Competitive Effects of Exclusive Arrangements: Theory and Evidence

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1 Introduction

1.1 Exclusive arrangements can cause harm, but can also benefit consumers. In this paper, we (i) summarise the theoretical competitive effects of exclusive arrangements, and (ii) assess the practical approaches that competition authorities have taken to balance the potential harms and benefits of the practice in their guidelines and in case precedents.

1.2 Exclusive arrangements are common across the world, spanning industries as diverse as food and beverage, transportation, and utilities.[2] Widely cited economic studies have looked at this practice in particular industries, like beer, going back as far as the 1990s.[3] These studies have found that while exclusive arrangements can be harmful, leading to the exclusion of competitors, they may also promote competition by encouraging investment and fostering inter-brand competition, creating benefits for consumers.

1.3 More recently, many digital platforms have also relied on exclusive arrangements as a competitive strategy. Exclusive arrangements in this sector have drawn the scrutiny of competition authorities, particularly as economies of scale and network effects that are characteristic of digital platforms amplify the competitive effects of exclusivity.

1.4 This paper is organised as follows. Section 2 explains that exclusive arrangements are a common commercial practice in traditional markets and digital platforms. Section 3 explains that exclusive arrangements may cause harm, but can also benefit consumers. While the practice can foreclose competitors, it can also promote competition by (i) fostering differentiation and competition between platforms for exclusivity, (ii) encouraging investment by preventing competitors from free-riding, and (iii) providing entrant platforms with an avenue to enter new markets. Competition authorities have therefore generally not taken the view that exclusive arrangements are anticompetitive *per se*. Instead, they use a case-by-case effects-based approach to determine the overall effect of exclusive arrangements in a particular market.

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1 The authors are employees of Compass Lexecon, an economics consultancy firm. This paper was produced with funding from Grab Southeast Asia. The views expressed here are the sole responsibility of the authors and cannot be attributed to Compass Lexecon, Grab, or any other Compass Lexecon client. This is an interim version of a fuller paper that will be published in due course.

2 U.S. Department of Justice, Antitrust Division (2024), "Exclusive Dealing", 2 January, archived web page, available at: https://www.justice.gov/archives/atr/exclusive-dealing.

3 Asker, J. (2016), "Diagnosing Foreclosure due to Exclusive Dealing", Journal of Industrial Economics, 64(3), pp. 375–410, available at: https://doi.org/10.1111/joie.12114.

2 Exclusive arrangements are a common commercial practice

2.1 Exclusive arrangements refer to a broad set of conduct that can take different forms, be executed at different parts of the supply chain, and have varying degrees of restrictions. Exclusivity can also either be imposed expressly by the seller in a contract, or be the result of *de facto* exclusivity.

2.2 They often take the form of:

a. exclusive purchasing – i.e., an obligation on a firm to buy all of its requirements of a particular product from one supplier; or

b. exclusive distribution – i.e., an arrangement where a manufacturer agrees to sell its products for resale to only one distributor, or a small group of distributors.

2.3 Other clauses that penalise a firm for selling to multiple distributors, or procuring from multiple suppliers (e.g., conditional rebates, i.e., rebates offered to customers for stipulated purchasing behaviour) can result in similar effects as these exclusive arrangements.

Traditional industries

2.4 Exclusive arrangements have been widely used in traditional industries. Car brands are one example where exclusive distributors are common across the world. In Singapore, BMW cars and motorcycles were exclusively distributed by Performance Motors from 1979 to 2022.[4] To entice customers in the telecommunications market where services would otherwise be similar, network providers may offer exclusive mobile phone contracts in exchange for discounted handsets (e.g., the latest iPhone). Exclusivity gives firms an incentive to commit to marketing, investments and benefits, knowing that they have a guaranteed base of customers from which to recoup their investments.

Digital platforms

2.5 More recently, many digital platforms have also used exclusive arrangements to compete. Digital platforms are multi-sided platforms that require users on all sides. Exclusive arrangements between the platform and one group (say, suppliers) can therefore ensure growth on one side of the platform, which in turn results in growth on the other side (say, users).

2.6 Digital platforms also benefit when exclusive arrangements result in indirect network effects, through feedback loops that create a virtuous cycle by improving the product and enabling further exclusivity. Exclusive listings on app stores or e-commerce platforms can play this role.

Asia-Pacific

2.7 Exclusive arrangements are common in Asia-Pacific, used in both traditional industries and by digital platforms, and recognised by competition authorities as such. The Hong Kong Competition Commission (the "HKCC"), for instance, notes in its guidelines on abuses of dominance that "*Exclusive dealing is commonly used in commercial arrangements and in most cases will not harm*

4 Chia, C. (2008), "Performance Motors opens new BMW facility", BMW Group, 13 September, available at: https://www.press.bmwgroup.com/asia/article/detail/T0046781EN/performance-motors-opens-new-bmw-facility; Poh, A. (2022), "BMW Group Asia Appoints Eurokars Auto Pte Ltd. as Second Official BMW Dealer in Singapore", BMW Group, 20 May, available at: https://www.press.bmwgroup.com/asia/article/detail/T0391673EN/bmw-group-asia-appoints-eurokars-auto-pte-ltd-as-second-official-bmw-dealer-in-singapore.

competition."[5] In some countries in the region, the law even requires the use of exclusive arrangements. In Thailand, the Ministry of Finance imposes a sole agent requirement for alcoholic beverages (except wine).[6]

2.8 By way of example, online food delivery platforms may at times use exclusive arrangements, which numerous competition authorities have now evaluated.[7] The Competition and Consumer Commission of Singapore (the "CCS") investigated the sector in 2016, eventually ceasing its investigation based on its finding that the exclusive arrangements had not harmed competition and the industry was competitive at the time of its investigation.[8]

2.9 Online food delivery platforms operate in multi-sided markets that facilitate interactions among three key user groups: consumers, restaurants, and riders. They are similar to a closely related market – ride-hailing – where the platform facilitates interactions between two sides: consumers and drivers. Multi-sided markets like these are characterised by network effects and economies of scale:[9]

a. Network effects make a platform more attractive the more users it has on each side of the market.[10] A larger number of restaurants makes the platform more attractive to consumers and a larger consumer base increases the value of the platform to restaurants by expanding their potential customer reach.

b. Economies of scale reduce operating costs. Platforms with higher transaction volumes can achieve logistical efficiencies: denser delivery networks allow for better route optimisation, shorter delivery times, and lower cost per order. In addition, when the share of fixed costs is high (e.g., setting up IT infrastructure and algorithms for operation), further economies of scale are realised.

2.10 These factors mean that the online food delivery sector has the potential to benefit from efficiency gains. Strong indirect network effects enable efficiency gains to be enjoyed by larger user bases on

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5 Competition Commission and Communications Authority of Hong Kong (2015), "Guideline on the Second Conduct Rule", 27 July, paragraphs 5.30-5.32, available at: https://www.compcomm.hk/en/legislation_guidance/guidance/second_conduct_rule/files/Guideline_The_Second_Conduct_Rule_Eng.pdf.

6 Tilleke & Gibbins (2026), "Thailand Waives Sole Agent Requirement for Wine Imports", 8 May, available at: https://www.tilleke.com/insights/thailand-waives-sole-agent-requirement-for-wine-imports/.

7 For a summary of competition issues in this market, see Franke, F. D. and Sakowski, P. A. M. (2026), "Mercado de plataformas de delivery de comida pronta: análise de experiências internacionais em defesa da concorrência", Documento de Trabalho No. 03/2026, Departamento de Estudos Econômicos, Conselho Administrativo de Defesa Econômica (CADE), available at: https://cdn.cade.gov.br/Portal/centrais-de-conteudo/publicacoes/estudos-economicos/documentos-de-trabalho/2026/Documento%20de%20Trabalho%2003%202026%20-%20Benchmarking%20Delivery.pdf.

8 Competition and Consumer Commission of Singapore (2016), "CCS Investigation Finds Online Food Delivery Industry To Be Currently Competitive But Exclusive Agreements Could be Problematic In Future", 25 August, available at: https://www.ccs.gov.sg/media-and-events/newsroom/announcements-and-media-releases/ccs-investigation-finds-online-food-delivery-industry-to-be-currently-competitive-but-exclusive-agreements-could-be-problematic-in-future/.

9 For the economic theory of multi-sided markets, see, for instance, Rochet, J.-C., and Tirole, J. (2003), "Platform Competition in Two-sided Markets", Journal of the European Economic Association, 1(4), pp. 990–1029, available at: https://doi.org/10.1162/154247603322493212.

10 See Katz, M. L., and Shapiro, C. (1985), "Network Externalities, Competition, and Compatibility", The American Economic Review, 75(3), pp. 424–440, available at: https://www.jstor.org/stable/1814809. These network effects between different sides of a platform are known as "indirect network effects" in the literature, to distinguish them from the "direct network effects" that can exist within a single group of users, such as users of a fixed-line telephone network.

both sides of the platform. Significant economies of scale result in efficiency gains that can lead to substantial cost reductions for the platform which can be passed on to users.

2.11 These factors, however, simultaneously increase the risk of tipping points: if a platform fails to reach a sufficient scale to achieve certain operating costs, because its cost base remains higher or its network smaller, the market may "tip" towards the remaining (larger) platforms, as the smaller platform may find continued operation unprofitable and eventually exit the market.

3 Exclusive arrangements can cause harm, but also benefit consumers

3.1 The traditional concerns with exclusive arrangements relate to input and customer foreclosure of competitors. While these problems can arise, it is also well established in economic literature that exclusive arrangements may be beneficial for consumers. In this section, we briefly draw on economic theory to outline both the competitive concerns and benefits of exclusive arrangements. To illustrate these, we present examples in traditional industries and digital markets (and specifically in the online food delivery sector).

Anti-competitive concerns

3.2 Exclusive arrangements can lead to the exclusion of upstream suppliers (i.e., input foreclosure), or the exclusion of downstream distributors (i.e., customer foreclosure).

Input foreclosure

3.3 Exclusive distribution, as defined in the section above, is an arrangement where a firm only supplies one distributor or a few distributors. It can allow the distributor firm to cut off rival distributors' access to the product, or to increase the price they pay for it. Toys 'R' Us, the largest US toy buyer, for example, forced suppliers to promise that they would not supply competing retailers with the same products they sold to Toys 'R' Us, or supply only at higher costs.[11]

3.4 This is more of a concern when (i) the distributor firm in question is dominant in its own market and (ii) these exclusive arrangements cover most of the efficient suppliers, forcing rivals to use worse or more expensive suppliers ('raising rivals' costs'), build their own supply, or do without the input. As a result, exclusive distribution can weaken existing distributor rivals, and increase barriers to entry for new distributors, negatively impacting competition in the market.

Customer foreclosure

3.5 Exclusive purchasing, where a firm requires its customers to buy all or most of their needs from it, prevents a supplier's rivals from supplying these customers. These customers may be distributors, retailers or manufacturers, so a supplier's rivals may be unable to reach enough customers to compete at an efficient scale. Exclusive purchasing can therefore weaken a supplier's existing rivals, and increase barriers to entry for new suppliers, negatively impacting competition in the market.

3.6 The Google Search cases, in which competition authorities found that Google paid handphone makers to become the exclusive default search engine, present one example of such conduct. The

[11] Abbott, A. (2018), "Exclusive Dealing and Competition: A US FTC View", General Counsel, U.S. Federal Trade Commission, ICN Workshop, Stellenbosch, South Africa, 2 November, available at: https://www.ftc.gov/news-events/news/speeches/exclusive-dealing-competition-us-ftc-view.

allegation was that rival search engines could not get default placement, denying them users and the search data they needed to improve their own products.[12]

3.7 Similar to the considerations around exclusive distribution above, exclusive purchasing is more of a concern when (i) the supplier firm in question is dominant in its own market and (ii) these exclusive arrangements cover most of the efficient distributors, forcing rivals to use worse or more expensive distributors ('raising rivals' costs'), build their own distribution network, or do without the sales. As a result, exclusive purchasing can weaken existing supplier rivals, and increase barriers to entry for new suppliers, negatively impacting competition in the supplier market.

3.8 The line between input and customer foreclosure is less clear in multi-sided markets, since the firms on each side of the platform may, to some extent, both be customers of the platform and provide inputs used by the platform. Nonetheless, when assessing exclusive arrangements, competition authorities have considered the likelihood of market foreclosure by taking into account factors such as the coverage of the exclusive arrangements, dominance of the platform and whether rival platforms can continue to compete in the presence of exclusive arrangements.

3.9 For example, the CCS explains that its concerns are heightened when a significant proportion of the market is foreclosed to competitors as a result of the exclusive dealing,[13] whereas the HKCC highlights that it is concerned when the undertaking with a substantial degree of market power imposes exclusive purchasing obligations on many customers.[14] Elsewhere, the Malaysian Competition Commission (the "MyCC") initiated an abuse of dominance investigation into Foodpanda's exclusive contracts with restaurants. As the MyCC found insufficient evidence that Foodpanda was a dominant player in the market, it concluded that Foodpanda did not infringe Malaysian competition law without conducting a full economic assessment of the competitive effects of the exclusive arrangements.[15]

3.10 On exclusive arrangements being used to foreclose smaller platforms, the HKCC's investigation into potentially anticompetitive conduct of Foodpanda and Deliveroo (the "HKCC Exclusivity Case") is relevant. The HKCC was concerned that the companies required exclusivity from restaurants, or induced restaurants to agree to exclusivity, by including terms or conditions in their agreements that discouraged these restaurants from partnering with other online food delivery platforms. The HKCC accepted commitments by Foodpanda and Deliveroo, including (i) allowing restaurants to partner with new entrants and/or small platforms without loss of commercial incentives available under exclusive arrangements, and (ii) making it easier for restaurants to switch from exclusivity to also partnering with other online food delivery platforms.[16]

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12 U.S. Department of Justice, Office of Public Affairs (2025), "Department of Justice Wins Significant Remedies Against Google", press release no. 25-902, 2 September, available at: https://www.justice.gov/opa/pr/department-justice-wins-significant-remedies-against-google.

13 Competition and Consumer Commission of Singapore, "Policies and Positions", last updated 30 September 2025, available at: https://www.ccs.gov.sg/resources/faqs/policies-and-positions/.

14 Competition Commission and Communications Authority of Hong Kong (2015), "Guideline on the Second Conduct Rule", 27 July, paragraph 5.28, p. 36, available at: https://www.compcomm.hk/en/legislation_guidance/guidance/second_conduct_rule/files/Guideline_The_Second_Conduct_Rule_Eng.pdf.

15 Malaysia Competition Commission (2023), "Finding of Non-infringement under Section 39 of the Competition Act 2010 - Delivery Hero (Malaysia) Sdn. Bhd.", 11 September, available at: https://www.mycc.gov.my/sites/default/files/pdf/decision/Foodpanda%20FD%20Public%20Non-Confidential.pdf.

16 Competition Commission of Hong Kong (2023), "Competition Commission accepts commitments offered by Foodpanda and Deliveroo", 29 December, available at: https://www.compcomm.hk/en/enforcement/registers/commitments/files/OFP_Commitments_PR_EN.pdf.

3.11 A factor that competition authorities consider when they assess the likelihood of foreclosure is whether smaller competitors lack access to 'must-have' inputs. The Australian Competition and Consumer Commission (the "ACCC"), for instance, states in its guidance that the fact that the product or service cannot be bought elsewhere increases its likelihood of finding that the exclusive arrangement is illegal.[17] A case in which this issue was highlighted was the Brazilian Administrative Council for Economic Defence ("CADE")'s investigation into exclusive agreements by iFood, the main food delivery app in Brazil at the time.[18] CADE investigated iFood's exclusive contracts with affiliate restaurants. The investigation concluded with iFood committing that it would (i) not pursue exclusivity with restaurants that had over 30 branches and (ii) limit the number of restaurants with exclusive arrangements to a maximum of 25% of iFood's total gross merchandise value.

Pro-competitive benefits

3.12 Notwithstanding the potential for harm, exclusive arrangements can also have widely known pro-competitive benefits that competition authorities have recognised and detailed in their guidelines.[19]

Fostering differentiation and inter-brand competition

3.13 Competitors may use exclusive arrangements to differentiate themselves, offering consumers different choices. TV streaming companies routinely acquire exclusive content to differentiate themselves from competitors (e.g., the TV show *Friends* is only available on Netflix in many regions including Singapore),[20] and retail companies often have exclusive collaborations to manufacture exclusive items (e.g., Jordans are only sold at Nike).[21]

3.14 Suppliers may offer better terms (e.g., lower prices, special arrangements) when competing for the exclusive supply of a customer's needs. This arrangement enables customers with different needs to be served. For example, Coca-Cola offers its drinks at lower prices, offers product (recipe) innovation, and provides differentiated supply chain arrangements to McDonald's in an exclusive supply arrangement, translating to lower costs for McDonald's and lower prices for end consumers.[22] Similarly, exclusive partnerships for large-scale events such as the World Cup or concerts increase sponsorship revenue and decrease ticket prices.

3.15 Competition between online food delivery platforms, for instance, is likely fiercer if platforms are allowed to differentiate by entering into exclusive arrangements with restaurants/drivers, provided no platform monopolises the supply of restaurants/drivers and customers have access to multiple

17 Australian Competition and Consumer Commission, "Exclusive dealing", available at: https://www.accc.gov.au/business/competition-and-exemptions/exclusive-dealing.

18 Administrative Council for Economic Defence (2023), "CADE signs agreement with iFood in case involving exclusivity deals in food delivery marketplaces", 8 February, available at: https://www.gov.br/cade/en/matters/news/cade-signs-agreement-with-ifood-in-case-involving-exclusivity-deals-in-food-delivery-marketplaces.

19 See the European Commission's Guidelines on vertical restraints, for instance, European Commission (2022), Guidelines on vertical restraints, 2022/C 248/01, OJ C 248, 30 June, paragraphs 136 and 137, available at: https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=oj:JOC_2022_248_R_0001.

20 Moore, K. (2026), "'Friends' Makes Surprise Return to Netflix in Most International Regions", What's on Netflix, 2 July, available at: https://www.whats-on-netflix.com/news/friends-makes-surprise-returns-to-netflix-in-most-international-regions/.

21 Cary, A. (2021), "How Air Jordans Won Over the World", British Vogue, 8 March, available at: https://www.vogue.co.uk/fashion/article/air-jordans-michael-jordan.

22 Haddon, H., and Cooper, L. (2026), "The 70-Year Marriage Between McDonald's and Coke Has Some Issues", The Wall Street Journal, 12 June, available at: https://www.wsj.com/business/hospitality/mcdonalds-beverage-choices-coca-cola-da2c0963.

platforms (known as 'multi-homing'). In particular, platforms will compete for exclusivity with restaurants/drivers, for instance by offering lower commission rates in exchange for exclusivity. Even if some proportion of restaurants have entered into exclusive arrangements with a platform, as long as a significant share of the market remains contestable (i.e., no single platform has exclusive arrangement with a large proportion of restaurants), rival platforms will be free to compete against incumbent platforms to work with restaurants that are not under exclusive arrangements. In fact, rival platforms may compete for exclusive arrangements with these contestable restaurants to differentiate themselves from competitors.

3.16 Customers can order food from restaurants exclusive to different platforms by multi-homing. In this way, exclusive arrangements can incentivise customer multi-homing, in turn promoting platform competition for restaurants.

3.17 Importantly, consumers and riders generally multi-home in this sector because the barriers to doing so are limited. Typically, all that is required for a customer to use multiple food delivery applications is to download these applications and create an account (for instance, by providing their address and payment methods). As each order is a separate, one-off purchase and there are no contracts, cancellation fees or minimum commitments, customers are free to use multiple applications in parallel. Platforms may compete on price (such as discounts, vouchers and free delivery) and non-price factors (such as delivery time and restaurant listings), which customers are usually aware of, and take advantage of. 'Lock-in' effects that may result from previous purchases are also limited, as saved preferences and order history are convenient but not essential. By contrast, multi-homing in numerous other sectors is more difficult, due to switching costs borne by customers (e.g., a subscription to two different streaming providers entails two separate payment plans).

Promoting investment by preventing free-riding by competitors

3.18 Manufacturers may use exclusive arrangements to prevent competitors from free-riding on their investments. In this regard, economic literature demonstrates that exclusivity is important when a given platform's investment increases the value to its users (in the present case, the restaurants) when they transact with rival platforms (that is, whenever the platform's investment has 'external' effects).[23] In these circumstances, exclusive arrangements are used to improve efficiency and protect investments against potential opportunistic behaviour by rival platforms.

3.19 Free-riding can occur at the wholesale or retail level between buyers, or between suppliers. A manufacturer may invest in promoting its own products at a buyer's retail store, unintentionally advertising similar products of its competitors, for example if customers are enticed to visit the store and browse, without these competitors needing to make similar investments themselves. An often-cited example in economics is that a car brand may only choose to invest in building a showroom for a car dealership if the dealership exclusively distributes that car brand, to prevent competing car brands from free-riding on the showroom investment.[24] Without exclusive arrangements, there would be no incentive for such investment by the supplier.

3.20 Exclusive arrangements play a crucial role in market efficiency, particularly where brand development is concerned, as recognised by the European Commission. Exclusive distribution may lead to efficiency gains, particularly where investments by distributors are required to protect or develop brand image. In general, the argument for efficiency gains is most convincing in relation to new products, complex products, products whose qualities are difficult to assess before

23 Segal, I. R., and Whinston, M. D. (2000), "Exclusive Contracts and Protection of Investments", The RAND Journal of Economics, 31(4), pp. 603-633, Winter 2000, available at: https://www.jstor.org/stable/2696351.

24 See also footnote 5.

consumption (so-called 'experience goods') or whose qualities are still difficult to assess even after consumption (so-called 'trust goods').[25]

3.21 Exclusive arrangements can therefore protect a platform's investments and encourage it to innovate, enabling it to compete with other platforms on numerous dimensions, which ultimately benefits consumers in the form of lower pricing, better quality and a greater range of choices. A food delivery platform, for example, may invest in digitising a restaurant's menu, but lose the associated benefits if customers – having benefited from the marketing efforts of this platform – place orders from this restaurant through rival platforms instead. In the HKCC Exclusivity Case, the HKCC acknowledged that there are contractual terms which are procompetitive that merit carve-outs from the parties' commitments that are linked to platform investments (e.g., guarantees that a restaurant would receive a target amount of gross food value on its platform for facilitating investments in joint commercial initiatives like marketing).[26]

Enabling new entry and guaranteeing supply

3.22 Suppliers may need to get local distributors to invest in establishing their brands in new markets, which may mean that they need to offer the distributors a guarantee of exclusivity so they can recoup these investments. Brands may also make use of exclusive intellectual property as a means to break into a new market. Apple, for example, exclusively used the AT&T network when launching the iPhone in the US, providing it with guaranteed network capacity and unprecedented support and control over its distribution process.[27] Similarly, Xbox launched with Halo as an exclusive, in order to compete with incumbents like PlayStation.[28]

3.23 Exclusive arrangements must also be viewed in the context of the industry in question. In industries with high upfront capital costs, which in turn require a guarantee of capacity, quality or continuity of supply, there may be pro-competitive reasons for the practice. Transport operators exclusively bringing their volumes to a particular depot, for instance, can guarantee that the depot will operate above a minimum efficient scale, encouraging investment in that depot.

3.24 Competition authorities have also recognised this benefit of exclusive arrangements. The ACCC notes in its inquiry into the dairy sector that exclusive contracts are common in agricultural industries, and that they can provide dairy processors with volume certainty, enabling processing plants to reduce processing costs and realise economies of scale.[29]

3.25 Exclusive arrangements entered into by new entrants have the potential to eventually offer customers additional options if the entrant is successful, further fostering competition in the sector. A platform seeking to break into a different line of business may use exclusive deals to enter the new market, particularly when a strong incumbent already has a high market share.

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25 European Commission (2010), "Guidelines on vertical restraints", C 130, 19 May, pp. 1-46, available at: https://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:C:2010:130:0001:0046:EN:PDF.

26 Competition Commission of Hong Kong (2023), Online Food Delivery Platforms, Case EC/03JJ, notice of acceptance of 29 December, paragraphs 102-104, available at: https://www.compcomm.hk/en/enforcement/registers/commitments/files/OFP_Notice_of_Acceptance_ENG.pdf.

27 Cohan, P. (2013), "Project Vogue: Inside Apple's iPhone Deal With ATT", Forbes, 10 September, available at: https://www.forbes.com/sites/petercohan/2013/09/10/project-vogue-inside-apples-iphone-deal-with-att/.

28 Microsoft (2000), "Microsoft to Acquire Bungie Software", 19 June, available at: https://news.microsoft.com/source/2000/06/19/microsoft-to-acquire-bungie-software/.

29 Australian Competition and Consumer Commission (2018), "Dairy inquiry: Final report", April, p. 81, available at: https://www.accc.gov.au/system/files/1395_Dairy%20inquiry%20final%20report.pdf.

Overall assessment

3.26 Exclusive arrangements can foreclose competitors, but they can also promote competition by (i) fostering differentiation and competition between platforms for exclusivity, (ii) promoting investment by preventing free-riding by competitors, and (iii) providing entrant platforms with an avenue to enter new markets. This is particularly relevant in sectors where strong network effects and substantial economies of scale amplify the competitive effects of exclusive arrangements.

3.27 Competition authorities should not, and generally do not, take the view that exclusive dealing is anticompetitive *per se*. Instead, they use a case-by-case effects-based approach to determine the overall effect of exclusive arrangements in a particular market. For instance:

a. The Finnish Competition and Consumer Authority (the "FCCA") noted that its own-initiative investigation stemmed from the fact that exclusive arrangements inherently involve a balancing act between pro-competitive effects beneficial to consumers and exclusionary effects. This is also reflected in the authority's draft guidelines, in which exclusive arrangements are assumed to have exclusionary effects, with two important caveats: (i) there are no automatically prohibited exclusive arrangements and (ii) investigated companies can present evidence to support their position that their actions would not have restricted competition.[30]

b. The CADE's investigation into iFood's exclusivity contracts resulted in an agreement that neither invalidated iFood's existing exclusivity clauses nor forbade it from pursuing exclusivity clauses going forward. Instead, CADE focused on ensuring that a substantial portion of the market remained contestable by preventing iFood from entering into agreements with larger chains and limiting the overall number of restaurants with exclusivity clauses.[31]

c. The HKCC, despite accepting commitments by Foodpanda and Deliveroo, did not preclude either platform from offering exclusive arrangements, instead limiting its concerns to preserving competition from small platforms. It noted that the use of exclusive terms by Foodpanda appears unlikely to have foreclosure effects on Deliveroo and vice versa, therefore accepting commitments that prevented the use of exclusive terms against small platforms.[32]

30 Kauppi, O., and Öberg, J. (2025), "Woltin yksinoikeussopimukset vaaransivat ruoankuljetusalustojen välisen kilpailun", Finnish Competition and Consumer Authority, FCCA blog, 8 May, available at: https://www.kkv.fi/blogit/kkv-blogi/woltin-yksinoikeussopimukset-vaaransivat-ruoankuljetusalustojen-valisen-kilpailun/.

31 Administrative Council for Economic Defence (2023), "CADE signs agreement with iFood in case involving exclusivity deals in food delivery marketplaces", 8 February, available at: https://www.gov.br/cade/en/matters/news/cade-signs-agreement-with-ifood-in-case-involving-exclusivity-deals-in-food-delivery-marketplaces.

32 Competition Commission of Hong Kong (2023), Online Food Delivery Platforms, Case EC/03JJ, notice of acceptance of 29 December, available at: https://www.compcomm.hk/en/enforcement/registers/commitments/files/OFP_Notice_of_Acceptance_ENG.pdf.