How we are defending Software Freedom against Apple at the EU's highest court
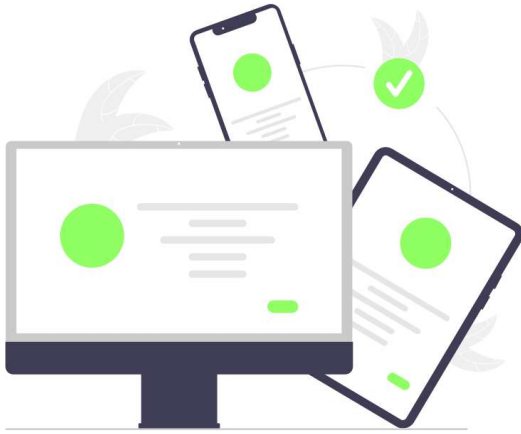
Agenda

An akward neighbour

Gatekeepers: the power of monocultures

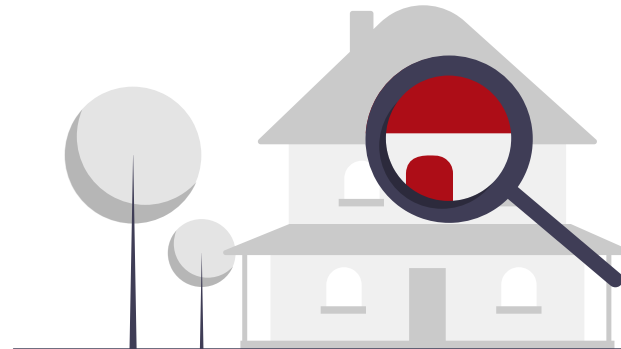Counteracting Apple's strike against software freedom and interoperability

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An akward neighbour…

Your neighbour...

- Takes **30%** of the pizza/cake you order
- Uses your energy even when you don't allow
- Controls new people you invite to your house
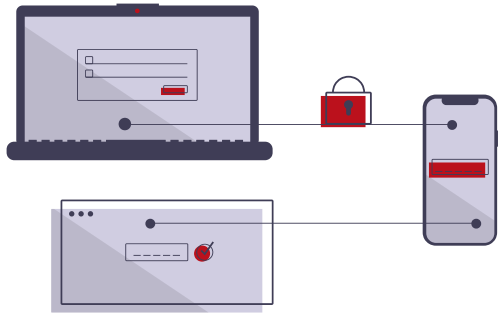- **This person never leaves**

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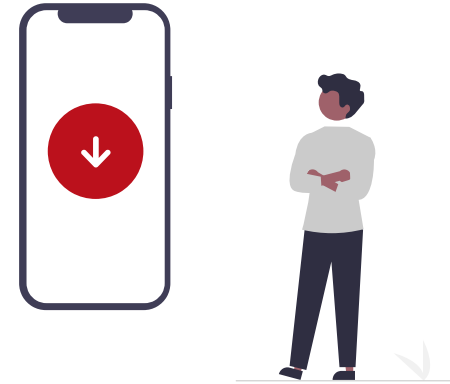**Gatekeeper control over devices**

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Gatekeepers are your akward neighbour...

Imposed lock-ins

No access to third-party apps stores, no interoperability

No software freedom

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World-Wide Smartphone Sales (Thousands of Units)

- Android
- iOS
- Windows
- Blackberry
- Symbian
- Other
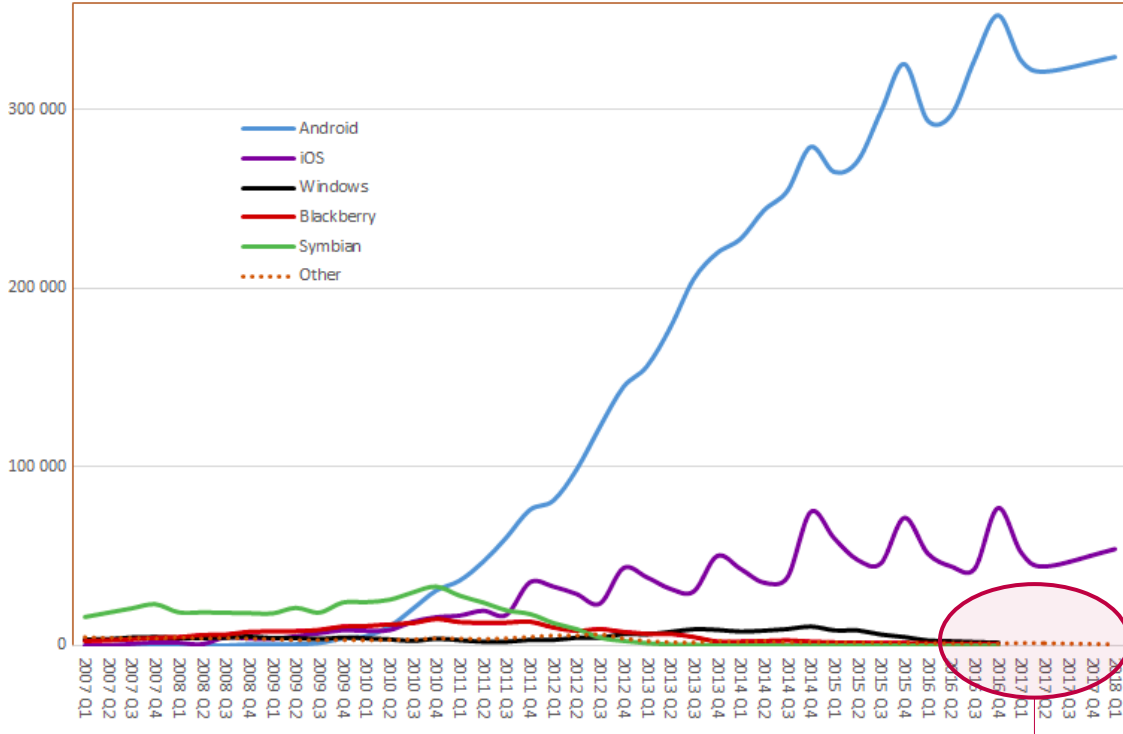
smartmo, CC-BY-SA 3.0

Android (Google) and iOS (Apple) have togehter 99% of world market for OS.

Android vs iOS Market Share 2020: Stats and Facts
Mobileapps.com, 2021

In 2020, Android dominated 71.93% of world market for OS, while iOS had 27.47%.

Android vs iOS Market Share 2020: Stats and Facts
Mobileapps.com, 2021

Free Software OS distros in mobile devices (!)

Digital „ecosystem"

- Rich & diverse
- Plenty of choices
- Sustainable
- Fair

Lucas Lasota, CC-BY-SA 4.0

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Digital „plantation"

- Monoculture
- No freedom of choice
- Unfair competition

Device Neutrality

Software Freedom

No lock-in

End-user control over data

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What is the Digital Markets Act?

EU law **regulating the economic activitiy** of very large tech companies. Enterend in force in 2022.

DMA has two functions:
- prevents **market abuse** from big tech
- **opens up** the market for smaller competitors

The **European Commission „designates"** the companies and the products/services the law should apply.

Apple was designated „gatekeeper" for its:
- AppStore
- iOS and iPadOS
- Safari browser

DMA obligations and fines

Art. 6(3): app **uninstallation** and change default settings

Art. 6(4): third-party installation (**sideloading**)

Art. 6(7): **interoperability** with software and hardware features

Art. 6(9): data **portability**

Art. 7: **interoperability of messaging apps**

Art. 13(4): **anti-circunvetion** protections

Penalty: max. 10% of worldwide turnover (Art. 30(1))

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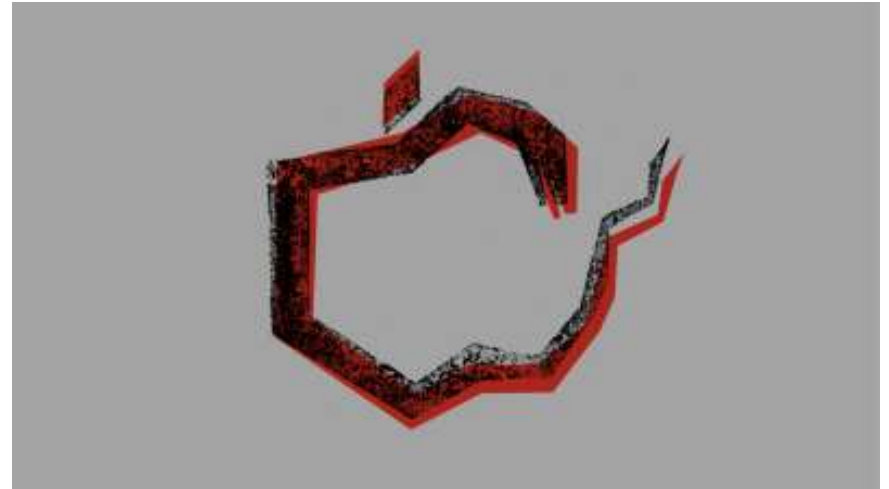
Apple vs European Commission
A strike against the DMA

Apple appealed against the European Commission's designation decision (T-1080/23).

Apple is trying to dodge the DMA rules over its App Store, iOS and iPadOS .

Apple frames interoperability obligations of Art. 6(7) as disproportionate in relation to its commercial and economic interests.

Rahak, CC-BY-SA 4.0.

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Art. 6(7) DMA

The gatekeeper **shall allow** providers of services and providers of hardware, **free of charge, effective interoperability with**, and access for the purposes of interoperability to, the **same hardware and software features** accessed or controlled via the operating system or virtual assistant listed in the designation decision pursuant to Article 3(9) as are available to services or hardware **provided by the gatekeeper**.

The gatekeeper shall not be prevented from taking strictly necessary and proportionate measures to ensure that interoperability does not **compromise the integrity of the operating system**, virtual assistant, hardware or software features provided by the gatekeeper, provided that such measures are duly justified by the gatekeeper.

Intervening against Apple
Why Apple and why now?

Aug. 2024: CJEU allowed the FSFE to intervene

„ […] the case is likely to have a **significant impact** on […] the supply of Free Software, free exchange of information and equal chances in accessing software.

[...] "such a result would have an impact on the ability of the developers of applications or Free Software to interconnect their applications free of charge with Apple's iOS, which, in turn, would affect [the] FSFE's ability to further and **distribute such software to as wide a public as possible**".

Sep. 2024: FSFE submitted its arguments
represented by Dr. Martin Husovec

- **As society grows in complexity, interoperability is inevitable**

- **Apple is being regulated in the light of public interest.**

- **Interoperability is fully proportional to fundamental rights.**

- **Apple should compete on thrustworthiness**

- **DMA should apply in full to Apple's App Store, iOS, iPadOS**

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Winning this case against Apple

How Free Software can benefit?

For developers

More software freedom: Software developers will be able to demand that Apple allow installation of third party apps (side-loading), the use of third party app stores and the uninstallation of pre-installed software in devices;

Ex: enabling Free Software app stores in iOS

Better interoperability policies: Software developers will be able to demand effective and free-of-charge interoperability between their software and Apple's software and hardware controlled by Apple's operating system.

Ex: Free Software payment systems having access to NFC

For end-users

Enhanced freedom of choice: Users will enjoy more freedom of choice regarding software on Apple devices. Users will benefit from more competition and offers from third-party providers, including alternative app stores, features and solutions.

Ex: More Free Software available in iOS!

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Become a FSFE supporter!

https://fsfe.org/support

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