Competition law, the "new Economy" and digital platforms

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Is the future of innovation looking bright?

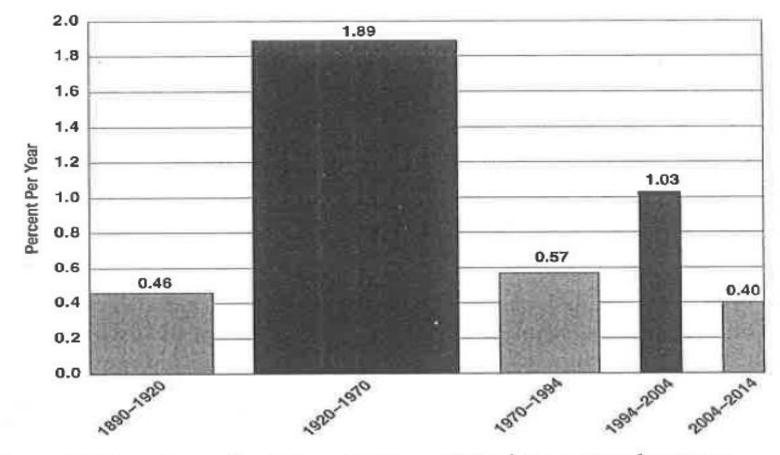


Figure 17–2. Annualized Growth Rates of Total Factor Productivity, 1890–2014

R.J. Gordon, The Rise and Fall of American Growth (Princeton University Press, 2016)

The rise of digital platforms



- Online advertising platforms
- Search
- Marketplaces
- Social Networks



Mobile ecosystems and app stores





Geography of platform businesses Geography of platform businesses Key innovation hubs around the world





Note: Clusters represent cities with 4 or more platform companies that have a market value of \$1 billion or more and includes publicly traded as well as private platform companies.

Source: Global Platform Database, Center for Global Enterprise, 2015

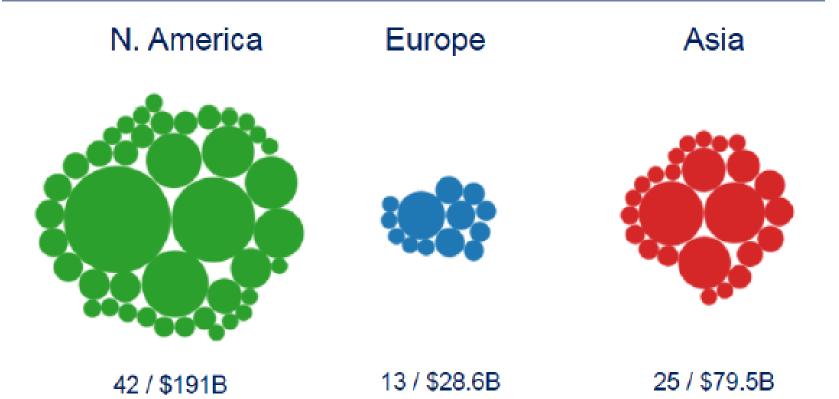
Country	HQ City	Company Market Cap	No. Platform Companies
US	San Francisco Bay Area	\$2,061B	43
	New York	\$258	6
	Seattle	\$6298	
China	Beijing	\$1248	11
	Shangha	\$288	6
	Hangzhou	\$1828	5
UK	London	\$298	5
Germany	Berlin	\$178	4
Japan	Tekyo.	\$1068	5
Grand Total		\$3,1918	94

Beijing

Tokyo

The geography of digital value

GLOBAL UNICORN PLATFORM STARTUPS



Source: A. Gawer and P. Evans (2015), The rise of platform enterprises, CGE white paper, using CB insights, Capital IQ and CrunchBase, 2015.

The geography of digital platforms

Uber Airbnb Snapchat Flipkart

Amazon Apple Facebook Google Ant Financial Didi Kaudi Lufax Chinese ecosystem

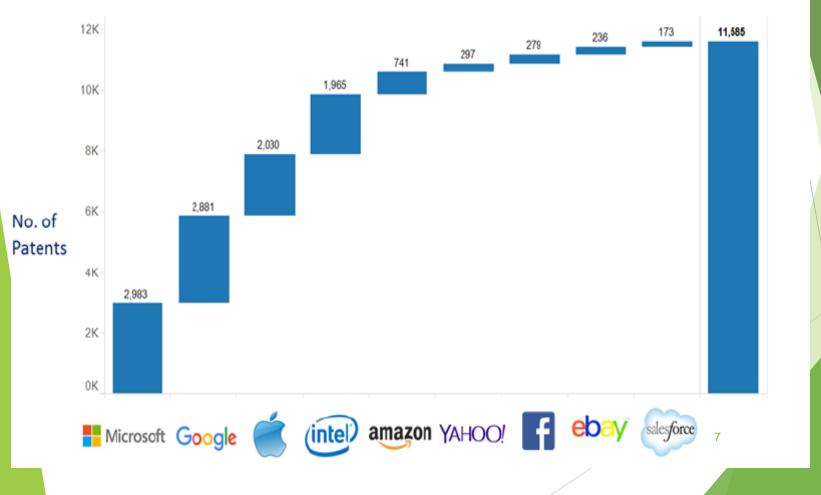
Alibaba Baidu Sina Weibo Tencent

Non-Chinese ecosystem

Source: David Evans' presentation, Digital Platforms, UCL 2016

The role of IP Law

Platform's growing contribution to US national innovation Top 9 platform recipients awarded over 11,580 patents, 2014



The distributional impact of digital platforms

- Should we only focus on consumers?
 - "Algorithmic" consumer as the "ligne Maginot" to the algorithmic seller
 - Relatively simple solutions?: Prohibition to vertical downstream integration

- The risk of the "devious" "digital assistant"
- Important trans-jurisdictional wealth transfers and drive towards global concentration: discussion
 - Will data and algorithmic capability win every "local" knowledge and "domain expertise"?
 - More concentration, less focus
 - Gosplan 2.0"?: sensors, algorithms, databases, socio-metrics: beyond the price system
 - From local to global oligopolies/monopolies?
 - ▶ E.g. From travel agents to OTA
 - E.g. From local stores to global marketplaces
- The bigger picture: digital platforms and industrial policy
- Competition law should facilitate and promote "productivity enhancing asset redistribution"

Jean-Baptiste Emanuel Zorg: "Fire one million"





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Implications for competition law

- New competition law issues?
 - Concentration becomes "natural"? Or should we try to overcome concentration tendencies? (data portability and exchange rights, access rights to data pools and/or algorithms, interoperability)
 - Are Platforms becoming a new form of "essential infrastructure? Should we insist in a non-discriminatory access to this infrastructure to ensure undistorted competition on adjacent markets? Through Regulation, or Competition Law ?
 - Should the Open Source format be promoted and protected from "lure and bait" strategies? Would this be protecting competitors or protecting competition and consumers?
 - Business model neutrality and competition law: what does this mean?
 - A hands of or a hands on approach?
 - Global value chains and remedies

Europe and digital platforms

- EU Communication on digital platforms of 25 May 2016 (COM(2016)288 fin)
 - "industrial policy light": "Creating the right framework conditions and the right environment is essential to retain, grow and foster the emergence of new online platforms in Europe"
 - Equality of access-driven competition law?
 - a level playing field for comparable digital services
 - responsible behaviour of online platforms to protect core values
 - open and non-discriminatory markets in a data-driven economy

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"As online platforms play an increasing role in the economy, the terms of access to online platforms can be an important factor for online and offline companies. For SMEs and micro-enterprises, some online platforms constitute important, sometimes the main, entry points to certain markets and data"

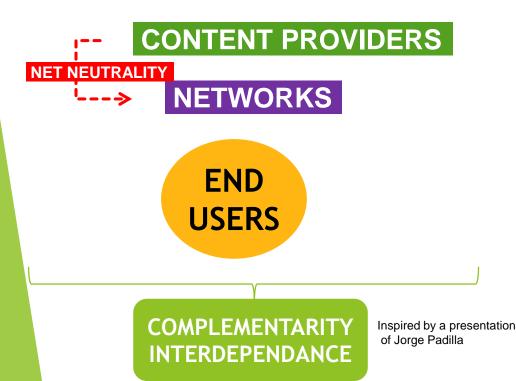
Digital value chains

IP HOLDERS

COMPULSORY LICENSING

- COMPONENT MANUFACTURERS

END-PRODUCT MANUFACTURERS



 Market power in multiple segments of the chain m

- Co-opetition (frenemies)
 - Allocation of the total surplus value of the value chain: vertical competition
- Extraction of revenue: limiting the market power of other segments of the value chain to increase your share

Global problems, local answers?

- The future of competition law and policy and BRICS
- The need for a BRICS+ Working Group on Digital Economy and Competition Law
 - BRICS competition authorities
 - Emerging and developing countries
 - Global independently minded academia
- The idea for a BRICS Joint Research Platform in Competition law: see, Ioannis Lianos, Global Governance of Antitrust and the Need for a BRICS Joint Research Platform in Competition Law and Policy (August 1, 2016). CLES Research Paper Series No. 5/2016. Available at SSRN: https://ssrn.com/abstract=2850096

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