

Redefining Abuse of Dominance in Digital Era: A Focus on Emerging Market

Himanshi Yadav*

Ph.D Scholar at The Northcap University, Gurugram, Haryana, India

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***Correspondence:**

yadavhimani200@gmail.com

Ph.D Scholar at The Northcap University, Gurugram, Haryana, India

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Abstract

This paper explores issues linked with abuse of dominance in emerging markets, focusing on the interaction between digitalization and the global push toward decarbonization. Emerging markets face challenges unique to themselves: underdeveloped frameworks, limited capacities to enforce, and dependence on dominant foreign firms in digital as well as traditional sectors. The study discusses how data-driven monopolies, algorithmic collusion, and sustainability initiatives can enhance or obfuscate dominance abuse. Using qualitative methodology, this paper will explore cases, legal frameworks, and academic literature to recommend new ideas. The ideas include data portability; enhanced transparency in algorithms used by online platforms; and what might be described as a "green dominance" doctrine balancing fairness in markets against environmental policy objectives. By responding to those challenges that competition law should adapt for the newly emerging markets, this research underlines avenues toward promoting competitive equity and sustainable development.

Despite the fact that the topic of digital dominance in the EU and the US is currently widely researched, and the platforms of policy-making agencies, including the OECD and UNCTAD, have begun to work on this topic, the present-day body of research lacks an emerging, market-specific framework of identifying the abuse of dominance by digital platforms. Existing literature focuses on how to adapt classical ex-post abuse instruments to the context of multi-sided data-driven markets or studies new ex-ante regimes based on the EU Digital Markets Act, but often lacks an explanation of the interaction between these two layers in the developing world with different structural characteristics and low enforcement capacity. There is a paucity of empirical studies on the impact of platform concentration on the outcomes of development, including SME engagement, digital industrialisation, and local innovation, which are still tied to the legal aspects of abuse in a rather narrow consumer-welfare and price-effect manner. Furthermore, the majority of such proposals import trials and cures of developed jurisdictions without coherent adaptation to institutional constraints, data asymmetries and the necessity to encourage digital investment in developing economies, and normative issues regarding how to restrain carefully the excessive power of gatekeepers and encourage innovation and inclusive development remain open.

CHAPTER 1: INTRODUCTION

Research Questions

- How do digitalization and decarbonization affect abuse of dominance in emerging markets?

- Are traditional competition law frameworks enough to face these dual challenges?
- What novel regulatory approaches can emerge markets adopt to address abuse of dominance effectively?

Objectives

- To explain the ways of interpreting the concepts of dominance and abuse to the data-driven, multi-sided digital platforms in the emerging economies.
- To assess the extent to which the traditional price-based harms indicators reflect non-price harms (self-preferencing) and such non-price harms are appropriately reflected by the price-based indicators.
- To examine the best-known situations of abuse-of-dominance in the digital markets of the chosen emerging jurisdictions (such as India, Brazil, South Africa) and discover the gaps in the doctrines and enforcement.
- To compare the approaches with the latest developments in the world (including the Digital Markets Act of the EU and recommendations of OECD/UNCTAD) and to make conclusions that can be applied to the emerging markets.
- To suggest an improved framework and particular legal-policy reforms that could render the abuse-of-dominance control in digital markets more efficient and predictable to the regulators, firms and consumers in the emerging economies.
- Analyze how digitalization alters the dynamics of market domination in emerging economies.
- To explore decarbonization and sustainability agendas on competitive practice.
- To identify gaps in existing competition laws and propose tailored regulatory solutions for emerging markets.

METHODOLOGY

The research will take a predominantly doctrinal and comparative legal approach, which will be based on a close examination of statutory provisions, case law, and policy documents on abuse of dominance in digital markets in selected emerging economies (such as India, Brazil, and South Africa), as well as

leading international resources (EU, OECD, UNCTAD). It will bring order to the understanding of the interpretations and enforcement of key concepts, dominance and relevant market, exclusionary and exploitative abuse, data as a source of market power and non-price harms by courts and competition authorities, and will make use of comparative analysis to identify where there has been convergence, divergence and solution-specific to the context. This study will be based on qualitative research of determined and unresolved cases, enforcement principles, market research and expert literature to develop a precise conceptual framework and to establish context-specific doctrinal and policy changes to new digital economies.

Literature review

- Early theorizing on doctrines indicates that classical tools of abuse of dominance, centred on single-sided markets, price impacts, and the existence of zero-price services, find it difficult to find their way into multi-sided platform markets, network effects, and multi-sided networks. An example is Kostecka-Jurczyk who emphasizes the absence of proper tools to evaluate abuse on digital markets and doubts the possibility of explaining data-driven, ecosystem-based power by the existing ideas of relevant market and dominance¹.
- The OECD background paper on abuse of dominance in digital markets also concurs that both using the standard tests and using unprincipled expansion increase the risk of systematic under-enforcement and over-enforcement, respectively, and proposes more flexible ways of looking at the market definition and dominance measurement. The work of UNCTAD to digital markets and ecosystems also introduces the fact that the authorities of the developing countries deal with another informational and institutional limitation and the direct transfer of classic tests is especially problematic.²

¹ Anisha Chand, Abuse of Dominance in Digital Platforms: An Analysis of Indian Competition Jurisprudence, 1 CCI J. on Competition L. & Pol'y 69 (2020).

² OECD, Abuse of Dominance in Digital Markets (OECD 2020), <https://www.oecd.org/competition/abuse-of-dominance-in-digital-markets-2020.pdf>.

- Recent research redefines dominance in digital markets as power over a strategic intermediation point or ecosystem, and no longer as a large share of a product niche market. UNCTAD explains that massive platforms are gatekeepers, which may use the advantage of data, default, or cross-market integration to exclude competitors and control the market outcomes in various segments³.
- In this context, new theories of harm or new extensions of them have been developed. Authors highlight self-preferencing to rank and present, tie and bundle core platform services with additional products, discrimination to access to data and application programming interfaces, and predatory data collection practices that harm privacy and user choice⁴. The literature on the topic, including the "Study on Abuse of Dominant Position by Digital Market" highlights how these practices can also be detrimental to competition, prevent user control, and pervert democratic discourse, which is why the focus should not be limited to harms in the economic domain⁵.
- An extensive literature contextualizes the development of ex-ante digital competition regimes as a regulatory reaction to the constraints of case-by-case enforcement of abuse. Discussions of the EU Digital Markets Act believe that all gatekeeper requirements in the form of self-preferencing, tying, data combination, and anti-steering requirements effectively re-characterize repeat types of abusive behavior as per se or presumptively unlawful when practiced by structurally significant platforms.
- This is the same trend that is reflected in policy discussions in the emerging economies. In the papers of UNCTAD Global Competition Law and Policy Approaches to Digital Markets, it is

described how various jurisdictions globally, including Latin America and Asia, are considering DMA-style laws or soft-law principles to better deal with gatekeeper behavior. Meanwhile, others note that ex-ante rules should be based on reasonable economic theories of harm in order to prevent chilling innovation, particularly in the context of digital ecosystems that are under development.

INTRODUCTION

The abuse of dominance concept is, as such, the cornerstone of competition law, thereby safeguarding powerful market players from exploiting their position to the detriment of competition, innovation, or consumer welfare. Conventionally the doctrine of abuse of dominance comprises certain common abusive behaviors, comprising predatory pricing, exclusive dealing, refusal to supply, which are developed to lock out competitors or to take advantage of consumers. Nevertheless, the world economy is experiencing seismic changes, and these are caused by rapid digitalization and a desperate need to decarbonize. These two transformations are a challenge to the usual paradigms of the competition law, and a need to review the definition of dominance, the identification of dominance, and control, particularly in the niche of emerging markets.

The emerging markets that include India, Brazil, South Africa, and Indonesia are a crucial step in the performance of the global economy as they are the ones that have millions of potential consumers and whose digital industries remain in their new emergent stages. On the other hand, they are subjected to certain weaknesses of weak regulatory power, heavy reliance on external technology, and massive economies of carbon-intensive production. With these markets looking towards digital solutions and sustainability initiatives, abuse of dominance manifests itself more frequently and is usually accentuated by structural and institutional vulnerabilities. As an illustration, tech giants can have a data monopoly or algorithms as an effective weapon of outmanoeuvre over the competitors; and large players in the renewable energy industry can have the sustainability goals as a potent instrument in creating obstacles to entering the market.

³ UNCTAD, Global Competition Law and Policy Approaches to Digital Markets (2024), <https://unctad.org/publication/global-competition-law-and-policy-approaches-digital-markets>.

⁴ European Commission, The Digital Markets Act – a Remedy to Abuse of Dominance? (Master's Thesis, 2023) (on file with DiVA Portal).

⁵ CCI, ExAnte Regulation: An Evolving Need in Digital Markets, 3 CCI J. on Competition L. & Pol'y 1 (2023).



The other phenomena brought about by digitalization radically change the form of competition: network effects, data monopolies, algorithmic pricing, etc. Powerful players -a global technology companies, in particular-often, having monopolized data, in the end, restrained competition by establishing barriers to entry, without which it is impossible to break down. Similarly, the issue of decarbonization across the globe has seen the rise of such phenomenon as green dominance, according to which companies attempt to shield themselves on the issues of environmental or sustainability and avoid being criticised or eliminate smaller players. Indicatively, actors in most of the new economies exert impact on the emerging markets of renewable energy by influencing access to sustainability ambitions to dominate a major portion of resources and technologies in the sector.

These struggles are further boosted by loopholes in the conventional competition law models. The current legislation usually has industrial market relations of the 20th century and is not well prepared to address the intricacies of digital markets and green economies. Moreover, the management of emerging markets can also be seen as the problem of enforcement as the absence of skills and resource base and reliance on foreign investments contribute to the further undermining of the capacity to address these changing types of abuse.

The present paper examines the intersection of the digitalization, decarbonization, and abuse of dominance by new markets and throws the light on the peculiarities of these economies. The research includes major cases, legal regulations, and academic viewpoints to describe the peculiarities according to which the contemporary dominance emerges. It also proposes new regulatory recommendations to suit the requirements of the emerging markets, like algorithmic transparency requirements, data portability requirements, and other industry-specific remedies to clean energy markets.

With the world moving into the future when technological improvement and sustainability will be the forces to drive, competition law will have to change to benefit the consumers, businesses and the economies, as well. The results raised the consciousness of the necessity of the emerging

markets to react to these two threats of digital and green dominance not only in the sense of encouraging fair competition, but also sustainable and inclusive development.

The given research is in response to an increasing number of concerns that the current abuse-of-dominance models, initially developed to deal with conventional markets, fail to deal with the nuanced power of the digital platform in new economies, where the concentration of data, the network effects, and the influential position of gatekeepers might solidify market power without traditional price-based abuse. It analyses the understanding of competition authorities and courts in major emerging jurisdictions, especially India, of the concept of dominance and the concept of abuse in cases involving the app stores, search, e-commerce and other platform services, and whether these interpretations encompass non-price harms such as self-preferencing, discriminatory access, exploitative data practices and algorithmic exclusion. Notably, the research goes beyond much of the descriptive mapping of cases and laws, providing more critical participation in jurisprudence and regulatory reactions, assessing the consistency of logic, how decisions bring about the proclaimed policy objectives (consumer welfare, fairness and innovation) and how both institutional constraints and institutional opportunities can be seen to influence the enforcement decisions in new markets. It uses this critical lenses to come up with a sophisticated, contextual conception of abuse of dominance in the digital age and to recommend specific, doctrinal and policy changes capable of rendering regulation of the digital platform more predictable and effective to regulators, businesses and consumers in emergent economies.

Chapter 2: Evolution Of Abuse Of Dominance

Definition and Legal Foundations

Abuse of dominance is a key principle of competition law, aimed at preventing firms with significant market power from engaging in practices that are likely to harm competition and consumer welfare. Dominance itself refers to the ability of a firm

to act independently of competitive pressures, while “abuse” denotes the misuse of such power to exclude competitors or exploit consumers. The abuse of dominance is punished under competition law frameworks such as Article 102 TFEU of the European Union and Section 2 of the Sherman Act⁶ in the United States for anti-competitive, rather than dominant itself. General abuses are typically predatory pricing, refusal to deal, exclusive dealing, and tying⁷.

In emerging markets, dominance is usually defined by market share thresholds, but these metrics may not capture recent trends such as network effects and digital ecosystems. With new types of competition stemming from immaterial goods like data and algorithms, the concept of dominance is also becoming more complicated.

Historical Evolution

The concept of abuse of dominance has transformed with the global economy. The theme emerged when dealing with industrial monopolies, such as fixing prices and market segmentation in traditional sectors. In the late 20th century, cases dealt with increased technology firms, especially in software and telecommunications sectors.

The landmark cases of United States v. Microsoft in 1998⁸ highlighted how firms can use their dominance in one market (in this case, operating systems) to stifle competition in adjacent markets—parallel situations such as that of web browsers; more recently, cases like EU v. Intel and EU v. Google Shopping demonstrated the growing recognition of exclusionary practices and self-preferencing in digital markets⁹.

In developing economies, competition enforcement often lagged behind, due to limited resources and institutional capacity. The rise of global digital platforms and foreign dominance in key markets has amplified the need for tailored frameworks to address abuse effectively.

⁶ The Sherman Antitrust Act, 1890

⁷ T. Ramappa, *Competition Law in India: Policy, Issues, and Developments*, 2nd Edition, Oxford University Press, p. 112 (2014).

⁸ US vs. Microsoft International Corporation, 2020

⁹ Google LLC vs. Competition Commission of India, 2022 SCC Online CCI 35, para. 42. Reports Competition Commission

Global Precedents

Competition enforcement in the world is highly influenced by the case law of the developed economies. In United States v. Microsoft, the court held Microsoft guilty of its use of domination of OS to package Internet Explorer thereby monopolizing the market competition in the browser market. In the case of EU v. Google Shopping, the European Commission had fined Google the highest-recorded fine, alleging that Google had abused its market share by prioritising its comparison shopping platform in search results.

Despite this precedent, the relevance of such cases to the new markets is still questionable because the nature of markets, available resources, and priorities in enforcing these rulings in such countries as India or Brazil are different in comparison to the U.S. and EU.

CHAPTER 3: UNIQUE CHALLENGES IN IDENTIFYING ABUSE OF DOMINANCE

The emergent markets with fairly high rates of economic growth, foreign direct investments (FDI), and regulatory environments that are changing present a special challenge to competition law enforcement, especially on the abuse of dominance. These new markets such as India, Brazil, South Africa, and Indonesia have complicated structural and institutional inhibiting constraints that impose on the sense and redress of dominance. The grasping of these challenges is what will help in the successful application of competition law in such regions particularly in the digitalization and decarbonization zone.

Structural and Socio-Economic Characteristics of Emerging Markets

Emerging markets are characterized by large, youthful, and accelerated growth with great, increasing demand of digital services and energy. The result of such active growth is often a market in which strong competitors, both domestic and international may quickly become established in



the market and exercise their power there. Network effects in the digital economy tend to favor first mover advantages, which gives companies that gain dominance a chance to consolidate their presence, which in many instances comes at the disadvantage of smaller and newer competitors. Furthermore, the comparably high level of reliance on the multinational companies in such essential industries as technology and energy may imply that domination can rather be foreign owned, and this has been a cause of concern on market concentration and adverse impacts on local companies and consumers¹⁰.

For instance, while international players like Amazon, Google, and Facebook in new economies lead to hegemony of key sectors, including e-commerce, online advertising, social media, etc., this limits indigenous innovation and consumer choice¹¹. This can be termed as “digital colonialism” because foreign firms dominate the local data space, markets, and infrastructure.

Regulatory and Enforcement Capacity Constraints

The weakest underbelly of emerging markets is in the form of an underdeveloped or poorly resourced competition law enforcement infrastructure. In many developing countries, competition authorities are poorly financed, lack the institutional backing to handle complex matters dealing with issues of market dominance, and especially so in digital and green sectors of the economy. Other associated challenges include technological innovation and globalized digital environments where platforms evolve faster than the ability of national regulators to understand and monitor competitive behaviours effectively.

For instance, whereas European and North American regulators can easily delve into algorithmic collusion or abuse of dominance in the tech sector, many emerging economies lack the tools and training to diagnose how algorithms and data flow across borders-a hardship on the ability of these countries to effectively deal with anti-competitive

¹⁰ Akash Gupta, “Digital Markets and Merger Control: Emerging Challenges in Indian Competition Law,” 15 NLSIR 150, pages 152-155 (2022).

¹¹ IBID

behaviors regarding data monopolies and price discrimination and favouritism on platforms¹².

Furthermore, with the majority of emerging markets having competition authorities that are small in size and capacity, enforcing policy in these markets is challenging. This results in a regulatory vacuum through which dominant firms can practice anti-competitive behaviour without facing severe scrutiny and penalties. This is further worsened by the fact that a number of emerging economies focus on other sectors with priority such as health, education, and infrastructure, making competition authorities underfunded and understaffed¹³.

Globalization and Foreign Influence

Foreign investment and technology, especially in telecommunications, energy, and e-commerce, can often depend greatly on emerging markets. The potential for such reliance leads to asymmetries of market power, especially where dominant foreign firms employ their technological advantages, capital, and economies of scale to dominate a local market. In the case of the e-commerce sector, for example, Amazon, Alibaba, or eBay dominate online retail in emerging markets, thus driving out the small competitors locally and limiting innovative opportunities for entrepreneurs in the locality.

This extraterritoriality also poses barriers in the enforcement of competition law since many multinationals operate across borders, and in most cases, local regulators lack powers to sanction anti-competitive behaviour within their jurisdictions¹⁴. This problem is further compounded by the lack of any effective cross-border cooperation between competition authorities as multinational firms may be able to take advantage of loopholes in the legal systems of various countries.

Beyond this, multinational corporations often have too much influence on policymaking in

¹² Administrative Council for Economic Defense (CADE), Highlights and Key Developments in Digital Markets, Brasília, p. 10 (2025).

¹³ Priyanka Jain, “Abuse of Dominance in the Indian Competition Law Framework,” 10 Journal of Corporate Law Studies 88, p. 91, 2018.

¹⁴ Competition Commission of South Africa, Online Intermediation Platforms Market Inquiry – Final Report, Pretoria, p. 3 (2023).

emerging markets, able to lobby for favourable regulations and, in some cases, even influence the legal framework itself. This has resulted in weak competition laws or even a lack of political will to pursue investigations into dominant foreign players, especially in sectors deemed integral to national development, such as energy, infrastructure, and technology¹⁵.

Digital Divide and Market Inequality

The digital divide is still one of the major issues in most emerging markets. While it has grown at an incredible rate, the internet and mobile technology are still not equally accessible, giving rural and underprivileged consumers less access to affordable and reliable internet. Dominant players in such environments can exploit these existing inequalities to reinforce their positions in the market. For example, hegemonic tech companies might disproportionately serve urban and high-income consumers, making services and choices unavailable to underserved communities. Additionally, if there are few local alternatives or regulatory checks on the companies, these consumers are left vulnerable to monopolistic practices.

The digital divide also influences market access: typically, small or local firms are not in a position to scale their operations or invest to afford the necessary infrastructure to compete with dominant foreign players, thereby generating a vicious cycle where incumbents use existing advantages, such as data, infrastructure, or capital, to further entrench their market power and progressively make it harder for new competitors to challenge their dominance¹⁶.

Impact of Informal Economies

Informal economies are also important in most of the emerging markets. Though informal markets are very important in terms of GDP and employment, they are not always viewed under formal regulatory frameworks. This, practically, results in the dual market system that has the formal and informal sectors coexisting and, in some instances, causing anti-competitive behaviour which is not easily monitored and controlled.

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16 Competition Commission of South Africa, Media and Digital Platforms Market Inquiry – Provisional Findings, Pretoria, p. 12 (2024).

As an example, informal retail networks may assume a monopolistic or cartels behaviour and be mostly not regulated in their operations. On the same note, illegal digital space platforms operate not being subjected to abuse of dominance or predatory behaviours. The competition law dilemma in new markets is how to deal with such informalities without allowing informal markets to take advantage of formal market.

CHAPTER 4: DIGITALIZATION AND NEW FORMS OF EMERGING MARKET ABUSE

The diffusion of digital technologies has brought about a fundamental shift in the way the global marketplace operates, especially in emerging economies. This shift introduces, for firms, new avenues for winning and maintaining market dominance through network effects, data monopolies, and platform ecosystems. Companies possessing vast data sets or with established platforms enjoy “first-mover advantages” that develop “huge barriers to entry,” thus posing considerable challenges to even well-funded competitors in emerging markets¹⁷, where regulatory frameworks tend to trail behind technological advance. For instance, in markets such as e-commerce, a powerful player such as Amazon or Alibaba has wielded its enormous customer data to tailor services, lock-ins, and influence pricing approaches in ways that stifle competition coming from small local players without the capabilities to acquire, process, and exploit large-scale data¹⁸.

Network effects make it very challenging for a new entrant to compete against established players because the more users that subscribe to a product or service, the more it grows in value. Platforms like Facebook, Google, and WhatsApp have strong network effects that make their services indispensable to users in emerging markets¹⁹. Once a platform has reached a certain level of dominance in

17 Flipkart Internet Private Ltd. v. Competition Commission of India, (2021) 4 SCC 654, at paragraph 23.

18 OECD, Remedies in Digital Markets, Latin American and Caribbean Competition Forum, Paris, p. 5 (2025).

19 Competition Commission of South Africa, Online Intermediation Platforms Market Inquiry – Final Report, Pretoria, p. 3 (2023).

a market, it can continue holding it due to customer dependency and a lack of other sensible alternatives. For example, Google dominates search and Android dominates the operating system of mobiles. It shows the technological giants can monopolize user data through the “free” nature of their services, thus controlling large digital ecosystems and hampering competition.

Furthermore, algorithmic pricing and data-driven decision-making tools may eventually lead to tacit collusion or discriminatory practice, for example, dynamic pricing models that take unfair advantage of consumers in underserved markets. Absent adequate regulation or enforcement, digital monopolies may quickly push up prices, erect barriers to entry, or restrict access to essential services²⁰. That is, in emerging economies, where consumer protection laws may not be as robust as in developed or developing economies, the ability of firms to engage in such practices can be particularly damaging. A lack of expertise and resources within local competition authorities further complicates the detection and regulation of such digital forms of dominance.

For example, online marketplaces can favor their own products or services under control, as demonstrated in the EU v. Google Shopping²¹ case when Google was fined due to the favouring of its comparison shopping service in search results at the expense of competitors. Such practices can easily go undiscovered or without remedy in emerging markets due to little capacity for technical analysis and mechanisms of enforcement in digital sectors.

CHAPTER 5: ROLE OF INDIA IN ADDRESSING ABUSE OF DOMINANCE

Given its size and pace, India has a great deal to say when it comes to the practice of abuse of dominance, especially in the context of an emerging market. India's regulatory approach towards competition law has moved through its phases, with ever greater emphasis on acting against monopoly behavior in

traditional and emerging digital markets²². With the India continuing to industrialize, digitize, and integrate into global economies, the importance of Indian competition law and its enforcement mechanism has been ever more important in the pursuit of preserving fair competition, consumer protection, and innovation.

The Competition Commission of India (CCI) is established under the Competition Act, 2002. In terms of enforcement of India's competition laws, the CCI will be the lead agency responsible for such enforcement. India has been taking very significant steps over the years to tackle abuse of dominance cases, but there are still some significant concerns arising in digital monopolies and multinational corporations operating in the Indian market. We look into India's role in tackling abuse of dominance through few key areas below:

The Competition Act, 2002²³: Framework for Addressing Abuse of Dominance

Competition law in India is covered by the Competition Act, 2002, adopted from international standards such as the European Union's competition laws and the Sherman Act of the United States²⁴. The Competition Act covers anti-competitive agreements, abuse of dominance, and regulation of mergers and acquisitions. Under Section 4 of the Act, abuse of a dominant position in the market is specifically prohibited with illustrations of the various acts that might amount to abuse. These include:

- Imposing unfair or discriminatory conditions on consumers or competitors.
- Limiting or restricting production, markets, or technical development.
- Predatory pricing or pricing below cost to eliminate competition.
- Refusing to deal with suppliers or customers.

The Competition Act provides the legal basis for investigation, prosecution, and penalizing

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23 The Competition Act, 2002, No. 12 of 2003, India Code (2003).

24 A. Gillwald, “Competition Regulation for Digital Markets: The South African Experience,” African Journal of Information and Communication, Vol. 31, p. 25 (2023).

20 A. Gillwald, “Competition Regulation for Digital Markets: The South African Experience,” African Journal of Information and Communication, Vol. 31, p. 25 (2023).

21 EU vs. Google Shopping International Corporation, 2017

businesses that engage in such practices. The Competition Commission of India is the entity empowered to investigate complaints of abuse of dominance and impose penalties on offenders.

Key Case Laws in India

Case examples in India depicting how the CCI dealt with issues of dominance abuse are very relevant:

CCI v Google²⁵

CCI has examined the alleged dominance abuse by Google in the Indian market, especially regarding practices involving its Android operating system and the Play Store. Google has been accused of imposing restrictive conditions on mobile phone manufacturers and app developers as a way of favoring its own services over competitors, such as forcing Android phone manufacturers to pre-install Google apps and making it difficult for the developers to use alternative payment systems. Investigation into Google's practice shows India acting proactively in regulating abuse of dominance in the digital economy..

Competition Commission of India v. Reliance Industries²⁶

In a landmark case, the CCI probed if the country's largest conglomerate, Reliance Industries had abused its dominant position in the telecom sector. The case involved allegations of causing harm to competition in the telecom sector through Reliance's Jio platform with its aggressive pricing strategy and exclusive agreements with content providers. Even though the CCI did not find enough evidence to penalize Reliance, the case highlights how cumbersome it is for competition authorities to regulate such dominant players in fast-evolving industries.

CCI v. Coal India Ltd.²⁷

Another notable case was of Coal India Ltd. (CIL), a state-owned monopoly in the coal industry. The CCI discovered that CIL had abused a dominant position

by engaging in practices that would fall within the description of unfairly limiting competition and attempting to deny or restrict the market access unjustly. The Commission levied a penalty on CIL for monopolizing power, which marked the rule that even with state-owned enterprises, competition law enforcement was vital.

CHAPTER 6: FUTURE DIRECTIONS AND CONCLUSION

- Implement a test of ecosystem dominance. Dominance should be determined by authorities as a gatekeeper control over data, intermediation, and default positions in multi-sided markets and not as only market share in a single product market. It needs official direction which acknowledges data benefits, network effects, and user lock-in as central signs of digital dominance²⁸.
- Establish a systemically significant platform ex-ante regime on a calibrated basis. In the wake of UNCTAD and new emerging-market discussions, lawmakers must propose ex-ante duties on big platforms (self-preferencing bans, interoperability/data-access duties, fair-dealing regulations) without setting thresholds too low to capture small local companies. This hybrid framework will need to explicitly divide matters between ex-ante regulation and section-4 abuse regulations to avert overlap and forum shopping²⁹.
- Theory of harm and presumptions that are sensitive to emerging markets. Competition agencies ought to express explicit theories of harm in the form of data exploitation, discriminatory access to key digital infrastructure, and foreclosure of local innovators, applicable to some practice by a platform in highly concentrated markets through rebuttable presumption. The direction can be given on when such conduct in terms of self-preferencing,

²⁵ Google LLC vs. Competition Commission of India, 2022 SCC Online CCI 35, para. 42. Reports Competition Commission

²⁶ CCI V. Reliance Jio Ltd, 2019

²⁷ CCI v. Bharti Airtel Ltd. & Zain, (2010) 10 SCC 205, paragraph 18.

²⁸ Anisha Chand, Abuse of Dominance in Digital Platforms: An Analysis of Indian Competition Jurisprudence, 1 CCI J. on Competition L. & Pol'y 69 (2020).

²⁹ Competition Commission of South Africa, Online Intermediation Platforms Market Inquiry – Final Report, Pretoria, p. 3 (2023).



tying and MFN clauses would be assumed to be abusive without any provable pro-competitive reasons.

- The competition, data-protection, and consumer-protection tools should be integrated. Since most digital abuses include privacy and manipulation along with competition being harmful, new markets must put in place coordination mechanisms and cross-jurisdictional inquiries by competition institutions, data-protection institutions and consumer institutions. Gaps and conflicting decisions can be minimized by making use of memoranda of understanding, shared investigative teams, and cross-referral powers.³⁰
- Invest in capacity, access to data and cooperation with regions. UNCTAD emphasizes that the agencies of developing countries must have specialised digital units, more platform data access (via information-gathering authority and data-sharing requirements), and regional-level organisation (e.g., BRICS, AU, ASEAN) of cross-border cases. The emerging markets must focus on education on digital economics, collaborative research on the market, and model instructions that can be transformed by lower authorities instead of creating them completely³¹.
- Incorporate remedies with the development goals and innovation. In identifying abuse, the authorities must come up with solutions that will not merely prevent the behaviour, but also encourage entry by local companies, such as data portability and interoperability on the part of SMEs, or monitored behavioural promises instead of unconditionally imposing fines. Effects on local innovation, inclusion and SME participation are to be explicitly investigated by impact assessments, and the intervention should not inadvertently entrench the incumbents or discourage investment.

³⁰ Priyanka Jain, "Abuse of Dominance in the Indian Competition Law Framework," 10 *Journal of Corporate Law Studies* 88, p. 91, 2018.

³¹ Akash Gupta, "Digital Markets and Merger Control: Emerging Challenges in Indian Competition Law," 15 *NLSIR* 150, pages 152-155 (2022).

CONCLUSION

The issue of abuse of dominance is complex in emerging markets—the specific instance of India. The Indian economy, growing at a pace that puts it as one of the world's fastest-growing economies, has made significant strides in this through the Competition Act, 2002, and the work undertaken by the Competition Commission of India (CCI). However, with rapid technological advancement, the growth of digital markets, and an increasing influence of multinational corporations, enforcement of competition law in India is to adjust themselves to new and emerging forms of market dominance.

India possesses a strong legal and regulatory framework which tends to support tough action against the abuse of dominance, but there are important challenges such as state-owned enterprises' dominance, increased global tech giants' domination, and the specific conditions of digital and platform-based markets. Cases involving global players like Google, Amazon, and Qualcomm bring up the need for effective mechanisms for implementing robust enforcement processes to be used in promoting fair competition, protecting local businesses, and preserving consumer interests. Expanding by leaps and bounds, India's digital economy will require competition law to keep pace with the new techno-economic realities of self-preferencing and data abuses and anticompetitive practices in the technology sector.

More importantly, India is gaining importance in global competition policy as it increasingly interacts with the international regulatory bodies and shapes the global discourse on fair competition, especially within the digital space. In an emerging market with potential the way in which India exercises its regulatory functions will have profound implications for the health of that economy, but will also be a model for other developing nations reaching similar milestones..

To achieve this, India needs to focus on the capacity building of the CCI, better enforcement of competition laws, and broader public education against anti-competitive practices. Besides, it has to stay ahead in identifying and dealing with abuse of dominance in emerging sectors like green energy,

fintech, or e-commerce, among others. Updating its regulatory framework will unlock the full potential of India's economy, ensure consumer welfare, and play a huge role in shaping the future of global competition law by fostering an environment of fair competition.

Recommendations on Digital Competition challenges

Other forms of dominance and abuse, such as dominance over user data, ecosystems and key digital infrastructure, should be expressly acknowledged as data-driven and non-price dominance and abuse covered by competition laws in emerging markets. The concrete examples of abuse in digital-platforms like self-preferencing, anti-steering, exploitative data-combination, discriminatory access and parity terms, etc. should be included in the competitor statutes or guidelines so that all restrictions become more predictable. Regulators ought to embrace a systematic effects based examination custom to digital markets that

examines the network impacts, switching expenses, data benefits and reliance of business customers, and permits rebuttable assumptions of recurrent harmful actions. They should establish specialised digital-markets units that have economists, data scientists and technologists, and close coordination of these with data-protection and sector regulators. New economies ought to deliberate on a focused ex ante regime of strong "gatekeeper" platforms and minimal require equitable and non-discriminatory accessibility, prohibition of self-preferencing and anti-steering, and data portability and interoperability requirements. Remedies must not be limited to fines; such remedies must include artificial data-sharing, API access, interoperability requirements and, in some cases, structural segregation or divestiture to deal with the entrenched ecosystem power. Governments ought to issue comprehensive soft-law rules and case studies on digital-market dominance abuse and invest in judicial and other official ongoing training to ensure that jurisprudence is not left behind by the fast-paced technology.

