CTS Eventim — Exclusive Clauses on Online Platforms

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Structure of the Presentation

- Very short recap of CTS's exclusivity contracts
- Anticompetitive conduct of exclusivity arrangements
- Potential efficiencies

CTS Eventim's exclusivity clauses

Recap

- Exclusivity clauses both with event organizers (EO) and advance booking offices (ABO)
- Exclusivity clause restricted contracting partners to sell exclusively via the CTS network
- Contracts ranged from exclusive sales of 100% of tickets till at least 80%
- Particularly attractive (or expensive) events from large EOs fell under the clause

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- **Anticompetitive conduct of exclusivity arrangements**
- Potential efficiencies

Anticompetitive effects of exclusion

- Chicago School: Efficiencies must dominate because otherwise the party seeking exclusivity cannot compensate the partner
- However, arguments has several flaws

  Probably most important one: It ignores contracting externalities between parties (i.e., network effects or competition between parties)
- Example along the lines of Rasmussen, Ramseyer and Wiley (1991) and Segal and Whinston (2000):

  Suppose a ticket system needs minimum efficient scale (e.g., due to fixed costs)

  IF CTS gets one (or some) large EOs to sign an exclusivity contract, other EOs will follow as competitive system cannot operate efficiently and will be more expensive

Anticompetitive effects of exclusion

- Contracting externalities from indirect network effects (Doganoglu and Wright, 2010):
- The ticketing business can be represented by a two-sided market
  $\Rightarrow$ EOs exert positive cross-group externalities on ABOs, and vice versa

$\Rightarrow$ If CTS Eventim obtains exclusivity from one or two large EOs, it becomes more attractive for ABOs

ABOs are willing to sign exclusive dealing contract for a low compensation fee, and so on (spiral in favor of CTS Eventim)

Anticompetitive effects of exclusion

- Platform with a larger market share can get exclusivity for relatively low payments (Calzolari and Denicolò, 2015):

  Competition for the entire volume instead of the marginal unit

- Minimum-share requirements (such as 80% exclusivity instead of 100%) can be more anticompetitive than full exclusive dealing arrangement (Chen and Shaffer, 2013):

  Party seeking exclusivity can get the deal at a lower compensation

Conclusion: Several reasons why the exclusivity arrangements of CTS are likely to have anticompetitive consequences

As-Efficient-Competitor Test

Test difficult to apply in two-sided markets

- Equally-Efficient-Competitor test suffers from both practical and conceptual shortcomings (Katz, 2017)
- First, not very well grounded in economics:

  No tight linkage between consumer surplus and whether two firms are equally efficient suppliers

  Example: With economies of scale, increase in costs can outweigh positive competition effects if a product is supplied by two firms

  Similar result with network effects (demand-side economies)
- Second, in two-sided markets, should installed base taken into account when defining what is equally efficient?

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Efficiency Defense

No-Economic-Sense Test

- Probably more reasonable test than the as-efficient-competitor test could be in this context a no-economic-sense test

- Broadly, concept of exclusion applies if the conduct makes no economic or business sense but for harming competition
  Test is sometimes used by the DOJ in the US on exclusionary cases (Katz, 2017)

- Question is therefore: What could be potential efficiencies of the exclusivity arrangements offered by CTS?

Potential Efficiencies

No efficiencies provided by CTS!

- Exclusive dealing arrangements spur or protect investments to ensure quality (Bernheim and Whinston, 1998; de Meza and Selvaggi, 2007)
  Argument makes sense in general but it is not clear why CTS Eventim will invest more or why EOs will provide higher quality with the exclusivity contract

- More access to data allows better targeting by CTS Eventim
  Argument may also a bit far-fetched

Potential Efficiencies

- Indirect network effect can lead to natural monopolies or to market configurations in which agglomeration of users on a single platform is more efficient than a segmented market (Armstrong and Wright, 2007; Karle, Peitz and Reisinger, 2018)

- Sound economic argument

- However, challenging question whether greater realization of network benefits due to the elimination of rival networks could be considered to be an efficiency defense

Digression: Agency Model versus Wholesale Model

Business model of CT Eventim is endogenous

- CTS Eventim acts as an intermediary between EOs and ABOs (agency model)
  It charges per-transaction fees (and sometimes fixed fees)

- If instead CTS Eventim would buy the tickets from the EOs and sell then to the ABOs, it would act as a wholesaler (Johnson, 2017)

$\Rightarrow$ Our terminology would not have involved language from two-sided markets etc.

- Business model might be chosen to interfere less with competition policy although conduct might be the same

Conclusion

- Academic literature shows that there are several reasons why exclusivity arrangements can be anticompetitive
- Exclusive dealing can also give rise to efficiencies
- In the CTS Eventim case, no efficiencies were provided
- Equally-Efficient-Rival test may be difficult to apply