

Big data: should competition authorities worry about it?

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Agenda

- 1 How does Big Data affect competition?
- 2 Assessment of Big Data in recent European cases

What does Frontier do?



Frontier works with a wide range of the world's largest communications providers and policy makers



1 How does Big Data affect competition?

2 Assessment of Big Data in recent European cases

Three key features of Big Data

Data is a form of currency – people often pay with their privacy and that is monetised with advertising

Some online platforms are accumulating huge amounts of constantly updating data

Services often generate no revenue from end customers, but generate revenue from the other side of the platform

Competition authorities are looking at Big Data



“But if just a few companies control the data you need ... that could give them the power to drive their rivals out of the market”

(M Vestager, Competition in a Big Data World, January 2016)



Big Data brings benefits to consumers and, in principle, can facilitate new entry

- Better products
- More targeted products
- Cheaper products
- More transparent markets
- More competition (in some cases)

When might Big Data hinder competition?

1) Data is necessary

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2) Data cannot be replicated

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3) Data is long-lived

- Data is a key input into the product
- It is not possible to compete in a market without having access to the data

- Competitors cannot get access either to the same data, or other similar data
- Depends on the scale/type of data needed

- If the usefulness of the data expires rapidly, it is unlikely to have a significant effect on competition

Condition 1: Data is a critical input

Competition is more likely to be affected if data is a critical input into the product.

- This is not a new issue
- More products rely on data now than in the past



Condition 2: Data cannot be replicated

Data is unique



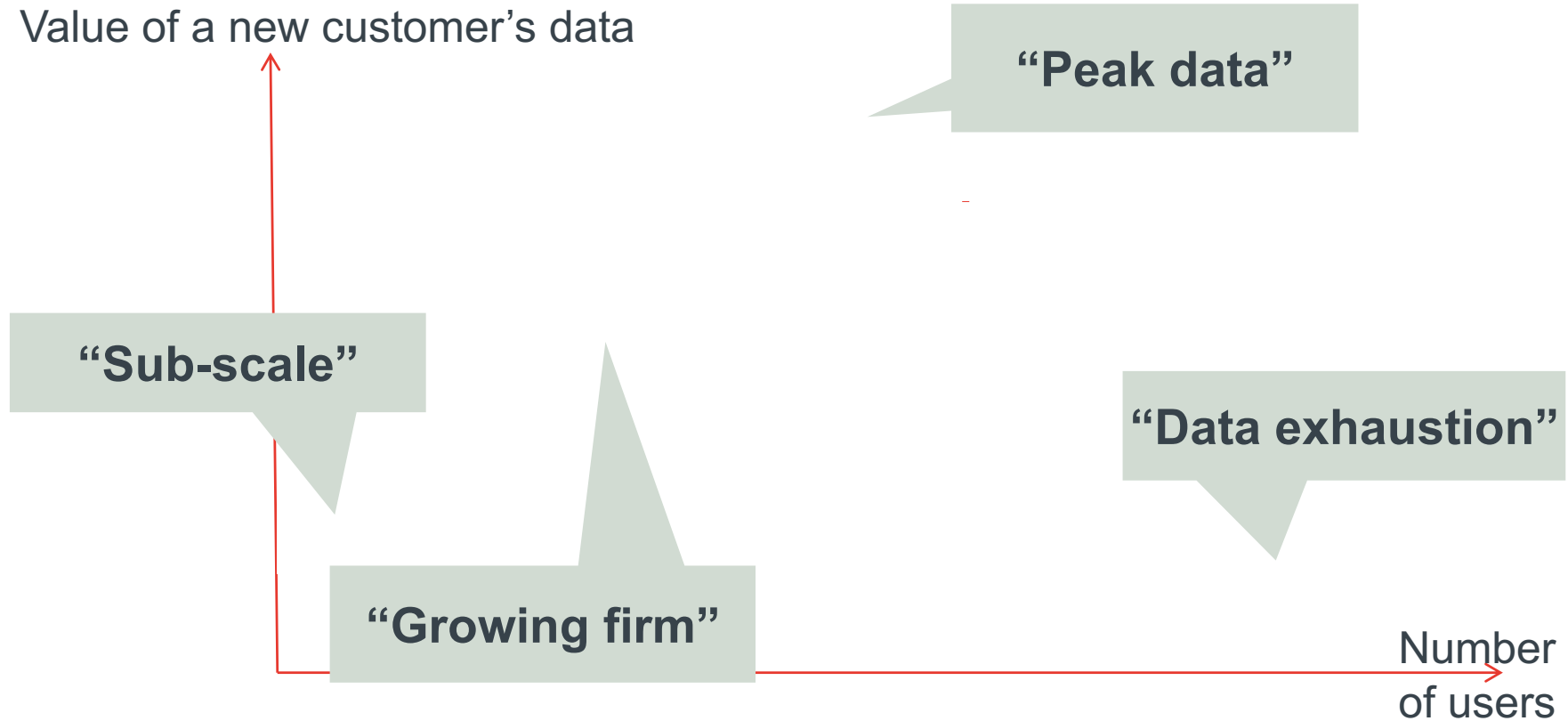
Network effects



New data makes old data more valuable

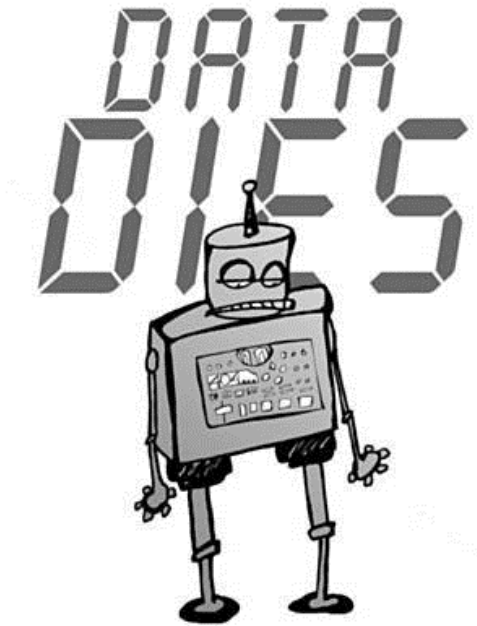


How valuable is more data?



Condition 3: data usefulness is long lived

Data which rapidly goes out of date is no use to future competition, regardless of its scale



... these 3 conditions need to be assessed on a case by case basis

1 How does Big Data affect competition?

2 Assessment of Big Data in recent European cases

Facebook/WhatsApp merger: the EC explicitly considered Big Data

Facebook was later fined for misleading the Commission

EC's concern: data collected from WhatsApp strengthen Facebook's position in targeted advertising

Facebook: No plans to collect more data from WhatsApp's users or link it to their Facebook's profiles

EC's verdict: a number of other parties collect user data (Google, Amazon, eBay ...) valuable for advertising and not exclusively controlled by Facebook

Privacy-related issues were not considered as they *“do not fall within the scope of the EU competition law, but within the scope of EU data protection law”*

Ongoing abuse of dominance case against Facebook in Germany

Allegations: breaches of data protection law; abuse of dominance through imposition of unfair terms

A novel approach that combines data protection and competition issues

First 'abuse of dominance' case where Big Data plays a central role

Watch this space ...

“...We have not found a competition problem <involving Big Data> yet. This certainly does not mean we never will”





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