THE BUSINESS OF BINGE-WATCHING: PLATFORM POWER AND THE NETFLIX–WARNER BROS. MERGER

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ABSTRACT

The acquisition of Warner Bros.' by Netflix raises important questions for the application of Indian competition law to digital entertainment markets. In the over-the-top sector, competitive advantage is increasingly shaped by control over content, data, and distribution, rather than by price alone. The transaction is assessed under the Competition Act, 2002, with particular attention to the jurisdictional requirements for combinations and the framework for evaluating appreciable adverse effects on competition under Sections 6 and 20.

The analysis situates the merger within the structure of India's OTT market and examines how the integration of a leading streaming platform with a major content producer may alter competitive conditions across interconnected segments of the audiovisual value chain. It evaluates the significance of premium content ownership, vertical integration, and platform-based characteristics for merger assessment, while recognising that competitive effects may emerge progressively rather than immediately. Attention is also given to the interaction between subscription-based streaming services, advertising-supported models, and theatrical distribution, and to the implications of this interaction for market access and competitive constraints.

Drawing on the statutory factors set out in Section 20(4) of the Competition Act and recent merger control practice of the Competition Commission of India, the discussion highlights the challenges involved in assessing non-price dimensions of competition in data-intensive platform markets. It suggests that reliance on traditional structural indicators alone may be insufficient to capture the full range of competitive risks associated with such transactions.

Keywords: OTT Platforms; Platform Power; Algorithmic Foreclosure; Merger Control

I. INTRODUCTION

Consolidation in the entertainment industry increasingly reflects the growing dominance of large blockbuster franchises, giving rise to competition concerns that extend beyond pricing effects. These concerns include the concentration of creative control, restrictions on audience access, and the potential erosion of content diversity. In digital streaming markets, market power is exercised not only through subscription fees but also through ownership of premium intellectual property, control over key distribution channels, and the ability to prioritise proprietary content over that of competitors. Consequently, mergers in this sector warrant heightened antitrust scrutiny, as excessive concentration risks converting a competitive content market into a winner-takes-all ecosystem, an outcome that competition authorities, including the Competition Commission of India, have increasingly acknowledged in their assessment of media, broadcasting, and digital platform combinations.

Against this backdrop, on December 5, 2025, Netflix, Inc. **("Netflix")** and Warner Bros. Discovery, Inc. (**"WBD")** entered into a definitive agreement whereby Netflix proposes to acquire Warner Brothers, including its film and television studios, HBO Max, and HBO, for a total enterprise value of approximately USD 82.7 billion[1].The transaction is structured as a cash and stock deal valued at USD 27.75 per WBD share, with completion anticipated following the separation of WBD's Global Networks division, Discovery Global.[2]

The transaction has attracted immediate regulatory scrutiny and a competing hostile bid from Paramount Skydance at USD 108.4 billion. The competing proposal has led to intense debate about market concentration, with the combined Netflix-WBD entity projected to control approximately 43% of global subscription video-on-demand **("SVOD")** subscribers[3]

While this merger primarily concerns the United States market, its ramifications for India's rapidly expanding digital entertainment ecosystem warrant thorough legal examination. This article analyses the merger through the lens of Indian competition law, evaluating jurisdictional

[1] Associated Press, *Netflix to acquire Warner Bros. studio and streaming business for $72 billion* (AP News, 5 December 2025) https://apnews.com/article/netflix-warner-acquisition-studio-hbo-streaming-f4884402cadfd07a99af0c8e4353bd83 accessed 20 December 2025.
[2] Ibid.
[3] Associated Press, *Reaction pours in as Netflix agrees to acquire Warner Bros.* (AP News, 5 December 2025) https://apnews.com/article/netflix-warner-bros-deal-reaction-3acea5d81e630d20560299764bf4c37c accessed 20 December 2025.

thresholds, substantive concerns, and precedential guidance from recent merger control decisions by the Competition Commission of India **("CCI")**.

II. JURISDICTIONAL ANALYSIS UNDER THE COMPETITION ACT, 2002

Statutory Framework and Jurisdictional Thresholds

Merger control in India is governed by Sections 5 and 6 of the Competition Act, 2002, which regulate acquisitions, mergers, and amalgamations that cross specified jurisdictional thresholds. Section 5 defines a "combination" by reference to asset and turnover thresholds, while Section 6(2) mandates prior notification to and approval from the CCI before consummation of any notifiable transaction.[4]

Pursuant to the revised thresholds notified in March 2024, a transaction is notifiable where the parties jointly hold assets exceeding ₹1,000 crore or turnover exceeding ₹3,000 crore in India. In the case of cross-border transactions, notification is triggered where global assets exceed USD 2 billion (with at least ₹500 crore in India) or global turnover exceeds USD 6 billion (with at least ₹1,500 crore in India).[5] Netflix's global operations far exceed these thresholds, and notwithstanding Warner Bros. Discovery's limited direct-to-consumer presence in India, its global asset base and content revenues bring the transaction squarely within the ambit of Section 6(2).[6]

AAEC Test under Section 6

Under Section 6(1), a combination is prohibited if it causes or is likely to cause an appreciable adverse effect on competition **("AAEC")** within the relevant market in India.[7] The Supreme Court has clarified that the Competition Act does not prohibit every restraint on competition, but only those that produce an AAEC , requiring a balancing of anti-competitive harm against efficiency justifications.[8]

To operationalise this inquiry, Section 20(4) sets out a non-exhaustive list of factors for assessing AAEC, including entry barriers, market concentration, countervailing buyer power,

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[4] Competition Act 2002 s. 5, 6(2).
[5] Ministry of Corporate Affairs, Notification GSR 236(E) (March 2024).
[6] Netflix Inc., *Form 10-K* (FY 2024); Warner Bros. Discovery, *Annual Report 2024*.
[7] Competition Act 2002, s 6(1).
[8] Competition Commission of India v. Steel Authority of India Ltd., (2010) 10 SCC 744.

likelihood of dominance, availability of substitutes, and the sustainability of effective competition. [9]These factors form the analytical foundation for evaluating the competitive impact of complex platform mergers such as the Netflix–Warner Bros. transaction.

II. RELEVANT MARKET

Product Market

The relevant product market comprises over-the-top **("OTT"**) streaming services providing on-demand access to filmed entertainment, television programming, and original audiovisual content. Although India's OTT landscape appears fragmented, with over forty platforms including Netflix, Amazon Prime Video, Disney-Hotstar (now JioHotstar), ZEE5, Sony LIV, and several regional services, competitive constraints differ materially across business models. [10] Accordingly, The market can be divided into two types of streaming services. The first is Subscription Video-on-Demand **("SVOD"**), where users pay a monthly or yearly fee to watch content, and these platforms mainly compete by offering exclusive and high-quality shows and movies. The second is Advertising Video-on-Demand **("AVOD"),** where users can watch content for free or at a very low cost, but advertisements are shown during the content, and the platform earns money through ads.[11]Within this framework, Netflix occupies a dominant position in the SVOD segment[12], while JioStar's Hotstar has emerged as the second-largest player in the AVOD market, with an estimated 25 per cent market share, underscoring differentiated competitive dynamics across segments.[13]

Geographic Market

The relevant geographic market is India, as it is the jurisdiction where both parties have a commercial presence through their operations, content distribution, and licensing arrangements. Although Warner Bros. Discovery has a significant content presence in India, HBO Max does not operate as a direct-to-consumer streaming service within the Indian media

[9] Competition Act, 2002 s 20(4).
[10] Ken Research, *India Over-the-Top (OTT) Market* https://www.kenresearch.com/industry-reports/india-over-the-top-market accessed 20 December 2025.
[11] Ibid.
[12] Business Standard, *Netflix–Warner Bros film, TV studio deal may stress Indian OTT platforms* (7 December 2025) https://www.business-standard.com/industry/news/netflix-warner-bros-film-tv-studio-deal-stress-indian-ott-platforms-125120700529_1.html accessed 20 December 2025.
[13] Ibid.

and entertainment market, which is valued at approximately ₹2.5 trillion.[14] Instead, HBO and HBO Max content is made available through licensing arrangements with JioHotstar, limiting HBO Max's competitive presence to content supply rather than platform-level competition. Consequently, the HBO Max brand remains niche in India, with effective reach confined to a relatively small segment of approximately 5–6 million households within India's broader base of nearly 125 million streaming homes.[15] This indirect and limited market participation is relevant to assessing the merger's competitive effects within the Indian context, particularly in relation to platform-level concentration and foreclosure risks.

III. MARKET CONCENTRATION AND DOMINANCE CONCERNS

The consummated Netflix–Warner Bros. combination has materially altered competitive dynamics in India's SVOD market. With Netflix already accounting for approximately 25 per cent of the Indian SVOD segment prior to the transaction, the absorption of Warner Bros.' content portfolio has significantly reinforced its market position.[16] Of particular concern is the consolidation of premium television content: HBO titles such as *The White Lotus*, *The Sopranos*, *Mare of Easttown*, and *Game of Thrones*, which were previously licensed to JioHotstar, are likely to migrate exclusively to Netflix over a 12–18 month horizon, thereby weakening rival platforms' access to high-value content.[17]

The transaction resulted in significant vertical and portfolio integration by combining content creation, distribution, and a wide range of media assets under common ownership. The merged entity brings together Netflix's original content and global distribution infrastructure with Warner Bros.' extensive film catalogue, including the DC Universe and the Harry Potter franchise, as well as HBO's highly popular television programming and HBO Max's global subscriber base of approximately 128 million as of September 2024.[18] This degree of content consolidation raises serious concerns relating to input foreclosure, leveraging of intellectual property, and the potential marginalisation of competing SVOD platforms, directly engaging

[14] Manifest Media, *JioHotstar dominates OTT streaming market in India with a quarter of total share* (9 April 2025) https://www.manifest-media.in/digital/040925/jiohotstar-dominates-ott-streaming-market-in-india-with-a-quarter-of-t.html accessed 20 December 2025.
[15] Ibid.
[16] JustWatch, India Streaming Report Q2 2025 (2025).
[17] Media and entertainment industry reports on post-merger content licensing, noting the potential withdrawal of marquee HBO titles such as *Game of Thrones*, *The Sopranos*, *The White Lotus* and *Mare of Easttown* from third-party platforms following consolidation.
[18] "HBO Max Subscriber Numbers", industry reports summarising Warner Bros. Discovery quarterly results citing HBO Max had ~128 million subscribers as of September 2024.

the Competition Commission of India's appreciable adverse effect on competition AAEC analysis.

IV. IMPACT OF THE MERGER

Barriers To Entry And Expansion

The completed merger materially raised barriers to entry and expansion in the Indian SVOD market. First, content exclusivity functions as a clear foreclosure mechanism. Premium HBO content that was earlier made available in India through licensing arrangements with JioHotstar has now been brought exclusively onto Netflix's platform. As a result, competing streaming services are denied access to high-demand English-language content that is important for attracting and retaining affluent urban subscribers. The removal of such marquee content significantly reduces the ability of rival platforms to compete with Netflix on content quality and differentiation.[19]

Second, the transaction significantly strengthened the financial position of the merged entity. Following the merger, the combined firm is estimated to have an annual content budget of around USD 21.7 billion, which exceeds the total content spending of major global competitors such as Disney, NBC Universal, and Paramount in 2024.[20] This scale allows the merged entity to consistently bid aggressively for creative talent, intellectual property rights, and production resources, which increases costs for rival platforms and makes it harder for smaller or new services to enter the market.

Third, the merger resulted in significant efficiencies from scale and scope. By integrating content production, global distribution, and marketing activities, the merged entity is able to operate at lower average costs and with greater efficiency than smaller competitors. These advantages are difficult for smaller platforms to replicate in a market that requires substantial investment.[21]

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[19] Industry reports titled "*HBO Max Subscriber Numbers*" summarising Warner Bros Discovery quarterly results and reporting approximately 128 million HBO Max subscribers as of September 2024.

[20]Netflix Inc, *Form 10-K* (FY 2024); Warner Bros Discovery Inc, *Annual Report* (FY 2024); comparative analysis with Disney, NBCUniversal and Paramount based on publicly disclosed 2024 content expenditure figures in company annual reports and investor presentations.

[21] Competition Commission of India, *Combination Registration No C-2017/01/529 (Disney–Fox)*, noting that scale economies in content acquisition and distribution can reinforce entry barriers in media and entertainment markets.

Taken together, these factors significantly strengthen the merged entity's market position and raise serious concerns regarding the long-term impact of the merger on competition, entry, and consumer choice in the Indian SVOD market.

Algorithmic Dominance And Data Network Effects

A significant but often overlooked aspect of the merger is the combination of Netflix's proprietary recommendation algorithms with Warner Bros.' content production capabilities. Netflix's machine-learning systems analyse large amounts of user data to understand viewing preferences, improve user engagement, and inform content commissioning decisions. Over time, this creates data-driven feedback loops that strengthen the platform's market position.[22] After the merger, this algorithmic advantage is further strengthened by Warner Bros.' large-scale production capabilities, allowing content to be tailored and prioritised more precisely for Indian audiences.

In the digital streaming markets, recommendation algorithms play a decisive role in shaping consumer demonstrate by determining which content is prioritised and made visible to users. Where a platform controls both the recommendation system and the content being promoted, it gains the ability to favour its own content and reduce the visibility of rival platforms and independent content providers.[23] In the Indian OTT market, where user discovery is largely driven by algorithmic recommendations, such preferential treatment can distort competition by diverting user attention, even in the absence of price-based effects.

From the perspective of Indian competition law, these concerns are relevant to the assessment of an appreciable adverse effect on competition under Section 20(4) of the Competition Act, 2002[24], particularly with respect to foreclosure and barriers to entry. The merger heightens this risk by combining exclusive access to premium content with sophisticated recommendation systems, thereby generating network effects that competitors are unable to replicate.

While the Competition Commission of India has recognised the role of data, algorithms, and network effects as sources of durable market power in digital markets, it has yet to directly address their foreclosure potential in the OTT context.[25] The merger therefore exposes a

[22] OECD, *Big Data and Competition Policy* (2016) 9–12.
[23] Competition Commission of India, *Market Study on E-Commerce in India* (2020) paras 4.9–4.14.
[24] Competition Act 2002 s. 20(4).
[25] *MCI Communications Corp v AT&T* 708 F 2d 1081 (7th Cir 1983).

regulatory gap, underscoring the need for an effects-based AAEC assessment that accounts for digital-era competitive dynamics beyond traditional structural indicators.[26]

Theatrical Release Window Manipulation

The merger also raised serious concerns relating to vertical foreclosure of the theatrical exhibition sector. The Multiplex Association of India **("MAI")** publicly cautioned that Netflix's acquisition of Warner Bros. posed a direct competitive and economic threat to India's cinema industry, highlighting Netflix's historical preference for streaming-first and streaming-exclusive distribution strategies.[27] In this context, the merged entity would have both the ability and the incentive to strategically alter theatrical release windows for Warner Bros.' blockbuster films, either by substantially reducing the period of theatrical exclusivity or by releasing such films directly on its streaming platform, thereby bypassing cinemas altogether. Such conduct could harm cinema operators that depend on big-budget studio films to attract audiences, and may also negatively affect the wider cinema ecosystem, including distributors, exhibitors, and related service providers

This theory of harm moves beyond traditional horizontal analysis and instead focuses on how the merger alters competitive constraints between distinct but interconnected markets. By integrating a leading streaming platform with a major theatrical content supplier, the transaction weakens the competitive pressure that cinemas and streaming platforms exert on each other. Under Indian competition law, such cross-market competitive constraints are relevant to the assessment of an appreciable adverse effect on competition, as the elimination of an independent decision-maker can soften competitive rivalry even where the parties do not directly compete within the same narrowly defined relevant market.[28]

From this perspective, the concern is not merely foreclosure, but loss of the independent commercial incentives that previously governed content distribution strategies. Prior to the merger, Warner Bros. had incentives to maximise theatrical revenues through longer cinema windows, while Netflix competed with cinemas by offering an alternative mode of consumption. Post-merger, these incentives are aligned within a single entity, enabling strategic coordination across platforms that may favour streaming growth at the expense of theatrical

[26] Competition Commission of India, *Market Study on the Telecom Sector in India* (2021) paras 3.35–3.38.
[27] Multiplex Association of India, press statements and industry representations opposing the Netflix–Warner Bros transaction, as reported in Indian media coverage on OTT–theatrical tensions (2024–25).
[28] CCI v. Bharti Airtel Ltd., (2018) 13 SCC 471.

competition. Such coordination risks reducing competitive discipline in both markets and may normalise practices such as shortened theatrical windows, ultimately harming consumer choice, price diversity, and content variety. These effects fall squarely within the Competition Commission of India's mandate to examine whether a combination is likely to cause an appreciable adverse effect on competition by altering market behaviour and weakening competitive constraints, even in the absence of immediate exclusionary conduct.[29]

Regional Content Production And Cultural Diversity

The merger may also increase competitive pressure on regional OTT platforms, as it would allow Netflix to expand the production of India-focused content by leveraging Warner Bros.' enhanced creative capabilities and financial resources. While increased investment in Indian content may appear prima facie pro-competitive, a closer examination reveals potential exclusionary effects. Netflix's global business model focuses on maximising returns by investing in content with broad, cross-market appeal, which often results in greater emphasis on Hindi and Tamil productions with pan-Indian or international reach, at the expense of regional-language content aimed at smaller linguistic communities such as Kannada, Malayalam, Marathi, or Bengali.[30] This economic logic risks systematically marginalising culturally specific content that lacks scale efficiencies.

Regional platforms such as Sun NXT, Aha, and Hoichoi therefore face heightened pressure to further differentiate and deepen their local-language offerings. However, the merged entity's enhanced financial muscle and bargaining power may allow it to consistently outbid regional players for talent, production infrastructure, and intellectual property rights, thereby raising rivals' costs and weakening the long-term viability of the regional OTT ecosystem.[31] Such outcomes implicate a broader and under-explored competition concern: whether merger analysis should account for cultural and linguistic diversity as a dimension of consumer welfare, alongside conventional price, quality, and output considerations. While Section 19(3)(e) of the Competition Act, 2002 requires the CCI to consider the "availability of

[29] Combination Registration No. C-2017/06/519.
[30]Netflix Inc, *Form 10-K* (FY 2024); OECD, *Globalisation and Cultural Diversity* (2018) (noting that global content platforms favour scalable, homogenised content to maximise cross-market returns); Competition Commission of India, *Combination Registration No C-2017/01/529 (Disney–Fox)* (recognising that superior financial resources and content acquisition capabilities can raise rivals' costs in media markets).
[31] Competition Commission of India, *Combination Registration No. C-2017/01/529 (Disney–Fox)* (recognising that superior financial resources and content acquisition capabilities can raise rivals' costs in media markets).

substitutes,"[32] the merger exposes the limitation of a purely economic conception of substitutability, suggesting that linguistic and cultural non-substitutability may warrant explicit recognition in the assessment of appreciable adverse effects on competition.[33]

Advertising Market Leveraging

The merger also enabled cross-market leveraging from SVOD into the AVOD segment, altering competitive conditions in India's online video advertising market. Although Netflix historically operated a subscription-only model, the acquisition brought within its control HBO Max's ad-supported tier, positioning the merged entity to extend its entrenched SVOD market power into the rapidly expanding AVOD space.[34] The principal competitive concern arises from cross-platform mixed bundling strategies. Netflix could bundle its ad-free subscription service with ad-supported HBO Max content at price points that standalone AVOD platforms cannot viably match, thereby foreclosing competition from ad-funded services such as YouTube, MX Player, and JioCinema. Such mixed bundling, when implemented by a firm with substantial market power in at least one relevant market, has been recognised as a mechanism capable of excluding equally efficient competitors.[35]

In addition, the merger consolidates vast volumes of viewer and advertising data across both subscription and advertising-based models. This aggregation generates significant information advantages in targeted advertising, audience segmentation, and content monetisation, creating information asymmetries that disadvantage rival platforms in negotiations with advertisers and content suppliers.[36]The resulting combination of market power, bundling incentives, and data-driven advantages raises concerns of non-price foreclosure and leveraging that fall squarely within an effects-based analysis under Indian competition law, notwithstanding the absence of

[32] Competition Act, 2002, s. 19(3)(e).
[33] UNESCO, *Convention on the Protection and Promotion of the Diversity of Cultural Expressions* (2005); OECD, *Competition Policy and Cultural Diversity* (2017) (recognising cultural diversity as a relevant non-price dimension of consumer welfare).
[34] Warner Bros Discovery Inc, *Annual Report* (FY 2024) (discussing HBO Max's ad-supported tier); Netflix Inc, *Form 10-K* (FY 2024) (describing Netflix's historical SVOD-only model).
[35] OECD, *Bundling and Tying* (Policy Roundtable, 2002); *Fx Enterprise Solutions India Pvt Ltd v Hyundai Motor India Ltd* (2017) (Competition Commission of India) (recognising that mixed bundling by a firm with market power can foreclose competition).
[36] OECD, *Big Data and Competition Policy* (2016); Competition Commission of India, *Market Study on E-Commerce in India* (2020) paras 4.9–4.14 (noting that data aggregation can confer durable competitive advantages and bargaining power).

complete market overlap between SVOD and AVOD services.[37]

V. LEGAL PROVISIONS AND REMEDIAL FRAMEWORK

Statutory Framework Under The Competition Act, 2002

The merger control framework under the Act does not function on a simple approve-or-reject basis. Section 31 expressly empowers the CCI to approve a combination subject to such modifications as it may deem necessary to eliminate or mitigate the identified AAEC.[38]Indian merger control practice demonstrates a consistent preference for conditional approvals supported by targeted remedies, particularly in media, broadcasting, and digital platform transactions, where competitive harm often arises from foreclosure risks rather than immediate price effects.[39]

In prior decisions such as *Disney–Fox*, *Sony–Zee*, and *Reliance–Disney*, the CCI has recognised that control over premium content and distribution infrastructure can entrench market power and weaken competitive constraints over time.[40] Accordingly, the Commission has relied on a calibrated mix of behavioural and structural remedies to preserve contestability while allowing efficiency enhancing integrations to proceed.

Remedial Measures to Mitigate AAEC

From a doctrinal perspective, behavioural remedies are well suited to address the competitive risks arising from the Netflix–Warner Bros. merger. Obligations requiring continued licensing of HBO content to competing OTT platforms on fair, reasonable, and non-discriminatory terms would mitigate input foreclosure and preserve access to must-have content.[41] Similarly, commitments mandating minimum theatrical release windows for major Warner Bros. films could address downstream foreclosure risks in the exhibition market, which depends heavily on blockbuster releases to remain viable.[42] Restrictions on cross-platform bundling of subscriptions or advertising inventory would further limit the merged entity's ability to

[37] Competition Act, 2002, s. 19(4) & 20(4); CCI, *Market Study on Telecom Sector in India* (2021) (acknowledging cross-market leveraging and non-price foreclosure in digital ecosystems).
[38] Competition Act 2002 s. 31(3).
[39] Ibid.
[40] CCI v. Steel Authority of India Ltd., (2010) 10 SCC 744.
[41] OECD, *Competition Issues in Television and Broadcasting* (2013).
[42] Multiplex Association of India submissions; OECD, *Competition and Film Distribution* (2011).

leverage dominance in the SVOD market into the adjacent AVOD segment.[43] Temporary pricing commitments may also be justified to protect consumer welfare during the post-merger integration period.[44]

Although structural remedies are more intrusive, they may be justified given the size and reach of the transaction. For example, requiring the sale of certain content libraries or popular franchises could help maintain competition in key content segments. Additionally, requiring interoperability or content portability could make it easier for users to switch between platforms and help reduce the lock-in effects commonly seen in data-driven digital markets.[45] Given India's linguistically segmented media landscape, remedial commitments requiring minimum levels of regional-language content production may also be justified to prevent exclusionary effects in smaller linguistic markets.

The global nature of the transaction also engages Section 18 of the Act, which authorises the CCI to enter into memoranda of understanding with foreign competition authorities.[46] While coordination with regulators such as the US Federal Trade Commission and the European Commission would be institutionally prudent, the CCI must independently assess whether remedies imposed abroad sufficiently address India-specific concerns relating to theatrical exhibition, regional content diversity, and AVOD competition.

Recommended Remedial Architecture

If the CCI were to grant conditional approval, an effective remedial framework must be comprehensive, enforceable, and forward-looking. It is recommended a package comprising the following elements. First, a mandatory obligation to license the HBO content library to at least two competing Indian OTT platforms on fair ,reasonable and non-discriminatory terms for a minimum period of five years. Second, binding commitments to preserve a minimum exclusive theatrical window for all Warner Bros. theatrical releases in India. Third, commitments to spend a fixed portion of the Indian content budget on regional-language productions across different linguistic markets.. Fourth, temporary safeguards restricting subscription price increases beyond inflation-linked thresholds. Fifth, algorithmic transparency obligations requiring periodic disclosures to the CCI regarding recommendation and ranking

[43] OECD, *Bundling and Tying* (Policy Roundtable, 2002).
[44] Competition Act, 2002, s. 19 and 20.
[45] OECD, *Interoperability and Competition* (2021).
[46] Competition Act 2002, s 18.

practices, in order to prevent discriminatory treatment of content Finally, the appointment of an independent monitoring trustee to oversee compliance with remedial commitments, consistent with established CCI merger practice.

Broader Policy Implications

Beyond the transaction-specific assessment, the Netflix–Warner Bros. merger exposes structural limitations in traditional competition law frameworks when applied to digital platform markets characterised by network effects, data aggregation, and algorithmic intermediation.[47] The transaction underscores the need for doctrinal evolution in Indian competition law. In particular, the CCI may need to consider the development of ex ante regulatory tools for designated gatekeeper platforms, drawing comparative lessons from the European Union's Digital Markets Act.[48] The merger also highlights the limitations of a narrow economic conception of consumer welfare, suggesting that cultural and linguistic diversity should receive explicit recognition in merger analysis as a non-price dimension of competition. Finally, the dynamic nature of digital markets supports the case for continuous post-merger monitoring rather than one-time approval decisions.

VI. CONCLUSION

The Netflix–Warner Bros. merger represents a paradigmatic challenge for Indian competition law in the context of digital platform markets. While the transaction does not fit neatly within traditional horizontal merger frameworks, its competitive significance lies in the aggregation of premium content, data-driven advantages, and cross-market leveraging across SVOD, AVOD, and theatrical distribution channels. The analysis demonstrates that the merger raises credible concerns of input foreclosure, algorithmic dominance, temporal foreclosure through theatrical window manipulation, and the marginalisation of regional and culturally specific content, each of which engages the effects-based inquiry mandated under Sections 6 and 20 of the Competition Act, 2002.

At a broader level, the transaction exposes the limitations of conventional merger control tools when applied to markets characterised by network effects, data accumulation, and platform

[47] Regulation (EU) 2022/1925 of the European Parliament and of the Council of 14 September 2022 (Digital Markets Act).
[48] OECD, *Competition Policy and Cultural Diversity* (2017).

ecosystems. It underscores the need for a more nuanced conception of consumer welfare that accounts for non-price dimensions such as choice, diversity, and long-term market contestability. The manner in which the Competition Commission of India responds to these challenges, whether through tailored remedies, enhanced post-merger monitoring, or future regulatory recalibration, will play a critical role in shaping the evolution of competition law in India's rapidly transforming digital economy.