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Apple v. Pepper and the Future of the Direct Purchaser Enforcement Regime

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THE SUPREME COURT HEARD ORAL argument in November in *Apple v. Pepper*[1] regarding the *Illinois Brick*[2] rule, which established that only the first or direct purchaser, rather than subsequent or indirect purchasers, from an antitrust violator can recover damages under federal law. The Court revisits this rule in the context of a now common transaction—the purchase of apps from Apple's App Store—but a transaction that the Court certainly could not have imagined when it decided *Illinois Brick* in 1977.

In the App Store, Apple not only interacts with consumers but also with app developers, who pay 30 percent of the app purchase price to Apple. There are two parts to the transaction—Apple distributes developers' apps in return for a fee and Apple sells the developers' apps to consumers. The question is whether developers or consumers are the proper antitrust plaintiffs to sue Apple over alleged anticompetitive overcharges. The plaintiffs say that consumers are direct purchasers from Apple and therefore have standing to sue Apple for alleged overcharges. Apple responds that app developers are the direct purchasers with standing to sue Apple and that consumers are indirect purchasers without standing under federal law.

The Court's decision could overhaul *Illinois Brick*. There has long been support, most notably from the Antitrust Modernization Commission (AMC),[3] for replacing the existing bifurcated system, in which direct purchasers sue under federal law and indirect purchasers sue under certain state laws, with a new unified system in which direct and indirect purchasers can both pursue actions under federal law in one federal court. This result could give more power to indirect purchasers in some cases and could also force courts to resolve complicated questions about how anticompetitive overcharges are passed on or not passed on in the distribution chain.

Another tack would be for the Court to distinguish between the old-economy transaction at issue in *Illinois Brick*—the sale of concrete blocks through a vertical distribution chain—and the internet/e-commerce transaction in this case, in which Apple sells to both developers and consumers. The *Illinois Brick* transaction arose in a manufacturing economy; the *Apple* transaction involves a technology/information economy in which there is no physical good at all. The Court could link *Apple* with *Ohio v. American Express Co.*,[4] in which it recently considered how antitrust rules apply to two-sided markets. Apple's App Store arguably also involves a two-sided market because it offers "different products or services to two different groups who both depend on the platform to intermediate between them."[5] The *Apple* court therefore might choose to overhaul *Illinois Brick*'s direct purchaser rule as applied to transactions involving two-sided markets.[6]

The opinion could also focus on Apple's "closed ecosystem"—in which Apple approves and sells all apps and there is no way for developers to sell apps without transacting with Apple. The Court could rule in a way that characterizes Apple's closed ecosystem as anticompetitive, thereby forcing Apple to open its ecosystem to app developers not approved by Apple. That said, whether Apple is acting anticompetitively is separate from (and subsequent to) the question of who can sue Apple for possible anticompetitive conduct. The Court can decide whether consumers have standing without weighing in on the merits.

Alternatively, the Court could simply apply *Illinois Brick* as is, without endorsing a change in the direct purchaser rule or distinguishing it based on two-sided platforms or Apple's particular ecosystem. A straightforward decision would leave for another day the question of whether *Illinois Brick* is outdated. It also would mean that the Court is not necessarily intent on changing antitrust rules for the modern economy. Oral argument suggested that the Court thinks that a straightforward application of *Illinois Brick* favors consumers as the proper plaintiffs, but Apple disagrees. Each side says that affirming *Illinois Brick* means it wins.

Illinois Brick Blocks Indirect Purchaser Suits Under Federal Law

The direct purchaser rule is simple in theory: when an antitrust violator sells a product to a purchaser (P1), who then sells that product to a subsequent purchaser (P2), only the first purchaser can recover damages from the antitrust violator. P2 might have been overcharged (and there might be P3 and other subsequent purchasers also overcharged) but P2

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(or P3) cannot assert a claim under federal antitrust law against the antitrust violator. The first purchaser from the antitrust violator (P1) receives all the damages without regard to the economics of what happened to the overcharge after the first purchase. If P2 or P3 sues under federal law, the Court should dismiss their claims, without regard to whether P2 or P3 could show they were overcharged.

The *Hanover Shoe-Illinois Brick* history that led to this rule is also fairly uncomplicated. *Hanover Shoe*[7] bars defensive "pass on." When a purchaser sues a seller for an antitrust violation, the seller cannot argue that the direct purchaser did not suffer any damages because the purchaser later passed on any overcharge to a second (or indirect) purchaser. In that case, a shoe machinery manufacturer (United Shoe Corporation) could not avoid a damages claim from its customer (Hanover Shoe) under Section 2 of the Sherman Act for monopolization of shoe machinery by asserting that Hanover Shoe passed on any overcharge to Hanover Shoe's customers.[8]

Illinois Brick bars offensive "pass on." When an antitrust violator sells to a direct purchaser who then sells to a second purchaser, the second purchaser cannot recover damages from the antitrust violator. "[O]nly the first party in the chain of distribution to purchase a price-fixed product has standing to sue."[9] A plaintiff does not have standing because it paid supra-competitive prices that an intermediary initially bore but then "passed on" to the plaintiff.[10] In *Illinois Brick*, concrete block manufacturers (including Illinois Brick Co.) sold price-fixed concrete blocks to contractors that used those blocks to build structures for the State of Illinois. Both the contractors and the State of Illinois could claim they paid supracompetitive prices. However, under the direct purchaser rule, only the contractors could recover from the manufacturers, the State of Illinois could not.

The Supreme Court recognized in these cases that the direct purchaser rule provides only rough justice—there may be multiple levels of overcharged indirect purchasers who recover nothing—but said the only alternative would be to allow "massive evidence and complicated theories" regarding the overcharge. The Court expressed concern that interjecting this complexity would deter aggressive enforcement of antitrust violations.[11]

In dissent, Justice Brennan wrote in *Illinois Brick* that this rough justice was not justice at all. He contended that "in many instances, the brunt of antitrust injuries is borne by indirect purchasers, often ultimate consumers of a product, as increased costs are passed along the chain of distribution."[12] In his view, a strict direct purchaser rule "frustrates both the compensation and deterrence objectives of the treble damages action. Injured consumers are precluded from recovering damages from manufacturers, and direct purchasers who act as middlemen have little incentive to sue suppliers so long as they may pass on the bulk of the illegal overcharges . . ."[13] Justice Brennan said that the risks of double recovery were overblown and would only arise if suits by direct and indirect purchasers were in different courts.

The Antitrust Modernization Committee Supports Changes to *Illinois Brick*

Illinois Brick was intended to prevent double recovery for the same antitrust violation under federal law. After *Illinois Brick*, however, numerous states, starting with California, passed *Illinois Brick* "repealer" statutes allowing for indirect purchasers to recover damages under state antitrust laws. As a result, there is the potential for double recovery for the same violation—one recovery by the direct purchasers under federal law and another by the indirect purchasers under state law.

Recognizing this reality, in 2007, the AMC recommended that *Hanover Shoe* and *Illinois Brick* be overruled.[14] The AMC concluded that "[d]uplicative federal direct purchaser and state indirect purchaser litigation imposes undue burdens on the judicial system and the parties, wastes resources, increases the risk of duplicative recoveries, skews the parties' incentives to settle, and hinders efficient global settlements."[15] The AMC therefore advocated that *Illinois Brick* and *Hanover Shoe* be overruled "to the extent necessary to allow both direct and indirect purchasers to sue to recover for actual damages from violations of the federal antitrust laws."[16] One of the members of the AMC was Makan Delrahim, the current Assistant Attorney General.

Apple and App Purchasers Dispute Who Is the Direct Purchaser of an App

The plaintiffs in *Apple v. Pepper* are consumers who purchased iPhone apps through Apple's App Store. Their complaint alleges a Section 2 violation based on Apple's "closed" system of app distribution in which iPhone consumers can only install apps purchased from Apple's App Store, preventing competition with the App Store. As part of that system, Apple receives a 30 percent commission on the final purchase price.

The direct purchaser issue turns on how these transactions are characterized. In the district court, the plaintiffs said that they are direct purchasers because they purchase from Apple in the App Store and Apple collects the 30 percent fee. As the district court summarized, "Plaintiffs argue they are straightforward direct purchasers because 'Apple itself sells every app directly to iPhone consumers, Apple itself imposes and directly collects from iPhone consumers every 30% fee it charges.'"[17] The plaintiffs emphasized that Apple is the seller that collects the 30 percent fee from the consumer. Under this view, consumers are like the contractors in *Illinois Brick* because they were the first purchasers of the supracompetitively priced product.

Apple disagreed, stating that the plaintiffs are indirect purchasers because Apple charges developers an alleged supracompetitive 30 percent commission and then developers set the price of their apps, deciding whether to pass on the 30 percent commission. Therefore, consumers are like the State of Illinois (the indirect purchaser) and developers are like the contractors (the direct purchaser) in *Illinois Brick*. Apple

focused on the fact that developers first bear the 30 percent fee and then make a pricing decision whether to pass on that fee to consumers. The district court stated: "[Apple contends that] if the developers first bear Apple's fee, then Plaintiffs do not have standing to pursue their claims regardless of whether the actual collection of the 30% happens directly from consumers to Apple."[18]

The district court agreed with Apple, finding that the complaint "is fairly read to complain about a fee created by agreement and borne by the developers to pay Apple 30 percent from their own proceeds—an amount which is passed-on to the consumers as part of the purchase price."[19] The district court held that the plaintiffs' allegations focused on a market for app-distribution services, not the sale of apps. In other words, the district court characterized the complaint's allegations as focused on the transaction between Apple and app developers (the market for app-distribution services), rather than the transaction between Apple and consumers (the market for the sale of apps).[20] The court circled back to the point that developers initially bear the 30 percent commission and *Illinois Brick* bars consideration of whether they passed on that amount to consumers in whole or in part.

This case was appealed to the Ninth Circuit, which rejected the district court's reasoning and reversed.[21] The opinion described the issue as straightforward, just as the district court had, but came to the opposite result. The Ninth Circuit concluded that there is a "fundamental distinction between a manufacturer or producer, on the one hand, and a distributor, on the other."[22] The Ninth Circuit ruled that *Illinois Brick* bars suits against manufacturers in a vertical supply chain—where the manufacturer is the first link—by anyone other than the entity on the second link. It does not, however, bar suits against distributors who sell to consumers. Under this framework, "Apple is a distributor of the iPhone apps, selling them directly to purchasers through its App Store" and, therefore, "Plaintiffs have standing under *Illinois Brick* to sue Apple for allegedly monopolizing and attempting to monopolize the sale of iPhone apps."[23]

The Supreme Court Grants Cert to Consider the Direct Purchaser Rule

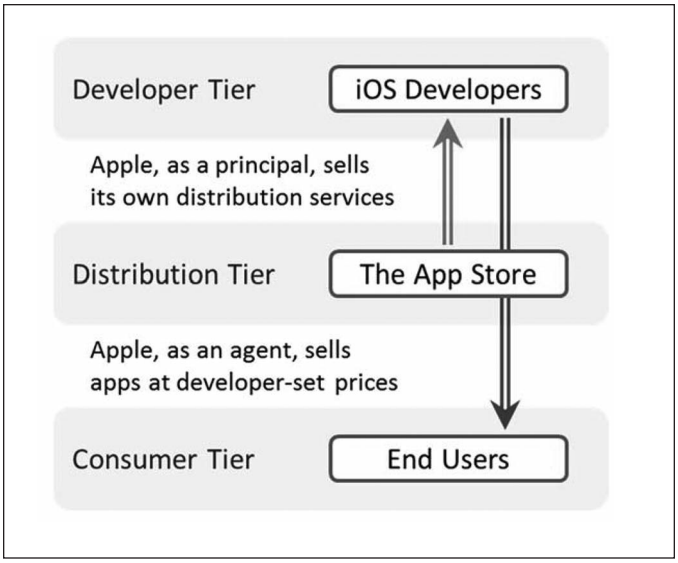
The Supreme Court granted certiorari. There was a slew of briefs submitted to the Court, including one from the Solicitor General that raised the AMC's recommendation of an *Illinois Brick* overhaul:

> The regime of parallel federal and state antitrust litigation has proved to be complex and inefficient, and some commentators have concluded that the evidentiary complexities associated with pass-on analysis are not as great as this Court believed them to be. The parties have not asked the Court to revisit *Illinois Brick* or *Hanover Shoe*, however, and the only question presented is how to apply those precedents here.[24]

The U.S. Chamber of Commerce also submitted a brief that noted the impact of "repealer" laws but went the other way on complexity, warning of a "growing problem in antitrust class-action litigation" in which courts ignored the complexities of pass-through analysis and certified indirect purchaser actions.[25] The Washington Legal Foundation, supporting Apple, and the American Antitrust Institute, supporting the plaintiffs, both agreed that the only issue before the Court is the application of *Illinois Brick* to the facts of this case, not whether there should be a policy change in the standing rule.[26]

Apple's brief did not raise policy issues either. Instead, Apple contended that the case was not particularly difficult and that a "straightforward" application of *Illinois Brick* barred the consumers' damages claim. Apple said that only the first party injured could bring suit—here, app developers. Apple also stressed that consumer claims depended on some pass-through theory and that the point of *Illinois Brick*/*Hanover Shoe* was to prevent the need for complicated pass-through theories. Apple advised against trying to "force the facts" into a "manufacturer-distributor" framework or otherwise "pattern-matching" the App Store transaction to transactions at issue in prior cases.[27] Instead, Apple said that the Court should apply *Illinois Brick* to prevent pass-through analysis and double-recovery. The Ninth Circuit's rule, Apple argued, threatened double recovery in which both app developers and consumers could recover from Apple for the same conduct.[28]

Apple depicted its view of the transactions at issue in the following image in its brief:



This image emphasized the importance, in Apple's view, of the alleged market for app-distribution services (denoted by the left arrow). Apple argued that the plaintiffs focused on this market since the inception of the case but then, before the Supreme Court, switched theories and asked the Court to focus on the sale of apps to users.

The plaintiffs' brief argued that consumers purchase directly from Apple, the alleged monopolist. The plaintiffs said that this was the first anticompetitive transaction at issue

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because their complaint alleged a monopoly in a market of apps, not a market for app-distribution services.[29] (In contrast, Apple said that the case is about app-distribution services and the first sale is from Apple to developers). The plaintiffs contend that there is no risk of double recovery because app developers conduct business in the market for app-distribution services, which is separate from the market for app sales, which is the focal point of consumers' claims.[30]

The Supreme Court Hears Oral Argument

Oral argument focused on whether the plaintiffs' damages claims involved "one step" or "two steps." Justice Kagan said only one step was required:

> I mean, I pick up my iPhone. I go to Apple's App Store. I pay Apple directly with the credit card information that I've supplied to Apple. From—from my perspective, I've just engaged in a one-step transaction with Apple. And when I come in and say Apple is a monopolist and Apple is charging a super-competitive price by—by extracting a commission that it can only extract because of its market power, I mean, there's my one step.[31]

Justice Sotomayor agreed: "I'm sorry, the—the first sale is from Apple to the customer."[32]

Apple argued for two steps: the first step is the transaction between Apple and developer—resulting in a 30 percent commission—and the second step is the transaction between Apple and the consumer.[33] The Solicitor General, supporting Apple, said that "damages stop at the first step" and here "the first step is the app maker's pricing decision, because the Respondents, the consumers, are injured if and only if the app makers decide to increase their prices."[34]

Apple characterized the plaintiffs' case as a challenge to the Apple-developer transaction and, in particular, Apple's imposition of a 30 percent commission. Apple argued that the case—since its inception nine years ago—has been about its commission and the "distribution market."[35] Apple explained that both developers and consumers are fighting for the same "30 percent pie" and that *Illinois Brick* dictates that only developers can recover because the fight over the pie is inefficient.[36]

The plaintiffs disputed that the case is about app distribution between Apple and developers and that the overcharge at issue is limited to the 30 percent commission.[37] They rejected Apple's argument that 30 percent is the measure of damages. When Justice Alito asked plaintiffs' counsel to explain where the district court's opinion stated the case went beyond the 30 percent, their counsel said that the "district court just missed it."[38]

At times, oral argument explored policy issues surrounding *Illinois Brick*, including whether there should be an overhaul of the direct purchaser rule. Justice Alito took up the mantle of the AMC, asking whether "in light of what has happened" since *Illinois Brick* whether "the court's evaluation stands up."[39] Justice Gorsuch, building on this question, asked why the Court should not question *Illinois Brick* "given the fact that so many states" have repealed it and "there haven't been a huge number of reported problems with indirect purchasers and direct purchasers receiving double recovery."[40]

Some justices asked whether there is something anticompetitive about Apple's platform in which it exercises sole control over which apps are distributed and sold to consumers. Justice Sotomayor repeatedly called it a "closed loop" and said that the facts were "dramatically different" than the concrete block facts in *Illinois Brick*.[41]

Skepticism of Apple's position also came from amicus briefs. For example, the Open Markets Institute, supporting the plaintiffs, wrote: "Apple, through contractual and technical restrictions, has established itself as the sole distributor of apps for the iPhone. In the iPhone-app distribution market, Apple resembles other dominant technological platforms, such as Amazon and Uber, that exercise power over both suppliers of goods and services and customers."[42]

What Happens Next

The Court is expected to decide *Apple v. Pepper* this term. Based on the number of tough questions directed at Apple during oral argument, it appears that the Court will affirm the Ninth Circuit's decision, delivering a win to the plaintiffs. That said, there were focused questions from Chief Justice Roberts to the plaintiffs about pass through, and oral argument is not always a reliable indicator of the court's opinion, so an Apple victory remains possible.

What is most important for practitioners is not which side wins, but whether the opinion is narrowly focused on the transaction at issue or whether it says something broader about *Illinois Brick* or Apple's "closed" ecosystem or technology platforms. There are several possible outcomes:

(1) ***Illinois Brick* Overruled.** The Court could take up the AMC's suggestion to overrule *Illinois Brick* and explicitly authorize direct and indirect purchaser suits under the Clayton Act. This would be the most dramatic outcome and it would raise numerous questions about what a new regime would be like, most notably how one court would apportion damages between direct and indirect purchasers. This outcome certainly would create years of work for antitrust experts tasked with sorting out pass through. Whether it would be favorable to the plaintiffs or defendants is not clear. Defen-

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dants would avoid the double recovery possible under the existing framework in which they are subject to suit under federal and state law for the same conduct. Consumers (often indirect purchasers) would also seem to benefit, as they would have standing to bring more claims. It seems likely that some opinion, whether majority, dissent, or concurring, will touch on the AMC's suggestion.

(2) **Technology Platform Opinion.** A second dramatic outcome would be if the Court weighs in on Apple's platform or talks about "technological platforms" in general. The Court could take antitrust from the world of concrete blocks to the world of technology platforms. The Court might see this case as a companion case to *Amex*, in which it treads new ground with its discussion of two-sided markets. This result could mean that both app developers and consumers are direct purchasers in different sides of the two-sided market.[43] There was little discussion of two-sided markets at oral argument, however, so this result would be a surprise.[44]

(3) **Plaintiffs Win, *Illinois Brick* Stands.** Another outcome is a straightforward application of *Illinois Brick* in favor of the plaintiffs. This result would focus on transactional proximity: the plaintiffs purchased from the alleged monopolist and, therefore, are direct purchasers. This approach would track the plaintiffs' brief to the Court and leave *Illinois Brick* untouched. It would, however, raise a question about whether app developers have standing to assert separate claims in a market for app-distribution services.

(4) **Plaintiffs Win, *Illinois Brick* Explained.** The Court could rule for the plaintiffs, limiting *Illinois Brick* to the particular vertical supply chain at issue in that case and disapproving of the formulaic application of the direct purchaser rule. The Court could hold that the purpose of *Illinois Brick* is to identify the plaintiff with the most incentive to sue the antitrust violator and that, here, it is the consumers. The Court would agree with *Illinois Brick* about the complications of pass-through and the dangers of double recovery, but nonetheless reject mechanical analysis.

(5) **Apple Wins, *Illinois Brick* Stands.** A straightforward application of *Illinois Brick* in favor of Apple would mean that the overcharge at issue is the 30 percent commission and that the overcharge is paid by app developers, making them the direct purchaser.

(6) **Apple Wins, *Illinois Brick* Explained.** Another path to victory for Apple is a ruling that *Illinois Brick* addresses the problem of pass-through analysis and that, although Apple sells to consumers, the relevant question is whether developers pass on the 30 percent commission charged by Apple to consumers.

Either of the first two outcomes—*Illinois Brick* overruled or a new application of the direct purchaser rule to technology platforms—would substantially change antitrust law. Overruling *Illinois Brick* would lead to uncertainty regarding who could recover for anticompetitive activity, and lower courts would spend years sorting out the proper plaintiffs and the proper measure of recovery in antitrust cases. The technology platform opinion would signal that the Supreme Court sees existing antitrust law as outdated in today's information economy—*Amex* followed by an *Apple* opinion emphasizing how the App Store differs from the sale of concrete blocks would indicate the Court is ready to establish new rules for a new economy.

If the Court does more than apply *Illinois Brick*, antitrust practitioners might soon be talking about "*Apple* arguments" and "*Apple* motions" and *Illinois Brick* may be relegated to footnotes about discarded rules. ■

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1 Apple, Inc. v. Pepper, No. 17-204.

2 Ill. Brick Co. v. Ill., 431 U.S. 720 (1977).

3 Antitrust Modernization Comm'n, Report and Recommendations 271 (2007) [hereinafter AMC Report], http:// govinfo.library.unt.edu/amc/report_recommendation/toc.htm.

4 Ohio v. Am. Express, 138 S. Ct. 2274 (2018).

5 *Id.* at 2280. Apple's brief described App stores as "two-sided" platforms, citing to *Amex*. Petitioner's Brief at 35, Apple, Inc. v. Pepper (Aug. 10, 2018). The plaintiffs' brief challenged this characterization, contending that the App Store was not a "platform" but "a retail operation selling apps." Respondents' Brief at 32, Apple, Inc. v. Pepper (Sept. 24, 2018).

6 Verizon's amicus brief connected the two cases, asking the court to consider Apple as a follow-on to *Amex* by treating the App Store as a two-sided platform under *Amex*. Verizon concluded by asking the Court to "take a measured approach (as it did in *Amex*) in articulating how antitrust law principles apply to two-sided markets and the implications of those principles for the *Illinois Brick* doctrine." Brief of Verizon as Amicus Curiae Supporting Neither Party, Apple, Inc. v. Pepper, No. 17-204 (Aug. 27, 2018).

7 Hanover Shoe v. United Shoe Mach. Corp., 392 U.S. 481 (1968).

8 *Id.* at 494.

9 *In re* Cathode Ray Tube Antitrust Litig., 911 F. Supp. 2d 857, 864 (N.D. Cal. 2012).

10 *In re* ATM Fee Antitrust Litig., 686 F.3d 741, 748 (9th Cir. 2012).

11 *Illinois Brick*, 431 U.S. at 732 ("Indeed, the evidentiary complexities and uncertainties involved in the defensive use of pass-on against a direct purchaser are multiplied in the offensive use of pass-on by a plaintiff several steps removed from the defendant in the chain of distribution."); Petitioner's Brief, *supra* note 5, at 17–18 (citing William M. Landes & Richard A. Posner, *Should Indirect Purchasers Have Standing to Sue Under the Antitrust Laws? An Economic Analysis of the Rule of* Illinois Brick, 46 U. Chi. L. Rev. 602 (1979)).

[12] 431 U.S. at 749 (Brennan, J. dissenting).

[13] *Id.*

[14] AMC REPORT, *supra* note 5, at 270.

[15] *Id.* at 271.

[16] *Id.* at 275.

[17] *In re* Apple iPhone Antitrust Litig., No. 11-cv-06714-YGR, 2013 WL 6253147, at *4 (N.D. Cal. Dec. 2. 2013).

[18] *Id.* at *5.

[19] *Id.* at *6.

[20] *Id.* at *5.

[21] *In re* Apple iPhone Antitrust Litig., 846 F.3d 313 (9th Cir. 2017).

[22] *Id.* at 324.

[23] *Id.*

[24] Brief of the United States as Amicus Curiae Supporting Petitioner at 19, Apple v. Pepper, No. 17-204 (May 8, 2018) (citations omitted).

[25] Brief of Chamber of Commerce of the United States of America as Amicus Curiae Supporting Petitioner at 14, Apple v. Pepper, No. 17-204 (Aug. 17, 2018).

[26] Brief of Washington Legal Foundation as Amicus Curiae Supporting Petitioner at 8–17, Apple v. Pepper, No. 17-204 (Aug. 17, 2018); Brief of American Antitrust Institute as Amicus Curiae Supporting Respondents at 29, Apple v. Pepper, No. 17-204 (Oct. 1, 2018).

[27] Petitioner's Brief, *supra* note 5, at 44, Apple, Inc. v. Pepper.

[28] *Id.* at 45.

[29] Respondents' Brief, *supra* note 5, at 1.

[30] *Id.* at 38.

[31] Transcript of Oral Argument at 21, Apple, Inc. v. Pepper (Nov. 26, 2018).

[32] *Id.* at 5.

[33] *Id.* at 3.

[34] *Id.* at 20.

[35] *Id.* at 10.

[36] *Id.* at 10.

[37] *Id.* at 64.

[38] *Id.* at 53.

[39] *Id.* at 15.

[40] *Id.* at 17.

[41] *Id.* at 6.

[42] Brief of Open Markets Institute as Amicus Curiae Supporting Respondents at 5, Apple, Inc. v. Pepper, No. 17-204 (Oct. 1, 2018).

[43] *See* Michael Hausfeld, Irving Scher & Michaela Spero, *Applying* Amex*: When Two-Sided Platforms Become One Market*, ANTITRUST, Fall 2018, at 29.

[44] Chief Justice Roberts did ask "to the extent it might be said that Apple is a two-sided market, they're—they're subject to suit on both sides of the market for a single antitrust price increase that they're alleged to have imposed." Transcript of Oral Argument, *supra* note 31, at 34–35. The suggestion was that there might be different direct purchasers, with different measures of damages, on each side of the market. However, it was not clear whether Chief Justice Roberts saw such a result as proper under *Illinois Brick*.