



# COMPETITION COMMISSION OF INDIA



## PRESENTATION IN 2<sup>ND</sup> MEETING OF BRICS WORKING GROUP ON DIGITAL ECONOMY

**31<sup>ST</sup> AUGUST, 2019  
BRASILIA, BRAZIL**

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Views presented are strictly personal and not that of the Competition Commission of India (CCI) or any of its Member



# INDIA: The digital revolution



**627 million**

Number of internet users by the end of 2019

**566 million**

In December 2019

**40%**

Internet penetration

**87%**

Regular Users

**97%**

Use mobile phones to access internet



Increased availability of bandwidth



Cheaper data plans



Increased awareness



# Major players

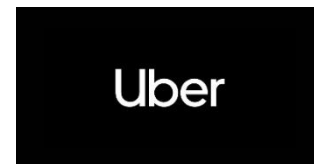


E-commerce

Ride-hailing



amazon.in



Online Search

Travel booking



YAHOO!



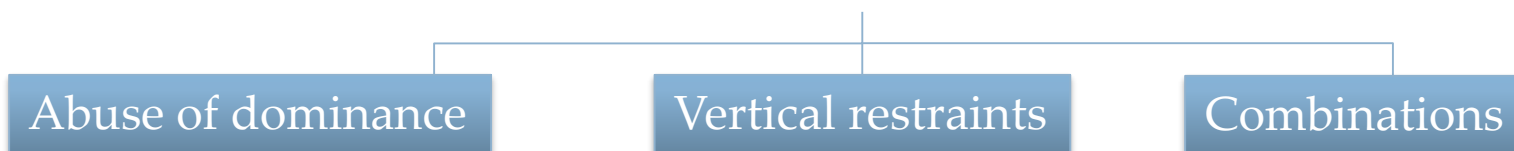
Food Delivery

Social networking





# CASES SO FAR



- **Main regulatory challenges:**

- **Algorithmic collusion or cartel**
- **Vertical restraint in e-commerce**
- **Abuse of dominance by big players (like Google etc.)**
- **Denial of market access**
- **Platform Markets (zero pricing etc.)**
- **Big Data leading to dominance**



# CCI'S APPROACH

Effective intervention

Innovation not stifled

**Understanding of underlying technology**

**Close monitoring of market developments**

**Digital markets not homogenous monolith – difference relevant markets can exist within each sector with specific competition dynamics**

**A given market at one point of time may mutate into another**

**Nuanced assessment based on facts of the case and market and technology in question**



# Legal Framework



## Laws and Regulations governing anti-trust issues in India



**A Committee for legislation alteration has been set up.**



# Relevant Market



## Case to case basis approach

### ***Matrimony.com Limited & Anr. v. Google LLC & Ors***

- (i) Market for Online General Web Search Services in India
- (ii) Market for Online Search Advertising Services in India

*“Two sides of the market complement each other and are independent..wide variations in the mechanism for generation and display of results..these services serve distinct goals and are perceived differently by users”*

### ***Fast Tract Call cabs and Anr. V. ANI Technologies Pvt. Ltd.***

Market for Radio taxi services in Bengaluru

*“Though cab aggregators have replaced the ownership/asset based model in the radio taxi service business and are operating under the platform based model, basic nature of service provided is the same as other players operating under the traditional business model”*



# Relevant Market



## Combination notice filed by MIH Internet SEA Pte Ltd

Market for sale of travel and travel related services

*“from a supply side perspective, it appears that most of these channels operate on a ‘**hybrid model**’ wherein a Travel Channel has both online as well as offline presence to provide convenience to customers with specific online or offline preferences. **characteristics** of products and services available with the different Travel Channels are **similar** and therefore **substitutable** from consumer’s point of view. From demand side perspective, it is easy for a consumer to **switch between online and offline** modes within and across Travel Channels in the two main activities related to travel products and services- i.e information gathering and purchase at any point of time without incurring significant **switching cost**”*

## Ashish Ahuja vs. Snapdeal & Ors

Market for portable small-sized consumer storage devices

*“both offline and online markets differ in terms of discounts and shopping experience and buyers weigh the options available in both markets and decides accordingly. If the price in the online market increase significantly, then the consumer is likely to shift towards the offline market and vice versa. These two markets are **different channels of distribution** of the same product and are not two different relevant markets. ”*





# Big Data



- Access and use of big data by enterprises , can confer them with market power and a competitive advantage over their competitors and there by lead to anti-trust issues.
- As of now, Indian data protection regime is governed by **Information Technology Act, 2000** and different rules framed thereunder. However, India is in the process of coming up with exclusive data protection law after release of Sri Krishna Committee recommendations on data protection.
- CCI has developed ‘CCI’s Diagnostic Tool – Towards Competitive Tenders’ as a practical guide for procurement officials to be able to review their public procurement system to detect bid rigging.
- MoU with Government e-Procurement (GeM)



# Competition cases involving digital markets



## Fast Tract Call cabs and Anr. V. ANI Technologies Pvt. Ltd.

- *Facts:* Allegation pertained to **abusive low pricing strategies** (predatory pricing) by online cab aggregators.
- *CCI's observation:* Most of such cases were closed at the *prima facie* stage as CCI did not find any of the cab aggregators to be dominant in the relevant market. However, in one case which was sent to the DG for investigation, CCI observed that it was **difficult to determine with certainty the long-term impact of this pricing strategy as the market is yet to mature.**

Further, it was observed that any interface at this nascent stage would not only disturb the market dynamics but would also pose a risk of prescribing sub-optimal solution to a nascent market situation.

## Mohit Manglani v. Flipkart/Snapdeal and Ors.

- *Facts:* It was alleged that e-commerce entities and product seller enter into '**exclusive agreements**' to sell the selected product exclusively on the selected portal to the exclusion of other e-portals or physical channels
- *CCI's observation:* CCI found it **unlikely** that an exclusive arrangement between a manufacturer and an e-portal will **create any entry barriers** as most of the products which are sold through exclusive e-partners face **competitive constraints..**



# Competition cases involving digital markets



## **Matrimony.com Limited & Anr. v. Google LLC & Ors.**

- *Facts:* The Informants alleged that Google runs its core business of search and advertising business in a discriminatory manner causing harm to advertisers and indirectly to consumers.

Google was alleged to promote its own vertical search services viz. YouTube (videos), Google News (news) and Google Maps (maps) and manipulating its search and quality score algorithm leading to only their own sites appearing prominently on the search results, irrespective of whether they were the most relevant and popular sites to the search. The Informants alleged that such acts lead to denial of access and refusal to license content to competing search engines and creation of entry barriers.

- *CCI's observation:* Google, being the gateway to the internet for a vast majority of internet users due to its dominance in the online web search market, is under an obligation to discharge its special responsibility.

Prominent display of Commercial Flight Unit by Google on Search Engine Result Page (SERP) with link to Google's specialised search options/ services (Flight) is in contravention of the provisions of Section 4(2)(a)(i) of the Act.

Ranking of Universal Results prior to 2010 were pre-determined to trigger at the 1st, 4th or 10th position on the SERP instead of by their relevance. Such practice of Google was unfair to the users and was found to be in contravention of the provisions of Section 4(2)(a)(i) of the Act.



# Thank You