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# COMPETITION LAW AT THE CROSSROADS: A DECADE-LONG APPRAISAL OF CCI'S ENFORCEMENT IN INDIAN DIGITAL MARKETS, 2015-2025

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Rajib Kumar Das<sup>1</sup>

## I. ABSTRACT

*This article critically examines the effectiveness of the Competition Commission of India's (CCI) enforcement in digital markets between 2015 and 2025, a period marked by the emergence of multi-sided platforms, data-driven market power, network effects, and rapid technological change that have amplified risks of gatekeeper dominance and consumer exploitation. The study assesses whether ex-post, complaint-driven antitrust enforcement has delivered deterrence, compliance, market impact, proportionate penalties, effective remedies, and timely outcomes in India's digital economy. Using a mixed-methods design combining doctrinal analysis of CCI orders with empirical assessment of enforcement outcomes, review of appellate proceedings, and structured comparative institutional analysis of the European Commission, US FTC/DOJ, and UK CMA, the evidence base synthesises 162 papers on CCI effectiveness and India's digital competition framework. Across approximately 30-40 platform investigations between 2015-2025, 40-50 per cent of concluded matters resulted in infringement findings, with total penalties of approximately INR 2,487 crore based on the major cases analysed in this study, driven by landmark actions against Google (Android: INR 1,337.76 crore; Play Billing: INR 936.44 crore) and Meta (WhatsApp: INR 213.14 crore). While the aggregate across all platform investigations during this period may be higher, a comprehensive publicly verifiable breakdown is not available. Despite analytical sophistication and detailed behavioural remedies, major findings indicate limited deterrence, delayed compliance, and minimal market-structure change, with persistent dominance (Google >95 per cent in search and Android app stores; WhatsApp >80 per cent in messaging). Procedural inefficiency is central: investigations typically take 3-5 years, and, with appellate stays, enforcement extends to 7-10 years, undermining remedy implementation. The article*

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*concludes that traditional ex-post enforcement alone is insufficient for systemic digital market power, supporting a hybrid ex-ante/ex-post framework including obligations for systemically significant digital enterprises, alongside reforms on interim measures, penalty calibration based on global turnover, technical monitoring capacity, and international cooperation.*

## II. KEYWORDS

Multi-sided platforms, Data-driven market power, Gatekeeper dominance, Ex-ante regulation, Systemically Significant Digital Enterprises.

## III. INTRODUCTION

The digital economy has fundamentally transformed commercial relationships, market structures, and competitive dynamics globally. In India, digital platforms have emerged as critical infrastructure for economic activity, with multi-sided platforms, e-commerce marketplaces, app stores, search engines, and social media intermediaries reshaping how businesses and consumers interact.<sup>2</sup> The Indian digital economy represents a significant driver of economic growth, with digital platforms facilitating transactions worth billions of dollars annually and serving hundreds of millions of users.<sup>3</sup>

However, the concentration of market power in digital markets has raised significant competition concerns. Digital markets exhibit distinctive characteristics that challenge traditional antitrust frameworks: zero-marginal-cost structures, strong network effects leading to 'winner-take-all' dynamics, economies of scale and scope, data accumulation as a source of competitive advantage, multi-sided platform business models, and algorithm-mediated decision-making.<sup>4</sup> These features create natural

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<sup>2</sup> Abhishek Jain and others, 'Competition in Digital Markets: An Indian Perspective' (2024) SSRN Working Paper 4863926, 3-5.

<sup>3</sup> Siddharth Sakle and others, 'The Interaction between Competition Law & Digital and E-commerce Markets in India' (2020) 16 Indian Journal of Law and Technology 1, 5-8.

<sup>4</sup> Aditya Bhattacharjea, 'Predatory Pricing in Platform Competition: Economic Theory and Indian Cases' in *Competition Issues in the Digital Economy* (Springer 2018) 215-240.

tendencies toward concentration and raise barriers to entry that traditional competition law tools struggle to address effectively.<sup>5</sup>

The Competition Commission of India (CCI), established under the Competition Act 2002, has been tasked with preventing practices having appreciable adverse effect on competition, regulating combinations, and prohibiting abuse of dominant position in India. Between 2015 and 2025, the CCI has confronted an unprecedented wave of digital platform cases involving major technology companies including Google, Amazon, Flipkart, Meta (Facebook/WhatsApp), Uber, Ola, MakeMyTrip, and numerous other digital intermediaries.<sup>6</sup> These investigations have tested the adequacy of India's ex-post, complaint-driven enforcement model in addressing the unique challenges posed by digital market power.

This article critically examines the effectiveness of CCI enforcement in digital markets over this transformative decade. It addresses a fundamental question: has traditional antitrust enforcement delivered meaningful deterrence, compliance, market correction, and consumer protection in India's digital economy? The analysis is particularly timely given ongoing debates about the proposed Digital Competition Act and broader regulatory reforms aimed at addressing systemic digital market power.<sup>7</sup>

The article proceeds as follows: Section 2 establishes the theoretical framework for understanding digital market characteristics and competition challenges. Section 3 outlines the methodology and evidence base. Section 4 provides comprehensive empirical analysis of major CCI enforcement actions across different digital sectors from 2015-2025. Section 5 assesses enforcement effectiveness across multiple dimensions. Section 6 offers comparative institutional analysis with leading

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<sup>5</sup> Saurabh Khandelwal, 'Judging a Book by Its Cover?: Analysing the Indian Approach to Defining Platform Markets' (2022) 36 *International Review of Law, Computers & Technology* 1, 3-7.

<sup>6</sup> Aman Singh, 'Abuse of Dominance in the Platform Economy: A Sectoral Study of Antitrust Regulation in India' (2025) SSRN Working Paper 5272498, 1-10.

<sup>7</sup> Ananya Tewari, 'A Critical Evaluation of India's Proposed Digital Competition Act' (2024) 5 *Competition Commission of India Journal on Competition Law and Policy* 197, 198-205.

jurisdictions. Section 7 examines structural limitations of ex-post enforcement. Section 8 proposes reforms, and Section 9 concludes.

### **A. Research Objectives**

This study pursues the following objectives:

1. To evaluate the effectiveness of Competition Commission of India enforcement in digital markets between 2015 and 2025, with particular focus on deterrence, compliance, and market outcomes.
2. To analyse the adequacy of existing ex-post, complaint-driven enforcement mechanisms in addressing the structural features of digital markets, including network effects, data concentration, and platform dominance.
3. To assess procedural efficiency, including investigation timelines, appellate delays, and remedy implementation.
4. To compare India's enforcement framework with leading jurisdictions, including the European Union, United States, and United Kingdom, in order to identify institutional strengths and gaps.

### **B. Research Questions**

This study is guided by the following research questions:

1. Has ex-post enforcement by the Competition Commission of India achieved meaningful deterrence in digital markets during the period 2015 to 2025?
2. To what extent have CCI interventions resulted in effective compliance, behavioural change, and measurable impact on market structure?
3. How do procedural delays, including investigation timelines and appellate stays, affect the overall effectiveness of enforcement in fast-evolving digital markets?
4. Are existing competition law tools adequate to address data-driven dominance and platform-based market power, or is ex-ante regulation necessary?

### C. Methodology and Evidence Base

This study employs a mixed-methods approach combining doctrinal legal analysis, empirical assessment of enforcement outcomes, and comparative institutional analysis. The evidence base comprises:

- 1. Primary Sources:** CCI orders, Director General (DG) investigation reports, National Company Law Appellate Tribunal (NCLAT) and Supreme Court judgments, CCI annual reports, and publicly available compliance materials from 2015-2025.
- 2. Secondary Sources:** Systematic synthesis of 162 academic papers, policy reports, and legal commentaries on CCI enforcement in digital markets, identified through comprehensive searches across institutional repositories. The search strategy focused on CCI cases involving major digital platforms (Google, Amazon, Flipkart, Meta/Facebook/WhatsApp, Uber, Ola, MakeMyTrip, and others) and covered enforcement effectiveness, market outcomes, procedural issues, and reform proposals.<sup>8</sup>
- 3. Comparative Analysis:** Review of enforcement approaches and outcomes in the European Union (European Commission), United States (Federal Trade Commission and Department of Justice), and United Kingdom (Competition and Markets Authority) to contextualise CCI performance and identify best practices.
- 4. Empirical Indicators:** Where available, market share data, penalty amounts, investigation timelines, compliance rates, and market structure changes were compiled from official sources and academic studies.

The analysis focuses on concluded investigations and orders issued between 2015 and 2025, a period encompassing the CCI's most significant digital market enforcement actions. Cases were categorised by sector (search/advertising, e-commerce, social

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<sup>8</sup> Methodology based on comprehensive literature search covering 162 papers from SciSpace Basic Search (300 results), SciSpace Full Text Search (200 results), SciSpace Library Search (40 results), and Google Scholar (60 results), combined and reranked to identify most relevant scholarship on CCI digital markets enforcement 2015-2025.

media/messaging, ride-hailing, online travel, digital payments) and analysed for enforcement patterns, outcomes, and effectiveness across multiple dimensions: deterrence, compliance, market impact, penalty adequacy, remedy design, and procedural efficiency.

#### **IV. THEORETICAL FRAMEWORK: DIGITAL MARKET CHARACTERISTICS AND COMPETITION CHALLENGES**

##### **A. Multi-Sided Platforms and Network Effects**

Digital platforms typically operate as multi-sided markets, connecting distinct user groups such as consumers and merchants, app developers and device users, or advertisers and content consumers and deriving value from facilitating interactions between these groups.<sup>9</sup> This multi-sidedness creates indirect network effects: the value to users on one side increases with the number of users on the other side.<sup>10</sup> For instance, more consumers on an e-commerce platform attract more sellers, which in turn attracts more consumers, creating self-reinforcing growth dynamics that favour early movers and large incumbents.<sup>11</sup>

Direct network effects compound these dynamics. In messaging services like WhatsApp, the value to each user increases directly with the total number of users, creating powerful lock-in effects and extremely high switching costs.<sup>12</sup> These network effects generate 'tipping' tendencies where markets converge toward single dominant platforms, making entry and expansion by competitors exceptionally difficult even when the incumbent engages in conduct that would be contestable in traditional markets.<sup>13</sup>

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<sup>9</sup> Jain and others (n 1) 8-12.

<sup>10</sup> Bhattacharjea (n 3) 218-222.

<sup>11</sup> *ibid* 223-225.

<sup>12</sup> In re: Updated Terms of Service and Privacy Policy for WhatsApp Users Suo Motu Case No 01 of 2021 (Competition Commission of India, 18 November 2024)

<sup>13</sup> Khandelwal (n 4) 8-11.

## B. Data as Competitive Advantage and Barrier to Entry

Data has emerged as a critical input and source of competitive advantage in digital markets.<sup>14</sup> Platforms accumulate vast quantities of user data behavioural, transactional, locational, and preferential which they leverage to improve services, personalise offerings, target advertising, and develop new products.<sup>15</sup> This creates data-driven feedback loops: more users generate more data, which enables better services, which attract more users.<sup>16</sup>

Importantly, data accumulation can function as a barrier to entry. Incumbents with large user bases and extensive historical data possess informational advantages that new entrants cannot easily replicate, even with superior technology or business models.<sup>17</sup> The CCI has increasingly recognised data as a factor in assessing dominance, particularly in cases involving Google, Facebook/WhatsApp, and other data-intensive platforms.<sup>18</sup>

## C. Algorithmic Decision-Making and Opacity

Digital platforms increasingly rely on algorithms and artificial intelligence to mediate market interactions, determine search rankings, recommend content, set prices, and allocate visibility.<sup>19</sup> While algorithms can enhance efficiency and consumer welfare, they also create opportunities for anti-competitive conduct that is difficult to detect and remedy.<sup>20</sup> Algorithmic self-preferencing, discriminatory ranking, and opaque decision-making processes can disadvantage competitors and limit consumer choice without leaving clear evidentiary trails.<sup>21</sup>

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<sup>14</sup> Aman Singh, 'A Veiled Relevant Market: Study of the Digital Markets under the Indian Competition Law' SSRN Electronic Journal 1, 12-15.

<sup>15</sup> *ibid* 15-18.

<sup>16</sup> Jain and others (n 1) 15-17.

<sup>17</sup> Singh, 'A Veiled Relevant Market' (n 12) 18-20.

<sup>18</sup> *Digital News Publishers Association v Google LLC* Case No 41 of 2021 (Competition Commission of India, 8 February 2022) [78-85]; *In re: WhatsApp* (n 10) [62-68].

<sup>19</sup> Aman Singh, 'Algorithmic Abuse and Big Tech Regulation: Reconciling AI-Driven Market Power with Emerging Ex-Ante Competition Frameworks in India and the EU' (2025) 8-12.

<sup>20</sup> Ankit Bansal and others, 'Predatory Innovation in the Digital Era' (2023) 3 Competition Commission of India Journal on Competition Law and Policy 75, 78-82.

<sup>21</sup> Singh, 'Algorithmic Abuse' (n 17) 13-16.

The opacity of algorithmic systems poses significant challenges for competition authorities. Establishing causation between platform conduct and market harm requires technical expertise and access to proprietary systems that regulators often lack.<sup>22</sup> This informational asymmetry favours dominant platforms and complicates enforcement.<sup>23</sup>

#### **D. Vertical Integration and Conflicts of Interest**

Many digital platforms operate simultaneously as neutral intermediaries and active market participants, creating inherent conflicts of interest.<sup>24</sup> Amazon, for example, operates both a marketplace connecting third-party sellers with consumers and its own private-label retail business competing with those sellers.<sup>25</sup> Google operates both the Android operating system and app store (neutral infrastructure) and its own apps and services (competing participants).<sup>26</sup>

This dual role creates opportunities and incentives for self-preferencing, discriminatory treatment of competitors, and leveraging dominance from one market into adjacent markets.<sup>27</sup> Traditional competition law concepts of vertical foreclosure and leveraging apply, but the speed, scale, and complexity of digital markets amplify both the potential for harm and the difficulty of effective intervention.<sup>28</sup>

#### **E. Zero-Price Markets and Consumer Harm**

Many digital services are offered at zero monetary price to consumers, with platforms monetising through advertising, data collection, or cross-subsidisation from other market sides.<sup>29</sup> This complicates traditional competition analysis focused on price effects and consumer welfare measured in monetary terms.<sup>30</sup> The CCI and other

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<sup>22</sup> Khandelwal (n 4) 12-15.

<sup>23</sup> *ibid* 15-17.

<sup>24</sup> Aman Singh, 'Amazon's Competition Investigation in India: A Case for Expansion of Investigation and Grant of Interim Relief' (2021) 17 *Indian Journal of Law and Technology* 1, 8-12.

<sup>25</sup> *ibid* 12-15.

<sup>26</sup> *Google LLC v Competition Commission of India* Case No 07/2022 (Competition Commission of India, 20 October 2022) [125-145].

<sup>27</sup> Singh, 'Amazon's Competition Investigation' (n 22) 15-18.

<sup>28</sup> Bansal and others (n 18) 85-88.

<sup>29</sup> *In re: WhatsApp* (n 10) [35-42].

<sup>30</sup> Jain and others (n 1) 18-20.

authorities have increasingly recognised that consumer harm in digital markets can manifest through reduced quality, diminished privacy, restricted choice, reduced innovation, and exploitation of behavioural biases, even absent price increases.<sup>31</sup>

These distinctive characteristics of digital markets multi-sidedness, network effects, data advantages, algorithmic mediation, vertical integration, and zero-price models create a challenging environment for traditional ex-post competition enforcement. The following sections examine how the CCI has navigated these challenges in practice.

## V. EMPIRICAL ANALYSIS OF CCI ENFORCEMENT IN DIGITAL MARKETS (2015-2025)

### A. Google Cases: Search, Android, and App Store Dominance

The CCI's enforcement actions against Google represent the most significant and high-profile digital market interventions during the 2015-2025 period. These cases span multiple markets general web search, online search advertising, Android operating system, and app distribution and have resulted in the largest penalties ever imposed by the CCI.

#### 1. *Matrimony.com v Google LLC* (2018)

The *Matrimony.com* case, initiated in 2012 and concluded with a final order in 2018, examined Google's alleged abuse of dominance in online general web search and online search advertising services in India.<sup>32</sup> The CCI found Google dominant in both markets and held that Google had abused its dominance through search bias, favouring its own specialised search services (such as Google Flights and Google Shopping) over competitors in search results.<sup>33</sup>

The CCI imposed a penalty and directed Google to cease the anti-competitive practices. However, scholarly analysis reveals significant limitations in enforcement effectiveness. Singh notes that the CCI 'exercised forbearance' regarding Google's

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<sup>31</sup> *In re: WhatsApp* (n 10) [88-95]; *Khandelwal* (n 4) 16-18.

<sup>32</sup> *Matrimony.com Ltd v Google LLC* 2018 SCC OnLine CCI 1 (Competition Commission of India, 8 February 2018).

<sup>33</sup> *ibid* [145-178].

search design, prioritising consumer benefits and showing reluctance to mandate structural changes to Google's algorithm.<sup>34</sup> The case took six years from complaint to final order, and subsequent compliance monitoring revealed limited practical impact on Google's market position or conduct.<sup>35</sup>

## 2. Android Cases (2022): Ecosystem Dominance

In October 2022, the CCI issued two landmark orders against Google concerning the Android mobile ecosystem, imposing combined penalties exceeding INR 2,200 crore the largest in CCI history.<sup>36</sup> The first order (Case No 39 of 2018) concerned Google's licensing agreements with original equipment manufacturers (OEMs) and found that Google had abused its dominant position in multiple markets including licensable operating systems for smartphones, app stores for Android, and general web search services.

The CCI held that Google's practices including mandatory pre-installation of Google apps, restrictions on device manufacturers using forked versions of Android, and tying of Google's proprietary apps constituted abuse of dominance under Section 4 of the Competition Act 2002.<sup>37</sup> The penalty of INR 1,337.76 crore was accompanied by detailed behavioural remedies requiring Google to allow OEM choice in pre-installing apps, permit uninstalling of pre-installed apps, and refrain from anti-fragmentation obligations that prevented use of Android forks.<sup>38</sup>

The second order (Case Nos 07 of 2020, 14 of 2021 and 35 of 2021) addressed Google's Play Store billing system, finding that Google's requirement that app developers use Google Play's billing system for in-app purchases (with Google taking a 15-30 per cent commission) constituted abuse of dominance. The CCI imposed a penalty of INR 936.44 crore and directed Google to allow third-party billing systems and not restrict

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<sup>34</sup> Aman Singh, 'Google's "Search Bias" in India: What the Debate Is and How the CCI Got It Wrong' SSRN Working Paper 3289118, 15-18.

<sup>35</sup> *ibid* 18-22.

<sup>36</sup> *In re Google LLC (Android Mobile Device Ecosystem) CCI Case No 39 of 2018 (Competition Commission of India, 20 October 2022); In re Google LLC (Play Store Policies) CCI Case Nos 07 of 2020, 14 of 2021 and 35 of 2021 (Competition Commission of India, 25 October 2022)*

<sup>37</sup> *ibid* [180-225].

<sup>38</sup> *ibid* [340-365].

app developers from communicating with users about alternative payment methods.<sup>39</sup>

These Android cases drew heavily on the European Commission's 2018 Android decision, with the CCI adopting similar market definitions and analytical frameworks.<sup>40</sup> However, critical analysis reveals significant enforcement challenges. Kaur and colleagues observe that the CCI 'relied too much on the EU Android case' without adequately considering India-specific market conditions and Google's arguments regarding lack of actual consumer harm.<sup>41</sup> More fundamentally, appellate developments have materially shaped the enforcement trajectory of these orders. In the Android OEM case (Case No 39 of 2018), the National Company Law Appellate Tribunal, by its judgment dated 29 March 2023, substantially upheld the CCI's findings and the penalty of INR 1,337.76 crore, while setting aside certain directions and requiring partial deposit during the pendency of proceedings. Google subsequently complied with the penalty. In contrast, in the Play Store billing case (Case Nos 07 of 2020, 14 of 2021 and 35 of 2021), the National Company Law Appellate Tribunal, by judgment dated 28 March 2025, reduced the penalty from INR 936.44 crore to INR 216.69 crore based on a relevant turnover approach. Cross appeals by Google, the CCI, and industry parties are presently pending before the Supreme Court, indicating that appellate proceedings continue to shape the final enforcement outcome.

### 3. Digital News Publishers Association v Google LLC (2021-2023)

This case examined Google's conduct in the online news aggregation and digital advertising markets, with the Digital News Publishers Association alleging that Google abused its dominance by imposing unfair terms on news publishers and appropriating their content without fair compensation.<sup>42</sup> The CCI defined relevant

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<sup>39</sup> *ibid* [245-268].

<sup>40</sup> Jurgita Malinauskaite and others, 'Digital Antitrust: The Google (Android) Decisions in Russia, Turkey and India' (2021) *Bulletin of the Transatlantic Antitrust and IPR Developments* 1, 8-12.

<sup>41</sup> Manpreet Kaur and others, 'Abuse of Dominance in Digital Markets in India: A Case Comment on Google LLC v Competition Commission of India (2023)' 5-8.

<sup>42</sup> *Digital News Publishers Association v Google LLC* (n 16) [1-25].

markets as online general web search services and online search advertising services in India and found prima facie merit warranting DG investigation.<sup>43</sup>

The investigation revealed Google's overwhelming dominance (>90 per cent market share) in search and search advertising, and examined whether Google's practices including displaying news snippets without adequate compensation, imposing unilateral terms through AdSense agreements, and leveraging dominance across multiple markets constituted abuse.<sup>44</sup> As of 2025, the case remains under investigation, illustrating the protracted timelines characteristic of CCI digital market enforcement.<sup>45</sup>

#### 4. Assessment of Google Enforcement

The Google cases demonstrate both the CCI's analytical sophistication in addressing complex digital market issues and the severe limitations of ex-post enforcement. The CCI successfully established dominance, identified anti-competitive conduct, and imposed substantial penalties.

However, enforcement effectiveness has been undermined by:

- Protracted investigation timelines (6+ years in *Matrimony.com*, 4+ years in Android cases).
- Appellate stays suspending remedy implementation.
- Limited specific deterrence, with Google's market position and conduct remaining largely unchanged.
- Minimal general deterrence, as other platforms have not materially altered their practices in response to Google's penalties.<sup>46</sup>

Gupta argues that while the Android orders represent 'adding teeth to law-tech jurisprudence in India', the practical impact has been 'limited due to procedural delays and Google's ability to maintain its ecosystem dominance through appellate

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<sup>43</sup> *ibid* [85-102].

<sup>44</sup> *ibid* [103-145].

<sup>45</sup> Singh, 'Abuse of Dominance in the Platform Economy' (n 5) 25-28.

<sup>46</sup> Kaur and others (n 42) 8-12; Gupta (n 43) 18-22.

processes'.<sup>47</sup> The cases illustrate a fundamental tension: the CCI can identify and condemn anti-competitive conduct, but cannot ensure timely, effective remediation in fast-moving digital markets where delay equals denial of justice.<sup>48</sup>

## **B. Commerce Platforms: Amazon and Flipkart Investigations**

The CCI's investigations into e-commerce platforms Amazon and Flipkart represent another major enforcement priority, addressing concerns about vertical agreements, self-preferencing, and exclusionary conduct in India's rapidly growing online retail sector.

### **1. Delhi Vyapar Mahasangh v Flipkart and Amazon (2020-Present)**

In January 2020, the CCI found prima facie merit in allegations that Amazon and Flipkart had entered into anti-competitive vertical agreements with preferred sellers, engaged in deep discounting, provided preferential listing, and operated exclusive launch arrangements that foreclosed competition and harmed small retailers.<sup>49</sup> The CCI ordered DG investigation into both platforms' business practices, focusing on their dual role as neutral marketplaces and active participants favouring affiliated sellers.<sup>50</sup>

The investigation examined whether Amazon and Flipkart's practices including exclusive agreements with smartphone manufacturers (such as OnePlus, Xiaomi, and Samsung), preferential treatment of 'preferred sellers' (Cloudtail for Amazon, WS Retail for Flipkart), deep discounting funded through platform subsidies, and algorithmic manipulation of search rankings violated Section 3 (anti-competitive agreements) and Section 4 (abuse of dominance) of the Competition Act 2002.<sup>51</sup>

Singh's analysis emphasises that the investigation should be 'expanded beyond specific product categories to focus on Amazon's vertical agreements and relationship with preferred sellers', arguing that the CCI should examine the 'root cause of anti-

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<sup>47</sup> Gupta (n 43) 22-25.

<sup>48</sup> *ibid* 25-28.

<sup>49</sup> *Delhi Vyapar Mahasangh v Flipkart Internet (P) Ltd & Amazon 2020 SCC OnLine CCI 3 (Competition Commission of India, 13 January 2020)* [1-35].

<sup>50</sup> *ibid* [35-68].

<sup>51</sup> Singh, 'Amazon's Competition Investigation' (n 22) 18-25.

competitive practices' rather than product-specific manifestations.<sup>52</sup> Singh further recommends that the CCI issue an interim order 'prohibiting Amazon from acting as both marketplace and seller' to prevent irreparable harm during the lengthy investigation process.<sup>53</sup>

As of 2025, the investigation remains ongoing over five years after the prima facie order with no final determination.<sup>54</sup> This protracted timeline exemplifies the procedural inefficiency that undermines CCI effectiveness in digital markets. During these five years, Amazon and Flipkart have continued their challenged practices, market structures have further consolidated, and small retailers have faced ongoing competitive disadvantage.<sup>55</sup>

## 2. Lifestyle Equities v Amazon Seller Services (2020)

In contrast to the *Delhi Vyapar Mahasangh* case, the CCI refused to investigate similar allegations against Amazon in the online fashion retail sector, finding insufficient prima facie merit.<sup>56</sup> This decision, currently under appeal, has been criticised for inconsistency and for failing to recognise patterns of conduct across product categories.<sup>57</sup> The divergent outcomes in these cases investigation ordered for smartphones but not fashion illustrate what Singh characterises as the CCI's 'differential and non-uniform' approach to digital platform enforcement, creating 'uncertainty and unpredictability'.<sup>58</sup>

## 3. Assessment of E-Commerce Enforcement

The e-commerce investigations reveal significant enforcement challenges. Despite finding prima facie merit and ordering investigations, the CCI has not issued final orders or imposed penalties even after five years.<sup>59</sup> The investigations have not

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<sup>52</sup> *ibid* 25-28.

<sup>53</sup> *ibid* 28-32.

<sup>54</sup> Singh, 'Abuse of Dominance in the Platform Economy' (n 5) 32-35.

<sup>55</sup> *ibid* 35-38.

<sup>56</sup> *Lifestyle Equities v Amazon Seller Services (P) Ltd* 2020 SCC OnLine CCI 33 (Competition Commission of India, 23 November 2020).

<sup>57</sup> Singh, 'Amazon's Competition Investigation' (n 22) 32-35.

<sup>58</sup> Singh, 'A Veiled Relevant Market' (n 12) 25-28.

<sup>59</sup> Singh, 'Abuse of Dominance in the Platform Economy' (n 5) 38-42.

resulted in interim relief, despite evidence of ongoing harm to competitors and consumers.<sup>60</sup> Amazon and Flipkart continue to dominate India's e-commerce market with combined market share exceeding 60 per cent, and their challenged practices preferential treatment of affiliated sellers, exclusive arrangements, and deep discounting persist.<sup>61</sup>

McBride's analysis of Amazon's competition law challenges notes that 'from the perspective of digital transformation', Amazon has successfully navigated regulatory scrutiny through 'strategic delays, corporate restructuring, and leveraging informational advantages', with 'minimal practical constraint on its business model'.<sup>62</sup> The CCI's inability to secure timely outcomes or interim relief has rendered enforcement largely symbolic rather than corrective.<sup>63</sup>

### C. Social Media and Messaging: Meta/WhatsApp Enforcement

#### 1. In re: Updated Terms of Service and Privacy Policy for WhatsApp Users (2021)

In January 2021, the CCI initiated suo motu proceedings against Facebook (now Meta) and WhatsApp concerning WhatsApp's updated terms of service and privacy policy. By its order dated 24 March 2021 under Section 26(1) of the Competition Act 2002, the CCI found a prima facie case that WhatsApp held a dominant position in the market for 'over-the-top (OTT) messaging apps through smartphones in India' and that the updated policy warranted investigation for potential abuse of dominance.

Subsequently, by its final order dated 18 November 2024, the CCI found WhatsApp and Meta guilty of abuse of dominance under Section 4 of the Competition Act 2002. The CCI held that the 'take-it-or-leave-it' nature of the policy update, combined with WhatsApp's dominant position (>80 per cent market share in India) and high switching costs arising from network effects, constituted exploitative abuse. The CCI imposed a penalty of INR 213.14 crore on Meta and directed WhatsApp to cease the

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<sup>60</sup> Singh, 'Amazon's Competition Investigation' (n 22) 35-38.

<sup>61</sup> Jain and others (n 1) 28-32.

<sup>62</sup> Kathleen McBride, 'From the Perspective of Digital Transformation: Amazon's Tryst with Competition Law' in *Digital Transformation and Competition Law* (Springer 2022) 425-448, 440-443.

<sup>63</sup> *ibid* 443-446.

anti-competitive practices, refrain from data sharing for advertising purposes for five years and implement measures to enhance user choice and transparency.

This case represents a significant development in the CCI's approach to digital markets, as it addressed data-driven market power, privacy-competition intersections, and exploitative abuse in zero-price markets.<sup>64</sup> The CCI explicitly recognised that consumer harm in digital markets extends beyond price effects to encompass privacy degradation, reduced choice, and exploitation of behavioural biases and network effects.<sup>65</sup>

However, enforcement effectiveness has again been limited by appellate intervention. Meta obtained a stay from NCLAT, suspending the penalty and remedies pending appeal.<sup>66</sup> Following appellate proceedings, the National Company Law Appellate Tribunal, by its judgment dated 4 November 2025 in WhatsApp LLC v Competition Commission of India Competition Appeal (AT) No 1 of 2025, upheld the penalty of INR 213.14 crore imposed on Meta while setting aside the five year prohibition on data sharing. The Tribunal, however, reinstated user choice safeguards pursuant to a clarification issued by the Competition Commission of India. The matter is presently under challenge before the Supreme Court following appeals filed by Meta and WhatsApp in January 2026.<sup>67</sup> The case illustrates that even when the CCI acts relatively swiftly (prima facie to final order in eight months), appellate stays can indefinitely postpone remedy implementation.<sup>68</sup>

## 2. Assessment of Social Media Enforcement

The WhatsApp case demonstrates the CCI's growing sophistication in addressing novel digital market issues data-driven dominance, privacy-competition linkages, and exploitative conduct in zero-price markets. However, it also confirms the structural limitation of ex-post enforcement: even with clear findings and detailed remedies,

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<sup>64</sup> Jain and others (n 1) 35-38.

<sup>65</sup> *In re: WhatsApp* (n 10) [185-205].

<sup>66</sup> Singh, 'Abuse of Dominance in the Platform Economy' (n 5) 45-48.

<sup>67</sup> *ibid* 48-50.

<sup>68</sup> Kaur and others (n 42) 12-15.

appellate stays enable dominant platforms to maintain challenged conduct for years, rendering enforcement ineffective in protecting consumers and competition.<sup>69</sup>

## **D. Ride-Hailing and Online Travel: Uber, Ola, and MakeMyTrip**

### **1. Ride-Hailing Investigations**

The CCI has examined competition concerns in India's ride-hailing market, dominated by Uber and Ola, focusing on allegations of predatory pricing, exclusionary agreements with drivers, and abuse of dominance.<sup>70</sup> Cases have addressed whether deep discounting and below-cost pricing by Uber and Ola constitute predatory pricing aimed at eliminating competitors and establishing dominance.<sup>71</sup>

Bhattacharjea's analysis of 'predatory pricing in platform competition' notes that traditional predatory pricing frameworks requiring proof of below-cost pricing and recoupment are ill-suited to multi-sided platforms where cross-subsidisation between market sides is inherent to the business model.<sup>72</sup> The CCI has struggled to distinguish between pro-competitive pricing (efficient cross-subsidisation) and anti-competitive predation in ride-hailing markets.<sup>73</sup>

Deoras and colleagues examine the 'threat of predatory pricing to fair competition in the marketplace', arguing that Uber and Ola's pricing strategies have created a 'duopoly' that has eliminated smaller competitors and reduced driver bargaining power, but that the CCI has been 'reluctant to intervene decisively' due to concerns about chilling innovation and investment in emerging markets.<sup>74</sup>

### **2. MakeMyTrip Cases**

The CCI has investigated MakeMyTrip, India's dominant online travel aggregator, for alleged abuse of dominance through parity clauses, exclusionary agreements with

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<sup>69</sup> Singh, 'Abuse of Dominance in the Platform Economy' (n 5) 50-53.

<sup>70</sup> Bhattacharjea (n 3) 230-235.

<sup>71</sup> *ibid* 235-238.

<sup>72</sup> *ibid* 238-242.

<sup>73</sup> *ibid* 242-245.

<sup>74</sup> Aditya Deoras and others, 'Surviving the Duopoly: Threat of Predatory Pricing to Fair Competition in the Marketplace' (2024) NLIU Journal for Research in Competition Law and Policy 1, 15-22.

hotels, and discriminatory treatment of competitors.<sup>75</sup> In *Federation of Hotel & Restaurant Associations of India v MakeMyTrip* (2021), the CCI noted the ‘two-limb test for interim relief’ but declined to grant interim measures, despite allegations of ongoing harm to hotel partners.<sup>76</sup>

Singh’s analysis notes that the CCI has ‘emphasised a level playing field for competitors’ in MakeMyTrip cases, ‘segmenting relevant markets’ to assess dominance, but has been ‘limited in its intervention’, with investigations remaining protracted and remedies, where imposed, proving difficult to monitor and enforce.<sup>77</sup>

### 3. Assessment of Ride-Hailing and Online Travel Enforcement

Enforcement in these sectors has been characterised by limited intervention, protracted investigations, and difficulty in applying traditional competition concepts to platform business models. The CCI has shown reluctance to intervene decisively in markets characterised by rapid innovation, network effects, and multi-sided pricing, resulting in minimal constraint on dominant platforms’ conduct.<sup>78</sup>

#### E. Digital Payments and Emerging Sectors

The CCI has begun examining competition issues in digital payments, fintech, and other emerging digital sectors. Sharma and colleagues analyse ‘digital payments and competition concerns’, noting that the rapid growth of UPI, digital wallets, and payment aggregators has created new competition challenges involving interoperability, data access, and network effects.<sup>79</sup> However, CCI enforcement in these sectors remains nascent, with few concluded investigations and limited precedent.<sup>80</sup>

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<sup>75</sup> *Federation of Hotel & Restaurant Associations of India v MakeMyTrip India (P) Ltd* 2021 SCC OnLine CCI 12 (Competition Commission of India, 19 October 2021).

<sup>76</sup> *ibid* [45-58].

<sup>77</sup> Singh, ‘A Veiled Relevant Market’ (n 12) 32-35.

<sup>78</sup> Singh, ‘Abuse of Dominance in the Platform Economy’ (n 5) 55-58.

<sup>79</sup> Rishi Sharma and others, ‘Digital Payments and Competition Concerns’ (2022) Zenodo 6347750, 8-15.

<sup>80</sup> *ibid* 15-18.

## VI. ASSESSMENT OF ENFORCEMENT EFFECTIVENESS

### A. Deterrence Impact

Deterrence both specific (preventing the penalised firm from repeating the conduct) and general (discouraging other firms from similar conduct) is a primary objective of competition enforcement. The evidence from 2015-2025 indicates limited deterrence impact from CCI enforcement in digital markets.

- 1. Specific Deterrence:** In the Google cases, despite record penalties exceeding INR 2,200 crore, Google's conduct and market position have remained largely unchanged. Appellate stays have suspended remedy implementation, and Google continues to dominate search (>95 per cent), Android (>95 per cent), and app distribution (>95 per cent) in India.<sup>81</sup> In the WhatsApp case, data-sharing practices continue pending appeal. In e-commerce, Amazon and Flipkart's challenged practices persist despite ongoing investigations.<sup>82</sup>
- 2. General Deterrence:** There is little evidence that CCI enforcement has materially altered the conduct of other digital platforms. Dominant platforms in adjacent markets such as Apple in iOS app distribution, Meta in social media, and others have not proactively modified potentially anti-competitive practices in response to CCI actions against Google or other platforms.<sup>83</sup> This suggests that the combination of protracted timelines, appellate stays, and penalties that are modest relative to global revenues has failed to create meaningful deterrent effects.<sup>84</sup>

Singh's assessment concludes that CCI enforcement has been 'performative' rather than substantively deterrent, with platforms able to 'wait out' investigations and appeals while continuing challenged conduct.<sup>85</sup> The lack of interim relief mechanisms

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<sup>81</sup> Gupta (n 43) 28-32; Jain and others (n 1) 42-45.

<sup>82</sup> Singh, 'Abuse of Dominance in the Platform Economy' (n 5) 60-63.

<sup>83</sup> *ibid* 63-66.

<sup>84</sup> Kaur and others (n 42) 15-18.

<sup>85</sup> Singh, 'Amazon's Competition Investigation' (n 22) 38-42.

and the ease of obtaining appellate stays have rendered enforcement largely symbolic.<sup>86</sup>

### **B. Compliance and Remedy Implementation**

Effective competition enforcement requires not only identifying violations and imposing penalties but also ensuring compliance with remedial orders. The CCI's record on compliance and remedy implementation in digital markets has been poor.

In the Google Android cases, remedies requiring OEM choice in app pre-installation, user ability to uninstall pre-installed apps, and permission for third-party billing systems have not been implemented due to NCLAT stays.<sup>87</sup> In the WhatsApp case, remedies prohibiting data sharing for advertising and requiring enhanced user choice have similarly been stayed.<sup>88</sup> In cases where remedies have been ordered without stays, compliance monitoring has been limited by the CCI's lack of technical capacity and resources.<sup>89</sup>

Ghosh and colleagues examine 'the structural role of private enforcement in digital markets' and argue that India's competition law framework provides insufficient mechanisms for private parties to enforce CCI orders or seek damages for anti-competitive harm, further undermining compliance incentives.<sup>90</sup> The absence of effective private enforcement means that platforms face limited consequences for non-compliance beyond CCI-imposed penalties, which are often stayed pending appeal.<sup>91</sup>

### **C. Market Structure Outcomes**

A critical measure of enforcement effectiveness is whether interventions produce meaningful changes in market structure reducing concentration, enabling entry, or restoring competitive conditions. The evidence indicates minimal market structure impact from CCI enforcement during 2015-2025.

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<sup>86</sup> *ibid* 42-45.

<sup>87</sup> Gupta (n 43) 32-35.

<sup>88</sup> Singh, 'Abuse of Dominance in the Platform Economy' (n 5) 68-70.

<sup>89</sup> Khandelwal (n 4) 18-22.

<sup>90</sup> Shubhankar Ghosh and others, 'The Structural Role of Private Enforcement in Digital Markets: An Indian Competition Law Perspective' 12-18.

<sup>91</sup> *ibid* 18-22.

Google's dominance in search, Android, and app distribution has remained stable at >95 per cent throughout the period, despite multiple CCI orders.<sup>92</sup> WhatsApp's dominance in messaging has remained above 80 per cent.<sup>93</sup> Amazon and Flipkart's combined e-commerce market share has increased during the period of CCI investigation.<sup>94</sup> In ride-hailing, the Uber-Ola duopoly has persisted, with smaller competitors largely eliminated.<sup>95</sup>

Jain and colleagues' analysis of 'competition in digital markets: an Indian perspective' concludes that 'CCI enforcement has not materially altered market structures or competitive dynamics in any major digital sector', with 'network effects, data advantages, and ecosystem lock-in proving more powerful than regulatory intervention'.<sup>96</sup> The failure to achieve market structure outcomes reflects both the inherent challenges of digital markets (strong network effects, economies of scale) and the limitations of ex-post enforcement (slow, reactive, easily delayed through appeals).<sup>97</sup>

#### **D. Penalty Adequacy and Calibration**

The CCI has imposed penalties exceeding INR 4,000 crore on digital platforms during 2015-2025, with the largest penalties against Google (INR 2,274 crore combined) and Meta (INR 213 crore).<sup>98</sup> However, these penalties, while record-breaking in Indian context, are modest when compared to the global revenues and market capitalisations of the penalised firms.

Google's parent Alphabet Inc. reported global revenues exceeding USD 280 billion in 2022; the CCI's combined penalties of approximately USD 275 million represent less than 0.1 per cent of annual global revenue.<sup>99</sup> Meta's global revenues exceeded USD

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<sup>92</sup> Jain and others (n 1) 48-52.

<sup>93</sup> *In re: WhatsApp* (n 10) [48]; Singh, 'Abuse of Dominance in the Platform Economy' (n 5) 72-75.

<sup>94</sup> Jain and others (n 1) 52-55.

<sup>95</sup> Deoras and others (n 82) 22-26.

<sup>96</sup> Jain and others (n 1) 55-58.

<sup>97</sup> *ibid* 58-62.

<sup>98</sup> Singh, 'Abuse of Dominance in the Platform Economy' (n 5) 78-82.

<sup>99</sup> Calculated from Alphabet Inc Annual Report 2022 and CCI penalty amounts converted at exchange rate of INR 82 per USD.

116 billion in 2022; the CCI's penalty of approximately USD 26 million represents 0.02 per cent of annual revenue.<sup>100</sup>

The Competition Act 2002 limits penalties to 10 per cent of the average turnover of the enterprise for the preceding three financial years.<sup>101</sup> However, the CCI has historically calculated turnover based on India-specific revenues rather than global revenues, resulting in penalties that are small relative to the global scale of digital platforms' operations and the global nature of their anti-competitive conduct.<sup>102</sup>

Rane's analysis of 'tackling exploitative conduct by dominant e-commerce platforms in India' argues that 'penalty calibration based on India-specific turnover is inadequate for global digital platforms' and recommends that the CCI 'adopt global turnover as the basis for penalty calculation, consistent with EU practice'.<sup>103</sup> Bansal and colleagues similarly argue that current penalties 'lack deterrent effect' and that 'penalties must be calibrated to reflect the global scale and profitability of digital platforms to achieve meaningful deterrence'.<sup>104</sup>

### E. Procedural Efficiency and Timeliness

Procedural efficiency the speed and cost-effectiveness of enforcement is critical in digital markets where delay can render remedies obsolete and enable irreversible harm. The CCI's procedural performance in digital market cases has been poor, with investigations typically taking 3-5 years from complaint to final order, and appellate proceedings adding another 3-5 years before remedies are implemented (if ever).<sup>105</sup>

The *Matrimony.com* case took six years from complaint (2012) to final order (2018).<sup>106</sup> The Android cases took four years from complaint to final order (2018-2022), and as of 2025 remain stayed on appeal for three additional years.<sup>107</sup> The Amazon-Flipkart

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<sup>100</sup> Calculated from Meta Platforms Inc Annual Report 2022 and CCI penalty amounts converted at exchange rate of INR 82 per USD.

<sup>101</sup> Competition Act 2002 (India) s 27(b).

<sup>102</sup> Prateek Rane, 'Tackling Exploitative Conduct by Dominant E-commerce Platforms in India' (2024) SSRN Working Paper 4805958, 22-26.

<sup>103</sup> *ibid* 26-30.

<sup>104</sup> Bansal and others (n 18) 92-96.

<sup>105</sup> Singh, 'Abuse of Dominance in the Platform Economy' (n 5) 85-88.

<sup>106</sup> *Matrimony.com v Google* (n 31).

<sup>107</sup> *Google LLC v CCI* Case No 07/2022 (n 24); Gupta (n 43) 35-38.

investigation has been ongoing for over five years without a final order.<sup>108</sup> The WhatsApp case, with a period of approximately three years and eight months from the prima facie order dated 24 March 2021 to the final order dated 18 November 2024, reflects investigation timelines consistent with the broader 3 to 5 year pattern observed in CCI digital market cases. It has subsequently been stayed on appeal, further delaying remedy implementation.

These timelines are incompatible with the pace of change in digital markets. During multi-year investigations, market structures consolidate, network effects strengthen, competitors exit, and consumer harm accumulates.<sup>109</sup> By the time final orders are issued, the specific conduct examined may have evolved, and the remedies designed may no longer be effective.<sup>110</sup>

Malinauskaite and colleagues' comparative analysis of 'digital antitrust: the Google (Android) decisions in Russia, Turkey and India' finds that India's procedural timelines are significantly longer than comparator jurisdictions, and that 'the combination of protracted investigations and easy availability of appellate stays renders CCI enforcement among the least effective globally in terms of timeliness'.<sup>111</sup>

Khandelwal's analysis of 'the Indian approach to defining platform markets' notes that procedural delays are compounded by the CCI's resource constraints, limited technical expertise, and difficulty in accessing proprietary platform data necessary for effective investigation.<sup>112</sup> These capacity limitations slow investigations and reduce the quality of economic and technical analysis, further undermining enforcement effectiveness.<sup>113</sup>

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<sup>108</sup> Singh, 'Amazon's Competition Investigation' (n 22) 45-48.

<sup>109</sup> Khandelwal (n 4) 22-25.

<sup>110</sup> *ibid* 25-28.

<sup>111</sup> Malinauskaite and others (n 41) 15-20.

<sup>112</sup> Khandelwal (n 4) 28-32.

<sup>113</sup> *ibid* 32-35.

## VII. COMPARATIVE INSTITUTIONAL ANALYSIS

To contextualise the CCI's performance, it is instructive to compare India's enforcement approach and outcomes with leading competition authorities in other jurisdictions.

### A. European Commission

The European Commission has been the most aggressive global enforcer against digital platforms, with landmark cases against Google (search bias, Android, AdSense), Meta (WhatsApp-Facebook merger conditions, data abuse), Amazon (marketplace self-preferencing), and Apple (App Store restrictions).<sup>114</sup> The Commission has imposed penalties exceeding EUR 8 billion on Google alone and has developed sophisticated analytical frameworks for digital markets.<sup>115</sup>

Critically, the EU has complemented ex-post enforcement with ex-ante regulation through the Digital Markets Act (DMA), which entered into force on 1 November 2022 and became broadly applicable from 2 May 2023.<sup>116</sup> The DMA designates 'gatekeepers' platforms with systemic importance and imposes proactive obligations including interoperability, data portability, prohibition of self-preferencing, and restrictions on tying and bundling.<sup>117</sup> This hybrid approach addresses the limitations of ex-post enforcement by preventing harm before it occurs and avoiding the delays inherent in case-by-case adjudication.<sup>118</sup>

### B. United States: FTC and DOJ

The US Federal Trade Commission and Department of Justice have pursued major enforcement actions against digital platforms, including ongoing cases against Google (search and advertising monopolisation, app store restrictions), Meta (Instagram and WhatsApp acquisitions), Amazon (marketplace dominance), and Apple (App Store

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<sup>114</sup> European Commission, 'Competition: Digital Markets' [https://ec.europa.eu/competition-policy/sectors/ict\\_en](https://ec.europa.eu/competition-policy/sectors/ict_en) accessed 15 March 2026.

<sup>115</sup> *ibid.*

<sup>116</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] OJ L265/1.

<sup>117</sup> *ibid* arts 5-7.

<sup>118</sup> Tewari (n 6) 210-215.

monopolisation).<sup>119</sup> However, US enforcement has been constrained by stringent legal standards for proving monopolisation and by judicial scepticism toward aggressive antitrust intervention in innovative sectors.<sup>120</sup>

The US has not adopted ex-ante regulation comparable to the EU's DMA, though legislative proposals for platform regulation have been debated.<sup>121</sup> US enforcement relies primarily on ex-post litigation, which, while potentially resulting in structural remedies (such as divestitures), is extremely time-consuming and uncertain.<sup>122</sup>

### **C. United Kingdom: CMA**

The UK Competition and Markets Authority has developed a sophisticated approach to digital markets, including the establishment of a Digital Markets Unit (DMU) tasked with implementing a pro-competition regime for digital platforms.<sup>123</sup> The proposed regime would designate platforms with 'strategic market status' and impose conduct requirements tailored to specific competition concerns.<sup>124</sup>

The CMA has also pursued ex-post enforcement, including investigations into Google's Privacy Sandbox, Apple's App Store policies, and Meta's acquisition of Giphy.<sup>125</sup> The CMA has demonstrated greater procedural efficiency than the CCI, with investigations typically concluding within 18-24 months, and has developed technical capacity through the DMU to analyse complex digital market issues.<sup>126</sup>

### **D. Comparative Assessment**

Compared to these leading jurisdictions, the CCI's enforcement exhibits several weaknesses:

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<sup>119</sup> United States v Google LLC, Case No 1:20-cv-03010 (DDC filed 20 October 2020); Federal Trade Commission v Meta Platforms Inc, Case No 1:20-cv-03590 (DDC filed 9 December 2020).

<sup>120</sup> Jain and others (n 1) 68-72.

<sup>121</sup> American Innovation and Choice Online Act, S 2992, 117th Congress (2021-2022).

<sup>122</sup> Jain and others (n 1) 72-75.

<sup>123</sup> UK Competition and Markets Authority, 'A New Pro-Competition Regime for Digital Markets' (December 2020) <https://www.gov.uk/cma-cases/digital-markets-unit> accessed 15 March 2026.

<sup>124</sup> *ibid* 15-25.

<sup>125</sup> UK Competition and Markets Authority, 'Digital Markets' <https://www.gov.uk/cma-cases> accessed 15 March 2026.

<sup>126</sup> Malinauskaite and others (n 41) 20-24.

1. **Procedural Inefficiency:** CCI investigations take significantly longer (3-5 years vs 18-24 months in the UK, 2-3 years in the EU), and appellate stays further delay remedy implementation.<sup>127</sup>
2. **Limited Technical Capacity:** The CCI lacks the specialised technical units and expertise that the EU Commission and UK CMA have developed for digital market analysis.<sup>128</sup>
3. **Penalty Inadequacy:** CCI penalties, calculated on India-specific turnover, are modest compared to EU penalties based on global turnover.<sup>129</sup>
4. **Absence of Ex-Ante Framework:** Unlike the EU (DMA) and UK (proposed pro-competition regime), India lacks ex-ante regulation for systemically significant digital platforms, relying entirely on ex-post enforcement.<sup>130</sup>
5. **Limited Interim Relief:** The CCI rarely grants interim measures, and appellate stays are easily obtained, unlike the EU where interim measures are more readily available and appellate stays less common.<sup>131</sup>

However, the CCI has demonstrated analytical sophistication comparable to leading authorities, successfully adapting traditional competition concepts to digital market contexts, and developing nuanced understandings of multi-sided markets, network effects, and data-driven dominance.<sup>132</sup> The primary deficits are institutional and procedural rather than analytical.<sup>133</sup>

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<sup>127</sup> *ibid* 24-28.

<sup>128</sup> Khandelwal (n 4) 35-38.

<sup>129</sup> Rane (n 110) 30-34.

<sup>130</sup> Tewari (n 6) 215-220.

<sup>131</sup> Singh, 'Amazon's Competition Investigation' (n 22) 48-52.

<sup>132</sup> Kaur and others (n 42) 18-22.

<sup>133</sup> Khandelwal (n 4) 38-42.

## VIII. STRUCTURAL LIMITATIONS OF EX-POST ENFORCEMENT

The empirical analysis and comparative assessment reveal that the CCI's limited effectiveness in digital markets reflects not merely implementation failures but fundamental structural limitations of ex-post, complaint-driven enforcement in addressing systemic digital market power.

- 1. Speed Mismatch:** Digital markets evolve at a pace incompatible with multi-year enforcement proceedings. By the time investigations conclude and remedies are ordered, market structures have consolidated, network effects have strengthened, and the specific conduct examined may have evolved.<sup>134</sup> Ex-post enforcement is inherently reactive and slow, while digital market power is proactive and fast-moving.<sup>135</sup>
- 2. Remedy Obsolescence:** Behavioural remedies designed to address specific conduct become obsolete as platforms adapt their practices. Structural remedies (such as divestitures or interoperability mandates) are difficult to design and implement through case-by-case adjudication and face significant legal and practical obstacles.<sup>136</sup> The CCI has relied almost exclusively on behavioural remedies, which have proven ineffective in constraining platform conduct.<sup>137</sup>
- 3. Information Asymmetry:** Digital platforms possess vast informational advantages over regulators regarding their algorithms, data practices, and business strategies. Ex-post enforcement requires regulators to prove anti-competitive conduct and harm, placing the burden of proof on the authority despite informational disadvantages.<sup>138</sup> This asymmetry favours platforms and makes enforcement costly, uncertain, and slow.<sup>139</sup>
- 4. Appellate Vulnerability:** Ex-post enforcement is vulnerable to appellate delay and reversal. In India, appellate stays are easily obtained and can suspend

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<sup>134</sup> Singh, 'Abuse of Dominance in the Platform Economy' (n 5) 95-98.

<sup>135</sup> Tewari (n 6) 220-224.

<sup>136</sup> Bansal and others (n 18) 98-102.

<sup>137</sup> Singh, 'Abuse of Dominance in the Platform Economy' (n 5) 98-102.

<sup>138</sup> Khandelwal (n 4) 42-45.

<sup>139</sup> *ibid* 45-48.

remedies indefinitely, rendering enforcement ineffective even when the CCI successfully establishes violations.<sup>140</sup> The multi-tier appellate structure (NCLAT, Supreme Court) creates opportunities for prolonged litigation that dominant platforms can exploit.<sup>141</sup>

5. **Deterrence Inadequacy:** Ex-post penalties, even when substantial, provide inadequate deterrence when they are modest relative to global revenues, delayed by years through appeals, and imposed only after harm has occurred and become entrenched.<sup>142</sup> The expected cost of anti-competitive conduct (probability of detection and penalty, discounted by delay) is low relative to the benefits of dominance, creating weak deterrence incentives.<sup>143</sup>
6. **Systemic vs Episodic Intervention:** Ex-post enforcement addresses individual instances of anti-competitive conduct episodically, while digital market power is systemic and continuous. Platforms can adjust specific practices in response to enforcement while maintaining overall dominance and anti-competitive business models.<sup>144</sup> Addressing systemic market power requires continuous oversight and proactive obligations, not episodic case-by-case intervention.<sup>145</sup> These structural limitations suggest that ex-post enforcement, while necessary, is insufficient for effective regulation of digital markets. A hybrid approach combining ex-post enforcement with ex-ante regulation is required to address systemic digital market power effectively.<sup>146</sup>

## IX. REFORM PROPOSALS AND POLICY RECOMMENDATIONS

Based on the empirical analysis, comparative assessment, and identification of structural limitations, this section proposes comprehensive reforms to enhance the effectiveness of competition enforcement in India's digital markets.

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<sup>140</sup> Singh, 'Amazon's Competition Investigation' (n 22) 52-55.

<sup>141</sup> Gupta (n 43) 38-42.

<sup>142</sup> Rane (n 110) 34-38.

<sup>143</sup> *ibid* 38-42.

<sup>144</sup> Singh, 'Abuse of Dominance in the Platform Economy' (n 5) 105-108.

<sup>145</sup> Tewari (n 6) 224-228.

<sup>146</sup> *ibid* 228-232.

## A. Hybrid Ex-Ante/Ex-Post Framework

1. **Recommendation:** India should adopt a hybrid regulatory framework combining traditional ex-post enforcement with ex-ante obligations for systemically significant digital enterprises (SSDEs), similar to the EU's Digital Markets Act and the UK's proposed pro-competition regime.<sup>147</sup>
2. **Implementation:** The proposed Digital Competition Act should designate platforms as SSDEs based on criteria including:
  - significant market power in core platform services.
  - position as gateway or bottleneck for business users or consumers
  - entrenched and durable position.
  - ability to extend market power to adjacent markets.<sup>148</sup>

Designated SSDEs would be subject to proactive obligations including:

- Prohibition of self-preferencing and discriminatory treatment of competitors
- Data portability and interoperability requirements
- Transparency in algorithmic ranking and decision-making
- Prohibition of tying and bundling of separate services
- Fair and non-discriminatory access to platform infrastructure
- Restrictions on leveraging dominance across markets<sup>149</sup>

These obligations would be enforceable through streamlined procedures with shorter timelines, higher penalties for non-compliance, and limited appellate stays.<sup>150</sup> Ex-ante regulation would prevent harm before it occurs, address systemic market power

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<sup>147</sup> Tewari (n 6) 232-240.

<sup>148</sup> *ibid* 240-245.

<sup>149</sup> *ibid* 245-252; Digital Markets Act (n 125) arts 5-7.

<sup>150</sup> Tewari (n 6) 252-256.

continuously rather than episodically, and reduce reliance on protracted case-by-case adjudication.<sup>151</sup>

## B. Enhanced Interim Measures

1. **Recommendation:** The CCI should be empowered and encouraged to grant interim measures more readily in digital market cases to prevent irreparable harm during investigations.<sup>152</sup>
2. **Implementation:** The Competition Act should be amended to:
  - lower the threshold for granting interim relief in digital market cases
  - create a presumption of irreparable harm in cases involving network effects and data accumulation
  - provide for expedited interim relief proceedings (within 30-60 days of complaint)
  - limit the availability of appellate stays on interim orders.<sup>153</sup>

Singh's recommendation for an interim order prohibiting Amazon from acting as both marketplace and seller illustrates the type of targeted interim relief that could prevent ongoing harm while investigations proceed.<sup>154</sup> Interim measures are particularly critical in digital markets where delay enables irreversible consolidation of dominance.<sup>155</sup>

## C. Penalty Reform: Global Turnover Basis

1. **Recommendation:** Penalties for abuse of dominance and anti-competitive agreements by digital platforms should be calculated based on global turnover rather than India-specific turnover.<sup>156</sup>

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<sup>151</sup> *ibid* 256-260.

<sup>152</sup> Singh, 'Amazon's Competition Investigation' (n 22) 55-58.

<sup>153</sup> *ibid* 58-62.

<sup>154</sup> *ibid* 28-32.

<sup>155</sup> *ibid* 62-65.

<sup>156</sup> Rane (n 110) 42-46.

2. **Implementation:** The Competition Act should be amended to provide that for enterprises operating globally, the penalty base (10 per cent of average turnover) should be calculated on worldwide turnover rather than India-specific turnover.<sup>157</sup> This would align India's approach with the EU and ensure that penalties are proportionate to the global scale of platforms' operations and provide meaningful deterrence.<sup>158</sup>

For Google, a penalty of 10 per cent of global turnover would be approximately USD 28 billion rather than USD 275 million a difference of two orders of magnitude that would fundamentally alter deterrence incentives.<sup>159</sup> Global turnover-based penalties would also reduce the incentive for platforms to structure operations to minimise India-specific revenues for penalty calculation purposes.<sup>160</sup>

#### D. Procedural Reforms and Timeline Mandates

1. **Recommendation:** Mandatory timelines should be established for each stage of CCI investigations, with consequences for non-compliance, and appellate stays should be restricted.<sup>161</sup>
2. **Implementation:** The Competition Act should mandate:
  - prima facie assessment within 60 days of complaint.
  - DG investigation completion within 180 days (extendable to 270 days with CCI approval).
  - final order within 90 days of DG report.
  - total investigation timeline not exceeding 18 months absent exceptional circumstances.<sup>162</sup>

Appellate provisions should be amended to:

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<sup>157</sup> *ibid* 46-50.

<sup>158</sup> *ibid* 50-54.

<sup>159</sup> Calculated from Alphabet Inc global revenues 2022 (USD 282.8 billion) at 10% penalty rate versus actual CCI penalties of approximately USD 275 million.

<sup>160</sup> Rane (n 110) 54-58.

<sup>161</sup> Singh, 'Abuse of Dominance in the Platform Economy' (n 5) 112-115.

<sup>162</sup> *ibid* 115-118.

- prohibit automatic stays on CCI orders
- require appellants to demonstrate substantial likelihood of success and irreparable harm to obtain stays
- mandate expedited appellate proceedings (within 6-12 months)
- provide for partial stays (e.g., staying penalties but not remedies) where appropriate.<sup>163</sup>

These reforms would address the procedural inefficiency that has rendered CCI enforcement largely ineffective in digital markets.<sup>164</sup>

### E. Technical Capacity and Expertise

**1. Recommendation:** The CCI should establish a specialised Digital Markets Unit with technical expertise in computer science, data science, economics, and digital business models.<sup>165</sup>

**2. Implementation:** The Digital Markets Unit should comprise:

- technical experts capable of analysing algorithms, data practices, and platform architectures.
- economists specialising in multi-sided markets, network effects, and digital competition.
- legal experts in digital market regulation; and
- industry specialists with experience in platform business models.<sup>166</sup>

The Unit should be empowered to:

- conduct technical investigations and audits of platform systems
- require access to proprietary data, algorithms, and business information

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<sup>163</sup> *ibid* 118-122.

<sup>164</sup> Malinauskaite and others (n 41) 28-32.

<sup>165</sup> Khandelwal (n 4) 48-52.

<sup>166</sup> *ibid* 52-56.

- develop technical standards and guidelines for digital market competition
- monitor compliance with CCI orders and ex-ante obligations.<sup>167</sup>

Khandelwal and Singh both emphasise the need for the CCI to develop technical capacity, noting that 'IT experts and data scientists' are essential for 'efficient enforcement' in digital markets.<sup>168</sup> The UK CMA's Digital Markets Unit and the EU Commission's dedicated digital enforcement teams provide models for institutional development.<sup>169</sup>

## F. International Cooperation and Coordination

**1. Recommendation:** The CCI should enhance international cooperation with leading competition authorities to share information, coordinate investigations, and develop consistent approaches to global digital platforms.<sup>170</sup>

**2. Implementation:** India should:

- enter into formal cooperation agreements with the EU Commission, US FTC/DOJ, UK CMA, and other leading authorities
- participate actively in international forums such as the International Competition Network and OECD Competition Committee
- coordinate investigation timelines and remedies in cases involving the same platforms and conduct
- share technical expertise and best practices.<sup>171</sup>

International cooperation is particularly important for digital platforms that operate globally and can exploit jurisdictional fragmentation to evade effective regulation.<sup>172</sup>

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<sup>167</sup> *ibid* 56-60.

<sup>168</sup> Khandelwal (n 4) 52; Singh, 'A Veiled Relevant Market' (n 12) 42.

<sup>169</sup> UK CMA (n 132) 25-35; European Commission (n 123).

<sup>170</sup> Jain and others (n 1) 82-86.

<sup>171</sup> *ibid* 86-90.

<sup>172</sup> *ibid* 90-94.

Coordinated enforcement can enhance deterrence, reduce duplicative investigations, and ensure consistent standards.<sup>173</sup>

### G. Data as a Factor in Dominance Assessment

1. **Recommendation:** The Competition Act should explicitly recognise data as a factor in assessing dominance and market power in digital markets.<sup>174</sup>
2. **Implementation:** Section 19(4) of the Competition Act, which lists factors for determining dominance, should be amended to explicitly include:
  - access to and control over data
  - data accumulation and feedback loops
  - data-driven barriers to entry
  - ability to leverage data across markets.<sup>175</sup>

The Competition (Amendment) Act 2023 has taken steps in this direction, but further clarification and guidance are needed to ensure consistent application.<sup>176</sup> The CCI should develop guidelines on data-related dominance assessment, drawing on international best practices and academic research.<sup>177</sup>

### H. Private Enforcement Mechanisms

1. **Recommendation:** India should strengthen private enforcement mechanisms to complement public enforcement and enhance compliance incentives.<sup>178</sup>
2. **Implementation:** The Competition Act should be amended to:
  - provide explicit standing for private parties to seek damages for competition law violations

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<sup>173</sup> Malinauskaite and others (n 41) 32-36.

<sup>174</sup> Singh, 'A Veiled Relevant Market' (n 12) 45-48.

<sup>175</sup> *ibid* 48-52; Competition Act 2002 (India) s 19(4).

<sup>176</sup> Competition (Amendment) Act 2023 (India).

<sup>177</sup> Singh, 'A Veiled Relevant Market' (n 12) 52-56.

<sup>178</sup> Ghosh and others (n 98) 22-28.

- establish streamlined procedures for follow-on damages actions after CCI findings
- allow for representative actions or class actions in competition cases
- provide for interim relief in private enforcement proceedings.<sup>179</sup>

Ghosh and colleagues argue that ‘the structural role of private enforcement in digital markets’ is critical for effective competition regulation, as private enforcement can provide additional deterrence, compensate victims, and reduce the burden on public authorities.<sup>180</sup> The EU’s Damages Directive and the UK’s Competition Appeal Tribunal provide models for private enforcement frameworks.

### **I. The Draft Digital Competition Bill, 2024: Progress and Critique**

The Ministry of Corporate Affairs’ Expert Committee on Digital Competition released the Draft Digital Competition Bill, 2024, which represents India’s first comprehensive attempt to introduce an ex-ante regulatory framework for digital markets. The draft Bill operationalises the concept of Systemically Significant Digital Enterprises (SSDEs), designating entities based on criteria such as significant financial strength, user base, and entrenched market position in core digital services.

The Bill proposes a set of ex-ante obligations for SSDEs, including prohibitions on self-preferencing, restrictions on tying and bundling, requirements for fair and non-discriminatory access to platform services, and enhanced transparency in ranking and data usage practices. It also contemplates data portability and interoperability measures aimed at reducing switching costs and mitigating network effects. Penalties for non-compliance are calibrated with reference to global turnover, marking a departure from the Competition Act 2002 framework.

While the draft Bill addresses several structural limitations of ex-post enforcement identified in this study, including delay, information asymmetry, and systemic market power, concerns remain regarding definitional clarity, potential over-regulation, and institutional capacity for implementation. As Tewari notes, the success of the

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<sup>179</sup> *ibid* 28-35.

<sup>180</sup> *ibid* 12-18.

framework will depend on precise designation criteria, procedural safeguards, and the Competition Commission of India's ability to develop technical expertise necessary for effective oversight. The draft Bill nevertheless represents a significant step toward a hybrid ex-ante and ex-post competition regime in India.

## **X. CONCLUSION**

This article has critically examined the effectiveness of the Competition Commission of India's enforcement in digital markets between 2015 and 2025, a transformative period in which digital platforms emerged as dominant economic actors and competition authorities globally grappled with the challenges of regulating multi-sided markets, network effects, data-driven dominance, and algorithmic decision-making.

The empirical analysis reveals a paradox: the CCI has demonstrated analytical sophistication in identifying and condemning anti-competitive conduct by major digital platforms Google, Amazon, Flipkart, Meta/WhatsApp, and others and has imposed record penalties exceeding INR 4,000 crore. Yet enforcement has been largely ineffective in achieving its core objectives of deterrence, compliance, market correction, and consumer protection.

Across multiple dimensions deterrence impact, compliance and remedy implementation, market structure outcomes, penalty adequacy, and procedural efficiency CCI enforcement has fallen short. Google's dominance in search, Android, and app distribution remains above 95 per cent despite multiple adverse orders. WhatsApp's dominance in messaging persists above 80 per cent. Amazon and Flipkart continue their challenged practices despite ongoing investigations. Procedural timelines of 3-5 years for investigations, compounded by appellate stays extending enforcement to 7-10 years, have rendered remedies obsolete and enabled irreversible harm.

The comparative analysis with the European Commission, US FTC/DOJ, and UK CMA reveals that India's enforcement deficits are both institutional (limited technical capacity, resource constraints) and structural (absence of ex-ante regulation,

inadequate interim relief, easy appellate stays, penalties based on India-specific rather than global turnover).

Fundamentally, the analysis demonstrates that traditional ex-post, complaint-driven enforcement is structurally inadequate for addressing systemic digital market power. The speed mismatch between multi-year enforcement proceedings and rapidly evolving digital markets, the information asymmetry favouring platforms over regulators, the vulnerability to appellate delay, and the episodic nature of case-by-case intervention render ex-post enforcement insufficient, regardless of how well-resourced or sophisticated the competition authority.

The article therefore supports a hybrid regulatory framework combining ex-post enforcement with ex-ante obligations for systemically significant digital enterprises, similar to the EU's Digital Markets Act. Ex-ante regulation can prevent harm before it occurs, address systemic market power continuously, reduce reliance on protracted adjudication, and shift the burden of compliance onto platforms rather than requiring regulators to prove violations after harm has occurred.

The proposed reforms hybrid ex-ante/ex-post framework enhanced interim measures, global turnover-based penalties, procedural timeline mandates, specialised technical capacity, international cooperation, explicit recognition of data in dominance assessment, and strengthened private enforcement offer a comprehensive agenda for enhancing the effectiveness of competition regulation in India's digital economy.

As India considers the Digital Competition Act and broader regulatory reforms, the lessons from the 2015-2025 period are clear: incremental improvements to ex-post enforcement, while necessary, will not suffice. Fundamental institutional and legal reforms are required to ensure that competition law can effectively constrain digital market power, protect consumers and competitors, and preserve the conditions for innovation and dynamic competition in India's digital economy.

The stakes are high. Digital platforms are not merely large companies but essential infrastructure for economic and social activity. Their dominance affects not only market competition but also innovation, privacy, free expression, and democratic

discourse. Effective competition regulation is therefore not merely an economic imperative but a broader governance challenge requiring institutional innovation, international cooperation, and sustained political commitment.

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