



Lear - Laboratorio di economia, antitrust, regolamentazione

# Across-Platforms Parity Agreements

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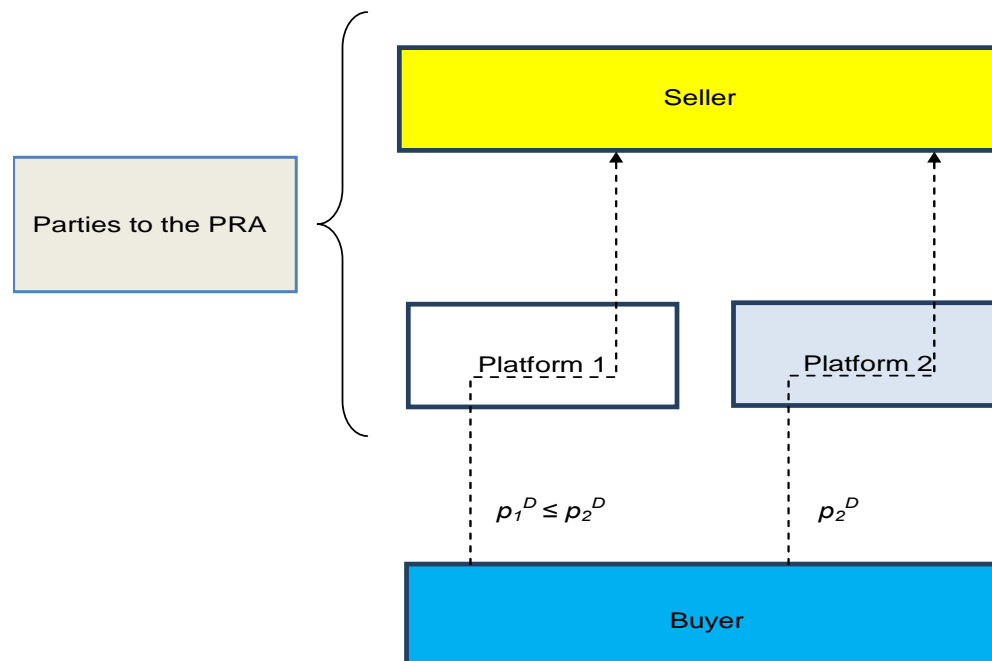
## Outline

- Definition
- Case Law
- Literature
- Applicable theories of harm
- Efficiency justifications
- Conclusions



## APPAs: Definition

- Agreement between a seller and an electronic trade platform whereby the seller undertakes to charge on that platform a price that is not higher than the price charged on other platforms (including new entrants)





## APPAs: Case law

- E-book (US DoJ, European Commission) (2011-2012)
  - Settlement – Commitment decision
- On-line travel agents (UK OFT) (2012-)
  - Ongoing
- On-line book sellers (Bundeskartellamt) (2013-)
  - Ongoing



## APPAs: Literature

- No specific formal economic literature
- The only available analysis is a report we prepared for the OFT: Can 'Fair' Prices Be Unfair? A Review of Price Relationship Agreements (Lear, 2012), available at [http://www.learlab.com/pdf/oft1438\\_1347291420.pdf](http://www.learlab.com/pdf/oft1438_1347291420.pdf)
- Vast literature on "best price policies" (e.g. price-matching guarantee or meeting competition clause) (see Lear's report)
- A remark on the name: Retail-Most Favoured Nation Clause is misleading – The results of the economic and antitrust literature on MFNs do not apply to APPAs



## APPAs: Theories of harm

- Entry foreclosure: preventing new entrants from gaining market share through an aggressive pricing policy, or different business models
- Softening competition: increasing platforms incentives to raise sellers' fees
  - Both theories of harm hinge on the reduced demand elasticity associated with a reduction in the fee the platform charges to sellers
  - Network externalities may be crucial
- Facilitating collusion: easier to monitor competitors' policies



## APPAs: Efficiency justifications

- to protect investments made to develop the platform (esp. ancillary services needed to reduce info asymmetry), very important in two-sided markets
- Signalling private information (low-cost/low price strategy)



## Conclusions

- APPA is not a new practice, but one that may become common in the digital world
- There is no established jurisprudence...
- Nor a developed economic literature
- Some competitive risks are clear, but...
- Efficiency justifications cannot be rule out, and...
- **Please, don't call them Retail-MFNs!**