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Competition Policy And The Digital Era: A Perspective Into The Dynamics Of Digital Markets And Competition Policy

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Abstract:

Technological intervention in the business world has completely revamped the way businesses are done. Today we live in a digital economy and do transactions through digital markets. Digitalization of business world has benefitted both, the firms as well as the consumers. Doing business through digital platforms while is convenient and much cheaper for the businesses, it also opens a plethora of choices for purchasing goods and services for consumers. The dual benefit feature of digital markets functioning through digital platforms have made digital economy flourish like never before. While all is good with the digitalization of doing business, there are however concerns as to the protection of interest of consumers as well as the competing firms. While dealing with these concerns is not new to any competition authority, dealing with such concerns in digital markets is certainly a challenge. The challenge lies in the untraversed contours of the digital world. The digital world though appealing, is not not insulate to the vices of unfair business practises. Digital Markets, a result of digitalization of business, are a new concept and have unique characteristics unknown in the scenario of traditional markets. Technology upgrading every minute makes it difficult to study the these markets and their possible outcomes on consumers, businesses and the economy as a whole. This opaqueness offers a breeding ground for unfair practises to flourish making the consumers vulnerable and existing competition between firms ,unfair and unjust. The traditional markets stand replaced by digital markets which work in complex webs of network effects and data mining. These markets functioning through digital platforms involve multiple players at the same time making analyses of the effect of any unfair business practice extremely difficult for competition authorities. The criteria for determining dominance and its adverse effect on the market have changed making the traditional tools ineffective to curtail any unfair business practice. The integration of technology into our daily lives and the all-pervasive nature of it has made the impact of anti-competitive conduct in Digital Markets a topic of discussion among governments and policymakers. Much research is being conducted by policymakers and various organizations in studying the negative impact of these technological innovations on markets and their way of doing business, as well as consumers and other competing firms. A basic understanding of the functioning of these markets has made it clear that the existing competition regime with its enforcement tools is ineffective in identifying and

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controlling the anti-competitive business practices in the digital markets. it is suggested by policymakers and lawmakers to either revamp the existing competition enforcement regime or frame a new competition regime that is adaptable to the challenges of technological innovations and use.

KEYWORDS: Digital Economy, Competition and Digital Economy, Understanding Digital Markets, Role of Competition Policy in Digital Markets, Challenges faced by competition policy in Digital Markets.

I.Introduction

Technological intervention in the business world has completely revamped the way businesses are done. Traditional Markets have been replaced by new Digital Markets. While this transition has benefitted consumers while offering a better variety of goods, it has also made them vulnerable to the uncertainties of Digital Markets. Digital Markets being a new phenomenon stand unexplored while not being insulated to the vices of unfair business practices that result in adverse effects on the competition. Tackling such practices in a digital environment is difficult for competition authorities due to the lack of understanding of the constituents i.e. Digital Markets and their functioning. In recent, these markets have gained prominence and so have the occurrences of anti-competitive business practices through these markets. The impact of these anti-competitive practices has the potential to affect the economies of other countries also, for the digital economy is not confined to any one particular jurisdiction but spreads through all countries interlinked with the thread of globalization. The concerns as to finding a practical solution to the problem are thus not just of one country but the world community as a whole. The existing framework of Competition Law was framed at a time when it was not imaginable that digitalization could occur at such a scale. The framework therefore does not suit the changed way of doing business and this makes it imperative for Governments to come up with a new draft of the Competition Law which may be appropriate for the Digital Markets given the unique features of these markets. Drafting of any such new Digital Law would require a thorough understand of the various aspects of Digitalization of the way of business world right from the concept of digital economy, digital markets, digital platforms and the relating concepts like network effects, multi sided markets and like.

II.Digital Economy :

The term "digital economy" refers to the use of information technology to create, adapt, market, and consume goods and services that are based on the use of information technology, in order to make money³ Digitalization is characterized by the digitalization of products and services and the use of the Internet and other networks to support economic activities.⁴ the emergence of the digital economy owes its genesis to the digital revolution which has enabled countries to do more efficiently what they had been doing efficiently till now. A significant impact of the emergence of the digital economy can be seen in the business sector especially how the commerce and marketplace are managed today. (this is in reference to the emergence of electronic commerce, popularly known as e-commerce where transactions take place on the Internet and other networks.) digital economy is the convergence of computing and communication technologies through the use of the internet. This convergence results in the flow of information and technology which in turn stimulates e-commerce while bringing organizational changes. The Digital Economy functions by interconnecting different people, machines, and organizations. This aspect of the digital economy is also termed hyper-connectivity. This feature provides a platform for users to interact, collaborate, and search for information. The global business landscape has been profoundly impacted by the transition from traditional economy to digital economy, giving

³ Aryan Mohindroo and Rajat Mohindroo, Digital Economy & Competition Law: A Conundrum, 3 Indian Competition Law Review, 83-104, (2018) <http://www.iclr.in/assets/pdf/2.pdf> (last visited March 12, 24).

⁴ Jacek Unold, Basic Aspects Of The Digital Economy, 167, ACTA UNIVERSITATIS LODZIENSIS FOLIA OECONOMICA, 41-48 (2003) <https://core.ac.uk/download/pdf/71971973.pdf> (last visited March 12, 24).

rise to newer markets and firms and changing the overall business models. Business today is not just about productivity but services.

III.Impact of Digital Economy on Competition:

The advent of the digital economy has reshaped the competition dynamics. It has brought significant changes not just as to where the business transactions are done but also how the transactions shall be done. Some of the effects can be analyzed as follows:

- Effects on barriers to entry: The digital economy provides a common platform for firms to do business. This enables new businesses to open their business with ease on e-commerce(it is cheaper to open a website and the cost of maintenance is low) websites and reach global consumers. This has also increased competition.
- Boost to globalization: cross border trade possible with the use of digital platforms has enabled various multinational businesses to do business in different countries. The multinational business model not just collaborates with businesses of different countries but also caters to and connects consumers from different countries. Since businesses are done globally, it creates pressure on firms to continuously innovate their business styles to match up to their global counterparts.
- Replacement of traditional industries with digital industries: due to the benefits associated with doing business online through digital platforms, and the changing world economy(owing to technological innovations), businesses are incentivized to adopt to newer businesses model apt for doing business on digital platforms. Owing to the competitive pressure arising due to the use of technology in business, the existing firms are also pressured to include technology in tier way of doing business in way or the other.
- Data as a tool for competition: the advent of digital economy and thereby digital markets have led to a new form of competition, data-driven competition. Companies are keen to acquire the data of their consumers which is unconsciously shared by consumers while using online services, to predict the likes and dislikes of their consumers, thereby enabling them to come up with consumer-specific services. In such a situation companies well-fitted and well-versed with newer technologies are able to make the best use of any opportunity to collect consumer data, giving them a competitive edge over the others.
- Network effects⁵: Digital Markets derive the benefit of networking(also known as network effects) enabling some firms to emerge as monopolies or oligopolies. Companies like Amazon and Facebook have become dominant by leveraging the network effects.
- Dynamic innovation: The digital world is all about innovative methods deployed by firms to win over their customers. Companies that are able to deploy innovative tactics to cater to the needs of their customers are able to supersede others in competition. companies thus feel pressured to think of innovative ways to do business in order to survive in the market. Competition dynamics have thus shifted from just holding the largest share of the market to coming up with newer business strategies.
- Direct link between buyer and seller: Digital platforms have established a direct link between the sellers and the buyers. Digital platforms themselves act as intermediaries that provide infrastructure for the conduct of transactions between the buyer and the seller. They also connect different consumers through a common platform.

⁵ OECD, *Handbook on Competition Policy in the Digital Age*(2022), <https://www.oecd.org/daf/competition/oecd-handbook-on-competition-policy-in-the-digital-age.pdf> (last visited March 19,24).

IV.Competition and digital economy:

The OECD Handbook on Competition Law and Policy defines a “digital economy as an economy that incorporates all economic activity reliant or significantly enhanced by the use of digital inputs including digital technologies, digital infrastructure, digital services, and data.” It includes within its definition all producers and consumers, including the government that utilize digital inputs in their economic activity. Digital Markets are an important constituent of the digital economy. Digital markets are defined as markets that function within the digital economy.⁶ They are also referred to as digital platform markets. The Digital Markets markets represent the new business models functional through the digital platforms. These markets are structurally very different from the traditional markets. to understand the dynamics of competition in the digital markets, it is imperative first to understand the structure of these markets:

1.Understanding the Digital Markets:

Competition dynamics in the digital markets are attributed to certain unique features of digital markets that are not found in traditional markets:

Digital markets are multi-sided: a multi-sided market is one that link two or more distinct but interdependent groups of customers. Each platform serves two or more groups of customers like and women, merchants and cardholders, financial service users, and financial service sellers. In such markets, the platform acts as an intermediary facilitating transactions between different groups. The involvement of different players at a common platform engaged in a particular transaction makes the analysis of competition dynamics complex.

Network effects⁷: an important feature of a multi-sided market is strong network effects. It is a phenomenon where the value of a product or service increases as the number of users or participants increase. This means that more the users use a certain product or service the more valuable it becomes for each individual user. The network effect can be both direct and indirect. An example of direct network effect can be seen in the business models of social media platforms like Facebook and WhatsApp. The more friends or contacts an individual user has on a platform the more valuable the platform becomes for him as he can now chat with many more of his friends. This feature creates a positive feedback loop of growth. In an indirect networking effect, the value of a product or service increases for an individual user when complimentary products or services become available on the same platform. For example: a gaming console shall become more valuable when more games are created for that console, making it attractive for consumers to purchase it. This way a virtuous cycle is created wherein more users attract more users. Network while leading to exponential growth in the value of the network, it has negative effects in the form of enabling the occurrence of market dominance(firms that are able to achieve critical mass) and creating lock-in effects(situation wherein a user becomes dependent on a particular platform making it difficult for him to change to products or services alternatively available even though they may be having better features or pricing

Better economies of scale and scope: Digital Markets enjoy economies of scale-

1. Low infrastructure costs as after the setting up of initial infrastructure like server and software, the addition of more users does not result in incurring additional costs.
2. Low Distribution Costs: Digital Goods such as e-books or streaming media can be replicated and distributed to millions of users without incurring minimal incremental costs.
3. Marketing benefits: Digital Markets are able to leverage the data analytics of the users and thus resort to targeted marketing. This also allows them to reach a broader audience as compared to traditional markets. as the user base grows, the cost per acquisition of customers decreases resulting in economies of scale.

⁶ OECD, *Digital Economy, Innovation and Competition* (2023) <https://www.oecd.org/competition/digital-economy-innovation-and-competition.htm> (last visited on March19,24)

⁷ Supra note 5

Digital Markets enjoy economies of scope:

- Benefits of diversification: Digital Platforms enable the availability of a variety of complementary products or services to users without significant additional costs. For example, platforms like Amazon can offer products from books to electronics, clothing to groceries using the same structure and same user base.
- Benefits of cross-selling: user data and algorithms can be used by digital platforms to recommend additional products and services to users based on their preferences. This is known as cross-selling. This too is done without additional cost.
- Benefits of integration and synergies: different services can be integrated to create synergies thereby enhancing the overall user experience. Example integration of messaging app with payment services.⁸ Due to the above-mentioned benefits firms are able to expand themselves geographically much faster and can even use their assets in one market to enter another.
- Data-driven: Digital Markets rely on data acquired through transactions conducted by customers and use them to make business decisions. Online transactions involve the processing of large amounts of data, analyzing which is a difficult task.

Digital Markets incur switching costs: A consumer when decides to switch from one product or service to another incurs a switching cost. Switching cost refers to the expenses, efforts or disadvantages incurred by a consumer when he changes from one product or service to another. It can be in the form of financial expenses undertaken by a consumer when switching from one product or service to another or it can be in the form of loss of data or compatibility issues with the existing systems. The time and effort spent by a consumer in learning how to use a new product or service is also included in the switching cost.

Switching costs are significant in understanding consumer behaviour as well as the decision-making strategy of businesses. Switching costs can pose competition issues for a high switching cost may make the customer reluctant in switching to another product thus creating entry barriers for new entrants. It is in the interest of companies to keep their switching cost reduced to ensure retention and loyalty of customers. cancellation fee for ending a subscription service is an example of switching costs.

IP rights are crucial for digital markets: IP rights are a significant factor to the functioning of Digital Markets. they ensure that the creations and innovations of the firms are protected. Conferment of IP rights often enables firms to enjoy a monopoly in a certain market.

Zero Priced Products: Digital Markets have led to the emergence of new types of business models. One such type of business model is one that provides zero-priced products. A zero-priced product is offered to consumers at no monetary cost.⁹

⁸ U.N. Conference on Trade and Development, 18TH Session, TD/B/C.I/CLP/54

(July12,2019)https://unctad.org/system/files/official-document/ciclpd54_en.pdf (last visited March20,24)

⁹ Zero Priced products are not completely free as businesses do have to incur costs like maintenance and development cost, infrastructure cot and like.

Some Examples of Zero Priced Products:

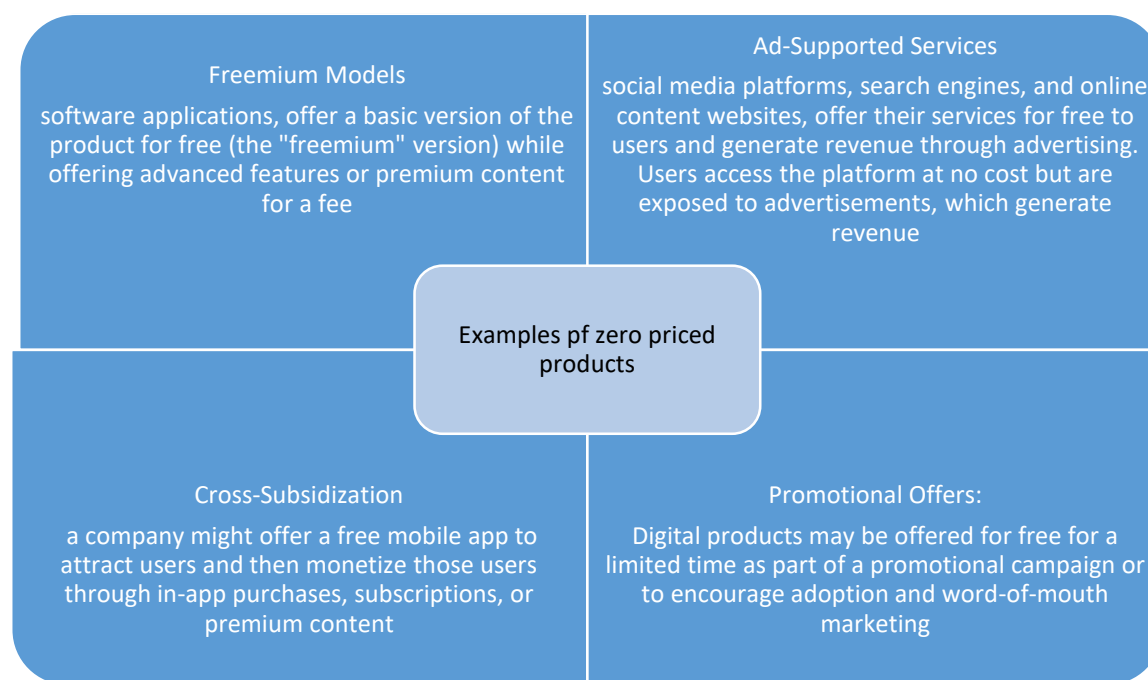


Figure: 1.0: Examples of zero-priced products

Disruptive Innovations: A important feature of digital markets is disruptive innovation. Disruptive Innovation is a new product, service and technology that fundamentally alters the existing market or creates a new market by offering more simpler, convenient and affordable alternatives to existing solutions. Disruptive Innovations are beneficial though they incur various costs. However disruptive innovation may raise competition issues as they substantially reduce transaction costs and may be offered outside the regulatory framework thus limiting competition by incumbents.

2.Role Of Competition Policy In Digital Markets: Digital Economy

Competition in the digital economy has been a talk of concern for governments, policymakers, and academicians in recent years. Competition policy seeks to ensure that there exist fair and efficient markets. It is intended by any competition policy to promote competition while balancing the interests of both businesses and consumers. Competition laws are therefore designed to prohibit unfair business practices, preventing the occurrence of monopolies and ensuring free and equitable market access by both new competitors as well as consumers.

Competition authorities for this purpose monitor and review markets to identify violations and undertake appropriate civil and criminal proceedings. Digital Markets are no exception to vices of anti-competitive business practices. However, the identification of such practices is difficult in digital markets owing to the complexities of digital markets. In spite of the fact that the emergence of digital markets is new, the role of competition policy remains the same, that is to prevent anti-competitive practices and ensure healthy competition.

Some specific areas where competition policy can play a significant role are as follows:

Boosting innovation: Digital Markets thrive on innovative business strategies supported by the latest technologies. The intent of competition policy in reference to Digital Markets would be to prevent anti-competitive conduct by firms like abuse of dominance, predatory pricing, etc. by keeping a check on anti-competitive practices, any competition policy or law shall ensure that new entrants are able to get a fair chance in the markets.

Ensuring and protecting consumer welfare: The aim of any competition policy is to ensure that consumers' interests are protected. That they do not fall victim to abusive and unfair business practices adopted by firms. This is ensured by regulating the conduct of firms within the digital markets by suitable provisions of law. Competition policy guides the lawmakers to draft a competition law that is able to serve this purpose.

Ensuring equal access to market to all players: Digital Markets being fitted with the benefits of network effects and economies of scale enable firms to enjoy dominant positions. It is the endeavor of any competition policy that dominant firms must not abuse their dominant positions to prevent the entry of new entrants or restrict access to markets by existing firms. Competition policies aim to prevent unfair business practices like tying agreements or any other anti-competitive agreement.

Ensures International Cooperation to deal with competition issues: The ambit of the digital economy is not confined to any specific jurisdiction but encompasses the whole world. This leads to cross-border competition issues which are challenging to deal with in the absence of international competition authorities of all nations.

Ensuring Privacy and Data Protection: the digital economy functions on data collected from consumers. Competition Policy for digital markets must deal with issues like the collection and sharing of data, such that the privacy of consumers is not infringed.

Challenges faced by competition policy in Digital Markets:

The biggest challenge in faced in drafting any competition policy for Digital Markets is the complexity of Digital Economy itself. The economy functions through digital markets which function through digital platforms. A platform provides the basis(primarily technological) for the delivery or aggregation of services. While performing this function, a platform acts as a mediator between the service provider and the end user. Firms operating in the digital economy often have their own platforms. These platforms are stacked on each other and provide multiple routes to reach the end user. This often creates a complex scenario as multiple competitors can access users at the same time through the same platforms. Digital Services have network effects that enable market concentration. Services can be provided through multiple routes making the market contestable which means that it is easier for new entrants to challenge the market power than in any traditional economy. The combined effect of network effects and contestability of market, accord such dynamics to Digital Markets that is not possible otherwise in any market.

Digital markets have a different set of business models working through them. Primarily there are three types of business models: the subscription model(where users pay for a service), the advertisement model(where users pay revenue indirectly by being exposed to advertisements. ¹⁰YouTube is an example of this kind of a business model.) and access model(where the content developers pay to reach to the user example App store.) These business models exploit network effects which results in market concentration. As markets are multi-sided, a dominant firm or technologically more advanced firm can use its dominant

¹⁰ Nicolai VAN GORP & Dr Olga BATURA, *Challenges for Competition Policy in a Digitalised Economy* (2015) Directorate General For Internal Policies [https://www.europarl.europa.eu/RegData/etudes/STUD/2015/542235/IPOL_STU\(2015\)542235_EN.pdf](https://www.europarl.europa.eu/RegData/etudes/STUD/2015/542235/IPOL_STU(2015)542235_EN.pdf) (last visited April 1, 2024)

position in one market to attract consumers in other markets, thus blurring the market distinctions. Such firms are able to make the best use of networking effects. As networking effects leads to high market concentration making it difficult for competitors to challenge the powerful position of any particular firm.

Many firms in the Digital Markets act as gatekeepers (intermediaries between businesses and end users).¹¹ The gatekeeper position accords a dominant position enabling them to earn huge profits. Profits provide incentives to other firms to enter the market. However such firms to compete with the existing dominant firm, have to come up with innovative business ideas to break the customer base. They therefore indulge in coming up with such business models that disrupt the existing market. new entrants who have a variety of ways to reach the user have the possibility of bypassing the gatekeeper. Digital companies thus are under constant pressure to have innovative business ideas be it in the area of business ideas or technology. As both incumbents and entrants constantly innovate, the boundaries of the market are constantly redefined

Transactions on digital markets rely on the data of its consumers. Data holds strategic value for the firms operating through digital markets. Data collected from consumers allows firms to do predictive analysis based on which they make their business decisions. access to consumer data gives a competitive advantage to the firms over their counterparts. Firms therefore are not willing to share the data which leads to interoperability of digital platforms. Lack of interoperability makes large firms face less threat of entry of new entrants and thus reduces any incentive to innovate. By exercising control over technology also the dominant position of gatekeeper can be overcome and so firms thrive to gain possible control over the technology. Acquiring a patent thus becomes a necessity for the firms to win the battle of leadership.

Challenges to consumers:

Digitalization of business, while has offered better service and new goods and services, it is not without its vices. Concerns as to privacy, transparency, security, discrimination. New issues like that of ownership and safety of products have also surmounted¹².

- *Transparency:*

It is important that transactions undertaken by companies in the digital markets offer transparency. Companies must submit all legal and other disclosures timely. Data contains sensitive information. It may contain personal information concerning the consumer like date of birth, number of family members, home address etc. data can also relate to physiological issue like health-related matter, allergies, sexual activity etc. consumer shares such information under confidence that it shall be used only for said purposes (as agreed). It is important that a confirmation regarding the same must be given to the consumers. hence transparency is of utmost importance. Transparency and disclosure requirement at time can be very challenging when related to digital platforms as consumers have limited understanding of the complexity of algorithms and technologies which are mostly AI based. Consumers generally have no understanding as to “who is behind things”. Because consumers have limited understanding of the

¹¹ Ibid

¹² Jacques Crémer, Yves-Alexandre de Montjoye Competition Policy for the digital era

complexities of how technology works and how data is shared, it may result into lack of clarity as to issues like ownership, interoperability etc.

- Security and privacy issues:

Digital platforms work on data collected from consumers. use of consumer data raises privacy as well as security issues.¹³ Concerns are raised as to whether companies that thrive on consumer data, comply with ethical standards of concerning using of consumer data? What if they misuse the data of consumers so collected? In case of breach what remedies can the company offer to consumers?

- *Accountability*

Accountability concerns are yet another dimension to the challenges associated with the use of digital space. ¹⁴Digital Ecosystems and new business models raise procedural concerns as to in case of any breach, who shall be held accountable? The question becomes of importance especially in multinational companies that have their branches or zonal offices in different countries, while head office in their mother country. In case of interrelated IoT devices accountability and fixing liability may become all the more complex. Consumers may find it difficult to determine which segment of the digital ecosystem, fault occurred. Further sellers can attempt to avoid responsibility and liability in countries that have weak consumer protection laws.

- *Interoperability*

Interoperability ensures that systems and devices can work together. Restricting interoperability *may lead to innovation. It also helps in safeguarding privacy. Thus, interoperability is good. It benefits by avoiding “lock-in” and help consumer make choice, thus facilitating competition.*¹⁵

- Traditional principles of ownership stand changed: when consumers buy an AI based technology, they actually buy the whole device i.e. the hardware. They technically thus be regarded as owners the device. However, when purchasing the hardware, the device comes along with a license. License is given on certain terms and conditions which limit the conditions of repair and use of the device. This challenges traditional assumptions regarding ownership.

¹³ Jahongir Babayev, Safeguarding Consumer Rights in the Digital Age: Challenges and Strategies [https://www.researchgate.net/publication/382849320 Safeguarding Consumer Rights in the Digital Age Challenges and S strategies](https://www.researchgate.net/publication/382849320_Safeguarding_Consumer_Rights_in_the_Digital_Age_Challenges_and_S_strategies)

¹⁴ Rajiv Khare & Gargi Rajvanshi , E-Commerce and Consumer Protection : A Critical Analysis of Legal Regulations, International Journal on Consumer Law and Practise <https://repository.nls.ac.in/cgi/viewcontent.cgi?article=1019&context=ijclp>

¹⁵ Digital Platform Regulation: Global Perspectives on Internet Governance<available at <https://library.oapen.org/bitstream/id/4c449edf-6312-428c-94ed-45aa230602cf/978-3-030-95220-4.pdf>>

Challenges faced by Governments:

Governments must assess whether the existing consumer protection legislations are effective in the new digitally transformed era. It must seek to ensure that no gaps exist. Governments must work upon their competencies and upgrade them as per needs. Businesses and industry also play a role in helping the government in ensuring tackling with new challenges. Any policy relating to consumers is made technologically neutral. The scope of such policy is kept wide so that new technological innovations can be accommodated with time. But having an open-ended consumer policy itself does not absolve the government of its responsibility to be prepared for any last-minute changes. Governments must continuously upgrade their policies keeping pace with the technological developments.¹⁶

Conclusion:

The objective of competition regulations is to ensure economic and social welfare. Digital Economy is not a term confined to any specific jurisdiction but is all pervasive in different economies of the world. The competition authorities for this reason today are actually working at a geopolitical level which is protectionist in nature. Domestic firms feel threatened by the dominance of technologically advanced firms that have the potential of misusing their position to harm the other less advanced firms. Digital Markets are unique and distinct from traditional markets. The peculiar characteristics of these markets require further research into the constitution and functioning of these markets and analyzing them vis a vis the impact caused on consumers. The existing regulatory system is not adaptable to the functioning of Digital Markets. Under such circumstances, it is imperative to frame competition policy keeping in mind the complexities of digital markets while also keeping in mind the political objectives of every country. Technological Advancements have opened the doors for greater economic opportunity. Competition Policies must endeavor to the economic and social benefit that is so derived while at the same time regulating the markets efficiently so as to curtail the negative impact of these technological advancements on consumers as well as other firms. It is important that governments stay abreast of consumer related matters arising in the digital markets. A challenge for the governments is to acquire the technical expertise needed to deal with the issues relating to the digital market. Digital transactions involve digital payments. Digital Payments are prone to Online fraud. Detection of such fraudulent activities is a daunting task and require an expertise. As transactions are global, interoperation cooperation shall be required to tackle with the problem of online fraudulent activities. Nature of digital transactions is transnational. Disputes arising thus involve various jurisdictional issues. Further the nature of digital transaction is such that involves matters relating to different disciplines. A collaborative approach of all discipline shall be required to address matters like labour rights, consumer rights, seller accountability etc. A cooperation of competition authorities will be required as the issues raised deal with consumer rights,

¹⁶ For example: the Government of the United Kingdom published a White Paper on Modernising Consumer Markets: Consumer Green Paper and has also undertaken a Smart Data Review (Department for Business, Energy and Industrial Strategy, 2018[27]; UK Government, 2019[28]). These papers look at some of the challenges raised by new technologies and business models

competition matters, data protection as well data security. Government cooperation shall act as key to solve this problem.

As possible solutions:

- The competition authorities must change their approach towards analysing adverse effects on competition from the yardstick of consumer welfare to business practices adopted by firms. For example, firms use predatory pricing to erase competition from the market. It may appear that lower pricing is helping consumers, they are however at a loss in the longer run.
- Investigations into factors that enable a strong dominant position in the market must be analyzed. In the digital markets the traditional theory of market share enabling a dominant position alone does not fit, for innovation plays a crucial role in enabling a firm to achieve a dominant position in the market.
- The tools for enforcement must be revamped to adapt to new technological changes.

Digital sovereignty has emerged as a crucial goal for governments while making policy regulating digital platforms. There is influence of tech companies on domestic politics. Governments all over the world have begun to take steps to regulate more directly digital platforms. and more actively perceived harms and to strengthen state oversight and control. there are however no clear guidelines nor any uniformity, as to regulating digital platforms. US technology provision remains the dominant force in shaping global norms, while EU regulation is its most influential check. Some suggest that new regulatory regimes must be set in place. Piecemeal approach is not adequate. It has been found that where there is special agency to deal with these issues reconciliation is easier than those jurisdictions where there are only courts which have been tasked to deal with digital world cases. In India too is coming up with its new set of laws to tackle digital law challenges. The Digital India Act¹⁷ shall be India's newest legal framework for regulating the online platforms and digital data protection policies. The Digital India Act shall replace the existing Information Technology Act (IT Act) of 2000. Shall govern the digital laws of the country. Though nascent stage but much hope is for these laws to provide the necessary relief. Regulating digital platforms with responsibility is the need of the hour. Dynamics of technology are not simple to be comprehended. Too narrow or one sided approach is not feasible. The only solution is balance. The new future of humans shall be technology centric. It is essential that while attempts are made to learn safely and effectively the digital platforms, attempts must be made also to regulate them. Unregulated use of technology can prove disastrous to the interest of humans. Let technology be there to assist us and not to rule us. Since the advent of digital markets, there have been various cases of firms indulging in unfair or abusive business practices. Due to a lack of understanding of the concept of digital markets, their functioning, and impact, Courts are as of now forced to decide cases keeping in mind the interest of the consumers. The decisions of the Courts are forming the base for Governments to frame their own Digital Competition Laws. Major jurisdiction like the EU, UK, and US have already enacted their own separate

¹⁷ Proposed Digital India Act, 2023<available

at https://www.meity.gov.in/writereaddata/files/DIA_Presentation%2009.03.2023%20Final.pdf>

Digital Competition Law. India too learning its lesson has constituted a committee¹⁸ to study the possibility of framing a new Digital Competition Law suiting the Indian Jurisdiction. The draft Digital Competition Law Bill 2024 is a result of such deliberation. The draft is a much-anticipated action expected by the people of India. The purpose of any competition law is to ensure healthy competition in any jurisdiction. The new draft bill proposes to strike a balance between the interests of both the firms the competing firms and the consumers. Though yet a draft, the endeavor is to formulate a codified law that can serve the interest of all the stakeholders involved in transacting through the digital markets. It is hoped that in the coming times, with the help of all stakeholders involved India will be able to have its own codified Digital Competition Law.



¹⁸ Report of the Committee on Digital Competition Law, Ministry of Corporate Affairs Government of India (February 27, 2024) <https://www.mca.gov.in/bin/dms/getdocument?mds=gzGtvSkE3zIVhAuBe2pbow%253D%253D&type=open#:~:text=Si nce%20digital%20markets%2> (last visited April 25, 2024)