
COMPETITION REGULATION OF DIGITAL PLATFORMS IN INDIA: ASSESSING THE ENFORCEMENT ROLE OF CCI

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ABSTRACT

The digital economy in India has experienced exponential growth, driven by technological advancements and increased internet penetration. E-commerce platforms like Amazon and Flipkart have revolutionized commerce, offering unparalleled convenience while emerging as critical "gatekeepers" of the digital marketplace. However, this rapid expansion has raised significant antitrust concerns, including platform dominance, data monopolization, and the marginalization of smaller market players.

This research assesses the evolving enforcement role of the Competition Commission of India (CCI) as it transitions from a reactive *ex-post* adjudicator to a proactive regulator. By analysing landmark cases involving Google, Meta, and Amazon, the study explores how the CCI addresses challenges like search bias and predatory pricing in multi-sided markets.

A central focus is the inadequacy of traditional antitrust tools in data-driven environments and the ongoing shift toward *ex-ante* regulation through the proposed Digital Competition Bill. The research concludes that strengthening technical capacity and implementing preventive obligations for systemically significant enterprises are essential to maintaining a fair, transparent, and competitive digital ecosystem in India.

1. INTRODUCTION

1.1 Background: The Rise of Digital Platforms in India

Over the past decade, India's digital ecosystem has undergone a remarkable transformation, emerging as one of the largest and fastest-growing digital economies globally, with an internet user base exceeding 900 million.¹ This expansion has been largely driven by the rise of digital platforms that act as key intermediaries in facilitating communication, commerce, and the exchange of information. These platforms operate as multi-sided markets, connecting diverse user groups including consumers, advertisers, and businesses within integrated digital environments.

The growth of such platforms is reinforced by strong network effects and economies of scale, which enhance efficiency and user engagement. At the same time, these characteristics contribute to the concentration of market power. The "winner-takes-most" dynamics typical of digital markets often lead to market entrenchment, enabling a small number of dominant firms to exert significant influence over both consumers and business users.² This concentration raises important concerns regarding competitive fairness, market access, and the long-term sustainability of innovation.

1.2 Importance of Competition Regulation in Digital Markets

Digital markets differ from traditional markets in that data rather than price alone which serves as a primary source of competitive advantage. Platforms are able to collect and analyse vast amounts of user data, which can then be leveraged to improve services, target consumers, and consolidate market position.³ This creates high entry barriers for new firms and increases the risk of market foreclosure.

Several prevalent practices in digital markets have attracted regulatory scrutiny, including selfpreferencing, tying and bundling, and predatory pricing strategies.⁴ These practices can distort competition and undermine the growth of smaller businesses and start-ups. In a policy environment that seeks to promote innovation and entrepreneurship, effective competition

¹ Telecom Regulatory Authority of India, *The Indian Telecom Services Performance Indicators* (2023).

² Organisation for Economic Co-operation and Development (OECD), *Competition in Digital Markets* (2020).

³ Jacques Crémer et al., *Competition Policy for the Digital Era* (European Comm'n 2019).

⁴ Competition Commission of India, *Market Study on E-Commerce in India: Key Findings and Observations* (2020).

regulation becomes essential to ensure that markets remain open, contestable, and fair.

1.3 Role of the Competition Commission of India

The Competition Commission of India, established under the Competition Act, 2002, serves as the primary authority responsible for maintaining competitive markets in India. Traditionally, the Commission has relied on an ex-post enforcement model, intervening after anti-competitive conduct has occurred. While effective in conventional markets, this approach has proven less suited to the fast-paced and dynamic nature of digital ecosystems.

In response, the CCI has gradually adopted a more proactive stance, reflected in its increasing use of market studies, suo-moto investigations, and institutional initiatives such as the Digital Markets and Data Unit. Furthermore, policy developments, including the proposed Digital Competition framework, signal a shift toward ex-ante regulation, wherein obligations are imposed on dominant platforms to prevent anti-competitive conduct before it arises.⁵

1.4 Research Problem, Objectives, and Questions

The central issue addressed in this study is the inadequacy of traditional competition law tools in capturing and regulating market power in digital environments, particularly in contexts characterized by zero-price services and data-driven business models. Procedural delays in enforcement further limit the effectiveness of regulatory intervention in rapidly evolving markets.

Accordingly, this research seeks to evaluate the effectiveness of the CCI's enforcement actions, examine the transition toward an ex-ante regulatory framework, and analyse how competition law can balance regulatory oversight with the need to foster innovation. It is guided by questions relating to the CCI's ability to address abuse of dominance in digital markets, the potential impact of proposed reforms, and the intersection of competition law with data protection concerns.

1.5 Methodology

This study adopts a doctrinal and analytical approach, relying on primary legal sources such as

⁵ Ministry of Corporate Affairs, *Report of the Committee on Digital Competition Law* (2024).

the Competition Act, 2002, decisions of the CCI, and relevant judicial pronouncements. It also engages with policy documents, including the Report of the Committee on Digital Competition Law (2024), as well as scholarly literature, to provide a comprehensive assessment of India's evolving competition regime in the digital context.

2. UNDERSTANDING DIGITAL PLATFORMS AND MARKET DYNAMICS

2.1 Definition and Types of Digital Platforms

Digital platforms have become central to the functioning of modern economies, fundamentally reshaping how markets operate and how value is created. At a basic level, digital platforms are intermediaries that enable interactions between two or more distinct but interdependent groups of users through digital infrastructure.⁶ Unlike traditional linear business models, platforms facilitate direct user interactions, thereby reducing transaction costs and improving efficiency.

In the Indian context, the Competition Commission of India has emphasized that platforms must be understood not as isolated entities but as part of broader digital ecosystems.⁷ This perspective is significant because large platforms often integrate multiple services, allowing them to operate simultaneously across different market segments and exercise considerable control over access to digital markets.

Broadly, digital platforms may be categorized into four types. E-commerce marketplaces such as Amazon and Flipkart connect sellers and consumers while often competing with them through private labels. Search engines like Google act as gateways to information, relying on algorithmic ranking. App stores, including Apple App Store and Google Play Store, function as critical distribution channels for mobile applications. Social media and communication platforms, such as those operated by Meta, monetize user engagement primarily through targeted advertising and data-driven services.⁸

2.2 Characteristics of Digital Markets

Digital markets exhibit distinct structural features that complicate traditional competition law

⁶ Organisation for Economic Co-operation and Development (OECD), *An Introduction to Online Platforms and Their Role in the Digital Transformation* 18–22 (2019).

⁷ Competition Comm'n of India, *supra* note 4, at 14.

⁸ Jean-Charles Rochet & Jean Tirole, Platform Competition in Two-Sided Markets, 1 J. Eur. Econ. Ass'n 990 (2003).

analysis.

A key feature is the presence of network effects, where the value of a platform increases with the number of users.⁹ These may be direct, as seen in messaging services, or indirect, where the value for one group depends on the size of another, such as advertisers benefiting from a large user base.¹⁰ Network effects often lead to market concentration and “tipping,” making it difficult for new entrants to compete.

Data also plays a central role in shaping competitive dynamics. Platforms continuously collect and process user data, creating a feedback loop that enhances service quality and attracts more users.¹¹ This results in what is often described as a “data advantage,” where incumbents benefit from accumulated datasets that are difficult to replicate.¹² Consequently, access to data becomes a key determinant of market power.

Another defining feature is the operation of multi-sided markets and the prevalence of zero-price models. Many platforms offer services to users at no monetary cost while generating revenue from advertisers or other business users.¹³ This complicates the application of traditional tools such as the SSNIP test, prompting regulators to consider non-price factors such as quality, innovation, and privacy.¹⁴

Digital platforms also exhibit strong lock-in effects and switching costs. Users often face practical difficulties in moving to alternative platforms due to the absence of data portability and interoperability.¹⁵ For instance, sellers on E-commerce platforms rely on accumulated ratings and customer relationships that cannot easily be transferred elsewhere, reinforcing the dominance of incumbent platforms.

2.3 Competition Concerns in Digital Markets

These structural features give rise to several competition concerns that have increasingly attracted regulatory attention. One prominent issue is self-preferencing, where platforms

⁹ Carl Shapiro & Hal R. Varian, *Information Rules* 175–80 (1999).

¹⁰ *Google LLC v. Competition Comm'n of India*, (2023) 1 S.C.R. 1 (India).

¹¹ *WhatsApp LLC v. Competition Comm'n of India*, 2022 SCC OnLine Del 2582 (India).

¹² Viktor Mayer-Schönberger & Thomas Ramge, *Reinventing Capitalism in the Age of Big Data* 45–52 (2018).

¹³ David S. Evans, *The Antitrust Economics of Free*, 7 *Competition Pol'y Int'l* 71 (2011).

¹⁴ Ministry of Corporate Affairs, *supra* note 5, at 12-14.

¹⁵ *Matrimony.com Ltd. v. Google LLC*, 2018 SCC OnLine CCI 1 (India).

prioritize their own products or services over those of competitors.¹⁶ Closely related is the problem of algorithmic bias, which may disadvantage rival firms through opaque ranking mechanisms.

Deep discounting strategies, particularly in sectors such as E-commerce, also raise concerns, as firms with significant financial resources may engage in sustained below-cost pricing to eliminate competition.¹⁷ In addition, “killer acquisitions,” where dominant firms acquire emerging competitors at an early stage, pose a challenge to traditional merger control frameworks.¹⁸

Collectively, these concerns highlight the need for a nuanced understanding of digital market dynamics, particularly in the context of evolving competition law enforcement in India.

3. LEGAL FRAMEWORK GOVERNING COMPETITION IN INDIA

3.1 Overview of the Competition Act, 2002

The legal framework governing competition in India is primarily rooted in the *Competition Act, 2002*, which marked a significant departure from the earlier Monopolies and Restrictive Trade Practices Act, 1969. Unlike its predecessor, which focused largely on curbing monopolistic behaviour, the 2002 Act adopts a broader and more progressive objective of promoting competition, protecting consumer interests, and ensuring freedom of trade.¹⁹ This shift reflects India’s alignment with global competition law principles in the post liberalisation era.

The Act is designed as a flexible and evolving framework capable of responding to changing economic conditions. This adaptability is particularly important in the context of digital markets, where rapid innovation and data driven business models continuously reshape market structures. Judicial interpretation has also reinforced this dynamic character, recognising competition law as an instrument for promoting economic efficiency rather than merely restricting concentration.²⁰

¹⁶ Standing Comm. on Fin., *Anti-Competitive Practices by Big Tech Companies*, 53rd Rep., Lok Sabha (2022).

¹⁷ *Fed’n of Hotel & Rest. Ass’ns of India v. MakeMyTrip India Pvt. Ltd.*, 2022 SCC OnLine CCI 59 (India).

¹⁸ Tim Wu, *The Curse of Bigness* 85–90 (2018).

¹⁹ The Competition Act, No. 12 of 2003, pmbl. (India).

²⁰ *Brahm Dutt v. Union of India*, (2005) 2 S.C.R. 271 (India).

3.2 Key Substantive Provisions

The *Competition Act, 2002* operates through three core provisions that form the basis of regulatory intervention.

- **Section 3: Anti-Competitive Agreements**

Section 3 prohibits agreements that cause or are likely to cause an appreciable adverse effect on competition in India.²¹ These include both horizontal agreements such as cartels and vertical arrangements between entities at different levels of the supply chain. In digital markets, vertical restraints such as exclusive arrangements, preferential listing, and resale price maintenance have attracted increasing scrutiny. The decision in *Fed'n of Hotel & Rest. Ass'ns of India v. MakeMyTrip India Pvt. Ltd.* demonstrates the regulator's willingness to intervene where platform conduct restricts market access.²²

- **Section 4: Abuse of Dominant Position**

Section 4 addresses abuse of dominance, which remains central to competition enforcement in digital markets. The provision does not prohibit dominance itself but targets its misuse.²³ Forms of abuse include unfair conditions, denial of market access, predatory pricing, and leveraging dominance across markets.

This provision has been particularly relevant in cases involving digital platforms. In *Matrimony.com Ltd. v. Google LLC*, the Competition Commission of India examined issues such as search bias and discriminatory conduct in online advertising.²⁴ The Supreme Court in *Google LLC v. Competition Comm'n of India* further affirmed the CCI's role in addressing complex digital market practices, including those related to app store ecosystems.²⁵

- **Section 6: Regulation of Combinations**

Section 6 governs mergers and acquisitions with the aim of preventing combinations

²¹ The Competition Act, 2002, S.3 (India).

²² *Fed'n of Hotel & Rest. Ass'ns of India*, *supra* note 17

²³ The Competition Act, 2002, S.4 (India).

²⁴ *Matrimony.com Ltd.*, *supra* note 15.

²⁵ *Google LLC*, *supra* note 10.

that may significantly reduce competition.²⁶ In this digital economy, this provision has gained importance due to the rise of acquisitions of emerging competitors by dominant firms. To address this gap, the Competition (Amendment) Act, 2023 introduced the deal value threshold, requiring notification of high value transactions even where traditional asset-based thresholds are not met.²⁷

3.3 Jurisdiction and Powers of the Competition Commission of India

The Competition Commission of India functions as a quasi-judicial authority responsible for enforcing the Act. Its jurisdiction extends beyond territorial boundaries through the effects doctrine. Under Section 32, it may investigate conduct occurring outside India if it has an appreciable adverse effect within the Indian market.²⁸

The Commission is vested with wide powers, including directing investigations, imposing monetary penalties, and issuing cease and desist orders.²⁹ It may also prescribe behavioural remedies requiring firms to modify their conduct, thereby reinforcing its role as an active market regulator rather than merely an adjudicatory body.

3.4 Relevance to Digital Markets

While the statutory framework is robust, its application to digital markets presents distinct challenges. Traditional indicators such as price and market share are often insufficient in markets characterised by zero price services and data driven competition.³⁰ As a result, the CCI has increasingly adopted an effect-based approach that considers factors such as data access, network effects, and user engagement.

Judicial developments also reflect this evolving approach. In *WhatsApp LLC v. Competition Commission of India*, the Delhi High Court acknowledged the intersection between data protection and competition law, thereby broadening the scope of antitrust analysis.³¹ Institutional developments, including the establishment of the Digital Markets and Data Unit, further indicate a shift toward addressing the complexities of digital platforms within the

²⁶ The Competition Act, 2002, S.6 (India).

²⁷ The Competition (Amendment) Act, No. 9 of 2023 (India).

²⁸ The Competition Act, 2002, S.32 (India).

²⁹ S.M. Dugar, *Guide to Competition Act, 2002* 450–60 (7th ed. 2019).

³⁰ Ministry of Corporate Affairs, *supra* note 5, at 12-14.

³¹ *WhatsApp LLC*, *supra* note 11.

existing legal framework.

4. ENFORCEMENT ROLE OF THE CCI IN DIGITAL MARKETS

The enforcement role of the Competition Commission of India has evolved considerably in response to the rapid growth of digital markets. Traditionally viewed as a reactive adjudicatory body, the Commission has increasingly repositioned itself as a more proactive and specialised regulator. This shift reflects a recognition that digital markets, driven by network effects, scale, and data, require timely and forward-looking interventions to prevent market distortions that may otherwise become irreversible.

4.1 Investigative and Adjudicatory Powers

The enforcement framework of the CCI is grounded in its dual role as an investigative and quasi-judicial authority under the *Competition Act, 2002*. The Commission is empowered to direct the Director General to conduct detailed investigations into alleged anti-competitive conduct, including the use of search and seizure powers where necessary.³² These powers are particularly important in digital markets, where evidence often involves complex technical and economic data.

In its adjudicatory capacity, the CCI evaluates the findings of investigations, hears the parties involved, and issues binding decisions. Its orders have increasingly required major technology firms to modify their conduct within the Indian market. The decision in *Matrimony.com Ltd. v. Google LLC* is a notable example, where the Commission addressed concerns relating to search bias and discriminatory practices in online advertising.³³ Such cases demonstrate the CCI's growing engagement with issues such as algorithmic behaviour and platform dominance.

4.2 Market Studies and Suo Motu Interventions

An important feature of the CCI's evolving enforcement approach is its reliance on market studies and suo-moto actions. Moving beyond a complaint driven model, the Commission has sought to identify structural issues within digital markets through independent inquiries.

The *Market Study on E-Commerce in India (2020)* represents a significant development in this

³² The Competition Act, No. 12 of 2003, S.36–41 (India).

³³ *Matrimony.com Ltd.*, *supra* note 15.

regard.³⁴ It identified key concerns such as preferential listing, deep discounting, and the influence of platform algorithms on market outcomes. These findings have subsequently informed enforcement actions, including the investigation in *Delhi Vyapar Mahasangh v. Flipkart Internet Pvt. Ltd.*, where issues of platform neutrality and seller discrimination were examined.³⁵

The Commission has also initiated proceedings on its own motion. In *In Re: Updated Terms of Service and Privacy Policy for WhatsApp Users*, it examined the intersection of data practices and competition concerns without a formal complaint.³⁶ This proactive approach enables earlier regulatory intervention and reflects a shift toward preventive enforcement.

4.3 Evolving Approach to Market Definition and Dominance

Defining the relevant market and assessing dominance in digital contexts presents significant challenges. Traditional tools, particularly price-based tests, are often inadequate in markets where services are offered at zero monetary cost.

In response, the Competition Commission of India has adopted a more effect-based approach. It increasingly considers non price factors such as quality, innovation, and data protection as relevant dimensions of competition.³⁷ The multi sided nature of platforms also requires a broader assessment that captures interactions between different user groups.

Similarly, the assessment of dominance has expanded beyond market share. Greater emphasis is now placed on factors such as network effects, control over data, and the platform's role as a gatekeeper. Judicial developments reinforce this approach. In *Google LLC v. Competition Commission of India*, the Supreme Court recognised the importance of these factors in evaluating market power in digital ecosystems.³⁸ The Delhi High Court in *WhatsApp LLC v. Competition Commission of India* further acknowledged the relevance of data concentration and privacy concerns in competition analysis.³⁹

³⁴ Competition Comm'n of India, *supra* note 4.

³⁵ *Delhi Vyapar Mahasangh v. Flipkart Internet Pvt. Ltd.*, Case No. 40 of 2019, CCI (Jan. 13, 2020).

³⁶ *In Re: Updated Terms of Service and Privacy Policy for WhatsApp Users*, Suo Motu Case No. 01 of 2021, CCI.

³⁷ Ministry of Corporate Affairs, *supra* note 5, at 12-14.

³⁸ *Google LLC*, *supra* note 10.

³⁹ *WhatsApp LLC*, *supra* note 11.

4.4 Enforcement Tools and Remedies

The CCI employs a mix of remedies to address anti-competitive conduct, with an increasing preference for measures suited to the dynamics of digital markets.

- **Behavioural Remedies**

The Commission has shown a growing inclination toward behavioural remedies, which aim to modify the conduct of firms rather than alter market structures. These include directions to ensure non-discriminatory treatment of third-party businesses, restrictions on selfpreferencing, and requirements for greater transparency in platform operations. In some cases, remedies have addressed tying and bundling practices by requiring the separation of services.⁴⁰

There is also a growing focus on data portability and interoperability as tools to reduce user lock in and promote competition. These measures are intended to lower switching costs and enable smaller firms to compete more effectively.

- **Monetary Penalties**

Monetary penalties remain an important enforcement mechanism. Under the Act, penalties may extend up to ten percent of the average turnover of the enterprise.⁴¹ The Competition (Amendment) Act, 2023 has strengthened this framework by introducing the concept of global turnover for penalty calculation.⁴² This ensures that penalties imposed on multinational digital firms are proportionate to their overall scale and have a stronger deterrent effect.

4.5 Institutional Development and Global Cooperation

The evolving enforcement role of the Competition Commission of India is also reflected in its institutional development. The establishment of specialised units such as the Digital Markets and Data Unit indicates a growing emphasis on technical expertise in areas such as data analytics, algorithms, and platform economics.⁴³

Given the cross-border nature of digital platforms, international cooperation has become

⁴⁰ S.M. Dugar, *supra* note 29.

⁴¹ The Competition Act, 2002, S. 27 (India).

⁴² The Competition (Amendment) Act, 2023, *supra* note 27.

⁴³ Ministry of Corporate Affairs, *supra* note 5.

increasingly important. The CCI engages with foreign competition authorities and participates in multilateral forums such as the International Competition Network.⁴⁴ Such engagement facilitates the exchange of best practices and contributes to greater consistency in regulatory approaches across jurisdictions.

This combination of investigative powers, evolving analytical tools, and institutional strengthening reflects a regulatory approach that continues to adapt to the complexities of digital markets and sets the stage for examining the effectiveness and limitations of enforcement in practice.

5. CASE LAW ANALYSIS

The evolving role of the Competition Commission of India in regulating digital markets is most clearly reflected in its recent jurisprudence. Through a series of significant decisions, the Commission has moved beyond traditional price-based analysis toward a more nuanced understanding of data driven dominance, platform power, and ecosystem-based competition. These cases illustrate both interpretative flexibility under the *Competition Act, 2002* and an effort to align enforcement with the realities of the digital economy.

5.1 Google Search Bias Case: *Matrimony.com Ltd. v. Google LLC*

The decision in *Matrimony.com Ltd. v. Google LLC* marked an early and important intervention in digital markets.⁴⁵ The case involved allegations that Google manipulated its search algorithms to favour its own vertical services. The CCI defined two relevant markets: online general web search services and online search advertising services in India, recognising the dual role of search engines as user platforms and advertising intermediaries.

The Commission found that Google abused its dominant position by engaging in self-preferencing. By prominently displaying its own specialised results, it disadvantaged competing platforms and denied a level playing field. A penalty of ₹136 crores was imposed, along with directions to ensure transparency in search result presentation. This case established self-preferencing as a recognised form of abuse under Indian competition law.

⁴⁴ Rahul Singh, Extraterritorial Challenges of the CCI's Jurisdiction, 8 Competition L.J. 45 (2019).

⁴⁵ *Matrimony.com Ltd., supra note 15.*

5.2 Google Android Case

The Android decision represents a major development in Indian antitrust enforcement.⁴⁶ The case examined Google's licensing practices for the Android operating system, particularly conditions imposed through the Mobile Application Distribution Agreement. The CCI identified multiple relevant markets, including licensable operating systems and app stores for Android devices, reflecting the layered structure of digital ecosystems.

The Commission held that mandatory pre installation of Google applications as a condition for access to the Play Store restricted consumer choice and reinforced dominance. It also recognised the role of data accumulation in strengthening market power, as user data from these applications fed into Google's advertising ecosystem. A penalty of ₹1,337.76 crore was imposed, along with behavioural remedies such as allowing users to choose default applications and prohibiting compulsory bundling. The case demonstrates the CCI's willingness to intervene in platform design to restore competitive neutrality.

5.3 Amazon–Flipkart Investigation

The investigation initiated in *Delhi Vyapar Mahasangh v. Flipkart Internet Pvt. Ltd.* addressed concerns relating to the conduct of major e commerce platforms.⁴⁷ The relevant market was defined as online marketplace services for the sale of goods in India. The CCI examined practices such as deep discounting, preferential listing, and exclusive arrangements with select sellers.

A central issue was the use of platform generated data. Allegations suggested that platforms used seller data to promote their own private label products, thereby competing with independent sellers while enjoying informational advantages. Although the investigation faced legal challenges, both the Karnataka High Court and the Supreme Court upheld the CCI's jurisdiction to proceed.⁴⁸ This judicial support strengthened the Commission's authority to address structural issues in platform markets.

5.4 WhatsApp Privacy Policy Case

The case concerning WhatsApp's updated privacy policy highlights the intersection between

⁴⁶ *Google LLC, supra note 10.*

⁴⁷ *Delhi Vyapar Mahasangh, supra note 35.*

⁴⁸ *Amazon.com NV Inv. Holdings LLC v. Competition Comm'n of India, (2021) SCC OnLine SC 557 (India).*

competition law and data protection.⁴⁹ Initiated suo-moto, the matter examined changes requiring users to consent to data sharing within the Meta group. The CCI defined the relevant market as over the top messaging services on smartphones in India and found WhatsApp to be dominant due to strong network effects.

The Commission held that the imposition of a take it or leave it policy could constitute abuse of dominance. It recognised privacy as a non-price parameter of competition and emphasised that unilateral reductions in privacy standards could harm consumer welfare. The case expanded the scope of competition law to include data related concerns, signalling an integrated regulatory approach.

5.5 Analytical Observations

A comparative analysis of these cases reveals a clear evolution in the enforcement approach of the Competition Commission of India. First, the concept of dominance has been broadened beyond market share to include control over data and the role of platforms as key intermediaries. Second, self-preferencing and data leveraging have emerged as central concerns in digital markets. Third, remedies have shifted from purely monetary penalties to behavioural interventions aimed at restoring competitive conditions.

These developments also reflect a movement toward an effects based and fairness-oriented approach, where the focus extends beyond efficiency to ensuring market access and contestability.⁵⁰ The Commission has increasingly recognised the risks of market tipping, where network effects and data concentration entrench dominant positions and weaken competition.

This body of jurisprudence therefore provides the foundation for assessing how effectively competition law can respond to the structural features of digital markets and informs the broader evaluation of enforcement mechanisms in the subsequent analysis.

6. CHALLENGES IN REGULATING DIGITAL PLATFORMS

While the Competition Commission of India has taken important steps to adapt competition

⁴⁹ *In Re: WhatsApp Users*, *supra* note 36.

⁵⁰ Rafeeqe Hussain A.K. & Dr. K. Jameela, *Antitrust in the Indian Digital Economy*, 5 *Indian J. Integrated Res. L.* 1391 (2025).

law to the digital economy, regulating digital platforms continues to present complex structural, economic, and technological challenges. These arise not only from gaps in legal provisions but also from the distinctive features of digital markets, which are driven by data, algorithms, and rapid innovation. Consequently, effective enforcement of the *Competition Act, 2002* requires continuous adaptation.

6.1 Data Concentration and Access to Information

A central issue in digital markets is the concentration of data among a few dominant firms. Data functions as a key competitive asset, enabling firms to refine services, target users, and anticipate market trends.⁵¹ Over time, this creates cumulative advantages that are difficult for new entrants to replicate, leading to structural entry barriers.

The regulatory challenge lies in distinguishing between efficiency enhancing data use and anticompetitive outcomes. While large datasets may improve consumer welfare, excessive concentration can reduce market contestability. Designing remedies is equally complex. Measures such as data sharing or interoperability may promote competition but raise concerns relating to privacy, data protection, and intellectual property.⁵² Regulators must therefore balance openness with the protection of legitimate interests.

6.2 Algorithmic Opacity and Evidentiary Limitations

Digital platforms rely extensively on algorithms to determine rankings, recommendations, pricing, and user engagement. These systems often operate as opaque mechanisms, limiting regulatory visibility. Practices such as self-preferencing or discriminatory ranking may be embedded within algorithmic processes, making detection and proof difficult.⁵³

The absence of clear standards for algorithmic accountability further complicates enforcement, particularly when establishing an appreciable adverse effect on competition. Although the Competition Commission of India has increasingly relied on economic and data driven analysis, the current framework does not provide comprehensive tools for auditing complex algorithmic systems, creating a gap between regulatory capacity and technological

⁵¹ *Data and Competition in Digital Economies*, 5 *NUJS L. Rev.* 112 (2020).

⁵² Hussain & Jameela, *supra* note 50.

⁵³ *Challenges in Digital Competition*, 47 *World Competition* 1 (2024).

sophistication.

6.3 The Pacing Problem

A significant challenge arises from the difference between the speed of technological change and the pace of legal enforcement. Digital markets evolve rapidly, whereas competition law proceedings involve detailed investigations and appellate processes. This mismatch, often described as the pacing problem, can reduce the effectiveness of enforcement.⁵⁴

By the time decisions are issued, market conditions may have shifted, allowing dominant firms to entrench their position. This limitation has prompted greater recognition of preventive approaches, as reflected in the recommendations of the Committee on Digital Competition Law (2024), which advocate ex ante obligations for systemically significant firms.⁵⁵

6.4 Jurisdictional and Cross Border Issues

Digital platforms operate across jurisdictions without clear territorial boundaries, creating challenges for national regulators. Although the *Competition Act, 2002* provides for extra territorial jurisdiction, enforcement against multinational firms remains complex.⁵⁶ Companies may structure operations to fragment oversight, complicating investigation and remedy implementation.

Parallel proceedings across jurisdictions may also produce inconsistent outcomes, highlighting the need for greater international cooperation. However, differences in legal systems and policy priorities limit the extent of such coordination.

6.5 Limitations of the Existing Legal Framework

The application of the *Competition Act, 2002* is constrained by its original design for traditional markets. Concepts such as market definition and dominance are difficult to apply in environments characterised by zero price services and multi sided platforms. Traditional indicators like market share may not adequately capture market power, where factors such as

⁵⁴ Id.

⁵⁵ Ministry of Corporate Affairs, *supra* note 5.

⁵⁶ The Competition Act, 2002, S. 32; Rahul Singh, *supra* note 44.

data control, user engagement, and ecosystem integration are more relevant.⁵⁷

While the Competition Commission of India has adapted its analytical approach, the absence of explicit statutory provisions on issues such as data governance and algorithmic conduct continues to pose challenges, shaping the need for more tailored regulatory responses in the subsequent analysis.

7. RECENT DEVELOPMENTS AND REFORMS IN INDIA

India's competition law framework is currently undergoing a significant transition in response to the growing dominance of digital platforms. Traditionally based on an ex-post model, the regulatory approach is now gradually shifting toward a more preventive and forward-looking system, driven by legislative amendments and policy reforms.

A key development in this process is the *Competition (Amendment) Act, 2023*, which introduces important changes to the *Competition Act, 2002*. One of its most notable features is the introduction of the Deal Value Threshold, which requires notification of transactions exceeding ₹2,000 crore where the target has substantial business operations in India.⁵⁸ This reform is particularly relevant in digital markets, where firms may have low turnover but significant data assets and future competitive potential. It is aimed at capturing acquisitions of emerging competitors that may otherwise escape regulatory scrutiny.

The amendment also introduces the concept of global turnover for the calculation of penalties. Earlier, penalties were based on domestic turnover, often limiting their deterrent effect on multinational enterprises. By expanding the scope to global turnover, the law ensures that sanctions are proportionate to the scale of operations of large digital firms.⁵⁹

Alongside statutory reform, there is a clear policy movement toward ex-ante regulation. This approach seeks to prevent anti-competitive conduct before it occurs, rather than addressing it after market harm has already materialised. The need for such a shift arises from the fastevolving nature of digital markets, where delays in enforcement may allow dominant firms to entrench their position irreversibly.⁶⁰ This development aligns India with global regulatory

⁵⁷ Rahul Singh, The Territorial Jurisdiction of the Competition Commission of India, 4 *J. Comp. L.* 78 (2015).

⁵⁸ The Competition (Amendment) Act, No. 9 of 2023, S. 5 (India).

⁵⁹ *Id.* S. 27.

⁶⁰ Hussain & Jameela, *supra* note 50.

trends, particularly those reflected in the European Union's Digital Markets Act.⁶¹

Further direction is provided by the Report of the Committee on Digital Competition Law (2024), which recommends a dedicated Digital Competition framework.⁶² The proposed model centres on identifying Systemically Significant Digital Enterprises and subjecting them to specific obligations. These include restrictions on self-preferencing, limits on anti-steering practices, and measures such as data portability to reduce user lock in and enhance competition.⁶³

These developments also indicate an evolving role of the Competition Commission of India as a regulator that is increasingly equipped to address the structural features of digital markets, setting the foundation for evaluating the effectiveness of enforcement in practice.

8. CRITICAL EVALUATION OF THE CCI'S ENFORCEMENT ROLE

A balanced assessment of the Competition Commission of India in digital markets requires recognising both its institutional progress and its continuing constraints. While the Commission has adapted to the realities of platform-based economies, questions remain regarding the adequacy and timeliness of its enforcement in rapidly evolving markets.

8.1 Strengths: Proactivity and Institutional Adaptation

A key strength of the CCI lies in its gradual shift from a reactive adjudicatory body to a more proactive regulator. This is reflected in its increasing use of market studies and suo-moto proceedings to identify systemic concerns. The *Market Study on E Commerce (2020)*, for instance, highlighted issues such as preferential listing and deep discounting, which later informed enforcement actions.⁶⁴

The Commission has also strengthened its institutional capacity by developing expertise in digital markets. Its analytical approach has evolved beyond price-based assessment to include factors such as data accumulation, network effects, and platform intermediation. This shift is

⁶¹ Regulation (EU) 2022/1925 of the European Parliament and of the Council of 14 September 2022 on Contestable and Fair Markets in the Digital Sector (Digital Markets Act), 2022 O.J. (L 265) 1.

⁶² Ministry of Corporate Affairs, *Report of the Committee on Digital Competition Law* (2024).

⁶³ Id

⁶⁴ Competition Commission of India, *Market Study on E-Commerce in India: Key Findings and Observations* (2020).

evident in cases such as *Matrimony.com Ltd. v. Google LLC*⁶⁵ and *Delhi Vyapar Mahasangh v. Flipkart Internet Pvt. Ltd.*,⁶⁶ where the CCI addressed concerns relating to self-preferencing and platform neutrality. These interventions indicate a willingness to engage with complex questions of digital dominance and have contributed to shaping platform conduct in India.

8.2 Weaknesses: Procedural Delays and Technical Constraints

Despite these advancements, enforcement is often constrained by procedural delays. Investigations, followed by appeals before the NCLAT and the Supreme Court, can extend over several years. In digital markets, where competitive conditions change rapidly, such delays may reduce the practical impact of regulatory decisions.⁶⁷

The Commission also faces technical limitations. The analysis of algorithms, large datasets, and platform design requires specialised expertise that is still developing within the regulatory framework.⁶⁸ This creates a gap between the technological capabilities of dominant firms and the resources available to the regulator. Additionally, the continued reliance on an ex-post enforcement model limits the ability to address harm at an early stage.

8.3 Adequacy of the Existing Legal Framework

These challenges are closely linked to the limitations of the *Competition Act, 2002*, which was not originally designed for digital markets. While its flexible provisions allow for adaptive interpretation, the absence of explicit guidance on issues such as data use, algorithmic conduct, and platform neutrality creates uncertainty in enforcement.⁶⁹ This restricts the Commission's ability to impose comprehensive and predictable remedies.

8.4 Need for a Complementary Framework

In this context, there is increasing recognition that enforcement by the Competition Commission of India would benefit from a complementary ex ante framework. Proposals such as those advanced by the Committee on Digital Competition Law, particularly the regulation of Systemically Significant Digital Enterprises, reflect a shift toward preventive regulation

⁶⁵ *Matrimony.com Ltd.*, *supra* note 15.

⁶⁶ *Delhi Vyapar Mahasangh*, *supra* note 35.

⁶⁷ Challenges in Digital Competition, 47 *World Competition* 1 (2024).

⁶⁸ Market Analysis in the Digital Economy, 10 *Indian Competition L. Rev.* 45 (2024).

⁶⁹ Hussain & Jameela, *supra* note 50.

aimed at addressing risks before they materialise.

This evolving regulatory landscape frames the broader question of how competition law can balance timely intervention with the need to preserve innovation in digital markets.

9. SUGGESTIONS AND WAY FORWARD

In light of the challenges identified, India's competition law framework must continue to evolve to effectively regulate digital markets. While the Competition Commission of India has shown adaptability, the increasing importance of data, rapid technological change, and complex platform structures require a more forward looking and coordinated regulatory approach.

A key reform priority is the gradual shift toward an ex-ante framework alongside existing ex-post enforcement under the *Competition Act, 2002*. In digital markets, anti-competitive effects can emerge quickly and become difficult to reverse. The proposed Digital Competition framework, inspired by developments such as the Digital Markets Act, seeks to address this concern by identifying Systemically Significant Digital Enterprises and imposing baseline obligations. These include restrictions on self-preferencing, limits on anti-steering practices, and ensuring fair access to platform infrastructure.⁷⁰ Such a preventive approach is better aligned with the dynamics of digital ecosystems.

Institutional strengthening is equally important. Effective regulation of digital platforms requires the integration of legal, economic, and technological expertise. Expanding technical capacity within the Competition Commission of India, including expertise in data analytics and algorithmic systems, would enable more rigorous investigation of platform conduct.⁷¹ Mechanisms for algorithmic assessment and greater transparency can further address concerns of opacity and bias.

Reforms must also address the role of data as a source of market power. Policies promoting data portability and interoperability can reduce switching costs and enhance competition by enabling user mobility across platforms.⁷² However, such measures must be balanced with data

⁷⁰ Regulation (EU) 2022/1925 of the European Parliament and of the Council of 14 September 2022 on Contestable and Fair Markets in the Digital Sector (Digital Markets Act), 2022 O.J. (L 265) 1.

⁷¹ Hussain & Jameela, *supra* note 50.

⁷² *Data and Competition in Digital Economies*, 5 *NUJS L. Rev.* 112 (2020).

protection and legitimate business interests to avoid undermining innovation.

Another important dimension is inter-regulatory coordination. Digital markets raise overlapping concerns involving competition, data protection, and consumer welfare.

Strengthening cooperation between regulatory bodies can reduce fragmentation and ensure consistent enforcement.⁷³

At the same time, regulatory design must preserve innovation by ensuring that intervention remains proportionate and targeted. Supporting start-ups and smaller enterprises through fair access and protection against exclusionary practices is essential for maintaining competitive markets.⁷⁴

These measures collectively shape an evolving regulatory approach that seeks to balance effective enforcement with innovation, forming the basis for the broader conclusions that follow in the final section.

10. CONCLUSION

India's digital economy has reached a stage where the goals of promoting innovation and preserving competitive markets must be carefully balanced through effective legal regulation. This study demonstrates that the Competition Commission of India has made significant strides in adapting competition law to the realities of platform-based markets, particularly through its evolving jurisprudence on data driven dominance and multi sided ecosystems.⁷⁵ At the same time, the limitations of a purely ex post enforcement framework have become increasingly evident in fast moving digital environments.

The analysis of key decisions, including *Matrimony.com Ltd. v. Google LLC* and the Android case, indicates that data and network effects now function as central determinants of market power.⁷⁶ These developments require a broader understanding of competition that goes beyond price effects to include control over data and platform intermediation. While the *Competition Act, 2002* provides a flexible foundation, it was not originally designed to address such

⁷³ *Challenges in Digital Competition*, 47 *World Competition* 1 (2024).

⁷⁴ *Id.*

⁷⁵ Competition Comm'n of India, *supra* note 4.

⁷⁶ *Matrimony.com Ltd.*, *supra* note 15.

complexities.

In this context, the proposed shift toward ex-ante regulation, particularly through the recommendations of the Committee on Digital Competition Law, reflects an important institutional evolution.⁷⁷ Strengthening technical expertise and introducing preventive obligations for dominant digital enterprises are essential to ensure timely and effective intervention.

The future of India's digital markets will depend on the ability of regulators to maintain contestability while supporting innovation. Ensuring platform neutrality, protecting user data, and enabling fair opportunities for emerging enterprises remain central to this objective. The trajectory of India's competition regime will therefore play a decisive role in shaping a digital economy that is both dynamic and equitable.

⁷⁷ Ministry of Corporate Affairs, *supra* note 5.