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M.10646 MICROSOFT/ACTIVISION ORAL HEARING

ECONOMIC CONSIDERATIONS

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SO is lightweight and short on evidence

All about single input foreclosure

One piece of content (CoD, or at most “CoD+”)

But evidence is just not there

Economic work is thin, peripheral, or redacted

“Exclusivity” and “foreclosure” not the same in economics

CONDUCT

Exclusivity



EFFECT

Foreclosure

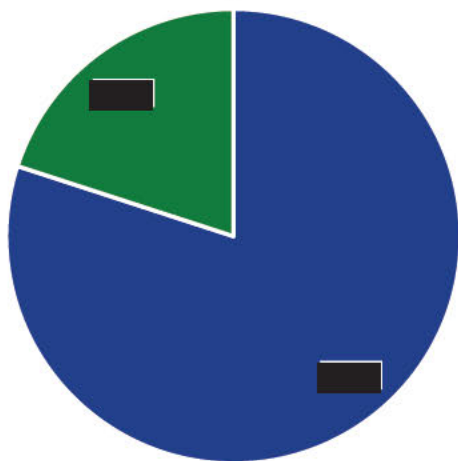
**Need *strong market power* to “leverage”
& *credible shifting mechanism***

**SO has no evidence that Sony can be *meaningfully*
foreclosed even if it lost access to Call of Duty**

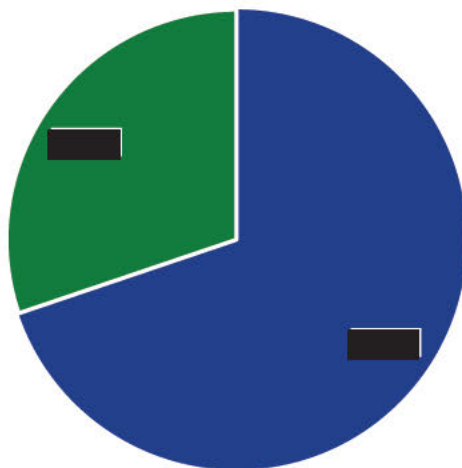
“Foreclosure” of the dominant player is a most unusual claim



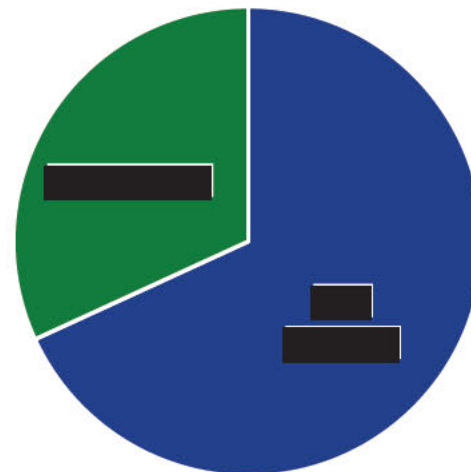
Installed base shares,
2022, EEA



Q4 2022 console unit
sales



Avg. MAU WW, 2022



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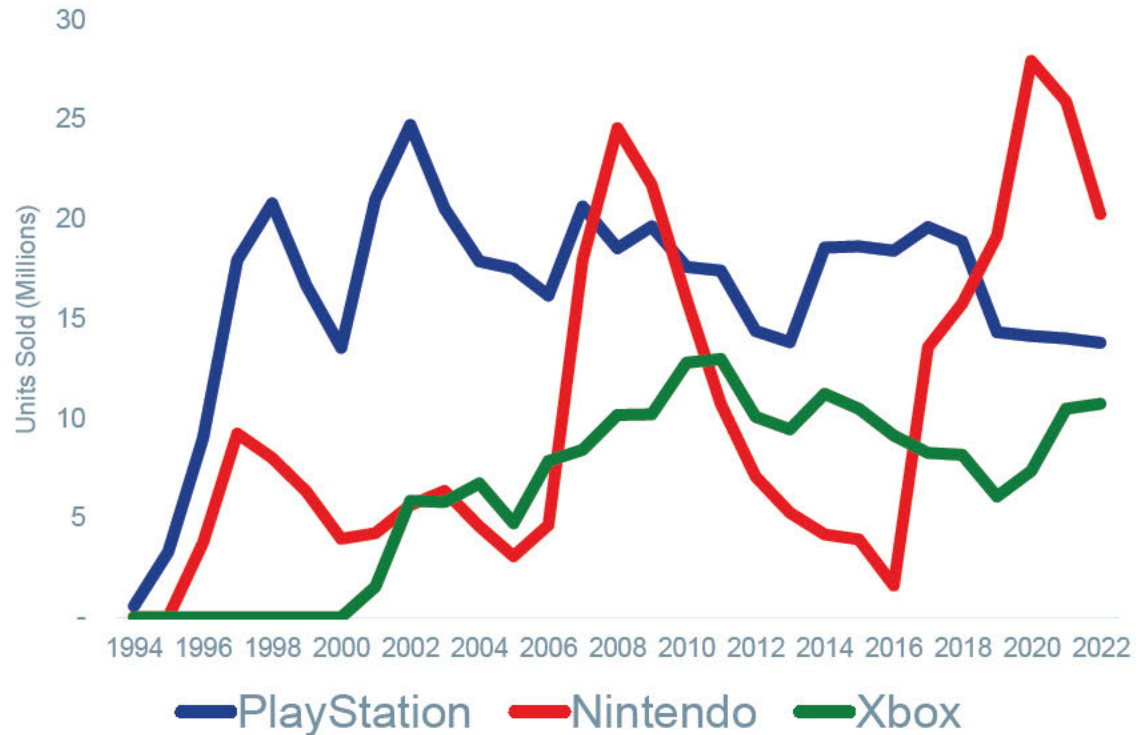
Exclusives are standard in the industry, could one more be credibly weaponised as “foreclosing mechanism”?

 **286 EXCLUSIVES**

 **277 EXCLUSIVES**

 **59 EXCLUSIVES**

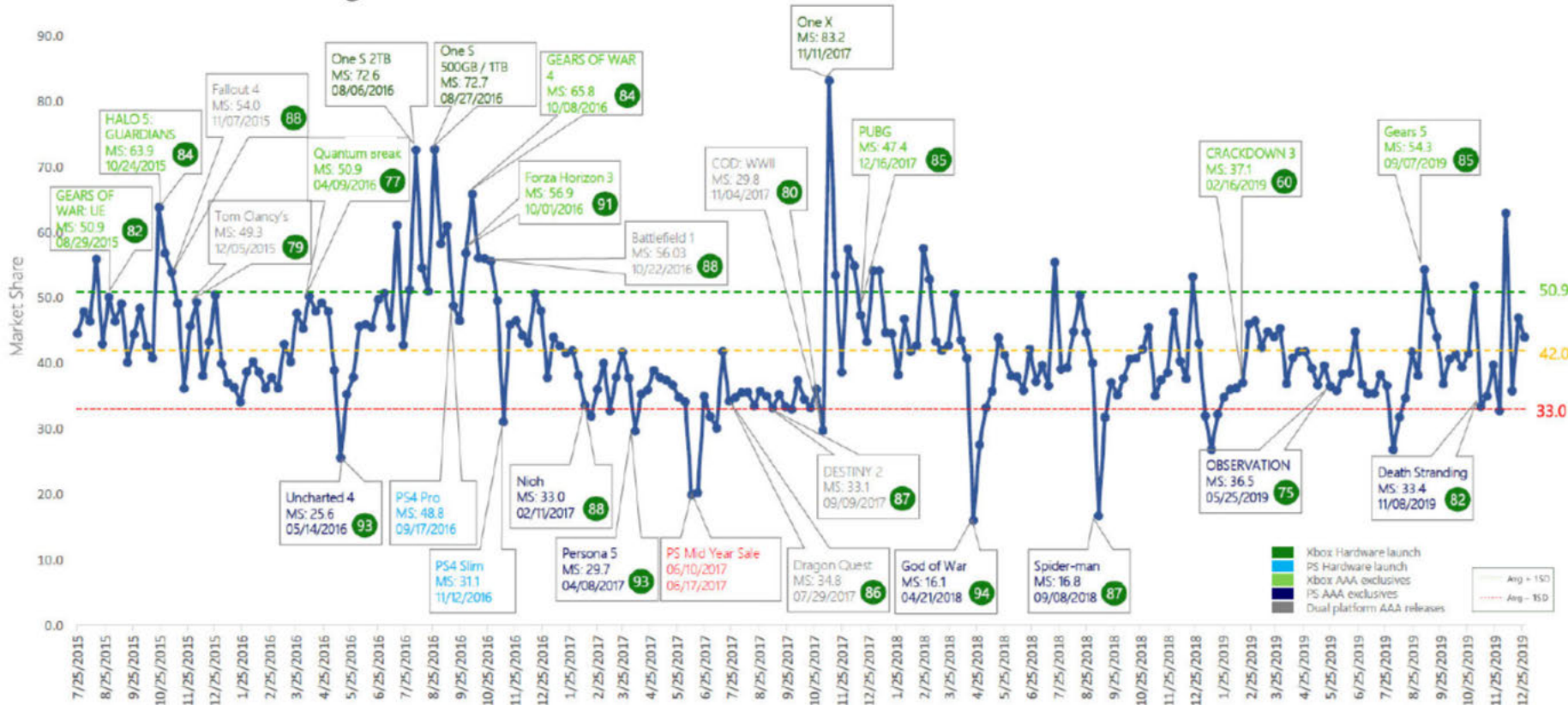
Shipment of consoles year over year



Why would CoD be any different?

Exclusives shift share back and forth, effects are short-lived

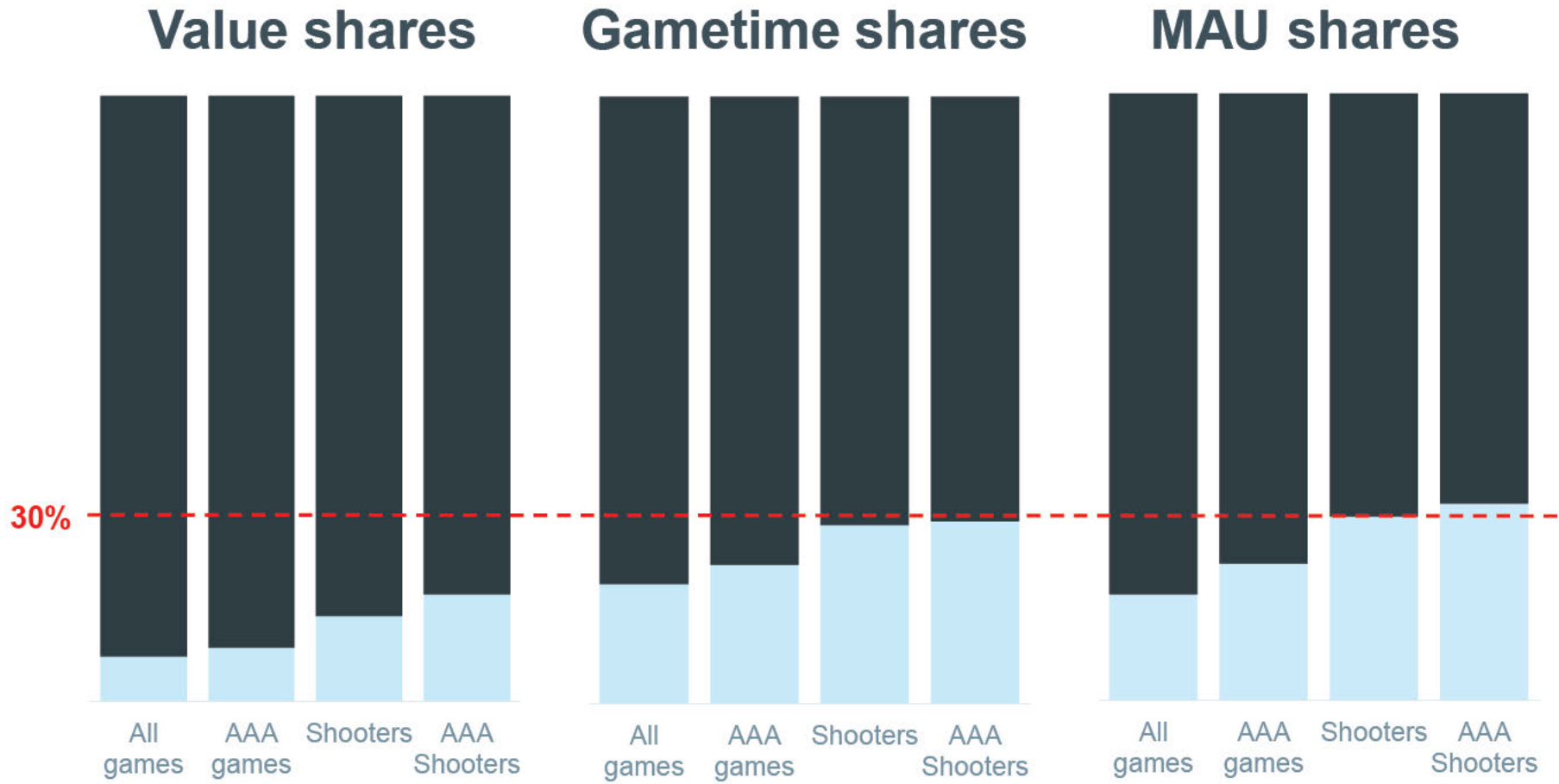
Xbox vs PlayStation NA share of weekly sales 2015-2019



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Foreclosure by leveraging *what power?*



Shares in 2021 EEA.

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No credible measure of “the shift” away from PS/to Xbox

NO OWN EVIDENCE OR ANALYSIS IN THE SO

Adopts Sony’s rule

Gamers who spend **more than 40% of their time on COD** would switch to Xbox

BUT

1

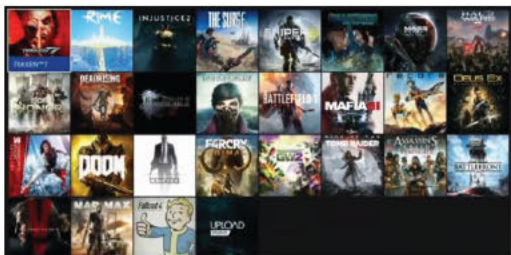
Everyone playing CoD even for an hour in a year would switch?

2

Assumes Xbox would have full recapture

■ **% of PS gamers would “switch”**
(based on Xbox data)

“Switching” means completely abandoning your PS?

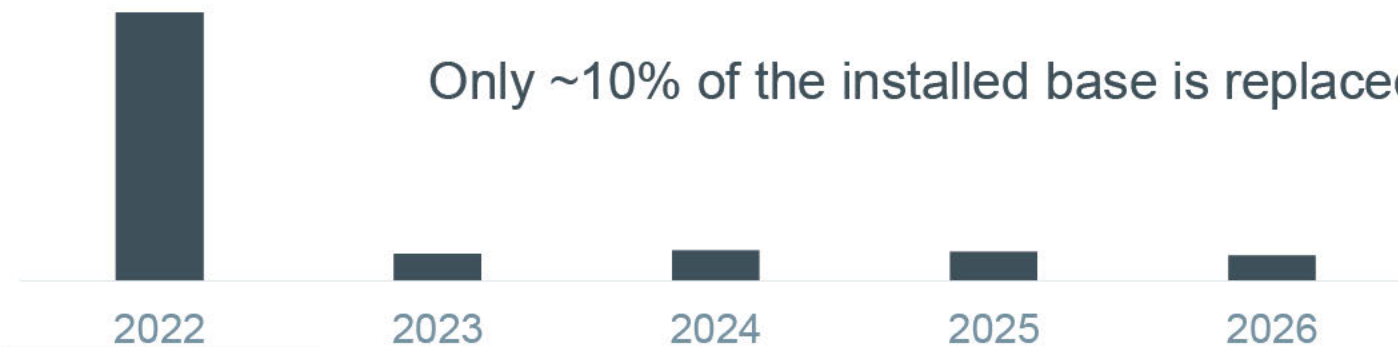


Would gamers leave their library of games and friends community ?



PlayStation consoles will not be abandoned.

Only ~10% of the installed base is replaced over time



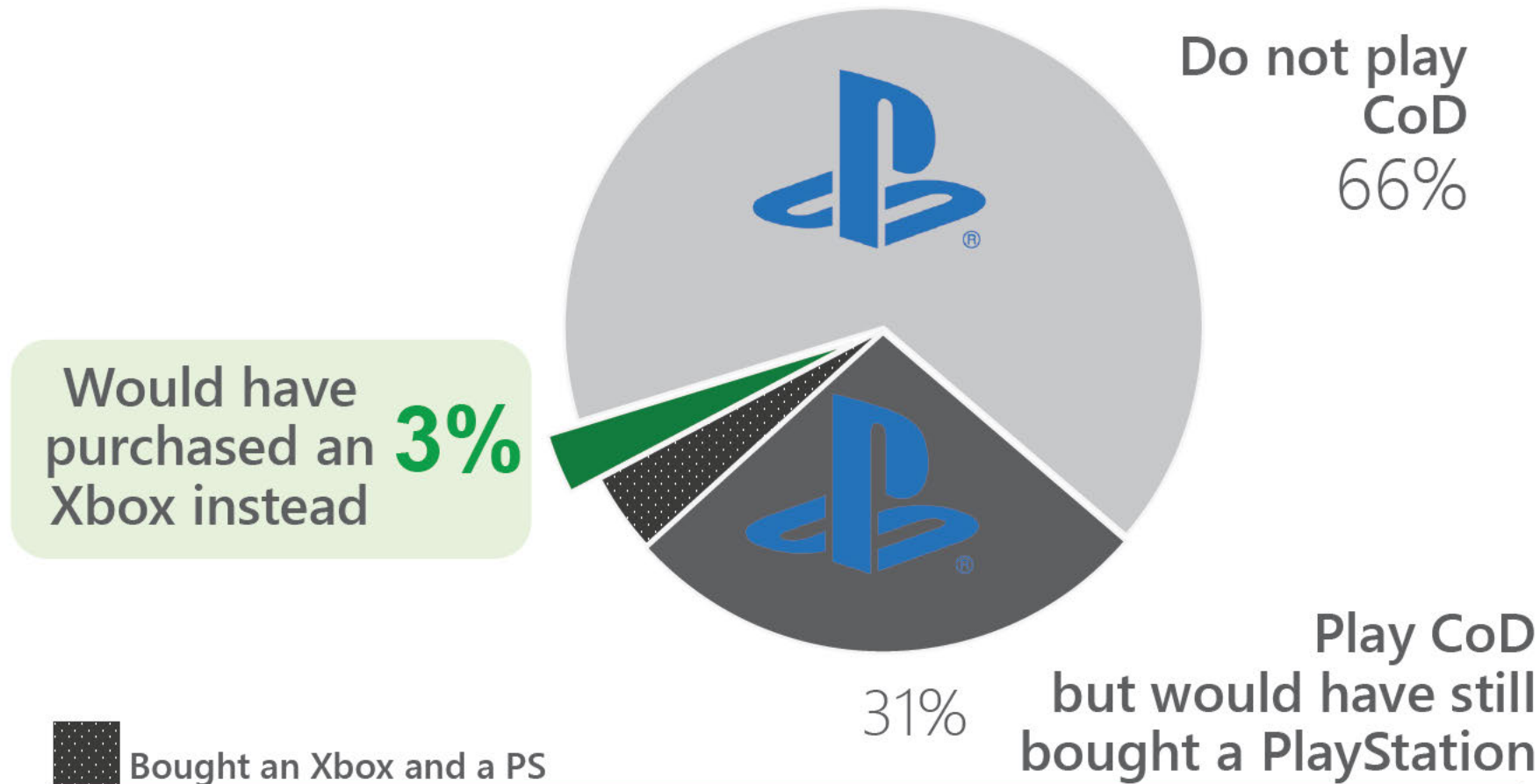
150m PS installed base

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We actually did measure the impact of exclusives: What would existing PS gamers do if Call of Duty were not on PS?

YouGov®



Bought an Xbox and a PS

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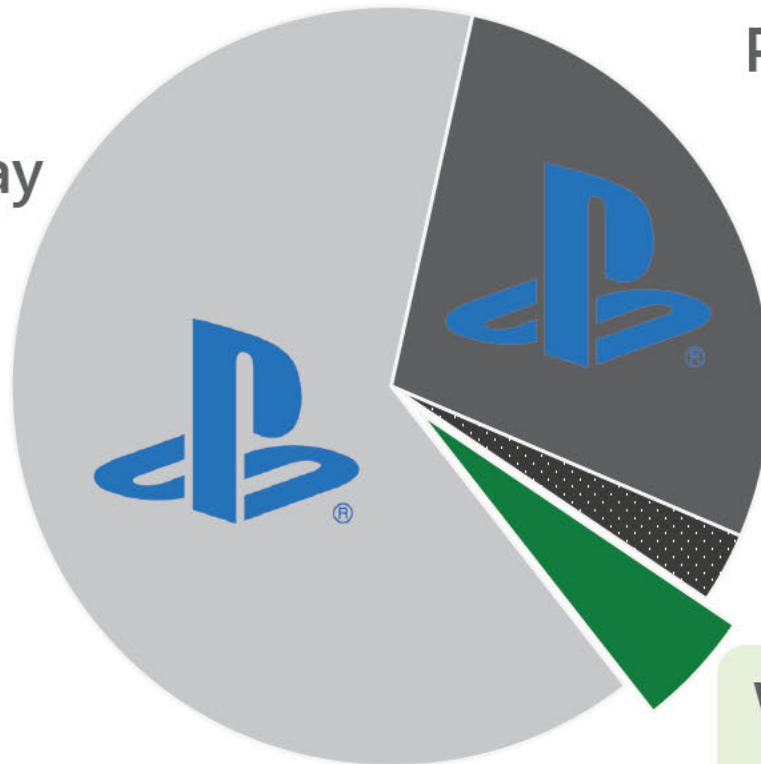
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What would gamers planning to buy a PS do if CoD were not on PS?

YouGov®



Do not play
CoD
64%



Play CoD but will
still buy a
PlayStation
31%

Will purchase
Xbox instead **5%**



Buy an Xbox and a PS

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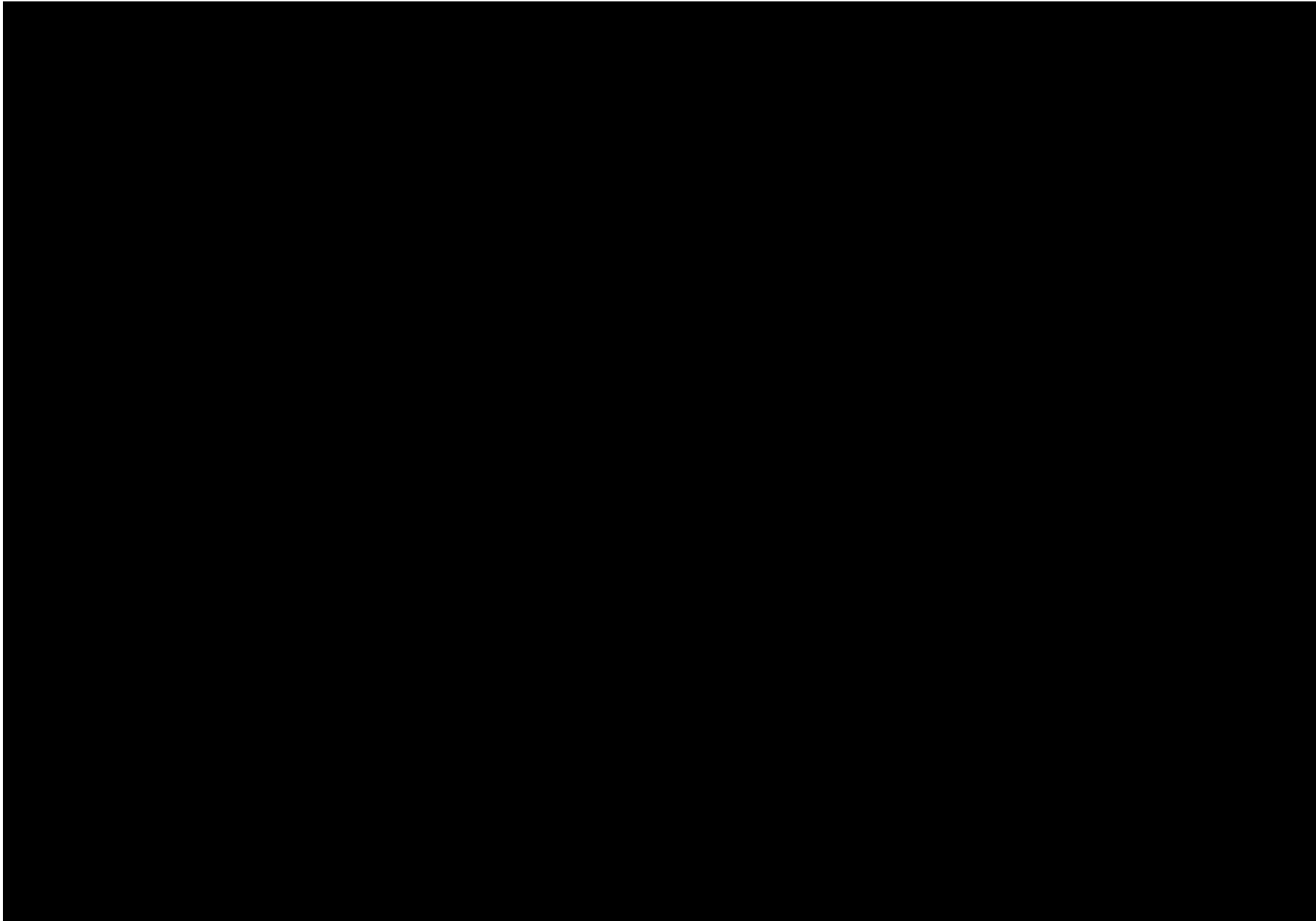
CoD is less important to PS gamers than many titles inc. PS exclusives

Share of PS gamers buying an Xbox if their “game X” was not on PS



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SO Economic Annex is perfunctory (and just for consoles)

1

...what incentive analysis?

Annex Table 1: Critical diversion ratios for four scenarios

[...]

Source: Commission calculations

- **Only available in the Data Room**
- **Derivative** of what Sony submitted
- **Inflates switchers** with a crude rule
- Does not engage with **value of a gamer**

2

Bargaining model is minimalist

- Toy model “formally showing” Xbox would have more power in negotiations (!)
- Prices of CoD/ consoles do not move. Claim of PS price increase “outside the model”
- **No welfare implications** as effects are reversed once the model is “corrected”

3

Econometrics is irrelevant/
inconclusive

- **Cross-genre substitution is clearly there**
- Basic errors
- Essentially concludes that this year’s CoD is a good substitute for last year’s CoD...

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No evidence on TOH2 –

“strategically withholding CoD from subscription/cloud streaming”

SO assumes availability of CoD will drive choice of subscription/cloud streaming

Content influencing choice

Shooters

AAA Shooters

CoD?

NO EVIDENCE that

- CoD as a single game can drive gamers’ choice of cloud streaming service
- CoD would have been pivotal to the development of these services
- Cloud is going to overcome current obstacles in what timeframe

SO repurposes withholding as a “technical tie” leveraging ABK games to protect “dominance” in Windows PC OS from future competition (Chrome)

1 Restrict ABK games from rival cloud services **on rival PC OS**



2 Restrict Game Pass Ultimate **on rival PC OS**



Dressed up as a “tie”, but still entirely an input foreclosure story (withholding CoD from Chrome...)

Attempts to echo *Android* ? “a tie to protect incumbency”?



NO

Android analogy does not work

Google Play was a “must have” on Android devices and *could be leveraged, but analogy is just not there.*

- Where is evidence CoD or ABK has enough market power to be leveraged into protecting Microsoft’s OS?
- SO produces **no evidence** other than repurposing Google’s complaint
- **CMA discards the TOH** entirely

PC users who played
ABK games [REDACTED]



Conclusions

The SO is sparse on economic analysis

**Three variants of an “input foreclosure story”,
all implausible**

- **Consoles:** just cannot “foreclose Sony, the dominant console player
- **Cloud streaming:** no evidence future competition depends on CoD
- **Operating System competition:** no evidence OS choice is dependent on CoD

Adding up three weak stories does not make a decent one