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11 UNITED STATES DISTRICT COURT
12 NORTHERN DISTRICT OF CALIFORNIA
13 SAN FRANCISCO DIVISION

14 **IN RE GOOGLE PLAY STORE
ANTITRUST LITIGATION**

Case No. 3:21-md-02981-JD

15 THIS DOCUMENT RELATES TO:

16 *State of Utah et al. v. Google LLC et al.*,
17 Case No. 3:21-cv-05227-JD

**STATES' NOTICE REGARDING
UPDATES TO PROPOSED *PARENS
PATRIAE* CONSUMER NOTICE AND
FORTHCOMING CONSUMER
COUNSEL FEE REQUEST**

Judge: Hon. James Donato
Courtroom: 11, 19th Floor
Date: February 26, 2024 at 1:30 p.m.

1 The States respectfully notify the Court of a few clarifying revisions to the proposed
2 Summary Notice and Long Form Notice that were originally submitted with the moving papers
3 on December 18, 2023,¹ as well as an agreement concerning the Consumer Counsel fees.

4 The Notice revisions are designed to reduce consumer confusion by explicitly clarifying
5 that a “claim form” is not needed for the majority of payments and that there will be a
6 supplemental claims process for the minority of payments that cannot be made automatically.² As
7 discussed in the moving papers, the proposed distribution plan will make automatic and direct
8 payments to most Eligible Consumers, so there will not be a claims form for those consumers. If a
9 consumer (a) does not have an existing PayPal or Venmo account and does not want to sign up
10 for PayPal or Venmo, (b) no longer has access to the email address or phone number associated
11 with his or her Google Play account, or (c) was expecting to receive a payment but did not, there
12 will be a supplemental claims process after the automatic payments process is complete.³
13 Consumers may sign up at the notice website to be notified when the supplemental claims process
14 starts.⁴ In addition, erroneous references to “Claims Administrator” have been corrected to
15 “Notice Administrator.”⁵

16 Updated drafts of the Summary Notice and Long Form Notice are attached to this filing
17 for the Court’s review,⁶ along with a revised Proposed Order that incorporates these updates.

18 In addition, the States respectfully notify the Court that Consumer Counsel have advised
19 that they will petition the Court for a fee award of \$85 million, which would amount to a
20 multiplier of approximately 1.324 and 13.5% of the *parens* fund, and for recovery of their out-of-
21 pocket costs. While the States do not endorse any specific amount, California, New York, North
22 Carolina, Tennessee, and Utah—the lead states that prosecuted the matter and negotiated the
23 Settlement—unanimously agree that Consumer Counsel worked diligently and productively
24

25 ¹ Declaration of Eric Schachter Regarding Updates to Proposed *Parens Patriae* Consumer Notice (Updated
Schachter Decl.) at ¶ 2.

26 ² *Id.* at ¶ 3.

27 ³ *Id.* at ¶ 4.

28 ⁴ *Id.*

⁵ *Id.* at ¶ 5.

⁶ *Id.* Exh. A-D.

1 during the course of the litigation, and they materially contributed to the joint prosecution of this
 2 case and in bringing this matter to a successful conclusion. Accordingly, no State plans to object
 3 to a Consumer Counsel fee request in the amount of \$85 million.

4 The States also respectfully notify the Court that, based on updated data from Google, the
 5 total estimated number of Eligible Consumers is now 127 million.

6 The States believe the clarifications outlined above further enhance this Settlement by
 7 meaningfully increasing consumer clarity and confidence. Because State Attorneys General are
 8 charged with protecting their respective states and citizens, the Court may rest assured that the
 9 Settlement is fair, reasonable, and adequate because the participation of the State Attorneys
 10 General provides extra confirmation that consumers' interests are protected.⁷

11
 12 Dated: February 20, 2024

OFFICE OF THE CALIFORNIA
 ATTORNEY GENERAL
 Paula L. Blizzard

14 Respectfully submitted,

15 By: /s/ Paula L. Blizzard
 16 Paula L. Blizzard

17 *Counsel for the Plaintiff States*

19 ⁷ See, e.g., *State of California v. eBay, Inc.*, No. 5:12-CV-05874-EJD, 2014 WL 4273888, at *6 (N.D. Cal. Aug.
 20 29, 2014) (finding that “the fact that the Attorney General is involved is given great weight” in granting
 21 preliminary approval to a *parens* settlement) (citing *In re Lorazepam & Clorazepate Antitrust Litig.*, 205 F.R.D.
 22 369, 380 (D.D.C. 2002) (“Court may place greater weight ... in addressing a settlement negotiated by
 23 government attorneys committed to protecting the public interest”) and *In re Toys “R” Us Antitrust Litig.*, 191
 24 F.R.D. 347, 351 (E.D.N.Y. 2000) (“the participation of the State Attorneys General furnishes extra assurance
 25 that consumers’ interests are protected”)); *In re TracFone Unlimited Serv. Plan Litig.*, 112 F. Supp. 3d 993,
 26 1006 (N.D. Cal. 2015) (finding that “FTC participated heavily in reaching this settlement” and “[n]o
 27 government entity has raised any objections to the proposed settlement” are factors that weigh in favor of final
 28 approval of a class action settlement) (citing *In re Bluetooth Headset Prods. Liab. Litig.*, 654 F.3d 935, 943 (9th
 Cir. 2011) (noting that courts should consider “the presence of a governmental participant” when making a
 fairness assessment) and *Churchill Vill., L.L.C. v. Gen. Elec.*, 361 F.3d 566, 575 (9th Cir. 2004) (same)); *In re*
Cardizem CD Antitrust Litig., 218 F.R.D. 508, 525 (E.D. Mich. 2003) (finding that “[t]he Court may also rely
 upon the participation of State Attorneys General as a factor in favor of the fairness and adequacy of the
 Settlement”); *Reed v. United Tchrs. Los Angeles*, 208 Cal. App. 4th 322, 336 (Cal. App. 2012) (finding that “the
 presence of a governmental participant” is a factor in determining “whether a class action settlement is fair”)
 (citing *Dunk v. Ford Motor Co.*, 48 Cal. App. 4th 1794, 1801 (Cal. App. 1996)).

E-FILING ATTESTATION

I, Brian Wang, am the ECF User whose ID and password are being used to file this document. In compliance with Civil Local Rule 5-1(i)(3), I hereby attest that the signatory identified above has concurred in this filing.

/s/ Brian Wang