

Concentration in Internet Services

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Digitisation and Challenges in Trade agreements

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Market concentration: Evidence

Company	Country of Origin	Online revenues (\$ bn.)
Alibaba Group	China	4.1
Amazon	United States	61.0
eBay	United States	14
Staples	United States	11
Rakuten	Japan	4.7
Wal-Mart	United States	10
Netflix	United States	3.6
BestBuy	United States	1.7
Kohl's	United States	1.4
Target	United States	1.4

Among the top online sites by gross merchandise value, the online revenue of Amazon exceeded the combined revenue of the next 9 top firms

Market concentration : Evidence (ii)

- UNCTAD (2015) examined the total sales of 500 web retailers and calculated the share of top 10 as indicator of concentration:
 - US – 52%
 - EU – 37%
 - Asia – 86%
 - Latin America – 51%

Market concentration: Evidence (iii)

Name	% of buyers using the digital wallet in US at the end of 2014
PayPal	79%
PayPal Credit	18%
Amazon	16%
Starbucks	11%
Google Wallet	7%
I Tunes	6%
Visa checkout	6%

Reasons for concentration

- In the digital sector (in which some developing countries have a chance to exploit profitable niches) increasing returns to scale may **make monopolistic and/or oligopolistic market structures more frequent than in the past**" (UNCTAD 2001)

Reasons for concentration (ii)

- UNCTAD 2001: According to a global e-retailer “the **key to long term success** in e-commerce was **achieving a large market share fast**. If this required huge investments with implausibly long payback periods, so be it. Profits would come later, as e-commerce matured”.

Anti-competitive practices : Some evidence (Amazon)

- Under the best-price clause, shops selling at Amazon Marketplace are required to sell for the same or higher prices at other platforms, but not for lower prices.
- **Federal Cartel Office of Germany found a price-increasing effect, thus establishing anticompetitive effects through cartel-like price collusion**

Anti-competitive practices : Some evidence (Facebook) (i)

- The Bundeskartellamt is examining whether Facebook imposes unfair conditions on its users by making them choose between accepting "the whole Facebook package", including an extensive disclosure of personal data, or not using Facebook at all.
- **The terms and conditions Facebook is enforcing with regard to data from third party sources is not appropriate under competition law standards.**

Anti-competitive practices : Some evidence (Facebook) (ii)

- If a **third-party website** has embedded Facebook products such as the 'like' button or a 'Facebook login' option or analytical services such as 'Facebook Analytics', **data will be transmitted to Facebook the moment** the user calls up that **third party's website for the first time**.
- **These data can be merged with data from the user's Facebook account, even if the user has blocked web tracking** in his browser or device settings.

Anti-competitive practices : Some evidence (Facebook) (iii)

- If a dominant company makes the use of its service conditional upon the user granting the company extensive permission to use his or her personal data, this can be taken up by the competition authority as a case of "**exploitative business terms**".
- In cases where **one contractual party is so powerful** that it is **practically able to dictate the terms of the contract** and **the contractual autonomy of the other party is abolished** , then law has to intervene.

Anti-competitive practices : Some evidence (Facebook) (iv)

- Facebook's users are oblivious as to which data from which sources are being merged to develop a detailed profile of them and their online activities. On account of the merging of the data, individual data gain a significance the user cannot foresee. **Because of Facebook's market power users have no option to avoid the merging of their data,** either.

Anti-competitive practices : Some evidence (Google Search Shopping)

- EC Anti-Trust Proceedings
- Established that Google **abused its dominant position** by the more favourable positioning and display, in its **general search results** pages, of **its own comparison shopping service** compared to **competing** comparison shopping services