

LEAR COMPETITION FESTIVAL

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Parallel Session

Distribution and the digital world: new challenges to the vertical / horizontal divide

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Online platforms: a different perspective and (some) new challenges

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Online platforms (1/4)

What are they?

"Hardware or software infrastructure providing services and technological tools, programs and applications, for the distribution, management and creation of free or paid digital contents and services, also through the integration of several media (integrated digital platform).

Through these platforms it is possible to set up virtual learning environments, e-learning training systems, work, management, research and monitoring environments, as well as experiences and services organized on several levels of access, by type of user.

They may be open source or commercial and may be structured for public access or for a limited target group, subject to registration.

They may provide information services, interactive services, file sharing, downloading and uploading, streaming as well as communication and sharing of multimedia material."

Source: Treccani online dictionary

How do they generally operate

They operate always and substantially everywhere, favoring a concentration and immediacy of exchanges that connect users and contracting parties in real time, enabling both commercial transactions and the exchange of information.

Consequently information (small data) moves on digital platforms that can be and tend to be aggregated, becoming so-called "big data", susceptible to profiling and economic exploitation for vertical advertising strategies or to favor and implement commercial transactions.

Source: <https://www.agendadigitale.eu/mercati-digitali/piattaforme-digitali-e-tutale-della-concorrenza-una-sfida-globale-i-casi-amazon-e-google/>

A few numbers

28M of workers in EU in 2022 ~ 43M expected in 2025 (+50%)
3billion of revenues generated in 2016 ~ 14billion in 2020 (+350%)
+500 platforms

Source: <https://www.consilium.europa.eu/it/policies/platform-work-eu/>

Online platforms: key players (2/4)



Facebook

Valore sul mercato:
870,5 miliardi di
dollari



**Google
(Alphabet)**

Valore sul mercato:
1.170 miliardi di
dollari



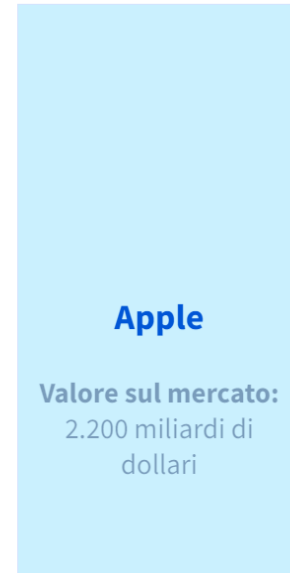
Amazon

Valore sul mercato:
1.700 miliardi di
dollari



Microsoft

Valore sul mercato:
1.900 miliardi di
dollari



Apple

Valore sul mercato:
2.200 miliardi di
dollari



Alibaba

Valore sul mercato:
657,5 miliardi di
dollari

Fonte: • Forbes 2021

Online platforms: antitrust issues (3/4)

Complex antitrust issues, which require (in general):

- a) the interpretation of underlying reality of online platforms, made up of system architectures, technological and barriers to entry into the various reference markets, business models and commercial strategies;
- b) the acknowledgement of the legal rules applicable to their possibly anti-competitive conduct;
- c) the acknowledgement and measurement of any damage caused in terms of free competition;
- a) the applicable sanctions or behavioral measures.

Not an easy exercise



Online platforms: what else? (4/4)

not only “big tech”

There are many platforms of mid- or medium-size
Their growth is key to innovation and competition
Hybrid model

6.3 billion of USD dollars
2 billion of revenues

100 Tech Challengers according to Boston Consulting Group

Source: www.01net.it/cento-startup-mercati-emergenti-big-tech/

new challenges

Lack of predictability

Difficulties re “horizontal” antitrust characterization of “mixed” collaborations: key for growing platforms / new digital players

The outcome can often become convoluted contractual definitions or vague concepts which eventually:

- make business relationship more difficult
- bring uncertainty in business sustainability and stability
- lead to a higher level of commercial litigation

What do they have in common?



innovative
online platform

scale up
model



antitrust issues

strong partnership
agreements



linked to (potential)
essential services



lack of dominant
position



New challenges: business (and legal) creativity!

- Portability of customers of supplier as a key aspect for effective competition (now, only GDPR-based solution)
- Pre-agreed migration plan basically to protect the investments and customer base
- MFN / parity clauses (beyond online retail one, which the new VBERs/VGs focus on)
- Clauses to regulate potential consequences of regulatory challenge
- Jointly analysis by a third independent party to assess the relevant positions in the market on a regular basis

Grazie!