

## ABUSE OF DOMINANCE BY GOOGLE: IMPACT ON COMPETITORS, CONSUMERS, AND LEGAL ACTION

**AUTHOR-** NANDINI BHILALA & CHETAN ASHKE,

BALLB (HONS.) 4<sup>TH</sup> YEAR STUDENTS AT NATIONAL LAW UNIVERSITY, BHOPAL

**BEST CITATION** – NANDINI BHILALA & CHETAN ASHKE, ABUSE OF DOMINANCE BY GOOGLE: IMPACT ON COMPETITORS, CONSUMERS, AND LEGAL ACTION, INDIAN JOURNAL OF LEGAL REVIEW (IJLR), 6 (1) OF 2026, PG.1058-1064, APIS – 3920 – 0001 & ISSN – 2583-2344

### ABSTRACT

This paper will look into how Google has exploited its dominance in digital markets through the competition law. Although its innovations are helpful to consumers, tying, bundling, self-preferencing, and control over user data practices pose very serious competition issues as they limit consumer choice and provide small companies with high barriers of entry. The paper analyses the law framework, Article 102 TFEU, Sherman Act and Section 4 of the Competition Act 2002 of India and assesses regulatory measures in the EU, the US and India. It concludes that current legislation can be frequently unable to deal with the issues of the digital market and that the active and technology-sensitive changes should be undertaken to safeguard the competition and consumer interests.

**Keywords** - Abuse of Dominance, Google, Competition Law, Digital Markets, Antitrust Regulation, Consumer Welfare, Market Power, Regulatory Framework

### INTRODUCTION

Google is a giant that has a large market share in the present digital economy as it dominates search, advertisement, and mobile operating systems<sup>2399</sup>. Although Google's innovations increase efficiency and convenience, its market power raises concerns about competition law. Market power in data generates entry barriers for consumers and new entrants<sup>2400</sup>. The accusations are based on tying and bundling Android applications, self-preferencing in search, and the use of data for exclusionary conduct, raising concerns among regulators worldwide. This paper examines Google's behaviour from the perspective of competition law.

### THE SCOPE AND AIM OF COMPETITION LAWS

Competition law, also known as antitrust law, ensures that there is no undue concentration of economic power that negatively affects competition in the market. The primary objective of competition law is to ensure that no person or organization uses its dominant market power to limit access, competition, or innovation. The legal provisions that regulate abuse of dominance are Section 4 of the Competition Act, 2002 of India, Article 102 TFEU, and Section 2 of the Sherman Antitrust Act of the U.S.

### GOOGLE'S DOMINANT POSITION AFFECTS COMPETITION AND INNOVATION

#### THE RISE OF GOOGLE'S DOMINANCE

The dominance of Google in the online market can be explained by a set of interlocking factors, such as strong network effects, broad regulation of user data, and the ability to offer a set of

<sup>2399</sup> European Commission, Case AT.40099 – *Google Android*, Commission Decision of 18 July 2018.

<sup>2400</sup> Organisation for Economic Co-operation and Development (OECD), *Competition Policy in the Digital Age* (OECD Publishing 2019).

services in a single ecosystem<sup>2401</sup>. Over the years, Google has developed a well-integrated set of products—Search, Android, YouTube, Maps, Chrome, and advertising platforms—that work together to increase the overall value of each service. Such a high level of interdependence makes it even more expensive to users to move to a new ecosystem. Simultaneously, the fact that Google is an organization that has access to a significant portion of user data enables the company to enhance and tailor its services, making them more efficient and user-friendly. All this makes entry by new entrants and other smaller firms quite difficult since it is increasingly becoming hard to match the size, data advantage and the technological powerhouse that Google possesses.

#### IMPACT ON MARKET COMPETITION

The competitive market potential in the digital market has been greatly affected by the current market domination by Google particularly in the establishment of structural barriers to effective competition. Being the default engine and default service on many of the devices, the market power of Google provides a protective barrier to the recognition of the competing platforms, particularly regarding the fact that the consumers exhibit the unwillingness to alter default settings. This gives a large first-mover advantage to competitor search engines and applications. In addition, Google has been accused of self-preferencing, where Google's own services, such as Google Maps, Google Shopping, and YouTube, are given favourable treatment in search engine results. This not only diverts consumer traffic away from rival services but also reduces consumer choice, as consumer behaviour is shaped by algorithmic influence. In addition, the contractual arrangements between Google and device manufacturers or advertisers create a tilted market environment, making it difficult for

smaller firms to enter and compete in digital markets<sup>2402</sup>.

#### EFFECTS ON INNOVATION

The innovations brought about by Google have definitely brought about great benefits for consumers; however, the dominant market power of Google may significantly inhibit innovation for its competitors. This is because competitors may be reluctant to invest in innovative and disruptive technologies because of the possibility that Google may easily copy their innovations and, with its superior data access, financial power, and distribution channels, outcompete them. As a result, smaller companies are often encouraged to innovate in niche or less risky areas rather than in areas that have the potential to compete with Google's dominant market power<sup>2403</sup>. In the long run, the lack of effective competitive pressure may hinder technological progress and limit the diversity of digital services offered to consumers. Moreover, Google's tendency to acquire nascent competitors will reduce the incentives for independent innovation because startups may see Google's acquisition as a more desirable alternative than competing with Google, thereby solidifying Google's dominant market power and limiting entry into the market<sup>2404</sup>.

#### GOOGLE'S PRACTICES AFFECT COMPETITORS AND CONSUMER CHOICE

The business model and market behaviour of Google have had a great impact on both competitive firms and consumers in the online market. The omnipotence of Google in a number of products including online search, mobile operating systems, online advertisement, and application services are aspects that present Google as a major force in determining how information is accessed by users and how they engage in the online

<sup>2401</sup> Ariel Ezrachi and Maurice E Stucke, *Virtual Competition: The Promise and Perils of the Algorithm-Driven Economy* (Harvard University Press 2016).

<sup>2402</sup> European Commission, Case AT.40411 – *Google Search (AdSense)*, Commission Decision of 20 March 2019.

<sup>2403</sup> Organisation for Economic Co-operation and Development (OECD), *Competition Policy in the Digital Age* (OECD Publishing 2019).

<sup>2404</sup> European Commission, *Competition Policy Brief: Big Tech Acquisitions and Merger Control* (European Commission 2021).

markets. Although market behaviour of Google is seen as consumer-friendly, free, efficient and integrated, there are also certain serious concerns raised with regard to the fairness of such market behaviour and market healthiness. The amount of economic and information power in one company shows that there is a strain between the efficiency and values of open and competitive markets and technology.

#### IMPACT ON COMPETITORS

Google's financial power and control over the central areas of the internet economy have created high barriers to entry for competitors. The agreement ecosystem with device manufacturers and service providers ensures that Google Search, Chrome, and YouTube are pre-installed and given priority on the vast majority of Android devices, thereby limiting the potential of competing applications and search engines to gain widespread adoption. Smaller companies are challenged by high barriers to entry or survival because of Google's financial power, vast data access, and service ecosystem. Moreover, Google's self-preferential treatment of its own services in search results further limits competitive forces by driving user traffic away from other platforms. For instance, Google Maps and YouTube are often given priority in search results for navigation and video-related searches, thereby limiting the adoption of competing services. Besides self-preferential treatment, Google's acquisition of potential competitors like YouTube, Android, and Waze has lowered the chances of new entrants growing into strong competitors.

#### IMPACT ON CONSUMER CHOICE

Initially, Google's offerings appear to be an improvement in the welfare of consumers because they are largely free, user-friendly, and well-integrated<sup>2405</sup>. However, this convenience is sometimes at the expense of choice and freedom. By pointing users towards Google's offerings, users are not even aware of the existence of alternatives, thus being lured into

Google's ecosystem and making it difficult for them to switch between platforms. Furthermore, Google's dominance in online advertising influences what users see because Google's algorithm-driven advertising ensures that users are exposed to a variety of information sources<sup>2406</sup>.

This narrowing of the spectrum of services undermines the ability of people to make the choice and the nature of how the market can offer the same. The privacy also becomes a major issue. The cost of such free services provided by Google is sharing of the personal details of people to be targeted by advertisements, which leads to the question of whether people have as much control over their online footprint as they wish to believe. So, as much as the users are enjoying the convenience and ease that the services provided by Google offer, their privacy and freedom are being compromised. Other competitors that are grappling with structural impediments in the meantime are less visible and have opportunities to innovate. Such discrepancy between the corporate strength of Google and its fair play on the market highlights the necessity of better competition policies and stricter regulations and more protection of consumers. In the digital era, competition and consumer welfare should be better safeguarded by promoting increased transparency, accountability, and market accessibility<sup>2407</sup>.

#### **LEGAL FRAMEWORK GOVERNING ABUSE OF DOMINANCE UNDER COMPETITION LAW.**

##### INTERNATIONAL LEGAL FRAMEWORK

In the international arena, the influence of competition law has been dominated by the EU and the United States. In the EU, Article 102 of the TFEU prohibits the abuse of a dominant position in the market, including unfair pricing, restrictive arrangements, and tying up of unrelated obligations. The most prominent cases include

<sup>2405</sup> European Commission, Case AT.40099 – *Google Android*, Commission Decision of 18 July 2018.

<sup>2406</sup> European Commission, Case AT.39740 – *Google Search (Shopping)*, Commission Decision of 27 June 2017.

<sup>2407</sup> OECD (n 2) paras 44–46.

the Microsoft decision in 2004 and the 2018 Android penalty imposed on Google, which illustrate the EU's tough stance against digital monopolies. On the other side of the Atlantic, the United States uses the Sherman Act (Section 2) and the Clayton Act to regulate monopolies, although evidence of dominance and the absence of intent to impede competition is usually necessary for prosecution

#### a) INDIAN LEGAL FRAMEWORK

In the Indian context, the Competition Act, 2002 is the primary legislation that deals with the abuse of dominance, and under Section 4, it is prohibited for any person to abuse its dominant position<sup>2408</sup>. The Competition Commission of India (CCI) is the authority that is responsible for investigating and deciding such matters. According to Section 4, an enterprise is said to be dominant if it can act without the constraint of competition or influence the market in its favour<sup>2409</sup>. The Competition Act has specified various ways of abuse, such as effecting unfair conditions or prices, limiting production or technical progress, and refusing access to markets. The tying and bundling of products, where consumers are forced to purchase additional products or services offered by the dominant enterprise, have also been identified as possible abuse. The CCI has used these guidelines in matters involving international digital giants such as Google and has held that the practices related to the Android operating system and the search engine were favouring its own services over those of its competitors.

#### IMPORTANCE OF LEGAL REGULATION

##### EFFECTIVENESS OF LEGAL ACTIONS AND REGULATORY MEASURES TAKEN AGAINST GOOGLE

The lightning-fast extension of Google's reach into various online spaces—search, mobile operating systems, online advertising, and data analysis—has attracted intense scrutiny from

regulators globally<sup>2410</sup>. Governments and competition authorities are delving deep into whether Google's behaviour constitutes the abuse of a dominant position, focusing on self-preferencing, tying, and barrier to entry. It is important to assess the effectiveness of these efforts through the law and regulations, whether they can effectively turn back the clock to create a level playing field and foster innovation. The debate also raises the larger issue of the challenge of applying traditional competition policy to the complex world of data-driven digital markets.

##### GLOBAL LEGAL ACTIONS AGAINST GOOGLE

In the past decade, Google has been involved in very serious antitrust cases on both sides of the Atlantic. In the EU, Google has been fined for self-preferencing in its search business (2017), for abusing the dominance of Android (2018), and for restrictive AdSense practices (2019), and these cases all demonstrate how Google's ecosystem protects and enhances its market power<sup>2411</sup>. But critics say that fines alone are insufficient to address this market power. On the other side of the Atlantic in the US, Section 2 cases under the Sherman Act target Google's power over search and advertising, although prosecution is slow and often focuses on consumer protection.

##### LEGAL MEASURES IN INDIA

The Competition Commission of India (CCI) has been proactively looking into the operations of Google. In 2022, it fined Google two times, once more on dominance in Android by compelling device manufacturers to pre-install its apps, and once again on anti-competitive behaviour in the payment service of the Play Store. The CCI instructed Google to drop these restrictive deals and give users and device makers greater freedom to choose the apps and services. It is a big step towards the digital monopolies in India, as it is hoped that smaller companies will have

<sup>2408</sup> Competition Act 2002, s 4.

<sup>2409</sup> Competition Act 2002, Explanation (a) to s 4.

<sup>2410</sup> European Commission, Case AT.39740 – *Google Search (Shopping)*, Commission Decision of 27 June 2017; European Commission, Case AT.40099 – *Google Android*, Commission Decision of 18 July 2018.

<sup>2411</sup> Ibid.

an opportunity once again, and consumers will not feel compelled to be in a single ecosystem. The application of these initiatives is however not that simple. It is hard to have effective solutions because court cases are long because of the appeal, the technical aspect, and the necessity to conduct a comprehensive market study. Moreover, the intentions of these guidelines are good, but, in some cases, there can be the problems with effective enforcement mechanisms, which bring up the question of how effective such efforts are in the long-run to deal with dominance in digital markets in India<sup>2412</sup>

#### FUTURE DIRECTIONS FOR EFFECTIVE REGULATION

To enhance the efficacy of control, we must have an all-inclusive method which goes beyond the punishments. Think about constant control, a high level of transparency, and collaboration on an international basis. Other bills like the Digital Markets Act in the EU and the proposed Digital Competition Bill in India are prescriptive in their design, whereby they are designed to ensure that monopolistic actions are avoided initially. Potent regulation must be capable of imposing the rules, illuminating the manner in which the algorithms operate, and maintaining an equal opportunity to the markets to make competence equitable.

#### LIMITATIONS AND CHALLENGES

Although there have been a number of high-profile cases and fines, the effect of this is not significant. The vast majority of competition regulations were not created to work with digital platforms that have a global presence and rely on network effects based on data. There are various issues that make it less effective in enforcement: 5. Delays in the legal process Investigations and appeals take years, with the dominant companies such as Google able to go on with their practices in the process. Difficulty in establishing harm Because the services offered by Google are free to customers, it makes it difficult to demonstrate

harm to consumers in the conventional economic sense such as increased prices. – Algorithms and data transparency The regulators do not have the technical means to comprehend the full functionality of the algorithms in order to rank the search results or ads. Weak enforcement mechanisms Although the issue of fines has been introduced, the fundamental business model of Google has not been altered that much since the fines do not affect the overall earnings of the company to a significant extent. These constraints point to the fact that the current legislation is aware of the issue but it is not flexible and powerful enough to address the digital era.

#### JURISDICTIONAL COMPARATIVE EFFECTIVENESS.

The European Union has been exceptionally prolific in policing online market strength, through heavy penalties and formal inquiries and coerced reforms all aimed at eliminating trade misconducts. Although these measures are a indication that the regulators are taking the matter seriously, there have been criticisms that the issue of monetary fines have not been effective in influencing a behaviour change, especially among large players like Google, which has deep pockets. The United States has been cautious in its decision as compared to the European Union..

#### THE NEED FOR REFORM

The current legal and regulatory frameworks are reactive rather than preventive. They address abuses after they occur rather than establishing proactive measures to prevent dominance. To improve effectiveness, competition authorities must:

1. Update legal definitions of dominance to include data control and algorithmic influence.
2. Impose behavioural and structural remedies, not just fines.
3. Increase international cooperation to ensure consistent enforcement .
4. Strengthen monitoring mechanisms to verify compliance after rulings .

<sup>2412</sup> Whish and Bailey (n 3) 782–784.

Additionally, laws like the EU's Digital Markets Act (DMA) and India's proposed Digital Competition Bill represent promising reforms aimed at proactively regulating big tech firms before abuses occur.

### **SUGGESTIONS FOR LEGAL AND POLICY REFORMS TO PREVENT MISUSE OF MARKET DOMINANCE IN THE DIGITAL SECTOR**

The swift development of the digital economy has triggered gigantic innovation, ease, and economic possibility, yet it has raised concrete challenges of market strength and its misuse. The big tech companies, specifically Google, have enormous and multifaceted digital ecosystems that considerably affect the manner in which consumers receive information, communicate, and shop and this provide big market power. Despite its usefulness, competition policies fail to work well in dealing with data based markets, algorithmic power, and network effects, as they are tailored towards more traditional industries. This renders these policies responsive and inadequate to block anti-competitive practices. This is a plea to legal and policy changes which will be proactive and ensure healthy competition, improved transparency and consumer welfare in our fast evolving digital continent<sup>2413</sup>.

### **STRENGTHENING EXISTING COMPETITION LAWS**

An important aspect of halting domination abuse in the digital market is to update competition laws to keep pace with the digital age. We need to broaden what we mean by "market power" and "dominance" from market share and price to include who controls the data, how algorithms function, how platforms are designed, and what users see. The Competition Act, 2002, of India and the competition framework in the EU need to be updated to recognize the high barriers that data hoarding, default settings, and network effects create for new entrants in the market.

### **ENCOURAGING STRUCTURAL AND BEHAVIORAL REMEDIES**

Legal reforms should move beyond imposing fines and adopt more practical remedies that promote open competition<sup>2414</sup>.

- Behavioural remedies could include prohibiting exclusive contracts, ensure data portability, and allow users to choose default search engines or browsers freely<sup>2415</sup>.
- Structural remedies such as separating certain business operations (for example, advertising and search) can prevent conflicts of interest that harm competition.

Forcing the major companies to provide non-personal and aggregate information to the smaller ones might also enhance innovation and equalize the competition. These steps facilitate transparency and facilitate the entry of new players into the market based on quality and innovation other than merely on a large scale.

### **ENHANCING DATA PROTECTION AND CONSUMER RIGHTS**

As data control is the core of digital power, sound data protection policies are necessary to allow fair competition and actual consumer protection. Policies like the GDPR of the EU are supposed to be adopted or fortified to ensure that the consumer conclusively consents, and the company is responsible. The consumer must be able to access information on what is being done with their personal data including the way in which the data is gathered, processed and shared and withdraw the consent whenever they desire. Indirectly, by ensuring that consumers can control their own data, the regulators can curtail the advantage that dominant organizations have as a result of collecting mass data<sup>2416</sup>.

<sup>2413</sup> OECD (n 1) paras 40–46; Whish and Bailey (n 2) 782–784

<sup>2414</sup> Ariel Ezrachi and Maurice E Stucke, *Virtual Competition: The Promise and Perils of the Algorithm-Driven Economy* (Harvard University Press 2016) 102–105.

<sup>2415</sup> European Commission, *Digital Markets Act* (Regulation (EU) 2022/1925) OJ L 265/1, Arts 6–7.

<sup>2416</sup> OECD (n 1) paras 40–46.

### PROACTIVE AND COORDINATED GLOBAL REGULATION

Digital markets are an international phenomenon and therefore, the regulation of the digital markets must be through international collaboration. Nations need to unite in the international organizations like the OECD, UNCTAD and WTO so that they can establish the uniform standards of digital competition, data and international enforcement. International regulations like these are capable of sealing the loopholes that companies can use by acting in different legal jurisdictions and make regulation processes more efficient. It would also be appreciated to have the digital competition divisions in the national regulatory authorities.

### PROMOTING INNOVATION AND FAIR ACCESS

The reforms in the digital market policies need to balance between regulation and innovation, aiming to minimize the issue of abuse of dominance without acting as discouragement to technological innovation. Governments need to attract startups and small businesses with incentives, proper digital infrastructure and less difficult regulation. It is essential to get open-source development, interoperability, and diversity in app stores, payment services, and advertising platforms facilitated to create a level playing field<sup>2417</sup>.

### CONCLUSION

In a research article titled Abuse of Dominance by Google: Impact on Competitors, Consumers, and Legal Action, it is stated that Google has caused a substantial extent of creativity and access to the digital space, yet the vast concentration of power in the digital space, that is, search, advertising, mobile operating systems, and applications, enables Google to influence the market in a way that is harmful to its smaller participants and diminishes the options available to consumers. This is achievable due to the vast quantity of data that

Google gathers and also through its comprised services.

Google has faced fines, lawsuits, and demands for practice changes from regulators in the EU, the US, and India. However, the classical approach to competition policy tends to get it wrong in the context of data-driven, algorithm-driven digital markets, and fines have failed to change the underlying business model of Google. This is why there is a need for new, technology-savvy competition policy that recognizes data control, algorithm development, and platform power as sources of competitive advantage. To ensure fairness, we need preventive regulation, greater transparency in algorithms, interoperability, and global cooperation. The future of digital competition is not merely about correcting past wrongdoing but also about creating a more open and competitive online marketplace<sup>2418</sup>.

<sup>2417</sup> OECD (n 2) paras 16–22; Ezrachi and Stucke (n 3) 68–72

<sup>2418</sup> European Commission, *Competition Policy for the Digital Era: Challenges in Algorithmic Markets* (2020) COM(2020) 4 final, 12–15.