

# Competition Policy on Platform Players: Case of Korea

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# Introduction

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## ▶ EU Antitrust vs. Google

- ▶ Two investigations that led to recent Statement of Objections against Google
- ▶ Search Neutrality( April 15, 2015)
  - ▶ Accused of giving preferences to its own shopping service by making it always visible on the top of its search results.
- ▶ Android mobile licensing (April 20, 2016)
  - ▶ Contractual restrictions to
    - pre-install Google Search and Chrome and make Search as default.
    - prevent manufacturers from selling “Android-forks”
  - ▶ Financial rewards to manufacturers and mobile network operators to set Google Search as default engine

# Introduction

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- ▶ Interesting comparison points from Korea
  - ▶ Korea is one of the few countries that Google Search does not have the dominant position
    - ▶ Naver's strategies and success in Korea might be enlightening
  - ▶ Android OS has been absolutely dominant since its introduction
    - ▶ Any leveraging its dominance?
    - ▶ KFTC's investigation for Google's Android licensing (2011~2013)
      - "Wasn't this the KFTC's false acquittal case?" (Chosun Ilbo editorial; April 23, 2016)

# Introduction

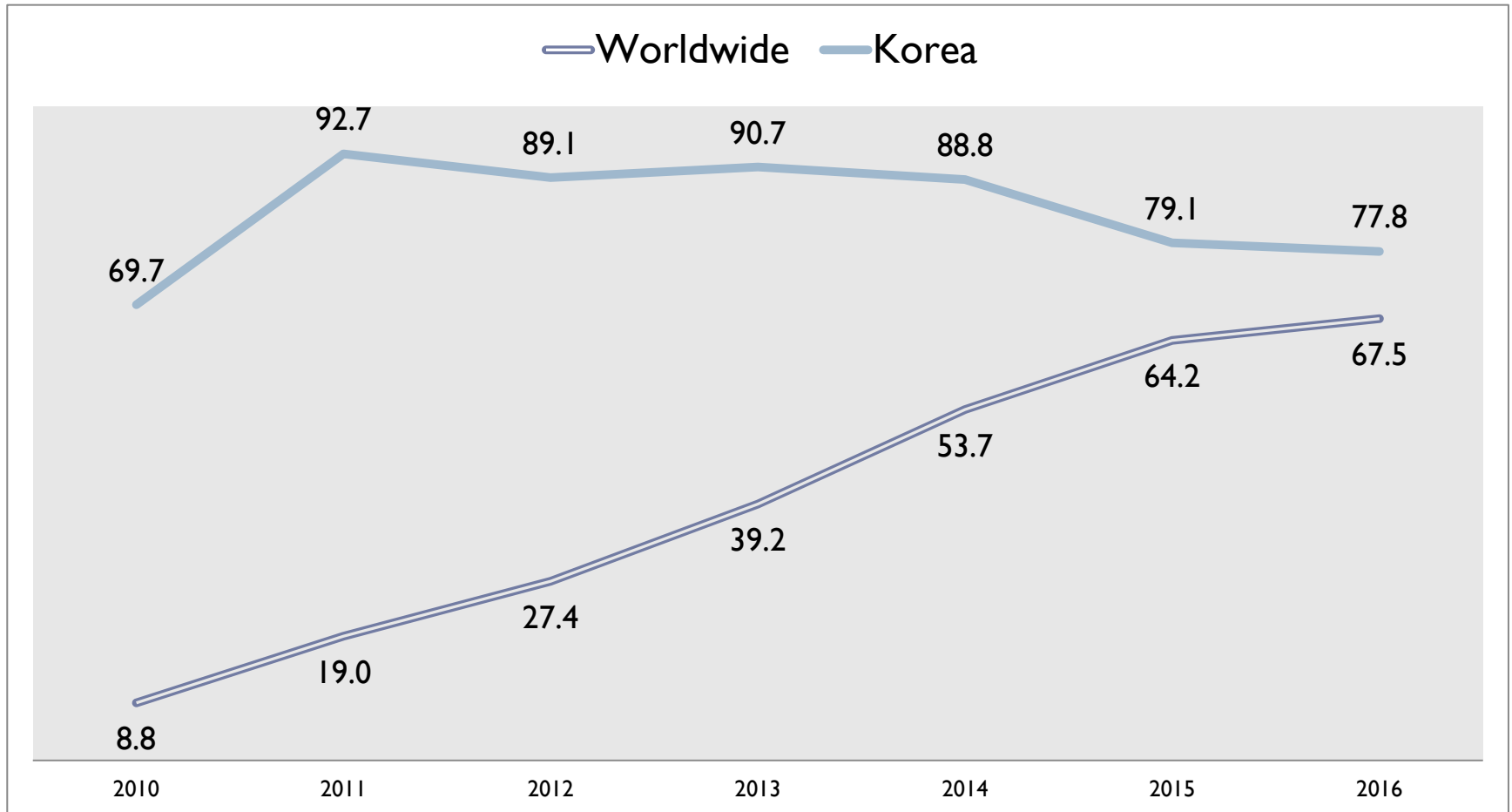
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## 2015 Search Engine Market Share by Country

Country	Leader	Share	Runner-Up	Share
<b>US</b>	Google	72%	Bing	21%
<b>France</b>	Google	92%	Yahoo	4%
<b>Germany</b>	Google	94%	Bing	2%
<b>UK</b>	Google	90%	Bing	5%
<b>Korea</b>	Naver	77%	Daum	20%
<b>China</b>	Baidu	55%	Qihoo360	28%
<b>Russia</b>	Yandex	58%	Google	34%

# Introduction

## Android Share in Mobile OS



# Search Neutrality

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- ▶ **Naver's successful strategies**
  - ▶ Google's adoption of "Universal Search" has been the root of the search neutrality debate
    - ▶ Universal Search blends results from 'vertical' search engines like YouTube, Images, News, and Shopping
  - ▶ But this is similar to what Naver has been doing since the beginning of its service
    - ▶ Accumulating contents by operating its own vertical services (News, Knowledge DB, Blogs, Dictionaries, Book, Music, Movies, Shopping, etc.)
    - ▶ Searching its own database first and provide better customized results
    - ▶ Consumers liked it better than "ten blue links" by Google

# Search Neutrality

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- ▶ Search neutrality issues that have been raised so far
  - ▶ Disputes with news media for Naver's curation service
    - ▶ led to several homepage design changes
  - ▶ Accusations regarding political neutrality for search and search ranking results
  - ▶ Abuse of dominance for vertical search services (Naver Real Estate and Naver Shopping)
    - ▶ led to the KFTC's investigation in 2011

# Search Neutrality

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- ▶ **Naver-Daum Consent Decree (Nov. 27, 2013)**
  - ▶ KFTC initiated the process (the first consent decree case in Korea) after the 2011 investigation on following charges
    - ▶ Display of paid advertisings along with search results
    - ▶ Unclear distinction between sections for keyword advertisements and search results
    - ▶ Restrictions on the ability of advertisers to change advertisement agencies
    - ▶ Plus two other minor charges applicable only to Naver
  - ▶ **Corrective measures**
    - ▶ Mark keyword advertisements with shading and add their company name next to paid services
    - ▶ Quit restrictions on advertisers
    - ▶ Naver voluntarily provide 100 billion won (\$93.6 million) and Daum 4 billion won over three years to support small and midsize enterprises



# Search Neutrality

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- ▶ Note that the provision of vertical search results itself has never been charged in Korea
  - ▶ As long as the consumer can clearly recognize, there's no problem
- ▶ Any implications for EU?
  - ▶ There is 'some' competition among search engines in Korea
  - ▶ Is the search engine essential facility?
    - Even if it were, would that require a free access for competitors?

# Android Mobile Licensing

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- ▶ **Complaints by NHN and Daum (2011)**
  - ▶ Google's licensing contract (probably the MADA) for Android Market (currently Google Play) excludes the preloading of competing search engine as the default
  - ▶ Delaying of compatibility test (CTS) if manufacturers choose to place other search services as the default 'phone-top search'
  - ▶ Android OS's dominant position in smartphones leverages into the Google's larger share of mobile search (then 20%) than desktop search (about 2%)
- ▶ **KFTC dropped investigations in July 2013**
  - ▶ The agency did not provide details, but two facts seemed to influence the decision; (i) no evidence of exclusion was found in search market; (ii) consumers could easily download apps or gain access to Naver/Daum search.

# Android Mobile Licensing

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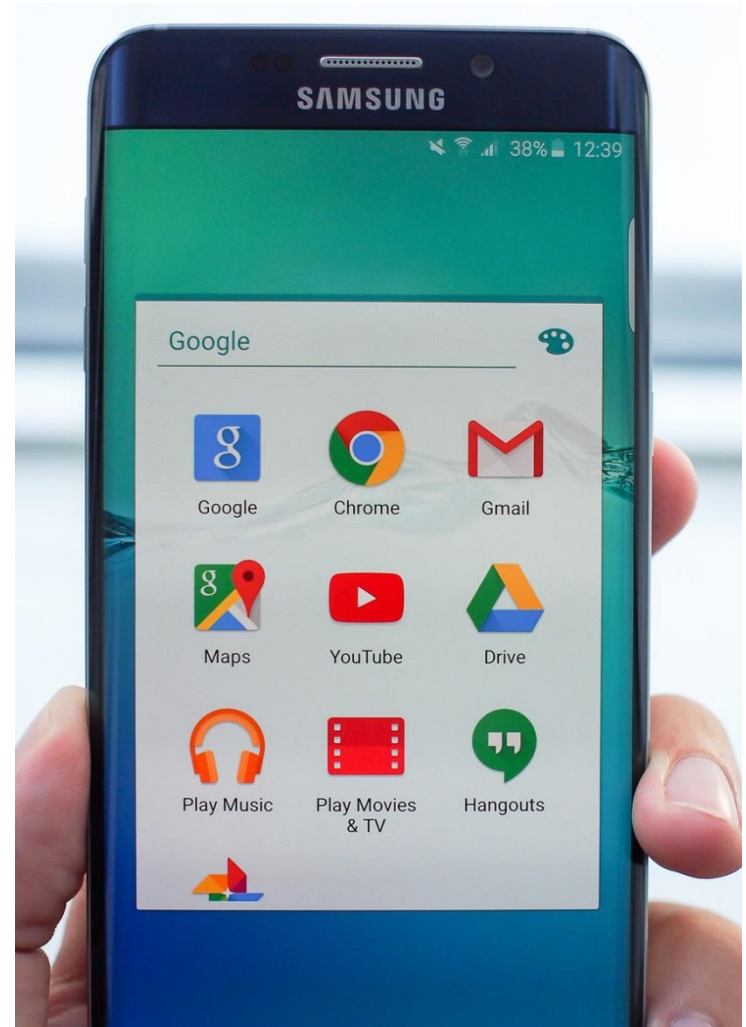
- ▶ MADA(Mobile Application Distribution Agreement )
  - ▶ Google-HTC contract (provided by Ben Edelman)
    - ▶ Services may only be distributed if all Google Applications [listed elsewhere in the agreement] ... are pre-installed on the Device." See [MADA section 2.1.](#)
    - ▶ The phone manufacturer must “preload all Google Applications approved in the applicable Territory ... on each device.” See [MADA section 3.4\(1\).](#)
    - ▶ The phone manufacturer must place “Google's Search and the Android Market Client icon [Google Play] ... at least on the panel immediately adjacent to the Default Home Screen,” with "all other Google Applications ... no more than one level below the Phone Top." See [MADA Section 3.4\(2\)-\(3\).](#)
    - ▶ The phone manufacturer must set “Google Search ... as the default search provider for all Web search access points.” See [MADA Section 3.4\(4\).](#)
    - ▶ Google's Network Location Provider service must be preloaded and the default. See [MADA Section 3.8\(c\).](#)

# Android Mobile Licensing

Google  
Phone-top  
Search



Note: default phone-top search is not a requirement

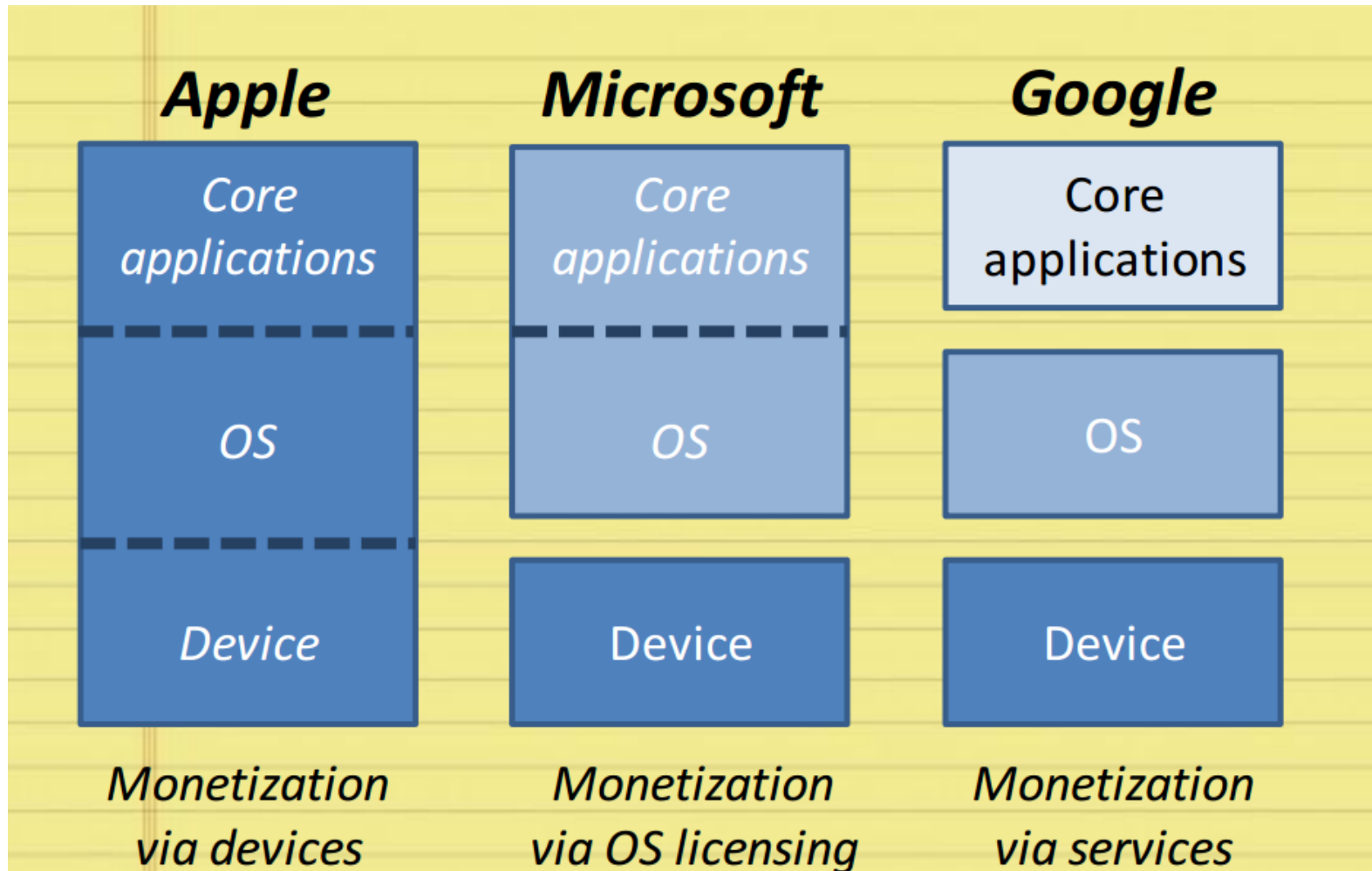


# Android Mobile Licensing

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- ▶ **Understanding of Android varieties**
  - ▶ **AOSP: truly open source (true Android forks)**
    - ▶ Amazon(Kindle Fire), Barnes & Nobles(nook), Nokia X
  - ▶ **Compatible AOSP: no “Google Play” but installable under some circumstances**
    - ▶ Xiaomi (outside China), CyanogenMod(optional)
  - ▶ **OHA(open handset alliances): Google endorses the compatibility (CTS; compatibility test suites)**
  - ▶ **GMS(Google Mobile Services) through MADA**
    - ▶ Free pre-loading for manufacturers, but not “open”
    - ▶ Should follow certain pre-loading rules (previous slide)
    - ▶ Should follow Anti Fragmentation Agreement(AFA)
      - Should not distribute devices with an incompatible version of Android
- ▶ **Google reaps revenues from apps (Search, YouTube, Play, etc) included in GMS**

# Android Mobile Licensing



# Android Mobile Licensing

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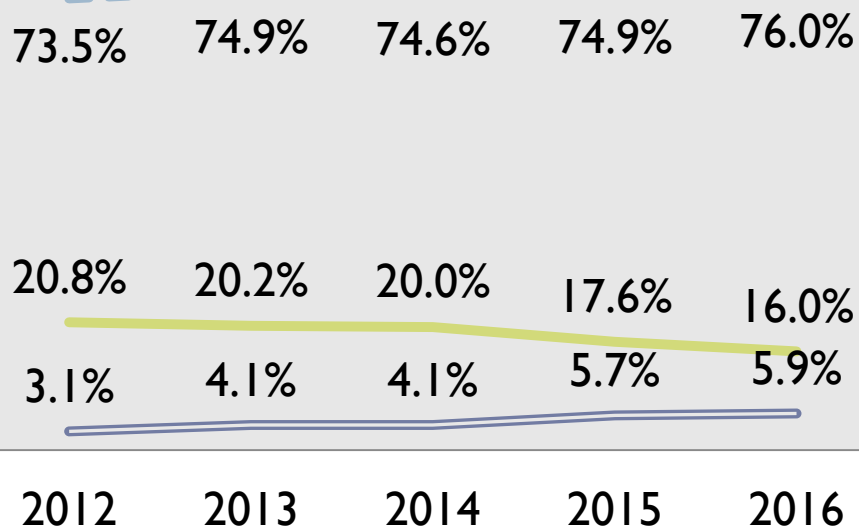
- ▶ **Tying Apps by way of the MADA?**
  - ▶ To be an illegal tying, several conditions should be met
    - ▶ Separate products (tying and tied)
    - ▶ Market dominance in tying product
    - ▶ Exclusion ability in tied product market
    - ▶ Incurs consumer harm
    - ▶ Remedies are possible
  - ▶ None of the above is certain for the Google case
    - ▶ Android OS itself is free and open (tying? dominant?)
    - ▶ Google Play has been always bundled with Search, Chrome, etc.
    - ▶ Other app stores exist and are easily downloadable
    - ▶ Many (in fact, too many) default apps by manufacturers and operators
    - ▶ Consumers are benefited from compatibility and do not seem to be restricted by default settings
    - ▶ No effective remedies seem to exist (unbundling of GMS?)

# Android Mobile Licensing

## ▶ Did MADA lead into any exclusion in Korea?

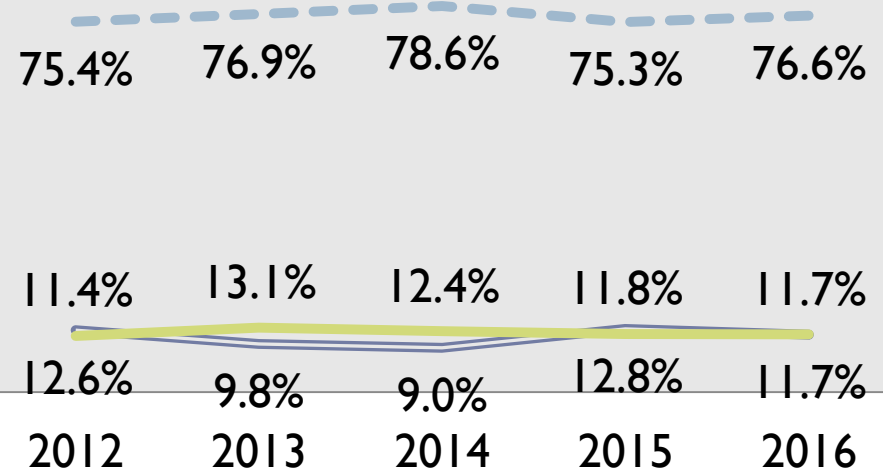
Search Query Share (PC)

— Google — Naver — Daum



Search Query Share (Mobile)

— Google — Naver — Daum



Source: Korean Click

Note: yearly average of monthly shares except for 2012(3~12), 2016(1~3)



# Concluding Remarks

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- ▶ Competition law varies according to jurisdictions, and its application should reflect different market conditions
  - ▶ Korean cases may or may not be directly applicable to other countries, but I believe it provides useful counterfactuals
- ▶ Dynamics of ICT platform competitions should be also considered
  - ▶ It is true that antitrust in innovative, quickly changing industries must be carefully applied. In such industries, it would be wrong to look only at static situations-at the snapshot rather than the movie of what is going on. Hence, antitrust authorities, in deciding whether to prosecute, should consider the question of whether the situation will be self-correcting (Fisher, 2000)