



Inter-Platform Competition

Discussions on the Harmful Nature of AFA

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- Platform competition:
 - The rapid growth of platforms and their competition (mostly app – downstream level competition)
- (Online) platforms have become important & vigorous competition between them has influenced the level of market entry (improving competition, innovation, consumer welfare)
- We observed some leading cases of platforms (notably in the EU):
 - Article 101 TFEU: banking sector
 - Article 102 TFEU: *Google* (vertical foreclosure)
 - Merger: *Facebook/Whatsapp*

- Understanding of platform competition:
 - Traditional approaches can be sufficient (the assessment of competition in the platform area does not have to be (always) new)
 - Consideration of priority of “inter-brand (platform) competition” (especially in the case of duopoly)
 - A classic: the recent development of competition policy on vertical relations is efficiency-focused and effects-based; however, there are some existing controversies relating to pricing (minimum RPM) or vertical foreclosure in certain “exceptional circumstances”

- Inter-platform competition is important – more competition between OSs makes more competition between app developers and mobile phone manufacturers (if no foreclosure, no anti-competitive harms)
- Standardisation matters (similar to the case of SEP and FRAND) – if AFA is not discriminatory against certain firms, it would ensure numerous positive outcomes like network effect

- Improvement of inter-platform competition (data-related issue is another problem in competition law and data protection law) is important, especially where there is no significant entry barrier
- Some issues regarding the case of hard-core restraints: if the platform plays a role of generating “collusion”, its practice may outweigh the positive effects
- How can we balance inter- and intra-platform competition?
 - We should focus more on the competition between app developers and between mobile manufacturers

- In some competition regimes like the EU and Asia, the objectives of the law are somewhat different from that of the US
 - Allocative efficiency, legitimate interest of society, and public interest are considered as priorities in their policy
 - It is not even easy to decide the level of balance
 - The concerns about competitive harms of large undertakings are often overwhelming
- The *Google Case*: anti-fragmentation agreement (different from the Google Shopping case)
- A time to create new criteria of assessing online platforms:
 - The criteria should include consumer welfare: The proof of consumer harm should be a critical one in assessment

- Strong favour of improvement of economic and democratic process in Asia; but it is time to move to the consumer welfare priority
- Coordinated conducts: The issue of algorithms, particularly concerns about price transparency
- Unilateral conducts:
 - Market definition – not an easy task (e.g., EC's online platform definition under the Digital Single Market)
 - Abuse – More-effects based as shown in *Intel* and *MEO*

Thank you!

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