

Meta's Digital Dominance and India's Competition Act, 2002

Table of Content

| | |
|--|-----------|
| Abstract | 2 |
| Introduction | 2 |
| Provisions under the Competition Act, 2002 | 3 |
| Meta's dominance in India | 5 |
| What do the statistics say? | 5 |
| Free or Zero-Price? Is 'Data' the real price? | 7 |
| Switching cost | 8 |
| Entry barrier | 8 |
| Meta's abuse of dominance in India | 9 |
| Shri Vinod Kumar Gupta, Chartered Accountant Vs. WhatsApp Inc. (2016) | 9 |
| Harshita Chawla v Whatsapp and Facebook (2020) | 10 |
| In Re: Updated Terms of Service and Privacy Policy for WhatsApp Users, Antitrust Suo Moto (2021) | 10 |
| Decoding Abuse of Dominance and Understanding the CCI's Jurisprudence | 11 |
| Meta's digital dominance in other countries | 12 |
| Way Forward | 14 |
| Conclusion | 15 |
| Bibliography | 15 |

Abstract

The paper explores the dominance of the Meta Platforms Inc.- the parent company of Facebook, Whatsapp, Instagram and Threads. The paper notes several provisions of the Indian Competition Act, 2002 related to the digital space and studies the dominance of Meta in India through various factors like statistics, zero pricing, switching cost, etc. It further analyzes the abuse of dominance by Meta through studying a few cases undertaken by the CCI. Lastly, the paper briefly talks about Meta's dominance in the European Union and suggests ways for strengthening the regulation on digital market space.

Introduction

With the advent of the internet, technological innovations and upgrades, the digital space for communication and interaction has expanded like never before. Social media platforms, especially after the COVID- 19 pandemic have become crucial means of communication. Social media platforms have gained immense popularity with millions of f users around the globe from all corners of the world. Social media sites have photo sharing platforms like Facebook, video sharing applications like Instagram and YouTube, discussion platforms like Reddit, dating applications like Tinder or Bumble.

Meta, formerly known as Facebook, has risen to become a giant player in the space of digital communication. Meta is an American multinational technology conglomerate based in California. Facebook, WhatsApp and Instagram are the prominent social media platforms, among other products and services, owned by Meta. Just like traditional markets, the digital market is witnessing increased competition among several entities including Meta and its competitors like Twitter, Apple, Google, Microsoft, Snapchat, LinkedIn, Amazon etc. Therefore, it becomes an imperative of the national government to keep a check on the market environment in the digital space. Competition holds a special significance in today's neo liberal and post-modern economics.

Provisions under the Competition Act, 2002

Competition, as championed by classical liberals, is necessary for the market's stability, sustainable economy and long term-growth with negligible interference of the government. But interference of institutions like the government becomes necessary to keep the competition healthy. The Government of India passed "The Competition Act, 2002" following the philosophy of the

modern competition laws. Considered to be the brainchild of the the Vajpayee government, the Competition Act was passed to forbid anti-competitive agreements, abuse of dominance in the market that could negatively hamper competition in India as well as foster pro-competitive behavior especially in the light of the 1991 policy of liberalisation, privatisation and globalisation. The Act also constituted for the establishment of the Competition Commission of India (CCI).

Following are some of the important provision under the Act:

- I. Relevant Market¹- As per the Act, the relevant market is to be determined by the CCI with reference to the relevant product market or relevant geographic market.
 - A. Relevant Product Market- is a market comprising all those products or services which are regarded as interchangeable or substitutable by consumers by reason of characteristic of products or services, their price and intended use, etc.
 - B. Relevant Geographic Market- is a market comprising the area in which the conditions of competition for supply of goods or provisions of services or demand of goods or services are distinctly homogeneous and can be distinguished from the conditions prevailing in the neighboring areas.
- II. Dominance/ Dominant Position- According to the Act an enterprise is said to enjoy a dominant position if it operates independently of the competitive forces prevailing in the relevant market or affects its competitors or consumers or the relevant market in its favor. The act has laid down several factors to determine the dominant position of an enterprise such as the enterprise's market share, economic power of the enterprise, size and resources of the enterprise, vertical integration, market structure and size of market, source of dominant power, etc. provision relating to abuse of dominance have been discussed further in the paper.
- III. Abuse of Dominant Position²- according to the act, for an enterprise abuse of its dominant position is prohibited, and not merely, being in a position of dominance . The act defines the 'dominant position' of an enterprise as one which enables it to operate independently of competitive forces prevailing in the relevant market or affects its competitors or consumers or the relevant market in its favour.³ Abuse of dominant position includes predatory pricing, imposing unfair conditions or prices, barrier to entry limiting production/market or technical development, using dominant position in one market to gain advantage in another market, etc. In its advocacy series on abuse of dominance, the CCI mentions that

¹ Section 2 (r) of The Competition Act, 2002 of Government of India

² Section 4 of The Competition Act, 2002 of Government of India

³ Explanation to Section 4 (a) of The Competition Act, 2002 of Government of India

abuse of dominance falls into 2 broad categories- exploitative (eg. excessive or discriminatory pricing) and exclusionary (eg. denial to market access)

- IV. Anti-Competitive Agreements⁴- According to the Act no enterprise or person shall enter into any agreement in respect of production, supply, distribution, storage, acquisition or control of goods or provision of services which causes or is likely to cause an appreciable adverse effect on the competition within India. The act provides a list of anti-competitive agreements namely price fixing, limiting production, market sharing and entry control. The Act protects both horizontal as well as vertical agreements.⁵
- V. Competition Commission of India (CCI)- As given in the section 19 of the act the competition commission of India may inquire into any alleged contravention of Section 4(1) of the Act that deals with abuse of dominance. The section 19(4) gives a detailed list of factors that the Commission shall consider while inquiring into any allegations of abuse of dominance. The Commission on being satisfied that there exists a *prima facie* case of abuse of dominance, shall direct the DG Director General to cause an investigation and furnish a report. The functions of the Competition Commission of India are as follows
- A. Insuring that the benefit and welfare of the customers are maintained in the Indian market
 - B. An accelerated and inclusive economic growth through ensuring fair and healthy competition in the economic activities of the nation
 - C. The Commission also undertakes competition advocacy
 - D. It is also the antitrust ombudsman for small organizations
 - E. The CCI will also scrutinize any foreign company that enters the Indian market through a merger or acquisition to ensure that it abides by the India's competition laws-the competition act 2002

⁴ Section 3 of the Competitive Act, 2002 of Government of India

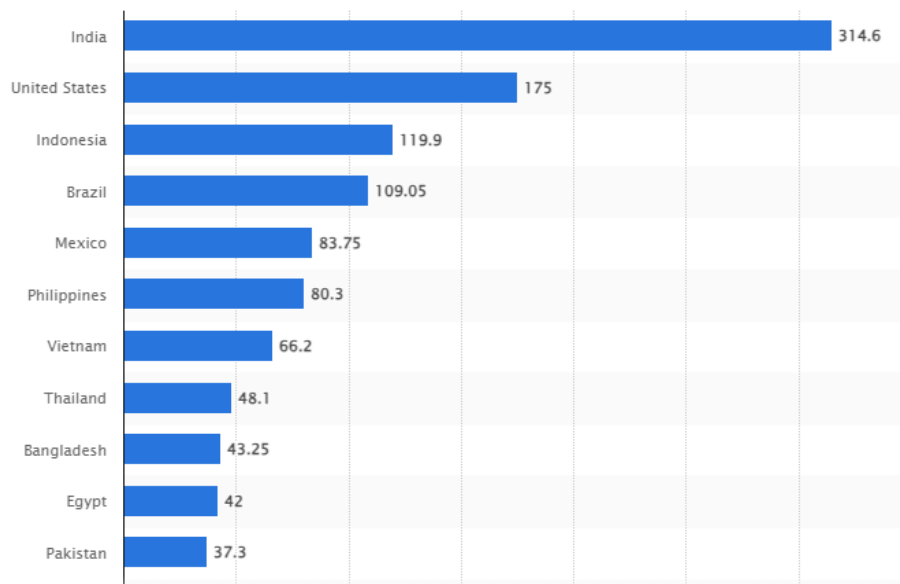
⁵ Horizontal Agreements are between businesses at the same level of production. Vertical Agreements are between businesses at various phases of production.

<https://blog.iplayers.in/the-competition-act-2002/>

Meta's dominance in India

What do the statistics say?

All the three social media platforms of Meta- Facebook, Whatsapp and Instagram have their largest market in India. Facebook, which was introduced in India in 2006, gained instant popularity due to its novel features. While it is difficult to obtain the exact data about the Meta users in India, *Graph 1* (below) by Statista, gives us an account of the Facebook users in India as of January 2023. Approximately, India accounts for 314.6 million (31.46 crore) Facebook users.



Graph 1: Leading countries based on Facebook audience size as of January 2023 (in millions)⁶

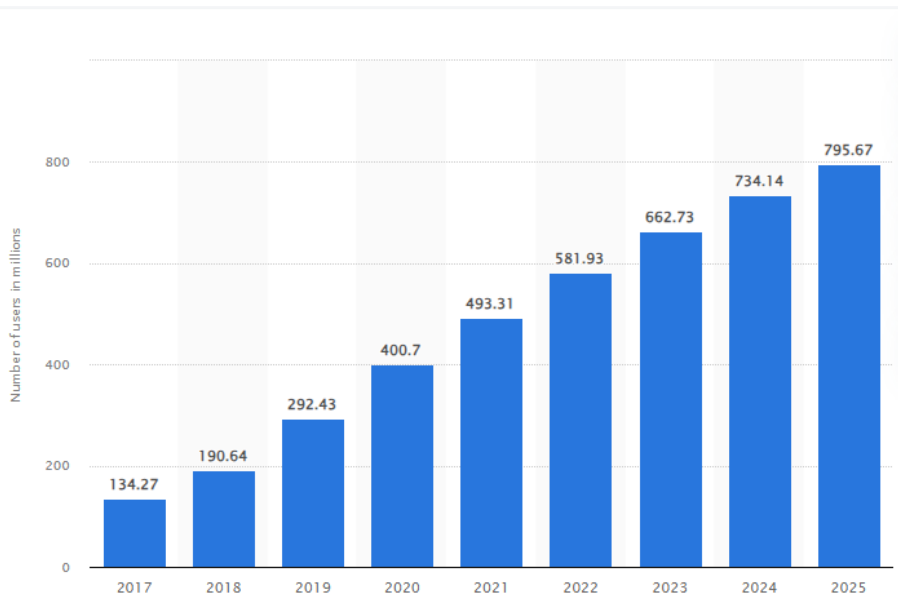
During a press conference in 2021, the then Union Minister of Communication and Information Technology Shri. Ravi Shankar Prasad informed that WhatsApp had 530 million (53 crore) users in India followed by YouTube with 448 million (44.8 crore) users. He further added that Facebook had 410 million (41 crore), Instagram had 210 million (21 crore) and Twitter had 17.5 million (1.75 crore) users in the country, back then.⁷ This means that Meta's social media platforms rank two among the top 3 in India and three among the top 5 in India.

Whatsapp which was introduced in 2009 in India gained instant popularity as a messaging platform within a few years as its launch was coupled with the increasing use of smartphones in the

⁶ <https://www.statista.com/statistics/268136/top-15-countries-based-on-number-of-facebook-users/>

⁷ Upadhyay, Harsh. (2021) "Govt says WhatsApp has 530 Mn users in India", *ENTRACKR* <https://entrackr.com/2021/02/govt-says-whatsapp-has-530-mn-users-in-india/>

country. *Graph 2* (below), taken from Statista, shows us the number of Whatsapp users in India from 2017 and also projects the users' congregation up to 2025.



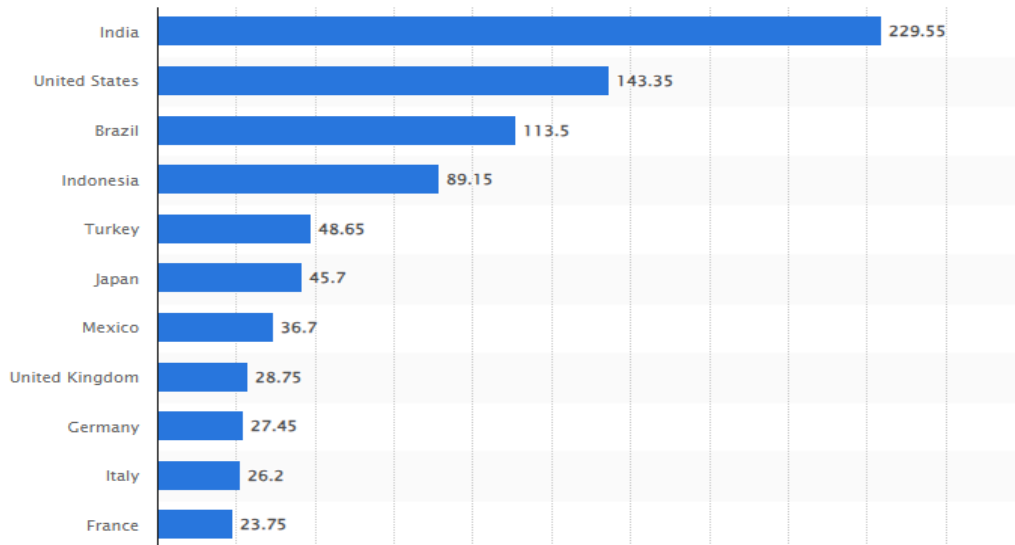
Graph 2: Forecast of the number of Whatsapp users in India from 2017 to 2025 (*in millions*)⁸

Just like its cohorts, Facebook and Whatsapp, Instagram has most of its users coming from India.

Graph 3, taken from Statista, the Instagram users in India, as of January 2023, are 229 million (22.9 crore). Instagram, which was introduced in India in 2010 just like WhatsApp, gained popularity as a platform to share photographs and later on videos. Instagram's user base in India expanded especially after 2020 when the Indian government banned the video sharing app Tik Tok after border skirmishes with China. Several new features of Instagram like 'reels' have helped the app gain followers after Tik Tok was banned in India. Reels (short form videos) worked just like Tik Tok. Instagram was able to attract the former Tik Tok users to itself and India became the leading user country of this social media platform.

From the above statistics it is clear that Meta's ventures in India have been successful since its introduction in India. Facebook, WhatsApp and Instagram-all three with distinct functions-have become a part of an average Indian's life. The fact that these three social media platforms provide all of its services free of cost without any 'exclusive paid feature' makes it even more suitable and accessible for a common Indian.

⁸ <https://www.statista.com/forecasts/1146773/whatsapp-users-in-india>



Graph 3: Leading countries based on Instagram audience size as of January 2023 (*in millions*)⁹

Free or Zero-Price? Is ‘Data’ the real price?

Social media platforms are characterized by the same-side network effect and cross-side network effect.¹⁰ Consumers access the social media platforms for ‘free’ but at the same time compensate for the platform by unwillingly watching the advertisements. In turn, the platform uses its consumer base as a bargaining tool to charge the advertisers for access to these consumers. Even though social media platforms, like those of Meta, charge ₹0 or \$0 or EUR0, services on these platforms are not actually “free”. Despite not having ‘positive prices attached’, companies like Meta compensate for their services in exchange of the consumer’s attention or personal information.¹¹ Therefore it will be more appropriate to call the lack of positive pricing by social media platforms as ‘zero-pricing’ and not ‘free’ services. All this results in Information cost and Attention cost to the users.¹² For example, the users have to provide Facebook with information like their name, phone number, age, e-mail, relationship status, etc in the initial stages in order to open an account. Facebook and Instagram further track user information in implicit manner- by tracking their activity while engaging on a particular post, page, etc. Such take-it-or-leave-it approach of Meta gives little consent to the users over their data sharing and prevents them from avoiding personalized

⁹ <https://www.statista.com/statistics/578364/countries-with-most-instagram-users/>

¹⁰ [Sznajder, Marta. “No Strings Attached? Zero-Price Practice on social media markets under EU: Abuse of Dominance Assessment”.](#)

¹¹ [Ibid.](#)

¹² [Ibid.](#)

advertisement. Secondly, users, whether they wish or not, are compelled to watch the advertisements on the social media platforms. This is nothing but the attention cost.

Switching cost

It is a human tendency to stick to any practice or behavior which has been continued for a long period of time. Similar patterns can be observed in terms of usage of social media platforms. If an individual is habituated to using Facebook or WhatsApp, it becomes difficult for him/ her to shift to another social media platform. Moreover if that individual's social circle at large is a part of one particular social media platform it doesn't make sense for that one individual to shift to some other social media platform even when data or privacy are at stake. The switching cost for a user from one social media platform to the other is high and in turn helps the market leader, in this case Meta, to further maintain their dominant position.

Entry barrier

Here it is important to note that market access or entry barrier is not only limited to an enterprise's entry into the market but also its capability to thrive and sustain in the market along with its competitors. In the case of social media platforms, strong network effects determine access to the market. Network effect is the phenomenon whereby the utility of a platform for both users and advertisers increases with an increase in users. At any point, Facebook and Whatsapp has a large user base in its relevant market surpassing its competitors multiple times. In addition to this the competition that Facebook and Whatsapp face is within the same family- mainly by Facebook messenger or Instagram- resulting in further solidification of Meta's network advantage. Secondly, availability of data with Meta in comparison to its competitors plays an important role. The Competition Law Review Committee has noted that 'access to data can represent a form of competitive advantage'¹³ since it helps to improve the quality of service therefore getting even more users. The CCI in its 2021 *suo moto* case against WhatsApp noted that lower data protection by a dominant firm like Meta not only leads to exploitation of the consumers or consolidation of its dominant position but leads to 'exclusionary effects' as Meta further entrenches their position into neighboring or unrelated markets such as display advertising market, resulting in entry barriers for new entrance. Thirdly, pre-installed Facebook apps, especially in Android smartphones, have been viewed as an entry barrier.

¹³ [WhatsApp's 2021 privacy policy alterations](#)

Meta's abuse of dominance in India

Shri Vinod Kumar Gupta, Chartered Accountant Vs. WhatsApp Inc. (2016)

In *Shri Vinod Kumar Gupta, Chartered Accountant Vs. WhatsApp Inc.*,¹⁴ the informant stated that WhatsApp's new privacy policy had forced its users to share their account details and other information with 'Facebook' in order to continue availing the service of WhatsApp. It is important to note that prior to this the Facebook and WhatsApp merge had taken place in 2014 itself. The informant also accused WhatsApp of predatory pricing. WhatsApp charged US \$0.99 per annum before 2016 and made its services free of cost after 2016. It also alleged that by mandating the users to agree with its terms of service and privacy policy, as updated in August 2016, WhatsApp had been sharing the information of its users with Facebook, which in turn was being used by Facebook for targeted advertisements. It is important to note that the Commission viewed WhatsApp's relevant market as "the market for instant messaging services using consumer communication apps through smartphones in India". The Commission identified WhatsApp as a dominant player in its relevant market but opined that there was no 'abuse of dominance'. The Commission sided with WhatsApp's argument over the data sharing terms of the privacy policy saying that 'WhatsApp had provided the option to its users to opt out of sharing users account information with Facebook within 30 days of agreeing to the updated terms of services and privacy policy'. Secondly, the Commission believed that this data sharing was to the 'Facebook family of Companies' for purposes of improving infrastructure and delivery systems, fighting spam, etc. and therefore this data would be largely used for improving WhatsApp's customer service. Thirdly, the Commission denied WhatsApp's alleged indulgence into predatory pricing saying that several other applications in the relevant market like Hike and Messenger also provided the services free of cost. The CCI noted that violations of the IT Act 2000 and the right to privacy did not fall under its jurisdiction.

Harshita Chawla v WhatsApp and Facebook (2020)

Taking in consideration the changing scenario, the CCI stated the relevant market for WhatsApp to be "market for OTT messaging apps through smartphones in India".¹⁵ In this case the CCI examined whether WhatsApp abused its dominant position in the OTT messaging market in India through integration of a payment platform called 'WhatsApp Pay'. As a result of this integration, WhatsApp Pay would be pre-installed along with the messaging app WhatsApp when users downloaded the app. The case made by the petitioner included several claims such as 'pre

¹⁴ [Shri Vinod Kumar Gupta, Chartered Accountant Vs. WhatsApp Inc. Case 99 of 2016](#)

¹⁵ [Harshita Chawla Vs. WhatsApp Inc. and others](#)

installation amount to imposition of unfair terms and conditions on users by dominant entity ie. WhatsApp'. CCI employed the 'users choice test' to determine whether the 'tie' between WhatsApp and Whatsapp pay leads to abuse of dominance. The CCI noted that WhatsApp had clarified that there was no need for the user to utilize Whatsapp pay in order to access the messaging service of WhatsApp. They also clarified that the user will retain full freedom in choosing the payment platform of their choice while still being using the WhatsApp messaging services. The Commission concluded saying "Thus, in the absence of any explicit or implicit imposition which takes away this discretion, the mere integration does not seem to contravene Section 4(2)(a)(i) of the Act."

In Re: Updated Terms of Service and Privacy Policy for WhatsApp Users, Antitrust Suo Moto (2021)

The Competition Commission of India (CCI) took *suo moto* cognizance of Whatsapp's updated privacy policy and terms of service in 2021.¹⁶ The CCI *inter alia* reported that the new policy made it mandatory for users to accept the updated privacy policy of WhatsApp to retain their WhatsApp account and their personalized information would be shared with Facebook. Facebook reported that WhatsApp and Facebook are 'separate and distinct legal entities' and wished to stay out of the case.

The CCI noted that in the 2021 updated privacy policy, consent to sharing and integration of users data across the Facebook family for an array of purposes has been made a pre-condition for availing Whatsapp services. It also noted that the earlier 'opt-out' provision of the 2016 policy had now been removed by Whatsapp. The users had to mandatorily share their personalized data with whatsapp making the data collection policy 'unduly expansive and disproportionate'. The CCI is of *prima facie* opinion that the take-it-or-leave-it nature of the privacy policy violates Section 4 of the Competition Act. The Commission opined that the questionable nature of Whatsapp's data sharing with Facebook 'apparently amounts to degradation of non-price parameters of competition viz. Quality'.

Decoding Abuse of Dominance and Understanding the CCI's Jurisprudence

¹⁶ [In Re: Updated Terms of Service and Privacy Policy for WhatsApp Users](#)

From the above discussion it is amply clear that social media platforms gather highly valuable personal information of its users which is then processed by artificial intelligence driven systems deputed by these digital platforms. This collected data is then used as an input and sold to advertisers resulting in targeted advertising. Therefore social media platforms strive hard to bring in new features on their platforms to increase the 'user engagement' that will lead to greater data collection from the users.

Secondly, it is difficult to analyze consumer welfare in a digital market. One of the ways of understanding consumer welfare can be done by noting the amount of freedom (wrt to competition) a particular consumer enjoys while being on a social media platform. Consumer welfare might be declining if the user is strategically bound to the platform or there is a strategically excessive or prohibitive cost of switching to other platforms.¹⁷ In this case, the said social media platform abused its dominant position in the digital market.

Another tool of analyzing consumer welfare in digital markets is the quality theory of harm which says that 'consumer welfare is reduced if privacy structure is weak, which is a non-price, antitrust parameter'.¹⁸ The economist came up with the small but significant non transitory increasing price test (SSNIP). However SSNIP test was non applicable to social media platforms most of whom provided the services for free. The European Commission came up with a small but significant non-transitional decrease in quality test (SSNDQ) that measures the decrease in quality of online platforms due to lack of competition.

The judgements given by the CCI have also been criticized time and again for being amateur and limited in its scope. In the 2021 Whatsapp Pay probe, the Commission noted that there was no implicit or explicit imposition/ coercion by Whatsapp on the users. However it's important to understand that the CCI here has viewed coercion as a narrow concept. As per the OECD Report, coercion in digital market space is different from that of the traditional market. In the *Microsoft vs Commission* the Court of First Instance of the European Union noted that 'coercion exists when a dominant undertaking deprives its customers of the realistic choice of buying the time product

¹⁷ Digital Dominance and Social Media Platforms: Are Competition Authorities Up to the Task?
<https://doi.org/10.1007/s40319-023-01302-1>

¹⁸ [Big Data Sets](#)

without the tied product'.¹⁹ According to the OECD Report, in a digital market even a small nudge (here, pre-installation) can be considered as a coercion.²⁰

The 2021 Whatsapp privacy case provides an opportunity to the CCI to make mature and more liberal interpretations of the Competition Act. As mentioned above, the CCI has questioned the 2021 privacy policy since it fails the 'users choice test'. In the 2016 case, the users had the option to opt-out and use the application without sharing their data with Facebook. While in the 2020 Whatsapp Pay case, users could access the messaging services of Whatsapp without subscribing to the Whatsapp Pay. Unlike these two instances, the 2021 update didn't give users an option to take their consent for data sharing with Facebook.

In the 2021 Whatsapp privacy case, scholars have scrutinized the CCI's understanding of the relevant market. The Commission copied its understanding of the relevant market for Whatsapp from its 2020 case, neglecting changes in the market environment. For instance, the Commission noted the use of Whatsapp to be 'through smartphones'. This ignores the fact that as compared to 2016, a greater number of users in 2021 resorted to the web/browser version of Whatsapp.

Meta's digital dominance in other countries

Just like India, Meta has established itself as a dominant player in the western countries, the place from which it originated. In this section we will briefly discuss Meta's dominance in the European countries and how regulatory mechanisms in Europe have dealt with Meta's abuse of dominance. The Meta Platform revealed that it had 255 million average monthly active users on Facebook and about 250 million average monthly active users on Instagram in the last six months of 2022 in the European Union.²¹

The European nations, at the national as well as at the level of the European Commission (EC), have strictly scrutinized issues relating to data, privacy and social media platforms. The possibility of access to and use of data being a factor for determining whether an undertaking exerts dominance is generally recognised within the framework of abuse of dominance. Scholars have argued that data

¹⁹https://competitionlawblog.kluwercompetitionlaw.com/2021/01/11/the-problematic-stance-of-cci-in-whatsapp-pay-tying-case-an-opportunity-missed/#_ftn4

²⁰ OECD (2020), Abuse of dominance in digital markets, 44

www.oecd.org/daf/competition/abuse-of-dominance-in-digital-markets-2020.pdf last accessed on 06.01.21

²¹<https://www.gadgets360.com/internet/news/google-twitter-meta-strict-eu-online-content-rules-digital-services-act-monthly-users-3790155>

related abuses can be adjudicated under Art. 102 of the Treaty on the Functioning of the European Union (TFEU).²² The German Federal Cartel Organisation (FCO) initiated proceedings against Facebook in 2016 for Facebook's data collection through third-party sources and violation of data protection laws. The FCO, in its preliminary assessment noted that Facebook collects users data through its own services like Instagram and Whatsapp as well as other third party sources that have embedded 'Facebook Analytics', etc. The FCO handed down a final decision on Facebook in February 2019, holding that Facebook's collection and merging of user data constitutes an abuse of dominant position under Sec. 19 of the German Competition Act (GWB). It held that, for the purposes of competition analysis, unfair or incorrect contractual terms could constitute exploitative abuse under German case law. In this case, the Commission found that consumers were damaged as a result of loss of control and lack of choice in how their data would be collected. Furthermore, the FCO observed that Facebook's conduct would be detrimental to competitors who were not able to obtain such a large volume of data. The FCO tried to establish a link between Facebook's dominance and the alleged abuse by noting that Facebook dominance had forced its users into agreeing the terms and conditions. The FCO also considered collection of personal data as a 'relevant competitive parameter' thereby blurring the distinction between data protection and competition law.

In yet another instance, the EC has moved investigation into Meta for its alleged abuse of dominance in handling the classified ads and the EC notes that Meta has tied its online classified ad services 'Facebook Marketplace' with its dominant personal social media network Facebook. Secondly, Meta unilaterally imposed unfair trading conditions on competing online classifieds at services which advertise on Facebook and Instagram. Well the story doesn't end here. The European Union in May 2023 imposed a whopping fine of \$1.3 billion on Meta for violating the GDPR (General Data Protection Regulation) and ordered a halt to data transfer from the EU to the US.

Way Forward

The Competition Act, 2002 was recently amended in the Parliament to incorporate several provisions relating to the competition in the digital market. Some of the noteworthy additions include:

- Deal Value Threshold- Any transaction (that results from merger or combination and could have an adverse effect on competition) that exceeds Rs. 2000 crore needs

²² [Kashish, Makkar & Saarthak, Jain. DATA-RELATED ABUSE OF DOMINANCE IN DIGITAL ECONOMY: A TEMPLATE FOR FUTURE REGULATION IN INDIA](#)

to get approval from the CCI. Earlier, due to lack of the threshold capacity, CCI could investigate the Facebook-Whatsapp merger.

- The Bill widens the ambit of ‘relevant market’ to include production of goods and services as substitutable by the suppliers.

Apart from this, the Standing Committee on Finance’s Report on ‘Anti-Competitive Practices by Big Tech Companies’ proposed ex-ante regulations to examine anti-competitive practices in the Indian digital market. The Committee has proposed for a new classification of ‘Systemically Important Digital Intermediaries’ (SIDI) that would comprise of the digital platforms that can negatively influence competitive conduct in digital ecosystems based on factors like number of active users, market size etc. Big-tech companies like Meta, Microsoft, Google, Apple could potentially come under SIDI. The Committee also recommended²³:

- SIDI, through means of bundling or tying should not force it’s users to subscribe to any additional services for being able to use their core platform service
 - SIDI should not cross utilize personal data collected from their platforms and share it with a third party and users should not be signed into other service platforms unless it is being consented from them
 - SIDI should not process for the purpose of targeted online advertising the personal data of users collected through services of third parties that make use of the core service platform
- Formulating a new Digital Competition Act

As recommended by the Standing Committee, formulation of a new Digital Competition Act in India has been the talk of the town for a long time. According to me, apart from the suggestions of the Standing Committee, the following are a few recommendations that the government must contemplate over while framing the new Digital Competition Act.

1. The Bill can regulate the collection, processing and the intended use of data sought by big-tech companies from its users. A profuse blend of competition, data protection and consumer welfare must be sought by the Bill.
2. The Bill can promote better interoperability between platforms that are alternative to the SIDI or gatekeepers.²⁴
3. The Bill can regulate spread of illegal content like hate speech, child sexual abuse, etc on digital platforms.
4. The Bill can regulate collection of users data by third party sources, outside the platforms core service.

²³ [Ex-ante regulations on competition in india](#)

²⁴ [Digital Market Act. EU](#)

Conclusion

The current Competition Act of India was framed during the years when technology and the digital world had just opened its doors to India. But now with the digital revolution in the country, not only social media platforms but e-commerce platforms have also expanded their bases in India's digital space. While the current law is capable of dealing with anti-competitive practices, additions and relevant changes in the law can help for better regulations especially in areas like gatekeeping, access to data, anti-competitive mergers, etc. The Indian policymakers can take insights from antitrust laws of the EU or America who have refined their understanding of the digital world.

Bibliography

- The Competition Act, 2002. Government of India. <https://www.cci.gov.in/images/legalframeworkact/en/the-competition-act-20021652103427.pdf>
- Sznajder, Marta (2021) “No-Strings Attached? Zer-Price Practices or Social Media Markets under EU Abuse of Dominance Assessment”, *Forthcoming in Yearbook of Antitrust and Regulatory Studies (YARS)*, vol.14(24). https://papers.ssrn.com/sol3/papers.cfm?abstract_id=3972263
- Nair, Aman & Basu, Arindrajit (2021) “The Competition Law Case Against Whatsapp’s 2021 Privacy Policy Alteration”, *The Centre for Internet and Society*. <https://cis-india.org/internet-governance/whatsapp-privacy-policy-competition-law>
- Shri Vinod Kumar Gupta, Chartered Accountant Vs. WhatsApp Inc., CCI. <https://cci.gov.in/images/antitrustorder/en/9920161652338476.pdf>
- Harshita Chawla v Whatsapp and Facebook, CCI. <https://cci.gov.in/antitrust/orders/details/118/0>
- In Re: Updated Terms of Service and Privacy Policy for WhatsApp Users, Antitrust Suo Moto, CCI. <https://www.cci.gov.in/antitrust/orders/details/100/0>
- Ong, B., Toh, D.J. Digital Dominance and Social Media Platforms: Are Competition Authorities Up to the Task?. *IIC* 54, 527–572 (2023). <https://doi.org/10.1007/s40319-023-01302-1>
- OECD (2020), Abuse of dominance in digital markets, www.oecd.org/daf/competition/abuse-of-dominance-in-digital-markets-2020.pdf

- Singh, Rajarshi & Abhi, Abhishek (2021) “The Problematic Stance of CCI in WhatsApp Pay Tying Case: An Opportunity Missed?” Kluwer Competition Law Blog. https://competitionlawblog.kluwercompetitionlaw.com/2021/01/11/the-problematic-stance-of-cci-in-whatsapp-pay-tying-case-an-opportunity-missed/#_ftn4
- Makkar, Kashish & Jain, Saarthak (2020) “Data-related Abuse of Dominance in Digital Economy: A Template for Future Regulations in India.” https://papers.ssrn.com/sol3/papers.cfm?abstract_id=3652593
- Europe Fit for the Digital Age: New Online Rules for Businesses. European Commission. https://commission.europa.eu/strategy-and-policy/priorities-2019-2024/europe-fit-digital-age/digital-services-act-ensuring-safe-and-accountable-online-environment/europe-fit-digital-age-new-online-rules-businesses_en
- Upadhyay, Harsh. (2021) “Govt says WhatsApp has 530 Mn users in India”, *ENTRACKR* <https://entrackr.com/2021/02/govt-says-whatsapp-has-530-mn-users-in-india/>
- Tomithy, Maxwell (2021) “3 Reasons Why Meta’s Social Media Dominance Should Scare You”, *Make Use Of*. <https://www.makeuseof.com/why-you-should-be-concerned-about-meta/>
- K.R.Srivats & Jayapriyanka J (2023) “Do we need the Digital Competition Act?”, *The Hindu BusinessLine*. <https://www.thehindubusinessline.com/multimedia/audio/digital-competition-act-need-of-the-hour-or-too-premature-for-india/article66674594.ece>
- Tapanjana, Rudra (2022) “2022 & The Many Controversies That Shook Meta’s India Dynamics” *INC24*. <https://inc42.com/features/it-may-be-raining-but-not-pouring-for-meta-in-india/>
- Sahoo, Sarthak (2023) “Abuse of Dominance in Digital Market”, *RGNU Student Research Review*. <https://rsrr.in/2023/05/01/whatsapp-abuse-dominance-market/>
- Sahoo, Sarthak (2023) “Data and Anti-Competition”, *RGNU Student Research Review*. <https://rsrr.in/2023/05/01/data-anti-competition-economic/>
- Khaitan, Shruti (2021) “Abuse of dominance in the social networking market” *I-Pleader (Law Sikho)* https://blog.ipleaders.in/abuse-dominance-social-networking-market/?amp=1#_ftn9
- Nawandar, Pragya & Mittal, Abhijeet (2022) “Meta Merger: ‘Big Data Sets’ Evading Sphere of Privacy and Competition Law” *The RMLNLU Law Review Blog*. <https://rmlnlulawreview.com/2022/11/18/meta-merger-big-data-sets/>