

By E-mail

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Subject: European Digital SME Alliance's comments on the redacted version of the Statement of Objections in Case AT.40099 – Google Android

Dear Mr Banasevic,

The European Digital SME Alliance ("SME Alliance") supports the investigation of the European Commission (the "EC") in relation to Google's practices regarding Android (Case AT.40099 – Google Android (the "Google Android case")), which deserve close scrutiny. The SME Alliance would like to stress that it has nothing against Alphabet or Google as such or against Android as an operating system. Many SMEs represented by the SME Alliance support and benefit from Android by developing applications for Android. However, the SME Alliance is concerned about the effect that restrictive contractual provisions that Google imposes in relation to Android and the App store have on free and fair competition with developers including SMEs, and takes note of the EC's preliminary conclusions set out in the SO in relation to these restrictive provisions.

As the SO indicates, Google Android is in Europe, if not on a worldwide basis, the only viable licensable mobile operating system platform, not only from the perspective of OEMs, but also from the perspective of developers. As a result of restrictions and incentives of Google, the Play Store is today, and has been for some time, the only viable applications store for Android. The SO describes how this situation is reinforced by the contractual provisions and incentives practiced by

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Google that limit competition from non-Google alternatives. However, two elements that the SME Alliance believes deserve more attention from the EC than the SO suggests it has given to them to date are the impact that Google's restrictions have on (1) the terms and conditions under which developers of applications for licensable mobile operating systems can distribute their apps and generate revenue and (2) the ability to harness app data generated by users. Both elements will be addressed in turn.

First, the resulting lack of competition among app stores puts Google in a position to impose unfair terms and conditions to app developers willing to sell their apps on Android devices. This could include demanding a higher share of the selling prices of apps, which would leave app developers with smaller margins and ultimately have a negative effect on competition. The absence of competition gives Google near complete control over the distribution channel for apps for licensable mobile operating systems, and enables it to impose restrictive terms and conditions on app developers that would not exist in a competitive environment. The SME Alliance is in particular concerned about how this could impact distribution of apps (including in particular apps developed by SMEs) in the future, as essentially all competition is extinguished, and believes the EC should investigate this aspect further.

Second, the SME Alliance is concerned about the way in which reduced competition among app stores also impacts app developers' control over and use of data generated by usage of their apps. As the SO correctly identifies at paragraph 85 to 89, the Google Play Store and the Google Play Services, while technically two distinct products, are closely interlinked in a number of ways. Indeed, both are licensed together as part of the GMS bundle and updates to Google Play Services are automatically delivered through the Play Store. Depending on the specific Google Play Services APIs used by the app developer, Google by design is party to certain data that is generated by usage of the developers' apps (location data, for example). This guarantees Google's data scale advantage and may raise barriers to entry in the markets in which it harnesses such data. The SO does not squarely address this issue, even though it would appear to be an integral part of Google's

conduct related to Android, and the SME Alliance believes it too should be addressed in more detail before reaching any final resolution on the matter.

We thank the EC for the opportunity to share these observations, and remain at your disposal should you require any further information.

Yours sincerely,



Sebastiano Toffaletti
Secretary General

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