

# Antitrust Markets in the Digital Economy

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**01 Multi-markets approach**

**02 Homing decisions and market definition**

**03 Zero-price markets**

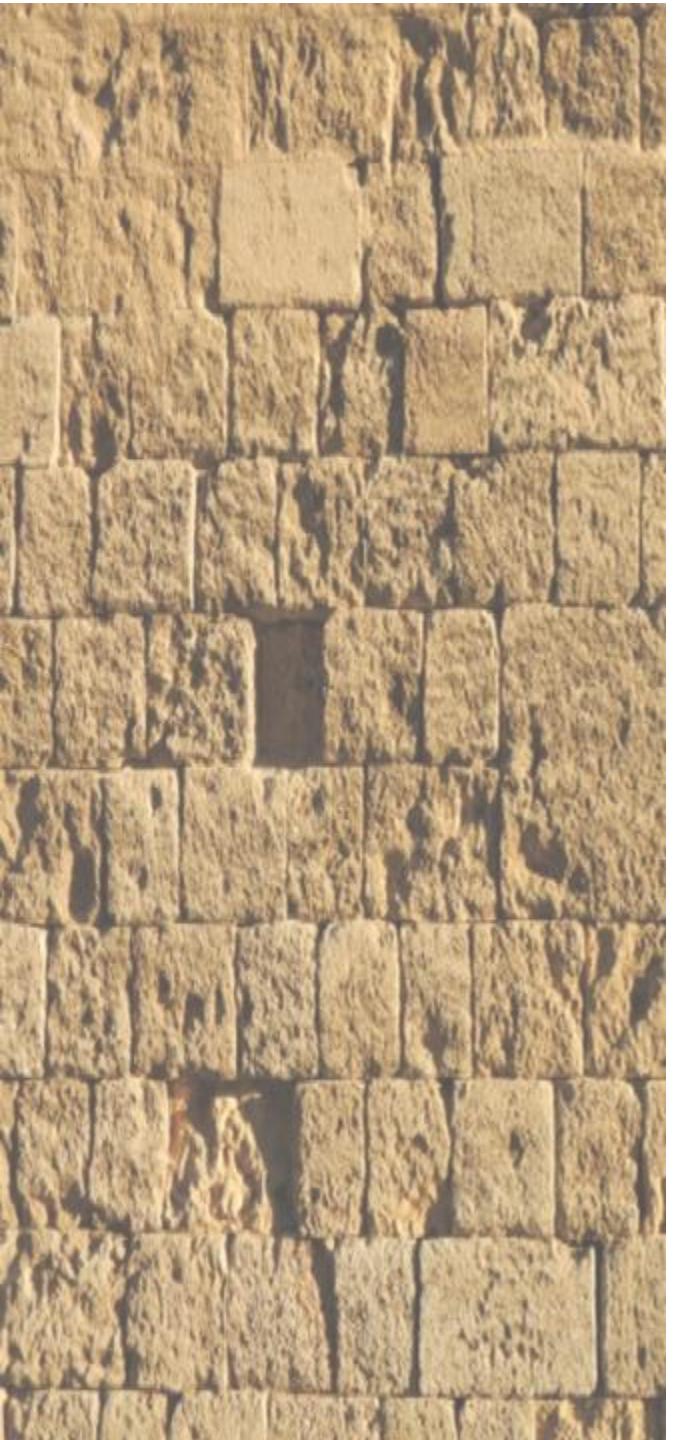
**04 Granularity of markets**

**04 SSNIP Test**

# References and disclosure

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- Most content of this presentation is based on:  
Jens-Uwe Franck and Martin Peitz (2021), Market Definition in the Platform Economy”, Cambridge Yearbook of European Legal Studies (CYELS) 23, 91-127
- Builds on  
Jens-Uwe Franck and Martin Peitz (2019), Market Definition and Market Power in the Platform Economy, CERRE Report, May 2019
- Slide material by Paul Belleflamme and Martin Peitz, photos by Martin Peitz
- **Disclosure:** Martin Peitz has been consultant and provided training to a large number of competition authorities and government agencies in Europe and abroad; he recently co-authored reports for CERRE (which is partly funded by Big Tech) and one for the GSMA; he is research fellow at CERRE



# Introduction

# Market definition purpose and challenges

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- **Objective**

- Understand constraints on business behavior
- Assess contours of competition that are relevant for evaluating a practice



- **Usual method**

- Identify the products and services offered by an undertaking
- Understand substitute offers

- **Difficulties and dangers in digital markets**

- Nature of the product or service may not be well understood
- Multiple connected sides
- Focusing on a particular distribution channel or business model may lead to a definition of the market that is too narrow
- Bundling is a common feature

# How to define markets in the context of platforms

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## ■ Define relevant products and user groups

- Platform services on the 2 sides: **different, but interrelated markets**
- No single market share metric accurately summarizes the position of the platform

## ■ Assess substitution possibilities on each side

- This may include quite different products
  - Example: music streaming, video streaming, and certain games are candidates
- This may also include different business models
  - One-sided vs. two-sided
  - Ad-funded vs. subscription-funded vs. transaction-funded, ...

# How NOT to define markets in the context of platforms

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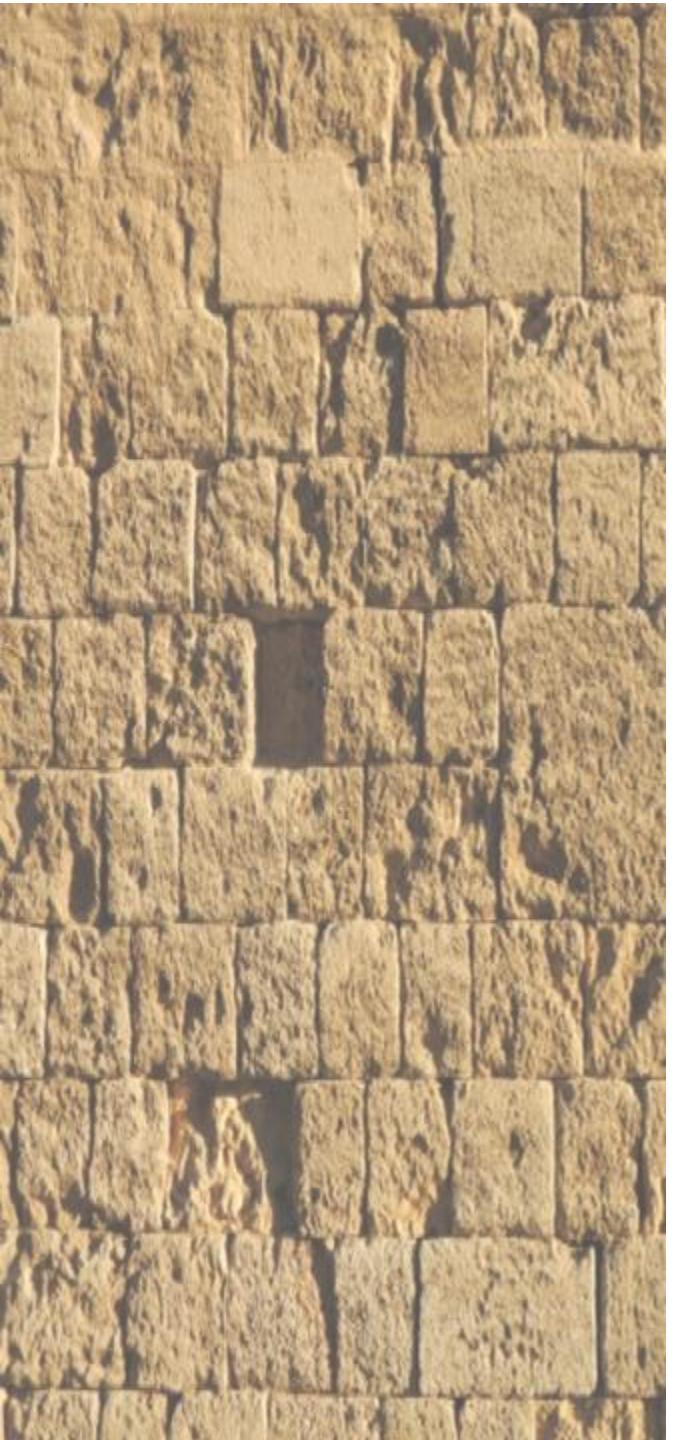
- Not useful to define markets according to type of involved platforms
  - Distinction between
    - Transaction platform (a transaction between two sides takes place on the platform)
    - Non-transaction platform (no such transaction takes place)  
not useful for market definition purposes
  - Definition of a single market for transaction platforms error-prone (see, e.g., Franck and Peitz, 2021)
- Do not define markets based on business/monetization models (e.g. advertising-funded vs. transaction-funded vs. subscription-funded)

# Case study

## Market definition for hotel booking platforms

- Possible substitution possibilities for consumers
  - Horizontal and vertical search engines + website of the hotel
  - Booking sites of hotel chains or individual hotels
  - Offline booking possibilities (typically contacting hotels by phone or email)
  - Airline booking sites
  - Airbnb





# Multi-markets approach

# Multi-markets approach

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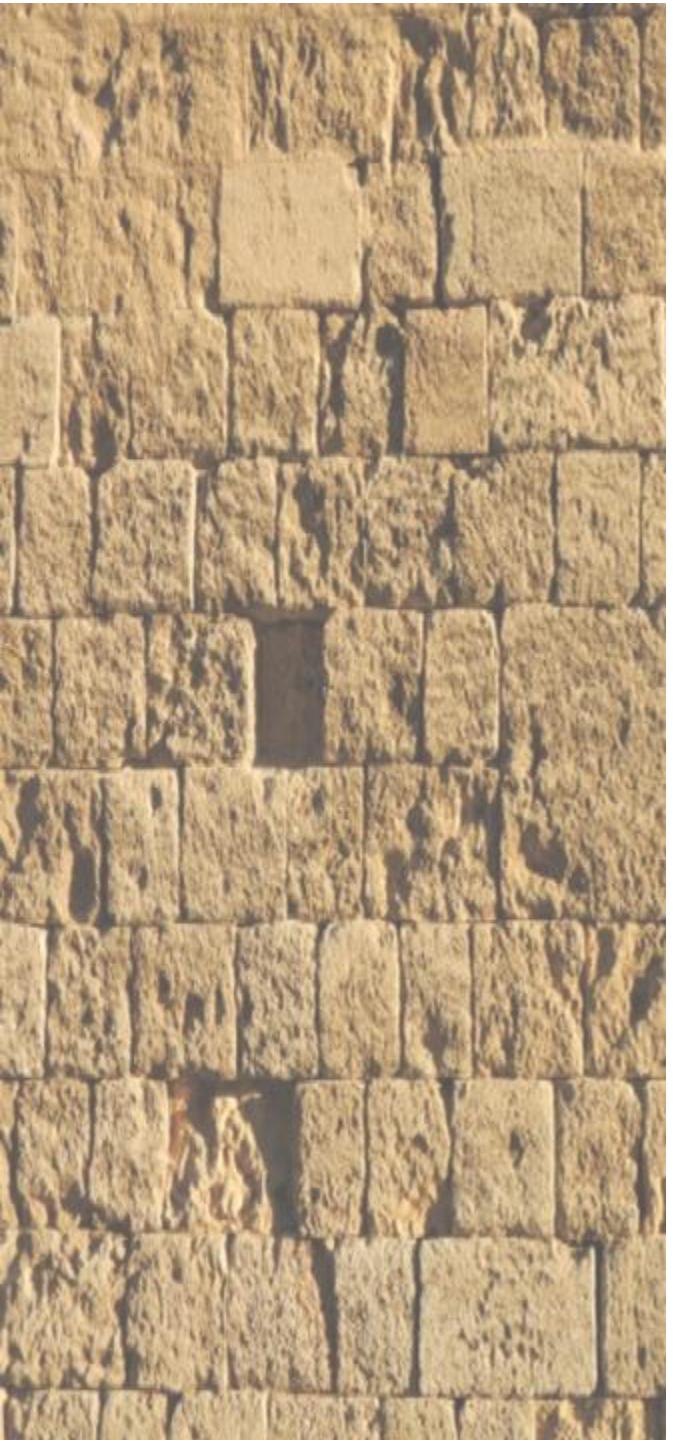
- A two-sided platforms makes service proposals to each side on which it operates
- Multi-markets approach: Markets to be defined for each side
- Advantages compared to single-market approach
  - more flexible
  - less error prone
  - captures different substitution possibilities
- Cross-group network effects and homing decisions to be accounted for

# Case study



## ECJ: Mastercard and Cartes Bancaires

- Mastercard (MasterCard, T-111/08, 2012)
  - Court rejected the applicants' view that there was only one product market at issue (namely a market where the payment card systems provided a single service offered to both cardholders and merchants)
  - confirmed the Commission's view that the 'issuing side' and the 'acquiring side' should be considered separate markets
- Cartes Bancaires (RENV – CB v Commission, T-491/07, 2016)
  - Court stressed that network effects between the two user groups must be taken into account when assessing whether the payment system's restrictions on the issuing of cards should be regarded as a restriction of competition by object or effect under Article 101(1) TFEU



# Homing decisions and market definition

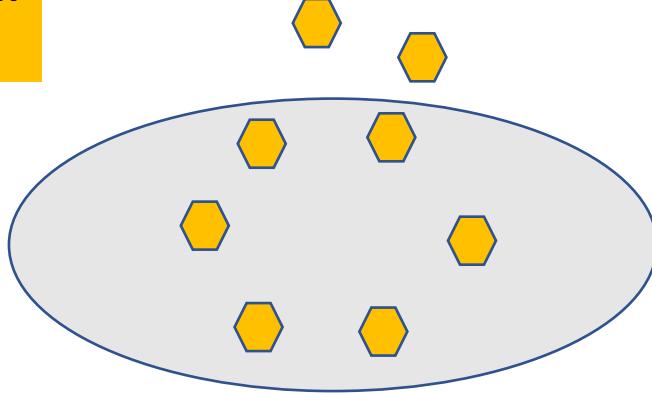
# Homing decisions: preview

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- **Single-homing** (users make discrete choices between platforms' offerings) vs. **multi-homing** (users consume multiple offerings)
- Multi-homing/single-homing framework (**competitive bottleneck**): (each) platform provides monopoly access to its set of users on the single-homing side
  - or, instead of multi-homing on one side, each platform draws on a distinct set of users on one side
- Consequently, **one market for each platform in regard to the service provided to the multi-homing side can be defined**
- Alternative: definition of one market including various platforms, but considering the framework when discussing theories of harm

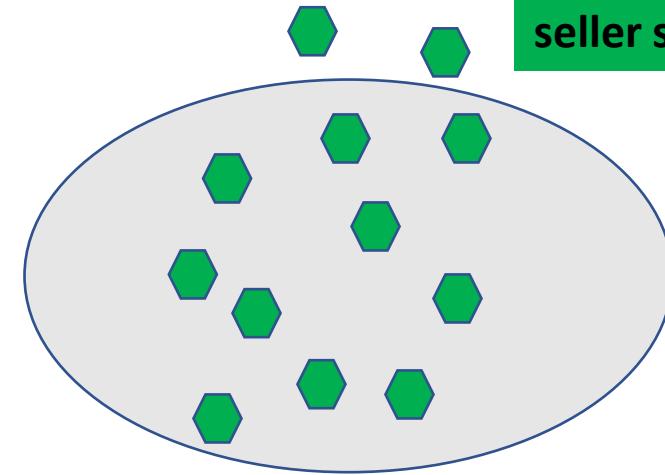
# Homing decisions

market A on  
seller side



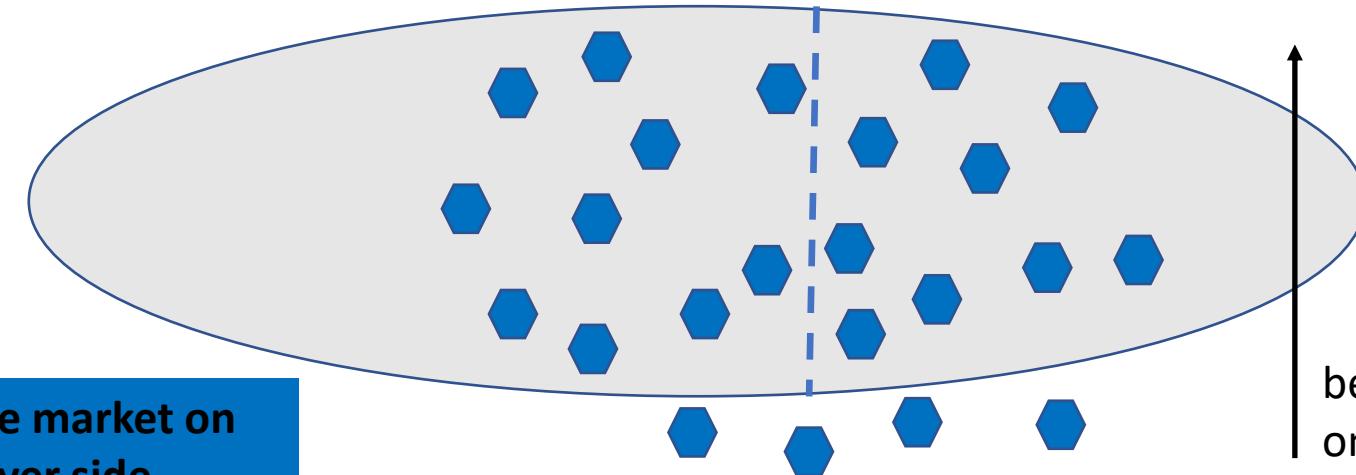
PLATFORM A

market B on  
seller side



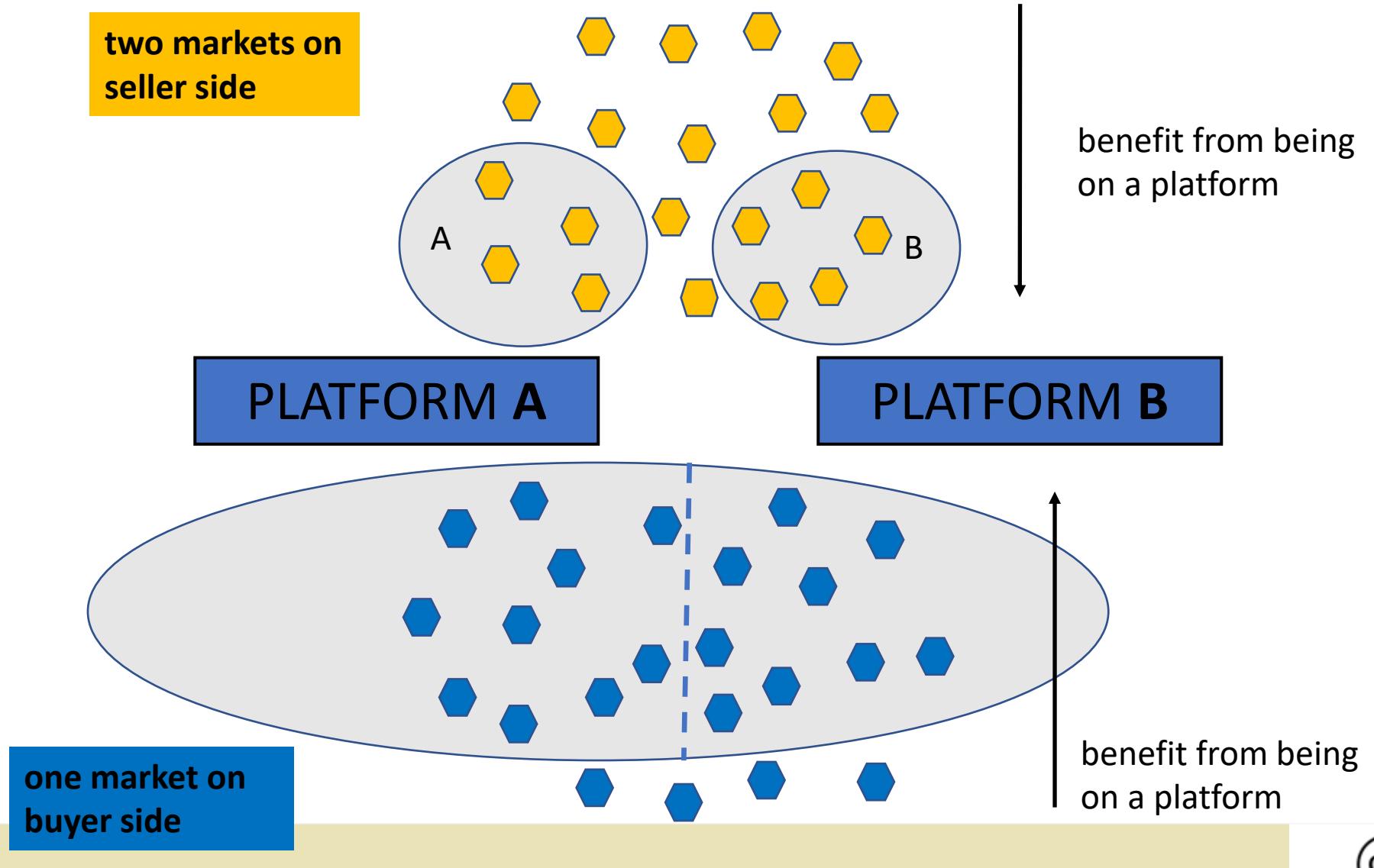
PLATFORM B

one market on  
buyer side

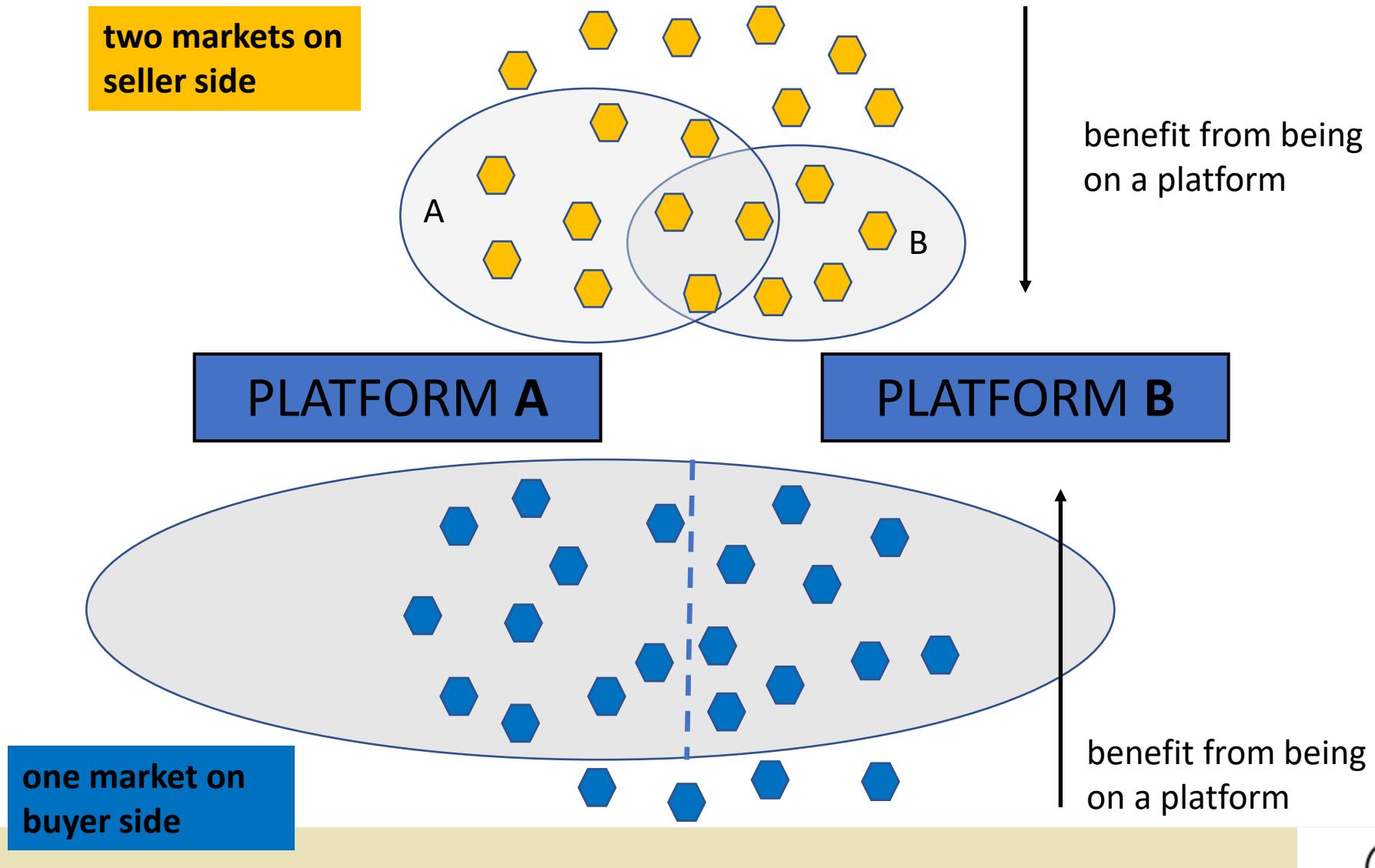


benefit from being  
on a platform

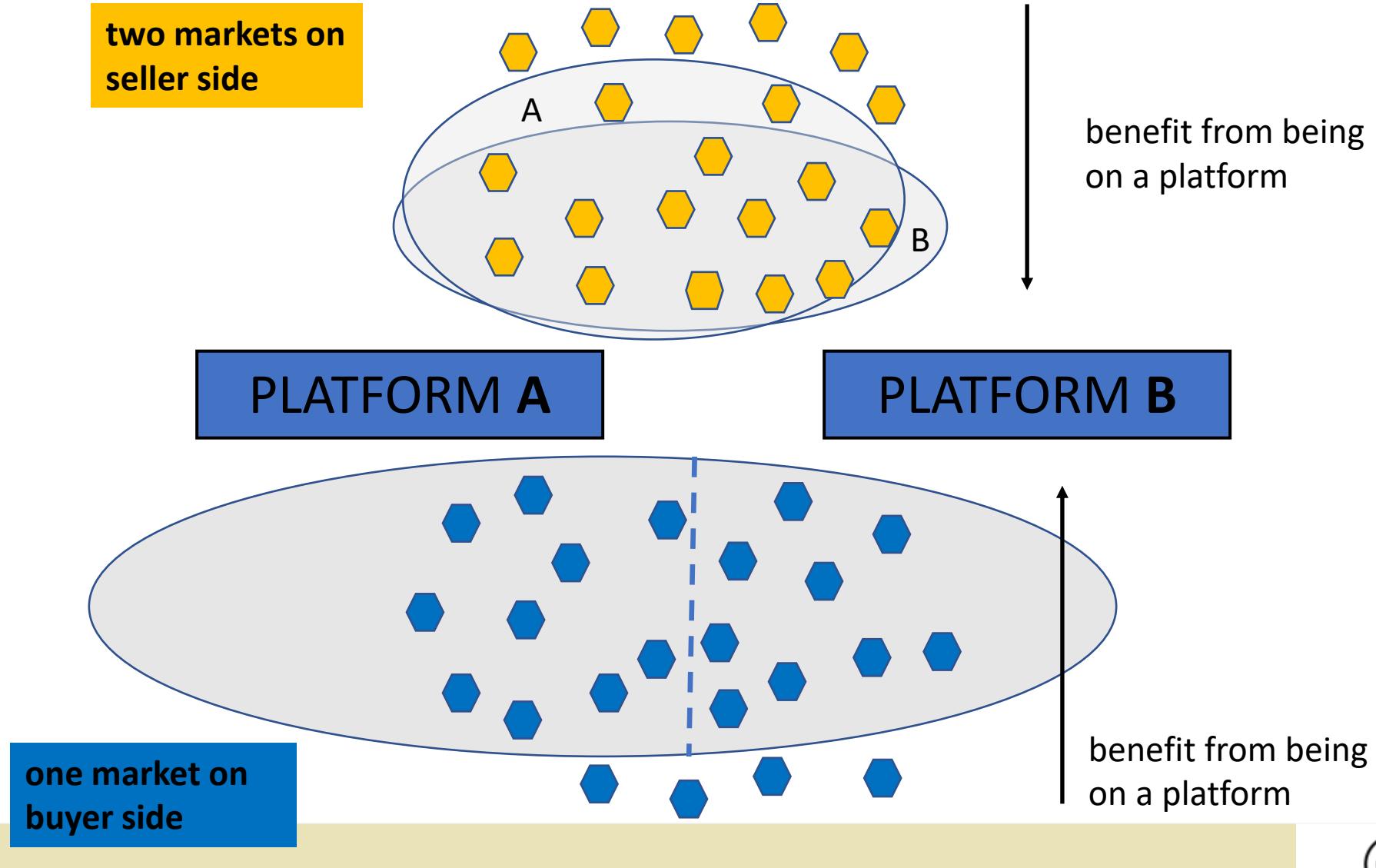
# Homing decisions



# Homing decisions



# Homing decisions



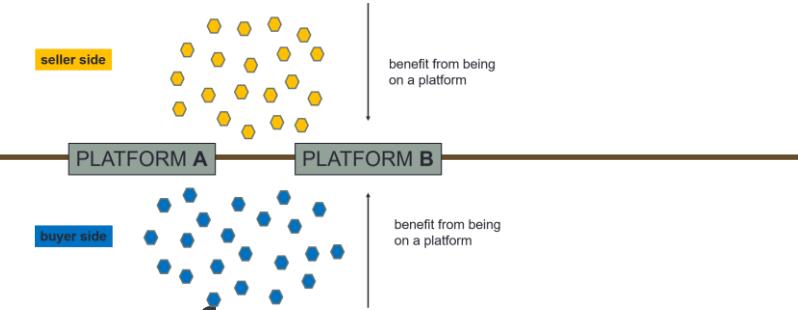
# Homing decisions

- Alternative scenarios (in duopoly)

1. True single-homing on both sides (i.e., either-or decision for users on both sides)
  - One market on each side
2. (Partial) multi-homing on both sides
  - In particular: sellers join either one or both platforms; buyers join either one or both platforms
  - Two markets on each side

- Whenever there is a market for a particular platform on one side, this platform operates as monopolist in this market

- profitability may be very limited due to the interdependence across markets arising from network effects
- in particular, rents extracted on one side may be shifted to the other side



# Homing decisions

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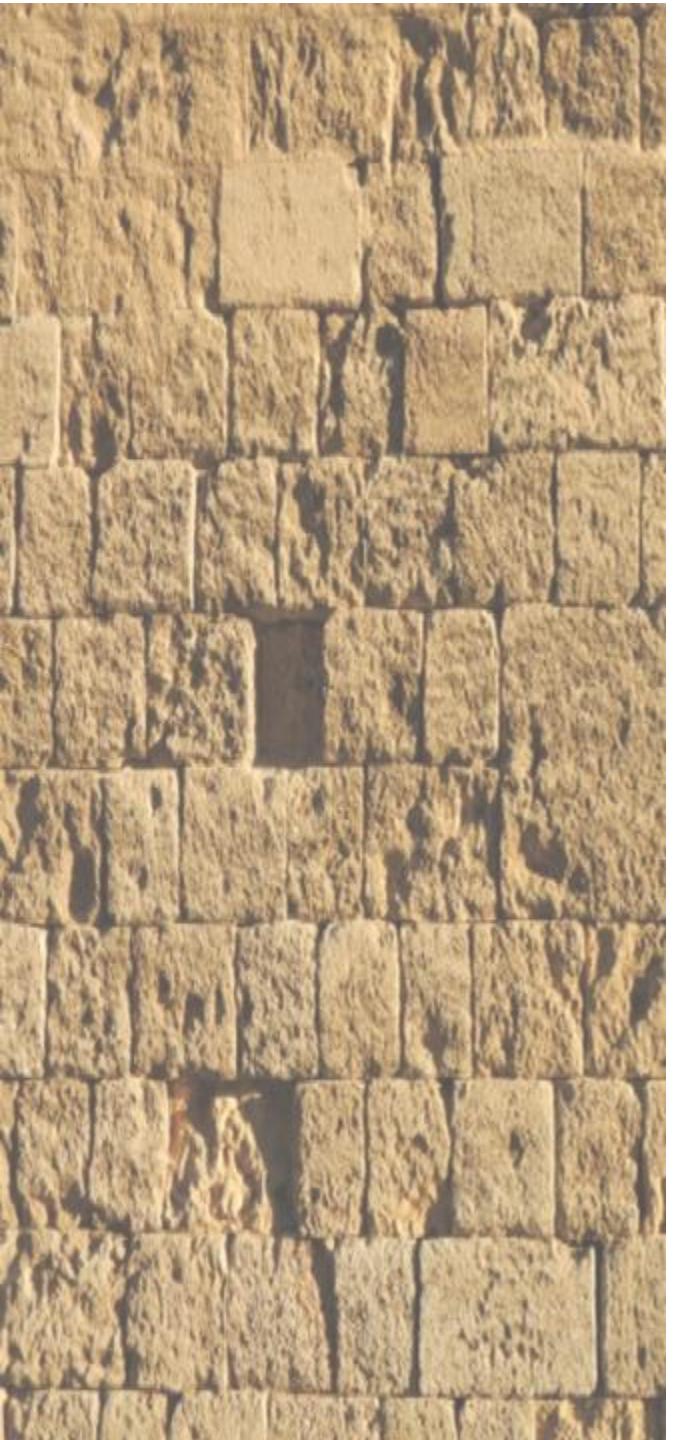
- **Identification of multi-homing should not be based on actual multi-homing, but on potential multi-homing**
  - Measuring actual multi-homing in some instances overestimates multi-homing and in other instances underestimates it
    - Overestimation: multiple affiliations/subscriptions but a clear preferred choice  
illustration: credit cards – seller may lose customers over time if it rejects a certain card even if customers have multiple cards
    - Underestimation: Uses on one side may join one, none, or multiple platforms  
Lack of users who join multiple platforms is no proof of lack of potential multi-homing; platforms may not provide substitute service (see exposition on previous slides)
- **Caveat: Endogenous homing decisions**
  - Market delineations may have to respond to changes of homing patterns on the two sides

# Case study

## European Commission: Android

- existence of a separate market for app stores available on the Android mobile operating system, which is dominated by Google's app store (*Google Android, AT.40099, 2018*)
- Based on the premise that
  - consumers are single-homers as they make a discrete choice to use a device based on Android's, Apple's, or another firm's operating system
  - while app developers tend to be multi-homers





# Zero-price markets

# Zero-price markets

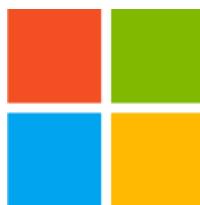
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- “**Markets**” for products offered free of charge, i.e. without monetary consideration by those who receive the product
- **Free side of the platform may not even pay indirectly**  
(opportunity cost of attention or provision of data)  
→ legal concept of “remuneration” not useful  
(as it may exclude zero price market in which consumers neither pay directly nor indirectly)
- **Sufficient to demonstrate that the platform’s activity may become part of a broad or long-term strategy to generate revenue**

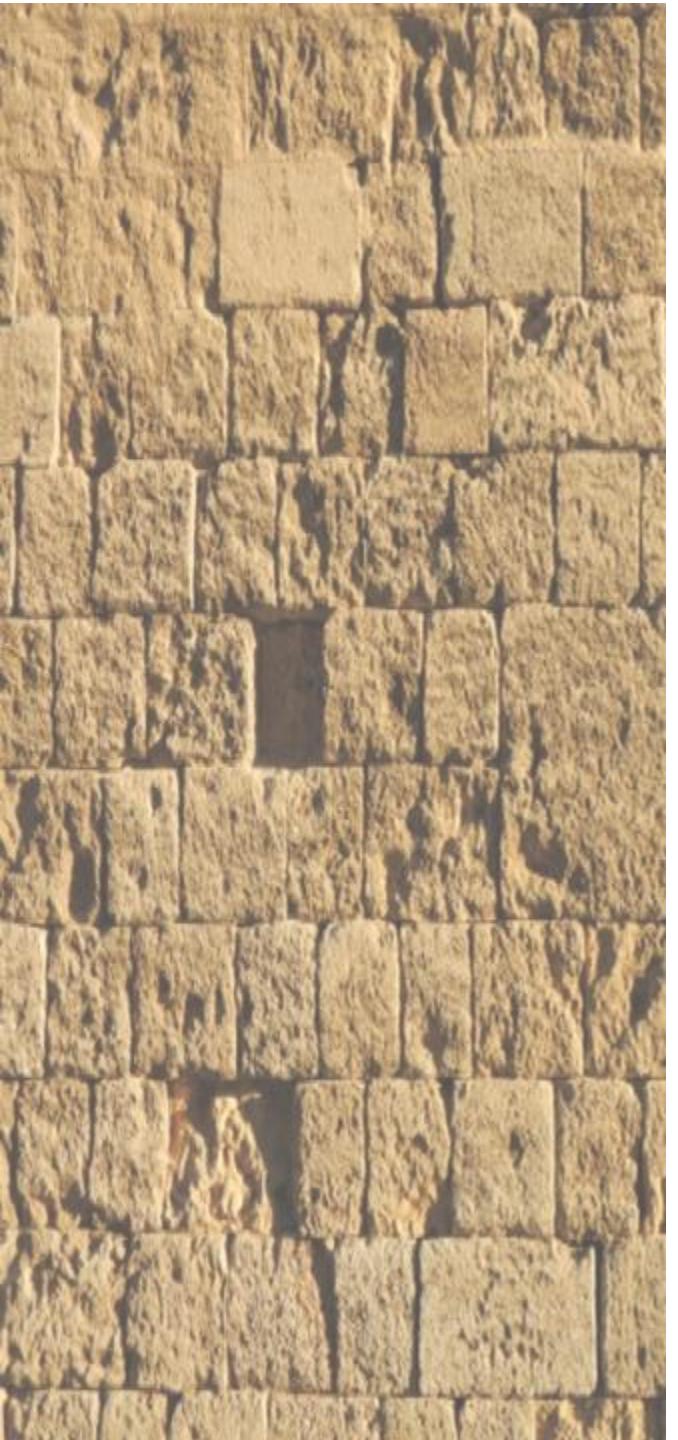
# Case study

## European Commission: Abuse cases against Microsoft

- Markets for products that were typically provided free of charge to final consumers
  - streaming media players (*Microsoft*, COMP/C-3/37.792)
  - web browsers (*Microsoft*, COMP/C-3/39.530)
- Court confirmed this position
  - “it does not follow from either Article [102d TFEU] or the case law on bundling that consumers must necessarily pay a certain price for the tied product.” (*Microsoft v Commission*, T-201/04, EU:T:2007:289, para 969)



Microsoft

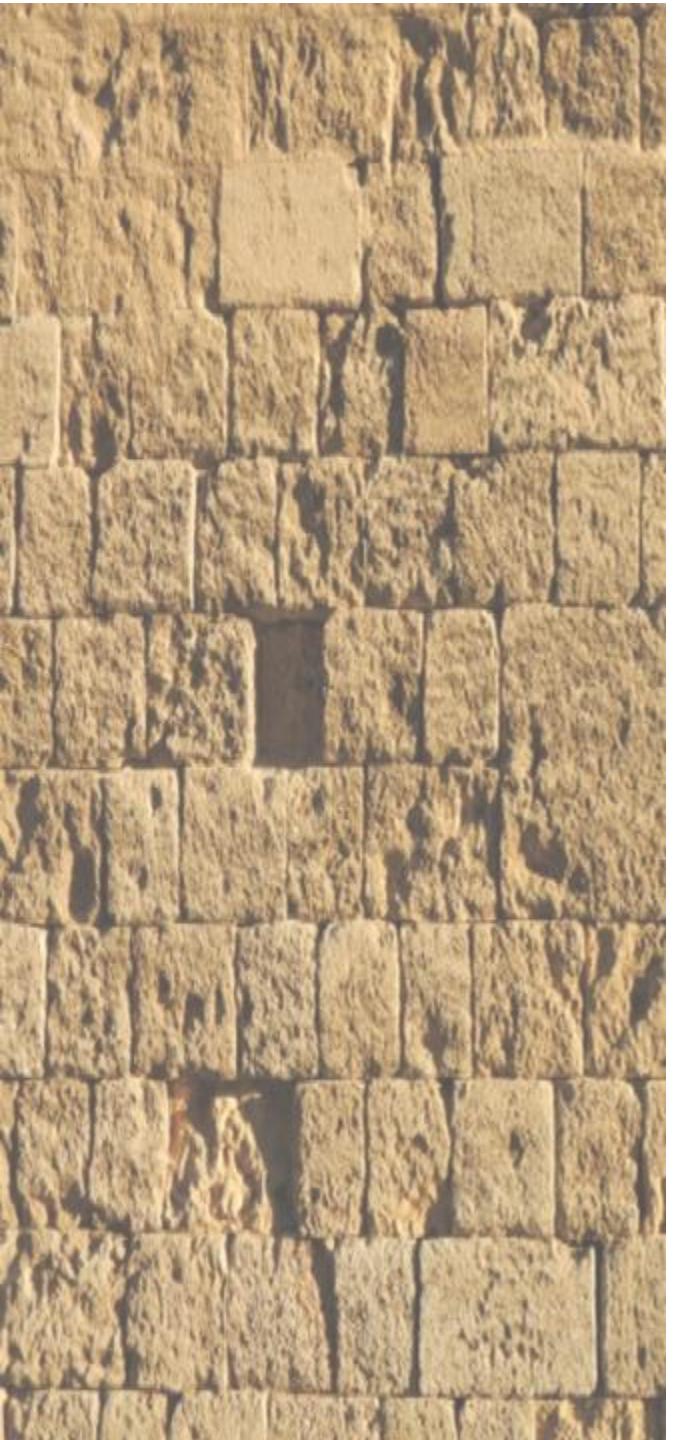


# Granularity of markets

# Granularity of markets

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- **Different regional markets**
- **Different subpopulations of users that are separately targeted or priced**
- **Different categories of products/services**
  - Depending on user behaviour, the associated markets may be closely interrelated
    - one-stop shopping
    - bundling
    - virtual bundling
  - if so, set of markets to be considered jointly



# SSNIP test

# SSNIP test

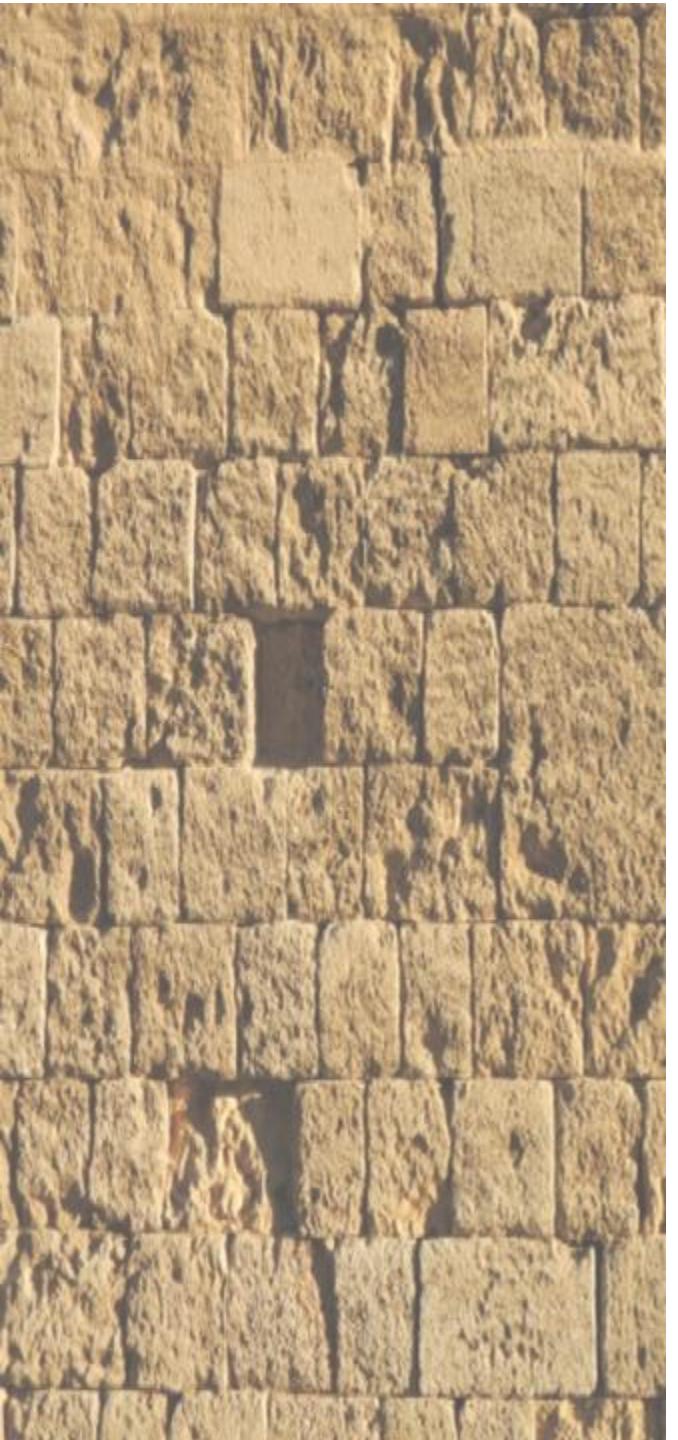
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- **Relevant market** = smallest product group such that a hypothetical monopolist controlling that product group could profitably sustain a Small and Significant Non-transitory Increase in Prices (SSNIP)
- **Application to two-sided platforms?**
  - Which price or prices should the hypothetical monopolist be thought of as raising, as profits are determined by both the price level and the price structure?
  - Which effects of the price increase should be considered?
  - Profits on own side only?
  - Cumulative profits on both sides?
  - Current and future profits?

# How the SSNIP test can deal with free offers

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- Increase zero price by 10% still gives zero...
- Instead of prices, the hypothetical monopolist may be thought of raising the shadow costs of free offers:
  - Increase in advertising volume
  - Reduction of privacy standard
  - Lower quality of service
  - Increase opportunity cost to consumers
- SSNIP test as a conceptual tool

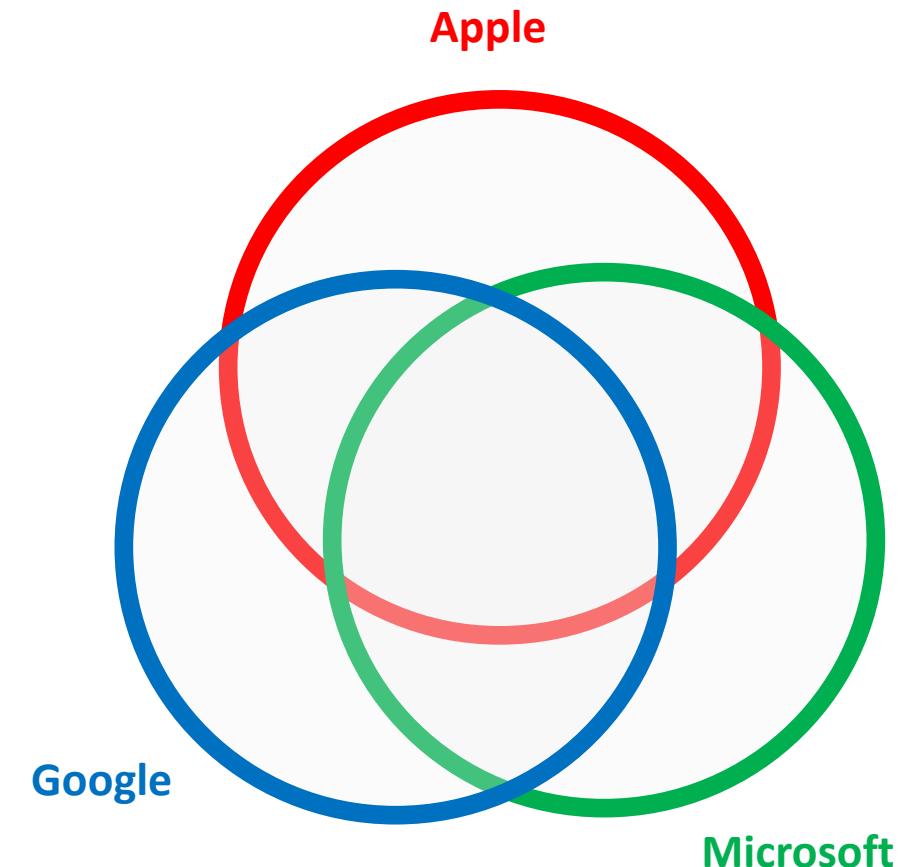


# Conclusion

# Big Tech and overlapping activities

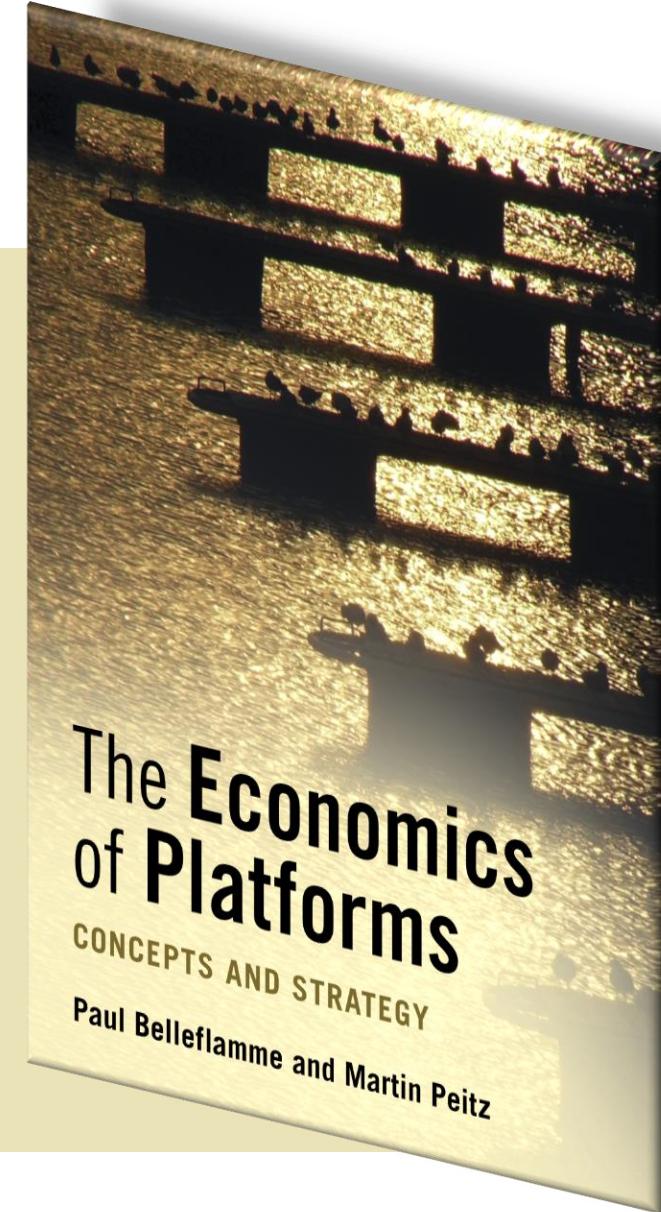
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- Companies with distinct core businesses but with overlapping activities
- “Moligopolists” (Petit, 2015)
  - Monopolists exposed to cutthroat competition from large rivals (and possibly others) outside their core activities
  - Technology oligopolists with entrenched market positions in distinct markets
  - (Not all activities have a two-sided nature but network effects prominent)



# Book recommendation

*The Economics of Platforms: Concepts and Strategy*  
by Paul Belleflamme and Martin Peitz  
Cambridge University Press  
November 2021



A large, vibrant green lily pad is the central focus, resting on dark, rippling water. The lily pad's surface is textured with small brown spots and veins. In the background, dark, silhouetted reeds frame the scene. The overall mood is mysterious and organic.

# Antitrust markets in the platform economy

THE END