



# Study On Abuse Of Dominant Position By Digital Market

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## ABSTRACT

Market use electronic devices to communicate to consumer. Abuse of a dominant position in digital markets refers to the act of a dominant company using its significant influence to engage in anti-competitive behaviour. Not only does this affect competitors seeking to establish themselves, but it also has far reaching implications for consumer wellbeing and the health of the market as whole. The digital economy rapid growth has created a previously unthinkable potential for innovation, convenience, and connectivity. Along with these advantages, though, worries have been made regarding the abuse of dominating positions by some businesses in the online marketplace. Addressing this issue requires a collaborative effort from governments, regulatory bodies, industry stakeholders, and society as a whole. Effective solutions encompass robust regulatory frameworks, transparent practices, ethical considerations, user empowerment, and innovative technological approaches. By taking comprehensive measures, it is possible to mitigate digital market abuse and cultivate an environment that fosters fair competition, privacy protection, and the positive evolution of digital interactions.

**Key words:** Digital Marketing, Abuse of Dominate position, Competition, adverse affect and anti competition.

## Introduction

A digital market is a virtual marketplace where products, services, and information are traded, acquired, offered for sale, and distributed through the use of digital technologies. This refers to a broad range of online activities and platforms where electronic transactions, communications, and business take place. The expansion of the internet, mobile devices, and numerous online platforms has increased the importance of the digital market in modern economies. It has altered how companies run their operations, how customers shop, and how information is distributed<sup>1</sup>. The rise of digital markets has transformed the global economy, offering new opportunities for innovation and connectivity. However, with the ascent of dominant players in these markets comes the pressing concern of digital market abuse. This abstract examines the multifaceted issue of abuse within digital markets, focusing on its implications for competition, privacy, consumer choice, and societal well-being. The abuse of dominant positions by powerful entities can lead to anticompetitive practices, restricting entry for smaller players and stifling innovation. Furthermore, the exploitation of user data raises privacy concerns, while manipulative content algorithms impact the diversity of information and shape user opinions. These challenges extend to areas like freedom of expression, economic equity, and the democratic process, where digital market abuse can distort discourse and influence political agendas.

### Statement of problem

The problem of abuse Dominant position by digital market. These abuses can have far-reaching consequences for competition, privacy, user choice, and societal well-being. Monopolistic Behaviour is Dominant players in digital markets can exploit their power to engage in anti competitive practices, limiting the entry of new competitors and stifling innovation. Unfair Competition is some dominant platforms may use their market power to favour their own products or services over those of competitors, creating an uneven playing field and disadvantaging smaller businesses. Limited User Choice when a few platforms dominate a market, users might find their options limited. These platforms can influence what content users see, what products they buy, and even shape their opinions. Regulating digital market abuses can be challenging due to the border less nature of the internet, the speed of technological advancements, and the need to balance regulation with fostering innovation. Implementing effective regulations, promoting competition, enhancing transparency, and empowering users are all important steps toward mitigating digital market abuse and creating a more equitable digital ecosystem.

### Objective of the study

- To study about abuse Dominant position by digital market.
- To eliminate monopoly of digital market in society.
- To improve Unfair Competition is some dominant platforms.
- To examine price various in price discrimination
- To find does the digital market abuse the Dominate position.

<sup>1</sup> <https://www.barandbench.com/law-firms/view-point/abuse-of-dominant-position-in-digital-markets>

## Scope of the study

To prevent Anticompetitive Practices Dominant players can engage in practices that undermine fair competition, such as giving preferential treatment to their own products or services, engaging in predatory pricing to drive competitors out of the market, or blocking competitors' access to essential resources. Dominant platforms can influence what products or services consumers are exposed to, potentially limiting their choices and steering them towards certain options of consumer choice. Prevent Small Business Impact from Abuses, disproportionately affect small businesses that rely on dominant platforms for visibility or sales. Unfair terms, high fees, or arbitrary changes can negatively impact these businesses. Efforts to curb digital market abuse require a multi-pronged approach involving regulatory frameworks, competition enforcement, transparency measures, data protection regulations, and collaboration among governments, industry players, and civil society. The goal is to ensure a fair, competitive, and ethical digital landscape that benefits users, businesses, and societies as a whole.

## Dominant position

Dominant position is superior as compared to other based on some factor. Explained in section 4 of the Competition Act 2002, in simple words Dominant position means dominate the market independently and also affect its competitors. A dominant position in the digital market refers to a situation where a specific company or a small group of companies holds a significant share of market control, influence, and power in a particular segment of the digital economy. This dominance can manifest in various ways, such as having a substantial market share, strong brand recognition, and the ability to set market standards and other players in the industry. Market Share are the dominant player typically commands a substantial portion of the market's consumer base, revenue, or transactions compared to its competitors. Brand Recognition is Dominant companies are often widely recognized and trusted brands within their respective markets<sup>2</sup>. Network Effects of Dominant companies can benefit from network effects, where their services become more valuable as more users join, creating a barrier for competitors to catch up. Dominant players might control essential digital infrastructure or platforms that others rely upon to reach customers or provide services of Control over Infrastructure. Data Advantage is Accumulated user data gives dominant companies insights that can enhance their services, improve personalization, and create competitive advantages. Market Power of Dominant companies has the ability to set prices, terms, and conditions that significantly impact the market and its participants. Reduced Competition dominant position can discourage competition, as smaller players may find it challenging to compete against the resources and influence of the dominant player.

## Abuse of Dominant Position

Abuse of dominant position also known as abuse of market power or monopolistic behaviour, refers to a situation in which a dominant company or entity in a particular market uses its significant market power to engage in practices that harm competition, other market players, consumers, or the overall competitive

<sup>2</sup> <https://www.barandbench.com/law-firms/view-point/abuse-of-dominant-position-in-digital-markets>

environment. Abuse of Dominant position which is adversely affects the competition in market. To prevent such abuse and maintain fair competition in market is object of Competition Act. Some common types of abusive behaviour include<sup>3</sup>:

#### Predatory Pricing:

A dominant company may deliberately set its prices below cost to drive competitors out of the market. Once competitors are eliminated, the dominant company can then raise its prices to exploit its position.

#### Exclusive Dealing:

This involves requiring buyers or suppliers to deal exclusively with the dominant company, preventing them from working with competitors. This can limit competitors' access to distribution channels or resources<sup>4</sup>.

#### Tying and Bundling:

Tying involves forcing customers to purchase one product if they want to buy another product. Bundling involves offering products together at a lower price than if they were purchased separately. Both practices can limit consumer choice and hinder competition.

#### Refusal to Deal:

A dominant company might refuse to supply goods or services to a competitor, limiting their ability to compete effectively<sup>5</sup>.

#### Price Discrimination:

This involves charging different prices to different customers for the same product, which can distort competition and harm smaller competitors.

#### Limiting Production or Innovation:

A dominant company might deliberately limit production or innovation to maintain higher prices and hinder competitors from entering the market. Abusive Intellectual Property Practices is Misusing patents, copyrights, or other intellectual property rights to prevent competition or restrict the use of certain technologies.

Regulators and competition authorities investigate such behaviour to ensure that competition is not unfairly stifled and that consumers have choices in the market. If a company is found to have abused its dominant

<sup>3</sup> [https://papers.ssrn.com/sol3/Delivery.cfm/SSRN\\_ID3882777\\_code1876818.pdf?abstractid=3882777&mirid=1](https://papers.ssrn.com/sol3/Delivery.cfm/SSRN_ID3882777_code1876818.pdf?abstractid=3882777&mirid=1)

<sup>4</sup> <https://www.legalserviceindia.com/legal/article-10737-abuse-of-dominance-in-digital-market.html>

<sup>5</sup> <https://guzel.av.tr/en/competition-policy-in-the-digital-markets-refereed/>

position, it may face fines, legal action, and orders to cease the anticompetitive behaviour. The goal is to promote healthy competition, innovation, and consumer welfare.

*Belaire Owners' Association Vs. DLF Limited, HUDA & Ors.*

According to CCI's ruling in this matter, DLF violated section 4(2)(a)(i) and (ii) by imposing unfair or discriminatory conditions on the sale of services, both directly and indirectly. CCI judged DLF guilty of abusing its market dominance and assessed the company a fine of Rs. 630 crores. The CCI further ordered DLF to stop creating and enforcing such unfair conditions in its Agreement with buyers in Gurgaon and to adequately change any unfair conditions placed on its customers as mentioned above, all within three months of the date of DLF's receipt of the order.

### **Abuse of Dominant position by Digital market**

The digital sector has undergone rapid and significant expansion. With regard to all types of online platforms, competition in the digital market has grown to be a key focus of competition law and policy formulation. It is crucial to illustrate what the word dominance abuse means in this context. There is little doubt that the misuse of dominance in enforcement will be an issue in the digital marketplaces.

The dominance of certain companies in online markets has raised several issues and concerns that are specific to the digital realm. Market Power and Competition are Some online platforms, such as e-commerce marketplaces, search engines, and social media platforms, have achieved dominant positions. This concentration of market power can limit competition and innovation by making it difficult for smaller players to enter the market and for consumers to have a variety of choices. Data Privacy and Security are Dominant online platforms often collect vast amounts of user data. This raises concerns about how this data is used, who has access to it, and whether users' privacy is adequately protected. Data breaches and misuse of personal information can have significant negative impacts.

*Re Shri Shamsher Kataria v Seil Honda*<sup>6</sup> Exclusionary activities are those in which a dominating body uses its power to prevent competitors from entering a particular market. Such agreements were deemed anti-competitive because they restricted the entry of new enterprises in cases where there was an existing agreement between the dominant corporations and the overseas suppliers of special vehicle parts that prevented the overseas suppliers from providing parts to free repairers.

Consumer Choice is Dominant platforms might manipulate search results or algorithms to prioritize their own products or services, limiting consumers' ability to make unbiased choices. This can result in a lack of diversity in offerings and potentially disadvantage smaller businesses. Platform Fees and Practices are Some dominant platforms charge fees to third-party sellers or service providers that use their platforms. There have been concerns that these fees could be excessive or that the platforms may change their fee structures in ways that negatively impact sellers.

<sup>6</sup> Re Shri Shamsher Kataria v Seil Honda, Case No. 03/2011

Content Moderation and Censorship are Online platforms with dominant positions often need to make decisions about content moderation, which can involve removing or restricting certain types of content. Critics argue that these decisions can have a significant impact on free speech and access to information. Lock-In Effects are Dominant platforms can create network effects that make it difficult for users to switch to alternative platforms. Users might feel locked into a platform due to the presence of their social connections, accumulated data, or familiarity. Anticompetitive Behaviour are Some dominant platforms have been accused of engaging in anticompetitive behaviour, such as giving preferential treatment to their own products or services, or acquiring potential competitors to eliminate competition.

#### *All India Online Vendors Association v Flipkart case*

Supreme Court held that Flipkart is not dominant in the market of service provided by online platforms for selling goods in India; question of abusing dominant position does not arise. Algorithmic Transparency and Bias are Algorithms used by dominant platforms can have significant impacts on what content users see and what products they are exposed to. Lack of transparency and potential biases in these algorithms raise concerns about fairness and accountability.

Market Entry Barriers are Dominant platforms can create high barriers to entry for potential competitors due to their established user base, network effects, and significant financial resources. This can hinder innovation and prevent new entrants from challenging the status quo<sup>7</sup>.

Regulatory Challenges are Regulating dominant platforms in the online market presents challenges due to the global nature of the internet, complex business models, and the rapid pace of technological change. Governments and regulatory bodies around the world are actively addressing these issues through antitrust investigations, data protection regulations, content moderation guidelines, and efforts to promote fair competition in the digital economy<sup>8</sup>.

*Mohit Manglani v Flipkart*<sup>9</sup>CCI questioned whether a book that is solely distributed inside is comparable to another book that is distributed by a physical store, creating a different relevant market. The Indian Competition Commission, however, was of the opinion that a single product does not, by itself, constitute a distinct relevant market.

In the case of *Mr. Ashish Ahuja v. Snapdeal*<sup>10</sup>, the court found that the two marketplaces differed in terms of the discounts they offered and the shopping experiences, and that in such situations, buyers had options in both markets to make the appropriate decisions. Therefore, while being different means of distribution for the same product, the two markers do not represent independent relevant markets.

<sup>7</sup>[https://www.researchgate.net/publication/350178104\\_Abuse\\_of\\_Dominant\\_Position\\_on\\_Digital\\_Market\\_Is\\_the\\_European\\_Commission\\_Going\\_back\\_to\\_the\\_Old\\_Paradigm](https://www.researchgate.net/publication/350178104_Abuse_of_Dominant_Position_on_Digital_Market_Is_the_European_Commission_Going_back_to_the_Old_Paradigm)

<sup>8</sup> <https://lup.lub.lu.se/student-papers/record/9121622/file/9121656.pdf>

<sup>9</sup> Case No. 80 of 2014

<sup>10</sup> Case No. 17 of 2014



## Key factor of Digital Marketing

Ecommerce: Online shopping and electronic transactions have become a crucial part of the digital market is called e-commerce. Customers can examine the offerings of numerous online merchants and platforms and make purchases<sup>11</sup>.



Online Advertising: Digital platforms are used by advertisers to market their goods and services to specific target markets. This covers strategies including display ads, search engine marketing, and social media advertising. Social Media are Sites and platforms for social networking have grown to be essential components of the digital economy, promoting content sharing, communication, and even<sup>12</sup>.

Online services: a wide range of services, including cloud computing and entertainments streaming is provided through digital platforms and are accessible to users anywhere in the world.

## Conclusion

In conclusion, the abuse of dominant position in the digital market presents a complex and multifaceted challenge that requires careful consideration and regulatory intervention. The rise of dominant online platforms has transformed the way we engage with the economy, society, and information. However, their concentrated power has given rise to a range of issues that need to be addressed to ensure fair competition, consumer protection, and the preservation of democratic values. Competition and Innovation are Dominant online platforms can stifle competition and innovation, limiting the entry of new players and suppressing the diversity of offerings available to consumers. Consumer Choice and Privacy are Users' ability to make unbiased choices and protect their personal data can be compromised by dominant platforms' practices.

Regulatory Adaptation are Traditional regulatory frameworks may struggle to address the dynamic and rapidly evolving nature of the digital market, necessitating new approaches and collaboration between governments and tech industry stakeholders. Transparency and Accountability are algorithms and content moderation play pivotal roles in users' experiences, ensuring transparency and accountability in these processes is crucial.

<sup>11</sup> <https://www.simplilearn.com/types-of-digital-marketing-article>

<sup>12</sup> <https://www.simplilearn.com/types-of-digital-marketing-article>

Global Impact is the global nature of the digital market requires international coordination and cooperation to effectively address abusive dominant practices. Balancing Innovation and Regulation is striking the right balance between fostering innovation and preventing anticompetitive behaviour is essential to encourage a thriving digital economy. User Empowerment are Empowering users with greater control over their data, choices, and the platforms they use can help mitigate the negative effects of digital dominance. Ethical Considerations are the impact of digital market dominance extends beyond economic concerns, touching on broader ethical, social, and democratic implications. Addressing these challenges involves a multi-pronged approach that involves legal reforms, regulatory oversight, industry self-regulation, and public awareness campaigns. The goal is to create a digital landscape that promotes healthy competition; safeguards user rights, encourages innovation, and upholds democratic values in the digital age.

