

Administrative Council for Economic Defense

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Competition in digital markets: a review of expert reports

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I. Introduction

Research has shown automation is expected to impact over 50% of currently existing jobs, and specialists predict a major growth in today's stagnant or declining levels of labour productivity. Data revolution, automation, and artificial intelligence — comparable only to a few other technologies that disrupted several countries' economies — will redefine a number of economic sectors.

Such structural changes significantly affect the way market players compete for consumer preference and call for reassessing the role of competition policy in this new context. Against this background, CADE and other competition authorities around the world have developed several studies to map potential challenges to free competition in a digital economy. These studies' outcomes allow authorities to anticipate market failures and address them with antitrust policies. Moreover, they provide agents with new procedures and instruments to better fulfil their competition defence duty.

This working document seeks to review antitrust authorities' and research centres' main publications on this topic. It is intended to summarise, to society and our agency alike, the view of the international antitrust community and to improve CADE's internal policies, ensuring they are up-to-date with modern technical and scientific advancements. Hence, it introduces the views of these publications, which do not necessarily reflect CADE's standpoints.

For that purpose, we began by conducting a bibliographic search of the main studies, reports, white papers, sector inquiries, and similar publications on the topic published by foreign authorities and research centres. Following, we selected 21 documents, amounting to over 3000 pages, that proved to be especially relevant to this benchmarking due to the scope of the research, renown of its authors, or focus on important digital markets. The documents are the following:

1. "Sub-committee on Market Structure and Antitrust Report", issued by the Stigler Committee on Digital Platforms, an independent academic committee put together by the Stigler Center for the Study of the Economy and the State at the University of Chicago Booth School of Business. The report was published in the United States in September 2019 ("Stigler Report").
2. "Big Data and Innovation: key themes for competition policy", issued by the Canadian Competition Bureau in February 2018.
3. "Competition Law and Data", a joint study issued by the French Autorité de la Concurrence and the German Bundeskartellamt in May 2016.
4. "Competition Policy for the Digital Era", issued by an expert panel conveyed by the Directorate-General for Competition of the European Commission, in March 2019 ("Special Advisers report").

5. “Digital Platforms Inquiry – Final Report”, issued by the Australian Competition and Consumer Commission (ACCC) in July 2019.
6. “Ex-post Assessment of Merger Control Decisions in Digital Markets”, issued by the consulting firm LEAR for the British Competition and Markets Authority (CMA) in June 2019.
7. “Market Study – Mobile App Stores”, issued by the Netherlands Authority for Consumers and Markets (ACM) in April 2019.
8. “Price Effects of Non-brand Bidding Agreements in the Hotel Sector”, issued by the Netherlands Authority for Consumers and Markets (ACM) in June 2019.
9. “Report on the Monitoring Exercise Carried Out in the Online Hotel Booking Sector by EU Competition Authorities in 2016”, issued by the Directorate-General for Competition of the European Commission, together with the European Competition Network in April 2017.
10. “Digital Comparison Tools Market Study”, issued by the British Competition and Markets Authority (CMA) in September 2017.
11. “Publicité En Ligne: La Constitution d’un Écosystème En Forte Croissance et Tiré Par Deux Acteurs”, issued by the French Autorité de la Concurrence in March 2018.
12. “Online Platforms and Digital Advertising – Market Study Final Report”, issued by the British Competition and Markets Authority (CMA) in December 2019.
13. “Report of the Study Group on Data and Competition Policy”, issued by the Japan Fair Trade Commission (JFTC) in June 2017.
14. “Report Regarding Trade Practices on Digital Platforms”, issued by the Japan Fair Trade Commission (JFTC) in October 2019.
15. “Rethinking Competition in the Digital Economy”, issued by the Mexican Comisión Federal de Competencia Económica in February 2018.
16. “Unlocking Digital Competition”, issued by an expert panel for the Government of the United Kingdom in March 2019 (“Furman report”).
17. “Working paper: Market power of platforms and networks”, issued by the German Bundeskartellamt in June 2015.
18. “Modernizing the Law on Abuse of Market Power”, issued by Heike Schweitzer, Justus Haucap, Wolfgang Kerbe, and Robert Welker on behalf of the German Federal Ministry of Economy Affairs and Energy in October 2018.
19. “A New Competition Framework for the Digital Economy”, issued by the “Competition 4.0 Commission” on behalf of the German Federal Ministry of Economic Affairs and Energy in September 2019 (“Competition 4.0 report”).
20. “Ecosistemas Digitais, Big Data e Algoritmos”, issued by the Portuguese Autoridade da Concorrência in July 2019.
21. “Market Study on E-Commerce in India”, issued by the Indian Competition Commission in January 2020.

Many of these documents complement each other, addressing connected (but not identical) issues. We do not intend to describe them in depth but to outline their discussions and main conclusions and categorise them into topics regarding the application of competition policy to the digital economy. This working document also provides specific bibliographic references to allow readers to deepen their analysis using the original documents.

To this end, this working document is organised into seven sections, starting with this brief introduction. The second section reviews authorities' general considerations on the functioning of digital markets. The third summarises their standpoints as to the major benefits of the digital

economy. The fourth introduces potential problems related to the digital markets and how to address them. The fifth sums up the studies focused on specific markets, such as search engines, social media, on-line advertisement, and app stores/marketplaces. The sixth indicates potential solutions to the problems posed, and the final one, areas that require further analysis. Reports from the Stigler Center, the European Commission, and the United Kingdom were used as a basis for each subtopic's description, chosen for their relevance.