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Comments of

ACT | The App Association
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Boulevard Saint-Michel 65 box 6
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to

The European Commission, DG COMP

regarding its

Call for Contributions

on

Competition in Virtual Worlds

I. Introduction and statement of interest

ACT | The App Association ('App Association') is grateful to respond to the European Commission, DG COMP, to its Call for Contributions on Competition in Virtual Worlds. We appreciate the opportunity to contribute our insights and expertise, and to elevate the voices of our members comprising of small and medium-sized enterprises ('SMEs').

The App Association is a policy trade association for the **small business technology developer community**. Our members are entrepreneurs, innovators, and independent developers within the global app ecosystem that engage with verticals across every industry. We work with and for our members to promote a policy environment that rewards and inspires innovation while providing resources that help them raise capital, create jobs, and continue to build incredible technology. Today, the ecosystem the App Association represents—which we call the app economy—is valued at approximately €830 billion globally and is responsible for over 1.3 million jobs in the European Union (EU).¹

As representatives of the small business developer community, we are primarily engaged in the app ecosystem, which exists on a broad spectrum of technologies. Our membership is involved in the creation of cyber-physical infrastructure, for example by manufacturing internet of things ('IoT') devices and developing apps for virtual worlds. Apps designed for virtual worlds extend across various technological vessels, including smartphones, connected televisions, game consoles, virtual reality ('VR') and augmented reality ('AR') headsets, and PCs. This reflects the versatility and ubiquity of virtual worlds within the digital realm. The interplay between different tools and devices further enriches the user experience, as VR and AR technologies can be integrated with different devices. Moreover, users can access virtual worlds through various platforms, since they are used as interactive environments across diverse markets, such as social networks, online gaming platforms, and other digital environments. Recognising the complexity of these interplays and connections is paramount when discussing markets related to virtual worlds.

We view virtual worlds as versatile tools that can be applied across various sectors and technologies. We see virtual worlds as a type of platform, offering a unique environment for diverse applications. We ask the Commission to carefully consider the following points, when potentially defining markets related to virtual worlds:

- Virtual worlds blend into various sectors, each adaptation being distinctly different from others, based on the main purpose of use.
- Virtual worlds are often integrated into multi-sided markets; Virtual worlds exist within a broader digital ecosystem that includes various stakeholders, such as platform operators, content creators, developers, users, and advertisers. Therefore, it is crucial to consider network effects on all relevant sides of markets.

¹ See <https://actonline.org/wp-content/uploads/Deloitte-The-App-Economy-in-the-EU-2020.pdf>.

- Virtual worlds often operate on global scales, with stakeholders from multiple countries.
- Consumers generally approach virtual worlds with a wide lens of substitutability, where the intended use drives the search for substitutes, which may include digital platforms and online experiences that do not integrate virtual worlds. For example, consumers may choose to spend time in a virtual world socialising with friends, or engaging in activities, but they may also opt to use social media platforms, gaming platforms, or other online communities for similar purposes.
- Other than the investment in equipment itself, switching between virtual world providers is easy for users, and not restricted by barriers.
- Virtual worlds are dynamic and continually evolving, with new technologies, features, and platforms constantly emerging. Similarly, user preferences and behaviours within virtual worlds also change over time.

1) What entry barriers or obstacles to growth do you observe or expect to materialise in Virtual World markets? Do they differ based on the maturity of the various markets?

One of the most significant challenges for SMEs competing in the app economy, such as virtual worlds apps, is establishing and maintaining consumer trust. SME success in the app economy hinges not only on making their apps accessible and available but also on effectively reaching and engaging users who trust in the product. Consumers are increasingly concerned with privacy and cybersecurity considerations in digital markets, and consequently are becoming more cautious about the apps they download and use. Larger brands with extensive user bases and numerous positive reviews often enjoy a perceived advantage in terms of credibility and trustworthiness. In contrast, small app makers face an uphill battle in gaining consumer trust, particularly when they have limited user reviews and brand recognition.

For SMEs developing virtual worlds apps, using reputable platforms with proper curation for distribution offers significant advantages in overcoming entry barriers and reaching global markets. By distributing apps on established platforms, SMEs can tap into a vast user base and benefit from the platform's built-in infrastructure for marketing and payment processing, while also facilitating global reach across multiple consumer bases. This streamlined approach reduces the complexities and costs associated with independently marketing and promoting virtual worlds apps, enabling SMEs to focus their limited resources on product development and innovation. Furthermore, distributing on trusted platforms enhances consumer trust and confidence in the safety and reliability of virtual worlds apps. Therefore, SMEs gain significant advantages by using trusted platforms to distribute their virtual worlds apps, benefitting from the reputation of such platforms and the guarantees offered towards facilitating user protection.

At this time virtual world markets are in their relative infancy. In considering whether entry barriers or obstacles to growth in virtual world markets exist (and to what extent

they may warrant government action), we strongly encourage that a strong evidence base is developed first. The foundation for making digital economy policy changes, particularly for nascent markets such as those considered by the EC to be virtual world markets, should be based on well-established and systemic harms, not edge use cases or hypotheticals.

- 2) What are the main drivers of competition for Virtual World platforms, enabling technologies of Virtual Worlds and/or services based on Virtual Worlds (e.g. access to data, own hardware or infrastructure, IP rights, control over connectivity, vertical integration, platform and payment fees)? Do you expect that to change and, if so, how?**

Factors driving competition for virtual world platforms do include access to data, hardware, and infrastructure. As discussed above, existing frameworks have enabled, and continue to enable, the access and connectivity needed to create new innovations across virtual world markets. At the core of competition in virtual world platforms and associated technologies is innovation and creativity. Virtual worlds have been around for a long time in different shapes and forms and today the real excitement comes from finding new ways to use and evolve them. Consumers and app makers choose virtual worlds in part based on their focus, capabilities, and purpose. Virtual worlds can be used as tools for various purposes, such as connecting people, facilitating communication, providing entertainment, improving education, or offering practical solutions across various sectors like office support, business tools, or shopping aids. Competition is driven by the quest to discover novel applications and deliver tangible results, as companies aim to apply virtual worlds to meet evolving needs. It is important that the competitive dynamics in place today that have enabled invention and growth are augmented through government policies.

Existing constructs for IP rights and control over connectivity are currently being tested with emerging technology use cases, with virtual worlds being no exception. Careful study of developments across EU court systems, and the publication of this study for public consideration, is recommended to inform any future next steps that might lead to changes to these constructs.

Finally, with respect to vertical integration within virtual worlds markets, we discourage the blanket characterisations of vertical integration as harmful. While virtual worlds markets should be carefully studied as they evolve and mature before making similar conclusions, within the existing software distribution market that features low switching costs, vertical integration can often be pro-competitive, creating greater efficiencies, better quality, or lower costs for consumers. It is important that vertical integration questions are approached considering the integration of many features into single products or offerings to avoid an overly narrow focus that would ignore the way consumers experience them.

- 3) What are the current key players for Virtual World platforms, enabling technologies of Virtual Worlds and/or services based on Virtual Worlds, which you**

consider or expect to have significant influence on the competitive dynamics of these markets?

Virtual worlds markets, despite being nascent, exhibit high competition and growth generally, which is increasingly driven by SMEs. Competition in virtual worlds varies across sectors and markets, as the competitive forces at play depend on specific industry needs. In gaming and entertainment, competition is mostly centred around immersive experiences and content quality, while in education and healthcare, accessibility and functionality matter most. Meanwhile, in business and productivity, interactive collaboration tools are key. Nearly all users care about security, privacy, and data protection.

4) Do you expect existing market power to be translated into market power in Virtual World markets?

Virtual worlds as a tool have been evolving at a rapid pace for years, with numerous iterations, applications, and purposes emerging over time, continuously leaving ample room for disruption. SMEs, such as our members, as a result of their agility, innovation, and solution-driven approach are well-positioned to identify market gaps and create innovative solutions integrating virtual worlds for enhanced experiences.

We do not, nor do we recommend the EC, consider the current state of market power in any given market to prescribe market power in developing virtual worlds markets. These markets are in their infancy and should be carefully studied as they develop and mature (and the results of such study should be made public for stakeholder consideration and comment) before any additional steps are taken to assess or address competitive issues in virtual worlds markets.

5) Do you expect potential new entrants in any Virtual World platforms, enabling technologies of Virtual Worlds and/or services based on Virtual Worlds in the next five to ten years and if yes, what products and services do you expect to be launched?

SMEs are already experimenting and inventing across virtual worlds markets and will continue to do so. The digital economy is characterised by its fast-paced nature, short innovation cycles, and fast growth. We expect to see many new entrants in virtual worlds. We anticipate that SMEs will play a pivotal role in driving disruptive and ground-breaking innovations by incorporating virtual worlds into various applications for a more immersive experience. With their agility and innovative spirit, SMEs are well-positioned to push the boundaries of what's possible in virtual environments.

6) Do you expect the technology incorporated into Virtual World platforms, enabling technologies of Virtual Worlds and services based on Virtual Worlds to be based mostly on open standards and/or protocols agreed through standard-setting

organisations, industry associations or groups of companies, or rather the use of proprietary technology?

As a result of the fast-paced and dynamic nature of digital markets, it can be difficult to predict certain developments, such as those related to standardisation.

The development and implementation of open standards and protocols could offer benefits in terms of interoperability, efficiency, and fostering innovation. We expect that SMEs will be active participants in standard-setting processes that will facilitate interoperability and competition across virtual worlds markets and the products and services in them. It will be equally important that SMEs are able to use these standards to innovate on top of, so we urge for consideration of ways to reduce barriers to the use of open standards, such as through ensuring that those licensing standard-essential patents ('SEPs') adhere to their promises to provide fair, reasonable and non-discriminatory ('FRAND') licenses that any standards user will need to leverage the standard (making the adoption of the proposed EU SEP Regulation to address current imbalances in SEP licensing vital).

However, standards should generally not be prescribed by the government, and should instead be driven by organic market forces. Due to the continued rapid pace of innovation, it may be premature for industry players to pursue standardisation at this point. A heavy-handed approach towards standardisation and harmonisation by government that is not based on careful study and competitive analysis could slow or derail innovation. In nascent markets like virtual worlds, it's vital to allow technologies to either fail or succeed, thereby enabling consumers to identify their preferences and for innovators to adapt and improve their products accordingly.

7) Which data monetisation models do you expect to be most relevant for the development of Virtual World markets in the next five to ten years?

Data monetisation models in virtual world markets are likely to evolve in response to market dynamics and consumer preferences.

We anticipate that, as consumers become increasingly privacy-conscious, there will continue to be a shifting expectation towards limiting the exploitation of their personal data. Consequently, data monetisation models that prioritise privacy and respect user preferences are likely to be the most relevant and sustainable in the coming years. Models that offer transparency, consent-driven data collection, and robust privacy controls will likely gain traction among consumers. These could include subscription-based models where users pay for enhanced privacy features or ad-supported models that prioritise user anonymity and data security.

8) What potential competition issues are most likely to emerge in Virtual World markets?

We expect the development of virtual worlds to be fast paced. We anticipate a landscape characterised by healthy competition, rapid growth, and dynamic changes. With the growing use of virtual worlds and their integration into various technologies and sectors, we expect the emergence of multiple new innovations. The diversity of possibilities within virtual worlds means that there is ample room for differentiation and competition among market players. As virtual world technologies continue to evolve and expand into new domains, we anticipate a continuous stream of disruptions and innovations that will shape digital markets in unpredictable ways. We believe that SMEs, such as our members, will have the opportunity to develop creative and innovative products, and thrive in these emerging markets.

At this time virtual world markets are in their relative infancy. In considering whether anticompetitive entry barriers or obstacles to growth in virtual world markets exist (and to what extent they may warrant government action), we strongly encourage that a strong evidence base is developed first. The foundation for making digital economy policy changes, particularly for nascent markets such as those considered by the EC to be virtual world markets, should be based on well-established and systemic harms, not edge use cases or hypotheticals.

9) Do you expect the emergence of new business models and technologies to trigger the need to adapt certain EU legal antitrust concepts?

While we don't see any competition issues in a fast-evolving market such as virtual worlds, we urge the careful consideration and assessment of the existing concepts and their application to digital markets. We would caution against premature intervention and instead advocate for an approach that includes careful consideration of market definitions and evidence of market distortion. We believe that at this point, preventative predictive action would likely cause more unintended harm than benefits.

Moreover, we ask the Commission to consider privacy and data protection as non-price competition parameters. As consumer care increasingly about privacy, security, and data protection in digital environments, companies compete on providing such guarantees through new innovative solutions. Recognising the significance of privacy and data protection aligns with evolving considerations of consumer choice.

We reiterate that virtual world markets are in their relative infancy. In considering whether anticompetitive entry barriers or obstacles to growth in virtual world markets exist (and to what extent they may warrant government action), we strongly encourage that a strong evidence base is developed first. The foundation for making digital economy policy changes, particularly for nascent markets such as those considered by the EC to be virtual world markets, should be based on well-established and systemic harms, not edge use cases or hypotheticals.

10) Do you expect the emergence of new business models and technologies to trigger the need to adapt EU antitrust investigation tools and practices?

Our answer to question 9 applies to this question as well. It is not clear what aspects of the EU's antitrust investigation tools and practices would need to be updated to account for virtual worlds market fact patterns.

The App Association remains at your disposal to provide further input and would welcome the opportunity to work with all relevant stakeholders. We thank the European Commission in advance for its consideration of our submission, and we look forward to engaging further in the future.

Sincerely,

A handwritten signature in black ink, appearing to read "Mike Sax", with a stylized flourish underneath.

Mike Sax
Founder and Chairperson

Borbála Szücs-Bártfai
Policy Associate (Europe)