



“Abuse of dominance in digital markets”

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Some data on the Digital Economy

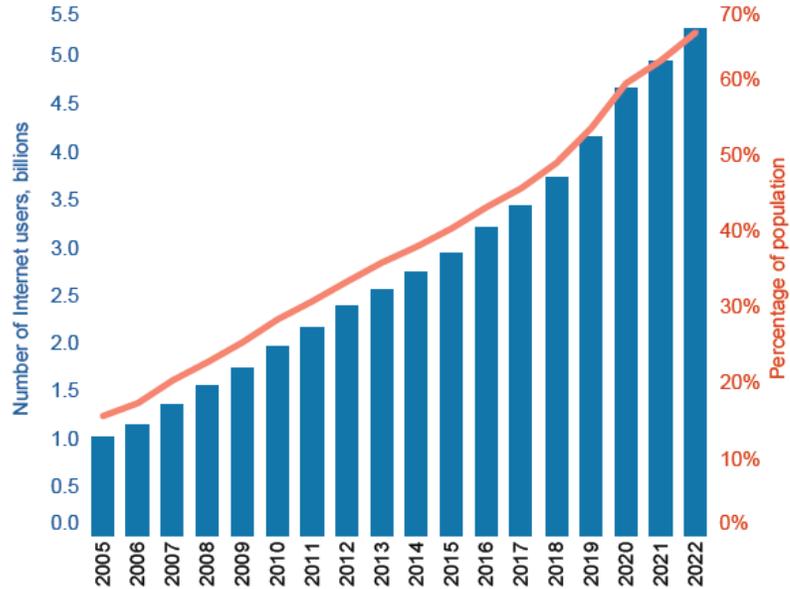




Internet use

Two-thirds of the world's population uses the Internet, but 2.7 billion people remain offline

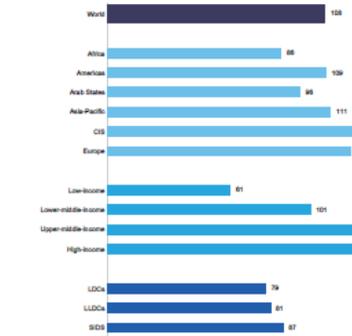
Individuals using the Internet



Source: ITU

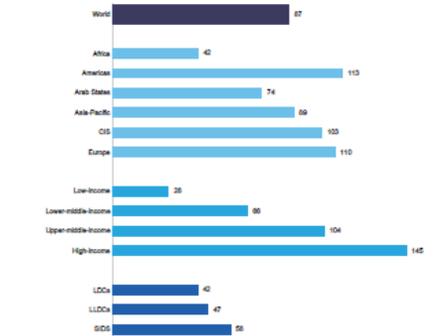


Mobile-cellular telephone subscriptions per 100 inhabitants, by region, 2022



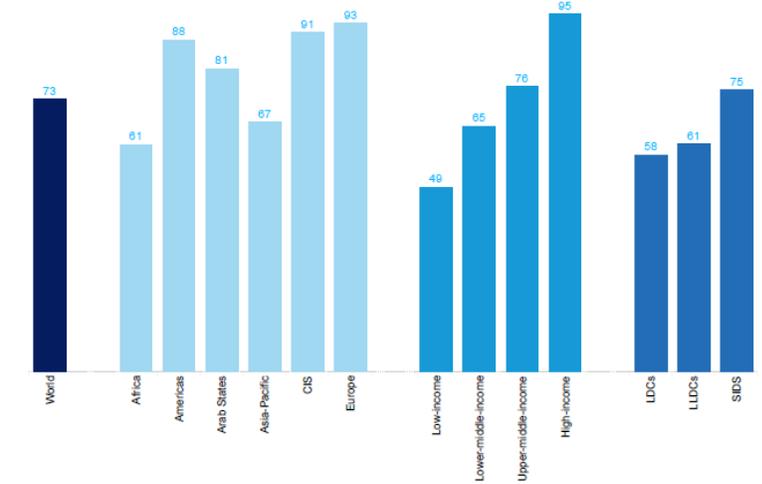
Source: ITU

Active mobile-broadband subscriptions per 100 inhabitants, by region, 2022



Source: ITU

Percentage of individuals owning a mobile phone, 2022



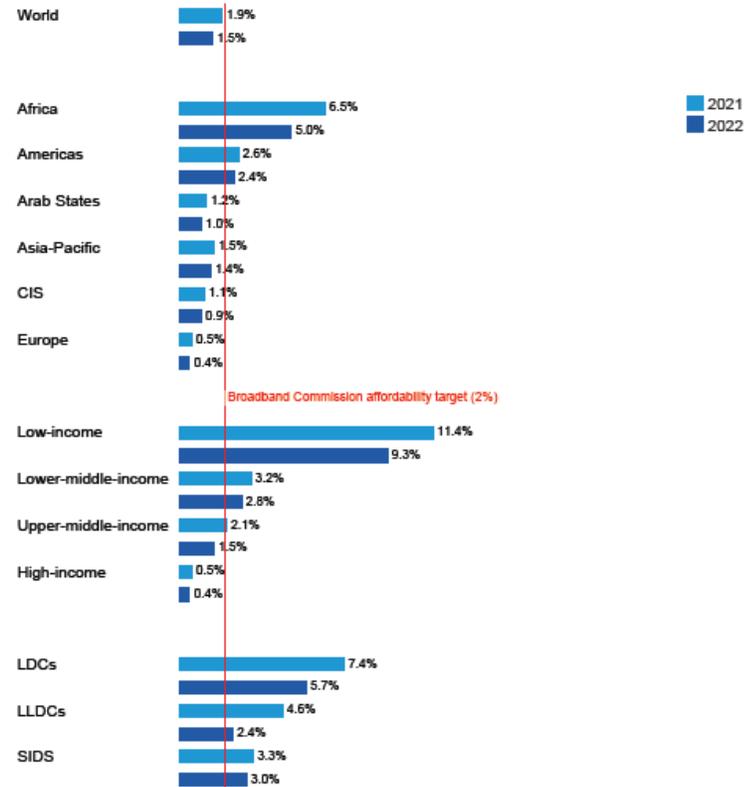
Note: Mobile phone ownership refers to individuals aged 10 or older.

Source: ITU

Affordability of ICT services

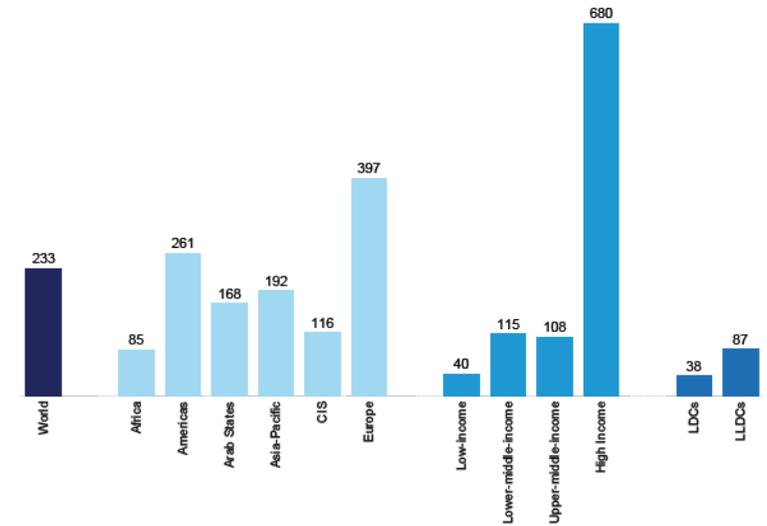
ICT services become more affordable worldwide in 2022

Data-only mobile broadband basket prices as % of gross national income per capita, 2021-2022



Source: ITU

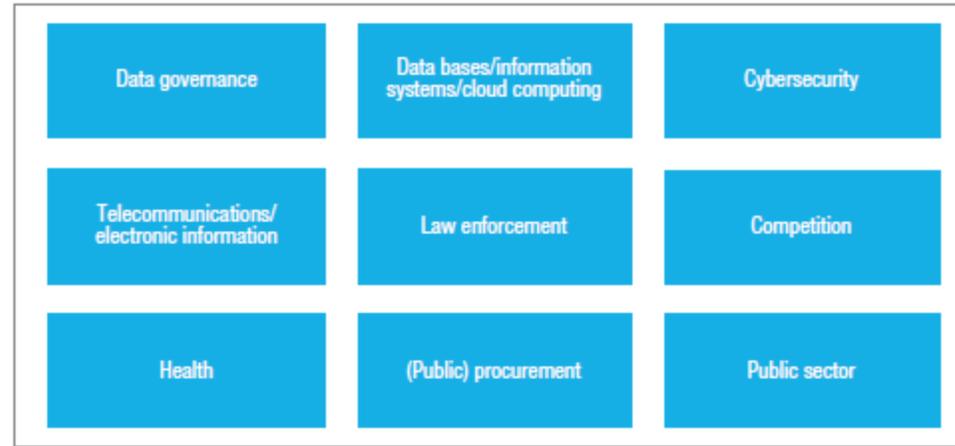
International bandwidth per Internet user, kbit/s, 2022



Source: ITU



Figure 2: Categories of laws and regulations affecting “all data”



Source: UNCTAD, based on survey responses from G20 member States and invited guests.

Table 3: Sector-specific legislation

Sector concerned	G20 Members with relevant laws
Banking, financial sector, capital markets	Saudi Arabia, Türkiye, United States
Defense and related private sector	United States
Geospatial	Indonesia, Republic of Korea
Health	Indonesia, United States
ICT and telecommunications	European Union, Indonesia, Saudi Arabia, Türkiye, United Kingdom, United States
Public sector	Brazil, Canada, Mexico, Republic of Korea, Saudi Arabia, United States
Trade	European Union, Indonesia, United States

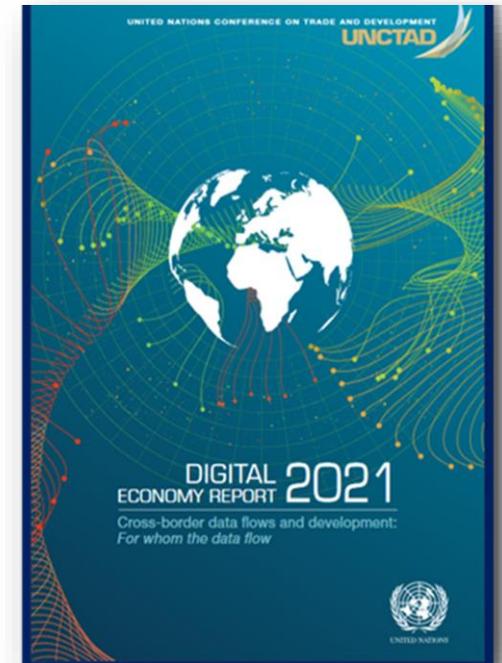
Source: UNCTAD, based on survey responses from G20 member States and invited guests.

Digital economy's implications for Competition policy



Features of the Digital Economy

- **Market concentration**
- **Two-sided/Multi-sided markets**
- **Data collection, storage, processing and use**
- **Zero-price markets**
- **Direct and indirect network effects**
- **High switching costs and user lock-in**
- **High economies of scale and scope**
- **M&As – merger control and killer acquisitions**
- **Vertical integration and conglomerate structure; digital ecosystems**
- **Self-preferencing by gatekeeper platforms**
- **Collusive practices using algorithms**



Possible policy options



Main issues to consider

- **ARE EXISTING COMPETITION LEGAL AND POLICY FRAMEWORKS FIT-FOR-PURPOSE ?**

They may need to be adjusted to digital markets challenges.

Examples:

- additional concepts and criteria for the assessment of market power adapted to digital players;
 - update of the merger control regime;
 - consideration of “fair competition” provisions.

- **IS REGULATION NECESSARY?**

After early caution by Competition Authorities due to innovation concerns, some jurisdictions have opted for complementary but increasingly necessary regulation.

Examples:

- “ex ante” measures providing for greater transparency, non-discrimination and fairness in platforms dealings with businesses;
 - maintaining open standards and interoperability to facilitate switching and innovation;
- ensuring access to data and data portability for consumers, preventing practices entailed by consumer biases and inertia (default settings).

Main issues to consider (2)

- **ARE NEW TOOLS NEEDED? ARE SOFT LAW INSTRUMENTS USEFUL?**

Competition Authorities need to make good use of digital means and data analysis for adjusted and faster assessments and action

Examples:

- Improved and focused market studies;
- Better tailored and more effective interim measures; commitments and remedies;
- Issuance of guidance to businesses, recommending good practices for a clearer marketplace;

- **IS IMPROVED COOPERATION AND COORDINATION TIMELY?**

Improved consultations and collaboration between different authorities within and between jurisdictions is crucial for a more comprehensive understanding of these business models and more effective law enforcement

Global challenges need global solutions: international and regional cooperation (formal and informal) will support and complement less experienced and more resource-constrained Competition Authorities

Examples:

- Cooperation between Competition, Data Protection, Consumer protection, Telecoms, Financial Services Authorities and other regulators;
- Bilateral, Regional and International cooperation, formally and informally

UNCTAD relevant Research and Analysis on Competition policy and the Digital Economy

United Nations TD/B/C.I/LP.57

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Trade and Development Commission
Intergovernmental Group of Experts on
Competition Law and Policy
Nineteenth session
Geneva, 7-9 July 2021
Item 5 of the provisional agenda**

Competition law, policy and regulation in the digital era

Note by the UNCTAD secretariat

Summary

Digital platforms are essential elements of today's economy, in particular since the outbreak of the coronavirus disease of 2019 (COVID-19) pandemic, and are a key issue for Governments and competition authorities worldwide.

Building upon previous discussions at UNCTAD on competition issues in the digital economy, this note provides an overview of the challenges faced by competition authorities in dealing with competition issues in digital markets and introduces recent competition cases involving online platforms, as well as legislative and regulatory initiatives undertaken in some jurisdictions. It provides a comparative analysis of recent initiatives taken by Governments worldwide and includes recommendations for developing countries in dealing with competition issues relevant to digital markets.

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UNITED NATIONS CONFERENCE ON TRADE AND DEVELOPMENT 

Competition and Consumer Protection Policies for Inclusive Development in the Digital Era



United Nations TD/RBP/CONF.9/4

 **United Nations Conference on Trade and Development**

Distr.: General
29 July 2020
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Eighth United Nations Conference to Review All Aspects of the Set of Multilaterally Agreed Equitable Principles and Rules for the Control of Restrictive Business Practices
Geneva, 19-23 October 2020
Item 7 of the provisional agenda

Strengthening consumer protection and competition in the digital economy

Note by the UNCTAD secretariat

Summary

The digital economy is bringing about significant changes worldwide. It is becoming increasingly relevant and indispensable for both consumers and businesses, offering opportunities for consumers such as finding the goods and services they need more easily and in a more convenient way and offering opportunities for businesses such as accessing consumers online. Such opportunities should be harnessed to contribute to sustainable and inclusive economic development and, in this regard, there is an increasing need to strengthen consumer protection and competition in the digital economy.

This note provides an overview of the current trends in the digital economy and their implications for consumer protection and competition policies. It reviews emerging issues in consumer protection in electronic commerce (e-commerce), in particular related to legal and policy frameworks, consumer empowerment and business guidance, enforcement and dispute resolution and redress. With regard to competition, it focuses on digital platforms and examines ways to restore competition in these highly concentrated markets, through a review of legal and policy frameworks, enforcement and regulation. Finally, it highlights the role of UNCTAD in promoting international cooperation and provides some policy recommendations.

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Restoring competition in "winner-took-all" digital platform markets

Abstract

Digital platforms provide a variety of services such as marketplaces, social networking, search engines and payment systems. Their business model relies on data and data monetization for growth. These are multi-sided, oligopolistic or monopolistic markets characterized by network effects, high economies of scale and scope, and increasing returns to scale, which together raise barriers for new entry. In digital markets, platforms compete for the market and not in the market. These features together with control over user data confer significant market power to incumbent platforms in their respective markets. This has raised concerns about competition and led the competition lawyers and economists reflect on ways to restore the lost competition in digital markets.

This paper suggests adapting competition law tools and analysis to the realities of this new business model: reforming merger control regimes, focusing not only on size but also fair competition in digital markets; adopting regulatory measures such data openness and portability; interoperability between online platforms. The paper also questions the relevance of consumer welfare standard based on price effects and efficiency to the new business model of online platforms. It suggests adopting a broader framework including choice, quality, privacy, innovation, future competition and effective competition structure and competitive process in competition law enforcement.

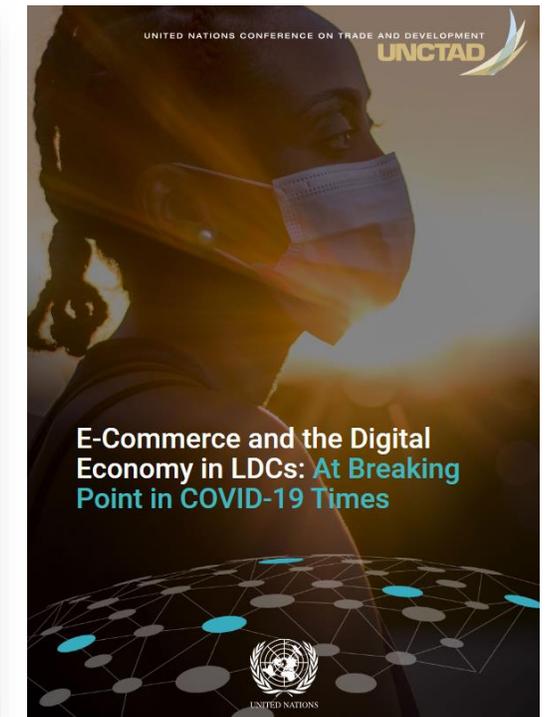
Key words: Competition, Digital platforms, Online platforms, Market power

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**INTERGOVERNMENTAL GROUP OF EXPERTS ON
Competition law and policy, twenty first session - 5-7 July
2023, Palais des Nations**



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eWeek 2023

**SAVE
THE
DATE**



eWeek

Shaping the future of the digital economy

4-8 December 2023

Thank you!

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<https://unctad.org/Topic/Competition-and-Consumer-Protection>

