The Indian Journal for Research in Law and Management

Open Access Law Journal – Copyright © 2026

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

DIGITAL MARKET AND ITS REGULATION: COMPETITION ACT, 2023

-Chanchal Bhati

After the Covid-19 wave, there has been an unprecendent surge in digital platforms. There has been development in a myriad of industries, from shopping to education. Platform-based services have popped up and the era of digitalisation has arrived, making it important to keep an eye on anti-competitive practices of these digital companies. Thus, it needs to be analysed whether the present competition regime in India accommodates this boom in the digitalisation.

Defining digital market

The first things one needs to do is to define market. A market is a process by which they react to each other as buyers and sellers. It is specified by the limits in which The Competition Act, 2023 is applicable.

A digital market is where the stakeholders of a market interact digitally. Put another way, someone doesn't have to be in the physical presence to engage with the marketplace. The trades are conducted online. The digitally operated platforms are different from the traditional market in that they have multi sided market. They are involved in connecting customers and vendors of the market as a middleman and break the unilateral market. These platforms do not ask for any monetary contribution from its users but as a compensation they ask for the users' data and attention. Analogously, Facebook/Meta brings users and advertisers together, Uber's app brings drivers and riders together. Thus, it is challenging to establish their relevant market.

Relevant market in a digital market

The Competition Act, 2023, defines relevant market as the one with interchangeability and substitutability of products or services characterized by homogenous conditions like price, intended use, consumer preference, cost of switching and others enumerated in Section 19(7) of the Act. The object of defining relevant market is to asses the market power and the constraints faced by enterprises. The identification of relevant market requires assessing the product market (section as well as the geographical market [section 19(6)]. For eg, the apple phone market in India is the smartphone market in India, the competitors of an apple phone are other brands such as Vivo, One plus, Android.

However, it is challenging to define in a digital market because they are characterised by network effects and have multisided platforms. Different types of users take advantage of and interact with a Multi sided platform. In such markets, platforms are primarily user-driven, the more users get attached to the platform and the more valuable the services are. This is referred to as network effect. Further, demarcating a geographical area is not feasible due to the borderless nature of digital market.

Anti Competitive behaviour by digital platforms

Traditional markets have many criteria for determining who is dominant such as market share held by the enterprise (section 19(4)). But this cannot be followed in defining relevant market in a digital market with multisided platform.

Dominance, the substitutability of a product if the price of the product increased slightly and significantly, is determined with the help of tools such as SSNIP (Small but Significant Non Transitory Increase in Price) and CLA (Critical loss analysis) in the relevant market.

One of the other indicators that can be used to establish dominance in digital market is data. Companies like Google, Meta etc. have huge and unprecedented amounts of data pertaining to their users. As it is rightly said, data is the new oil. However, the concentration of data (dataopolies) may result in anti-competitive activities, since the new comers into the market may be barred.

For large enterprises, such as search engines like google, there's huge datasets to manipulate and they should use their own products over others. This is the same thing that CCI has been investigating in May 2020 when it raised allegations of Google trying to unfairly favor its mobile payments app. Google is alleged to be more prominent in the Google app store's payment application, thus giving it an edge over other applications. This is referred to as self-preferencing.

Regulating competition

India has an ex post mechanism to monitor competition, i.e. it is checked after anti-competitive behaviour. To address this, Parliament prepared a Draft Digital Competition Bill, 2024. Introduced ex-ante rules instead of punitive measures. But due to opposition from industries that the stringent penalties will stifle innovation, the Bill is undergoing revision.

Conclusion

A balance has to be struck between encouraging innovation and banning anti-competitive conduct. Data governance and algorithmic transperancy are some of the measures which will help achieve this balance.