



**14th OECD Global Forum on Competition –
*Disruptive Innovation: Implications for Enforcement of
Competition Law***

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Outline

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- 2) Case Study 1: Online Recruitment Advertising
- 3) Case Study 2: Third Party Taxi Booking Apps
- 4) ICN 2016 Special Project
- 5) Conclusion

Introduction

- Disruptive innovation –

“a new competitor creates *radical change* in an existing industry, launching a *new product or service*, often with some *distinctly novel features* or an entirely different business model”

- Technological advancement (world wide web) resulted in many new e-commerce /digital markets emerging
- Sharing economy– peer to peer lending, AirBnB, Uber



Case Study 1:

Online Recruitment Advertising Services (merger)

Market Definition

Parties Submissions – online recruitment advertising in same market as offline and non-print providers

- Recruiters and employers avail themselves of all viable alternative advertising platforms by format and/or vertical type
- Jobseekers able to peruse both online and offline recruitment platforms to browse for job opportunities

But

- We know that online recruitment advertising has challenged traditional modes of recruitment advertising
- Some companies switch to online mode of advertising, foregoing offline advertising / allocate more budget to online

Case Study 1:

Online Recruitment Advertising Services (merger)

Market Definition

1. Are “disruptive” online recruitment advertising services in the same relevant market as print and offline non-print recruitment advertising?
 - CCS market inquiries: Respondents did not consider non-print providers as capable of providing an effective competitive constraint
 - Print media compete for the same budget but fulfil a branding objective rather than generate large quantities of applicants
 - Online provides more current and detailed information at lower costs, shorter lead time of publication etc.
 - Offline non-print and print compete in separate markets (similar to *EC Google/DoubleClick*) and are more complementary than in competition with online advertisements

Case Study 1:

Online Recruitment Advertising Services (merger)

Market Definition

1. Are “disruptive” online recruitment advertising services in the same relevant market as print and offline non-print recruitment advertising

EC Google/DoubleClick

- It was submitted by the Parties that the internet would be just one of the several media channels – among which TV, newspapers etc. – that can be chosen by advertisers (Para 44)
- Did not accept this definition because: (Paras 45 and 46)
 - i. Offline and online are perceived as separate markets by majority of respondents;
 - ii. Online advertising have specific purpose – reaching targeted audience in a more effective way; “wasted circulation” higher for offline advertising
 - iii. Unique data reporting for online advertising – number of views/clicks

Case Study 1: Online Recruitment Advertising Services

Market Definition

2. Different platforms of online recruitment services: same market?
 - 4 categories of online recruitment services:
 - a) Generalist job portals
 - b) Specialised job portals – focus on specific industry/position
 - c) Social media platforms – e.g. LinkedIn, Facebook
 - d) Aggregator sites
 - JobStreet & JobsDB: Both generalist portals, the largest two generalist portals in Singapore
 - Other online platforms served as competitive constraints but to a limited degree.
 - CCS's defined relevant market : provision of online recruitment advertising services by online job portals in Singapore, including all the different platforms

Case Study 1: Online Recruitment Advertising Services

Two-Sided Platform

- Two distinct but connected sides of the platform
- Usage and network externalities between the two groups of users (**Indirect network effects**)
- E.g. Jobseeker and recruiters – successful platform would need to have sizeable pool of jobseekers, to increase probability of suitable jobseekers, to make the platform attractive to recruiters and vice versa.
- All the online recruitment services can be considered two-sided platforms



Case Study 1: Online Recruitment Advertising Services

Competition Assessment

- Took into account that market conditions are dynamic; Dynamism is a key attribute of market characterised by disruptive innovations
- **Market Shares** – post-merger combined market share >40%; CR3 65–70% (based on revenue)
- Merger parties were each other's **closest competitors** as indicated by advertisers/recruiters
- **Barriers to Entry** – high sunk costs for technological investment and marketing & **indirect network effects** (two sided market)
 - can be dampened by multi-homing
 - aggregators provide a means for smaller job portals to benefit from indirect network effects

Case Study 1: Online Recruitment Advertising Services

Competition Assessment

- Post-merger, merged entity would have the incentive and ability to:
 - a) Change the structure of the market – demand exclusive “lock-in” contracts to prevent multi-homing;
 - b) Bundle/tie products across its two brands – have the effect of preventing multi-homing;
 - c) Impose price increases.
- Little incentive for entry – large overseas players did not want to enter since domestic market in Singapore is small
 - CCS not confident that there would be entry at least within 3 years – constraint has to come from existing competition
- Without assurances that the current competitive market conditions would be preserved, CCS found that the merger would result in substantial lessening of competition

Case Study 1: Online Recruitment Advertising Services

Commitments

- Behavioural Commitment – period of 3 years
 - a) Not enter into exclusive agreements with recruiters;
 - b) Maintain pricing at current rate card or current negotiated prices, subject to CPI changes;
 - c) Appoint independent auditor to monitor compliance
- Divestiture Commitment
 - a) Divest all assets of jobs.com.sg including the domain name, website, and all rights, title and interest to use the technology to crawl websites with job opportunities, receive information on job opportunities via XML feeds, and make such opportunities searchable on the web

Case Study 1: Online Recruitment Advertising Services

Decision: Clear with Commitments

- Commitments accounted for dynamism of the market
 - a) Preventing exclusive agreements – retain current practice of multi-homing
 - b) Period of commitments (3 years) – CCS considered that 3 years would be sufficient given dynamism of market
 - c) Divestiture – SEEK’s ownership of the aggregator site would give it incentive and ability to leverage its strong position as a job portal to limit growth of other aggregators.

Case Study 2: Third party Taxi Booking Applications

Singapore Taxi Market & Third Party Apps

- Third party apps appeared in early 2013 with growing usage of smartphones
- 5 main third party apps – compete with taxi operators’ taxi booking services (exclusive to drivers that rent their taxis)
- Benefits:
 - Wider source of bookings for drivers – especially for those under smaller taxi operators
 - Access to information analytics – uptime, downtime, earnings
 - Allow passengers to be matched more quickly and easily to drivers
 - Value-added services – non-cash payment options

Case Study 2: Third party Taxi Booking Applications

Competition Concerns

- **Complaint** – One of the third party apps was offering loyalty discounts targeted at the most active taxi drivers (i.e. make high number of trips a day) on condition that they would not use other third party apps (**exclusive contract**)
- **Theory of harm** – foreclose significant proportion of taxi drivers from other competing apps;
 - Downward spiral: given network effects of 2 sided market, competing apps would be unable to attract passengers as a result, which would result in even fewer drivers using these competing apps
 - Result in a single third-party app having monopoly power – would have ability to increase prices, reduce quality, and little incentive to innovate

Case Study 2: Third party Taxi Booking Applications

Competition Assessment

- Passengers choose to use apps that would give them higher chance of booking a taxi
 - Singapore's largest taxi operator had >60% of total fleet – incumbent's booking application would have a large enough driver base
 - Other operators are too small and, hence, their booking services are not popular
 - Unlikely that drivers from smaller operators would/could switch to hiring taxis from the largest taxi operator to make use of the taxi booking system
- Competition concerns would arise – to a greater degree – for drivers that hire taxis from smaller operators should the alleged abusing third party app be able to price discriminate

Case Study 2:

Third party Taxi Booking Smartphone Applications

Competition Assessment

- **Market Definition** –Market shares very dynamic, significant changes in market shares in response to promotions, pricing behaviour, entry barriers etc.
- **Abuse** – loyalty discounts in return for restriction on use of competing third party apps not explicit but had been informally conveyed and compliance monitored
 - But, number of drivers under the loyalty schemes were small proportion of active taxi driver base
 - Impact presently not significant and unlikely to harm competition
- **Conclusion** – premature to conclude on dominance and abuse at the point of assessment. CCS closely monitor market developments to safeguard healthy growth of market

Case Study 2:

Third party Taxi Booking Smartphone Applications

Industry Developments

- Easy Taxi – wound up operations in Singapore
 - Focus core markets in Latin America, Middle East and Africa
- Highly funded competition – third party taxi apps providers tended to have strong financial backing, not simply SME start-ups
- Uber gaining traction – not just a third party taxi app
 - Private drivers compete with taxi drivers
 - Policy issues – safety, insurance, reliability etc.

International Competition Network 2016

Special Project: *“Disruptive Innovations and Government Advocacy”*

- **Motivation** – disruptive innovations bring unique challenges to competition authorities as they create tensions between regulation and competition policy
- Competition authorities should advocate for regulations that strike balance between promoting public policy objectives (e.g. consumer protection) and enabling entry and expansion of disruptive firms
- Case Study: CCS assisted Land Transport Authority to derive a set of regulations for third party taxi booking services – provide space for third party apps to grow, while ensuring safeguards for consumers within a legislative framework

International Competition Network 2016

Special Project: *“Disruptive Innovations and Government Advocacy”*

- Broad themes:
 - How ICN members have successfully advocated competition considerations to GLEs
 - A study on the similarities and differences in approaches taken by ICN members in such advocacy work
 - Recommendations for advocating competition considerations to GLEs

International Competition Network 2016

Special Project: *“Disruptive Innovations and Government Advocacy”*

- Survey –

Key Questions: How ICN members have advocated competition considerations relating to disruptive innovation to governmental and legislative entities (GLEs) in their respective jurisdictions?

- i. Objectives of each agency’s government advocacy in relation to disruptive innovations;
- ii. Criteria in determining if advocacy efforts are successful;
- iii. Importance of concern/focus on disruptive innovation;
- iv. Existence of statutory powers to review regulations implemented by GLEs;
- v. Proactive scanning or triggers that result in engagement with GLEs in relation to disruptive innovations;
- vi. Sectors covered in government advocacy efforts;
- vii. Tools used in government advocacy efforts and rationale;
- viii. Non-competition related considerations that are taken into account.

International Competition Network 2016

Conclusion

- Traditional tools of competition assessment can be adapted to market with disruptive innovation
- Special characteristics of digital/disruptive markets need to be factored in: 2 sided market, network effects, scalability
- But digital/disruptive markets can be tied to the real economy (e.g. size of job market) with implications for remedies
- Dominance in a market with disruptive innovations can be very dynamic – may need to be monitored over time before concluding that there dominance
- Existing regulatory frameworks based on current business models may be ill–suited to disruptive innovation and may need to be updated to accommodate new entrants with disruptive business models
- Competition authorities need to work with government and legislative entities to advocate for disruptive innovation which are in the public interest



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Thank you

Questions?