
Session 11B: Competition in the Digital Age

Digitalisation has disrupted markets and created new products for consumers

Digitalisation has led to the introduction of new markets, the reshaping of old ones, and a transformation in how consumers obtain information as well as make purchases. For example, more than half of consumers in OECD countries reported making purchases online in 2017, compared to less than a quarter in 2005. The disruptive nature of digital innovations has dramatically reduced transaction and intermediary costs in many markets, bringing low prices, greater accessibility and convenience, more variety, and brand new products.

The nature of new digital products has also raised concerns

Some digital products exhibit strong network effects, and substantial economies of scale and scope. Some rely on large amounts of user data, and can involve considerable switching costs if users have invested time and effort in creating a profile or a reputation. Intellectual property rights are often important, and products are often sold at low or zero prices while earning revenue in other ways. Particular concerns may arise in digital markets where market power is durable, rather than a temporary reward for innovation that can be contested by a competitor with novel technologies. This could arise when:

- A dominant firm behaves anticompetitively, for example using its position to exclude competitors from a market, or acquiring potential emerging competitors to prevent their products from reaching the market
- Competition is distorted by regulation that allows incumbent firms to maintain a dominant position for reasons unrelated to the attractiveness of its products to consumers
- Features of demand or supply prevent entry by new firms, or expansion by dominant firms' competitors, including very strong network effects or economies of scale and scope, information asymmetries between firms and consumers, switching costs, or consumer behavioural biases (such as a low tendency to switch to unambiguously better offers)

Protecting competition in a digital age

Competitive pressure is crucial to ensure that digitalisation reaches its potential in terms of delivering broad economic benefits. At the same time, any sound policy response will need to be carefully designed to avoid stifling the incentives of firms to innovate and preventing firms from leveraging network effects to generate better and cheaper products and services. It is therefore important that countries maintain vigilance in their competition law enforcement. This requires agencies to focus on international and interdisciplinary cooperation (including with privacy and consumer protection agencies); careful scrutiny of mergers, particularly those involving nascent competitors; enforcement of rules preventing exclusionary practices that prevent competitors from entering the market (or downstream markets); and the timeliness of interventions.

Consider new pro-competitive legislative and policy measures

New measures may also be needed to address distortions of competition, even when there are no competition law violations. While these concerns may be particularly prominent in concentrated markets, they may emerge even in crowded, unconcentrated digital markets. For instance, tools to promote competitive neutrality may help to promote competition by tackling advantages that arise not from a firm's comparative advantage, but from actions by government (including direct or indirect subsidies such as selective tax deals, and asymmetric regulation). In other cases, competition may be hampered by demand-side factors such as low consumer engagement, switching costs, network effects that make coordinated switching difficult, or limitations to the availability of information to consumers.

Many competition authorities already have tools, such as market studies, to help diagnose problems in digital markets, to propose or implement solutions, and to ensure that any remedial measures identified by other regulators or policymakers do not lead to anticompetitive outcomes. These can be strengthened by providing them with information gathering powers, and powers to implement solutions. Some jurisdictions are experimenting with ways to address switching costs, and clarify consumers' rights to their own data (in a standardised form) as well as to enable them to share it with third parties. The feasibility of remedies that facilitate the creation of payment systems and contracting solutions that allow firms to offer negative prices to compete with zero-price products may also be worth considering.

Q1: Is there scope for competition agencies to better use their existing powers to protect competition in markets in which digital products and services compete?

Q2: Is there a need for greater international and interdisciplinary cooperation and coordination given the global, multifaceted nature of digital competition problems?

Q3: How far can enforcement of competition rules alone address the challenges posed by digitalisation? Is there a role for strengthening market study powers and introducing competitive neutrality tools to promote competition?