

Apple faces Legal Demand to repay 20 Million UK Customers, as Lawsuit claims its App Store charges are excessive and unlawful

- **Landmark legal action aims to force Apple to cut its controversial 30% commission on App Store purchases and to compensate UK iPhone and iPad users for years of alleged overcharging**
- **Alleges Apple's 30% surcharge is in breach of European and UK competition laws and that Apple is abusing its dominant position in the app market at the expense of ordinary people**
- **Class action seeks estimated damages of up to £1.5 billion for UK users of the App Store**
- **Argues that people who buy apps and make digital purchases in apps (not app developers) are at the front of the line for compensation from Apple**

London, May 11, 2021: Apple has systematically broken the law and overcharged millions of UK users for apps and other purchases made on its market-leading App Store, according to a groundbreaking legal action brought in a UK court against the technology giant.

The claim has been filed in the Competition Appeal Tribunal in London on behalf of around 19.6 million eligible UK iPhone and iPad users. It alleges that Apple deliberately shuts out potential competition and forces ordinary users to use Apple's own payment processing system, generating illegally excessive levels of profit for the company. Typically, 30% of the money app purchasers spend in the App Store goes straight to Apple.

This 30% commission is an unlawful raid on Apple's customers' purses, bears no relationship to the costs of providing the services in question, and cannot be justified, the claim argues. It is also alleged that the restrictive terms Apple imposes on app developers damage app purchasers' interests and break competition law. Apple faces an estimated bill for damages of up to £1.5 billion from the claim.

Bringing this collective action is Dr Rachael Kent, an expert in the digital economy and lecturer at King's College, University of London. It is a representative opt-out collective action, which is a claim brought on behalf of a class of potential claimants without the need for them to actively opt into the claim. An estimated 19.6 million UK users are eligible for compensation, according to the claim.

Who is eligible

Any UK user of an iPhone or iPad who purchased paid apps, paid subscriptions or made other in-app purchases within the UK version of the App Store at any point since October 1, 2015 is entitled to compensation from Apple for its anti-competitive practices, the claim says. The purchases must have been made on iPhone and/or iPad devices.

All such purchasers are automatically included within the claimant class. Device users can check their eligibility for compensation by logging into their App Store account and checking their "Purchase History". Purchasers who are interested in finding out more about the claim and signing up for regular updates should visit www.appstoreclaims.co.uk.

The case against Apple

The company is accused of using its dominant position as a platform for selling apps by imposing restrictive terms on app developers, stifling efforts by other would-be distributors to offer app purchasers better value for money.

Apple has also allegedly abused its dominant position by blocking users' ability to pay for many app services other than through the company's own App Store Payment System, which typically also includes the 30% commission payment to Apple. It is argued that this practice is monopolistic and unlawful, and that Apple would be unable to charge customers such an excessive mark-up if its devices were open to competitors.

The claim alleges that Apple's conduct violates section 18 of the UK Competition Act 1998 and Article 102 of the Treaty on the Functioning of the European Union.

The UK collective action lawsuit coincides with increased public concern about Apple's dominant position. A committee of the US Congress concluded in October 2020 that Apple has leveraged its monopoly power in mobile app distribution to discriminate against and exclude rivals and charge excessive and unfair commission for purchases from and within the App Store. In the UK, the Competition and Markets Authority is investigating complaints that the terms and conditions Apple imposes on app developers to sell their apps via Apple's App Store are unfair and anti-competitive. And last month the European Commission issued a formal statement of objections against Apple, accusing Apple of breaking European competition law.

In the past year, Apple has been hit with lawsuits in several jurisdictions from app developers and app purchasers. The case brought by Dr Kent today on behalf of UK app purchasers argues that ordinary App Store customers are the direct victims of Apple's anti-competitive behaviour, and entitled to compensation, since they foot the bill.

About the class representative

Dr Kent has more than 15 years' academic and consultancy experience of consumer welfare issues relating to smart mobile technology. At King's College, her research focuses on how consumers use apps and digital platforms, and the impact apps have on choice, spending and other aspects of consumers' everyday lives.

She has made purchases in the App Store; and, as such, has overpaid for her purchases in the same way as other members of the claimant class have overpaid. Like them, she has also had her choices as an app purchaser unlawfully restricted by Apple's anti-competitive efforts to suppress alternative platforms for distributing apps, and alternative means of making payments without being hit by Apple's 30% surcharge.

Statements

Rachael Kent, the class representative in the action, said: *"The App Store was a brilliant gateway for a range of interesting and innovative services that millions of us find useful, myself included. But thirteen years after its launch, it has become the only gateway for millions of consumers. Apple guards access to the world of apps jealously, and charges entry and usage fees that are completely unjustified.*

"This is the behaviour of a monopolist and is unacceptable. Ordinary people's use of apps is growing all the time, and the last year in particular has increased our dependence on this technology. Apple has no right to charge us a 30% rent for so much of what we pay for on our phones – particularly when Apple itself is blocking our access to platforms and developers that are able to offer us much better deals. This is why I am taking this action."

"Last year's US Congress inquiry estimated that Apple's annual global revenue from the App Store is at least \$15 billion a year, but the company's costs for running the platform are just \$100m. Apple achieves this by slapping unjustified charges on its users. It would not be able to impose these exorbitant charges if competitor platforms and payment systems were allowed to compete on its devices. It is a clear abuse by Apple of the law and its own customers."

Lesley Hannah, Partner at legal firm Hausfeld & Co LLP, who is leading the litigation, said:

“Apple has created a captive market where people who own Apple devices are reliant on it for the provision of both apps and payment processing services for digital purchases. It has been exploiting that market for years, by charging excessive fees that in no way reflect the actual cost of providing those services and making sure no one else can compete. App purchasers have been paying the price. This action seeks fair redress for those purchasers.

“Apple should be held to account for its unlawful anticompetitive conduct. Competition laws are there to protect everyone. Every company – especially one as popular and powerful as Apple - needs to obey the law. Millions of people use the App Store to buy apps and make digital purchases within apps, so it is more essential than ever that those purchasers are treated fairly.”

Further information

The legal claim applies to most popular apps on iPhones and iPads, including Fortnite, YouTube, Tinder and many others, that require payment at point of download, subscription payments, or allow for in-app purchases. It does *not* apply to apps providing “physical goods or services that will be consumed outside of the app”. These include Deliveroo and Uber, which are not required to use Apple’s payments system or pay Apple the disputed 30% commission.

Affected app purchasers, on whose behalf the class action is brought, will not pay costs or fees to participate in this legal action, which is being funded by Vannin Capital, a global litigation funder. The action is insured, which means that class members have no financial risk in relation to the claim.

Dr Kent is represented by Hausfeld & Co LLP, and Mark Hoskins QC, Jennifer MacLeod and Aaron Khan of Brick Court and Ronit Kreisberger QC of Monckton Chambers.

Dr Kent is also advised on the claim by a consultative group with expertise and experience in group claims management, digital markets and consumer rights matters. This group consists of Dame Elizabeth Gloster, formerly a judge in the Court of Appeal; James Walker, an adviser to the Scottish government on consumer protection and founder of Resolver, which helps customers resolve complaints with companies; and Kevin Jenkins, former CEO of Visa UK and a veteran of the payments industry.

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Notes for Editors

About Hausfeld & Co

Hausfeld & Co LLP is a leading disputes-only law firm which specialises in claimant litigation with 12 offices in Europe and the US. The firm possesses significant experience in all aspects of collective redress and group claims, including abuse of dominance litigation against large corporates, including “Big Tech”.

The firm pioneered the trucks competition litigation in the UK, Germany and the Netherlands. It has acted on some of the most complex damages claims of the last decade: on the “Interchange Fee” litigation against Visa and Mastercard, in “Google Shopping” claims on behalf of price comparison

websites against Google; against six financial institutions over their participation in unlawful price-fixing of the foreign exchange currency markets; and against Marriott International, YouTube and Facebook in data breach litigations.

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