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Artificial Intelligence and Competitive Dynamics in Downstream Markets

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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**

1. Core messages

- AI is a general-purpose technology with network effects that tend toward concentration.
- Left unchecked, these dynamics will reduce contestability and limit consumer choice.
- Market power over data, compute and models translates into consumer dependence.
- Access rights, interoperability, and transparency are essential to restore balance.
- Competition enforcement must evolve from static price analysis to dynamic, data-driven and interdisciplinary methods.
- Cooperation among regulators – competition, consumer, data-protection and sectoral – is indispensable to prevent fragmentation and regulatory arbitrage.
- Global coordination through the OECD and other fora is required to ensure that AI serves inclusive growth rather than amplifying inequality. Consumers International calls for a policy architecture that integrates competition law, consumer rights, and AI ethics within a single vision of markets that serve people, not algorithms.

2. Introduction: AI and the consumer interest

2.1. A new industrial revolution

1. AI combines the predictive power of data with the adaptive power of computation.
2. Like electricity, it underpins complementary innovations across every industry.
3. The OECD (2024^[2]) says AI “has the potential to affect markets across the economy, potentially for better if it empowers consumers, but there are also risks”.
4. In the OECD area, adoption is accelerating as 39% of large firms report using AI tools (Kergroach & Héritier 2025^[3]), while governments employ AI in healthcare triage, welfare targeting and infrastructure planning.
5. Yet this diffusion is highly uneven. Large incumbents with global data networks and compute capacity dominate the frontier, while smaller players depend on their infrastructures.

* By Professor Allan Fels AO, Consumers International.

2.2. The consumer lens

6. Consumers now inhabit algorithmic environments.
7. Price comparisons, travel routes, news feeds and credit offers are all filtered through AI systems that predict and shape behaviour.
8. Competition and consumer policy must therefore address two intertwined questions:
 - Who controls the terms of digital engagement?
 - How can consumers exercise informed and effective choice within algorithmic markets?

2.3. Lessons from earlier technologies

9. Past technological waves reveal that early concentration can persist for generations.
10. Railways, oil, and telecommunications each began with open innovation and ended with entrenched monopoly before regulation intervened.
11. The lesson for AI is clear: timely governance prevents structural lock-in.
12. Competition authorities should not wait for post-hoc harm; they must practice anticipatory enforcement – designing markets before dominance becomes irreversible.

3. Conceptual framework and research evidence

3.1. Economic mechanisms of power

13. AI transforms competitive dynamics through three mutually reinforcing mechanisms:
 1. Vertical leverage: control over foundational inputs allows firms to preference their own downstream products or deny access to competitors.
 2. Dynamic scale effects: models improve with use, making early advantages self-reinforcing.
 3. Information asymmetry: AI's opacity enables differential pricing, self-preferencing and manipulation invisible to consumers or regulators.
14. In such environments, consumer outcomes depend less on choice among firms than on the design of the ecosystem itself.

3.2. Evidence from authorities

15. The OECD (ibid.) suggests AI diffusion typically follows a competitive-to-concentrated trajectory: openness at inception, consolidation at scale.
16. The CMA (2024^[4]) documents risks from vertical integration between foundation-model developers and cloud providers, potentially creating closed AI ecosystems.
17. The ACCC (2025^[5]) highlights similar dynamics in Australia, where generative AI tools are embedded within dominant digital platforms.

18. Hagiu and Wright (ibid.) model feedback loops showing how data accumulation produces increasing returns to adoption, leading to persistent market power.

3.3. Downstream relevance

19. AI now mediates downstream markets central to everyday life:

Sector	Common AI Uses	Competitive Concerns
Healthcare	Diagnostics, triage	Accountability, bias, liability gaps
Retail & E-commerce	Dynamic pricing, recommendation	Algorithmic collusion, dark patterns
Finance	Credit scoring, fraud detection	Discrimination, opacity
Transport	Routing, surge pricing	Price fairness, platform dependence
Energy	Demand forecasting, smart meters	Tariff transparency, data access

20. Each exhibits the dual character of AI – efficiency gains intertwined with structural dependency.

4. Pro-competitive and pro-consumer potential

4.1. Productivity and dynamic efficiency

21. AI enhances prediction, reduces waste and automates complexity.
22. However, efficiency is not automatically equitable; productivity gains can be captured as rents unless competitive pressure ensures pass-through to consumers.
23. Competition agencies should therefore treat distributional outcomes (price, quality, transparency) as indicators of market health, not side effects.

4.2. Entry and innovation

24. Open-source models and modular APIs lower entry barriers.
25. SMEs can integrate capabilities without owning massive datasets.
26. Governments can sustain this diversity through:
 - open licensing frameworks for publicly funded models;
 - non-discriminatory access to cloud and compute; and
 - procurement policies favouring interoperability.

4.3. Consumer empowerment

27. AI-driven comparison platforms can revitalise competition in sectors like health and energy.
28. But personalisation without transparency can become manipulation.
29. Competition law should recognise deceptive design – dark patterns and hidden rankings – as distortions of competition as well as consumer protection breaches.

4.4. 5.5. Knowledge diffusion and open science

30. Publicly-funded research generates spillovers; monopolising it wastes taxpayer value.
31. Consumers International supports a ‘public value clause’ requiring open-source release of publicly-funded AI models and datasets.
32. This ensures innovation feeds a competitive, not closed, ecosystem.

5. Risks, concentration and structural harm

5.1. Vertical integration and self-preferencing

33. Integration across layers – cloud, model, application – allows incumbents to prefer their own services.
34. ACCC (ibid.) reports AI-generated search results favouring affiliated content.
35. The lesson from digital advertising is instructive: vertical integration quickly creates gatekeepers.
36. Remedies:
 - functional separation between infrastructure and application;
 - neutrality obligations on dominant AI intermediaries; and
 - public disclosure of ranking or recommendation criteria.

5.2. Data concentration and feedback loops

37. Data serve as both input and output, creating compounding advantage.
38. Hagiu and Wright (ibid.) hypothesise some big tech firms could dominate due to unique access to their own proprietary training data from the other services they deliver.
39. For example, Google has access to its data from services such as YouTube, Google search and Maps to train its Gemini models. Likewise, Meta could access its data from Facebook, Instagram and WhatsApp to train its Llama models.
40. However, regulatory constraints and public backlash may prevent these large tech companies from fully utilising such data to gain a competitive advantage.
41. OECD (ibid.) suggest interoperability and portability of AI solutions may be a key question going forward.
42. Consumers International extends this to consumer data trusts – independent institutions that enable individuals to pool data under shared governance, restoring bargaining power.

5.3. Compute bottlenecks

43. Training large models requires advanced semiconductors and hyperscale data centres – capital-intensive and geographically concentrated.
44. Less than ten global providers supply most compute.

45. This dependency risks a form of digital mercantilism where access becomes strategic leverage.

46. Competition agencies should evaluate compute pricing and exclusivity as potential competition restraints.

47. Regional public-cloud infrastructure, supported by OECD development programmes, can enhance resilience.

5.4. Algorithmic collusion and market opacity

48. Reinforcement-learning systems can tacitly coordinate prices without communication.

49. Detection demands algorithmic-audit powers and collaboration between economists and computer scientists.

5.5. Consumer lock-in and switching costs

50. Ecosystem lock-in reduces contestability; consumers rarely control or understand data portability.

51. Effective competition requires functional portability – transfer of full profiles, preferences and transaction histories in usable formats.

52. The EU’s Data Act and Australia’s Consumer Data Right are steps toward a rights-based framework. Similar principles should be adopted across OECD members.

5.6. Trust and information integrity

53. Generative AI blurs the boundary between authentic and synthetic content.

54. Without provenance and labelling, trust in digital markets collapses.

55. Competition policy intersects here with consumer protection: deception distorts market functioning.

56. Regulators should require content provenance metadata, verifiable labelling and traceable attribution chains for AI-generated material.

6. 7. Rethinking market analysis

6.1. Beyond price tests

57. Traditional 'Small but Significant Non-transitory Increase in Price' (SSNIP) methods focus on price; AI competition hinges on quality, accuracy, latency and explainability.

58. Agencies should adopt multi-dimensional analytical frameworks combining economic modelling with technical metrics.

6.2. Functional and ecosystem mapping

59. Functional substitutability evaluates whether services meet the same user purpose.

60. Ecosystem mapping traces interdependencies among data, compute, models and interfaces, revealing chokepoints of control.
61. These methods should complement, not replace, conventional market-definition tools – ensuring that AI’s complexity does not obscure accountability.

6.3. Measuring power and dependence

Indicators include:

- control of essential datasets;
- exclusive compute contracts;
- proprietary standards;
- developer and consumer dependency ratios; and
- rates of user switching and data migration.

6.4. Institutional capacity and evidence

62. Modern enforcement requires in-house technical expertise.
63. The European Commission, ACCC and FTC now employ data scientists.
64. The OECD has referred to algorithmic-audit sandboxes.
65. Consumers International urges inclusion of civil-society observers to ensure consumer perspectives inform technical evaluation.

7. 8. Policy and Enforcement Responses

7.1. Merger control

66. Turnover thresholds miss strategic acquisitions. Authorities should:
- include data and algorithmic assets in merger analysis;
 - require notification of acquisitions by designated ‘systemic AI firms’, regardless of size;
 - conduct post-merger reviews assessing consumer impacts; and
 - share information internationally through OECD and International Competition Network (ICN) systems.

7.2. Abuse of dominance

67. Dominance may manifest through API discrimination, bundling or algorithmic self-preferencing.
68. Enforcement should cover algorithmic design choices and optimisation criteria, not only pricing conduct.
69. Transparency obligations akin to the EU’s Digital Markets Act can make such oversight feasible.

7.3. Algorithmic transparency and audit

70. Effective enforcement requires insight into algorithmic logic. Independent auditors should assess:

- data provenance and quality;
- objective-function design;
- bias and error rates; and
- performance transparency.

71. The OECD could coordinate an international certification regime for AI audits, ensuring comparability and trust across jurisdictions.

7.4. Ex ante regulation

72. Pre-emptive rules reduce harm before it occurs.

73. The EU's Digital Markets Act, Japan Fair Trade Commission research and Korea Fair Trade Commission initiatives demonstrate feasible approaches.

74. Smaller markets can adapt simplified 'fair-AI codes' with statutory backing.

7.5. Institutional cooperation

75. AI transcends sectoral boundaries.

76. Coordination between competition, consumer and privacy regulators prevents overlap and gaps.

77. The UK's Digital Regulation Cooperation Forum and Australia's Digital Platform Regulators Forum are models.

78. The OECD should institutionalise a joint AI regulators platform to harmonise analysis and enforcement.

7.6. International coordination

79. Fragmented national regimes risk regulatory arbitrage.

80. Cooperation between the OECD, ICN and G7 can standardise definitions, audit methodologies and reporting templates.

81. Consumers International proposes an OECD 'Global AI Competition Observatory' to collect concentration data, map global supply chains and publish comparative enforcement analyses.

82. Global consistency fosters business certainty while strengthening consumer protection.

8. Developing and emerging economies

8.1. Structural constraints

83. Developing countries often lack compute capacity, datasets and regulatory expertise.

- 84. Without intervention, they risk becoming ‘rule takers’ in the global AI economy.
- 85. Dependence on imported algorithms trained on foreign data threatens cultural and linguistic representation.

8.2. Policy priorities

- 86. Infrastructure: regional data centres and compute clusters co-funded by multilateral development banks.
- 87. Open datasets: multilingual, representative and publicly accessible training data.
- 88. Regulatory capacity: training for competition and consumer agencies; judicial education on AI economics.
- 89. Governance: adoption of interoperable data-protection and competition frameworks.

8.3. 9.3. Regional cooperation and inclusion

- 90. The ASEAN Guide on AI Governance and Ethics and the EU-Latin American and Caribbean Digital Alliance demonstrate regional momentum.
- 91. OECD support (technical assistance, fellowship programs and funding) can amplify these efforts.
- 92. Equitable AI diffusion supports the UN Sustainable Development Goals by promoting innovation, reducing inequality and enhancing institutional capacity.

9. Forward look: from oversight to stewardship

9.1. A new role for competition authorities

- 93. The pace and scale of AI transformation demand that agencies move from case-by-case enforcement to systemic stewardship.
- 94. This means anticipating structural risks, coordinating with other regulators, and ensuring consumer outcomes drive priorities.

9.2. Action plan for fair AI competition

- 95. Consumers International urges OECD members to adopt the following framework:
 1. Consumer impact assessments: mandatory in all AI-related merger and conduct reviews.
 2. Algorithmic audit regimes: periodic independent audits with public summaries.
 3. Interoperability and portability mandates: enforceable technical standards enabling switching.
 4. Transparency registers: publication of model ownership, training data and governance information.
 5. Global observatory: OECD-hosted body tracking concentration, publishing annual metrics.

6. Capacity building: funding for technical training and joint investigations across jurisdictions.
7. Public participation: inclusion of consumer organisations in policy design and evaluation.

9.3. Ethical and human-centred foundations

96. The OECD's AI Principles emphasise human-centred values: transparency, accountability and fairness.
97. These align with the UN Guidelines for Consumer Protection, which encourage safety, information, choice and redress.
98. Integrating these frameworks ensures consistency across competition and consumer policy.

9.4. The moral imperative

99. AI governance is not merely a technical exercise but a question of democratic accountability.
100. When algorithms mediate access to credit, healthcare or information, they exercise power traditionally reserved for public institutions.
101. Ensuring that such power remains answerable to the public is both an economic and moral duty.
102. Technology should serve people, not the reverse. Competition policy must remain the guarantor that markets enhance, rather than erode, consumer sovereignty.

10. Conclusion

103. The integration of AI into downstream markets is irreversible. But its outcomes are not predetermined.
104. If policymakers act decisively – embedding transparency, openness and fairness – AI can become an engine of inclusive prosperity. If they hesitate, it may entrench inequality and dependency.
105. Consumers International calls upon OECD members to treat competition policy as a cornerstone of democratic digital governance: protecting consumers, stimulating innovation and preserving trust in markets.
106. The time for stewardship is now.

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