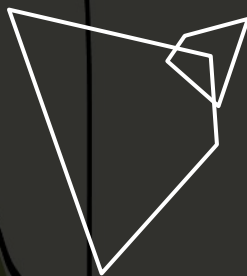




Virtual Competition and anti-trust issues



Yuntsai Chou
NCC Cable TV Summit
Nov. 28, 2019

OTT VS PLATFORM OPERATORS

service	Platform operators	OTT providers
Voice/MSN	telecom.	Line, messenger, wechat, whatsapp
Pay TV, video services	Cable TV, IPTV	Netflix, iqiyi, myvideo, lineTV, KKTV
banking	banks	paypal Linepay, Alipay,
Public transportation	taxi	uber
hotel	hotels	Airb&b

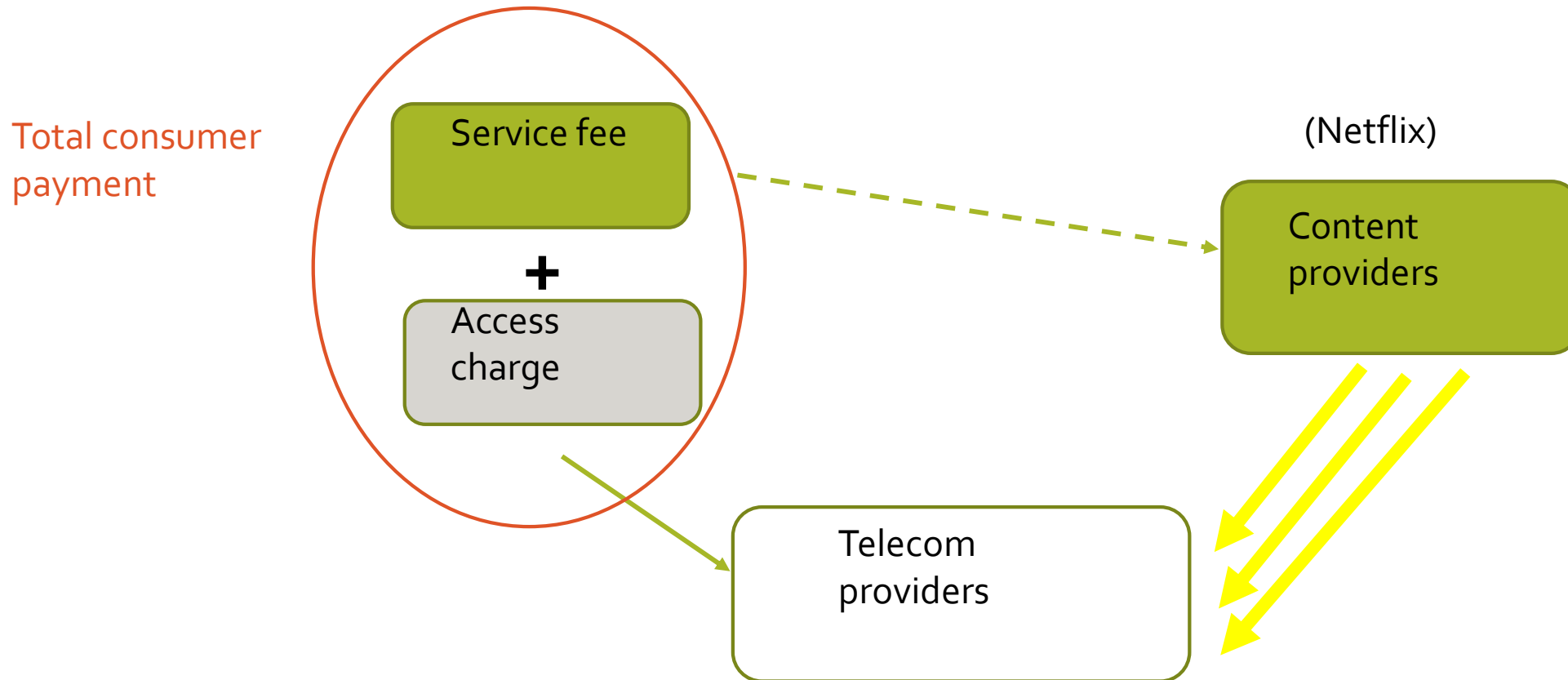


OTT VS PLATFORM OPERATORS

Competition types	regulations
I. Intra-platform competition	a). Interconnection b). Unbundling local loops
II. Inter-platform competition	Regulatory harmonization
III. Vertical competition	Network neutrality
	Anti-trust
	Privacy



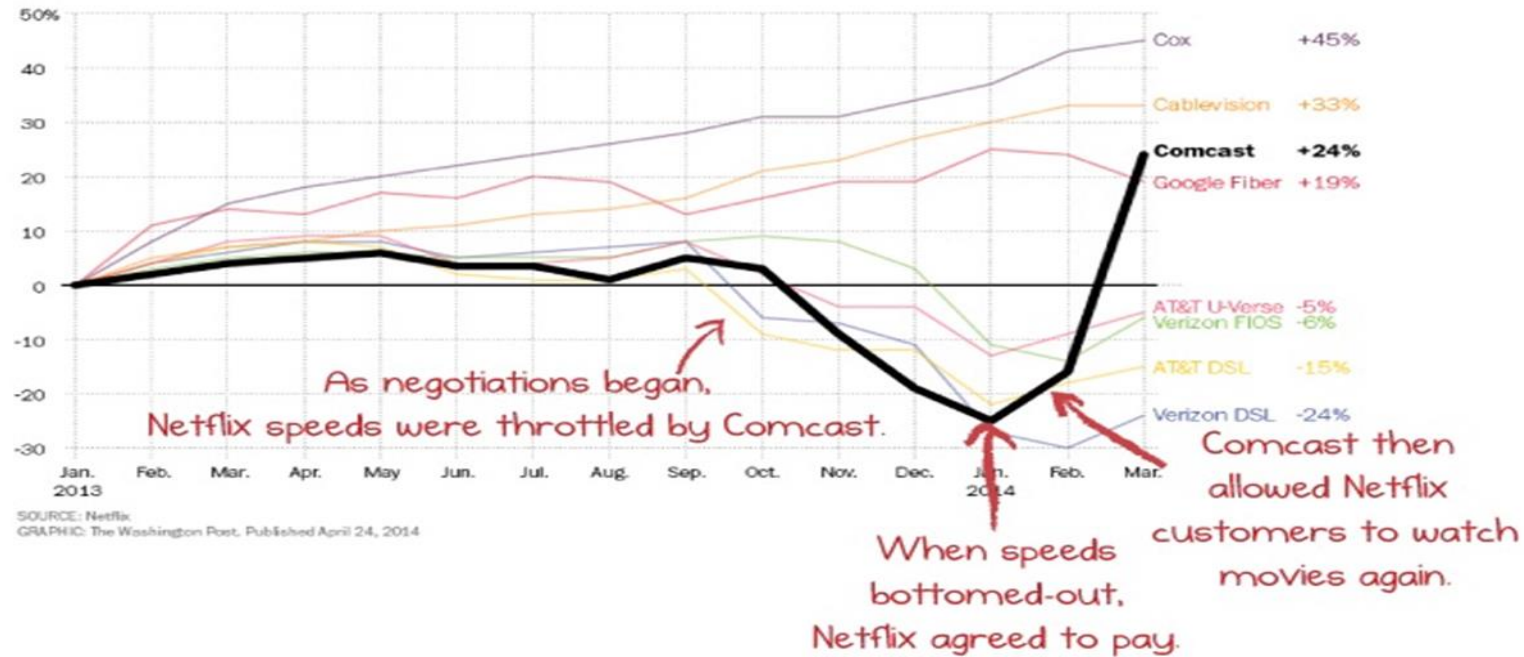
Two sided market & pricing



Netflix vs. comcast

- People are using more internet now than ever before
- Netflix accounts for ~30% of internet capacity at peak hours
- ISPs (Time Warner, Comcast) want to charge content providers (Netflix, Youtube) for using so much of the internet
- <https://www.youtube.com/watch?v=z1Ys8os23Ls&t=17s>

% change in Netflix download speed since Jan. 2013, by I.S.P.



網路中立性條款



- 1. 包含傳輸品質與價格資訊透明化；
 - 2. 傳輸業者不可惡意阻斷消費者接取特定數據服務業者之服務或載具；
 - 3. 傳輸業者不可對相同傳輸服務差別訂價。
-
- **NCC**的通訊法草案規定網路傳輸業者之流量管理，不得附加任何顯失公平之限制(第六條)、及網路傳輸業者應對消費者或數據服務者合理揭露其網路流量管理措施(第九條)，已涵蓋前二點，惟未敘明第三點。



零基費率 (zero rating)



- 管制機關須在網路中立性與網路管理取得管制的平衡
- 概念: 網路傳輸業者與特定數據服務業者間的商業協議，提供消費者贊助費率計畫 (sponsored data plan)，使其接取這些數據服務時衍生的流量不計入消費者原購買的傳輸量上限裡，例如Twitter Zero、*Google Free Zone*。
- Limited sense of network neutrality



零基費率 (zero rating)



- 零基費率其實類似於現行電信法中普及服務 (universal service)或有線電視的基本頻道 (basic channels)或必載(must carry)概念，將涉及民眾重大權益相關的必有數據服務之接取列為網路中立性適用範圍，網路傳輸業者不得任意降速，同時流量不列入傳輸量上限計算。
- 如何界定哪些數據服務適用網路中立性規範？
→ 可應用普及服務及必載頻道概念訂定消費者必要(must have)/**關鍵數據(essential data)**服務，並定期公告檢討之。



ANTI-TRUST IN BIG DATA

Give them a break?

2019 revenue forecast, as % of total

Alphabet (Google)

Total: \$132.2bn



Amazon

Total: \$278.8bn



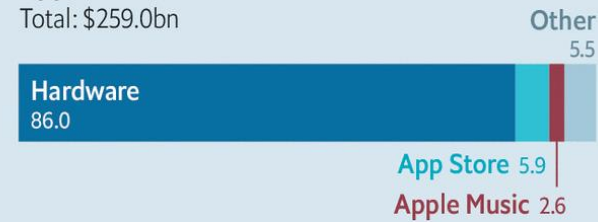
Facebook

Total: \$70.2bn



Apple

Total: \$259.0bn



Market capitalisation, October 23rd 2019



Sources: Jefferies; UBS; Evercore ISI; Bloomberg



Anticompetitive conducts



- 1. using simulations to hunt for algorithms colluding over prices or to determine how best to promote competition (<https://www.economist.com/news/finance-and-economics/21721648-trustbusters-might-have-fight-algorithms-algorithms-price-bots-can-collude>)
- 2. data withholding from competitors



Policy remedies



- 1. **break-up (拆分)**: disruptive and slow-down innovation analogy: AT&T divestiture in 1984;

BT's separation of Openreach in 2005

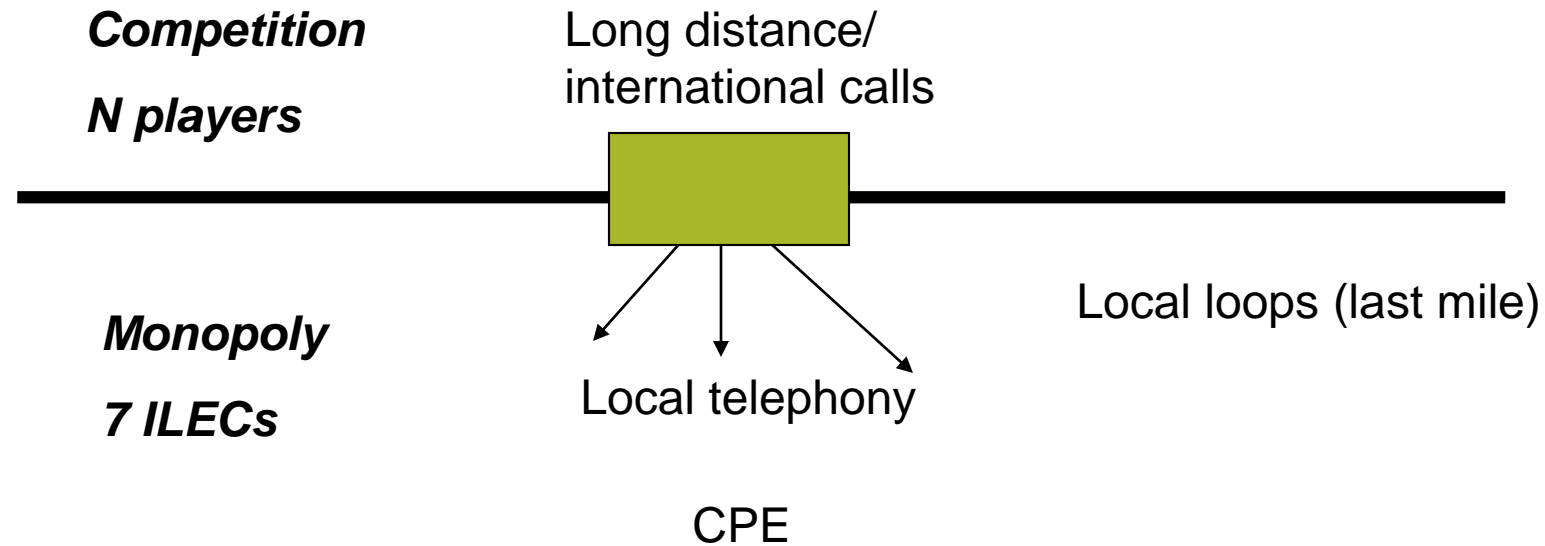
- 2. merger & acquisition approval: considering firms' **data assets (數據資產)**

analogy: bottleneck/ essential facilities (關鍵設施)

→ essential data (關鍵數據)



Structural separation



1984 AT&T divestiture

Policy remedies



- 3. enforced information disclosure about firms' control/influence
 - a. **algorithm audit** (審計演算法)
 - analogy: cost separation (會計分離)
 - b. must-have/essential **data trading**
 - analogy: unbundling local loops (開放市話迴路)
 - c. develop **pricing methodologies**
 - analogy: total element long run incremental costs (TELRIC) (長期成本增置法)
 - d. allowing the **data brokers** (允許第三方轉售)



Policy remedies

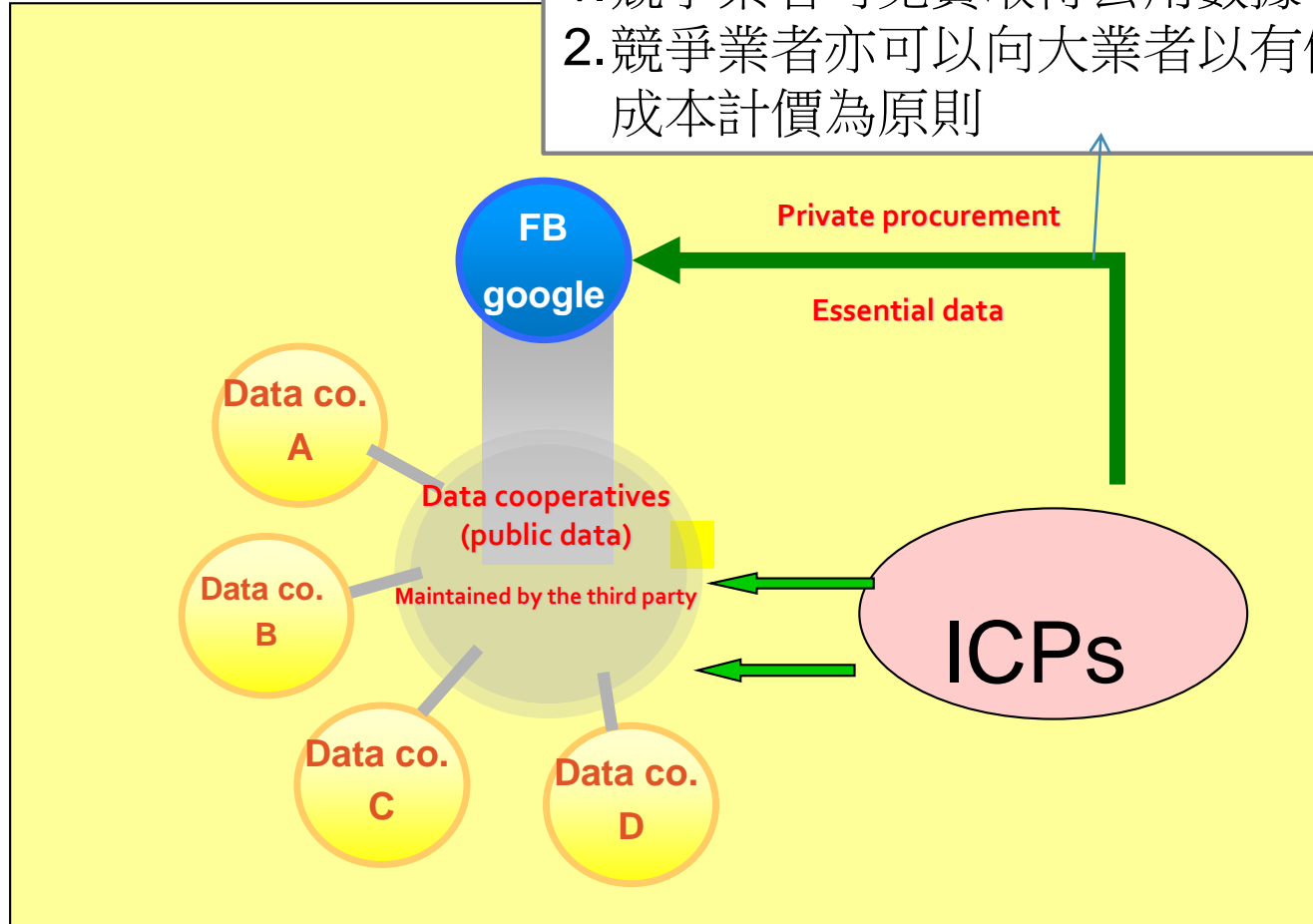


- 4. “**tacit collusion incubators**”: regulators should develop simulation techniques in determining antitrust/collusion
- 5. developing **data cooperatives** (公用數據中心): government could release data so to allow SME firms to find business opportunities.
analogy: TWIX (台灣網際網路交換中心)



data cooperatives (公用數據中心)

1. 競爭業者可免費取得公用數據
2. 競爭業者亦可以向大業者以有償方式取得關鍵數據，成本計價為原則



Policy remedies



- 6. **redefining data ownership**: General Data Protection Regulation (GDPR) of EU requires co. to make easier for customers to transfer their information to competitors

analogy: number portability (號碼可攜)

→ **data portability** (個資可攜)

- 7. to use **blockchain** technology to avoid identity leak during the transfer



Elizabeth Warren's American Capitalism

中華民國108年11月1日/星期五

目前美民主黨初選的領先者 Elizabeth Warren 參議員，在今年3月提出管制網路產業的兩大方案：重新評估並取消對競爭有影響的網路併購案，如 Amazon 併購 Whole Foods 超市、Google 併購 Double Click 廣告公司、及 facebook 併購 whatsapp 和 instagram。第二，全球年營收達 250 億美金的公司，其平台將被宣告為「公用事業」，平等開放給其他業者使用，並禁止經營下游競爭事業。換言之，Amazon 商城不得販賣自家產品，避免不公平競爭。

- 1. to unwind tech mergers deemed “anticompetitive” because they were undertaken to neutralise potential competitors. → facebook (instagram/whatsapp), Amazon (Whole foods), Google (DoubleClick)
- 2. operators of any online marketplace which generates annual global revenues of more than \$25bn to be declared “platform utilities” and prohibited from both owning a platform and doing business on it.



General Data Protection Regulation (GDPR) in EU



- **GDPR approved** by the EU Parliament on **14 April 2016**. Enforcement date: **25 May 2018**, that replaces the Data Protection Directive 95/46/EC
- **Key changes:** **1. Increased Territorial Scope (extra-territorial applicability):** applying to all companies processing the personal data of data subjects residing in the Union, regardless of the company's location.
- **2. Penalties:** organizations can be fined up to 4% of annual global turnover or €20 Million (whichever is greater), imposed for the most serious infringements e.g. not having sufficient customer consent to process data or violating the core of Privacy by Design concepts
- **3. consent:** from users



GDPR



- data subject rights: 1. breach notification;
- 2. right to access;
- 3. right to be forgotten;
- 4. data portability: the right for a data subject to receive the personal data concerning them, in a '*commonly use and machine readable format*' and have the right to transmit that data to another controller
- 5. privacy by design: Article 23 calls for controllers to hold and process only the data absolutely necessary for the completion of its duties
- 6. data protection officers.



Google's antitrust suit in EU

- Since 2010, the European Union has launched three separate antitrust investigations into Google for violating the EU's competition laws due to its dominant position in the market
 - Google Shopping (2010.11.10 ~ 2015.4.15)
 - Android operating system (2010 ~ 2016.4.20)
 - Google AdSense (2010.11.10 ~ 2016.7.14)



Google Shopping

- 2017.6.27, Google was found guilty and was fined €2.4 billion (about US\$2.7 billion), the largest such antitrust fine issued by the EC. The fine represented over 2.5% of Google's 2016 revenue.
- In order to comply, Google is effectively separating its comparison shopping service into its own company after the fine.

Android operating system

- 2016.4.20, asserted Google violated EU's antitrust laws by requiring mobile manufacturers to pre-install Google Search and Google Chrome browser.
- 2018.7.19, EU has fined Google €4.3 billion (about US\$5 billion).


Google AdSense

- 2019.3.20, the European Commission imposed a fine of 1.49 € billion on Google for abusive practices in online advertising.



感謝您

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