

The role of innovation in the analysis of abuse of dominance in digital markets: The analysis of chosen practices of Google Search

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ABSTRACT: Competition investigations in digital markets focus increasingly on future markets, and incentives to invest and innovate play here a larger role than in traditional “brick and mortar” industries. The article analyses the role of innovation in cases of abuse of dominance in digital markets on two levels. The first level involves the strength of incentives to invest and innovate of a digital monopolist – would he have less or more incentives to innovate and prefer to resort to practices that foreclose his competitors or leverage his market power to adjacent markets to keep its dominant position on the market? The second level identifies concrete phases of the competition analysis in which innovation considerations are contemplated in digital markets, such as objective justifications or assessing the effect of the practice on consumer welfare. The analysis of the role of innovation in the assessment of alleged anticompetitive abuses is conducted on the example of two concerns expressed by the EC in recent investigations into practices of Google Search, namely (1) search bias and (2) restrictions on portability of advertising data to competing advertising platforms.

KEYWORDS: innovation, Google, digital markets, abuse of dominance, incentives to invest and innovate, search bias, restrictions on portability, Schumpeter, Arrow

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