Establishing Harm to Competition in Dynamic Markets: Overview of challenges

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Enforcement of competition law in fast-moving markets

- Importance of competition enforcement
- Protecting incentives to innovate
  - Taking into account aggregate incentives of the industry
- Timing of the intervention
  - Merger control – ex ante
    - E.g. Microsoft/LinkedIn; Vodafone/Liberty Global
  - Antitrust – ex post
    - See TeliaSonera
Assessing market dynamics

- **Product integration and convergence**
  - Standalone product or enlarged functionality of a system?
    - E.g. Microsoft Browser, Microsoft/Skype
  - Competition along several markets
    - E.g. Oracle/Sun Microsystems

- **Zero-price markets**
  - Not all dynamic markets are zero-price
  - Can there be a market at all? How to define it?
    - E.g. Facebook/WhatsApp (consumer communication services), Microsoft/LinkedIN (professional social networks)
  - Competition issues can be classic ones
Big Data

■ Personal data and competition law
  ➢ Relationship between data protection and competition law
    o Asnef
  ➢ Data protection as quality criterion?

■ Big data and competition law
  ➢ A market for data?
    o E.g. Nokia/Navteq, TomTom/TeleAtlas (map data), Reuters Instrument Codes (consolidated real-time data feed)
  ➢ Data as input or asset
    o E.g. Microsoft/Yahoo Search, Microsoft/LinkedIn
Conclusion

- Other challenges
- Competition enforcement vs. regulation
- Role of judicial intervention