

Apple stumbled into a war with the gaming industry, and the future of iOS is at stake

Apple has always had a complicated relationship with the game industry, but this month that relationship slid into a bitter and very public legal and regulatory war that could shape the future of iPhone apps. The first escalation occurred when Apple laid out in clear terms why it has no plans to ever approve cloud gaming services from its tech rivals Google and Microsoft. The second was when Apple kicked the massively popular battle royale hit *Fortnite* off the App Store after its creator, Epic Games, provoked the company with a rule-violating update.

Epic countered Apple's removal with an antitrust lawsuit, prepared well in advance and complete with a detailed 62-page legal complaint. It may be a strong enough case to impose long-lasting changes on Apple's business. But Epic's dramatic public performance – an unprecedented bit of corporate trolling the likes of which we've never seen – sets up the feud with Apple as a fight bordering on good versus evil, with Apple the corporate bad guy aggressively taxing and restricting developers. Epic's complaint argues that behavior also breaks the law.

Epic's savvy stunt sets up its feud with Apple as a fight bordering good versus evil

The company is also suing Google on similar grounds, after Google removed *Fortnite* from its Play Store. But as Epic made clear in an unprecedented video mocking Apple's iconic "1984" Macintosh ad – one that also aired directly to players within the virtual world of *Fortnite* itself – the primary target here is Apple and its longstanding and often controversial stewardship of the iOS app ecosystem.

The ad features a signature *Fortnite* character racing into a dimly lit auditorium of corporate zombies, slack jawed and eyes glazed as an anthropomorphic Apple celebrates exploitation of the working class. The character swings her pickaxe toward the screen, shattering it and displaying a message modeled after the original Apple ad's memorable onscreen text: "Epic Games has defied the App Store monopoly. In retaliation, Apple is blocking *Fornite* from a billion devices. Join the fight to stop 2020 from becoming '1984.'"

It's a stunning piece of animation because it uses Apple's original underdog persona in the personal computing industry of the 1980s and Orwellian themes of state control to cast Apple as the ultimate villain, its growth and greed having turned it into the very suit-clad enemy it railed against nearly four decades ago.

[embedded content]

Individually, either of Apple's moves – yanking *Fortnite* or banning cloud gaming services – might make gamers skeptical about Apple's control over the App Store and the company's commitment to bring the best games to mobile and keep them there. But together, Apple is at risk of losing a generation of young, game-loving smartphone owners that might prefer platforms and services the iPhone maker has shown it has little control over.

Apple, which has presided as gatekeeper over one of the most lucrative gaming booms of the last decade, has now removed one of the most popular mobile games ever made from its store, one played by kids and teens around the globe. Many of those players are growing up with no need for a gaming console or PC, as *Fortnite* itself proves. At the same time, Apple is explicitly and purposefully excluding cloud gaming platforms that could bring the kinds of games that require a dedicated console or PC to those same gamers' phones – by using the iPhone or iPad's screen and network connection as mere

conduits for a cloud gaming server instead.

Google's Stadia cloud gaming service, launched in November 2019, works on mobile, but only for Android devices as Apple won't approve an iOS version of Google's app.

Photo by Amelia Holowaty Krales / The Verge

APPLE, FORTNITE, AND THE HIDDEN THREAT OF CLOUD GAMING

Apple's ban on cloud gaming was not entirely unexpected, but it fell on skeptical ears. When the company explained why Google Stadia and Microsoft xCloud can't ever exist on iOS, condemnation of the move was swift even among Apple-focused sites. *Macworld* called the move a "patently absurd" excuse, *AppleInsider* said it was "consumer hostile," even trusted Apple blogger John Gruber of *Daring Fireball* called it "nonsensical" in his writeup.

That Apple explanation: cloud gaming services don't belong because they offer access to a library of games Apple can't review individually. For games to exist on the iPhone and iPad, they must be submitted individually for inspection, subject to user reviews, and findable in search results, Apple suggests. Games, in Apple's eyes, aren't to be treated the same as music, movies, and TV shows, but rather as software that warrants careful inspection lest they be updated later in ways that violate its strict content guidelines, the company tells *The Verge*.

Games in Apple's eyes aren't to be treated the same as music, movies, and TV shows, but rather as software

Unsaid here, of course, is that all apps peddling digital goods of any kind must pay Apple's 30 percent fee. Cloud gaming apps, which offer access to many games that contain

their own virtual marketplaces of digital goods, complicate that enshrined business arrangement. How might Apple collect its take if a player is spending money inside Epic's *Fortnite*, once it's streamed over Microsoft's xCloud instead of locally on their phones?

Epic CEO Tim Sweeney, who harbors a deep hatred for rent-seeking middlemen and marketplace restrictions, has been a vocal critic of the App Store in the past, and he had harsh words for Apple's cloud gaming restrictions. Last Thursday, he tweeted, "Apple has outlawed the metaverse. The principle they state, taken literally, would rule out all cross-platform ecosystems and games with user created modes: not just XCloud, Stadia, and GeForce NOW, but also *Fortnite*, *Minecraft*, and *Roblox*."

Over half of US kids play *Roblox*, a game that lets you build other games – ones that, presumably, Apple isn't spending the time to individually approve.

Image: Roblox

One week later, Epic made its move. It updated the *Fortnite* app with its own in-app payment system, bypassing Apple's 30 percent cut. It didn't stop there: it also lowered prices for all in-app purchases when using that payment system by 20 percent, claiming that it was passing on the savings to consumers. (Never mind that if Epic's saving 30 percent and passing along 20 percent, it takes home an extra 10 percent itself.) Because Apple removed the app, Epic can now claim it has evidence of consumer harm, and it's using that supposed harm to rile up angry consumers and pit them against Apple with its #FreeFortnite campaign as well.

But really, Epic knew that *Fortnite* would be banned all along. As a defense, it had a prepared lawsuit and a full-blown social media campaign ready to allege that Apple is committing antitrust violations with regard to its operation of the App

Store and the rules and payment mechanisms that underpin it. While the lawsuit Epic filed against Google makes similar claims, Android users can still download, update, and play *Fortnite* with no issue by using Epic's own third-party launcher, downloadable from a web browser. The same is not true of the iPhone.

This is where Sweeney's earlier complaint about Apple's cloud gaming ban helps illuminate his reasoning. Epic's lawsuit doesn't seek monetary relief. Rather it wants the App Store broken up and, short of that, the ability to use its own payment systems or a more generous split on in-app purchases. From Sweeney's perspective, Apple is a threat to any and all game makers trying to build immersive entertainment and commerce platforms that, like *Fortnite* and other massively multiplayer games, may one day replace the web. In that context, Epic's "1984" parody takes on a more self-serious tone, and Epic's fight starts to resemble the virtuous campaign Sweeney casts it as.

In a four-part tweet thread published Friday evening, Sweeney said the fight with Apple was not about money, but about "the basic freedoms of all consumers and developers." He further cast Apple as a company restricting the liberties of smartphone owners by restricting which apps they can install and how developers distribute that software.

The primary opposing argument is: "Smartphone makers can do whatever they want". This as an awful notion.

We all have rights, and we need to fight to defend our rights against whoever would deny them. Even if that means fighting a beloved company like Apple.

– Tim Sweeney (@TimSweeneyEpic) August 14, 2020

With *Fortnite*, Epic is waging war against Apple's well-established, crystal-clear rules by defying Apple's 30-percent

cut in dramatic, public, and legal fashion. (Few have had the gall to do that before.) But with cloud gaming, Apple's App Store rules are a little less clear-cut – and frankly, the rules don't even include Apple's core argument.

Tech blogger John Gruber did the work of decoding what Apple was actually saying in its cryptic cloud gaming statement, the one about Apple's desire to individually review each and every game, in a blog post last week. He thinks it is less about individual games needing to be their own apps and more about the very nature of cloud gaming platforms as being, in his words, "simply verboten." Why? We don't know for sure, but Gruber postulates it's because Apple favors native apps over ones run remotely in the cloud.

Apple won't say exactly why it won't allow cloud gaming platforms on the App Store

"It is a nonsensical justification, no doubt about that. But the comparison to Netflix or Spotify is beside the point. Of course Apple doesn't and can't review every movie on Netflix or every song on Spotify. But if you think about it, they could review every game on Xbox Game Pass. Even if it's 100 games, they could look at them all," Gruber wrote. "The point is that streaming video and music services are allowed in the App Store; streaming software (games or otherwise) is not, unless it works over the web. Apple *just doesn't want to say that.*"

Microsoft issued the sharpest rebuke of Apple's position in a statement late last week, when it said the company's ban on cloud gaming was further evidence it treats game makers and gaming apps unfairly. "Apple stands alone as the only general purpose platform to deny consumers from cloud gaming and game subscription services like Xbox Game Pass. And it consistently treats gaming apps differently, applying more lenient rules to non-gaming apps even when they include interactive content," a Microsoft spokesperson said, referencing the kind of experimental interactive videos Netflix has invested in that

could be classified as video games.

It's true that examples of Apple's preferential treatment of non-gaming services exist, especially around that increasingly controversial 30 percent cut, often called the "Apple tax." For instance, subscription services like Netflix and Spotify can pay just 15 percent instead of 30 percent after a customer has been signed up for longer than a year. More recently, Apple started letting Amazon sell movie and TV rentals without paying the cut at all, as part of a new program that only a small handful of streaming video platforms have been able to join (the other two are lesser-known services Atlice One and Canal+). Yet like music streaming services, gaming apps don't appear to qualify.

While Apple's approach toward gaming apps may have made sense in a world where all games must be downloaded and run locally on hardware, cloud gaming is beginning to upend that arrangement in a way that could massively alter the video game industry, similar to how streaming changed Hollywood filmmaking and television forever.

Apple has exempted apps from Amazon and others from paying the 30 percent cut

Suddenly, Apple's reasoning behind requiring every game on iOS be submitted individually, instead of as part of a larger portal or subscription service, starts to wear thin. Why, for instance, does Netflix not have to get approval for every new show it puts live on its streaming video app, even those that have interactive elements like *Black Mirror: Bandersnatch*? What of YouTube, with its endlessly growing mountain of user-generated content?

Apple did not respond to repeated requests for comment on whether there is a specific App Store guideline that says games must be submitted individually, or an exemption for interactive content found in streaming video apps like Netflix or YouTube. We couldn't find one; we reviewed the guidelines,

and although section 4.2.7 specifically addresses “remote desktop clients” in a way that seems to ban “thin clients for cloud-based apps,” there does not appear to be any rule saying all games on iOS must be submitted as individual apps.

Illustration by Alex Castro / The Verge

CRACKS IN THE WALLED GARDEN

Cloud gaming offers a different vision of game development and distribution than the one Apple offers, or for that matter Sony and Nintendo. Games of the future may not need players to own powerful hardware or even to pay full price for the title itself. Instead, a cloud server far away and a monthly subscription service could, in theory, deliver a Netflix-style buffet of all-you-can-play offerings. All of it would be available on your TV, phone, tablet, or whatever other screen you have handy that can link up with a relatively speedy internet connection.

There are conceivable reasons why cloud gaming poses a threat to Apple. Apple might not want to hammer out new App Store arrangements for subscription gaming services, or review processes for evaluating every new title on a platform like Microsoft’s xCloud. It might simply not want to cede control of the user experience when an iPhone simply becomes a tiny wireless TV screen for games running on remote Windows or Linux PCs.

Why build an iOS game when you can distribute through a cloud gaming service without paying the App Store cut?

There’s also the argument that a cloud app is the ultimate version of a piece of software, living anywhere and accessible on any device. Why in that scenario would a game developer make a dedicated iOS title, with touch controls and in-app purchases and all the other bells and whistles required of an

iPhone game, when they could more easily publish the game on xCloud or cut a deal with Google and distribute it through Stadia? Doing so in a world where Apple greenlights cloud gaming apps makes such software immediately streamable to mobile devices, without the developer submitting it for Apple review or paying the dreaded “Apple tax.”

But regardless of the reason, the company’s defiance – despite eager pleas from its competitors and the demands of consumers (there’s a Change.org petition pleading with Apple to change its mind) – is setting the stage for a world where iPhone users lack access to what may very well be the future of how video games are played. Meanwhile, Google, Microsoft, Nvidia, and other platform providers and their partners are coalescing around Android as the forward-thinking platform for the future of mobile and cloud gaming. Starting September 15th, Android owners will be able to use Microsoft’s xCloud, Google Stadia, Nvidia’s GeForce Now, and lesser known services like Parsec and Vortex. On the iPhone, you won’t be able to access any of those platforms.

In many ways, this is yet another chapter in the ongoing Apple antitrust saga. Critics, regulators, and developers are more concerned than ever that Apple is exerting undue influence over the app makers on its platform, even as it builds its own products and services that compete with those of its developers. Apple has the added benefit of granting its own products access to iOS hardware and software privileges many third-party devs do not. We’ve seen this play out countless times before – to be “sherlocked” in the software industry means to have Apple copy a key product or feature and integrate it into its own operating systems or apps, thereby killing the competition in the process.

But the conversation around Apple’s power and whether it constitutes monopolistic behavior has grown louder in recent years. The company now faces two antitrust investigations in the European Union, launched in part because companies like

Spotify complained that Apple was competing on an uneven playing field by using its App Store rules and iOS privileges to stifle its rivals.

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Earlier this summer, Apple also found itself in a huge showdown with Basecamp, the company behind a new email service Hey that Apple barred from updating its iOS app over disagreements about how the app was designed and whether it should have to fork over the App Store cut. Similar to a cloud gaming platform, Hey was a new kind of consumer service that ran up against Apple's inconsistent stewardship of the App Store, simply because Apple didn't already have a clear rule regulating that type of app. So when Hey tried to bypass the App Store cut, as many similar enterprise apps have done in the past, Apple blocked Basecamp from updating it, prompting the company's co-founders to launch vocal social media and press campaign to win public favor. Apple only relented when Basecamp added an in-app sign-up option.

Following the Hey dustup, Apple introduced a way for developers to appeal App Store guidelines they felt were being unjustly enforced, as Basecamp did. But Facebook soon claimed the appeals process is just the latest way Apple is unfairly treating gaming: the company says it tried to appeal after it submitted its dedicated Facebook Gaming mobile app to the App Store but was denied, because the app contained access to a platform that lets you play small Flash-style mini games via a built-in web browser.

It wasn't a cloud gaming issue per se, but the rules and the context around the denial are similar: Apple doesn't like developers offering access to apps or app stores nested within other pieces of iOS software, except under very specific circumstances. Facebook removed the ability to play games, and it says Apple then approved the app. But when Facebook

submitted its appeal, it says it heard nothing back.

“Even on the main Facebook app and Messenger, we’ve been forced to bury Instant Games for years on iOS,” Facebook Gaming chief Vivek Sharma said in a statement to The Verge. “This is shared pain across the games industry, which ultimately hurts players and devs and severely hamstrings innovation on mobile for other types of formats, like cloud gaming.”

Last week, the EU said it was “aware” of the cloud gaming ban, *Reuters* reports, although antitrust investigators declined to comment on whether the decision would factor into its ongoing probe.

Photo by Amelia Holowaty Krales / The Verge

APPLE AND GAMING: A LOVE-HATE RELATIONSHIP

On one end, this is shaping up to be a potential antitrust issue, especially if Apple ever builds its own cloud gaming app. On the other, it’s only the latest altercation in Apple’s long and controversial relationship with the gaming industry. The App Store as it exists today, and by extension the entire iOS platform, owes much of its success to the growth and sustained popularity of gaming apps.

The earliest iPhone success stories were hits like *Angry Birds* that transformed into massive multimedia franchises. Later, the biggest game companies on the planet, like Activision Blizzard and China’s Tencent, would invest heavily in smaller studios to help create multi-billion dollar businesses like King’s *Candy Crush Saga* and TiMi Studios’ *Honor of Kings* and *Arena of Valor*. Surprise hits like the augmented reality trailblazer *Pokémon Go* would further establish the appetite

for new mobile-first gaming experiences, with the iPhone in the lead as the go-to platform for monetizing this software, despite the fees Apple extracts.

The App Store owes much of its success to the growth and sustained popularity of gaming apps

But only in recent years has Apple formally acknowledged the category by breaking it out as one of its major app categories in its mobile marketplace and launching its own paid subscription service, Arcade, full of games that Apple paid developers to create exclusively for its own platform. For a majority of the last decade, Apple treated gaming as a sideshow, choosing to cede the PC market to Microsoft by refusing to equip its laptops and desktops with the GPUs necessary to play more powerful computer games and largely resting on its laurels on mobile as Android struggled with piracy and copyright infringement.

All the while, the game industry, and mobile app developers in particular, treated Apple as a benevolent dictator on iOS, not to be fought with and often in a position of absolute authority. While *Fortnite* maker Epic attempted to bypass Google's Play Store by distributing the mobile version of the battle royale hit on its own (an effort it eventually declared a failure), Epic didn't dare try a similar method for the iOS version until this month's in-app payment coup. (The reason is simple: there is no way for a developer to get any app on the iPhone without going through Apple and paying its App Store fee, unless they exploit loopholes or target only jailbroken devices.)

Eventually, however, gaming became too big for the tech industry to ignore, and Apple wanted a bigger slice. The company launched its Arcade subscription in September of last year, and the service has grown to include more than 100 titles all available for download for one monthly fee of \$4.99. It was a bold play to further legitimize iOS gaming as a space with room for polished, high-quality experiences you'd

more likely find from well-established indie developers and mobile app veterans.

Subscriptions and gaming haven't mixed well in the past, due to complex factors ranging from the investment required to create a game to the various financial risks inherent in selling them across a vast network of digital markets. But here was Apple, offering money up front to cover development costs and then some. And it's largely been considered a success, even if the financial arrangements and Apple's strict exclusivity requirements pose risks to indie developers who can't easily pivot their games to other platforms.

Microsoft's xCloud will let you play games like *Halo* on a phone via the cloud – but not if it's an iPhone.

Photo by Nick Statt / The Verge

But Apple wasn't alone, and subscription services that involve both buffet-style slates and ala carte marketplaces have begun popping up with cloud gaming technology tied at the hip. Now, coming on September 15th, is Microsoft's xCloud, which marries two forward-thinking business models for game distribution into one elegant-seeming service. Microsoft is already an industry leader in subscription services with Xbox Game Pass, which it first launched back in 2017 that has grown to include more than 100 games, including past and future first-party Microsoft games like the upcoming *Halo Infinite*, that can be downloaded and kept for as long as you pay the monthly fee. Every game Microsoft announced for its next Xbox game console last month will come to Game Pass as well.

xCloud could make cloud gaming much more palatable, but iPhone users are getting left out

And next month, the Ultimate version of the subscription, which includes access to PC and Xbox games for \$15 a month, will get xCloud as an added benefit, giving subscribers the ability to stream any of the Game Pass titles to their Android

phone for no added cost. The move could make xCloud a formidable competitor to Google's Stadia and Nvidia's GeForce Now, as anyone with a PC or Xbox and an Android phone will be able to enjoy a much more robust library of games across a variety of screens.

Cloud gaming may take many years to fully mature into a technology that can rival running native software downloaded to a device. But where cloud gaming can truly shine is in the way xCloud is designed: as an added mobile benefit to an already-great multi-platform subscription service. This could kickstart cloud gaming in ways Stadia, GeForce Now, and lesser-known services like Shadow never could.

The only issue now is that a huge chunk of the smartphone-owning audience won't get to come along for the ride. That's because Apple has decided such products are not in its own best interests or in the best interests of the platforms it owns and curates, including its competing Arcade subscription service. It's another reminder that Apple's walled garden may be pristinely manicured and comfortable, but it remains small and restrictive even as new innovations continue to pop up in the space beyond its borders.

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