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THE RISE OF DATA AS MARKET POWER IN COMPETITION LAW

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INTRODUCTION

Data has become an integral source of market power in digital economies of scale, especially for companies such as Google, Amazon etc., who use data to enhance AI models, predict consumer behaviour and eventually raise their position in the market and create barriers for other companies to enter the market. This change in data-driven markets have challenged the traditional competition law.

At the same time, data is not inherently harmful or dangerous as it provides us with information, innovation and improves efficiency. However, it may also create a disadvantage if companies use the data in an unfair manner to restrict consumer choice. Thus, competition law should examine how the data is gathered, merged with other data, and used in practice, because these actions can either support fair competition or harm it.[1]

DATA AS A SOURCE OF MARKET POWER

Data can create market power when a firm controls information that rivals cannot easily replicate. The more users a platform has, the more data it collects, and the more it can improve its service. This creates a feedback loop that can strengthen dominance over time.

Several features make data particularly valuable:[2]

- **Scale**, because large datasets improve accuracy and performance.
- **Scope**, because data from different services can be combined for deeper insights.

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[1] Kashish Makkar & Saarthak Jain, *Data-Related Abuse of Dominance in the Digital Economy: A Template for Future Regulation in India* (July 15, 2020), <https://papers.ssrn.com/sol3/papers.cfm?abstract_id=3652593>

[2] Dr. Mahipal Lather, *Data as a Source of Market Power: Competition Law Challenges in the Age of AI and Big Data*, 11 Int'l J. L. 19 (2025) <https://www.lawjournals.org/assets/archives/2025/vol11issue9/11200.pdf>

- **Speed**, because fresh data often matters more than old data.
- **Substitutability**, because if competitors cannot get similar data, they cannot easily compete.
- **Sensitivity**, because some data is personal or confidential and cannot be shared freely.

In this way, data can become a barrier to entry and an important source of market power in digital markets.

In today's world, data has become even more powerful when it combined itself with artificial intelligence (AI), advanced computing systems, and digital expertise. In such situations, the main concern is not only that one company possesses data, but also whether other companies can realistically access similar data or compete effectively without it.

ABUSE OF DOMINANCE IN DATA-DRIVEN MARKETS

Abuse of dominant position as described under Section 4 of the Competition Act, 2000 is highly relevant in data-driven markets because these firms may use data in such a way that might weaken competition or block competitors from entering the market while gaining excessive control and limiting the choices available to users.

Users who have no other alternative may also be bound by unfair data processing terms imposed by a dominating platform, due to which consumers might be forced into data activities they wouldn't normally consent to and it will be harmful to them not only in a financial scenario but they'll also face privacy-related issues. Competition regulators are beginning to acknowledge that the examination of abuse in digital marketplaces may include privacy degradation.[3]

COMPETITION LAW INTERVENTION

Competition law checks anti-competitive use of data in digital markets and also responds to market tipping caused by data advantages. It addresses practices such as self-preferencing, tying, bundling, refusal to share essential access, and uses data to block rivals from entering or expanding.

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[3] Alessia D'Amico, *Aligning Remedies in Abuse of Dominance Cases with Data Protection Principles*, Privacy Int'l (Jan. 22, 2021), <https://privacyinternational.org/long-read/4400/aligning-remedies-abuse-dominance-cases-data-protection-principles>

Competition law in digital markets focuses not only on prices but also on factors such as quality, privacy, user choice, switching costs, and access to data. Since there are many online services that are free, these factors play an important role in determining market power and consumer welfare. Competition authorities increasingly adopt preventive measures because delayed action in fast-moving digital markets may allow dominant firms to strengthen their position irreversibly. Therefore, stricter merger scrutiny and obligations on dominant platforms have become important.[4] Competition law also works alongside data protection principles to ensure that companies do not misuse data in ways that exploit users or restrict competition, while still maintaining privacy, confidentiality, and security safeguards.

FUTURE CHALLENGES

There are many challenges arising from the rise of data as a source of market power in competition law. As digital platforms increasingly rely on data, artificial intelligence, and algorithms, competition authorities face difficulties in regulating anti-competitive practices and maintaining fair market conditions. Some of the most important challenges are:

1. Data Concentration and Dominance – Large digital platforms collect massive amounts of data, making it difficult for smaller competitors to survive or enter the market.
2. Barriers to Entry – New firms often cannot access the same quality or quantity of data, creating unequal competition in digital markets.
3. AI and Algorithmic Control – Advanced algorithms and AI systems may strengthen market dominance and even facilitate anti-competitive behaviour.
4. Privacy and Competition Conflicts – Competition law must balance market fairness with the protection of user privacy and confidential data.
5. Rapidly Changing Digital Markets – Technology evolves quickly, and delayed enforcement by competition authorities may allow harmful practices to become irreversible.

CONCLUSION

[4] U.N. Conf. on Trade & Dev., *Global Competition Law and Policy Approaches to Digital Markets*, UNCTAD/DITC/CLP/2023/7 (2024), <https://unctad.org/publication/global-competition-law-and-policy-approaches-digital-markets.>

The way market power is generated and used in contemporary markets has changed due to the growing significance of data in the digital economy. Artificial intelligence, algorithms, and network effects give businesses that manage massive amounts of data significant competitive advantages in today's digital economy. Thus, a thorough, balanced approach is needed to ensure that competition is maintained in a manner that encourages innovation, consumer welfare and investment confidence in today’s growing digital market.