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Seminar on Competition Law and Policy

Competition Law and Policy in the Arab Region

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Abuse of Dominance in the Digital Market



What is the digital market?

- Established digital infrastructure facilitates communication and exchange in areas where traditional infrastructure is lacking
- Consumers are using their computers or smartphones to:
 - Purchase goods and products
 - Manage finances or request loans
 - Communicate with each other
 - Reserve trips
 - Search for information and data, etc.
- In 2021, US digital economy represented 10.3% of the US GDP
- Digital platforms are using practices to enlarge and enhance their consumer database and solidify their dominant position, which can affect consumers negatively



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Some practices considered as abuse of dominance:



Data Usage



**Limiting third parties'
applications**



Killer Acquisition



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Does the nature of digital markets require different regulatory approaches?

- Legal approaches must be balanced and founded on the economic theory of Harm
- The different regulatory approaches adopted are:
 - *Ex. Post*
 - *Ex. Ante*
 - *A new practical approach: Precautionary measures*

Here are the examples of three jurisdictions that adopted the *Ex. Ante* regulation:

 **European Union**

 **United Kingdom**

 **Japan**



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Digital Market Case: Microsoft/Activision (Acquisition)

- Microsoft is a global tech company offering products and services with a global turnover of nearly £125 billion in 2021
- Activision Blizzard is a game developer with a global turnover of £6.3 billion in 2021

How did Competition Authorities and Courts respond?

- **In USA**, *FTC* challenged the acquisition since there are market overlaps between the merging firms, increased market share in those markets in a combined firm, etc.
- In July 2023, US District Judge Court did not block Microsoft from closing the deal as the *FTC* had asked and paved the way for Microsoft to potentially finalize the acquisition contract with Activision
- *FTC* has withdrawn its administrative challenge to the Microsoft-Activision Blizzard deal



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Thank You



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