



Martin v. Google

Team 12 | Grant Li, Cecelia Papadakis, Alexa Kimelman, Andrew Brecht, Elle Wan, Harvey Wang

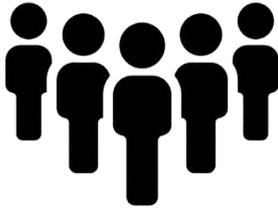
“the Bureau [has long] been **criticized** for **lax** enforcement on digital technology companies.”

- *Martin v. Google*

Case Breakdown

A summary of the problem and our involvement

Martin v. Google



- **A historical first:** First-ever private abuse-of-dominance case under Canada's Competition Act
- Launched by **Alexander Martin:** an independent Canadian game developer frustrated with the current search engine landscape



Why Do We Care?

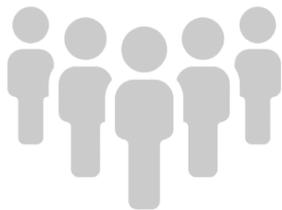


- Important implications on the future of competition in big tech
- The chance to intervene and set precedent for future abuse-of-dominance cases

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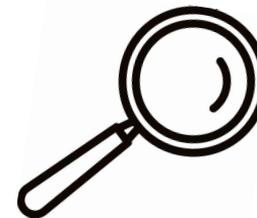
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Abuse of Dominance

Google's dominance is sustained by Apple ISA agreement, not superior innovation

The evidence presented demonstrates that Google's dominance is sustained by default placement and choice friction, rather than superior innovation and investment

1) Section 78: Dominance in the Market

Google holds 91% of the market, and the ISA creates high barriers to entry for competitors



Similar Search Engines, Small Market Share

Competitors have small market share despite similar engine quality, suggesting the ISA is restricting them by locking in Google as the default

2) Section 79: Abuse of Dominance

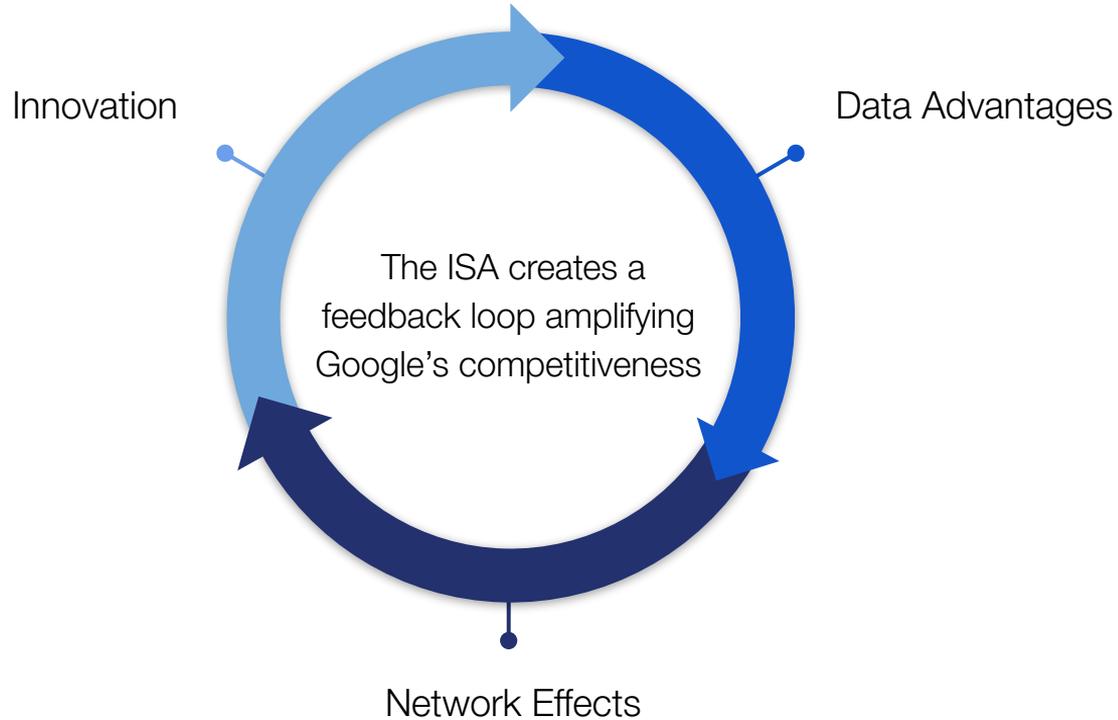
The ISA is an exclusionary practice that keeps competitors from gaining users, through making Google default

Mozilla Experiment

Mozilla experiment shows Google's share falls when not the default and recovers when it is, proving defaults drive usage more than quality

The ISA and Anti-Competitive Implications

Compounding data and network effects undermine the economic viability of rival innovation



Summary

Abuse of Dominance

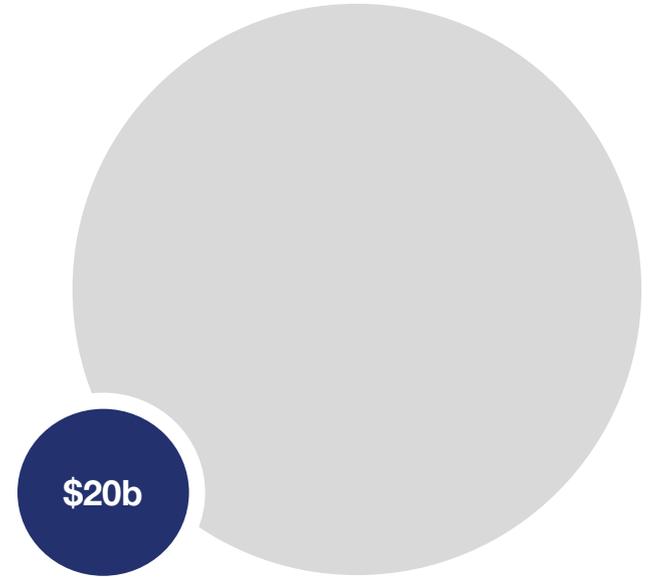
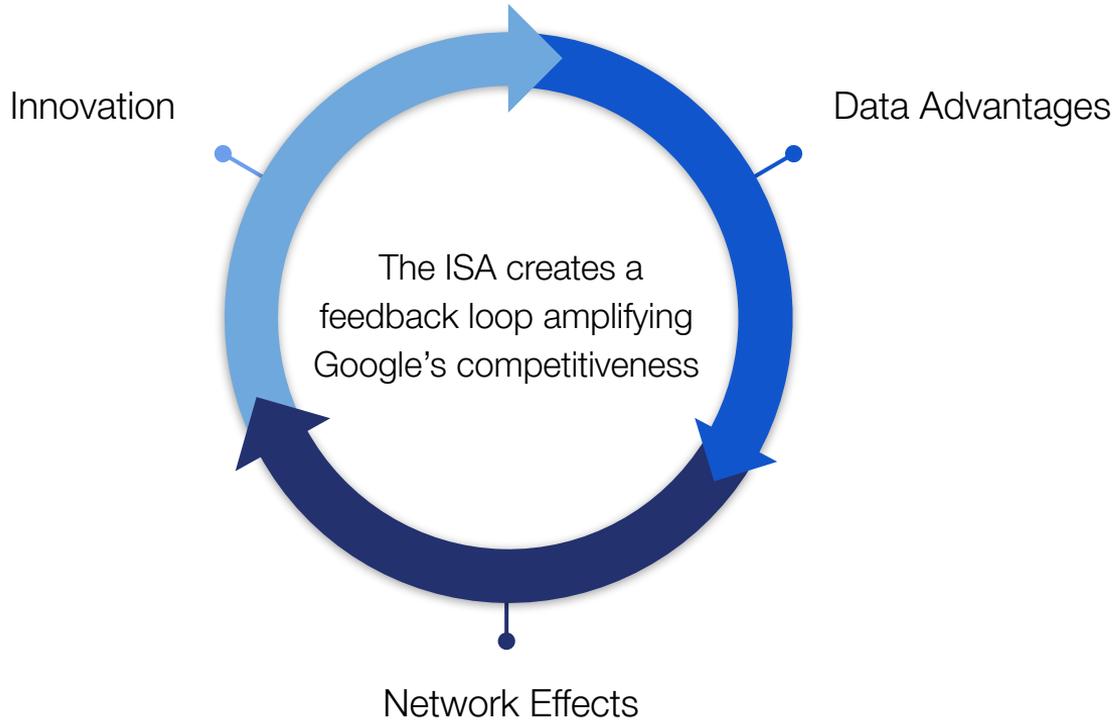
ISA & Competition

Remediation

Action

The ISA and Anti-Competitive Implications

\$20B secures default access to Apple's users valued around \$350B in online ads market



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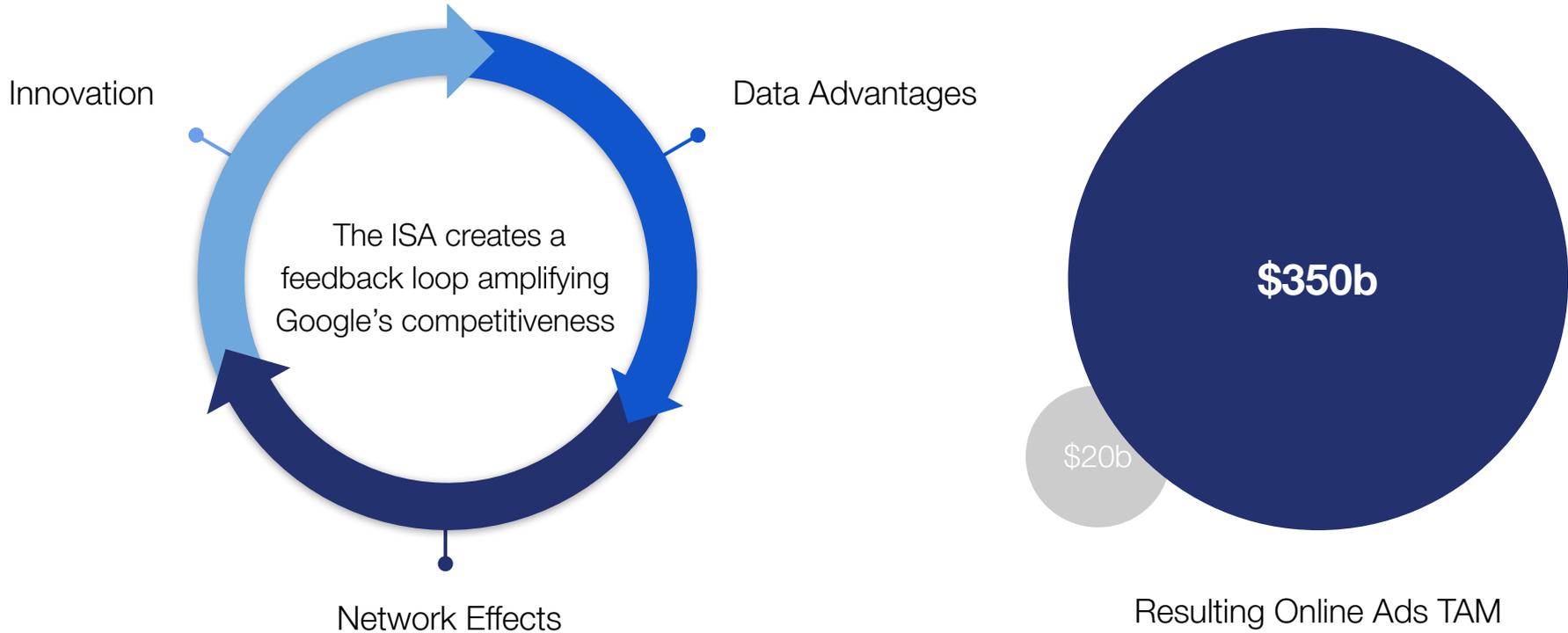
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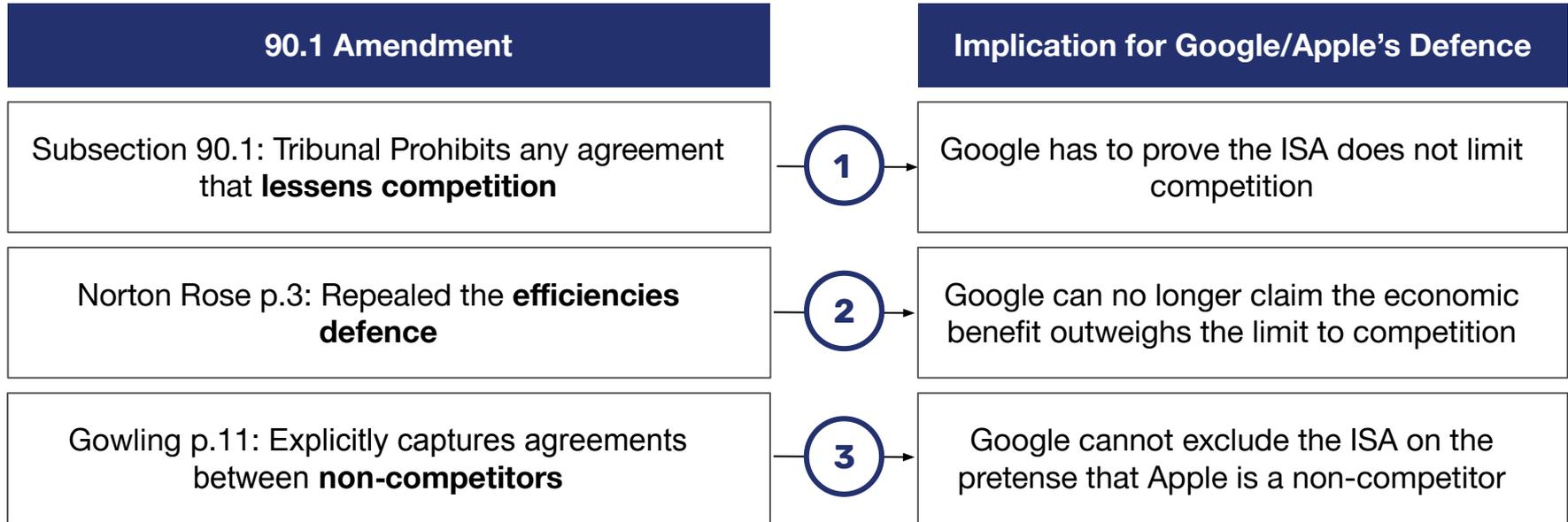
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The ISA and Anti-Competitive Implications

Refuting the defensive case for Google and Apple using recent amendments

Although the ISA does harm competition, is there a strong legal defence for Google/Apple's case?



User Choice Remedy: The “Choice Screen”

Bringing consumers freedom in choosing their preferred search engine



What Is The “Choice Screen”

- Apple to display a screen during iPhone setup asking which search engine users would like to use
- Options would be randomized

Benefit To Canadian Consumers

- Removes “Choice Friction” without removing/banning Google. Consumers who genuinely love Google are still free to use it
- Improves competitive environment without restricting consumer choice

Institutional Remedy: Updated Investigation Strategy

A conduct-focused enforcement approach

Shift focus from proving dominance alone and focus on anti-competitive conduct and agreements

Why it works



- Earlier intervention before harm
- Aligned with the Bureau's purpose

Impact



- Promotes innovation and competition
- No impact on consumer prices or choice

Monetary Remedy: Financial Accountability

Ensuring accountability for anti-competitive conduct

Impose private damages to affected persons and administrative monetary penalties against Google

Why it works



- Tribunal may impose penalties of \$25 million for a first order
- Deters future anti-competitive conduct

Impact



- In the short-term, cost pass-through is possible
- However, long-term benefits outweigh cost

Action Plan: The Settlement Trap

Intervention is extremely important and can have lasting effects on Canada's competition

Private litigants have
personal financial incentives



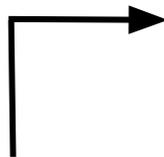
Potential nation-wide
impact may **not** be realized



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Competition Bureau
Canada

Bureau de la concurrence
Canada

Steps in as an
intervenor

Summary

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Action Plan: What an Intervenor Can Do

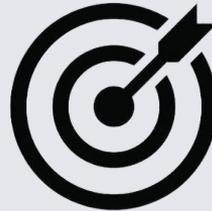
An intervenor can actively influence the Tribunal

1 Submit Expert Evidence



Demonstrate harm beyond Martin's individual business, highlighting market-wide effects

2 Make Remedy Arguments



Stand before the Tribunal and argue that monetary damages alone are insufficient

3 Shape Costs and Penalties



Intervenors can influence the scale and structure of penalties



Questions?

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1. Invoke Statutory Power to Seek Intervenor Status (Section 103.2, Competition Act C-34)

The Commissioner (head of Competition Bureau of Canada) has a special statutory right to apply to intervene in any private access case involving abuse of dominance.

2. Define the Public Interest

This case affects every Canadian who relies on Google services and the structure of our digital economy.

3. Exercise Full Party Powers

We are not observers. We can call expert witnesses, cross-examine Google executives, file economic evidence, and argue for structural remedies like a Choice Screen.