
ANTI-TRUST REGULATIONS IN UPI SECTOR IN INDIA

Navya.V, Christ Academy Institute of Law

ABSTRACT

The Competition Act, 2002 (“Act”) and the rules and regulations promulgated under it regulate businesses in India to ensure a level playing field and effective market competition. The goal of the Act is to promote competition, protect the interests of consumers, ensure free trade, and prevent practices that have a significant negative impact on competition. This paper focuses on the UPI Payment sector in India its origin in India, its impact on various businesses and transactions, and regulations if there is an abuse of dominance by any players in the relevant market which has a progressive approach. The Anti-trust law lays a bar on the abusive behavior of the dominant players wherein the Competition Commission of India (CCI) will impose penalties and ensure that such abusive behavior is curtailed from such relevant market.

Keywords: Anti-trust laws, Competition, Dominant players, Abuse of Dominance, UPI Payments Sector, Competition Commission of India (CCI).

Introduction

There have been tremendous changes from the barter system and exchange money for trade purposes, but in recent years exchange of money has slowly been drifted into digital payments and e-wallets. The digital payments network in India has had massive growth in the last five years. The Report of the Committee on the widening of Digital Payments has critically observed that the digital payments per capita have grown from 2.4 transactions in the year 2014 has been shot up to 22 transactions in 2019. There are different types of systems of online payment which cover transactions made through RTGS (Real Time Gross Settlement), NEFT (National Electronic Fund Transfer), IMPS (Immediate Payment Service), Digital Wallets, and Unified Payments Interface (UPI). In the wake of demonetization in November of 2016 digital Wallets and UPI have enlarged their operations. The National Payments Corporation of India (NPCI) has been the primary driver of online payment expansion in Unified Payment Interface (UPI) technology. Immediate Payment Service (IMPS) technology is used for UPI transactions between two bank accounts.

As India has seen, digital payments are exploding. However, along with this explosion, India has also seen market abuse by dominant players providing such transaction facilities and services. Section 4 of the Competition Act of 2002 addresses market abuse by dominant platforms that provide such transaction facilities. According to this section, a dominant position is one in which an establishment has the ability to operate independently in the relevant market or where the operations of competitors are influenced by the strategic moves of the dominant players. Being dominant is not illegal; however, using such dominance to stifle healthy competition in the relevant market is illegal in the eyes of the law.

Statement of Problem:

The big corporations holding too much power can set prices and take advantage of the market by influencing the market forces. Through monopoly, the dominant player will decide prices and control the supply chain in the relevant market. Consequently, it would affect adversely consumers as there was no alternative source but left with only one choice, which allowed them to take advantage of illegitimately to obtain a monopoly by not competing fairly or deceiving. The UPI payments are provided by a few players in the relevant market by Google Pay, Phone Pay, and others now WhatsApp pay also has entered the market.

Erstwhile to abuse of dominance, it must be understood that the relevant market where such

abuse is noticed, in the case of Google Pay, the CCI identified three relevant markets: “the market for licensed smart or android mobile device operating systems in India, as well as the market for app stores for android mobile operating systems.” According to the sources available in the RBI report, a third market “Market for apps enabling payment through UPI” was outlined in light of the massive usage of UPI by Google customers FY 2017-2020 outstanding other virtual payment options. Furthermore, Google was thought to be enjoying a dominant position in these former two markets, being the first in the market of India's mobile operating system (hereinafter OS) android was estimated to be 80 percent, in addition to that in the market of android mobile's app stores was utilized by the customers for about 90% of the app downloads. Anti-trust laws are having the potential to fill the gap where it deems fit to have unhealthy business practices and to prevent in an effective manner anti-competitive practices in India. UPI can be a case study for both developing and developed countries to enable a universal, low-cost digital payment system.

Relevance of Study:

In today's world where every update and happenings are done through mobile applications among those are some applications that are exclusively used for the transfer of cash from one bank account to another bank account, so the regulations in this sector need attention and new rules have to be drafted for fair and healthy competition be maintained in the relevant market. In recent years there has been a major shift from the traditional way of transacting to application-based payments. The UPI payment platform launched by the National Payments Corporation of India (NPCI) prescribes guidelines, rules, regulations, and their roles, responsibilities, liabilities, and obligations of the participants, which are detailed with respect to the UPI System in India. This also includes transactions such as processing and settlement, dispute management, and clearing cut-offs for settlement.

The purpose of the paper is to study in detail the use of UPI and the value addition that UPI brings concerning the existing digital payment systems. UPI has witnessed rapid growth which can be attributed to expanding ecosystem encouraged by banks and increasing the adoption rate by the users but the issue is that the primary usage of these early adopters is that they make person-to-person settlements. For UPI to reach its full potential, it should be developed to have merchant-centric UPI payments solutions. This paper helps to decode the technicality of Section-4 of the Competition act of 2002 and regulate the UPI sector in India to facilitate and foster to development of innovative business solutions.

Literature Review:

Dinesh M. Kolte and Dr. Veena R. Humbe¹, in this research work author, highlights the concept of Digital India, an initiative made by the government of India which promotes transparency and quick services for the people, and how the Digital India initiative will impact the growth of internet service providers and mobile industries to flourish with its usage which will have a direct improve the economy of India. To facilitate digital payment platform NPCI introduced UPI and BHIM app which have a positive approach and thrives into the future for their sustainability and development.

Amey Jadhav², in this article titled “Analysis of Competition Commission of India’s Approach towards Antitrust Issues in Unified Payment Transactions (UPI) Sector” has focused entirely regarding the Competition Commission of India (CCI) the governing authority which has been vested certain powers and functions to regulate the competition laws in India. It also highlights two infamous cases of “WhatsApp Case” and “Google-Pay Case” where there were contradictory views were observed by the CCI and issued orders and directives based on the merits of the facts and circumstances of respective cases.

Objectives

To analyse the UPI Payment sector in India

To discover the dominant position in the UPI sector in India

To detect if there is an abuse of the dominant position

To overcome the anti-competitive practices

To regulate anti-trust laws in UPI platforms operating in India

Hypothesis

It is hypothesized that the regulations of anti-trust laws will affect in promoting healthy and

¹ Dinesh M. Kolte and Dr. Veena R. Humbe, 2017, “UNIFIED PAYMENT INTERFACE (UPI) - A WAY TOWARDS CASHLESS ECONOMY”. International Research Journal of Engineering and Technology, pp.762-766

² Amey Jadhav, 2015, “Analysis of Competition Commission of India’s Approach towards Antitrust Issues in Unified Payment Transactions (UPI) Sector”. Khurana & Khurana, Advocates and IP Attorney,[Online]. Available: <https://www.khuranaandkhurana.com/2021/12/06/analysis-of-competition-commission-of-indias-approach-towards-antitrust-issues-in-unified-payment-transactions-upi-sector>.

fair competition in the Unified Payment Interface market in India.

Research Methodology :

The study is qualitative in nature and analytical in approach. The research is obtained from both primary and secondary sources.

1. Primary Source The primary sources used in this research include the Competition Act, 2002, precedents, and various reports of the Competition Commission of India.

2. Secondary Source The data will be gathered through different sources such as the internet, journals, articles, and Web sources.

Research Questions

1. How did the UPI payment interface introduced in India and move forward to sustain in the market?

After bringing into force demonetization, there was a necessity to print new currency notes by the government to circulate among the public but the government was unable to provide the required quantity of currency notes in a short amount of time than the Indian Government sought to promote cashless transactions. Unified Payment Interface (UPI) is considered to be a new era payment system introduced in India by the National Payment Corporation of India. Unified Payment Interface is a mobile-centric, real-time interbank payment system that has the potential to transmute and universalize digital payments in India. UPI can help bring a large portion of the population into the digital economy, and it can be an excellent tool for financial inclusion in India. The Reserve Bank of India (RBI) has taken effective steps to promote digital payments in India, including the establishment of the National Payment Corporation of India (NPCI) as an umbrella organisation to develop low-cost retail digital payment systems. NPCI launched the Unified Payment Interface (UPI) in August 2016, a next-generation mobile-based payment system that enables real-time bank payments. UPI takes advantage of India's high teledensity to make the mobile phone the primary payment device for both consumers and merchants, as well as to universalize digital payments in the country.

The retail payments and settlement systems in India were created by the Reserve Bank of India (RBI) and the Indian Banks Association (IBA) under the provisions of the Payment and

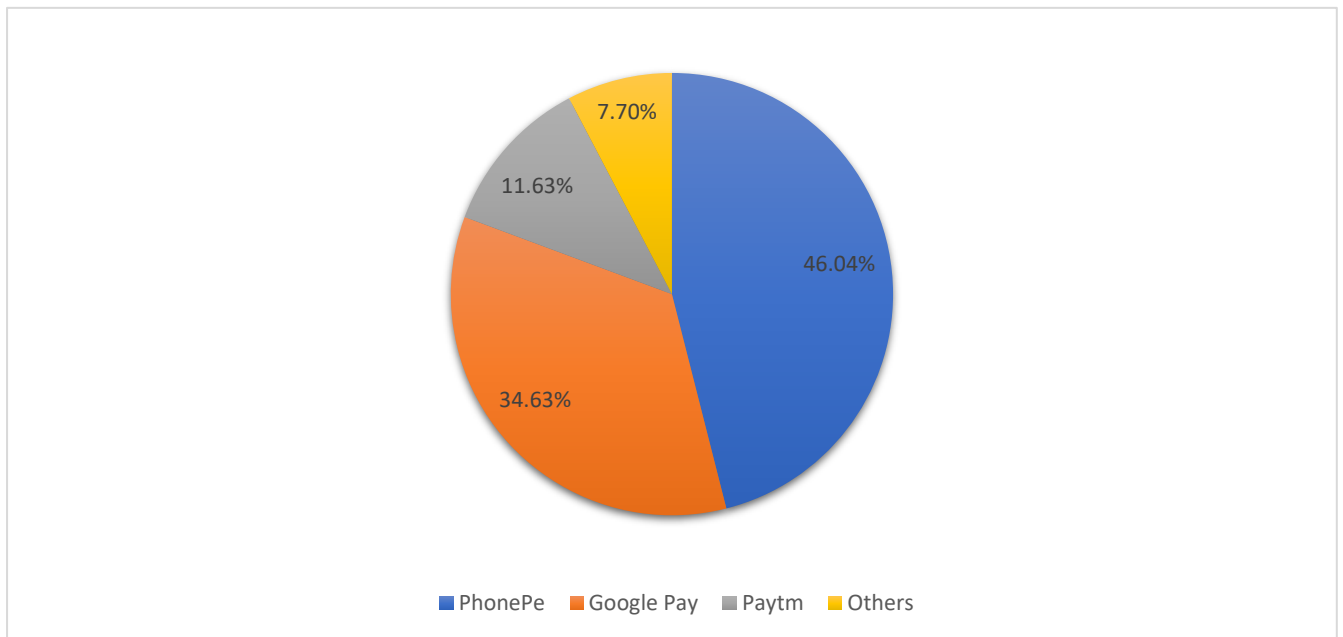
Settlement Systems Act, 2007, in order to create a healthy payment system and settlement infrastructure in India. Taking into account the utility nature of NPCI's objectives, it was formed as a "not for profit" company under the provisions of Section 25 of the Companies Act 1956 (now Section 8 of the Companies Act 2013), with the goal of providing infrastructure to the entire banking system in India for physical as well as electronic payment and settlement systems. The Company is focused on bringing innovative techniques in the retail payment systems through the use of technology for achieving greater efficacy in operations and widening the reach of payment systems. NPCI during its journey for the last six years has made a significant impact on the retail payment systems in India. Enthusiast to the nation by Shri Pranab Mukherjee, endorsed by Prime Minister Shri Narendra Modi, and later chosen as the card of choice for the ambitious Pradhan Mantri Jan Dhan Yojana, RuPay is now a household name in India. With the implementation of Immediate Payment Service (IMPS), India has surpassed the United States as the world leader in real-time payments in the retail payment sector. The Unified Payments Interface (UPI) and Bharat Interface for Money (BHIM) have been hailed as game changers in the payment system. The Bharat Bill Payment System (BBPS) has also been piloted. RuPay Credit Card, National Common Mobility Card - Tap & Go, and Electronic Toll Collection are among the other products in the works.

The year 2016-17 was a watershed moment in India's payments landscape, with the country witnessing profound changes in the payments ecosystem as a result of radical policy decisions, the introduction of new-age payment systems, and rapid changes in user behaviour. During this time, demonetization was implemented, rendering 86 percent of currency notes worthless overnight. Paper money became scarce as a result of demonetization, and long lines formed in front of banks and ATMs to withdraw the meagre currency that was available. Despite the rapid introduction of new currency notes and the use of digital forms of payment, business and trade almost came to a halt, and the GDP growth rate decreased.

The National Payments Corporation of India (NPCI) is the central source and maintains a central mapper of association between the customer's Mobile Number, Bank Accounts, Aadhaar Number, and Virtual Payment Address. This central repository is where payment instructions based on mobile phone numbers or SIM card numbers are routed. As a result, central mapper enables anyone to send and receive money from a mobile number without knowing the destination account information. In Aadhaar Payments Bridge System (APBS) utilizes NPCI central mapper to transfer the direct benefit to individuals based on their Aadhaar

unique ID number. UPI has seen rapid growth, which can be attributed to the expanding ecosystem supported by banks and other payment service providers, as well as increased user adoption. Security, ease of use, and the development of business solutions are critical to making UPI a preferred payment system for both users and businesses. In this regard, NPCI is releasing UPI 2.0, an upgraded version of UPI with enhancements that will boost security, ease of use for customers, and open new use cases for businesses, as well as expand the UPI ecosystem in India.

UPI Usage in India



UPI usage in India in February 2021, published by Statista Research Department dated 25 August 2021. The unified payments interfaces (UPI) in India recorded a total of 2.8 billion digital payment transactions valued at over five trillion Indian rupees(INR). Out of those 2.8 billion virtual payment transactions, Walmart’s subsidiary PhonePe had a share of 46 percent and ranked second GooglePay share of 35 percent and other competitors were a share 12 percent. In a row of seventh months, PhonePe has topped the list after it had led over GooglePay since December 2020 and 3rd big player is Paytm with a share of 12 percent. Unified payment interface (UPI) is a product of the National Payments Corporation of India (NPCI) and was launched in 2016 as it allows the users of payment service providers like PhonePe or GooglePay to use NPCI as the main switch to connect with all banks to transfer and receive money. It is considered to be more user-friendly than older transaction modes such as debit or credit card systems.

2. How is Unified Payment Interface impact various aspects of business and commercial transactions in India?

Impact of UPI on Payments Industry has observed rapid growth since its launch in the month of August 2016 with respect to several users, volume, and value of transactions. At present, there are about 52 banks have collaborated UPI platforms with more than 60 UPI apps available to facilitate online real-time payment systems. With the launch of UPI within 12 months of time frame, above 20 million users have downloaded various UPI Apps on their mobile phones. It came shocking that there has been 82% of growth on the total value of the transaction has grown from month to month on regularly in the constant rate and the total transacted amount of Rs. 227 billion till August 2017.³ The monthly value of transactions on UPI has now overtaken the monthly transactions of all e-wallets put together in India. But for now the value of credit and debit cards transactions constitute about Rs. 2700 billion per month as compared with the value of transactions on UPI is currently is less but certainly, UPI is increasing at a very much faster rate in India.

If looked into the transaction details, it is observed that more person-to-person money transfers constitute the majority of UPI transactions while person-to-merchant transactions are currently very limited, the reason being that there is a lack of merchant acceptance infrastructure to accept UPI payments. UPI usage for merchant payments is anticipated to increase with additional businesses enabling UPI payments for their customers. The POS machines that accept debit and credit cards must be reconfigured and upgraded to accept UPI Payments and must display the merchant's UPI QR code so that customers can scan the QR code and make payments using UPI Apps. UPI, as a payment mode, has the potential to make debit cards obsolete, as there will be no need to carry your debit card because your mobile phone will function as your debit card. When it comes to online payments, UPI unquestionably outperforms debit cards and net banking payments.

Impact on Payments in Physical World:

In the physical world, payments include cash and debit or credit card transactions. The UPI has the potential to transform payments from the offline world into online virtual payment mode

³ Rahul Gochhwal, 2017, "Unified Payment Interface—An Advancement in Payment Systems", *American Journal of Industrial and Business Management*, pp.1187-86

as it exclusively offers a cost-effective alternative to cash and cards transactions. If there is a switch to acceptance of UPI then it will require not to invest in purchasing POS devices and machines to collect digital payments, Merchants will be required to display the UPI QR Code to customers, and the payment will be credited to the merchant's bank account immediately. Due to a lack of digital acceptance mechanisms with merchants, merchants can receive payment confirmation via their mobile phones, and cash transactions at merchant points occur. Customers can also pay the merchant directly using the merchant's UPI ID, and the merchant will receive payment confirmation via mobile phone.

Impact on Online Payments

At present, the majority of online transactions are enabled by payment gateways with Debit or Credit Cards and Net banking being the primary modes of payments. Users are obligated to input all the sensitive data and information which includes Card Numbers, Card Verification Value, Net banking usernames, passwords, etc. This brands digital payments as vulnerable due to data leakages and frauds. Furthermore, there are several network stages between card networks, issuers, and acquiring banks to facilitate a transaction, resulting in high transaction failure rates. Customers using UPI do not need to provide any private information; instead, they can simply scan a QR code displayed on the website with a mobile phone, and payment is completed in seconds with the assistance of a network system. This can not only help to avoid sensitive data leaks, but it can also increase transaction success rates.

Impact of UPI on Businesses

Besides being the most cost-effective, fast, and unified payment method UPI enables online payments for an entire spectrum of businesses both offline and online merchants. For physical businesses, each employee can be allowed to collect digital payments since there is no need for POS machines, each employee can be provided a unique UPI ID and QR Code which the employees can present to the customers to collect payments in virtual mode. Apart from proximate payments from the customers who are physically present at the billing counters, UPI opens up a unique opportunity for businesses to collect payments where customers who are not physically present also pay and receive the goods and services. UPI allows Insurance premium collection, school fees, electricity bill payments, etc. where payment requests will be sent to the customer and the customer can pay by remotely using mobile phones. One more aspect of its important use is that in case businesses provide payment at the time of delivery which is

preferred by some of the customers. Cash on delivery is very popular in India, nearly 60% of e-commerce sales are made with a cash payment at the time of delivery. Such payments at the time of delivery can also be converted into digital payments at the time of delivery via UPI, allowing customers to easily pay via UPI at the time of door delivery.

3. How does regulation of anti-trust laws in the UPI sector takes effect and its consequences if there exists an abuse of dominance within the scope of Competition Act,2002?

Dominance is not recognized as bad per se but only when it is used in an abusive manner. Abuse occurs when an enterprise or a group of enterprises uses its dominant position in the relevant market in an exploitative manner. The Act hands down an exhaustive list of practices that shall be considered as abuse of dominant position and, therefore, are prohibited from being brought into force. Such practices will be considered as abuse only when adopted by an enterprise enjoying a dominant position in the relevant market in India. Abuse of dominance is interpreted in terms of specific acts committed by a dominant enterprise. Such acts are prohibited under the law and accordingly are punished.

Section 4 (2) of the Act specifies the following practices by dominant enterprises or groups of enterprises as abusive, they are as follows:

- (i) imposing unfair or discriminatory conditions in terms of purchase or sale of goods or services, whether directly or indirectly by the enterprises.
- (ii) imposing an unfair or discriminatory price (including a predatory price) in the purchase or sale of goods or services, whether directly or indirectly.
- (iii) restricting or limiting the production of products, the provision of services, or the market
- (iii) to the detriment of consumers, limiting or restricting technical or scientific advancement about goods or services.
- (v) denying market access in any way
- (vi) requiring other parties to accept supplementary obligations that, by their nature or according to commercial usage, have no bearing on the subject of such contracts

(vii) leveraging its dominant position in one relevant market to enter or protect another relevant market.⁴

Inquiry into Abuse of Dominance

In exercise of powers and functions vested under section 19 of the Act⁵, the Commission has the authority to inquire into the alleged contravention of section 4 (1) of the Act which prescribes there exists abuse of dominance. Section 19 (4) provides an exhaustive list of factors that the Commission shall consider while inquiring into the matter of any allegation of abuse of dominance received from the complainant or informant. Some of the factors are related to the market share of the enterprises, size, and resources of the firms, price-fixing between the competitors, dependence on consumers, entry and exit barriers, social obligations, and costs in the relevant geographic and product market. The Commission, if being satisfied that there exists a prima facie case of abuse of dominance, shall direct the Director-General to initiate an investigation and furnish a report on findings from such inquiry. The Commission has powers vested as Civil Court under the Code of Civil Procedure, 1908 in respect of matters for summoning, enforcing attendance of persons involved, examining on oath, production of documents, witnesses attendance, and receiving evidence on affidavit. The Director-General, to carry out an investigation, has been vested with powers of civil court besides powers to conduct 'search and seizure'.

Harshita Chawla v WhatsApp Inc. & Anr (WhatsApp Pay Case)⁶

In this instant case of WhatsApp Pay Case, the CCI examined if there is any anti-competitive effect of tying in WhatsApp Pay, the proposed UPI app has been a popular messaging app and renders quality services. At the start, the CCI demarcated the relevant markets to be "the market for the over-the-top messaging services for smartphones in India" and on prima facie, it was that WhatsApp is dominant in the relevant market. The CCI observed that UPI payments are identified to be a separate product and enter the market as independent of other payment methods on account of it having different technology and user convenience. As a result, the CCI considered the "market for UPI Payment applications in India" to be a distinct product market. The CCI ruled that users were not barred from using WhatsApp (the tying product) if they did not use WhatsApp Pay (the tied product). According to the CCI, there are numerous

⁴ The Competition Act, 2002

⁵ Supra note (4) p. 10

⁶ Competition Commission of India Case No. 15 of 2020

steps involved in operating the WhatsApp Pay account, including numerous Know-Your-Customer (KYC) requirements, which will disincentivize new users to automatically switch to other UPI service providers. Additionally, it was observed that several other third-party UPI service providers are available and could be freely downloaded by UPI users who did not wish to use WhatsApp Pay and were required to make UPI payments.

As a result, when it comes to accusations of leveraging its dominant position in the OTT messaging market to influence the UPI payments market, the CCI observed that "the absence of coercion and the presence of well-established players in the market" do not raise any anti-competitive concerns. The availability of options for users, as well as adequate competitive constraints imposed by the presence of well-established competitors, resulted in the dismissal of WhatsApp complaints.⁷

XYZ v. Alphabet Inc, Google LLC and Others (Google Pay Case)⁸

CCI construed this instant case with a contrasting view while examining allegations against Google for leveraging its dominance in the "marketing for the supply of licensable operating system (OS) for smartphones" to influence the "market for apps enabling payments through UPI" in its favour. It was alleged that Google had leveraged its dominance in the market for licensable OS for smartphones by incentivizing manufacturers to pre-install Google Pay, thereby placing Google Pay at an advantage over other players in the UPI sector market. Google licenses its Android OS through its Mobile Application Distribution Agreement (MADA) which directs manufacturers of mobile phones to pre-install a few "must-have" Google apps to obtain the license to Android OS. Being on the subject, Google has already been facing a CCI investigation on account of the burdensome licensing terms of MADA. However, Google argued that Google Pay is not one of the apps covered by the MADA and is not required to be mandatorily pre-installed. It was pointed out that Google entered into revenue sharing agreements (RSA) with few smartphone manufacturers which is merely a monetary incentive to promote its related product. Moreover, only those manufacturers interested in such incentives can enter into RSA, they are allowed to retain a choice.

The CCI observed the "must-have" Google's products in the smartphone ecosystem such as Google Search, Gmail, Google Maps, Google Chrome, etc., there appears to be an unequal

⁷ Aniket Ghosh, 2021, "India: Antitrust Regulation in the UPI Payments Sector", Kluwer Competition Law Blog, [Online]. Availability :<http://competitionlawblog.kluwercompetitionlaw.com/2021/07/07/india-antitrust->

⁸ Competition Commission of India Case No. 07 of 2020

relationship between Google and smartphone manufacturers. It was held that the issue of coercion choice was necessarily be examined from every aspect possible. Further, it was noted that Google had a dominating position in the market for apps easing payments through UPI in India. It was held that financial incentives given to manufacturers under RSAs may have an effect of creating exclusivity and default as users may not opt for other competing payments applications owing to an existing status-quo bias for other default applications.⁹ The CCI held that such contractual agreements with smartphone manufacturers will be able to disturb fair and healthy competition by playing field in the “market for apps facilitating payments through UPI” were discovered as the merit of investigation in the matter.

Conclusion

The Competition Act, 2002 was being enacted by the Parliament of India and governs Indian competition law and practices. It replaced the archaic (outdated) Monopolies and Restrictive Trade Practices Act, 1969. Under the act, there will be a body constituted as the Competition Commission of India to prevent activities that hurt competition in India. This act extends to the whole of India and prohibits abusive behavior among competitors in the jurisdiction of India.¹⁰ It is an instrument to implement and enforce competition policy and to prevent and punish anti-competitive business practices by enterprises, firms, and unnecessary Government meddling in the market. Competition law is correspondingly applicable on written as well as oral agreements, tie-in arrangements between enterprises or persons. Competition law applies to both written and oral agreements, as well as tie-in arrangements between enterprises or individuals. The Competition Act of 2002 was amended twice: once by the Competition (Amendment) Act of 2007, and again by the Competition (Amendment) Act of 2009. This is an act to create a commission, protect consumers' interests, implement pro-consumer welfare measures, and ensure free trade in Indian markets.

To make it illegal to enter into agreements or engage in practises that limit free trade and competition between two business entities,

To put an end to the abusive market monopoly situation,

To provide the entrepreneur with a competitive advantage in the market,

⁹ Ibid (4) p. 11

¹⁰ Shama Mahajan, 2020, Patent Pooling and Anti-Competitive Agreements: A Nascent dichotomy of IPR and Competition Regime, NLUJ Law Review, pp.35

To have a global international support and enforcement network,

To prevent anti-competitive behavior and to promote fair and healthy competition in the market.

The Act defines dominant position (dominance) as a position of strength in the relevant market in India that allows a business to operate independently of the competitive forces prevailing in the relevant market or affect its competitors, consumers, or the relevant market in its favour. The ability of a company to act or behave independently of market conditions establishes its dominating position. In a perfectly competitive market, no firm has a monopoly on the market, especially when it comes to setting product prices. Perfect market circumstances, on the other hand, are more of an economic “ideal” than reality. With this in mind, the Act provides several elements that should be considered when determining whether or not there is an abuse of dominating position by the enterprises. Competition Commission of India (“CCI”) has been given the right to order any firm or individual to amend, cease, and not re-enter into anti-competitive agreements, as well as to levy a penalty of up to 10% of the average turnover for the previous three years. Given the CCI’s power, it’s critical for companies doing business in India to be wary of agreements that could be deemed “anti-competitive.”

In the two cases concerning UPI payments applications, the CCI has taken a different tack. The CCI noted Google’s dominance in the market for licensable OS for smartphones and other product categories, including general search services, and dismissed the premise that manufacturers have any real choice in this regard. Despite WhatsApp’s complete dominance in India’s OTT messaging market, the CCI found that users can opt out of WhatsApp Pay. The CCI’s judgment was impacted by the processes required to register for WhatsApp Pay, as well as the presence of competing for UPI apps. However, the same argument applies to Google Pay as well, although it was not made in this case. Furthermore, based on the principles outlined in the Google Pay case, concerns about status-quo bias appear to apply to WhatsApp Pay as well, given the pervasive nature of the WhatsApp chat service and the ease with which its payment service may be integrated. Many industry analysts predicted that WhatsApp Pay would be a market disruptor when the CCI ruling was passed. Despite this, the CCI decided not to open an investigation. The CCI does not examine various elements regarding the UPI payments market consistently.

The Draft Competition (Amendment) Bill, 2020

In February 2020, the Ministry of Corporate Affairs (“MCA”) began the year by asking public opinions on the Draft Competition (Amendment) Bill, 2020 (“Draft Bill”), which was released in July 2019 in accordance with the recommendations of the Competition Law Review Committee (CLRC) Report. It is undeniably a watershed moment in Indian competition law doctrine, as it aims to integrate the Competition Act with best worldwide practices and adapt it to the changing economic environment.

The following are some of the key revisions proposed in the Draft Bill:

Amendments to the antitrust laws that have been proposed

The buyer's cartel is recognized - Currently, the Competition Act's definition of the cartel is limited to retailers, producers, distributors, and service providers. The Draft Bill proposes to change this definition to specifically include buyers' cartels in its scope. The penalty provision is also recommended to be altered to incorporate the word 'buyer' in accordance with this proposed amendment.

Settlement and commitment - The Draft Bill aims to establish a settlement and commitment mechanism in order to encourage a shorter antitrust case life cycle while ensuring the adequate market correction of anticompetitive behavior (except in cartel cases). While the Competition Act does not have an explicit provision for settlement, it may be allowed if the CCI believes that a settlement between parties would not result in the continuation of anti-competitive practices and is in the best interests of consumers.

Leniency plus - In India, a leniency regime was established by implementing leniency plus policy, which provided an additional incentive to businesses. If a leniency application in one cartel reveals a cartel in another market, the applicant is eligible for a penalty reduction in both cartels.

In my opinion, after analysing the UPI sector in India and its relevance in the market and future perspectives it holds needs attention constantly to bring balance and foster for new entries in the market. The anti-trust law regulations indeed have a positive approach and eliminate abusive behavior in any form done directly or indirectly. The Competition Commission of India has also played an important role in setting up an inquiry and deciding the matter impartially

and unbiased who is vested with powers as Civil Court under the Code of Civil Procedure, 1908. In the future many possibilities can be faced in order to regulate the UPI sector as the mission of “Digital India” and also the pandemic has made us all shift to a virtual mode of living.

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