COMPUTER LAW & SECURITY REVIEW 31 (2015) 99–111

Available online at www.sciencedirect.com

ScienceDirect

www.compseconline.com/publications/prodclaw.htm

Computer Law & Security Review

Is online media a two-sided market?

Jian Li[*]

KoGuan Law School, Shanghai Jiao Tong University, Shanghai, China

Keywords:
Online media
Two-sided markets
Definition
Advertising
EU

ABSTRACT

The study of products or business that concurrently serve two or more "sides" of consumers has been one of the most active areas of microeconomic analysis in the past decade. However, the phrase "two-sided markets" has been used to describe markets with a variety of economic properties. Different articles and economists use the phrase inconsistently. This is probably one of the reasons why the EU antitrust authorities have accepted some industries as two-sided markets while not others. In order to solve the problem, this paper proposes a definition that the term "two-sided markets" should be applied to a product or business if, and only if, it is impossible for the business or product to exist if it is not operated in a two-sided manner. Importantly, this does not include online media.

1. Introduction

Two-sided markets denote an economic theory building upon theories of networks and multiple products, and study the behaviour of a producer faced by two groups of customers with distinct needs.[1] It is inspired by business models where a producer offers welfare-maximising discriminatory pricing to their customers, and charges essentially only one group of customers while serving the other group below marginal costs or sometimes even negative.[2] Many industries have been recognised as markets with a two-sided nature, such as payment cards, dating clubs, and agencies and, most relevant to the discussion of this paper, advertising-supported online media. Although this study was initiated only about a decade ago, it has become one of the most influential microeconomic analyses.[3]

Despite their significant contribution to explaining pricing strategies of those business or products, two-sided markets are not confronted without problems. The most prominent one is that no consensus has been formed on its definition. The existing definitions of two-sided markets suffer first from excessive specificity, over-inclusiveness, or too much vagueness to be of use.[4] Many authors often start their analyses by giving an extensional definition, and then take it for granted that their definition is clear enough so that when coming to the intentional definition their analyses are often hollow. It is not rare to see definitions such as "you know it when you see it". Under this approach, two-sided markets are subject both to Type I (over enforcement) and Type II (under enforcement)

* KoGuan Law School, Shanghai Jiao Tong University, Huashan Road 1954, Shanghai 200030, China.
E-mail address: lawjian@126.com.

[1] J C Rochet & J Tirole, "Platform Competition in Two-Sided Markets", [2003] 1 Journal of the European Economic Association 990; and J C Rochet & J Tirole, "Two-Sided Markets: A Progress Report" [2006] 35 The RAND Journal of Economics 645.

[2] M Rysman, "The Economics of Two-Sided Markets" [2009] 23 The Journal of Economic Perspectives 125.

[3] D Evans, "The Online Advertising Industry: Economics, Evolution, and Privacy" [2009] 23 The Journal of Economic Perspectives 37.

[4] A Hagiu & J Wright, "Multi-sided Platforms. Harvard Business Law School"[2011] Working Paper 12-024 <http://faculty.chicagobooth.edu/workshops/marketing/pdf/MultiSidedPlatformsHagiu.pdf>.

http://dx.doi.org/10.1016/j.clsr.2014.11.001
0267-3649/

errors. But here the Type I error is more the concern of this paper as many authors tend to make the definition over-inclusive, including markets with multiple products. Moreover, relevant economic literatures, where a limited number of intentional definitions are offered, also suffer from inconsistency. In particular, some doubt is cast over whether advertising-supported media should be considered as an example of two-sided markets. Different answers lead to various definitions.

In addition to the economic discussion, the two-sided market has, since its inception, also attracted the attention of the European Commission (Commission) and the EU courts, i.e. the General Court (GC) and the European Court of Justice (ECJ), when applying EU competition law. Until now these EU authorities have had chances to review industrial sectors related to two-sided markets such as payment cards, advertising intermediaries and advertising-supported media (including newspapers, magazines and online media). However, while the EU authorities have more or less accepted the theory for payment cards and advertising intermediaries, they (probably intentionally) never referred to it in cases involving advertising-supported media, which is nevertheless considered as a canonical example of two-sided markets by most economists.[5]

Hence it is submitted that advertising-supported media remains the key to exploring the properties of two-sided markets. In order to give an appropriate intensional definition, the subsequent discussion is structured as follows. Part 2 carries out a brief literature review, and differences between influential definitions are shown. Part 3 examines EU competition cases involving industrial sectors related to two-sided markets. After revealing the importance of advertising-supported media to the definition of two-sided markets, Part 4 delves itself into the analysis whether advertising-supported media has two-sidedness from an economic perspective. Based on the conclusion that it is only a one-sided market, the Part 5 proposes its own definition of two-sided markets. The paper ends with some concluding remarks.

2. Literature review

2.1. *Some pre-observations*

Two-sided markets suffer from not only a definitional problem but also a denotational problem. At the very beginning, Caillaud and Jullien use the intuitive term of intermediary markets that serve two sides of customers to depict two-sided markets.[6] The actual term of two-sided markets is later coined by Rochet and Tirole,[7] and followed by Armstrong.[8] Evans nevertheless prefers two-sided platforms in order to make it distinct from "relevant markets" within the field of competition law.[9] Others, such as Rysman, uses the term of two-sided strategies as he views two-sided markets as no endogenous nature of the industries under study but business strategies artificially applied by platform providers.[10] In addition, some authors, like Hagiu and Wright,[11] choose multi-sided markets or platforms since two-sided markets do not necessarily involve only two groups of customers but possibly more. However, since most scholars have accepted the phase of two-sided markets this paper will also follow it throughout.

Before touching upon the differences among definitions proposed by scholars, it first clarifies several key elements to two-sided markets that are shared by all the scholars. Two-sided markets are created to study an economic phenomenon that a producer charges one group of customers below-cost prices in order to maximise profits from the other group of customers.[12] The key contribution of a two-sided market is to establish economic models regarding the price structures and to predict the behaviour in those markets. However, discriminatory prices exist not only in two-sided markets but also in other markets. Therefore, two-sided markets must be defined in a way to differentiate themselves from similar conduct in other situations; for example retailers or input processors. In order to do so, it is agreed by all the scholars that a two-sided market involves at least three parties, a producer (or platform) and two groups of customers with distinct needs. The producer offers two products respectively sold to the two customers.

This feature of multiple groups of customers plus multiple products can differentiate two-sided markets from discriminatory pricing on markets providing multiple products to nonetheless only one group of customers. For example, Gillette sells both razors and blades; and it charges razors below marginal costs and has its main profit from selling blades. However, Gillette is not a two-sided market because customers purchasing razors and blades are the same ones. Nevertheless, this feature is still not sufficient to delineate two-sided markets from all the others. Both the terms of customers and products, though seemingly clear for daily use are, in theory, very weak. For example, is there only one product or two products in situations where a retailer purchases products from a wholesaler and then has them sold to consumers? Moreover, is the retailer faced with one customer, i.e. consumers, or two customers, namely consumers and wholesalers in cases where the transactions are not monetary? If we consider that wholesale products are different from retail products and wholesalers and consumers are both customers of retailers, retailers may also be two-sided markets. However, no scholars come to the point that a retailer is a two-sided market. Consequently, more elements must be added to the definition of two-sided markets, in particular in relation to the interaction between the two groups of

[5] Rysman (2009), supra note 2.

[6] B Caillaudy & B Jullien, "Chicken & Egg: Competition Among Intermediation Service Providers"[2003] 34 The RAND Journal of Economics 309.

[7] Rochet & Tirole (2003), supra note 1.

[8] M Armstrong, "Competition in Two-sided Markets"[2006] 37 The RAND Journal of Economics 668.

[9] D Evans, "The Antitrust Economics of Two-sided Markets"[2003] 20 Yale Journal of Regulation 325.

[10] Rysman (2009), supra note 2.

[11] Hagiu & Wright (2011), supra note 4.

[12] D Evans & R Schmalensee, "The Industrial Organization of Markets with Two-Sided Platforms" [2007] 3 Competition Policy International 151.