

# The future of platform dominancy

Research on the effects and handling of platform power

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Also, for this project, an AI tool called ChatGPT has been used to formulate a proper structure in the extensive theory chapter. This has been used since the chapter was built by combining multiple different chapters. All the information provided in the chapter and the entire thesis has been written by the author. Also, full responsibility for the thesis is held by the writer.

## Abstract

The increased dominance of digital platforms has created multiple concerns among policymakers and experts. These concerns regard the increasing power of digital platforms, the dangers of these platforms for user privacy, and the regulations not always being sufficient enough to contain this power. While prior research has already explored competition and power dynamics in the platform economy, little is known about the examination of power abuse and regulation that go with it. This study investigated the mechanisms through which platforms are able to establish and maintain market dominance, potential consequences of excessive platform power, and the effectiveness of current and possible future regulations to counter these platforms, through case study research on existing cases of platform power abuse, as well as expert interviews on the topic. The findings of the study show that platforms use network effects, monopolize on data, and pricing strategies to maintain a dominant position in the market, often at the cost of competition and consumer choice. Even though existing regulations, like the Digital Markets Act (DMA) in the EU try and counter this excessive platform power, there remain challenges in regulating the platforms properly. This study contributes to existing literature by identifying different patterns of power abuse and proposing new and different policies to ensure a fair competition in the digital market. The study provides valuable information for regulators, businesses, and consumers in the quickly evolving digital market.

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## 1. Introduction

In recent years, platform ecosystems have become dominant digital forces. They managed to reshape multiple industries and alter the way individuals, businesses, and society interact with each other (Tiwana, 2014). These platform ecosystems have interconnected users, developers, and complementors of both products and services with their platforms, revolutionizing multiple sectors like e-commerce, payment methods and social networks. Fundamental aspects of these platform ecosystems consist of multi-sidedness (Weyl, 2010), network effects (Hagiu & Wright, 2015), complementarity (Leong et al., 2019), and openness (Hardaker, 2022). These aspects shape both structure and dynamics of platform ecosystems, adding to the power and influence they have. To understand the complexity of these platform ecosystems and analyse the power they generate these aspects are crucial to understand.

The rise of these platform ecosystems is also known as the Fourth Industrial Revolution, which consists of this global digitalization. Due to this fourth revolution, people worldwide use social media platforms for interaction, learning, and information sharing. Additionally, innovative producers and competitors access digital platforms for marketing, sales, and distribution purposes, improving the price and quality of goods and services (Xu et al., 2018). However, growing dominance of platform ecosystems raises concerns about imbalances in market power, with limited research addressing this (Kira et al., 2021; McIntyre et al., 2017). When platforms become too dominant, they can exploit their market power by changing prices or policies while still holding their users due to their rooted market positions.

The excessive power of these platform ecosystems raised concerns, as the influence by these platforms keep expanding. Kira et al. (2021) shows this concern by mentioning that the use of platforms is 'free' in a monetary way for the users, but these platforms gather all sorts of data of their users as a payment for usage of the platform. Kira et al. (2021) state that this growing market power of platforms collecting and processing this data could lead to a systematic problem for individual rights. Therefore this excessive power enables platforms to dominate markets, which affect the smaller competitors in the market. For example, Amazon controls 46% of e-commerce sales in the United States, which allows for Amazon to undercut their competition, even if it makes them operate at a loss in the short term, which keeps Amazon in their dominant position (Lamoreaux, 2019). In a similar situation, Facebook faced legal challenges over privacy issues, with multiple claims of the violation of privacy laws (BBC News, 2016). A last example is the abuse of excessive power is by Sony's PlayStation increasing their prices for the online gaming subscription service they offer. Although many users were upset, they still subscribed to the service to keep the same gaming experience with friends (Makar, 2023).

Existing literature has already explored multiple aspects of platform competition (Rysman, 2009), including market power (Belleflamme et al., 2022), pricing strategies (Hagiu & Wright, 2005), and the relation between platforms and stakeholders (Tiwana, 2013). However, research explicitly examining instances of power abuse, like unfair practices, exclusionary behaviour or anti-competitive strategies, by these platforms is limited (Bostoen & Mândrescu, 2020). Since these practices can harm users, competitors, and other participants of platform ecosystems by harming their privacy, making them act against their will, or even putting them out of business, there is a need to examine the power dynamics of these platform ecosystems and investigate for ways to prevent the abuse of such excessive power, which shows the research gap for this study.

This research seeks to address the gap through the following main research questions: *“Which market mechanisms and regulatory strategies can contain market dominancy and prevent power abuse by digital platforms?”*. The study will be guided by the following sub-questions:

1. What are the main factors causing excessive power in platforms?
2. How is platform power regulated currently?
3. What are the potential long-term effects of unchecked platform power?
4. What are new possible measures to contain platform power?

To answer these questions, firstly desk research has been conducted to investigate the current situation and existing measures aimed at containing platform power. This desk research includes a literature review to define the concept power, explore how it could be measured, and identify when a platform becomes too powerful in the market. By examining the connections between platform power, data privacy, user trust, and innovation, this study explores the broader implications of platform power abuse (Hurni & Huber, 2014; Hurni et al., 2022). Additionally, case studies were used to examine instances of platform power abuse (Brown, 2008; Gerring, 2004). After this case study, field research was done. During this field research, interviews with experts were conducted, which provided insights into the effectiveness of current laws and regulations to control platform dominance. The information gathered aims to show what needs to be adjusted in these regulations to prevent platforms from becoming too powerful in the future and ensure that laws and regulations remain effective.

This study provides both theoretical and practical contributions. The theoretical contributions examine the dynamics of market power and competition in the digital economy (Kira et al., 2021; McIntyre et al., 2017). As platforms are a growing factor in all industries, it becomes more crucial to understand the consequences of platform dominance on other businesses and consumers in the market. The study contributes to the existing literature by addressing a research gap focused on the abuse of dominant digital platforms, the evaluation of the effectiveness of current regulatory measures against this dominance, and the possibilities for innovation in these regulatory measures by providing both a deeper understanding of the existing theory, as well as new knowledge on the legislation topic.

The insights from this study inform multiple stakeholders, like policymakers, industry participants, and consumers on the importance of effective regulatory measures which should be in place to ensure a fair competitive market. This aligns with finding of Jacobides and Lianos (2021), who emphasized the need to regulate platform ecosystems to maintain the competition in the market. Furthermore, this study draws on research by Lee and Hwang (2018), who pointed out that the large platforms are of influence on content diversity, showing potential impacts of platform dominance on both availability and diversity of content on digital platforms.

The report starts by describing the existing knowledge relevant about these digital platforms. This theory provides a description of digital platforms, how the competition works in this market, information regarding platform power, and current regulations to contain this power. After the theory, the method describes how information has been gathered using both a case study, and by conducting multiple interviews. The results from both the case study, as well as the interviews are being shown in the results chapter, where the case study has been handled using a within-case and cross-case analysis and the interviews have been analysed using the Gioia method. Lastly, the discussion and conclusion show the contributions provided by this study, as well as the limitations this research has encountered. This chapter also describes the possibilities for future research, and the answer to the main research question which has guided this study.

## 2. Theory

### 2.1. What are platform ecosystems?

Platform ecosystems became dominant in the digital economy. They managed to change whole industries and reshaped the ways of value creation in these industries (Tiwana, 2014). Platforms like iOS, PayPal, Uber and Facebook revolutionized how businesses operate and how individuals interact with these platforms and with each other. This chapter gains an understanding of these platform ecosystems, finding a definition of what a platform ecosystem is, what the key characteristics are, and how they operate.

#### 2.1.1. Definition and key characteristics

Platform ecosystems connect owners, users, developers, and complementors, allowing them to exchange value, interact with each other, and co-create products and services (Tiwana, 2013; Tiwana, 2014; Benoit, Baker, Bolton, Gruber, T., & Kandampully, 2017).

- Owners: the ones who own the platform;
- Developers: they work for the platform itself, constantly working on improving existing, and producing new, functionalities;
- Complementors: not working for the platform directly, they develop things the platform can implement, giving the users more options to choose from;
- Users: the people who make use of the functionalities the platform has to offer.

An example can be Apple's iPhone, the owners of Apple own the platform and have the final word when making decisions, the users bought the phone and use its functionalities (calling, texting, photographing), the developers from Apple are working on the functionalities of the phone through the iOS software provided to the phones, but also through standard apps developed by Apple, complementors arrange different apps for the users of the iPhone which they can offer to these users on the Apple App Store. These ecosystems are characterized by key features, including multi-sidedness (Weyl, 2010), network effects (Hagiu & Wright, 2015), complementarity (Leong et al., 2019), and openness (Hardaker, 2022). These key features will be explained further on.

A common way of distinguishing different types of platforms is to distinguish between interaction and innovation platforms (Cusumano et al., 2020). Innovation platforms are aimed at the development of completely new complementary products or services, where transaction platforms are intermediaries or online marketplaces so that users can exchange goods, services or information (Cusumano et al., 2020). Examples of innovation platforms are Nintendo, PlayStation, and iOS, where examples of transaction platforms are Instagram, Tinder, and the Apple App Store. Some platforms can be put in both segments, these platforms are then called hybrid platforms, owners of these platforms look for ways to keep the user experience in own hands (Cusumano et al., 2020). Examples of hybrid platforms are Apple, Google, and Amazon.

De Reuer et al. (2018) mentions a couple of different types of digital platforms. First, there are the platforms like Facebook and Instagram, which can be defined as social media platforms, on which people interact with each other and share their experiences in life. Platforms like iOS and Android are categorized as operating system platforms, these are mostly important in the mobile telecommunications industry. Platforms like PayPal, Google Pay, and Apple Pay are today's payment platforms, these are different methods for the customer to pay for goods and services besides the traditional bank card and cash options. Lastly, De Reuer et al. (2018) mentions peer-to-peer digital platforms like Uber and Airbnb.



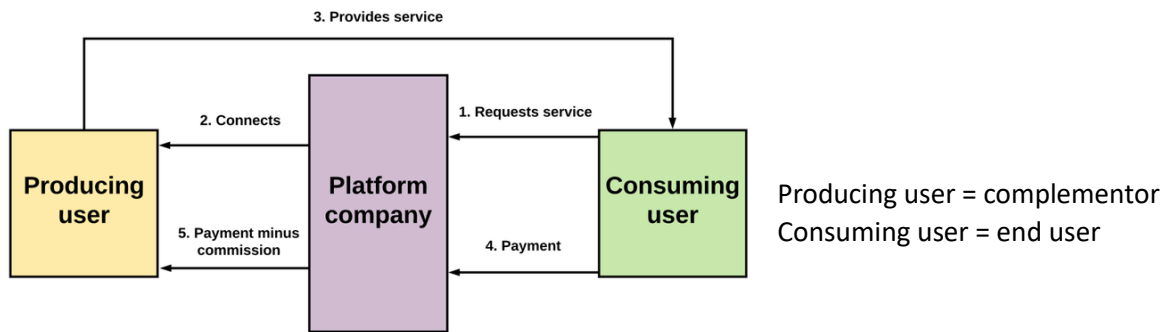


Figure 1: Working of a two-sided market (Warnez, & Jöesaar, 2018)

Multi-sidedness refers to the presence of distinct user groups that interact with each other on the platform, creating value for all parties involved (Weyl, 2010). Platform ecosystems often cater to multiple user segments. These different user groups depend on each other to engage in transactions, exchange information, or collaborate. The platform acts as an intermediary, facilitating these interactions and enabling the exchange of value between the different sides. The presence of multiple user groups enhances both direct and indirect network effects within the ecosystem, making it more valuable for each participant as the number of users on one or both side(s) increases. A more detailed description of these network effects will follow in chapter 2.2.2. *Network effects and platform competition.*

Complementarity is the integration of complementary products or services in the platform to improve the user experience and value creation of the platform (Leong et al., 2019). Complementarity can come in two ways. In the early stages of a platform, they often collaborate with external partners to have a complementary range of offerings, improving the appeal and functionality of the platform (Leong et al., 2019). When a platform has grown and is more appealing, complementors will present themselves to collaborate with the platform (Leong et al., 2019). This means, the platform does not always deliver everything the platform has to offer herself, other companies could be able to collaborate, complement or be implemented in the platform. How easy complementors can get their products or services on a platform depends on the openness of the platform itself. For example, an e-commerce platform may integrate complementors for payments, logistics, and reviews to improve the shopping experience for the consumer. Complementing products and services can improve the value of the platform, which allows them to attract more users and strengthen the network effects of the platform (Leong et al., 2019).

When referring to the openness of a platform, the ability for complementors and innovators to contribute to a platform is mentioned (Broekhuizen et al., 2019 ;Hardaker, 2022). Platforms often have Application Programming Interfaces (APIs), Software Development Kits (SDKs), or developer tools for third parties (complementors) to make their own product or service on the platform ecosystem (Hardaker, 2022). Platform openness expands the ecosystem's capabilities beyond what the platform provider alone can achieve, when external developers are given the right tools to supplement the platform with complementary goods (Broekhuizen et al., 2019).

Working with complementors also enhances innovation and value creation. It enables the rapid development and integration of new products, services, and features through collaboration and co-creation (Kenney & Zysman, 2020). This innovation by complementors has a vital role in expanding the platform ecosystem with complementary offerings, enhancing user experience, and driving innovation (Saarikko et al., 2016). Complementors bring fresh ideas, expertise, and diversity to the ecosystem, further enriching the user experience and ecosystem value, by often being creative within the origin of the existing platform.

### 2.1.2. The economics of two-sided markets

To understand the dynamics of platform ecosystems, the economics of these two-sided markets is investigated (Rysman, 2009). The study by Rysman (2009), along with other relevant studies provides known insights into the economics of these two-sided markets.

#### 2.1.2.1 *The concept of two-sided markets*

Two-sided markets are characterized by two user groups who gain value from their interaction with each other on an online platform. Some examples are credit card networks, video game consoles, and online marketplaces. The dynamics of these two-sided markets are important to understand the functioning of platform ecosystems (Rysman, 2009).

Like mentioned, credit card networks, like Visa and Mastercard, are examples of a two-sided market. They connect two different user groups, being the cardholders (consumers) and the merchants. Both parties have their different benefits from using a credit card network. There is a convenience factor for the cardholders when making a purchase, as well as a security on their payment. For the merchants it is attractive to allow credit card payments to attract more customers and increase their sales (FIS Global, n.d.). The credit card facilitates a transaction between both parties, making them an intermediary, while enabling value creation. The network itself earns money by charging transaction fees to the merchants or through fees from card issuers (FIS Global, n.d.).

Also, video game consoles, like PlayStation, Xbox, and Nintendo, operate as two-sided markets. The consoles get bought and used by the gamers (users), where publishers and game developers provide the games for the console (Rafael, 2023). Gamers get their value from the gaming experience with a wide range of games to choose from, while the developers benefit from a large user base the console provides (Rafael, 2023). The console manufacturer like PlayStation creates a platform with SDKs and developer tools. The manufacturer earns from the consumers by selling the console, and from the developers by charging a fee to have them develop licensed games. Whether a console platform becomes a success always depends on whether the manufacturer can attract both a large user base, as well as a strong game line-up by attracting enough external developers to produce these games, since they cannot produce all the games themselves (Rafael, 2023).

Examples of online marketplaces who operate as two-sided markets are Amazon and eBay. Online marketplace platforms connect both buyers and sellers on their platform, creating value by the facilitation of the transactions (Cusumano et al., 2020). Both buyers and sellers benefit from the use of an online marketplace platform. For the buyers there is a wide range of products, with different price classes, while the sellers gain an easy access to many customers, with a good infrastructure to sell their product. The platform earns its revenue in multiple ways by charging the seller either a transaction fee or an advertising fee (Cusumano et al., 2020).

Platforms facilitate transactions and interactions between different user groups on the platform, like buyers and sellers (Amazon), developers and consumers (PlayStation), or merchant and consumers (Mastercard). However, the value a platform creates is not only dependent on the number of users the platform has but also influenced by the interactions with the platform and the network effects created between the two sides of the platform (Rysman, 2009; Clements, 2004). The network effects (both direct and indirect) can make a platform more attractive to use for both sides of a platform, depending on the size of the other side of the platform (Lee & Hwang, 2018).

#### 2.1.2.2 *Pricing strategies*

Pricing strategies play a crucial role in the degree of dominance of platforms in two-sided markets. The pricing decisions made by platforms can significantly impact their market power, competitive

position, and ability to attract and retain users from both sides of the market (Alves, Valenca, & Franch, 2019).

The first pricing decision which must be made is whether the platform will have a money side and subsidy side, or if money is being made on both sides of the platform (Tiwana, 2014). When a platform has a subsidy side, they use an asymmetric pricing strategy, which can be incorporated on both the developer side, as well as on the end user side of the platform (Figure 2: *Asymmetric versus symmetric pricing across two sides of a platform* (Tiwana, 2014)). In case of asymmetric pricing, the platform is making money on either the user side or the developer side of the platform, on the other group the platform is then losing money (Tiwana, 2014). PlayStation could be an example for both scenarios, when they want to make sure the launch of a new console will be a success, they can pay developers to develop games compatible with the new console, and make sure the prices of this console are up high at the launch. The users are the money group in this case. If PlayStation would drop prices on a console significantly at launch, it is extremely attractive to buy, which will then attract more developers, who will be charged by PlayStation to be able to develop games for this console, which makes the developers the money group.

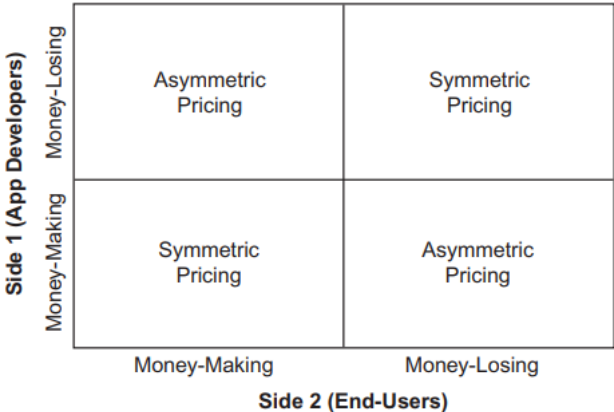


Figure 2: *Asymmetric versus symmetric pricing across two sides of a platform* (Tiwana, 2014)

Platforms rely on network effects, where the value of the platform increases as the number of users on both sides grows (Hagiu & Wright, 2015). Pricing strategies can affect the size and dynamics of these networks (Hagiu & Wright, 2015). By setting the right pricing structure, platforms can encourage user adoption and stimulate network effects, leading to increased platform dominance (Hagiu & Wright, 2015).

Pricing strategies influence the platform's ability to attract and retain users. Platforms often adopt pricing models that offer benefits or incentives to specific user groups, such as lower fees or better terms (Cutolo & Kenney, 2021). By adjusting to lower prices or better terms for the user, platforms can attract more users, encourage multi-homing (using multiple platforms simultaneously), and potentially reduce the competition from rival platforms (Hardaker, 2022).

Platforms need to balance the interests of users from both sides of the market. They must consider the price sensitivity, willingness to pay, and value perception of each user group (Hurni, Huber, & Dibbern, 2022). Pricing strategies that effectively balance the interests of both sides can help platforms establish a sustainable ecosystem where users find value and are willing to engage, which contributes to platform dominance (Montero, 2019).

Pricing strategies can impact the competitive dynamics within a two-sided market. Platforms with dominant market positions often have the power to set prices and terms that affect the entire ecosystem (Jacobides & Lianos, 2021). These dominant platforms often have a larger financial

freedom than newer and smaller platforms that want to enter the market. This means that the dominant platforms can alter their pricing strategy more often to prevent the newer platforms from threatening their dominant position, without a sudden loss being a big problem for the platform. Pricing decisions can affect the entry barriers for new competitors and shape the overall market structure (Rochet & Tirole, 2003).

Pricing strategies directly influence the revenue generation and profitability of platforms (Rysman, 2009). Platforms must find a balance between attracting users through competitive pricing and generating sufficient revenue to sustain operations and investments in platform development (Saarikko, Westergren, & Blomquist, 2016). Effective pricing strategies can help platforms achieve long-term profitability while maintaining their dominant position in the market (Wang, Chen, & Wu, 2019).

### 2.1.3. Architecture, governance, and strategy

The architecture, governance, and strategic choices made within platform ecosystems are crucial for their success (Tiwana, 2013). Tiwana (2013) argues that aligning architecture, governance, and strategy is essential to foster collaboration, coordination, and value creation within platform ecosystems.

Alves, Valenca, and Franch (2019) shows that power dynamics within software ecosystems have a significant influence on the decision-making process and the shape of the governance mechanism. To ensure a fair competition, effective governance mechanisms are crucial for a platform and its stakeholders. The study by Alves et al. (2019) shows that transparent and inclusive governance structures holds trust in the platform and fosters collaborations among its participants.

Platform architecture also plays a critical role in shaping the dynamics of competition and value creation (Beyeler et al., 2012). Platform architecture is the blueprint of how a platform is structured, showing the core of the platform and the complementary goods (Tiwana, 2013). The architecture shows the rules and guidelines for both the platform and their complementors to ensure for integration and functionality of the ecosystem (Tiwana, 2013). A well-designed architecture can drive the growth and sustainability of the platform ecosystem. Balancing market expansion and profitability is a challenge for platforms (Belleflamme et al., 2022). The strategic choices made by platforms to navigate this challenge can have significant implications for the long-term success of the ecosystem.

Power, trust, and governance are interrelated in platform ecosystems (Hurni & Huber, 2014; Hurni et al., 2022). Building trust among ecosystem participants and addressing power imbalances are crucial for fostering collaboration and value creation. Complex relationships among stakeholders, and the role of power dynamics in influencing governance structures and decision-making processes occur. Power imbalances and risks exist in the platform economy (Cutolo & Kenney, 2021). They emphasize that platform-dependent entrepreneurs often face power imbalances due to the dominant position of platform owners. Understanding these power dynamics is essential for entrepreneurs to formulate effective strategies and mitigate risks when operating within platform ecosystems. Digital platforms extend beyond infrastructure providers and have significant influence in shaping the retail industry (Hardaker, 2022).

## 2.2. Competition

The behaviour of all parties in a platform ecosystem, owners, users, developers, and complementors, is influenced by competition. Understanding this competition in two-sided markets is crucial for regulators trying to keep it a fair and transparent competition. The understanding of this competition

involves the assessment of platform dominance, platform behaviour, market concentration, and the potential network effects (Belleflamme et al., 2022; Hagiu & Hałaburda, 2014).

### 2.2.1. Power dynamics

In a platform ecosystem, there is a two-sided competition, in which platforms facilitate a transaction between two user groups of the platform. Understanding the challenges and opportunities of managing competition and balancing the needs of different user groups is critical for platform owners. Research by Hagiu (2014) shows valuable information on strategic decisions platform owners face.

Within platform ecosystems, power dynamics are used by platform owners exerting control over the governance, rules, openness, and resource access of the platform ecosystem (Alves et al., 2019). This control can result in power imbalances, where users, developers, and complementors have multiple ways of bargaining power and dependence on the platform (Cutolo & Kenney, 2021). Unfair practices, exclusionary behaviour, and rent extraction can arise as consequences of these imbalances. Understanding the relationship between power dynamics and competition is important to foster fair and inclusive environments (Hurni & Huber, 2014).

The competition within platform ecosystems is influenced by multiple different factors. These factors include multihoming, market shares, pricing strategies, and the balance between dominance in the market and profitability. The connection between competition and the power dynamics is important for the competitive landscape, where it has influence on all participants in the platform ecosystem. To understand the drivers of this competition and identify strategies to ensure a fair competition in these platform ecosystems, this relationship needs to be studied (Belleflamme et al., 2022; Hagiu & Hałaburda, 2014).

When there are power imbalances or a degree of platform dominance, this can impact the innovation in the market or even stifle competition and limit the entry of new players on the market (Jacobides & Lianos, 2021). Both these power imbalances and platform dominance can create barriers to the existing and new competition in the market, which will impact the sustainability of the platform in the long term. The connection between innovation, power dynamics, and competition shapes the platform ecosystem. It influences the level of innovation on the platform, it allows for new players to enter the market, and it influences the overall health of the platform ecosystem.

When there is a large concentration of power within two-sided markets, this can cause challenges. If platforms use this excessive power in the market, they could violate antitrust regulations, or other laws. This excessive power by platforms can be used in multiple ways, platforms could control pricing, resource access, and market entry. When the concentration of power in a market gets too extreme, this raises concerns about for example the anticompetitive behaviour that may follow, or the effects on consumer welfare. To ensure a fair competition in a market, encourage the will to innovate, and to safeguard interests of users, developers, and complementors, these issues need to be recognized and addressed (Rysman, 2009; Hagiu & Wright, 2015; Armstrong, 2006).

### 2.2.2. Network effects and platform competition

The role of network effects on a platform ecosystem are of great importance. The value of a platform increases when more users join a platform, this will then attract more participants to the platform, creating a cycle of network effects growing the platform. Clements (2004) studied the impact of both direct and indirect network effects on the competition in the market.

Direct network effects occur when the value of a product or service increases when the number of users grows (Clements, 2004; Hagiu & Wright, 2015). An example of these direct network effect is a

social media platform like Instagram. As more users join Instagram, the platform's value increases to other users. When friends and connections are on the platform, it becomes more valuable for others to join the platform as well and connect and share content with them. This cycle of a growing number of users attracting even more users shows the power of direct network effects. The value of a platform grows when the size and activity of its user base grows.

Besides direct network effects, indirect network effects can occur on a platform, which means that one side of the platform will benefit from the presence of the other side (Clements, 2004; Hagiu & Wright, 2015). The game console industry can be a perfect example of indirect network effects. A console manufacturer, like PlayStation, wants to attract both users (gamers), and complementors (game developers). Indirect network effects occur in both ways, when more users purchase the console, complementors find it attractive to develop games for the platform. On the other hand, when complementors develop a lot of games for the console, it is more attractive for users to purchase the console. Both ways create a cycle where more users lead to more complementors and more complementors lead to more users. This shows that one side of the platform will benefit from the presence of the other side, creating indirect network effects.

The effects of network effects are important to ensure strategic decision-making in platform competition. With a correct assessment of these network effects, platforms can manage to outperform their competitors on the market to gain a dominant position (Hagiu & Wright, 2015). When a platform is in a dominant position already, like the Amazon example with them being responsible for 46% of all e-commerce sales in the US (Lamoreaux, 2019), a platform can make the choice to operate at a loss for a little while to take away possible network effects of smaller competitors who cannot operate at such a loss. This will improve the position of the dominant platform even more, since the smaller competitors are less attractive for both users and complementors. This shows that network effects shape competitive dynamics and market dominance in platform ecosystems. A deep understanding of how network effects work is needed for platforms so they can design strategies to create leverage on competition in platform ecosystem (Clements, 2004).

### 2.3. Platform power

This chapter will provide a definition of the concept of power, and how this can be measured. Also, the main factors contributing to platform power will be shown, as well as when platforms get too powerful in the market. Lastly, the long-term effects of unchecked platform power will be identified.

#### 2.3.1. Definition of power

Power is a concept defined in various ways by different thinkers. Understanding these perspectives is essential for analysing when platforms possess excessive power.

An early definition of power comes from Fredrick Nietzsche's "The will to power" (1887). Nietzsche defines power as the fundamental driving force of human behaviour and life. This urge for power is not just a desire for physical dominance but also comes from an intrinsic motivation to assert and enhance strength, creativity and influence. One's power represents the nature of one's existence, where individuals and entities aim to overcome obstacles and thereby assert their will (Nietzsche, 1887).

Robert Dahl (1957) conceptualizes Nietzsche's description of power more to where he states, "power is something where A has power over B to the extent that he can get B to do something that B would not otherwise do". With this definition, Dahl states that power is the ability for one to influence the actions and decisions of someone else.

Michel Foucault (1980) presents an even more extensive view of power. Foucault defines power as pervasive and relational, and states it is embedded within society. He states that power is not only possessed but also exercised through networks of relationships and institutions. Power operates by shaping knowledge and norms, which leads to influencing behaviour and thought without pressure. Foucault's notion of power extends beyond political authority to include everyday social interactions and the production of truth.

A study by Lukes (2005) mentions power as a three dimensional framework, where power can be in three different forms. He mentions power as:

- Decision-making power, which is the ability to influence decisions directly.
- Non-decision-making power, which is the capacity to set the agenda, making sure to prevent certain issues are not being addressed.
- Ideological power, which is the ability to shape certain desires, beliefs, and perceptions, to control how individuals think and in what they are interested.

Bell (2008) refers to power as the ability of an individual, group or entity to exert either influence, control, or dominance over others. This power can be in different forms, such as economic, political, or social power. When looking at competition law, the focus of Bell (2008) is on economic power, relating to the ability of a firm to influence market outcomes.

Dowding (2012) also shows multiple dimensions of power, which show the importance of understanding the differences and distinction for both theoretical and practical perspectives.

Dowding mentions power can be:

- Power as capacity, which is the ability of an individual or group to achieve their wanted outcomes.
- Power as influence, which is the capability to affect behaviour of others, often done through either persuasion or coercion.
- Relational power, which is power as an aspect of relationships, where one party can shape both actions and beliefs of the other party.

Mândrescu (2018) states power in the platform economy should be measured in terms of market dominance. This market dominance then refers to a situation where a platform holds significant control and influence of the conditions in the market, which allows the platform to act independently of the competition. This perspective is in line with the traditional understanding of power, emphasizing the ability to control the prices, exclude competition, and influence the market dynamics. In the platform economy, market dominance is defined by the ability of a platform to shape rules and dynamics of the ecosystem.

Bostoen and Mândrescu (2020) show an alternative view on power in the platform economy. They mention the ability of the operators of a platform to control the terms and conditions that come with the access to their platforms. They believe, power is derived from the capacity of the platform operator to leverage control and gain advantages over their competitors. This highlights the position of platform operators as gatekeepers who influence the competition by setting rules and determining which other market participants have access to the platform.

Starting with the early description by Nietzsche, the definition of power has gotten more extensive, where the core of the definition is still what Nietzsche described. Power is all about the ability to make others in society do something they would not do otherwise, which can show in multiple forms.

### 2.3.2. Measurement of power

To measure the concept of power, multiple quantitative and qualitative methods have been developed. This section aims to explore the more common approaches to measure power. Every method will be explained by theory, supported with a fictional example using the social media platform Facebook as example company.

The first method to measure power is the market share analysis. This is a widely used method to measure power in competition law, examining the proportion of sales or output a firm controls in each market (Crocioni, 2008). It reflects the level of dominance a firm has in a market, a higher market share shows a greater level of market power, since the firm then has a larger customer base and the ability to influence the market conditions (Crocioni, 2008). Market share analysis is often used while also assessing the market concentration and the presence of possible barriers for others to enter the market (Crocioni, 2008).

Using this method to analyse the company Facebook would involve the number of users or advertising revenue that Facebook controls in the social media market. When Facebook has a market share of 70%, in terms of active users, it indicates that there is a significant level of dominance and market power in the social media industry.

Another method to measure the concentration of market power is the Herfindahl-Hirschman Index (HHI) (Markovits, 2013). The HHI is calculated using the sum of squares of the market shares of all firms in a market. A higher HHI value indicates a high level of concentration in the market, and therefore there is a larger potential for market power (Markovits, 2013). Authorities use the HHI to evaluate a market and identify any potential anticompetitive effects (Markovits, 2013). The U.S. Department of Justice (DoJ) provides a guideline to understand the HHI. The DoJ states that a market with an HHI less than 1500 is competitive, when the HHI is between 1500 and 2500, there is a mild concentrated marketplace, and when the HHI is 2500 or higher, there is a highly concentrated marketplace (Bromberg, 2023).

Using Facebook as example, the HHI is calculated by summing the squares of the market share of all firms in the social media market. Suppose Facebook has a market share of 60%, and four other competitors in the market holding the remaining 40% market share equally. The HHI, calculated based on these proportions, would look the following:  $HHI = 60^2 + 10^2 + 10^2 + 10^2 + 10^2 = 4000$ . When the HHI is this high, it suggests there is a high concentration of market power for Facebook in the social media market.

The next method is the price-cost margin analysis. This method compares the price and marginal cost of production of a firm (Park, 2012). The margin shows the difference between what a firm is charging for a product or service and what it costs a firm to produce them. A higher margin suggests that there is a market power present, since a firm can charge way above their cost price without any significant competitive pressure (Park, 2012). The analysis shows an insight in the ability of a firm to profit from a market (Park, 2012).

When applying this method to Facebook, it would involve comparing their pricing strategies with the cost of providing services on their platform. When Facebook is charging prices higher than their cost for these services, it can indicate there is a market power for Facebook, since they are able to price their service above cost price, without competitive pressure.

Lastly there is the conduct-based analysis, which focuses on the examination of the behaviour and strategies firms use to profit from market power (Abdollah Dehdashti, 2018). The analysis analyses action like predatory pricing, exclusive dealing, or tying arrangements that could harm competition



(Abdollah Dehdashti, 2018). The analysis provides evidence of power in the market by investigating the conduct of a firm.

For Facebook, this analysis would involve the examination of their behaviour and strategies, which could indicate the use of market power. When Facebook is engaging in practices like predatory pricing (setting extremely low prices) to drive out competition from the market, or when they are arranging exclusive dealing agreements restricting other options for advertisers, it would suggest Facebook is using their market power through anticompetitive conduct.

### 2.3.3. What are the main factors to contribute to a platform's power and influence in the market?

After understanding the definition of power, it is important to investigate which factors contribute to the dominant positions of digital platforms. Based on the same academic knowledge used to define power, the most important causes for platform dominance are reviewed.

Even though digital platforms did not yet exist, Nietzsche (1887) shows two key factors why dominancy was being chased after. First, the will to power comes from an intrinsic motivation. This was a drive from a person or group to dominate and overcome obstacles, in the pursuit of market control. Second, the will to power comes from creative destruction. By creative destruction, Nietzsche was aiming at the constant reshaping of the market, by introducing new products, services, and business models that disrupt existing structures.

According to Dahl (1957), dominance is driven by several key factors. Entities can achieve dominance through control over significant resources, either financial, technological or human, which allows them to influence decision-making directly and indirectly. Strategic alliances and extensive networks with strong partners/entities, or even political alliances, enhance their influence, while control over information and knowledge allows them to shape perceptions and decisions. Additionally, a combination of persuasion and coercion, along with continuous innovation, ensures that dominant entities maintain their influence over time.

On the contrary to Nietzsche and Dahl, Foucault (1980) was able to conduct a study on platforms and mentions several factors that contribute to the dominance of platforms. They become dominant by embedding themselves in networks of relationships, by controlling the production and dissemination of knowledge, and by setting norms and standards. They integrate deep into institutional structures and influence user behaviour through subtle forms of control, such as algorithms and interface design. Also, their ability to acquire and use large amounts of data enhances their power and maintains their dominant positions.

Lukes (2005) outlines three dimensions that contribute to gaining and keeping a dominant market position for digital platforms. Firstly, platforms use decision-making power by directly influencing key decisions that shape markets and user experiences. Their control over these critical points allows them to steer outcomes to their advantage. Secondly, they use non-decision-making power by setting agendas and determining which issues are prioritized and which are ignored. This ability to shape the conversation and exclude certain topics ensures that platforms control and maintain their dominant position. Moreover, platforms have ideological power, which involves shaping the beliefs and perceptions of their users. By controlling the information flow and cultural narratives, they influence how individuals think and what they consider to be their interests. This ideological influence further consolidates their power by aligning user preferences with the platform's goals. Finally, platforms have structural power. Platforms embed themselves within the societal and economic structures,

becoming part of the functioning of various systems. This allows them to leverage power, making their dominance seem natural and inevitable.

Lastly, Dowding (2012) explains that platforms achieve dominant positions through a combination of their capacity to achieve desired outcomes, their ability to influence the behaviour of others, and their embeddedness in social relationships. This dominance is sustained by their control over resources, strategic use of influence, and the relational nature of power where they shape actions and beliefs within a network of interactions.

#### 2.3.4. When is a platform too powerful?

Since the definition of power, and the main factors contributing to platform power have been explored, this knowledge can be used to identify when a platform has gained too much power in the market.

In “the will to power”, Friedrich Nietzsche (1887) suggests that power becomes excessive when it leads to stagnation or even tyranny. Excessive power shows itself as an oppressive force which stifles creativity and growth. When a person or entity (for example a current day digital platform) holds too much power, they can impose their own ideal and carry it against the ideals of others. This leads to a situation where it suppresses the ability of others to assert their own will and leads to a decline in the overall dynamic of the system or even society.

According to Dahl (1957), an entity or individual has too much power when this influence becomes disproportionate, leading to an imbalance that can undermine democratic processes and equality. Excessive power is present when one can consistently impose their own will on others, limiting the decision-making capacity of those influenced. This can result in a lack of accountability and a potential for abuse, where the dominant party can operate with mercy, often with a disadvantage to the public interest and fair competition.

A slightly broader framework for when platforms can be seen as too powerful is provided by Foucault (1980). Foucault states that power is exercised through the normalization of behaviours and the establishment of disagreements. With this statement, Foucault (1980) reasons a platform becomes too powerful when it not only controls market transactions but also shapes the norms and expectations of the industry. This involves setting standards for what is considered acceptable, influencing regulatory practices, and controlling the flow of information. When a platform can dictate these terms, it creates an environment where alternative voices and competitors are becoming less heard, abusing their dominance and strengthening their control over the market (Foucault, 1980).

A more abstract description is provided by Lukes (2005), who mentions power becomes excessive when it distorts or suppresses the interests and preferences of others, leading to a scenario where individuals are unable to act upon their own interests. This form of domination is where platforms use their ideological power to manipulate the consciousness of others very subtly.

Dowding (2012) argues a platform becomes too powerful when it can influence market dynamics and user behaviour to its advantage, reducing competition and consumer choice. This type of excessive power could lead to a monopolistic position in the market where the platform can dictate the prices and terms but also influence the degree of innovation without them losing their dominant position (Dowding, 2012). These types of power imbalances have a negative influence on fair competition and could potentially harm consumers and smaller businesses that rely on the platform.

### 2.3.5. What are the potential long-term effects of unchecked platform power?

The engineering of online platforms has come under fire for increasing societal issues, including polarization, radicalization of users, and the spread of fake/false information and extremist content. Many large technology companies have issues in safeguarding their platforms from abuse, thereby designing a service which makes it easier for users to create political tensions and new political vulnerabilities. There is a growing international fear that the design of today's dominant online platforms poses a permanent threat to democracy. This is the reason rules like the DMA are developed, but if these rules were not in place, platforms could pose a threat to society in multiple ways (Hendrickson & Galston, 2019).

A first concern of unchecked digital platforms is digital advertising, which revolutionizes how companies reach potential customers, but it also provides a powerful tool for political campaigns, political action committees, and private citizens to target voters. This raises concerns about the integrity of the political process as platforms can be used to manipulate the behaviour of voters on a massive scale (Hendrickson & Galston, 2019).

Digital advertising enables more than just companies being able to sell all sorts of things, from designer clothing to groceries, digital platforms provide a tool for political use as well. A political example of these advertising concerns was from a presidential campaign where a pro-Kremlin internet research agency bought approximately 3000 Facebook advertisements between June 2015 and May 2017 with the sole intention to cause division in the United States (Shane & Goel, 2017). Where political advertisements on tv and radio aim at their preferred voter, but visible for everyone to see, there where advertisements through digital platforms aimed at personal preferences of the users of the platform. These algorithms on, for example, Facebook are so strong advertisers were able to target users interested in "How to burn Jews" (Tobin, 2020). This problem is caused by the constant data collection from digital platforms, which leads to the next concern of these platforms, privacy.

Digital platforms that rely on targeted advertising are in the business of collecting large amounts of personal information from their users. Investigations by The Wall Street Journal and The New York Times reveal that smartphone apps holding sensitive data share this data with companies like Facebook, and companies like Facebook share their users' personal data, including private messages and sensitive information from smartphone apps, with third parties (Schechner & Secada, 2019). Users of digital platforms hand over this personal data themselves to access the platforms for "free", the problem is that users often have little understanding or control over the data collected about themselves, which makes them vulnerable without them knowing or the ability to do something about it (Hendrickson & Galston, 2019).

While digital platforms, especially the social media platforms, enable new forms of social connection, they also create platforms where violent and extremist content, fake news, and fake/false information can spread rapidly. Two examples of this are linked to Facebook's lacking filters. In March of 2019 a man opened fire at two mosques in New Zealand's Christchurch, due to a failure in the automatic detection system of Facebook, the man was able to livestream the entire attack on Facebook. After nearly 30 minutes Facebook removed the stream (Flynn, 2019). Two years before, in 2017, the social filters of the platform failed as well, when neo-Nazis were able to use Facebook to organize the Unite the Right rally in Charlottesville, Virginia. This rally drew a couple hundred white nationalists to the town, where during the rally a counter-protester was murdered on a brutal way (Heim, 2017 & Room; Dwoskin, 2019). In both these cases the murder of people can be linked to failures in the detection systems of Facebook, and these incidents show the platforms' role in facilitating harmful activities and spreading dangerous ideologies. Digital platforms always argued

they were not responsible for any of the content being published on their platform and relied on a system where users would flag inappropriate content for it to be deleted. After criticism on this system and pressure to change it however platforms start to acknowledge they do own responsibility for the content on their platform (Hendrickson & Galston, 2019). If these platforms were to do business without any regulation or control, these systems would not have changed, and more hate content and fake/false information would be spread online.

The dominance of online platforms has impacted the economic viability of media organizations. Google is in control of search advertising and gained significant power in the sale of both display and contextual advertisements (Salop, 2021), which makes it a large share of digital advertising revenue accounted for by digital platforms, making it difficult for print and online media to sustain themselves financially. This dominance not only threatens the diversity of information available to the public but also undermines the financial stability of news organizations.

The power imbalance between large online platforms and other businesses extends beyond media organizations to include third-party vendors on platforms like Amazon Marketplace and app developers in the App Store. The digital economy is characterized by highly concentrated markets where network effects make platforms more valuable as their user base grows, creating high switching costs and barriers to entry for potential competitors. This market structure favours dominance by a few large platforms, stifling competition and innovation (Hendrickson & Galston, 2019; Salop, 2021).

## 2.4. Regulation

Platform ecosystems present unique challenges for regulatory frameworks due to their distinct characteristics and dynamics. The issues surrounding market power, antitrust concerns, data privacy, and fair competition require careful consideration by regulators. Important are scholars and policymakers exploring the regulatory implications of platform ecosystems and the approaches to address these challenges and foster a fair and sustainable digital economy.

### 2.4.1. Current regulation

Laws and regulations regarding platforms are different throughout the world. In this chapter, the laws and regulations in the European Union (EU) and The Netherlands regarding platforms will be provided.

The EU works with the same competition laws that apply in all the EU countries. These competition rules are drawn up to protect the free competition in the EU. To function, these laws prohibit certain practices with different types of punishment. When infringing the competition laws of the EU, a company can be fined up to 10% of the annual worldwide turnover, where in some EU countries individual managers of firms can even face penalties leading to prison sentences (European Union, 2022).

When companies start making agreements that are a threat to the freedom of competition in the EU, these agreements are known as cartels. These cartels can come in many different types of agreements like price fixing, market sharing, agreement on customer allocation, agreement on production limitation, or distribution agreements (European Union, 2022). These agreements run on the exchange of information between two rival companies, which can be seen as anti-competitive behaviour. To avoid any infringement of the regulations, companies should not fix things like prices or trading conditions, not limit production, not share markets, and not exchange private company information (European Union, 2022).

Companies can also get in a position where they are dominant in a market. When a company is being accused of dominance, the European Commission (EC) will start a procedure along Article 101 or Article 102 respectively preventing anti-competitive behaviour and abusive behaviour of the Treaty on the Functioning of the European Union (TFEU) (European Commission, n.d.). Before the assessment of the dominance of the company, the Commission will define the product market and geographic market. When assessing the dominance of a company the market shares are extremely useful, and according to the ECs view, the higher the market share, and the longer this market share has been held, the more likely a company is to be dominant (European Commission, n.d.). Overall when a company has a market share of 40% or less, the possibility of it being dominant is very unlikely (European Commission, n.d.). Besides this first indicator, the EC uses other factors to assess dominance, like the ease to enter a market, the existence of buyer power, size and strength of a company, and resources of a company (European Commission, n.d.).

The EU also wants dominant companies to take their own responsibility and watch their position in the market. This means that companies in a dominant position must not charge unreasonably high prices to exploit the customer, not charge unreasonably low prices to beat the competition out of the market, not discriminate between customers, and not force trading conditions on business partners (European Union, 2022).

#### *2.4.1.1. Digital Market Act*

Regulators are actively exploring approaches to mitigate market power and prevent antitrust violations in platform ecosystems. This includes monitoring market concentration, assessing the impact of platform behaviour on competition, and implementing measures to promote competition and prevent abusive practices. The development of effective regulatory interventions requires a deep understanding of platform dynamics and their implications for market competition (Kira et al., 2021; Montero, 2019). Cutolo and Kenney (2021) highlight the need for regulations that address power asymmetries between platforms and their users, safeguarding the interests of smaller businesses and entrepreneurs.

In addition to the older existing competition rules, the EU has introduced the Digital Markets Act (DMA) to ensure for fairness in the digital markets sector by defining criteria to identify gatekeepers in the market (European Union, n.d.). Gatekeepers can be defined as digital platforms providing core platform services like online search engines, app stores, and messenger services (European Union, n.d.). The DMA lists obligations and prohibitions for these gatekeepers, listed in “do’s” and “don’ts” for these gatekeepers. Examples of “do’s” provided by the EU are (European Union, n.d.):

- Permit third parties to interact with the gatekeeper's services under any circumstances.
- Grant access to the data generated by their business users while utilizing the gatekeeper's platform.
- Equip companies advertising on their platform with the essential tools and information for independent verification of the advertisements hosted by the gatekeeper.
- Enable their business users to advertise their offerings and finalize contracts with their customers independently of the gatekeeper's platform.

The EU also provided examples of “don’ts” for gatekeepers, like (European Union, n.d.):

- Show preferential treatment to the gatekeeper's own services and products in rankings, giving them priority over similar offerings from third parties on the gatekeeper's platform.
- Prohibit consumers from connecting with businesses external to their platforms.
- Restrict users from uninstalling any pre-installed software or apps, even if they desire this.
- Monitor end users beyond the gatekeepers' core platform service for targeted advertising without obtaining effective consent.

To maintain the rules stated in the DMA, the EC will conduct market investigations for the gatekeepers. With these market investigations, the EC can qualify companies as being a gatekeeper, update the obligations for these gatekeepers when necessary, and design solutions to cope with systematic infringements of the DMA (European Union, n.d.). When gatekeepers are found guilty of breaching the DMA, there are multiple possible consequences the EC can use (European Union, n.d.);

1. Fines: A possible fine for a gatekeeper can be up to 10% of the company's total worldwide annual turnover, or up to 20% when a gatekeeper is guilty of repeated DMA infringements.
2. Periodic penalty payments: These penalty payments are up to 5% of the average daily turnover.
3. Remedies: Will be taken in case of systematic DMA infringements by gatekeepers, additional remedies may be imposed as well, after a market investigation.

Additionally, individual countries such as the Netherlands have implemented or are working on specific regulations and guidelines to address platform power and promote fair competition in their own districts.

The Netherlands has launched the Digital Regulation Cooperation Platform (Samenwerkingsplatform Digitale Toezichthouders (SDT)) in 2021 which is a platform with a couple independent regulators which keeps control over the digital services (ACM, n.d.). The SDT was launched by the Authority for Consumers and Markets (Autoriteit Consument & Markt (ACM)), Authority for the Financial Markets (Autoriteit Financiële Markten (AFM)), Data Protection Authority (Autoriteit Persoonsgegevens (AP)) and the Media Authority (Commissariaat voor de Media (CvdM)) (ACM, n.d.). These four regulators all have their own domain to look over, which are all connected to different online services. These regulators want to be able to collectively respond to innovations like artificial intelligence (AI), algorithms and data processing, online design, personalisation, manipulation, and deception, to make sure each watch domain connects to one another (ACM, n.d.).

The SDT want to understand the chances and the risks of the changing digital environment and puts it high on her agenda. Next to investigating these new chances and risks, the SDT wants to be able to tackle these new challenges (ACM, n.d.). To do so, the four regulators in the SDT keeps their eye on the public interests and collectively investment in knowledge and expertise to share with one another. Lastly, they want to enforce the (European) laws and regulations efficiently and effectively in a collective way (ACM, n.d.).

The SDT conducts investigations to pinpoint areas of concern and collaboratively address them. One of the initial focuses is analysing how businesses and governments communicate with internet users about their online data, aiming to enhance user protection against deception or misuse of personal information using clear language accessible to everyone (ACM, n.d.).

Additionally, the SDT will evaluate recent Dutch and European regulations related to the management of major technology firms, the data economy, and the platform economy (ACM, n.d.). Each SDT member will oversee specific aspects of these regulations based on their expertise. ACM, AFM, AP, and CvdM will also identify any potential areas of overlap and anticipate potential issues (ACM, n.d.).

#### 2.4.2. What are new possible measures to contain platform power?

With the DMA and the DSA, new regulations regarding platform dominance are in place. However, multiple sources provide insights into potential improvements for these current regulations. This chapter will explore these proposed improvements in detail.

Multiple sources produced different improvements for the new DMA and DSA regulations on platform dominance. Since there are no regulations regarding the spreading of disinformation in the

DMA or DSA this is a highly suggested improvement to also take on in the DSA (Shattock, 2021). Disinformation should be managed by the EC since it can form a threat and unintentionally harm public debate or even democracy (Kuczerawy, 2019), since people can be influenced by information online very easily, and therefore they can be led by this false information online. When individuals start believing disinformation and act on it, they might make wrong political choices during elections or use it as basis for discussions with other individuals. When it is not possible to adjust the DSA for this specific point, there should be different regulatory instruments to work on the impact of disinformation on society and the policymakers should use the insights gained from past experiences (Shattock, 2021; Kuczerawy, 2019). An example of another measure to fight this disinformation is promoting information literacy among users online, which will help individuals, users and journalists, to verify information. With a tool like this, users will be educated how to assess the information they encounter online and make them able to make informed decisions and reduce the spread of disinformation (Helm & Nasu, 2021). To achieve this, the EC should understand and communicate the scope and impact of disinformation in the EU with policymakers and inhabitants of the EU (Shattock, 2021). To achieve this, the EC should have policymakers who understand the digital language as well, so that requirements can be made for the algorithms to be implemented to detect this misinformation (Bayer et al., 2019).

This leads instantly to the second improvement, namely that platforms should take reasonable measures to provide access to data for fact-checking and research purposes (Colliver, 2019). Platforms should provide these measures, so that researchers and academics can study the platforms better. These measures need to be in line with the General Data Protection Regulation (GDPR), so that platforms cannot use the privacy regulations to avoid their compliance with requests from these researchers (Shattock, 2021). This transparency in platform data streams should not only be for research purposes, but also for platforms to build trust and accountability with policymakers and users of the platform (Helm & Nasu, 2021). When policymakers also have access to these data streams, they can prevent these platforms from crossing lines and breaking rules on the forehand, instead of only being able to punish the platforms after investigations after finding out they crossed the line later.

Platforms have a large influence today, which is why they carry a large responsibility with them when it comes to things like disinformation, but also when it comes to the spread of illegal and hateful content on their platform. Also because of this, platforms should provide transparency in their platform to policymakers to find a way to regulate this spread of illegal and hateful or offensive content. This needs to be for decisions made by humans or automation (Colliver, 2019). Colliver (2019) suggests for a switch from content specific regulations to a more unified approach. To get this done, platforms should be held responsible for what content is visible on their platform, leading to platforms having to improve their algorithms and protective detection systems. This should help detect illegal content like deep fakes and hateful or offensive content like antisemitism or the 9/11 accident (Bayer et al., 2019), but also will this improvement make sure platforms can handle bots better (Colliver, 2019). Besides making sure platforms do everything in their power to improve their systems to detect online harm, individuals should also be empowered to their digital experience and their own online responsibility (Colliver, 2019). To achieve these goals and hold platforms accountable for data protection and the avoidance of illegal, offensive and hateful content on their platform, there should be sanctions when they fail to comply with these regulations (Shattock, 2021; Bayer et al., 2019). To keep the regulations effective, there should be continues research and reworks of these regulations to ensure they remain relevant and effective, since platforms can evolve very quickly, so must these regulations (Helm & Nasu, 2021).

## 2.5. Theoretical framework

Based on this chapter, a theoretical framework can be drawn. The theoretical framework shows the key characteristics of platform ecosystems:

- A platform is a two-sided market with on one side the platform itself, with their owners and developers, and on the other side the users and complementors.
- The users of the platform are the ones who set the power dynamics which the platform handles.
- Users and complementors of the platform are responsible for the network effects, which can strengthen the position of the platform.
- Both the platform itself and the network effects are of influence on the competition in the market.
- Developers and complementors are responsible for the innovation of the platform.
- Regulation is necessary to prevent platforms from abusing any possible powerful position in the market.

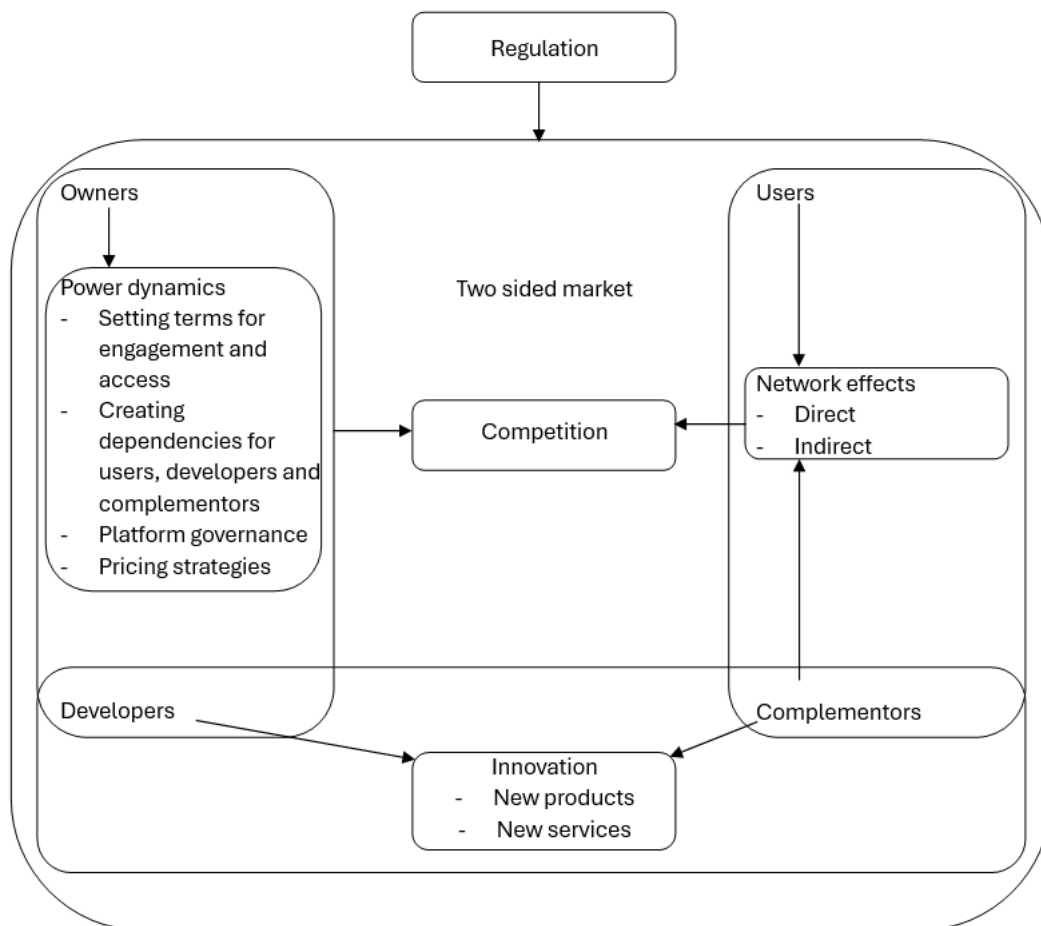


Figure 3: Platform ecosystem



### 3. Method

The study conducted consists of both a case study as well as a series of follow-up expert interviews, making it a study with multiple data collection methods, this will increase credibility and validity of the research (Baxter & Jack, 2008). The importance of both shall be explained in this chapter.

#### 3.1. Case study

According to Brown (2008), a case study provides rich insights, by exploring complex phenomena from the real-world setting. In this study, these real-world settings were investigated for the understanding of platform power abuse. Recent cases on platform power abuse were investigated to gather information on too powerful platforms and the consequences. Gerring (2004) formulates the following definition for a case study: “an intensive study of a single unit with an aim to generalise” (page 341). This definition by Gerring shows that by studying and understanding different existing cases using a multiple case study, similar phenomena can be understood.

##### 3.1.1. Sample

Cases of platform power abuse were explored to understand these phenomena better. A total of six cases were selected, using a combination of theoretical and convenience sampling. Theoretical sampling involves the selecting of cases based on their relevance to the theory being studied (Charmaz, 2021), where convenience sampling involves the selection of cases which are easiest to access or are readily available (Edgar & Manz, 2017). The sample was based on the characteristic of the division made by Cusumano et al. (2020), who showed platforms can be placed in three categories, making them either an innovation, transaction or hybrid platform. From each of the three categories mentioned, two cases were selected. Also, the division from De Reuer et al. (2018), was considered, which means, cases were selected from different categories, such as gaming, shopping, and social platforms. The usage of the divisions by both Cusumano et al. (2020) and De Reuer et al. (2018), allowed for the case study to include all types of platforms using only a small sample.

These cases were selected for a couple of reasons, namely the cases selected for the study are all very recent cases from large online platforms, even though the Google case dates from 2017, this is still one of the larger recent cases against Google in Europe. The platforms selected are all large online platforms in different categories, Amazon, Apple App Store, Google Shopping and Instagram (Meta), are even categorized as VLOP (Very Large Online Platform) or VLOSE (Very Large Online Search Engine) platform by the European Union (European Commission, 2024b). PlayStation and Nintendo are not labelled as VLOP by the EU, but no gaming platforms are categorized like this. When looking at abuse, the cases have been selected based on a recent abusive practice by each of these platforms. The sample for this study is shown in the table below.

	Transaction	Hybrid	Innovation
Digital distribution platform	Apple. With a case taken on by Spotify regarding the mandatory use of the in-app-purchase system of the Apple App Store		
Social media platform	Instagram. With a case from the European Commission regarding the use of addictive algorithms and the impact on the health of young users of the platform.		

Product search and comparison platform		Google. With a case from the EC regarding the misuse of their own search engine to promote their own shopping service, Google Shopping.	
E-commerce platform		Amazon. With a case from the EC regarding the misuse of non-public seller data to outperform other sellers on the platform.	
Gaming services platform			PlayStation. With a case for increasing their prices for their most popular PlayStation Plus plan with essential functionalities for the users of PlayStation.
Gaming platform			Nintendo. With a case by European market authorities after a failed case in the USA, regarding the selling of defect hardware with knowledge of these defects.

Table 1: Case sample

### 3.1.2. Data collection

The information gathered for these cases is from posts from the European Commission, as well as news articles providing information about the specific case. According to Bardach (2012) and Yin (2018), it is important to collect as much information as possible from all types of sources. Bardach (2012) mentions that news articles should be considered for research, but when there is access to governmental information, this should also be used in the study. This information provided in depth information in the background of the platform itself and on the abusive practises they had undergone, as well as the sanctions given to them after. Information included in the study had to be about a specific case against a platform abusing their dominant market position providing information about the case.

### 3.1.3. Data analysis

The main objective with the case study was to identify patterns in platform power abuse across the different cases studied. These patterns showed similarities and differences between the individual cases, provided in a within-case and cross-case analysis. The within-case analysis was used to provide a detailed description of the individual cases showing important themes, concepts and factors per case (Yin, 1981). This analysis was important to highlight key elements that are case specific, these elements include the power of the platform, how the platform operates, and how they use or abuse their power.

The data gathered in the within-case analysis was used as the basis for the cross-case analysis, where the key elements of the individual cases were used to look for patterns between the cases. Both similarities and differences between the cases were identified, to use as a foundation for the cross-case analysis. The overlap between the different cases was used to uncover different patterns of behaviour or 'conditions' under which platforms can be seen as extremely powerful (Yin,1981).

Both the within-case and cross-case analysis were conducted using a data-driven approach. The data gathered from the individual cases served as foundation for the identification of patterns across the cases and was therefore the basis to draw conclusions. Also, the theoretical framework from *Figure 3: Platform ecosystem*, which provides key concepts and players on platform ecosystems, was used in the analysis. By also using this framework, the study was based on both empirical and theoretical knowledge.

Both validity and reliability were of importance for this case study, where validity can be split in both internal and external validity. To ensure internal validity in a case study, it is important to be able to make a causal argument to support the results (Quintão et al., 2020). To ensure external validity, the study needs a good selection of cases, presentation of each case, and identification of patterns in the cases that allow for generalization of results (Quintão et al., 2020). Reliability in the case study was obtained by involving enough individual cases in the study, which ensured all the possible information was being gathered without the need for an additional case (Quintão et al., 2020).

### 3.2. Expert interviews

Interviews have been used, since they allow for the interviewer to uncover information the interviewee deems important or relevant, which could result in more important information the interviewer has not thought about in the first place (Young et al., 2018).

#### 3.2.1. Sample

To protect privacy of the interviewees no individual or company name is mentioned throughout the entire study. The experts selected for this research are a Dutch market authority, a Dutch politician, Dutch lawyers, Dutch consultants and (international) experts on multisided platforms. These experts were selected since their daily tasks are connected to laws and regulations concerning platforms, or platforms in general, therefore these experts could contribute a lot to this specific research. After these eight interviews conducted, there was a saturation reached in which a new interview would not add more to the study, since the other interviews reached similar answers to the questions asked. The respondents for this study were:

Nr.	Job	Reason	Time
1	Expert on digital platforms	This interview was to gather information on how platforms can position themselves in such a dominant position, but also why platforms take the risks of doing so, since they should know what the consequences are when they are being put to a halt.	40 minutes
2	Lawyer on digital platforms, representing some himself	Interview with a lawyer, familiar with cases involving platform power, to provide information for research on the extent to which existing laws are effective or prove to be counter effective.	30 minutes
3	Digital platforms department of the ACM	Investigate the degree to which the ACM has power against platforms. Also, this interview aimed to uncover strengths and weaknesses in the regulations in the Netherlands.	55 minutes
4	Consultant on digital platforms	This interview was to gather information on how platforms can position themselves in such a dominant position, but also why platforms take the risks of doing so, since they should know what the consequences are when they are being put to a halt.	35 minutes

5	Expert on digital platforms	This interview was to gather information on how platforms can position themselves in such a dominant position, but also why platforms take the risks of doing so, since they should know what the consequences are when they are being put to a halt.	25 minutes
6	Dutch politician	The interview contributed by providing a political opinion on platform power regulations. The goal was to gather information on what is being done already, and what the political wishes are regarding these platforms. This information could provide new insights to policy makers.	30 minutes
7	Consultant on digital platforms	This interview was to gather information on how platforms can position themselves in such a dominant position, but also why platforms take the risks of doing so, since they should know what the consequences are when they are being put to a halt.	50 minutes
8	Expert on digital platforms	This interview was to gather information on how platforms can position themselves in such a dominant position, but also why platforms take the risks of doing so, since they should know what the consequences are when they are being put to a halt.	35 minutes

Table 2: Interview sample

### 3.2.2. Data collection

The interviews in this study were set up as semi-structured interviews. Adeoye-Olatunde et al. (2021) mention “it permits interviews to be focused while still giving the investigator the autonomy to explore relevant ideas that may come up in the course of the interview” (page 1360). Therefore, this structure holds a standard structure for each interview but also allows for the possibility to add questions during the interview itself. The interviews were organized in an online setting where the cameras were enabled during the interview to support a face-to-face setting as best as possible, while cutting on traveling times, since Holbrook et al. (2003) found “respondents were more suspicious about the interview process and more likely to present themselves in socially desirable ways than face-to-face respondents”, this shows face-to-face interaction with respondents builds up trust with the interviewee which allows them to give more honest and complete answers.

During the interviews, the focus was to uncover information connected to the sub questions of the study, to answer the main question. The interviews had been split in three different main subjects namely, the definition of power/when is there too much power, the dangers of no control on platform power, and possible new ways to prevent power abuse by platforms. Following the semi structured set up, the interviews all had the same base questions, as shown in *Appendix IV. Interview protocol*. In the first subject of the interview, the information asked was how the respondents would define the concept of power. Also, there were questions to identify how the respondents thought platforms would find themselves in such a dominant position, as well as when platforms could be seen as too dominant. In the second subject of the interview, the information needed was how the respondent thought governments and other organisations responsible should handle the dominant positions of platforms to make sure they cannot abuse this position. Also, in this part respondents were asked what would happen to society when these platforms would not be controlled by rules and regulations for a longer period. In the last section of the interview the focus went to the effectiveness of the new regulations and which aspects of these regulations were strong aspects according to the respondents. Lastly, the information needed here was about how the respondents

wanted to see the regulation of platforms, letting them explain what changes or additions they want to see in the current regulations.

A new interview can cause answers contradicting to answers given in previous interviews. For example, a respondent could tell the regulations are perfect, whereas another respondent could tell the regulations do not work and should be changed completely. These contradictions are completely human, since every individual has their own opinions. Contradictions in this study are handled like a study by Sølvsberg and Jarness (2019), who explain contradictions in research may reflect existing contradictions people have in everyday life. If the questions are answered in a generalizable way, contradictions shall not be of damage to the report.

### 3.2.3. Data analysis

When using interviews in a study, the validity and reliability are satisfied when there is either theoretical saturation, which means that new interviews do not uncover new information for the study, or when there is given a clear answer to the research question in multiple different interviews (Benders, 2022). When this criterion has been checked off, both validity as well as reliability of the interviews are completed. To get to this degree of validity and reliability, the interviews for this thesis were audio recorded, and afterwards the interviews were transcribed using the intelligent verbatim transcription method (Streefkerk, 2023). Following this method, the interviews were completely transcribed, leaving out emotions and pauses using sayings like “uhm”, “you know”, etc. Recording and transcribing of interviews helps the interviewer to stay focussed on the interview and jump in when important follow up questions can be asked, instead of losing focus when writing down keywords and key sentences.

After the interviews were transcribed, the important findings and themes were captured using the Gioia method. The Gioia method was used since this method allows for a systematic research approach, focussing on generating simplified theoretical models to organize gathered data (Magnani & Gioia, 2022). This was best for this research since the interviews provided extensive data, which needed to be assessed in the best way possible to uncover a deeper understanding of the information, which could be received by generalizing the results. In the Gioia method, the analysis starts with the identification of important quotes and statements from the interview transcripts. These quotes were provided in the first column of the Gioia table as 1st-order concepts. These concepts show the raw data from the study where the voice of the participants is kept without any theoretical interpretation of the researcher (Gioia et al., 2012). These direct quotes were analysed and clustered, finding specific insights on the subject studied.

This raw data in the 1st-order concepts was grouped in broader 2nd-order themes, identified by the researcher. These themes showed a more abstract analysis of the raw data, looking for patterns, relations or recurring themes across the data. The 2nd-order themes showed a more theoretical view of the data, where the researcher linked related concepts in more abstract themes, and where the initial voice of the respondents was replaced by a more theoretical understanding of the data. The step from 1st-order concepts to 2nd-order themes was a step that bridges the gap between the raw data and more theoretical constructs (Gioia et al., 2012).

In the final step of the analysis, the 2nd-order themes were combined again, turning them in even abstracter aggregate dimensions. The aggregate dimensions showed a highly abstract set of conclusions drawn from the original data. The aggregate dimensions were used to understand the phenomenon studied, in this study, platform dominance. Insights in patterns were shown based on the aggregate dimensions. The progress from 1st-order concepts to aggregate dimensions was the basis for a theoretical framework provided using this research method (Gioia et al., 2012).

This theoretical framework is a key point in the Gioia method, creating a data structure which organizes and presents the data from the study in one overview. The data structure provides a clear representation how the gathered data was progressed in more abstract dimensions. This provides both transparency and a graphic illustration of the analysis. Using such a data structure makes it easier for the reader to understand the connection between the data gathered and the conclusions drawn based on this data (Gioia et al., 2012).

## 4. Results and analysis

This chapter contains the results from both the case study, as well as the interviews conducted for this research. The results are shown according to the method. For each of the cases incorporated in the study, a short but detailed description is provided, where the full case is included in *Appendix III. Case descriptions*.

### 4.1. Case study

The cases selected fit the set criteria to be incorporated in the study. All cases selected are recent cases regarding platform power abuse. Also, all cases regard a large platform, some even labelled as VLOP or VLOSE by the EU. The within case analysis, and therefore also the cross case analysis, is based on the following six cases:

- A case against Apple App Store after complaints of power abuse by Spotify;
- A case against Instagram for their influence on the younger generation;
- A case against Google for abusing their power to stimulate their Google Shopping service;
- A case against Amazon for using non-public data in their own advantage;
- A case against PlayStation (Sony) for increasing their service price during a cost of living crisis;
- A case against Nintendo for knowingly selling innovative products with defects.

#### 4.1.1. Within case analysis

##### *Apple App Store music streaming*

In March 2024, the European Commission fined Apple €1.8 billion for abusing its dominant market position by imposing restrictive practices on its App Store, particularly affecting music streaming services like Spotify (European Commission, 2024). The investigation, initiated in 2020, found Apple guilty of forcing developers to use its in-app purchase (IAP) system with a 30% commission and restricting them from informing users about cheaper alternatives (European Commission, 2020). This led to inflated prices and reduced competition. Apple contested the fine, arguing its policies ensure user security, but the Commission maintained that these practices harm consumers and competition.

Platform type	Transaction
Platform category	Digital distribution platform
Type of power	There is both a platform power, as well as an economic power. Apple has platform power, since they behave as gatekeeper, but they have economic power because they can impose economic regulations to users.
Metrics of power	- Market control: Apple's App Store is the only app distributor on iOS devices. - Developers dependency: developers designing app for the App Store need to comply by all the regulations set by Apple.
Indicators of abuse	- Use of IAP: developers selling their apps in the Apple App Store are mandated to use the in app purchase system from Apple, on which Apple applies a 30% commission on every sale made. - Restricted communication: developers are prohibited to communicate to their users about different ways to make purchases or subscribe themselves to subscriptions other than the IAP imposed by Apple.
Impact of abuse	Due to the behaviour of Apple there are different ways market distortion in the music streaming industry is visible: - Reduced competitiveness: the forced use of the IAP system and commission fees applied to them reduced competitiveness of third-party music streaming services, which led to them either absorbing the cost or transferring it to the user, making Apple's own Apple Music more attractive to the consumer.

	<ul style="list-style-type: none"> <li>- Limited consumer choice: the restrictions on informing users about cheaper purchasing options outside the App Store limited consumer choice and transparency.</li> <li>- Market inefficiency: the combination of inflated prices and restricted information flow contributed to market inefficiency, where consumers potentially paid more for services and were locked into Apple's ecosystem.</li> </ul>
Case outcome	Apple has been hit with a €1.8 billion fine for their power abuse. Also, they must change these strict regulations and allow for a more transparent market.

Table 3: Apple case

### Instagram bad for mental health youth

The European Union has launched an investigation into Instagram, focusing on how the platform's algorithms and design may contribute to mental health issues like anxiety, depression, and self-harm among young users (Le Monde, 2024). Key concerns include Instagram's addictive features, such as infinite scrolling and algorithmically curated content, which may lead to excessive screen time and social comparison (Goujard et al., 2024). The investigation is part of broader efforts under the DSA (Digital Service Act) to protect minors from harmful content and ensure social media platforms are held accountable for their impact on public health (Goujard et al., 2024).

Platform type	Transaction
Platform category	Social media platform
Type of power	Instagram has an algorithmic power with which they have influence over user behaviour. This power comes from the ability to implement addictive features that shape how users interact with the platform. Also, Instagram holds psychologic power, by influencing (young) users' mental health and well-being through the content and interactions on the platform.
Metrics of power	<ul style="list-style-type: none"> <li>- User base size: the number of young users, with demographic data on engagement, indicate Instagram's reach over a vulnerable population.</li> <li>- User engagement: metrics as screen time, app usage, and user retention reflect Instagram's power to keep users engaged on the platform.</li> <li>- Algorithmic influence: the extent to which Instagram's algorithms dictate what content users demonstrates the platform's control over user experience.</li> </ul>
Indicators of abuse	<ul style="list-style-type: none"> <li>- Addictive design features: the use of features like infinite scrolling, push notifications, and personalized content are all focused to maximize user engagement and indicates an abuse of power by promoting addictive behaviours, particularly among young users.</li> <li>- Mental health impacts: Evidence showing Instagram's features have a negative impact on the mental health of young users suggests that Instagram prioritizes engagement on the platforms over their users' well-being.</li> </ul>
Impact of abuse	<ul style="list-style-type: none"> <li>- Mental health issues: the design of Instagram has proven to increase anxiety, depression, and self-harm.</li> <li>- Addiction: due to the features like infinite scrolling, users (mostly younger users) easily get addicted to the platform. This can then lead to things like social comparison, which can increase the mental health issues.</li> <li>- Harmful content: lack in content moderation can result in young users being exposed to cyberbullying, graphic content, or other harmful material.</li> </ul>
Case outcome	The investigation against Instagram is still ongoing, but this can lead to stricter regulations for the platform, especially since they also need to comply with the DMA and DSA regulations.

Table 4: Instagram case



### *Google Shopping advantage for Google*

The European Union fined Google €2.4 billion for abusing its market dominance by giving illegal advantages to its comparison shopping service, Google Shopping, in violation of EU antitrust regulations (European Commission, 2017). Google manipulated search results to prioritize Google Shopping over rival services, pushing competitors to lower pages, significantly reducing their visibility and clicks (European Commission, 2017). The fine, based on Google's revenue from the infringement, also required Google to stop these practices within 90 days and treat all comparison shopping services equally, with the threat of additional penalties for non-compliance (European Commission, 2017)b.

Platform type	Hybrid
Platform category	Product search and comparison platform
Type of power	In this case there is a market power since Google holds a market share of 90% or more in most countries.
Metrics of power	<ul style="list-style-type: none"> <li>- Market share: Google's market share of 90% or more in the European Economic Area (EEA) countries is a critical metric of its dominance in the search engine market.</li> <li>- Impact on rivals: The distribution of clicks on search results, with the top result receiving approximately 35% of all clicks and the first page results capturing 95% of clicks. Rivals on lower pages take a big dip in clicks compared to Google.</li> </ul>
Indicators of abuse	<ul style="list-style-type: none"> <li>- Manipulation of search results: Google manipulated the search results by letting their search engine prioritize their own Google Shopping service.</li> <li>- Market distortion: The decline in traffic and clicks for comparison shopping services who were being pushed to lower pages. This directly harmed competitors by reducing their market presence and consumer reach.</li> <li>- Unfair competition: Google Shopping reached its dominant position by sidestepping normal competitive practices.</li> </ul>
Impact of abuse	<ul style="list-style-type: none"> <li>- Market manipulation: The manipulation of search results created a market where the most visible services were not necessarily the best or most competitive, but simply those owned by Google.</li> <li>- Stifling of competition: Rivals of Google Shopping experienced significant losses in traffic and market share due to their lower visibility in search results. This loss of visibility stifled competition in the comparison shopping market.</li> </ul>
Case outcome	Google was fined €2.4 billion by the European Commission for its antitrust violations. The EC ordered Google to stop its illegal practices within 90 days and to give equal treatment to rival comparison shopping services. Google was also prohibited similar anti-competitive practices in the future. If Google failed to comply with the EC's orders within the 90 days, it faced a penalty of up to 5% of the average daily worldwide turnover of its parent company, Alphabet.

*Table 5: Google case*

### *Amazon distorting competition*

The European Commission initiated legal proceedings against Amazon for breaching EU antitrust rules by using non-public data from third-party sellers on its marketplace to unfairly benefit its own retail business (European Commission, 2020b). The Commission also launched a second investigation into Amazon's "Buy Box" and Prime practices, suspecting preferential treatment of its retail business and services (Porterfield, 2022). Amazon agreed to stop using seller data and to ensure equal

opportunities for third-party sellers for seven years, with potential fines for non-compliance. This case highlights the EU's commitment to ensuring fair competition in online retail markets.

Platform type	Hybrid
Platform category	E-commerce platform
Type of power	There is a data-driven power, as a dominant platform in online retail, Amazon wields significant control over the marketplace infrastructure used by third-party sellers, while also being a direct competitor.
Metrics of power	<ul style="list-style-type: none"> <li>- Dominant position: Amazon has a large market share in the online retail sector and has an influence over third-party sellers on the platform.</li> <li>- Data: the amount of non-public data Amazon collects from third-party sellers shows their international power.</li> </ul>
Indicators of abuse	<ul style="list-style-type: none"> <li>- Use of seller data: the main indicator of abuse is Amazon's alleged use of non-public data to inform and enhance their own retail strategies, which distorts fair competition by allowing them to avoid the normal risks.</li> <li>- Buy Box: independent sellers are in a disadvantage, since the investigation for the selection of the Buy Box winner and Prime eligibility suggests potential abuse by Amazon favouring their own retail products or sellers using Amazon's logistic service.</li> </ul>
Impact of abuse	<ul style="list-style-type: none"> <li>- Disadvantage for sellers: independent sellers might have a disadvantage due to Amazon's alleged use of non-public data, which could result in reduced sales and market share for these independent sellers.</li> <li>- Consumer choice: manipulation of the Buy Box and Prime eligibility reduce consumer choices since these influence buying decisions. Consumers may not be presented the best options, leading to higher prices or lower quality.</li> <li>- Market concentration: dominance of Amazon and their potential to stifle competition could lead to further market concentration, reducing competition and innovation in the online retail market.</li> </ul>
Case outcome	Amazon committed to ceasing the use of non-public data for its own retail business and thus provide equal opportunities for third-party sellers in the Buy Box and Prime eligibility for a period of seven years. If Amazon fails to comply with these commitments, it could face substantial fines, including up to 10% of its annual turnover or 5% of daily turnover per day of non-compliance.

Table 6: Amazon case

### *PlayStation Plus prices*

In August 2023, Sony announced that annual prices for PlayStation Plus subscriptions, essential for online multiplayer features, will increase by up to \$40/€32 effective September 6, 2023. The new annual rates are: Essential at \$79.99/€71.99, Extra at \$134.99/€125.99, and Premium at \$159.99/€151.99, where monthly and quarterly fees remain unchanged (McWhertor, 2023; Hofmans, 2022; Makar, 2023). Sony justifies this increase to continue providing high-quality games and benefits (Saed, 2023). However, users criticize the timing with rising living costs and argue that the necessity of PlayStation Plus for multiplayer forces subscribers to accept these higher prices, especially since the annual subscription, offering the largest discount, is the most popular (Makar, 2023).

Platform type	Innovation
Platform category	Gaming services platform
Type of power	PlayStation holds a subscription based power, which is also a monopoly power, since all the users with a PS who want to play online have no option but to subscribe to PlayStation Plus.
Metrics of power	- Subscriber base: PS+ has a large and established user base, with 47.4 million

	<p>subscribers as of March 2023, indicating a significant reliance on the service for online multiplayer gaming.</p> <ul style="list-style-type: none"> <li>- Revenue from subscriptions: The price increase across all subscription tiers highlights Sony's ability to generate substantial revenue from its existing user base without risking a significant loss of subscribers.</li> </ul>
Indicators of abuse	<ul style="list-style-type: none"> <li>- Paywall for features: The requirement for users to subscribe to PS+ to access online multiplayer features is a clear indicator of Sony leveraging its platform power to extract additional revenue from users. The inability to access multiplayer functionality without a subscription significantly limits the utility of the console and games for non-subscribers.</li> <li>- Time of price increase: The timing of the price increase during a period of heightened cost of living exacerbates the perception of abuse, as it suggests Sony is capitalizing on its captive audience without consideration for broader economic conditions.</li> <li>- Disproportionate impact: The fact that the price increase only affects annual subscribers, the most resolute users seeking the best value for their money, further indicates an abuse of Sony's dominant position.</li> </ul>
Impact of abuse	<ul style="list-style-type: none"> <li>- Consumer discontent: The price increase has led to widespread dissatisfaction among PS+ subscribers, particularly because it targets the most loyal users who commit to annual subscriptions.</li> <li>- Increased cost of gaming: The higher subscription costs add to the overall expense of gaming on the PS platform, potentially alienating budget-conscious consumers and reducing the perceived value of the service.</li> <li>- Limited consumer choice: Since PS users must subscribe to PS+ to access the multiplayer functionality, they are left with little choice but to accept the price increase, effectively reducing their bargaining power and increasing their dependency on Sony's platform.</li> </ul>
Case outcome	<p>Despite the backlash, Sony proceeded with the planned price increases, which took effect on September 6th, 2023. Sony justified the price increase by citing the need to continue delivering high-quality games and value-added benefits.</p>

Table 7: PlayStation case

### Nintendo Switch Joy-Con drift

The case against Nintendo centres on the "Joy-Con drift" issue in their Switch controllers, where analogue sticks register movement without user input. This defect led to numerous complaints and legal actions. In the U.S., a class-action lawsuit was dismissed in February 2023, favouring Nintendo due to their warranty practices and free repairs (Doolan, 2023). However, European consumer authorities investigated further, leading to Nintendo's March 2023 agreement to offer free, permanent repairs for all affected Joy-Con controllers across Europe, regardless of warranty status (European Commission, 2023). This decision, driven by consumer protection, marked a significant win for consumers and showed the importance of holding companies accountable for product defects.

Platform type	Innovation
Platform category	Gaming platform
Type of power	Nintendo holds market power with their Nintendo Switch console, since they hold a unique product which can be used on a tv screen and in handheld mode. No competing gaming console has this same feature.
Metrics of power	- Product dependence: The Joy-Con controllers are integral to the operation of the Nintendo Switch, meaning that issues with these controllers affect the usability of the entire console. This creates a situation where consumers are heavily dependent on Nintendo for both the product and its maintenance.

	- Market share: The Nintendo Switch is one of the best-selling consoles worldwide, which demonstrates Nintendo's significant market penetration and consumer reliance on its products.
Indicators of abuse	- Sale of known defect products: Nintendo's sale of Joy-Con controllers that were prone to the "Joy-Con drift" issue, despite being aware of the defect. - Limited consumer protection: At first, Nintendo's policies did not cover all problems with the Joy-Cons.
Impact of abuse	- Legal actions: Because of the "Joy-Con drift" in both the USA and the EU, legal actions were initiated to make Nintendo pay for their defect products. - Increased costs for consumers: Before Nintendo's commitment to offering free repairs, consumers were forced to either repair the controllers at their own expense or purchase new ones, which added to the overall cost of owning and maintaining a Nintendo Switch.
Case outcome	After the EU took legal actions after the case against Nintendo in the USA, Nintendo's agreement came in March 2023 to offer free, permanent repairs for all affected Joy-Con controllers across Europe, regardless of warranty status.

Table 8: Nintendo case

#### 4.1.2. Cross Case analysis

In the analysis of the six cases, Apple, Instagram, Google, Amazon, PlayStation, and Nintendo, themes and patterns were found. These highlight different similarities and differences between the companies, and how they use their power. The analysis also shows how this power is abused and what the impact and outcome of this abuse are.

##### *Similarities across platform types*

The individual cases show that the six platforms abused the power in their ecosystem, no matter whether the platforms are transaction, hybrid, or innovation platforms. All these ecosystems function as multi-sided markets (Rysman, 2009), where they facilitate interactions between different user groups on the ecosystem, while still maintaining control over the market access, data, and interactions.

For example, Apple used its App Store to keep the control over the content that is being distributed through the App Store by requiring app developers to use the IAP system by Apple, through which they take a 30% commission on all content sold on the App Store platform. This shows Apple used their power as gatekeeper to control both the app developers and end users on the platform (European Commission, 2024). This is an example of an asymmetric pricing strategy (Tiwana, 2014), where Apple abused their developers while using privacy and security concerns to justify this abuse. Instagram is showing similar behaviour, where they used algorithmic power to engage users, particularly younger people. They have an addictive platform design, which encourages users to keep scrolling, exposing them to increasingly curated content, which creates a psychological dependency among these users (Goujard et al., 2024). This behaviour is in line with the ideological power described by Lukes (2005), where platforms shape the behaviour and preferences of their users by embedding themselves into the daily routines of their users.

In the case of Google Shopping, Google manipulated its own search algorithm to promote their comparison shopping service, this excluded competitors since they got placings on lower-ranking pages on Google (European Commission, 2017). Google abused indirect network effects (Clements, 2004), since the dominance of Google in the search engine area enhanced their power in the shopping service area, reinforcing their position in the complete ecosystem. Amazon was found guilty

of exploiting their role as both marketplace and retailer. They used third-party seller data, like sales and revenue figures, to gain an advantage over their competitors by tailoring their own product offerings (Ray, 2020).

Both PlayStation and Nintendo showed examples of abusing their power by controlling the ecosystem they operate in. PlayStation Plus used a subscription to lock users in their service by requiring them to pay for essential features of gaming, like online multiplayer access, and therefore limiting the alternatives and increasing switching costs for users (McWhertor, 2023). A similar example is from Nintendo, who created a lock in effect using the console (Nintendo Switch), where the hardware is unique and where first-party games keep users in their ecosystem, which makes it difficult for the user to switch to another gaming platform without losing the value they have in their existing console (Ohannessian, 2017). The behaviour by both parties reinforces network effects, where the increasing number of users and developers increase the value for users to stay with the platform (Hagiu & Wright, 2015).

A common theme across the cases is how the platforms abuse the dependence of users, developers, or third parties on their ecosystem. Every platform demonstrates the use of their role as gatekeeper to control the interaction between the user groups, restrict competition, and the leverage of network effects, solely to strengthen their own market position.

#### *Differences between platform types*

The way the platforms use their power depends on the type of the platform. The transaction platforms, Apple's App Store and Instagram, used their power to gain control over access and interactions with the platform. Apple forced their developers with restricting terms, and therefore limiting the competition, like they did with Spotify in the music streaming market (European Commission, 2024). Instagram used their strong algorithms to maximize user engagement with the platform, which leads to problems with teenagers' mental health and therefore with the platform itself (Le Monde, 2024).

The hybrid platforms, Google Shopping and Amazon, used a blend of market control and manipulation. Google abused their dominant search engine to promote their own shopping service and control the competition indirect (European Commission, 2017). In a similar way, Amazon used non-public data from third-party sellers to their advantage to improve their own retail offerings, thereby giving themselves an unfair advantage (Ray, 2020). These examples show how data-driven power can create barriers to fair competition and reinforce dominant positions.

The innovation platforms, PlayStation Plus and Nintendo Switch, created a product- or service-based lock-in effect to use their power (Cusumano et al., 2020). Sony used PlayStation plus to charge their user for a subscription model so gamers can use additional features such as online multiplayer to lock their users in ongoing fees to use the full capacity of the console they possess (McWhertor, 2023). Nintendo's Joy-Con drift issues led to backlash from consumers and additional regulatory pressure to get free repairs for the damaged products, which shows how monopolistic practices in hardware can affect consumers directly (European Commission, 2023). These examples show how these innovation platforms use switching costs for consumers to maintain control over them.

#### *Abuse Indicators*

Each platform type has different indicators of power abuse, however, all forms of power abuse fit with one of the dimensions of power by Lukes (2005): decision-making, non-decision-making, and ideological power.

Apple had economic abuse, forcing developers to pay high commission fees, raising the costs for consumers (European Commission, 2024). This is an example of decision-making power since Apple was directly influencing the decision of developers to charge higher prices to consumers due to the fees imposed by Apple.

Instagram had psychological abuse, using their algorithms to develop addiction, mental health issues, and negative social comparison (Goujard et al., 2024). This example by Instagram shows ideological power, since the social platform is embedding themselves in the daily routine of their users, making their users have the desire to use the platform.

Google and Amazon used data exploitation and market manipulation for abuse, distorting, or even preventing fair competition (Ray, 2020). These platforms show an example of non-decision-making power, where the platform uses data to distort the competition, making it harder for third-party sellers to enjoy an equal competition.

PlayStation and Nintendo had a monopolistic abuse, where PlayStation was charging their users fees to stay on the platform and Nintendo had a unique technology, which allowed them to sell defect products. However, both parties created a lock-in effect to maintain their consumers (Jacobides & Lianos, 2021). These platforms also show an example of decision-making power, since their users will be directly influenced by the lock-in effect the platforms create to keep their customers on their platforms.

#### *Outcomes and Regulatory Responses*

The cases have different outcomes showing the challenges posed by each type of platform. Apple, Google, and Amazon faced significant fines for breaching the antitrust regulations. For example, Apple received a €1.8 billion fine for their anti-competitive practices in the App Store (European Commission, 2024). The fines given were in line with the regulations in the DMA, aimed to prevent such gatekeepers to exploit their dominant positions (European Commission, 2020).

Nintendo received pressure after the EU started an investigation, right after an investigation against the platform in the U.S., however they have not received any fines regarding this investigation. Nintendo came with an agreement to provide free repairs for all Joy-Con controllers in the EU, no matter the warranty status of the product. This shows how an innovation platform can be forced to adapt under regulatory pressure, even if they ignored the initial complaints by consumers (European Commission, 2023).

The increase in prices for PlayStation Plus, as well as the impact on the mental health of the youth due to Instagram's algorithms has drawn criticism. This criticism came from the essential role of PlayStation in the gaming industry and the popularity of Instagram among their users. Due to the popularity of the platforms, users continued to subscribe, showing the power of switching costs and network effects in platforms (McWhertor, 2023). Even though these platforms have not received any fines or other penalties for their behaviour, they are still under investigation and might face consequences in the (near) future.

#### *Conclusion*

The cross-case analysis shows that, while platform types may differ, they all have their strategies to obtain and maintain market dominance. These platforms operate as multi-sided markets, where their power lies in controlling interactions between user groups, leveraging network effects, and exploiting their roles as gatekeepers to restrict competition. Whether this is through IAP policies, algorithmic control over users, or manipulation of data, all platforms create dependencies within their ecosystem.

Even though these similarities are present, each platform uses its power based on the type of platform. Transaction platforms focus on direct control over access and user interactions, where Apple used strict IAP systems and policies for developers, and Instagram designed very addictive algorithms to keep their users on the platform as long as possible. Hybrid platforms use a blend of data-driven power and market control, where Google manipulated the search ranking on their own search engine to improve the results of their shopping service, and Amazon misused third-party seller data to shape market dynamics and stifle the competition. Innovation platforms rely on service- or product-based lock-in effects, where PlayStation used a subscription service, and Nintendo provided users with a unique product to keep the users on the platform and limit alternatives.

Platforms show different forms of power abuse, ranging from economic exploitation to psychological manipulation and market distortion. However, all forms of power abuse shown by the platforms are in line with the three dimensions of power presented by Lukes (2005), namely decision-making, non-decision-making, and ideological power. This shows that platforms can influence market conditions, competition, and user behaviour.

Even though there are regulatory responses in some of the cases, there are still challenges to prevent this better in the future. Apple, Google, and Amazon received large fines based on the standards by the DMA, aiming to take away monopolistic behaviour in the platform market. Despite any direct fines, Nintendo was pressured by consumer complaints, and multiple investigations to offer free repairs for their known defect products. Although PlayStation and Instagram have not been penalized yet, they are still under investigation for their monopolistic behaviour and social impact.

When observing these cases with a more abstract view, it seems clear that the main goal of the platforms is to gain an economic advantage over their competitors. The ultimate objective in the market is to maximize their profit, even if the platform needs to execute sketchy or even illegal practices to achieve this goal. With these practices a platform aims to maintain dominance over their competitors or even eliminate them from the market. This behaviour can be found in each of the six cases described.

Apple aimed to achieve this goal with their implementation of a 30% commission on every sale made in their Apple App Store through the mandatory in-app purchase system for developers. This policy was also the reason Spotify started a case against Apple, which showed the basis for the case in this research. In a similar way, Instagram used addictive algorithms for user engagement, so they scroll on the app longer, allowing Instagram to show them more advertised content, generating revenue for Instagram. This strategy by Instagram resulted in social worries on the well-being of users of the platform, which resulted in the European Commission starting investigations against the platform.

Google abused its power with their search engine to prioritize their own shopping service, leading to a disadvantage of the competition using Google for their shopping service. In a similar fashion Amazon also used a form of data exploitation for market manipulation. Amazon used non-public seller data to gain an advantage over the competition who is not in possession of this information, therefore making it an anticompetitive market.

Lastly, PlayStation and Nintendo also abused their power at the cost of their consumers since they were both in a monopolistic position. PlayStation increased the prices for their most used PlayStation Plus subscription plan, which users need to unlock the key features of the console like online multiplayer gaming. Nintendo profited from selling an innovative console, however, the Joy-Con controllers with it contained defects, of which Nintendo was aware. This resulted in multiple complaints and Nintendo having to offer a guarantee on the defect products.

In all these six cases and examples, it shows that for these companies the economic advantage was their priority, even when this resulted in ethical considerations taking an unfair advantage over the competitors or users of their platform.

The table below shows the full results of the cross-case analysis in one eyesight.

Platform	Apple	Instagram	Google	Amazon	PlayStation	Nintendo
Type	Transaction	Transaction	Hybrid	Hybrid	Innovation	Innovation
Way of power abuse	Keep control over access and interactions on the platform	Keep control over access and interactions on the platform	Indirect control over the competition	Indirect control over the competition	Create lock-in effects to keep customers connected	Create lock-in effects to keep customers connected
Type of abuse	Economic abuse	Psychological abuse	Data exploitation and market manipulation	Data exploitation and market manipulation	Monopolistic abuse	Monopolistic abuse
Aim of power abuse	Financial advantage through mandatory IAP	Financial advantage through addictive algorithms	Financial advantage through misuse of own search engine	Financial advantage through use of non-public seller data	Financial advantage through price increase of most popular subscription programme	Financial advantage through selling of defect hardware
Dimension of power	Decision-making power	Ideological power	Non-decision-making power	Non-decision-making power	Decision-making power	Decision-making power

Table 9: Cross-case analysis results

The cross-case analysis shows that it is difficult to regulate all types of platforms along the same set of regulations. Even though there is a need to prevent power abuse by these platforms, due to the diversity in these platforms a one-size-fits-all type of regulation will probably not be effective enough, since every platform has another type of power abuse and social impact. Regulators should consider the dynamics of every type of platform and aim at regulating the platforms based on their platform type, transaction, hybrid, or innovation, to ensure a fair competition, protect consumers, and make room for innovation. Because of this result, there is a need for interviews with different parties connected to platform power and regulation, to uncover deeper information on the topics.



## 4.2. Expert interviews

Following the case study analysis, which provided a foundational understanding of the issues related to platform power and regulation, additional in-depth information was gathered through expert interviews. The case study highlighted key patterns and themes in platform behaviour, while interviews allow for a deeper exploration of these themes, providing real-world perspectives and detailed insights from experts and stakeholders.

The interviews are analysed using the Gioia method to identify aggregate dimensions that help further explain the findings from the case study. These dimensions are used to draw conclusions for each research question, offering a more nuanced understanding that complements the findings from the case study. For each of the 2nd order themes and aggregate dimensions, a clarification is provided.

<ul style="list-style-type: none"> <li>• A platform has never ‘too much’ power, but a market share of 50% or more could form a threat</li> <li>• Entering the market at the right time can lead to a dominant position</li> <li>• There is no (threat of upcoming) reasonable alternative</li> <li>• The presence of network effects leads to a ‘winner-takes-it-all’ principle in the market</li> </ul>	Abuse conditions	Platform power abuse
<ul style="list-style-type: none"> <li>• Make others do what you want against their own will</li> <li>• Manipulate attention, energy, and time of consumers/users</li> <li>• Buying out and implementing functions from competitors</li> </ul>	Abusive practices	
<ul style="list-style-type: none"> <li>• Users choose the popular platforms since all the users are there</li> <li>• Consumers do not realise they provide the platforms with power</li> <li>• The consumer gives up privacy too easy through for example cookies</li> </ul>	User negligence	Social responsibilities
<ul style="list-style-type: none"> <li>• A platform should not abuse their (dominant) position</li> <li>• Platforms should ensure a fair and transparent market for every player in the market</li> <li>• Platforms need to comply with (local) competition and privacy regulations</li> </ul>	Platform expectations	
<ul style="list-style-type: none"> <li>• Objective governmental information on platform dominancy</li> <li>• Awareness among users on the dangers of addictive algorithms</li> <li>• There should be invested more in awareness of the dangers of power abuse</li> </ul>	Protection through awareness	Regulatory necessity
<ul style="list-style-type: none"> <li>• Control on content online by attention on content moderation</li> <li>• Protection of users against digital harm of false/fake information, fake accounts, and hateful/transgressive content</li> </ul>	Transparent digital content	
<ul style="list-style-type: none"> <li>• Nothing is perfect in one try, and the effects of the DMA and DSA will have to show, but it is a step in the right direction</li> <li>• Fines of DMA and DSA not intimidating, since platforms can stretch cases</li> <li>• Companies will try and find a way around the DMA and DSA</li> </ul>	New regulations with limitations	Regulatory innovation
<ul style="list-style-type: none"> <li>• DMA and DSA ensure more control in the market and allow for better detection of abuse, due to insight in decision making by platforms</li> <li>• The new regulations will help with user protection</li> <li>• The EC now has more possibilities than antitrust regulations for a case</li> </ul>	Improved regulatory approach	
<ul style="list-style-type: none"> <li>• Aim to improve privacy regulations, mass claims/damages, and regulations on (dis)information</li> <li>• Investing in data portability, where individuals can see the data platforms have gathered on them</li> <li>• Legislators should learn the digital language, and data scientists should help with law making</li> </ul>	Alternative regulations	

Table 10: Gioia results

#### 4.2.1. Conclusions of the Gioia method

The interviews show insights in different aspects of digital platforms. The aggregate dimensions concluding the Gioia table show platform power abuse, social responsibilities, regulatory necessity, and regulatory innovation. Each of these aggregate dimensions and their 2nd order themes are explained using examples from the interviews, and with an example based on the platform and previously used case on Google.

##### 4.2.1.1. Platform power abuse: how platforms are able to abuse their power

Platform power abuse is the first aggregate dimension. Platform power abuse is a phenomenon where a digital platform has positioned itself in a dominant position in the market, where it has power over the other platforms in the same market and the users of the platform itself. When a platform gets in this position, and misuses it in their own advantage, there is a case of platform power abuse.

The first theme for platform power abuse is abuse conditions. These abuse conditions show red flags in a market which bring platforms in a position to be able to abuse their dominant market position. Primarily, to be able to abuse their power, the platform needs a dominant position in the market, which is what the interviewees state as well. When platforms find themselves in such a dominant position, they have more power than the smaller competitors in the market. The interviewees mention, every platform has some degree of power, but this can never be too much power, *“There is never too much power, because having an economic market position is not illegal. What matters is that a company is not guilty of abusing this position”* (Digital platforms department of the ACM). Platform markets work the same as other markets, and a company (in this case a platform) can find themselves in an economic market position, *“A rule of thumb is that a market share above 50% can be an indication of an economic market position for a company”* (Digital platforms department of the ACM). When platforms get this economic market position, they should get extra attention, since this can pose a threat to the market, while it gives them a dominant position which they can potentially abuse.

However, the platform market evolves very rapidly, which means there is a large advantage for a platform when they enter the market at the right time. The market works by a winner-takes-it-all principle allowing platforms to gain a large percentage of the market share after entering and therefore gaining a dominant market position as quickly as possible. Google was not the first search engine to exist, since this was an engine called Archie, which was founded nine years before Google (Capitol Technology University, 2020). However Google was the first search engine to implement an algorithm called PageRank, which analyses links between web pages and assigns ranks to every site, making the search results a ranking of best to worst for every search string on Google (Pannu, 2024). This made Google quickly gain the top position in the market, where it has stayed ever since (Pannu, 2024). This shows that Google entered the market at the right time, namely when the search engines were upcoming platforms, but with their innovative feature, they were the winner who took it all in the market, giving them an economic position with a market share of 90% in the EEA (European Commission, 2017).

This winner-takes-it-all effect is a perfect example of the power of network effects that can be seen in the platform market. When there are network effects in the market, a platform can use it in their advantage and gain a dominant position in the market, *“When there are direct and indirect network effects, platforms do not have a first, second, third generation like game consoles, when they are established in the market, there is no way around them”* (Expert 2). With the market share of 90% by Google, it is hard for other search engines to enter the market and compete with Google, due to the network effects in the market, since the success and popularity of Google makes other users choose

for Google as well (European Commission, 2017). Another reason platforms can gain a dominant position in the market is when there is no reasonable alternative in the market, or a threat of an upcoming alternative. When this is the case, a platform finds herself in a monopolistic market, making it a dominant platform.

Another theme connected to the platform power is actual abusive practices by digital platforms. These practices show what types of abuse platforms can perform when they get in a dominant market position. Platforms could make both consumers and competitors do things against their own will, like adding functions to an existing subscription, or changing prices of their services. The interviewees also mention platforms abuse their power in these different ways, *“the more a platform can influence people, the larger their power is”* (Consultant 1). Platforms can also start to implement functionalities from other platforms into their own, for an attempt to take over consumers from different platforms, to try and push the competitor off the market. Lastly, a platform can manipulate consumers/users of the platform to make them stay on the platform longer or make them dependent on the usage of the platform *“When a platform can manipulate the attention, energy and time of their customers and users, they have accumulated excessive power”* (Expert 3). These abusive practices show in the case on Google, abusing their power to put the search results for Google shopping at the top of the page, influencing users to unintentionally use the shopping service by Google when searching for products, showing that indeed, the more a platform can influence people, the larger their power is.

#### *4.2.1.2. Social responsibilities: the expectations of both platform and user*

The second dimension is social responsibilities. Social responsibilities are responsibilities for every player in a specific market. Every player in the market needs to watch their own steps in making sure their behaviour is socially acceptable, whether it is a consumer, or a company.

The first part is user negligence. User negligence is extremely easy to spot, since users want to be on the popular platforms, which means they all choose for the larger platforms, providing these platforms with power without them knowing they do so. On the other hand do users give up their privacy voluntarily too easily, through for example the acceptance of cookies, which again provides online players like platforms with more power because of the users negligence. In the interviews, the respondents said *“People are willingly spilling their privacy without really knowing how it will be used and how valuable this personal data is for these platforms. We make ourselves transparent to power and therefore controllable.”* (Expert 1), and *“On the other hand is it that the consumer is not always as precise, since cookies and general terms and conditions are being accepted without any problem, which results in spilling of privacy, but more on a voluntary basis”* (Lawyer). This shows, the respondents mention that the user are negligent and have their own responsibility to protect themselves from the power of the large platforms, since they tend to give up their privacy too easily to access (popular) platforms, which results in power for these platforms.

When evaluating this on the example platform Google, it shows in the gained market position of 90% for Google in the market for search engines. Since they have never lost it, it shows that users once chose Google as a search engine and have used it ever since, keeping Google in this dominant economic market position.

The other aspect are the platform expectations. In the behaviour of platforms are some expectations from society, like that platforms simply obey the rules and regulations in the area they operate in, whether it be a single country or an entire continent, they should always follow the rules and regulations. On the other hand, are the expectations a platform never abuses its (dominant) position in the market. Platforms should provide every player in the market with fair chances of succeeding

with their business, which means they should not implement other's functionalities or buy out every threat they find on the market. Multiple respondents mention *"the platforms need to make sure that everyone who is active in the market needs to have a fair chance of succeeding and building their business in it"* (Expert 3), and *"Platforms will have to abide by the established rules which will lead to a market where no party can abuse its position to the detriment of competition."* (Lawyer). However, according to the respondents, platforms also have a social responsibility to protect the users of their platform, instead of abusing the information they provide to the platform. As respondents mention *"Platforms need to signal better what post is promoted, and what is an advertisement. The responsibility is on them to signal to users the types of content or information they see online."* (Expert 1). The respondents also mention *"Having a dominant economic position in the market is not prohibited. What matters is that a company is not guilty of abusing any economic dominance."* (Digital platforms department of the ACM). Which shows that platforms are allowed to be in an economic market position, if they make sure they comply with the (local) regulations.

With the 90% market share, Google is in an economic market position, which is not illegal if they use it properly. However, in the case is shown Google did abuse this power by putting their own shopping service at the top of the search results, generating a disadvantage to the competition who uses Google to promote their goods via Google. Therefore, Google did not ensure a fair and transparent market by abusing their own powerful position.

#### *4.2.1.3. Regulatory necessity: basic needs to contain platform power*

The third aggregate dimension shows regulatory necessity. Regulatory necessity is a necessity that grows from the behaviour of some digital platforms in the market. When these platforms become big players in the market, they gain more power which they can use to influence competitors or even put them out of business. To ensure that the market does remain fair to all players, the government will be forced to have a basic set of measures that will ensure that no monopolists are created who control the market, making this basic set of measures a regulatory necessity.

This regulatory necessity, mentioned by the respondents, consists of measures the government must take to ensure for a safe and fair market. This means the government must ensure protection of users through awareness. With protection through awareness this model aims at the role the government should play for the consumers regarding digital platforms. The government should ensure protection for consumers by providing them with objective information, it is important this information is objective, since the government should only inform, not influence consumers. This information should inform consumers of the dangers that can arise when digital platforms gain too much power over them, so consumers make thoughtful choices. The interviews point at this as well: *"It is important that the government can educate people about this with awareness campaigns."* (Politician). It needs to be clear to the user this information is coming from the government and therefore also be objective, since the government should not influence the users of the platforms but only inform them. This could be achieved by the quote *"this message is from the national government"*, like the Dutch government has implemented in their radio and tv commercials.

Not only should the government provide objective information, but they should also invest more in the awareness among users of the dangers of power abuse by platforms. Regarding the Google case, governments could start making campaigns in which they inform users how platforms may not always show unbiased information. These campaigns could then lead to consumers having a more critical evaluation of the results they get to see on search engines like Google. Also, governments could inform users on the consequences of monopolistic behaviour of platforms on the visibility and availability of rivals of the monopolistic platform, and how this can suppress innovation and

availability of variety in the market. With these campaigns the governments provide objective information with which they only inform users, not influence them.

Also, governments must ensure platforms provide transparency in digital content. When looking at transparent digital content, the government should always invest in pushing platforms to keep the information on the platform clean. This means platforms need to be pushed to exclude hateful or transgressive content, to exclude fake accounts, and to exclude fake or false information, since all of this can harm the users on the platform. Therefore, platforms should be pushed to the usage of content moderation filters, with which they can better protect their own platform from this damaging content. However these filters are not always optimal, the interviewees mention *“there is never a perfect system for it, but they should invest more in non-English speaking countries”* (Expert 1), which shows that platforms must improve these filters outside of the English speaking countries, since they fail too often there. When these filters fail, it can lead to harm, as one states in the interview *“this can be shown with the influence of Facebook during the Myanmar genocide. Platforms have a pressing responsibility to ensure a safe space online.”* (Expert 1). With this, the government should aim to protect the users of digital platforms on topics like privacy, mental health, and more. If these basics on governmental necessity fail, the platforms have the freedom to use and abuse their power in any way they want, making it a necessity.

The abusive practices of Google mirror the problems with content moderation on, for example, social media platforms. By prioritizing their own shopping service, Google is creating a situation of misinformation online, since other shopping services are not visible to the consumers which leads to a decrease in transparency online by the doings of Google itself. This therefore mirrors the problems of content moderation since there is a distortion of the digital landscape where there is a problem with content visibility, where the content in this example is the other companies.

#### *4.2.1.4. Regulatory innovation: new regulatory options to better prevent platform power abuse in the future*

The last aggregate dimension is regulatory innovation. This innovation is partially worked on by the EC with the new DMA and DSA but remains a constant process for policymakers to ensure that the measures in place will continue to work. It is also the case that policymakers will need to ensure that existing measures will grow with developments in the market and with the changing platforms themselves. Only by ensuring that these measures grow with the market will they remain effective enough to ensure that platforms will not become too powerful.

With the introduction of the DMA and DSA, the EC has improved the regulations regarding digital platform in the EU, however, with every introduction of new rules and regulations, there will be flaws in the design and it will not be perfect. Also, the platforms hit by these regulations will try and look for these flaws to try and find a way around it. Also the new DMA and DSA regulations are being marked as new regulations with limitations by the respondents, they tell: *“I think they have certainly taken a step in the right direction with the new legislation, but of course its real effect will have to be seen over time.”* (Consultant 1), and *“I think it’s a good starting point, but nothing is perfect in one try.”* (Expert 3). This shows they think the new regulations are a good start, however they also doubt the effectiveness of these new regulations, since they say nothing is perfect in one try, and the real effects will have to show.

With these new regulations, there is a new method of handing out fines to platforms breaching the rules, handing them a fine of 10% of their worldwide annual turnover, or up to 20% when the platform is guilty of a repeated DMA infringement (European Union, n.d.). However, the interviewees deem these fines not as intimidating as they seem, since the cases needed for the fine to be handed

out can be stretched by the platform, which allows the platform to abuse their power for as long as the case takes, making the fines even less effective. And with regulations regarding any company, the platforms will try and find a way around the new regulations, which is why the interviewees say *“The regulations should evolve just as quick as the market does. “This is a hard thing to accomplish, since the technology and therefore platforms evolve very quickly, but to keep the regulations effectively, they should do anything in their power in Europe to accomplish this”* (Expert 3), which means that for the effectiveness of the new regulations, the EU must put work in them to keep them up to date.

Google started abusing their dominant position in 2008 in the first countries, even though the fine for Google was pressed in 2017, which means Google was able to abuse their position for approximately ten years. The total fine for Google was €2.4 billion, which was not even a fraction of what Google earned over these years. In the years 2008-2017, Google earned a total of \$560 billion worldwide (Companiesmarketcap.com, 2024), which means the approximately \$2.5 billion fine they got was not even half a percent of what they earned during their period of abuse. Which gives a perfect example of how the respondents mentioned that the fines these platforms get are not that intimidating, since Google probably earned more than what they were fined during these ten years.

The respondents point out that the new DMA and DSA regulations ensure for an improved regulatory approach. With these regulations there is more control in the market with a better mechanism to spot abusive practices by platforms, since with these new regulations, the EC has insight in the decision-making process by the large digital platforms, as they must now provide upfront information to show they follow the rules, which allow for better and faster detection of power abuse. With this insight, the EC has other possibilities to stop these digital platforms than only using antitrust cases against these platforms, after the harm is done. The EC can now spot when a platform is about to do harm and stop them in advance as well. The interviewees say, *“both the platforms themselves, and the European Commission, reasonably know what the rights and rules of both parties are, this will help enormously in being able to curb the power of digital platforms over consumers.”* (Lawyer), which shows that the EC can ensure a better protection of the users of digital platforms in the European Union. This higher control on platforms will ensure a more transparent market, and better protection of customers.

Like mentioned in the last example regarding Google, the European Commission found that Google started their abusive practices in 2008, without any consequences for ten years. With the new DMA and DSA regulations, these large online platforms need to provide upfront evidence of changes they make in their algorithms. If Google were to implement a similar change as they did with their algorithms regarding Google Shopping in 2008, the EC would instantly mark it as a change with abusive practices, preventing Google from making this change. This is examples why the interviews said the new regulations will prevent large platforms from abusing their position better.

A last aspect of the regulatory innovation is the need for alternative regulations regarding digital platforms. Since the platforms and the market itself will keep on evolving, the regulations will have to evolve with them, which asks for alternative regulations to fill the existing ones.

Now that the DMA and DSA better handle abuse by the larger platforms, these alternative regulations should allow for better privacy for the consumers, in the form of data portability. The interviewees also mention this need for improved privacy regulations, and a better approach to dealing with mass claims/damages. They mention *“A next step to be taken is about data portability. This means that individuals have the right to request data collected about them from companies.”* (Consultant 1), with this the individuals can see which data platforms have gathered on them to better enforce themselves against these platforms.

However, these alternative regulations should also look at making the internet a safer place by a better handling of fake or false information, fake accounts, and hateful or transgressive content. In the interviews, the respondents mention *“Only spreading disinformation is not illegal, whereas sedition and hate speech are. A lot needs to be done to get a hold of that.”* (Politician), and *“I think we need to start looking at how to make spreading disinformation illegal. Only then you get the discussion of when it is disinformation and when it is an opinion, which could then come into conflict with fundamental rights.”* (Politician), with which they mention there needs to be an improvised version of regulation on the spread of (dis)information, to make the internet a safer place for users.

Lastly, these new regulations should be designed by legislators who also understand the digital language of these platforms. Currently, the law making process is mostly done by people who do not understand the digital language, where the interviewees mention *“Another step we could take is to make more use of the technical knowledge of platform builders when legislating. So we should not just approach it from the political side but use some kind of ethical hacking.”* (Politician), this shows they aim at the use of data scientists who should help with the law making process since they already have the right knowledge on digital platforms and could therefore be of great help to enforce the EC against the power of these platforms. This will allow for a better connection of the regulations to the working of these platforms.

The interviewees mentioned earlier that the consumers are too negligent and give up their privacy too easy, with which they give the platforms power without them even knowing. This is why the interviewees mention that there should be invested in data portability, with which the consumer can see which data platforms have gathered on them, showing the consumer what power they have given the platform. Also Google works with cookies to show the user better results for their search strings, but also to show them fitting advertisements. When the consumers can see how these algorithms by Google work, and with which data they show the consumers what they get to see, the consumers might think twice from then on when entering Google (or other websites), which use cookies to track their behaviour online, which is why the interviewees suggest the investments in data portability.

#### 4.2.2. Framework

Based on this data, a framework is drawn showing the connection between platform power abuse, social responsibilities, regulatory necessity, and regulatory innovation. *Figure 4:* shows the connections between the different aggregate dimensions, along with their respective 2nd order themes.

The model starts at social responsibilities, showing a straight arrow towards the platform power abuse. This direct influence has multiple reasons. The user negligence is one of the factors adding to the powerful market positions by digital platforms, since, like mentioned, the users will choose for popular platforms, adding to the power of the market position this one platform. When a platform gets in this position to keep on attracting negligent users, it shows that this negligence also adds to the dominance indicators like network effects. On the other hand are the platform expectations, but when platforms do not act according to what society expects them to do, they start performing abusive practices. Showing the direct influence of social responsibilities on platform power abuse.

After that, platform power abuse shows a direct connection to regulatory necessity. Since the negligence by users adds to a platform's strong market position, the government should have regulations with which they protect their people from strong digital platforms by creating awareness among users in an objective way. Another regulatory necessity is to ensure platforms managing transparent digital content. To protect both the consumer and the market, platforms must ensure

that the content on their platform is save for everybody on the platform. If platforms cannot ensure save content, this negatively impacts both users and the market itself, making it harmful for society.

With a regulatory necessity in place, there is a continuing need for regulatory innovation since the digital market is quickly evolving. Alternative regulations and an improved regulatory approach are needed to counter these evolving platforms. The EC has recently introduced the DMA and DSA to grow with the evolving platforms, however with every new form of regulation, this is a process that has its limitations.

These new regulations then have a direct impact on platform power abuse again, since any new form of regulation, like the DMA and DSA, has to prove their effectiveness over time. Also, platforms that want to misuse their powerful market position or try to achieve their main monetary goal, try and find ways around new regulations to hold this dominant market position and keep performing abusive practices.

From this point, there is a loop forming, since the platform power abuse is still the reason for a regulatory necessity, which then includes the innovative regulations from the previous cycle, which is the reason for innovation in the regulatory approach because of the evolving market, which then goes back to the platform power abuse when platforms still find ways around the new regulations and keep abusing their power.

Lastly there is a dotted line from the regulatory innovation to the social responsibilities. With new regulations, governments try and change both the user negligence and the platform expectations. Governments try and make users aware of the power they provide to platforms by sharing their privacy with them but also try and make platforms take a step and ensure a fair and transparent market. This is no direct effect, but this is something the governments try to accomplish with their new regulations. To get out of the loop described before, this is the way governments have to end the continuing abuse by dominant digital platforms.

Finally, the model shows grey arrows for connections within the dimensions themselves. The first arrow is showing a positive relation from abuse conditions to abusive practices. Platform power abuse (the dimension) is only possible when platforms act on the abuse conditions, which put them in a dominant position in the market, to participate in abusive practices. Therefore, this dimension only exists, because platforms use the abuse conditions and turn them into abusive practices. This adds to the other connection from platform expectations to abusive practices. When platforms take the abuse indicators to start abusive practices, this shows they do not follow up on their own expectations to ensure a fair and transparent market and follow the rules instead of abusing their power in the market. These connections show the importance of platforms holding on to the expectations society has for them, and not acting on abuse indicators, which would prevent them from participating in abusive practices.

This shows there is a combination of work in the market for digital platforms. On the one hand, government must break the vicious cycle the market is in, where on the other hand, platforms must follow up on their social expectations and therefore not act on possible abuse conditions in the market. When achieving both, the digital platform market will be a fairer market, where every player has a fair chance of succeeding in their business.



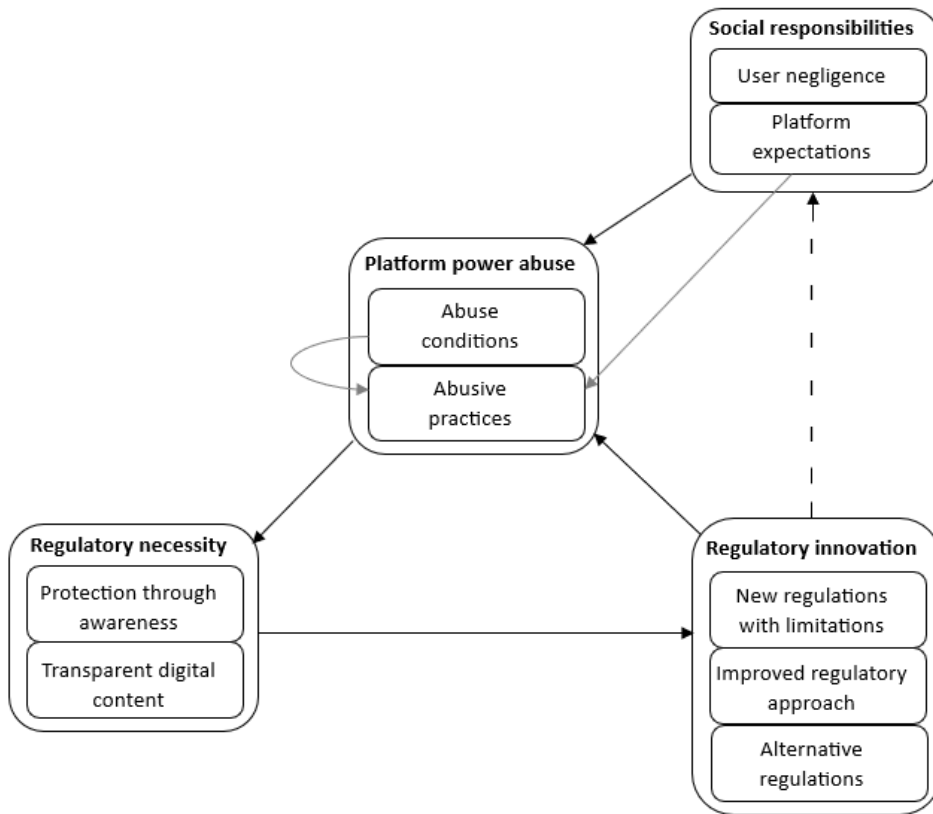


Figure 4: Gioia results

## 5. Discussion and conclusion

This discussion and conclusion starts with the theoretical contributions, policy implications, limitations, recommendations for future research, and the concluding marks.

### 5.1. Theoretical contributions

The information in this research adds to existing research and knowledge regarding dominance and power abuse in the market for digital platforms. Prior research by Bostoen & Mândrescu (2020) has examined competition and market influence of digital platforms, however research to abusive practices remained limited, which is what this study provides. Based on the results from both the case study and the conducted expert interviews, this research shows insights in the reasons platform aim for a powerful position in the market and how these platforms can keep abusing this position. Also, the study finds what is needed to prevent these platforms from abusing this power in the future.

The research contributes through the newly created insights from the case study on recent cases surrounding power abuse by large digital platforms. This case study shows that digital platforms all operate in their own ecosystem and have their own strategies to obtain and maintain market power by trying to create dependencies for their users to connect them to and hold them in their own platform. This adds to the study by Lee & Hwang (2018), who already showed platforms create content diversity to manipulate their ecosystem. This research adds to their study by showing platforms use different strategies to manipulate these ecosystems. These strategies differ from platform type, transaction platforms focus on direct control over access and user interactions, hybrid platforms use a blend of data-driven power and market control, and innovation platforms rely on service- or product-based lock-in effects. This also adds to the framework on digital platforms provided by Tiwana (2013; 2014), showing the understandings of governance and decision-making by digital platforms which contributes to their market dominance. By using these strategies and gaining a dominant market position, the ultimate goal for every platform is to gain an economic advantage over their competitors in the market.

Furthermore, the research continues with the new insights from the expert interviews, who are involved in either dealing with platform power abuse or are invested and interested in power abuse and the regulations regarding platforms. The results of these interviews are handled using the Gioia method, which shows there is a loop triangle of platform power abuse leading to a regulatory necessity to handle this, leading to a need for regulatory innovation to counter this platform power abuse. This aligns with the study of Bostoen & Mândrescu (2020) who identified a research gap on how platforms abuse their dominant market position and with the study by Jacobides & Lianos (2021), who showed digital platforms need proper regulatory frameworks to prevent dominance abuse and ensure a fair and transparent digital market. *Figure 4: Gioia results* shows that the lack from both the user and the platform to follow on their social responsibilities is the reason platforms can get in dominant positions in the first place and abuse their power once they get in that position. With the innovative regulations, the governments try to introduce regulations to make both parties meet their social responsibilities and therefore stop the vicious cycle of power abuse where platforms find ways to work around the new regulations. This adds to the study by Kira et al. (2021), which showed that existing competition policies focus on traditional market structures and therefore fail to work properly for digital platforms. This research shows that innovative frameworks like the DMA and DSA try to handle these digital platforms better but are still insufficient to fully prevent power abuse. The model shows the bottlenecks in the market being the slack of both the platforms and the users, which allows platforms to become so dominant they can abuse their position, and the work the

governments must do to get a more competitive and fair market where consumers are aware of the dangers they might put themselves in.

## 5.2. Policy implications

Based on the findings from this research, multiple different labour groups and organisations can make improvements. With the first organization being the European Commission. Based on this research, the EC could improve their law making process by using people with technological knowledge on algorithms and more. The study finds that multiple parties (including a politician) recommend making use of this technical knowledge and stop considering everything from only a political point of view. By adding a so-called third pillar in the policy process, laws will hopefully be better aligned with digital platforms' processes, which then leads to more effective laws.

Also, based on this research, the Dutch market authority, ACM, can find improvements in the implementation of new competition tools, which the interviewees recommend. This is a regulatory measure which other EU countries use as well to handle platforms locally. If the ACM chooses to implement such a measure in The Netherlands, this means that The Netherlands not only depends on the regulations from the EU but has their own measures as well to manage platforms better.

Lawyers also benefit from the findings of this study. If there are new regulations in the Netherlands and/or the EU regarding digital platforms, lawyers need to know about them. On the one hand, there are the lawyers representing platforms in court cases, but on the other hand, the state and the EU have their own lawyers as well to act against platforms when they infringe the regulations and abuse their power in the market. At both ends of the spectrum, lawyers need to be up to date with any effective regulations to ensure the best outcome for the client they represent when it comes to a court case.

Finally, platforms themselves can benefit from the findings of this study in multiple ways. When platforms actively engage in research on platform dominancy, it can show a commitment to fairness and transparency, which allows for an improved public trust in these platforms. Also, when platforms engage in these studies to understand where abusive practices are identified, they can actively change their own policy to avoid later penalties, when governments enforce stricter regulations. With these findings, platforms can ensure better trust from society, but also cover themselves from possible new regulatory practices.

## 5.3. Limitations

Every study knows her limitations, which is also the case for this research. Viera (2023) shows limitations can be split in five different types, captured in two different categories. These categories are methodology limitations and research process limitations. The methodology limitations link to any limitations regarding the information which is available prior to or gathered during the research (Viera, 2023). The research process limitations link to any limitations which come with doing research, like time constraints or accessibility of existing information (Viera, 2023).

The limitations found in this research are bound to a research process limitation, being a schedule reducing the depth to which the study has been done (Viera, 2023). The study could have been conducted in greater depth if more time had been available.

The period in which the investigation was completed made that the research was limited to platform power abuse and regulation within the Netherlands and the EU. This restriction influences the generalizability of the findings in the study, since the research is conducted within a specific geographical area, which does not allow for a proper reflection of global effects (Nikolopoulou, 2022). This leads to a biased picture in the study, given that most major platforms are based in the United

States of America. A more comprehensive study may give a different picture about the abuse of power by these platforms where possible causes may lie in the differences in legislation within the EU and the USA.

The schedule also creates limitations in terms of the case research and interviews conducted. Due to the small number of cases in the study, the results might be different in a larger study. Due to the small number of cases, the results might be different when a larger sample is studied, even though the case study provides the results that were intent to measure. Also, the results may differ if the case study includes cases from different geographical settings, like cases from the USA. This shows that the validity of the study is not the problem, since the intended results were measured, however the reliability of the study can be seen as a limitation (Ahmed & Ishtiaq, 2021). The conclusion of the case study, that the ultimate goal of platforms is about gaining an economic advantage in the market, may therefore turn out differently if other cases show that this goal falls quite differently, however, this case study did not show that. Not only could the ultimate goal be different, but the small case study could also result in too little information being available to generalise things properly. A more extensive case study could provide better generalizable results (Nikolopoulou, 2022)

In case of the expert interviews, there were not always enough participants per participant group (ACM, experts, consultants, politicians and lawyers) to display a proper generalised picture per participant group (Nikolopoulou, 2022), even though the overall results are generalizable. In the short time frame in which the interviews were scheduled, there was too little possibility among invited interviewees to participate on short notice. This therefore resulted in the fact that more appointments could have been made in a more extensive study, which had allowed for a more extensive response from the interviews and made it easier to draw a generalised picture per participant group (Nikolopoulou, 2022). This limitation shows the same problems as for the case study. Even though the interviews show similar results, providing an overall validity of the research, the reliability forms a limitation. Within each of the participant groups, there are only one to a few participants, which means that proper conclusions within each of these groups cannot be provided, even though the overall conclusions can be drawn (Ahmed & Ishtiaq, 2021). For a more reliable result per individual group of participants, more interviews per group should have been conducted (Ahmed & Ishtiaq, 2021).

#### 5.4. Recommendations for future research

After this research, there will be some recommendations for future research. Since this research focused on cases of power abuse within the EU and regards the laws and regulations within The Netherlands and the EU, a first recommendation is to research in a broader sense. Such broader research could be handled in different ways. Future research could be handled in a similar way as this research, but then for abusive practices and regulations in for example the USA. With such research, the situation in another part of the world is brought to light. Research conducted in another geographical area could then be compared to this research to look for differences, similarities and different useful information. However, even broader research could be done, researching all parts of the world simultaneously to show different effective and non-effective regulations, to provide proper advice to regulatory bodies worldwide.

Another recommendation for future research is an extensive case study on existing cases of platform power abuse. Since this study handled only six different cases of platform power abuse, a more extensive study could be conducted in which more cases of platform power abuse are being investigated. Based on this extensive study more and deeper understandings of platform power abuse could be brought to light. With these deeper understandings of platform power abuse, more differences and similarities between the cases could be found, but also better connections could be

made when looking at the reason for the power and the reason or motive for the platform to abuse this power. This would also mean that the ultimate goal, which has been marked as platforms wanting to maximize their profits, could turn out differently in more extensive research.

Future research could also address the problems of this research regarding the degree to which interviews were conducted. As mentioned in the limitations section, there was not always enough time available to conduct interviews with every participant invited from each of the different groups of experts. This resulted in interviews with only one lawyer, one politician, and one employee of the Dutch market authority ACM. Future research could be handled in different variations. A first option is another study focused on digital platforms and their power abuse in only the EU, where participants of each of the groups mentioned could be found all over the EU, instead of only in The Netherlands, like in the approach of this research. Another option is to make it similar research, but in a different geographical area, like the USA. However, a third option could be a worldwide study on platform power abuse, where the researchers then collect data in multiple different geographical areas, after which they compare the results.

Another research proposed goes back to the EU. Since the DMA and DSA regulations are newly introduced in the EU, the real effects of these regulations on the digital platforms hit by them is still unknown. The intended effects that should have been achieved by these regulations will not be fully known until a few years from now. By then, this legislation has probably been used to act against dominant platforms. Based on this new data, an in-depth investigation of the real effectiveness can be conducted based on an examination of those cases, among other new data gathered by then.

Future research could also focus on the implementation of a third pillar in the decision-making process. The interviewees mentioned that the digital market is very complex and quickly evolving, and to handle the players in this market as best as possible, they proposed the implementation of a third pillar in the decision-making process, being a technological knowledge pillar. They suggested to use experts with digital knowledge to help with the law making process, instead of only using political knowledge. Future research could measure the effectiveness of regulations implemented by just politicians, and compare this to new regulations which are implemented with the usage of such a third pillar, to measure whether this is indeed more effective to counter platform dominance.

## 5.5. Concluding remarks

Finally, in the concluding remarks of this research, an answer is formulated for the main research question, by which this research is guided. This main research question is as follows: *“Which market mechanisms and regulatory strategies can contain market dominancy and prevent power abuse by digital platforms?”*.

There are several market mechanisms that cause digital platforms to gain a dominant market position. For instance, the case study shows that platforms have different tactics to ultimately engage with users and keep them connected to the platform. Platforms use lock-in mechanisms here, such as a mandatory in app purchase system (IAP) like Apple uses, or a unique product or software for this product that leaves customers with high switching costs if they want to switch to another platform, as Nintendo and PlayStation show.

Furthermore, the market for digital platforms features so-called network effects that can strengthen the dominance of platforms. These network effects are both direct and indirect. Platforms need to understand these network effects well, to develop a strategy to create leverage on competition in platform ecosystem (Clements, 2004).

To prevent platforms from abusing these market mechanisms to their own advantage, governments need to ensure proper legislation to prevent this. Consumers also have to better weigh up what information they do and do not share with these platforms to prevent platforms from being able to use this information to their own advantage.

Governments have various antitrust regulations to prevent digital platforms from abusing their power if they gain a dominant position in the market. Within the EU, this legislation is recently expanded with the introduction of the DMA and DSA, with which a number of gatekeepers are checked in advance by the EC. If platforms want to make an illegal change, the EC will be able to put a stop to it immediately, instead of having to investigate a platform after they breach the rules. With these new rules, the EU tries to create a more equal and fairer market where smaller and new players also have a chance of succeeding.

However, it appears that platforms always try to work around a set of rules to achieve their ultimate goal, which is to increase their own economic advantage over competitors, as the case study shows. This is the reason governments must always keep innovating to keep regulations up to date with the innovative climate of the platforms themselves. This proves that power abuse and trying to contain this power is a complex topic. The Gioia model shows this, where platforms get in positions to abuse their power, sometimes due to a lack of social responsibilities by both platforms and users. Due to the strong positions of platforms, governments need a regulatory necessity to contain the platforms best but also work on regulatory innovation to better counter against platform dominance in the future. The Gioia model also shows that with these innovations, governments must try to ensure that both platforms and users meet their social expectations, to try and break the vicious cycle of power abuse and the need for new regulations.

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## Appendixes

### I. SLR setup

To determine the definition of power, an SLR has been conducted. Sources about power vary from power in terms of dominancy, to power in terms of energy supply, this was shown with the search string "Power AND definition", resulting in a total of 35.497 documents.

Platform AND power: 91.782 docs

This search string turned out to be too broad, but also was this too much to sort out in a short period, which is why the following more specific search strings have been made up:

Platform AND ecosystem AND power: 821 docs, this is still too much to analyse.

"Platform ecosystem" AND power: 44 docs

Two-sided AND platform AND power: 91 docs

"Two-sided platform" AND power: 16 docs

Platform AND ecosystem AND power AND regulation: 39 docs

Two-sided AND platform AND regulation AND stakeholders: 2 docs

Platform AND ecosystem AND regulation AND stakeholders: 43 docs (none were relevant)

After filtering on title and abstract the following number of sources have been selected:

"Platform ecosystem" AND power: 16 docs

Two-sided AND platform AND power: 25 docs

"Two-sided platform" AND power: 6 docs

Platform AND ecosystem AND power AND regulation: 10 docs

Two-sided AND platform AND regulation AND stakeholders: 1 doc

After filtering the articles on the 3, 4, and 4\* categories according to the ABS list, this is the number of remaining papers, books, and conference papers:

"Platform ecosystem" AND power: 9 docs

Two-sided AND platform AND power: 12 docs

"Two-sided platform" AND power: 4 docs

Platform AND ecosystem AND power AND regulation: 4 docs

Two-sided AND platform AND regulation AND stakeholders: 0 docs

After deleting 4 duplicates which were selected in the different search strings, there is a total of 25 documents selected through this conducted SLR.



## II. SLR 2 setup

The first used search string for this SLR therefore was: “Power AND dominance AND definition”. To make sure sources found would also be in line with the definition of power in the platform economy, a second search string used is: “Platform AND power AND dominance AND definition”. These search strings resulted in a total of eight different sources.

Power AND dominance AND definition: 201 documents → 5 used

Bell, N. (2008). Power, alternative theories of. *Encyclopedia of violence, peace, and conflict* (pp. 1703-1709) doi:10.1016/B978-012373985-8.00144-6

Bell, N. (2022). Power, alternative theories of. *Encyclopedia of violence, peace, & conflict: Volume 1-4, third edition* (pp. 376-381) doi:10.1016/B978-0-12-820195-4.00195-3

Crocioni, P. (2008). Leveraging of market power in emerging markets: A review of cases, literature, and a suggested framework. *Journal of Competition Law and Economics*, 4(2), 449-534. doi:10.1093/joclec/nhm018

Markovits, R. S. (2013). Economics and the interpretation and application of U.S. and E.U. antitrust law. *Economics and the interpretation and application of U.S. and E.U. antitrust law* (pp. 1-761) doi:10.1007/978-3-642-24307-3

Park, S. (2012). *Market power revisited* doi:10.1108/S0193-5895(2012)0000025004

Platform AND power AND dominance AND definition: 6 documents → 3 used

Abdollah Dehdashti, S. (2018). B2B unfair trade practices and EU competition law. *European Competition Journal*, 14(2-3), 305-341. doi:10.1080/17441056.2018.1520439

Bostoen, F., & Mândrescu, D. (2020). Assessing abuse of dominance in the platform economy: A case study of app stores. *European Competition Journal*, 16(2-3), 431-491. doi:10.1080/17441056.2020.1805698

Mândrescu, D. (2018). Applying (EU) competition law to online platforms: Reflections on the definition of the relevant market(s). *World Competition*, 41(3), 453-483.

### III. Case descriptions

#### Apple App Store music streaming

##### *Platform*

In 2008, the Apple App Store launched. It is a digital distribution platform which allows users to both purchase and download applications (apps) onto their Apple iPhone or iPad devices to enhance the functionality of these devices. In 2008, the App Store started with 500 apps to choose from and ever since, the platform has grown to host millions (Staff, 2008; Apple, n.d.). Worldwide, this App Store is available in 175 different versions, being unique in over 40 languages (Apple, n.d.). The platform is a significant revenue source for Apple, sharing app sales profits with developers (Kenton, 2023).

The most important aspect of apps for Apple are the privacy and safety concerns for their users when installing an app (Apple, n.d.). Therefore, all developers can provide apps, if they provide apps that are in line with Apple's strict guidelines and approval process, which they use to maintain high-quality standards (Kenton, 2023). A guarantee given by Apple in its App Store is the guarantee that apps are coming from familiar developers, do not contain any form of malware and are safe to install and use on any Apple device (Apple, n.d.). In 2022 for example, 215.000 apps have been declined to enter the App Store for not meeting Apple's guidelines, where in total over a million apps have already been declined because of offensive, harmful, unsafe or illegal content (Apple, n.d.).

##### *Case*

In March 2024, the European Commission fined Apple €1.8 billion for abusing its dominant market position through restrictive practices on its App Store, particularly targeting music streaming services such as Spotify (European Commission, 2024). The fine represents one of the largest antitrust penalties imposed by the European Union and reflects the seriousness of the violations identified by the regulators (Zahn, 2024). The European Commission officially announced the initiation of formal antitrust investigations into Apple's App Store practices back in 2020 on whether certain rules imposed by Apple on app developers violate EU competition regulations (European Commission, 2020). The investigation by the European Commission was driven by complaints from Swedish music streaming service Spotify, which argued that Apple's practices were designed to disadvantage competitors and promote its own services unfairly (Zahn, 2024). The specific concerns revolved around the mandatory use of Apple's proprietary in-app purchase system and restrictions on developers informing users about alternative purchasing options (European Commission, 2020). The key issues investigated by the Commission of the European Union were (European Commission, 2020):

- Apple enforces the use of its proprietary in-app purchase system (IAP) for the distribution of paid digital content. A fixed 30% commission is charged by Apple on all subscription fees processed through IAP.
- Developers face limitations in informing users about cheaper purchasing possibilities outside of the app. While users can consume content purchased elsewhere, developers are barred from actively communicating such options.

The Commission expressed concerns that Apple's App Store practices may negatively impact consumers by limiting choice and potentially leading to higher prices in the music streaming market (European Commission, 2020). The investigations were grounded in EU competition rules, specifically Articles 101 and 102 of the Treaty on the Functioning of the European Union (TFEU) . These articles address anticompetitive agreements and the abuse of a dominant position, respectively (European

Commission, 2020). If proven, Apple's practices could be deemed as breaching these EU competition rules.

The investigation by the European Commission found Apple guilty of unfair competition on rival music streaming apps, forcing them to use Apple's in-app purchase system, with the 30% subscription commission. This structure reduced the competitiveness of music streaming services significantly since these subscription prices were inflated a lot compared to Apple's Apple Music (European Commission, 2024).

Also, according to the investigation, policies from Apple prevented developers from informing their users about alternative subscription options outside of the App Store, which limited both consumer choice and transparency even more (European Commission, 2024). The Commission's decision underscores the broader regulatory concerns about the power dynamics in digital markets and the need to ensure fair competition.

The Guardian reported that Apple has contested the fine, arguing that its App Store policies are intended to ensure user security and privacy, as well as to maintain a consistent user experience (O'Carroll & Milmo, 2024). Apple has emphasized that the commission fees support the overall infrastructure of the App Store, including its extensive review process aimed at protecting users from malicious apps. However, the European Commission has maintained that while security and privacy are important, they should not be used as justifications for anti-competitive behaviour that harms both consumers and other businesses (O'Carroll & Milmo, 2024).

## Instagram bad for mental health youth

### *Platform*

Instagram is a social media platform designed for sharing photos and videos that was launched in 2010 by Kevin Systrom and Mike Krieger. The platform is available for every person from 13 years and older (Instagram, n.d.; Moreau, 2024). In 2012, Facebook acquired the platform introducing a stories functionality which allows users to post content either in their permanent feed or as temporary stories that disappear after 24 hours (unless archived) (Britannica, 2024). Within the platform, users can send direct messages to one another, follow accounts, and use photo and video editing tools within the app (Britannica, 2024; Moreau, 2024). Instagram continues to evolve, adding new features and expanding its reach across different operating systems, maintaining its position as one of the leading social media platforms worldwide (Britannica, 2024).

The influence of Instagram on society leads to social media influencers leveraging their large number of followers for advertising purposes. Even though the platform is very popular, it faces criticism for multiple kinds of issues, like inappropriate content, the spread of misinformation, and the negative impact on mental health, particularly among teenagers (Britannica, 2024).

### *Case*

The European Union has launched an investigation into Instagram, with the focus on how the algorithms and design choices of the platform might contribute to mental health issues such as anxiety, depression and self-harm among their young users (Le Monde, 2024). This investigation into Instagram is part of a broader effort made by the European Union to better understand and mitigate the negative effects of social media on the mental well-being of their users.

One of the main concerns in the investigation is the addictive nature of Instagram's design. With features such as infinite scrolling, push notifications, and algorithmically curated content, designed to maximize user engagement may lead to excessive screen time and social comparison among their

users (Goujard et al., 2024). Ursula von der Leyen, the President of the European Commission, highlighted the emotional toll these platforms can take on young people, citing instances of cyberbullying and self-harm linked to social media use (Goujard et al., 2024). She emphasized the need for a comprehensive inquiry into how social media affects the well-being of young users and the implementation of stricter regulations to protect them.

In addition to the investigation by the EU, countries within Europe, such as France and Denmark, have started implementing their own measures to limit the harmful effects social media platforms have on young users. Measures made by these countries include a proposition for screen time limits and stricter control over the content accessible to minors (Goujard et al., 2024). The efforts made by the individual countries do align with the agenda of the EU, which is ensuring that digital platforms do not and cannot exploit vulnerable user, particularly the younger users on these platforms.

The investigation by the European Union also checks how Instagram manages reports of harmful content and whether the platform's content moderation policies are sufficient to protect young users from exposure to inappropriate material (Woollacott, 2024). This scrutiny is part of the Digital Services Act (DSA), which requires online platforms to take proactive measures in moderating content available on their platform and protecting their users, especially minors. The DSA imposes significant fines for non-compliance, emphasizing the EU's commitment to holding social media companies accountable for their impact on public health (Goujard et al., 2024).

Overall, the EU's investigation into Instagram reflects growing global concerns about the mental health implications of social media use, especially under minors on these social media platforms. It underscores the need for regulatory frameworks that balance technological innovation with the protection of user well-being. As the investigation progresses, it could lead to more stringent regulations for social media platforms, ensuring they foster a safer and healthier online environment for all users, particularly the youth.

### Google Shopping advantage for Google *Platform*

Google is a multinational technology company that specializes in internet-related services and products. Google has a few different technologies, which provide the user of the platform with different possibilities (Google, n.d.). In 2015, Google underwent corporate restructuring and became a subsidiary of Alphabet Inc., a conglomerate that includes various businesses beyond Google's core internet services (Alphabet, n.d.).

Google is worldwide mostly known for its search engine, which users can use by entering queries, words or sentences into the search bar, after which the algorithms of Google will provide the user with the best fitting sources for the information provided in the search bar (Google, n.d.). Furthermore, Google is known for its online advertising possibilities. The company offers advertising services, including Google Ads, which allows businesses to display ads on Google's search results and other platforms (Google, n.d.). These ads are the primary source of revenue generated by Google.

Another development by Google is Android, an open-source mobile operating system, it is widely used in smartphones and tablets (Google, n.d.). Besides the main functions Google offers, the platform has a variety of software applications and services, including Gmail (email), Google Maps (route planner), Google Drive (cloud storage), Google Docs (office), YouTube (entertainment), and many more. More recent additions to the Google platform are hardware devices, like the Google Pixel smartphones, Google Home speakers/home assistant devices and the Google Nest home products (Google, n.d.).

## Case

The European Union has fined Google €2.4 billion for abusing its power and market dominance by illegally giving advantage to Google's comparison shopping service, and therefore breaching EU antitrust regulations (European Commission, 2017).

Google has been found dominant in all the 31 countries of the European Economic Area (EEA). The research went back to 2008 and found Google was dominant in all countries from 2008 onwards, except for the Czech Republic, where Google was dominant from 2011 onwards (European Commission, 2017). When Google became dominant, with in most countries a market share of 90% or more, it also was extremely difficult to enter the market for search engines, partially due to network effects (European Commission, 2017). The more consumers use one search engine, the more attractive this search engine then becomes to advertisers. Profits generated by the search engine shall then be used to attract more consumers. Also, the data a search engine gathers about consumers can in turn be used to improve results (European Commission, 2017).

However, market dominance is not illegal under EU antitrust measures, dominant companies just need to be aware of this and have a responsibility to not abuse their dominance, but Google did abuse its dominant position. Google had the separate Google product Froogle, which is now called Google Shopping, and used an illegal advantage to improve the performance of Google Shopping (European Commission, 2017). The search results Google generated were manipulated by Google, placing their own product Google Shopping, above the rest, but also demoting rival comparison shopping services (European Commission, 2017). This abuse by Google started in each respective country from the moment Google began prominently displaying its comparison shopping service, starting with Germany and the UK in 2008, until in 2013 they were abusing their position in all the EEA countries (European Commission, 2017). Research showed that the most highly ranked rival comparison shopping service started to appear on average on page four or even further down in Google's search results (European Commission, 2017). Based on clicks/traffic, (on desktops) the ten highest-ranking search results on the first page receive a total of 95% of all clicks generated in a search result, where the top search result received approximately 35% of all clicks; the first result on the second page received only 1% off the click (European Commission, 2017). This meant consumers barely got to see the rival comparison shopping services, since they started to appear around page four or lower. The rivals could notice this in their traffic generated, since the study also showed that moving a first ranking result to the third rank would lead to a reduction in clicks of about 50% (European Commission, 2017). The distortion made by Google led to significant market share gains by Google, at the expense of their rivals (European Commission, 2017).

The fine for Google by The Commission of the European Union has a total of € 2.424.495.000 and considers both the duration, and the gravity of the infringements by Google (European Commission, 2017b). The cost of the fine has been calculated based on value Google generated from Google Shopping in the thirteen EEA countries involved in the infringement (European Commission, 2017b). after the Commission made the Decision, they gave Google 90 days to stop their illegal activities and equal treatment to all rivalling shopping service companies, they also forbid Google to start similar illegal activities, which means they ordered Google to comply with the antitrust legislation in the EU (European Commission, 2017b). If Google where to fail to comply with the rules in the EU within the 90 days, they would face to pay penalty payment going up to 5% of the average daily worldwide turnover of their parent company Alphabet (European Commission, 2017b).

## Amazon distorting competition

### *Platform*

Amazon, founded in 1995 by Jeff Bezos, began as an online bookstore. Now it is a global e-commerce platform with a strong focus on customer centricity and innovation. The company serves consumers, independent sellers and various creative professionals (Amazon, n.d.).

In the Netherlands, Amazon offers services such as Prime membership with benefits such as fast delivery and access to Prime Video. The platform also supports SMEs, with more than 50% of global sales generated by independent sellers (Amazon, n.d.).

Amazon stands out for its logistics approach, putting the customer first and striving for efficient deliveries. The company is also a pioneer in cloud computing with Amazon Web Services (AWS), which provides reliable and scalable IT services to businesses worldwide (Amazon, n.d.).

With services such as Amazon Prime and Amazon Marketplace, the company continues to offer its customers and sellers a comprehensive and integrated experience. In essence, Amazon has evolved into a versatile technology and e-commerce platform that continues to strive to innovate and improve everyday life (Amazon, n.d.).

### *Case*

The European Commission has initiated legal proceedings against Amazon, alleging serious breaches of EU antitrust rules. The Commission's preliminary findings indicate that Amazon has distorted competition in online retail markets by systematically leveraging non-public business data from independent sellers who use its marketplace (Ray, 2020). The dual role played by Amazon, as both a marketplace service provider and a retailer on the same platform, has raised concerns about the fair treatment of third-party sellers and the potential abuse of its dominant market position (European Commission, 2020b).

Allegations and Issues against Amazon:

Improper Use of Seller Data:

- Amazon is accused of utilizing extensive non-public data from third-party sellers, including sales figures, revenue information, shipping data, and past performance metrics (European Commission, 2020b).
- The Commission argues that this data is funnelled into Amazon's retail business, enabling the company to tailor its own offers and strategic decisions to the detriment of competing sellers (European Commission, 2020b).

Abuse of Dominant Market Position:

- The Commission contends that Amazon's use of non-public marketplace seller data allows the company to sidestep normal risks of retail competition, giving it an unfair advantage in the EU's largest markets, specifically France and Germany (European Commission, 2020b).
- This alleged abuse of dominance could infringe upon Article 102 of the Treaty on the Functioning of the European Union (TFEU) (European Commission, 2020b).

Investigation into "Buy Box" and Prime Label Practices:

- The Commission has opened a second antitrust investigation into Amazon's business practices related to the "Buy Box" and its Prime loyalty program (Porterfield, 2022).

- The focus is on whether Amazon's criteria for selecting the winner of the "Buy Box" and enabling sellers to offer products to Prime users result in preferential treatment of Amazon's retail business or sellers using Amazon's logistics and delivery services (European Commission, 2020b).

Potential Legal Consequences:

- Amazon has agreed to cease using non-public data from independent sellers for its retail business and to grant equal opportunities to third-party sellers for the "Buy Box" and Prime shipping for seven years (European Commission, 2020b).
- Failure to comply with these commitments could result in fines up to 10% of annual turnover or 5% of daily turnover per day (European Commission, 2020b).

Amazon has expressed disagreement with several of the Commission's preliminary conclusions but emphasized its cooperation in serving its European customer base. The company's compliance with the imposed commitments will be closely monitored (Porterfield, 2022).

The European Commission's legal action against Amazon underscores the importance of fair competition in online retail markets. The outcomes of the investigations may have significant implications for Amazon's business practices and set a precedent for how dominant tech platforms are regulated in the European Union (European Commission, 2022b).

## PlayStation Plus prices

### *Platform*

PlayStation Plus is a subscription service for PlayStation users. This subscription comes in at three different price points, all offering their own rewards and features to the user. The basis program is called PlayStation Plus Essential, this program offers monthly games, online multiplayer, discounts in the PlayStation Store, exclusive content, a cloud service, share play and game assistance (PlayStation, n.d.). The next step in subscriptions is PlayStation Plus Extra, this program has the same features as PlayStation Plus Essential but also includes a game catalogue and access to Ubisoft+ classics (PlayStation, n.d.). The last program possible is PlayStation Plus Premium, it has all the features from PlayStation Plus Extra, but also includes a catalogue with classic games, demo versions of different games and a cloud streaming service (PlayStation, n.d.). When being a PlayStation Plus member, users can also collect PlayStation Stars-Points, which can be redeemed for discounts on games in the PlayStation Store (PlayStation, n.d.).

The PlayStation Plus subscription service was announced in March 2022, with it being effective from June 2022 (Hofmans, 2022), PlayStation Plus would become a replacement for the original PlayStation Plus, having only one subscription level, instead of three.

The annual prices for the different programs, when they launched, were (McWhertor, 2023; Hofmans, 2022):

- PlayStation Plus Essential:     \$ 59,99 / € 59,99
- PlayStation Plus Extra:         \$ 99,99 / € 99,99
- PlayStation Plus Premium:     \$ 119,99 / € 119,99

The subscriptions can also be found with a monthly or quarterly subscription, but this comes with even higher prices, when calculating to annual prices. The subscriptions cost with a quarterly and with a monthly option are:

Quarterly (PlayStation, n.d.):

- PlayStation Plus Essential: \$ 99,96 / € 99,96 (\$/€ 24,99 a quarter)
- PlayStation Plus Extra: \$ 159,96 / € 159,96 (\$/€ 39,99 a quarter)
- PlayStation Plus Premium: \$ 199,96 / € 199,96 (\$/€49,99 a quarter)

Monthly (PlayStation, n.d.):

- PlayStation Plus Essential: \$ 119,88 / € 107,88 (\$ 9,99 / € 8,99 a month)
- PlayStation Plus Extra: \$ 179,88 / € 167,88 (\$ 14,99 / € 13,99 a month)
- PlayStation Plus Premium: \$ 215,88 / € 203,88 (\$ 17,99 / € 16,99 a month)

### Case

A lot of games on PlayStation offer an online multiplayer functionality, but for this multiplayer functionality, users are required to have any of the PlayStation Plus subscriptions (Gamezone, 2023). PlayStation Plus users provide the option for online multiplayer functionality as most important reason (with 36% of the votes) to use PlayStation Plus (Statista, 2022). This also proves why the cheapest subscription option is the most popular one. The paywall for multiplayer functionality results in the problem for gamers that when they would choose to stop using PlayStation Plus, they would then lose the multiplayer functionality and with that lose added value of their console and games.

Since the introduction of PlayStation Plus, it has been only a year for PlayStation to announce price increases for the new subscription service, which was not warmly welcomed in the first place. The price increase is set during a period in which cost of living is already more expensive than ever before (Makar, 2023), which leads to little support for the period PlayStation chooses to increase these prices.

The new prices were announced in August 2023 and will be effective from September 6th, 2023.

The new annual prices for the different programs will be (Makar, 2023):

- PlayStation Plus Essential: \$ 79,99 / € 71,99
- PlayStation Plus Extra: \$ 134,99 / € 125,99
- PlayStation Plus Premium: \$ 159,99 / € 151,99

These increases lead to a maximum of \$ 40 dollars or € 32 on a yearly basis. Even though the annual prices are getting a price increase, the quarterly and monthly subscription fees will remain the same after September 6th, when the annual subscription fees do increase. As for March 2023, there were a total of 47.4 million PlayStation Plus subscribers. These subscribers all had their own different subscription, which made a total of 33.3 million PlayStation Plus Essential subscribers, 6.1 million PlayStation Extra subscribers, and 8 million PlayStation Plus Premium subscribers (Statista, 2023). These data show the cheapest option for a PlayStation Plus subscription is the most popular one, whereas the most expensive option is second most popular one.

The argument Sony (who owns the company PlayStation) gave for the increased prices was to enable "to continue bringing high-quality games and value-added benefits to your PlayStation Plus subscription service." (Saed, 2023), however, a lot of users claim Sony could increase these prices, without losing subscribers, since the subscribers want to keep using this multiplayer functionality and therefore pay the extra \$ 20 / € 12 (which is needed for the cheapest subscription) based on annual subscription fees (Makar, 2023). Also, the subscription fees will only increase on the annual subscription, since this comes with the largest discount possible, and therefore targets most subscribers.



## Nintendo Switch Joy-Con drift

### *Platform*

The Nintendo Switch, launched in March 2017, represents a significant innovation in the gaming industry, blending home console and portable gaming experiences into one versatile device (Ohannessian, 2017). The Switch features a hybrid type design that allows it to be used as a traditional console when docked and connected to a TV, or as a portable handheld device with its built-in screen and detachable Joy-Con controllers. This flexibility has helped it appeal to a broad audience, offering a unique gaming experience that can transition seamlessly between different play modes.

Notably, the Switch has become the cornerstone of Nintendo's strategy to unify its console and handheld gaming markets, making the Switch a successor to both the Wii U and 3DS without directly replacing them (Arif, 2017). Its success is due to a strong lineup of first-party games, extensive third-party support, and innovative features. Additionally, the Nintendo Switch gained a lot of support for the device through the choice of Nintendo to develop a couple mobile games with their popular characters like Mario, which made sure the company got in the picture again after a couple of years where great losses have been suffered (Westaway, 2017).

### *Case*

The case against Nintendo has all to do with the controllers of their Nintendo Switch, the Joy-Con's. The Joy-Con controllers, integral to the Switch's design, have faced widespread issues known as "Joy-Con drift", which occurs when the analogue sticks on the controllers register movement without any user input, causing the in-game characters to drift across the screen unintentionally.

The issues with the controllers led to numerous complaints and legal actions against Nintendo in multiple different districts. In the United States, a class-action lawsuit ran against Nintendo where the plaintiffs argued that Nintendo sold the Switch controllers with the knowledge of their defects, which would be a breach of consumer protection laws (Doolan, 2023). The lawsuit was dismissed in February of 2023, making it a win for Nintendo. The judge ruled in favour of Nintendo, largely because of the company's warranty practices and the measures it had taken to address consumer complaints, such as offering free repairs for affected controllers (Doolan, 2023).

Despite the win in the US, European consumer authorities also started investigating this matter. The European Commission, together with national consumer protection agencies, investigated Nintendo's handling of the Joy-Con drift complaints. This investigation led to a significant decision made in March of 2023 where Nintendo agreed to offer free and permanent repairs for all Joy-Con controllers affected by this Joy-Con drift, no matter the warranty status of the product (European Commission, 2023). The agreement was part of a commitment by Nintendo to improve their customer service and make sure that customers receive effective and timely repairs for their products (European Commission, 2023).

The involvement of the European Commission showed the importance of customer protection in the digital era, especially for products with a large impact on this digital market. The European Commission concluded that companies must maintain to high standards of quality and service, ensuring that defective products are addressed promptly and effectively (European Commission, 2023). Nintendo's decision to provide free repairs was seen as a significant win for consumers, strengthening the principle that companies must be held accountable for flaws or defects in their products (European Commission, 2023).

The European network of consumer authorities (Network of Consumer Protection Cooperation, or CPC), of which the Dutch Authority for Consumers and Markets (Autoriteit Consument & Markt (ACM)) is part of acted in this case upon an alert made by the BEUC (Bureau Européen des Unions de Consommateurs) which is the European bureau of consumer associations (ACM, 2023). The CPC always strives for consumer protection, which resulted in Nintendo's commitment to offer free repair for Joy-Con's across Europe (ACM, 2023). This commitment was not only a response to regulatory pressure but also an effort to rebuild consumer trust and maintain Nintendo's reputation in the competitive gaming market (ACM, 2023).

## IV. Interview protocol

### Definition of power/when too much power

1. What is your definition of the term "power of a platform"?
  - a. In your opinion, can these platforms be a crucial problem in today's digital landscape, why (not)?
2. What can mainly cause platforms to gain such a dominant position in the market?
  - a. What do you think are the most worrying aspects of abuse of power by platforms?
3. How do you propose to determine when a platform has accumulated excessive power?
  - a. What specific indicators or thresholds do you propose to identify in such cases?
4. What are some examples of abuse of power by platforms that you have observed recently, and what impact do they have on society/politics?
  - a. What lessons can be learned for both politics and society from these examples?

### Dangers of not controlling power

5. What role should governments and others play in countering platform dominance and promoting a more competitive digital market?
  - a. Do you think that you as ACM in the Netherlands can do enough against dominance of digital platforms?
6. Could different parties work together with digital platforms to create effective policies and guidelines?
  - a. If so, what would be the best way to do this without allowing the platforms to still reinforce their power in this way, but making the cooperation work?
7. What do you think are the possible social, economic and political consequences if the power of digital platforms remains unregulated or uncontrolled in the long term?
8. What responsibilities do digital platforms themselves have to ensure a fair and transparent market?
  - a. How could this also possibly be enforced?
9. What steps should be taken to encourage the growth of smaller players in the digital market to ensure a more diverse and competitive landscape?

### Possible new ways to prevent abuse of power.

10. Apart from all current rules and laws, how would you have activities of large digital platforms regulated and monitored without stifling innovation?
11. Back to the existing antitrust rules and laws such as the DMA. Do you believe that the current regulations are sufficient to prevent platforms from becoming too powerful within the EU?
  - a. What are the strong aspects of the current rules?
12. Would all parties involved in countering abuse of power by platforms feel this way about the current rules?
13. What additional steps could be taken to better enforce platforms in the future?

## V. Interview transcripts

Digital platforms department of the ACM.

### **Definitie van macht/wanneer te veel macht**

1. Wat is uw definitie van de term "macht van een platform"?

*Als je het hebt over macht, dan kijken we bij het ACM naar de economische machtspositie van een bedrijf. Uiteindelijk heeft elk platform wel een mate van macht op de markt, maar er is een juridische grens die economisch onderbouwd moet worden.*

- a. Kunnen deze platforms volgens u een cruciaal probleem in het huidige digitale landschap zijn, waarom (niet)?

*Nee, want zonder deze platforms is er geen digitaal landschap.*

2. Hoe stelt u voor om te bepalen wanneer een platform een te grote macht heeft opgebouwd?

*Er is geen sprake van te veel macht, want het hebben van een economische machtspositie op de markt is niet verboden. Het gaat er om dat een bedrijf zich niet schuldig maakt aan misbruik van een eventuele economische machtspositie.*

- a. Welke specifieke indicatoren of drempels stelt u voor om in zulke gevallen te identificeren?

*Hier is een opbouw voor. Eerst wordt er gekeken naar een aantal structuurkenmerken van het bedrijf zelf. Vervolgens wordt er een afbakening van de markt gemaakt, hoe breder de markt is hoe meer spelers er zijn en hoe minder machtig het bedrijf in kwestie is. Daarna is er een dominantieanalyse, hier wordt gekeken naar de macht van het bedrijf in kwestie in de markt die is afgebakend. In deze analyse wordt gebruik gemaakt van het marktaandeel van de spelers in de markt, een vuistregel is dat een marktaandeel boven 50% een aanwijzing kan zijn voor een economische machtspositie van een bedrijf.*

3. Wat kan er voornamelijk voor zorgen dat platforms een dusdanig grote machtspositie kunnen bemachtigen in de markt?

*Er zijn een aantal platforms op de markt zoals een Google en Apple die in korte tijd na hun oprichting al snel zijn doorgegroeid tot een van de grote spelers op de markt, dus het is een beetje een mate van geluk hebben en op het juiste moment de markt betreden denk ik. Maar een platform kan net zo snel verdwijnen als die is gekomen, zoals met een platform als Hyves is gebeurt.*

- a. Welke middelen heeft u binnen het ACM om te voorkomen dat deze platforms te machtig worden?

*Op basis van de mededingingswet en de ingevoerde DMA kunnen wij als ACM platforms aanvechten en zo kunnen wij een boete naar het verleden opleggen, of een last onder dwangsom. Dit houdt dan in dat we op basis van afgelopen jaren een normale boete kunnen opleggen, of we stellen eisen aan een bedrijf dat ze zaken zullen moeten gaan veranderen, anders volgt de boete als dwangsom op die manier. Toezegging/schikking is ook nog mogelijk, maar partijen bieden dit aan als ze anders weten een boete te krijgen.*

- i. Hoe wordt er bepaald wat de hoogte van een boete mag zijn?

*Boetebeleidsregels worden gebruikt om de hoogte van de boetes op te stellen. De boete moet ook goed onderbouwd worden voor die opgelegd kan worden.*

4. Wat zijn enkele voorbeelden van machtsmisbruik door platforms die u recentelijk hebt waargenomen, en welke gevolgen hebben deze voor de samenleving/politiek?

*Een aantal voorbeelden zijn:*

*Zaak tegen de NS, maar in deze zaak zei de rechter zei dat er te weinig is aangetoond dat de NS een economische machtspositie heeft.*

*Een zaak tegen Google, waarbij Google andere prijsvergelijkingsites verder weg drukte en alleen Google shopping bovenaan de pagina liet zien.*

*Een zaak tegen Amazon, aangezien Amazon dominant is op de markt voor online marktplaatsdiensten, Amazon vond dat de markt breder was dan in de zaak werd omschreven (winkels, webshops etc.), in deze zaak werd een schikking getroffen.*

#### **Gevaren van geen controle op macht**

5. Welke rol zouden overheden en andere instanties moeten spelen bij het tegengaan van de dominantie van platforms en het bevorderen van een meer concurrerende digitale markt?

*Het zal een vrije markt moeten blijven waar sommige bedrijven altijd groter zullen zijn dan anderen, maar zolang ze zich aan de regels houden zal dit ook geen probleem zijn. Voor instanties als overheden zal het zaak zijn om de controle er op te houden dat dit dan ook gebeurt.*

- a. Vind u dat u als ACM in Nederland genoeg kan doen tegen dominantie van digitale platforms?

*Ja, we hebben voldoende middelen om ook tegen grote partijen een kans te maken. Naast de net ingevoerde DMA hebben we ook de mededingingswet waar we gebruik van kunnen maken, wanneer er sprake is van oneerlijke concurrentie op een markt, oftewel wanneer er sprake is van misbruik van een economische machtspositie. Er kan op veel verschillende manieren misbruik worden gemaakt van een economische machtspositie, hiervan is sprake als een bedrijf zich zo gedraagt dat ze niet eerlijk concurreert op gebied van prijs en of kwaliteit van haar aangeboden product. Het gaat er binnen de markt dan ook om dat toetredende bedrijven ook echt iets toevoegen op een of beide gebieden. Als ze hier niet aan kunnen voldoen vallen ze weer uit de markt, maar als dit wel zo is kunnen ze een nieuwe concurrent worden voor de bestaande spelers. Deze mededingingswet is ook al jaren niet gewijzigd, maar ondanks alle ontwikkelingen in techniek en van de platforms zelf is die nog altijd even werkzaam. Het is eigenlijk voor ons een hele open term, maar dat komt de markt wel ten goede, want deze blijft er open en levend door, maar wanneer er echt sprake is van misbruik kan het op basis van deze wet er wel worden uitgehaald.*

6. Kan het ACM samenwerken met digitale platforms om effectief beleid en richtlijnen op te stellen?

*Een samenwerking met het ACM is voor platforms niet mogelijk, want ze zullen dan inspraak willen hebben in het beleid en dit zal enkel in hun eigen voordeel uit moeten pakken, want ze zullen niet hun eigen graf gaan graven.*

- a. Hoe zouden andere partijen zo'n samenwerking kunnen laten werken?

*Voor andere partijen is dit alleen mogelijk als het niet rechtstreeks invloed zal hebben in de opgestelde regels, dus platforms zouden advocaten oid in hun team kunnen opnemen om zich beter tegen de regels te kunnen bewapenen, maar samenwerken met overheidsinstanties is niet mogelijk.*

7. Wat zijn volgens u de mogelijke maatschappelijke, economische en politieke gevolgen als de macht van digitale platforms op de lange termijn ongereguleerd of ongecontroleerd blijft?

*Allereerst is hier geen sprake van, ook nooit geweest, door de wetgeving die er altijd al wel is geweest. Maar als we alle wetgeving nu zouden vergeten dan zou de maatschappij ontwricht worden doordat de platforms dan zonder controle hun gang kunnen gaan. Maar zoals gezegd hier is geen sprake van.*

8. Welke verantwoordelijkheden hebben digitale platforms zelf om te zorgen voor een eerlijke en transparante markt?

*Het is aan de platforms simpelweg zaak om eerlijk te handelen op de markt, dan zullen er geen problemen zijn en zal de markt eerlijk en transparant blijven.*

- a. Hoe zou dit ook eventueel kunnen worden afgedwongen?

*Ja, daar hebben we de wet- en regelgeving voor. Als platforms hier zich niet aan houden zullen er consequenties aan hangen.*

9. Welke stappen moeten worden genomen om de groei van kleinere spelers op de digitale markt aan te moedigen om te zorgen voor een meer divers en concurrerend landschap?

*Dat zal over een tijd moeten blijken als de DMA een gevestigde regel in de markt is. Dan kan er worden opgemaakt hoe nieuwe spelers zich kunnen gedragen op de markt en wat er moet worden gedaan om te zorgen dat toetreders niet in de weg worden gezeten door de gevestigde namen.*

### **Mogelijke nieuwe manieren ter preventie van machtsmisbruik.**

10. Afgezien van alle huidige regels en wetten, hoe zou u activiteiten van grote digitale platforms laten reguleren en monitoren, zonder innovatie tegen te gaan?

*Ik zou het eigenlijk niet weten, aangezien ik deze regelgeving zo gewend ben, waarschijnlijk zal het dan toch redelijk op hetzelfde neerkomen.*

11. Terug naar de bestaande antitrustregels en wetten zoals de DMA. Bent u van mening dat de huidige regelgeving voldoende is om binnen de EU te voorkomen dat platforms te machtig kunnen worden?

*Voor de ACM, was de NMA de toezichthouder op de markt en de regels die toen werden opgesteld was voornamelijk om kartels tegen te gaan. Toch was er altijd een vertragings-effect in de markt, doordat alle onderzoeken achteraf werden gedaan, maar door de invoering van de DMA zal zelfs dat verminderen of wellicht verdwijnen, aangezien platforms moeten aantonen wat ze allemaal doen en welke invloeden dit heeft is dan direct zichtbaar. Dit zal zorgen voor nog meer controle in de markt, waardoor misbruik van een economische machtspositie door platforms sneller zal worden ontdekt.*

- a. Wat zijn de sterke aspecten van de huidige regels?

*Door de invoering van de DMA is de mate van concurrentie op de digitale markt toegenomen, aangezien er meer grip is gekomen op de spelers in de markt.*

12. Zouden alle partijen betrokken bij het tegengaan van machtsmisbruik door platforms zo denken over de huidige regels?

*Op de dominante platforms na zullen wetgevende en handhavende organisaties, net als kleine opkomende en toetredende platforms blij zijn met de nieuwe wetgeving. De markt is er eerlijker op geworden en er is meer toezicht op wat er nou allemaal gebeurt in deze bedrijven.*

13. Welke extra stappen kunnen worden genomen om de platforms in de toekomst beter te kunnen handhaven?

*Waar we in Nederland nog naar kunnen kijken is de invoering van regels die andere lidstaten van de EU wel hebben. In deze lidstaten noemen ze het new competition tools, maar dit is iets waar we in Nederland ook nog naar kunnen kijken. Maar hier wederom, dit zal afhankelijk zijn van de werkzaamheid van de DMA.*

Consultant 1.

#### **Definitie van macht/wanneer te veel macht**

1. Wat is uw definitie van de term "macht van een platform"?

*Het vermogen om anderen te laten doen wat jij wil. Hoe meer je kan laten doen en hoe groter dat is des te groter is je macht.*

- a. Kunnen deze platforms volgens u een cruciaal probleem in het huidige digitale landschap zijn, waarom (niet)?

*Ja, want waar komt die macht vandaan, normaal kan een bedrijf de consument de wil niet snel opleggen. Veel grote platforms hebben een (bijna) monopolie in een niche markt. Dit is problematisch voor de keuzevrijheid van de consument en voor bedrijven die zaken doen die afhankelijk worden van één platform, zoals kantoren en office pakketten of iets dergelijks.*

2. Wat kan er voornamelijk voor zorgen dat platforms een dusdanig grote machtspositie kunnen bemachtigen in de markt?

*Heeft gekund door deels gaten in de wetgeving, maar voornamelijk door een data monopolie die ze in staat heeft gesteld een knooppunt te worden tussen verschillende partijen op verschillende markten, zoals bijvoorbeeld met advertenties op sociale media. Uiteindelijk is het voor de consument natuurlijk wel fijner als er niet veel alternatieven zijn, zo zijn er veel streamingdiensten beschikbaar, maar is het niet fijn als consument om overal een abonnement op af te moeten sluiten. Consumenten kiezen hierdoor voor de populaire platforms, waardoor die machtiger worden.*

- a. Wat zijn volgens u de meest zorgwekkende aspecten van machtsmisbruik door platformen?

*Platform effecten zijn veel sterker dan in eerste instantie verwacht, maar zijn zeker van groot belang voor de macht van een platform. Maar ook data monopolies zijn een zorgwekkend aspect van deze platforms.*

3. Hoe stelt u voor om te bepalen wanneer een platform een te grote macht heeft opgebouwd?

*Is niet aan te geven. Als er geen reëel alternatief is, zonder een reële dreiging dat er een alternatief op zal staan is er sprake van te veel macht.*

- a. Welke specifieke indicatoren of drempels stelt u voor om in zulke gevallen te identificeren?

*De mate van alternatieven in de markt zullen dit moeten aantonen.*

### **Gevaren van geen controle op macht**

4. Welke rol zouden overheden en andere instanties moeten spelen bij het tegengaan van de dominantie van platforms en het bevorderen van een meer concurrerende digitale markt?

*Met name zorgen dat er regulering komt waarin data monopolies minder machtig worden, en lock-in verminderd word. Verder is van belang dat andere partijen ook een kans op de markt hebben.*

- a. Vind u dat u als ACM in Nederland genoeg kan doen tegen dominantie van digitale platforms?

*Ze werken in een samenwerkingsverband met meerdere organisaties. Maar ik heb geen inzicht in omvang van ACM om daar duidelijke uitspraken over te doen. Maar de leren nemen veel mensen aan en zijn druk bezig, maar als het soortgelijk is met wat de leren doen is het ACM goed bezig. Er zal meer moeten worden gekeken naar data gedreven handhaving, ze zullen geautomatiseerde systemen moeten inzetten voor het handhaven. Zo krijg je een heel andere manier van handelen dan op basis van klachten. De Effectiviteit van het ACM zal denk ik wel gaan toenemen de komende jaren door nieuwe systemen, nieuwe mensen aannemen, en een Europees systeem van samenwerking tussen landelijke handhavers.*

5. Zouden verschillende partijen samen kunnen werken met digitale platforms om effectief beleid en richtlijnen op te stellen?

*Ja*

- a. Zo ja, hoe zou dit dan het beste kunnen zonder dat de platforms op deze manier alsnog hun macht kunnen versterken, maar de samenwerking wel werkt?

*De regulering die ze nu hebben is risico gebaseerd, dus dwingt grote platforms om te laten zien wat ze doen en delen met de Europese Commissie. NGO, dus een Non-Governmental Organisation die samenwerkt met platforms is ook nog wel een goede optie voor een samenwerkingsverband mét platforms. Verder zijn voor platforms de trusted flaggers van belang, dit zijn instanties die illegale content opsporen, vaststellen en melden bij de online platforms.*

6. Wat zijn volgens u de mogelijke maatschappelijke, economische en politieke gevolgen als de macht van digitale platforms op de lange termijn ongeregeerd of ongecontroleerd blijft?

*Inbreuk op de fundamentele rechten van de Europese burgers, vrijheid van de privacy, bescherming en beveiliging van minderjarigen tegen haat zaiende en grensoverschrijdende content, verslaafdheidsrisico. Dit zijn allemaal zaken die gevaarlijk zijn aan de online platforms. Ik denk zelf dat waar je drukker over moet maken dat dat de rol is die AI in platforms gaat spelen. De macht van platforms zal nog eens keer 10 gaan. De macht wordt absoluut als je via AI doordringt tot in de kern van de business, en de AI draait allemaal door en door, waarin ze blijven leren. Bedrijven zullen later*



*ook niet zonder kunnen, want veel draait al op AI modellen. De AI act zal waarschijnlijk te kort schieten, want die gaat niet in op marktmacht van bedrijven.*

7. Welke verantwoordelijkheden hebben digitale platforms zelf om te zorgen voor een eerlijke en transparante markt?

*Kleinere partijen en consumenten op de markt beschermen, er zal ook geluisterd moeten worden naar de belangen van deze partijen.*

- a. Hoe zou dit ook eventueel kunnen worden afgedwongen?

*Simpelweg door het opleggen van sancties.*

8. Welke stappen moeten worden genomen om de groei van kleinere spelers op de digitale markt aan te moedigen om te zorgen voor een meer divers en concurrerend landschap?

*Door de nieuwe DMA zal dit al enorm toenemen, aangezien dit een van de kernpunten van de DMA betreft.*

### **Mogelijke nieuwe manieren ter preventie van machtsmisbruik.**

9. Afgezien van alle huidige regels en wetten, hoe zou u activiteiten van grote digitale platforms laten reguleren en monitoren, zonder innovatie tegen te gaan?

*Zou ik zo niet echt weten, maar ik denk eigenlijk niet heel anders dan hoe het nu in elkaar zit.*

10. Terug naar de bestaande antitrustregels en wetten zoals de DMA. Bent u van mening dat de huidige regelgeving voldoende is om binnen de EU te voorkomen dat platforms te machtig kunnen worden?

*Ik denk dat ze met de nieuwe wetgeving zeker een stap in de goede richting hebben gezet, maar de echte werkzaamheid hiervan zal natuurlijk over tijd moeten blijken. Daarnaast zullen ze wel moeten zorgen dat ze de wet- en regelgeving blijven updaten met wat er op de markt gebeurt.*

- a. Wat zijn de sterke aspecten van de huidige regels?

*Europa heeft een nieuw instrumentarium geprobeerd om de oorzaak van die data monopolies aan te pakken. Ze proberen de rechten van de consument te beschermen, dus ja ze zijn grote partijen, maar dan moeten we de consument wel beschermen, en ook mogen andere bedrijven niet de dupe worden van wat ze grote platforms proberen op te leggen. Europa probeert echt te laten merken dat ze weten waar de macht vandaan komt en het daar willen aanpakken, niet meer alles op antitrust.*

11. Zouden alle partijen betrokken bij het tegengaan van machtsmisbruik door platforms zo denken over de huidige regels?

*Denk het niet, techbedrijven staan er niet om te juichen. Die zeggen we zouden niet bestaan als we niet eens zouden denken aan onze klanten en partners, en zullen dan ook wel kritisch zijn over de regels. Developers willen coole features met waarde voor de gebruikers, maar die hebben een hekel aan de regulering, maar gaan er maar wel mee aan de slag. Ook is het nog een probleem dat ze vanuit de verschillende landen binnen Europa ook nog weer aan andere regels moeten voldoen dan alleen de Europese regels.*

12. Welke extra stappen kunnen worden genomen om de platforms in de toekomst beter te kunnen handhaven?

*Een volgende stap die gezet moet worden gaat over dataportabiliteit. Dit houdt in dat individuen het recht hebben om de over hen verzamelde datagegevens op te vragen bij bedrijven.*

Consultant 2.

### **Definitie van macht/wanneer te veel macht**

1. Wat is uw definitie van de term "macht van een platform"?

*Macht bekijken we vaak vanuit de definitie van marktmacht, dus dat ze zo groot zijn dat ze kunnen bepalen welke diensten en producten ze aanbieden, dus de maatschappij en economie beïnvloeden. Het kan ook zijn dat ze dus bepaalde dingen nalaten, door dingen juist niet te behandelen. Een ander aspect is wie ze wel en niet toelaten op een platform, dus hiermee beïnvloeden ze wie wel en niet op de markt kan opereren en wie niet. Voor deze grote platforms is de term VLOP, Very Large Online Platform die vaak gebruikt wordt. Dus conclusie: Informatie wel/niet verstrekken en welke deelnemers op de platforms toegelaten worden is de macht van een platform.*

- a. Kunnen deze platforms volgens u een cruciaal probleem in het huidige digitale landschap zijn, waarom (niet)?

*Ja enorm, als er geen regulering is zullen ze proberen om hun positie te behouden en zich gedragen als een monopolist.*

2. Wat kan er voornamelijk voor zorgen dat platforms een dusdanig grote machtspositie kunnen bemachtigen in de markt?

*Door met name consumenten aan zich te binden en aan zich te blijven binden, andere kant is kleinere platforms opkopen en integreren in hun eigen platform. Inloggen, privileges geven, nieuwe producten en diensten om de loyaliteit vanuit de consument te krijgen en concurrentie opkopen/boycotten.*

- a. Wat zijn volgens u de meest zorgwekkende aspecten van machtsmisbruik door platformen?

*Individuele kunnen negatief beïnvloed worden en tegen elkaar worden opgezet, kunnen schade leiden, verkeerde informatie krijgen en/of verslaafd raken aan platforms. Landelijk kunnen er grote problemen met vertrouwen in politiek en overheden ontstaan door verspreiding van misinformatie online. Zakelijk zullen er slechts een paar hele grote partijen op de markt overblijven, er zullen geen bedrijven in de MKB sector zijn, terwijl de MKB toch 80% van onze economie is op het moment.*

3. Hoe stelt u voor om te bepalen wanneer een platform een te grote macht heeft opgebouwd?

*Ik zou zelf houden aan de omschrijving van de net benoemde VLOP Very Large Online Platform die is opgesteld door de Europese Commissie.*

4. Wat zijn enkele voorbeelden van machtsmisbruik door platforms die u recentelijk hebt waargenomen, en welke gevolgen hebben deze voor de samenleving/politiek?

*In NL wilden RTL en SBS ooit samenvoegen, maar op basis van de mededingingsautoriteit werd dan de gezamenlijke macht in Nederland te groot. Echter, volgens RTL en SWS spelen in deze markt de grotere partijen als Netflix ook mee. Toch mocht de fusie niet doorgaan, want dan was de macht in Nederland te groot door RTL en SBS. Netflix en andere streamingdiensten zijn hier uit de zaak*

weggelaten, omdat de markt werd gedefinieerd als televisie aanbieders, waar de partijen als Netflix werden aangemerkt als streamingdiensten die niet standaard op een tv abonnement te zien zijn.

- a. Welke lessen kunnen worden geleerd voor zowel de politiek als de maatschappij uit deze voorbeelden?

*Het afbakenen van de markt kan soms een grote invloed hebben op de uitkomst van een zaak.*

### **Gevaren van geen controle op macht**

5. Welke rol zouden overheden en andere instanties moeten spelen bij het tegengaan van de dominantie van platforms en het bevorderen van een meer concurrerende digitale markt?

*De Europese Commissie doet dit allemaal al aan de hand van de DMA en DSA die ze hebben opgesteld, dus hier moeten ze voor nu zeker mee door gaan.*

- a. Vind u dat u als ACM in Nederland genoeg kan doen tegen dominantie van digitale platforms?

*Ja, maar dit moeten ze doen met steun van Europa, want alleen het ACM kan niet genoeg resultaat bereiken.*

6. Zouden verschillende partijen samen kunnen werken met digitale platforms om effectief beleid en richtlijnen op te stellen?

*Nee, de platforms zouden dan de regels op een dusdanig gunstige manier willen opstellen dat de beleidsmakers er niet mee akkoord zullen gaan, maar ze zullen zeker niet hun eigen graf graven.*

7. Wat zijn volgens u de mogelijke maatschappelijke, economische en politieke gevolgen als de macht van digitale platforms op de lange termijn ongereguleerd of ongecontroleerd blijft?

*Platforms zullen gebruik maken van nog verslavendere algoritmes, waardoor mensen langer zullen scrollen en de platforms meer zullen verdienen door de grotere hoeveelheid advertenties en gesponsorde content dan te zien is bij de gebruikers. Platforms zullen mensen de toegang tot hun platforms verbieden. Als laatste zal er veel nepnieuws komen en zullen er nepaccounts opduiken waardoor er veel desinformatie zal ontstaan, dit zal uiteindelijk de samenleving of zelfs democratie kunnen ondermijnen.*

8. Welke verantwoordelijkheden hebben digitale platforms zelf om te zorgen voor een eerlijke en transparante markt?

*Deze platforms hebben geen verantwoordelijkheden, ze zullen zich als ieder bedrijf moeten houden aan de mededingings- en privacyregels, verder is het gewoon een vrije markt. Ze hebben het goed recht om kleinere concurrenten op te kopen. Alles mag, mits het dus in strijd met de twee genoemde regels.*

9. Welke stappen moeten worden genomen om de groei van kleinere spelers op de digitale markt aan te moedigen om te zorgen voor een meer divers en concurrerend landschap?

*Aan de hand van de DMA en DSA zal moeten blijken of deze regels voldoende zijn, maar dat zal nog een paar jaar blijken of dit genoeg is zoals het nu is.*

## **Mogelijke nieuwe manieren ter preventie van machtsmisbruik.**

10. Afgezien van alle huidige regels en wetten, hoe zou u activiteiten van grote digitale platforms laten reguleren en monitoren, zonder innovatie tegen te gaan?

*Ik zou je hier eerlijk gezegd geen antwoord op kunnen geven, ik vind het wel een hele interessante vraag, maar het is niet iets waar ik zelf ooit over heb gedacht, en om dat nu zo even te bedenken zal me ook echt niet lukken. Voor mij is het nu heel interessant wat de DMA en DSA teweeg kunnen brengen op de markt.*

11. Terug naar de bestaande antitrustregels en wetten zoals de DMA. Bent u van mening dat de huidige regelgeving voldoende is om binnen de EU te voorkomen dat platforms te machtig kunnen worden?

*De boetes zijn nog niet heel intimiderend, doordat ze lang kunnen procederen. De Europese Commissie kan uiteindelijk beslissen dat platforms niet meer op de markt mogen in Europa als ze zich niet aan de regels weten te houden. Hier zijn nog geen maatstaven voor, dat zal nog jaren gaan duren.*

- a. Wanneer moeten we volgens u platforms gaan weren van de markt dan?

*Dat is echt heel lastig om te zeggen, aan de ene kant is er vrijheid van informatie, maar aan de andere kant moeten er geen mensen met rare ideeën komen door misinformatie op platforms. Met name werken naar meer transparantie.*

- b. Wat zijn de sterke aspecten van de huidige regels?

*Het feit dat platforms niet alleen achteraf ergens op kunnen worden gepakt omdat er een klacht wordt ingediend of een zaak wordt aangespannen, maar dat de grote platforms op de voorhand moeten aantonen wat ze doen en waarom ze die beslissingen maken vind ik een hele sterkte aanpak.*

12. Zouden alle partijen betrokken bij het tegengaan van machtsmisbruik door platforms zo denken over de huidige regels?

*Ik denk dat de handhavende partijen zeker blij zullen zijn met deze maatregel, gezien het feit dat ze normaal dingen over jaren terug moeten gaan uitzoeken, maar nu vooraf in de zaken kunnen kijken van de platforms en dus al zo goed als direct kunnen beoordelen of het binnen de maten van de wet valt wat ze doen.*

13. Welke extra stappen kunnen worden genomen om de platforms in de toekomst beter te kunnen handhaven?

*Ligt eraan wat er nog tekortkomt in de DMA en DSA. Burgers zullen het heft in eigen hand nemen, met een wet voor afwikkeling massaschade. Als blijkt dat op grootschalige wijze misbruik is gemaakt door platforms zullen partijen als de consumentenbond zaken gaan aanspannen tegen de platforms om een soortgelijk effect te realiseren.*

Expert 1.

### **Definition of power/when too much power**

1. What is your definition of the term "power of a platform"?

*I would define a platform as a digital infrastructure to interact with one another. Power is generally understood when one can influence one another against their will, or to set the aims of those people. This resonates with the definition of power by Max Weber, who said within a social relationship, power is any chance, regardless of the basis, to carry through one's own will, even against resistance. Also, power involves gatekeeping, so the information people have access to. When having control over the information flow, you have power over the people seeing the information, which can help set goals and aims. This also shows how social media platforms have a lot of power.*

- a. In your opinion, can these platforms be a crucial problem in today's digital landscape, why (not)?

*Social media platforms can bring people with certain interests from all around the world together. These platforms can increase the well-being of people, but it can also become a danger because of the higher standards that are being imposed on these platforms (people only show their 'perfect' side). Another danger can be found in the egalitarian reach people on these platforms have, those with money or a voice will end up in the feeds.*

2. What can mainly cause platforms to gain such a dominant position in the market?

*This is a matter of network effects, since nobody wants to be on a platform that has no users. Now we also see they adopted non-competitive commercial practices: buying smaller platforms or implementing features from other platforms like Instagram did with the snapchat stories feature. Network effects lead to leveraging the competition.*

- a. What do you think are the most worrying aspects of abuse of power by platforms?

*One the most concerning aspects is privacy. People are willingly spilling their privacy without really knowing how it will be used and how valuable this personal data is for these platforms. We make ourselves transparent to power and therefore controllable. Also the question of advertising it is sometimes difficult to tell whether it is and advertisement or not, also because of the improved technology. Then, it will be more difficult to filter information for people, when we get an information overload, we cannot filter it good anymore, which can lead to polarisation.*

3. How do you propose to determine when a platform has accumulated excessive power?

*It is not easy to say.*

- a. What specific indicators or thresholds do you propose to identify in such cases?

*For social media platforms an indicator could be when they are trying to buy out competitors or to keep an advantage with other platform functionalities.*

4. What are some examples of abuse of power by platforms that you have observed recently, and what impact do they have on society/politics?

*The 2016 elections Facebook case, where Trump paid for data on political preference of Americans, is a good example of societal and political impact of platforms with large power.*

- a. What lessons can be learned for both politics and society from these examples?

*More people were voting because of 1 button on a platform.*

### **Dangers of not controlling power**

5. What role should governments and others play in countering platform dominance and promoting a more competitive digital market?

*First and foremost, governments should investigate commercial practices of platforms and prevent them from buying out competition or stifling them. One of most important is super tough legislation on privacy, the platforms grow because of our data, so this should be a top priority of the government.*

6. Could different parties work together with digital platforms to create effective policies and guidelines?

*Yeah, that would be ideal.*

- a. If so, what would be the best way to do this without allowing the platforms to still reinforce their power in this way, but making the cooperation work?

*Governments should take the input from the platforms into consideration, but not stick to it, because then policies would favour the platforms.*

7. What do you think are the possible social, economic and political consequences if the power of digital platforms remains unregulated or uncontrolled in the long term?

*Not much different from what we have today, wonder if it could get worse, probably yes. Social media platforms would end up imposing how to exchange and format information. This will create a dangerous political situation if the gatekeepers will take the power position without regulation. The private companies (platforms) would then be free to gatekeep in the way they want and without any consequences. However, there are market mechanisms, customer pressure is important for companies. Some social media platforms are indispensable.*

8. Will these platforms become more indispensable after implementation of cross platform communication due to the DMA and DSA?

*It might be that if it would be implemented, and you could chat with WhatsApp users without WhatsApp it would be able that there would be shifting in the platforms people use. Would be a good thing for the market to be able to use whatever you want and still be able to communicate. It would also be a good rule for a global policy.*

9. What responsibilities do digital platforms themselves have to ensure a fair and transparent market?

*One is to inform users of the potential harms of the use of digital platforms. Signal better what post is promoted, and what is an advertisement. The responsibility is on them to signal to users the types of content or information they see online. Another one is content moderation, there is never a perfect system for it, but they should invest more in non-English speaking countries. There is not a lot of attention to smaller countries, this can be shown with the influence of Facebook during the Myanmar genocide. Platforms have a pressing responsibility to ensure a save space online.*

- a. How could this also possibly be enforced?

*Fines, like they are now, should be a good measure to make sure platforms stick to their social responsibilities online.*

10. What steps should be taken to encourage the growth of smaller players in the digital market to ensure a more diverse and competitive landscape?

*I think the most important part is again that governments prevent large platforms from stifling or buying out competition to gain advantages themselves.*

### **Possible new ways to prevent abuse of power.**

11. Apart from all current rules and laws, how would you have activities of large digital platforms regulated and monitored without stifling innovation?

*Difficult one, first policy making should involve lots of expertise, not just technicians or politicians. In my opinion the focus would be on privacy and giving more control on data for the individual user.*

12. What additional steps could be taken to better enforce platforms in the future?

*Might sound repetitive at this point, but again I think the focus would be on increasing the privacy of users online. Another example of why privacy is important are cookies. These are hard to understand, the text they use here is very 'legal' text, so lots of difficult words and sentences, it is never normal English. For the user this makes it a big hassle to understand them and makes it so that users automatically accept them, since they do not want to use the long and difficult text just to enter a website. Still, the user is also responsible for their own protection online, not all the blame can be put on the platforms.*

### **Expert 2.**

#### **Definitie van macht/wanneer te veel macht**

1. Wat is uw definitie van de term "macht van een platform"?

*Voor het marktaandeel van het platform is het vaak lastig om de markt goed te definiëren, is het platform in een of meerdere markten actief, en het is vanuit wetgeving moeilijk aan banden te leggen. Vanuit het marktaandeel kunnen we wel afleiden of het platform een machtige of leidende positie heeft, daar is geen harde regel voor, maar vanaf 50% is er zeker een dominante positie. Het gaat er vooral om wat het platform met de macht doet, hoe gedraagt ze zich richting eindgebruikers en complementors. Bijvoorbeeld, de Apple App Store, hoe behandelen ze gebruikers en app developers, ze zouden haar macht kunnen misbruiken tegen een van beide of zelfs allebei.*

- a. Kunnen deze platforms volgens u een cruciaal probleem in het huidige digitale landschap zijn, waarom (niet)?

*Ja dat denk ik wel, want het is lastig voor de Europese mensen die betrokken zijn bij de DMA om zaken aan te vechten tegen grote platforms.*

2. Wat kan er voornamelijk voor zorgen dat platforms een dusdanig grote machtspositie kunnen bemachtigen in de markt?

*Directe en indirecte netwerk effecten eigenlijk. Er is van deze platforms geen eerste, tweede, derde generatie zoals bij bv gaming consoles. Als het platforms eenmaal gevestigd is, dan is er geen ontkomen meer aan.*

- a. Wat zijn volgens u de meest zorgwekkende aspecten van machtsmisbruik door platformen?

*Digitale platforms kunnen hun gebruikers langer vasthouden waardoor de platforms eigenlijk alleen maar blijven groeien. De drempel voor toetreding wordt alleen maar groter voor nieuwe spelers.*

3. Hoe stelt u voor om te bepalen wanneer een platform een te grote macht heeft opgebouwd?

*Dit zou ik zelf dus weer aanvliegen vanuit het perspectief van een marktaandeel van 50% of meer in een bepaalde markt.*

4. Wat zijn enkele voorbeelden van machtsmisbruik door platforms die u recentelijk hebt waargenomen, en welke gevolgen hebben deze voor de samenleving/politiek?

*Een zaak van Spotify tegen Apple, met Apple Music zijn ze onderdeel van de markt en concurreren ze oneerlijk met platforms als Spotify, dan is sprake van machtsmisbruik. Hier kwam uiteindelijk een boete van 2 miljard voor Apple. Dit was een zaak uit 2018.*

- a. Waarom duren deze zaken vaak zo lang en waarom volgt een boete nog?

*Algehele factor is dat het lang duurt omdat het een antitrust zaak is. Daar komt bij kijken dat het een redelijk nieuw veld is, platforms zijn andere bedrijfspvormen dan niet platforms, dus er komen andere argumenten bij kijken in zaken. Bedrijven als Apple et cetera zijn heel groot en hebben veel financiële middelen en betalen veel advocaten om die zaak te blijven rekken en zo lang mogelijk te kunnen profiteren van die machtspositie. Ze maken er een spel van om zaken zo lang mogelijk te laten duren.*

### **Gevaren van geen controle op macht**

5. Welke rol zouden overheden en andere instanties moeten spelen bij het tegengaan van de dominantie van platforms en het bevorderen van een meer concurrerende digitale markt?

*Het gros van de zaken wordt afgehandeld op Europees niveau, maar landelijk zouden instanties wel moeten bestaan om de Europese Commissie te kunnen ondersteunen en zaken aan het licht te kunnen brengen.*

- a. Vind u dat u als ACM in Nederland genoeg kan doen tegen dominantie van digitale platforms? Veel verschillende regels, wel effectief?

*Platforms hebben marktposities over verschillende geografische gebieden, ze zijn in landen en continenten actief. Vanuit dat perspectief is het soms beter dat een partij als de Europese commissie zich buigt over een zaak dan alleen het ACM, omdat de platforms dus vaak dominant zijn in meerdere landen tegelijk. Daarnaast is het wel goed dat de platforms scherp in de gaten worden gehouden door de kleine partijen voor extra controle. Uiteindelijk is het wel lastig voor waakhonden om de markt te definiëren, maar ook kunnen ze platforms niet zomaar beschuldigen, ze moeten het kunnen onderbouwen met theorie (theory of harm) waarom een platform haar macht misbruikt.*



6. Zouden verschillende partijen samen kunnen werken met digitale platforms om effectief beleid en richtlijnen op te stellen?

*Er is een verschil tussen groot en dominant zijn en machtsmisbruik, al is er vaak wel sprake van machtsmisbruik als een platform te groot wordt. Er zijn veel kleine apps op de App Store, dus de bargaining power is in het voordeel van Apple. Kleine developers werken samen om groter te worden, maar ook grote developers spannen steeds vaker zaken aan tegen de alleenheerser (in dit geval de App Store). Dit leidt tot class action law suits. Dus een samenwerking zie ik niet snel gebeuren.*

7. Wat zijn volgens u de mogelijke maatschappelijke, economische en politieke gevolgen als de macht van digitale platforms op de lange termijn ongereguleerd of ongecontroleerd blijft?

*Platforms hebben een steeds groter voordeel door de governance binnen het platform waardoor de balans veranderd. Platforms gaan concurreren met hun complementors om zo een machtspositie te versterken (zaklamp apps in app store veranderde in een standaard functionaliteit). Platforms zijn uit op winst ten koste van haar complementors.*

8. Welke verantwoordelijkheden hebben digitale platforms zelf om te zorgen voor een eerlijke en transparante markt?

*Heel simpel gezegd, ze hebben een verantwoordelijkheid genaamd fair play.*

- a. Hoe zou dit ook eventueel kunnen worden afgedwongen?

*Ja, als ze misbruik maken van hun positie zullen er sancties moeten volgen.*

9. Welke stappen moeten worden genomen om de groei van kleinere spelers op de digitale markt aan te moedigen om te zorgen voor een meer divers en concurrerend landschap?

*Dit zal door de invoering van de DMA al stukken beter zijn, maar de regelgeving omtrent overnames van opkomende bedrijven zal moeten verbeteren. Op die manier kunnen grote platforms niet makkelijk onder opkomende concurrenten uitkomen door ze maar gewoon uit te kopen.*

### **Mogelijke nieuwe manieren ter preventie van machtsmisbruik.**

10. Terug naar de bestaande antitrustregels en wetten zoals de DMA. Bent u van mening dat de huidige regelgeving voldoende is om binnen de EU te voorkomen dat platforms te machtig kunnen worden?

*Ik denk dat met de DMA en DSA een goed begin is gemaakt voor een betere vorm van regelgeving, doordat platforms niet achteraf gecontroleerd worden op wat ze hebben gedaan, maar dat ze vooraf zelf moeten kunnen aantonen dat ze alles volgens de regels doen. De echte effectiviteit van deze regels zal natuurlijk over tijd moeten gaan blijken.*

- a. Wat zijn de sterke aspecten van de huidige regels?

*Onder de DMA vallen platforms op basis van aantal klanten en de hoogte van de omzet binnen Europa. De eigenaars achter deze dominante platforms moeten daardoor intern gaan komen met compliance regels om te kunnen voldoen aan deze nieuwe regels binnen Europa om hier actief te mogen blijven.*

11. Zouden alle partijen betrokken bij het tegengaan van machtsmisbruik door platforms zo denken over de huidige regels?

*Ik denk niet dat de platforms er blij mee zullen zijn, want die zullen intern het een en ander moeten omgooien om te kunnen voldoen aan die nieuwe eisen van de DMA.*

12. Welke extra stappen kunnen worden genomen om de platforms in de toekomst beter te kunnen handhaven?

*Vanuit de wetgevers is het belangrijk dat ze de juiste kennis ontwikkelen. Van oudsher nemen ze economen en advocaten aan, economen voor markt gerelateerde kennis, en advocaten voor het wettelijke raamwerk. Maar, het gaat steeds meer om data en digitale infrastructuur. De partijen achter dingen als de DMA moeten ook data scientists gaan aannemen als derde pilaar binnen de organisatie die de digitale taal spreken en de structuur van de platforms snappen. Ze zouden als waakhond toegang moeten hebben op de datastroom en zien wat er onder de motorkap gebeurt van de platforms. Zo is er sprake van continu toezicht en is er sneller in te zien wanneer platforms de fout in gaan. Proactief bezig gaan met digitale theories of harm te identificeren en een raamwerk opstellen van deze theorieën om sneller te kunnen handelen. De EU moet de DMA serieus gaan handhaven en echt de tanden laten zien de komende jaren, dus de daad bij het woord voegen, dan nemen de platforms het wel serieus en zullen ze gaan uitkijken.*

### Expert 3.

#### **Definition of power/when too much power**

1. What is your definition of the term "power of a platform"?

*It's hard to put a definition to it. Is the platform manipulative, like they are with cookies for example, then different actions can be suggested. But I think when a platform can manipulate attention, energy and time, they could be dominant. Another important thing when looking at power is what is the power that this platform has, or takes away from non-users, are non-users also impacted by the existence of the platform.*

- a. In your opinion, can these platforms be a crucial problem in today's digital landscape, why (not)?

*Yes and no, on the one hand they are being regulated. We think not having regulations on specific technologies can cause problems. EU has a top down approach on how to operate in regulating platforms. The issue is not something is not covered by the rules, but by the precision of the regulations, the more steps added, the more things can go wrong.*

2. What can mainly cause platforms to gain such a dominant position in the market?

*Not sure, my hunch would be if something is exclusive, it can dominate the market by creating a new market if it's early enough, it can be hard for others to catch up on the technology. Something can be very broad and inclusive, thus everyone can use it. I think it is more about market dominance, depends on the technology involved.*

- a. What do you think are the most worrying aspects of abuse of power by platforms?

*I think the fact that platforms can keep their customers and users in their grasp with things like cookies, which I mentioned before, is kind of worrying.*

3. How do you propose to determine when a platform has accumulated excessive power?

*When a platform can manipulate the attention, energy and time of their customers and users.*

4. What are some examples of abuse of power by platforms that you have observed recently, and what impact do they have on society/politics?

*Low code to no-code programming. You can create a technology from scratch without any knowledge of it and without learning about. The issue with this is anyone can create a platform. These platforms were targeting professional developers, when they moved their audience from these developers to anyone with a laptop.*

*A more directly platform related example was the Chat GPT ban in Italy, where the platform was no longer available in the country. Chat GPT got banned since there was no clarity in which personal data was gathered by the company behind Chat GPT, Open AI, thus conflicting with the European privacy law.*

- a. What lessons can be learned for both politics and society from these examples?

*Countries and organisations responsible should keep working on investigating platforms on conflicts with the laws and regulations, since platforms will always try and find a way to push the limits.*

### **Dangers of not controlling power**

5. What role should governments and others play in countering platform dominance and promoting a more competitive digital market?

*There should be more rules on when a platform is allowed to take over smaller companies or upcoming parties in the market which they think of possible future competitors in the market, to maintain their own dominant position.*

6. Could different parties work together with digital platforms to create effective policies and guidelines?

*I don't really see this happening, since the platforms want to make things easier for themselves, but the regulations should make it more difficult for them to just do what they want.*

7. What do you think are the possible social, economic and political consequences if the power of digital platforms remains unregulated or uncontrolled in the long term?

*The most likely problem is when it's not clear the regulations are outdated. The issues come when something is reasonably up to date but not quite, legal practitioners must understand every individual case but there will also be many grey zones. This is not a massive issue in the beginning, but there could come uncertainties with different parties. Significant changes should always be kept an eye on and check if the regulations still stick with these changes.*

*Socio-political: the issue is many regulations in the EU, the US, etcetera are not working on similar things. The dominant platforms are non-EU, but also active in the EU region where the regulations are very different, which can make it difficult to apply with the rules in the EU, which could lead to platforms leaving the EU. Without specific guidelines, you can only go so far.*

8. What responsibilities do digital platforms themselves have to ensure a fair and transparent market?

*I think exactly what you are asking with this question, the platforms need to make sure that everyone who is active in the market needs to have a fair chance of succeeding and building their business in it. However, this is just not how it is right now because of the dominance of these large platforms. Whenever they see a possible competitor or danger to their business, they will try to take it down without a second thought.*

- a. How could this also possibly be enforced?

*This could be achieved by handing out sanctions not just in the form of a fine, since these companies are so rich they could easily afford a fine, but in form of for example compensation for losses and compensation for repair as well.*

**Possible new ways to prevent abuse of power.**

9. Apart from all current rules and laws, how would you have activities of large digital platforms regulated and monitored without stifling innovation?

*The point of the law is you should provide abstract norms that can regulate behaviour. Abstract principles and examples, based on each case are being interpreted. There are people who think the constitution is enough, whereas some will say we need to rethink everything. In between, it's difficult to regulate platforms since they evolve quick, rules are being worked on long, and regulations only work ex-post, so after something happened. By the time you get to a point something went wrong, it's actually already too late in some cases. To make a free choice, you need to know what is behind that choice. Guidelines only work in how far companies and people want to follow them.*

10. Back to the existing antitrust rules and laws such as the DMA. Do you believe that the current regulations are sufficient to prevent platforms from becoming too powerful within the EU?

*I haven't read them very thoroughly yet, but I had a glance at it. From what I saw I think it's a good starting point, but nothing is perfect in one try.*

11. Would all parties involved in countering abuse of power by platforms feel this way about the current rules?

*I think the platforms don't, they have to apply to a completely different set of regulations now, which could possibly lead to a lot of work internally.*

12. What additional steps could be taken to better enforce platforms in the future?

*The regulations should evolve just as quick as the market does. This is a hard thing to accomplish, since the technology and therefore platforms evolve very quickly, but to keep the regulations effectively, they should do anything in their power in Europe to accomplish this.*

Lawyer.

**Definitie van macht/wanneer te veel macht**

1. Wat is uw definitie van de term "macht van een platform"?

*Voor de term macht pas ik altijd de gangbare definitie toe, dat houdt in dat een onderneming zich onafhankelijk kan gedragen van haar afnemers, leveranciers en concurrenten. Daarnaast zal het*

*platform in staat zijn om een sterk verminderde concurrentie te ervaren vanuit de markt. Wel zal het platform pas macht hebben als ze geen gedragingen toepast die volgens de wet- en regelgeving niet zijn toegestaan, want dan is ze illegaal bezig.*

- a. Kunnen deze platforms volgens u een cruciaal probleem in het huidige digitale landschap zijn, waarom (niet)?

*Ik denk niet dat het bestaan van een digitaal platform een probleem is in de samenleving, maar ik kan me er wel in vinden dat sommige mensen zich soms zorgen kunnen maken over de verschillende gedragingen die vanuit een platform komen. Een factor van tijd waarin een platform opereert zal ook van toepassing zijn, zo is het bijvoorbeeld zo dat platforms ook net zo snel weer kunnen verdwijnen als dat ze ontstaan zijn, een voorbeeld hiervan is Hyves waarvan mensen tegenwoordig amper het bestaan nog van weten, maar het vroeger veel gebruikt werd. Omdat het platform geen nieuwe gebruikers meer kreeg is het verdwenen uit de samenleving en hebben anderen dat stokje overgenomen van Hyves.*

2. Hoe stelt u voor om te bepalen wanneer een platform een te grote macht heeft opgebouwd?

*Persoonlijk denk ik niet dat er ter sprake kan zijn van een te grote macht van bepaalde platforms, door het gedrag vanuit de samenleving komen er gewoon partijen naar voren die volgens het 'the winner takes it all' principe groter zijn dan anderen. Hier zou je meerdere dingen als voorbeeld kunnen nemen, want als iemand iets wil weten dan zal bijna iedereen Google als zoekmachine gebruiken voor wat hij of zij zoekt, verder hebben bedrijven en kantoren etc. allemaal een standaard software pakket waar iedereen gebruik van maakt binnen het bedrijf.*

- a. Welke specifieke indicatoren of drempels stelt u voor om in zulke gevallen te identificeren?

*Ik denk niet echt dat je hier bepaalde drempels aan zal kunnen hangen, het ene platform is gewoon groter dan de ander.*

3. Wat kan er voornamelijk voor zorgen dat platforms een dusdanig grote machtspositie kunnen bemachtigen in de markt?

*Het principe van 'the winner takes it all' weten deze platforms te halen door hun eigen network effects. Doordat veel mensen deze platforms in gebruik hebben zullen nog meer mensen deze platforms gaan gebruiken, waardoor de grote platforms alleen maar verder groeien.*

- a. Wat zijn volgens u de meest zorgwekkende aspecten van machtsmisbruik door platformen?

*In het algemeen zullen mensen de privacy concerns die aan een platform verbonden zijn belangrijk vinden, wat ook zeker een legitieme zorg is voor de gebruikers. Adverteerders op zoekmachines willen bijvoorbeeld weten waar jij allemaal naar zoekt en kunnen middels de cookies instellingen die iedereen accepteert zonder er eigenlijk naar te kijken deze informatie gebruiken om jou te leiden naar dat paar sportschoenen waar je een keer naar hebt gezocht. Aan de andere kant is het natuurlijk wel zo dat de consument hier ook niet altijd heel strak in is, want de cookies en algemene voorwaarden worden altijd maar klakkeloos geaccepteerd, wat dus weer zorgt voor openbaring van iemand privacy, maar dan eigenlijk op vrijwillige basis. Een ander aspect waar denk ik minder naar wordt gekeken door de mensen op straat is het feit dat kleine startups met behoorlijke potentie vaak al in een vroeg stadium worden overgenomen door grotere platforms en bedrijven waardoor die hun monopolypositie kunnen behouden of uitbreiden.*

- b. Welke middelen heeft u binnen de wet om te voorkomen dat deze platforms te machtig worden?

*Behoorlijk wat, want er is al veel gebeurt op gebied van wetgeving rond platforms. Zo is een belangrijk artikel binnen de Europese wetgeving art. 102 EU-Werkingsverdrag, dit is bijvoorbeeld het artikel waarop het ACM een zaak heeft aangespannen tegen Apple omtrent het opstellen van onbillijke voorwaarden voor datingapps. Op basis van deze wetgeving kon altijd achteraf gehandeld worden tegen platforms met bijvoorbeeld het opleggen van boetes of een last onder dwangsom. Hier is bijgekomen dat er nu ook al vooraf toezicht is op de verschillende platforms door de invoering van de DMA van de Europese Commissie die middels de DMA verplichtingen oplegt aan de grotere platforms waarmee ze moeten aantonen dat ze op een ethische manier handelen en hun macht op een juiste manier gebruiken.*

4. Wat zijn enkele voorbeelden van machtsmisbruik door platforms die u recentelijk hebt waargenomen, en welke gevolgen hebben deze voor de samenleving/politiek?

*Ik heb zeker zaken waargenomen, maar omdat ik zelf verschillende platforms representeer in zaken kan ik hier niet op in gaan zodat ik geen geclassificeerde informatie deel.*

#### **Gevaren van geen controle op macht**

5. Welke rol zouden overheden en andere instanties moeten spelen bij het tegengaan van de dominantie van platforms en het bevorderen van een meer concurrerende digitale markt?

*Het mededingingsrecht, in de vorm van het ACM binnen Nederland, maar ook de Europese commissie met de DMA en de DSA zullen zeker een invloed kunnen hebben op de platforms. Dit zal dan ook als gevolg hebben dat toezichthouders steeds belangrijker zullen gaan worden. Verder kijkt ook Amerika met veel aandacht mee, niet alleen omdat het veelal Amerikaanse bedrijven betreft, maar omdat we hier in Europa best wel een voorloper zijn op het gebied van wetgeving als het gaat om platforms.*

- a. Vind u dat u als ACM in Nederland genoeg kan doen tegen dominantie van digitale platforms?

*Het ACM is misschien een kleine partij inderdaad, maar op basis van gedragingen van platforms kunnen ze zeker wat beginnen. Ze kunnen een zaak beginnen tegen deze grote partijen en uiteindelijk behoorlijke straffen opleggen als boetes die soms tot in de miljoenen kunnen lopen. Zo heeft het ACM een gedraging van Apple gepakt over de benoemde datingapps en op basis daarvan een zaak aangespannen tegen Apple. Zo kunnen meerdere lidstaten van de EU individueel zaken beginnen tegen platforms, waardoor deze platforms het er uiteindelijk nog behoorlijk zwaar van kunnen krijgen ook.*

6. Kunnen juristen samenwerken met digitale platforms om effectief beleid en richtlijnen op te stellen?

*Ja.*

- a. Zo ja, hoe zou dit dan het beste kunnen zonder dat de platforms op deze manier alsnog hun macht kunnen versterken?

*Volgens mij gebeurt dat ook al wel, maar dat ligt ook aan de coöperatie van de platforms zelf. Platforms zijn zelf zeker gebaad bij de regelgeving, dus zullen ze zeker zelf ook met juristen samen willen werken om de regelgeving te kunnen sturen, maar uiteindelijk ligt de beslissing hierover niet bij*

*de platforms. Ze kunnen dus niet sturen in het opstellen van de regelgeving, maar zijn ze wel beter op de hoogte van wat wel en niet mag volgens de nieuwe regels.*

b. Hoe zouden andere partijen zo'n samenwerking kunnen laten werken?

*De meeste regelgeving omtrent platforms binnen Europa komt vanuit de EU als geheel, de lidstaten op zich hebben hier minder de eerste rol. Wel zouden de lidstaten op zichzelf binnen de Europese Commissie hun invloed kunnen uitoefenen door daar hun plannen aan de orde te brengen. Maar een echte samenwerking tussen de Europese Commissie en platforms zie ik niet snel gebeuren.*

7. Wat zijn volgens u de mogelijke maatschappelijke, economische en politieke gevolgen als de macht van digitale platforms op de lange termijn ongeregeerd of ongecontroleerd blijft?

*Deze situatie zal er niet meer zijn door de nieuwe regelgeving. Mocht er niet worden gehandhaafd, dan krijg je veel haatbericht zoals antisemitische teksten en foto's op sociale media en dingen als misinformatie als het gaat om oorlogen, maar ook zullen mensen hun privacy geheel kwijtraken. Maar door invoering van de nieuwe regels uit de DMA en DSA en de ingebouwde filters op sociale platforms wordt dit soort informatie niet meer gedeeld. Een nieuwe dreiging is dan wel AI, die is moeilijk te onderkennen, waardoor er soms nog desinformatie te zien is, dat merk ik zelf ook wel, maar dit gaat vaak niet om schadelijke of haatdragende inhoud.*

8. Welke verantwoordelijkheden hebben digitale platforms zelf om te zorgen voor een eerlijke en transparante markt?

*De platforms zullen zich aan de opgestelde regels moeten houden wat zal leiden tot een markt waarin geen partij misbruik kan maken van haar positie ten nadele van de concurrentie.*

a. Hoe zou dit ook eventueel kunnen worden afgedwongen?

*Dit kan binnen de regelgeving worden afgedwongen door het opleggen van onder andere boetes aan platforms die zich niet aan de regels houden.*

9. Welke stappen moeten worden genomen om de groei van kleinere spelers op de digitale markt aan te moedigen om te zorgen voor een meer divers en concurrerend landschap?

*Binnen de DMA zijn er bepalingen over dit onderwerp. Zo zouden verschillende systemen met elkaar moeten kunnen 'praten'. Verder is er te overwegen om kleine overnames in de branche strenger te gaan beoordelen, dit zou dan moeten stoppen dat kleine opstartende concurrenten met veel potentie al in een vroeg stadium worden opgekocht door de grote platforms om zo de kansen op een hogere mate van concurrentie te kunnen bevorderen.*

### **Mogelijke nieuwe manieren ter preventie van machtsmisbruik.**

10. Afgezien van alle huidige regels en wetten, hoe zou u activiteiten van grote digitale platforms laten reguleren en monitoren, zonder innovatie tegen te gaan?

*Dit zal af hangen van het probleem wat zich voordoet. Ik denk zelf dat ik privacy ook wel zie als een van de grote problemen binnen deze markt, dus als ik zelf zou mogen bepalen, dan zou het prettig zijn als het verboden zou moeten zijn om als consument de privacy op te moeten geven, dus toch nog meer bescherming van de consument. Dit zou kunnen door bijvoorbeeld een default optie om privacy te bewaren als het bijvoorbeeld gaat om het accepteren van dingen als cookies en algemene voorwaarden, of het mogelijk maken van delen van algemene voorwaarden uitschakelen, zodat niet*

*alle persoonlijke informatie van de consument wordt gedeeld. Adverteerders hebben wel voordeel bij cookies, maar als burger is het heel fijn om te zorgen dat de privacy niet altijd kwijt is.*

11. Terug naar de bestaande antitrustregels en wetten zoals de DMA. Bent u van mening dat de huidige regelgeving voldoende is om binnen de EU te voorkomen dat platforms te machtig kunnen worden?

*Doordat de regels eigenlijk al wel redelijk goed in elkaar zitten en zowel de platforms zelf, als de Europese Commissie, redelijk weten wat de rechten en regels zijn van beide partijen zal dit enorm helpen om de macht van de digitale platforms in te kunnen perken ten opzichte van de consument.*

12. Zouden alle partijen betrokken bij het tegengaan van machtsmisbruik door platforms zo denken over de huidige regels?

*Er zullen nog veel nieuwe regels geproduceerd moeten worden omdat het binnen de huidige vorm soms nog onduidelijk is hoe ver platforms zich zullen moeten aanpassen op basis van de ingevoerde regels. Dit is echter niet geheel gek, aangezien de nieuwe regelgeving nog niet lang is ingevoerd en gebruikt wordt, en zo iets groots kan eigenlijk nooit in een keer voor 100% compleet zijn.*

13. Welke extra stappen kunnen worden genomen om de platforms in de toekomst beter te kunnen handhaven?

*Misschien moeten we met z'n allen gewoon nog even doorprocederen om de nieuwe verplichtingen voor platforms duidelijker te maken. Verder kan de EU meer mensen aantrekken om die DMA en DSA nog beter te laten werken. Deze nieuwe mensen moeten dan niet alleen op juridisch gebied sterk zijn, maar ook is het wenselijk dat ze technisch capabel zijn en weten hoe dingen als een algoritme en datastromen werken.*

Politician.

### **Definitie van macht/wanneer te veel macht**

1. Wat is uw definitie van de term "macht van een platform"?

*Macht is wanneer je mensen je wil oplegt. Er is dus een verschil tussen macht en gezag. In het geval van macht geldt "jij moet doen wat ik zeg want ik ben jouw baas".*

- a. Kunnen deze platforms volgens u een cruciaal probleem in het huidige digitale landschap zijn, waarom (niet)?

*Ja dat denk ik wel, wat ik heb begrepen van platforms is dat ze de inhoud weten te versterken, alles wat je opzoekt op het internet zie je vervolgens overal weer terug.*

2. Wat kan er voornamelijk voor zorgen dat platforms een dusdanig grote machtspositie kunnen bemachtigen in de markt?

*Het helpt al als je bewustwording meegeeft, veel mensen beseffen het niet dat ze een platform macht geven.*

- a. Wat zijn volgens u de meest zorgwekkende aspecten van machtsmisbruik door platformen?

*Op het moment dat je de samenleving ondermijnt. Als je onware informatie/desinformatie gaat verspreiden via platforms, voornamelijk als het gaat over groepen mensen. Voorbeelden hiervan zijn*



*de connectie tussen antisemitisme en de oorlog tussen Israël en Gaza en in de jaren 80 een protest tegen kernwapens in Amsterdam wat was opgezet door Rusland.*

- b. Welke middelen heeft u binnen de overheid om te voorkomen dat deze platforms te machtig worden?

*Zoveel hebben we eigenlijk niet, dat maakt het zo gevaarlijk. Enkel het verspreiden van desinformatie is niet strafbaar, opruiing en haat zaaien wel. Er moet veel aan gebeuren om daar de hand aan te leggen.*

3. Hoe stelt u voor om te bepalen wanneer een platform een te grote macht heeft opgebouwd?

*Wanneer een platform in staat is om dus anderen dingen op te leggen en dus de baas kan spelen over anderen, dan is er sprake van een te grote macht.*

- a. Welke specifieke indicatoren of drempels stelt u voor om in zulke gevallen te identificeren?

*Echt indicatoren zou ik er niet aan kunnen koppelen, maar wanneer ze dus in staat zijn om dingen aan anderen of de maatschappij op te leggen zou ik ze aanmerken als zijnde te machtig.*

4. Wat zijn enkele voorbeelden van machtsmisbruik door platforms die u recentelijk hebt waargenomen, en welke gevolgen hebben deze voor de samenleving/politiek?

*Bij de afgelopen tweede kamer verkiezingen, vlag voor de verkiezingen ging het over de peilbureau's, dus welke is het meest betrouwbaar. Dit leidde ertoe dat het belang verschoof van de inhoud van de verkiezingsprogramma's naar wie is het beste peilbureau.*

- a. Welke lessen kunnen worden geleerd voor zowel de politiek als de maatschappij uit deze voorbeelden?

*Hier heb ik zelf ook een motie voor ingediend, maar ik zou het graag zien dat er de laatste paar dagen voor de verkiezingen niet meer gaan peilen en de inhoud van de partijprogramma's weer op 1 zetten.*

### **Gevaren van geen controle op macht**

5. Welke rol zouden overheden en andere instanties moeten spelen bij het tegengaan van de dominantie van platforms en het bevorderen van een meer concurrerende digitale markt?

*Het is belangrijk dat de informatie die de overheid verspreid en de informatie die op alle overheidswebsites staat, objectieve informatie is. Het is van belang dat de overheid mensen daar met bewustwordingscampagnes mee kan voorlichten. Voor de korte termijn is het nog makkelijk om een tv of radio spotje te maken met iets als 'dit is een bericht van de rijksoverheid, let op waar je informatie vandaan komt'.*

- a. Vind u dat u als ACM in Nederland genoeg kan doen tegen dominantie van digitale platforms?

*Of ze doorzettingsmacht hebben vraag ik me af, ze zijn namelijk alleen maar een toezichthouder op de markt. Als er wat speelt begint het wel altijd met een onderzoek, dus ze kunnen in ieder geval belangrijke informatie naar de voorgrond krijgen.*

6. Kan de politiek samenwerken met digitale platforms om effectief beleid en richtlijnen op te stellen?

*Of de politiek dat kan weet ik niet, maar binnen de overheid zou ik dit zeker als mogelijkheid zien. Het Ministerie van Digitale Zaken zou middels de staatssecretaris daar vast een rol in kunnen spelen om de platforms aan te horen.*

- a. Zo ja, hoe zou dit dan het beste kunnen zonder dat de platforms op deze manier alsnog hun macht kunnen versterken?

*Het is dan wel belangrijk dat we de platforms enkel aanhoren, maar ze mogen geen deel gaan uitmaken van het proces want dan zouden ze de regels in hun eigen voordeel buigen en dat is absoluut niet de bedoeling van zo'n samenwerking.*

- b. Hoe zouden andere partijen zo'n samenwerking kunnen laten werken?

*Ik zou het je niet kunnen vertellen want dat zal per instantie nog wel weer verschillen hoe en wat er eventueel mogelijk zal zijn.*

7. Wat zijn volgens u de mogelijke maatschappelijke, economische en politieke gevolgen als de macht van digitale platforms op de lange termijn ongeregeerd of ongecontroleerd blijft?

*Het gevaar is dat machtige platforms zonder regulering makkelijk andere partijen of individuen kunnen beïnvloeden. Zo zou er bijvoorbeeld veel nepinformatie kunnen worden verspreid om mensen tegen elkaar op te zetten of dingen als verkiezingen mee te beïnvloeden. Dus de handhaving van alle platforms is wel degelijk belangrijk voor de gehele samenleving.*

8. Welke verantwoordelijkheden hebben digitale platforms zelf om te zorgen voor een eerlijke en transparante markt?

*Als je in Nederland opereert moet je je aan de Nederlandse grondwet en regels houden. Voor deze digitale platforms geldt dit dus ook, dus dat zijn de verantwoordelijkheden die ze in Nederland hebben als ze hier zaken willen doen.*

- a. Hoe zou dit ook eventueel kunnen worden afgedwongen?

*Door middel van het huidige boetesysteem bij overtreding van deze wetten en of regels wordt bij elk bedrijf afgedwongen om zich te houden aan een 'fair trade' systeem waarin eerlijk moet worden gehandeld.*

9. Welke stappen moeten worden genomen om de groei van kleinere spelers op de digitale markt aan te moedigen om te zorgen voor een meer divers en concurrerend landschap?

*De vraag is of die platforms tegenstand gaan bieden tegen de bestaande spelers.*

- a. Als je kijkt naar bijvoorbeeld overnames van opkomende platforms door de grote spelers, als deze opkomende platforms een mogelijke toekomstige concurrent kunnen worden?

*Kleine spelers willen een stukje van de markt hebben, als er vraag is naar een bepaald product of dienst, dan zal die er uiteindelijk wel komen. Maar het is wel belangrijk in de markt inderdaad dat de grote platforms niet te pas en te onpas alle opkomende spelers opkopen voor eigen profijt.*

## **Mogelijke nieuwe manieren ter preventie van machtsmisbruik.**

10. Afgezien van alle huidige regels en wetten, hoe zou u activiteiten van grote digitale platforms laten reguleren en monitoren, zonder innovatie tegen te gaan?

*Zelf zou ik het vanuit Europees perspectief gaan oppakken, je kan niet als Nederland alleen dingen gaan beslissen maar gebruik maken van gezamenlijke kennis van alle lidstaten van de EU. Niet alleen heb je dan meer kennis beschikbaar, maar sta je ook sterker. Een optie is dan om de verantwoordelijkheid van 1 bewindspersoon te nemen die namens Nederland binnen de EU kan overleggen. Verder zal er moeten worden gewerkt met gedragscodes, ook met ondernemers. Iedereen zal zich moeten houden aan objectieve informatie, en duidelijk maken als er sprake is van gesponsorde berichten of duidelijke meningen.*

11. Terug naar de bestaande antitrustregels en wetten zoals de DMA. Bent u van mening dat de huidige regelgeving voldoende is om binnen de EU te voorkomen dat platforms te machtig kunnen worden?

*Dat zal tijd moeten leren, nieuwe regels opstellen zal altijd leiden tot bedrijven die nieuwe pogingen zoeken om er onderuit te komen.*

- a. Wat zijn de sterke aspecten van de huidige regels?

*Niet alle informatie mag zomaar aan elkaar worden gekoppeld, en ook hergebruiken van informatie wordt ingeperkt. Maar nieuwe regels zijn makkelijk te maken, handhaving is ook belangrijk.*

- b. Bent u van mening dat de nieuwe regels lastig te handhaven zullen zijn?

*Deze regels betreffen nieuwe technologische ontwikkelingen. Het probleem in dit geval is dat de techniek zo snel ontwikkelt dat de markt meer kennis heeft van de techniek dan de wetgever.*

12. Zouden alle partijen betrokken bij het tegengaan van machtsmisbruik door platforms zo denken over de huidige regels?

*De groep mensen die samen heeft gewerkt aan het opstellen van deze nieuwe regels zal natuurlijk helemaal voorstander zijn, maar de effectiviteit zal nog moeten blijken. Het is belangrijk dat er flexibel zal worden omgegaan met deze nieuwe set regels, want het zal mee moeten ontwikkelen met de techniek, anders lopen we volgend jaar alweer achter de feiten aan.*

13. Welke extra stappen kunnen worden genomen om de platforms in de toekomst beter te kunnen handhaven?

*Ik denk dat we moeten gaan kijken hoe we verspreiding van desinformatie strafbaar kunnen maken. Alleen de discussie wanneer het desinformatie is en wanneer het een mening betreft krijg je dan ook, en dan kan het in strijd geraken met de grondrechten. Het zal heel lastig worden om het echt in te perken, maar we zullen meer moeten kijken naar bewustwording en de gevaren ervan. Een andere stap die we zouden kunnen nemen is bij het maken van wetgeving meer gebruik maken van de technische kennis van de platformbouwers. We moeten het dus niet alleen vanuit de politiek aanvlagen, maar een soort ethisch hackers gebruiken.*