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Regulatory Challenges in India's E-Commerce Sector – Consumer Protection and Competition Law

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***Abstract*: India's e-commerce sector has undergone a structural transformation over the past decade that few jurisdictions can match in speed or scale. What began as a tentative experiment in online retail, dominated by a handful of platforms selling books and electronics, has become one of the most contested commercial battlegrounds in the world. The numbers reflect a trajectory that regulators, courts, and legislators are still scrambling to keep pace with. The e-retail market, valued at roughly USD 38 billion in 2018, crossed USD 65 billion in gross merchandise value by 2024, and Bain & Company project it will reach approximately USD 160 billion by 2028 and USD 190 billion by 2030.[1]The India Brand Equity Foundation places the broader e-commerce universe, which includes business-to-business transactions, digital financial services, and online travel, at USD 292 billion by 2028 under an expansive market definition.[2]These are not simply growth statistics; they represent the consolidation of market power, the acceleration of algorithmic intermediation, and the rapid emergence of digital harms that existing legal frameworks were never designed to address. The platforms driving this growth, principally Amazon and Flipkart (owned by Walmart), together command an estimated 60 to 65 percent of India's organised e-retail market by gross merchandise value.[3] Their dominance is not accidental, nor is it the product of straightforward competitive merit. It is the outcome of deliberate platform architecture: deeply subsidised consumer pricing funded by seller-side extraction, algorithmic ranking systems that privilege affiliated or preferred vendors, proprietary logistics networks that create structural entry barriers, and data collection at a scale that allows each platform to compete directly against the very merchants who depend on it. This phenomenon, which the Competition Commission of India's Director General conclusively documented in August 2024 after a four-year investigation, exposes the central failure of India's regulatory architecture: the rules governing these markets were built for a world of linear commerce, transparent pricing, and bilateral contracts.[4] Digital multi-sided platforms operate by none of these principles. The regulatory response that has emerged between 2020 and 2026 is substantial in ambition but fragmented in execution. The Consumer Protection (E-Commerce) Rules 2020, the Digital Personal Data Protection Act 2023, the Competition (Amendment) Act 2023, the Central Consumer Protection Authority's Dark Patterns Guidelines 2023, and the Information Technology (Intermediary Guidelines and Digital Media Ethics Code) Amendment Rules 2026 collectively represent a significant legislative effort to bring digital platforms within a rights-protective framework.[5]Yet these instruments are enforced by four separate regulators — the Competition Commission of India, the Central Consumer Protection Authority, the Ministry of Electronics and Information Technology, and the nascent Data Protection Board — whose mandates overlap, whose enforcement philosophies diverge, and whose coordination mechanisms remain embryonic. The result is that a single algorithmic act by a dominant platform — say, deploying a subscription trap that simultaneously violates consumer consent norms, competition law, and data protection obligations — falls across three regulatory jurisdictions, each of which may reach a different conclusion on the same facts. This paper examines that fragmentation. Its central argument is that India's current multi-regulator, sector-siloed approach to e-commerce governance is constitutionally and economically inadequate to address the harms generated by algorithmically powerful, data-rich platform enterprises. The dissertation proposes the establishment of a unified Digital Markets Authority of India as the institutional architecture capable of delivering coherent, rights-protective, and economically rational oversight of India's digital economy.**

***Keywords*: Appreciable Adverse Effect on Competition, Competition Commission of India, Central Consumer Protection Authority, Committee on Digital Competition Law, Core Digital Service, Director General (investigative arm of the CCI), Digital Markets Act (EU), Digital Personal Data Protection.**

[1] Bain & Company and Flipkart, *How India Shops Online 2026* (Bain & Company, 2026); Business Standard, 'India's E-Retail Market Set to Reach Rs 16,27,540 Crore (US $190 Billion) GMV by 2030: Bain Report' (Business Standard, 27 March 2025).

[2] India Brand Equity Foundation, *E-Commerce Industry in India* (IBEF, 2025)

[3] Competition Commission of India, 'Market Study on E-Commerce in India: Key Findings and Observations' (CCI, January 2020) 12.

[4] Competition Commission of India, Director General's Investigation Report, Case No. 40 of 2019 (In Re: Delhi Vyapar Mahasangh) (CCI, August 2024).

[5] Consumer Protection (E-Commerce) Rules 2020 (notified 23 July 2020 under s 101 of the Consumer Protection Act 2019); Digital Personal Data Protection Act 2023; Competition (Amendment) Act 2023; CCPA, *Guidelines for Prevention and Regulation of Dark Patterns* 2023; IT (Intermediary Guidelines and Digital Media Ethics Code) Amendment Rules 2026 (notified 10 February 2026).

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1. Introduction

A. The Economics of Multi-Sided Markets: Theoretical Foundations

1) The Multi-Sided Platform as a Distinct Economic Entity

To understand why conventional regulatory tools fail in digital markets, one must first understand what a multi-sided platform actually is, and how fundamentally it differs from the firms that competition law and consumer protection law were designed to govern.

Jean Tirole and Jean-Charles Rochet, whose work on two-sided markets earned Tirole the Nobel Prize in Economics in 2014, established the foundational theoretical framework.[6] A two-sided or multi-sided market is one in which a platform intermediates between two or more distinct user groups whose participation in the platform is mutually dependent. The platform does not simply buy inputs and sell outputs in a linear supply chain; it creates value by facilitating interactions between groups who would not otherwise transact efficiently. An e-commerce marketplace is the paradigmatic example: it connects buyers seeking products with sellers offering inventory. Neither group has much use for the platform unless the other group is present in sufficient numbers.

This interdependence is not symmetric. The utility that a buyer derives from the platform is a function not only of the platform's own features but of the density and quality of seller participation. Formally, if U_b represents the utility of a buyer, one can express this as a function of the platform's features, the price charged to buyers (p_b), and crucially, the number of sellers (N_s): $U_b = v_b + \beta N_s - p_b$, where β captures the sensitivity of buyer utility to seller participation.[7] The corresponding expression for sellers, $U_s = v_s + \delta N_b - p_s$, shows that seller utility similarly depends on buyer participation N_b. These cross-group dependencies are indirect network externalities, and they are the engine of platform economics.

2) Direct and Indirect Network Externalities Distinguished

The economic literature distinguishes sharply between direct and indirect network externalities. Direct network effects operate within a single user group: the value of a telephone network to any one subscriber rises as more subscribers join, because the number of people one can call increases. Indirect network effects operate across user groups: more sellers on a marketplace improve buyer experience through greater variety and price competition, which in turn attracts more buyers, which in turn attracts more sellers.[8] This cross-side feedback loop is what makes e-commerce platforms qualitatively different from traditional retailers.

In a platform with strong indirect network effects, scale is not merely an advantage — it becomes a structural barrier. A platform that achieves critical mass on both sides enters a self-reinforcing dynamic: each new buyer makes the platform more attractive to sellers, and each new seller makes it more attractive to buyers. Rivals who lack this scale cannot replicate the value proposition, even if their underlying technology is equivalent. The market tends toward concentration because the incremental value of joining the larger platform exceeds that of joining any smaller alternative, a phenomenon economists describe as "tipping.".[9]

India's e-retail market illustrates this dynamic precisely. Amazon India's decision to invest heavily in seller onboarding, logistics infrastructure, and consumer delivery guarantees in the early 2010s was not profitable in the short term. It was a deliberate strategy to achieve the critical mass on both sides of the market that would trigger tipping dynamics. The Competition Commission of India's 2024 investigation findings confirm that once this critical mass was achieved, the platform leveraged its position not simply to intermediate but to distort: preferred sellers received algorithmic advantages, non-preferred sellers faced structural exclusion, and the platform used aggregate transaction data — described internally as "tribal knowledge" — to identify profitable niches and launch competing private-label products.[10]

3) Tipping Markets and Winner-Takes-Most Outcomes

Tipping occurs when indirect network effects become strong enough that rational users converge on a single platform, anticipating that others will do the same. The process is self-fulfilling: once a platform is perceived as likely dominant, participation concentrates on it, which makes it actually dominant. This is not the outcome of any single anticompetitive act; it is a systemic property of multi-sided markets with strong indirect network effects.[11]

The consequences for competition are severe. Traditional antitrust analysis asks whether a firm has achieved dominance through anticompetitive means and whether it is abusing that dominance. In a tipped market, these questions become difficult to separate. The dominance itself was achieved through the normal operation of network effects, which are not inherently anticompetitive. But once achieved, that dominance enables a range of exclusionary strategies — self-preferencing, data-driven foreclosure, exclusive dealing — that are both individually harmful and structurally entrenching.

The Committee on Digital Competition Law, which reported to the Ministry of Corporate Affairs in March 2024, identified this problem explicitly. Its report concluded that the ex post framework under the Competition Act 2002 is structurally ill-suited to address digital markets because by the time a dominance finding is made and remedies imposed, the market will have irreversibly tipped and the harm will be

[6] Jean-Charles Rochet and Jean Tirole, 'Platform Competition in Two-Sided Markets' (2003) 1(4) Journal of the European Economic Association 990; Marc Rysman, 'The Economics of Two-Sided Markets' (2009) 23(3) Journal of Economic Perspectives 125.

[7] Competition Commission of South Africa, *The Digital Market Competition with Multisided Markets: A Case of Indian E-Commerce* (COMPCOM, 2025) 14.

[8] OECD, *Network Effects and Efficiencies in Multisided Markets* DAF/COMP/WD(2017)40/FINAL (OECD, 2017) 7.

[9] Marcel Canoy and others, 'Platform Economics' in Jacques Bourgeois and Denis Waelbroeck (eds), *Ten Years of Effects-Based Approach in EU Competition Law* (Bruylant, 2013) 123.

[10] CCI Director General's Investigation Report (n 4) paras 4.3.2, 6.1.7.

[11] Erik Brynjolfsson and Brian Kahin (eds), *Understanding the Digital Economy* (MIT Press, 2000) 44.

unrecoverable.[12] This is the core justification for the ex ante approach embodied in the Draft Digital Competition Bill 2024, which proposes conduct obligations on Systemically Significant Digital Enterprises before any abuse is established, rather than after.

4) Cost Architecture: Sunk Costs, Marginal Costs, and the Economics of Scale

A second structural feature of digital platforms that conventional regulatory frameworks were not designed to address is their cost architecture. Traditional firms face both fixed and variable costs; their average cost curves decline as output rises but eventually flatten or rise as capacity constraints bite. Digital platforms face a radically different structure: extremely high initial sunk costs — platform engineering, data infrastructure, logistics networks, algorithmic development, trust and safety systems — and near-zero marginal costs for adding additional users.[13]

Once the platform infrastructure is built, each additional buyer or seller added to the platform costs almost nothing to serve. This means that average costs fall continuously and steeply as scale increases, creating what economists call natural monopoly characteristics on the demand side rather than the supply side. The implications are profound. A platform that has achieved scale can sustain pricing that would be ruinous for a smaller rival, not because it is predatory in the legal sense, but simply because its cost per transaction is a fraction of what a smaller rival must charge to survive. This is not inherently anticompetitive, but it creates structural barriers that are practically insurmountable without regulatory intervention.

For e-commerce specifically, this cost architecture interacts with data accumulation in a particularly dangerous way. Each transaction generates data about consumer preferences, price sensitivity, product performance, and seller reliability. That data is a non-depletable asset: it does not diminish with use. It can be used to improve recommendation algorithms, to calibrate dynamic pricing, to identify profitable product categories, and to inform private-label product development. A platform that has been collecting this data for ten years cannot be replicated by a new entrant, even one with equivalent capital, because the data asset is irreproducible in the short term. The Competition Commission of India's market study on artificial intelligence and competition, published in 2025, identifies this data-driven foreclosure as one of the most significant competitive concerns in digital markets.[14]

B. Platform Pricing and Cross-Subsidisation

1) Why Platforms Diverge from Marginal-Cost Pricing

Standard economic theory holds that in a competitive market, prices should approximate marginal cost. Where price exceeds marginal cost, firms earn supra-competitive profits; where price is below marginal cost, firms are predating. Multi-sided platforms violate this framework as a matter of routine operation, not as an aberration.

The reason is that a platform's pricing objective is not to maximise profit on each individual transaction but to maximise the total volume of interaction across all user groups. Because each additional user on one side increases the value of the platform to users on the other side, the platform has an incentive to subsidise participation on the price-sensitive side in order to generate value that can then be extracted from the less price-sensitive side. This is cross-subsidisation, and it is the dominant business model of consumer-facing digital platforms worldwide.[15]

In e-commerce, the pattern is consistent and well-documented. Consumer-facing prices are kept low, often below cost, through delivery subsidies, cashback programmes, and deep discounting funded partly by the platform itself and partly by preferred sellers who receive algorithmic advantages in exchange for participating in these promotions. The costs of these subsidies are recovered from sellers through commissions (typically 5 to 30 percent of transaction value depending on category), advertising fees (sponsored listings have become a major revenue line for both Amazon and Flipkart), logistics charges, and fulfilment fees for warehouse-based storage and delivery.The consumer sees a competitive, apparently efficient market. The seller, who cannot access consumers without the platform, faces a private monopsonist extracting significant rents.

This pricing structure is not illegal per se. But it has two regulatory consequences that existing frameworks are poorly equipped to address. First, the consumer welfare standard in antitrust — which asks whether conduct raises consumer prices — is satisfied almost by definition, since consumers benefit from the subsidy. Second, the harm to sellers, to potential entrants, and to the long-term competitive structure of the market is invisible to a price-focused welfare analysis. The Draft Digital Competition Bill's prohibition on self-preferencing and anti-steering is precisely a response to this failure: it targets the mechanisms of platform rents without requiring proof that consumer prices are elevated.[16]

2. Comparative Methodology

The paper employs a comparative methodology in chapter 5 to situate India's regulatory trajectory within the global landscape of digital market governance. The comparison focuses on three jurisdictions: the European Union, which has adopted the most comprehensive ex ante digital regulation through the Digital Markets Act and Digital Services Act; the United States, which continues to rely on ex post antitrust enforcement under the Sherman and Clayton Acts without a dedicated digital markets statute; and India, which occupies a hybrid position, deploying elements of rights-based

[12] Ministry of Corporate Affairs, *Report of the Committee on Digital Competition Law* (MCA, March 2024) (CDCL Report) 38.

[13] Competition Commission of India, *Market Study on Artificial Intelligence and Competition* (CCI, 2025) 29.

[14] CCI, *Market Study on E-Commerce in India* (n 3) 21–24.

[15] Competition Commission of India, *Market Study on Artificial Intelligence and Competition* (CCI, 2025) 29.

[16] Steven Tadelis, 'Seller Reputation and Platform Governance in Online Markets' in Andrei Hagiu (ed), *Platforms and Market Design* (University of California Press, 2015) 87.

constitutional protection, public digital infrastructure, and nascent ex ante competition regulation. The comparative analysis draws on the ITIF's 2024 assessment of the Brussels Effect's impact on Global South jurisdictions and the Elgar journal article evaluating whether the DMA constitutes a global standard for ex ante digital regulation.[17]

A. Privacy as a Consumer Right: Data Fiduciary Obligations and the DPDP Act's Regulatory Architecture

1) Conceptual Foundations: The Convergence of Privacy and Consumer Protection

The Digital Personal Data Protection Act 2023[18] is formally a data protection statute, not a consumer protection instrument. Its definitional categories—data fiduciary, data principal, processing, personal data—are drawn from the global data protection tradition inaugurated by the European Union's General Data Protection Regulation.[19] Yet the Act's functional significance for the regulation of e-commerce consumer exploitation is considerable, because the mechanisms through which dark patterns operate are fundamentally data-driven. Drip pricing is algorithmically generated using data about individual users' price sensitivity and purchase history; basket sneaking relies on data about past purchase behaviour to select add-ons with high conversion probability; confirm shaming is A/B tested using data on the emotional responses of user cohorts; subscription traps are optimised using data about users' cancellation propensity and subscription duration. Dark patterns are, in technical terms, applications of personal data processing to consumer manipulation.

This convergence of data processing and interface manipulation means that the DPDP Act's consent architecture and the CCPA's dark pattern prohibitions do not operate in separate regulatory silos—they are co-regulating the same underlying behaviour from different doctrinal directions. A consent flow that bundles opt-ins to personalised advertising, cross-platform data sharing, and subscription services into a single undifferentiated consent request simultaneously violates the CCPA's prohibition on "forced action" (a dark pattern category under the Guidelines) and the DPDP Act's requirement that consent be "specific" and relate to individual, identified purposes.[20] This doctrinal convergence creates the possibility—not yet realised in regulatory practice—of holistic enforcement actions addressing both the data processing violation and the consumer manipulation harm as facets of a single regulatory contravention.

The conceptual category of "privacy as a consumer right" captures this convergence. It denotes the proposition—implicit in the DPDP Act's structure and explicit in the Supreme Court's foundational judgment in Justice K.S. Puttaswamy (Retd.) v. Union of India[21]—that the right to control one's personal information is not merely a fundamental constitutional right but a component of the consumer's right to autonomous, informed decision-making in the marketplace. Informational self-determination, as the Court articulated it in Puttaswamy, encompasses the right to know what data is collected, for what purposes, and to exercise meaningful choice over those purposes.[22]When an e-commerce platform collects data without adequately specific consent, uses that data to power manipulative algorithms, and then presents the resulting manipulative interface to the consumer, it has simultaneously violated the data subject's constitutional right to informational self-determination and the consumer's statutory right to protection against unfair trade practices.

B. Data Fiduciary Obligations: Consent Architecture and Purpose Specification

1) Statutory Framework

Sections 5 and 6 of the DPDP Act 2023 establish the foundational consent architecture for personal data processing in India. Section 5 imposes a general obligation of notice: before or at the time of collecting personal data, the data fiduciary must provide the data principal with a notice in plain language describing the personal data to be collected, the purposes for which it will be processed, and the manner in which the data principal may exercise their rights and withdraw consent.[23] Section 6 requires that consent be "free, specific, informed, unconditional and unambiguous," expressed through a "clear affirmative action," and given separately for each distinct purpose of processing.[24]

The DPDP Rules 2025, notified to operationalise the Act, further specify the requirements of a compliant privacy notice. Rule 3 requires that the notice contain an itemised description of the personal data to be collected—rather than the vague categorical descriptions such as "information you provide" or "data we collect" that characterise the majority of existing platform privacy policies—and articulate the purposes of processing in specific, non-bundled terms.[25] The Rule also requires that the consent withdrawal mechanism be accessible with comparable ease to the consent-giving mechanism—a requirement that mirrors, at the data protection level, the CCPA's parity principle for subscription cancellation.

2) Critical Analysis: Itemised Consent and the Challenge of Purpose Granularity

The itemised consent requirement of Rule 3 represents a genuine normative advance over the omnibus consent architectures that characterise most existing e-commerce privacy flows. By requiring platforms to specify not merely the categories of data collected but the individual purposes for

[17] CCI, *Market Study on E-Commerce in India* (n 3) 21–24.

[18] DPDP Act 2023 (n 2).

[19] Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016 on the protection of natural persons about the processing of personal data (General Data Protection Regulation) [2016] OJ L119/1.

[20] CCPA Guidelines 2023, Annexure I, Dark Pattern No. 10 (Forced Action); DPDP Act 2023, s 6(1) (specificity requirement for consent).

[21] Justice K.S. Puttaswamy (Retd.) v Union of India (2017) 10 SCC 1 (nine-judge Constitution Bench).

[22] ibid, para 169 (per Chandrachud J, concurring) (articulating informational self-determination as a component of the right to privacy under Art 21 of the Constitution of India).

[23] DPDP Act 2023, s 5.

[24] DPDP Act 2023, s 6(1).

[25] Digital Personal Data Protection Rules 2025 (Draft), Rule 3 (notice requirements for data fiduciaries).

which each category will be processed, the Rule operationalises the principle of purpose limitation—the foundational data protection norm that personal data should only be used for the purposes for which it was collected—at the interface level.

However, the Rule's implementation faces a structural tension that has not been resolved in the regulatory guidance issued to date. The purpose limitation principle presupposes that purposes can be specified in advance with sufficient precision to distinguish permitted from prohibited processing. In the context of machine learning-driven personalisation systems—which are the primary mechanism through which e-commerce platforms use personal data to power their recommendation and pricing engines—this presupposition is technically contestable. A recommendation algorithm that is trained on the aggregate behavioural data of millions of users does not process individual data for a single, clearly identifiable purpose; it uses data from one transactional context to generate inferences applicable in an entirely different context, through processes that are not fully interpretable even to the algorithm's designers. The granular purpose specification required by Rule 3 maps poorly onto the technical reality of modern machine learning-based data use.

The regulatory response to this challenge—allowing "related purposes" to be grouped under a "specific description" rather than requiring enumeration of every discrete use case—represents a pragmatic compromise that risks sacrificing the normative substance of purpose limitation in the interests of implementation feasibility.[26] A platform that groups "personalised product recommendations," "dynamic price optimisation," "cross-product upsell targeting," and "look-alike audience modelling" under the single heading of "improving your shopping experience" may technically satisfy the Rule's requirements while providing the consumer with no meaningful information about the ways in which their data will be processed for commercial advantage.

C. Scope and Limitations

This dissertation focuses on the business-to-consumer e-commerce sector, principally online marketplaces, food delivery platforms, and digital subscription services operating in India. It does not address business-to-business digital procurement, fintech regulation, or the regulation of digital content platforms (OTT streaming services) except insofar as these intersect with the consumer protection and data protection frameworks examined. The dissertation draws on publicly available regulatory materials, government publications, parliamentary committee reports, and judicial decisions as of April 2026. It does not rely on confidential regulatory submissions or non-public investigation materials.

The principal limitation is that the Draft Digital Competition Bill had not been enacted into law as of the research cutoff date. The analysis of the SSDE regime and the proposed Digital Markets Authority is therefore necessarily prospective, based on the draft bill text, the CDCL Report, and subsequent government statements on legislative intent. The dissertation treats this not as a weakness but as a contribution: by analysing the proposed regime before enactment, it can offer normative recommendations while the legislative design remains open.

3. Findings and Discussion

A. The Inadequacy of Ex Post Competition Law (Chapter 4)

Chapter 4 evaluated the structural limits of the Competition Act, 2002. The statutory framework requires the Competition Commission of India to define a relevant market, prove dominance, and then establish an abuse of that dominance. This ex post methodology is terminally slow. By the time the regulator initiates an investigation, issues a finding, and defends that finding through the appellate process, the digital market has already tipped.

Zero-price markets compound this regulatory failure. Platforms routinely offer services to consumers at no monetary cost, extracting value through data harvesting and seller-side commissions. Traditional antitrust metrics, heavily reliant on the consumer welfare standard and price effects, fail to detect anti-competitive conduct in these environments. The proposed Digital Competition Bill attempts to resolve this by designating Systemically Significant Digital Enterprises (SSDEs) based on quantitative thresholds, proposing strict ex ante obligations. However, the legislation remains stalled in the consultation phase, leaving the market unprotected against irreversible consolidation.

4. Conclusion

The exponential growth of India's digital economy fundamentally destabilizes the traditional parameters of commercial law. This dissertation proves that attempting to regulate multi-sided digital platforms using the retrospective tools of the Competition Act, 2002 and the fragmented guidelines of the Consumer Protection Act, 2019 results in persistent market failure. The economic mechanics of zero-price markets, extreme network effects, and algorithmic behavioral manipulation require a radical structural response.

The current legal architecture allows multinational technology conglomerates to dictate the terms of trade, extract unearned rents from domestic merchants, and systematically exploit the cognitive biases of Indian consumers. The transition from active antitrust litigation to proactive algorithmic regulation is not optional; it is an economic necessity.

By enacting the Digital Competition Act and establishing the Digital Markets Authority of India, the state can replace the slow mechanism of defining relevant markets with the immediate enforcement of quantitative thresholds and strict conduct obligations. When paired with the structural unbundling achieved by the Open Network for Digital Commerce, this hybrid regulatory model offers a decisive remedy. It protects the constitutional rights of the digital consumer, preserves the commercial autonomy of the independent merchant, and establishes a balanced framework

[26] Certinal, 'What Makes a Privacy Notice Informed Under DPDP Act'

capable of governing the complexities of algorithmic commerce.

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