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VERTICAL RESTRAINTS IN GLOBAL DIGITAL MARKETS

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Abstract. Vertical restraints applied by major operators of digital markets have become a serious challenge for international regulators and governments of leading world powers in recent years. Having new specific features in comparison with the restraints in force in traditional sales channels, they can lead to a rapid strengthening of the market power of dominant online platforms and to the subsequent monopolization of markets. The article is devoted to the study of business practices of applying various types of vertical restraints in global digital markets. Using the example of global leading companies (Apple Inc., Amazon, Booking.com., Microsoft, etc.), the market consequences of the introduction of exclusive and related contracts, cross-platform parity agreements, as well as a wide range of transaction bans are demonstrated. In particular, suppliers and dealers are significantly limited in their ability to sell competing products and brands and list them on major online marketplaces. Bans are introduced on the use of Internet sites for price aggregation and comparison, as well as certain e-commerce platforms and certain types of payment means. At the same time, there are significant penalties for noncompliance with the terms of vertical contracts. Buyers and users are limited by the possibilities of using software products of independent developers, connecting to competing online services. Technological solutions are being introduced that increase the costs of sharing hardware and software of competing operators. And such solutions are greatly simplified in the conditions of existing "closed" global digital ecosystems. It is shown that the norms of vertical contracts of major market players are able to effectively eliminate the cost advantages of both existing operators and new firms, significantly increasing the entry costs and reducing potential of entering firms to attract the target audience at the start of activity. The most vulnerable here are, first of all, small highly specialized companies using low-budget business models. The author proposes a theoretical model that reveals the mechanism that prevents new firms from achieving the minimum effective sales volume. Using the example of the distributor's retail price control strategy, it is proved that the use of vertical contracts allows both increasing the profits of existing operators and successfully preventing potential competitors from entering the market. At the same time, it is noted that the use of vertical restraints contributes to solving a number of current business problems of large digital companies: effective protection of investments in the development of e-commerce channels, limiting the turnover of counterfeit products, deepening the differentiation of market supply, reducing the risks of price wars and leveling the actual "stowaway problem". Therefore, the qualification of vertical restraints as good practices, or as abuses of market power, should be based on an analysis of the objectives of such restraints and a comprehensive assessment of their potential consequences. An important step towards solving this complex and very sensitive problem may be the adoption of the Digital Markets Act by the European Parliament in 2023.

Keywords: vertical agreements, vertical restraints, digital markets, exclusive contracts, cross-platform parity agreements, retail price control, market monopolization, barriers to entry, competition policy.

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ВЕРТИКАЛЬНЫЕ ОГРАНИЧЕНИЯ НА ГЛОБАЛЬНЫХ ЦИФРОВЫХ РЫНКАХ

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Аннотация. Исследованы ограничения, применяемые глобальными операторами цифровых рынков. Предложена теоретическая модель, доказывающая, что вертикальный контроль дилерских цен позволяет успешно блокировать вход на рынок потенциальным конкурентам. Представлены последствия внедрения крупными компаниями эксклюзивных и связанных контрактов, межплатформенных соглашений о паритете, а также различных запретов на транзакции. Констатируется, что такие бизнес-практики операторов цифровых рынков становятся серьезным вызовом для международных регуляторов и правительств ведущих мировых держав.

Ключевые слова: вертикальные соглашения, вертикальные ограничения, цифровые рынки, эксклюзивные контракты, межплатформенные соглашения о паритете, контроль розничных цен, монополизация рынков, барьеры входа, конкурентная политика.

INTRODUCTION

In recent decades, digital giant companies have emerged in world markets, creating global diversified ecosystems. The development of global Internet resources, primarily e-commerce platforms, received an additional impetus due to the *COVID-19* pandemic: consumer choice has shifted to online tools – search engines, social networks, and marketplaces. Thus, according to the US Department of Commerce, the annual growth of online sales in the country in 2020 amounted to over 32%, which was a record value for the entire period of observation of the dynamics of Internet commerce [source 1].

Global digital platforms today actively apply a wide range of vertical restraints[1], related to pricing and communications with consumers, "binding" users to certain digital services and software products, including technological blocking and applied conditions for platform users to access their data.

Despite the lack of consensus in the academic and professional community on the consequences of the use of vertical restraint agreements in the digital sector[2], such practices are of concern to the antitrust regulators of the world's largest economic powers.

REVIEW OF STUDIES ON THE PROBLEM AND THEORETICAL MODEL

The economic and market effects of vertical restraint agreements are ambiguous in their consequences, which can be both positive and negative.

On the one hand, such agreements allow manufacturers and suppliers to develop online distribution channels, stimulate competition among dealers, exclude trading platforms that do not meet the established quality parameters, ensure the interests of copyright holders, and eliminate the "freeride problem" [source 2]. Also, among the positive aspects, one should single out ample opportunities for increasing the transparency of sales channels, optimizing operating and commercial costs, as well as for "converging the interests of manufacturers and sellers" [1].

On the other hand, a number of researchers note that vertical restraints formed at the production stage affect the growth of wholesale (purchase) prices, a decrease in the quality of goods and the number of product innovations, and a reduction in consumer choice. At the distribution stage, similar restraints lead to a reduction in the range of choice of sales channel formats, as well as product combinations "price/quality" [source 3]. At the stage of retail sales, the negative consequences of vertical restraints are a reduction in the number of retailers and dealers; a reduction in the availability of goods and growing retail prices; obstacles for innovative and technological development of the trade sector; concentration of market power among a small number of operators [2, 3]. At the same time, barriers to entry can be formed both separately at the level of suppliers (sellers) and the level of buyers and simultaneously at both levels.

According to [4], in highly concentrated markets, the probability of firms using vertical restraints to weaken competition is much higher than in low concentrated markets. As a strategic tool for closing markets, such agreements are implemented by existing firms primarily through an increase in the cost and a decrease in the quality of production resources available to newcomers [5] or through a complete blocking of access to such resources, as well as through a significant increase in entry costs and operating costs of new firms [4, 6]. At the same time, some authors note that non-price practices and agreements (for example, exclusive and related contracts) have the greatest potential to deter competitors' entry, rather than agreements based solely on price formats of vertical restraints.

In [2, 7], the authors believe that an existing firm is always inclined to enter into long-term contracts with the maximum possible number of buyers available, which will not allow a newcomer firm to achieve a "minimum viable" scale of activity. This is especially important in situations where potential competitors are more cost-effective than the incumbent firm. In [8], it is put that the duration of such contracts is a kind of "signal of the true probability of entry": the longer such a period, the more difficult it will be for new firms to enter the market and, other things being equal, the probability of entering by a newcomer is lower.

[1] Vertical restraints in this paper are understood as a list of formal and informal requirements that one of the parties to the contract, acting at a certain level of the value chain (goods movement), dictates to the other party of the contract, acting at another level of such chain. Such requirements are implemented within the framework of vertical restraint agreements (VRAs), which allow redistributing control of various market parameters between counterparties.

[2] It should be noted that the law enforcement practice of evaluating the provisions of VRAs in many countries is carried out on the basis of the so-called rule of reason, which allows taking into account both their negative and positive consequences.

The authors of [9] note that the negative consequences of vertical restraints for the development of competition in digital markets can significantly increase due to a number of specific factors – direct and indirect network effects, economies of scale, etc.

In [10], it is noted that the ability of digital platforms to effectively cut competition with the help of vertical restraints, as a rule, depends on their ability to restrict access to a significant number of new operators on one or more sides of multilateral markets. In the author's opinion, this task is difficult when the volume of transactions of a particular platform is relatively small compared to their total volume in the commodity market, or when the market is in the formation stage, and many potential users on all sides of the multilateral market have not yet joined the platform.

The topic of vertical restraint agreements is also reflected in the legal framework of various countries of the world, since their long-term consequences can negatively affect the development of competition, as well as the growth of public welfare. Law enforcement practice is rich in examples of the qualification of certain types of vertical restraints as tools for large players to protect their market shares and block the entry of new competing firms (often more efficient in technological and performance terms).

Thus, the antitrust legislation of the European Union among the main negative consequences of vertical restraints highlights the anticompetitive exclusion of suppliers and buyers by raising barriers to entry or expansion [source 3]. Article 101 of the Treaty on the Functioning of the European Union[3] prohibits agreements between counterparties, including those operating at different stages of the value chain, aimed at restricting or preventing competition or capable of leading to such consequences. The first section of the US Sherman Act prohibits any contract to restrict trade. Legal norms similar in spirit are contained in separate provisions of the Clayton Act and the US Federal Trade Commission Act[4].

At the same time, the largest volume of antitrust response and regulation measures in the e-commerce markets is associated precisely with various types of vertical restrictions [source 4][5]. In the context of further development and diversification of online sales channels, the above circumstances are forcing the antitrust authorities to reconsider approaches to the analysis of vertical agreements, as well as to assess their potential consequences for the growth and efficiency of the functioning of consumer markets.

In the development of the theory on the research issue, a model is proposed (see Figure), demonstrating the mechanism of the influence of vertical agreements on the prospects for new firms to enter the market. As an example of such an agreement, here will be used the practice of control by a distributor, a supplier of retail prices in a dealer network, which is common today in digital markets.

To simplify the analysis, assume that in the process of product distribution, there are only two stages: 1) the supplier's sale of the goods to the retail dealer network (hereinafter referred to as the intermediate stage), and 2) the retail sale of product by the dealer to end-users (hereinafter referred to as the final stage).

Let us introduce the premise that profit-maximizing monopoly firms operate at the intermediate and final stages, and further evaluate the prospects for the entry of a potential competitor of the dealer at the final stage (a new retailer) in the absence or presence of retail price control by the distributor. In the course of the analysis, let us also assume that all parties to the contract behave rationally.

The marginal cost MC_K of the retail chain will be the sum of the wholesale price for the supply of product P_p, as well as own operational costs (equipment, staff salaries, business expenses, etc.). To simplify the analysis, assume that the marginal cost of firms is a constant value, independent of sales volumes. Also, assume that when the dealer reaches *the minimum effective sales volume* Q_n, the average costs of the retail chain AC_K become fixed and reach the level MC_K.

With these market demand functions at the intermediate and final stages and the corresponding marginal revenue functions MR_P and MR_K, the optimal volumes of wholesale deliveries and retail sales of goods from the point of view of profit maximization will be Q_p and Q_K, respectively (lower graph of Figure (*a*)).

Suppose that another firm (hereinafter referred to as the newcomer) is striving to enter the retail market. Then, with the volume of sales Q_K and the retail price of the dealer P_K, the newcomer's residual demand line will take the form indicated by the dotted line Q_{OCT} in the upper graph of Figure (*a*).

Assuming identical average costs of the existing dealer and the newcomer AC_K and AC_n, respectively, one can see that the newcomer is able to achieve the minimum efficient output Q_n (the dotted line of residual demand refers to the average cost function). Thus, the newcomer becomes competitive in terms of

[3] *Treaty on the Functioning of the European Union.*

[4] *Sherman Antitrust Act, Clayton Antitrust Act, Federal Trade Commission Act.*

[5] It should be noted that the practice of protecting competition, for example, in the EU countries is characterized by a traditionally high degree of regulatory intervention in the sphere of vertical restraints control.

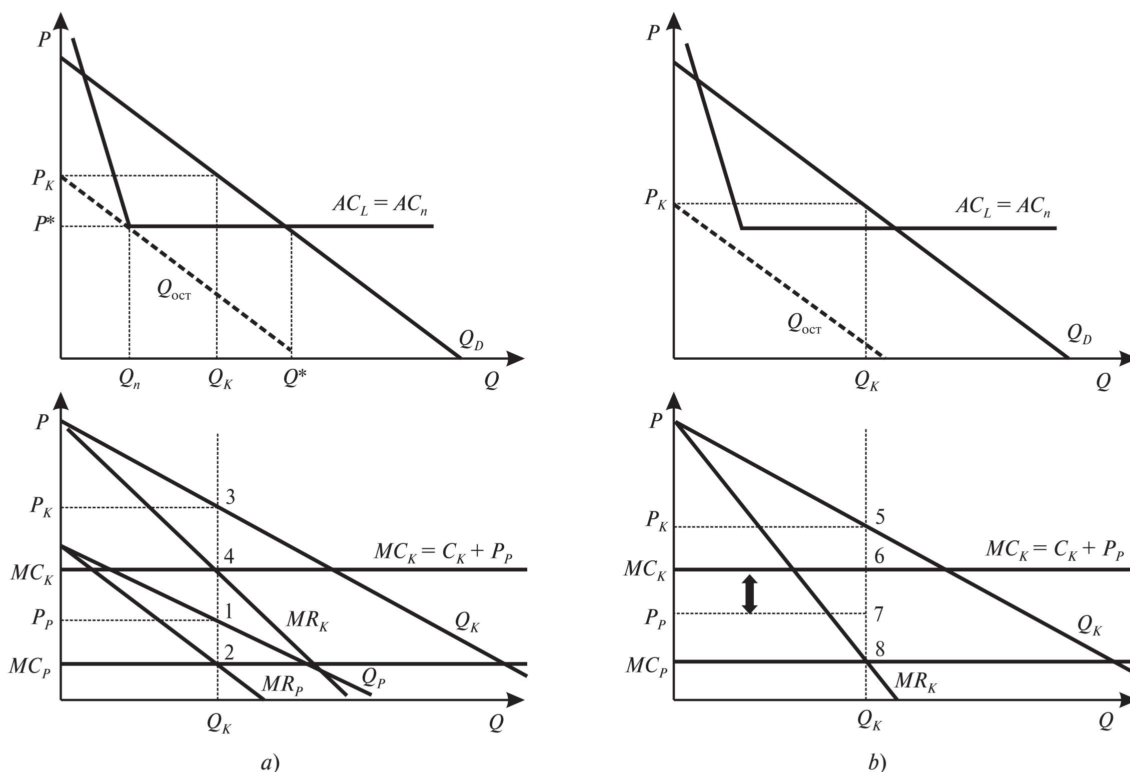

Figure. Control of retail prices by the distributor and the prospects for a new operator to enter the market.

Compiled by the author.

prices, is able to penetrate the market and occupy its niche in it. In the case of an entry with a given volume of sales by the newcomer and the existing dealer, Q_n and Q_K, respectively, the value of the market supply will be Q^*, and the retail price will decrease to the level P^* (the upper graph of Figure (*a*)).

Now consider a situation where a distributor, within the framework of a vertical contract, exercises control over the dealer's pricing strategies, recommending (in practice, often imposing) a certain level of the retail price that is acceptable from the distributor's point of view or optimal from an economic point of view.

By controlling retail prices, the distributor, at a given level of own costs, focuses on retail (final) demand and on retail marginal revenue. At a given retail price, the wholesale supply price P_p must cover the dealer's operating costs.

It is easy to see that the volume of goods sold Q_K with vertical price control is higher than without it. At the same time, the residual demand function of the potential newcomer passes below the average cost line throughout its entire length (the upper graph of Fig. (*b*)). As a result, the total costs of the newcomer for any volume of sales will be higher than its revenue. Under the assumption of the rational behavior of the new firm, it does not make sense for it to invest and enter this market, taking losses.

Such an analysis, while maintaining a similar result and economic conclusions, can be confidently applied to a commercial concession (franchising) agreement, and to uniting all firms into a formal vertically integrated structure, including within a single digital ecosystem.

THE PRACTICE OF VERTICAL RESTRAINTS IN GLOBAL DIGITAL MARKETS

The general typology of price and non-price vertical restraints is displayed in Table. 1. Price restraints are associated with ensuring a certain level of prices: for example, such requirements dictated to buyers (dealers) limit pricing at the next stage of the value chain, and dictated to sellers (distributors) – at the previous one. In particular, agreements on minimum selling prices can determine the price level below which the goods cannot be sold to end users at the next stage of product distribution, and agreements on maximum selling prices – the highest level of such prices.

Of course, the list can be expanded and refined, but it covers the key and most popular restraints in business practice[6], established under related contracts,

[6] A survey of representatives of the e-commerce sector in the countries of the European Union showed that the most popular

Table 1. Typology of price and non-price vertical restraints

	Types of restraints	
	seller's	buyer's
Price	Price parity	Establishment of minimum selling prices
Price	Establishment of maximum delivery prices	Establishment of maximum selling prices. Price parity
Non-price	Bulk discounts, flexible payment plans and "entry fees"	Establishment of minimum product sales volume
Non-price	Establishment of minimum supply volume	Franchise requirements Transaction prohibitions
Non-price	Related supplies	Related sales

Compiled by the author.

agreements on exclusive supplies, on parity terms of cooperation, or in any of their combined options.

Let us characterize some of them in more detail.

a) *Exclusive agreements* in the traditional economic sense mean securing the rights to sell goods in a particular territory (geolocation) for a single seller. For example, a supplier receives a monopoly (exclusive) status as a supply channel for a particular seller, while at the same time assuming an obligation not to sell its goods through its direct competitors.

Exclusive rights may not be associated with a location, but may be applied to certain positions of the assortment or to a certain group (segment) of customers.

Granting exclusive rights contributes to the achievement of a number of business goals, such as increasing the loyalty of the target audience, reducing the influence of direct competitors on anchor business partners, controlling the sales channels of products and resources, and optimizing operating and commercial costs. However, the motive for such agreements is often the desire to completely eliminate the factor of competition.

By depriving direct competitors of existing distribution channels through exclusive contract requirements, established firms are forcing newcomers to invest heavily in distribution and in-house sales channels, as well as in various tools to switch the existing dealers. This leads to an increase in both entry costs and current average costs, which ultimately negatively affects price competitiveness and the prospects for "survival" of newcomers in the industry.

Such strategies for increasing the level of barriers to entry are especially effective in the presence of increasing economies of scale in an industry or product market [11]. The exclusiveness creates a relative cost advantage for the operating company, preventing the newcomer from reaching the minimum efficient output [12].

In this regard, of interest are the survey results of a sample of Spanish companies, displayed in Table 2. It is easy to see that exclusive contracts are one of the most commonly used types of vertical restraints in the Spanish market. The survey authors note that most firms using vertical contracts set more than one restriction, and most often this is the practice of large operators.

In a practical sense, marketplace platforms, within the framework of an exclusive contract, require counterparties to assume obligations to limit the sales of competing products, not allowing direct competitors to place products on their online platforms. Or, on the contrary, they demand from sellers registered on it that their goods are not sold on competing online platforms.

Table 2. A comparative analysis of the use of particular types of restraints (case study of Spain)

Company size, by number of employees	% of companies				
	ED	*ET*	*FLF*	*RPM*	*F*
Micro					
< 20	6	11	6	7	1
Small					
20–50	11	16	8	7	1
51–100	22	30	19	19	3
Medium					
101–200	14	23	15	13	5
Large					
201–500	20	30	19	16	3
> 500	18	24	16	10	7

Note. *ED* — exclusive dealership; *ET* – exclusive territories; *FLF** – assortment requirements; RPM – price restraints; F – franchising.

* *FLF* (*full-line forcing*) – a dealer's obligation to provide on its trading floors a complete list of a supplier's products.

Compiled by the author according to [13].

Exclusive contracts allow large platforms to eliminate multi-homing[7], limiting the ability of registered users to connect to several competing Internet resources and services or to use particular software. This forms and maintains a critical mass of users and, consequently, a high value of the platform for all its participants [10, 14]. A typical example is the market practice of the Tmall.com marketplace: in the event that suppliers and participants refused to accept

vertical restraints are related to pricing (42%), sales through marketplaces (18%) and through sellers' own websites (11%), cross-border face-to-face trading (11%), price comparison tools (9%) and online advertising (8%) [source 2].

[7] This term refers to the simultaneous use by clients and users of several (usually competing) online platforms, digital services, or products.

the terms of such agreements, the company blocked the return of search results for their products, removed advertising banners and information on special promotions from its resources.

b) *Parity agreements* – according to them, the conditions provided by one party to the contract to another are, in a certain way, tied to the conditions provided to third parties.

Obviously, such conditions should be at least as good: for example, the prices charged by sellers to buyers on a particular platform cannot exceed the prices charged by alternative commercial websites and sellers' own websites.

As in the case of exclusive contracts, parity agreements may relate to non-price parameters: the quality of goods, the level of customer service, or the set of available additional options offered by sellers on this platform. Obviously, the wider the range of price and non-price parity requirements, the more difficult it will be for new operators to enter the market due to the narrowing range of tools for effective differentiation of their offers. As a result, a potential newcomer is deprived of the opportunity to switch the target audience to its services and products.

Known formats for such agreements are *APPA* (*across platform parity agreements*) and *MFC* (*most favored clause*).

The inclusion of price parity requirements in contract terms and conditions can offset the cost advantage of competitors, even when the latter use more resource-efficient, low-cost sales schemes[8]. This circumstance negatively affects the promotion of innovative platform business models and the positioning of discounter companies. At the same time, competition between retail distribution channels is distorted, and the mechanisms of horizontal collusion between suppliers or marketplace platforms are simplified.

In this context, mention should be made of the high-profile cases of *Amazon* and *Booking.com*, accused by the European Competition Commission and the German antitrust regulator of abusing their dominant position in the e-book and accommodation data aggregation markets, respectively. Dictated parity conditions and the most favored treatment reduced the ability of counterparties to differentiate pricing in various sales channels, including metasearch resources. Ultimately, according to regulators, this had a negative impact on the development of cross-platform competition, alternative service offerings, and also created barriers to entry into the relevant commodity markets and caused economic damage to their participants.

[8] For example, using their own websites as direct sales channels.

In addition to parity terms, agreements often contain restraints for retailers to use or participate in online price aggregation and comparison resources.

Of course, there are reasons for such restraints. First, aggregators, by increasing the potential of price competition tools, reduce the importance of other attributes of the retail offers, narrowing the range of effective marketing tools [source 4]. Second, the shift of competition to the area of price parameters in most cases negatively affects the profitability and operational efficiency of online businesses, negatively affects the image of brands, positioning of companies and their products. The application of certain provisions of *APPA*, changing the focus from price differentiation to differentiation of products and sellers [15], can significantly reduce this impact. At the same time, the instruments of parity agreements allow platforms to level out the well-known freeride problem in digital markets – the free movement of user traffic, when end users use the capabilities of more technologically advanced Internet platforms when choosing and testing products[9], however, the purchase is made on the platforms offering the lowest prices.

At the same time, a ban on the use of price comparison sites, often aimed at reducing the risks of a price war, can make it difficult for new firms to attract customers at the initial stage of their activity, creating barriers for their entry and survival in the market. Therefore, such a ban, along with *geo-blocking* of platform participants, is now recognized as illegitimate in the countries of the European Union [source 4].

In turn, *MFC* agreements, which, in fact, imply the best conditions for cooperation, also allow global operators not only to protect investments in the creation and development of their own Internet sites and services but also to reduce the effectiveness of the pricing strategies of potential competitors and block them from entering the market.

c) *Related contracts* mean the presentation of additional requirements (restraints) that are not related to the subject of the main contract. Often, they are strictly stipulated cooperation terms binding for execution.

The most popular of these requirements, dictated by suppliers to their dealers, are the conditions for acquiring the main positions of the assortment, components and related products, ensuring the recommended retail sales volumes, financing

[9] Such a model of customer service, using an expensive and complex website architecture, provides a full-fledged consumer choice through high-quality product visualization, reviews, recommendations, comments, professional advice to potential buyers, etc. However, it also requires significant financial investment by the platform or online store.

promotional activities, providing service and warranty support, etc. Acceptance of such requirements is an important condition for concluding the main contract.

Antitrust regulators and consumer communities today record numerous cases of complaints in connection with the refusal of hardware suppliers to cooperate with customers using the software of direct competitors. As a result, highly specialized independent manufacturers and suppliers of related products (software, applications, accessories for mobile devices, etc.) are deprived of access to their potential consumers. Conversely, large diversified operators making a wide range of related products increase demand for them and strengthen their presence in the market. According to a number of researchers, the higher the level of diversification of companies, the greater their ability to block entry to newcomers through the instruments of related contracts.

A number of global digital platforms included in "closed" ecosystems exclude the compatibility of software of external independent developers. Many of these products, even being included in the standard package of popular user software and applications, but competing with the products of global digital platforms, are often not displayed in search engine results. At the same time, technological solutions and engineering standards are being introduced that significantly increase the costs of shared use of the devices, software or online services of competing manufacturers by consumers.

In this regard, a case of *Microsoft* should be given, whose software products are integrated with the *Windows* operating system and often cannot be used in conjunction with software by other manufacturers. As a result, in the United States and the European Union, a number of court decisions were made against *Microsoft*, which recognized its restrictive practice as an attempt to monopolize sales markets.

Also very indicative is the antitrust case initiated on the complaint by *Kaspersky* against *Apple Inc.*, which referred to the fact that the provisions of the user agreement of the latter allowed to legally prevent independent developers from placing their software in the *App Store*. In the aforementioned case, this resulted in the inability to place applications by *Kaspersky* in the *App Store* after the release of the updated operating system. Thus, *Apple's* closed ecosystem, including the production of hardware devices, operating system, a wide range of software, as well as the online store mentioned above, according to regulators, creates significant barriers to switching users and entry of independent manufacturers to the relevant product markets.

This process can spiral under the influence of indirect network effects: the higher the demand for software of a global manufacturer or brand, the greater the sales of their hardware, and *vice versa*.

Thus, by offering their users certain technological solutions, "tying" them (including through vertical restraints) to own software, trading platforms and services, the large companies are able to limit the access of potential competitors to their target audience. In the presence of strong indirect network effects, these circumstances ensure the growth of the power of global operators in all related multilateral markets.

Within the framework of vertical contracts, direct prohibitions are introduced on various commercial transactions. Manufacturers of software for mobile and stationary devices are limited in the supply of their products to competing manufacturers of these devices and Internet resources. Buyers (users) of the software are prohibited from purchasing it from competing developers. Resonant were the *MADA* and *RSA* agreements between *Google* and manufacturers of mobile devices based on the *Android* operating system. Bans on the use of certain e-commerce sites and advertising formats (including advertising of special offers) for sales via electronic means of payment are widely used in business practice. Along with competition, the motive for such bans and restrictions is the natural desire of large distributors to maintain the image and positioning of their products (or specific brands), eliminate downward pressure on retail prices in some sales channels, stop the circulation of counterfeit products, ensure quality service guarantees and service support, and limit users' *free-ride* [source 3, 5].

Penalties provided for in long-term contracts are also an effective deterrent to entry of new firms. In the event that the buyer intends to withdraw from the contract, is ready to pay the corresponding (usually very significant) penalties and purchase goods from a new supplier, the latter will be forced to provide compensation, for example, in the form of a significant reduction in the supply price. Such compensation will be a significant component of the entry fee for a newcomer. The longer the term of the contract, the expectedly higher the level of sanctions it will provide for early termination[10]. In the latter circumstances, attracting a client by a newcomer, without allowing it to reach the payback of total costs, becomes economically inexpedient.

[10] Thus, in an investigation by the American Federal Communications Commission, it was noted that the current contracts of the telecommunications company *AT&T*, designed for a longer period than the contracts of newcomer competitors, also provide for higher penalties [2].

* * *

Vertical restraints have traditionally been a tool used by large companies to strengthen market power, avoid fierce competition, and protect their market niches. Taking on new forms in the era of digitalization, such restraints also form new challenges for regulators in the field of economics and competition policy.

One of the answers to such challenges in the future may be a new EU Digital Markets Act[11], the purpose of which is to regulate the market behavior of global digital companies and ensure the transparency of digital markets. The draft Act contains a number of practical steps designed to ensure the creation of equal and fair conditions for market access for a wide range of operators.

As part of this Act, it is supposed to prohibit large digital operators (platforms) from blocking users, restricting access to alternative online services and software of independent developers. It is also planned to oblige global platforms to provide business users with unlimited access to data generated as a result of their actions on the platform (including advertising), to provide technological capabilities for promoting their products and services, not to interfere contracting outside the intermediary platform [source 6].

Meantime, it is obvious that certain vertical restraints are technologically justified fair market practices. Therefore, the qualification of specific vertical restraints as conscientious behavior of operators or as an abuse of market positions should be based on a deep analysis of the strategies of companies and the goals of such restraints: whether they are aimed more at developing the technological capabilities of platforms and user functionality or at creating barriers to competing products and limiting users' access to alternative options.

[11] *Digital Markets Act* (draft). The adoption of this normative act by the European Parliament is planned for 2023.

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