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I’m gonna read and summarize Apple’s proposed App Store settlement on a class-action lawsuit (not Epic).

Source docs:  
Apple’s Press Release  
[apple.com/newsroom/2021/...](https://apple.com/newsroom/2021/...)

Proposed Settlement to Judge PDF  
[s3.documentcloud.org/documents/2104...](https://s3.documentcloud.org/documents/2104...)

1. Apple’s press release says “clarifies”, not “changes”. 🤔

This part \*sounds\* like Apps can use non-App-Store purchase options – but no. It just says Apps can email offers to the customers.

Like this example email. That’s literally all this says.

The agreement clarifies outside of their iOS app subscriptions, in-app purchases, assist qualifying US developers. Apple’s longstanding efforts to evolve marketplace for users and developers.

2. Second sentence: Apple is gonna add more price points. 🙄 OK.

So instead of \$39.99, \$44.99, \$49.99. It’ll be \$39.99, \$40.99, \$41.99, \$42.99... \$999.99.

Literally that’s exactly what will happen.

The agreement clarifies that developers outside of their iOS app; expands the subscriptions, in-app purchases, and assist qualifying US developers. The Apple’s longstanding efforts to evolve marketplace for users and developers.

3. And final substantive sentence from Apple’s press release, they’re gonna establish a “fund to assist qualifying US developers”.

OK so that’s basically just for self “punishment”. \$100M

Also... pretty sure that’s so the class action lawyers can a healthy cut. 🤔

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4. Agree to maintain the small business program for 3 years... pretty sure that’s BAD.

We want them to edit it to match Google’s: first \$1M is 15% fee, period.

- In a validation of the App Store the developers agreed to maintain at least the next three years. Businesses continue to benefit from the revenue the App Store’s standard commissions payments.

5. App Store search will rank things exactly as you’d expect they would and Apple promises they won’t take a spiffs or play favorites.

Yay 🙌

- App Store Search has always ranked apps they’re looking for. At the end of its Search results will continue to be downloads, star ratings, text reviews. The agreement will keep the current ranking the next three years.

6. Apps can:

- ask for a user’s email
- and if they check a box to receive offers
- then app can email an offer, but not show it in the app

🙄 ... as an exercise, imagine if that WASN’T allowed: you are not allowed to email offers to customers. Ha

- To give developers even more freedom clarifying that developers can use information about payment methods. Developers will not pay Apple a fee outside of their app or the App Store communication and have the right to

(6b. Yes, other devs, I’m aware of how it’s currently written, this is to illustrate the point.)

7. OK so that was Apple’s press release.

- all clarifications, no changes
- Apps can email their users with offers (duh?)
- Small Business Program (that we wish would improve) not change for 3 years
- pay devs \$100M (voluntary self punishment)

HUGE nothing-burger so far.

8. On to the actual legal settlement, which I expect to say nothing.

So far this is a huge huge huge win for Apple. Nothing changed.

9. I dunno how much more of this I can stand...

About 20% of this is true... and nothing changed...

| PROCEEDS TIER                  | PERCENTAGE OF SETTLEMENT CLASS |
|--------------------------------|--------------------------------|
| \$0.01 to \$100                | 51%                            |
| \$100.01 to \$1,000.00         | 23%                            |
| \$1,000.01 to \$5,000.00       | 11%                            |
| \$5,000.01 to \$10,000.00      | 4%                             |
| \$10,000.01 to \$50,000.00     | 6%                             |
| \$50,000.01 to \$100,000.00    | 2%                             |
| \$100,000.01 to \$250,000.00   | 2%                             |
| \$250,000.01 to \$500,000.00   | 1%                             |
| \$500,000.01 to \$1,000,000.00 | 1%                             |
| Over \$1,000,000.00            | 1%                             |

10. Devs who make a claim will get this much. But triple it, because they only expect 35% claimant rate.

And Girls Who Code gets the leftovers, nice.

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| \$500,000.01 to \$1,000,000.00 | 1%                             |
| Over \$1,000,000.00            | 1%                             |

The Settlement

Members (for e

Code, a nonpro

11. I guuuuuess this says that only the 15% rate must stay. They could remove the \$1M limit to qualify for example?

Under the Settlement, developers enrolled in the Small Business Program. See *id.* at § 5.1.1. This

12. Ok this is legit news.

The small app program “costs” Apple \$59M/yr. Reminder: They make \$10B/yr from apps. 🤔 That’s 0.59%.

business planning value.” Cameron Economides estimates that the Small Business Program maintain its 15% tier, will save Apple Section IV.A.3.

13. Sounds like the new price points will be added at the low end? So lots of random prices like \$2.19 or \$1.69.

A at § 5.1.4. This enhanced pricing freedom will allow developers to set their prices to compete and enhance revenues. \$2.99 and, under the current pricing tiers, can be added in increments, which constitutes a “huge price jump.” Cameron believes that greater pricing flexibility will allow developers to compete and “adjust prices in the market.” *Id.*

14. App Review will change nothing.

Allrighty.

**App Review.** iOS developers have expressed that App Review is not always applied fairly or in a consistent manner. Apple will post new content for its website alerting developers to an App Review update. A developer who “believes that there has been unfair treatment of their U.S. developer’s apps, or in-app products, or updates” will be required under the Settlement to maintain this status for at least three years. See *id.* This is an important commitment.

15. The lawyers want it on the record that they got lots of money for Apps (and should be paid a small fee of that money, of course).

Developer Plaintiffs recognize that this litigation may not be solely responsible for the Small Business Program. Apple has cited two other contributing factors—the Corona desire to propel innovation by small developers. See Berman Decl., Ex. A at § 2.3. V litigation equal to these other factors would be reasonable, but even assuming the litigation played a lesser role, it still conferred millions of additional dollars on the Class. For example, the litigation was 20 percent responsible for the Small Business Program, that would mean the litigation delivered an additional \$35.44 million to the Settlement Class (\$177.2m x .2). Combining that amount with the \$100 million Small Developer Assistance Fund yields \$135.44 million, which represents between 41.2 and 46.9 percent of the Settlement Class’s sin. That is a remarkable recovery, and it does not even account for the other valuable structural reforms Apple has agreed to implement.

16. Annnnd there it is: The lawyers will get paid OUT OF THE SMALL DEVELOPERS ASSISTANCE FUND.

\$30M of \$100M of the SMALL DEVELOPERS ASSISTANCE fund goes to the lawyers. 🤔🤔🤔 I can’t. This is just too good.

**e. Counsel Will Request Reasonable of Costs.**

When it comes time to evaluate the adequacy of the fee request, the court will look to the potentially requested attorney’s fees. See Federal Procedural Guidance at § 6. Here, the Settlement Agreement provides that the fee request will be paid from the Small Developer Assistance Fund. The Settlement Plaintiffs will make a request for attorneys’ fees of up to \$30 million in connection with this request. See Weisbrodt Decl. Exs. B, C, & D.

17. LOL, then 4 pages of reasons why the lawyers think they should get \$30M.

A fee award of \$30 million, which again is the maximum amount plaintiffs will request, represents 30 percent of the Small Developer Assistance Fund. Even if one were to look solely at this monetary relief, such a request would be reasonable. When applying the percentage-of-the-fund method, the Ninth Circuit has established a benchmark percentage of 25 percent to be used as the “starting point” for analysis. *In re Online DVD-Rental Antitrust Litig.*, 779 F.3d 934, 949, 955 (9th Cir. 2015). “That percentage amount can then be adjusted upward or downward depending on the circumstances of the case.” *de Mire v. Heartland Emp’t Servs., LLC*, 2014 WL 1824242, at \*1 (N.D. Cal. Mar. 13, 2014). Courts in this district have recognized that “in most common fund cases, the award exceeds the benchmark.” *Id.* (quoting *In re Omnicision Techs., Inc.*, 559 F. Supp. 2d 1004, 1047 (N.D. Cal. 2008)). Indeed, federal courts in this district and across the country routinely award class action fees equivalent to, and often exceeding, 30 percent of the common fund. *Id.* (quoting the 2018 Antitrust Annual Report, Professor Joshua Davis found that among

18. The end. What a joke.

No rule changes, just clarifications. And \$70M self-punishment (0.5% of one year’s app store profits).

The media coverage of this is exhausting. Their incentive for clickbait is cancerous to society.

19. For the record, what I want \*for the ecosystem\*.

- Apple to act quick, courts will f us all
- 15/20%
- no conquesting
- no sideloading
- no alt payments
- can’t link to payments, can mention
- “report fraud” button
- punishment for rule breaking
- universal paywall

🙏❤️🍏

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