

BIG TECH AND THE DIGITAL ECONOMY

THE MOLIGOPOLY SCENARIO

NICOLAS PETIT

*Professor of Competition Law,
European University Institute (EUI)*

OXFORD
UNIVERSITY PRESS

Table of Contents

<i>Table of Cases</i>	xi
<i>Table of Legislation</i>	xv
Introduction	1
I. Policy Conversation on Big Tech	6
A. Neo-Structuralism	7
1. <i>Origins</i>	7
2. <i>Claims against Big Tech</i>	10
3. <i>Policy Proposals</i>	16
4. <i>Summation</i>	18
B. Consumer Welfarism	19
1. <i>Origins</i>	19
2. <i>Implications for Big Tech</i>	20
3. <i>A New Consensus?</i>	24
C. Neo-Structuralism or Consumer Welfarism?	25
1. <i>Methodological Issues</i>	25
2. <i>Overcoming Bias</i>	27
II. The “Moligopoly” Hypothesis	29
A. Study Design	29
1. <i>Research Question</i>	29
2. <i>Hypothesis</i>	33
3. <i>Test</i>	35
4. <i>Data and Observable Indicators</i>	36
B. SEC 10-K Filings	36
1. <i>Why 10-Ks are Helpful</i>	36
2. <i>Sample and Tests</i>	38
3. <i>Descriptive Statistics and Discussion</i>	43
4. <i>Summation</i>	51

C. Market Research, Business Analysis, and Competitive Intelligence	51
1. <i>Sample and Tests</i>	51
2. <i>Descriptive Statistics</i>	53
3. <i>Analysis</i>	60
D. Conclusion: Unaccounted Big Tech Competition?	62
III. Economics of Big Tech: Monopoly v Uncertainty	64
A. Introduction	64
B. Big Tech and the Textbook Monopoly Model	65
1. <i>Standard Monopoly Model</i>	66
2. <i>Are Big Tech Firms Decision-Making Monopolists?</i>	69
C. Increasing Returns to Adoption, Network Effects, and Uncertainty	74
1. <i>Competition in Network Effects Markets</i>	74
2. <i>Uncertainty</i>	87
D. Conclusion	92
IV. A Concrete Theory of Moligopoly	93
A. Meet Big Tech	93
1. <i>Beyond Airport Books</i>	93
2. <i>Facebook</i>	94
3. <i>Amazon</i>	97
4. <i>Apple</i>	99
5. <i>Netflix</i>	102
6. <i>Google</i>	105
7. <i>Microsoft</i>	110
B. Common Properties of Big Tech	114
1. <i>Method</i>	114
2. <i>Diversification</i>	115
3. <i>Discontinuity</i>	121
4. <i>Long Termism</i>	129
5. <i>Growth</i>	134
6. <i>Exploration and Discovery</i>	138
7. <i>Flexibility</i>	147
8. <i>Summation</i>	152
C. Moligopoly Competition	153
1. <i>Oligopoly Competition with Monopoly Positions</i>	153
2. <i>Big Tech Cooperation or Competition?</i>	154
3. <i>Implications</i>	167
D. Conclusion: Voodoo Economics or Neoclassical Redux?	169

V. Antitrust in Mologopoly Markets	172
A. Limits and Possibilities under Existing Antitrust Doctrine	172
1. <i>Antitrust's Function: Rivalry</i>	173
2. <i>Antitrust Flexibility?</i>	179
B. Defining Antitrust Doctrine for Digital Markets	187
C. Essential Role of Antitrust in Tipped Markets	190
1. <i>Direct Antitrust Control on Exercise of Monopoly Power?</i>	190
2. <i>Indirect Antitrust Control on Exercise of Monopoly Power?</i>	193
3. <i>Presumption against Horizontal Mergers</i>	201
4. <i>Beyond Antitrust?</i>	205
D. Residual Role of Antitrust in Untipped Markets	209
1. <i>Elaboration</i>	209
2. <i>Example: Microsoft (US)</i>	213
3. <i>Counter-Example: Google Android (EU)</i>	217
4. <i>Applications to Contemporary Concerns in Digital Markets</i>	222
E. Market Definition and Market Power Analysis in Digital Markets	227
1. <i>Contemporary Antitrust: Inferring Rivalry from Structure</i>	227
2. <i>Improvements to Antitrust: Assessing Tipping from Pressure</i>	229
3. <i>Measurement of Competitive Pressure: Methods</i>	232
F. Conclusion	236
VI. Big Tech's Novel Harms: Antitrust or Regulation?	238
A. Preliminary Remarks	238
B. Privacy	241
C. Fake News	246
D. Hate Speech	250
E. Models of Regulation	252
F. Conclusion	256
Conclusion	257
<i>Appendix 1 Full List of Firms Covered in Dataset</i>	259
<i>Appendix 2 Firm Level Accounting Data: MB, MC, and MP</i>	271
<i>Appendix 3 Accounting Data: Alternative Allocation for Google</i>	273
<i>Appendix 4 Discontinuous Demand Curve in Network Effects Market</i>	275
<i>Author Index</i>	277
<i>Subject Index</i>	281