

# Competition policy in a digitalised economy: towards a new theory of harm

***CEPS & e-Conomics seminar***

***Presented by:***

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# Background



## 1. June 2015

- Challenges for competition policy in the digital economy (European Parliament)  
[http://www.europarl.europa.eu/RegData/etudes/STUD/2015/542235/IPOL\\_STU\(2015\)542235\\_EN.pdf](http://www.europarl.europa.eu/RegData/etudes/STUD/2015/542235/IPOL_STU(2015)542235_EN.pdf)

## 2. November 2015

- Digital platforms: an analytical framework for identifying and evaluating policy options (Ministry of Economic Affairs)  
<http://www.ivir.nl/publicaties/download/1703>

## 3. April 2016

- Future trends and business models in communications services (European Commission)  
[Published soon](#)

# The digital economy

## The digital economy is...



- The digital economy is...

- ...a complex structure of platforms stacked on each other...
- ...resulting in wormholes that allow the end-user to seamlessly move from one environment/platform into the other...
- ...making it difficult to exclude competitors.

- ...a market with a tendency to tip into a winner-takes-all outcome...
- ...but the 'winners' need to constantly innovate as they are challenged by disruptive innovators...
- ...the market boundaries constantly change.

# The digital economy

## The value web

Various routes to reach end-users



- Consumers can choose to consume / communicate how they want...



- ...and when and where they want



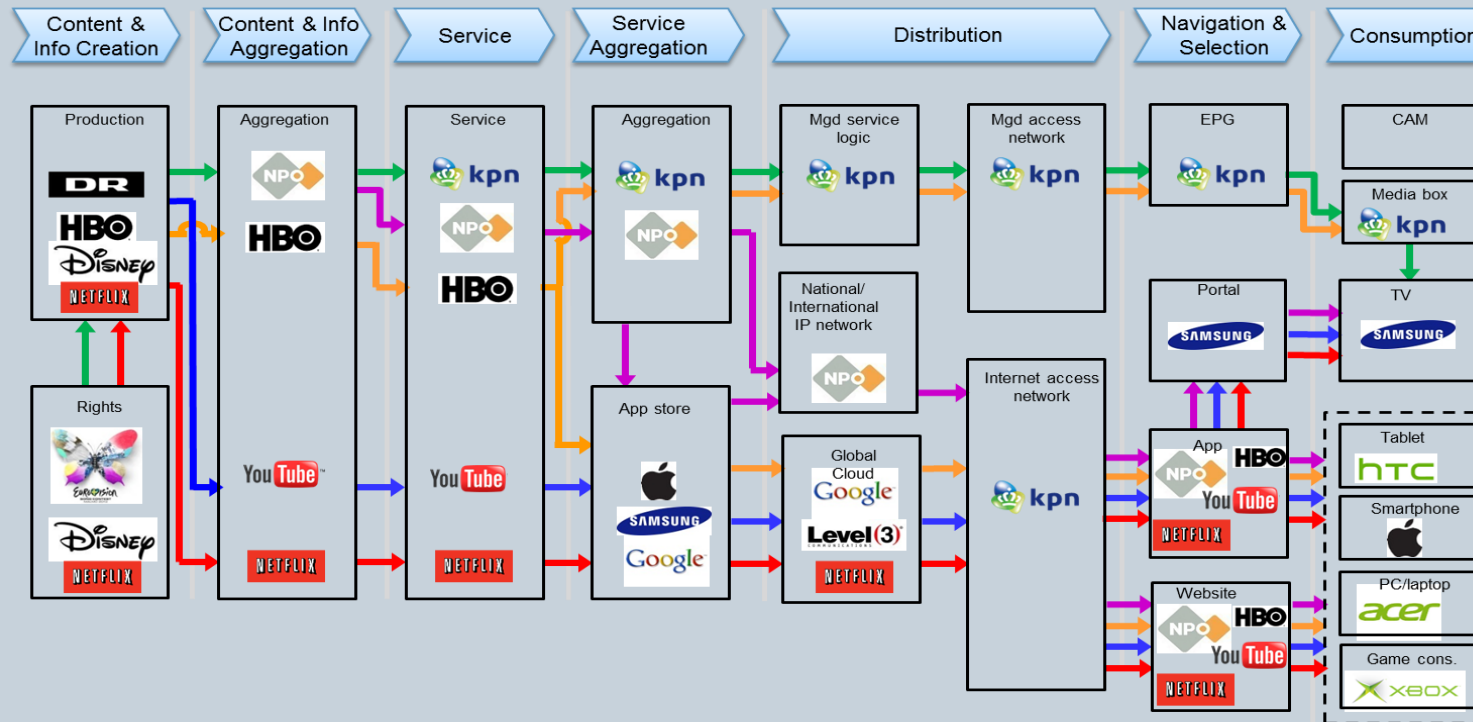


# The digital economy

## The value web

Various routes to reach end-users

- Providers of content have even more options, and often choose multiple



(Note: routes and company logos shown are only for illustration purposes)

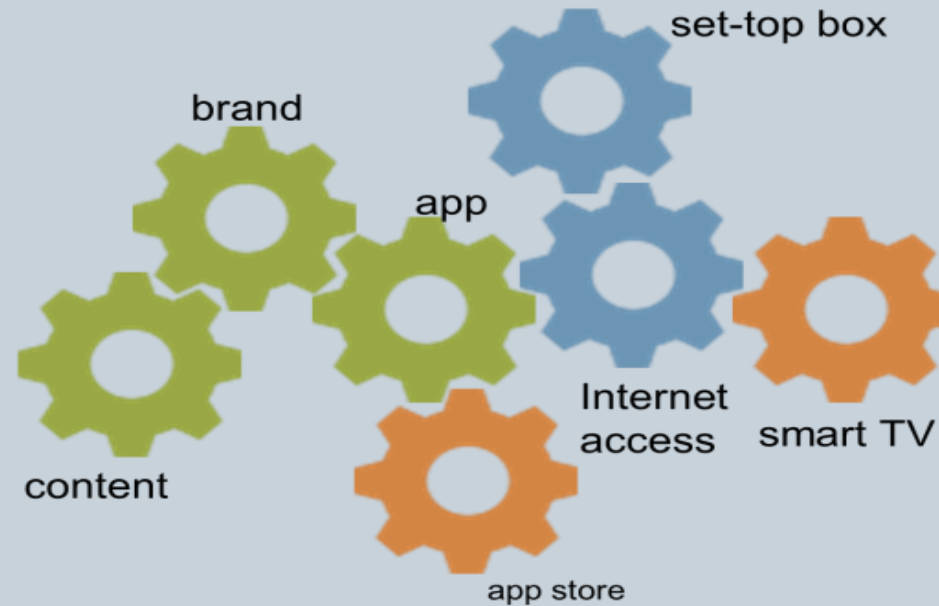
# The digital economy

## The value web

Various routes to reach end-users



- Companies build assets and combine these with assets from others



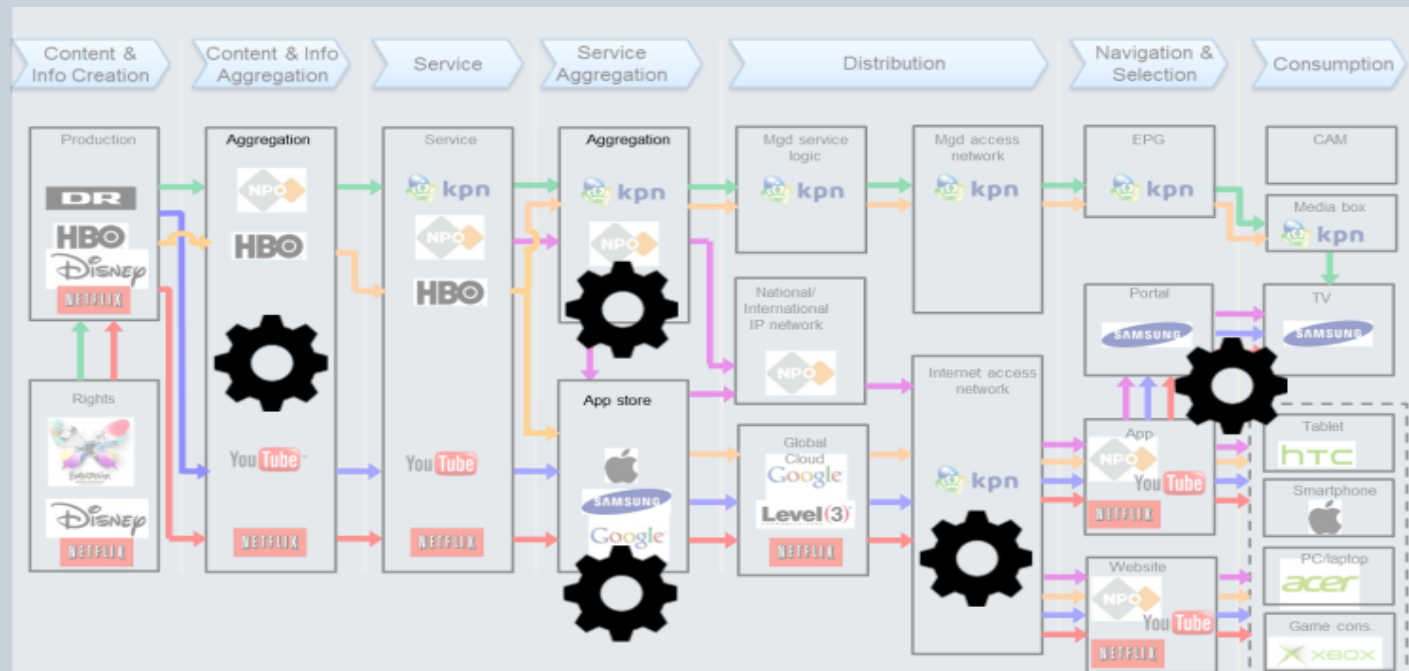
# The digital economy

## The value web

Various routes to reach end-users



- Assets provide a platform role for their owners



- A platform is a technological basis for aggregating services and/or content.
- A platform is able to mediate / facilitate communication between users of the platform
- A platform can be two-sided as well as one-sided

# The digital economy

## Digital business models

How do they compete?



- **Network effects (direct and indirect)**
  - High concentration and tendency to tip (winner takes all)
  - Compete for an audience / end-user base
  - Compete for the market: grow first, then see how to monetise
- **Everybody competes on the basis of innovation**
  - No room for copycats because of network effects
  - Potential for disruptive innovators is higher than in other markets (Moore's law)
  - Digital giants are borne to innovate: "only the paranoid survive" Andrew Grove (Intel)
- **Fluid market boundaries**
  - Digital 'monopolies' remain contestable (Multiple routes to reach end-users)
  - No market entry, but market disruption (disruptive innovators)
  - Market boundaries are in constant flux



# The role of competition policy

## Challenges for competition policy when defining markets and assessing dominance

- When applying competition law, competition authorities are faced with a set of challenges involving the **analytical steps and instruments**.

1) market boundaries

2) market power

3) anti-competitive behaviour

- Why start with market boundaries when these are fluid and in constant flux?
  - Existing SSNIP and thresholds won't be of any use
- Better take business models as a starting point to understand the nature of competition and the market in a particular situation (follow the money)
- Once you know who competes with who and how, you may be able to judge whether a party can act independent of its competitors (i.e. is dominant)

# The role of competition policy

## Challenges for competition policy

When assessing behaviour

- When should we consider behaviour anti-competitive?
  - What appears anti-competitive may be just **normal business strategy** in the context of the digital economy where “*only the paranoid survive*”.
  - It is **costly to make a mistake** as the digital economy is all about future markets, and wrongly labelling behavior as anti-competitive may hamper innovations
  - Do we need a **new theory of harm** to identify anti-competitive behavior in the context of the digital economy?
  - What is the **role of data** in relation to this?

## Contact



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