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Artificial Intelligence and Competitive Dynamics in Downstream Markets – Contribution from BIAC

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More documentation related to this discussion can be found at: oe.cd/aidm.

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Artificial Intelligence and Competitive Dynamics in Downstream Markets

- Contribution from BIAC -

1. Introduction

1. *Business at OECD* (BIAC) appreciates the opportunity to provide its views to the OECD Global Forum on Competition for the roundtable discussion on Artificial Intelligence and Competitive Dynamics in Downstream Markets.

2. Artificial intelligence (AI) is expected to be one of the most transformative general-purpose technologies of our era, comparable in potential impact to electricity or the internet. Artificial intelligence – notably generative AI (GenAI) – is redefining how businesses compete across different functions.[1] Unlike sector-specific innovations, AI technologies cut horizontally across industries, affecting each differently, with the potential to fundamentally reshape how businesses operate, compete, and create value. Although AI systems have been available for a number of years, technological advancements have resulted in an accelerated deployment of AI tools across different sectors.

3. However, the full scope of AI's potential impact – including competitive dynamics – remains largely unclear. As Professor Geoffrey Hinton, the "godfather of AI," recently noted, "[w]e don't know what is going to happen, we have no idea, and people who tell you what is going to happen are just being silly. . . . We are at a point in history where something amazing is happening, and it may be amazingly good, and it may be amazingly bad. We can make guesses, but things aren't going to stay like they are."[2] Industry developments continually evolve to change the AI deployment landscape, with many firms experimenting and making significant, bold investment decisions. While AI may undoubtedly transform many sectors, it is unclear what the extent of the evolution will be and the nature of the competitive dynamics. BIAC therefore supports the OECD Competition Committee's efforts to understand businesses' incentives to invest and deploy AI solutions, how AI may affect the competitive dynamics in downstream markets, and what role competition policy may have.

4. BIAC takes this opportunity to present its views on the issue. For the purposes of this paper, "non-AI sectors" refers to sectors where the provision of AI tools is not the primary business activity,[3] but where AI is increasingly embedded into business processes, decision-making, products, and services, by non-AI firms operating across diverse industries such as manufacturing, retail, logistics, finance, healthcare, energy, etc. These "downstream markets" encompass the vast majority of economic activity, where AI serves as an input technology rather than the core output. Businesses' ability to adopt AI and

[1] Maxime C. Cohen & Daniel Sokol, *The Impact of AI on Competition Across Business Functions* (USC CLASS Research Paper No. 2520, 2025), https://ssrn.com/abstract=5380553.

[2] Cristina Criddle, *Computer Scientist Geoffrey Hinton: "AI Will Make a Few People Much Richer and Most People Poorer,"* FIN. TIMES (Sept. 5, 2025), https://www.ft.com/content/31feb335-4945-475e-baaa-3b880d9cf8ce.

[3] This paper does not cover competition dynamics in AI infrastructure, which is the topic of a separate OECD Competition Committee roundtable.

utilize its benefits depends in part on access to relevant resources, legal certainty and predictability, and the opportunity to compete.

5. BIAC's contribution examines some AI use cases and adoption trends across non-AI sectors. We then analyze these trends through the lens of competition law and finally identify potential competition issues that may require policy attention.

2. Summary

6. Artificial Intelligence presents significant opportunities to foster competition and consumer benefits by driving efficiency gains and innovation. As the long-term competition implications of AI remain extremely uncertain,[4] it would be premature to assume that AI adoption patterns will lead to new risks of market concentration or competitive exclusion, that today's efficiency gains and innovations will create new barriers to entry or enhance dominant positions tomorrow, and that competition policy should intervene now in anticipation of possible challenges. These are issues that both businesses and policymakers can assess as AI adoption matures.

7. In this context, BIAC stresses that regulators should be attentive but cautious, as intervening prematurely or with rigid approaches could unintentionally hold back innovation and the innovation gains that benefit competition. At this stage, policymakers and businesses should focus on building knowledge and evidence that will support analyses of competitive dynamics. Economists, legal experts, and AI specialists all have a role to play in studying how AI affects competition. For these reasons, BIAC supports authorities' and academic efforts to better understand AI technology evolution and its impact on competitive dynamics across the jurisdictions.

3. AI Trends in Non-AI Businesses

8. Artificial intelligence is advancing at an unprecedented pace, and businesses across industries are rapidly adapting their strategies and investing heavily to capture its benefits. Companies are reorganizing internally to take advantage of AI. At Moderna, for example, soaring employee use of ChatGPT led the company to merge its IT and HR departments, reflecting AI's growing role in everyday corporate processes.[5] Other sectors are also moving quickly – for example, Walmart is exploring AI agents to transform shopping experiences, while Lowe's has deployed OpenAI-powered voice assistants on store floors to help employees better serve customers.[6] At LinkedIn, meanwhile, the rapid rise of AI-driven design and coding tools is reshaping roles, blurring the line between engineers and

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[4] *See* Alexander Bick, Adam Blandin & David J. Deming, *The Rapid Adoption of Generative AI* 1 (NBER Working Paper No. 32966, 2025), https://www.nber.org/system/files/working_papers/w32966/w32966.pdf ("Uncertainty over the impact of genAI on the economy in part reflects a lack of systematic evidence on the frequency and intensity of genAI adoption.").

[5] Jon Victor, *How ChatGPT Convinced Moderna to Merge its IT and HR Departments*, THE INFO. (Mar. 18, 2025), https://www.theinformation.com/articles/chatgpt-convinced-moderna-merge-hr-departments.

[6] Stephanie Palazzolo, *Why Walmart Isn't Sleeping on Agents*, THE INFO. (Mar. 20, 2025), https://www.theinformation.com/articles/walmart-sleeping-agents; Jon Victor, *Lowe's Puts OpenAI-Powered Voice Assistant on the Store Floor*, THE INFO. (June 5, 2025), https://www.theinformation.com/articles/lowes-puts-openai-powered-voice-assistant-store-floor.

designers.[7] These developments illustrate not only how quickly AI capabilities are improving but also how actively businesses are investing to embed them into their models and operations.

3.1. AI Adoption by Non-AI Businesses

9. Latest business surveys conducted by the OECD and the European Union's office of statistics, Eurostat, reveal that AI utilization among enterprises with ten or more employees in the European Union's 27 member states increased to 13.5% in 2024, representing a significant rise from the 8% recorded in 2023.[8] Comparable adoption rates have been observed across OECD member countries.[9] This is a significant acceleration in AI take-up, with adoption rates more than doubling in some countries, especially over 2024. The most striking acceleration in the EU has been observed in Estonia (x2.7), Sweden and Greece (over x2.4), and Norway (x2.3).[10]

10. In 2024, the proportion of respondents to Stanford University's Human-Centered Artificial Intelligence survey reported that AI use by their organizations jumped to 78% from 55% in 2023,[11] while the number of respondents who reported using GenAI in at least one business function more than doubled – from 33% in 2023 to 71% last year.[12] This dramatic increase reflects the expected transformative impact of GenAI technologies, which have significantly lowered barriers to entry for the use of AI tools and reduced technical prerequisites for AI adoption.[13]

3.2. Corporate Incentives

11. AI is starting to generate measurable financial value across different business functions, though for most organizations, these gains remain modest, and adoption is still at an early stage. Companies are driven to adopt AI by multiple strategic considerations. Top-performing companies are twice as likely to realize value from AI as other companies,

[7] Jon Victor, *At LinkedIn, the Line Between Engineer and Designer is Blurring*, THE INFO. (Apr. 15, 2025), https://www.theinformation.com/articles/linkedin-line-engineer-designer-blurring.

[8] *Artificial Intelligence by Size Class of Enterprise*, EUROSTAT (2025), https://ec.europa.eu/eurostat/databrowser/view/isoc_eb_ai/default/table?lang=en.

[9] *ICT Access and Usage by Businesses*, OECD (2025), https://data-explorer.oecd.org/vis?av=true&df[ds]=dsDisseminateFinalDMZ&df[id]=DSD_ICT_B%40DF_BUSINESSES&df[ag]=OECD.STI.DEP&df[vs]=1.0&dq=.A.G14_B.PT_ENT._T.S_GE10&lc=en&pd=2022%2C2024&to[TIME_PERIOD]=false&vw=tb&utm_.

[10] Sandrine Kergroach & Julien Héritier, *Emerging Divides in the Transition to Artificial Intelligence* 13 (OECD Reg'l Dev. Paper No. 147, 2025), https://www.oecd.org/content/dam/oecd/en/publications/reports/2025/06/emerging-divides-in-the-transition-to-artificial-intelligence_eeb5e120/7376c776-en.pdf.

[11] Njenga Kariuki, *Artificial Intelligence Index Report 2025: Ch. 4, Economy*, at 4 (2025), https://hai.stanford.edu/assets/files/hai_ai-index-report-2025_chapter4_final.pdf.

[12] *Id*.

[13] Flavio Calvino, Jelmer Reijerink & Lea Samek, *The Effects of Generative AI on Productivity, Innovation and Entrepreneurship* 25 (OECD A.I. Paper No. 39, 2025), https://www.oecd.org/content/dam/oecd/en/publications/reports/2025/06/the-effects-of-generative-ai-on-productivity-innovation-and-entrepreneurship_da1d085d/b21df222-en.pdf.

highlighting the AI benefits to business.[14] An OECD 2025 report shows that many enterprises believe AI is "very important" to their operations, citing potential gains in labor productivity, efficiency, and defect reduction.[15] Meanwhile, while AI adoption is uneven – big firms (notably in the digital field) are far ahead of smaller ones and are twice as likely to realize value from AI than other companies[16] – those lagging risk falling behind in industries where data, speed, and automation increasingly matter. The primary incentives for adopting AI solutions include:

- ***Productivity and Efficiency Gains.*** Stanford University's 2025 Human-Centered Artificial Intelligence survey shows that 49% of respondents whose organizations use AI in service operations report cost savings, followed by supply chain management (43%) and software engineering (41%). However, most companies that report financial impacts from using AI within a business function estimate the benefits as being at low levels, with most reporting cost savings of less than 10%.[17]

- ***Revenue Enhancement.*** With regard to revenue, 71% of respondents using AI in marketing and sales report revenue gains, 63% in supply chain management, and 57% in service operations. Despite these gains, the most common level of revenue increases is less than 5%.[18]

- ***Competitive Positioning.*** With AI increasingly useful and reliable, companies are driven to embed it in operational fabric, as competitors who do may establish lasting advantages. This creates a compelling innovation dynamic[19] where non-adoption risks competitive disadvantage.

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[14] *Cloud and AI Business Survey 2024*, PwC, https://www.pwc.com/us/en/tech-effect/cloud/cloud-ai-business-survey.html ("Top Performing companies are already ahead of their competition here – 98% agree that their company is well equipped in terms of its data architecture and governance needed to leverage GenAI. More than two-thirds (69%) say they've already implemented data modernization to take advantage of GenAI (compared to just 31% of other companies). And they're looking at all areas of the business.").

[15] OECD/BCG/INSEAD, *The Adoption of Artificial Intelligence in Firms: New Evidence for Policymaking*, at 135 (May 2, 2025), https://www.oecd.org/content/dam/oecd/en/publications/reports/2025/05/the-adoption-of-artificial-intelligence-in-firms_8fab986b/f9ef33c3-en.pdf.

[16] PwC, *supra* note 14 ("Top Performing companies are already ahead of their competition here – 98% agree that their company is well equipped in terms of its data architecture and governance needed to leverage GenAI. More than two-thirds (69%) say they've already implemented data modernization to take advantage of GenAI (compared to just 31% of other companies). And they're looking at all areas of the business.").

[17] Kariuki, *supra* note 11, at 4.

[18] *Id*. Eurostat found that in 2024, 34.08% of European enterprises used AI technologies to enhance marketing or sales. *Use of Artificial Intelligence in Enterprises*, EUROSTAT, https://ec.europa.eu/eurostat/statistics-explained/index.php?title=Use_of_artificial_intelligence_in_enterprises.

[19] James T. Tierney, Jr. & Michael Walker, *In an AI Arms Race, Investors Should Focus on Profit Potential*, ALLIANCEBERNSTEIN (Aug. 20, 2024), https://www.alliancebernstein.com/corporate/en/insights/investment-insights/in-an-ai-arms-race-investors-should-focus-on-profit-potential.html.

3.3. Common Obstacles to AI Adoption

12. Despite the sharp year-on-year increases in adoption and clear benefits of AI, firms moving beyond experimentation to integration across multiple business functions, yet non-AI businesses face common obstacles that may slow the AI adoption. A major issue is the investment burden and skills gap, with firms working to find specialized talent, particularly in high-tech industries and knowledge-intensive services. Technical hurdles also play a role, as companies often encounter difficulties integrating AI with existing systems or need to build out the internal expertise needed to manage the transition.

13. Another challenge is legal and regulatory uncertainty, as businesses remain unsure about their obligations when using AI and how emerging rules may affect their operations. The debate over AI regulation has escalated, drawing heightened attention from various stakeholders. In the U.S., the Biden administration introduced a “Blueprint for an AI Bill of Rights”[20] and an Executive Order focused on the “Safe, Secure, and Trustworthy Development and Use of Artificial Intelligence.”[21] In Europe, the AI Act was adopted to regulate high-risk applications of AI technology.[22] Industry leaders have also weighed in. Sam Altman, CEO of OpenAI, has publicly supported stronger regulation of AI systems,[23] while Elon Musk, Steve Wozniak, and Gary Marcus have even urged a temporary “pause” in AI development.[24] Finally, data-related concerns exist, whether due to a need to access high-quality data or because of ongoing issues around data privacy and protection.

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[20] *Blueprint for an AI Bill of Rights*, THE WHITE HOUSE, https://bidenwhitehouse.archives.gov/ostp/ai-bill-of-rights/.

[21] Exec. Order No. 14,110, 88 Fed. Reg. 75191 (Oct. 30, 2023), *available at* https://www.federalregister.gov/d/2023-24283.

[22] Adam Satariano, *Europeans Take a Major Step Toward Regulating A.I.*, N.Y. TIMES (June 14, 2023), https://www.nytimes.com/2023/06/14/technology/europe-ai-regulation.html. Former Italian Prime Minister Mario Draghi has called for suspending the EU AI Act’s provisions on high-risk systems and advocated for a substantial streamlining of the GDPR. He cautioned that current legal ambiguities are hindering the rollout of AI and increasing compliance costs for European businesses. His remarks reinforce ongoing EU-level discussions about postponing the AI Act’s implementation and revising the Union’s data protection framework. *See* Cynthia Kroet & Vincenzo Genovese, *Draghi Calls for Pause to AI Act to Gauge Risks*, EURONEWS (Sept. 16, 2025), https://www.euronews.com/my-europe/2025/09/16/draghi-calls-for-pause-to-ai-act-to-gauge-risks.

[23] Cecilia Kang, *OpenAI’s Sam Altman Urges A.I. Regulation in Senate Hearing*, N.Y. TIMES (May 16, 2023), https://www.nytimes.com/2023/05/16/technology/openai-altman-artificial-intelligence-regulation.html.

[24] James Vincent, *Elon Musk and Top AI Researchers Call for Pause on “Giant AI Experiments,”* THE VERGE (Mar. 29, 2023), https://www.theverge.com/2023/3/29/23661374/elon-musk-ai-researchers-pause-research-open-letter.

3.4. Sectoral Differentiation in AI Adoption and Competition Implications

14. AI's impact varies significantly across sectors.[25] Artificial intelligence is increasingly embedded across industries that traditionally had little to do with "high tech." Companies across industries are finding different ways to integrate AI into their core activities. From manufacturing to agriculture, financial services to media, AI is shifting from pilot projects to mainstream deployment for supply chain optimization, predictive maintenance, personalized marketing, fraud detection, automated legal and financial review, and even product development through generative design.

15. Indeed, AI adoption manifests differently across business functions, with companies pursuing strategic implementations aligned with their core operations. Some sectors appear more likely to benefit from AI, at least initially.[26] A McKinsey report has highlighted four business areas where GenAI is expected to deliver the greatest value: customer operations, marketing and sales, software engineering, and research and development.[27] The extent of AI's impact varies across professions, with different roles facing differing levels of exposure.[28] While some industries are already reaping significant benefits, others are slower to adapt due to structural or resource limitations.[29]

16. ***Sectors benefiting most*** are those with strong digital foundations and knowledge-intensive activities. Information and Communication Technology (ICT) leads adoption, with an OECD average of 44% in 2024, and over two-thirds of firms in Nordic countries already using AI.[30] AI is particularly prominent in consumer-facing sectors such as travel, retail, and accommodation. Numerous firms of all sizes rely on AI to analyze customer behavior, deliver personalized recommendations, and provide competitive pricing in real

[25] Logistics, mobility, financial services, and manufacturing are emerging as clear beneficiaries, with applications such as predictive maintenance, route optimization, fraud detection, and process automation already delivering measurable gains. By contrast, media, advertising, HR, recruitment, and legal services face more obstacles, ranging from disrupted revenue models and copyright disputes to regulatory scrutiny, fairness concerns, and confidentiality requirements. Overall, the uneven adoption highlights that AI's effects depend on sector-specific regulation, data access, and competitive dynamics.

[26] Francesco Filippucci et al., *The Impact of Artificial Intelligence on Productivity, Distribution and Growth* (OECD A.I. Paper No. 15, 2024), https://www.oecd.org/content/dam/oecd/en/publications/reports/2024/04/the-impact-of-artificial-intelligence-on-productivity-distribution-and-growth_d54e2842/8d900037-en.pdf.

[27] McKinsey, The Economic Potential of Generative AI: The Next Productivity Frontier (June 2023), https://www.mckinsey.com/capabilities/mckinsey-digital/our-insights/the-economic-potential-of-generative-ai-the-next-productivity-frontier#key-insights.

[28] Mauro Cazzaniga et al., *Gen-AI: Artificial Intelligence and the Future of Work* (IMF Staff Discussion Note, 2024), https://www.imf.org/en/Publications/Staff-Discussion-Notes/Issues/2024/01/14/Gen-AI-Artificial-Intelligence-and-the-Future-of-Work-542379.

[29] *See* Google Cloud, The ROI of AI 2025: How Agents Are Unlocking the Next Wave of AI-Driven Business Value, at 14 (Sept. 4, 2025), https://services.google.com/fh/files/misc/google_cloud_roi_of_ai_2025.pdf ("Regardless of the industry or your customer base, your competitors will use AI agents. Therefore, you must find a way to use it to your competitive advantage.").

[30] Kergroach & Héritier, *supra* note 10, at 18.

time. In 2025, Salesforce announced cost reductions of 17% by automating its customer service functions through AI agents.[31]

17. Professional and Technical Services are also rapidly embedding AI to automate knowledge work and analytics, with an OECD average of 26% but over 53% in Sweden.[32]

18. Financial Services show a strong adoption rate, particularly in fraud detection, credit risk assessment, trading, and customer services.[33] American Express, for example, applies real-time systems that analyze billions of transactions and assess creditworthiness with more nuance than traditional models. Beyond these functions, PwC and Deloitte integrate AI into auditing and advisory work, while IBM Research and DeepMind use AI for cutting-edge innovation.

19. ***Moderate-benefit sectors*** are integrating AI more cautiously. For manufacturing AI offers potential efficiency gains in predictive maintenance, quality control, and supply chain optimization. On customer request, Siemens collects and analyzes machine data to optimize manufacturing processes, detect anomalies, and predict failures before they occur, improving worker safety and lowering energy use. BMW uses computer vision for product quality, Unilever employs AI for demand forecasting and supply chain management, and John Deere leverages autonomous tractors and precision agriculture to optimize seeding, irrigation, and fertilization. These advances lower costs and boost efficiency. Complementing these industrial examples, route and slot optimization tools in aviation are now increasingly productized and available to small and mid-sized enterprises (SMEs) through cloud platforms, broadening access.

20. In sectors that provide critical infrastructure or sensitive products, AI plays an increasingly valuable role in risk management and security. Energy companies like Shell deploy AI to protect infrastructure. Rolls-Royce applies predictive systems to aircraft engines, reducing costly delays and improving safety. Specialized companies like Darktrace supply AI-based cybersecurity solutions. Healthcare is expected to accelerate with regulatory flexibility, especially in pharma and medtech innovation.[34] Pharmaceutical firms such as Pfizer use AI to safeguard R&D data.

21. ***Lower-benefit sectors*** are those with lower digitization and physical operations – e.g., construction, transport, hospitality, and trade – where adoption rates remain low.[35] These industries may struggle to capture short-term benefits, though they could eventually adopt AI in logistics, customer management, or safety monitoring. For example, in delivery and logistics, Just Eat Takeaway has announced the piloting autonomous delivery robots in Europe, including Switzerland, demonstrating AI's potential to drive efficiency in dense

[31] Emma Burleigh, *Salesforce CEO Marc Benioff Says His Company Has Cut 4.000 Customer Service Jobs as AI Steps In: "I Need Less Heads,"* FORTUNE MAGAZINE (Sept. 2, 2025), https://fortune.com/2025/09/02/salesforce-ceo-billionaire-marc-benioff-ai-agents-jobs-layoffs-customer-service-sales.

[32] Kergroach & Héritier, *supra* note 10, at 18.

[33] OECD, OECD DIGITAL ECONOMY OUTLOOK 2024, VOL. 1, at 102 (2024), https://www.oecd.org/content/dam/oecd/en/publications/reports/2024/05/oecd-digital-economy-outlook-2024-volume-1_d30a04c9/a1689dc5-en.pdf.

[34] In January 2024, the OECD and its health ministers endorsed a policy action plan to promote responsible AI in healthcare, calling for a nimble regulatory approach, strengthened data governance, and international collaboration. *See AI and Health*, OECD, https://oecd.ai/en/site/health.

[35] OECD, *supra* note 33, at 102. In 2024 in Europe, AI software or systems for logistics were the least used AI technologies, with only 6.12% of enterprises using such technologies. EUROSTAT, *supra* note 18.

delivery environments. The company also applies predictive algorithms to anticipate demand spikes (for example, during sporting events or holidays) and optimize routes in real time, adjusting for weather and traffic conditions.[36]

22. Overall, ICT, professional services, and financial services seem to be benefiting the most from AI adoption,[37] while construction, traditional trade, and hospitality may benefit the least in the short term.

23. The adoption of AI by businesses has experienced remarkable acceleration in the last years, particularly following the advent of GenAI. AI has emerged as a central element of contemporary business operations, transforming approaches to demand forecasting, inventory management, pricing optimization, and quality control. Beyond enhancing internal efficiency, these developments may reshape the boundaries of effective competition in fast-paced, data-intensive industries.[38]

24. AI can promote competition by enabling efficiency gains, reducing barriers to innovation, and creating new forms of market entry. The immediate competitive benefits include an improved ability to understand consumer preferences, tailor their output to match these individual demands. These capabilities can enable smaller firms to compete more effectively with larger incumbents by utilizing AI to optimize operations, personalize customer experiences, lower customer prices, and identify new market opportunities. AI tools "help make markets more competitive through democratization of sophisticated tools at low costs for small companies, without the need [for] strong technical expertise and access to large datasets."[39] On the other hand, the likely disruption to traditional competition dynamics and the need to assess any disruption are explored below.

4. The Impact of AI Deployment and Competition Law

25. While the benefits of AI solutions for efficiency and innovation are increasingly evident, the effect of some AI solutions may raise questions for competition policymakers. Below are possible scenarios reflecting "traditional" competition concerns.[40] However, BIAC notes that AI deployment is occurring in unexpected ways – requiring a pragmatic and fact-specific approach – based on real-life situations.

26. ***Early Adopter Advantages***. Companies adopting AI early might be able to build reputational networks, shaping AI product developments and industry standards that later entrants, notably poorly resourced, may find hard to overcome. Theoretically, this could extend the competitive gap between AI leaders and AI "laggards."[41] However, competition

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[36] Antonio L. Escárzaga, *Just Eat Pilots Physical AI-Powered Robots for Food Delivery in Zurich*, EU-STARTUPS (Aug. 21, 2025), https://www.eu-startups.com/2025/08/just-eat-pilots-physical-ai-powered-robots-for-food-delivery-in-zurich.

[37] *See* OECD/BCG/INSEAD, *supra* note 15, at 22 ("business uptake of AI applications is still relatively low and mainly occurs in larger firms and in the ICT, finance, and insurance sectors").

[38] Cohen & Sokol, *supra* note 1.

[39] *Id*. at 2.

[40] Andrei Hagiu & Julian Wright, Artificial Intelligence and Competition Policy § 5.1 (Oct. 2024), https://ssrn.com/abstract=4985840.

[41] *See* Google Cloud, *supra* note 29, at 8 ("Organizations that are adopting this technology early – backed by executive commitment and increasing funding – are establishing a significant competitive advantage and providing a blueprint for success.").

authorities should not view early adopters who have pioneered AI solutions with skepticism, nor should competition policy dissuade firms from making exploratory investments and experimentation in AI deployment, which is the essence of innovation. Such experimentation is incredibly valuable to competition and provides valuable lessons for competitors enabling improvements over the initial efforts.

27. ***Lock-In Effects and Data Advantages.*** AI systems thrive on access to relevant datasets, often (but not exclusively) large and/or high-quality datasets.

- Companies with proprietary datasets that are sufficiently large and of sufficient quality may gain advantages over those relying on publicly available data. Exclusive licensing deals and strategic partnerships may restrict competitive access to cutting-edge capabilities. Yet, given the broad spectrum of AI use cases and the multitude of available data sources for training, there is no reason to believe that exclusionary strategies are the reason for these data licensing deals.[42]
- Successful early adopters of customer-facing AI solutions can create a value-generating cycle where more usage generates more data, leading to better performance and potential market share gains driven by higher quality or performance. This dynamic allows innovative providers to develop stronger customer insights and the ability to tailor products more effectively, giving early adopters a competitive advantage.

28. ***Pricing and Market Strategies.*** AI's application in pricing and market strategies adds another layer.[43] Algorithmic pricing tools, under discrete circumstances, could theoretically increase the risk of tacit collusion[44] or coordinated price movements without explicit agreements or even intent.

29. ***Industry Consolidation.*** Looking ahead, consolidation may occur in certain downstream sectors, as companies seek exit strategies or mergers to compete more effectively or become more efficient.

30. The theories above are not new to competition law or policy. Without actual evidence of anticompetitive effects, a firm's successful investment in new technology solutions should not be a competition concern. To the extent these effects raise governmental concerns at all, the fall in other policy fields and should be treated accordingly while maintaining an AI-investment friendly environment.

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[42] Hagiu & Wright, *supra* note 40, at 24.

[43] In fact, this is one of the few "new" competition issues that are raised by the AI emergence. *See id*. ("An important competition issue raised by the emergence of AI is the role of pricing algorithms in facilitating collusion and whether existing competition law or regulations need modification to address these algorithms effectively.").

[44] The first criminal case on algorithmic pricing came in 2015, where the defendant pled guilty to agreeing with co-conspirators "to adopt specific pricing algorithms for the sale of the agreed-upon posters with the goal of coordinating changes to their respective prices" in online sales. Plea Agreement at 4, U.S. v. David Topkins, No. CR15-00201 WHO (N.D. Cal. Ap. 30, 2015), https://www.justice.gov/atr/case-document/file/628891/dl. *See also* Sencer Ecer & Mehmet Ekmekci, *Between Efficiency and Illegality: The Competitive Implications of Surveillance and Algorithmic Pricing*, CPI COLUMNS (Aug. 6, 2025), https://www.pymnts.com/cpi-posts/between-efficiency-and-illegality-the-competitive-implications-of-surveillance-and-algorithmic-pricing/.

5. Competition Policy Considerations

31. BIAC offers the following considerations on whether the advent of AI requires new competition policy approaches. We do so on the assumption that the goal is to ensure that AI investments and adoption are promoted, that AI's benefits for productivity, innovation, and consumer welfare are realized while ensuring that AI deployment does not undermine competitive market dynamics nor create barriers for smaller competitors or new entrants.

32. ***Addressing the Urge to Regulate.*** BIAC recognizes that governments and regulators are seeking to better understand the impact of AI solutions on their constituents and develop regulatory frameworks to maximize the benefits of AI. The challenge is to do so while minimizing any broader negative impact of AI, especially given the speed of AI adoption and innovation incentives. Competition authorities must take the time necessary to fully understand new technologies and market dynamics. BIAC supports efforts of governments to better understand AI competition dynamics. While competition authorities can intervene on a case-by-case basis where there is evidence of abuse or monopolization, authorities must resist the temptation to leverage competition rules (including "soft law") or regulate in ways that undermine incentives to invest or deploy AI solutions or distort the market for AI development. Using competition policy as a proxy for industrial regulation (without the proper checks and balances, consultations and dialogue with industry) can undermine the legitimacy of competition laws and broader competition principles. Nor should outdated assumptions from the "Web 2.0 era" be applied, since those concerns may not be relevant to the rapidly evolving, AI-driven industries.

33. ***Engage With Government Departments and Sector Regulators.*** AI and its impact implicate numerous legal systems, including data protection and copyright. When considering intervention, competition authorities should engage closely with relevant sector regulators.[45] This is notably true as the relationship between AI tools and other areas of law is still being addressed. For example, the tension between copyrighted and non-copyrighted content for training AI models is currently the subject of major litigation before the courts, which may influence the power dynamic between relevant parties.[46]

34. ***Preserve the Function of Competition Law***. A key priority is to keep AI sectors open and competitive by incentivizing development that generates a choice of technology solutions. At the same time, dominant downstream players should not be permitted to engage in anti-competitive strategies that block competitors or new entrants. Competition authorities should ground any investigation in evidence-based principles, analyze relevant conduct on a case-by-case basis and avoid impacting broader AI development and

[45] OECD, Interactions Between Competition Authorities and Sector Regulators – Contribution from Business at OECD (BIAC) DAF/COMP/GF/WD(2022)64 (Nov. 18, 2022), https://one.oecd.org/document/DAF/COMP/GF/WD(2022)64/en/pdf.

[46] *See e.g.*, Liz Hockley, *Authors' Class Action Complaint Marks 50th U.S. AI Copyright Suit*, WORLD INTELL. PROP. REV. (Sept. 9, 2025), https://www.worldipreview.com/artificial-intelligence/authors-class-action-complaint-marks-50th-ai-copyright-suit. Experiments such as American Vogue's 2025 AI-generated Guess campaign highlight both the cost-saving potential of AI-driven creative tools and the ethical debates they trigger in industries like fashion and media. The campaign, produced by the AI marketing agency Seraphinne Vallora, used entirely AI-generated models – framed as a complement to rather than a replacement for human talent. While some praised the innovation for enabling cheaper, faster, and more flexible campaigns, critics argued it undermines the artistry of photography, threatens jobs across the creative supply chain, and risks promoting unrealistic beauty standards by normalizing "perfect" but non-human figures. Sophia Ahmed, *AI Models in Vogue: Your Favorite Model May Not Be Real Thanks to AI*, CNN (July 31, 2025), https://www.cnn.com/2025/07/31/style/vogue-ai-models-guess-campaign.

deployment. It is important to recognize that other parts of government may also be pursuing broader economic policy activities and may improve competitive dynamics by promoting capacity building. Competition authorities' obligations under the OECD competitive neutrality principles require proactive engagement with government departments to ensure that industrial policies and regulation do not undermine long-term investment and competition incentives, while remaining non-discriminatory.[47]

35. ***Avoid Presumptions Based on Early Adopter Status.*** Studies indicate that sectors with strong digital foundations and knowledge-intensive activities are well-positioned to capture early and substantial gains from AI technologies.[48] Indeed, top-performing companies are twice as likely to realize value from AI than other companies.[49] The ICT sector includes a heavy concentration of expertise and data among large digital players. However, early adopter status should not be seen as problematic, absent foreclosure strategies and effect. As noted above, such situations are highly fact-specific; not all early adopters succeed and, where they do, followers are likely to benefit from the early adopter's experimentation and risk-taking. Indeed, there is a danger that early adopters are punished for making successful risky investments at a time when the full benefits of AI and its technology path are unclear. Competition policy should not deter firms that are making the investments to drive innovation and first-movers should not be slowed down to await the market laggards. Limitations on firms' entry and expansion may well be – indeed are more likely to be – caused by lack of access to capital, limited risk appetite, and lack of expertise rather than anticompetitive conduct. These challenges are related to gaps in capacity, rather than anticompetitive concerns. If anticompetitive concerns exist due to a lack of competitive constraints from smaller or underfunded players, the solution (and, indeed, prevention) may include changes to industrial policy that facilitate dynamic AI and therefore increase growth incentives for all companies.

36. ***Non-Typical Competition Concerns***. One of the likely effects of AI implementation is to impact the traditional labor market. However, BIAC is of the view that competition laws should not be used to seek to minimize disruption in the labor market. Indeed, it may be that AI is a critical solution to workforce shortages. Rather, any government intervention would be more appropriately limited to minimize systemic shocks, e.g., through robust initiatives to invest in re-training and education. Other labor impacts should be addressed through industrial policy approaches.

37. ***Geographic Imbalances***. AI adoption may also be exacerbated by geographic imbalances if local companies do not have the resources to build or incorporate AI systems as efficiently as AI natives.[50] The asymmetries in access to private capital or state subsidies, energy costs, and computing demands may also affect the ability of firms to deploy AI at

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[47] OECD, COMPETITIVE NEUTRALITY TOOLKIT: PROMOTING A LEVEL PLAYING FIELD (2024), https://www.oecd.org/en/publications/2024/06/competitive-neutrality-toolkit_c3fe45c3.html.

[48] The rapid expansion of AI technologies is likely to favor large incumbents, since they can exploit the scale of their customer networks to generate valuable, often unique, data for model training and refinement. *See*, Hagiu & Wright, *supra* note 40, at 19.

[49] PwC, *supra* note 14 ("Top Performing companies are already ahead of their competition here — 98% agree that their company is well equipped in terms of its data architecture and governance needed to leverage GenAI. More than two-thirds (69%) say they've already implemented data modernization to take advantage of GenAI (compared to just 31% of other companies). And they're looking at all areas of the business.").

[50] *See* Eugenio Cerutti et al., *The Global Impact of AI: Mind the Gap* (IMF Working Paper No. WP/25/76, 2025). https://www.imf.org/en/Publications/WP/Issues/2025/04/11/The-Global-Impact-of-AI-Mind-the-Gap-566129.

scale across different regions. Macro-economic imbalances are best addressed by trade and industrial policies. BIAC would urge competition authorities not to be drawn into addressing trade or macro-imbalances, for fear of being drawn into industrial policymaking. Here, the OECD competitive neutrality principles[51] should provide principles that authorities can use to ensure that objectivity and neutrality of competition law are not tainted by their governments' geopolitical imperatives.

6. Conclusion

38. The differential pace of AI adoption across firms, sectors, and geographic regions; security and privacy concerns; availability of specialized personnel; and electricity/computational power to deploy AI at scale fundamentally influence which firms can best utilize AI's competitive benefits. Jurisdictions that allow businesses the freedom to innovate in AI will not only benefit from greater economic and national security but will also be better positioned to ensure that the leading technology is developed responsibly in the future. The pace of AI development is unpredictable, and it remains to be seen how competition in traditional spaces will evolve.

39. BIAC argues for a thoughtful, proportionate approach to regulation and enforcement that encourages beneficial AI uptake, while ensuring that competition law enforcement is grounded in economics and facts. Evaluating the AI implications for competition demands a careful, evidence-driven analysis grounded in established, traditional competition law principles.[52] BIAC emphasizes that existing competition laws already provide the necessary tools for addressing potential issues in the GenAI sector. Established concepts such as dominance and market power remain suitable for assessing unilateral conduct, restrictive agreements, and mergers for GenAI. BIAC supports intervention of the competition authorities where genuine competition issues arise. In the meantime, authorities should continue to assess developments, deepen their understanding of the GenAI value chain, and involve specialized expertise where needed.

[51] *See* OECD, *supra* note 47.

[52] OECD, Artificial Intelligence, Data and Competition – Note by BIAC, DAF/COMP/WD(2024)47, ¶¶ 47-51 (May 31, 2024), https://one.oecd.org/document/DAF/COMP/WD(2024)47/en/pdf.