
COMPETITION LAW VIS-À-VIS DIGITAL ECONOMY

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ABSTRACT

Digitalisation has reshaped competition in traditional markets and led to the creation of many new markets. Technology, telecom, and internet-based companies dominate the world's best brands today.

In 2009, Corporations in areas such as oil and gas and telecommunications dominated the list of top 10 companies by market capitalization, with only one company in the information technology industry (Microsoft). However, in less than a decade, a fundamental shift has occurred, with 7 of the top 10 firms in the world in 2018 operating in the Digital Economy, including Apple, Google, Microsoft, Amazon, Facebook, and others. A variety of recent technology innovations, such as the introduction of the Internet of Things, artificial intelligence, and data markets, are slowly but steadily gaining popularity in the digital economy. Recently, Allen & Ovary, one of the biggest law firms in the world has partnered with Harvey AI- that is a generative AI (Artificial Intelligence) based on Open AI's latest models. Competition authorities are faced with an ever-growing challenge due to these advancements in the Digital space.

This essay attempts to expound the Competition Policy vis-à-vis Digital Economy, the challenges faced by Competition Authorities in this regard and goes on to suggest some measures for the effective regulation of Digital Markets.

INTRODUCTION

In many cases, new products and services are offered to consumers for free in return for their data owing to advances in technology. Digital platforms, such as those offered by Amazon (e-commerce), Facebook (social media), and by Google, Mozilla Firefox (Search engines) are at the centre of these changes and provide digital infrastructure and intermediation services in a variety of markets.¹

The Government of India's Digital India Campaign has improved online infrastructure, improved internet connectivity and advanced science and technology. As we know, there are innumerable websites and companies dealing with the abovementioned spheres of economy.²

The report of the United Nations Conference on Trade and Development suggests that such digital platforms have gained a lot of consumer data and subsequently greater market power.³ In USA, various federal agencies including the Department of Justice have filed lawsuits against

Bigtech especially - Facebook, Google and Apple. This raises concerns for a competitive economy giving every market player a level playing field.⁴

An enterprise is presented with the opportunity to get access to more data by offering different services, which are highly complementary to the main service. As a result, by operating such complementary services, firms have the option to create their own ecosystems which helps attract more users which derive value from the ecosystem. Therefore, access to data opens a world of possible behaviors that firms may choose to adopt in the market. The possible competition implications of such conduct - such as creating entry barrier, lack of innovation, consumers paying higher prices etc, have generated an entire body of case-laws, market studies

¹ Competition law, Policy and Regulation in the Digital era, UNITED NATIONS CONFERENCE ON TRADE AND DEVELOPMENT (Feb. 22, 2023, 4:28 PM), https://unctad.org/system/files/official-document/ciclpd57_en.pdf.

² Aditya Trivedi, Competition law and digital economy : emerging trends and challenges ahead, BLOG.IPLEADERS (Feb. 22, 2023, 10:07 AM), <https://blog.ipleaders.in/competition-law-digital-economy-emerging-trends-challenges-ahead/>.

³ Ibid.

⁴ Aditya Trivedi, Competition law and digital economy : emerging trends and challenges ahead, BLOG.IPLEADERS (Feb. 22, 2023, 10:07 AM), <https://blog.ipleaders.in/competition-law-digital-economy-emerging-trends-challenges-ahead/>.

and research both in India as well as other jurisdictions.⁵

Competition law not only assures market competition but also prohibits actions that hinder those processes. Competition Act, 2002 (“**The Act**”) is the sole legislation in India on competition law. It aims to prevent practices having adverse effects on competition, to promote and sustain competition in markets, to protect the interests of consumers and to ensure freedom of trade carried on by competitors in the market.⁶ Section 3 and 4 of the Act defines Anti-Competitive Agreements and abuse of dominant position respectively.

The purpose of an economy is to organise the allocation of available resources. Unfortunately, for all the achievements of the industrial economy, it has also resulted in the skewed allocation of available resources.

However, on one hand, the Digital Economy interrupts the existing concentrated markets, but on the other, digital markets are themselves vulnerable to extreme ‘winner takes all’ outcomes due to several factors, such as unsteady market dynamics and various advantages just because they entered this field before the other players. This frequently plays out on a global interconnected and virtual stage, resulting in tech giants dominating entire areas of global commerce, such as social media, search, digital advertising, mobile operating systems and e-hailing. Digital markets, therefore, threaten a new era of global concentration and the marginalisation of developing country businesses unless purposefully regulated.⁷

WHAT IS THE DIGITAL ECONOMY?

The digital economy is the economic activity that results from billions of everyday online connections among people, businesses, devices, data, and processes. The backbone of the digital economy is hyperconnectivity which means growing interconnectedness of people,

⁵ Abir Roy, Competition law in the digital world: Understanding the frontiers, THE SUNDAY GUARDIAN (Feb. 27, 2023, 10:07 AM), <https://www.sundayguardianlive.com/legally-speaking/competition-law-digital-world-understanding-frontiers>.

⁶ Aditya Trivedi, Competition law and digital economy : emerging trends and challenges ahead, BLOG.IPLEADERS (Feb. 22, 2023, 10:07 AM), <https://blog.ipleaders.in/competition-law-digital-economy-emerging-trends-challenges-ahead/>.

⁷ Competition in the Digital Economy, COMPETITION COMMISSION SOUTH AFRICA (Jan. 24, 2023, 10:07 AM), <http://www.compcom.co.za/wp-content/uploads/2021/03/Digital-Markets-Paper-2021-002-1.pdf>.

organisations, and machines that results from the Internet, mobile technology and the internet of things (IoT).⁸

The digital economy is taking shape and undermining conventional notions about how businesses are structured; how firms interact; and how consumers obtain services, information, and goods.⁹

THE DIGITAL ECONOMY AND COMPETITION POLICY

The global digital value chain spans from the base infrastructure to the end user. Every level within this value chain presents opportunities and threats for competitiveness.

The first characteristic of the digital economy is the rapid rate of technological change and innovation, providing scope for market disruption through new entrants and new products to the benefit of consumers. Competition policy and law need to encourage and facilitate this innovation, whilst also ensuring these technologies are accessible to consumers. We observed in previous interventions by the competition authorities that certain markets, such as the telecommunications infrastructure markets, are characterised by high barriers to entry due to high sunk costs and regulatory requirements. For instance, infrastructure roll-out is expensive and operators would be required to achieve economies of scale and scope sufficient to recoup these sunk costs. For sectors such as health, banks, stock markets, financial services and manufacturing - where the accuracy and currency of data are critical - even a slight delay or degradation in quality in the provision of infrastructure could lead to anti-competitive effects.¹⁰ So, the Competition Commission should intervene and make sure that the requisite technologies are available to new entrants as well, and that a monopoly shouldn't exist. This can be taken care of by '**Infrastructure Sharing**'.¹¹

In a developing country context, this does require a deliberate focus on ensuring the infrastructure layer of the digital economy is both affordable and has broad coverage if meaningful access is to occur. This is in the context where the underlying technologies are becoming increasingly concentrated (such as 5G networks, mobile operating systems). It also

⁸ What is Digital Economy? Unicorns, transformation and the Internet of things, DELOITTE (Feb. 24, 2023, 10:08 AM), <https://www2.deloitte.com/mt/en/pages/technology/articles/mt-what-is-digital-economy.html>.

⁹ Ibid.

¹⁰ Competition in the Digital Economy, COMPETITION COMMISSION SOUTH AFRICA (Jan. 24, 2023, 10:07 AM), <http://www.compcom.co.za/wp-content/uploads/2021/03/Digital-Markets-Paper-2021-002-1.pdf>.

¹¹ Ibid.

requires that the complementary assets for entry and innovation, including the skills and venture funding for new start-ups, are developed locally in an inclusive manner to ensure that it is not just existing dominant firms (both old industrial and new tech firms) that take advantage of opportunities presented by the new digital economy. Infrastructure sharing is also a crucial element which can enable new entry and operators to minimise costs. For example, a new entrant may not need to obtain its own infrastructure, however, it can lease it from a service provider who owns the infrastructure.¹²

The design of an infrastructure sharing model will depend on factors such as the market's competitive structure, market conditions, network symmetry and the regulatory stance. In this regard, regulatory interventions can help overcome market failures to maximise social welfare.¹³

The second characteristic of the digital economy is the tendency to form both product/service line and conglomerate concentration which is subsequently difficult to reverse once entrenched. This is in part due to economic features of these markets such as first-mover advantages from the positive network effects of two-sided markets and further product development advantages from data accumulation. However, it is also due to deliberate strategies to retain early leadership (such as MFN pricing rules with partners), acquire competitive threats (so-called 'killer acquisitions') and leverage dominance in some areas to exclude or limit rivals in others (such as self-preferencing of data and platform access). This requires competition law to not only consider new theories of harm but also to act proactively against entrenchment strategies to keep markets competitive and prevent irreversible concentration. It also requires competition policy tools to facilitate access by potential entrants to enabling assets such as the private consumer data accumulated and held by companies.

Thirdly, consumers tend to have more information in the digital economy than they do in the industrial economy. This means that consumers: their needs and their response to a product or service, naturally play a far bigger role in the innovation that takes place in digital markets. This factor, coupled with the relative ease of entry for innovative firms into some secondary and tertiary levels of digital markets, means that the digital economy at times presents the ideal

¹² Ibid.

¹³ Competition in the Digital Economy, COMPETITION COMMISSION SOUTH AFRICA (Jan. 24, 2023, 10:07 AM), <http://www.compcom.co.za/wp-content/uploads/2021/03/Digital-Markets-Paper-2021-002-1.pdf>.

competitive environment.¹⁴ Thus, it can be safely stated that consumers (by their opinions, suggestions) in a way make sure that healthy competition in the digital economy exists, because the consumer always looks out for better options.

Data is a central element of many digital markets - as a competitive asset or a potential entry barrier. It also has led to new markets, and enabled new business models as well as strategies, such as personalized pricing along with others.¹⁵

Moreover, competition regulation favors innovation and is ultimately designed for the benefit of consumers. Since innovation is integral to digital markets and consumers can define their preferred benefit with relative speed and accuracy in digital markets, this could necessitate a less interventionist approach from regulators in some instances.¹⁶

Finally, another characteristic of the digital economy is its rapid rate of change. Developments take place quickly; definitions change and parameters shift with more speed than the industrial economy is accustomed to.¹⁷

COMPETITION REGULATORY AUTHORITY IN INDIA

In India the competition commission of India (CCI) is the competition regulatory authority. It is a statutory authority responsible for compliance of provisions of The Competition Act, 2002. It is responsible for the regulation of the markets, it promotes and sustain competition in markets, safeguards the interests of consumers at large and ensures freedom of trade in the Indian markets.

Competition commission of India has some of the most extensive powers and tools that any administrative authority could have. These range from levying significant fines to imposing remedies that can lead to the complete shakeup of business models and to the breaking up of corporate 'giants'.

¹⁴ Ibid.

¹⁵ Competition Policy in the Digital Age, OECD (Feb.25, 2023, 10:08 AM), <https://www.oecd.org/daf/competition-policy-in-the-digital-age/>.

¹⁶ Competition in the Digital Economy, COMPETITION COMMISSION SOUTH AFRICA (Jan. 24, 2023, 10:07 AM), <http://www.compcom.co.za/wp-content/uploads/2021/03/Digital-Markets-Paper-2021-002-1.pdf>.

¹⁷ Competition in the Digital Economy, COMPETITION COMMISSION SOUTH AFRICA (Jan. 24, 2023, 10:07 AM), <http://www.compcom.co.za/wp-content/uploads/2021/03/Digital-Markets-Paper-2021-002-1.pdf>.

WHAT SHOULD BE DONE

Therefore, what is required is not an overhaul or rewriting of the rules or the tools, but a rethinking of some of the core concepts of competition law and of the application of some tools. Platforms and similar technology companies' nontraditional business models (involving 'free' services, data, algorithms, strong network effects, etc.) require a rethinking and reconfiguration of some core concepts of competition law in terms of whether and if so, how they should apply to particular practices of technology companies in these non-traditional market contexts.¹⁸

THE MAIN CHALLENGE FACED BY COMPETITION AUTHORITIES

The main challenge with figuring out how to apply competition law in the digital economy is that the practices adopted by the technology companies touch upon some of the least developed aspects of competition law and economics, such as the relationship between innovation and competition, oligopoly competition, collective dominance, hub-and-spoke agreements, concerted practices, exploitative abuse, and so on.¹⁹

Thus, dealing with potential misconduct in digital markets will often require a careful balancing act. The Grey zone between clearly pre-competitive and clearly anti-competitive conduct seems to have become bigger, while the risks of not intervening have become more serious. Further, there are concerns that novel forms of misconduct, such as algorithmic collusion, can be difficult to detect, and in some cases harder to prosecute under current competition laws.²⁰

Competition authorities find themselves under increasing pressure to do something, anything, about—in particular, but not only—big tech, with some commentators suggesting that they should even consider forsaking the paradigm that has reigned supreme in modern competition policies for decades: the consumer welfare standard. When as much as the shaping of an entire industrial revolution is at stake, legislators should resist an overhaul of the rules, and competition authorities should resist the pressure to abandon the standard that has long guided their enforcement.

¹⁸ *Ibid.*

¹⁹ *Id.* at 17.

²⁰ Competition Policy in the Digital Age, OECD (Feb.25, 2023, 10:08 AM), <https://www.oecd.org/daf/competition-policy-in-the-digital-age/>.

Competition rules per se do not need a complete overhaul because the substantive provisions of competition laws, are broad, open-ended, and thus flexible. They can be—and are—interpreted to cover many practices that have not been found to infringe the law before. Similarly, competition authorities conceptually have a wide variety of tools that can be—and are—utilised for enforcement in cases involving technology companies.²¹

HOW THE COMPETITION AUTHORITIES SHOULD GO ABOUT THE REGULATION OF THE DIGITAL MARKET

- To begin with, competition authorities should concentrate their efforts on gathering empirical facts on competition and consumer switching, multi-homing, entry obstacles, and other aspects of technological markets in order to better understand how these markets function. Market studies and investigations, which make it easier to address market defects by imposing remedies in their entirety, are instruments that competition authorities should consider using frequently than ever before. The fines should be increased and the remedies be made harsh so as to have a deterrent effect.
- Secondly, competition authorities should prioritise those cases where intervention can reduce barriers to entry. They should learn from markets (e.g., music streaming) where entrants have successfully dislodged incumbents, the features of markets and competition that make such entry possible and likely.²²
- Thirdly, Consumer education and consumer empowerment are key to receiving the benefits of digitalisation; they are also key to making competition work on these markets. Competition authorities with consumer enforcement powers should make full use of them.²³

Globalisation and digitalisation generate enormous benefits for all. Competition authorities are vital in protecting the market forces delivering these benefits. In doing so, they should embrace the global nature of the benefits and of the costs. They should strive for global convergence in

²¹ Competition in the Digital Economy, COMPETITION COMMISSION SOUTH AFRICA (Jan. 24, 2023, 10:07 AM), <http://www.compcom.co.za/wp-content/uploads/2021/03/Digital-Markets-Paper-2021-002-1.pdf>.

²² Pinar Akman, An Agenda for Competition Law and Policy in the Digital Economy, 10 *J. Eur. Compet. Law Pract.* 589, 590 (2019).

²³ *Ibid.*

approaching the issues and avoid the global discord that would result from overhauling the rules and abandoning the existing analytical frameworks.²⁴

EX-ANTE REGULATIONS

Germany has moved swiftly and has already incorporated ex-ante regulation in its competition law. The 10th Amendment to the German Act against Restraints of Competition (Gesetz gegen Wettbewerbsbeschränkungen – “GWB”) introduces a new Sec 19 (a) setting out regulations for “undertakings with paramount significance for competition across markets (UPSCAM)”.²⁵ As per the amendment, the determination of the “paramount significance for competition across markets” status will depend on the following: a firm’s dominant position on one or more markets; its financial strength or its access to other resources; its vertical integration and its activities on otherwise related markets; its access to data relevant for competition; and, the importance of its activities for third parties’ access to supply and sales markets and its related influence on third parties’ business activities.²⁶

The UPSCAM status will stay valid for five years. The German competition agency (the Bundeskartellamt) will prohibit UPSCAM from the following conduct:

- If it engages in self-preferencing when providing access to supply and sales markets.
- Exclusive pre-installation of its own offers on devices or to integrate them in any other way into the undertaking’s offers.
- If it takes measures that hinder other companies in their business activities on procurement or sales markets if the undertaking’s activities are important for access to these markets.
- Directly or indirectly hinder competitors on a market on which the undertaking can rapidly expand its position, even without being dominant.

²⁴ Id. at 22.

²⁵ Vikas Kathuria, ‘A Legal Toolkit for Fair and Competitive Digital Markets in India’ (2021) OBSERVER RESEARCH FOUNDATION (Feb. 26, 2023, 9:23 AM), <https://www.orfonline.org/research/a-legal-toolkit-for-fair-and-competitive-digital-markets-in-india/>.

²⁶ Vikas Kathuria, A Legal Toolkit for Fair and Competitive Digital Markets in India (2021) OBSERVER RESEARCH FOUNDATION (Feb. 26, 2023, 9:23 AM), <https://www.orfonline.org/research/a-legal-toolkit-for-fair-and-competitive-digital-markets-in-india/>.

- If it processes competitively sensitive data collected by the undertaking, to create or appreciably raise barriers to market entry or otherwise hinder other companies, or to require terms and conditions that permit such processing. For instance, if the undertaking makes the use of services conditional on users consenting to the processing of data from other services of the undertaking; or processes competitively sensitive data received from other companies for purposes other than those necessary for the provision of its own services to those companies.
- If it impedes the interoperability of products or services or the interoperability of data.
- If it provides other companies with insufficient information about the scope, quality or success of the service provided or commissioned.²⁷
- If it demands benefits for the treatment of another company's offers that are disproportionate to the reason for the demand.

Similar steps to create an ex-ante regime for powerful digital firms are underway in the United Kingdom (UK), where these regulations have been proposed against firms that have acquired the Strategic Market Status (SMS).

Most recently, China has adopted regulations for tech firms.

India, being an important digital market, should also move swiftly to ensure that powerful digital firms do not stifle competition.

So far as enforcement is concerned, there can be two models: Either the CCI can be mandated to oversee the regulation of digital markets, just as the German amendment envisions, or a new dedicated regulator can be created for digital markets. The UK Competition and Market Authority (CMA) has opted for the latter model and has proposed the creation of a Digital Markets Unit (DMU).

To be sure, both models have their pros and cons. The first model may benefit from the already gained experience of the antitrust agency and avoid any turf wars with the new digital markets regulator. The second, meanwhile, ensures a dedicated response to digital markets,

²⁷ Ibid.

which requires nuanced understanding of the underlying technology and economics. Moreover, a bifurcated system can also keep a check on a regulator's 'confirmation bias' in ex-post proceedings if a firm escapes negative decisions in ex-ante proceedings.²⁸

While adopting ex-ante regulation for digital markets, India should endeavour to strike a balance between the benefits offered by big platforms in the form of network effects, and the potential anti-competitive effects of a platform's practices.

LAWS ON PERSONAL DATA PROTECTION

Any information that can lead to the identification of the individual who generates such information is 'personal data': e.g., names and email addresses, location, ethnicity, gender, biometric data, religious beliefs, web cookies, and political opinions. This data needs protection as identification may compromise a user's privacy.

India follows the General Data Protection Regulation (GDPR) in allowing global digital companies to conduct business under certain conditions instead of following the isolationist framework of Chinese regulation that prevents global players like Facebook and Google from operating within its boundaries.²⁹

The EU General Data Protection Regulation (GDPR), which is the successor of the European Data Protection Directive (1995), that calls for "data protection by design and by default", is the gold-standard for ensuring data protection in the online environment for many jurisdictions. The GDPR comes into play as soon as personal data of EU citizens or residents is processed. It imposes heavy fines, which can go up to €20 million or 4 percent of global revenue (whichever is higher), if the mandates are not complied with. Also, data subjects can seek compensation for damages.³⁰

These Are The Seven Protection And Accountability Principles That The GDPR Mandates:

²⁸ Ibid.

²⁹ Vijay Govindarajan, et al., How India Plans to Protect Consumer Data, HARVARD BUSINESS REVIEW (Feb. 27, 2023, 10:08 AM), <https://hbr.org/2019/12/how-india-plans-to-protect-consumer-data>.

³⁰ Vikas Kathuria, A Legal Toolkit for Fair and Competitive Digital Markets in India (2021) OBSERVER RESEARCH FOUNDATION (Feb. 26, 2023, 9:23 AM), <https://www.orfonline.org/research/a-legal-toolkit-for-fair-and-competitive-digital-markets-in-india/>.

- Lawfulness,
- Fairness And
- Transparency
- Purpose Limitation
- Data Minimisation
- Accuracy
- Storage Limitation
- Integrity
- Confidentiality
- Accountability.

The GDPR also recognises these as new privacy rights to accord individuals more control over their data:

- The Right to Be Informed,
- The Right of Access,
- The Right to Rectification,
- The Right to Erasure,
- The Right to Restrict Processing,
- The Right to Data Portability,
- The Right to Object,
- Rights In Relation to Automated Decision Making And Profiling.

DATA PROTECTION LAWS IN INDIA

THE PERSONAL DATA PROTECTION BILL (PDP), 2019

In India, a Committee of Experts led by Justice B.N. Srikrishna was set up in July 2017 to look into the issue of data protection. At present, data protection in India is governed by the Information Technology Act, 2000. ³¹Additionally, sectoral laws related to banking, healthcare, and others mandate user privacy. The need for adopting a comprehensive framework was articulated after the Supreme Court of India in 2017 recognised privacy as a fundamental right that requires stronger protection. The Srikrishna Committee issued its

³¹ Id. at 30.

report and also presented the draft **Personal Data Protection Bill (PDP), 2018** (revised in 2019). The Committee observed that “data gathering practices are usually opaque, mired in complex privacy forms that are unintelligible, thus leading to practices that users have little control over.” In India, the PDP Bill aims at safeguarding the privacy of an individual, which has been recognised by the Supreme Court as a fundamental right, while ensuring the growth of the digital economy.

The PDP Bill provides for the protection of personal data of individuals, creates a framework for processing such personal data, and establishes a Data Protection Authority for the purpose.³² Thus, it gives users control over their data.

The Bill distinguishes personal data from *sensitive* personal data and *critical* personal data. The latter category of data has been accorded higher protection, and different categories of data have different data localisation requirements. It also sets out grounds for exemption.

The proposed law covers the processing of personal data by both public and private entities. An entity cannot store or process personal data without the explicit consent of an individual. Some exceptions have been granted.³³

The PDP Bill provides that data can be processed only in the following cases:

- (1) Consent,
- (2) Legal Obligation,
- (3) Medical Emergency Involving A Threat To Life Or Severe Threat To Health,
- (4) Providing Medical Treatment or Health Services,
- (5) Protecting The Safety of Individuals During A Disaster,
- (6) Employment Purposes,

³² Anurag Vaishnav, The PDP Bill, 2019 – All you need to know, PRS LEGISLATIVE RESEARCH (Feb. 27, 2023, 10:06 AM), <https://prsindia.org/theprsblog/personal-data-protection-bill-2019-all-you-need-know>.

³³ Vikas Kathuria, ‘A Legal Toolkit for Fair and Competitive Digital Markets in India’ (2021) OBSERVER RESEARCH FOUNDATION (Feb. 26, 2023, 9:23 AM), <https://www.orfonline.org/research/a-legal-toolkit-for-fair-and-competitive-digital-markets-in-india/>.

(7) “Reasonable Purposes” As May Be Specified by Regulations.

The Bill has extraterritorial applicability, meaning it would extend to data fiduciaries or data processors not present within the territory of India if they carry out the processing of personal data in connection with personal data of individuals in India.

A separate provision covers the protection of personal and sensitive data of children. Data fiduciaries are required to establish mechanisms for age verification and parental consent.

The Bill accords the data principal with the -

- (a) right to confirmation and access,
- (b) correction and erasure,
- (c) data portability, and
- (d) right to be forgotten.³⁴

PENALTIES FOR NON-COMPLIANCE

The Bill also sets out a penalty for non-compliance, it provides for penalties and compensation. Failure to take prompt and appropriate action in response to a data security breach or failure to conduct a data audit is punishable with a fine of INR 5 crore or 2 percent of the annual turnover of the fiduciary, whichever is higher. Failure to adhere to security safeguards or processing of personal data in violation of the Bill is punishable with a fine of INR 15 crore or 4 percent of the annual turnover of the fiduciary, whichever is higher. Re-identification and processing of de-identified personal data without consent is punishable with imprisonment not exceeding three years or with a fine which may extend to INR two lakh, or both. Any data principal who has suffered harm as a result of any violation of any provision under the PDP Bill or the rules or regulations made thereunder, by a data fiduciary

³⁴ Vikas Kathuria, A Legal Toolkit for Fair and Competitive Digital Markets in India (2021) OBSERVER RESEARCH FOUNDATION (Feb. 26, 2023, 9:23 AM), <https://www.orfonline.org/research/a-legal-toolkit-for-fair-and-competitive-digital-markets-in-india/>.

or a data processor, shall have the right to seek compensation from the data fiduciary or the data processor.³⁵

These penalties, which are based on multinationals' *global* income, and potential jail sentences for officers of digital companies, imply that PDP regulations cannot be taken lightly. Its provisions must be complied with in order to do business in India.³⁶

CONCLUSION

Digital markets grow at a rapid pace and have various technological issues involved. Some of the issues which pose difficulties in the regulation of the digital markets are 'Data sharing', 'Personal Data protection' et al.

These issues are somewhat difficult to tackle for the competition authorities, them not being used to it.

But as we have seen the Competition Commission of India (CCI) has taken momentous steps for regulation of the digital Markets and has done a Remarkable job in protecting the interests of consumers at large.

But there are still some areas which are in dire need of competition authorities' attention and upon which the competition authorities need to work.

³⁵ Vikas Kathuria, A Legal Toolkit for Fair and Competitive Digital Markets in India (2021) OBSERVER RESEARCH FOUNDATION (Feb. 26, 2023, 9:23 AM), <https://www.orfonline.org/research/a-legal-toolkit-for-fair-and-competitive-digital-markets-in-india/>.

³⁶ Vijay Govindarajan, et al., How India Plans to Protect Consumer Data, HARVARD BUSINESS REVIEW (Feb. 27, 2023, 10:08 AM), <https://hbr.org/2019/12/how-india-plans-to-protect-consumer-data>.