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COMPETITION LAW CHALLENGES IN DIGITAL MARKETS

Umarova Nazokat Fakhriddinovna
Student of Tashkent state university of Law
Criminal justice faculty
unazokat05@gmail.com
https://orcid.org/0009-0003-7151-8595
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ABSTRACT

The rapid development of digital technologies has transformed the structure of modern markets and created new challenges for competition law. Digital platforms, online marketplaces, search engines, social media networks, and data-driven businesses increasingly occupy dominant positions within the global economy. Traditional competition law mechanisms often face difficulties in addressing anti-competitive conduct in digital markets due to network effects, economies of scale, data accumulation, algorithmic decision-making, and multi-sided platform structures. This article examines the principal competition law challenges arising in digital markets, including abuse of dominance, self-preferencing, algorithmic collusion, killer acquisitions, and data-related barriers to entry. Particular attention is paid to the regulatory approaches adopted by the European Union, the United States, and other leading jurisdictions. The article concludes that competition law must continuously evolve to effectively regulate digital markets while maintaining a balance between innovation, consumer welfare, and fair competition.

The digital transformation of the global economy has significantly altered traditional market structures and business models. Digital platforms have become indispensable intermediaries connecting consumers, businesses, advertisers, content creators, and service providers. Companies operating in digital markets have achieved unprecedented levels of market capitalization and economic influence, leading competition authorities worldwide to reassess the adequacy of existing antitrust frameworks.[1] Unlike traditional markets, digital markets are characterized by strong network effects, extensive data collection, low marginal costs, rapid scalability, and multi-sided interactions between various categories of users.[2] These characteristics create significant efficiencies and benefits for consumers but simultaneously increase

[1] OECD, Competition in Digital Markets, Paris, 2020, p. 11

[2] Crémer J., de Montjoye Y., Schweitzer H., Competition Policy for the Digital Era, European Commission, 2019, p. 21

the risk of market concentration and anti-competitive conduct.

Competition law has historically focused on preventing monopolization, restrictive agreements, and abuse of dominant positions. However, the emergence of digital ecosystems has challenged many traditional assumptions underlying competition policy. For example, digital platforms often provide services free of direct monetary charge while monetizing user data and advertising opportunities. Consequently, traditional indicators of consumer harm, such as price increases, may be insufficient to assess competitive effects in digital markets.[3]

The growing influence of major technology companies has generated concerns regarding the concentration of economic power. A small number of firms now control substantial portions of online search, social networking, mobile operating systems, digital advertising, cloud computing, and electronic commerce.[4] Such concentration has raised questions concerning market access, innovation, consumer choice, and long-term economic welfare.

Competition law emerged as a legal mechanism designed to preserve market efficiency and protect consumers from anti-competitive practices. The fundamental objectives of competition law include maintaining competitive market structures, preventing monopolistic behavior, promoting innovation, and safeguarding consumer welfare.[5]

Classical economic theories emphasize that competitive markets encourage efficiency, lower prices, improved product quality, and technological innovation. Adam Smith's concept of the "invisible hand" suggested that market competition contributes to optimal resource allocation. Modern competition law has largely adopted these principles while recognizing the need for regulatory intervention when market failures occur.[6] In digital markets, however, traditional competition theories face significant challenges. Market power may derive not only from ownership of physical assets but also from control over data, algorithms, digital infrastructure, and platform ecosystems. As a result, regulators increasingly acknowledge that conventional competition law doctrines require adaptation to effectively address digital market realities.[7]

One of the defining features of digital markets is the existence of network effects. A network effect occurs when the value of a product or service increases as more users join the network.[8] Social media platforms, online marketplaces, and communication applications derive substantial competitive advantages from such effects.

[3] Ezrachi A., Stucke M., Virtual Competition, Harvard University Press, 2016, p. 45
[4] UNCTAD, Digital Economy Report 2024, Geneva, 2024, p. 33
[5] Whish R., Bailey D., Competition Law, Oxford University Press, 2021, p. 3
[6] Jones A., Sufrin B., EU Competition Law, Oxford University Press, 2019, p. 15
[7] Furman J., Unlocking Digital Competition, UK Government Report, 2019, p. 29
[8] Katz M., Shapiro C., Network Externalities, Competition and Compatibility, American Economic Review, 1985, p. 424

Network effects can create barriers to entry because new competitors often struggle to attract users away from established platforms. Once a platform achieves a critical mass of users, its market position may become self-reinforcing.[9]

Data has become a critical competitive asset in the digital economy. Digital platforms continuously collect information regarding user behavior, preferences, transactions, and interactions.[10] Access to large datasets enables companies to improve algorithms, personalize services, optimize advertising, and develop new products. Consequently, data accumulation may function as a significant barrier to market entry, preventing smaller firms from competing effectively with established platforms.[11] Digital platforms frequently operate as multi-sided markets involving interactions among different groups of users. Search engines connect advertisers with consumers, while e-commerce platforms connect buyers and sellers.[12] The complexity of these relationships complicates traditional market definition and competition analysis. Regulators must often evaluate competitive effects across multiple interconnected markets simultaneously.

The concept of abuse of dominance remains central to competition law enforcement. Dominant firms are not prohibited from holding market power; rather, competition law seeks to prevent the abuse of such power.[13]

In digital markets, abuse of dominance may manifest in several forms, including exclusionary conduct, discriminatory treatment, self-preferencing, tying practices, and restrictions on interoperability. A notable example is the European Commission's proceedings against Google concerning its comparison shopping service. The Commission concluded that Google had abused its dominant position by systematically favoring its own services in search results while disadvantaging competitors.[14] Such practices may distort competition by limiting visibility for rival businesses and reducing consumer choice.

Self-preferencing has emerged as one of the most controversial issues in digital competition law. Self-preferencing occurs when a platform privileges its own products or services over those offered by third parties using the same platform.[15]

Digital platforms often act simultaneously as market operators and market participants. This dual role creates inherent conflicts of interest. For example, an online marketplace may use commercially sensitive information obtained from third-party sellers to

[9] OECD, Data, Market Power and Competition, 2020, p. 17

[10] Autorité de la Concurrence & Bundeskartellamt, Competition Law and Data, 2016, p. 9

[11] OECD, Big Data and Competition Policy, 2017, p. 23

[12] Rochet J., Tirole J., Platform Competition in Two-Sided Markets, Journal of the European Economic Association, 2003, p. 992

[13] Whish R., Bailey D., Competition Law, p. 196

[14] European Commission, Google Shopping Decision, Case AT.39740, 2017

[15] Crémer Report, p. 54

compete against those same sellers.[16] Competition authorities increasingly regard self-preferencing as a potential abuse of dominance capable of undermining fair competition and innovation.

Digital markets have witnessed a substantial increase in acquisitions involving innovative startups. While mergers can generate efficiencies and stimulate innovation, some acquisitions may eliminate future competitors before they develop into meaningful market rivals.[17] These transactions are commonly referred to as "killer acquisitions." Competition authorities have expressed concerns that dominant digital platforms may acquire emerging competitors primarily to neutralize future competitive threats.[18] Consequently, merger control frameworks are undergoing reform in several jurisdictions to address transactions involving firms with limited current revenues but substantial future competitive potential.

The increasing use of artificial intelligence and algorithmic pricing systems introduces new challenges for competition enforcement. Algorithms can independently monitor market conditions, adjust prices, and respond to competitors' behavior in real time.[19] Although algorithms can improve efficiency, they may also facilitate tacit collusion without explicit communication between competitors. Traditional cartel enforcement mechanisms typically rely upon evidence of agreements between firms. Algorithmic coordination challenges this framework because anti-competitive outcomes may emerge without direct human intervention.[20] Competition authorities and legal scholars continue to debate whether existing legal rules adequately address algorithmic collusion and AI-driven market manipulation.

The European Union has adopted one of the most comprehensive regulatory responses through the Digital Markets Act (DMA), which establishes special obligations for designated gatekeeper platforms.[21] The DMA seeks to prevent unfair practices, enhance interoperability, and facilitate market access for smaller competitors. In the United States, competition authorities have intensified scrutiny of major technology companies through investigations, litigation, and legislative proposals aimed at strengthening antitrust enforcement.[22] Similarly, the United Kingdom, Germany, Australia, and other jurisdictions have developed specialized regulatory frameworks addressing competition concerns in digital markets.[23]

Developing countries face additional difficulties in regulating digital markets. Limited institutional capacity, technological dependence, and

[16] OECD, E-Commerce and Competition Policy, 2021, p. 37
[17] OECD, Start-ups, Killer Acquisitions and Merger Control, 2020, p. 6
[18] Motta M., Peitz M., Big Tech Mergers, CEPR Discussion Paper, 2020, p. 11
[19] Ezrachi A., Stucke M., Artificial Intelligence and Collusion, Oxford University Press, 2020, p. 78
[20] OECD, Algorithms and Collusion, 2017, p. 15
[21] Regulation (EU) 2022/1925 on Contestable and Fair Markets in the Digital Sector (Digital Markets Act)
[22] U.S. House Judiciary Committee, Investigation of Competition in Digital Markets, 2020
[23] UK Competition and Markets Authority, Digital Markets Strategy, 2024

insufficient expertise may hinder effective competition law enforcement.[24] For countries undergoing digital transformation, including Uzbekistan, the challenge lies in balancing technological innovation with the protection of competitive market structures. Effective regulation requires both legal modernization and institutional strengthening.

Conclusion: Digital markets have fundamentally transformed the competitive landscape of the global economy. While digital platforms generate substantial economic and social benefits, they also present unprecedented challenges for competition law. Network effects, data accumulation, platform ecosystems, self-preferencing, algorithmic collusion, and killer acquisitions require regulators to reconsider traditional approaches to market power and anti-competitive conduct. The experience of the European Union, the United States, and other leading jurisdictions demonstrates that effective competition policy in digital markets requires a combination of traditional antitrust principles and innovative regulatory mechanisms. As digitalization continues to accelerate, competition law must evolve to ensure that markets remain open, innovative, and competitive while protecting consumer welfare and promoting sustainable economic development.

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