

DSM BRIEFING

ONLINE PLATFORMS - TO REGULATE, OR NOT TO REGULATE?

What's the issue?

In a digital economy, online platforms have multiplied and become central players acting as multi-sided brokers to ensure the seamless provision of increasingly essential online services.

The value of these intermediaries stems from their facilitating interaction between at least two groups of participants – such as companies and consumers, retailers and customers, or taxi drivers and passengers.

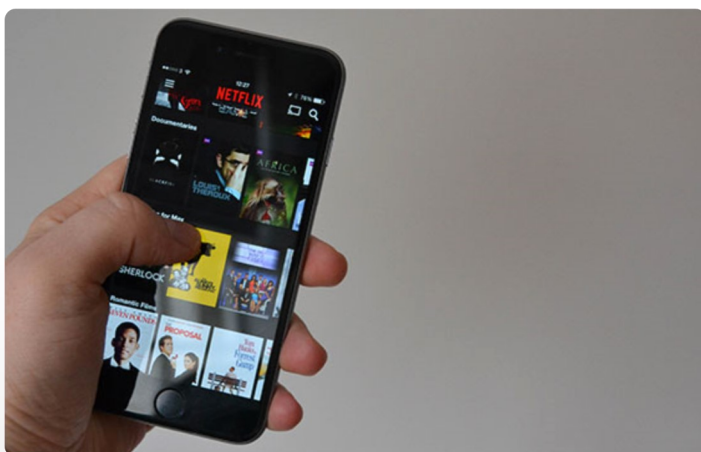
Whether providing shopping, search, travel, networking or financial services, these platforms can wield considerable market power determining to some extent the success or failure of companies competing for business and consumers across the internet.

Online platforms have facilitated citizens' online experience drawing many if not all of us effortlessly to the benefits of the digital economy. However for companies, platforms may become two-edged swords: they allow the companies that use platforms to grow and reach new markets and customers but the platforms can also leverage their role, the data and insight they gain to compete with their customers.

Faced with the emergence of powerful market players, regulators, notably in the EU, are exploring whether specific rules are needed to police platforms to ensure fair competition, high standards of consumer protection or on the contrary whether robust competition enforcement and a review of existing legislation to ensure it is up to the task of a digital economy are sufficient to the task.

Whether to regulate platforms is one of the hottest debates within the European Commission's [Digital Single Market \(DSM\) strategy](#), which is aimed at eliminating barriers to inter-EU trade to create a pro-competitive economic environment that facilitates European firms scaling up to be big winners in the EU and on the global market.

Many of economic changes prompted by the digital transformation require the ongoing review of the EU's legislative framework – a position shared by many politicians, officials and governments – but before proceeding with specific legislation for online platforms, three key questions are worth asking.



What's an online platform?

Any specific legislation requires a clear definition of platforms to understand which economic operators regulators are seeking to regulate.

The proposed definition in a still draft version of the consultation document is very broad: *"a firm operating in two (or multi)-sided markets, which uses the Internet to enable interactions between two or more distinct but interdependent groups of users so as to provide general value for at least one of the groups."*

This definition would cover a vast array of market players – both big and small – and including general search engines like Google, Bing; specialised or vertical search engines such as Google Shopping, Kelkoo, Twenga, TripAdvisor and Yelp; online market places like Amazon or eBay, Allegro and Booking.com; audio-visual and music platforms like Deezer, Spotify, Netflix, Canal Play and Apple TV; and collaborative economy platforms like Airbnb, Uber, TaskRabbit and BlaBlaCar.

What about existing rules?

Are existing rules not sufficient to regulate these players? What specific policy objective is the EU trying to meet? If there are anti-trust concerns about platforms, is the current competition framework fit for purpose? With regard to other perceived policy concerns, are the various pieces of EU legislation, notably on consumer protection and unfair trading or commercial practices, sufficient?

Much of the EU regulatory framework is in any case being reviewed with one of the objectives being to ensure it is well suited to the digital economy. Will these reviews be satisfactory or will they need an additional layer of online platform specific regulation?

What are the risks of regulating?

Is specific regulation the best approach in such rapidly moving markets? Aren't there considerable risks that specific legislation could distort and undermine the growth and innovation of platforms especially start-ups?

Indeed, the Juncker Commission's [Better Regulation Initiative](#) favours co-regulation, guidelines or self-regulation – soft regulation that is more future proof – in areas of rapid technological change.

Next steps

There is a long way to go before we understand the consequences of regulation on these key players in the digital economy – especially those emerging European platforms that aim to become global players.

After the consultation this year, in the spring of 2016, the Commission will provide us with the first hints as to a way forward.

WANT TO KNOW MORE?

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