
Competition Issues in Payment Systems and the Establishment of Regulatory Structures

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Abstract

The financial reform and convenience of transactions brought about by the digital revolution should be welcomed by most. However, it is undeniable that the winner-take-all advantage created by “disruptive innovation” might incentivize a leading competitor to implement restrictive or exclusionary measures to maintain or enlarge its market dominance and monopoly profits. Taking the market for payment systems as an example, one of the competitive issues that continues to attract the attention of the international antitrust community is the potential for a system operator to improperly implement its financial technologies and intellectual property rights, such as refusing to license its technologies or denying access to its essential database, or to encumber market entry by competing systems. Moreover, once a specific payment system becomes the system most widely used by the consumers, the “network effect” that it creates might motivate the system operator to abuse such market power to set market prices and terms for transactions or to collude with other system operators to create business standards. Those arrangements further hinder market entry and delimit the availability of alternative payment systems. A series of recent investigations and sanctions by the European Union on “interchange fees”, the “no-surcharge rule” and the “accept-all-cards rule” practiced by Visa and MasterCard have highlighted this type of competitive concern. Similar enforcement efforts are likely to be extended to markets for electronic and mobile payments in the future. In benefiting from the services provided by new payment systems, it is recommended that Taiwan be attentive to the competition issues likely to arise from the operation of those systems and consider how the Taiwan Fair Trade Act could respond to those issues. Given the complexity of the issues involved, in this paper we focus on providing a general analytical framework for reviewing payment-system competition rather than offering solutions to specific problems from competition. From legal and economic perspectives, we propose the standards

and factors that could be taken into account by the competition authorities in reviewing issues related to the definition of the relevant market, the measurement of market power, and the assessment of competition both facing and within the markets for payment systems.

Keywords: Payment System, Abuse of Monopoly Power, Concerted Actions, Combination, Network Effect, Definition of Relevant Market, Market Power, Credit Card, Electronic Payment, Third-Party Payment, Blockchain.