

Utah v. Google FAQs

DISCLAIMER: The statements contained in this document are for informational purposes only and are intended to provide clarification of certain allegations in non-technical terms. To the extent that there is any material difference between any statements in this document and those in the complaint filed in *Utah v. Google*, the latter take precedence. Further, these generalized statements do not necessarily reflect the views of any or all of the 37 Attorneys General who are bringing the *Utah v. Google* case.

1. Which states are suing? A coalition of Attorneys General from the following 37 jurisdictions are suing Google: AK, AR, AZ, CA, CO, CT, DC, DE, FL, IA, ID, IN, KY, MA, MD, MN, MO, MS, MT, NC, ND, NE, NH, NJ, NM, NV, NY, OK, OR, RI, SD, TN, UT, VA, VT, WA, and WV.
2. How long has this investigation been going on? The Attorneys General of 50 jurisdictions publicly announced an investigation into Google on September 9, 2019. The investigation has subsequently resulted in the two related *United States v. Google* and *Colorado v. Google* cases that are proceeding in the United States District Court for the District of Columbia, the *Texas v. Google* case that is pending in the Eastern District of Texas, and now this *Utah v. Google* case in the Northern District of California.
3. Why was the case filed in the Northern District of California? The allegations in this case are substantially related to those raised in multidistrict litigation that has already been consolidated into the Northern District of California before United States District Court Judge James Donato.
4. If this case is similar to those already filed in the Northern District of California, what does the states' case add? The *Utah v. Google* case includes allegations based upon the states' ongoing investigation that were not included in the previously filed cases. It also adds allegations of violations of state laws in addition to federal laws, including violations of consumer protection laws in many states. The states also believe that as government enforcers, we are better situated to achieve effective injunctive relief against Google while working with the existing plaintiffs to obtain compensation for those harmed by Google's alleged behavior. The states are also seeking civil penalties, which could be substantial given the volume of e-commerce at stake.
5. How does this new case differ from the *United States v. Google* and *Colorado v. Google* cases that are proceeding in the United States District Court for the District of Columbia? Both cases originate from Google's monopoly power and its unlawful efforts to maintain that power, including the anticompetitive contracts that Google enters with others. The *Colorado v. Google* case filed in December focuses on Google search and its anticompetitive conduct seeking to maintain its monopolies in general search, general search advertising, and general search text advertising. This *Utah v. Google* case concerns the Android operating system, in particular the way that consumers add apps to their phones through the Google Play Store and the way that they pay for in-app purchases.
6. How does this new case differ from the *Texas v. Google* case? Both cases originate from Google's monopoly power and its unlawful efforts to maintain that power, including the anticompetitive contracts that Google enters with others. The core allegations in the *Texas v. Google* case concern anticompetitive and deceptive behavior associated with Google's online display advertising empire and the technology that runs it. This *Utah v. Google* case

concerns the Android operating system, in particular the way that consumers add apps to their phones through the Google Play Store and the way that they pay for in-app purchases.

7. What is an “in-app purchase payment?” We use the term to mean a payment made through an app on an Android mobile device to buy digital content or subscriptions. Examples include subscribing to a premium music or video streaming service, or purchasing a digital book, virtual currency on a dating app, or additional levels in a game. The term does not include using an app to purchase physical goods and services, such as grocery delivery or ridesharing.
8. What is the main concern of the states about the Google Play Store? The states allege that Google has monopoly power over the distribution of apps on Android mobile devices through the Google Play Store, which accounts for over 90% of Android downloads. Mobile devices are essential tools for many Americans in their everyday life. While there are other ways to get apps on Android phones, Google has acted to make those approaches unreasonably difficult for consumers so that Google can maintain its monopoly position. The state consumer protection claims allege Google made false statements about sideloading apps and operating the Android Market as an open system.
9. What is an example of how the states allege that Google is maintaining its app distribution monopoly? It is possible to go to a website through a browser on a mobile device and download an app directly from that website (a process known as “sideloading”) if the website has an option for such a download. However, Google makes sure that a consumer who tries to sideload an app needs to go through many extra steps, such as clicking through warning screens that claim exaggerated security risks, even when the app being downloaded is clearly safe. The states see this behavior as not only being part of an antitrust violation, but also as constituting a deceptive act or practice under the consumer protection laws of many of the states.
10. What is the main concern of the states regarding in-app purchase payments? Google requires that if an app is distributed through Google Play Store, then such purchases must be made using Google Play Billing, and Google charges a fee of up to 30% to process those purchases. Google can tie the use of Google Play Billing to the distribution of apps through Google Play Store because of Google’s monopoly over app distribution. In a competitive market, such payment processing services would likely cost more like 3%, and both app developers and consumers would be able to choose between payment systems that have other benefits as well, such as lower commissions, enhanced payment features, customer service, and data security.
11. Has Google recently changed its in-app purchase payment requirements? Google has required that certain lines of business, such as games, use Google Play Billing for in-app purchase payments. Google has recently announced that it now intends to enforce the same requirement on additional lines of business, including streaming services. Existing streaming services were given until September of 2021 to transition over to Google Play Billing.
12. Are there technical reasons why apps that are downloaded via the Google Play Store would need to use Google Play Billing? The states do not believe so. The two services – app distribution on the one hand, and payment processing of in-app purchases on the other – are separate and distinct and the states have seen no evidence of a technical reason why they

need to be linked. This is shown by the fact that streaming services and other services were able to use Google Play Store for app distribution while using a different payment processor for in-app purchases.

13. Does the adverse ruling dismissing the states' complaint in the *New York v. Facebook* case affect this new case? Did it cause a delay in the filing? The states filing the *Utah v. Google* case took the time to look closely at the Facebook ruling. The two cases have significant differences and that the Facebook ruling should not adversely affect the *Utah v. Google* case. The markets, conduct, and time periods at issue in the two cases are different.
14. How is this case related to the *Epic v. Apple* case that went to trial in May? Both cases concern app distribution and in-app payment processing, but there are significant differences too. For example, when Google sets rules for how an Android phone is configured – such as requiring that Google Play Store is on the home screen – it isn't just making those rules for Google (the way that Apple does for an iPhone) rather, it is imposing those rules on all of the manufacturers of Android cell phones who want access to Google's essential bundle of services. This reduces the options for competition among cell phone manufacturers and the choices available to consumers.
15. What will be the effect of the anticipated decision in *Epic v. Apple* on this case? When decided, that case will not be binding precedent for the *Utah v. Google* case. The two cases involve different defendants and there are some significant factual differences. That said, it is possible that the judge in *Utah v. Google* will find some of the legal arguments adopted by the judge in *Epic v. Apple* to be persuasive.
16. Why haven't the Attorneys General sued Apple? The states are involved in ongoing efforts to examine conduct in the tech sector that harms consumers, quality, and innovation. Our broader investigation of Google allowed us to develop the information needed to pursue these claims next.
17. What relief are the states looking for against Google? We are seeking an injunction with terms that open up competition in both app distribution and in-app payment processing. We are seeking damages for the affected consumers in our states, in much the same way that we did in the e-books case against Apple and the main publishers of e-books, where we were able to get overcharges refunded to consumers' accounts. We are also seeking civil penalties to deter future wrongful conduct, disgorgement of Google's profits, as well as attorneys' fees and other relief.