
THE EFFECTS OF DIGITAL MARKETPLACES ON ANTITRUST ENFORCEMENT: A COMPARATIVE ANALYSIS OF THE TECH GIANTS

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INTRODUCTION

A major change in the economy is providing digitally tailored goods and services at the snap of a finger. In recent decades, advanced transformation has resulted in revolutionary business frameworks emerging within the digital context.

Thanks to the integration of Information Communication Technology (ICT) and the fast-paced growth of digital enterprises, new, distinct digital markets are emerging. These markets contain millions of users and businesses that are operated under this vast computerized identity. Users and businesses use and operate under a digital identity, and they are available in almost all sectors of the economy, ranging from health care services, education, to finance and transport, both on a national and an international scale.

There's an assortment of platforms that circulate services in an economy. These platforms possess features that make navigation smooth within the platform. This brings us to platforms like Google, which distribute various services to users and businesses with ease of access. In contrast to ordinary markets, the feature of strong economies of scale, having data capacity, learning procedures, and synergy of platforms shifts the market condition. This results in a significant growth within a short time span.

Digital markets typically operate on a “winner-takes-all” basis, where one firm is able to rapidly outcompete its rivals¹. This is in contrast to traditional markets, which are self-regulated by diminishing returns, encouraging more balanced competition and greater contestability in the market. Due to the reinforcing advantages that exist in digital ecosystems, firms that are successful in one area can easily extend their reach into adjacent markets. This trend not only

¹ European Commission, Competition Policy for the Digital Era (2019), <https://ec.europa.eu/competition/publications/reports/kd0419345enn.pdf>

reduces the chances of market entry for new players, but also tends to foster an environment more permissive of anti-competitive actions.

DIGITAL VS. TRADITIONAL MARKETS: KEY DISTINCTIONS

Digital markets work on completely different economic principles when compared with traditional physical markets. In physical markets, businesses undergo increasing returns only up to max efficiency. After this point, growth leads to higher marginal costs. This is known as diminishing returns to scale, which prevents unchecked expansion and cultivates a competitive equilibrium. In these types of systems, growing too big ends up being inefficient.

In contrast, digital markets are able to reap the benefits from growing returns to scale. Digital firms experience drastically declining marginal costs with growth; scaling up becomes a competitive edge. After the initial infrastructure is set up, servicing additional user's costs very little. This improves the chances of rapid expansion and dominance by 1 or two firms in a very short time. This rapid market "tipping" causes the market to become less contestable and more monopolistic compared to traditional sectors.

The idea of growing returns to scale is key to knowing digital market power. In these markets, the bigger a firm gets the more cost-effective it becomes. For instance, a fully developed messaging app or search engine can serve millions more users with almost no extra cost. This sets up a case where smaller rivals find it hard to stay alive because matching the size and skill of the leaders is too expensive.

As per a 2019 EU report, if two companies try to provide the same digital service, neither will be able to meet its total operational costs if they do not charge above marginal cost. But pricing above this level gives competitors the chance to undercut them and that will lead to a price war. This deters new companies from entering markets where there is already an established dominant player, even if that player is in fact making large amounts of money. New entrants require Way better and cheaper tech to be any actual threat.

Another critical characteristic of digital platforms is network effects. As more people use a platform, its value increases for everyone involved. This creates a powerful cycle: more Users attract more users. Take social media or messaging platforms as examples—new users naturally gravitate toward platforms where most of their contacts already are.

This dynamic makes it extremely difficult for new entrants to compete. Even if an alternative platform offers better features or privacy, people are unlikely to switch unless a large segment of users does so simultaneously. The challenge of coordinating a collective migration means incumbents remain in a dominant position. As a result, these platforms benefit not only from user numbers but also from user inertia. When network effects combine with increasing returns to scale, they create what are known as winner-take-all markets. These environments present serious challenges for maintaining fair competition². The leading firms can use their established dominance to systematically edge out newer, innovative start-ups, either by copying their ideas, acquiring them early, or by manipulating access within the ecosystem they control.

This consolidation of power acts as a barrier for smaller firms and discourages innovation.

Over time, it leads to the reinforcement of dominant positions, making it increasingly difficult for alternative players to emerge or survive. These issues have been noted in various parliamentary and regulatory investigations and have also surfaced in landmark competition law cases globally.

The dominance of major players in digital markets poses several risks:

- Extraction of user value: Dominant firms can exploit their market power to collect excessive user data or raise service costs indirectly.
- Suppression of innovation: By acquiring potential rivals or imitating their features, these firms can suppress dynamic competition.
- Leveraging dominance across markets: A company strong in one domain may unfairly bundle services or use its position to gain a foothold in unrelated sectors.
- Resource monopolization: Tech giants can hoard critical resources such as top talent or proprietary infrastructure, making it harder for competitors to scale.

² Ariel Ezrachi & Maurice E. Stucke, *Virtual Competition: The Promise and Perils of the Algorithm-Driven Economy* (Harv. U. Press 2016).

These behaviours contribute to long-term market entrenchment, reducing the chances of fair competition and potentially harming consumers by limiting choice and innovation³.

Policymakers face a significant hurdle in regulating these fast-moving markets. Often, dominant players emerge within just three to five years of a market's formation. By the time anti-competitive conduct is recognized and addressed, the market may already be monopolized. This makes the case for proactive regulation and ex-ante scrutiny, rather than waiting for violations to manifest. It underscores the importance of identifying and curbing potentially harmful behaviours early—before they result in irreversible market concentration.

ANTI-COMPETITIVE PRACTICES IN INDIA'S DIGITAL ECONOMY

India's digital landscape is evolving at an extraordinary pace. India's digital industries have enormous promise because it is the world's fifth-largest and fastest-growing economy.

With over 900 million internet users projected by 2023⁴, and a rapidly growing appetite for digital services like e-commerce, fintech, ed-tech, and telemedicine, India's consumer internet economy is expected to reach USD 1 trillion by 2030, up from USD 537.5 billion in 2020⁵.

Government platforms such as the Government e-Marketplace (gem) have also witnessed impressive growth. As of mid-2022, Gem had processed over 10 million orders, valued at more than INR 2.5 lakh crore (USD 33 billion), across nearly 60,000 buyers and over 4.5 Millions of registered sellers and service providers⁶.

These figures highlight not just the sheer scale of the digital economy but also its significance in shaping India's future. As this sector continues to grow, it is imperative to ensure that it operates in a fair, transparent, and competitive environment. Without robust regulatory oversight, the same market dynamics seen globally—winner-take-all effects, anti-competitive

³ Tim Wu, *The Curse of Bigness: Antitrust in the New Gilded Age* (Columbia Global Reports 2018).

⁴ Competition Commission of India, *Market Study on the Telecom Sector in India* (Jan. 2021)

⁵ India Brand Equity Foundation (IBEF), *E-commerce Industry in India*, <https://www.ibef.org/industry/ecommerce.aspx>

⁶ Press Trust of India, *India's Digital Economy to Reach \$1 Trillion by 2030*, *Econ. Times* (Feb. 2023), <https://economictimes.indiatimes.com>.

conduct, and barriers to entry—could emerge in India as well, stifling innovation and undermining consumer welfare.

PLATFORM NEUTRALITY AND THE ISSUE OF SELF

PREFERENCING

Digital platforms, which act as middlemen between third-party companies and end consumers, are the main means by which the digital economy operates. These platforms serve as markets for independent vendors and developers to sell their products. Many of these platforms are run by parent firms that use the same infrastructure to market and sell their own goods and services, therefore, they are not impartial. Because of this dual function, platform owners may give their offerings an unfair advantage, which raises serious issues about self-preferencing. Such actions can disadvantage individual merchants and skew fair competition. It might provide the platform's products an unfair advantage while lowering third-party businesses' visibility, earnings, and possibilities. Ensuring platform neutrality is essential to preserve a level playing field and to prevent market distortions in downstream sectors.

The 2020 probe into Alphabet Inc., the parent firm of Google, exposed a notable instance of self-interested behaviour⁷. It was claimed that Google Pay was given preference over other digital interfaces, including the Android operating system, Google Play Store, and devices running Android. Among the particular issues were:

- Modifying search ad algorithms to increase Google Pay visibility;
- Skewing Play Store search results to favour Google Pay.
- During Android device setup, Google Pay is pre-installed and shown prominently⁸.

According to others, these tactics perpetuate a "status quo bias," which disadvantages rival UPI payment app providers, digital wallets, and internet banking apps by encouraging consumers to utilize pre-installed or highly visible apps⁹. In its first findings, the Competition Commission of India (CCI) pointed out that a dominating platform's manipulation of search results and

⁷ Case AT.39740—Google Search (Shopping), Comm'n Decision, 2017 O.J. (C 9) 11.

⁸ Google Pay Case, Competition Commission of India, Case No. 07 of 2020 (Initial Order, 2021)

⁹ CCI, *In re: Alleged Abuse of Dominance by Google LLC*, Case No. 39 of 2018 (2020), <https://www.cci.gov.in>

interface components can be a potent tactic to entice consumers to download its recently released apps. Because users' decisions may be swayed by false visibility benefits rather than product quality, this undercuts competition based on merit.

The CCI also noted that, when combined with other forms of preferential treatment, Google Pay promotion in categories like "Top Apps" or "User Choice" without relying on objective criteria could potentially:

- Create discriminatory access for third-party applications;
- Impose unfair conditions on both app developers and users.

ADJACENCY, BUNDLING, AND TYING

To enjoy their primary offering, several digital platforms require customers to purchase supplementary services. For instance, food delivery services could restrict restaurants' options by requiring them to use just the platform's delivery network. Similarly, Users are frequently encouraged to utilize proprietary apps, such as the company's default search engine, via mobile operating systems. Television networks that bundle several channels for distributors to boost viewer awareness and advertising revenue are in a similar position. Consumer choice is limited by this type of bundling, which may raise prices and make it more difficult to get separate services. More importantly, by utilizing market dominance in one area to push out competitors in related areas, it may drive rivals out of the market. Historically, one of the main factors that kept rivals like Lotus Smart Suite at bay was Microsoft's practice of including its Office Suite with Windows¹⁰. Leading companies are able to extend their control across many industries by connecting products, a strategy that is currently observed in many digital services.

Pre-installed application packages on smartphones caused a stir in 2018. It was observed that mandating that manufacturers install the entire set of default apps to use the operating system can be interpreted as a form of coercion.

DATA USAGE AND MARKET POWER

Data is a key resource in the modern digital economy. Digital platforms rely on algorithms that

¹⁰ *United States v. Microsoft Corp.*, 253 F.3d 34 (D.C. Cir. 2001)

are driven by enormous volumes of corporate and consumer data. A platform's data collection increases with the number of users it draws; this data is then processed to strengthen user engagement and improve services. The result of this cycle is a monopolistic dynamic. A platform's data pool grows increasingly extensive as it gains dominance, enabling it to improve services, customize products, and outperform rivals. In addition to improving the platform's competitiveness, this unique access to user behaviour data also presents privacy issues. It has been noted that certain platforms use information acquired in one market to obtain an advantage in another. Platforms that gather customer preferences and transaction histories, for example, can utilize this data to create or advertise their goods and services, excluding rivals. Furthermore, this data is frequently gathered without paying consumers directly, making it a non-monetary competitive weapon that has the potential to compromise both market fairness and privacy¹¹.

It has been claimed that some online meal delivery firms are personalizing discounts and product listings by utilizing customer purchase histories. Although this improves the user experience, it also solidifies the platform's place in the industry, which may discourage new competitors from joining as they won't have access to comparable customer data.

KILLER ACQUISITIONS AND UNREGULATED DEALS

Dominant companies acquiring smaller businesses is a common problem in the digital industry, especially when these takeovers go unnoticed by regulators. Often referred to as "killer acquisitions," these transactions entail big platforms purchasing up-and-coming startups, not necessarily for their earnings or resources, but rather to stifle potential rivals¹².

Merger laws in various legal systems are based on asset and turnover limits. However, in the digital realm, really valuable businesses might not make much money in their early phases, which would allow big platforms to buy them without any supervision. Facebook's \$19 billion purchase of WhatsApp in 2014 is a well-known example; under the regulations in place at the time, preapproval was not necessary for this deal¹³. By limiting market dynamism and impeding smaller businesses' ability to scale autonomously, this strategy stifles potential

¹¹ Federal Trade Commission, *Big Data: A Tool for Inclusion or Exclusion?* (Jan. 2016), <https://www.ftc.gov/system/files/documents/reports/>.

¹² OECD, *Start-ups, Killer Acquisitions and Merger Control* (2020), <https://www.oecd.org/daf/competition/start-ups-killer-acquisitions-and-merger-control.htm>

¹³ *Facebook, Inc./WhatsApp Inc.*, Case No. COMP/M.7217, Eur. Comm'n Decision (Mar. 25, 20

innovation. Unchecked consolidation has the risk of strengthening monopolies and restricting competition, even though some mergers might be advantageous. Throughout the various tiers of the digital economy. Pricing Below Cost and Market Distortion, many online platforms, such as those in e-commerce, food delivery, and hospitality services, now frequently offer steep discounts. However, there is frequently a lack of openness in the procedures used to calculate these reductions. Techniques like fake markdowns or dynamic pricing, which raise prices in response to increases in demand, can deceive customers and distort the market.

Platforms may take charge of the ultimate price, reducing the independence of specific suppliers. Long-term disadvantages result from established shops and smaller sellers finding it difficult to compete when products are sold below cost. Specific instances have emerged where platforms provided preferential discounts to select vendors, often tied to exclusive arrangements¹⁴. These favoured sellers may benefit from platform-backed promotions, while others lack access to similar support. In some cases, it was observed that sellers affiliated with the platform or tied to its private-label brands received special advantages, including shared contact points and strategic listing positions.

MARKET LOCK-IN VIA EXCLUSIVITY

Entering into exclusive agreements with brands to limit the sale of certain products to a particular marketplace is a common strategy used by digital platforms¹⁵. In addition to hurting competing platforms, this exclusivity also impacts offline vendors who are unable to match the size or scope of online advertising. Enforcing price parity provisions, which prohibit vendors from lowering their prices on rival websites, is a similar practice. This limits the potential for price competition and may raise consumers' overall expenses.

Additionally, exclusive agreements have been noted in the e-commerce and online meal delivery industries. These agreements frequently involve prominent placement or unique labels—like "Assured" or "Fulfilled"—for particular vendors or goods. These kinds of agreements foster an atmosphere that shapes competition.

¹⁴ CCI, *Market Study on E-Commerce in India* (2020).

¹⁵ *Amazon.com, Inc./Future Retail Limited*, Competition Commission of India, Suo Motu Case No. 16 of 2020.

BIASED RESULTS AND MARKET IMPACT

Algorithms are used by digital markets and search engines to rank goods, services, and apps. These outcomes should ideally be determined by popularity, quality, or relevance.

But there are worries that rankings could be skewed to favour some vendors or services, especially those associated with the platform¹⁶. Users are less likely to find independent suppliers when sponsored listings, paid placements, or corporate offerings take precedence over organic results. This type of algorithmic bias restricts consumer choice, erodes platform confidence, and makes competitors less visible.

When preferential treatment and exclusive relationships collide, these issues have been brought up. There will be less competition and an unfair advantage for businesses if big platforms continuously feature them at the top, even in unrelated areas.

LIMITING COMPETITION THROUGH PLATFORM CONTROL

The installation or use of third-party apps on dominant platforms' ecosystems is frequently restricted. This may involve policies that prohibit users from accessing third-party services that the platform has not authorized or from downloading apps from other shops.

For example, the built-in app marketplace might be the only means to download new apps on some mobile operating systems. Policies may specifically forbid listing apps that provide rival services, so preventing possible competitors from joining the market.

These limitations reduce user choice and market access. Dominant platforms establish a closed environment that safeguards their position and stifles competition by tightly controlling which programs may be published and how they are installed.

ADVERTISING POWER AND SELF-PROMOTION

Online monetization tactics now rely heavily on digital advertising. AI and machine learning are being used by platforms more and more to target people with tailored advertisements¹⁷. But

¹⁶ CMA (UK), *Online Platforms and Digital Advertising Market Study Final Report* (July 1, 2020), <https://www.gov.uk>.

¹⁷ OECD, *Competition in Digital Advertising Markets* (2020), <https://www.oecd.org/daf/competition/competition-in-digital-advertising-markets-2020.pdf>.

this has also raised concerns about the lack of focus and openness in the ecosystem for ad-tech.

These days, big platforms run the whole digital advertising supply chain, from delivery and analytics to ad placement and bidding. Self-preferencing is made possible by this vertical integration, where a platform may give preference to its own products or services in the advertising flow.

Information asymmetry has also been a source of concern. In contrast to those controlled internally by the platform, independent publishers and advertisers frequently don't have access to how their ad revenues are determined or how well their placements perform.

STRENGTHENING INDIA'S COMPETITION FRAMEWORK FOR THE DIGITAL ECONOMY

Ex-post enforcement, which deals with anti-competitive behaviour after it happens, has historically been the foundation of competition laws worldwide, including in India. But as digital marketplaces become more centralized and sophisticated, there is an increasing global understanding that proactive, pre-emptive (ex-ante) control is necessary¹⁸. To maintain competitive fairness, certain states have started to define a small number of powerful technological companies, commonly referred to as Systemically Important Digital Intermediaries (SIDI), and impose more stringent requirements on them.

To meet this requirement, new legal frameworks are being developed all across the world. While some are being developed, others are currently in effect. These regulations seek to stop actions that might undermine market competition and hold major tech companies responsible. It is particularly crucial to harmonize these laws across nations since it makes compliance easier for multinational corporations and guarantees that India's digital economy complies with changing international norms. Additionally, it makes Indian companies more competitive in global markets by guaranteeing that they meet uniform regulatory standards.

India's economy is poised to become the world's largest and most dynamic digital economy. Every part of the digital ecosystem needs to be set up to encourage equity, transparency, and creativity to facilitate this shift¹⁹. Evidence from both domestic and international digital

¹⁸ Giovanni Pitruzzella, *The Challenges of Antitrust Enforcement in the Digital Age*, 9 *J. Antitrust Enforcement* 287 (2021)

¹⁹ Lina M. Khan, *Amazon's Antitrust Paradox*, 126 *Yale L.J.* 710 (2017).

markets makes it abundantly evident that proactive regulation is necessary for dominant platforms—those with a systemic effect. Without these safeguards, digital ecosystems have the potential to swiftly turn into monopolistic systems that restrict consumer choice, smaller enterprises' chances, and the rise of creative new players.

Additionally, it is crucial to harmonize competition legislation with other regulatory frameworks, such as the 2020 Consumer Protection Act and the related e-commerce regulations. Ensuring fair pricing is the main way that competition legislation protects consumers. And service quality²⁰. Clear clauses that enable customers to obtain just compensation in situations where goods or services are not provided as promised should also be included in this context. In digital markets, preserving healthy competition and ensuring robust consumer protection go hand in hand.

India's digital sector, which includes leading e-commerce enterprises, fintech providers, creative start-ups, large IT and business process outsourcing firms, and digital public infrastructure like India Stack, will be a major contributor to the country's future economic growth. Global tech behemoths are also significant players in this ecosystem. India's competition rules must adapt to the difficulties presented by digital platforms to guarantee that this ecosystem stays fair and competitive. Digital marketplaces, in contrast to traditional industries, are marked by rapid consolidation, where a limited number of Businesses may swiftly take control of huge swaths of the economy. To address these dynamics, current legislation must be strengthened, and regulatory bodies must be given the authority to assume the additional duties necessary to properly monitor the digital economy.

CONCLUSION

The rapid rise of digital markets has altered the fundamentals of modern business. Digital ecosystems are naturally vulnerable to declining returns, in contrast to traditional markets that promote balanced competition. Consolidation is a result of data-driven business strategies, network effects, and growing returns to scale. These traits make it simpler for powerful companies to solidify their positions and exert control over neighbouring markets, frequently at the expense of rival businesses and customers.

²⁰ *Consumer Protection (E-Commerce) Rules, 2020*, G.S.R. 462(E) (July 23, 2020), Ministry of Consumer Affairs, India.

Problems like data monopolization, deep discounting, bundling, and self-preferencing are not isolated incidents; rather, they are indicative of systemic issues that necessitate a revaluation of regulatory strategies. The rise of platform-based services and their ability to control rankings, restrict third-party applications, and dominate the ad-tech supply chain underscores the need for robust regulation. The stakes are especially high for India, which is on the verge of becoming one of the world's greatest digital economies. The development of a just, contestable, and innovation-friendly ecosystem is just as important to the nation's digital future as rapid growth. This necessitates enhancing the existing framework for competition legislation and implementing ex-ante responsibilities for leading digital intermediaries and guaranteeing improved compliance with laws about consumer protection.

India needs to establish itself as a leader and a responsible participant while other international economies shift toward unified digital competition laws. A modern, adaptable, and proactive competition law regime will be essential in ensuring that the benefits of digital transformation are widely shared by consumers, businesses, and innovators alike.