

Panel 2

**Challenges of competition law
in digital economy based on platform, big data
- Focusing on recent EC Statement of Objections to Google**

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1. EU Commission's Statement of Objections to Google: The Abuse of Dominance in Android OS and Apps

In the SO, the Commission alleges Google breached EU antitrust rules by:

- ① Requiring manufacturers to **pre-install Google Search** and Google Chrome browser as a condition to license Google proprietary apps (KFTC dropped the charge in 2013);
- ② Giving **financial incentives** to manufacturers and mobile network operators on condition that they exclusively pre-install Google Search on their devices (KFTC dropped the charge in 2013);
- ③ Preventing manufacturers from selling smart mobile devices **running on competing operating systems** based on the Android open source code.

1.1. Pre-installation of Google Apps (①) & Financial Incentives on Exclusivity Condition(②)

EU Commission	KFTC
<ul style="list-style-type: none">• Rival search engines are not able to become the default search service• The incentives of manufacturers to pre-install competing search apps are significantly reduced	<ul style="list-style-type: none">• Consumers can easily download other search• Google Search being the default search engine had little impact on the Korean market• Google Search's market share only around 10 % in Korea

Q. Do we have different rules to apply, depending on whether it is PC environment or Mobile environment?

- Comparison with the Microsoft's Tying Case

1.2. Prohibition of Releasing Devices Running on Android Forks (③)

EU Commission	Google
<ul style="list-style-type: none">• Google closed off ways for its competitors to introduce competing apps and services which could be preinstalled on Android forks• Direct impact on consumers as they are precluded from access to innovative mobile devices based on potentially superior version of the Android OS	<ul style="list-style-type: none">• Anti-Fragmentation Agreement is not compulsory• This is a minimum restriction in order to prevent fragmentation

Q. Do we have to treat Open Source differently?

Q. What is fragmentation? To what extent should fragmentation be prevented?

Q. Prohibition of selling devices running on Android forks

- Is this a minimum restriction to prevent fragmentation?

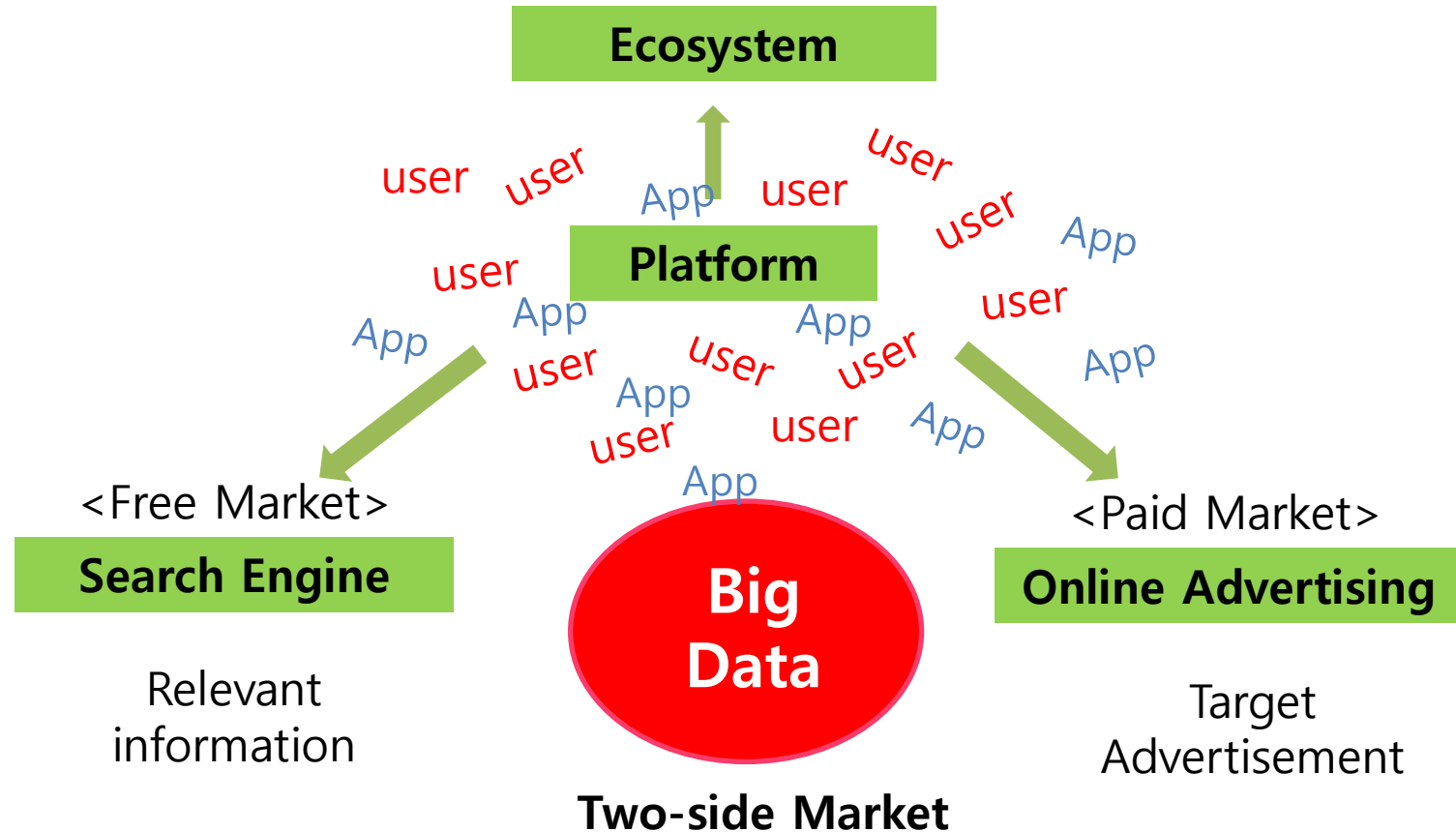
2. Google treats more favourably, in its general search results pages, Google shopping compared to rival's

EU Commission sent SO to Google	FTC dropped the charge
<ul style="list-style-type: none"> It may artificially divert traffic from rival comparison shopping services and hinder their ability to compete on the market It is to the detriment of consumers, and stifles innovation 	<ul style="list-style-type: none"> It may be to the detriment of other competitors, pro-competitive effect-more effective search result for internet users-is bigger

▪ KFTC's Consent decree to Naver, Daum (2013)

Issue	Consent Decree
<ul style="list-style-type: none"> Providing search result and professional service without division 	<ul style="list-style-type: none"> Indicating the name of company for its service name; a words of guidance which says company's own service Providing competitors' outside link

3. Digital economy based on big data and challenges of competition law



- **Characteristic of Platform : gatekeeper, private regulator**
→ Necessity of competition regulation

3. Digital economy based on big data and challenges of competition law

- **Competitiveness of digital economy**
 - depends on possession and practical use of data in ICT age.
- **Big Data is about competition as well as privacy**
 - using anti-competitive ways in order to gain data or they encroach on personal information
 - German competition authority's investigation against Facebook
 - blocking or disturbing the other businesses' access to data
- **Consumer Choice**
 - key of illegality determination in non-price competition market

Thank you