



Bundeskartellamt



Bundeskartellamt  
open markets | fair competition

# Assessment of Dominance in Digital Markets

and the example of the Meta Section 19a(1) case

Tokyo, 07 March 2023

Steffen Häfele  
6th Decision Division  
Bundeskartellamt

## Section 18 GWB Market Dominance

**(2a)** The assumption of a market shall not be invalidated by the fact that a good or service is provided free of charge.

**(3a)** In particular in the case of multi-sided markets and networks, in assessing the market position of an undertaking account shall also be taken of:

1. direct and indirect network effects,
2. the parallel use of several services and the switching costs for users,
3. the undertaking's economies of scale arising in connection with network effects,
4. the undertaking's access to data relevant for competition,
5. competitive pressure driven by innovation.

**(3b)** In assessing the market position of an undertaking acting as an intermediary on multi-sided markets, account shall be taken in particular of the importance of the intermediary services provided by the undertaking for accessing supply and sales markets.

## Section 19a GWB

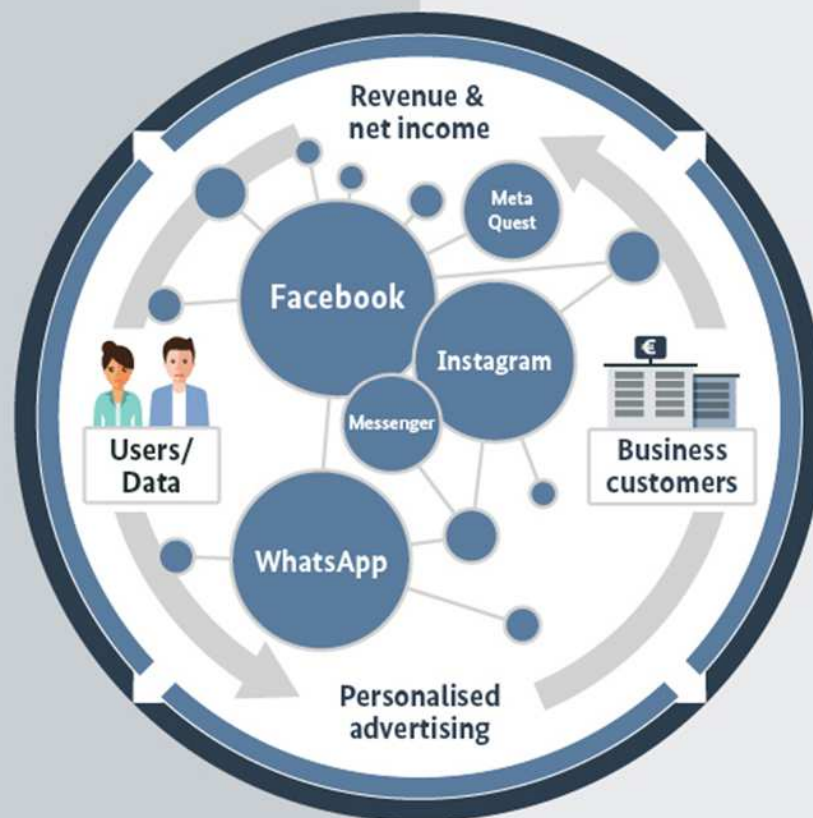
### Abusive Conduct of Undertakings of **Paramount Significance for Competition Across Markets**

(1) The Bundeskartellamt may issue a decision declaring that an undertaking which is active to a significant extent on **markets within the meaning of Section 18(3a)** is of paramount significance for competition across markets. In determining the paramount significance of an undertaking for competition across markets, account shall be taken in particular of:

1. **its dominant position on one or several market(s)**,
2. its financial strength or its access to other resources,
3. its vertical integration and its activities on otherwise related markets,
4. its access to data relevant for competition,
5. the relevance of its activities for third party access to supply and sales markets and its related influence on the business activities of third parties.

The validity of the decision issued pursuant to sentence 1 must be limited to five years from the date on which it becomes final.

## The Meta ecosystem



- GWB

[https://www.gesetze-im-internet.de/englisch\\_gwb/index.html](https://www.gesetze-im-internet.de/englisch_gwb/index.html)

- Press releases / case summaries / decisions

#### Meta Section 19a(1)

[https://www.bundeskartellamt.de/SharedDocs/Meldung/EN/Pressemitteilungen/2022/04\\_05\\_2022\\_Facebook\\_19a.html](https://www.bundeskartellamt.de/SharedDocs/Meldung/EN/Pressemitteilungen/2022/04_05_2022_Facebook_19a.html)

<https://www.bundeskartellamt.de/SharedDocs/Entscheidung/EN/Fallberichte/Missbrauchsaufsicht/2022/B6-27-21.html>

<https://www.bundeskartellamt.de/SharedDocs/Entscheidung/EN/Entscheidungen/Missbrauchsaufsicht/2022/B6-27-21.html>

#### Facebook Section 19

[https://www.bundeskartellamt.de/SharedDocs/Meldung/EN/Pressemitteilungen/2019/07\\_02\\_2019\\_Facebook.html](https://www.bundeskartellamt.de/SharedDocs/Meldung/EN/Pressemitteilungen/2019/07_02_2019_Facebook.html)

<https://www.bundeskartellamt.de/SharedDocs/Entscheidung/EN/Fallberichte/Missbrauchsaufsicht/2019/B6-22-16.html>

<https://www.bundeskartellamt.de/SharedDocs/Entscheidung/EN/Entscheidungen/Missbrauchsaufsicht/2019/B6-22-16.html>

- Working paper “Market Power of Platforms and Networks” (2016)

<https://www.bundeskartellamt.de/SharedDocs/Publikation/EN/Berichte/Think-Tank-Bericht-Langfassung.pdf>

- OECD paper “The Evolving Concept of Market Power in the Digital Economy – Note by Germany” (2022)

[https://one.oecd.org/document/DAF/COMP/WD\(2022\)56/en/pdf](https://one.oecd.org/document/DAF/COMP/WD(2022)56/en/pdf)



Bundeskartellamt



Bundeskartellamt  
open markets | fair competition

# Thank you for your attention!

## Assessment of Dominance in Digital Markets

and the example of the Meta Section 19a(1) case

Tokyo, 07 March 2023

Steffen Häfele  
6th Decision Division  
Bundeskartellamt