SB2333 Testimony – Jeff Zarling

Jeff Zarling
President
DAWA Solutions Group, LLC.
jzarling@dawasg.com

I stand in support of Senate Bill 2333 – In-application payment Prohibitions.

Big Tech has made big impacts on our lives. The computers, phones, Internet, and applications we use enable nearly every aspect of our daily activities. These applications have become integral to consumers and businesses. I am a supporter of free enterprise and lean toward less regulation and intervention in the marketplace. However, in the case of natural monopolies, I understand and support the idea of regulatory requirements.

A natural monopoly is a type of monopoly that exists typically due to the high start-up costs or powerful economies of scale of conducting a business in a specific industry which can result in significant barriers to entry for potential competitors[1]

Historical examples include railroads and telecommunications. The costs of laying tracks and buying or leasing the trains prohibits or deters the entry of any competitor and the industry was assumed to be an industry with significant economies of scale. Similarly, the costs of building telecommunications poles, laying fiber and installing cell networks make it cost prohibitive for new companies to enter the telecommunications market.

What we are experiencing in the software world are natural monopolies created out of user groups. While options existed in the 1990's for operating systems other than Windows such as MacOS, IBM's OS2, and Unix, users overwhelmingly chose Windows. These large user groups become an inherent value for software developers who may choose to only write software for the platform that has the largest user group instead of the costly prospect of writing software for multiple operating systems.

We are now seeing this in the market for mobile phone operating systems (iPhone or Android) and their associated App platforms or stores. As a developer, I only have to write software for two operating systems as Google Android and Apple iOS jointly posses over 99% of the global market share.[2]

As stated, there are benefits to developers from these natural monopolies and the services they provide. But there is the risk that the Operating System companies abuse their position with onerous policies, practices, and pricing as did the railroads.

In the 1870's, it was western farmers in particular that suffered. A central issue was rate discrimination between similarly situated customers and communities. Railroads charged exorbitant fees to some and gave preference to others. It wasn't until the Granger laws, a series of laws passed in several

[1] https://www.investopedia.com/terms/n/natural_monopoly.asp
[2] https://www.statista.com/statistics/272698/global-market-share-held-by-mobile-operating-systems-since-2009/#:~:text=Android%20maintained%20its%20position%20as,of%20the%20global%20market%20share.

midwestern states, that things started to change. Certain aspects of the Granger Laws varied from state to state, but all of the involved states shared the same intent: to make pricing of railroad rates more favorable to farmers, small rural farmers in particular, in the states. This state action eventually led to the Interstate Commerce Commission and finally the Sherman Act in 1890, ten years before Teddy Roosevelt was elected and carried the mantle of "trust-busting."

Teddy Roosevelt was opposed to bad trusts, or companies that expanded through unfair practices. If companies became dominate by eliminating competition and forcing consumers to pay unfair rates, Roosevelt declared that the government must step in. Roosevelt wasn't against big companies; he simply understood that the government must provide effective regulation to prevent corporations from abusing their natural monopolies and engaging in unfair trade.

As a small business owner, I feel I'm in a similar position as those farmers and support common-sense guardrails to prevent Operating System/App companies from engaging in unfair trade.