



26 June 2016

Bruce Sewell, Esq.  
SVP, General Counsel and Secretary  
Apple Inc.  
1 Infinite Loop  
Cupertino, CA 95014

Dear Bruce:

I'm sorry that our first contact since I took over as Spotify's General Counsel has to be on a controversial legal issue, but I am writing to you to bring to your attention an urgent matter that is causing grave harm to Spotify and its customers. I am hoping that, because of our longstanding working relationship, your involvement and mine can help resolve this issue and prevent further escalation.

After reviewing the latest version of the Spotify app for two weeks, (despite recent public promises to address App Store issues within 24-48 hours), and only after repeated appeals and escalations by Spotify, Apple has informed Spotify of its rejection of the app on grounds that it is out of compliance with Apple's "business model rules" and stating that *"[i]f Spotify wants to use the app to acquire new customers and sell subscriptions, it must use in-app purchase for those sales."* This follows multiple other threats of removal of the Spotify app from Apple's App Store.

Apple's threats cannot be squared with a fair interpretation of Apple's own App Store rules and with Apple's prior practice. Indeed, it is noteworthy that Apple's most recent communication to Spotify cited those "business model rules" as the basis for rejection, and not the Developer Guidelines or any other public terms and conditions published by Apple. Apple's threats to Spotify are clearly inconsistent with its responsibilities as a neutral platform provider, especially now that Apple has become a direct competitor of Spotify in the music streaming market.

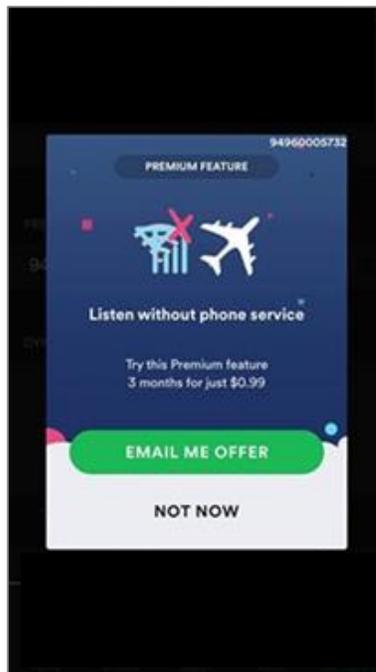
This is not the first problem Spotify has had with Apple over Spotify's app, and this latest episode raises serious concerns under both US and EU competition law. It continues a troubling pattern of behavior by Apple to exclude and diminish the competitiveness of Spotify on iOS and as a rival to Apple Music, particularly when seen against the backdrop of Apple's previous anticompetitive conduct aimed at Spotify.



I am writing to you with the hope that we can reach a constructive resolution as Spotify welcomes healthy competition on the merits, but we cannot stand by as Apple uses the App Store approval process as a weapon to harm competitors.

As you may be aware, Spotify offers two different services to its customers: a free, ad-supported music listening service; and a subscription, ads-free music listening service. They are entirely different services, and a customer of our ads-supported service never needs to switch to our subscription business (indeed, the majority never do). Both businesses are stand-alone revenue generators on their own terms.

Apple has claimed that Spotify violated its App Store Guidelines merely by informing our iOS users of one of our regular seasonal promotions. This promotion, offered across all Spotify platforms, offer consumers the opportunity to receive three months of Spotify's subscription service for \$0.99. Spotify publicizes this promotion widely, including by placing it on the opening screen on [spotify.com](https://spotify.com). As part of this broad communication effort, we had been informing users of Spotify's iOS app who requested a feature only available on our subscription service of the current promotion, and we gave them the opportunity to ask Spotify to email them with further information about the promotion. There was no "buy" button or external link in the app that goes to a web site to purchase content.





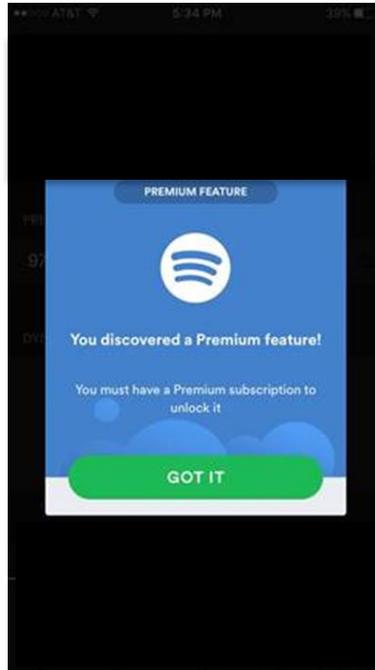
Apple has taken the position that simply enabling users to request an informational email from Spotify violated its App Store rules, even though the customer was not making any kind of “call to action” or request for purchase. All the user was requesting, and all Spotify was providing, was *information*—the customer was not making a purchase decision, and Spotify was not making a sale.

Nonetheless, Apple took the drastic position that unless Spotify acted to remove this link, Apple would remove its app from the App Store:

On Tue, Jun 7, 2016 at 5:42 PM, Bill Havlicek <[havlicek@apple.com](mailto:havlicek@apple.com)> wrote:  
Hello Gustav,  
  
Thanks again for your time on the phone today.  
  
Please ensure that the Premium subscription upgrade offer ad we discussed is immediately removed from the app.  
  
Please confirm by reply when the ad is removed. You can call me anytime when at [+1-408-623-0998](tel:+14086230998). Please address this issue with the upmost urgency.  
  
We expect this offer to be immediately removed or the app may be removed from sale on the App Store.  
  
Best regards,  
  
Bill

Notwithstanding the unreasonableness of Apple’s position, in a good-faith attempt to avoid the very situation we now find ourselves in, Spotify stopped communicating any information whatsoever about its \$0.99 promotion through its iOS app. Apple’s threat of removal of the Spotify app from the App Store left us no other choice.

Therefore, the app was changed so that when a user requests a feature that is only offered in our subscription service, they now receive a different message: “*You’ve discovered a Premium feature. You must have a Premium subscription to unlock it.*” The user then clicks “*got it,*” and is returned to the free service. Nothing else happens.



Now, Apple has gone a step further and is taking the even more extreme position that Spotify cannot *communicate at all* with its own customers, inside its own app, about the mere existence of its premium service—even if there is no link or button or mention of any offer of any kind. Apple is taking the extraordinary position that a simple notice or ad inside Spotify's own app—features that have been present in Spotify's iOS apps for years — now all of a sudden violate Apple's App Store rules. Apple's new interpretation of its App Store rules puts Apple in a position to control its rivals' customer relationships – to the clear detriment of the latter, and goes well beyond the stated purpose of preventing circumvention of the Apple fee. Such interpretation is not only unacceptable to Spotify but also unenforceable as it amounts to a violation of applicable antitrust laws.

Apple's delay, and now its unjustified rejection, has coincided, as you know, with Apple's recent high-profile launch of its revised Apple Music app, which competes head to head with Spotify and which is subject to none of the arbitrary constraints on competition that Apple has imposed on Spotify. (Notably, the release of the Spotify app currently being blocked by Apple contains bug fixes that enable links to the Spotify app from advertisements about the promotion we have purchased on Facebook and Twitter, further suppressing our ability to communicate with existing and potential customers.)



I find it difficult to believe that Apple's extreme position in this matter has been approved by you and your team and am, therefore, hopeful that a possible misunderstanding can be avoided by reaching out to you directly. A timely conversation between the two of us to clear up our concerns would certainly be for the best for our mutual customers, and, I strongly believe, both of our companies as well.

Sincerely,

A handwritten signature in blue ink, appearing to read "HG", with a long horizontal line extending to the left and a loop on the right.

Horacio Gutierrez  
General Counsel and Secretary