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### Platform markets: does the “winner take all”?

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#### 1. Introduction

In recent years, digital markets have moved rapidly to the center of the world economy. Leading companies in this kind of market dominate the list of the most valuable, and, increasingly, the digital economy dominates the policy debate – antitrust being a focal point of this discussion. Merger and unilateral conduct cases proliferate, with authorities around the world assessing how to adapt (and if they should adapt) antitrust doctrine to the specificities of this new competitive environment.

In this context, platform markets represent one of the main challenges for current competition policy. For many experts, the importance of network externalities, the role of access to user data, and other characteristic elements of this type of market, demand adaptations to antitrust analysis. Decisions by authorities around the world on cases involving the so-called “Big Tech”, coupled with the prominent position won by these companies, have led to the publication of several articles, notably the recently published Stigler Center report, which highlighted movements such as the “hipster antitrust” – sparking debate about the authority's action and possible regulatory implications.

In Brazil, the Administrative Council for Economic Defense (“CADE”, in its Portuguese acronym) analyzed cases related to the digital economy involving in-app

transportation platforms, online travel agencies, food delivery and online shopping searches. During this period, several analysis of platform markets that were not restricted to these new digital services were also performed, encompassing “traditional” markets such as credit cards, shopping centers, health plans, among others.

The panel “Platform markets: does the “winner take all”?” seeks to discuss whether these markets are really characterized by quasi-natural monopolies, what would be the characteristics that lead to this situation and, if not, to address elements that challenge the incumbents’ leadership. The debate will present different perspectives from lawyers, economists and policy-makers on the analysis challenges in the context of dynamic markets where competition can emerge from many fronts.

## **2. Favorable arguments for the “winner takes all” thesis in platform markets**

Platform markets can be broadly defined as those in which a platform intermediates interactions between end users, monetizing transactions between different “sides”. More specifically, to characterize a platform market it is necessary that the volume of transactions between the sides is dependent on the structure by which each side is monetized, and not only on the total fee charged for intermediation (ROCHET & TIROLE, 2006)<sup>1</sup>.

Platforms are characterized by significant economies of scale and scope linked to low marginal cost and the possibility of returns from the use of data<sup>2</sup>. Such economies are relevant and may be able to favor the exercise of market power by incumbents, as they raise barriers to entry.

Added to the economies of scale and scope, the network effects (or externalities)<sup>3</sup> stand out to benefit the incumbents, favoring the dominance of a single or few players. Under network externalities, the more users on one side of the platform, the more incentives for growth on the other side are created. For academics who believe that platform markets are moving towards a “winner takes all” situation,

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<sup>1</sup> ROCHET, J.C.; TIROLE, J. *Two-sided markets: a progress report*. The *RAND Journal of Economics*, Vol. 37, p.645-667. 2006.

<sup>2</sup> Idem. P.6

<sup>3</sup> Network effects are present in markets where individual choice is affected by the set of choices of other agents (e.g. social networks).

competition is *for* the market rather than *within* the market, reinforcing the idea of a monopoly. Thus, the question: what is the relevant market?

Additionally, the ownership of a large volume of information can be a relevant competitive differential and, thus, favor the dominance of an incumbent that holds a large information set, which may be able to artificially raise barriers to entry. Recent debates raise questions about the value of information ownership and if big data is an “essential facility”. At the same time, there is also a discussion of information privacy. Thus, they question whether data ownership would be sufficient for a platform to dominate the market and under what conditions these are considered essential.

The Stigler Center study also introduces the “Bottleneck power”<sup>4</sup> concept, which addresses situations where a company has control over the relationship between consumers and sellers/advertisers as the mean of connection between both sides of the platform, acting as “gatekeepers” for access to certain markets.

In this context, behavioral economics concepts are also introduced, dealing with the way users make choices, to indicate which platforms that have the characteristics mentioned above are able to maintain their dominance and may even extend it to other markets. According to behavioral economics, the way options are presented significantly influences the way people make choices<sup>5</sup>. With this, one line of thought argues that digital platforms present results in such a way as to influence users in their choices, effectively preserving its market dominance.

Another relevant feature of digital platforms is the secondary role of the price variable. In many cases, one side of the platform is priced zero, and measuring quality of service becomes a crucial element for antitrust analysis. Business models like this are no exception in the general economy, there are more consolidated activities that have this same format. Open TV, for example, does not charge monthly fees to users, and its profitability comes mainly from ads.

Given the intrinsic characteristics of digital platforms, the sufficiency of these elements is questioned so that platform markets are actually characterized as “winner takes all”. What other characteristics should be considered that differentiate

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<sup>4</sup> “Bottleneck power” describes a situation where consumers primarily single-home and rely upon a single service provider (a “bottleneck”), which makes obtaining access to those consumers for the relevant activity by other service providers prohibitively costly – Stigler Center Report, p.85

<sup>5</sup> Stigler Center Report.

them from more traditional activities? If there is an understanding of the existence of high barriers that limits the competitive capacity of other players, what are the challenges and measures to be taken by antitrust and/or regulatory authorities? Does current antitrust doctrine allow such peculiarities to be properly considered in the analysis? In the Brazilian case, what should be CADE's role in the context of Brazilian law for platform market intervention?

### **3. Contrary arguments for the “winner takes all” thesis in platform markets**

In the previous section, elements were presented that corroborate the thesis that, in platform markets, the tendency is that the “winner takes all”. In order to complement the debate, this section discusses elements that challenge this thesis, indicating broader competition and the possibility of effective entry that contests the incumbents' market share.

One of the main challenges for the analysis of cases involving digital platforms is the definition of the relevant market, since the price variable, which would be more objective in the consumer's decision, assumes a secondary role, being the quality/differentiation, more subjective attributes, the main competitive variable. Competition can take many forms and, as advocated by some authors, occurs within several ecosystems. For example, cases involving social networks, where some jurisdictions found that Facebook and Instagram belonged to distinct relevant markets because of their functionality. Currently, it seems difficult to consider that these two platforms should not be considered direct competitors, regardless of the relevant market definition. Tim Wu, like other authors, advocate a broader definition of social networks. For the author, the user's attention span should be used as a metric for measuring market concentration.

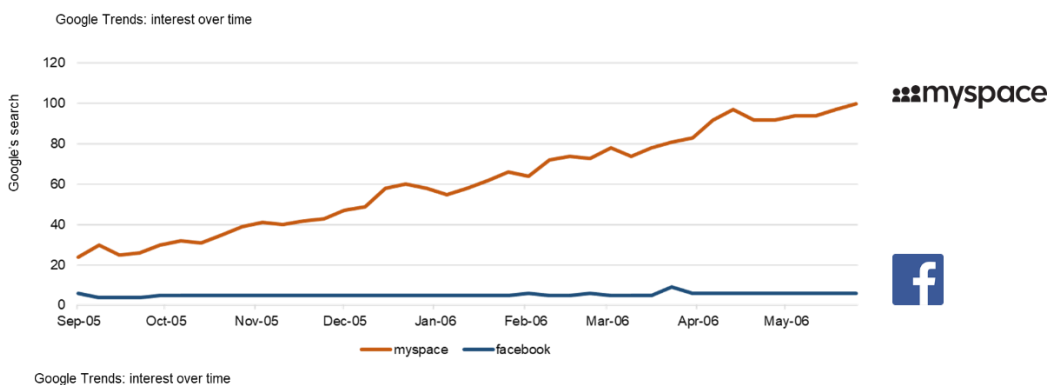
Scholars who argue that digital platforms have their dominant positions challenged underscore the relevance of innovation as a competitive driver. They show that new business models are being developed constantly and new solutions are offered to consumers, with product differentiation, increased quality and new features. This innovative, non-accommodating and constant process allows new entrants and other established platforms to challenge the incumbent's participation. In a nutshell, users' attention is sought to maximize advertising revenue. In this

process, what challenges incumbents are the innovations that occur in the market, both from new entrants and from existing platforms.

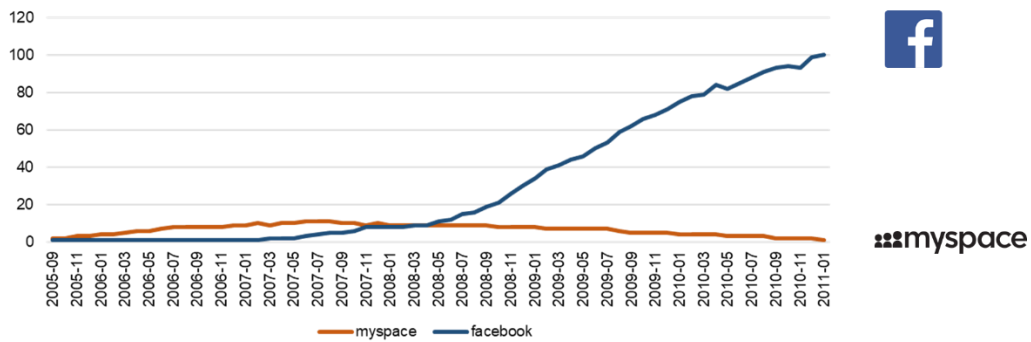
The possibility of entry is an essential condition for contesting the market power of established players and is linked to several factors such as market conditions, possibility of migration (lock-in effect), “multihoming”, among others.

In recent years, there have been cases that support this thesis, where dominant platforms have lost ground to competitors who have managed to offer new solutions, attracting users and overcoming barriers to entry. Noteworthy are the cases of eBay, WhatsApp in Asian markets and MySpace, which were replaced by other similar services that offered differentials. Below is shown the evolution of searches on MySpace compared to Facebook over time. Until mid-2006, MySpace had a clear prominent position, with no prospects that it could be surpassed by Facebook (Graph 1). In less than 2 years this reality changed, as Facebook outnumbered MySpace searches and grew dramatically.

**Graph 1: Google trends searches “Myspace” and “Facebook” - September 2005 to June 2006**



**Graph 2: Google searches “Myspace and Facebook” trains - September 2005 to January 2011**



Given the complexity of analyzing platform markets and the consequences on the innovative process of a misplaced intervention, it is up to debate which practices can be adopted to assess whether innovation has predatory character or not; and whether innovation is capable of impeding the exercise of market power by digital platforms. It is also on the agenda if, given the characteristics of the platform markets and the gains for users, even if the “winner takes all”, should antitrust agencies condemn these players? Given the possibility of false positive and false negative errors, what would be best practices?

#### 4. Format and panel participants

The panel aims to contribute to this still incipient debate. To this end, it will have the participation of lawyers and economists with experience in the area, working in Brazil, the United States and the European Union.

The panel format will be a Q&A, where the moderator will ask questions for the panelists to answer. Panelists will also be able to comment on the responses of other panelists, maintaining a relaxed and constructive debate environment. In addition, the public may bring new questions to the debate.

#### 5. Conclusions

The assessment of platform markets has been the subject of recent debate and there is still no consensus on the best analytical criteria and whether existing and commonly used instruments are sufficient for a full competitive assessment. Broadly speaking, there is a division between two groups: one that understands the “winner takes all” characteristic intrinsic to these markets, due to factors such as network externalities, economies of scale and scope acting as barriers to entry and favoring incumbents. On the other side of the discussion are elements such as the challenges for defining the relevant market, as well as the role of innovation as the main driver for competition – enabling the entry of new players who can compete and even assume a leading position.

Thus, the panel stands as an environment for the discussion of these themes and reflection for the next steps for the platform market analysis, debating the main issues, such as:

- What other peculiarities that differentiate platform markets of the most traditional sectors should be considered?
- Does current antitrust doctrine allow such peculiarities to be properly considered in the analysis?
- Given the market characteristics of platforms and gains for users, even if the "winner takes all", should the antitrust agencies be stricter with these players, adopting different criteria?
- Given the possibility of false positive and false negative errors, what would be the best practices?
- In the Brazilian case, what role should CADE play in the context of Brazilian law for platform markets intervention?