



Market Definition and Dominance

**ITU Regional Regulatory and
Economic Dialogue (REDs) for
Africa**

**Lomé, Togo
9 September 2019**

Pedro Seixas, ITU Expert

Overview

- **Digitalecosystems**
- **Market definition**
 - New challenges
 - The zero price problem
 - One or two markets
 - Relevant markets for ex ante regulation
- **Dominance**
 - How to assess dominance?
 - Criteria
 - Contestability

KEY MESSAGE FROM THIS PRESENTATION

- Digital ecosystems, and the so-called data economy require established concepts, principles and methodologies, as well as competition enforcement and regulation to be adapted and refined
- This is for example the case when considering voice and message services provided using an application accessed and delivered over the public Internet that may be a direct substitute for traditional telecommunications services

KEY MESSAGE FROM THIS PRESENTATION

- Digital ecosystems, and the so-called data economy require established concepts, principles and methodologies for competition enforcement adapted and

Message: We have to radically update our regulatory approach. What we have done in the past is not good enough for future economic regulation of this sector.

■ The Internet-based services provided using an open Internet that may be a direct substitute for traditional telecommunications services

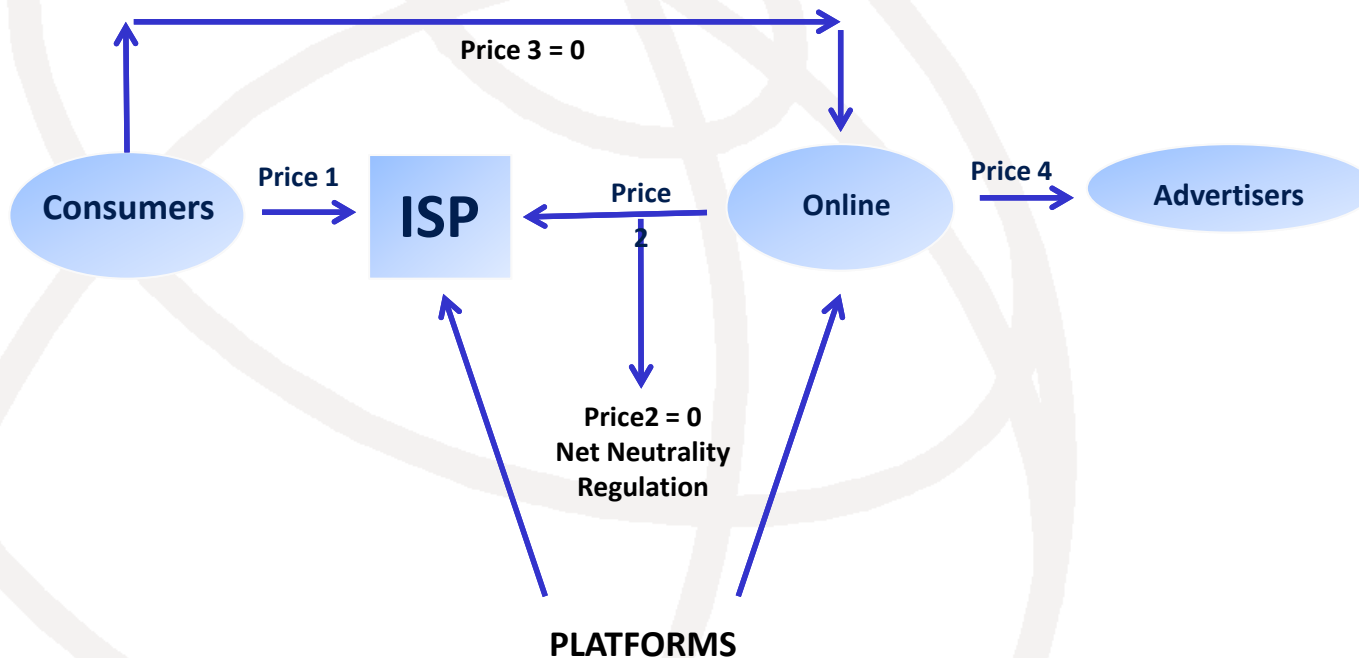
Market definition – a concept that must evolve

- To determine whether competition is effective regulators need to define and analyse markets
- Markets are defined by the limits of **demand and supply** substitutability
- Substitutability refers to the ability of a customer or supplier to switch from one product or service, to an alternative in response to a change in the relative price, service or quality of the first product or service

Applications services introduce new challenges

- Market definition and what constitute relevant markets:
 - One or two markets?
 - Which price the hypothetical monopolist should be raising?
 - Profits on one or on both sides of the market?
- In the past prices have been taken as the indicator of consumer welfare
- When the consumer price is zero or otherwise not a factor, the direct competitive pressure shifts to product characteristics, service quality and innovative features

The zero price problem



Market definition: one or two markets?

- Suppose you are analysing a competition case concerning newspapers
- Assuming a newspaper is a two-sided platform which option is correct?
 - there is one market for newspapers; or
 - there are two interrelated markets, one is a market for advertising (on newspapers) and the other a market for readers who buy newspapers.

Relevant markets for ex ante regulation (3 Criteria)

- The existence of serious barriers hindering the entry in the relevant market, such barriers being either permanent or transient
- Whether developments in the market under assessment lead to the development of effective competition within a reasonable period of time
- Whether the shortcomings of the market can only be addressed on the basis of the competition law.

Criteria for defining relevant markets may not hold

- When considering application based services
 - Market entry is no longer a barrier
 - Competition may develop in unpredictable ways as markets can tip
 - In case of abuse of dominance ex post tools are adequate but may not be able to solve the problem

Significant Market Power

- Platforms with bilateral positive indirect network effects create strong self-reinforcing feedback loops.
- Five key factors determine the relative size of competing platforms:
 - The relevance of indirect network effects
 - Economies of scale
 - The prevailing types of use on the opposite platform side (single-homing/multi-homing)
 - The degree of differentiation
 - Congestion

Other criteria in assessing market power

- Other fundamental factors may also contribute to determine the relative size of competing platforms for example:
 - the access to data: a barrier to entry?
 - the innovation potential of digital markets
 - digital markets dynamics and reliance on scale
- Market shares are less relevant or even meaningless.
- None of the factors in isolation, indicate or are sufficient for designating a platform with market power.

Contestability

- Online platforms typified by economies of scale and strong network effects (whether direct or indirect) can make it particularly difficult for rivals to enter and challenge the position of the platform effectively.
- As a consequence, such markets tend towards concentration and can even “tip” in favour of one platform in the sense that the winner takes all.
- Economic theory: “monopolies are ok if they can be contested”

Competition policy and regulation

- The ITU recommends:
 - The identification and definition of **relevant markets**, taking into account the fundamental differences between traditional international telecommunication services and OTTs.
 - Consider and develop enabling policies or regulatory frameworks to foster fair competition between network operators and providers of OTTs and also to examine, if necessary, the reduction of the regulatory burden on traditional networks and telecommunication services.



Thank You

**If you have any questions please contact :
ps@incyteconsulting.com**

Pedro Seixas, ITU Expert