



Antitrust: Commission seeks feedback on commitments offered by Apple over practices related to Apple Pay

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The European Commission invites comments on commitments offered by **Apple** to address competition concerns over access restrictions to the technology used for contactless payments with mobile devices in stores (Near-Field Communication – 'NFC').

The Commission's investigations

Apple Pay is Apple's own mobile wallet solution used to allow iPhone users to pay with their mobile devices. Apple's iPhones run exclusively on Apple's operating system ('iOS'), with which they form a 'closed ecosystem'. Apple controls every aspect of this ecosystem, including mobile wallet developers' access to it.

The Commission preliminarily found that Apple enjoys significant market power in the market for smart mobile devices and a dominant position on mobile wallet markets on iOS. Apple Pay is the only mobile wallet solution that may access the necessary hardware and software ('NFC input') on iOS to enable mobile payments in physical stores. Apple does not make it available to third-party mobile wallet app developers.

On [2 May 2022](#), the Commission informed Apple of its preliminary view that such exclusionary conduct may restrict competition in the market for mobile wallets on iOS devices, in breach of Article 102 of the Treaty on the Functioning of the European Union ('TFEU')

The proposed commitments

To address the Commission's competition concerns, Apple has offered the following commitments:

- To **allow third-party mobile wallet and payment service providers** to access and interoperate through a set of Application Programming Interfaces ('APIs') with the NFC functionality on iOS devices free of charge, without having to use Apple Pay or Apple Wallet. Apple would create the necessary APIs to allow equivalent access to the NFC components in the so-called Host Card Emulation ('HCE') mode, a technology issued to securely store payment credentials and complete transactions using NFC, without relying on an in-device secure element.
- To **apply the commitments to all third-party mobile wallet app developers established in the European Economic Area ('EEA') and all iOS users with an Apple ID registered in the EEA**. Apple will not prevent the use of these apps for payments in stores outside the EEA.
- To **provide additional features and functionalities**, including defaulting of preferred payment apps, access to authentication features such as FaceID and a suppression mechanism.
- To **apply fair, objective, transparent, and non-discriminatory eligibility criteria to grant NFC access** to third-party mobile wallet app developers, who will have to conclude an ADP license agreement to have access.
- To establish a **dispute settlement mechanism** under which Apple's decisions denying access to NFC input will be reviewed by independent experts.

The commitments offered by Apple would remain in force for ten years. Their implementation would be monitored by a monitoring trustee, who will report regularly to the Commission.

The Commission invites all interested parties to submit their views on Apple's proposed commitments within one month from the publication of a summary of the proposed commitments in the [EU's Official Journal](#). The full text of the commitments will be available on the Commission's [competition website](#).

Background

The NFC technology enables communication between a mobile device and payment terminals in stores. NFC is standardised, available in almost all payment terminals in stores in the EU and may allow for safer and more seamless mobile payments compared to other technologies.

On [16 June 2020](#), the Commission opened a formal antitrust investigation to assess whether Apple's conduct in connection with Apple Pay violates EU competition rules.

On [2 May 2022](#), the Commission sent a Statement of Objections informing Apple of its preliminary view that it abused its dominant position in markets for mobile wallets on iOS devices, by limiting access by third-party developers of mobile wallets to the NFC input used for contactless payments with mobile devices in stores.

[Article 102](#) TFEU prohibits the abuse of a dominant position that may affect trade within the EU and prevent or restrict competition. The implementation of this provision is defined in [Regulation 1/2003](#), which can also be applied by national competition authorities.

Article 9(1) of [Regulation 1/2003](#) enables companies investigated by the Commission to offer commitments in order to meet the Commission's concerns and empowers the Commission to make such commitments binding on the companies. Article 27(4) of [Regulation 1/2003](#) requires that before adopting such decision, the Commission shall provide interested third parties with an opportunity to comment on the offered commitments.

If the market test indicates that the commitments address the competition concerns, the Commission may adopt a decision making them legally binding on Apple. Such a decision would not conclude that there is an infringement of EU antitrust rules but would legally bind Apple to respect the commitments it has offered.

If Apple does not honour such commitments, the Commission can impose a fine of up to 10% of the company's worldwide turnover, without having to prove an infringement of the EU antitrust rules.

More information will be available on the Commission's [competition website](#), in the public [case register](#) under the case number [AT.40452](#).

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