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SELECT SUBCOMMITTEE ON THE CORONAVIRUS CRISIS

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March 23, 2022

Mr. Timothy Cook
Chief Executive Officer
Apple Inc.
1 Infinite Loop
Cupertino, CA 95014

Dear Mr. Cook:

The Select Subcommittee on the Coronavirus Crisis is investigating fraud against pandemic relief programs being facilitated on Telegram, an application available for download through Apple Inc.'s (Apple) App Store. Telegram has served as a platform for extensive and widespread dissemination of instructions for evading fraud controls for the Paycheck Protection Program (PPP), Economic Injury Disaster Loan (EIDL) program, unemployment insurance, and the Restaurant Revitalization Fund (RRF). The availability of these instructions on Telegram may have enabled bad actors to commit large-scale fraud. Troublingly, such facilitation of widespread fraud appears to be consistent with Telegram's terms of service. This activity is not consistent, however, with Apple's publicly available standards and terms of service for application developers, which explicitly prohibit applications from being used to facilitate the commission of unlawful conduct. I am writing to request documents and information necessary for the Select Subcommittee to better understand this apparent inconsistency and to determine whether Apple may be able to play a constructive role in combating this Telegram-facilitated fraud against the American public.

Apple's publicly available requirements for applications that are available through the Apple App Store include terms that appear to prohibit an application like Telegram from systematically facilitating criminal activity like fraud against pandemic relief programs. The model Apple Developer Program License Agreement prevents companies from distributing applications through Apple software and Apple services if those applications would "facilitate the commission of a crime, or other tortious, unlawful or illegal act."¹ Similarly, Apple's App Store Review Guidelines states that applications that "solicit, promote, or encourage criminal or

¹ Apple Inc., *Apple Developer Program License Agreement* (online at <https://developer.apple.com/support/downloads/terms/apple-developer-program/Apple-Developer-Program-License-Agreement-20211213-English.pdf>) (accessed Mar. 15, 2022).

clearly reckless behavior will be rejected.”² There is substantial evidence that Telegram has not complied with these requirements by allowing its application to be used as a central platform for the facilitation of fraud against vital pandemic relief programs.³

Telegram’s platform has served as a hub for people to discuss ways to commit large-scale criminal fraud against numerous federal and state relief programs.⁴ Individuals have used Telegram channels to advertise the sale of detailed instructions for successfully submitting fraudulent relief claims to numerous relief programs.⁵ These channels have been used to disseminate what some reports have called “step-by-step playbook[s]” that scammers follow to commit fraud.⁶ The dissemination of such guides for evading relief program fraud controls is consistent with reports that a substantial share of pandemic relief program funds have been illicitly obtained by criminals committing fraud on a large scale, rather than individuals submitting isolated applications for benefits they were not eligible for. The Department of Justice has prosecuted numerous cases where individuals submitted dozens or hundreds of fraudulent applications for loans or other relief worth millions of dollars, demonstrating the substantial damage caused by distributing “playbooks” for evading fraud controls to committed criminals.⁷ Telegram channels have also included discussion of using stolen identities to aid in the commission of pandemic relief fraud, and some users have advertised the sale of such stolen

² Apple Inc., *App Store Review Guidelines* (online at <https://developer.apple.com/app-store/review/guidelines/>) (accessed Mar. 15, 2022).

³ Letter from Chairman James E. Clyburn, Select Subcommittee on the Coronavirus Crisis, to Pavel Durov, Chief Executive Officer, Telegram (Dec. 1, 2021) (online at <https://coronavirus.house.gov/sites/democrats.coronavirus.house.gov/files/2021-12-01.Clyburn%20to%20Durov%20re%20PPP-EIDL%20Fraud.pdf>).

⁴ *How Unemployment Insurance Fraud Exploded During the Pandemic*, ProPublica (July 26, 2021) (online at www.propublica.org/article/how-unemployment-insurance-fraud-exploded-during-the-pandemic) (discussing the use of Telegram to disseminate methods for submitting fraudulent unemployment insurance claims); *An Avalanche of Fraud Buried a Small Business Relief Program*, Bloomberg (Oct. 29, 2020) (online at www.bloomberg.com/news/features/2020-10-29/small-business-administration-10-000-grant-fraud-went-viral-hurting-program); *Is Womply Getting Whomped with PPP Fraud?*, FrankonFraud (May 2, 2021) (online at <https://frankonfraud.com/fraud-trends/is-womply-getting-whomped-with-ppp-fraud/>); *Fraudsters Targeting New SBA Restaurant Fund*, FrankonFraud (May 28, 2021) (online at <https://frankonfraud.com/fraud-trends/fraudsters-targeting-sbas-restaurant-fund/>).

⁵ *How Unemployment Insurance Fraud Exploded During the Pandemic*, ProPublica (July 26, 2021) (online at www.propublica.org/article/how-unemployment-insurance-fraud-exploded-during-the-pandemic).

⁶ *How Scammers Siphoned \$36B in Fraudulent Unemployment Payments from US*, USA Today (Jan. 26, 2021) (online at www.usatoday.com/in-depth/news/investigations/2020/12/30/unemployment-fraud-how-international-scammers-took-36-b-us/3960263001/).

⁷ See, e.g., Complaint, *United States v. Ayvazyan*, Case No. 20-cr-579-SVW (C.D. Cal., filed Oct. 20, 2020) ECF No. 1 (alleging defendants conspired to submit more than 150 fraudulent PPP and EIDL applications worth over \$20 million using stolen identities); Complaint, *United States v. Arnett*, Case No. 21-mj-30522 (E.D. Mich., filed Nov. 5, 2021) (alleging two defendants submitted over 500 fraudulent unemployment insurance claims worth over \$4 million in large-scale, multistate fraud scheme); Complaint, *United States v. Carter*, Case No. 21-mj-9734 (S.D.N.Y., filed Oct. 11, 2021) (alleging four defendants submitted over 1,000 fraudulent EIDL applications seeking at least \$10 million); Information, *United States v. Blotnick*, Case No. 21-cr-796-BRM (D.N.J., filed Oct. 13, 2021) (alleging defendant submitted at least 21 fraudulent PPP applications seeking over \$6.8 million).

personal information.⁸ This is particularly concerning because people whose stolen identities have been used to apply for pandemic aid, like unemployment insurance, will subsequently face great difficulty in lawfully obtaining such aid for themselves.⁹

Telegram's lax standards and content moderation policies appear to have made the application an ideal platform for the facilitation of large-scale fraud against relief programs. Telegram's very brief terms of service only prohibit users from "scam[ming]" other Telegram users, appearing to permit the use of the platform to conspire to commit fraud against others.¹⁰ The terms only bar users from promoting violence or posting illegal pornographic content on "publicly viewable" channels, even though so-called "private" channels are often far from private, permitting up to 200,000 users. The company explicitly says it "do[es] not process any requests related to [illegal content on "private" group chats]."¹¹ Telegram's lax standards and minimal content moderation have also reportedly led, in addition to its use for the facilitation of fraud, to use by extremist groups advocating for political violence and to the widespread dissemination of misinformation relating to the coronavirus and vaccines.¹² The proliferation and monetization of such misinformation is the subject of a separate Select Subcommittee investigation.¹³

⁸ *How Unemployment Insurance Fraud Exploded During the Pandemic*, ProPublica (July 26, 2021) (online at www.propublica.org/article/how-unemployment-insurance-fraud-exploded-during-the-pandemic); *How Scammers Siphoned \$36B in Fraudulent Unemployment Payments from US*, USA Today (Jan. 26, 2021) (online at www.usatoday.com/in-depth/news/investigations/2020/12/30/unemployment-fraud-how-international-scammers-took-36-b-us/3960263001/).

⁹ See, e.g., *'Easy Money': How International Scam Artists Pulled off an Epic Theft of Covid Benefits*, NBC News (Aug. 15, 2021) (online at www.nbcnews.com/news/us-news/easy-money-how-international-scam-artists-pulled-epic-theft-covid-n1276789); *Identity Thieves Target New Yorkers' Unemployment Benefits*, New York Daily News (Feb. 20, 2021) (online at www.nydailynews.com/new-york/ny-identity-theft-unemployment-20210220-3jlamauylba7nkuyjmdf3akplu-story.html).

¹⁰ Telegram, *Terms of Service* (online at <https://telegram.org/tos>) (accessed Mar. 17, 2022).

¹¹ Telegram, *FAQs* (online at <https://telegram.org/faq#q-there-39s-illegal-content-on-telegram-how-do-i-take-it-down>) (accessed Mar. 17, 2022).

¹² *Why Right-Wing Extremists Favorite New Platform Is So Dangerous*, Vox (Jan. 20, 2021) (online at www.vox.com/recode/22238755/telegram-messaging-social-media-extremists); *Germany: Telegram Becoming a 'Medium for Radicalization'*, ABC News (Jan. 26, 2022) (online at <https://abcnews.go.com/Health/wireStory/germany-telegram-medium-radicalization-82491848>); *Lacking Oversight, Telegram Thrives in Ukraine Disinformation Battle*, France 24 (Mar. 9, 2022) (online at www.france24.com/en/live-news/20220309-lacking-oversight-telegram-thrives-in-ukraine-disinformation-battle); *Telegram Forgot to Check its Email and Now it's Banned in Brazil*, The Verge (Mar. 18, 2022) (online at <https://theverge.com/2022/3/18/22985737/telegram-brazil-supreme-court-ban-email-address-statement-durov>); *Telegram Emerges as New Dark Web for Cyber Criminals*, Financial Times (Sep. 17, 2021) (online at <https://ft.com/content/cc3e3854-5f76-4422-a970-9010c3bc732b>); *Some of the Most-Viewed Posts on Telegram Channels Contain Vaccine Misinformation: Study*, Newsweek (Dec. 17, 2021) (online at www.newsweek.com/some-most-viewed-posts-telegram-channels-contain-vaccine-misinformation-study-1660656).

¹³ Select Subcommittee on the Coronavirus Crisis, Press Release: Select Subcommittee Launches Investigation into Online Entities Pushing Coronavirus Misinformation and Selling Unproven Treatments (Oct. 29, 2021) (online at <https://coronavirus.house.gov/news/press-releases/select-subcommittee-launches-investigation-online-entities-pushing-coronavirus>).

Given that Telegram is among the most used and downloaded applications in the world, with over 500 million active users and over a billion downloads, the company's apparent failure to comply with Apple's terms of service and other standards is particularly consequential.¹⁴

To help the Select Subcommittee better understand Apple's engagement with and standards for Telegram related to that application's use as a platform for the facilitation of pandemic relief fraud, please provide, by April 7, 2022, the following documents dated March 15, 2020 to the present.

1. All agreements and/or contracts between Apple and Telegram;
2. All communications between Apple and Telegram and/or its representatives related to fraud or other unlawful conduct on the Telegram platform, including fraud against pandemic relief programs; and
3. All analyses, reports, and/or assessments of Telegram's compliance with Apple's terms of service and other requirements related to the potential use of the Telegram application for fraud or other unlawful conduct, including fraud against pandemic relief programs.

Please also provide written responses to the following information requests by April 7, 2022.

1. Has Apple requested that Telegram take any actions regarding Telegram's use as a platform for aiding or facilitating pandemic relief fraud?
2. How does Apple communicate with Telegram concerning its compliance or failure to comply with Apple's terms of services, standards, or other contractual requirements?
3. What policies and practices has Apple implemented to monitor whether applications disseminated through the App Store are being used to facilitate fraud, and what steps does Apple take when it discovers that an application is being used to facilitate fraud?
4. What policies and practices has Apple implemented to monitor whether applications disseminated through the App Store are being used to disseminate coronavirus misinformation, and what steps does Apple take when it discovers that an application is being used to spread coronavirus misinformation?

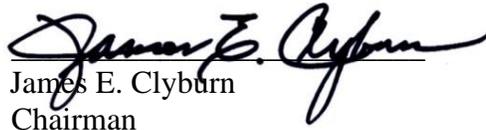
¹⁴ Telegram, *FAQs* (online at <https://telegram.org/faq#q-what-is-telegram-what-do-i-do-here>) (accessed Mar. 15, 2022); *Telegram Tops 1 Billion Downloads*, TechCrunch (Aug. 30, 2021) (online at <https://techcrunch.com/2021/08/30/telegram-tops-1-billion-downloads/>).

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These requests are consistent with the House of Representatives' authorization of the Select Subcommittee on the Coronavirus Crisis "to conduct a full and complete investigation" of "issues related to the coronavirus crisis," including the "efficiency, effectiveness, equity, and transparency of the use of taxpayer funds and relief programs to address the coronavirus crisis" and "reports of waste, fraud, abuse, price gouging, profiteering, or other abusive practices related to the coronavirus crisis."¹⁵

Please respond to this letter by no later than March 30, 2022, to confirm your company's cooperation. An attachment to this letter provides additional instructions for responding to the Select Subcommittee's request. If you have any questions regarding this request, please contact Select Subcommittee staff at (202) 225-4400.

Sincerely,


James E. Clyburn
Chairman

Enclosure

cc: The Honorable Steve Scalise, Ranking Member

¹⁵ H.Res. 8, sec. 4(f), 117th Cong. (2021); H.Res. 935, 116th Cong. (2020).

Responding to Oversight Committee Document Requests

1. In complying with this request, produce all responsive documents that are in your possession, custody, or control, whether held by you or your past or present agents, employees, and representatives acting on your behalf. Produce all documents that you have a legal right to obtain, that you have a right to copy, or to which you have access, as well as documents that you have placed in the temporary possession, custody, or control of any third party.
2. Requested documents, and all documents reasonably related to the requested documents, should not be destroyed, altered, removed, transferred, or otherwise made inaccessible to the Committee.
3. In the event that any entity, organization, or individual denoted in this request is or has been known by any name other than that herein denoted, the request shall be read also to include that alternative identification.
4. The Committee's preference is to receive documents in electronic form (i.e., CD, memory stick, thumb drive, or secure file transfer) in lieu of paper productions.
5. Documents produced in electronic format should be organized, identified, and indexed electronically.
6. Electronic document productions should be prepared according to the following standards:
 - a. The production should consist of single page Tagged Image File ("TIF"), files accompanied by a Concordance-format load file, an Opticon reference file, and a file defining the fields and character lengths of the load file.
 - b. Document numbers in the load file should match document Bates numbers and TIF file names.
 - c. If the production is completed through a series of multiple partial productions, field names and file order in all load files should match.
 - d. All electronic documents produced to the Committee should include the following fields of metadata specific to each document, and no modifications should be made to the original metadata:

BEGDOC, ENDDOC, TEXT, BEGATTACH, ENDATTACH, PAGECOUNT, CUSTODIAN, RECORDTYPE, DATE, TIME, SENTDATE, SENTTIME, BEGINDATE, BEGINTIME, ENDDATE, ENDTIME, AUTHOR, FROM, CC, TO, BCC, SUBJECT, TITLE, FILENAME, FILEEXT, FILESIZE, DATECREATED, TIMECREATED, DATELASTMOD, TIMELASTMOD,

INTMSGID, INTMSGHEADER, NATIVELINK, INTFILPATH, EXCEPTION,
BEGATTACH.

7. Documents produced to the Committee should include an index describing the contents of the production. To the extent more than one CD, hard drive, memory stick, thumb drive, zip file, box, or folder is produced, each should contain an index describing its contents.
8. Documents produced in response to this request shall be produced together with copies of file labels, dividers, or identifying markers with which they were associated when the request was served.
9. When you produce documents, you should identify the paragraph(s) or request(s) in the Committee's letter to which the documents respond.
10. The fact that any other person or entity also possesses non-identical or identical copies of the same documents shall not be a basis to withhold any information.
11. The pendency of or potential for litigation shall not be a basis to withhold any information.
12. In accordance with 5 U.S.C. § 552(d), the Freedom of Information Act (FOIA) and any statutory exemptions to FOIA shall not be a basis for withholding any information.
13. Pursuant to 5 U.S.C. § 552a(b)(9), the Privacy Act shall not be a basis for withholding information.
14. If compliance with the request cannot be made in full by the specified return date, compliance shall be made to the extent possible by that date. An explanation of why full compliance is not possible shall be provided along with any partial production.
15. In the event that a document is withheld on the basis of privilege, provide a privilege log containing the following information concerning any such document: (a) every privilege asserted; (b) the type of document; (c) the general subject matter; (d) the date, author, addressee, and any other recipient(s); (e) the relationship of the author and addressee to each other; and (f) the basis for the privilege(s) asserted.
16. If any document responsive to this request was, but no longer is, in your possession, custody, or control, identify the document (by date, author, subject, and recipients), and explain the circumstances under which the document ceased to be in your possession, custody, or control.
17. If a date or other descriptive detail set forth in this request referring to a document is inaccurate, but the actual date or other descriptive detail is known to you or is otherwise apparent from the context of the request, produce all documents that would be responsive as if the date or other descriptive detail were correct.

18. This request is continuing in nature and applies to any newly-discovered information. Any record, document, compilation of data, or information not produced because it has not been located or discovered by the return date shall be produced immediately upon subsequent location or discovery.
19. All documents shall be Bates-stamped sequentially and produced sequentially.
20. Two sets of each production shall be delivered, one set to the Majority Staff and one set to the Minority Staff. When documents are produced to the Committee, production sets shall be delivered to the Majority Staff in Room 2157 of the Rayburn House Office Building and the Minority Staff in Room 2105 of the Rayburn House Office Building.
21. Upon completion of the production, submit a written certification, signed by you or your counsel, stating that: (1) a diligent search has been completed of all documents in your possession, custody, or control that reasonably could contain responsive documents; and (2) all documents located during the search that are responsive have been produced to the Committee.

Definitions

1. The term “document” means any written, recorded, or graphic matter of any nature whatsoever, regardless of how recorded, and whether original or copy, including, but not limited to, the following: memoranda, reports, expense reports, books, manuals, instructions, financial reports, data, working papers, records, notes, letters, notices, confirmations, telegrams, receipts, appraisals, pamphlets, magazines, newspapers, prospectuses, communications, electronic mail (email), contracts, cables, notations of any type of conversation, telephone call, meeting or other inter-office or intra-office communication, bulletins, printed matter, computer printouts, teletypes, invoices, transcripts, diaries, analyses, returns, summaries, minutes, bills, accounts, estimates, projections, comparisons, messages, correspondence, press releases, circulars, financial statements, reviews, opinions, offers, studies and investigations, questionnaires and surveys, and work sheets (and all drafts, preliminary versions, alterations, modifications, revisions, changes, and amendments of any of the foregoing, as well as any attachments or appendices thereto), and graphic or oral records or representations of any kind (including without limitation, photographs, charts, graphs, microfiche, microfilm, videotape, recordings and motion pictures), and electronic, mechanical, and electric records or representations of any kind (including, without limitation, tapes, cassettes, disks, and recordings) and other written, printed, typed, or other graphic or recorded matter of any kind or nature, however produced or reproduced, and whether preserved in writing, film, tape, disk, videotape, or otherwise. A document bearing any notation not a part of the original text is to be considered a separate document. A draft or non-identical copy is a separate document within the meaning of this term.
2. The term “communication” means each manner or means of disclosure or exchange of information, regardless of means utilized, whether oral, electronic, by document or otherwise, and whether in a meeting, by telephone, facsimile, mail, releases, electronic

message including email (desktop or mobile device), text message, instant message, MMS or SMS message, message application, or otherwise.

3. The terms “and” and “or” shall be construed broadly and either conjunctively or disjunctively to bring within the scope of this request any information that might otherwise be construed to be outside its scope. The singular includes plural number, and vice versa. The masculine includes the feminine and neutral genders.
4. The term “including” shall be construed broadly to mean “including, but not limited to.”
5. The term “Company” means the named legal entity as well as any units, firms, partnerships, associations, corporations, limited liability companies, trusts, subsidiaries, affiliates, divisions, departments, branches, joint ventures, proprietorships, syndicates, or other legal, business or government entities over which the named legal entity exercises control or in which the named entity has any ownership whatsoever.
6. The term “identify,” when used in a question about individuals, means to provide the following information: (a) the individual’s complete name and title; (b) the individual’s business or personal address and phone number; and (c) any and all known aliases.
7. The term “related to” or “referring or relating to,” with respect to any given subject, means anything that constitutes, contains, embodies, reflects, identifies, states, refers to, deals with, or is pertinent to that subject in any manner whatsoever.
8. The term “employee” means any past or present agent, borrowed employee, casual employee, consultant, contractor, de facto employee, detailee, fellow, independent contractor, intern, joint adventurer, loaned employee, officer, part-time employee, permanent employee, provisional employee, special government employee, subcontractor, or any other type of service provider.
9. The term “individual” means all natural persons and all persons or entities acting on their behalf.