ABUSE OF DOMINANCE IN THE PLATFORM ECONOMY: A SECTORAL STUDY OF ANTITRUST REGULATION IN INDIA

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ABSTRACT

The platform economy has significantly disrupted traditional market structures in India, with firms like Amazon, Flipkart, Google, Uber, and Jio acting as both facilitators and competitors. This paper investigates how these digital platforms exploit their dominant positions through self-preferencing, predatory pricing, and data monopolization. Using a doctrinal and case study-based methodology, the research critically assesses the effectiveness of India's current antitrust framework, particularly under Section 4 of the Competition Act, 2002. It draws on major sectoral cases and comparative jurisprudence from the EU and US to highlight regulatory blind spots and propose reforms such as ex-ante regulation, algorithmic accountability, and inter-agency coordination. The study emphasizes the need for proactive and technically equipped enforcement to safeguard competition in India's digital markets.

Keywords: Digital markets, antitrust law, abuse of dominance, Competition Commission of India (CCI), platform economy, algorithmic bias, data monopoly, ex-ante regulation, e-commerce competition, comparative antitrust law

Introduction: Research Problem & Objectives

The emergence of digital platforms has significantly altered competitive dynamics across sectors in India. Firms like Amazon, Flipkart, Google, Uber, and Jio have reshaped how consumers access products and services, often acting simultaneously as platforms, competitors, and service providers. While these innovations offer efficiency and scale, they also raise serious concerns about the concentration of market power and exclusionary practices.

Digital markets are structurally distinct from traditional ones. They are characterized by strong network effects, data-driven business models, and algorithmic decision-making, which together create high entry barriers and reinforce dominance. In this environment, platforms may engage in self-preferencing, predatory pricing, and exploitative use of consumer data. These behaviours are difficult to detect, often hidden within proprietary algorithms or bundled services, and may not immediately trigger conventional antitrust alarms.

This raises the central research problem: ***How do dominant digital platforms distort competition through practices such as self-preferencing, predatory pricing, and data exploitation, and is India's current antitrust framework sufficient to address these challenges?***

To address this, the study sets out three core objectives:

1. To ***examine the application of Section 4 of the Competition Act, 2002*** in regulating abuse of dominance by digital platforms—focusing on how dominance is assessed and what constitutes abusive conduct in technology-driven markets.

2. To ***critically analyse the CCI's sectoral enforcement*** in response to complaints of abuse in e-commerce, telecom, search engines, and ride-hailing—highlighting both successes and limitations.

3. To ***draw lessons from international experience***, particularly from the European Union and the United States, and propose reforms to strengthen India's competition regime, including ex-ante regulation, sector-specific guidelines, and structural remedies.

This study aims to contribute to a timely and evolving policy conversation on adapting antitrust tools to the digital economy.

Legal Framework on Abuse of Dominance in India

Section 4 of the Competition Act, 2002 governs the abuse of dominance in India's antitrust regime. It does not prohibit dominance itself, which may arise from innovation or efficiency, but targets the misuse of such power that harms competition or consumer welfare. A dominant position is defined as one that allows a firm to operate independently of market forces or influence others unfairly. Abuse includes practices like unfair pricing, limiting output or innovation, denying market access, tying products, and leveraging dominance in one market to gain advantage in another.

To assess abuse, the Competition Commission of India uses a three-stage framework: ***define the relevant market, determine dominance, and evaluate if the conduct is abusive***. In digital markets, defining the ***"relevant market"*** is complex due to multi-sided platforms, zero-price services, and rapid innovation. Market power may stem not just from market share, but also from control over user data, network effects, and ecosystem integration.

Recognizing these challenges, the ***Competition (Amendment) Act, 2023*** introduced key reforms. A ***deal value threshold*** now requires CCI approval for transactions over ₹2,000 crore if the target has substantial Indian operations—aimed at catching significant digital acquisitions previously missed. The amendment also allows penalties based on ***global turnover***, aligning India with international standards and enhancing deterrence.

Further, the law introduces ***settlement and commitment mechanisms***, enabling faster dispute resolution through negotiated remedies. It expands the definition of anti-competitive agreements to cover indirect facilitators of collusion (e.g., hub-and-spoke cartels). Clarifications on unfair pricing under Section 4 are particularly relevant to digital sectors where pricing strategies are often complex and opaque.

Overall, the updated legal framework reflects India's intent to modernize its competition law in line with the evolving digital economy, ensuring that dominance in platform markets is subject to responsible and fair regulatory oversight.

Sectoral Case Studies and Analysis & Cross Sectoral Trends and Challenges

Digitalization of the Indian economy brought new market behavioural paradigms that remade competition across sectors. Platform-based enterprises have occupied center-stage in

commerce, communications, mobility, and services delivery. While such platforms have brought efficiencies and consumer gains, they also posed important issues of abuse of dominance. Differing from monopolistic abuse based on traditional modes, such abuse in digital markets is subtly in-built in their technological nature—expression through dominance in data, opaque algorithms, preferential treatment by platforms, hidden prices that undercut or shut out rivals. This section examines critically the modes in which such abuse plays out in priority sectors and points out challanges in regulation and structure in ensuring compliance with antitrust laws.

In the ***e-commerce space***, Amazon and Flipkart are in command of the Indian market with a large portion of the ecosystem under their wings. Multiple complaints and inquiries before the Competition Commission of India (CCI) have blamed these players for running practices that transcend keen competition and enter the realm of exclusionary practices. One such practice under the scanner has been exclusive tie-ups with favoured consumer brands—recently in the electronic product and smartphone segments—where products are launched or retailed exclusively through a single channel. Such practices tend to deny competing players including physical stores access to market, creating artificial scarcity and denying consumers a competitive ecosystem. These players have also been charged with pushing their owned sellers like Cloudtail and Appario on Amazon, or WS Retail on Flipkart, with algorithmic privileges, top search visibility, and access to marketplace data. This private-label bias penalizes standalone sellers not under the platform's vertical integration setup, effectively shutting them off from high-visibility digital shelf space[1].

Discounting or Predatory practices, usually presented in the euphemistic cloak of holiday sales or promotional discounts, have also been under the scanner at CCI. Deep discounts by preferred sellers, allegedly funded by both Flipkart and Amazon, enable such sellers to offer their products at below costs. Although these discounts are short-term bonanzas for consumers, longer-term issues relate to predatory prices meant to push smaller rivals off business, since these do not have enough capital to respond with similar aggressiveness. Even though some of these complaints were initially dismissed by CCI on grounds of insufficiency of dominance, sheer extent and repetition of these practices necessitated reopening of proceedings by the

[1] AIOVA v. Flipkart Internet Pvt. Ltd., Case No. 20 of 2018, Competition Comm'n of India (Mar. 6, 2020), https://www.cci.gov.in/sites/default/files/20-of-2018.pdf.

Commission, marking rising regulatory unease with these marketplaces' uncontrolled dominance.[2]

The ***app ecosystem and digital search engine sector***, especially that of Google's Android OS and associated suite of apps, constitutes another terrain over which dominance is asserted in technologically infused modes. In the precedential matter of ***Umar Javeed & Ors. v. Google LLC***[3], it was held by the CCI that Google abused a dominant position by requiring original equipment manufacturers (OEMs) to pre-install Google Search, Chrome, and certain proprietary apps in exchange for access to the Google Play Store. Pre-installation obligation ensured that consumers were defaulted into Google's ecosystem, inhibiting competing service providers from competing based on merits. It was held by the CCI that such behaviour caused foreclosure of the market and adversely affected competition. Google was penalized by a fine of ₹1,337 crore and was commanded to discontinue such practices. This matter demonstrates the way dominance in one market—Android mobile OS—was being used to reinforce or increase dominance in markets such as that of search, browser, and app distribution. Additionally, Google's dominance over gigantic end-user information streams and behavioural analytics enabled it to improve its services continuously, which made it an almost insurmountable hurdle for small or nascent players. Locking-in of an ecosystem also raises issues of exploitation of information, since consumers' choice is restricted without their full articulation of consequences or choice.

In ***telecommunications***, Reliance Jio's disruptive arrival in 2016 revolutionized competition. With free calls and cheap rates for data, Jio lured over 100 million users in record time. Established players like Bharti Airtel and Vodafone complained to the CCI that Jio was engaging in predatory pricing to destroy competition instead of competing fairly. Yet, the CCI held that Jio was not dominant then and could not consequently be deemed to abuse. Importantly, the case presents us with doctrinal questions of when competitively incumbent pricing behaviour constitutes an anti-competitive undertaking, and whether or not the enforcer waits for dominance to be determined or acts preventively in structurally transformative contexts. Regulatory overlap between TRAI, which governs telecom price regulation and network licensing, complicates enforcement further. While TRAI had cleared Jio's tariffs, the

[2] CUTS v. Amazon Seller Services Pvt. Ltd., Case No. 40 of 2019, Competition Comm'n of India (Jan. 13, 2020), https://www.cci.gov.in/sites/default/files/40-of-2019.pdf.
[3] Umar Javeed & Anr. v. Google LLC, Case No. 39 of 2018, Competition Comm'n of India (Oct. 20, 2022), https://www.cci.gov.in/sites/default/files/39-of-2018.pdf.

CCI was required to examine if these tariffs had an exclusionary purpose. Lack of a consistent coordination system between the two regulators gave rise to delays and confusion, which necessitate synchronized regulation in industries where technical and economic regulation coexist.[4]

The ***ride-hailing industry*** offers another complex range of issues. Ola and Uber, which monopolize urban mobility, deploy dynamic algorithm-based fare determination models. While this innovation optimizes efficiency, it has also given rise to apprehensions of price manipulation and transparency issues. Predatory pricing was considered in ***Meru Travel Solutions Pvt. Ltd. v. Uber India Systems Pvt. Ltd***[5]., and in ***Fast Track Call Cab v. ANI Technologies (Ola)***[6]. Petitioners claimed that these websites were operating below costs, subsidizing drivers, conducting exclusionary practices. But the CCI held that these websites were not dominant players in the relevant market and dismissed both the cases. Interestingly, the Commission accepted that the ride-hailing market was in a nascent stage and that consumer surplus from such fare design could not be overlooked. Yet, opaque algorithmic pricing is still a point of concern. Users and regulators don't understand completely how surge pricing operates, fares are calculated, or whether prices depend on genuine demand-supply factors or are driven by revenue-maximization models that border on exploitative fare design.

In these industries, some ***cross-cutting dominance*** and abuse patterns emerge. One such pattern is dominance over data, also known as ***data dominance***, which gives established players strong insights into users' behaviour, tastes, and transactional history. Digital platforms use this dominance to personalize products, offer optimal prices, and target ads with great accuracy. It also imposes high switching costs on users and entry costs on new entrants that are unable to compete with scope or quality of data aggregation.

Another significant concern is ***opaque algorithms*** that dictate everything from rank and discoverability for products to prices and promotions. Since these are proprietary, however, their workings are insulated from public and regulatory inspection. By being opaque, they enable discrimination or favouritism by the platform without being called to account. Even if

[4] Bharti Airtel Ltd. v. Reliance Jio Infocomm Ltd., Case No. 3 of 2017, Competition Comm'n of India (Jun. 9, 2017), https://www.cci.gov.in/sites/default/files/3-of-2017.pdf.
[5] Meru Travel Solutions Pvt. Ltd. v. Uber India Systems Pvt. Ltd., Case No. 96 of 2015, Competition Comm'n of India (Aug. 3, 2017), https://www.cci.gov.in/sites/default/files/96-of-2015.pdf.
[6] Fast Track Call Cab Pvt. Ltd. v. ANI Technologies Pvt. Ltd. (Ola), Case Nos. 6 & 74 of 2015, Competition Comm'n of India (Mar. 24, 2017), https://www.cci.gov.in/sites/default/files/6-and-74-of-2015.pdf.

a platform pretends to be neutral, without auditability, it is hard to be sure that third-party content or offers are being treated equitably. But algorithmic updates can be rolled out unilaterally and at any moment, empowering platforms with an amount of market control that no traditional company could have.

Defining relevant markets in digital environments adds an additional layer of difficulty to enforcement. Multi-sided markets such as Google or Amazon function across interdependent markets—the users, one one end, and sellers or ads on another—and provide services usually at zero price. Traditional instruments such as the SSNIP test, which is based on price elasticity to delineate markets, prove obsolete in zero-price markets. Regulators have to fall back on such proxy indicators like user participation metrics, network effects, and dependency on access in order to evaluate market dominance.

Enforcement is also undermined by jurisdictional uncertainty. Most digital markets have been brought under specialized sectoral regulators—TRAI for telecom, RBI for digital payments, or SEBI for fintech. These regulate technical and functional compliance, with competition effects being ensured by the CCI. But there being no integrated system or periodic coordination, there are conflicting evaluations. Thus, TRAI may grant price strategies on grounds of technical compliance, but the same behaviour may be considered anticompetitive by the CCI. Since there is no coordinated approach, enforcement is retarded, forum shopping occurs, and regulation loses its deterrent effect.

Overall, the review demonstrates that India's competition policy regime has made strides to address the issues presented by the digital economy but that there are still structural, legal, and institutional boundaries that bind its performance. Digital ecosystem complexity, the velocity of innovation, and the use of strategic data and algorithms by market leaders require an increased measure of initiative and coordination by the state. The CCI should be given increased technical capacity, systems of ex-ante regulation, and inter-regulator collaboration should be institutionalized to enable competition law to function effectively in promoting fair and-open digital markets.

Comparative Jurisprudence

With digital platforms becoming increasingly transnational in their scope, antitrust issues have also assumed a transnational dimension. Long-standing competition enforcement traditions in

jurisdictions such as the European Union and the United States have been at the forefront of dealing with anti-competitive practices under the platform economy. Their regulative attempts offer some useful insights for contemporary India, which is looking to revamp its own response to eliminating abuse of dominance in digital markets.

Competition in the EU has been strong in confronting dominant digital players. Several high-profile penalties have been levied by the European Commission on Google for anti-competitive practices. In the 2017 Google Shopping case[7], it penalized Google €2.42 billion for preferentially promoting its own ***comparison-shopping*** service over those of competing services in search listings. It was a flagrant instance of self-preferencing that adversely affected competing services as well as consumer choice. Again, in 2018's Google Android case[8], it imposed a record penalty of €4.34 billion for dominance abuse in the mobile operating system market. It was found that Google had imposed contractual obligations upon manufacturers of devices to pre-install on their products Google Search and Chrome, in exchange for access to the Play Store, with a resultant foreclosure of competition in services related to these.

Beyond ex-post enforcement, the European Union has enacted an ambitious ***ex-ante regulatory regime*** with the ***Digital Markets Act, implemented in 2023***. The DMA aims at governing "gatekeeper" platforms, determined by turnover and presence in the market, before harm from anti-competitive behaviour materializes. It lays down concrete obligations and prohibitions, like bans on self-preferencing, prohibitions on stitching together data across services, and interoperability and portability obligations. The DMA constitutes a move in the direction of preventive regulation, which guarantees contestability and equity in digital markets by design, not by means of after-the-fact litigation.

Conversely, the United States has long depended more on ex-post remedies by means of ***antitrust litigation***. But lately, there has been a strong push for tougher action against Big Tech. The Department of Justice and the Federal Trade Commission have brought a number of antitrust complaints against companies such as ***Google, Meta (Facebook), and Apple***, charging them with monopolizing markets, excluding rivals, and engaging in anti-competitive takeovers. In 2020, the DOJ brought a complaint against Google for employing exclusive

[7] Case AT.39740 – Google Search (Shopping), Comm'n Decision, Eur. Comm'n (Jun. 27, 2017), https://ec.europa.eu/competition/antitrust/cases/dec_docs/39740/39740_14994_3.pdf.
[8] Case AT.40099 – Google Android, Comm'n Decision, Eur. Comm'n (Jul. 18, 2018), https://ec.europa.eu/competition/antitrust/cases/dec_docs/40099/40099_9993_3.pdf.

agreements to preserve its search and search ad monopoly[9]. Likewise, the FTC brought an antitrust complaint against Meta[10], objecting to its takeovers of Instagram and WhatsApp as attempts to preserve its social networking monopoly. Apple also faces complaint for dominance over the App Store and conditions it imposes on developers[11].

One of the most significant aspects of U.S. enforcement has been its emphasis on acquisition review, particularly in regard to so-called ***"killer acquisitions"*** under which dominant players acquire up-and-coming rivals before these become serious threats. There is mounting bipartisan agreement in the U.S. on strengthening antitrust powers, and Senate and House of Representatives proposals like the American Innovation and Choice Online Act and the Open App Markets Act respond to this momentum.

The EU and US experiences have some key learnings for India. One, both jurisdictions show that structural remedies may be required in instances where behavioural remedies fall short of restoring competitive conditions. To make an example, suggestions in both the EU and US have involved separating-out of platform and marketplace activities or imposing unbundling of services. India, with both Amazon and Flipkart functioning both as marketplaces and sellers through related entities, has similar issues.

Secondly, India could make use of forward-looking, ex-ante regulation, especially with respect to digital gatekeepers. Though the Competition Act, 2002 tends to be centered on ex-post administration, nascent conduct-based and structural issues in digital markets need preventive instruments such as in the DMA.

Last but not least, digital platforms' inherently international nature means that there is a need for transnational co-operation in law-enforcement. Standardisation, information-exchange arrangements, and co-operative investigations could assist Indian enforcers in getting aligned with their foreign counterparts and make domestic action more effective. Shifting

[9] United States v. Google LLC, No. 1:20-cv-03010 (D.D.C. filed Oct. 20, 2020), https://www.justice.gov/opa/press-release/file/1328941/download.
[10] Federal Trade Commission v. Meta Platforms, Inc., No. 1:20-cv-03590 (D.D.C. amended complaint filed Aug. 19, 2021), https://www.ftc.gov/system/files/documents/cases/1910134metaredactedsecondamendedcomplaint.pdf.
[11] In re Apple Inc. App Store Practices, Investigation & Hearings, U.S. Congress, House Judiciary Committee, Subcomm. on Antitrust, Commercial and Admin. Law (2020), https://judiciary.house.gov/uploadedfiles/competition_in_digital_markets.pdf.

jurisprudence in the EU and the US also offers Indian enforcers and judges guiding interpretations for new issues thrown up by monopolistic digital players.

In sum, comparative experience highlights that digital platforms need strong enforcement together with nimble, forward-thinking frameworks. India will need to draw from these models but adapt its own approach to the structure of the country's market, consumer base, and institutional capacity.

Conclusion and Suggestions

The examination conducted in this study demonstrates an intensifying competition landscape that is driven by an emerging dominance by digital monopolists in major industries like e-commerce, search, telecom, and ride-hailing. Unlike classical monopolistic abuse, dominance abuse in the platform economy is far subtler and complexed by technologically advanced mechanisms like preferential treatment by self-algorithmic means, unfair predatory pricing, algorithmic manipulation, and exclusion by means of data. Even though the doctrinal approach under Section 4 of the Competition Act, 2002—is strong in word—it suffers from interpretive and enforcement issues in being applied to sophisticated behavior so prevalent in digital markets.

Sectoral case studies of Amazon, Flipkart, Google, Jio, Ola, and Uber describe how digital companies can use network effects, vertical integration, and data control to sideline rivals and consolidate market dominance. While the CCI has made admirable efforts in launching probes and issuing penalties in some cases, like the Google Android ruling, in other matters like market entry by Jio or that of Uber’s practices on prices, the Commission was bound by tight definitions of dominance or overlaps of jurisdiction with sectoral regulators.

One such identified area of regulation is the absence of binding, definitive guidelines for digital markets. The SSNIP test and market share tests tend to fail in determining dominance in zero-price or multi-sided markets. Currently, there is not a lot of jurisprudence on dominance over data as well as on the role of algorithms in determining anti-competitive effects. These deficiencies prevent timely and effective responses from being made by the CCI in reaction to nascent forms of abuse.

In response to these issues, it proposes the following policy recommendations:

First, the CCI must release sector-agnostic digital market guidelines that offer transparency on measuring data dominance, algorithmic influence, and platform impartiality. These guidelines must draw from best-practice learnings across the world but remain accommodating of India's unique market realities.

Second, institutional capacity building in the CCI is urgently required. Due to the technical nature of digital markets, there is an imperative to hire and train digital markets staff with expertise in areas such as data science, platform economics, and algorithmic auditing. Creating a separate digital markets unit at the CCI could improve analytical capacity and enable more sophisticated inquiries.

Third, India should implement an ex-ante regime of regulation for digital gatekeepers akin to that in the European Union's Digital Markets Act. Such a complementary system running parallel to ex-post intervention could anticipate and avoid such harmful behavior in advance, ensuring competition and innovation in the long term.

Fourth, there is a need for better coordination between sectoral regulators and the CCI. Memoranda of understanding, joint task forces, and data-sharing arrangements need to be institutionalized to ensure that there is no duplication, delay in regulations, or confusion over jurisdictions, particularly in telecom, fintech, and digital payments.

Finally, if behavioural remedies fail or prove too costly to administer in certain instances, the CCI should be prepared to consider structural remedies like unbundling of platform and commerce units or enacting access obligations. While agreeing to such remedies will be unpopular, it must be done to maintain competitive balance in concentrated digital markets.

In sum, there are both promise and peril in this digital economy. To make sure that there is prosperity in innovation without hurting competition and consumer well-being, India’s antitrust system must change ahead of time based on good economics, drawing from worldwide learning, and with the capability to address digital gatekeepers’ dominance in the 21st century.

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