

Nope. That's just something you assumed because it fits your argument. Apple is clear that it considers its commission to primarily be a **licensing fee** for use of its **property and services**. What legal basis are a developer falling in this category?
what service are a developer using? Apple can't require developer to register for any service?

How can a developer have free access to the hardware and API functions as described below if they are forced to pay a commission?

How can a competing application store compete on similar terms if they must pay a commission on all sales to Apple who runs their own store and have no fee for themselves?
If developers uses logos and iconography they would fall under a **fair, reasonable, and non-discriminatory(FRAND)** terms.

In these points that describe the intentions of the Digital Market Act
2-4,7,31,33-34,39-41,43-44,50,57,62,70,75

Article 2

- 2: core platform service
- 7: online social networking service
- 10: operating system
- 14 :software application stores
- 15: software application
- 16: payment service
- 17: technical service supporting payment service
- 18: payment system for in-app purchases
- 19: identification service
- 20: end user
- 21: business user
- 29: interoperability

(EU)2019/1150

(EU)2015/2366

(EU)2015/1535

Article 5

There's are the relevant Obligations for a Gatekeeper such as Apple.

3-4,7-8

Article 6

4,7,10

Text with EEA relevance

THE EUROPEAN PARLIAMENT AND THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on the Functioning of the European Union, and in particular Article 114 thereof

	Text with EEA relevance THE EUROPEAN PARLIAMENT AND THE COUNCIL OF THE EUROPEAN UNION, Having regard to the Treaty on the Functioning of the European Union, and in particular Article 114 thereof
(2)	An example of such characteristics of core platform services is extreme scale economies, which often result from nearly zero marginal costs to add business users or end users. Other such characteristics of core platform services are very strong network effects, an ability to connect many business users with many end users through the multisidedness of these services, a significant degree of dependence of both business users and end users, lock-in effects, a lack of multi-homing for the same purpose by end users, vertical integration, and data driven-advantages. All these characteristics, combined with unfair practices by undertakings providing the core platform services, can have the effect of substantially undermining the contestability of the core platform services, as well as impacting the fairness of the commercial relationship between undertakings providing such services and their business users and end users. In practice, this leads to rapid and potentially far-reaching decreases in business users' and end users' choice, and therefore can confer on the provider of those services the position of a so-called gatekeeper
(3)	Some of those undertakings exercise control over whole platform ecosystems in the digital economy and are structurally extremely difficult to challenge or contest by existing or new market operators, irrespective of how innovative and efficient those market operators may be. Contestability is reduced in particular due to the existence of very high barriers to entry or exit, including high investment costs, which cannot, or not easily, be recuperated in case of exit, and the absence of, or reduced access to, some key inputs in the digital economy, such as data. As a result, the likelihood increases that the underlying markets do not function well, or will soon fail to function well.
(4)	The combination of those features of gatekeeper is likely to lead, in many cases, to serious imbalances in bargaining power and, consequently, to unfair practices and conditions for business users, as well as for end users of core platform services provided by gatekeepers, to the detriment of prices, quality, fair competition, choice and innovation in the digital sector.
(7)	Therefore, the purpose of this Regulation is to contribute to the proper functioning of the internal market by laying down rules to ensure contestability and fairness for the markets in the digital sector in general, and for business users and end users of core platform services provided by gatekeepers in particular.

(31)	To safeguard the contestability and fairness of core platform services provided by gatekeepers, it is necessary to provide in a clear and unambiguous manner for a set of harmonised rules with regard to those services. Such rules are needed to address the risk of harmful effects of practices by gatekeepers, to the benefit of the business environment in the services concerned, of users and ultimately of society as a whole. The obligations correspond to those practices that are considered as undermining contestability or as being unfair, or both, when taking into account the features of the digital sector and which have a particularly negative direct impact on business users and end users. It should be possible for the obligations laid down by this Regulation to specifically take into account the nature of the core platform services provided. The obligations in this Regulation should not only ensure contestability and fairness with respect to core platform services listed in the designation decision, but also with respect to other digital products and services into which gatekeepers leverage their gateway position, which are often provided together with, or in support of, the core platform services.
(33)	For the purpose of this Regulation, unfairness should relate to an imbalance between the rights and obligations of business users where the gatekeeper obtains a disproportionate advantage. Market participants, including business users of core platform services and alternative providers of services provided together with, or in support of, such core platform services, should have the ability to adequately capture the benefits resulting from their innovative or other efforts. Due to their gateway position and superior bargaining power, it is possible that gatekeepers engage in behaviour that does not allow others to capture fully the benefits of their own contributions, and unilaterally set unbalanced conditions for the use of their core platform services or services provided together with, or in support of, their core platform services. Such imbalance is not excluded by the fact that the gatekeeper offers a particular service free of charge to a specific group of users, and may also consist in excluding or discriminating against business users, in particular if the latter compete with the services provided by the gatekeeper. This Regulation should therefore impose obligations on gatekeepers addressing such behaviour.
(34)	Contestability and fairness are intertwined. The lack of, or weak, contestability for a certain service can enable a gatekeeper to engage in unfair practices. Similarly, unfair practices by a gatekeeper can reduce the possibility of business users or others to contest the gatekeeper's position. A particular obligation in this Regulation may, therefore, address both elements.

(39)	In certain cases, for instance through the imposition of contractual terms and conditions, gatekeepers can restrict the ability of business users of their online intermediation services to offer products or services to end users under more favourable conditions, including price, through other online intermediation services or through direct online sales channels. Where such restrictions relate to third-party online intermediation services, they limit inter-platform contestability, which in turn limits choice of alternative online intermediation services for end users. Where such restrictions relate to direct online sales channels, they unfairly limit the freedom of business users to use such channels. To ensure that business users of online intermediation services of gatekeepers can freely choose alternative online intermediation services or direct online sales channels and differentiate the conditions under which they offer their products or services to end users, it should not be accepted that gatekeepers limit business users from choosing to differentiate commercial conditions, including price. Such a restriction should apply to any measure with equivalent effect, such as increased commission rates or de-listing of the offers of business users.
(40)	To prevent further reinforcing their dependence on the core platform services of gatekeepers, and in order to promote multi-homing, the business users of those gatekeepers should be free to promote and choose the distribution channel that they consider most appropriate for the purpose of interacting with any end users that those business users have already acquired through core platform services provided by the gatekeeper or through other channels. This should apply to the promotion of offers, including through a software application of the business user, and any form of communication and conclusion of contracts between business users and end users. An acquired end user is an end user who has already entered into a commercial relationship with the business user and, where applicable, the gatekeeper has been directly or indirectly remunerated by the business user for facilitating the initial acquisition of the end user by the business user. Such commercial relationships can be on either a paid or a free basis, such as free trials or free service tiers, and can have been entered into either on the core platform service of the gatekeeper or through any other channel. Conversely, end users should also be free to choose offers of such business users and to enter into contracts with them either through core platform services of the gatekeeper, if applicable, or from a direct distribution channel of the business user or another indirect channel that such business user uses.
(41)	The ability of end users to acquire content, subscriptions, features or other items outside the core platform services of the gatekeeper should not be undermined or restricted. In particular, a situation should be avoided whereby gatekeepers restrict end users from access to, and use of, such services via a software application running on their core platform service. For example, subscribers to online content purchased outside a software application, software application store or virtual assistant should not be prevented from accessing such online content on a software application on the core platform service of the gatekeeper simply because it was purchased outside such software application, software application store or virtual assistant.

43)	Certain services provided together with, or in support of, relevant core platform services of the gatekeeper, such as identification services, web browser engines, payment services or technical services that support the provision of payment services, such as payment systems for in-app purchases, are crucial for business users to conduct their business and allow them to optimise services.... Gatekeepers should therefore not use their position to require their dependent business users to use any of the services provided together with, or in support of, core platform services by the gatekeeper itself as part of the provision of services or products by those business users. In order to avoid a situation in which gatekeepers indirectly impose on business users their own services provided together with, or in support of, core platform services, gatekeepers should also be prohibited from requiring end users to use such services, when that requirement would be imposed in the context of the service provided to end users by the business user using the core platform service of the gatekeeper. That prohibition aims to protect the freedom of the business user to choose alternative services to the ones of the gatekeeper, but should not be construed as obliging the business user to offer such alternatives to its end users.
(44)	The conduct of requiring business users or end users to subscribe to, or register with, any other core platform services of gatekeepers listed in the designation decision or which meet the thresholds of active end users and business users set out in this Regulation, as a condition for using, accessing, signing up for or registering with a core platform service gives the gatekeepers a means of capturing and locking-in new business users and end users for their core platform services by ensuring that business users cannot access one core platform service without also at least registering or creating an account for the purposes of receiving a second core platform service. That conduct also gives gatekeepers a potential advantage in terms of accumulation of data. As such, this conduct is liable to raise barriers to entry and should be prohibited.
(50)	The rules that a gatekeeper sets for the distribution of software applications can, in certain circumstances, restrict the ability of end users to install and effectively use third-party software applications or software application stores on hardware or operating systems of that gatekeeper and restrict the ability of end users to access such software applications or software application stores outside the core platform services of that gatekeeper. Such restrictions can limit the ability of developers of software applications to use alternative distribution channels and the ability of end users to choose between different software applications from different distribution channels and should be prohibited as unfair and liable to weaken the contestability of core platform services. To ensure contestability, the gatekeeper should furthermore allow the third-party software applications or software application stores to prompt the end user to decide whether that service should become the default and enable that change to be carried out easily.
(57)	If dual roles are used in a manner that prevents alternative service and hardware providers from having access under equal conditions to the same operating system, hardware or software features that are available or used by the gatekeeper in the provision of its own complementary or supporting services or hardware...The gatekeepers should, therefore, be required to ensure, free of charge, effective interoperability with, and access for the purposes of interoperability to, the same operating system, hardware or software features that are available or used in the provision of its own complementary and supporting services and hardware.

(62)	For software application stores, ...gatekeepers should publish and apply general conditions of access that should be fair, reasonable and non-discriminatory. Those general conditions should provide for a Union based alternative dispute settlement mechanism that is easily accessible, impartial, independent and free of charge for the business user, without prejudice to the business user's own cost and proportionate measures aimed at preventing the abuse of the dispute settlement mechanism by business users. ... In particular, gatekeepers which provide access to software application stores are an important gateway for business users that seek to reach end users. ... gatekeepers should not be allowed to impose general conditions, including pricing conditions, that would be unfair or lead to unjustified differentiation. Pricing or other general access conditions should be considered unfair if they lead to an imbalance of rights and obligations imposed on business users or confer an advantage on the gatekeeper which is disproportionate to the service provided by the gatekeeper to business users or lead to a disadvantage for business users in providing the same or similar services as the gatekeeper. ... prices charged or conditions imposed by the provider of the software application store for the same service the gatekeeper provides to itself. This obligation should not establish an access right...
(70)	Given the substantial economic power of gatekeepers, it is important that the obligations are applied effectively and are not circumvented. To that end, the rules in question should apply to any practice by a gatekeeper, irrespective of its form and irrespective of whether it is of a contractual, commercial, technical or any other nature, insofar as the practice corresponds to the type of practice that is the subject of one of the obligations laid down by this Regulation. Gatekeepers should not engage in behaviour that would undermine the effectiveness of the prohibitions and obligations laid down in this Regulation. Such behaviour includes the design used by the gatekeeper, the presentation of end-user choices in a non-neutral manner, or using the structure, function or manner of operation of a user interface or a part thereof to subvert or impair user autonomy, decision-making, or choice. Furthermore, the gatekeeper should not be allowed to engage in any behaviour undermining interoperability as required under this Regulation, such as for example by using unjustified technical protection measures, discriminatory terms of service, unlawfully claiming a copyright on application programming interfaces or providing misleading information. Gatekeepers should not be allowed to circumvent their designation by artificially segmenting, dividing, subdividing, fragmenting or splitting their core platform services to circumvent the quantitative thresholds laid down in this Regulation.
(75)	The Commission should investigate and assess whether additional behavioural, or, where appropriate, structural remedies are justified, in order to ensure that the gatekeeper cannot frustrate the objectives of this Regulation by systematic non-compliance with one or several of the obligations laid down in this Regulation. This is the case where the Commission has issued against a gatekeeper at least three non-compliance decisions within the period of 8 years, which can concern different core platform services and different obligations laid down in this Regulation, and if the gatekeeper has maintained, extended or further strengthened its impact in the internal market, the economic dependency of its business users and end users on the gatekeeper's core platform services or the entrenchment of its position. A gatekeeper should be deemed to have maintained, extended or strengthened its gatekeeper position where, despite the enforcement actions taken by the Commission, that gatekeeper still holds or has further consolidated or entrenched its importance as a gateway for business users to reach end users.

Article 2

Definitions

For the purposes of this Regulation, the following definitions apply:

2)	‘core platform service’ means any of the following:
(a)	online intermediation services;
(b)	online search engines;
(c)	online social networking services;
(d)	video-sharing platform services;
(e)	number-independent interpersonal communications services;
(f)	operating systems;
(5)	‘online intermediation services’ means online intermediation services as defined in Article 2, point (2), of Regulation (EU) 2019/1150;
(EU) 2019/1150	Article 2, point (2) ‘online intermediation services’ means services which meet all of the following requirements: (a) they constitute information society services within the meaning of point (b) of Article 1(1) of Directive (EU) 2015/1535 of the European Parliament and of the Council. (b) they allow business users to offer goods or services to consumers, with a view to facilitating the initiating of direct transactions between those business users and consumers, irrespective of where those transactions are ultimately concluded; (c) they are provided to business users on the basis of contractual relationships between the provider of those services and business users which offer goods or services to consumers;
(EU) 2015/1535	Article 1(1) point (b): ◦ ‘at a distance’ means that the service is provided without the parties being simultaneously present; ◦ ‘by electronic means’ means that the service is sent initially and received at its destination by means of electronic equipment for the processing (including digital compression) and storage of data, and entirely transmitted, conveyed and received by wire, by radio, by optical means or by other electromagnetic means; ◦ ‘at the individual request of a recipient of services’ means that the service is provided through the transmission of data on individual request.

(7)	‘online social networking service’ means a platform that enables end users to connect and communicate with each other, share content and discover other users and content across multiple devices and, in particular, via chats, posts, videos and recommendations;
(10)	core platform service‘operating system’ means a system software that controls the basic functions of the hardware or software and enables software applications to run on it;
(14)	‘software application stores’ means a type of online intermediation services, which is focused on software applications as the intermediated product or service;
(15)	‘software application’ means any digital product or service that runs on an operating system;
(16)	‘payment service’ means a payment service as defined in Article 4, point (3) of Directive (EU) 2015/2366;
(EU) 2015/2366	Article 4, point (3) ‘payment service’ means any business activity set out in Annex I; ANNEX I PAYMENT SERVICES (as referred to in point (3) of Article 4) 1.Services enabling cash to be placed on a payment account as well as all the operations required for operating a payment account. 2.Services enabling cash withdrawals from a payment account as well as all the operations required for operating a payment account. 3.Execution of payment transactions, including transfers of funds on a payment account with the user’s payment service provider or with another payment service provider: (a)execution of direct debits, including one-off direct debits; (b)execution of payment transactions through a payment card or a similar device; (c)execution of credit transfers, including standing orders. 4.Execution of payment transactions where the funds are covered by a credit line for a payment service user: (a)execution of direct debits, including one-off direct debits; (b)execution of payment transactions through a payment card or a similar device; (c)execution of credit transfers, including standing orders. 5.Issuing of payment instruments and/or acquiring of payment transactions. 6.Money remittance. 7.Payment initiation services. 8.Account information services.
(17)	‘technical service supporting payment service’ means a service within the meaning of Article 3, point (j), of Directive (EU) 2015/2366;

(EU) 2015/2366	Article 3, point (j) services provided by technical service providers, which support the provision of payment services, without them entering at any time into possession of the funds to be transferred, including processing and storage of data, trust and privacy protection services, data and entity authentication, information technology (IT) and communication network provision, provision and maintenance of terminals and devices used for payment services, with the exclusion of payment initiation services and account information services;
(18)	‘payment system for in-app purchases’ means a software application, service or user interface which facilitates purchases of digital content or digital services within a software application, including content, subscriptions, features or functionality, and the payments for such purchases;
(19)	‘identification service’ means a type of service provided together with or in support of core platform services that enables any type of verification of the identity of end users or business users, regardless of the technology used;
(20)	‘end user’ means any natural or legal person using core platform services other than as a business user;
(21)	‘business user’ means any natural or legal person acting in a commercial or professional capacity using core platform services for the purpose of or in the course of providing goods or services to end users;
(29)	‘interoperability’ means the ability to exchange information and mutually use the information which has been exchanged through interfaces or other solutions, so that all elements of hardware or software work with other hardware and software and with users in all the ways in which they are intended to function;

Article 5 Obligations for gatekeepers

3. The gatekeeper shall not prevent business users from offering the same products or services to end users through third-party online intermediation services or through their own direct online sales channel **at prices or conditions that are different from those offered through the online intermediation services of the gatekeeper.**

4. The gatekeeper shall allow business users, free of charge, to communicate and promote offers, including under different conditions, to end users acquired via its core platform service or through other channels, and to conclude contracts with those end users, **regardless of whether, for that purpose, they use the core platform services of the gatekeeper.**

7. The gatekeeper shall not require end users to use, or business users to use, to offer, or to interoperate with, an identification service, a web browser engine or a payment service, or technical services that support the provision of payment services, such as payment systems for in-app purchases, of that gatekeeper in the context of services provided by the business users using that gatekeeper’s core platform services.

8. The gatekeeper shall not require business users or end users to subscribe to, or register with, any further core platform services ...as a condition for being able to use, access, sign up for or registering with any of that gatekeeper’s core platform services...

Article 6

Obligations for gatekeepers susceptible of being further specified under Article 8

4. The gatekeeper shall allow and technically enable the installation and effective use of third-party software applications or software application stores using, or interoperating with, its operating system and allow those software applications or software application stores to **be accessed by means other than the relevant core platform services of that gatekeeper.**

7. 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...**

10. The gatekeeper shall provide business users and third parties authorised by a business user, at their request, **free of charge, with effective, high-quality, continuous and real-time access to, and use of, aggregated and non-aggregated data,** including personal data, that is provided for or generated in the context of the use of **the relevant core platform services or services provided together with, or in support of, the relevant core platform services by those business users and the end users engaging with the products or services provided by those business users.**