



Apple's App Store Abuse: A Case Study.

DCN Legal & Legislative Day

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Why did we file a complaint?

In Spotify's experience, under specific circumstances, app stores can be a vehicle for anticompetitive conduct

Apple is **both** the dominant **gatekeeper** of the iOS App Store and a **competitor** in music streaming services (Apple Music)

Apple abuses this privilege to **shield** Apple Music from competition on the merits

Spotify asked the European Competition to examine their anticompetitive practices related to app store practices in order to achieve a **level playing field**

Spotify and Apple: Key Facts



Spotify

- Founded in 2006 in Sweden
- Launched in 2011 in the US
- Spotify aims to deliver the right audio experience, at the right time, in the right context to every user
- Available cross-platform
- Freemium business model:
 - Offers free, ad-supported service to attract users
 - Encourages conversion from free to paid subscription

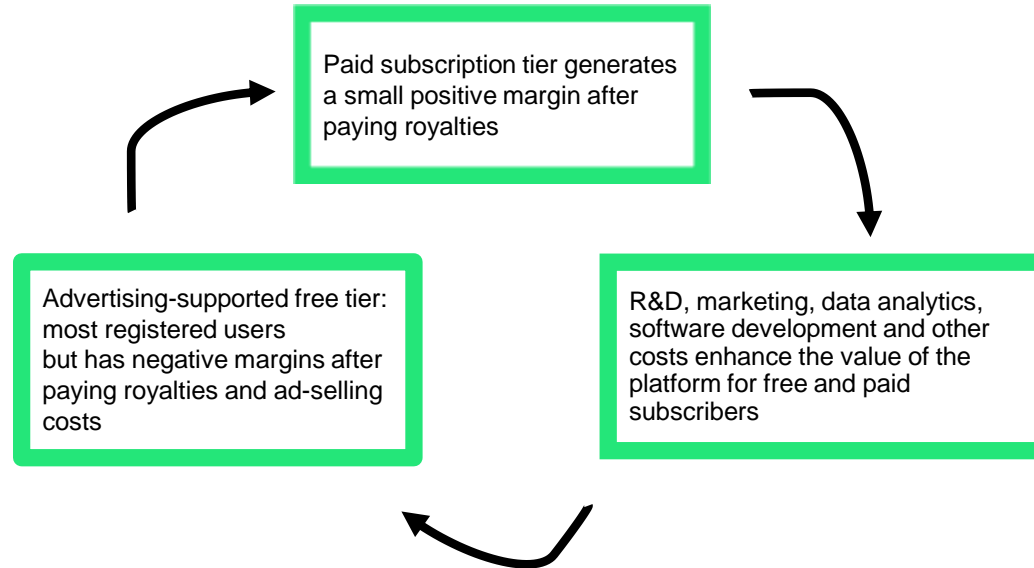
Apple

- Vertically integrated (“owns the whole stack” of hardware and software)
- Owner and sole gatekeeper to the App Store
- Active downstream in apps and services on iOS (incl. Apple Music)

Apple Music

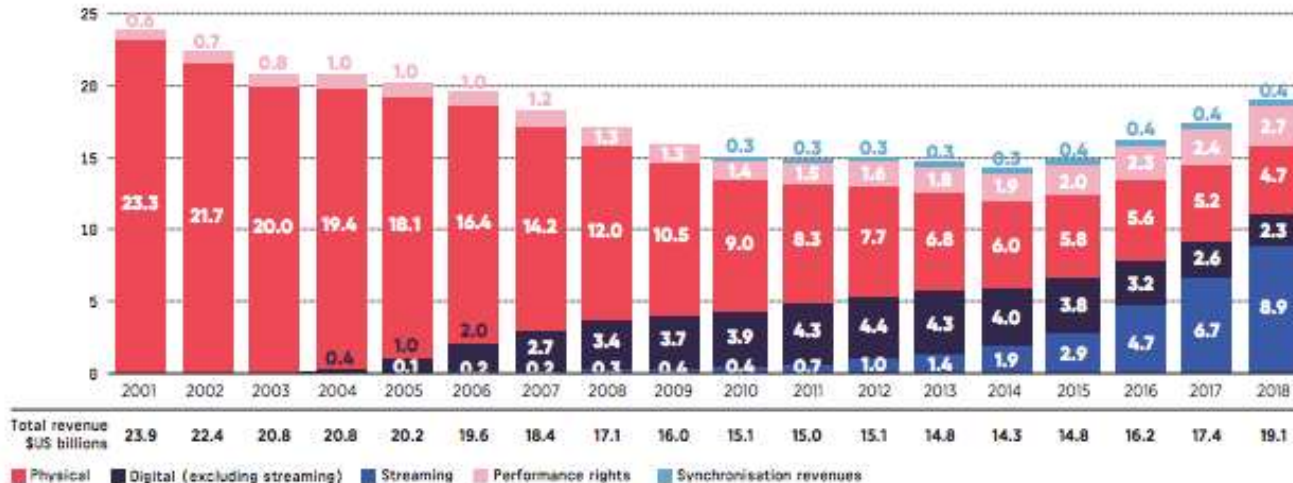
- Launched in 2015
- Paid business model (users pay a fee to access library of tracks)

Spotify's Freemium business model illustrated



Global Music Revenue and Growth

Global Recorded Music Industry Revenues 2001-2018 (US\$ Billions)



Before seeing a return to growth in 2015, the global recording industry lost nearly 40% in revenues from 1999 to 2014

App store owners' anticompetitive toolkit



- Vertically integrated platforms with native app stores, who also sell downstream apps, have **ability and incentive to self-favour**
- Ways in which vertically integrated platforms / app stores self-favour include:
 - Exclusionary app approval terms (e.g. marketing restrictions)
 - Tying access to app store with ancillary services (e.g. payment system)
 - Raising rivals' costs (e.g. 30% IAP tax)
 - Degrading rival apps' interoperability with the platform

Apple is the gatekeeper of the iOS App Store



- Mobile device users tend to use a single platform (“single-homing”)
- Switching costs mean that users don’t switch between platforms
- Apple’s App Store is the exclusive app distribution channel on iOS

Apple is **dominant on the global market for wholesale distribution of apps on mobile devices running iOS**

- Notably, the European Commission has found Google dominant in the market for app stores for the Android mobile operating system

Apple conditions app approval on the use of its own in-app purchase mechanism (IAP)



*If you want 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),
you must use in-app purchase.*

App Store Review Guidelines (3.1.1)

Use of IAP comes with **30% IAP tax**: app developers must forego 30% of their iOS revenue to Apple

Enabling Apple's IAP increases rival app developers' costs

The tilted playing field when app developer is forced to activate IAP

Never subject
to IAP : €9.99



Choose a Membership Plan

Until automatic renewal is turned off from your Apple Music account your Apple Music membership will continue to renew.
[Learn more about Apple Music.](#)

Individual
9,99 €/month after trial ends

Family (Up to 6 members)
14,99 €/month after trial ends

[Family memberships use Family Sharing.](#)

[Are you a University Student?](#)



Activate IAP :
€9.99 -> €12.99

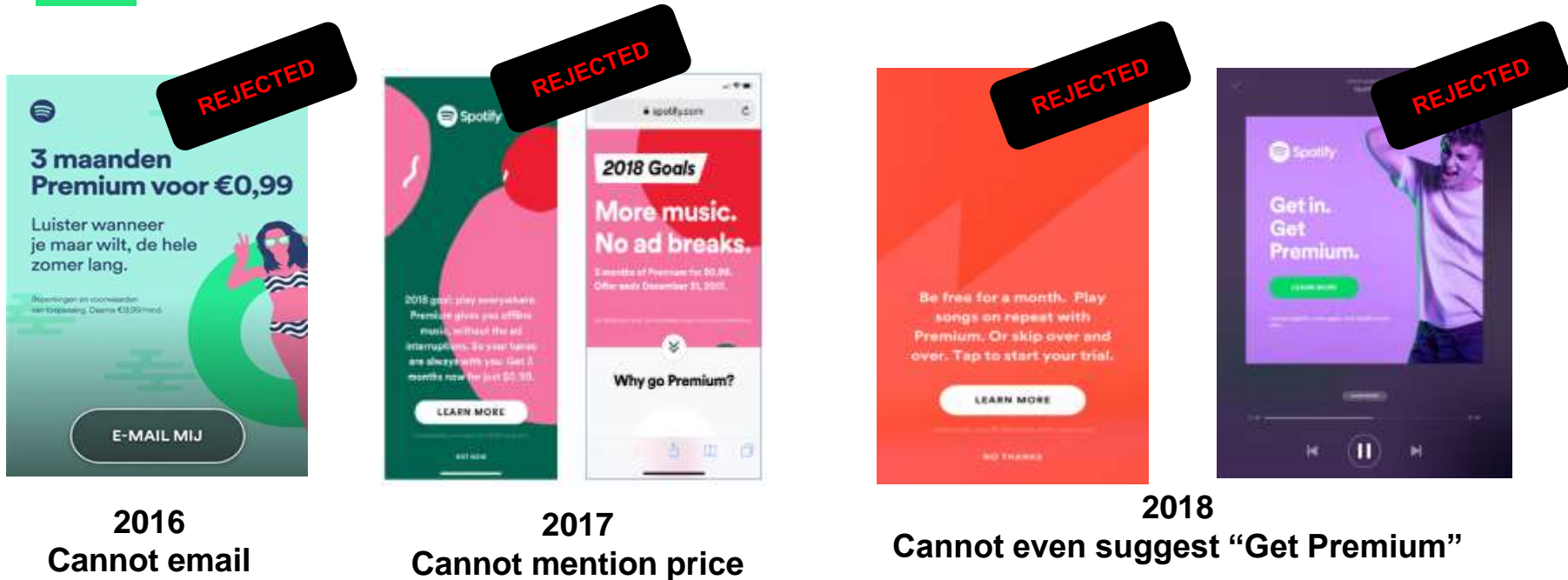
Apple's App Store Review Guidelines impose a host of marketing restrictions on app developers who disable IAP

Apple retaliates against such apps by blocking their updates

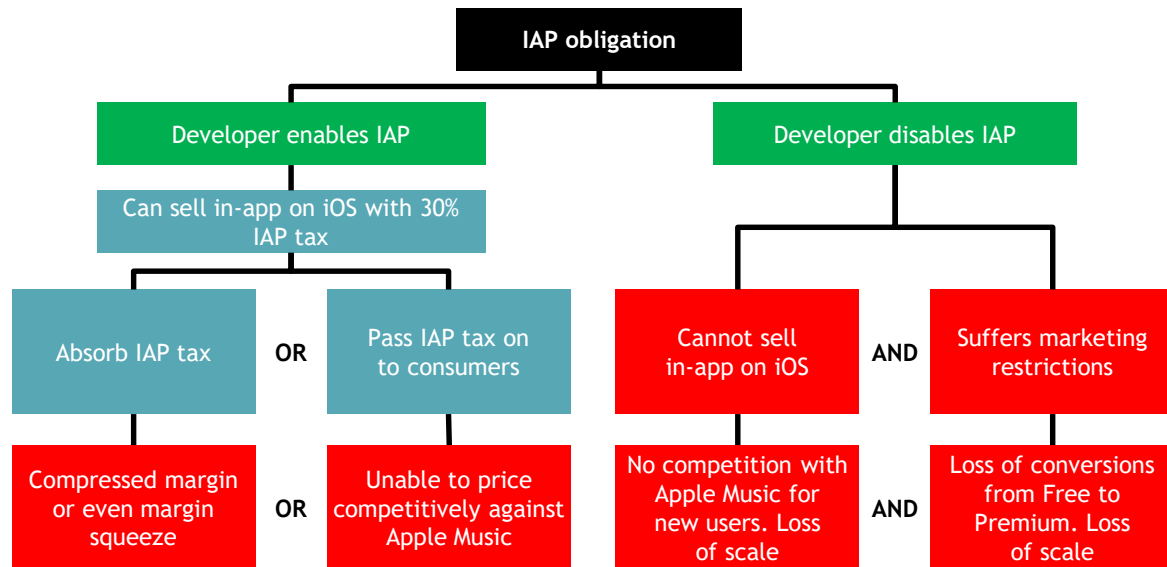
Every revision of the App Store Review Guidelines gives Apple more discretion to reject iOS apps

FEBRUARY 2011	JUNE 2016	JUNE 2017
		<i>No directly or indirectly targeting iOS users to other purchasing mechanisms</i>
		<i>No general communications designed to discourage use of IAP</i>
	<i>No “calls to action”</i>	<i>No “calls to action”</i>
	<i>No directing users to mechanisms other than IAP</i>	<i>No directing users to mechanisms other than IAP</i>
<i>No buy buttons</i>	<i>No buy buttons</i>	<i>No buy buttons</i>
<i>No external links to other purchasing mechanisms</i>	<i>No external links to other purchasing mechanisms</i>	<i>No external links to other purchasing mechanisms</i>

With every revision to the App Store Review Guidelines, Spotify needs to “water down” its marketing materials with detrimental impact for conversions



A lose-lose situation for third-party app developers



**Apple's conduct
harms everyone
but Apple**

Who is affected:

Third-party developers

- Foreclosure from competing
- Financial losses
- Loss of scale
- Reduced incentives to innovate



Consumers

- Risk of higher prices
- Diminishing choice
- Diminishing quality
- Reduced innovation
- Lock-in



The digital economy

- Barriers to innovation
- Hostile environment for new businesses (start-ups)



Thank you
