COMPETITION LAW IN THE DIGITAL AGE: ADDRESSING MARKET DOMINANCE IN INDIA'S DIGITAL ECONOMY

by

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Abstract

Competition law has historically evolved according to the economic and social conditions prevailing within a jurisdiction. Earlier legislations were principally concerned with monopolies, restrictive trade practices and concentration of industrial power. The growth of digital markets has altered this position. Search engines, app stores, online marketplaces and social-media platforms derive advantage through data, network effects, technological integration and access to users rather than through physical assets alone. These characteristics make it difficult to identify market power merely by price or market share. This article examines the law relating to market dominance in the Indian digital economy. It traces the evolution of competition law, considers the Competition Act, 2002 and the approach of the Competition Commission of India, and compares the Indian position with the European Union, United Kingdom and United States. The research is doctrinal and is based upon statutes, decided cases, orders of the Commission, committee reports and secondary writings. It finds that section 4 is capable of dealing with several forms of digital exclusion; however, a purely case-by-case process may be slow where platform conduct changes markets quickly. It suggests a limited ex ante framework for systematically significant digital enterprises, stronger technical capacity in the Commission, and coordination with data-protection and sectoral regulators.

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Keywords: Competition Law; Market Dominance; Digital Economy; Competition Act, 2002; Digital Platforms.

1. Introduction

Competition regulation refers to the law which is responsible for ensuring fair market forces and preventing anti-competitive behaviour. Competition law has various aspects. Firstly, it regulates horizontal and vertical agreements which may have an anti-competitive impact. Secondly, it prohibits dominant entities from abusing their position. Lastly, merger control ensures that combinations which reduce competition are subjected to scrutiny. Through these provisions, the law seeks to promote competition in markets and protect consumers from conduct which does not arise from merit.[1]

The reasoning behind competition legislation is based upon the economics and market considerations of a particular place at a particular time. Thus, competition law considerations have been evolving for a significant time. Digitalisation has created a new setting for the same concern. A platform may provide a service without charging the consumer in money; yet it may accumulate data, attract business users and become an unavoidable gateway. The absence of a conventional price does not mean the absence of harm to competition.[2]

India is important in this discussion because digital services have expanded alongside a large mobile-user base and fast-growing online commerce. Search, app distribution, advertising, payments and marketplaces are frequently connected with one another. An enterprise which controls one access point may obtain advantages in another market. The question is not whether a large undertaking should be punished merely for being large. Section 4 does not prohibit dominance. The question is whether conduct prevents competitors from reaching users, business customers or essential channels of distribution.[3]

This article seeks to identify the traditional meaning of dominance, explain the special features of digital markets, examine the Indian law and Commission decisions, compare emerging foreign approaches, and make suggestions suitable for India. Its scope is confined to competition concerns arising from platform power. It does not attempt a complete study of data protection,

[1] . The Competition Act, 2002 (Act 12 of 2003), preamble, ss. 3–6.
[2] . Competition Commission of India, "Market Study on E-Commerce in India: Key Findings and Observations" 20–24 (2020).
[3] . The Competition Act, 2002 (Act 12 of 2003), s. 4.

consumer law or telecommunications law, though their interaction with competition is noticed where necessary.

2. Evolution of the Concept

Competition law in the current commercial scenario has become inevitable for developing and developed countries alike. However, it is not a recent development. Traces of regulation may be found even before globalisation and industrialisation. Roman rules attempted to control manipulation of supplies and prices. In Britain, concern about fair prices and restrictions on trade later developed into the doctrine of restraint of trade. The history shows that competition principles have never been concerned only with private profit; public policy and protection of market participants have also been relevant.

The emergence of modern legislation was closely connected with industrial concentration. The Sherman Act, 1890[4] responded to trusts and monopolistic combinations in the United States. European competition law subsequently developed with market integration as one of its central considerations. In India, the Monopolies and Restrictive Trade Practices Act, 1969 reflected a period in which concentration of economic power was viewed with suspicion. After liberalisation, the Raghavan Committee recommended a law which would promote competitive forces rather than merely regulate size. The Competition Act, 2002 consequently adopted a more economic and effects-based framework.[5]

The movement from industrial monopoly to platform dominance is therefore a continuation, not a complete break, in this history. A railway, port or manufacturer once possessed power because it controlled a physical bottleneck. A digital platform may possess a similar position because it controls an operating system, search ranking, application store, marketplace interface or advertising technology. The asset is different, but the possibility of exclusion remains. The legal task is to identify the relevant market and the actual competitive constraint before calling conduct abusive.[6]

3. Indian Legal Framework

The constitutional background of Indian competition policy is found in the Directive Principles. Article 39(b) and (c) require that material resources be distributed to subserve the common good

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[5] . High Level Committee on Competition Policy and Law, Report of the High-Level Committee on Competition Policy and Law 9–12 (Government of India, 2000).

[6] . Richard Whish and David Bailey, Competition Law 37–41 (Oxford University Press, Oxford, 11th edn., 2024).

and that the operation of the economic system does not result in concentration of wealth and means of production to the common detriment. These provisions do not themselves decide a section 4 proceeding, but they explain the historical concern which informed the MRTP regime and later competition policy.[7]

The Competition Act, 2002 is the principal statute. Section 4 prohibits abuse of dominant position by an enterprise or group. Explanation (a) defines dominance as a position of strength enabling an enterprise to operate independently of competitive forces in the relevant market or to affect competitors, consumers or the relevant market in its favour. Section 19(4) lists factors for determining dominance, including market share, size and resources, economic power, commercial advantages, entry barriers and countervailing buying power. These factors are broad enough to accommodate changing market conditions.[8]

Section 4(2) contains illustrations of abuse: unfair or discriminatory conditions or prices; limiting production, technical development or scientific development; denial of market access; making contracts subject to supplementary obligations; and using dominance in one relevant market to enter into or protect another relevant market. These clauses are significant for digital markets. Self-preferencing may be examined as unfair conditions or denial of access. Mandatory use of a platform's payment system may amount to tying. Leveraging from an operating system or app store into payments, search or advertising may fall within section 4(2)(e).[9]

The Act also supplies a method for defining the relevant market. Sections 2(r), 19(6) and 19(7) require the Commission to consider regulatory conditions, consumer preferences, physical characteristics, price, specialised producers and other factors. In a digital case, substitutability must be assessed with care. A free search service may compete for attention and data; an app developer may be a customer of an app store even when the end user obtains applications without payment. A broad market can hide dependency, while an artificially narrow market can overstate power.[10]

The Competition (Amendment) Act, 2023 strengthened the framework through changes concerning settlements, commitments and combinations. These tools may assist prompt resolution in appropriate matters; nevertheless, the effectiveness of the scheme depends upon investigation, economic analysis and remedies which can be enforced in technology markets.

[7] . The Constitution of India, art. 39(b)–(c).
[8] . The Competition Act, 2002 (Act 12 of 2003), ss. 4, 19(4).
[9] . The Competition Act, 2002 (Act 12 of 2003), s. 4(2)(a)–(e).
[10] . The Competition Act, 2002 (Act 12 of 2003), ss. 2(r), 19(6)–(7).

The Commission's e-commerce study identified concerns such as platform neutrality, preferential listing, deep discounting, exclusivity and access to data.[11]

4. International Legal Framework

The European Union has retained Articles 101 and 102 of the Treaty on the Functioning of the European Union for agreements and abuse of dominance. Article 102 is particularly relevant where an undertaking imposes unfair conditions, limits markets or technical development, applies dissimilar conditions or makes contracts conditional upon unrelated obligations. The European Commission's decisions in Google Shopping, Android and AdSense show how the provision can address conduct by large platforms. The process, however, is necessarily detailed and may take several years.[12]

The Digital Markets Act represents a different approach. Regulation (EU) 2022/1925 imposes obligations upon designated gatekeepers providing core platform services. It addresses conduct such as self-preferencing, restrictions on steering, combining personal data without the required basis, and barriers to interoperability. The DMA does not replace ordinary competition law; it supplements it with ex ante obligations where the undertaking has a recognised gatekeeper position. Its significance for India lies in the attempt to make markets contestable before irreversible foreclosure occurs.[13]

The United Kingdom has enacted the Digital Markets, Competition and Consumers Act, 2024. It gives the Competition and Markets Authority a digital-markets regime for firms having strategic market status, including conduct requirements and pro-competition interventions. The United States continues to rely mainly on Sherman Act litigation and agency enforcement. Its cases against Google and Meta indicate renewed attention to digital power, but the American approach remains more litigation-centred than the European model.[14]

These developments do not provide a single model which India must copy. They show a common concern: conventional enforcement may be unable to restore competition after a platform has become entrenched through network effects and data advantages. The relevant

[11] . Competition (Amendment) Act, 2023 (Act 13 of 2023); Competition Commission of India, supra, at 34–44

[12] . Consolidated Version of the Treaty on the Functioning of the European Union, art. 102; Case AT.39740, Google Search (Shopping), Commission Decision (June 27, 2017).

[13] . 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, arts. 5–7.

[14] . Digital Markets, Competition and Consumers Act 2024, c. 13 (UK), pts. 1–2; United States v. Google LLC, 747 F. Supp. 3d 1 (D.D.C. 2024).

policy choice is the degree of prior regulation required without discouraging investment, innovation and legitimate integration.

5. Judicial Approach

Indian judicial and Commission practice has clarified that dominance is not an offence by itself. In Belaire Owners' Association v. DLF Ltd., the Commission and appellate bodies examined power through market structure, consumer dependence and contractual conditions. The case is not concerned with technology, but its approach remains useful: the inquiry should focus on the relevant market, strength within that market and conduct which uses that strength to the detriment of competition.[15]

The Google Search Bias decision is an important early digital case. The Commission considered Google dominant in online web search advertising in India and held that its display and ranking of specialised search results gave an unfair advantage to its own services. The order illustrates the difficulty of analysing self-preferencing: ranking can improve a product for users, but it can also divert traffic from rivals where the same enterprise controls the gateway. The Commission did not treat every form of integration as unlawful; it identified particular conduct and imposed a penalty.[16]

The Android Mobile Devices matter concerned agreements with original equipment manufacturers and pre-installation of Google applications. The Commission found Google dominant in relevant markets for licensable mobile operating systems and app stores for Android smart mobile operating systems in India. It concluded that certain arrangements protected Google's search position, limited the ability of device manufacturers to use Android forks and reinforced ecosystem power. The order combined monetary and behavioural directions. The appellate process partly sustained the Commission's reasoning, showing that digital remedies require close judicial examination as well as technical feasibility.[17]

In the Play Store billing matters, the Commission found that Google's policy requiring developers of paid apps and in-app purchases to use Google Play's billing system restricted the

[15] . Belaire Owners' Association v. DLF Ltd., Case No. 19 of 2010, Competition Commission of India, order dated Aug. 12, 2011; DLF Ltd. v. Competition Commission of India, (2015) 7 SCC 741.

[16] . Matrimony.com Ltd. v. Google LLC, Case Nos. 07 & 30 of 2012, Competition Commission of India, order dated Feb. 8, 2018.

[17] . Umar Javeed v. Google LLC, Case No. 39 of 2018, Competition Commission of India, order dated Oct. 20, 2022; Google LLC v. Competition Commission of India, Competition Appeal (AT) No. 01 of 2023, order dated Mar. 29, 2023 (NCLAT).

freedom of developers to choose payment processors. The case shows a central problem in the digital economy: a platform can be both the operator of an infrastructure and a participant in connected services. Where access to the infrastructure is indispensable in practice, contractual choices of business users may be substantially limited.[18]

6. Contemporary Issues and Challenges

Network effects are the most frequently discussed feature of digital markets. A service becomes more useful as more users join it. This produces benefits: users of a communication service want to reach others, and sellers prefer a marketplace with buyers. Yet the same process may make entry difficult. A new rival may offer better quality or privacy but cannot immediately offer the network already available on an established platform. Multi-homing can reduce this problem, though it is not always practical for app developers, advertisers or business users.

Data concentration presents a related issue. Data can improve search, targeted advertising, recommendation and fraud detection. It is not correct to assume that every collection of data gives dominance, since data may be replicable or publicly available. But a platform which combines data from several services may improve its product more rapidly than a new entrant. Competition law must distinguish genuine quality improvement from practices which prevent portability, interoperability or meaningful consumer choice. This is why competition enforcement must work coherently with the Digital Personal Data Protection Act, 2023.[19]

Digital services are frequently offered at a zero monetary price. A price-centred test alone can therefore understate harm. Deterioration in quality, privacy, user choice, innovation or terms of access may be the relevant harm. Algorithms add another difficulty. Their operation may be opaque even to the undertaking using them; ranking and recommendation can change continuously. The Commission needs data scientists and technologists who can test systems, understand incentives and design remedies which are not merely formal compliance.

Acquisitions of nascent firms may affect competition before a rival obtains a substantial turnover. The 2023 amendments introduced a deal-value threshold, which is an important response to this difficulty. Still, a threshold cannot replace careful analysis of the target's data,

[18] . XYZ v. Alphabet Inc., Case Nos. 07 of 2020, 14 of 2021 & 35 of 2021, Competition Commission of India, order dated Oct. 25, 2022.

[19] . Digital Personal Data Protection Act, 2023 (Act 22 of 2023); Competition Commission of India, Market Study on the Telecom Sector in India 43–45 (2021).

users, technology and potential competitive role. Small enterprises frequently provide the innovation which keeps markets contestable.[20]

A further difficulty is that platforms operate in two-sided or multi-sided markets. An online marketplace connects sellers and buyers, while an app store connects developers and device users. A service can lower price on one side while recovering revenue on the other side through advertising, commissions or access to data. Competition assessment must accordingly consider the whole set of relationships. A low price for consumers may be beneficial, but it does not automatically answer whether business users have been placed under unfair conditions or whether a competitor is prevented from entering a connected market.[21]

Self-preferencing gives rise to the same need for careful analysis. A platform may integrate downstream services in order to improve speed, reliability or consumer experience. Such integration is not inherently unlawful. The concern arises where the platform uses ranking, default settings, access to information or a contractual rule in a manner that cannot be replicated by an equally efficient rival. The relevant inquiry should compare the opportunity available to the platform's own service with the opportunity available to competing services, while permitting an undertaking to explain a genuine efficiency or security justification.[22]

Interoperability and portability are also practical questions, not merely legal labels. A direction to enable interoperability may fail if the necessary interface is delayed, technically unstable or available on discriminatory terms. Similarly, portability of data has little value if the information is incomplete or cannot be used by the recipient service. Remedies need technical specifications, reasonable time limits and monitoring. In this respect, expertise within the Commission is as important as the wording of the statutory prohibition.[23]

There is also an institutional challenge. Competition, privacy, consumer protection, telecommunications and financial regulation may examine the same digital conduct from different perspectives. Separate action without consultation can create inconsistent duties for a platform or leave an important concern unaddressed because each authority assumes that another authority will act. Formal channels for information sharing and coordinated remedies would

[20] . Competition Act, 2002 (Act 12 of 2003), s. 5(d), as inserted by Competition (Amendment) Act, 2023 (Act 13 of 2023).

[21] . Competition Commission of India, "Market Study on E-Commerce in India: Key Findings and Observations" 25–29 (2020).

[22] . Case AT.39740, Google Search (Shopping), Commission Decision (June 27, 2017).

[23] . 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, arts. 6–7.

reduce that risk. They would also make it easier to ensure that a competition remedy does not weaken data security or conflict with a legitimate financial-regulation requirement.[24]

7. Comparative Analysis

India, the European Union and the United Kingdom now share the view that large digital intermediaries can exercise structural power. Their methods differ. The Indian Competition Act remains principally ex post: the Commission establishes a relevant market, dominance, abusive conduct and remedy in a specific proceeding. The European DMA begins with identification of a gatekeeper and imposes listed obligations. The United Kingdom's strategic-market-status regime is more flexible, using conduct requirements and pro-competition interventions adapted to the undertaking concerned.

The Indian method has advantages. It avoids a rule unsuitable for every business model, permits consideration of local facts and does not presume that integration is harmful. However, investigations and appeals can take time. In fast-moving markets, a remedy delivered after foreclosure may have limited value. The DMA approach creates greater clarity for designated enterprises but may introduce compliance costs and risk applying rules developed for foreign market structures. A balanced Indian system should retain adjudicatory safeguards while providing timely obligations only for undertakings which possess substantial and enduring gateway power.

The United States illustrates another caution. Strong litigation can correct serious exclusionary conduct, but judicial proceedings may take years and remedies are subject to complex proof. India should not abandon section 4 in favour of a regulatory code. The better course is a complementary framework: general competition law for all enterprises and focused preventive duties for a narrowly defined class of systemically significant digital enterprises.[25]

8. Findings and Suggestions

The first finding is that the existing Act is not silent on digital conduct. Section 4 already covers several practices which appear in platform markets, particularly denial of market access, tying, unfair conditions and leveraging. Second, conventional factors for dominance remain relevant but must be read with attention to network effects, data advantages, ecosystems, switching costs and dependency of business users. Third, the Commission's Google orders have developed

[24] .Digital Personal Data Protection Act, 2023 (Act 22 of 2023).

[25] . Ministry of Corporate Affairs, Report of the Committee on Digital Competition Law 118–25 (2024).

meaningful practice, though digital cases require long investigation and remedies capable of implementation.

India should therefore adopt a measured framework for systemically significant digital enterprises. Designation should not depend only upon turnover or user numbers; it should also require a reasoned finding of durable gateway power in specified core digital services. Designated enterprises may be subject to limited obligations concerning self-preferencing, anti-steering, interoperability, data portability and non-discriminatory access, subject to efficiency and security justifications. The obligations should guide conduct but not be so broad that every product decision becomes subject to prior approval.

The Commission should establish a dedicated digital-markets unit with economists, technologists and legal officers. It should use market studies, interim measures where statutory conditions are met, and commitments capable of independent monitoring. There should be structured coordination with the Data Protection Board, Reserve Bank of India, Telecom Regulatory Authority of India and consumer authorities. Such coordination is necessary because a remedy which improves competition may affect privacy, security or payment regulation.

Finally, remedies should be reviewed for practical effect. A direction to permit choice is not enough if design, default settings or technical restrictions make choice illusory. Periodic compliance reports, access to anonymised information for testing and consultation with business users may help the Commission decide whether the market has actually become more contestable. The object should remain fair opportunity to compete, not compelled equality of outcomes.

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9. Conclusion

Competition law has evolved from controls upon traditional monopolies to a law concerned with the competitive process in complex markets. The digital economy has made this task more difficult because market power may arise through data, networks, ecosystems and control over access points. India's Competition Act, 2002 provides a substantial foundation: it does not condemn dominance, but it prohibits its abuse. The Commission's platform decisions show that the Act can respond to search bias, tying, restrictive billing conditions and ecosystem leveraging.

At the same time, a case-by-case system may not always respond at the speed at which digital markets tip. India should strengthen rather than replace its present framework. A carefully limited preventive regime for undertakings having enduring gateway power, better technical

capacity and coordinated regulation can preserve innovation and consumer welfare. Competition is not served by penalising successful enterprises. It is served when successful enterprises continue to face a real possibility of challenge on the merits.

The future position will also depend upon the quality of enforcement. Digital firms and their users require legal certainty, while smaller businesses require an accessible forum when terms of access become unfair. Transparent reasons for designation, proportionate remedies, opportunities to demonstrate efficiency and prompt adjudication can achieve both concerns. If the law remains attentive to actual market conditions rather than labels alone, it can protect the competitive process without placing unnecessary restraint upon technological development.

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Acknowledgment

The author used an artificial-intelligence tool only for language improvement, grammar correction and document formatting. The author reviewed the content, authorities and citations before submission.

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