The Indian Journal for Research in Law and Management

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Editor-in-Chief – Dr. Muktai Deb Chavan; Publisher – Alden Vas; ISSN: 2583-9896

COMPETITION LAW CHALLENGES IN INDIA'S DIGITAL ECONOMY: REGULATING DIGITAL MARKETS AND BIG TECH

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I. INTRODUCTION

India's digital economy has expanded rapidly over the past decade, with search engines, ecommerce market places, ride hailing platforms, food delivery applications and digital payment systems becoming central to how consumers access goods and services.[1] This transformation has not been confined to the emergence of new industries. It has altered the manner in which competitive harm arises in the first place. Traditional competition analysis has long relied on price as the primary indicator market power a dominant firm raises prices and consumers bear the cost. Digital platforms complicate this model considerably. A platform may exercise significant market power while charging users nothing at all through mechanisms such as search ranking, default placement and self preferencing of its own affiliated services.[2]

Apart from pricing concerns digital markets possess structural features that make competition issues more complex. Network effects allow a platform to grow stronger simply by growing larger and limited number of firms can rapidly acquire and consolidate market power. These characteristics challenges a statutory framework originally designed for priced based competition

[1]Richa Choudhary & Aditi Mishra, Competition Law Challenges in the Digital Economy: An Indian Perspective, 13(5) TIJER 893 (2026).
[2] *Id.*

in traditional markets. This has prompted sustained debate in India over whether the Competition Act, 2000 remains adequate to address anticompetitive conduct in digital markets or whether the distinct characteristics of these markets justify a separate Digital Competition Act a proposal currently under consideration by the Ministry of Corporate Affairs Committee on Digital Competition Law.[3]

Accordingly, this article examines whether India's existing Competition Law framework is adequate to regulate digital market and big tech. It analyses the Competition Act 2002 recent changes implemented by the Competition (Amendment) Act, 2023 and similar foreign developments to assess if India's competition framework remains suitable to the realities of the digital economy.

II. DEFINING DIGITAL MARKET'S DIFFERENT STRUCTURE

Digital markets differ structurally from traditional markets in ways that challenges traditional approaches to competition law. Features such as multi sided platforms, network sides and data driven business models require a different approach to assessing competitive harm. Three features are particularly significant the multi side nature of digital platforms the role of network effects, data and the manner in which platforms exercise power through design choices rather than price.

A. MULTI SIDED PLATFORMS AND THE LIMITS OF PRICE BASED ANALYSIS

Most large digital platforms do not sell a single product to a single class of buyers. Instead they connect two or more distinct groups whose demand depends on one another. A search engine connects users seeking information with advertisers seeking visibility. An e commerce market place connects buyers and sellers while often controlling complementary services such as logistics and payment systems.[4] Because platforms often subsidise one side of the market while monetising the other a service may be offered to users at no direct cost even as the platform earns substantial revenue from advertisers or sellers on the other side. This makes price an unreliable indicator of

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[3] Ministry of Corporate Affairs, *MCA Invites Public Comments on Report of Committee on Digital Competition Law and Draft Bill on Digital Competition Law*, Press Information Bureau (Mar. 12, 2024), https://www.pib.gov.in/PressReleasePage.aspx?PRID=2013947

[4] Richa Choudhary & Aditi Mishra, Competition Law Challenges in the Digital Economy: An Indian Perspective, 13(5) TIJER 893 (2026).

competitive harm since a platform may expand its market power without any corresponding increase in the price paid by consumers.

B. NETWORK EFFECTS, DATA AND MARKET TIPPING

Digital platforms also benefit from network effects where the value of service increase as more users join it. A larger user base generates more data which can be used to improve the platform service and advertising which in turn attracts further users.[5] This creates a self reinforcing cycle that can result in one platform rapidly acquiring a dominant position a phenomenon often described as market “tripping”. In several Indian digital markets this effect has been reinforced by the practice of sustained subsidization where platforms incur significant losses over extended periods to attracts and retain users.[6] By the time a competition authority concludes an investigation market power may already have become entrenched limiting the effectiveness of conventional remedies.

C. SELF PREFERENCING AND NON-PRICE HARM

A further distinguishes features of digital markets is that dominant platforms can restrict competition without excluding rivals outright. Rather than excluding rivals entirely a dominant platform may reduce their visibility through search rankings favour its own services by default or limit competitors access to valuable user data.[7] Because this conduct does not involve a direct refusal to deal it may not be easily captured by traditional competition analysis which has historically focused on exclusion and price effects. Consequently competition authorities increasingly examine digital platforms not only for price effects but also for their impact on innovation, consumer choice and market neutrality. These characteristics demonstrate that digital markets require competition authorities to look beyond traditional indicators such as price and market share. The challenge therefore is not whether competition law applies to digital markets but whether existing enforcement mechanisms can respond to these distinctive features in a timely and effective manner.

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[5] Anadi Tewari, *A Critical Evaluation of India's Proposed Digital Competition Act*, **5(1)** Competition Commission of India J. on Competition L. & Pol'y 79, 87–88 (2024).
[6] *Id.*
[7] Choudhary & Mishra, *supra* note 4.

III. DIGITAL MARKETS AND COMPETITION ACT, 2002

The Competition Act, 2002 though enacted before the advent of the present day digital platforms provides a robust statutory framework to address anti competitive practices in digital markets. The commission has examined issues concerning digital platforms, online markets and technology enabled business models by interpreting the existing provisions of the Act rather than developing new legal principles.

A. STATUTORY BASIS

The main legal instrument used for the control of digital market places are sections 3 and 4 of the Competition Act, 2022. Section 4 prohibits the misuse of a dominating position while section 3 prohibits agreements that have a clear negative impact on competition.[8] Section 19(4) also contains elements that determine dominance including market share, economic power, entry barriers and customer reliance.[9] These laws are sufficient wide to take into account the features of the digital market such as network effects, data concentration and platforms ecosystems even if they were passed prior to the emergence of digital platforms.

B. ALGORITHMIC DESIGN AND SEARCH ENGINES

Among the first choices pertaining to digital platforms was ***Matrimony.com Ltd. v. Google LLC***[10] the CCI found that Google used the layout of its search results to favour its own professional search services over competing websites could be subject to competition law when it damages market competition despite the commission emphasis on the need to prevent the arbitrary limitation of technological progress.

C. DOMINANCE OF PLATFORMS AND MOBILE ECOSYSTEMS

The commission took more proactive stance in ***Umar Javed v. Goggle LLC***[11] this is primarily to do with Google's android operating system and its relationships with device manufactures. After discovering that Google has exploited its dominance in the android ecosystem to strengthen its position in related areas like online search and web browsers the CCI imposed of almost ₹1337

[8] The Competition Act, 2002, No. 12 of 2003, §§ 3–4 (India).
[9] The Competition Act, 2002, No. 12 of 2003, § 19(4) (India).
[10] Matrimony.com Ltd. v. Google LLC, Case Nos. 7 & 30 of 2012 (Competition Comm'n of India Jan. 31, 2018).
[11] Umar Javeed v. Google LLC, Case No. 39 of 2018 (Competition Comm'n of India Oct. 20, 2022).

crore. In a different process related to the Goggle Play Store the commission imposed an additional penalty of around ₹936 crore after finding that Goggle's billing approach unjustly obliged app developers to use its own payment system.[12] These selections demonstrate how platform integration can spread dominance into nearby digital markets.

D. DATA AS COMPETITION CONCERN

The commission's Suo moto proceedings concerning WhatsApp 2021 privacy policy marked an important development in Indian Competition Law[13]. Instead of treating data collection solely as privacy issue the ICC recognized that changes in data sharing practice by a dominant digital platform could also amount to a competition concern where users have limited alternatives. This reflected an emerging understanding that control over user data may reinforce market power even where consumers pay no monetary price for the service.

The CCI approach demonstrates that the Competition Act, 2002 possesses sufficient flexibility to address many forms of anti competitive conduct in digital markets. Through its existing provisions the commission has examined issues relating to algorithmic ranking, platform ecosystems, digital marketplaces and data governance without requiring substantial doctrinal changes. But the legislation's enforcement speed presents a bigger obstacle than its reach, particularly in markets where competitive conditions can change rapidly.

IV. THE CASE FOR EX ANTE REGULATION

While the Competition Act, 2002 provides a legal mechanism to penalize anticompetitive conduct in the digital markets there are growing concerns regarding the efficacy of ex post enforcement in the rapidly changing digital ecosystems. The rapid rise of digital platforms has resulted in a debate on whether certain forms of anticompetitive conduct should be regulated ex ante rather than waiting for lengthy investigation to be completed.

A. THE LIMITATIONS OF EX POST ENFORCEMENTS

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[12] *XYZ (Confidential) v. Alphabet Inc.*, Case No. 7 of 2020 (Competition Comm'n of India Oct. 25, 2022).
[13] *In re Updated Terms of Service and Privacy Policy for WhatsApp Users*, Suo Motu Case No. 1 of 2021 (Competition Comm'n of India Mar. 24, 2021).

The proceedings under the competition act, 2002 are inherently retrospective. The CCI has to identify the relevant market establish dominance and demonstrate a misuse of that dominance before any corrective action can be taken. While this approach works well in traditional markets its is often less suitable in digital markets as user dependence, network effects and data collecting can quickly establish market dominance.[14] It can be difficult to reverse the competitive harm by the time an investigation is completed.

The parliamentary standing committee on finance recognized these concerns in its 2022 report an Anti Competitive practice by big tech companies and recommended that Systematically Important Digital Intermediaries (SIDI) be brought under ex ante obligations. The Committee recommended restrictions on practices like self preferencing, anti steering and bundling and misuse of business user data to curb anti competitive conduct before irreversible market damage is done.[15]

B. INDIA'S EMERGING REGULATORY APPROACH

India has sought to build on the existing competition regime instead of creating a new regulatory regime per se. The Competition (Amendment) Act, 2023 introduced a deal value threshold to capture acquisitions involving digital firms whose strategic value may be their data or user base rather than turnover and settlement and commitment mechanisms that allow businesses to resolve competition concerns without prolonged court proceedings.[16] The Competition Commission of India (Settlement) Regulations, 2024, the Competition Commission of India (Commitment) Regulations, 2024 and the Competition Commission of India (Combinations) Regulations, 2024 have operationalized these reforms.[17] These changes are indicative of India's desire to strengthen the current structure prior to implementing an overall ex ante regime. However, the question of whether these changes are sufficient continues to be at the center of the continuing discussion surrounding the proposed Digital Competition Act.

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[14] Richa Choudhary & Aditi Mishra, Competition Law Challenges in the Digital Economy: An Indian Perspective, 13(5) TIJER 893 (2026).
[15] Lok Sabha Standing Comm. on Fin., *Sixtieth Report: Action Taken by the Government on the Observations/Recommendations Contained in the Fifty-Third Report (17th Lok Sabha) on the Subject "Anti-Competitive Practices by Big Tech Companies"* (2023), https://sansad.in/getFile/lsscommittee/Finance/17_Finance_60.pdf?source=loksabhadocs
[16] The Competition (Amendment) Act, 2023, No. 9 of 2023 (India).
[17] Competition Commission of India (Settlement) Regulations, 2024 (India); Competition Commission of India (Commitment) Regulations, 2024 (India); Competition Commission of India (Combinations) Regulations, 2024 (India).

V. CONCLUSION

Digital markets have altered the manner in which competition concerns arise making traditional indicators such as price and market share insufficient in many cases. Although the Competition Act, 2002 predates the digital economy tis flexible provisions have enabled the competition commission of India to examine a range of anti competitive practices involving digital platforms. At the same time the speed with which digital markets evolve exposes the limitations of conventional ex post enforcement. The revisions implemented under the Competition (Amendment) Act,2023 demonstrate that India is enhancing its existing competition framework rather than replacing it. Continued legislative refinement and effective enforcement will be important to ensure that competition law remains capable of supporting innovation while protecting fair market practices in the digital economy.