



**BEFORE THE  
NATIONAL TELECOMMUNICATIONS AND INFORMATION ADMINISTRATION**

**Developing a Report on Competition in the  
Mobile App Ecosystem**

**Docket No. NTIA-2022-0001**

The Copyright Alliance appreciates the opportunity to submit the following comments in response to the request for comments (RFC) published by the National Telecommunications and Information Administration (NTIA) on April 22, 2022, regarding developing a report on competition in the mobile app ecosystem.

The Copyright Alliance is a non-profit, non-partisan public interest and educational organization representing the copyright interests of over 1.8 million individual creators and over 13,000 organizations in the United States, across the spectrum of copyright disciplines. The Copyright Alliance is dedicated to advocating policies that promote and preserve the value of copyright, and to protecting the rights of creators and innovators. The individual creators and organizations that we represent rely on copyright law to protect their creativity, efforts, and investments in the creation and distribution of new copyrighted works for the public to enjoy.

In order to promote lawful competition in the mobile app ecosystem, the Copyright Alliance asks that NTIA consider the harm infringing activity in the mobile app ecosystem causes to legitimate mobile app developers, third party rights holders who license their works for use in legitimate mobile apps, and mobile app users who may be duped into using infringing apps. As noted in the 2022 Special 301 Report, while the “increased availability of broadband Internet connections around the world, combined with increasing accessible and sophisticated mobile technology, has been a boon to the U.S economy and trade,” these “technological developments have also made the Internet an expressly efficient vehicle for disseminating pirated content that competes unfairly with legitimate e-commerce and distribution services that

copyright holders and online platforms use to deliver licensed content.”<sup>1</sup> This sentiment applies equally to the mobile app segment of the internet ecosystem as it does to the broader e-commerce system.

The problem of infringing mobile apps is growing. For example, in 2013, Google did not report any takedowns concerning mobile apps in its “How Google Fights Piracy” report.<sup>2</sup> In its November, 2018 report, Google reported that in 2017, “more than 14,000 times were removed from the Play Store through the notice-and-takedown process.”<sup>3</sup> In 2017, CreativeFuture highlighted the harms to innovation and consumers through a case study of the “Monument Valley” app, noting that 95% of android users who play Monument Valley downloaded the game without paying for it.<sup>4</sup> In 2021, MusicWatch reported that an estimated 23 million people in the United States are using mobile apps to download unlicensed music.<sup>5</sup>

This mobile app piracy harms the legitimate mobile app marketplace. In 2018, Forbes ran an article titled “The Mobile Economy has a \$17.5B leak: App Piracy”, which quoted Tapcore in finding that piracy had siphoned off \$17.5 billion in revenue from legitimate mobile publishers over the last five years.<sup>6</sup>

NTIA should consider what it and other stakeholders can do to mitigate the harm caused by infringing mobile apps. One of the most important actions that can be taken to mitigate against such harm is to have the mobile app storefronts engage in reasonable, enhanced screening of the app developers and the mobile apps before they are offers on the mobile app

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<sup>1</sup> 2022 Special 301 Report, April 27, 2022, p. 20, available at <https://ustr.gov/sites/default/files/IssueAreas/IP/2022%20Special%20301%20Report.pdf>.

<sup>2</sup> Google, “How Google Fights Piracy”, September, 2013, available at [https://docs.google.com/file/d/0BwxyRPFduTN2dVFqYml5UENUeUE/edit?resourcekey=0-7RmU4oMadspOu\\_qaN9X\\_Tg](https://docs.google.com/file/d/0BwxyRPFduTN2dVFqYml5UENUeUE/edit?resourcekey=0-7RmU4oMadspOu_qaN9X_Tg).

<sup>3</sup> Google, “How Google Fights Piracy”, November, 2018, p. 54, available at [https://www.blog.google/documents/27/How\\_Google\\_Fights\\_Piracy\\_2018.pdf/](https://www.blog.google/documents/27/How_Google_Fights_Piracy_2018.pdf/).

<sup>4</sup> Ruth Vitale, “App Piracy Stifles Innovation, Harms Consumers”, Creative Future, August 31, 2017, available at <https://www.creativefuture.org/app-piracy-stifles-innovation-harms-consumers/>.

<sup>5</sup> Russ Crupnik of MusicWatch, “Think music piracy has been extinguished? Think again . . .”, Hypebot.com, April 28, 2021, available at <https://www.hypebot.com/hypebot/2021/04/think-music-piracy-has-been-extinguished-think-again.html>.

<sup>6</sup> John Koestier, “The Mobile App Economy has a \$17.5B leak: App Piracy”, Forbes, Feb. 2, 2018, available at <https://www.forbes.com/sites/johnkoestier/2018/02/02/app-publishers-lost-17-5b-to-piracy-in-the-last-5-years-says-tapcore/?sh=5a9da8d07413>.

storefront, and other best practices to deter infringing apps. Just as the Department of Homeland Security recommended best practices to combat trafficking in counterfeit and pirated goods in the ecommerce space in its 2020 report,<sup>7</sup> so too should NTIA consider promoting similar best practices in the mobile app ecosystem. Those best practices should include, among others:

- enhanced vetting of mobile app developers, including reasonably know your customer practices;
- requiring mobile app developer transparency to the consumers on the mobile app store to help consumers better consider what apps to acquire;
- screening of the mobile apps for evidence of intentional, flagrant, or clear infringing activity, including a review of the apps marketing materials, description and design, and representations from the app developer that the app and its usage do not infringe third-party rights; and
- having a clear, objective, and efficient notice and take down system to address infringing apps that appear on the mobile app storefront.

Such screening and app removal helps competition by removing fraudulent and infringing apps that take away customers from legitimate app developers.

We appreciate the opportunity to submit these comments, and for the NTIA’s attention to this issue. We would welcome the opportunity to discuss these matters more thoroughly and provide additional input or answer any further questions.

Respectfully submitted,

Keith Kupferschmid  
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<sup>7</sup> U.S. Department of Homeland Security, “Combatting Trafficking in Counterfeit and Pirated Goods: Report to the President of the United States,” January 24, 2020, p. 6, available at [https://www.dhs.gov/sites/default/files/publications/20\\_0124\\_pley\\_counterfeit-pirated-goods-report\\_01.pdf](https://www.dhs.gov/sites/default/files/publications/20_0124_pley_counterfeit-pirated-goods-report_01.pdf).