

Research Article

COMPETITION RULES IN THE DIGITAL AGE: A COMPARATIVE STUDY OF EU AND US APPROACHES AND THEIR IMPACT ON ARAB LEGAL SYSTEMS

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ABSTRACT

Background: *The digital revolution has fundamentally reshaped the global economic landscape, giving rise to dominant technology platforms such as Google, Amazon, Meta, Apple, and Microsoft. These entities function as digital gatekeepers across interconnected ecosystems encompassing search, social media, e-commerce, cloud computing, and mobile applications. Their scale and control over data flows have created new forms of market power that challenge conventional antitrust paradigms. Traditional competition law, developed in the industrial economy, struggles to address the dynamics of multi-sided markets, network effects, and data-driven dominance that characterise the digital era. This research seeks to analyse how the European Union and the United States have responded to these challenges and to draw insights for Arab jurisdictions seeking to craft context-sensitive regulatory models.*

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Method: *The study employs a doctrinal and comparative legal analysis, supplemented by policy evaluation. It examines legislative frameworks such as the EU's Digital Markets Act (DMA) and Digital Services Act (DSA), as well as US antitrust laws, the Sherman Act, Clayton Act, and FTC Act. Landmark enforcement cases, including Google Shopping, United States v. Google LLC, FTC v. Meta Platforms, and FTC v. Amazon, are analysed to illustrate practical applications of these frameworks. Comparative analysis is used to assess how ex-ante and ex-post regulatory philosophies shape enforcement outcomes. For Arab jurisdictions (Egypt, Saudi Arabia, and the UAE), the study incorporates institutional and policy analysis to evaluate capacity constraints and regional coordination mechanisms.*

Results and Conclusions: *Findings reveal fundamental contrasts between the EU and US approaches. The EU's ex-ante regime ensures speed, predictability, and structural intervention but may risk overreach and incentivise innovation. The US ex-post approach provides analytical rigour and judicial safeguards but often lags the pace of digital market evolution. For Arab jurisdictions, key challenges include limited enforcement capacity, dependence on foreign platforms, and fragmented regional governance. The study proposes a hybrid regulatory framework that integrates proactive ex-ante rules, inspired by the DMA, with flexible ex-post enforcement tailored to local conditions. Regional harmonisation through the Gulf Cooperation Council (GCC) and Arab League is emphasised as essential for cross-border effectiveness. The research concludes that balancing market contestability, innovation, and regional integration requires capacity-sensitive regulation that merges proactive oversight with evidence-based enforcement.*

1 INTRODUCTION

The digital revolution has fundamentally transformed the global economic landscape. Platforms like Google, Amazon, Facebook (Meta), Apple, and Microsoft wield unprecedented market power through distinctive characteristics, multi-sided markets, network effects, data-driven dominance, and economies of scale, challenging traditional competition law frameworks developed for industrial-age markets. Conventional antitrust tools struggle to analyse zero-price services, assess competitive harm in data-intensive ecosystems, and respond effectively to rapid consolidation in digital markets.¹

1 Jacques Crémer, Yves-Alexandre de Montjoye and Heike Schweitzer, *Competition Policy for the Digital Era* (Publications Office of the EU 2019) doi:10.2763/407537; Ariel Ezrachi and Maurice E Stucke, *Virtual Competition: The Promise and Perils of the Algorithm-Driven Economy* (Harvard UP 2016); Inge Graef, 'Differentiated Treatment in Platform-to-Business Relations: EU Competition Law and Economic Dependence' (2019) 38 Yearbook of European Law 448, doi:10.1093/yel/yez008; Lina M Khan, 'Amazon's Antitrust Paradox' (2017) 126 Yale Law Journal 710; Geoffrey G Parker, Marshall W Van Alstyne and Sangeet Paul Choudary, *Platform Revolution: How Networked Markets Are Transforming the Economy and How to Make Them Work for You* (WW Norton & Co 2016); Jean-Charles Rochet and Jean Tirole, 'Two-Sided Markets: A Progress Report' (2006) 37(3) RAND Journal of Economics 645, doi:10.1111/j.1756-2171.2006.tb00036.x; Nick Srnicek, *Platform Capitalism* (Polity Press 2016); Shoshana Zuboff, *The Age of Surveillance Capitalism* (PublicAffairs 2019).

Regulatory responses vary significantly across jurisdictions, reflecting philosophical divergences about competition law's objectives and enforcement mechanisms. The European Union has pioneered comprehensive legislative initiatives, notably the Digital Markets Act (DMA) and Digital Services Act (DSA), establishing ex-ante rules for 'gatekeeper' platforms before competitive harm materialises, reflecting ordoliberal principles emphasising fair market structures. The United States maintains traditional case-by-case litigation rooted in the consumer welfare standard, though recent enforcement actions against Google, Meta, and Amazon signal potential doctrinal shifts influenced by neo-Brandeisian thinking that advocates broader antitrust objectives.²

For Arab jurisdictions, these divergent models present opportunities and challenges. Egypt, Saudi Arabia, and the United Arab Emirates face heavy reliance on foreign platforms, limited domestic tech development, emerging institutional capacity, and imperatives to balance competition with economic development objectives. Understanding EU and US approaches, their strengths, limitations, and philosophical commitments offer valuable insights for Arab policymakers developing context-appropriate regulatory frameworks.

This comparative analysis addresses three core questions: (1) How do the EU's ex-ante ordoliberal-inspired controls differ from US ex-post consumer welfare-focused approaches in addressing digital platform dominance? (2) Which enforcement model demonstrates greater effectiveness regarding regulatory certainty, speed, deterrence, and adaptability? (3) What hybrid framework best serves Arab jurisdictions given institutional constraints, market dependencies, and development priorities? The article contributes by: (i) offering a structured evaluation of EU and US models identifying doctrinal convergences and divergences; (ii) synthesising lessons from landmark enforcement to assess practical effectiveness; and (iii) developing tailored Arab policy recommendations accounting for regional integration gaps, institutional constraints, and foreign platform dominance.

2 Regulation (EU) 2022/1925 of the European Parliament and of the Council of 14 September 2022 on Contestable and Fair Markets in the Digital Sector and amending Directives (EU) 2019/1937 and (EU) 2020/1828 (Digital Markets Act) [2022] OJ L 265/1; Regulation (EU) 2022/2065 of the European Parliament and of the Council of 19 October 2022 on a Single Market For Digital Services and amending Directive 2000/31/EC (Digital Services Act) [2022] OJ L 277/1. See also, Arab Federation for Digital Economy and Council of Arab Economic Unity of the League of Arab States, *Arab Digital Economy Index 2022* (ARABFDE 2022); Thomas W Hazlett, 'US Antitrust Policy in the Age of Amazon, Google, Microsoft, Apple, Netflix and Facebook' (2024) 35(1) *Constitutional Political Economy* 73, doi:10.1007/s10602-022-09391-9.

2 METHODOLOGY

This study employs doctrinal legal analysis combined with policy evaluation to examine competition law across three jurisdictional clusters: the European Union, the United States, and selected Arab states. The methodology integrates multiple analytical layers, enabling systematic comparison while accounting for distinct legal traditions, institutional frameworks, and market conditions.³

2.1. Jurisdiction Selection

The EU and US represent the world's most influential competition regimes with fundamentally different philosophical orientations. The EU exemplifies proactive, structure-oriented regulation reflecting ordoliberal traditions; the US demonstrates reactive, conduct-focused enforcement rooted in Chicago School economic-efficiency principles. Together, they shape global competition law discourse through the 'Brussels Effect' and American common law precedents.⁴

Among Arab jurisdictions, Egypt, Saudi Arabia, and the UAE were selected based on: (1) representativeness, Egypt reflects the Arab Republic model with French civil law heritage; Saudi Arabia represents Gulf monarchies with Islamic legal traditions; UAE exemplifies federal Gulf states balancing multiple systems; (2) institutional development, all three have established competition authorities with evolving digital mandates; (3) economic significance, they represent the largest, most technologically advanced Arab economies with substantial platform penetration; (4) data availability, sufficient legal, regulatory, and academic sources exist for meaningful analysis. While these three cannot capture full diversity across twenty-two Arab League member states, they provide substantive representation of predominant legal and institutional patterns.⁵

3 David J Gerber, 'Sculpting the Agenda of Comparative Law: Ernst Rabel and the Façade of Language' in Annelise Riles (ed), *Rethinking the Masters of Comparative Law* (Hart Publishing 2001) 190; Ralf Michaels, 'The Functional Method of Comparative Law' in Mathias Reimann and Reinhard Zimmermann (eds), *Oxford Handbook of Comparative Law* (OUP 2006) ch 13.

4 Anu Bradford, *The Brussels Effect: How the European Union Rules the World* (OUP 2020) doi:10.1093/oso/9780190088583.001.0001.

5 Mohamad Teyseer Almohawes and Saud Rasheed Alowaidah, 'Evaluating the Effectiveness of Saudi Arabia's Merger Control Law in The Digital Economy' (2025) 24(4) *Al-Majalla Al-Qanuniyya* 1745, doi:10.21608/jlaw.2025.378829.1239; Dong-Hwan Kim and Yo Sop Choi, 'Modernization of Competition Law and Policy in Egypt' (2020) 64(1) *Journal of African Law* 107, doi:10.1017/S0021855319000342.

2.2. Comparative Legal Method

The study applies functional comparative analysis to examine how different legal systems address equivalent regulatory problems despite doctrinal variations. This acknowledges that jurisdictions may pursue similar objectives through different instruments and institutional arrangements. Comparison proceeds through: (1) Identification, mapping equivalent rules, mechanisms, and objectives across jurisdictions; (2) Explanation, analysing why jurisdictions adopt different approaches by examining historical development, legal traditions, structures, and underlying theories; (3) Evaluation, assessing comparative effectiveness based on regulatory certainty, enforcement speed, deterrence, technological adaptability, and alignment with policy objectives. This methodology emphasises analytical synthesis over description, identifying convergences (e.g., concern with data accumulation, nascent competitor acquisitions) and persistent divergences (*ex-ante v. ex-post* orientation, market structure *v.* consumer welfare focus).

2.3. Sources and Case Selection

Primary legal sources include EU treaties (Articles 101-102 TFEU), regulations (EU Merger Regulation, DMA, DSA), CJEU jurisprudence; US statutes (Sherman Act, Clayton Act, FTC Act), federal court decisions; Arab competition laws (Egypt Law 3/2005, Saudi Royal Decree M/75/2019, UAE Federal Decree-Law 36/2023). Landmark cases were selected based on representativeness, illustrating core enforcement theories; precedential value, establishing standards for subsequent proceedings; practical impact, resulting in substantial remedies or regulatory reforms. Google Shopping demonstrates self-preferencing theory informing DMA provisions; *US v. Google* illustrates monopoly maintenance through exclusionary contracts; *FTC v. Meta* tests nascent competitor elimination theories relevant to both jurisdictions.⁶

2.4. Policy Evaluation Framework

Beyond doctrinal comparison, the study evaluates policy effectiveness across: (1) Responsiveness, ability to address emerging threats; (2) Timeliness, speed from investigation to remedy; (3) Certainty, predictability for market participants; (4) Deterrence, whether enforcement credibly discourages anticompetitive conduct; (5) Proportionality, whether remedies appropriately calibrate to harm. For Arab jurisdictions, additional criteria include institutional feasibility, alignment with administrative capacity, economic alignment, compatibility with development objectives, regional coordination, and potential for cross-border cooperation.⁷

6 Giuseppe Colangelo, 'The European Digital Markets Act and Antitrust Enforcement: A Liaison Dangereuse' (2022) 47 *European Law Review* 597, doi:10.2139/ssrn.4070310.

7 LP Barbosa and EB Luvizotto, 'Rethinking Competition Law for Digital Markets: A Comparative Institutional Analysis' (2024) 45(2) *European Competition Law Review* 75.

2.5. Limitations

The study triangulates legal sources, enforcement outcomes, and scholarship for analytical rigour. Claims about enforcement effectiveness are supported by empirical indicators where available, acknowledging data limitations, particularly for Arab jurisdictions. The temporal scope extends through January 2025; ongoing litigation may yield outcomes that alter the comparative assessment. Geographic scope acknowledges that while Egypt, Saudi Arabia, and the UAE provide meaningful representation, they cannot capture the full diversity of Arab contexts, which vary in legal traditions, capacities, and market conditions. The study addresses conceptual transplant challenges; legal rules may function differently in new institutional and cultural contexts, requiring careful adaptation rather than wholesale adoption.

3 THEORETICAL FOUNDATIONS AND DIGITAL MARKET CHALLENGES

The evolution of competition law reflects ongoing debates about proper objectives and guiding economic theories. These debates have intensified with the rise of digital platforms, as traditional analytical frameworks struggle to account for market dynamics characterised by network effects, multi-sided platforms, and data-driven competitive advantages.

3.1. Objectives of Competition Law

The US competition framework has centred on the consumer welfare standard emerging from Chicago School influence beginning in the 1970s. Supreme Court decisions, including *Reiter v. Sonotone Corp.* (1979) and *Brooke Group v. Brown & Williamson Tobacco* (1993), established economic efficiency and consumer price effects as primary concerns. This approach requires evidence that challenged conduct results in higher prices, reduced output, or diminished innovation as measured by consumer surplus. Critics argue this narrow focus has proven inadequate for addressing competitive concerns in digital markets where services are often zero-priced, network effects create winner-take-all dynamics, and harm may manifest as reduced privacy, diminished innovation, or foreclosed market entry rather than immediate price effects.⁸

8 Robert H Bork, *The Antitrust Paradox: A Policy at War with Itself* (Basic Books 2021); Richard A Posner, *Antitrust Law: An Economic Perspective* (University of Chicago Press 1976); Khan (n 1); Tim Wu, *The Curse of Bigness: Antitrust in the New Gilded Age* (Columbia Global Reports 2018). See also, *Reiter v Sonotone Corp* (US Supreme Court, 11 June 1979) 442 US 330 <<https://supreme.justia.com/cases/federal/us/442/330/>> accessed 13 November 2025.

This critique aligns with broader calls in contemporary US antitrust scholarship to move beyond a narrow consumer-welfare paradigm and restore competition law's role in protecting competitive market structures, entry opportunities, and the broader process of rivalry.⁹

The EU framework is rooted in ordoliberal economic theory, emphasising competitive market structures and preventing the concentration of private power that threatens economic freedom. Treaty provisions reflect broader social and political objectives beyond economic efficiency, including protecting SMEs, ensuring market access for new entrants, and maintaining competitive processes themselves. CJEU jurisprudence, particularly *Intel Corp v European Commission*, clarifies that Article 102 TFEU prohibits conduct that hinders competition on the merits by foreclosing competitors from markets regardless of direct consumer price effects. This structural approach treats fair competition as both instrumental to consumer welfare and an intrinsic policy objective worthy of protection.¹⁰

3.2. Digital Market Challenges

Digital platforms fundamentally challenge traditional competition analysis through their multi-sided nature, serving as intermediaries connecting distinct user groups. Digital platforms do not merely participate in digital markets; they may also operate as private gatekeepers controlling access to online spaces, data flows, and informational resources, thereby shaping the conditions under which users, businesses, researchers, and competitors interact within digital environments.¹¹

Platforms create value by facilitating interactions between sides, merchants and consumers on Amazon, advertisers and users on Google, developers, and consumers on app stores. This creates indirect network effects in which the value to each side increases with participation on the other side but may involve cross-subsidisation, making one side free while monetising the others. Traditional analysis focusing on single-sided markets and direct price effects struggles to capture these complex dynamics.¹²

The accumulation of vast datasets has emerged as a competitive advantage, creating 'data-driven dominance.' The strategic importance of data is not limited to competition concerns within platform ecosystems; it also has broader developmental implications, particularly for

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- 9 Jonathan B Baker, *The Antitrust Paradigm: Restoring a Competitive Economy* (Harvard UP 2019).
 - 10 Pinar Akman, *The Concept of Abuse in EU Competition Law: Law and Economic Approaches* (Hart Publishing 2012); David J Gerber, *Law and Competition in Twentieth Century Europe: Protecting Prometheus* (Clarendon Press 1998).
 - 11 Thomas E Kadri, 'Digital Gatekeepers' (2021) 99 *Texas Law Review* 951.
 - 12 David S Evans, 'The Antitrust Economics of Multi-Sided Platform Markets' (2003) 20(2) *Yale Journal on Regulation* 325; Jean-Charles Rochet and Jean Tirole, 'Platform Competition in Two-Sided Markets' (2003) 1(4) *Journal of the European Economic Association* 990, doi:10.1162/154247603322493212.

countries seeking to capture value from cross-border data flows while avoiding new forms of digital dependency and inequality.¹³

Platforms collect extensive user data, enabling personalised services, targeted advertising, and algorithmic improvements. Data advantages exhibit scale effects: more users generate more data, improving services, attracting more users, and creating self-reinforcing cycles that are difficult for competitors to overcome. Data-driven dominance poses challenges because data assets are difficult to value, the competitive significance may be unclear at acquisition, and traditional market-definition tools struggle to assess data's competitive implications.

Recent scholarship highlights how the accumulation of big data can translate into market power and raise concerns about refusal to supply, discrimination, and data-driven mergers.¹⁴

Network effects represent the most significant challenge, leading to rapid market concentration and winner-take-most outcomes. However, digital market concentration should not always be understood as a simple monopoly or winner-take-all outcome. Petit's "moligopoly" thesis suggests that Big Tech firms may simultaneously enjoy monopoly-like power in certain tipped markets while facing oligopolistic rivalry across adjacent digital ecosystems. This perspective supports a more calibrated competition law analysis, focusing intervention on markets where platform power produces durable exclusion or rent extraction while preserving efficiencies generated by scale and ecosystem competition.¹⁵ Direct network effects (Facebook users valuing more connected users) and indirect effects (more app developers attracting more iPhone users) create powerful competitive advantages. Strong network effects can make markets contestable in principle but concentrated in practice, as users face significant switching costs and platforms achieve dominance that is difficult to challenge. These dynamics have prompted calls for reformed antitrust approaches recognising that traditional tools designed for static markets may inadequately address dynamic competition in digital ecosystems. The comparative analysis that follows examines how EU and US jurisdictions have responded to these challenges through their respective regulatory frameworks.¹⁶

13 UNCTAD, *Digital Economy Report 2021: Cross-Border Data Flows and Development: For Whom the Data Flow* (UN 2021).

14 Richa Jain, 'Big Data and Competition Law: Navigating Trade Practices in the Digital Age' (2025) 4(1) *Journal of Law, Market & Innovation* 63, doi:10.13135/2785-7867/11803.

15 Nicolas Petit, *Big Tech and the Digital Economy: The Moligopoly Scenario* (OUP 2020).

16 Michael L Katz and Carl Shapiro, 'Network Externalities, Competition, and Compatibility' (1985) 75(3) *American Economic Review* 424.

4 THE EUROPEAN UNION APPROACH

The European Union has developed a comprehensive regulatory architecture to address digital competition challenges, building on traditional competition law enforcement (Articles 101-102 TFEU, EU Merger Regulation) while innovating through ex-ante regulatory frameworks (DMA, DSA). This dual approach reflects the EU's assessment that traditional ex-post enforcement alone cannot adequately address structural competition problems in digital markets. This trajectory has been framed within broader EU digital-market priorities and the need to adapt competition tools to digital ecosystems.¹⁷

4.1. Traditional Competition Law Framework

Articles 101 and 102 TFEU form the foundation of EU competition law. Article 101 prohibits agreements that prevent, restrict, or distort competition within the internal market. Article 102 prohibits abuse of dominant position. Applying these provisions to digital markets has required significant adaptation.¹⁸ German reform debates anticipated this adaptive trajectory. Schweitzer and others argued that digital platform markets require a more flexible assessment of dominance, recognition of intermediation power, and earlier intervention where practices such as obstructing multi-homing or switching create a dangerous probability of market tipping. They also emphasised that access to competitively relevant data should inform the assessment of market power and potential abuse in digital ecosystems.¹⁹ The CJEU's landmark decision in *Intel Corp. v. European Commission* has been particularly influential, clarifying that anticompetitive effects cannot be presumed solely from the form of conduct, and requiring more nuanced economic analysis that considers market characteristics and the specific context.²⁰ This approach has been applied in subsequent digital market cases, in which the Commission has employed sophisticated economic analysis while maintaining its structural concerns.

Foreclosure constitutes abuse regardless of evidence of concrete effects on consumers, rejecting requirements for detailed as-efficient-competitor tests in all exclusivity cases. This establishes that Article 102 protects market structure and competitive process, not merely end-consumer prices.

The EU Merger Regulation provides a control framework for concentrations significantly impeding effective competition. However, traditional turnover-based jurisdictional thresholds failed to capture nascent competitor acquisitions (Facebook/WhatsApp,

17 Lucia Irinescu, 'New Challenges in the Digital Age: Competition Policy' (2019) 65(suppl) *Analele Stiintifice Ale Universitatii Alexandru Ioan Cuza Din Iasi Stiinte Juridice* 49.

18 Richard Whish and David Bailey, *Competition Law* (10th edn, OUP 2021).

19 Heike Schweitzer and others, 'Modernising the Law on Abuse of Market Power: Report for the Federal Ministry for Economic Affairs and Energy (Germany)' [2018] SSRN, doi:10.2139/ssrn.3250742

20 Case C-413/14 *Intel Corp v European Commission* (CJEU, 6 September 2017) EU:C:2017:632 <<https://eur-lex.europa.eu/legal-content/EN/ALL/?uri=CELEX:62014CJ0413>> accessed 13 November 2025.

Google/DoubleClick) where target firms had low revenues but high strategic value. The Commission has responded through revised guidance emphasising innovation theories of harm and attempted referrals under Article 22 EUMR to review below-threshold transactions. High-profile cases, including Facebook/WhatsApp, Microsoft/LinkedIn, and Google/Fitbit, demonstrate evolving enforcement efforts that address data accumulation, ecosystem foreclosure, and innovation concerns beyond traditional market share analysis.

4.2. Digital Markets Act: Ex-ante Framework

The Digital Markets Act, which came into force in November 2022, represents a paradigmatic shift toward proactive ex-ante regulation.²¹ It designates 'gatekeepers', platforms meeting quantitative thresholds (€7.5bn annual EEA turnover or €75bn market capitalisation, providing core platform services in at least three Member States, with 45mn monthly end users and 10,000 annual business users) and qualitative criteria (entrenched durable position, significant impact on internal market, intermediation role).

This ex-ante model is supported by economic scholarship arguing that the traditional competition law sequence of market definition, market-power assessment, and remedy design is often too slow and information-intensive for digital markets, making threshold-based gatekeeper designation and quasi-automatic obligations more suitable for large platform ecosystems.²²

The DMA imposes prohibitions and positive obligations. Key prohibitions include restrictions on self-preferencing (favouring the gatekeeper's own services), limitations on combining data across services without consent, and prohibitions on requiring app developers to use the gatekeeper's payment systems. Positive obligations include data portability requirements, interoperability mandates, and obligations to provide business users with access to data generated through their activities.

The DMA's relevance is even more pronounced where gatekeepers rely on artificial intelligence and data-driven ranking systems. Its obligations regarding data access, transparency, and fair treatment may constrain gatekeepers' use of AI training data while enabling business users to obtain access to the data necessary to develop competing AI-based services. Moreover, the prohibition of self-preferencing and the requirement of fair ranking under the DMA extend competition concerns beyond traditional market foreclosure to algorithmic visibility, explainability, and non-discrimination in platform-mediated markets.²³

21 Regulation (EU) 2022/1925 (n 2) arts 3, 5-7.

22 Luís Cabral and others, *The EU Digital Markets Act: A Report from a Panel of Economic Experts* (Publications Office of the EU 2021) doi:10.2760/139337.

23 Philipp Hacker, Johann Cordes and Janina Rochon, 'Regulating Gatekeeper AI and Data: Transparency, Access, and Fairness under the Digital Markets Act, the General Data Protection Regulation and beyond' (2024) 15(1) *European Journal of Risk Regulation* 49, doi:10.1017/err.2023.81.

Enforcement is conducted by the Commission, which is empowered to conduct investigations, impose fines of up to 10% of worldwide turnover (20% for repeated infringements), and adopt structural remedies for systematic non-compliance. Initial designations in September 2023 identified six gatekeepers (Alphabet, Amazon, Apple, ByteDance, Meta, Microsoft) operating twenty-two core platform services.²⁴

The DMA also affects the relationship between ex-ante platform regulation and the traditional enforcement of Articles 101 and 102 TFEU, particularly because it may create overlaps between sector-specific obligations and general competition law proceedings. This interaction raises questions about whether the DMA merely complements traditional EU competition law or gradually reshapes the role of EU competition law in digital markets.²⁵

4.3. Digital Services Act: Platform Accountability

The Digital Services Act, applicable from February 2024, complements the DMA by establishing comprehensive platform accountability frameworks.²⁶ It creates tiered obligations based on platform size and role. Very Large Online Platforms (VLOPs) and Very Large Online Search Engines (VLOSEs) exceeding 45million monthly active users face stringent requirements, including systemic risk assessments, independent audits, transparency reporting, and measures to address illegal content and disinformation. The DSA's enforcement framework involves coordination between national authorities and the Commission, with the Commission directly supervising VLOPs/VLOSEs. Though primarily focused on content moderation and user protection, the DSA intersects with competition policy through transparency requirements and restrictions on dark patterns that may affect market contestability.

4.4. Landmark Cases: Enforcement in Action

The Commission's Google Search (Shopping) decision (2017) established important precedents for addressing self-preferencing. The Commission found that Google systematically favoured its comparison shopping service in search results while demoting rivals, thereby constituting an abuse of dominance in general search services to leverage an advantage in comparison shopping. Google argued its conduct represented product improvement and competition on the merits. The Commission rejected these arguments, concluding that algorithmic preference for Google's own services harmed rival comparison

24 'Digital Markets Act: Commission Designates Six Gatekeepers: Press Release' (*European Commission*, 6 September 2023) <https://ec.europa.eu/commission/presscorner/detail/en/ip_23_4328> accessed 13 November 2025.

25 Arianna Andreangeli, 'The Digital Markets Act and the Enforcement of EU Competition Law: Some Implications for the Application of Articles 101 and 102 TFEU in Digital Markets' (2022) 43(11) *European Competition Law Review* 496.

26 Regulation (EU) 2022/2065 (n 2).

shopping services, denied consumers genuine choice, and stifled innovation. The €2.42bn fine and behavioural remedy requiring equal treatment principles significantly influenced subsequent enforcement and informed DMA self-preferencing prohibitions.²⁷

Microsoft investigations exemplify sustained enforcement regarding interoperability and ecosystem foreclosure. Building on historical interventions, current investigations address cloud service interoperability and licensing practices that may be foreclosing competition. The approach reflects evolving understanding of digital ecosystems and interoperability requirements essential for market contestability.

Apple Apps Store investigations exemplify challenges of regulating platform ecosystems and the power of gatekeepers. The Apple Music case addresses restrictions on music streaming apps' ability to inform users about alternative subscription options, examining whether Apple's 30% commission and anti-steering provisions constitute abuse. Investigations into contactless payment restrictions focus on whether limiting NFC access to Apple Pay forecloses competition. These cases informed DMA provisions on app store practices, payment system requirements, and interoperability obligations, demonstrating how traditional enforcement identifies problems subsequently addressed through ex-ante rules.

5 THE UNITED STATES APPROACH

The United States antitrust framework represents the world's oldest competition law system. However, applying traditional legal standards to digital platforms has proven challenging, prompting debates about whether existing statutes remain adequate or require reform or reinterpretation.²⁸

5.1. Traditional Legal Framework

The Sherman Act (1890) serves as a cornerstone of US competition law. Section 1 prohibits contracts, combinations, or conspiracies restraining trade. Section 2 prohibits monopolisation, attempts to monopolise, and conspiracies to monopolise. Courts apply rule of reason analysis to most restraints, requiring detailed examination of competitive effects, though per se rules apply to hardcore cartels. Section 2 requires proof of monopoly power and exclusionary conduct, that is, conduct that harms competition rather than merely competitors.

27 Case C-48/22 P *Google LLC and Alphabet Inc v European Commission* (CJEU, 10 September 2024) EU:C:2024:726 <<https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=celex:62022CJ0048>> accessed 13 November 2025. See also, Elias Deutscher, 'Google Shopping and the Quest for a Legal Test for Self-Preferencing under Article 102 TFEU' (2021) 6(3) *European Papers* 1345, doi:10.15166/2499-8249/528.

28 Herbert Hovenkamp, *Federal Antitrust Policy: The Law of Competition and Its Practice* (West Academic Press 2024).

United States v. Microsoft Corp. (2001) established important precedents for applying the monopolisation doctrine to technology markets. The D.C. Circuit held that Microsoft's tying Internet Explorer to Windows and its exclusionary agreements with computer manufacturers violated Section 2, rejecting arguments that software design choices fall outside antitrust scrutiny. Recent digital platform cases have tested the boundaries of Section 2. The Epic Games v. Apple litigation exemplifies the challenges of applying the monopolisation doctrine to app store ecosystems, with courts grappling with relevant market definition and whether Apple's restrictions constitute exclusionary conduct or legitimate platform management.²⁹

The Clayton Act (1914) addresses specific practices and provides the primary merger control framework. Section 7 prohibits acquisitions that lessen competition or tend to create a monopoly. Enforcement agencies have developed theories addressing digital platform mergers, including nascent competitor elimination and ecosystem foreclosure. Economic scholarship on BigTech mergers similarly emphasises that acquisitions of potential competitors in digital markets may entrench incumbent platforms and raise serious concerns for merger control, particularly where startups could otherwise develop into future competitive constraints.³⁰

Recent enforcement reflects heightened scrutiny: the FTC's challenge to Meta's acquisition of Within Unlimited, though ultimately unsuccessful, signalled a willingness to contest vertical mergers in digital markets. The withdrawn challenge to Nvidia's ARM acquisition demonstrated the limits of aggressive merger enforcement when faced with complex technical markets and international dimensions.

The Federal Trade Commission Act established the FTC with authority to challenge 'unfair methods of competition' under Section 5, providing broader reach than the Sherman Act. FTC's use of Section 5 in digital markets has included investigations of data privacy practices, algorithmic discrimination, and platform self-preferencing, though its scope remains judicially constrained compared to the FTC's aspirational interpretations.

5.2. Philosophical Evolution

The Chicago School economics fundamentally transformed US antitrust enforcement beginning in the 1970s, establishing consumer welfare primacy as the organising principle. Courts applying this framework have required evidence that challenged conduct results in higher prices, reduced output, or diminished innovation measurable through consumer surplus. The approach prioritises economic efficiency over market-structure concerns,

29 *United States v Microsoft Corp* (US Court of Appeals for the District of Columbia Circuit, 28 June 2001) 253 F 3d 34 <<https://law.justia.com/cases/federal/appellate-courts/F3/253/34/576095/>> accessed 13 November 2025.

30 Massimo Motta and Martin Peitz, 'Big Tech Mergers' (2021) 54 *Information Economics and Policy* 100868, doi:10.1016/j.infoecopol.2020.100868.

expresses scepticism about government intervention in dynamic markets and favours behavioural remedies over structural ones.

The neo-Brandeisian movement, named for Justice Louis Brandeis, advocates returning to broader antitrust objectives rather than a narrowly defined consumer welfare. This neo-Brandeisian critique has also revived interest in structural separation as a remedy for conflicts of interest that arise when dominant platforms both operate essential digital infrastructure and compete with the businesses that depend on it.³¹

Proponents argue that concentrated economic power threatens democratic governance, worker welfare, and small business vitality regardless of immediate consumer price effects. The Stigler Center's Market Structure and Antitrust Subcommittee similarly emphasised that digital platform markets are unlikely to self-correct rapidly once dominance becomes entrenched, given the combined effects of network effects, data advantages, behavioural biases, and strategic exclusionary conduct. The report therefore called for stronger antitrust enforcement and, where necessary, complementary institutional reforms such as a specialist digital authority to lower entry barriers and preserve competition in platform markets.³² The movement's influence has been evident in digital platform enforcement under the Biden administration, with FTC Chair Lina Khan and Assistant Attorney General Jonathan Kanter pursuing more aggressive theories and challenging long-standing precedents.³³

5.3. Major Digital Platform Cases

The DOJ's case against Google, filed in October 2020, represents the most significant monopolisation prosecution since *United States v. Microsoft*. The complaint alleges that Google unlawfully maintains search engine and search advertising monopolies through exclusionary agreements, particularly payments to Apple and other partners that secure default search placement. The case emphasises that these arrangements create barriers that prevent rivals from achieving the scale necessary to compete effectively. Google defended its position on product quality, arguing that users choose Google for its superior search results and that default placements are easily changeable. Trial proceedings in late 2023 revealed extensive evidence about Google's market strategy and competitive dynamics. Judge Mehta's August 2024 ruling found Google liable for maintaining a monopoly through anticompetitive default agreements, though remedy proceedings remain ongoing.³⁴

31 Lina M Khan, 'The Separation of Platforms and Commerce' (2019) 119 *Columbia Law Review* 973.

32 Fiona Scott Morton and others, *Committee for the Study of Digital Platforms Market Structure and Antitrust Subcommittee: Report, Draft 15 May 2019* (George J Stigler Center for the Study of the Economy and the State, University of Chicago Booth School of Business 2019).

33 Marshall Steinbaum and Maurice E Stucke, 'The Effective Competition Standard: A New Standard for Antitrust' (2020) 87(2) *The University of Chicago Law Review* 595.

34 *United States v Google LLC* No 1:20-cv-03010 (US District Court, District of Columbia, 5 August 2024) <<https://www.justice.gov/atr/case/us-and-plaintiff-states-v-google-llc>> accessed 13 November 2025.

The FTC's ongoing litigation against Meta Platforms combines retrospective challenge to completed acquisitions (Instagram 2012, WhatsApp 2014) with allegations of ongoing exclusionary conduct. The FTC argues that these acquisitions eliminated nascent competitive threats, and Meta maintains dominance through policies that restrict data interoperability and condition API access on competitors forswearing competition. Meta emphasises competition from TikTok, YouTube, and emerging social media services, arguing that markets remain dynamic and competitive. The case presents novel theories about platform competition, two-sided market dynamics, and retrospective merger challenges that test the limits of FTC authority.³⁵

The FTC's case against Amazon, filed in September 2023, represents a comprehensive challenge to alleged monopolisation of online marketplace services. The complaint alleges that Amazon maintains monopoly power by punishing sellers who use competing platforms, conditioning preferential placement on the use of Amazon's fulfilment services and manipulating search results to favour Amazon's own products. Amazon defends its practices by emphasising intense retail competition, arguing that its practices benefit consumers through lower prices and improved services. The case raises novel theories about platform competition and two-sided market dynamics that may significantly influence future enforcement.³⁶

6 COMPARATIVE ANALYSIS: EU V. US

The divergent EU and US approaches reflect fundamental differences in regulatory philosophy, institutional design, and enforcement priorities. This section synthesises key convergences and divergences, evaluating comparative effectiveness across multiple dimensions.

6.1. Philosophical Divergence

The EU approach is fundamentally grounded in ordoliberal principles that prioritise market fairness, the protection of the competitive process, and the prevention of the concentration of private power. The DMA exemplifies this through an ex-ante regulatory framework that imposes obligations on gatekeepers regardless of demonstrated consumer harm, treating fair competition as both instrumental to consumer welfare and an intrinsic policy objective. This reflects broader EU regulatory philosophy emphasising precautionary intervention to maintain competitive market structures.

35 *FTC v Meta Platforms Inc* No 1:20-cv-03590 (US District Court, District of Columbia, 18 November 2025) <<https://law.justia.com/cases/federal/district-courts/district-of-columbia/dcdce/1:2020cv03590/224921/693/>> accessed 13 November 2025.

36 *FTC v Amazon.com Inc* No 2:23-cv-01495 (US District Court, Western District of Washington, 26 September 2023) <<https://www.courtlistener.com/docket/67828404/federal-trade-commission-v-amazoncom-inc/>> accessed 13 November 2025.

The US framework remains primarily oriented toward economic efficiency and consumer welfare, traditionally understood in terms of price effects. Courts require evidence that challenged conduct harms competition, manifesting as cognizable consumer injury, typically price increases, output reductions, or diminished innovation. While recent neo-Brandeisian influence has expanded enforcement theories, judicial precedent remains anchored in the consumer welfare standard, which requires demonstrable competitive harm rather than structural market characteristics.³⁷

Despite philosophical divergence, both jurisdictions increasingly recognise that traditional frameworks inadequately address competition among digital platforms. Both have adopted theories addressing data accumulation, nascent competitor elimination, and ecosystem foreclosure. Both grapple with the challenges of zero-price markets, network effects, and the difficulty of applying traditional market-definition tools. This represents meaningful convergence in problem identification even amid divergent solutions.³⁸

6.2. Enforcement Style and Mechanisms

The EU has increasingly adopted proactive regulatory approaches, most notably through the DMA. The gatekeeper designation process exemplifies this methodology, establishing quantitative thresholds and qualitative criteria triggering automatic obligations. Once designated, gatekeepers must comply with specified requirements regardless of whether conduct demonstrably harms competition. This provides regulatory certainty and enables swift intervention, but risks overinclusive regulation that captures benign conduct and reduces platform incentives for pro-competitive innovation.

The US maintains a reactive approach, relying on case-by-case litigation. Enforcement agencies must identify specific instances of anticompetitive conduct and demonstrate harm through detailed economic analysis and, often, by extensive discovery. Courts apply a structured rule-of-reason analysis, examining the conduct's actual effects on competition. This approach offers advantages regarding factual thoroughness and legal precision, allowing detailed examination of complex economic evidence and limiting intervention to demonstrably harmful conduct. However, it suffers from protracted timelines; major cases often require five to seven years from complaint to final resolution, during which challenged conduct may continue causing competitive harm.

EU enforcement has produced swift, substantial remedies, including multi-billion euro fines (Google Shopping €2.42bn, Google Android €4.34bn) and behavioural requirements. DMA provisions enable prospective compliance obligations and structural remedies for

37 Daniel A Crane, 'The New Crisis in Antitrust (?)' (2020) 83(1) *Antitrust Law Journal* 253.

38 Giorgio Monti and Alexandre Ruiz Feases, 'The Case against Google: Has the US Department of Justice Become European?' (2021) 35 *Antitrust* 26.

systematic non-compliance. US enforcement has produced more mixed results: successful cases have resulted in injunctive relief and behavioural commitments, but structural remedies remain rare, given the behavioural focus of the Microsoft consent decree. Ongoing major cases seek significant structural relief, but outcomes remain uncertain.

6.3. Comparative Effectiveness

EU proactive regulation offers advantages in enforcement speed and regulatory certainty. DMA designation creates immediate obligations with six-month compliance deadlines. Traditional enforcement also operates more swiftly than US litigation; Commission decisions typically occur within two to three years of the investigation's commencement. This enables addressing competitive concerns before market structures become irreversibly concentrated. The approach provides market participants with clearer guidance about prohibited conduct.

US litigation-based approach offers advantages in factual thoroughness and legal precision. Extensive discovery, expert testimony, and judicial fact-finding enable detailed examination of complex economic evidence. Judicial oversight provides procedural protections and limits intervention to ensure that stringent legal standards are met. This reduces the risk of regulatory overreach and Type I errors (false positives) that condemn pro-competitive conduct.

EU enforcement has generated substantial deterrence through significant fines and a credible threat of structural remedies for systematic non-compliance. DMA's ex-ante obligations create ongoing compliance requirements with monitoring and enforcement mechanisms. US enforcement deterrence has been more limited; lengthy litigation timelines reduce the immediate deterrent effect, though successful major cases may generate a precedential impact. The prospect of treble damages in private litigation provides an additional deterrent, though private plaintiffs face significant evidentiary burdens in complex digital markets.

Both approaches face challenges in adapting to rapid technological change. EU ex-ante rules risk becoming outdated as markets evolve, though DMA includes review provisions and Commission adaptability through implementing regulations. The US case-by-case approach theoretically offers greater flexibility to address novel conduct, but lengthy litigation timelines may render decisions obsolete by the time of final resolution. Both jurisdictions struggle with a fundamental challenge: competition law necessarily operates retrospectively, while digital markets evolve prospectively.

This limitation confirms that effective digital-market enforcement cannot depend on fines and cease-and-desist orders alone. Where platform markets have already tipped, competition authorities may need stronger tools, including presumptions of anticompetitiveness in limited

circumstances, restorative remedies capable of reintroducing competition, and greater attention to harms to quality and innovation rather than price alone.³⁹

6.4. Global Influence and Regulatory Convergence

Both models have generated significant global influence. The EU's DMA has inspired similar legislation in multiple jurisdictions, including the UK's Digital Markets, Competition and Consumers Act, Japan's Act on Improving Transparency and Fairness of Digital Platforms, and proposed legislation in numerous other countries. The 'Brussels Effect' operates through platforms' global compliance; obligations imposed on EU operations often extend worldwide due to technical and operational integration. US influence continues through common law precedents and technical assistance, particularly in jurisdictions with an American legal heritage. However, its influence has diminished relative to the EU's proactive regulatory model, leading to wider adoption among jurisdictions lacking established antitrust enforcement capacity.

Recent US scholarship has also treated the DMA as a blueprint for modernising American antitrust law in digital markets. Ogle argues that the United States should move beyond purely reactive litigation by adopting privacy legislation and DMA-style gatekeeper obligations, particularly when dominant platforms use personal data extraction to reinforce market power and raise barriers to entry.⁴⁰ Meaningful convergence is occurring despite divergent approaches. Both jurisdictions increasingly recognise the competitive significance of data accumulation, the nascent scrutiny of competitor acquisitions, and ecosystem foreclosure theories. Both have expanded merger enforcement in digital markets and developed theories addressing multi-sided platform dynamics. This suggests potential for harmonisation around core principles even while specific enforcement mechanisms remain distinct. For Arab jurisdictions, this convergence around problem identification while maintaining enforcement flexibility offers valuable lessons; successful regulation need not replicate either model wholesale but can adapt core insights to local contexts.

39 Damien Geradin and Dimitrios Katsifis, 'Strengthening Effective Antitrust Enforcement in Digital Platform Markets' (2022) 18(2) *European Competition Journal* 356, doi:10.1080/17441056.2021.2002589.

40 Nathan Ogle, 'The Digital Markets Act: A Blueprint for Modernizing American Antitrust Law' (2024) 26(1) *Transactions: The Tennessee Journal of Business Law* 147, doi:10.70658/4486-1457.1703.

Table 1. Digital-Competition Readiness Matrix (EU-US–Selected Arab Jurisdictions)⁴¹

Criteria	EU	US	Egypt	Saudi Arabia	UAE
Legal approach to digital markets (ex-ante / ex-post; sector-specific tools)	Strongly hybrid but increasingly ex-ante: DMA/DSA alongside Arts 101–102 TFEU enforcement.	Primarily ex-post: case-by-case enforcement under Sherman/Clayton/FTC Acts; no comprehensive economy-wide ex-ante digital regime.	Predominantly ex-post under general competition law; limited digital-specific rules; technology-neutral orientation.	Predominantly ex-post; reforms and market studies expanding attention to digital sectors, but limited platform-specific ex-ante rules.	Predominantly ex-post: Decree-Law 36/2023 is tech-neutral but applies to a 'physical or digital' relevant market and has extraterritorial reach (Art. 3).
Institutional capacity & specialised units	High: mature supranational capacity with specialised digital-market enforcement and DMA compliance monitoring.	High but litigation-dependent: strong agencies, yet resource-intensive investigations and court timelines.	Developing: capacity constraints and limited experience with complex digital/economic evidence.	Developing→moderate: institutional strengthening aligned with Vision 2030; growing use of sector studies, limited platform precedents.	Developing: newer framework; capacity-building underway; limited public digital enforcement precedents.
Investigative powers (access to data, dawn raids, digital forensics)	Strong administrative toolkit (RFIs, inspections); DMA enhances monitoring and compliance leverage.	Strong legal powers via subpoenas/discovers, but fact-finding is court-centred and time-consuming.	Powers exist in law, but practical bottlenecks remain: data access, technical expertise, and cooperation from foreign platforms.	Similar constraints: cross-border evidence and platform data access; market studies help but do not substitute for investigative access.	Jurisdictional basis strengthened by Art. 3, yet effective evidence-gathering still depends on cooperation and operational digital forensics.
Evidentiary toolkit (algorithmic evidence, data)	More developed: market studies and structured obligations	Highly developed economics + discovery, but high burdens	Emerging: limited published practice on algorithmic	Emerging: increased analytical capacity via studies; limited	Emerging: limited published practice; Decree-Law contemplates

41 Note: Readiness is assessed qualitatively using the manuscript's evaluation criteria (responsiveness, timeliness, certainty, deterrence, proportionality), and for Arab jurisdictions, institutional feasibility, and cross-border enforceability.

Criteria	EU	US	Egypt	Saudi Arabia	UAE
access, market studies)	(DMA) reduce some case-by-case proof burdens.	of proof and long litigation cycles.	evidence/data access; studies exist but depth varies.	track record on algorithmic/marketplace analytics.	access to 'physical or digital infrastructure' where refusal forecloses entry (Art. 6(1)(k)).
Remedies (interoperability, data portability, conduct/structural remedies)	Broad: large fines + behavioural remedies; DMA hardwires interoperability/data portability; structural remedies possible for systematic non-compliance.	Mostly behavioural/injunctive; structural relief historically rarer (though increasingly sought).	Mostly classic remedies (fines/behavioural); technical remedies (interop/portability/audits) not yet routinised and would require tailored guidance.	Mostly classic remedies: targeted ex-ante guardrails (interop/portability) are typically recommended rather than embedded.	Mostly classic remedies: the legal basis exists for addressing digital exclusionary conduct, but technical remedies remain limited in practice.
Transparency & publication of decisions/guidance	High relative transparency: published decisions, guidance, and DMA compliance visibility.	Moderate-high: public filings and court rulings, but outcomes can be slow and settlements vary.	Lower/fragmented: fewer detailed published digital decisions/guidance; limited reliable official statistics specific to digital enforcement.	Lower-moderate: improving institutional outputs but limited published digital precedent base.	Lower-moderate: newer framework; limited published digital precedent base to date.
Cross-border cooperation & enforcement feasibility	Strong: EU-wide architecture facilitates multi-state enforcement and consistent obligations.	Moderate: cooperation exists, but enforcement remains jurisdiction-bounded and litigation-heavy.	Challenging: reliance on foreign platforms makes cross-border evidence and execution central; cooperation mechanisms are uneven.	Challenging but improvable: regional coordination (e.g., GCC) could raise feasibility; evidence access and coordinated remedies remain constraints.	Challenging but somewhat strengthened on jurisdictional theory (Art. 3); practical feasibility still hinges on cooperation and enforceability.

7 IMPLICATIONS FOR ARAB JURISDICTIONS

EU and US experience in digital platform competition law offers useful comparative benchmarks for Arab jurisdictions, but it does not provide a ready-made model for legal transplantation.⁴²

The main obstacle is not simply a doctrinal difference; it is an institutional asymmetry: most Arab jurisdictions still rely on general competition statutes (rather than digital-market-specific ex-ante regimes), while enforcement agencies confront platform markets shaped by cross-border conduct, foreign-controlled data, and a substantial technical-evidentiary imbalance.⁴³

For this reason, the central policy question is not whether to “choose” the EU or US model in the abstract, but how to sequence legal adaptation, institutional capacity-building, and selective rulemaking to match administrative capability and market structure.⁴⁴

This caution is also consistent with broader Arab legal scholarship on digital transformation, which shows that legislative and doctrinal adaptation often outpaces institutional implementation across multiple fields of law.⁴⁵

Egypt has one of the region's more established competition law systems, centred on the Egyptian Competition Authority (ECA) and Competition Law No. 3 of 2005.⁴⁶

However, the framework should not be overstated as a fully developed digital-competition regime: its application to platform markets still depends primarily on how general competition concepts are interpreted and enforced in data-driven and multi-sided settings, rather than on a dedicated ex-ante statute comparable to the EU DMA.⁴⁷

The principal constraint is therefore institutional as much as legislative, including technical expertise, digital-market analytics, and access to platform-held information; moreover, publicly available evidence of sustained platform-specific enforcement remains more limited than reform discourse may imply.⁴⁸

42 UNCTAD, *Enforcing Competition Law in Digital Markets and Ecosystems: Policy Challenges and Options* (UNCTAD 2024).

43 Georgiana Pop and Gonçalo Coelho, *Competition Policy in Digital Markets in Africa* (World Bank Group 2024).

44 ESCWA and League of Arab States, *Arab Digital Agenda 2023–2033: Arab States Action Programme on Advancing Digital Cooperation and Development* (UN 2024).

45 Nadia Ismail Mahmoud Mohamed, 'Party Autonomy in the Age of Digital Transformation: Toward the Reshaping of Private International Law Rules: A Comparative Legal Analytical Study' (2023) 35(44) *Al-Majalla Al-Qanuniyya Al-Iqtisadiyya* 668.

46 Law of the Arab Republic of Egypt No 3 of 2005 'On the Protection of Competition and the Prohibition of Monopolistic Practices' (adopted 15 February 2005) <<https://eg.andersen.com/translation-law-3-2005/>> accessed 13 November 2025.

47 Kim and Choi (n 5).

48 Abdel Fattah Mohamed Abdel Fattah, 'Digital Transformations and their Role in Enhancing Competition Protection and Preventing Monopoly in the Egyptian Market' (2025) 16(2) *Journal of Commercial and Environmental Studies* 689, doi:10.21608/jces.2025.435069.

Recent Egyptian scholarship on digital transformation and competition protection usefully highlights the scale of these challenges, but it also reinforces the point that doctrinal modernisation alone does not close enforcement-capacity and evidence gaps. Saudi Arabia's competition framework, anchored in the 2019 Competition Law (Royal Decree No. M/75) and enforced by the General Authority for Competition (GAC), has developed a more structured institutional profile than many regional counterparts.⁴⁹

Yet a stronger formal framework should not be equated with a mature digital-competition jurisprudence: the available record suggests an evolving system in which merger-control practice has advanced more visibly than enforcement of broader digital-platform conduct, especially in cases involving complex platform economics and cross-jurisdictional effects.⁵⁰

Recent Saudi-focused scholarship is particularly valuable because it identifies not only progress but also weaknesses in regulatory clarity, institutional capacity, and cross-border coordination, precisely the factors that determine whether digital competition rules can be enforced in practice rather than merely stated in legislation.

Saudi Arabia is therefore best understood as a jurisdiction with significant regulatory momentum but incomplete operational consolidation in digital competition enforcement.⁵¹ The UAE competition regime has been substantially updated through Federal Decree-Law No. 36 of 2023, which establishes a comprehensive framework addressing anticompetitive agreements, abuse of dominance, and economic concentration. The Decree-Law is particularly relevant to digital-platform markets because it adopts a broad scope of application, including conduct outside the State that affects competition within the UAE.⁵²

At the same time, broad statutory reach does not, by itself, resolve the core implementation bottlenecks: technical capacity, access to digital evidence and data, transparency in published enforcement practice, and sustained institutional specialisation remain decisive constraints. The UAE is thus a promising but transitional case: legislatively modernised and strategically positioned, but not demonstrably equivalent to mature digital-enforcement systems in publicly evidenced practice.

49 Royal Decree of the Saudi Arabia No M/75 of 29/06/1440H 'Competition Law' (adopted 7 March 2019) <<https://www.wipo.int/wipolex/en/legislation/details/19748>> accessed 13 November 2025.

50 Almohawes and Alowaidah (n 5).

51 Annabelle Gawer and Carla Bonina, 'Digital Platforms and Development: Risks to Competition and their Regulatory Implications in Developing Countries' (2024) 34(3) *Information and Organization* 100525, doi:10.1016/j.infoandorg.2024.100525.

52 Federal Decree-Law of the United Arab Emirates No 36 of 2023 'On the Regulation of Competition' (adopted 28 September 2023) <https://www.lexismiddleeast.com/law/UnitedArabEmirates/DecreeLaw_36_2023/en> accessed 13 November 2025.

7.1. Common Challenges

Developing countries face significant challenges in building institutional and technical capacity for digital market governance. The complexity of digital markets requires competition authorities with specialised expertise in data analytics, algorithmic systems, multi-sided platforms, and network effects, capabilities that go beyond traditional competition law. Many Arab competition authorities lack sufficient economists, data scientists, and technology specialists. Rapid changes in the digital market require authorities to continually update their understanding, but budget constraints limit training, technical assistance, and the hiring of specialised personnel.

Firm-level evidence from Jordan, Morocco, and Egypt confirms that digital market development in Arab jurisdictions depends not only on the design of competition law but also on the broader conditions that enable firms to participate effectively in e-commerce. These conditions include broadband access, digital payment infrastructure, firm capabilities, workers' skills, and enterprises' ability to use online platforms for production, trade, and innovation.⁵³

Arab markets are characterised by heavy reliance on foreign digital platforms, with limited competitive domestic alternatives in key sectors: search (Google dominance), social media (Meta dominance), e-commerce (Amazon's increasing presence), and mobile operating systems (Apple/Google duopoly).

Foreign platform dominance creates difficult trade-offs: governments may face pressure not to aggressively regulate platforms providing valuable services to citizens and businesses. However, excessive deference risks entrenching foreign platforms' dominance, limiting opportunities for domestic innovation, and creating dependence on foreign technology infrastructure. Platforms' lack of physical presence and limited local revenue generation complicate enforcement; authorities struggle to obtain information, secure compliance, and collect fines from entities operating primarily outside territorial jurisdiction.

Egypt's experience illustrates that digital market competition in Arab jurisdictions is shaped not only by the conduct of dominant foreign platforms but also by domestic enabling conditions such as ICT infrastructure, logistics, payment security, consumer trust, legal certainty, human capital, and innovation capacity. These factors are central to local e-commerce firms' ability to compete effectively and reduce dependence on large external platforms.⁵⁴

53 Nong Zhu and Xubei Luo, *Digitalization and Firm Performance in the Middle East and North Africa: Case Studies of Jordan, Morocco, and Egypt* (Working Paper no 1637, Economic Research Forum 2023).

54 Esam El Gohary, 'The Reality of E-Commerce in Egypt and Its Role in Enhancing Companies' Competitiveness' (International Conference on e-Democracy, e-Government and e-SocietyAt, Paris, 24-25 January 2019).

The fragmented nature of Arab digital markets, with limited regional integration, creates challenges in addressing competition concerns that transcend national borders. Platforms operating across multiple Arab jurisdictions may engage in conduct that affects regional markets, but individual national authorities lack the jurisdiction or resources to intervene comprehensively. Limited cooperation among Arab competition authorities impedes coordinated enforcement and creates opportunities for platforms to exploit regulatory arbitrage. The absence of a regional competition framework comparable to the EU's supranational system means Arab jurisdictions cannot leverage collective market size and regulatory capacity.

7.2. Policy Recommendations

Arab jurisdictions should adopt hybrid approaches that combine elements of the EU and US models while addressing specific regional challenges. Full EU-style ex-ante regulation may exceed current institutional capacity and risk overregulating markets that are still developing. Pure US-style litigation may prove too slow and resource-intensive given limited technical capacity and foreign platforms' ability to delay proceedings.

Recommended hybrid framework includes: (1) Targeted ex-ante rules for specific high-risk practices: Rather than comprehensive DMA-style regulation, adopt focused rules addressing particularly problematic conduct, self-preferencing by dominant platforms, data combination restrictions, basic interoperability requirements for messaging and social media, merchant parity clauses restricting pricing flexibility. These requirements should have clear, objective triggers (market share thresholds, user numbers) and straightforward compliance requirements, minimising enforcement resource demands. (2) Case-based enforcement foundation: Maintain traditional case-by-case enforcement as the primary mechanism, allowing detailed examination of specific conduct in the Arab market context. This preserves flexibility and limits intervention to demonstrably harmful practices. Streamline procedures, recognise resource constraints, adopt abbreviated timelines for digital market cases, develop standardised analytical frameworks to reduce the investigation burden, and enable provisional measures to prevent irreversible harm during lengthy proceedings. (3) Merger notification thresholds addressing nascent competitors: Adopt transaction value-based thresholds capturing high-value acquisitions of low-revenue startups. Germany and Austria have implemented such thresholds, providing valuable precedents. This enables the review of acquisitions that would fall outside traditional turnover thresholds but pose competitive concerns.

Regional coordination is essential for the effective implementation of ex-ante rules, as platforms operating across multiple Arab jurisdictions could otherwise exploit regulatory arbitrage. Recommendations include: (1) establishing an Arab Competition Network modelled on the European Competition Network, facilitating information sharing, coordinated enforcement, and technical cooperation. The Gulf Cooperation Council

provides a particularly promising framework for enhanced cooperation among Gulf states, building on existing economic integration and shared legal systems. (2) Developing regional guidelines for digital market analysis, creating shared analytical frameworks and enforcement priorities, reducing inconsistent approaches, and providing platforms with greater regulatory certainty. (3) Implementing capacity-building initiatives that help smaller Arab jurisdictions develop expertise through knowledge sharing, joint training programs, and technical assistance from more advanced authorities. (4) Pursuing mutual recognition of enforcement decisions where jurisdictions have sufficiently similar legal standards and procedural protections, enabling coordinated action against regional competition concerns.

Arab jurisdictions must carefully balance competition policy with broader economic development goals, recognising that digital market regulation impacts innovation ecosystems, foreign investment, and economic diversification. Recommendations include: (1) Coordinating closely with economic development agencies, innovation support programs, and digital transformation initiatives, ensuring competition policy supports rather than undermines development objectives. (2) Considering differential treatment for domestic platforms in nascent development stages, while avoiding protectionism harming consumers, limited safe harbours or graduated enforcement could enable domestic platforms to achieve the scale necessary for regional competition. (3) Emphasising promoting competitive entry and expansion over punishing incumbent success, focus enforcement on conduct genuinely foreclosing competition rather than advantages legitimately earned through innovation and investment. (4) Engaging with international platform companies constructively, seeking commitments on local investment, data localisation (where justified by legitimate policy objectives), and market access for local businesses as an alternative or complement to adversarial enforcement.

8 CONCLUSION

This comparative analysis has examined EU and US approaches to digital platform competition, identifying fundamental divergences in regulatory philosophy, enforcement mechanisms, and practical effectiveness. The findings provide valuable insights for Arab jurisdictions seeking to develop context-appropriate regulatory frameworks that address digital market challenges while supporting economic development objectives.

The EU approach represents a paradigmatic shift toward proactive ex-ante regulation, prioritising market-structure fairness, and the protection of competitive processes. Through the Digital Markets Act, Digital Services Act, and vigorous traditional enforcement, the EU has established a comprehensive architecture for digital platform governance. This approach reflects ordoliberal principles, viewing competitive market structures as both instrumental to consumer welfare and intrinsically valuable policy objectives. Key strengths include regulatory certainty through clear ex-ante obligations; swift intervention through

gatekeeper designation and streamlined procedures; substantial deterrence through significant fines and credible threats of structural remedies; and global influence through the Brussels Effect, which inspires similar legislation internationally.

However, the EU approach presents risks including potential overregulation that captures benign conduct; reduced innovation incentives from extensive ex-ante obligations; limited flexibility in rapidly evolving markets; and implementation challenges ensuring effective monitoring and compliance. The success of EU regulation will depend on whether the benefits of increased competition and innovation outweigh the costs of regulatory burden and potential chilling effects on platform investment.

The US approach maintains a reactive, case-by-case litigation model emphasising detailed factual analysis, economic evidence, and judicial oversight. Grounded in consumer welfare standards and Chicago School economics, US enforcement requires demonstrating that the challenged conduct causes cognizable competitive harm that manifests as consumer injury. Key strengths include factual thoroughness through extensive discovery and expert testimony; legal precision through judicial oversight and structured analysis; flexibility addressing novel conduct in dynamic markets; and limiting intervention to demonstrably harmful practices, reducing Type I error risks.

However, the US approach suffers from protracted litigation timelines (five to seven years) that delay intervention; uncertain outcomes that create limited deterrence during extended proceedings; high resource requirements for complex economic analysis; and potential underenforcement due to demanding evidentiary standards. Recent neo-Brandeisian influence has begun to challenge the narrow consumer-welfare focus, with major ongoing cases (*US v. Google*, *FTC v. Meta*, *FTC v. Amazon*) that could reshape US antitrust doctrine. However, even with more aggressive enforcement leadership, fundamental structural features, a litigation-based approach, and demanding legal standards, judicial conservatism regarding intervention will persist.

Despite philosophical and procedural divergences, meaningful convergence is occurring around core competition concerns: both jurisdictions increasingly recognise the competitive significance of data accumulation; both scrutinise nascent competitor acquisitions; both develop theories addressing ecosystem foreclosure and multi-sided platform dynamics; both grapple with challenges in applying traditional tools to zero-price markets with network effects. This convergence in problem identification, while maintaining distinct enforcement approaches, suggests that multiple regulatory paths can address competition between digital platforms, with the optimal approach depending on institutional capacity, legal traditions, and policy priorities.

For Arab jurisdictions, neither the EU nor the US model provides a directly transplantable template. Arab markets present distinctive challenges: heavy reliance on foreign platforms, limited domestic alternatives, emerging institutional capacity, fragmented regional markets, and the imperative to balance competition with

development objectives. Direct EU model adoption risks regulatory overreach given capacity constraints and could deter platform investment in developing markets. Pure US-style litigation may prove too slow and resource-intensive given technical capacity limitations and platforms' ability to delay proceedings.

The recommended hybrid approach combines elements from both models: (1) Targeted ex-ante rules addressing specific high-risk practices (self-preferencing, data combination, basic interoperability) with clear objective triggers minimizing enforcement burden; (2) Case-based enforcement foundation maintaining flexibility through traditional investigation and adjudication while streamlining procedures recognizing resource constraints; (3) Transaction value-based merger thresholds capturing nascent competitor acquisitions; (4) Regional cooperation through Arab Competition Network enabling coordinated enforcement and capacity building; (5) Development-sensitive implementation balancing competition objectives with innovation promotion and economic diversification goals.

Successful implementation requires sustained institutional investment. Arab jurisdictions must prioritise: developing technical expertise in digital markets through specialised training and expert recruitment; establishing regional cooperation mechanisms for information sharing and coordinated enforcement; building relationships with international enforcement agencies for technical assistance and best practice exchange; engaging constructively with platforms seeking commitments on local investment and market access; and integrating competition policy with broader economic strategies, ensuring regulatory coherence.

8.1. Future Research Directions

This comparative analysis opens several avenues for future research. First, as major US cases reach conclusions and the EU's DMA implementation matures, empirical assessment of comparative effectiveness will become possible, examining whether EU ex-ante regulation successfully promotes competition and innovation compared to the US ex-post approach, and analysing compliance burdens, innovation impacts, and consumer welfare effects across jurisdictions.

Second, the emergence of artificial intelligence as a central competitive factor requires examination. The integration of AI systems into platform operations raises concerns about algorithmic collusion, discriminatory pricing, and opacity in decision-making. How competition frameworks should address AI-driven competition and whether existing tools remain adequate require careful analysis.

Third, the growth of cross-border e-commerce and the integration of digital trade create opportunities and challenges for Arab competition policy. Regional digital trade agreements and e-commerce frameworks should include competition provisions that ensure competitive markets and prevent platform abuse. How Arab jurisdictions can effectively coordinate digital market regulation across borders requires sustained attention.

Fourth, the relationship between competition policy and other regulatory objectives, data privacy, content moderation, and cybersecurity require integrated analysis. Digital platform regulation increasingly involves multiple policy domains intersecting in complex ways. How jurisdictions can coherently address these overlapping concerns without creating contradictory or duplicative requirements merits further examination.

Finally, developing country perspectives on digital platform regulation require greater scholarly attention. Most comparative analysis focuses on advanced economies' approaches. How developing jurisdictions can effectively regulate dominant foreign platforms, given capacity constraints, and dependence on foreign technology infrastructure, warrants systematic investigation.

Digital platform competition presents unprecedented challenges for competition law, requiring frameworks that can address novel market dynamics while remaining faithful to core competition principles. The EU and US have developed distinct but increasingly converging approaches, each offering valuable lessons for other jurisdictions. Neither model provides a universal solution; effective regulation must adapt to specific institutional, economic, and legal contexts.

For Arab jurisdictions, the path forward involves creative adaptation rather than wholesale adoption of foreign models. By combining targeted ex-ante rules with flexible, case-based enforcement, emphasising regional cooperation, building institutional capacity, and balancing competition with development objectives, Arab jurisdictions can develop effective frameworks that promote competitive, innovative, and inclusive digital economies. Success will require sustained commitment to institutional development, regional coordination, and international engagement, challenging undertakings, but essential to ensure that digital markets serve Arab economies and societies effectively in the coming decades.

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АНОТАЦІЯ УКРАЇНСЬКОЮ МОВОЮ

Дослідницька стаття

ПРАВИЛА КОНКУРЕНЦІЇ В ЦИФРОВУ ЕПОХУ: ПОРІВНЯЛЬНЕ ДОСЛІДЖЕННЯ ПІДХОДІВ ЄС ТА США ТА ЇХНЬОГО ВПЛИВУ НА АРАБСЬКІ ПРАВОВІ СИСТЕМИ

Наджла Флаїх*, Мохаммед Хассон Алі, Абдулазіз Альхассан та Ахмад Фадлі

АНОТАЦІЯ

Вступ. Цифрова революція докорінно змінила світовий економічний ландшафт, призвівши до появи провідних технологічних платформ, таких як Google, Amazon, Meta, Apple та Microsoft. Ці суб'єкти функціонують як «цифрові гейткіпери» у взаємопов'язаних екосистемах, що охоплюють пошук, соціальні мережі, електронну комерцію, хмарні обчислення та мобільні застосунки. Їхній масштаб та контроль над потоками даних створили нові форми ринкової влади, які кидають виклик традиційним антимонопольним парадигмам. Традиційне конкурентне право, розроблене в промисловій економіці, намагається врахувати динаміку багатосторонніх ринків, мережеві ефекти та домінування, засноване на даних, що характеризують цифрову епоху. Це дослідження має на меті проаналізувати, як Європейський Союз та Сполучені Штати відреагували на ці виклики, та отримати досвід для арабських юрисдикцій, які прагнуть створити контекстно-чутливі регуляторні моделі.

Методи. У дослідженні використовується доктринальний та порівняльно-правовий аналіз, доповнений оцінкою політики. У ньому розглядаються такі законодавчі бази, як Закон ЄС про цифрові ринки (DMA) та Закон про цифрові послуги (DSA), а також антимонопольне законодавство США, Закон Шермана, Закон Клейтона та Закон про Федеральну торгову комісію (FTC). Для ілюстрації практичного застосування цих баз аналізуються знакові справи щодо правозастосування, зокрема *Google Shopping*, *United States v. Google LLC*, *FTC v. Meta Platforms* та *FTC v. Amazon*. Порівняльний аналіз використовується для оцінки того, як регуляторні філософії *ex-ante* та *ex-post* впливають на результати правозастосування. Для арабських юрисдикцій (Єгипет, Саудівська Аравія та ОАЕ) дослідження містить інституційний та політичний аналіз з метою оцінки обмежень потужностей та механізмів регіональної координації.

Результати та висновки. Результати дослідження виявляють фундаментальні відмінності між підходами ЄС та США. Регулювання *ex-ante* ЄС забезпечує швидкість, передбачуваність та структурне втручання, але може нести ризик надмірного впливу та стимулювати інновації. Підхід *ex-post* США забезпечує аналітичну ретельність та судові гарантії, але часто відстає від темпів розвитку цифрового ринку. Для арабських юрисдикцій ключовими проблемами є обмежені можливості правозастосування, залежність від іноземних платформ та фрагментоване регіональне управління. У дослідженні пропонується гібридна регуляторна база, яка інтегрує проактивні правила *ex-ante*, засновані на положеннях DMA, з гнучким *ex-post* правозастосуванням, адаптованим до місцевих умов. Регіональна гармонізація через Раду співробітництва арабських держав Перської затоки (GCC) та Лігу арабських держав підкреслюється як важлива для транскордонної ефективності. У дослідженні було зроблено висновок, що збалансування ринкової конкурентності, інновацій та регіональної інтеграції вимагає регулювання, чутливого до потужностей, яке поєднує проактивний нагляд із правозастосуванням на основі доказів.

Ключові слова. Конкурентне право; цифрові платформи; цифрове антимонопольне законодавство; платформи-гейткіпери; Закон про цифрові ринки (DMA); регулювання *ex-ante*; порівняльне конкурентне право; арабські юрисдикції.

ABSTRACT IN ARABIC*

مقال بحثي

قواعد المنافسة في العصر الرقمي: دراسة مقارنة بين نهج الاتحاد الأوروبي والولايات المتحدة وتأثيرها على الأنظمة القانونية العربية.

نجلاء فليح*، محمد حسون علي، عبد العزيز الحسن، أحمد فضلي

الملخص

الخلفية:

أحدثت الثورة الرقمية تغييرًا جذريًا في المشهد الاقتصادي العالمي، مما أدى إلى ظهور منصات تكنولوجية مهيمنة مثل جوجل، وأمازون، وميتا، وأبل، ومايكروسوفت. تعمل هذه الكيانات كحراس بوابة رقمية عبر أنظمة بيئية مترابطة تشمل البحث، ووسائل التواصل الاجتماعي، والتجارة الإلكترونية، والحوسبة السحابية، وتطبيقات الهاتف المحمول. وقد أدى حجم هذه الكيانات وسيطرتها على تدفقات البيانات إلى خلق أشكال جديدة من القوة السوقية تتحدى نماذج مكافحة الاحتكار التقليدية. ويواجه قانون المنافسة التقليدي، الذي نشأ في الاقتصاد الصناعي، صعوبة في معالجة ديناميكيات الأسواق متعددة الأطراف، وتأثيرات الشبكة، والهيمنة القائمة على البيانات التي تميز العصر الرقمي. يسعى هذا البحث إلى تحليل كيفية استجابة الاتحاد الأوروبي والولايات المتحدة لهذه التحديات، واستخلاص رؤى قيمة للأنظمة القانونية العربية الساعية إلى وضع نماذج تنظيمية تراعي السياق المحلي.

المنهجية:

تعتمد الدراسة على تحليل قانوني تأسيلي ومقارن، مدعوم بتقييم السياسات. وتدرس الأطر التشريعية، مثل قانون الأسواق الرقمية (DMA) وقانون الخدمات الرقمية (DSA) في الاتحاد الأوروبي، فضلًا عن قوانين مكافحة الاحتكار الأمريكية، مثل قانون شيرمان وقانون كلايتون وقانون لجنة التجارة الفيدرالية. كما تُحلل قضايا إنفاذ بارزة، منها قضية جوجل للتسوق، وقضية الولايات المتحدة ضد

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جوجل، وقضية لجنة التجارة الفيدرالية ضد ميتا بلاتفورمز، وقضية لجنة التجارة الفيدرالية ضد أمازون، لتوضيح التطبيقات العملية لهذه الأطر. ويستخدم التحليل المقارن لتقييم كيفية تأثير الرقابة المسبقة واللاحقة على نتائج الإنفاذ. وبالنسبة للأنظمة القضائية العربية (مصر، والمملكة العربية السعودية، والإمارات العربية المتحدة)، تتضمن الدراسة تحليلاً مؤسسياً وسياسياً لتقييم قيود القدرات وآليات التنسيق الإقليمية.

النتائج والاستنتاجات:

تكشف النتائج عن تباينات جوهرية بين نهجي الاتحاد الأوروبي والولايات المتحدة. يتميز النظام الأوروبي القائم على الرقابة المسبقة بالسرعة والقدرة على التنبؤ والتدخل الهيكلي، ولكنه قد ينطوي على خطر الإفراط في التدخل التنظيمي، رغم أنه يشجع الابتكار. أما نهج الولايات المتحدة اللاحق فيوفر دقة تحليلية وضمانات قضائية، ولكنه غالباً ما يتخلف عن وتيرة تطور السوق الرقمية. بالنسبة للأنظمة القضائية العربية، تشمل التحديات الرئيسية محدودية القدرة على الإنفاذ، والاعتماد على المنصات الأجنبية، ونشأت الحوكمة الإقليمية. تقترح الدراسة إطاراً تنظيمياً هجيناً يدمج قواعد استباقية، مستوحاة من قانون السوق الرقمية، مع إنفاذ لاحق مرن مصمم خصيصاً للظروف المحلية. ويؤكد على أهمية التنسيق الإقليمي من خلال مجلس التعاون الخليجي وجامعة الدول العربية لتحقيق فعالية عابرة للحدود. ويخلص البحث إلى أن تحقيق التوازن بين قابلية السوق للمنافسة والابتكار والتكامل الإقليمي يتطلب تنظيمًا يراعي القدرات ودمج الرقابة الاستباقية مع الإنفاذ القائم على الأدلة.

الكلمات المفتاحية:

قانون المنافسة؛ المنصات الرقمية؛ مكافحة الاحتكار الرقمي؛ حراس البوابة الرقميون؛ قانون الأسواق الرقمية؛ التنظيم الاستباقي؛ قانون المنافسة المقارن؛ الأنظمة القضائية العربية.