

PROPRIETARY

Digital economy enforcement a balancing act, CCI official says — CUTS New Delhi

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- Impact on consumers key focus for CCI
- Distribution agreements could pose problems
- Market definition evolves in multi-sided markets

The Competition Commission of India (CCI) sees enforcement in the digital economy as a balancing act, a senior CCI official said recently.

“[It’s] a tightrope walk considering that it brings about dynamic efficiencies and long-term productivity implications,” commissioner Sangeeta Verma said. “We have to allow emerging monopolies to be rewarded for their innovation.”

Competition regulations should not be seen in isolation from development goals and the evolution of the digital economy, Verma said, speaking at the 6th CUTS-CIRC Biennial Conference on Competition, Regulation and Development in New Delhi on 1 December.

The digital economy throws up a lot of challenges for competition authorities to ensure free and fair competition, Verma said.

Citing product distribution as an example, Verma said enterprises might resort to contract restrictions such as vertical restraints on dealers and retailers to deal with the challenges posed by e-commerce. Therefore, conduct such as selective distribution agreements or exclusive agreements for online players need to be confronted and addressed, she said.

Two-sided markets

The fact that digital markets are often two-sided or multisided with strong network effects pose a challenge when it comes to market definition, Verma added.

The CCI views such scenarios on a case-by-case basis depending on how the market is evolving, she said, citing the example of RKG Hospitalities and Oravel Stays (OYO), wherein OYO and other players operate as a two-sided market, connecting budget hotels with potential consumers. OYO offers budget hotels a franchising service for the use of its brand in exchange for a commission.

After an abuse of dominance complaint was raised by a partner hotel, the CCI felt that the relevant market determination should take into account all relevant alternatives available to budget hotels in terms of where they can list and the competitive constraints they face, which is the service OYO provides them. Therefore, the case was dismissed.

Verma cited the Google case, where the CCI held the view that the two sides of the market — the consumers and the search platform — complement each other and are interdependent. The US search engine was fined USD 21m for “search bias” which consequently hurt both competitors and users.

Another concern haunting the digital economy is predatory pricing, Verma said, citing the case of ride hailing services Meru and ANI Technology (Ola).

Sector: Internet / Ecommerce

Topics: Abuse Of Dominance/Single Conduct, Cartels & Horizontal Agreements, Merger Review

Grade: Confirmed

Companies

Alphabet Inc (Parent Of Google Inc Among Others)
SoftBank
Group Corp.
MakeMyTrip
Limited
Goibibo.Com
ANI Technologies Private
Limited Uber Technologies,
Inc.
Meru Travel Solutions Pvt
Ltd Oravel Stays Private
Limited Fast Track Call
Taxi

Agencies

Indian Competition Authority -
Competition Commission Of India
(CCI)

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“We didn’t see the need to intervene as the market was still evolving and efficiency considerations also appeared to favor Ola,” she said. The CCI closed the case based on the underlying analysis that Ola provided consumer welfare in terms of ease of booking and ride tracking and the fact that there is immense growth potential in the market for taxi aggregators.

“We closed the matter for want of dominance, because without dominance you cannot have predatory pricing,” she said.

Verma said that though previously the commission had taken the view that online and offline markets are one, it recently felt that the two need to be looked at separately after ordering an investigation into online travel platforms MakeMyTrip (MMT), GoIbibo and OYO.

by Freney Patel in New Delhi