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Towards a new “agile competition law” paradigm

Presentation

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Towards a new 'agile competition law' paradigm

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The opening of competition law

- The 'Consumer Welfare' Paradigm as an Attempt at Substantive Global Convergence of Competition Law
- Opening the 'consumer welfare' paradigm
 - The 'expansive consumer welfare' standard
 - Reasonable competition conduct standard
 - Protection of competition standard
- Towards a dissolution of the 'consumer welfare paradigm'?
 - Labour and buyer restrictions of competition
 - Restrictions of competition in labour markets as an independent concern for competition law? (e.g. wage markdowns)
 - Do the interests of labour and consumers always align? Addressing conflicts
 - Protecting digital ecosystem complementors?
 - At which level should 'competition' be protected?

New points of tension

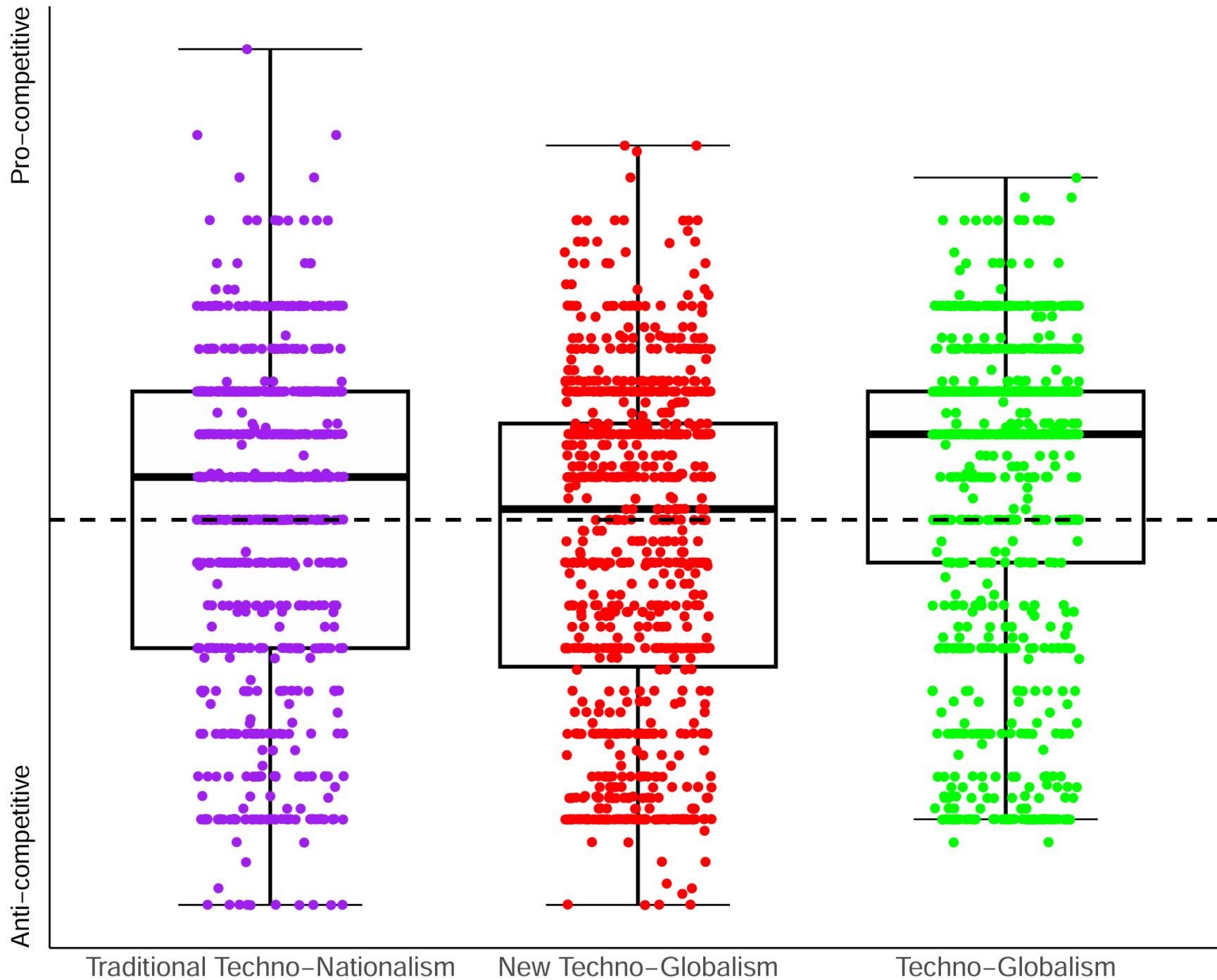
- Competition Law and the Sustainability Agenda
 - Social sustainability
 - Environmental sustainability
- Competition Law and Innovation
 - The level of innovation
 - Varieties and Direction of innovation
- Competition Law, Industrial Policy and Growth

Industrial Policy: (Techno)nationalism v. (Techno)globalism

Source: Petros Boulieris, Bruno Carballa-Smichowski, Maria Niki Fourka and Ioannis Lianos, Competition Law and Industrial Policy: A Computational Approach (2025) https://papers.ssrn.com/sol3/papers.cfm?abstract_id=5183806

	Traditional Techno-nationalism	New Techno-nationalism	Techno-Globalism
Dominant logic	Mainly developmental purpose	Mainly national security logic and domination of global economy	Mainly pursuing Global Sustainable Development Goals (SDGs), such as green transition and sustainable development
Strategic intent	Strengthening national competitiveness of domestic industries	Weaken foreign companies; competitiveness and access to the domestic or foreign markets	Strengthening global competitiveness
Type of interaction	Possibility of win-win game, although asymmetrical distribution of benefits	Zero-sum or win-lose game	Win-Win game with more or less symmetrical distribution of benefits
Technology & Innovation diffusion	Limited global diffusion of technological opportunities and innovation to conform to national developmental purposes	Restricted global diffusion of technological opportunities and innovation to conform to geoeconomic and geopolitical interests	Global diffusion of technological opportunities and innovation to enhance the achievement of SDGs
Application	Territorial	Extra-territorial	Territorial, Extra-territorial
Policy areas	Key manufacturing industries	A more expansive list of strategic industries	Horizontal application
Selectivity of interventions	Sectors, Industries	Firms, Sectors, Industries	Those satisfying the SDGs goals

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The Complexity of Digital Competition Law as an Illustration

'Entrepreneurial State' considerations

- Scientific progress
- Dynamic efficiency and increase of the total factor productivity
- Increased incentives to invest in socially valuable technological innovations
- Industrial policy

Sovereignty/Security/Polyarchy

- Digital Sovereignty
- Systemic Resilience: Reduce the Digital Divide
- Pluralism

Digital Competition Law: Managing externalities

Broader public interest goals

- Fair access to technology & ensuring a level playing field
- Fair remuneration of the contribution of ecosystem participants & stakeholders
- Sustainable Development Goals

'Core' Competition harms

- Affordable prices and Larger Output
 - Higher Quality
 - Consumer Choice & Variety
- Equality of competitive opportunity
 - Competitive Market Structures
 - Innovation
 - Privacy?
 - Sustainability & Resilience?

From convergence to interoperability: the development of an agile competition law system

- Responsive competition law and the social contract(s)
- Agile Competition Law Systems
 - Accepting institutional differentiation and bespoke competition tools
 - Beyond the competition goals debate
- Implications for the global governance of competition law
 - The futile quest for convergence
 - ‘Semantic interoperability’ between competition law systems
 - Establishing New Forms of Global Cooperation