STATE OF NEW YORK

6526

2021-2022 Regular Sessions

IN ASSEMBLY

March 19, 2021

Introduced by M. of A. KELLES -- read once and referred to the Committee on Consumer Affairs and Protection

AN ACT to amend the general business law, in relation to prohibiting certain exclusivity policies imposed by digital application distribution platforms on digital application developers

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. The general business law is amended by adding a new article 45 to read as follows:

ARTICLE 45

DIGITAL APPLICATIONS

Section 1500. Definitions.

1501. Digital application distribution platforms.

§ 1500. Definitions. As used in this article, the following terms shall have the following meanings:

1. "Digital application" means any application software program or group of programs designed to be downloaded or accessed on an electronic device including, but not limited to a computer, smartphone, tablet, or other similar device by an end-user.

2. "Developer" means the creator of a digital application made available for download by end-users through a digital application distribution platform or other digital distribution platform.

3. "Digital application distribution platform" means a digital distribution platform for applications and services provided to a user on an electronic device including, but not limited to, a smartphone, tablet, computer, or other similar device.

4. "Special-purpose digital application distribution platform" means a digital distribution platform for single or specialized categories of digital applications, software, and services provided to an end-user on special-purpose hardware including, but not limited to, a gaming console, music player, or other similar special-purpose device.

EXPLANATION--Matter in *italics* (underscored) is new; matter in brackets [-] is old law to be omitted.

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5. "Digital payment application" means a digital application, service, or user interface used to process a payment or money transfer from an individual or entity to another individual or entity.

§ 1501. Digital application distribution platforms. 1. A proprietor of a digital application distribution platform for which cumulative gross receipts from sales on such digital application distribution platform to residents of this state exceed ten million dollars in the previous or current calendar year shall not:

(a) Require a developer to use a specific digital application distribution platform as the exclusive mode of distributing a digital application or other digital product;

(b) Require a developer to use a specific digital payment application as the exclusive mode of accepting payment from a user to download a digital application or purchase a digital or physical product through such digital application; or

(c) Retaliate against a developer for choosing to use an alternative digital application distribution platform or digital payment application.

2. Any contract or agreement that violates this section shall be unenforceable and shall be deemed a violation of this section.

3. This section shall not apply to a proprietor of a special-purpose digital application distribution platform.

4. The attorney general shall receive complaints and investigate violations of this section and may bring an action in any court of competent jurisdiction to obtain legal or equitable relief on behalf of an individual aggrieved by a violation of this section.

§ 2. This act shall take effect immediately.