

Practice and Prospects of Antitrust Law in the Global Digital Economy



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Practice and Prospects of Antitrust Law in the Global Digital Economy

Abstract: As the digital economy continues to thrive globally, antitrust issues in the digital economy have become a common challenge faced by major jurisdictions. Actively learning from the beneficial experiences of other jurisdictions can significantly enhance the effectiveness of China's antitrust governance in the digital economy. This report aims to conduct a comprehensive and in-depth analysis of foreign practices, critically examine the actual effectiveness of current antitrust law practices in the digital economy sector, rationally assess emerging trends in both practice and theory within this field, clarify the reasonable limits for strengthening antitrust measures in the digital economy sector, and provide insights to support the deepening of routine regulatory oversight in this domain. The report examines the latest antitrust practices in the digital economy across major jurisdictions. Based on the actual effects of the latest practices, the report provides an overall evaluation of each jurisdiction.

I. Reshaping the Context for Antitrust Practice in the Digital Economy

The regulatory landscape for the global digital economy is undergoing profound structural transformation. The extreme concentration of wealth and power in a handful of Big Tech is widely seen as a key driver of escalating inequality. The rise of automation and Artificial Intelligence (AI) is anticipated to significantly amplify this trend, potentially displacing low-skilled labor and shifting economic returns further from labor towards capital owners.

This intensifying economic and social inequality also confronts global antitrust enforcement agencies with a common trilemma: they appear unable to simultaneously maximize three objectives – consumer welfare realized through constrained prices, industrial prowess bolstered by “state-backed national champion” firms, and disruptive innovation enabled by the free operation of startups. The current state of antitrust law implementation in the digital economy effectively reflects the strategic trade-offs agencies make within this “three-dimensional dilemma”. For instance, the European Union (EU) tends to prioritize setting market rules through regulation, safeguarding market “contestability”, while the United States (US) increasingly relies on litigation to challenge existing market structures. Effectively resolving this dilemma represents a new, pervasive challenge for antitrust enforcers globally.

Against this backdrop, the explosive growth of frontier technologies presents not only unprecedented economic opportunities but also entirely new and formidable challenges for antitrust agencies. This compels them to broaden antitrust objectives beyond pure economic efficiency to encompass broader social values like fairness, opportunity, and wealth distribution. Furthermore, it necessitates a fundamental re-examination of core concepts ranging from market definition to collusive practices.

II. Progress in Global Antitrust Practice for the Digital Economy

To address the unique challenges posed by the digital economy, particularly the rise of AI, antitrust theory, tools, and objectives are being adjusted, adapted, and in some cases, fundamentally reshaped. Enforcement agencies are striving to move beyond frameworks rooted in the traditional industrial era, actively exploring new paradigms suitable for 21st-century platform and algorithm-driven markets.

(I) The “Geopolitical Dimensions” in Global Antitrust Enforcement

Amidst the clamor over “digital deglobalization”, the overall volume of global digital trade and data flows is, in fact, growing at an unprecedented pace. The true trend is not a reduction in global interconnectedness, but rather the fragmen-

tation of the rule systems governing this interconnectedness. This results in a paradoxical situation: the world is more digitally connected than ever before yet conducting global operations across these connections has become unprecedentedly complex and costly. This trend has also compelled a functional distortion of antitrust law, transforming it into a key instrument within nations' technological competition and struggles for global regulatory influence.

The fragmentation of rule systems inadvertently constructs new “moats” for Big Tech. Divergent standards not only significantly increase compliance costs for businesses and complicate cross-border data flows, but are even leveraged as tools to block foreign firms' entry into domestic markets. Big Tech possesses extensive legal resources to navigate complex and often conflicting regulations across different jurisdictions (e.g., the EU's General Data Protection Regulation (GDPR), U.S. state privacy laws). In contrast, startups and emerging competitors may be deterred by prohibitive compliance costs. Consequently, regulatory actions ostensibly designed to constrain tech giants may objectively raise barriers to market entry, further entrenching the dominant position of these incumbents.

(II) The Evolution of Antitrust Objectives in the Digital Economy

A wave of re-evaluating traditional antitrust objectives is emerging globally, centered on moving beyond the narrow “consumer welfare” standard focused primarily on price effects. The fundamental driver of this shift is that many digital services are provided free of charge to consumers, rendering price-based theories of harm difficult to apply. Enforcement agencies are consequently embracing broader objectives, including promoting market fairness, sustainability, reducing inequality gaps, and protecting innovation. The emphasis on “contestability” within the EU's Digital Markets Act (DMA) stands as a paradigmatic example of this evolution.

However, applying traditional antitrust concepts to digital markets presents significant difficulties for enforcement agencies. For instance, within multi-sided platform ecosystems like Google's or Apple's, competition occurs both within the ecosystem (e.g., between the platform and its own apps) and between ecosystems, rendering conventional “relevant market” definition methodologies exceptionally complex.¹ Network effects constitute another critical point of debate. Once viewed as a sign of consumer benefit, they are increasingly perceived by enforcers as a source of “winner-takes-all” dynamics and high entry barriers.

Underpinning this series of shifts is an evolution in antitrust regulatory philosophy. Traditional antitrust enforcement required clear evidence of harm having already occurred. In digital markets, however, due to network effects and ecosystem characteristics, dominance, once established, is often difficult to reverse. Regulators widely believe that by the time harm is conclusively proven, effective remedies are often too late. Consequently, they are opting for preemptive measures, intervening before potential harms become entrenched. This transition from reactive enforcement to proactive prevention represents one of the most profound shifts in current global digital antitrust practice.

(III) Enforcement and regulation focus on the AI value chain

The rise of AI, especially generative AI, has quickly pushed it to the forefront of global antitrust regulation. As a result, enforcement agencies have stepped up their scrutiny of the entire AI value chain to identify potential competition bottlenecks.²

¹ James Keyte, Frederic Jenny and Eleanor Fox. Buckle Up: The Global Future of Antitrust Enforcement and Regulation. *Antitrust*, Vol. 35, No. 2, Spring 2021.

² ICC. Global report on antitrust enforcement in the digital economy. <https://iccwbo.org/news-publications/policies-reports/global-report-on-antitrust-enforcement-in-the-digital-economy/>

• **Input Layer (Hardware and Data).** Enforcement agencies are focusing on whether chip manufacturers like Nvidia engage in exclusive practices such as bundling sales or restricting customers from using competitors' products. They are also broadly concerned that companies controlling massive proprietary datasets may gain insurmountable competitive advantages.³

• **Infrastructure Layer (Cloud Computing).** Scrutiny of major cloud service providers like Amazon, Microsoft, and Google is intensifying. These companies not only provide critical computing infrastructure but are also developing their own AI models and forming deep partnerships with leading AI startups. Enforcement agencies are broadly concerned about self-preferential treatment, discriminatory access, and using contract terms to lock in AI developers.

• **Model Layer and Partnerships.** Enforcement agencies are actively exploring review frameworks and pathways for non-traditional transaction structures. For example, Microsoft's financial investment in and talent acquisition from OpenAI.

• **Digital Ecosystems.** Enforcement agencies are increasingly adopting a digital ecosystem perspective to assess competition, examining whether large tech companies control key layers of the AI value chain (data, computing power, models, applications) and how such control is used to exclude competition in adjacent layers.

Subject of investigation	Jurisdiction of investigation	Alleged conduct/area of concern
Nvidia	US, EU, UK, France	Abuse of market dominance; exclusive dealing, bundling of chips with other products.
Microsoft/Open AI	US, EU, UK	Collaborative relationship constituting a de facto merger; consolidation of power in the cloud services and artificial intelligence model sectors; control of key inputs.
Amazon, Google, Microsoft	US	Investments and collaborations with AI startups (e.g., Anthropic); control over cloud computing infrastructure.
Google	US	Bundling new generative AI products with existing core products like search.
RealPage	US	Hub-and-spoke collusion; using a common pricing algorithm to raise rents.
Amazon	US	Using a secret pricing algorithm to test price increases and coordinate with competitors.

Table 1: Investigations by global antitrust enforcement agencies in the field of artificial intelligence

(IV) The debate over remedies for antitrust violations in the digital economy

The ultimate value of any antitrust action lies in whether its remedies can truly and effectively restore market competition. However, in the digital market, traditional remedies are facing severe challenges. A groundbreaking study by the European Commission found that while most remedies were implemented, fewer than half achieved the desired outcomes, with purely behavioral remedies being the least effective. Such measures, which require companies to alter their business practices, are often difficult to monitor and can be easily circumvented or exploited by firms in rapidly evolving markets.

As a result, enforcement agencies worldwide, particularly in the US, are increasingly favoring structural remedies, which directly alter market structures, such as through asset divestitures or company breakups. The U.S. Department of Justice's proposed remedies in its case against Google's advertising technology business are the most prominent example of this trend. The proposal requires Google to divest its advertising exchange platform and publisher ad server. The underlying logic is that in a complex, highly integrated digital ecosystem, merely constraining behavior is insufficient; it is necessary to fundamentally alter the market structure to restore effective competition.

Meanwhile, a new class of data-centric remedies is emerging, aimed at unlocking data to unleash competitive vitality.

- **Data portability:** Mandating platforms to allow users to easily transfer their data from one platform to another (e.g., moving social media history data from Facebook to a competitor). This aims to reduce users' switching costs and minimize the “lock-in effect.” It is a key provision in the EU's Digital Markets Act and General Data Protection Regulation.⁴

- **Interoperability:** Requiring platforms to connect with each other and exchange data (e.g., allowing users of a new social network to send and receive messages with their friends on Facebook). This is seen as a powerful tool to directly weaken network effects, which are a major barrier for new entrants.⁵

While these data-centric remedies are theoretically more targeted and effective, they have also sparked intense debate. Critics argue that these measures may be technically complex, introduce new security and privacy risks, and potentially reduce existing companies' incentives to invest and innovate, as the benefits of innovation would be shared with competitors.

Today, the focus of antitrust enforcement in the digital economy has shifted from proving illegal conduct itself to designing effective remedies. The case against Google in the US is of critical importance not only for its outcome but also for whether the court will order a structural breakup of a large tech company. This ruling will set a powerful precedent for all future antitrust cases in the digital economy and fundamentally alter the competitive logic and attitude toward compliance of large tech companies. Therefore, the debate over the type of remedial measures is now as important as, if not more important than, the debate over the illegal conduct itself.

III. A Global Overview of Anti-Monopoly Enforcement Mechanisms in the Digital Economy

With the escalation of geopolitical tensions and the fragmentation of global markets, the world's major economies are developing distinctive anti-monopoly regulatory models. These models exhibit significant differences in philosophical concepts, legal tools, and strategic goals. This section will conduct an in-depth comparative analysis of the enforcement mechanisms in the US, EU, China, and other emerging economies to reveal the full picture of the global digital anti-monopoly landscape.

⁴ Reimsbach-Kounatze, C. and A. Molnar. The impact of data portability on user empowerment, innovation, and competition. OECD Going Digital Toolkit Notes, https://www.oecd.org/en/publications/the-impact-of-data-portability-on-user-empowerment-innovation-and-competition_319f420f-en.html/

⁵ Michael Kades, Fiona Morton. Competitive Edge: Remediating monopoly violation by social networks—the role of interoperability and rulemaking. <https://equitablegrowth.org/competitive-edge-remediating-monopoly-violation-by-social-networks-the-role-of-interoperability-and-rulemaking/>

(I) The United States: Actively Responding to Industrial and Theoretical Challenges

In recent years, the large digital platforms represented by GAMMA (Google, Amazon, Meta, Microsoft, and Apple) have formed a highly concentrated market structure by leveraging network effects, economies of scale, and data aggregation. Their “gatekeeper” status has become increasingly solid. Platform enterprises frequently implement anti-competitive strategies such as killer acquisitions, self-preferencing, and exclusive agreements, which have drawn significant attention from the legislative, law enforcement, and judicial branches in the US. Influenced by the New Brandeis School of thought, the U.S. antitrust system is showing a trend towards stricter regulation, as evidenced by a series of legislative proposals aimed at curbing platform power, targeted lawsuits initiated by the Federal Trade Commission (FTC) and the Department of Justice (DOJ), and intense debates in judicial practice regarding the definition of relevant markets, assessment of market power, and theories of competitive harm. However, this regulatory shift has encountered multiple obstacles in practice, including legislative gridlock, internal disputes within law enforcement agencies, and differences of opinion with the judiciary, leaving the ultimate effectiveness of this approach highly uncertain.

In response to the competitive imbalance in the digital economy, the legislative, law enforcement, and judicial systems in the US have all taken action, demonstrating a tough regulatory stance. On one hand, the US has made numerous attempts to reshape competition rules. Since June 2021, the House Judiciary Committee has successively reviewed and approved several antitrust bills. These bills aim to strengthen the regulation of the excessive expansion of technological power and economic influence of large digital platform enterprises, lower the barriers to entry in the digital market, and maintain the competitive order in the digital market. Although these bills have not yet become law, they to some extent reflect the stricter regulatory attitude towards large digital platform enterprises under the New Brandeis thought in the US. In addition, the 2023 Merger Guidelines jointly issued by the FTC and the DOJ also show a more stringent regulatory attitude of the US antitrust enforcement agencies towards merger activities.

On the other hand, US law enforcement agencies have been actively taking actions, launching multiple investigations and lawsuits against tech giants. Although most of these cases have not been formally adjudicated, from the confrontations between tech giants and law enforcement agencies, one can still catch a glimpse of the development and abandonment of relevant competition law theories in the US antitrust field. These theoretical debates cover aspects such as the definition of relevant markets (cluster markets, after-sales markets), assessment of market power (new calculation bases and weighting considerations), identification of new types of behaviors and competition effect analysis (the application of potential competition theory and the debate over consumer welfare standards), reflecting the latest practical exploration of innovative competition law theories in the US.

In summary, the US is currently in the midst of a profound wave of antitrust reflection and reform, with the core issue being the response to the competitive challenges brought about by the digital economy. There is a widespread consensus that the competition in the digital economy is unbalanced, characterized by highly concentrated markets and incumbent platforms holding powerful and enduring “gatekeeper” power, which suppresses competition through various anti-competitive strategies. In response, a regulatory storm driven by the New Brandeis movement and aimed at strengthening government intervention has emerged, with its influence permeating the entire process of legislative proposals, enforcement actions, and judicial debates. However, the path of this regulatory transformation is fraught with obstacles. Grand legislative blueprints have stalled due to political gridlock; radical enforcement agencies face difficulties in achieving inter-

nal unity and external recognition; and the judicial system remains cautious about overturning the traditional antitrust analytical framework, leading to significant tensions between enforcement and the judiciary. Despite these challenges, these regulatory efforts have not been in vain. They have successfully brought the issue of platform monopolies to the center of the public agenda, advanced the evolution of antitrust theory, and achieved substantive progress in some cases through settlements or judgments. In the future, the direction of competition governance in the US digital economy will depend on whether the three parties of legislation, enforcement, and the judiciary can reach a consensus on new rules and theories in the ongoing game. This will be a long-term and complex dynamic process.

(ii) The EU: A Rights-Driven Governance Paradigm

As the digital wave sweeps across the globe, the EU has established a distinctive governance system for digital platforms, centered on the principle of “rights-driven” values. Through a legislative matrix that includes key regulations such as the GDPR, DMA, and DSA, together with coordinated mechanisms among specialized institutions, the EU has developed a three-dimensional governance framework encompassing data protection, market competition, and content security. Furthermore, by fostering cross-institutional collaboration, the EU has constructed a comprehensive and uniquely characteristic system for governing digital platforms.

The EU has developed a rights-driven model of digital regulation, the core objective of which is to safeguard fundamental rights, democratic values, and social equity through a government-led regulatory framework. This approach stands in clear contrast to the market-driven model of the US and the state-driven model of China. The EU model is characterized by its distinct features, a well-defined hierarchy of rules, and a strong orientation toward social law. It is specifically manifested in the following aspects:

- **The Rights-First Principle.** The EU places fundamental rights—such as the privacy of personal data, human dignity, and freedom of expression—at the center of its digital governance framework. Through regulations like the GDPR and the Artificial Intelligence (AI) Act, the EU mandates that companies respect citizens’ rights during technological innovation. For example, the principle of “privacy by design” is embedded in these legal instruments to prevent the misuse of personal data.

- **A Unique Governance Path.** The EU advocates for the establishment of digital rules through democratic legislative processes, firmly rejecting both techno-libertarian notions of a “lawless internet” and authoritarian regulatory models. It emphasizes the democratic character of the digital economy and has enacted the DSA to regulate platform content moderation systems. This legislation mandates greater algorithmic transparency and safeguards users’ right to appeal platform decisions. In parallel, through reforms in the Competition Law and digital taxation, the EU seeks to curb the dominance of Big Tech and promote a fairer distribution of economic benefits.

- **Implementation Challenges and Internal Divisions.** While this model enjoys considerable public support, it faces notable challenges in terms of effective implementation—such as the delayed enforcement of the GDPR in Ireland—as well as divergent interests among Member States, particularly evident in the difficulties of harmonizing digital tax policies. Moreover, persistent value-based disagreements remain within the EU concerning the balance between data privacy and national security, and between technological sovereignty and market openness.

In summary, the EU has constructed a digital platform governance system centered on the principle of “rights-driven” values. Through three-dimensional architecture comprising the legal framework, institutional coordination, and interna-

tional cooperation, this system offers a comprehensive solution for global digital economy governance.

The EU experience provides four key insights for the international community: First, at the legislative level, it is essential to build an integrated legal architecture comprising foundational laws, specialized regulations, and technical standards. By drawing on the EU's "gatekeeper" mechanism, policymakers can establish targeted regulatory lists for large digital platforms, thereby enhancing the coordinated implementation of the Data Security Law and the Competition Law. Second, institutional development can draw on the EU's approach to digital market governance by establishing a specialized Digital Economy Regulatory Authority within the national market oversight system. This agency should integrate core functions such as data security, and competition enforcement, thereby building a coordinated, cross-sectoral regulatory framework. Third, governance model innovation should include the adoption of a "regulatory sandbox" mechanism. This involves piloting error-tolerant mechanism for innovative digital services within demonstration digital economy zones. The process follows a three-stage cycle: an initial observation period, followed by an adjustment phase, and finally a full-scale rollout stage. Fourth, international cooperation should prioritize the mutual recognition of digital governance rules among regional economic integration mechanisms. A key step forward is to advance the Digital Economy Partnership Agreement (DEPA), which aims to institutionalize globally accepted standards—such as data localization and algorithmic transparency—within the international regulatory architecture.

(iii) The UK: A Balanced Approach through Multidimensional Tools

According to the State of UK Competition Report 2022, market concentration has surpassed pre-financial crisis levels, with dominant firms increasingly able to sustain their market advantages. The weak competitive dynamics in digital markets pose significant barriers to innovation and reduce consumer choice. As a major economy, the United Kingdom (UK) has developed a distinctive digital antitrust system by taking institutional innovation as a breakthrough approach.

•Dual-Track Governance: Legislative and Enforcement Practices. The UK's digital economy antitrust legislation draws on legacy EU rules while adapting to domestic conditions and the evolving features of the digital age, resulting in a comprehensive legal framework. In May 2024, the UK enacted the Digital Markets, Competition and Consumers Act (DMCC), which introduced the concept of "strategic market status", granted statutory authority to the Digital Markets Unit (DMU), and strengthened the enforcement powers of the Competition and Markets Authority (CMA).

•Reforming the Structure of the Regulatory System. Beyond the establishment of the DMU, the UK created the Digital Regulatory Cooperation Forum (DRCF) in July 2020 to advance regulatory coordination, ensure enforcement consistency, strengthen institutional capabilities, and deepen international engagement. The forum is designed to dismantle regulatory silos and facilitate cohesive, multi-agency oversight in the evolving digital landscape.

•Leveraging Exemplary Cases for Governance Guidance. The UK CMA has conducted comprehensive market studies, such as the Music and Streaming Market Study and the Mobile Ecosystem Market Study, to gain in-depth understanding of competition dynamics in various digital markets. Based on these insights, the CMA has advanced a series of landmark cases, including the Google Privacy Sandbox investigation and the Amazon dominance inquiry, serving as models for future regulatory enforcement.

The UK's pioneering work in digital competition policy reflects a governance strategy that responds to technological change through institutional innovation and aligns with evolving market conditions via agile and responsive oversight. Its experience demonstrates that effective digital governance must strike a balance between rigor and flexibility—establishing clear legal boundaries through legislation, while ensuring adaptability and responsiveness in enforcement.

(IV) Japan: Practical Exploration in the Style of “Small Steps but Fast Pace”

In recent years, under the stimulation of technological advances and COVID-19 pandemic, the development of Japan's digital economy has been relatively rapid, and online takeaways, online shopping and other services have gradually penetrated into the lives of the public, and Japan's digital economy has presented a situation in which local operators and large foreign technology enterprises compete with each other. In the face of the rapid development of the digital economy and the impact of the trend toward ex ante regulation, Japan has maintained its traditional competition law regulations while adopting a “small steps but fast pace” approach to forge a steady path that is grounded in the country's reality and seeking to absorb international experience.

First, the Japan Fair Trade Commission (JFTC) has flexibly applied traditional regulatory tools within the framework of the current Exclusive Prohibition Law. For example, in the 2022 DeNA “a binary choice” case, the JFTC ruled that it constituted an obstruction of trade for competitors based on the Act.⁶ In addition, the commitment system introduced in 2019 has been widely used in platform cases. However, the limitations of traditional enforcement investigations in terms of time-consuming, insufficient deterrent effect of penalties, and difficulty in fundamentally changing the market structure of large platforms are also becoming increasingly apparent.

Second, Japan has learnt from the EU experience and introduced ex ante regulation, forming an effective complement to the Exclusive Prohibition Law. In the process of introducing ex ante regulation, Japan has avoided simple transplantation of international experience based on the reality of the co-existence of local and multinational platforms in its digital economy industry. Instead of implementing strong interventionist regulations such as the EU's Digital Markets Act (DMA) in one step, Japan first introduced the Act on Transparency of Transactions on Specific Platforms in 2021, which is closer in nature to a “soft law”, with a focus on enhancing the transparency and fairness of transactions on large platforms. After evaluating the effectiveness and limitations of the Act on Transparency of Transactions on Specific Platforms, and in particular recognizing its lack of enforcement power to prohibit specific conduct, the Japanese government swiftly passed the Smartphone Software Competition Promotion Act in 2024. The Act directly addresses Self-preferencing in the smartphone ecosystem, restricting third-party payments and other behaviour by setting prohibitive obligations and high fines, marking a shift from regulation focused on fairness in transactions to a “Dual-track System” framework that combines traditional competition law with ex ante regulation.

Finally, a modest enforcement philosophy that focuses on dialogue and incentives for compliance permeates Japan's antitrust practice in the digital economy. Whether applying traditional competition law or newly established ex ante regulation, the JFTC prefers to resolve competition concerns by communicating with firms and encouraging them to take the initiative in proposing improvement measures, rather than imposing hefty fines (e.g., in the investigation of payment restrictions on the Apple App Store). Even after applying for tough measures such as emergency cease-and-desist orders to intervene, once the companies' attitude softens, the JFTC chooses to withdraw the application and continue to push them to make corrections on their own with the investigation. In the newly introduced Smartphone Software Competition Promotion Act, Japan also emphasized a “dialogue-based regulatory model”, hoping to promote improvements in business models through ongoing communication with companies in order to prevent illegal activities.

⁶ 公取委命令平成23年6月9日・平成23年(措)第4号(DeNA)審決集58巻

(v) Russia: The Tripartite Game of Antitrust Practice in the Digital Economy

Since the first antitrust lawsuit in the digital economy was filed against Google in 2015, the Federal Anti-monopoly Service of Russia (FAS) has dealt with dozens of high-profile cases and accumulated a wealth of enforcement experience. The FAS is an anti-monopoly agency with highly centralized powers, a wide range of functions and increasingly sophisticated enforcement capabilities. In addition to its core competition regulatory functions, it encompasses a number of key economic areas such as tariff regulation, public procurement management, advertising control, defence order control, foreign investment control and trade control. This allows the FAS to take a holistic view of economic activity and to respond quickly and coordinately to cross-cutting anti-competitive behaviour.

As international tensions rise, Russia's anti-monopoly policy has to some extent transcended the economic goal of purely safeguarding market competition and has been given a strategic function in the service of national security, information sovereignty, and geopolitical games. The “alienation” of this function has profoundly affected Russia's enforcement choices. The retreat or weakening of foreign competitors has created unprecedented space for Russia's local digital giants to grow, but also posed a serious challenge of “insufficient competition”.⁷ As a result, the FAS has had to shift its regulatory focus from foreign giants to closely monitoring the behaviors of local e-commerce companies. Since 2024, the FAS has been investigating Ozon and Wildberries for allegedly imposing unfair terms and conditions on platform merchants.

In the stage of international anti-monopoly cooperation, although Russia's membership in the International Competition Network (ICN), Organization for Economic Cooperation and Development (OECD) has been suspended. However, Russia has not been isolated, but has become more active in building and leading its own cooperation networks and discourse within the framework of “friendly countries”. It plays an active role in organizations such as United Nations Conference on Trade and Development (UNCTAD), BRICS and Anti-monopoly Policy Committee of Commonwealth of Independent States (ICAP).

The future direction of Russia's digital economy anti-monopoly law will continue to unfold in the ongoing tug and balance of the three forces of pure competition rule of law, national industrial policy and complex geopolitical games.

(vi) Australia: Long-termism with a focus on market research

Compared with other developed jurisdictions, Australia has chosen a more prudent and gradual path, i.e. building a solid evidence base and guiding policy direction based on comprehensive market research, combining advanced international experience with local market conditions through adaptive legislative reforms, and adopting a pragmatic enforcement strategy that uses a diversity of tools that go beyond traditional litigation to address specific market failures.

Since October 2020, the Australian Competition and Consumer Commission (ACCC) has launched a five-year, far-reaching Digital Platform Services Inquiry, systematically analyzing key areas of the digital economy such as the general search services market, app store market, social media services market, and online retail market, and publishing a total of ten reports. This iterative approach allows the ACCC to deepen its understanding as the market develops, ensuring that its policy recommendations are always in sync with market realities, thus laying a solid foundation for subsequent regulatory action.

Having established a solid evidence base through market investigations, Australia undertook a process of deliberate and adaptive reform of its competition law regime. Rather than simply copying and pasting models from other jurisdictions, this process demonstrates a pragmatic “localized reformer” philosophy. For example, in order to effectively regulate killer acquisitions, Australia, drawing on EU practice, amended the Competition and Consumer Act 2010 to change the merger control regime from a voluntary to a mandatory prior notification regime. This institutional innovation directly responds to the problems identified in market investigations and enables enforcement agencies to more effectively review and deter large platforms from consolidating their market dominance through creeping acquisition.

In the specific enforcement process, the ACCC does not readily initiate large-scale, high-stakes antitrust litigation, preferring to use non-traditional regulatory tools such as enforceable undertakings in order to address specific market harms in the shortest possible time. This strategy reflects a strategic trade-off that prioritizes efficiency in resolving specific issues over the pursuit of ground-breaking jurisprudence.

IV. Prospects of Antitrust Law in the Global Digital Economy

Antitrust practice in the global digital economy is at a historic crossroads. Traditional rules are becoming obsolete, while new paradigms are emerging.

(I) Artificial Intelligence as a Central Focus of Antitrust Enforcement

In the coming years, Artificial Intelligence (AI) will undoubtedly become the common thread of global antitrust law practice. Antitrust scrutiny will extend across the entire AI value chain—from chips, data, and computing power in the upstream, to foundation models in the midstream, and to application layers in the downstream.

First, exploring the review of key bottlenecks. Control over key bottlenecks in the AI value chain will face rigorous scrutiny, including whether chip manufacturers (e.g., Nvidia), model developers (e.g., OpenAI, Anthropic), and cloud service providers (e.g., Amazon, Google) leverage their competitive advantages to favor their in-house developed AI models, restrict access to key data, block technological bottlenecks, or foreclose platform ecosystems, thereby potentially excluding competitors or stifling innovation.

Second, addressing the challenge of non-traditional mergers and acquisitions. Antitrust authorities will pay more attention to non-traditional partnerships between Big Tech and AI start-ups, such as minority equity investments, “acqui-hires”, and complex strategic collaborations (e.g., Microsoft’s investment in OpenAI). These transactions will be closely examined to assess whether they constitute “de facto mergers” designed to evade traditional merger control reviews.

Jurisdictions	Investigation Details
US	<p>On January 25, 2024, the Federal Trade Commission (FTC) launched an inquiry into generative AI investments and partnerships and issued compulsory orders to Google, Amazon, Microsoft, OpenAI, and Anthropic, requiring them to provide information.</p> <p>On March 13, 2025, it was reported that the FTC is moving ahead with a sprawling antitrust probe of Microsoft. At present, the FTC is in the substantive evidence-gathering phase.</p> <p>On April 8, 2025, it was reported that two Democratic senators are reviewing partnerships between Big Tech and AI developers, with concerns that such deals may harm competition in the AI industry.</p>

Jurisdictions	Investigation Details
EU	In January 2024, the European Commission announced that it would check whether Microsoft's investment in OpenAI might be reviewable under the EU Merger Regulation. On June 28, 2024, the European Commission proposed to open a further antitrust investigation into the partnership between Microsoft and OpenAI.
Britain	On December 8, 2023, the Competition and Markets Authority (CMA) invited comments on the partnership between Microsoft and OpenAI and announced the launch of its merger inquiry on March 4, 2025.
Germany	On September 23, 2023, the Bundeskartellamt initiated an investigation into whether the partnership between Microsoft and OpenAI is subject to notification obligations under merger control.

Table 2: Global Investigations into the Microsoft-OpenAI Partnership

Third, achieving a balance between innovation and regulation. The central challenge for antitrust authorities lies in effectively mitigating excessive market concentration while avoiding stifling innovation. Authorities will strive to strike a balance between preventing incumbents from using their resources to suppress competition and avoiding over-regulation that could cause a “chilling effect” on investment and development in the AI sector.

(II) Global Spread and Local Adaptation of the Ex Ante Regulation Model

The ex-ante regulation model, exemplified by the EU’ s DMA, will see further global adoption. However, rather than being adopted as a mere copy-paste, this model is likely to undergo significant local adaptation. As Japan, India, and Brazil successively implement their respective versions of ex-ante regulation, more jurisdictions will consider or enact similar ex ante rules, imposing behavioral obligations on designated “gatekeeper” platforms. At the same time, when drawing on the EU’ s DMA, the jurisdictions will make modifications based on their domestic market sizes, industrial structures, and legal traditions. For example, some countries may focus regulation on specific digital services (e.g., Japan’ s focus on mobile ecosystems).

With the full implementation of the EU’ s DMA and similar regulations, the long-term impact on the technology giants’ business models will become apparent after 2025. A critical issue under examination is whether these rules genuinely enhance market contestability, or merely increase compliance burdens, or even inadvertently entrench the dominance of incumbents. Antitrust authorities will confront the ongoing challenge of evaluating the actual effects of these rules and making dynamic adjustments.⁸

(III) Beyond Conduct vs. Structure: Exploring a Third Path for Antitrust Remedies

The antitrust remedy toolbox will continue to evolve, and the focus will shift from the traditional binary opposition of “conduct” and “structure” toward more refined and technical solutions. As noted earlier, calls for structural breakups of Big Tech will persist in the U.S., especially in the case against Google. Even if a full breakup is ultimately

11 ⁸ Joseph Coniglio, Lilla Kiss et al. A Policymaker’s Guide to Digital Antitrust Regulation. <https://itif.org/publications/2025/03/31/a-policy-makers-guide-to-digital-antitrust-regulation/>

not achieved, such pressure will compel significant concessions and set a high deterrent benchmark for future cases. Meanwhile, in the EU and other regions, behavioral remedies are becoming increasingly complex and technically sophisticated. Simple conduct prohibitions will be replaced by auditable fairness commitments that require technical verification. Beyond this binary framework, data empowerment is emerging as a third path for remedies. Antitrust authorities will increasingly mandate platforms to open data interfaces, reducing switching costs and weakening the lock-in effect of network effects. Data portability and interoperability will become central components of antitrust remedies. However, balancing the competitive benefits of data sharing with potential privacy and security risks will remain a key debate in the coming years.⁹

(IV) Deepening Synergy Between Privacy Protection and Competition Law for Integrated Data Governance

As consumer privacy protection gains more prominence in competition law, the intersection between antitrust law and privacy protection law is gradually increasing, and the coordinated enforcement of the two laws will become the norm.¹⁰

First, further exploring the use of privacy violation as evidence of anti-competitive conduct. In the future, breaches of privacy protection law will be more frequently used by antitrust authorities as key evidence of abuse of market dominance.¹¹

Second, continuing to promote mandatory inter-agency collaboration. Cooperation between data protection and antitrust authorities will shift from voluntary to compulsory. In cases involving data-driven business models, joint investigations and information sharing across departments will become standard practice to ensure regulatory consistency and effectiveness.

⁹ Herbert Hovenkamp. Antitrust Interoperability Remedies. 123 Col. L. Rev. Forum 1 (2023).

¹⁰ See Zhou wei, Huang weiyi. Contradiction and Relief between Anti-monopoly Law and Privacy Protection Law, Journal of Huazhong University of Science and Technology(Social Science Edition)2023(1).

¹¹ OECD. The intersection between competition and data privacy. OECD Roundtables on Competition Policy Papers. https://www.oecd.org/en/publications/the-intersection-between-competition-and-data-privacy_0dd065a3-en.html

