

1100 WORDS

App Store Governance: Beyond the Duopoly

Exploring anti-competitive conduct in and by [Shopify's app store](#) to reconsider 'app store' platform governance in a Canadian context

Vass Bednar

vass.bednar@mcmaster.ca

With research assistance from Ciera Stiller

"In an ideal world, everyone would always play fair—but we know that's not always the case." - [Shopify](#)

[Discussions](#) that consider the governance and implications of 'app stores' have over-focussed their attention on Apple's App Store and Google's Google Play store. The scale and gatekeeping power of these two app stores necessitate attention from policymakers but may act to obscure or prevent regulatory and scholarly exploration of smaller app store ecosystems. Further, there is currently [no formal policy debate](#) related to app stores of any kind in Canada, though the federal government is currently consulting on the [Future of Competition Policy in Canada](#).

The lack of debate is disappointing as Canada is 'home' to an 'app store' of its very own: [Shopify's App Store](#), which offers over 8,000 apps for merchants to customise their online store. Shopify provides all the digital tools and infrastructure that a brand needs to sell online. Unlike Amazon, **Shopify is not a marketplace connecting a brand with consumers and therefore does not commoditize them, but it may tacitly promote deceiving them.**

Shopify's primary fidelity is to merchants, and the firm makes significant efforts to support these merchants in their maximisation of profit. In doing so, the firm may be perpetuating a mix of competition and consumer protection issues that evade regulatory attention due to the unique nature and structure of their app store, its distinctness from the more familiar mobile app duopoly, and the [reluctance of Canadian regulators to scrutinise Shopify](#).

Given that their developer-led apps empower merchants to build online shops, this app ecosystem provides some portion of the digital infrastructure that underpins [direct-to-consumer](#) (DTC) e-commerce. Because Shopify's app store's primary audience is merchants (and not consumers), some of this digital infrastructure promotes either illusory trust or safety as well as various [deceptive designs](#) such as: fake claims of 'low inventory' designed to rush the consumer, fake reviews that trick consumers away or toward certain products while over-elevating an app in search, or green-washing apps that purport to contribute carbon offsets but are simply not verifiable, and various other examples.

There are some central questions to ask about Shopify:

1. In what instances and ways is Shopify's app store anti-competitive **as a platform**;

2. In what instances and ways does **Shopify's app store promote anti-competitive digital infrastructure** (apps); thus further complicating the e-commerce marketplace from a governance perspective?

In seeking to answer both of these questions, we should consider whether existing legislation that polices false and misleading advertising in Canada is sufficiently enforced before considering whether and how the platform can or should be held accountable for the compliance of the developer and merchant(s) using the app if they are making claims about trust and subjective apps to a review process. For example, how and when might the consumer be able to detect a false and misleading mobile app that is integrated into the ecommerce website they are navigating.

Shopify makes an explicit commitment to [app quality in the Shopify App Store](#) and stipulates that developers must adhere to the terms of the [Partner Program Agreement](#). The explicit commitment to app 'quality' is targeted to business owners and not consumers. Shopify may overstate how strict they are with app reviews as to not deceive merchants, yet allow merchants to use apps that can create fake reviews - muddling their claim to uncompromising self-regulation.

There is some evidence that Shopify actively - albeit inconsistently - self-regulates their app store beyond initial review of a developer's app: in April of 2021 the firm [claimed](#) to have "removed over 1.5 percent of apps from the Shopify App Store because they were not meeting our standards of trust and integrity." However, there does not seem to be a predictable cadence for such reviews.

Other competition issues are also relevant to Shopify's app store, such as the policy context during which the firm announced that developers would [keep the first \\$1M earned from their apps](#) while reducing the app store's commission fee from 20% to 15% and asking whether this pricing strategy is disciplinary to competitors. Further, given that apps that are made by Shopify are usually free and are supported by Shopify, whereas apps that are developed by a third-party developer might have a fee associated with them and are supported by the third-party developer, this contrast could be considered a new form of self-preferencing.

Reminding policy thinkers that there are established and emergent app stores is relevant to future potential considerations related to 'app stores' in Canada's ongoing efforts to improve platform governance for citizens, strengthen consumer protection, and facilitate fair and robust marketplaces. As such, Canadian policymakers should consider the optimal governance and enforcement of other app stores, such as those for augmented reality or metaverses by reminding policy people of alternative app store structures. The findings may also inform deliberations across platform governance conversations about 'Big Tech' that considers targeting either anti-competitive business behaviours through traditional antitrust levers or focussing on carving out new legislation that focuses on the largest actors.

Canada [recently](#) made initial amendments to the Competition Act that have yet to be tested through case law. Notably, one of these changes clarified that incomplete price disclosure (often referred to as "drip pricing") is a false or misleading representation *independent of* market size. Such a designation explicitly focuses on a business *activity*, and this approach may be fruitful in strengthening Shopify's app store.

The [expansion of abuse of dominance provisions](#) are of particular relevance to platform governance and app stores, as they clarify that an abuse of dominance does not necessarily need to target a competitor - but can. Yet these amendments have yet to be tested through a competition case or case study. Contrasting Shopify's purported self-regulation of its app store ecosystem with existing laws and global policy proposals is necessary to achieve comprehensive platform governance regimes through the application of appropriate public policy instruments.

Finally, confronting the behaviour and regulation of 'our' platforms before or while seeking to impose new regulatory regimes on others could have positive implications for trade-related negotiations that may seek to diffuse digital policy intervention, as it builds credibility.

To date, **discussions pertaining to the optimal regulation of 'app stores' have focused on 'front-end' interventions, and have under-explored how tools from an app store can act to influence the 'back end' of online environments.** As Canadian policy makers consider how to operationalize app store governance into law - potentially through [comprehensive reforms to Canada's Competition Act](#) - we must confront the question of what activities on a platform regulators are genuinely interested in targeting through regulatory action, and whether we may already have the tools we need to promote a better online experience while lacking the motivation or resources to do so.