberately encouraging customers to circumvent Apple IAP. Section 3.1.3. has long included language that prohibits developers from acquiring a customer via the App Store but then encouraging the customer to purchase digital content elsewhere. Section 3.1.3 is designed to ensure that developers do not encourage actual or potential users to (i) download an app through the App Store, (ii) and purchase the content elsewhere, before (iii) transferring this paid content onto the app distributed through the App Store. The sole purpose of such a scheme would be to free-ride on Apple’s investments by circumventing Apple IAP, which would be inappropriate.’
32. Apple’s anti-steering rules are particularly relevant to apps where off-app payment features, content or subscriptions are available: namely apps that are available on multiple platforms and Reader Rule apps. App developers can contact individual users (whether their contact details have been gathered from within or outside an app) to communicate to them that purchasing methods, other than Apple IAP, are available. However, Apple does not allow an app to include a link (button or other click-through method) within the app which would allow a user to make an out of app purchase.
33. Although the main principle that app developers must not promote or direct customers to other forms of payment (available outside of the app) from within an app has not changed, Apple has made a number of amendments to Apple’s anti-steering rules over time. In June 2021 Apple amended Guideline 3.1.3 stating that this ‘clarified the email communication policy for apps that are permitted to use purchase methods other than in-app purchase.’²¹ At that time Guidelines 3.1.3 was amended as follows (new text is indicated in bold and deleted text is indicated with strike through):

‘3.1.3 Other Purchase Methods: The following apps may use purchase methods other than in-app purchase. Apps in this section cannot, ~~either within the app or through communications sent to points of contact obtained from account registration within the app (like email or text),~~ encourage users to use a purchasing method **other than in-app purchase. Developers cannot use information obtained within the app to target individual users outside of the app to use purchasing methods other than in-app purchase (such as sending**

²¹ [App Store Review Guideline updates now available - News - Apple Developer](#)

**an individual user an email about other purchasing methods after that individual signs up for an account within the app).
Developers can send communications outside of the app to their user base about purchasing methods other than in-app purchase.'**

34. On 21 October 2021 Apple deleted the following text from Guidelines 3.1.3, which had been inserted into the same Guideline in June 2021: 'Developers cannot use information obtained within the app to target individual users outside of the app to use purchasing methods other than in-app purchase (such as sending an individual user an email about other purchasing methods after that individual signs up for an account within the app).'
35. This October 2021 amendment reflects modifications to Apple's anti-steering rules announced by Apple on 26 August 2021 in the context of a settlement in a US developer class action.²² Apple has stated that the deletion of the text clarifies that app developers may use communications, such as email, to share information about payment methods outside of their iOS apps. In essence the change means that, in addition to allowing app developers to email their user base about alternative purchasing methods outside of the app, app developers may now also target individual users to tell them about alternative purchase methods, for example immediately after they have signed up for an account within the app.
36. The amendment implemented as a result of the US class action settlement is primarily focussed on 'out of app' communications and does not change the ability for app developers to offer a link to a different purchase option from within an app.

The possibility of future amendments to Apple's in-app purchase rules

37. There are several active competition authority investigations in relation to Apple's App Store rules, including specifically the in-app purchase and anti-steering rules, as well as private litigation in the US and UK courts which concerns the application of Apple's policies and the Guidelines.

²² The terms of the settlement in the Cameron et al v. Apple Inc. litigation are referred to in the following Apple press release: [Apple, US developers agree to App Store updates - Apple \(UK\)](#) The settlement covered a range of issues in addition to the amendments to the anti-steering rules, some specific to US based app developers only, and included Apple agreeing to add content to the Apple's App Review website to help developers understand how the appeals process works.

Japan Fair Trade Commission – changes to communication for subscription management of Reader apps

38. Apple announced changes to the Guidelines on 1 September 2021 pursuant to a settlement offered by Apple to close an antitrust investigation by the Japan Fair Trade Commission.²³ The update will allow developers of Reader apps to include an in-app link to their website for users to open a new account or manage an existing account. Apple's press notice announcing the change to the anti-steering rule indicates that it will come into effect in 'early 2022' and will be given global effect. This means that any app that falls within the scope of the Reader Rule would be able to provide a link to the developer's website, from which they can sell a subscription to the individual user. As the sale takes place outside of the app, it will not trigger the use of Apple IAP or the payment of any commission to Apple.

Epic Games litigation injunction

39. In August 2020 Epic Games Inc. brought a claim alleging violations of federal and state antitrust laws against Apple Inc. in the US District Court of the Northern District of California challenging Apple's App Store rules and Apple's decision to block Epic's apps from the App Store after Epic had allowed users of its Fortnite game to use alternative payment methods to Apple IAP.
40. Following a trial in May 2021, judgment was issued on 10 September 2021 finding in favour of Apple on all counts except with respect to Apple's anti-steering rules, which the judge found to violate California's Unfair Competition Law.²⁴ The judge imposed a permanent injunction which prevents Apple from enforcing these provisions and found that the anti-steering provisions could be removed by Apple without any fundamental change to its ecosystem.²⁵

'Apple Inc. and its officers, agents, servants, employees, and any person in active concert or participation with them ("Apple"), are hereby permanently restrained and enjoined from prohibiting developers from (i) including in their apps and their metadata buttons, external links, or other calls to action that direct customers to purchasing mechanisms, in addition to In-App Purchasing and (ii) communicating with customers through points of contact obtained voluntarily from customers through account registration within the app.'

²³ [Japan Fair Trade Commission closes App Store investigation - Apple](#)

²⁴ [Epic Games Inc. v Apple Inc., Case No. 4:20-cv-05640-YGR Microsoft Word - Draft Final Order - Master Document9_9.docx \(courtlister.com\)](#)

²⁵ [Microsoft Word - 20-5640 - Epic Games - Permanent Injunction.docx \(courtlister.com\)](#) Injunction issued on 10 September 2021.

41. The precise scope of the injunction has been the subject of some debate. However, it appears on its face to require Apple to allow app developers to provide a link within an app to a website which offers an alternative payment method, but seemingly does not require Apple to allow alternative payment options within an app itself.
42. In October 2021 Apple filed a notice of appeal requesting a stay on the injunction pending an appeal of the September 2021 judgment. Apple had until 9 December 2021 to implement the injunction (ie to make changes to its anti-circumvention provisions) but on 8 December 2021 the US Ninth Circuit Court of Appeals granted Apple's request to stay the order pending the appeal of the September 2021 judgement.

Changes to payment processing following South Korean legislation

43. On 31 August 2021 the Korean National Assembly passed legislation prohibiting Apple (as well as Google and other app store operators) from requiring users to pay for apps using only their own in-app purchasing systems and therefore paying commission associated with the use of the in-app purchasing system. It also bans app stores from delaying approvals of apps or inappropriately removing them from their app stores, and from insisting on exclusivity with app developers. This legislation only applies to South Korea and will be enforced by the Korean Communications Commission (KCC). If the KCC finds that an operator is forcing an app to choose a specific payment method and to pay unreasonable fees it can open an investigation into the platform's practices.
44. It was reported in October 2021 that Apple has indicated to the KCC that it considers that its existing payments policy complies with the new law and that it would therefore not be changing its app store policy.²⁶

Google Play's billing system rules

Google's rules relating to purchases of digital content

45. The Play Store is Google's proprietary app store.²⁷ It is typically pre-installed on Android devices. As noted in Chapter 4, app developers who want to distribute apps on the Play Store must accept the Google Play Developer

²⁶ See Reuters report dated 15 October 2021, [S.Korea targets Apple over new app store regulation | Reuters](#).

²⁷ It was initially launched as Android Market in 2008. [Google recasts Android Market with new name | Reuters](#).

Distribution Agreement and comply with Google's Developer Program Policies.²⁸

46. Google Play's Payments policy, which is part of Google's Developer Program Policies,²⁹ sets out specific rules in relation to 'Play-distributed apps requiring or accepting payment for access to in-app features or services, including any app functionality, digital content or goods' (eg digital items such as virtual currencies; subscription services; app functionality or content, such as an ad-free version of an app; and cloud software and services):³⁰
- Those apps are required to use Google Play's billing system as the method of payment for those transactions (unless Sections 3 or 8 apply – both described below).³¹ This also applies to payments for developers charging for apps and app downloads on the Play Store.
 - They may not use Play,³² Play-distributed apps, or content within Play-distributed apps to steer consumers to make purchases from other sources instead of Play. The rules do not, however, prevent app developers from using other channels – outside of Play – to let users know how they can purchase the developer's apps or in-app content.³³ These rules are referred to below and in our interim report as 'Google's anti-steering rules'.³⁴
47. In addition to the rules set out above, apps and in-app products sold through the Play Store are subject to a 'service fee' – referred to throughout our interim report as a commission – of 30%, unless a reduced rate applies.³⁵ Over time, Google has introduced and extended the application of reduced rates.

²⁸ Google Play Developer Distribution Agreement publicly available on Google's website [Google Play](#) and Google Developer Program Policies available [Developer Policy Center \(google.com\)](#). Last accessed on 13 December 2021.

²⁹ See also [Monetisation and ads - Play Console Help \(google.com\)](#).

³⁰ Sections 1 and 2 of Google Play's Payments policy available at [Payments - Play Console Help \(google.com\)](#) last accessed on 9 December 2021.

³¹ Sections 1 and 2 of Google Play's Payments policy available at [Payments - Play Console Help \(google.com\)](#) last accessed on 9 December 2021.

³² For the purposes of this appendix, the term 'Google Play', as used in Google Play's Payments policy, can be read as synonymous with the term 'the Play Store' used elsewhere in this appendix and in our interim report.

³³ Section 3 of Google Play's Payments policy. This applies to apps other than those described in 2(b) of the Google Play payment policy. Google Play's Payments policy is available at [Payments - Play Console Help \(google.com\)](#) last accessed on 9 December 2021.

³⁴ Google submitted that it does not agree with the characterisation of clause 3 of the Google Play's Payments policy as an 'anti-circumvention restriction' and that it would be more accurately characterised as an 'anti-free riding' policy.

³⁵ Section 3.4 of the Google Play Developer Distribution Agreement. See also [Service fees - Play Console Help \(google.com\)](#).

48. Google monitors compliance with the Developer Program Policies through a review process.³⁶ When submitting an app for review, app developers have to specify to Google whether they offer in-app purchases.

Commercial terms applicable

49. Developers are required to use Google Play's billing system for the sale of apps (ie apps for which consumers have to pay) and in-app purchases (including subscriptions) of digital goods and services that can be used within the Google Play ecosystem. This means that developers are not required to use Google Play's billing system for:
- **Purchases of physical goods or digital goods or services** that can only be consumed outside of an app and cannot be accessed in an app (eg ringtones, content that can only be accessed on a website; and apps that manage cloud service platforms but do not provide access to that cloud storage in-app).³⁷
 - **Consumption only³⁸ (or reader) apps**, even if it is part of a paid service. Google explained that a user could login when the app opens and the user could access content paid for somewhere else.³⁹
50. Some apps are prohibited from using Google Play's billing system (eg where payment is primarily for the purchase or rental of physical goods or the purchase of physical services).
51. Google revised Google Play's Payments policy⁴⁰ in September 2020 to remove an exception to the requirement to use Google Play's billing system in relation to some purchases of digital content.
52. Google Play's Payments policy currently provides that:⁴¹
- '1. Developers charging for app downloads from Google Play must use Google Play's billing system as the method of payment for those transactions.
 2. Play-distributed apps requiring or accepting payment for access to in-app features or services, including any app functionality, digital content or

³⁶ Chapter 6 of our interim report provides an explanation of Google's app review process.

³⁷ [Understanding Google Play's payments policy - Play Console Help](#)

³⁸ Consumption-only apps refer to apps that do not enable users to purchase access to digital goods or services from within the app. See [Understanding Google Play's payments policy - Play Console Help](#).

³⁹ [Understanding Google Play's payments policy - Play Console Help](#)

⁴⁰ [Payments - Play Console Help \(google.com\)](#) last accessed on 9 December 2021.

⁴¹ [Payments - Play Console Help \(google.com\)](#) (sections 1 – 3) last accessed on 9 December 2021.

goods (collectively ‘in-app purchases’), must use Google Play’s billing system for those transactions unless Section 3 or Section 8 applies.

Examples of app features or services requiring use of Google Play’s billing system include, but are not limited to, in-app purchases of:

- Items (such as virtual currencies, extra lives, additional playtime, add-on items, characters and avatars);
- subscription services (such as fitness, game, dating, education, music, video, and other content subscription services);
- app functionality or content (such as an ad-free version of an app or new features not available in the free version); and
- cloud software and services (such as data storage services, business productivity software, and financial management software).

3. Google Play’s billing system must not be used in cases where:

a. payment is primarily:

- for the purchase or rental of physical goods (such as groceries, clothing, household goods, electronics);
- for the purchase of physical services (such as transport services, cleaning services, airfares, gym memberships, food delivery, tickets for live events); or
- [...]’

(emphasis in original)

53. Unlike Google Play’s billing system, Google Pay may be used for apps selling physical goods and/or services.⁴² Google described Google Pay as a standalone mobile wallet that enables users to make payments online, in certain apps, and in physical stores. Merchants may offer Google Pay as one of several payment methods in their checkout. The merchant would engage a third party to process payments. Google does not charge merchants a commission for using Google Pay.⁴³

Recent update regarding the requirement to use Google Play’s billing system

54. Google submitted that it has always required developers to use Google Play’s billing system in respect of sales of apps and in-app purchases.⁴⁴

⁴² See Google Play’s Payments policy and the [Google Pay developer page](#) last accessed on 9 December 2021.

⁴³ For more information, see the [Google Pay developer page](#).

⁴⁴ Google made this statement publicly as part of an announcement regarding the update of its Google Play Payments policy in September 2020. [Android Developers Blog: Listening to Developer Feedback to Improve Google Play \(googleblog.com\)](#).

55. Google submitted that the main change to the scope of the Google Play Payments policy relates to the removal in September 2020 of an exception for purchases of digital content that may be consumed outside of an app itself, (eg songs that can be played on other music players, such as mp3 players), referred to as the ‘Digital Content Exception’.
56. Google submitted that the rationale for the Digital Content Exception was to cover the situation where users purchased and downloaded music in the form of digital files to play outside the app itself. Google found that with changes in technology and markets developments, the Digital Content Exception became less relevant. In addition, Google stated that this exception created confusion among developers, as some understood the Digital Content Exception to mean that they did not need to comply with Google Play’s Payments policy when selling access to in-app content (eg webtoons, web novels, or music) on Google Play, even though their paid content was consumable within the Play-distributed app.
57. The announcement of the change to Google Play’s Payments policy was made in a blog on 28 September 2020: Google stated that it was updating its Payments policy ‘to be more explicit that all developers selling digital goods in their apps are required to use Google Play’s billing system.’⁴⁵ In the announcement, it explained that this followed feedback from app developers that its policy language could be more clear regarding which types of transactions require the use of Google Play’s billing system, and that the language used was creating confusion.
58. Google set out a timeline for compliance with the updated policy:
- All new apps submitted after 20 January 2021 would need to comply with the new Payments policy to be approved for distribution on the Play Store.
 - Existing apps that were using an alternative billing system would need to remove it to comply with Google’s update. Google allowed those app developers that already had an app on the Play Store, and would require ‘technical work to integrate’ Google Play’s billing system, a year to comply, giving a deadline of 30 September 2021.⁴⁶
 - In July 2021, Google announced that it was offering app developers who required longer than the 30 September 2021 deadline to comply with the changes to Google’s Payments policy, an option to request a 6-month

⁴⁵ Android Developers Blog: Listening to Developer Feedback to Improve Google Play (googleblog.com) and <https://support.google.com/googleplay/android-developer/answer/9876714>

⁴⁶ Understanding Google Play’s payments policy - Play Console Help. Last accessed on 9 December 2021. Android Developers Blog: Listening to Developer Feedback to Improve Google Play (googleblog.com)

extension to no later than 31 March 2022.⁴⁷ Google noted that requests for an extension would be evaluated on an app-by-app basis.⁴⁸

Payment processing under Google Play's billing system

59. Under the terms of the Google Play Developer Distribution Agreement, Google is the 'merchant of record'⁴⁹ for products sold or made available to users' in the UK.⁵⁰ Google Payment Limited handles third-party payments between consumers and app developers in the UK.
60. Developers distributing paid apps or using Google Play's billing features also agree to the Google Payments Seller Terms of Service.⁵¹ Google does not process payments through its own billing systems and instead uses a third-party processor and acquirer in the collection of all funds.
61. App developers can see orders, issue refunds and manage subscription cancellations for items that users have purchased, via the Play Console website and app.⁵² Google may also refund orders to users (eg if the user returns a paid app and/or requests a refund, or for unauthorised or accidental purchases). Under the Google Play Developer Distribution Agreement, developers are required to authorise Google to give users refunds in accordance with the Google Play refund policies.⁵³
62. Google submitted that when a user makes a purchase, Google collects information necessary to process the purchase and uses that information to provide necessary customer support. Google may additionally use certain data to provide users with a personalised experience on the Play Store or may use data, typically in aggregate form, to improve its services and maintain the quality of the Play Store. Google also provides some data to developers. For example, developers are provided transaction-level data for each transaction related to their app and the ability to provide refunds to users if needed, as well as a variety of metrics data including subscriptions performance and peer benchmarks.⁵⁴

⁴⁷ [Android Developers Blog: Allowing developers to apply for more time to comply with Play Payments Policy \(googleblog.com\)](#)

⁴⁸ [Understanding Google Play's payments policy - Play Console Help](#)

⁴⁹ [Merchant of Record - Play Console Help \(google.com\)](#)

⁵⁰ The Google Play Developer Distribution Agreement sets out a number of requirements in order for developers to charge a fee for their products and to be paid for products distributed via Google Play, see eg section 3.2.

⁵¹ For the UK, see [Google Payments Seller Terms of Service](#)

⁵² See [Manage your app's orders and issue refunds - Play Console Help \(google.com\)](#), last accessed on 9 December 2021.

⁵³ Google Play Developer Distribution Agreement, section 3.8.

⁵⁴ See also [Data Access - Play Console Help \(google.com\)](#).

Commission for the use of Google Play's billing system

63. Google charges developers a service fee (ie a commission), based on a percentage of the purchase price or digital purchases in their app.⁵⁵
64. Google's service fee (as of 1 July 2021) is described at the following standard rates:
- A 30% service fee applies for earnings in excess of \$1 million each year.⁵⁶ From 1 July 2021 Google lowered the service fee to 15% for the first \$1 million of earnings for all app developers enrolled in the 15% service fee tier.⁵⁷ For developers not enrolled in the 15% service fee tier by 1 July 2021, the service fee of 30% applies until enrolment has occurred.⁵⁸
 - From 1 January 2018, Google lowered its fee for subscriptions to 15% for subscribers who maintained a subscription service for more than 12 months. This will change from 1 January 2022 – Google has announced that from this date the service fee for all subscription products will be 15%.⁵⁹
65. Google also announced changes to its 'Play Media Experience Program'. Developers may be eligible for a reduced fee based on high content costs.⁶⁰ A service fee of 15% would apply for apps primarily offering video, audio, or books in which users pay to consume content, and which meet the requirements of the program.⁶¹ Ebooks and on-demand music streaming services would be eligible for a service fee of 10%.⁶²
66. Google submitted that the service fee charged regarding the use of the Play Store reflects a number of factors, which we have set out in further detail in Chapter 6 of our interim report.⁶³

⁵⁵ See [Understanding Google Play's service fee - Play Console Help](#).

⁵⁶ [Understanding Google Play's Service Fee - Play Console Help](#)

⁵⁷ [Changes to Google Play's service fee in 2021 - Play Console Help](#) and [Android Developers Blog: Boosting developer success on Google Play \(googleblog.com\)](#)

⁵⁸ See also [Changes to Google Play's service fee in 2021 - Play Console Help](#)

⁵⁹ This was announced on 21 October 2021, see [Android Developers Blog: Evolving our business model to address developer needs \(googleblog.com\)](#)

⁶⁰ [Understanding Google Play's service fee - Play Console Help](#)

⁶¹ In June 2021, Google reduced its commission to 15% for apps primarily offering video, audio, or books in which users pay to consume content, as part of the Play Media Experience Program. See [Android Developers Blog: Continuing to boost developer success on Google Play \(googleblog.com\)](#) and [Play Media Experience Program | Google Play Console](#)

⁶² [Android Developers Blog: Evolving our business model to address developer needs \(googleblog.com\)](#)

⁶³ See also [Understanding Google Play's service fee - Play Console Help](#).

67. Developers are not required to pay a service fee for:

- Apps distributed via a consumption-only model (ie apps that do not enable users to purchase access to digital goods or services from within the app), also referred to as 'reader apps'. These developers can sell content outside of the Play Store.
- Apps that monetise through other means, such as advertising or sales of physical goods or services.

Google's anti-steering rules

68. Google makes a distinction between communications with customers about payment methods other than Google Play's billing system:

- **within the app on the Play Store:** developers may not lead users to a payment method other than Google Play's billing system within an app distributed on Google Play.⁶⁴ In particular, app developers cannot, within an app, provide users with a direct link to a webpage containing an alternative payment method or use language that encourages a user to purchase the digital item outside of the app.⁶⁵
- **using other channels:** app developers can use other channels outside of the Play Store to let users know how they can purchase the developer's apps or in-app content. For example, app developers are free to advertise alternative purchase locations on their websites, social media feeds, adverts, or via direct messaging to consumers.⁶⁶

69. Google Play's Payments policy provides that:⁶⁷

'4. Other than the conditions described in Section 3 and Section 8, apps other than those described in 2(b) may not lead users to a payment method other than Google Play's billing system. This prohibition includes, but is not limited to, leading users to other payment methods via:

- An app's listing in Google Play;

⁶⁴ Google Play's Payments policy, section 3. See also Google's Play Console Help page

⁶⁵ [Understanding Google Play's payments policy - Play Console Help](#), see Frequently asked questions and in particular 'Can I communicate with my users about alternative ways to pay?'.
⁶⁶ See Google's Play Console Help page and in particular the responses to the questions 'Can I communicate with my users about alternative ways to pay?' and 'Can I communicate with my users about promotion on other platforms?'

⁶⁷ Section 4 of Google Play's Payments policy, [Payments - Play Console Help \(google.com\)](#). 'Section 3' for these purposes is the section quoted earlier in this appendix detailing situations in which Google Play's billing system must not be used. 'Section 8' refers to a new section of the policy introduced following the coming into effect of the new South Korean laws and Google's announced changes to its policies in order to comply with that law, as quoted below.

- In-app promotions related to purchasable content;
 - In-app webviews, buttons, links, messaging, advertisements or other calls to action; and
 - In-app user interface flows, including account creation or sign-up flows, that lead users from an app to a payment method other than Google Play's billing system as part of those flows.'
70. App developers can also email or otherwise communicate outside of the app information about promotions or offerings on other platforms, even if they are different from offerings on the Play Store.⁶⁸ Google states that it does not require parity across platforms.⁶⁹
71. For services and products that are consumption-only (or reader apps), developers may choose to provide additional information about purchasing options, without direct links.⁷⁰
72. Google submitted that it has always prohibited the use of communication within the Play Store to steer consumers to other channels for making purchases. Google submitted that it clarified its policy in Google's September 2020 policy statement: 'developers have asked whether they can communicate with their customers directly about pricing, offers, and alternative ways to pay beyond their app via email and other channels. To clarify, Google Play does not have any limitations here on this kind of communication outside of a developer's app'.⁷¹

Future changes to Google's in-app purchase rules

Recent announcements made by Google about changes to its in-app purchase rules

73. From 31 March 2022, all developers selling digital goods in their apps that can be used within the Google Play ecosystem will be required to use Google Play's billing system.
74. In relation to the commission charged by Google, from 1 January 2022, the condition that the subscription be maintained for more than 12 months will no longer apply: the service fee for all app subscriptions on Google Play will be reduced from 30% to 15%.⁷²

⁶⁸ See Google's Play Console Help page.

⁶⁹ See Google's Play Console Help page.

⁷⁰ See Google's Play Console Help page

⁷¹ [Android Developers Blog: Listening to Developer Feedback to Improve Google Play \(googleblog.com\)](https://googleblog.com/2020/09/android-developers-blog-listening-to-developer-feedback-to-improve-google-play/), 28 September 2020.

⁷² This was announced on 21 October 2021, see [Android Developers Blog: Evolving our business model to address developer needs \(googleblog.com\)](https://googleblog.com/2021/10/android-developers-blog-evolving-our-business-model-to-address-developer-needs/)

Changes to payment processing following South Korean legislation

75. In response to the recent law passed by the Korean National Assembly, discussed above, Google announced on 4 November 2021 that it plans to give developers that sell in-app digital goods and services the option to add an alternative in-app billing system alongside Google Play's billing system for their users in South Korea.⁷³ Users would be able to choose which billing system to use at checkout.⁷⁴
76. Google said that when a user selects alternative billing, it would reduce the developer's service fee by 4%. For example, for developers that pay 15% for transactions through Google Play's billing system, their service fee for transactions through an alternative billing system would be 11%.⁷⁵
77. On 18 November 2021 Google added Section 8 to its Payments Policy (these changes will become effective from 18 December 2021). Section 8 provides as follows: 'Unless the conditions described in Section 3 apply [cases where Google Play's billing system must not be used], developers of Play-distributed apps on mobile phones and tablets requiring or accepting payment from users in South Korea for access to in-app purchases may offer users an in-app billing system in addition to Google Play's billing system for those transactions if they successfully complete the additional in-app billing system declaration form and agree to the additional terms and program requirements included therein.'⁷⁶

⁷³ [Google Developers Korea Blog: Enabling alternative billing systems for users in South Korea \(googleblog.com\)](#). See also [Google to allow third party app payments for first time in S.Korea | Reuters](#).

⁷⁴ [Google Developers Korea Blog: Enabling alternative billing systems for users in South Korea \(googleblog.com\)](#).

⁷⁵ [Google Developers Korea Blog: Enabling alternative billing systems for users in South Korea \(googleblog.com\)](#).

⁷⁶ [Payments - Play Console Help \(google.com\)](#).