

# Competition Policy in the Digital Economy

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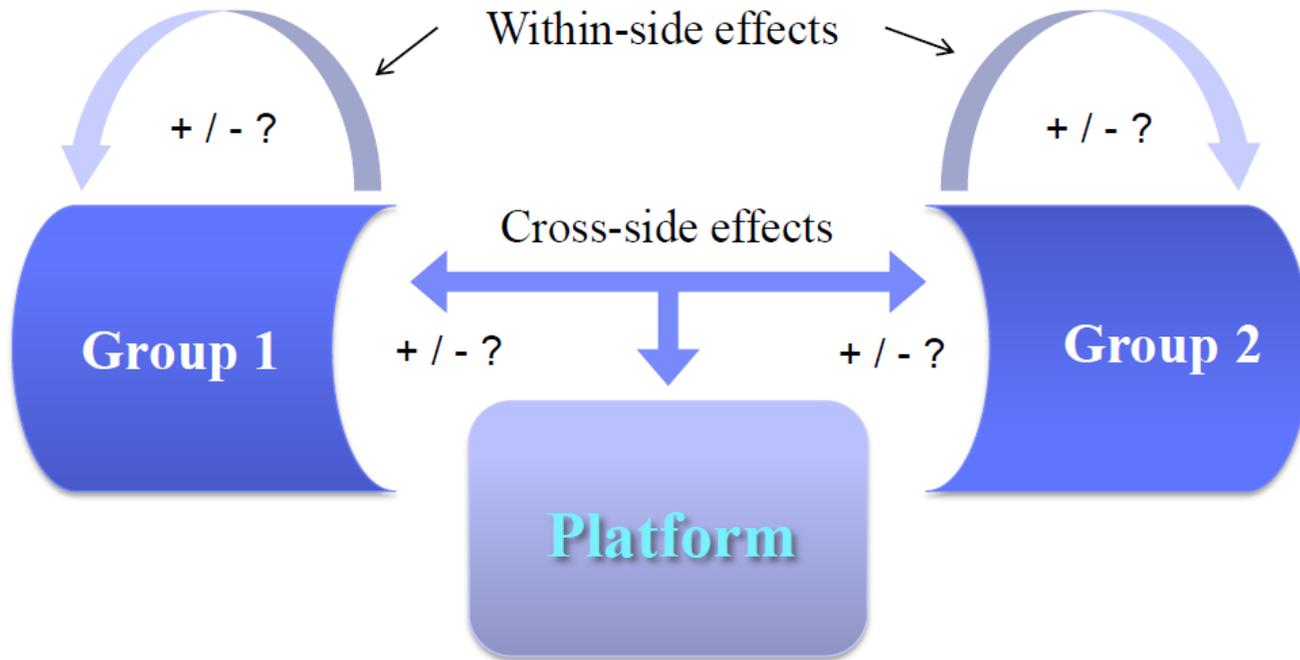
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# Digital Economy

- A network economy
  - Multi-sided platforms
  - Big data
- Which is evolving very fast
  - Innovation
  - Very quick

# 1. Multi-sided platforms



	Sides	Cross-side	Within-side
	A. Game developers B. Users	A to B: + B to A: +	In A: - In B: +
	A. Readers B. Advertisers	A to B: + B to A: - (+?)	In A: / In B: -
	A. Women B. Men	A to B: + B to A: +	In A: / (-?) In B: / (-?)
	A. Merchants B. Consumers	A to B: + B to A: +	In A: - In B: /

Source: P. Belleflamme

# Impact on theory of harm

- Fallacies of applying one-Sided Logic in Two-Sided Markets (Wright, 2003)
- Should not focus on one-side of the market but have an holistic view
- Size does not equal market power and may be good for consumers
- Price benchmark: skewed price structure between both size
- Risk is not so much in terms price increase, but in terms of
  - Discrimination: favoring its own products/services
  - Leverage: entering more easily new market segments

# Big Data

- Collection
  - Data is non-exclusive and non-rivalrous, short-lived, ubiquitous, inexpensive and easy to collect
  - BUT data collection can be limited by contractual restriction and/or hard to get (e.g. health data)
- Storage
  - requires data centres (like 'power plants'), that can be rented
- Processing
  - based on deep learning algorithm
- Feedback loops
  - User loop: more users → more data → better quality → more users
  - Monetisation loop: more users/data → more ads → more investment → more users/data
  - Thanks to direct and indirect network effects

# Impact on theory of harm

- Exploitative abuses in 'free' markets
  - Excessively low privacy protection (German *Facebook* case)
- Exclusionary abuses
  - Refusal to give access to an essential facility (close to *IMS* case)
  - Leverage (French energy case, Belgian lottery case)
  - Raise rival costs
- Discrimination
  - Against consumers
  - Against competitors (*Google* case)

## 2. Innovation

- Sustaining (within the same value network)
  - Incremental (e.g. VCR without slow motion → with slow motion)
  - Breakthrough (e.g. VCR → DVD → Blu-ray)
- Disruptive (outside the value network)
  - E.g. VCR/DVD/Blu-Ray → Internet streaming
  - First performs worse and attracts new customers and then progress quickly to satisfy the need of the main customers

# Impact on theory of harm

- Structure-Conduct-Performance is outdated
  - Competition to change market boundaries
  - Conduct making the deployment of innovation more difficult or even impossible
- Contestability
  - Access to consumers, interface more difficult
- Downward innovation pressure
  - Ability and incentive to slow down innovation post merger

# Impact on Process

- Ex post antitrust
  - Intervention needs to be quick, while ensuring due process
  - Interim measures
    - Prima facie finding of antitrust infringement
    - Urgency due to the risk of serious and irreparable damage to competition
  - Commitments Decision
    - Opaque bargaining and no tested in Courts
  - Guidelines
    - Need to be based on tried and tested cases
- Merger control
  - Pre-emptive merger cannot be screened by antitrust authorities
  - Additional notification threshold based on the value of the transaction

# Take-Away

- Be cautious but not passive
- Antitrust tools are sufficiently flexible
  - to incorporate technology, market and business models innovations based on network effects
  - Provided they are well understood
- A shift of approach
  - From market definition to theory of harm
  - From price evolution to innovation incentives
  - From static efficiency to dynamic efficiency
- A new focus
  - leverage and discrimination
  - contestability and downward innovation pressure
- A new rhythm