20TH GLOBAL SYMPOSIUM
FOR REGULATORS

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01
Evolution of competition policy and regulation in the context of the digital markets

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Digital services are provided by platforms

- Platforms have emerged and grown rapidly because they substantially decrease transaction costs between two (or more) distinct groups of customers
- Digital platforms have some special characteristics related to two-sidedness:
  - Their appeal to customers is based on offering innovative services which appear to cost them nothing (or very little)
  - The business model relies on customer data (anonymized and aggregated) to create value that can be monetized on another side of the platform (e.g. to advertisers or content providers).
- Digital platforms act as a marketplace, bringing together and reducing transaction costs between distinct groups of customers.

Examples of online and physical platforms

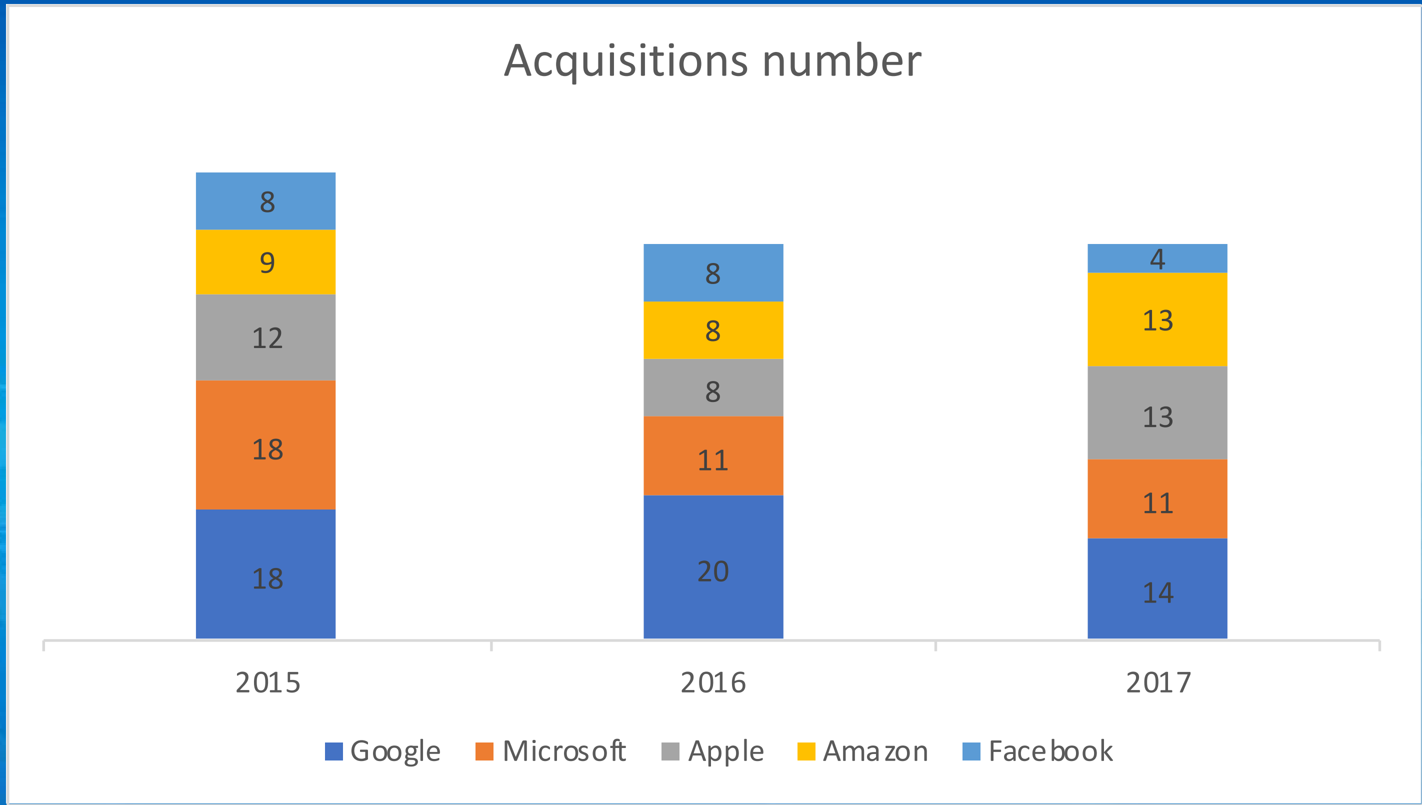
Online Search Engines	▪ Search services ▪ E-mail ▪ Targeted advertising	A user enters keywords or key phrases into a search engine and receives a list of Web content results in the form of websites, images, videos or other online data
Online Applications	▪ Social networks ▪ Voice services ▪ E-commerce ▪ Dating	Means of communication, shopping online or finding a match for dating
Physical platforms	▪ Bars ▪ Merchants ▪ Supermarkets ▪ Publishers	Actual places for shopping, trading, socialising or reading the news

Two-sided platforms display network effects

	Positive	Negative
Cross-group effects	**Users experience a higher value if there are more participants on the other side of the platform** (e.g. to allow them to use a payment mechanism)	**Users experience a lower value if there are more participants on the other side of the platform** (e.g. they may dislike advertising)
Within-group effects	**Users experience a higher value if there are more participants on the same side of the platform** (e.g. they like all their friends to be on the same social media platform)	**Users experience a lower value if there are more participants on the same side of the platform** (e.g. bidders for these goods on internet auction websites experience more competition)

Overall, positive cross-group effects create a race for scale and a concentration of market power

Scale is often purchased through acquisition



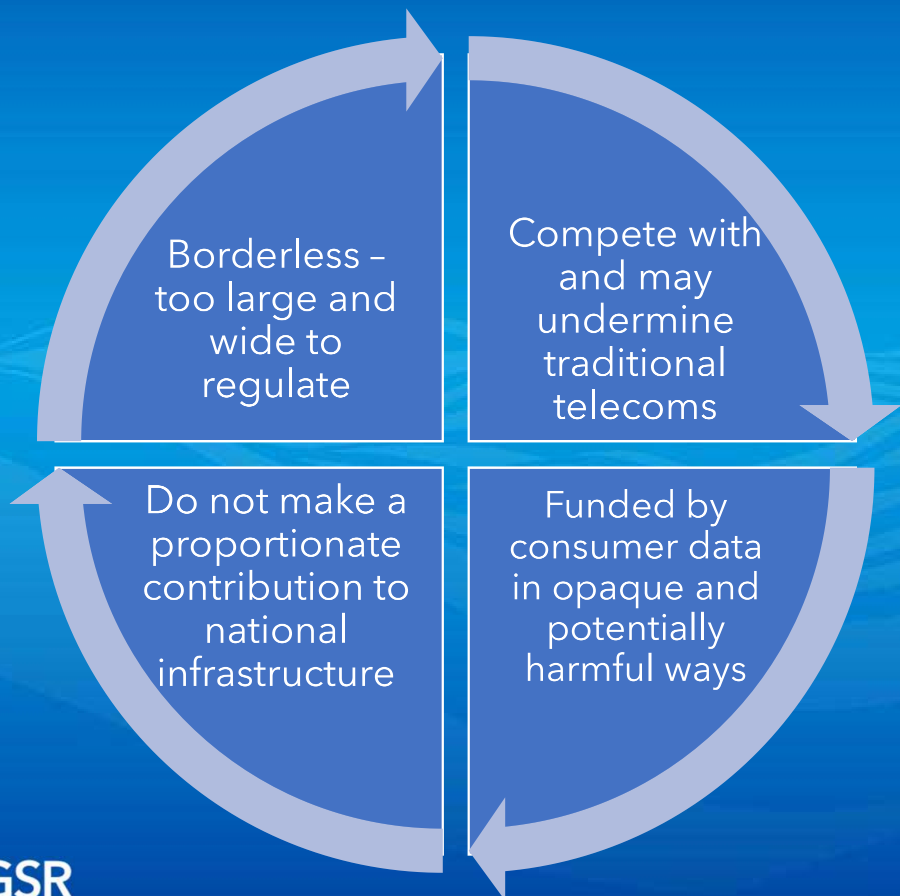
Source: CESifo, “Mergers in the Digital Economy” (https://www.cesifo.org/DocDL/cesifo1_wp8056.pdf)

Is excessive market concentration a problem?

	Global market share April 2018	Business activity
Google	90%	Search
Facebook	66%	Social media
Apple	45%	Smartphone web traffic
Amazon	37%	Online retail

Source: The Economist 30th June 2018, “Fixing the Internet”, based on data from Global Stats Counter

Regulatory challenges of digital platforms



… but consumers do not usually complain as they like the services offered and the low or zero price they pay.

How might digital platforms be regulated?

- Ex-ante regulation has typically worked by:
  - defining markets, typically using the SSNIP* test
  - determining dominance within those markets.
- Two-sided platforms makes each of these tasks more difficult.

- Ex-post regulation has typically worked by:
  - identifying anti-competitive behaviour from dominant suppliers (e.g. predatory pricing)
  - imposing appropriate remedies.
- With two-sided platforms it is hard to tell the difference between socially-optimal pricing and pricing that has the intention or effect of limiting competition.

* See next slide for details

Can the SSNIP test be used?

- The SSNIP test is the standard approach to market definition – looking at the impact on profitability of a Small but Significant Non-transient Increase in Prices
  - Which price? Given that in a two-sided market there are (at least) two prices, which price should be raised?
  - Profitability: Should we look at what happens to profits on only one side or on both sides of the market?
  - Zero-rating: How can the SSNIP be applied?
  - Feedbacks: Given that in a two-sided market there are network effects, should we include (all?) feedbacks from one side of the market to the other?

Market power is less about market share

- Its common for platforms with strong cross-platform network effects, as well as networks with pronounced direct network effects, to show high levels of concentration.
- Multi-sided platforms often provide one of their products for free or at a subsidized price. In these cases it is not possible to calculate a value-based market share.
- Profitability is an appealing measure of market power because it assesses the extent to which the platform has been able to earn more than a competitive rate of return.
- However rates of return vary over time, and it is well known that in digital platform profits may not show up for a long time.

It is hard to prove anti-competitive practice

- Predatory prices can be hard to detect and current tests don't work:
  - Predation can be successful, weakening competitors without triggering exit.
  - There are non-predatory reasons to price below cost and market may tip to monopoly even absent predation.
- A platform may engage in two-sided anti-competitive predatory pricing if it charges below marginal costs overall (across both sides of the platform) ... although this itself does not prove predation.
- Network effects mean that it may still be possible to recover losses.
- Price structure can also be used in a predatory fashion:
  - Mobile service providers and choice of on-net and off-net prices.
  - Asymmetric media competition (e.g. subscriber-supported versus advertising--supported business models).

Summary

- The regulation of traditional networks will continue because they still control access to the customer … but regulation needs to focus on infrastructure access to be relevant and effective.
- Regulators should be wary of digital platform providers leveraging their dominance into the market for network access … but they need to contribute to the costs of deploying and maintaining access infrastructure.
- Regulation should be based on clear principles such as those of net neutrality, whether applied ex ante (rules) or ex post (monitoring agreements and resolving disputes).
- NRAs must collaborate with one another and with competition authorities to ensure consistent and effective regulation of digital platforms.
  - The ITU and Regional Regulatory Associations will play a lead role to ensure coordinated, concurrent regulation.
  - NRAs in developing countries might also build on the work of others that have taken a lead on the approach to digital platform regulation.

Case study: CMA report (UK)

Platforms with Strategic Market Status (SMS)

>90% of search traffic for the past 10 years

>50% of display advertising revenues in 2019

- Pro-competition ex-ante regulatory regime under a new regulatory body (“Digital Markets Unit”)
- Pro-competitive interventions
  - Consumer control of data
  - Mandated interoperability
  - Third-party access to data
  - Data separation.
- Enforceable code of conduct
  - Fair trading
  - Open choices
  - Trust and transparency

Source: CMA, “Online platforms and digital advertising” (https://assets.publishing.service.gov.uk/media/5efc57ed3a6f4023d242ed56/Final_report_1_July_2020_.pdf)

Thank you!

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Thank you!

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