

The Russian Federation
Roundtable on “Personalised Pricing in the Digital Era”
Joint meeting of the OECD Competition Committee and
the OECD Committee on Consumer Policy
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At first glance, many products of the digital era are provided to users "for free" in the usual sense of the word, that is, without charging money. On the other hand, many of the free services bring their owners indirect benefits, which can take many different forms. Profit can be obtained through unobtrusive contextual advertising on the Internet or through the use of information collected about users in business planning (for example, indirect information from users' smartphones may indicate the size of pedestrian traffic in one place or another in the city, which may later play a major role in choosing places for organizing stores and retail outlets).

It is also used to “accustom” users to a particular product, taking into account the network effect, ranging from trial versions of programs to deliberate connivance with regard to piracy.

A habitual model can be considered when free goods or services play the role of an advertising insert, which increases the demand for a commercial object. The core of a business model is a free product or service that provides a stable audience, i.e. potential market. If we talk about the software market, here the model of free use of the product is often used in exchange for paid related services, primarily technical support.

At the same time, when considering certain actions of companies with the pricing of their goods (services) in the digital environment, competition and other regulatory authorities face difficulties in assessing such actions, since the pricing mechanism is often “sewn up” in software (app) and for its evaluation, it is necessary to understand how this software works and how its individual functionality affects the pricing process for the product (service) itself.

In 2017, the FAS Russia considered a claim by a taxi aggregator that it, as well as other taxi aggregators became subjects to surveillance by competitors.

According to the claim, one of the taxi aggregators, operating in the Russian Federation, was spying on other (competing) taxi aggregators using an application installed on users' smartphones, and adjusted the price of a trip on its taxis, and also gave additional discounts depending on which application of rival taxi aggregators is installed on the user's smartphone. These actions, according to one of the taxi aggregators, can be interpreted as unfair competition.

In support of its claim, the taxi aggregator provided a report in which the situation of spying of one taxi aggregator application on others was analyzed in detail.

The FAS Russia analyzed the specified report, according to which a functionality was implemented in the taxi aggregator application on the Android operating system with which this application can send information about all installed applications on the device to the taxi aggregator server. At the same time, no similar functionality was found in the application of the taxi aggregator on the iOS operating system, which allows receiving information about installed applications.

As a result of the analysis of the mentioned report, the FAS Russia concluded that the presence of the above functionality in the taxi aggregator application on the Android operating system does not indicate that the list of applications installed on the device was sent to the taxi aggregator server and does not indicate that the taxi aggregator in any way changes the cost of the trip based on the information received.

In addition, the FAS Russia believes that the organization's receipt of information on competitor prices, regardless of the method and legality of its receipt (market research, statistics, price monitoring using any technical means) is not in itself a sign of unfair competition.

Additionally, the FAS Russia conducted its own field study on the issue of changing the price of a trip in a taxi aggregator application depending on the presence of other (competing) taxi aggregator applications.

So, throughout the week, the FAS Russia employees imitated on their smartphones a taxi order through a taxi aggregator application, while applications of competing taxi aggregators were also installed on their smartphones.

According to the results of its own research, the FAS Russia did not establish that the taxi aggregator application adjusts the price of a trip or gives certain advantages (discounts, promotions for trips, etc.) depending on the presence/absence of a competing taxi aggregator application on the smartphone.

It is important to note that this example of how business entities operating in the digital environment, through access to consumer subscriber devices (smartphones, tablets, personal computers, etc.) have the ability to track the activities of not only consumers, but can also monitor the activities of competing applications (programs) installed on the same device, that is, the economic activities of their competitors.

These circumstances are of great importance for competition authorities. Antimonopoly bodies should have the relevant knowledge and competencies in order not only to be able to establish the fact that a business entity has the ability to track competitors' actions in the digital environment, but also to establish the fact that competing business entities are influenced by using information about their activities.