

The EC Android decision: key holdings, factual findings, and assumptions

- Discussion -

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EC Google Case: Overview and Issues

- The EC's Decisions on Google's practices:
 - Tying of the Google Search app with Play Store
 - Tying of Google Chrome with Play Store and Google Search app
 - Licensing of the Play Store and the Google Search app conditional on the anti-fragmentation obligations
 - Portfolio-based revenue share payments conditional on the pre-installation of no competing general search service

EC Google Case: Overview and Issues

- Issues
 - Traditional tools of anti-trust assessment applying to new business practices, multi-sided platform
 - ⇒ Workable?
 - ⇒ What are potential theories of competitive harms?
 - ⇒ How to measure such harms?
 - Competition between an open system (Android) and closed system (iOS)
 - ⇒ Market definition
 - ⇒ Special features of the open system in terms of eco-system and investment

Assessing Anti-Competitiveness

- Multi-sided, multi-layered platform
 - Revenue center vs Cost center in two-sided platform
 - More complicated with platforms on platform
- Tying
 - Obscure dichotomy of tying good and tied good, even shifting
 - Tying of Google services with (Google version) Android?
 - ⇐ *The EU Android Decision*
 - The role of the Play Store: “must-have” with high complementarity and strong network effect

Assessing Anti-competitiveness

- General search market
 - Probably the key revenue center/platform for Google
 - Competitive harms arise here
 - cf: Play Store
 - To measure the consumer(users) harm, need to consider the two-sidedness (proof of harm)
- Equally efficient competitor test
 - Pre-installation is more effective for excluding less attractive competing apps
 - What does “more/equally efficient” mean?

Competition between Open and Closed system

- Market definition
 - Android and iOS are competing, but it does not mean in itself that they are in the same relevant market for anti-trust purpose
 - In view of Hypothetical Monopolist Test, any undertaking exerting monopoly power have its own relevant market
 - ⇐ Need to consider switching cost, loyalty, device change, etc.
 - Market definition in this case may be difficult because of
 - free distribution
 - paring with mobile device

Competition between Open and Closed system

- More fundamental question
 - Incentive and funding source to develop the OS of open system
 - Source of advantages “on the merit”
 - If the operator is forced to make all sub-markets level playing fields, . . .
 - What is the allowable limit to utilize complementarity in terms of competition policy?

Thank You.