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# COMPETITION LAW IN DIGITAL ECONOMY

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## I. ABSTRACT

*India's digital economy has rapidly transformed market structures, creating new opportunities while simultaneously raising complex competition law concerns. The Competition Act, 2002, originally designed for traditional industries, does not fully account for digital market characteristics such as network effects, platform ecosystems, and data-driven algorithms. This paper examines how the Competition Commission of India (CCI) applies the Act to digital marketplaces through case studies involving Amazon, Flipkart, Google, and WhatsApp. Using doctrinal and case-based analysis, the study evaluates the effectiveness of existing competition law tools in addressing platform dominance, self-preferencing, and data-driven market power. The findings indicate that while the Act has demonstrated interpretative flexibility, reliance solely on ex-post enforcement remains insufficient in rapidly evolving digital markets. The paper therefore argues for a balanced regulatory approach combining strengthened merger scrutiny, recognition of data as a source of market power, and targeted ex-ante obligations for dominant digital enterprises. Such a framework would help ensure fair competition, promote consumer welfare, and support sustainable innovation in India's digital economy.*

## II. KEYWORDS

Digital Economy, Competition Commission of India, Abuse of Dominance, Digital Markets Act, Ex-Ante Regulation.

## III. INTRODUCTION

The Indian market has converted tremendously in an unexpected way. Online platforms, e-commerce, fintech and digital services have created opportunities for businesses and consumers similarly. Equally the concentration of power in the hands of a few large players has raised important concerns about fairness, access and competition. The unique features of digital markets, such as network effects, reliance

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of user data, and algorithm-driven pricing often give established platforms a significant advantage, making it harder for smaller firms and new enterers to compete on equal grounds.

In India, these developments have tested the scope and effectiveness of the Competition Act, 2002<sup>3</sup>. The Competition Commission of India (CCI) has played a crucial role in examining the practices such as predatory pricing in e-commerce, exclusivity arrangements, self-preferencing by platforms and data driven dominance. Cases involving Amazon, Flipkart, Google etc, illustrates the growing tension between fostering innovation and curbing practices that could distort Competition. The difficulty is making the law keep up with the rapidly evolving realities of digital economies. In India, the nexus between Competition Law and digital Economy, is under-researched. India's digital market has unique nature, such as its high-speed growth of consumer base, irregular digital penetration and dependence on foreign acquired platforms, necessitates has an adapted regulatory response.

#### **A. Research Questions**

1. How effectively does the Competition Act, 2002 address competition-related challenges emerging from India's digital economy?
2. What role have key decisions of the Competition Commission of India (CCI) played in regulating digital platforms and shaping competition policy in India?
3. Is the current competition law framework in India adequate to regulate issues such as platform dominance, data-driven market power, and algorithmic practices in digital markets?
4. How does India's competition law approach toward digital markets compare with global regulatory frameworks, particularly those adopted in the European Union and other major jurisdictions?

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<sup>3</sup> The Competition Act, 2002, No. 12 of 2003, INDIA CODE (2003).

## **B. Research Objectives**

1. To examine the applicability of the Competition Act, 2002 to emerging issues in India's digital economy.
2. To analyse key decisions of the Competition Commission of India (CCI) concerning digital platforms and their implications for competition regulation.
3. To evaluate whether the existing legal framework is adequate to address challenges such as platform dominance, data-driven market power, and algorithmic practices.
4. To compare India's regulatory approach with international frameworks, particularly developments in the European Union and other jurisdictions.

## **C. Research Methodology**

The present study adopts a doctrinal and comparative legal research methodology. The doctrinal approach involves the analysis of statutory provisions of the Competition Act, 2002, along with judicial and regulatory decisions of the Competition Commission of India (CCI) relating to digital markets. Relevant case studies involving major digital platforms such as Amazon, Flipkart, Google, and WhatsApp are examined to understand the practical application of competition law principles.

In addition, a comparative approach is employed to evaluate regulatory developments in other jurisdictions, particularly the European Union's Digital Markets Act (DMA) and policy initiatives in the United States and the OECD. Secondary sources such as scholarly articles, institutional reports, and policy documents are also reviewed to assess emerging regulatory trends and their implications for India's digital competition framework.

## **D. Literature Review**

The digital economy is comprised of multi-sided online markets, network effects, data agglomeration, and algorithmic control. Such factors produce market structures and competitive dynamics that are non-conformist with the conventional competition law

geared towards single-sided, price-oriented markets. Contemporary research synthesizes legal analysis, economic modelling, case studies, and policy reviews to discuss how current rules and emerging tools may be used to solve problems such as self-preferencing, exclusionary leveraging, foreclosure by data, and gatekeeping by platforms. Institutional and policy-oriented research has also significantly contributed to the debate on digital competition regulation. In the Indian context, the Competition Commission of India's *Market Study on E-Commerce in India (2020)* provides empirical insights into platform conduct, including preferential listing, deep discounting, and exclusive agreements.<sup>4</sup> Similarly, NITI Aayog's policy discussions on data governance and digital market regulation highlight the growing importance of data as a competitive asset and emphasize the need for regulatory frameworks capable of addressing platform-based market power.<sup>5</sup> These reports provide an important doctrinal and policy foundation for analysing India's evolving digital competition regime.

Edited books and monographs present cross-jurisdictional syntheses and sectoral analyses of digital platform regulation. Prominent among these is Pinar Akman et al., *Research Handbook on Digital Platforms and Competition Law* which provides a comprehensive legal and economic evaluation of platform dominance and regulatory responses. Such works highlight the multidisciplinary nature of digital competition policy and compile comparative case studies that inform doctrinal and policy debates on platform power and regulatory remedies.<sup>6</sup> These publications underscore the multi-disciplinary character of the issue and compile comparative case studies especially helpful for doctrinal and policy syntheses. More recent books focused on platform abuse and digital market architecture are key to the structuring of research questions on remedies (structural vs behavioural) and on ex-ante vs ex-post regulatory design<sup>7</sup>.

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<sup>4</sup> Competition Commission of India, *Market Study on E-Commerce in India (2020)*.

<sup>5</sup> NITI Aayog, *Competition and Regulatory Issues in the Digital Economy*

<sup>6</sup> Pinar Akman et al., *Research Handbook on Digital Platforms and Competition Law* (Edward Elgar Publishing 2021).

<sup>7</sup> Antitrust Analysis of Platform Markets Book. Competition Policy International. (2021, December 2).

Long-standing antitrust theory and its criticisms continue to be necessary context. The Chicago-school consumer-welfare paradigm, most prominently articulated by Robert H. Bork in *The Antitrust Paradox: A Policy at War with Itself*, established the economic efficiency framework that has long shaped antitrust enforcement.<sup>8</sup> This approach emphasizes price and output effects as the central indicators of competitive harm, forming the benchmark against which contemporary critiques of digital platform dominance are assessed. Modern critiques of the consumer-welfare framework are prominently articulated by Lina M. Khan in her article “Amazon’s Antitrust Paradox”, which argues that traditional price-based antitrust analysis fails to capture structural harms arising from digital platform dominance.<sup>9</sup>

Khan’s scholarship highlights how platform ecosystems, data accumulation, and vertical integration may enable anti-competitive conduct even where consumer prices remain low.<sup>10</sup> This scholarship places contemporary controversies regarding broadening antitrust objectives to encompass competitive process, innovation, and political economic considerations.

An expanding set of peer-reviewed papers and working papers from institutions simulate platform behaviours, theorize about harm, and investigate measurement. Standout recent examples include economic models of self-preferencing (which break out display/ranking, data-use and fee-setting avenues of possible harm), critiques of the limitations of conventional ex-post antitrust in high-speed digital economies, and proposals for so-called targeted remedies like interoperability and data portability.<sup>11</sup> Empirical working papers highlight the complexity of measuring consumer damage in multi-sided markets, and most urge improved access to data as well as new empirical designs.

Doctoral and master's research increasingly covers measurement gaps and sectoral intersection points (such as fintech). Dissertations often provide micro-level empirical

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<sup>8</sup> Robert H Bork, *The Antitrust Paradox: A Policy at War with Itself* (Basic Books 1978).

<sup>9</sup> Lina M Khan, “Amazon’s Antitrust Paradox,” 126 *Yale Law Journal* 710 (2017).

<sup>10</sup> Khan, L. M., David Singh Grewal, Barry C. Lynn, Christopher R. Leslie, Daniel Markovits, Stacy Mitchell, Frank Pasquale, George Priest, Maurice Stucke, Sandeep Vaheesan, Juliana Brint, Urja Mittal, & Yale Law Journal. (n.d.). Amazon’s antitrust paradox. Amazon’s Antitrust Paradox.

<sup>11</sup> Kalpana Tyagi, *Digital Platforms, Competition Law and Regulation* (2024)

evidence on platform innovation impacts, entry behaviour, and longitudinal effects of remedies (e.g., comparative studies of outcomes before and after intervention). University theses similarly offer elaborate doctrinal examinations of tools such as the EU Digital Markets Act and the viability of ex-ante regulatory regimes. These pieces are especially useful for methodological appendices and for finding empirical datasets and case-study candidates.<sup>12</sup>

Competition Commission of India, Google investigations (Case No. 39 of 2018 and related matters) India's CCI has been actively addressing platform behaviour, including search bias and app distribution. This issue reflects a common global concern but involves different solutions and procedures. Fintech and payment systems blur the line between competition law and sectoral rules. Studies by BIS and central banks explore how fintech and payment systems change market structure. Legal commentaries examine how competition law applies to collaborations, access to infrastructure, and data arrangements.

Indian case studies, particularly those discussing UPI/NPCI and their effects on competition, show how decisions about national payment systems affect competitive outcomes and regulatory balance.

Intergovernmental and supranational organizations have created templates and surveys that outline enforcement patterns and propose new tools. The OECD's cross-jurisdictional survey of competition policy in digital markets looks at the relationship between ex-ante and ex-post tools. It highlights practical solutions like data portability and interoperability. The EU's Digital Markets Act, along with related Furman-style work, shows a move towards rules for specific gatekeepers and structural requirements that support antitrust enforcement. These reports are crucial for any comparative regulatory analysis.<sup>13</sup>

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<sup>12</sup> Reuters, *EU Rejects Trump's Claim of Unfair Digital Rules Targeting US Tech*, Aug. 26, 2025

<sup>13</sup> European Commission, *The EU Digital Markets Act: A Report from a Panel of Economic Experts* (2021)

## IV. APPLICATION OF THE COMPETITION ACT, 2002 TO THE DIGITAL ECONOMY

The Enactment of the Competition Act, 2002<sup>14</sup>, was landmark decision in India's Economic Regulation. It aimed at ensuring that the Competition in the market remained free and fair. The law was designed largely designed with traditional industries in mind; however, its broad and flexible provisions have enabled the CCI to extend its reach to the digital domain.

In digital markets, objectives such as prohibition of abuse of dominant position, preventing anti-competitive agreements, or regulating mergers and acquisitions, remain relevant but require reinterpretation. For instance, market dominance in digital platforms is not only based on pricing or output but also on factors such as access to user data, network effects, and the ability to control digital infrastructure. This makes the application of the Act both complex and innovative in practice.

### A. Predatory Pricing

This is one of the most common issues in e-commerce, and app-based markets often sell goods or services below their cost to drive out competition. This problem is not new for digital platforms, but the scale and frequency of it have become a major concern for the CCI.<sup>15</sup>

For instance, app-based cab services such as Ola were accused of adopting aggressive pricing strategies that allegedly amounted to predatory pricing in the app-based taxi market. In *Fast Track Call Cab Pvt Ltd v ANI Technologies Pvt Ltd*, the Competition Commission of India examined allegations that Ola had abused its dominant position through below-cost pricing strategies intended to eliminate competitors.<sup>16</sup> Although the Commission ultimately concluded that Ola did not hold a dominant position in the relevant market at the time, the case remains significant for illustrating how digital platform pricing strategies are assessed under Section 4 of the Competition Act, 2002.

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<sup>14</sup> The Competition Act, 2002, No. 12 of 2003, INDIA CODE (2003).

<sup>15</sup> Competition Act, 2002, § 4 (prohibition of abuse of dominant position).

<sup>16</sup> *Fast Track Call Cab Pvt Ltd v ANI Technologies Pvt Ltd*, Case Nos 6 & 74 of 2015 (Competition Commission of India, 19 January 2017).

Similarly, e-commerce platforms such as Amazon and Flipkart have been criticized for employing deep discounting practices that may disadvantage smaller retailers and independent sellers. These developments demonstrate the challenges regulators face in distinguishing legitimate competitive pricing from potentially anti-competitive conduct in rapidly expanding digital markets. The challenge for regulators is figuring out when aggressive pricing is a legitimate competitive strategy and when it crosses into anti-competitive behaviour. In fast-growing digital markets, lower prices may initially help consumers, but they can also lead to a few companies becoming dominant in the long run.

In *Matrimony.com Ltd v Google LLC & Ors*, the Competition Commission of India examined allegations that Google had abused its dominant position in the markets for online general web search and online search advertising services in India.<sup>2</sup> The Commission held that certain search design practices, including the display of commercial flight units favouring Google's own specialised search service, constituted an abuse of dominance under Section 4 of the Competition Act, 2002. According to the complaint, Google imposed restrictions on publishers through its advertising agreements and was also alleged to have engaged in search bias by favouring its own specialised search services.

The Competition Commission of India found that Google had abused its dominant position in the online general web search market by prominently displaying its own commercial flight search service (Google Flights) through 'Commercial Flight Units', thereby disadvantaging competing vertical search service providers.<sup>17</sup> In accordance with section 4 of the Act, the CCI determined that Google had abused its dominance and mandated that it withdraw. The case was a major step in acknowledging the unique characteristics of digital marketplaces and the potential for new type of abuse.

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<sup>17</sup> *Matrimony.com Ltd v Google LLC & Ors*, Case Nos 07 & 30 of 2012 (Competition Commission of India, 8 February 2018).

## **B. Exclusive Agreements**

In digital markets, exclusive arrangements have been particularly scrutinized. Section 3 under the Competition Act, 2002<sup>18</sup> prohibits agreements that cause or are likely to cause an appreciable adverse effect on competition.<sup>19</sup> For instance, the partnership between e-commerce and other preferred sellers has been said to limit market access for rivals. Another example is app stores restricting the use of certain payment methods, which has also been considered under this provision. In digital markets where consumer choice often links to a single dominant platform, the CCI views exclusivity as having foreclosure-like effects. Therefore, the evaluation needs to balance possible efficiency against anti-competitive harm.

The flexible nature of this act allows the CCI to apply its principles to new business models. This adaptability is essential, given how quickly digital platforms evolve. Multi-sided markets, where platforms serve as intermediaries between different user groups, such as sellers and buyers on e-commerce sites, do not have explicit provisions. Algorithmic practices, including dynamic pricing or automated collusion, are challenging to analyse under the current rules.

## **V. KEY DECISIONS BY CCI ON DIGITAL PLATFORMS FOLLOWED BY THEIR IMPLICATIONS**

The Competition Commission of India (CCI) has dealt with several important issues related to digital platforms over the past ten years. These decisions highlight the Commission's willingness to tackle the unique challenges of the digital economy and the limitations of using traditional competition methods. The CCI looked into Flipkart and Amazon due to rising concerns about how large e-commerce players operate in India. The trade body claimed these platforms gave certain sellers an unfair edge by providing better visibility, exclusive product launches with smartphone brands, and substantial discounts that hurt other sellers.

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<sup>18</sup> Competition Act, 2002, § 3.

<sup>19</sup> Competition Act, 2002, § 3

Concerns regarding preferential treatment and exclusive arrangements in India's e-commerce sector have been extensively discussed in the Competition Commission of India's *Market Study on E-Commerce in India: Key Findings and Observations* (January 2020).<sup>20</sup> The report highlighted practices such as preferential listing, exclusive product launches, deep discounting strategies, and platform-seller relationships that may distort competition by favouring selected sellers over others.

According to the study, such practices may create entry barriers for smaller sellers and potentially undermine fair competition within digital marketplaces. These findings have informed subsequent regulatory scrutiny of major e-commerce platforms such as Amazon and Flipkart and illustrate the broader challenges faced by competition authorities in regulating algorithm-driven marketplaces.

The Investigation documents how digital platforms can warp fair competition by opaque algorithms, curated catalogues, single partnerships and diverse pricing strategies. The extensive judicial proceedings and multiple challenges to the CCI's probe underline the limitations of an ex-post enforcement framework in fast-moving digital markets. goes beyond questions of discounting and preferential treatment. It illustrates how digital platforms function not just as marketplaces but as powerful gatekeepers, capable of shaping competitive outcomes through their control over search rankings, visibility, and consumer access. Algorithms used to rank which sellers appear most prominently may be opaque, operating in an unfair manner that Favors large retailers at the expense of quality or price. Thus, platform power is implicitly exerted in a way that influences consumer choice and market entry as much as it would if overtly declared.

This example shows how preferential listings and exclusive deals can perpetuate market concentration. When large brands control platforms for special launches, consumers are indirectly pushed towards special platforms, while competitors are denied level playing fields for favoured products. Over time these things can keep the consumers within a specific eco system, which would result in minimizing actual

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<sup>20</sup> Competition Commission of India, *Market Study on E-Commerce in India: Key Findings and Observations* (January 2020).

competition in the long term. The prolonged duration of the inquiry reflects the shortcomings in depending solely on ex-post enforcement, where authorities intervene after possible damage has been inflicted. By the time corrective action is taken, the market structure may already be distorted, and smaller players may have been forced to exit. Finally, the case has wider implications for India's regulatory framework. It highlights the need to rethink how competition law addresses issues of algorithmic bias, data-driven preferential treatment, and the dominance of digital gatekeepers. The fact that these challenges persist despite existing provisions under Sections 3 and 4 of the Competition Act, 2002 suggests that incremental interpretation may not be enough.

Another milestone took place between *Google and CCI*<sup>21</sup> Referring to the Competition Commission of India, Google has exploited its market dominance. In violation of Section 4 of the Act, Google has allegedly abused its dominant position in mobile operating systems and related businesses. Google was in a unique position because of a number of agreements it had made, and it ought to have made better use of it. Google is making enormous profits through its ad revenue sharing system, and the entire GMS compels Android device users to use Google services. Additionally, the agreements themselves prevent other rivals from entering the market.

The need that Google apps be installed on smartphones is detrimental to both the public and smartphone makers. In addition to restricting the admission of other apps, such installation would suggest that smartphone manufacturers are paying for apps they do not need. For instance, Xiaomi, one of the biggest smartphone manufacturers in the nation, has its own app store, but not many people use it because installing the Google Play Store is required. Users have even fewer options because these programs can't be uninstalled. Section 4(2)(a)(i)<sup>22</sup> and Section 4(2)(a)(e)<sup>23</sup> of the Act are directly violated by Google's actions. The entire purpose of Android was to give users the freedom to use the Android code and create software using it. However, Google denied this when it prohibited smartphone manufacturers from creating apps using

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<sup>21</sup> In re: XYZ v. Google LLC, Case No. 39 of 2018, Competition Comm'n of India (Oct. 20, 2022).

<sup>22</sup> Competition Act, 2002, § 4(2)(a)(i).

<sup>23</sup> Competition Act, 2002, § 4(2)(a)(e).

these open codes in its contract, claiming that Google would not have any control over such apps.

As it currently exists, the internet serves as a platform for the exchange of ideas between people from various backgrounds. People had options and the internet was free, but these days, some businesses are controlling what the public can and cannot choose. The general public is impacted by this ruling because, provided it is not misused, holding a market position is permissible. This incident alone demonstrates how Google misused its power. A significant development in India's digital competition jurisprudence arose in *Umar Javeed v Google LLC*, where the Competition Commission of India examined Google's conduct in relation to the Android mobile operating system and associated mobile application distribution practices.<sup>24</sup> The Commission found that Google had imposed restrictive conditions on smartphone manufacturers through agreements such as the Mobile Application Distribution Agreement (MADA) and the Anti-Fragmentation Agreement (AFA), which effectively required manufacturers to pre-install the Google Mobile Services (GMS) suite and prevented the development or use of competing Android forks.

The CCI concluded that these contractual practices reinforced Google's dominance in the markets for licensable mobile operating systems and app distribution services. Consequently, the Commission held that Google had abused its dominant position in violation of Sections 4(2)(a)(i), 4(2)(b)(ii), 4(2)(c), 4(2)(d), and 4(2)(e) of the Competition Act, 2002. In addition to issuing behavioural remedies aimed at restoring competitive neutrality in the Android ecosystem, the CCI imposed a monetary penalty of ₹1,337.76 crore, making it one of the most consequential antitrust decisions in India's digital market regulation.

By denying you an option, Google has further exploited its position. You have spent your own hard-earned money on your own Android device. Now picture yourself utilizing out-of-date apps or services, or having your own phone watch your every move. In actuality, there would have been better apps and services than the ones you

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<sup>24</sup> *Umar Javeed v Google LLC*, Case No 39 of 2018 (Competition Commission of India, 20 October 2022).

use now, but they will never be released because of Google's ban on app creation and the requirement to install the GMS suite.

## **VI. ADEQUACY OF THE CURRENT LEGAL FRAMEWORK AND THE NEED FOR REFORM**

While the competition Act provided a workable foundation, it is evident that the digital economy poses unique challenges not fully addressed by the existing law. Issues such as algorithmic collusion, self-preferencing, data monopolies, and rapid market concentration require specialized regulatory responses. The Act does not expressly recognize the role of data as a source of market power, nor does it provide detailed guidance on assessing multi-sided platforms.

Several jurisdictions, including the European Union, have moved towards adopting ex-ante regulations like the Digital Markets Act (DMA)<sup>25</sup>, which directly targets gatekeeper platforms. In contrast, India continues to rely on ex-post enforcement through the CCI. While this approach offers flexibility, it may be too slow to respond to harms in quickly changing digital markets. The digital economy has revealed the weaknesses of this framework.

Digital platforms use business models that are multi-sided, driven by data, and based on algorithms. There are challenges like self-preferencing, where platforms favor their own products or services; algorithmic collusion, where automated tools influence pricing or market allocation instead of clear agreements; and data monopolies, where control over consumer data itself leads to dominance. These issues are not clearly addressed in the Act. Although the CCI has tried to interpret Sections 3 and 4 to tackle these problems, the lack of clear recognition of data as a type of market power creates a regulatory gap. Multi-sided platforms that serve consumers, sellers, advertisers, and other stakeholders at the same time need a more detailed analysis framework than what traditional competition law tools can offer.

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<sup>25</sup> 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.

Globally, countries such as the European Union have moved from ex-post enforcement to pre-emptive regulatory regimes. The Digital Markets Act (DMA), for example, imposes duties on gatekeeper platforms to prevent anti-competitive conduct from arising in the first place. The opposite is true for India, where the over-reliance on ex-post enforcement tends to see investigations draw out for years and outcomes delayed by months or even years. By the time sanctions are put in place, market damage will already be ingrained and smaller rivals eliminated.

Recognising these regulatory challenges, India has undertaken significant legislative reforms through The Competition (Amendment) Act, 2023 (Act No 18 of 2023, India).<sup>26</sup> The amendment introduces several structural changes aimed at improving enforcement efficiency and addressing emerging market practices. Key reforms include the introduction of deal value thresholds for merger control, the establishment of settlement and commitment mechanisms to expedite competition proceedings, and recognition of hub-and-spoke cartel arrangements. These reforms represent an important step toward adapting India's competition law framework to the evolving realities of digital markets, where traditional turnover-based thresholds and lengthy enforcement processes often prove inadequate.

Still, some scholars and policy makers believe that incremental modifications are unlikely to address the structural dangers of Big Tech platforms. In response to these emerging challenges, India has also begun exploring ex-ante regulatory mechanisms through the proposed Draft Digital Competition Bill, 2024. The Bill draws conceptual inspiration from international regulatory frameworks such as the European Union's Digital Markets Act (DMA) and seeks to impose specific obligations on large digital platforms designated as "Systemically Significant Digital Enterprises" (SSDEs).

The doctrinal foundation for this framework can be traced to the recommendations of the Parliamentary Standing Committee on Finance, which examined issues relating to anti-competitive practices by large digital platforms and emphasized the need for proactive regulation of digital gatekeepers.<sup>27</sup> The Committee's report highlighted

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<sup>26</sup> The Competition (Amendment) Act 2023, Act No 18 of 2023 (India).

<sup>27</sup> Parliamentary Standing Committee on Finance, *Anti-Competitive Practices by Big Tech Companies* (53rd Report, Lok Sabha Secretariat 2022).

concerns regarding data concentration, self-preferencing, and platform dependency, and recommended the creation of a specialised regulatory framework capable of addressing structural competition risks in digital markets.

These obligations may include restrictions on self-preferencing, mandatory data-sharing with smaller players, limits on tying and bundling practices, and enhanced scrutiny of exclusive agreements. By focusing on preventive measures, the Bill represents a shift from reactive enforcement to proactive regulation, seeking to level the playing field before harm occurs.

During the same time, Indian context has its own balancing act. Over regulation can lead to discouragement of innovation and will reduce the attractiveness of India's tech ecosystem, essential for investment, while there are certain under regulated risks entrenching monopolistic practices that resists competition. Thus, the debate is more about how to design regulation that ensures fair competition with the dynamism of digital markets rather than its regulation.

## **VII. COMPARATIVE STUDY OF INDIA AND OTHER JURISDICTION'S APPROACHES TO COMPETITION IN THE ERA OF DIGITAL ECONOMY**

The regulation of digital markets has become a global challenge. Jurisdictions have pursued various approaches to addressing challenges such as self-preferencing, data monopolies, and platform dominance. India has depended on the 2002 Competition Act and its amendment. Other advanced economies, however, have moved towards specialized pre-emptive regulatory systems.

The European Union has pursued a different model with the Digital Markets Act (DMA). The DMA defines some platforms as "gatekeepers" and imposes obligations on them. These include prohibitions on self-preferencing, data portability and interoperability requirements, and restrictions on merging user data across services. The EU's model is a preventive regulatory approach, in which obligations automatically cover companies that reach certain thresholds, without requiring evidence of abuse. Relative to India, the EU has therefore gone further towards

structural regulation of online platforms, viewing them as systemic players that need sector-specific regulations.

The United States historically adhered to a consumer-welfare approach, focusing primarily on price and output effects in antitrust analysis. However, recent scholarship has challenged this paradigm. In her influential article “Amazon’s Antitrust Paradox,” Lina M. Khan argues that traditional price-based antitrust frameworks are inadequate for assessing the competitive implications of digital platform ecosystems and data-driven market power.<sup>28</sup> This critique has contributed significantly to contemporary debates regarding the reform of U.S. antitrust policy in the digital economy. Enforcement actions by the Federal Trade Commission (FTC) and the Department of Justice (DOJ) increasingly reflect a renewed willingness to challenge the market power of major digital platforms.

A notable example is *United States v Google LLC*, where the DOJ alleged that Google had unlawfully maintained monopoly power in the markets for general search services and search advertising through exclusionary agreements with device manufacturers and browser developers.<sup>29</sup> The case represents one of the most significant antitrust proceedings against a technology platform in the United States and illustrates the growing global scrutiny of digital gatekeepers. Proposed legislative reforms, such as the American Innovation and Choice Online Act<sup>30</sup>, seek to restrict self-preferencing and discriminatory practices by dominant platforms. Unlike the EU’s DMA, the U.S. remains litigation-driven, though with stronger political appetite for reform.

The OECD has provided comparative studies urging hybrid approaches that combine ex-post and ex-ante tools, particularly recommending interoperability and data portability as remedies<sup>31</sup>. Countries like the United Kingdom are moving towards establishing a Digital Markets Unit with powers to impose tailored obligations on

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<sup>28</sup> Lina M Khan, “Amazon’s Antitrust Paradox,” 126 *Yale Law Journal* 710 (2017).

<sup>29</sup> *United States v Google LLC*, Civil Action No 1:20-cv-03010 (US District Court for the District of Columbia, filed 20 October 2020).

<sup>30</sup> The American Innovation and Choice online act, Text: S.2992 – 117th Congress (2021-2022).

<sup>31</sup> OECD, *Competition in Digital Markets* (2020), <https://www.oecd.org/competition/competition-in-digital-markets.htm>

dominant platforms<sup>32</sup>. Meanwhile, Australia and South Korea have adopted sector-specific interventions, focusing on app stores and digital payments. These models show that regulatory experimentation is widespread, and no single framework has yet become universal<sup>33</sup>.

In comparison, India's approach sits between traditional enforcement and emerging regulations. On one hand, CCI has been creative in stretching the Competition Act, 2002 to address digital practices, and on the other prolonged investigations and reliance on ex-post enforcement limit its effectiveness in rapidly shifting markets. The Draft Digital Competition Bill, 2024<sup>34</sup> with its proposal to impose obligations on "systematically significant Digital enterprises" indicate that India is drawing lessons from EU's DMA<sup>35</sup> while trying to implement them through local realities, such as a fast-growing consumer base, uneven digital penetration and reliance on foreign owned platforms.

## VIII. SUGGESTIONS

In digital markets, data functions as both a competitive advantage and a barrier to entry. Control over vast user datasets allows platforms to refine algorithms, target advertising more effectively, and develop services that lock in consumers. The Competition Act, 2002 currently does not explicitly recognise data as an indicator of dominance, which leaves a regulatory blind spot. Incorporation of data in the assessment of market power would allow regulatory to better evaluate how control over personal and commercial information can entrench dominant positions. Such a change would align India with global trends, where jurisdictions increasingly treat data as a core competitive asset.

*The Draft Digital Competition Bill, 2024*<sup>36</sup> seeks to move India towards an ex-ante framework, where obligations are placed on dominant platforms in advance, rather

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<sup>32</sup> UK Competition and Markets Authority (CMA), A New Pro-Competition Regime for Digital Markets (2021).

<sup>33</sup> ACCC (Australia), Digital Platforms Inquiry: Final Report (2019).

<sup>34</sup> Draft Digital Competition Bill, 2024, Ministry of Corporate Affairs (India)

<sup>35</sup> 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.

<sup>36</sup> Draft Digital Competition Bill, 2024, Ministry of Corporate Affairs (India).

than waiting for harm to occur. Provisions restricting self-preferencing, exploitative exclusivity, and tying arrangements are essential to curb abuses by “systemically significant digital enterprises” (SSDEs). At the same time, caution is required to ensure that smaller businesses and emerging startups are not burdened with disproportionate compliance requirements. A tiered system, under which only those platforms that have reached a size and influence threshold will be subject to more onerous duties, would guarantee proportionate and targeted regulation.

Acquisitions of innovative companies having negligible current revenues but high potential for the future commonly known as "critical acquisitions" are a part of digital markets that is critical. These transactions are commonly overlooked by the conventional turnover-based thresholds of the Competition Act. To close this gap, the Competition (Amendment) Act of 2023 implemented deal value thresholds; however, successful enforcement is crucial. Regulators need to ensure that these regulations are enforced strictly, with a special focus on whether acquisitions might hinder competition or limit innovation in the long run. There would be more consistency and transparency with the establishment of clear-cut guidelines for mergers in the digital arena.

One of the most intractable problems of India's competition regime is the time-consuming character of probes. By the time a direction is issued, online markets can have irreversibly tipped in Favor of market leaders. Broadening the settlement and commitment mechanism introduced in the 2023 Amendment can ensure speeding up of cases and limiting litigations burdens. Additionally, setting time-limited deadlines for investigations involving digital platforms would ensure quick actions and lower the chances of market harm becoming permanent. Regulation must not threaten India's rapidly growing technology sector. Strict rules could scare off foreign investment, which might discourage domestic startups from forming. At the same time, not regulating enough could allow monopolies to develop, harming consumers and smaller businesses.

India needs to find a careful balance, creating rules that protect competition without hindering innovation. Learning from global models like the EU's Digital Markets Act

(DMA) and adapting them to India's unique market conditions would help make sure that regulation encourages both fairness and growth. Effective enforcement also needs strong institutions, not just good reforms. The CCI must improve its digital economy, data science, and algorithm practices to handle complex digital cases. Creating a dedicated digital markets division within the CCI, with support from technical experts and advisory panels, would boost its ability to address new challenges. Working with universities, think tanks, and international regulators could further improve institutional learning and capacity.

While the EU's Digital Markets Act (DMA)<sup>37</sup> provides a useful template, India should avoid a wholesale transplant of its provisions. Instead, obligations like interoperability, data portability, and restrictions on self-preferencing should be calibrated for India's consumer base, where digital penetration is uneven and many businesses still rely on foreign-owned platforms. Given that most dominant platforms in India are headquartered outside the country, unilateral regulation may be less effective. India should increase its engagement with the OECD, BRICS, and G20 forums to share enforcement experiences and coordinate with regulators abroad. This would prevent regulatory arbitrage by global tech firms and create a more consistent global framework.

The EU uses strict turnovers and user thresholds to designate gatekeepers, while the U.S relies more on litigation. For India, a hybrid threshold including incorporation of revenue, user base, reliance on Indian markets, would better identify "Systematically significant Digital Enterprises" without the unnecessary burden of small Enterprises. Global comparisons highlight that the effectiveness of regulation depends heavily on institutional capacity. India should create a Digital Markets Division within the CCI, modelled after the UK's proposed Digital Markets Unit, staffed with data scientists, economists, and technologists to analyse algorithms and digital conduct more effectively. India should selectively borrow from the EU's ex-ante model and the U.S. litigation-driven approach while retaining its own focus on inclusive growth and

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<sup>37</sup>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.

digital access. Overregulation could slow down innovation in India's startup ecosystem, while under-regulation could allow monopolistic practices to flourish unchecked. A suitable path would be more context specific.

## **IX. CONCLUSION**

The analysis undertaken in this paper demonstrates that while the Competition Act, 2002 provides a flexible legal framework capable of addressing issues such as abuse of dominance, exclusive agreements, and predatory pricing, the rapid evolution of digital markets presents challenges that were not envisaged at the time of its enactment. Examination of major decisions of the Competition Commission of India, including cases involving Google, Amazon, Flipkart, and WhatsApp, reveals that the Commission has played a significant role in adapting competition law principles to digital platforms.

However, the study also indicates that reliance solely on ex-post enforcement mechanisms may be insufficient to address structural concerns arising from network effects, data concentration, and platform gatekeeping. Comparative analysis with regulatory developments in jurisdictions such as the European Union and the United States further suggests that supplementary ex-ante regulatory mechanisms may be necessary to ensure fair and contestable digital markets in India. Accordingly, the research concludes that while the current legal framework remains relevant, targeted reforms and regulatory innovations are essential to maintain competitive balance in the digital economy.

By the time remedies are introduced, markets might already have tipped in favour of large platforms. This gives smaller companies little chance to recover. Recent reforms, especially the Competition (Amendment) Act, 2023, have made notable strides in closing gaps. These reforms focus on tougher merger control, settlement and commitment frameworks, and recognizing the importance of data.

The proposed Draft Digital Competition Bill, 2024, attempts to tailor solutions to specific market situations. It also introduces obligations for systemically important digital firms, aligning India with international regulatory trends. These steps show an understanding that India's digital economy and competition laws must grow

together. India's competition law in the digital age is aligning with global trends while keeping unique features shaped by its domestic market. The way forward involves adopting a mixed approach. This means maintaining some flexibility in enforcement while adding specific obligations for large digital platforms. Such a balance would help India protect competition, encourage innovation, and avoid the issues of too much regulation or too little oversight.

In the end, the success of India's competition law in the digital era will depend on the effective implementation of statutory reforms and the continued evolution of the regulatory framework governing digital markets. If pursued thoughtfully, India's changing competition framework could create a fair, innovative, and inclusive digital marketplace.

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