

(Re)visiting vertical agreements with digital platforms

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The main question

- Do we need special rules for vertical restraints (VR) imposed by digital platforms?
- My question is this:
 - Why are “digital platforms” different than “platforms”?
 - All platforms, including shopping malls, stock exchanges, classified ads in newspapers, but also Amazon are means to enable and facilitate trade
 - So: did we need special rules for VR imposed by shopping malls?
 - Did we need special rules for VR imposed by theme parks when some of the rides or restaurants are owned by independent owners?

Vertical restraints

- Typically there are welfare-reducing externalities in vertical relations (double marginalization, downstream/upstream moral hazard) which VR can correct
- But VR can also restrict competition upstream or downstream by eliminating competitive externalities and hence can also be anti-competitive
- When studying VR, we should ask
 - What's the externality that the VR is intended to internalize?
 - Is internalizing the externality is a good thing?
- Not sure why things are different with digital platforms – what are the new externalities that exist in this setting?

Examples - MFN

- MFN can solve free riding, i.e., inefficient investment in marketing (the showrooming problem) but can also eliminate price competition
- But this was true long before the internet was invented...

Examples – system bias

- A platform owner can give preferential treatment to itself at the detriment of rivals:
 - Screen bias – make you own products prominent
 - Database bias – withhold information about rivals and form rivals
- But these are the main problems with the Computer Reservation Systems in the US airline industry (American Airline's SABRA and United's APOLLO) that was investigated by the CAB in the early 1980's
- This may also be a problem when a retailer sells private label

Tipping and multihoming

- Tipping means that foreclosure is more likely In digital platforms, and hence we should give it a bigger weight in our considerations; the effect of VR on foreclosure though is well-known
- Single and multihoming are also present in other contexts:
 - a retailer may or may not sell exclusively one brand
 - Consumers may or may not be “loyal”

Not everything is VR...

- Some issues like “Unfair and non-transparent terms around eg access, prominence, scoring, rankings” strike me as unrelated to VR
- These are contractual issues (same as if a retailer is not transparent with a manufacturer)
- Perhaps there’s a need to regulate these practices rather than rely on antitrust