

Abuse of Dominance in India

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A Practice Note discussing the laws and regulations governing abuse of dominance and monopolisation in India. The Note discusses the antitrust and competition laws that govern abuse of dominance, how these laws are enforced, how to determine if a company is dominant or has monopoly power, types of conduct by dominant companies that can face competition scrutiny, and the key enforcement priorities of competition authorities regarding dominant companies in India.

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The competition laws against abuse of dominance and monopolisation can have a significant impact on how companies conduct business in jurisdictions where they have an important market position. Certain activities that are legitimate for non-dominant companies to engage in can infringe these laws when they involve a dominant company. However, jurisdictions can differ in how their competition laws determine dominance and in the types of conduct that are prohibited.

Companies (and their counsel) should therefore understand the risk of being considered dominant and of infringing these competition laws in any jurisdiction in which they do business. This Note explains the competition laws addressing dominance in India.

Laws and Regulations Governing Abuse of Dominance

In India, section 4 of the [Competition Act, 2002](#) (Competition Act) prohibits an abuse of dominance by a dominant enterprise or group. Dominance alone does not violate the Competition Act. It is only the abuse of that dominance that is prohibited.

The [Competition Commission of India](#) (CCI) enforces the Competition Act. The Competition Act must be read together with the CCI's issued regulations that concern abuses of dominance, including:

- The [CCI \(General\) Regulations, 2024](#) (General Regulations).
- The [CCI \(Commitment\) Regulations, 2024](#) (Commitment Regulations).
- The [CCI \(Settlement\) Regulations, 2024](#) (Settlement Regulations).
- The [CCI \(Determination of Monetary Penalty\) Guidelines, 2024](#).
- The [CCI \(Determination of the Cost of Production\) Regulations, 2009](#) (Cost Regulations).

For more information on the CCI, see [Practice Note, Competition Commission \(India\): Overview](#).

Methods of Enforcement

In India, the CCI enforces Competition Act provisions related to the abuse of dominance using both quasi-judicial and regulatory powers. The CCI can conduct inquiries and investigations. The General Regulations outline the process for proceedings regarding abuses of dominance, such as the procedures for filing a complaint, references for initiating proceedings, and timelines for investigations.

Allegations relating to an abuse of dominance can be brought before the CCI based on:

- Information a person files.
- The CCI's own motion.
- A referral from a government or statutory authority.

A person can submit information to the CCI to induce the initiation of proceedings related to an abuse of dominance. The information must include supporting evidence and a filing fee payment.

When information is filed, the CCI examines the available evidence and orders a detailed investigation if it makes a prima facie determination that an abuse of dominance in violation of the Competition Act has occurred (section 26(1), Competition Act). The CCI does not make a final determination of the allegations at this stage.

The CCI's independent investigative wing, the office of the Director General (DG), conducts the investigation. The DG must conduct its investigation within a certain timeline and submit a report to the CCI containing its findings (section 26(3), Competition Act).

The DG can add parties to an investigation and is not required to limit the investigation to the parties mentioned in the information, complaint, or prima facie order (*CCI v Grasim Industries Ltd., LPA 137 of 2014* (Delhi High Court, 2014)). The DG typically issues notices to the parties, including the party under investigation and third parties. The notices request certain information, data, or both. If necessary, summons can be issued to record statements under oath. Non-compliance with the directions of the CCI or DG without reasonable cause can result in a penalty of up to INR10 million (section 43, Competition Act).

The CCI can seek inputs from third parties at any stage of the proceedings. Typically, a third party's involvement is limited to assisting the CCI in its investigation or providing relevant insights on specific case aspects. The CCI can use the information in a response (including a third-party submission) to:

- Investigate the third party.
- Expand the initial investigation's scope (for example, by adding more products or parties).
- Start a new investigation.

(*Cadila Healthcare Limited v CCI, LPA 160 of 2018* (Delhi High Court, 2018).)

The CCI has expanded the scope of the investigation to include parties that were originally third parties (*Cadila Healthcare Limited, LPA 160 of 2018*).

If the CCI finds that there has been an abuse of dominance, it issues an order and can impose remedies (see [Remedies](#)). Appeals of CCI orders can be brought before the *National Company Law Appellate Tribunal* (NCLAT) (known as the Competition Appellate Tribunal (COMPAT) before 26 May 2007). Further appeals are brought before the *Supreme Court of India*.

The CCI's remedies do not compensate consumers or other enterprises in the market for any harm caused or loss suffered from an abuse of dominance. However, harmed parties can bring a compensation claim before the NCLAT based on an order finding a Competition Act violation from the CCI (including settlement orders), NCLAT, or Supreme Court (section 53N, Competition Act). Few claims seeking compensation under this method have been filed. The Competition Act also provides that class actions for compensation can be instituted (section 42A, Competition Act).

For more information on the CCI's enforcement methods, see [Practice Note, Competition Commission \(India\): Overview](#).

Remedies

The CCI has wide powers to penalise and order remedies against a dominant enterprise that violates the Competition Act. The CCI can issue the following penalties and remedies against an enterprise for an abuse of dominance:

- Monetary penalties of up to 10% of the enterprise's average turnover (including global turnover) for the previous three years.

- A cease and desist order for the abusive conduct.
- Modification of anti-competitive agreements.
- Behavioural remedies.
- Structural remedies.
- Any other order that the CCI deems fit.

(Sections 27 and 28, Competition Act.)

An enterprise's non-compliance or failure to cooperate with the CCI's directions can result in penalties and imprisonment in rare circumstances (for example, a failure to pay the penalty the CCI imposed).

The CCI issues orders to remedy anti-competitive effects on a case-by-case basis. The remedies are designed to be proportional, tailored, and future oriented.

While the CCI's structural remedies include ordering the division of an enterprise, it has never ordered this remedy. The CCI's orders indicate a preference for behavioural remedies in abuse of dominance cases.

For example, the CCI found that Meta abused its dominance by allegedly mandating that users accept terms with no opt-out on its WhatsApp application. The terms included an expanded data collection scope and mandatory data sharing with Meta. A monetary penalty was imposed and WhatsApp was directed to both:

- Not share user data collected on its platform for advertising purposes for five years.
- Not make data sharing a condition for using WhatsApp services.

(CCI, *Case No. 01 of 2021*.)

On appeal, the NCLAT granted a partial stay on the CCI's five year ban order but upheld the other compliance directives (NCLAT, *Appeal No. 01 of 2025*). The case is under appeal.

Similarly, the CCI issued two orders against Google for abusing its dominance. In both cases, the CCI imposed a monetary penalty, issued a cease-and-desist order, and directed necessary contract modifications. (CCI, *Case No. 39 of 2018* and *Case No. 07 of 2020 with 14 of 2021 and 35 of 2021*.) Both cases are under appeal.

Commitments and Settlements

Recent Competition Act amendments have introduced mechanisms for commitments and settlements for entities under investigation for an abuse of dominance. The Commitment Regulations outline the process for entities under investigation to approach the CCI and propose commitments to resolve the competition concerns identified in a prima facie order. The Settlement Regulations establish a framework that allows an enterprise, after an investigation concludes, to propose settlements that address the competition concerns highlighted in the DG's report.

While assessing an application for commitment or settlement, the CCI must invite comments, objections, or suggestions on the application from the parties, the DG, and any third party (and optionally the public). The CCI must also provide the applicant an opportunity to be heard before rejecting an application.

The CCI's order on a commitment or settlement application is not construed as an infringement finding. However, an aggrieved person can file a compensation claim against a settlement applicant based on the CCI's order. The CCI's order binds the applicant and is non-appealable.

Determining Dominance in India

Methodology

Dominance is a position of strength that an enterprise enjoys in a relevant market in India that enables it to either:

- Operate independently of competitive forces prevailing in the relevant market.
- Affect its competitors or consumers, or the relevant market, in its favour.

(Explanation (a), section 4, Competition Act.)

Determining dominance requires defining the relevant market and assessing whether an enterprise has dominance in that market. The relevant market is comprised of the relevant product market and relevant geographic market (section 19(5), Competition Act).

The relevant product market includes the products or services that either:

- Are regarded as interchangeable or substitutable by consumers based on characteristics, price, and intended use.
- Suppliers can switch to producing or supplying and marketing in the short term without significant costs or risks (known as supply-side substitutability).

(Section 2(t), Competition Act.)

In defining the relevant product market, the CCI must examine:

- The physical characteristics or end use of goods or the nature of services.
- The price of goods or services.
- Consumer preferences.
- The exclusion of in-house production.
- The existence of specialised producers.
- The classification of industrial products.
- The costs associated with switching demand or supply to other goods or services.
- The categories of customers.

(Section 19(7), Competition Act.)

The relevant geographic market is the area where the conditions of competition for the supply or demand of goods or services are distinctly homogenous and can be distinguished from the conditions prevailing in neighbouring areas (section 2(s), Competition Act). In defining the relevant geographic market, the CCI examines:

- Regulatory trade barriers.
- Local specification requirements.
- National procurement policies.
- Adequate distribution facilities.
- Transport costs.
- Language.
- Consumer preferences.
- The need for secure or regular supplies or rapid after-sale services.
- The characteristics of the goods or nature of the services.
- The costs associated with switching supply or demand to other areas.

(Section 19(6), Competition Act.)

In most cases, the CCI considers India as the broadest relevant geographic market, even if there are economic factors that suggest a market larger than India. The CCI has also defined narrow markets within India based on local supply and demand conditions.

Defining the relevant market is crucial in determining whether an enterprise is dominant. A narrowly defined relevant market makes it easier for the enterprise to qualify as dominant, as it inherently reduces the number of competing enterprises in the given market. For example, in considering whether a real estate developer was dominant, the CCI defined the relevant market to be high-end residential apartments in Gurgaon (CCI, *Case No. 67 of 2010*).

Once the relevant market is defined, the CCI must consider numerous factors in assessing dominance, including:

- The enterprise's market share, size, resources, and economic power, which includes commercial advantages over competitors.
- The size and importance of competitors.
- Vertical integration of the enterprises or sale or service network of the enterprises.
- The consumers' reliance on the enterprise.
- Barriers to entry.
- Whether a monopoly or dominant position was acquired due to a statute or the enterprise being a government company or public sector undertaking.
- Countervailing buyer power.
- The market structure and size.

- Social obligations and costs.
- The relative advantage, through the contribution to economic development, by the enterprise enjoying a dominant position having or likely to have an appreciable adverse effect on competition.

(Section 19(4), Competition Act.)

Dominance cannot be established merely based on market share (CCI, *Case No. 40 of 2011*). While market share is pertinent, the above factors must be considered cumulatively to establish dominance (*Coal India Limited v CCI*, 7 SCR 827 (2023) and see *Market Share Benchmarks*). For example, in evaluating alleged predatory pricing by Uber, per-trip losses that Uber incurred was a prima facie indicator of both dominance and abuse (*Uber India Systems Pvt. Ltd. v CCI*, 12 SCR 107 (2019)).

Market Share Benchmarks

The Competition Act does not prescribe any specific market share thresholds that presume dominance and market share is not considered decisive in determining dominance (see *Methodology*).

The CCI draws upon internationally recognised principles to assess dominance. For example, the CCI has referred to the AKZO precedent, which presumes dominance when an enterprise holds a market share of 50% or more, and the United Brands case, where the European Commission held that a 45% market share conferred dominance (CCI, *Case No. 22 of 2010* and see *AKZO Chemie BV v Commission* (Case C-62/86) EU:C:1991:286 and *United Brands Co v Commission* (Case 27/76) EU:C:1978:22).

Further, in a 2014 abuse of dominance case, the COMPAT upheld reliance on foreign jurisprudence (COMPAT, *Appeal No. 15 of 2011*).

Joint or Collective Dominance

The CCI has consistently held that the Competition Act does not recognise the concept of collective dominance, since the language of the relevant Competition Act provisions, including sections 4, 19(4), and 28, allow only one enterprise or group to enjoy dominance (CCI, *Case No. 6 and 74 of 2015*). For example, the CCI refused to find that three oil marketing companies were collectively dominant, since each company was an independent legal enterprise and none of them exercised control over the other (CCI, *M RTP Case No. 1/28*).

The *Competition Law Review Committee's 2019 Report* reflects that the Committee decided not to introduce the concept of collective dominance into the Competition Act based on the observation that because most collective dominance cases involve some form of anti-competitive agreement, this conduct can already be prohibited under Section 3 of the Competition Act.

Monopsonies

The Competition Act's prohibition on an abuse of dominance does not distinguish between dominant suppliers and purchasers. Buyer power allows a dominant buyer to force sellers to reduce their prices below a price that would result in a competitive equilibrium. The CCI has relied on factors under section 19(4) of the Competition Act to hold an enterprise as a dominant buyer (CCI, *Case No. 01 of 2018*).

The CCI has observed that, while every buyer has the freedom of choice to determine their requirements, a buyer's conduct must be scrutinised if the buyer enjoys dominance and its unilateral conduct has the potential to distort competition on the supply side of the market (CCI, *Case No. 48 of 2021*). For example, a government procurement corporation was found to be dominant in the market for procuring custom milling services for rice in Odisha and to have abused its dominance by imposing

unfair terms when it linked payment to execution of a future contract and withheld dues without a justifiable reason (CCI, [Case No. 16 of 2019](#)).

Demonstration of Anti-Competitive Effects

Historically, the CCI often relied on an object-based approach to determine an abuse, under which actual anticompetitive effects are not analysed (CCI, [Case No. 35 of 2019](#)). Recently, however, there is a growing emphasis on an effects-based analysis, which requires proof of harm to competition. The NCLAT has held that an effects-based analysis is required to prove an abuse of dominance under section 4 of the Competition Act (NCLAT, [Appeal No. 01 of 2023](#)).

Several decisions reflect this clear evolution in the CCI's approach, which aligns with global trends in competition enforcement in emphasising a more nuanced and evidence-based framework for addressing abuses of dominance. For example, in a case involving unfair and discriminatory pricing, the COMPAT emphasised the need to establish both dissimilar treatment in equivalent transactions (for example, applying different conditions to transactions involving identical goods and classes of buyers) and harm to competition (COMPAT, [Case No. 91 of 2012](#)).

Similarly, in a case involving denial of market access, the CCI clarified that evidence of anti-competitive effects in the relevant market was required (CCI, [Case No. 33 of 2014](#) and see [Denying Market Access](#)).

Contractual restrictions imposed by a sporting organisation on players were found to be not abusive because the restrictive side effects were proportionate to the legitimate regulatory goals of proper organisation and conduct of the sport (CCI, [Case No. 73 of 2011](#)). Similarly, abuse claims against Intel were dismissed where its distribution agreements did not preclude the distributors from dealing with competitors' products, thus ruling out market foreclosure (CCI, [Case No. 48 of 2011](#)).

Defences

A dominant enterprise can respond to market manoeuvres, known as the "meeting competition" defence to claims of unfair or discriminatory conditions or prices (explanation, section 4(2)(a), Competition Act). For example, discounts a port operator offered to obtain operational efficiencies and streamline its services were designed to meet competition from other port operators in the relevant market, and therefore were not an abuse under the Competition Act (CCI, [Case No. 18 of 2009](#)).

The Competition Act does not specifically allow a defence based on objective justification. However, the CCI has considered this defence in certain circumstances. For example, the CCI found no abuse of dominance where an enterprise stopped supplying a customer to protect its trademarks, as the refusal was objectively justified. The CCI has also accepted the objective justification defence regarding a one-sided termination for convenience clause. The CCI noted these clauses are common and should not be considered abusive in nature if invoked in good faith or due to a change in circumstances. (CCI, [Case No. 01 of 2018](#).)

Similarly, offering better discounts to customers who place large orders may not be anti-competitive if similar transactions do not get dissimilar treatment. (CCI, [Case No. 22 of 2010](#).) The COMPAT has acknowledged that although discriminatory pricing is generally prohibited under the Competition Act, pricing differences based on objective criteria or statutory provisions, such as section 62(4) of the [Electricity Act, 2003](#), could be justified. Pricing variations based on consumption patterns were also deemed justifiable. (COMPAT, [Case No. 33 of 2016](#).)

Restrictions a dominant enterprise imposes might not be abusive if a third party imposes similar limitations on the dominant enterprise itself. For example, in a case concerning a natural gas distributor, the CCI examined a clause requiring buyers to maintain payment security by a cash deposit or bank guarantee. While the requirement appeared restrictive, the CCI noted that the distributor had to provide a revolving letter of credit to its supplier, which in turn had similar obligations to its own suppliers. By examining the inter-dependent and inter-linked nature of the supply chain and determining that the measures were necessary to ensure financial security across the supply chain, the CCI found no abuse of dominance. (CCI, [Case No. 71 of 2012](#).)

Types of Conduct That May Be Deemed an Abuse of Dominance

The Competition Act considers the following conduct as an abuse of dominance:

- Unfair or discriminatory conditions (see [Unfair or Discriminatory Conditions](#)).
- Price discrimination (see [Price Discrimination](#)).
- Exploitative pricing (see [Exploitative Pricing](#)).
- Limiting production, the market, or technical development (see [Limiting Production](#)).
- Denying market access (see [Denying Market Access](#)).
- Tying and bundling (see [Tying and Bundling](#)).
- Leveraging (see [Leveraging](#)).

Unfair or Discriminatory Conditions

A dominant enterprise abuses its dominance by imposing an unfair or discriminatory condition in its direct or indirect purchase or sale of goods or services (section 4(2)(a)(i), Competition Act). The CCI considers arbitrary, onerous, or one-sided conditions unfair. For example, an enterprise abused its intellectual property rights when it imposed minimum commitment charges on private radio stations, which required the stations to pay the charge regardless of their actual play-out (CCI, *Case No. 40 of 2011*). The matter is under appeal before the NCLAT.

An online travel agency enterprise allegedly abused its dominance by imposing wide parity and exclusivity conditions, which prevented hotels from selling their rooms through any other online travel agency or on the hotels' own websites at a lower price and obligated them to provide rooms to the dominant enterprise if rooms were offered through any other online travel agency. The CCI rejected the enterprise's defence that price parity clauses were industry practice, holding that the effect of conduct by a dominant platform on its users and competition in the relevant market is different than when a smaller, insignificant player engages in the conduct (CCI, *Case No. 14 of 2019 and 01 of 2020*). The enterprise's claims that parity conditions were driven by a need to address free-riding concerns (that is, that a consumer would discover a hotel on the agency's website but book it through another channel) were also rejected, since the additional discounts the agency offered incentivising users to book through the agency made free-riding an unrealistic possibility. (CCI, *Case No. 14 of 2019 and 01 of 2020*.) The matter is under appeal before the NCLAT.

Meta (through WhatsApp) was found to have violated section 4 of the Competition Act for its 2021 privacy policy update. The update imposed an unfair condition that mandated all users accept expanded data collection terms and data sharing within Meta Group without an opt out option, which undermined user autonomy. (CCI, *Case No. 01 of 2021*.)

Price Discrimination

A dominant enterprise cannot impose an unfair or discriminatory price in the purchase or sale of goods or services (section 4(2)(a)(ii), Competition Act). The key elements relevant to establishing discriminatory pricing include:

- A dissimilar price for equivalent transactions.

- Harm or likely harm to competition in which buyers suffer a disadvantage against each other.

(COMPAT, *Case No. 91 of 2012*.)

Charging different prices is not discrimination when an objective justification exists, such as:

- Different packaging costs for different purchasers or bulk purchase discounts (CCI, *Case No. 48 of 2011*).
- Customers receiving different products (CCI, *Case No. 36 of 2010*).
- Products that belong to separate relevant markets or are offered through distinct channels (CCI, *Case No. 136 of 2009*).

Google imposed discriminatory pricing where it required third-party application developers to pay a service fee to use Google Play's billing system, which was mandatory to process payments for application and in-application purchases from the Google Play store, but Google's own apps did not pay a service fee. (CCI, *Case No. 07 of 2020 with 14 of 2021 and 35 of 2021*.)

Exploitative Pricing

Exploitative or excessive pricing is considered unfair pricing (section 4(2)(a)(i), Competition Act). In determining whether pricing is unfair, the CCI considers:

- The product's cost.
- The difference between what the dominant firm and other firms can charge.
- What different customers pay.
- Whether efficient customers can still be profitable with the existing prices.
- Whether there is a supply shortage (in which case high prices can be an efficient method of allocating the product).

(COMPAT, *Case No. 02 of 2014*.)

Predatory pricing is a subset of unfair pricing. A dominant enterprise's price is predatory when it is:

- Less than the cost of the good or service as determined by the Cost Regulations.
- Set with an objective of reducing competition or eliminating competitors.

(Explanation (b), section 4, Competition Act.)

Predatory pricing abuse is assessed based on actual prices, not projected prices (CCI, *Case No. 09 of 2013*). For example, zero pricing by the *National Stock Exchange of India Limited* (NSE) in the currency derivatives segment of stock exchange services was unfair pricing, as it harmed the NSE's competitors (CCI, *Case No. 13 of 2019*). While the COMPAT upheld the CCI's decision, the case has been further appealed to the Supreme Court of India on the ground that neither the CCI nor COMPAT provided any guidance on the relevant cost benchmark to be applied in predatory pricing cases.

A predatory pricing claim against a hotel booking platform enterprise was rejected when the DG only weighed variable costs against the commission the enterprise earned from the online hotel booking segment. The DG's analysis was considered insufficient for platform market cases, which require a more nuanced assessment. (CCI, *Case No. 14 of 2019 and 01 of 2020*.)

The CCI published the [Draft CCI \(Determination of Cost of Production\) Regulations, 2025](#) for stakeholder comments, which aim to define the cost of production under section 4, explanation (b) of the Competition Act. This provision is crucial, as it forms the basis for assessing whether predatory pricing exists. If the draft regulations are enacted in their current form, the CCI would be able to consider the average total cost as a benchmark (in addition to average variable cost), depending on the nature of the industry, market conditions and technology involved, after recording reasons in writing.

Limiting Production

A dominant enterprise's exclusionary conduct is abusive if it limits or restricts:

- The production of goods.
- The provision of services.
- The market for goods or services.
- Technical or scientific development to the prejudice of consumers.

(Section 4(2)(b), Competition Act.)

For example, abusive exclusionary conduct was found where:

- A table tennis organisation and its affiliates issued communications and rules that restricted the organisation of unauthorised tournaments and events as well as player participation in those tournaments and events (CCI, [Case No. 19 of 2021](#)).
- An enterprise that was appointed the exclusive wholesale licensee for procuring and supplying foreign liquor in Uttarakhand restricted the wholesale procurement and distribution of Indian-made foreign liquor when it failed to maintain a minimum stock despite complaints and grievances from retailers (CCI, [Case No. 02 of 2016](#)).

Denying Market Access

A denial of access under Section 4(2)(c) of the Competition Act occurs when a dominant enterprise's conduct causes an anti-competitive effect, distortion, or foreclosure effects in the market. A causation chain between the alleged conduct and anti-competitive harm must be established. For example, Google denied the market visibility of real-money game applications (that is, third-party gaming applications that allow users to stake real money in games of skill) by not permitting those apps to be listed in the Google Play store (CCI, [Case No. 42 of 2022](#)).

Additionally, a refusal to deal can be considered a denial of market access under section 4 of the Competition Act if done by a dominant entity. However, even dominant enterprises can refuse to deal with certain entities based on reasonable commercial justifications (such as previous trademark infringement, safety, efficiency, and similar reasons) if there is no adverse impact on competition in the market (CCI, [Case No. 14 of 2019 and 01 of 2020](#)).

Denying access to essential facilities can be considered a denial of market access that potentially limits or restricts the production of goods, provision of services, or technical or scientific development (see [Limiting Production](#)). The CCI has observed that the essential facilities doctrine can be invoked when there is:

- A technical feasibility to provide access.
- No possibility of replicating the facility in a reasonable period.
- A distinct possibility of lack of effective competition if access is denied.
- A possibility of providing access on reasonable terms.

For example, the CCI held that:

- The *Ministry of Railways* did not abuse its dominance when it refused to provide access to its rail infrastructure, as there were no technical, legal, or economic reasons why container train operators could not create similar facilities (CCI, *Case No. 64 of 2010, 2 of 2011, and 12 of 2011*).
- The Rajiv Gandhi International Airport was an essential facility, as:
 - the airport was not a facility a competitor could duplicate;
 - there were no alternative means of entering the relevant market of line maintenance services at the airport at a reasonable cost; and
 - the airport had spare capacity.

(CCI, *Case No. 30 of 2019*.)

Tying and Bundling

Unilateral tying and bundling can be viewed as either:

- The imposition of an unrelated supplementary obligation (section 4(2)(d), Competition Act).
- Leveraging (section 4(2)(e), Competition Act and see *Leveraging*).

An abuse of dominance based upon tying occurs when:

- A customer's purchase of one product (the tying product) is conditioned on purchasing another separate product (the tied product).
- The selling enterprise is dominant in the tying product's market.
- The tying can restrict or foreclose competition in the tied product market.

(CCI, *Case No. 15 of 2020*.)

For example, a tying arrangement violated section 4(2)(d) of the Competition Act when the tying and tied products were entirely different products that had no connection to each other (COMPAT, *Case No. 91 of 2012*). However, voluntarily providing a free product to store another product is not tying (CCI, *Case No. 17 of 2018*).

Leveraging

Leveraging occurs under section 4(2)(e) of the Competition Act when a dominant enterprise uses its power in one market to enter or protect its position in another market (CCI, *Case No. 13 of 2019*). For example, leveraging was found when:

- Google leveraged its dominance of Play Store (Google's app store which accounted for more than 90% of the apps downloaded by Android devices) to protect its dominant position in the market for online general search services, non-operating system specific web browsers, and online video hosting platforms (CCI, *Case No. 39 of 2018*).
- WhatsApp leveraged its dominance in the market for messaging apps through smartphones to require WhatsApp users to agree to data sharing with Meta to allow Meta to protect its position in the online display advertising market (CCI, *Case No. 01 of 2021*).

Enforcement Priorities in India Regarding Dominance

In 2024, the CCI demonstrated a clear focus on abuse of dominance cases involving digital companies. The CCI is prioritising this sector, as it has recognised the rapidly evolving nature of digital markets and significant impact they have on competition (see [Digital Markets](#)). The CCI's recent order concerning

WhatsApp serves as a prime example of this focus (see CCI, *Case No. 01 of 2021*). These actions also align with India's broader regulatory developments, such as the [Digital Personal Data Protection Act, 2023](#), which intersects with competition law by regulating data-sharing practices.

Other Considerations

Digital Markets

The Competition Act provides a robust framework for regulating anti-competitive practices and abuses of dominance. However, to address certain unique considerations in digital markets, the [Ministry of Corporate Affairs](#) published on 12 March 2024 the [Report of the Committee on Digital Competition Law](#) (Committee), which includes a draft of the Digital Competition Bill, 2024.

The Committee identified anti-competitive practices by large digital enterprises and noted the limitations of after the event competition enforcement under, among other sections, section 4 of the Competition Act. The Committee proposed a separate before the event law for digital markets.

The draft bill would apply to pre-identified core digital services that are susceptible to concentration and introduces obligations for systemically significant digital enterprises and associate digital enterprises to address practices such as self-preferencing, data misuse, anti-steering, tying, and bundling. The CCI would address these obligations through regulations while considering pro-competitive effects.

Provisions in the draft bill relating to inquiry, appeal, remedies, and penalties are based on the existing Competition Act framework. This reflects the CCI's effort to address the specific challenges posed by digital markets through targeted regulation.

Abuse of Economic Dependence

The Competition Act does not specifically prohibit the abuse of economic dependence, which occurs where a non-dominant enterprise exploits the dependence of another enterprise in a relevant market. Economic dependence typically arises where an enterprise lacks alternative trading partners and is subject to unfair trading conditions imposed by the other enterprise.

Nonetheless, to the extent that conduct that might qualify as an abuse of economic dependence falls under section 3 of the Competition Act, which deals with anti-competitive agreements, the conduct can be unlawful under that section.

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