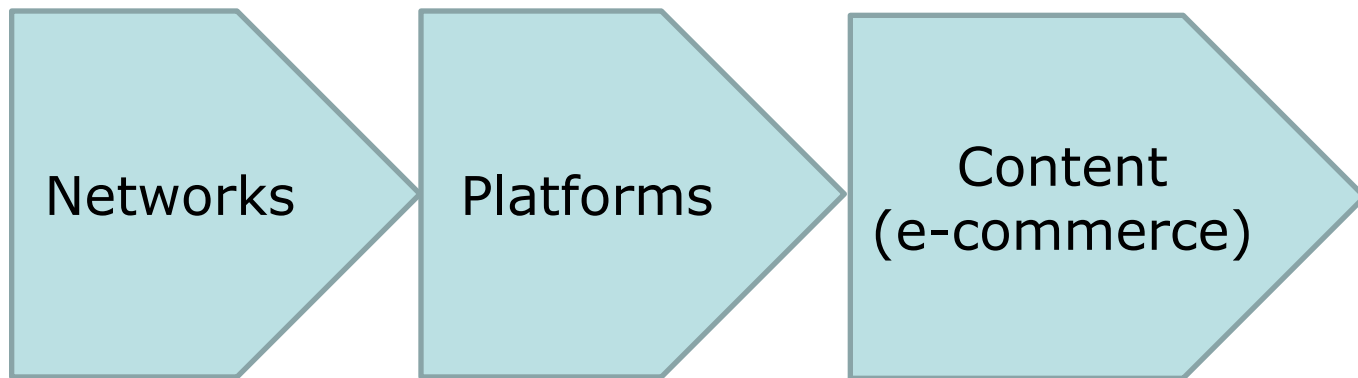




# **EU competition law and Digital Markets**

Thomas Kramler  
DG Competition, European Commission

*(The views expressed are not necessarily  
those of the European Commission)*



# Why intervene?

Competition for the market vs competition in the market

ECJ in TeliaSonera (para. 108) “[...] *application of [competition rules] cannot depend on whether the market concerned has already reached a certain level of maturity. Particularly in a rapidly growing market, Article 102 TFEU requires action as quickly as possible, to prevent the formation and consolidation in that market of a competitive structure distorted by the abusive strategy of an undertaking [...]*”. (C-52/09)

# Characteristics of Digital Markets

## Network effects

- Search

## Barriers to entry

- Application barrier to entry (PCs, Smartphones ?)
- Big Data

## Lock-in

- Legacy
- Status quo bias



# Market Definition

Two sided markets

- One or two markets ? (Google)

Free services

Platform competition

# Market Power

In fast-growing sectors/frequent market entry/short innovation cycles: large market shares may turn out to be ephemeral (Facebook/WhatsApp merger decision; T-79/12, Microsoft/Skype)

- Multi-homing
- Platform competition
- No preinstallation



European  
Commission

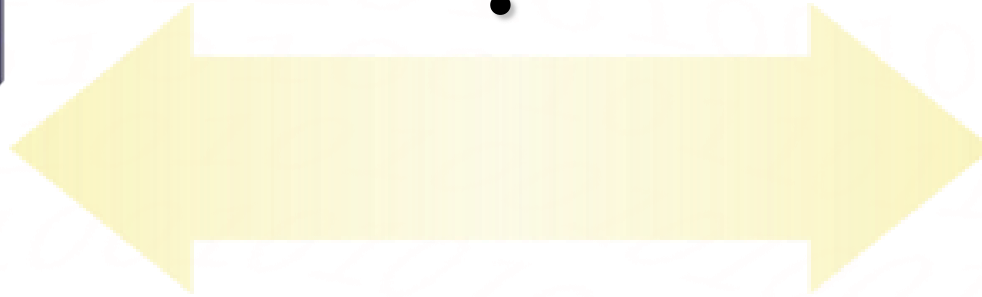
# Leveraging: Microsoft

Que tal?

I don't understand.



?





European Commission

# Leveraging: Google



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Google Offer

About 8,240,000 results (0.20 seconds)

Shop for **gas grills** on Google

<a href="#">GP-Grill Gas Grill - black/...</a> £141.96 www.Ambient...	<a href="#">Falcon Dominator...</a> £888.00 Catering Appl...	<a href="#">Outback Omega 250...</a> £129.00 Outback Direct	<a href="#">Blue Seal Cobra CS9...</a> £897.60 Carlton Sales	<a href="#">Burco 444449459...</a> £850.50 e-tradecounter

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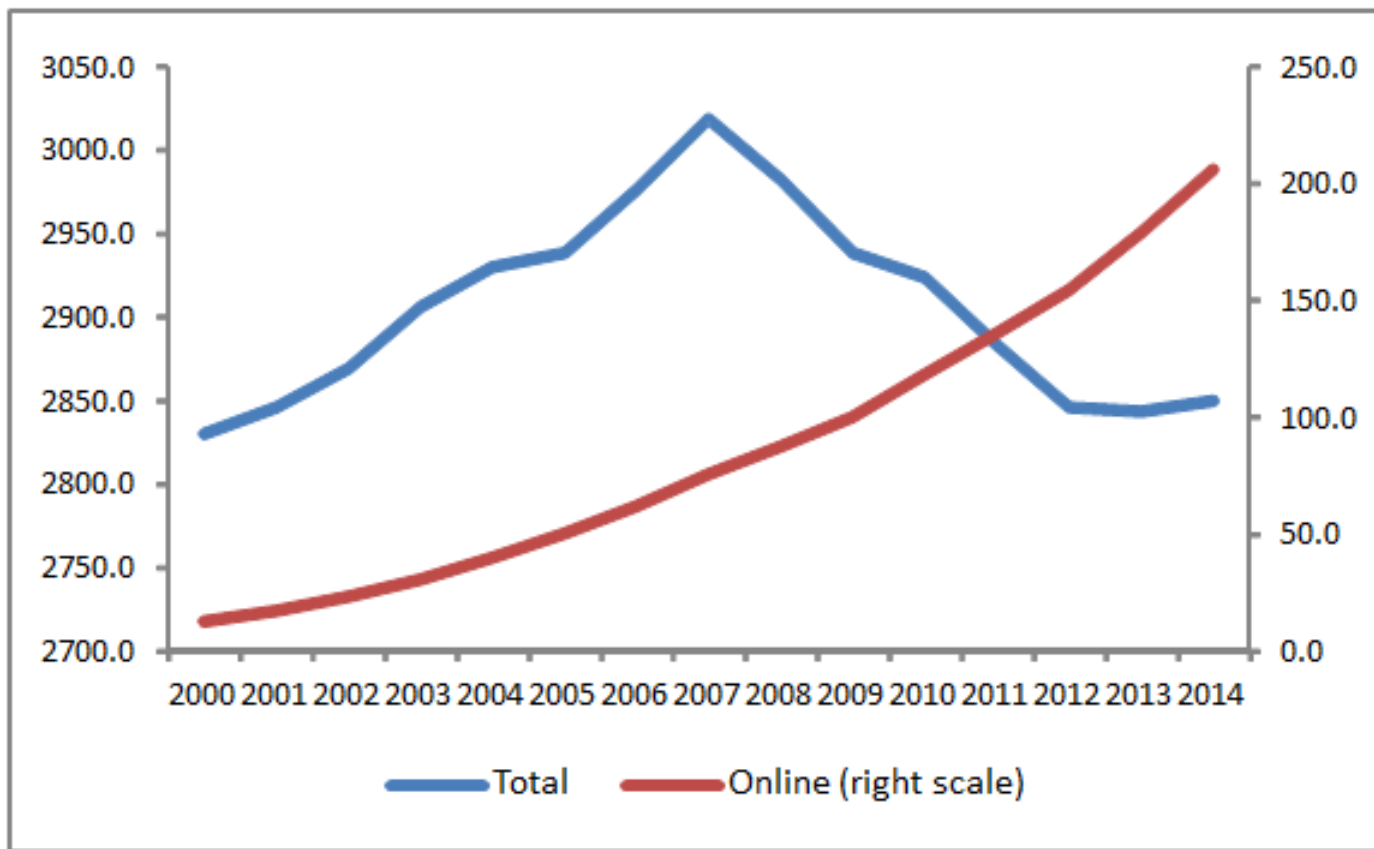
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Competitors



# E-commerce sector inquiry



A. 2: Estimated evolution of the total and online retail sales in goods, 2000-2014 (in billion EUR, from Duch-Brown and Martens, JRC, 2015)

# Key Findings – Consumer Goods

- More price transparency and price competition
- More selective distribution and vertical integration of manufacturers
- Vertical Restraints
  - Pricing restrictions
  - Territorial restrictions
  - Online sales restrictions

# Key Findings – Digital Content

- Availability of licences for online distribution is key for competition
- Impact of current licensing practices on competition ?
- Potential issues to be assessed case by case
  - Scope of agreements (Bundling)
  - Duration of agreements
  - Geo-blocking

# Conclusion

- Competition law enforcement has a role to play in digital markets
- Careful analysis needed as markets differ