

CTS Eventim

ACE conference 2018

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15 November 2018

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Overview

0. Market definition contested (but not covered here)

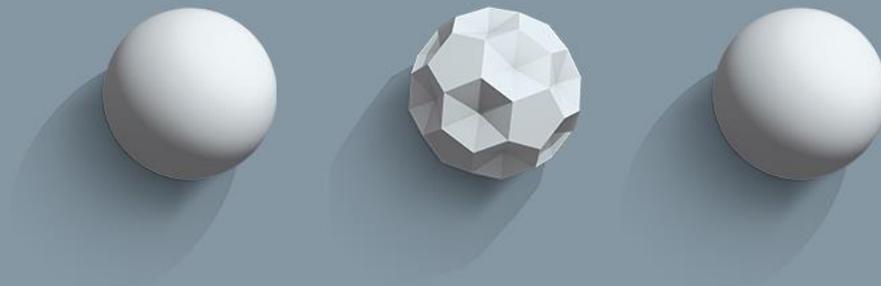
1. Dominance

2. Foreclosure

Abbreviations

- EP – event providers
- ABO – advance booking office

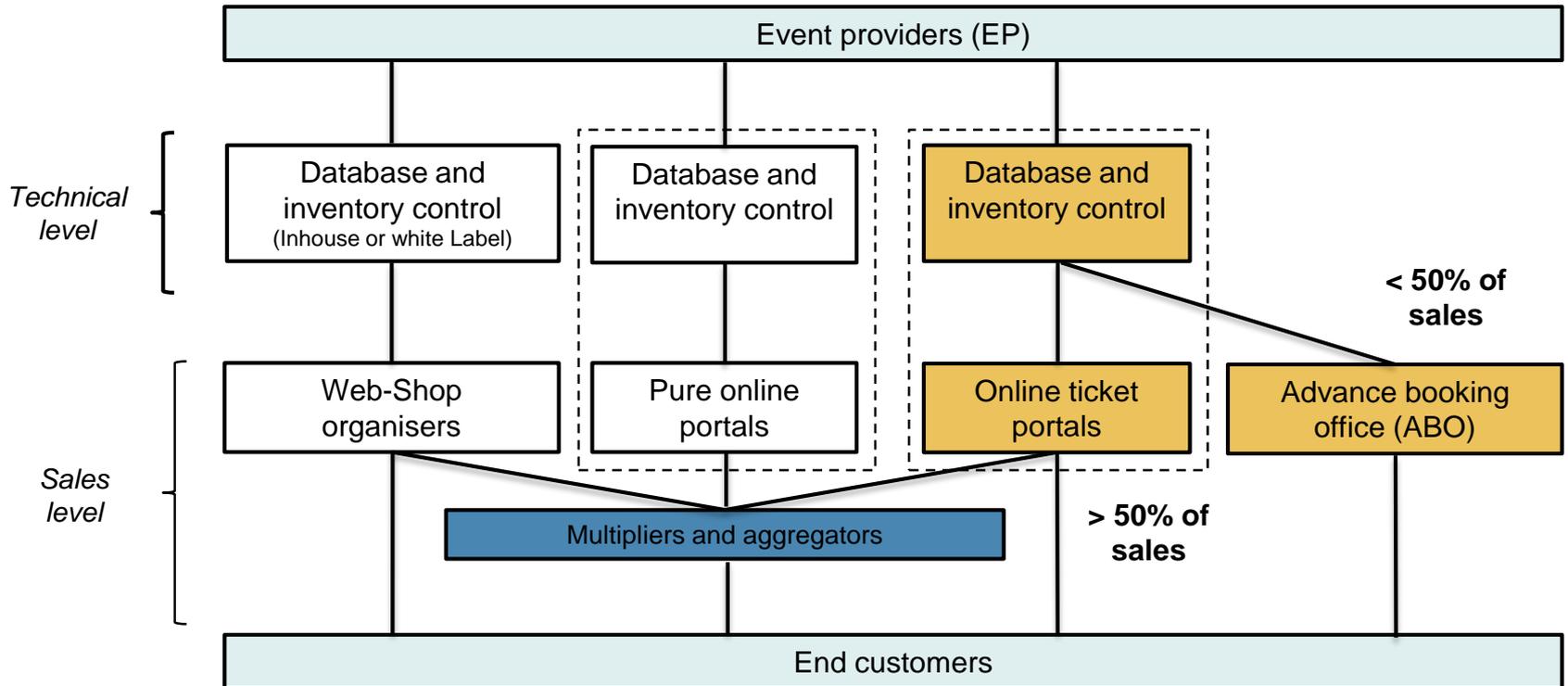
1. Dominance



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Background – market structure



Market shares

| Ticketing system | Share of tickets sold |
|------------------|-----------------------|
| CTS | 60 – 70 % |
| Reservix | 10 – 20 % |
| Ticketmaster | 5 – 10 % |
| DTS (Cologne) | 5 – 10 % |
| München Ticket | 0 – 5 % |
| Frankfurt Ticket | 0 – 5 % |
| Others | 0 – 5 % |

- **[50 – 60]**% of ticketing revenue in a narrow ticketing market, excluding tickets from CTS' EPs.
- **[30 – 40]**% of transaction volumes of all tickets sold in Germany according to GFK study.

- Great majority of tickets are sold for events within a radius of 100km **proximity of the buyers'** location.
- Regional players with significant **regional distribution networks and shares.**

Additional criteria (according to German law)

Indirect network effects and multi-homing (“**IDNE**”)

- Concerning online sales > 50% of sales
- Concerning offline sales < 50% of sales

Cost advantages

Access to data

Innovation

Questions are:

- Creation of “**massive barriers to entry and expansion**” in the present case? (FCO, e.g. para 180)
- “*A true test of the theory would examine whether markets that have network effects have **winners that can’t be dislodged.***”
(D.S. Evans und R. Schmalensee (2017), Network Effects: March to the Evidence, Not to the Slogans, *CPI Antitrust Chronicle* August 2017.)

IDNE online – overview

Are there **barriers** to entry or expansion because traffic **gravitates to eventim.de**?
Or because EPs can only reach users through eventim.de – **competitive bottleneck**?

Not consistent with evidence on consumer behaviour:

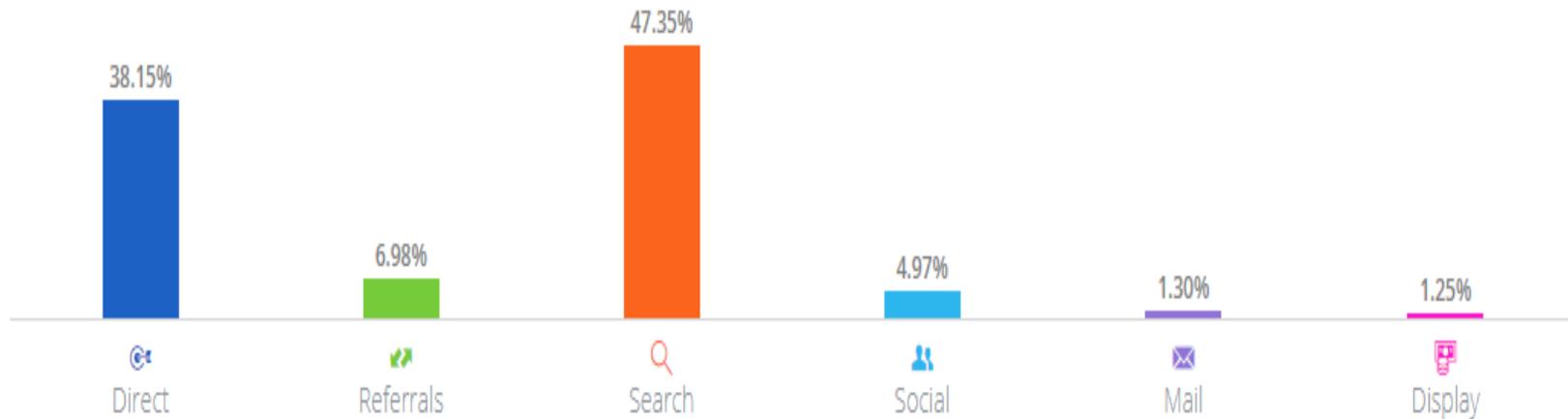
- Majority of users do not start on eventim.de but on search or other websites.
- Users do not *search* for tickets on ticketing portals, but typically *know what they want* beforehand.
- Those who approach eventim.de first, would find the ticket elsewhere.

The **buying of desired tickets is different from searching** for the best possible antique (ebay), dating partner (parship), property (immoscout) or other products (amazon) that are presumed to be found on certain platforms only.

And **no evidence for tipping either...**

IDNE online – CTS no bottleneck to reach users

Sources of web traffic on Eventim



Source: SimilarWeb, <https://www.similarweb.com/website/eventim.de#referrals>, last retrieved on 13.11.2018.

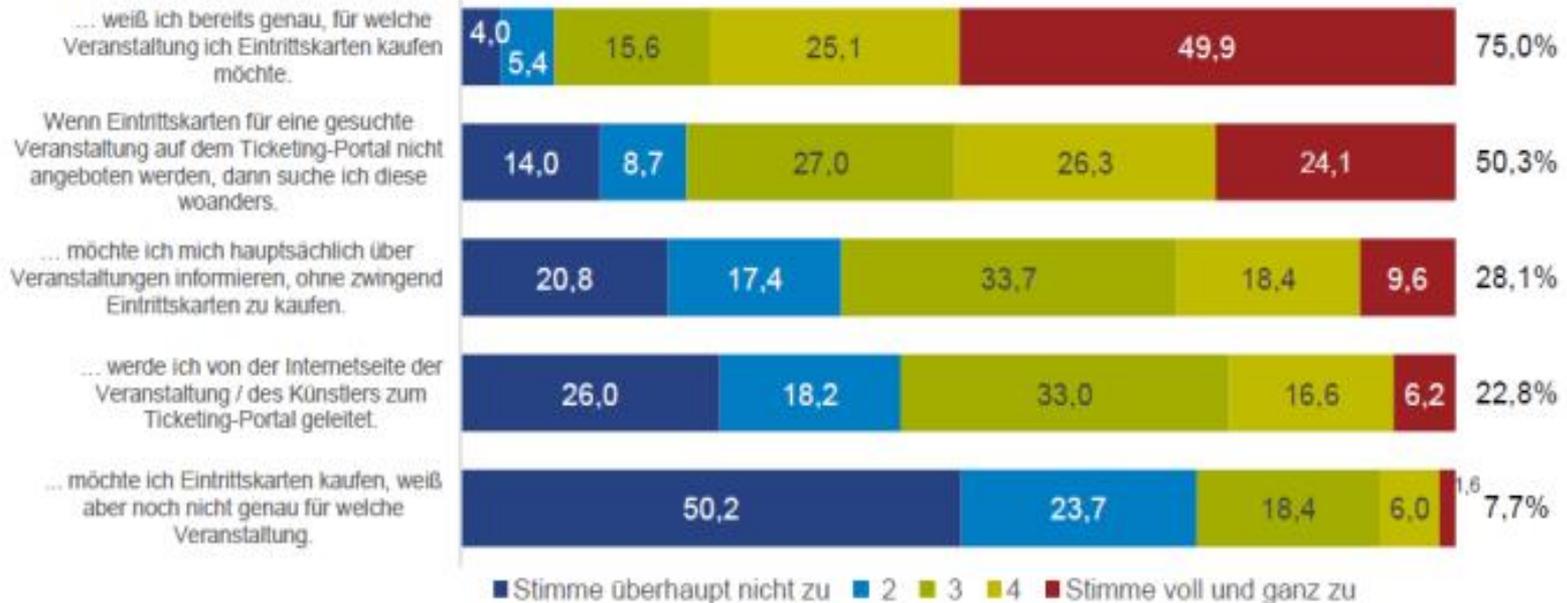
IDNE online – Users know what tickets they want

Nutzung von Ticketing-Portalen im Internet

Wenn ich ein Ticketing-Portal im Internet besuche, dann...

Top 2 Box

(5=Stimme voll und ganz zu / 4)



Frage 6: Nachfolgend finden Sie einige Aussagen zu Ticketing-Portalen (z. B. eventim.de, ticketmaster.de, reservix.de). Bitte geben Sie an, inwiefern Sie diesen zustimmen. Dabei bedeutet 1 = „stimme überhaupt nicht zu“ und 5 = „stimme voll und ganz zu“. Mit den Werten dazwischen können Sie Ihre Meinung abstimmen.

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Betrachteter Zeitraum: Juli 2016 bis Juni 2017

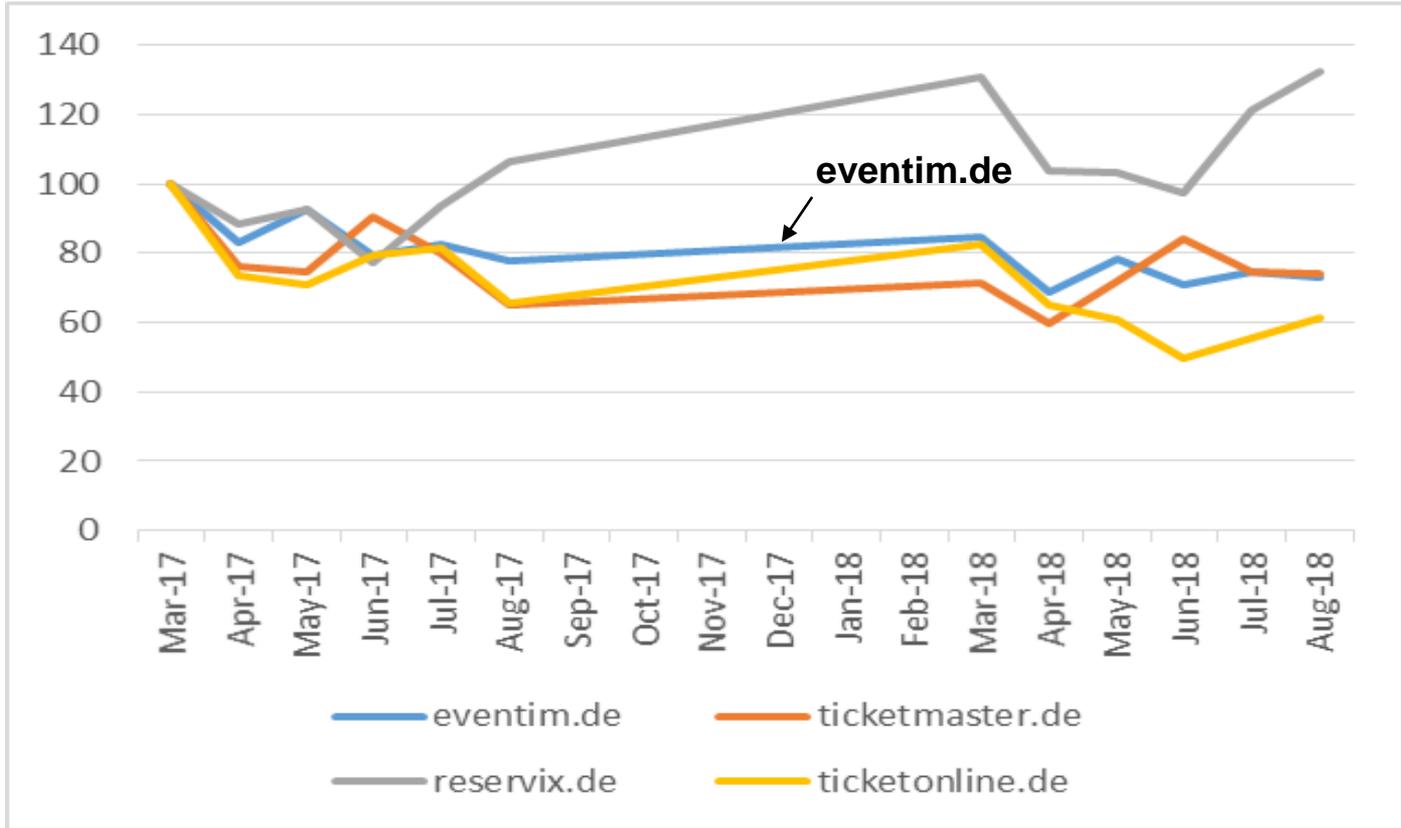
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IDNE online – Buying a ticket is not searching for...

| Website | Avg. Visit Duration (in minutes) | Pages/Visit | Bounce Rate |
|----------------------|-------------------------------------|-------------|-------------|
| ebay.de | 00:08:53 | 10.97 | 25.77% |
| parship.de | 00:08:40 | 13.78 | 22.71% |
| immobilienscout24.de | 00:07:38 | 8.32 | 30.86% |
| amazon.de | 00:07:28 | 12.11 | 27.15% |
| reservix.de | 00:03:52 | 5.58 | 48.42% |
| eventim.de | 00:03:20 | 4.73 | 41.37% |

Source: SimilarWeb, March-August 2017

IDNE online – No evidence for tipping



Source: SimilarWeb

IDNE offline (advance booking offices, ABO)

Most ABOs multi-home according to FCO market investigation

Regional ticketing systems with similar regional ABO network as Eventim

National ticketing systems at least not significantly disadvantaged

- 80-20 rule applies: most sales through relatively few ABOs (evidence based on CTS' sales)

CTS ticket portfolio not an entry barrier but positive externality for other ticketing systems:

- CTS portfolio provides critical ABO mass for entrants with limited attractive content
- Consumers do not choose ABO depending on ticketing system

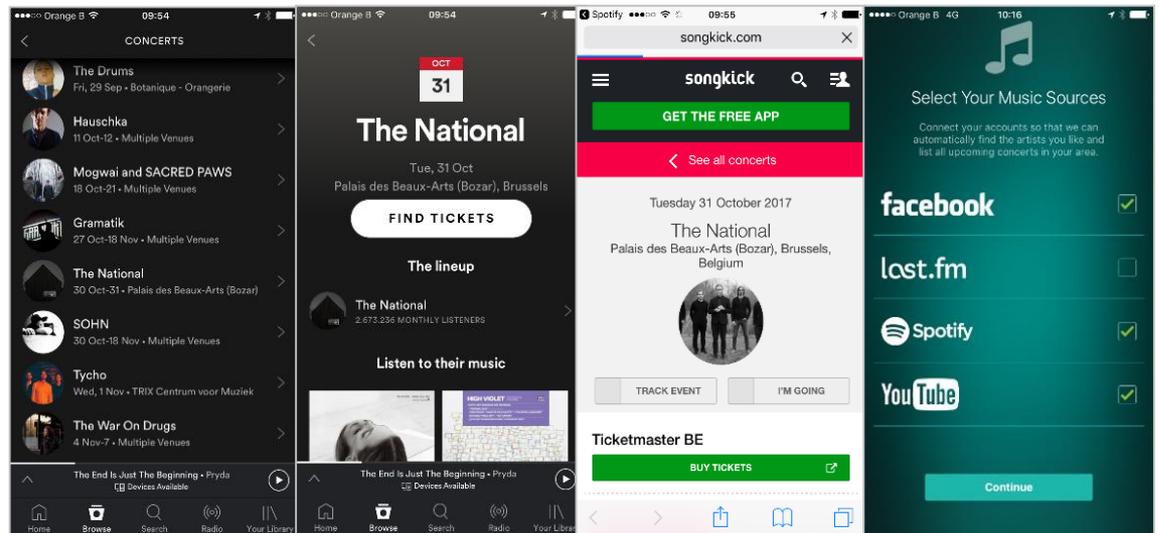
Other additional criteria

Fixed costs?

- Main costs are sales and distribution and thus not fixed (or sunk)
- Sunk costs as **barrier to entry**? Generally yes, but apparently not severe enough to prevent entry of 17 ticketing providers.
- Sunk costs as **barrier to expansions**? No.

Access to data?

Lack of innovative pressure?



3. Foreclosure



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Legal background after Intel

133 *In that respect, it must be borne in mind that it is in no way the purpose of Article 102 TFEU to prevent an undertaking from acquiring, on its own merits, the dominant position on a market. **Nor does that provision seek to ensure that competitors less efficient than the undertaking with the dominant position should remain on the market (...).***

134 *Thus, **not every exclusionary effect is necessarily detrimental to competition.** Competition on the merits may, by definition, **lead to the departure from the market or the marginalisation of competitors that are less efficient** and so less attractive to consumers from the point of view of, among other things, price, choice, quality or innovation (...).*

138 *However, that case-law must be further clarified in the case where the undertaking concerned submits, during the administrative procedure, on the basis of supporting evidence, that **its conduct was not capable of restricting competition and, in particular, of producing the alleged foreclosure effects.***

139 *In that case, the Commission is not only required to analyse, first, the **extent of the undertaking's dominant position** on the relevant market and, secondly, the **share of the market** covered by the challenged practice, as well as the **conditions and arrangements** for granting the rebates in question, their **duration and their amount**; it is also required to assess the possible existence of a **strategy aiming to exclude competitors that are at least as efficient as the dominant undertaking from the market.***

Foreclosure (1) – Limited market coverage

On average [10 to 15]% of transaction volume with EPs not contestable > 1 year

- 35 to 45% of transaction volumes according to FCO
- Deduct other ticketing systems (cooperation partners), single events, and CTS' own EPs: 20 to 25%
- With typically 2 years durations, about half of the contracts are contestable <= 1 year

Foreclosure through automatic renewals?

- EPs should be assumed of being capable of terminating unattractive contracts
- Yes, other ticketing providers may need incur some marketing and sales efforts

No foreclosure of classical ABOs at all

- Share of 40 to 50% largely results from inclusion of CTS' **own online ticketing portal**
- Rest are **extraordinary partnerships** with e.g. travel agencies and publishers, requiring extra sales and marketing efforts (possible for other providers as well)

Foreclosure (2) – Passing of AECT

Recap from above:

- **[10 to 15]%** of **EPs** transaction volumes on average not contestable >1
- Concerns only narrow ticketing market and not all tickets sold in Germany
- **No exclusivity** clauses with classical ABOs

Still, **question remains** as to whether **other ticketing providers are capable of competing for exclusive EP contracts**,
or whether the conditions offered by CTS **foreclosed as efficient competitors?**

Applied AEC test to exclusive contracts

- Concessions (price or non-price) for exclusivity considered as effective rebate
- Assume that other ticketing providers can, on average, at least contest volumes that reflect their average market shares ~ 50% (market excluding CTS' own events)
- Result: **Effective prices** cover, on average, not only variable costs but **total costs**

Foreclosure (3) – Specific points (1)

Exclusivity agreements different from exclusivity rebates?

- Exactly same economic incentive mechanism: discount for exclusivity
- All customers can switch at time of agreement or extension
- Average amount of market that cannot switch within a year is limited

Compelling theory of harm?

- Reducing share of contestable market for competitors lacking economies of scale?
Where is the evidence that lack of EOS is a barrier to expansion here?
- Reduction of multi-homing and attractiveness of other ticketing providers?
See market coverage and AECT
- **Likelihood of anticompetitive effects remain matter of empirical facts**

Foreclosure (3) – Specific points (2)

AECT not appropriate?

- Distinction between price and non-price conduct hardly meaningful in present case and not in vein of *Intel* judgement that endorsed **AEC standard more broadly**
- How else would we test whether competitors were able to replicate CTS' offer?

Contractual penalties not taken into account?

- Only penalties are loss of discounts = fully taken into account
- No evidence on file and (to the best of our understanding) no existence of „take it or leave it offer“

Ignoring effects from indirect network effects?

- Relevance of IDNE limited to begin with (see above)
- Even if, assumed a limited contestable share in order to account for CTS alleged dominance including IDNE: no double-counting

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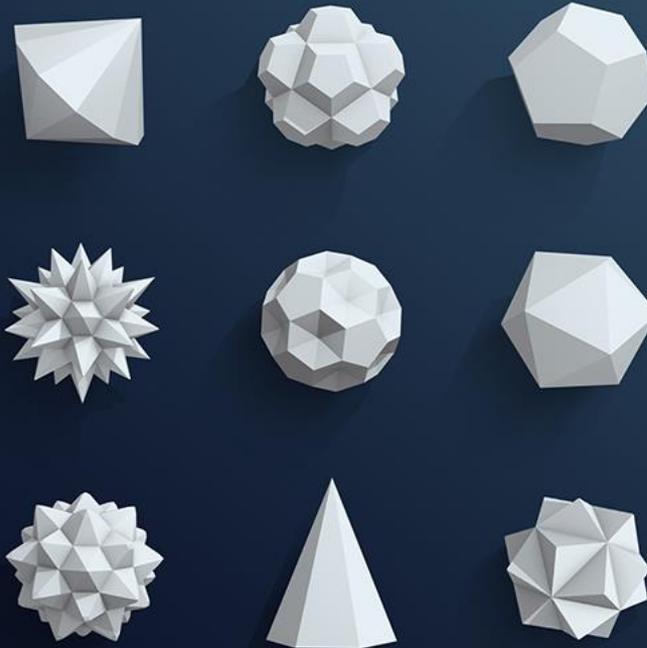
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