THE ROLE OF COMPETITION IN DATA MARKETS

Ania Thiemann (ania.thiemann@oecd.org)

The opinions expressed and arguments employed herein are those of the author and do not necessarily reflect the official views of the OECD or OECD member countries.
Applications of data and advanced analytical methods

Businesses

- Predictive analytics
- Process optimisation
- Increase supplier power

Consumers

- Consumer information
- Decision-making optimisation
- Increase buyer power

Pro-competitive effects
How do businesses extract value from data?

Predictive analysis + process optimisation

- Infra-structures (data centres)
- Analytical software
- Human expertise

Supply-side efficiencies
Market failures in the digital economy

- Why are data markets often characterised by big market players and winner-takes-all outcomes?

![Diagram showing Market Power, Traditional Sources, and New Sources, with subcategories Economies of scale, Economies of scope, Network effects, and Data Feedback Loops.](image)
How to prevent harm to the consumer?

- Competition law enforcement
  - Overlap with consumer & data protection goals

- Market regulation
  - Competitive impact
• **Competition law enforcement can prevent data-related anti-competitive strategies**

- **Anti-competitive mergers**
  - Use of data to identify and displace potential competitors through pre-emptive mergers
  - Data motivated acquisitions that reinforce market power

- **Unilateral conducts**
  - Prevent access to essential data in order to foreclose the market
  - Use of data-mining to discriminate consumers

- **Collusion**
  - Share data to facilitate tacit collusion
  - Use of algorithms to implement cartels
  - Data analysis to identify threats and block entry
Competition authorities may also consider the impact of data on quality dimensions of competition...
Regulations: online cookies

- **Under the current regulatory framework of online cookies, consumers have substantial difficulties in opting out or removing cookies.**

- **CMA’s response to the European Commission’s public consultation on the review of the ePrivacy Directive:**

<table>
<thead>
<tr>
<th>Regulation</th>
<th>Positive response</th>
<th>Negative response</th>
</tr>
</thead>
<tbody>
<tr>
<td>Prohibits information service providers from preventing access to their non-subscription based services in case users refuse the storing of identifiers in their terminal equipment.</td>
<td></td>
<td>X</td>
</tr>
</tbody>
</table>

Requires manufacturers of terminal equipment including operating systems and browsers to place on the market products with privacy by default settings.  

X
There is the risk that regulations for consumer protection could harm competition…

**OECD Competition Assessment Toolkit**

**Competition Checklist**

Any competition distortion?

- Yes
  - Select alternative policy
  - Status Quo
    - Stop
  - Alternative
    - Stop

- No
  - Stop

Ex-post assessment
THE ROLE OF COMPETITION IN DATA MARKETS

Ania Thiemann (ania.thiemann@oecd.org)

Thank you!