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Antitrust Regulatory Authorities Work around the World: Transatlantic View of Interface between Big Data and Competition Law

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ABSTRACT

The movement from isolated world to interdependent world and now the interconnected world has been facilitated by technological advances. The competitive strength of these online businesses is also increasing and it is being determined by the amount, variety and quality of data these companies possess. The new data economy is where there is the rise of 'multi-sided' platform-based business models and the growing importance of cross-market digital ecosystems has become a game-changer in the world and these markets are heavily dependant on acquisition and monetisation of personal data of users. Several legal experts and policy critics have recently called on the antitrust regulators to incorporate data ownership into their mergers review and potentially anti-competitive practices.

The purpose of this research builds on the implied presumption that the Indian Competition Law in its current form has not captured in entirety the recent developments brought by Big data and digitised markets and the economic complexities that have resulted from the same. The research will attempt to draw analysis from various jurisdictions in the global developments and provisions concerning Big data and to see whether Indian Competition Law has the flexibility to include e-commerce and Big Data issues in our existing framework of competition laws and regulations or do we need to amend our laws specifically to deal with what digital markets necessitate to ensure fair play in the market.

Keywords: Big- Data, competition Laws, Merger, Digital Platforms, Abuse of Dominance

I. INTRODUCTION

There is a worldwide concern to put a leash on the unchecked powers of these multi-sided Digital Platforms and accumulation and analysis of data by the hands of these platforms for services like targeted advertising. The significance of data in digital markets including e-commerce plays a very key role in delivering more precise advertisement targeting

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possibilities for multinational giants. These datasets have become an economic asset and are built on the personal information that the users disclose when using online services. The knowledge that can be extracted from this data forms a basis of competitiveness and growth of individual players in digital markets. This data also called the Big Data is considered to be the new oil.[2] The ubiquity and impact of big data are very much given and appear in the current digital markets. Around 2016, OECD (Organisation for Economic Co-operation and Development) took the first step in the analysis of "Big Data".[3] OECD started the deliberations and two essential features of big data came into light:

1. Large dimensions of data sets.

2. Use of large-scale computing power and non-standard software to extract value from data in a reasonable amount of time (Volume Value Velocity Variety).

Against this background, the researcher will attempt to explore how existing competition concepts would be applied to data related economic threats and antitrust concerns in the digital markets. The concerns of companies exploitation of Big Data are not limited to economic or privacy issues only but one can see the impact to the extent on the political arena and democratic value as could be seen and highlighted from the Facebook-Cambridge Analytica data breach case.[4] This case was a major political scandal in 2018 where revelations were made that Cambridge Analytica harvested millions of facebook's user's data without their knowledge or consent and used it for political advertising.

This exploitation of Big Data is drawing intense scrutiny all around the globe. The gravity of the situation is quite intense and the same can be seen when the European Union Competition Commissioner Margrethe Vestager says that she promises to "keep a close eye on how companies use data" and one can see that several European antitrust authorities have conducted or are running full-blown study on big data issues, including an especially comprehensive one in May 2016 Franco/German study on "Competition Law and data".[5]

One cannot dismiss the pro-competitive effects of big data like the ability of firms to offer heavily subsidized, often free, services to consumers as consumers permit those firms to

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[2] DREXL, J., HILTY, R., DESAUNETTES, L., GREINER, F., KIM, D., RICHTER, H., SURBLYTE, G. AND WIEDEMANN, K. Data Ownership and Access to Data - Position Statement of the Max Planck Institute for Innovation and Competition of 16 August 2016 on the Current European Debate

[3] Organisation for Economic Cooperation and Development, *Summary of Discussion of Hearing on Big Data*, DAF/COMP/M(2016)2/ANN2/FINAL, 1-8, (2017).

[4] Elena Boldyreva, *Cambridge Analytica: Ethics and Online Manipulation with Decision Making Process*, in EUROPEAN PROCEEDINGS OF SOCIAL AND BEHAVIORAL SCIENCES 91-102 (Prof. Valeria Chernyavskaya, Prof. Holger Kube (eds.), 2018) [**BOLDYREVA**].

[5] Franco/German study on Competition Law and Data, 10 May 2016

monetize consumer data on the other side of their business which has led to better delivery of services, improved innovation and technology and there have been low entry barriers also.[6] This monetization of the data in the form of targeted advertising sales for antitrust purposes is not suspected to be harmful, but rather "economically-rational, profit-maximizing behaviour," which has resulted in consumer benefits.[7] And the main objective of antitrust regulations is also for companies to have the ability to offer high-quality services to consumers for free or subsidized rates which are considered to be a procompetitive effect of Big Data monetization, not anticompetitive harm.[8]

Though not dismissing the procompetitive effects of big data analysis by companies in competitive markets which leads to innovation and subsidized product rates once can not even overlook the concerns big data has brought with itself in competition law. There is always lingering threat that limitations in access to data by small firms or new start-ups may create entry barriers for them in the concerned relevant market especially if the market is highly concentrated which ultimately would lead to stifling growth. Hence these ever-growing digital markets have become a reason for most advanced jurisdictions to currently explore the possible strategies to seize and address the concerns presented by the accumulation and monetization of big data. Hence the interplay of Antitrust regulations and Data privacy laws with developments in the digital markets especially with strong network effects is the area of research the author is trying to focus upon.

The author feels that apart from foreclosure risks and the harm big data can cause which forces us to revaluate the traditional harm theory and dominance and related concepts in competition law, the competent regulatory authorities around the world also have to be more vigilant in approving mergers where there is low turnover and high data, as the sole purpose for that merger can be to get the valuable data of the upcoming company and monopolise that data in a way that the acquiring company becomes a dominant player in that market. One can say here that consumer data, has become "the new raw material of business: an economic input almost on a par with capital and labour.

Here what the author concerns herself with, is that these big tech companies use "data" as the radar system to track competitive threats which are upcoming companies in that specific industry and then they acquire these upcoming new entrants before they become significant

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[6] David S. Evans & Richard Schmalensee, *The Antitrust Analysis of Muti-sided Platform Businesses*, *in* 1 OXFORD HANDBOOK ON INTERNATIONAL ANTITRUST ECONOMICS 404 (Roger Blair and Daniel Sokol (eds.), 2014) [**EVANS AND SCHMALENSEE**].
[7] Andres V. Lerner, *The Role of Big Data in Online Platform Competition*. Available at: https://papers.ssrn.com/sol3/Papers.cfm?abstract_id=2482780
[8] EVANS AND SCHMALENSEE, *Supra* note 3, 409.

threats and then these big companies become too big to fail. The antitrust risk here is that big data can create barriers to entry and foreclose the markets for new entrants thereby acquiring a market power especially in cases where companies hold datasets which are unique and not easily replicated. The use and access of this data after the merger with companies with low turnover confer the acquiring enterprise a market power by which it can have an edge over its competitors in the market which will ultimately harm the competition in the market.

II. ROLE OF BIG DATA AND DIGITAL PRIVACY

The ubiquity and impact of big data are very much given and appear in the current digital markets. Some official feel that and believe that the antitrust principles for traditional mergers and data-driven mergers are the same. For mergers specifically, competition authorities work on prediction basis. The focus hence for antitrust regulatory authorities should be to concern themselves with the impact and effect of these mergers in concentrated markets.

There is an intense economic debate evolving in the last decade or so whether the current regime of merger control effectively protects against the potential harm to competition and innovation that may result from acquisition by dominant companies of small, young, innovative companies with little turnover at the time of their acquisition, but highly competitive potential. We can see an increase of Digital platforms acquiring hundreds of companies and most without facing any scrutiny from antitrust regulators. We realise that in traditional markets any delay in intervention by the part of competition regulatory authorities is not that harmful, but in a market with strong tendencies towards monopolization any mistake in approval of a merger or missing an important merger which could have harmful effects for a healthy competition can condemn an industry to turn into a monopoly and if you add political power of these companies as can be seen in Cambridge Analytica case, the mistakes could be irreversible. Therefore, we must look into a change in the thresholds of merger review in markets where DP's operate predominantly.

Addressing the intersection of big data with antitrust laws though attract academic literature from around the globe but still, there are various aspects of big data which have not yet either been discussed or reached a conclusion and requires an in-depth analysis. There is abundant literature on how companies are leveraging profits from big data, but much research is required to analyse how data as an economic asset in the new-age digital economy is causing harms to consumer welfare.

III. ANTITRUST REGULATORY AUTHORITIES WORK AROUND THE WORLD: TRANSATLANTIC VIEW OF INTERFACE BETWEEN BIG DATA AND COMPETITION LAW

The OECD in 2015 came out with a report titled, "Data-Driven Innovation: Big Data for Growth and Well-Being"[9] gave a holistic approach towards understanding the current state of the data economy. Though the definition of the relevant market was not yet talked about in the context of online e-commerce platforms and multisided markets. Prof. Inge Graef talked about the emergence of data as an asset for market players and said that since most providers of online platforms do not trade data as a stand-alone product as a result of which there exists no supply and demand and no relevant product market for data can be defined under current competition law standards.[10]

But on 9the June 2017, after conducting an in-depth investigation against Facebook[11] for alleged anti-competitive implications of Facebook's privacy policies on personal data use, they amended the German competition Act. The new act introduced a new definition for 'market' to be more suitable for digital environment encompassing factors like direct and indirect network effects, companies access to competitively relevant data, economies of scale and innovation-driven competitive pressure.[12]

Various reports and policies by European competition authorities have also given the author much insight to how data presents new competition laws issues and whether the current competition law framework is equipped to handle cases that involve data as an economic asset. Also, United States antitrust discussions whether data impacts competition law or not is not very clear.[13]

Also in one of the reports[14] by the personal data protection commission in Singapore highlighted the importance a new definition for relevant market keeping in mind multisided platforms and in doing so indicated to go for a quantitative assessment of non-price parameters. However, how this quantitative assessment has to be carried out is still debatable.

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[9] OECD, DATA-DRIVEN INNOVATION: BIG DATA FOR GROWTH AND WELL-BEING (OECD PUBLISHING, 2015).

[10] Inge Graef, *Market Definition and Market Power in Data: The Case of Online Platforms*, 38(4) WORLD COMPETITION 473 (2015).

[11] Bundeskartellamt, *Preliminary Assessment in Facebook Proceeding*, Facebook, Case No. B6-22/16.

[12] GWB - nichtamtliches Inhaltsverzeichnis, Gesetze-im-internet.de (2020), https://www.gesetze-im-internet.de/gwb/ (last visited Sep 8, 2020).

[13] Joe Kennedy, *The Myth of Data Monopoly: Why Antitrust Concerns About Data Are Overblown*, INFORMATION TECHNOLOGY & INNOVATION FOUNDATION, Mar. 06, 2017, http://www2.itif.org/2017-data-competition.pdf (accessed Aug. 28, 2020); Allen P. Grunes & Maurice E. Stucke, *No Mistake About It: The Important Role of Antitrust in the Era of Big Data*, ANTITRUST *SOURCE* (April, 2015).

[14] (Data: Engine for Growth – Implications for Competition Law, Personal Data Protection, and Intellectual Property Rights | CCCS, 2020)

Also taking about data portability, Singaporean antitrust authorities proposed that data potability requirement would allow individuals to request from data owners and controllers a copy of their data in a machine-readable format which can be transferred by consumers on their discretion other third parties. From a competition perspective, data portability would lead to market efficiencies, access to input, lower entry barriers and most importantly giving autonomy to consumers where their data goes.

How to encourage and promote data sharing initiatives and whether the current policies are sufficient to keep markets fair and open for competitors and new entrants are questions that are being raised but a conclusive answer is yet to be found.[15] Also how privacy can be affected by data (Josef Drexl).[16] However, the particular author has highlighted only the possible ownership issues with data but has not given many solutions for the same. Europe is also showing great concern towards the ownership and control of data by companies.[17]

The author examined the following laws as the very new form of data protection law in EU[18], TFEU[19], database directive[20] for analysing the harm theory concerning data and competition law.

Detailed discussion on big data and antitrust is also done by Ohlhausen and Okuliar.[21] Firstly, They looked at the character of harm and then they concluded that any harm to either consumer welfare or economic efficiency or performance of a company, antitrust laws should prevail over data protection laws.

To undermine the anti-competitive effects of monopolization in the data economy and to promote access to data, in literature, it has also been pointed out that competition law could provide possibilities for promoting access to data. For example, some scholars have argued that it might be valuable to consider that under some circumstances a refusal to deal in data by a dominant company violates Article 102 Treaty of the Functioning of the European Union ('TFEU'). Furthermore, Inge Graef has written a book and also her thesis on whether

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[15] Joseph Drexl, *Designing Competitive Markets for Industrial Data – Between Propertisation and Access* (*Research Paper No. 16-13, Max Planck Institute for Innovation and Competition Research Paper Series*) (2016).
[16] Ibid.
[17] EUROPEAN COMMISSION, LEGAL STUDY ON OWNERSHIP AND ACCESS TO DATA (EU Publications Office, 2016).
[18] GENERAL DATA PROTECTION REGULATION (GDPR). Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016 on the Protection of natural persons with regard to the processing of personal data and on the free movement of such Data, and Repealing Directive 95/46/EC.
[19] Treaty on European Union and the Treaty on the Functioning of the European Union 2012/C 326/01
[20] DATABASE DIRECTIVE. EU Directive No. 96/9/EC of the European Parliament and of the Council, of 11 March 1996 on the Legal Protection of Databases
[21] Maureen Ohlhausen, *Letter By Maureen K. Ohlhausen To House Subcommittee On Antitrust* (April 17, 2020) available at: https://papers.ssrn.com/sol3/papers.cfm?abstract_id=3607303 (last accessed Sep. 03, 2020).

data can be considered an essential facility meaning that refusal to deal could be considered a violation of Article 102 TFEU under the EU law.[22] In my view, her scholarly contribution to the field of data and competition law is not parallel within the EU, and many of her publications have provided inspiration and guidance for my current research.

The authors still feel that the current literature including the recent reports like the German Commission 'Competition Law 4.0', 'A new competition framework for the digital economy' (2019), Stigler Committee for the Study of Digital Platforms, Market Structure and Antitrust Subcommittee (2019) and UK Digital Competition Expert Panel, 'Unlocking digital competition' (2019) are quite vague in area of attaching personal data as a measure to quantify data merger deals. Quantification of data under merger deals is still quite an under-researched area under the said interface.

Recently many regulatory interventions especially in the EU are tackling Big Tech companies data advantage scenario. They being Crémer, de Montjoye, and Schweitzer, 'Competition policy for the digital era', (2019) Report for the European Commission which talk about the how competition policy should evolve to continue to promote pro-consumer innovation in the digital age. Also, the French Competition Authority, 'Contribution to the debate on competition policy and digital challenges' (2020) report addresses questions on the treatment of anti-competitive practices in the context of digital markets and challenges about merger control. The report suggests adopting notions of essential facility doctrine in answering questions to access to data, but the author would expand the said research in looking into feasibility and desirability of the essential facilities doctrine concerning digital markets.

Coming to the Indian Jurisdiction under the Competition Act 2002, the main motive of merger control by Indian Competition watchdogs is to eliminate the potential threats to the competition in a market hence mergers are ex- ante regulated. Therefore, detecting and correcting the anti-competitive effects post the merger is rarely sought after. However, the Act falls short of effectively regulating mergers in the digital market as it is not very often that these mergers fall squarely under the provided threshold of turnover or asset requirement.

Implications of data are manifold on competition and one of how it manifests itself is in horizontal mergers where data is input for delivery in certain service. Data can be an important factor to look into consequences of how a merger affect the competition in the market. The author is trying to explore the idea that a company might buy up a rival or a potential competitor in the specific industry or market where both exist, just have control

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[22]   Inge Graef, *Rethinking The Essential Facilities Doctrine For The EU Digital Economy* 53(2) Themis L. J. Univerity of Montreal 33(2019).

over its data even if the turnover of the company is very low. Some researchers have argued, that multinational large companies can use data as a 'radar system' to 'track competitive threats shortly after they take off' and then 'acquire new entrants before they become significant competitive threats'.[23]

IV. DATA IN DIGITAL ECONOMY: BIG DATA

"Big Data". It can be commonly understood as the use of large-scale computing power and technologically advanced software to collect, process and analyze data characterized by a large volume, velocity, variety, and value.[24]

The term big data was used for the first time in popular culture by John Mashey. It was said that the fuel for these digital platforms is Big Data. Though across the world we haven't defined Big data properly and what it constitutes but the author has looked into three defined characteristics or feature one can say which are uniform in every attempt to define big data. They being:[25]

- ✓ Volume: The amount of data from Madrid sources.

- ✓ Variety: The type of data for that is structured semi-structured and unstructured.

- ✓ Velocity: The speed at which the data is generated.

Furthermore, three more features have been added to supplement the above characteristics:

- ✓ Veracity: Which implies the degree to which big data can be trusted.

- ✓ Value: Which is the business value of the data so collected.

- ✓ Variability: Which is how big data can be used and configured.

One cannot dismiss the pro-competitive effects of big data which has led to better delivery of services, improved innovation and technology, there have been low entry barriers also etc. , but what the author is arguing that especially for Indian competition regulatory authorities to be more vigilant in approving mergers where there is low turnover and high data, as the sole purpose for that merger can be to get the valuable data of the upcoming company and monopolise that data in a way that the acquiring company becomes a dominant player in that market. One can say here that consumer data, has become "the new raw material of business: an economic input almost on a par with capital and labour.

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[23] Maurice E Stucke and Allen P Grunes, 'Debunking the Myths over Big Data and Antitrust', CPI Antitrust Chronicle (May 2015 (2)), https://www.competitionpolicyinternational.com/assets/Uploads/StuckeGrunesMay-152.pdf.

[24] OECD (2016), *Big Data: Bringing Competition Policy to the Digital Era*, OCED Publishing, (Apr 26, 2017), https://one.oecd.org/document/DAF/COMP/M(2016)2/ANN4/FINAL/en/pdf

[25] 8 Isaac R. Porche, Big Data: Challenges and Opportunities, RAND Corporation 3 (2014)

Here what the authors concern is that these big tech companies use "data" as the radar system to track competitive threats which are upcoming companies in that specific industry and then they acquire these upcoming new entrants before they become significant threats and then become too big to fail.

V. EMERGING PRIVACY DIMENSION IN MERGER REVIEW

The aim of "combination regulation" is to inquire whether a transaction can harm competition, and to prevent or modify such anti-competitive combination before consummation of the transaction. The jurisdictional threshold of turnover and asset has been considered globally as an effective tool for merger regulation. However, the escape of a few high-profile cases from the review – such as Microsoft-LinkedIn, Facebook-WhatsApp, and Flipkart-Myntra – has raised concerns for authorities regarding an apparent enforcement gap, which has been attributed to the advent of digitalization.

Privacy concerns have also been highlighted in these deals. The main European law that protects the privacy of individuals concerning the processing and free movement of personal data is the Data Protection Directive of 1995 and the national laws that implement it.

It became usable when the internet was still in its infancy. Things have since changed a lot. Today, 250 million people in Europe use the internet every day. The purpose of "combination regulation" is to examine whether a transaction will adversely affect competition and prevent or alter any anti-competitive combination before the transaction is completed. The jurisdictional turnover and asset threshold was seen globally as a significant method for managing merger.

Personal data security in Europe must develop. The Commission accepted last January the plan for a wider and more comprehensive regulation to replace the 1995 Directive. When the regulation becomes effective, it will cover all EU citizens even though their data are owned by companies outside the Union; and it will guarantee the 'right of portability' and the 'right to be forgotten.'

But there's a delicate trade-off between privacy and better service, and that's exactly why we need debates like today's one.

Before moving into more depth, let's look at how the respective competition regulatory authorities gave a "yes" to these deals amid firm awareness of the anti-competitive impact and privacy issues.

Competitive threats associated with big data in digital mergers have been somewhat

investigated by antitrust regulators in the past. Since the 2008 Google / DoubleClick event, which gained considerable public attention, the discussion has flourished on the relationship between big data competition and privacy. The discussion has become somewhat divided in that some strongly support competition regulation to avoid consumer damage in the context of consumer privacy, while others see data as another type of feedback or strategic asset, thereby seeing privacy issues as beyond the reach of competition enforcer interference. Competition evaluations may be discussed in some main merger cases dealing with the position of data and privacy.

As we shall see, a gradual change is identifiable in the Commission's approach to a potential privacy dimension in merger analysis when looking, for example, at the analysis in Google/DoubleClick and Facebook/WhatsApp, compared to Microsoft/LinkedIn44 in 2016. In the former cases, the Commission ignored any privacy issues and held that privacy harms arising from the increased concentration of data resulting from the transaction were beyond EU competition law. In reviewing Microsoft's acquisition of LinkedIn, the Commission only approved the transaction after Microsoft provided certain guarantees, including ensuring competitor access to certain data. The Commission specifically claimed that data protection is an essential component of competition and noted that "by securing Microsoft promises to keep the market open, we have helped businesses compete more effectively to protect privacy."

VI. REQUISITE CASE ANALYSIS: EVOLUTION OF NON- PRICE PARAMETERS IN QUANTITATIVE ASSESSMENTS OF MERGER REVIEW

There are several significant decisions in which the Commission has investigated horizontal large-data merger transactions, concentrating mainly on online advertisement markets, such as Google / DoubleClick, Telefónica UK / Vodafone UK / Everything Everywhere / JV and Facebook / WhatsApp decisions. As the above-mentioned companies all operate in multi-sided markets, distinguished by two distinctions. As a matter of fact, in a seminal decision in which the Commission assessed the potential competition law concerns arising from Microsoft's purchase of Yahoo's search technology, concerning the proposed acquisition's potential effects on the users of online search services, the Commission implicitly referred to the "feedback loops" by stating that, "Advertisers aim to reach a large audience and monetize their investment in advertising. Users value the relevance of the internet search which includes the organic (or algorithmic) and advertising (or sponsored) results." [26]

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[26] Microsoft/Yahoo! Search Business decision, supra note 26, para. 100.

Moreover, in its Google/DoubleClick, Facebook/WhatsApp, and Telefónica UK/Vodafone UK/Everything Everywhere/JV decisions, the Commission also analyzed the potential effects of the "monetization feedback loop" by referring to the ability of a company to (i) raise its revenues by aggregating more data to generate additional financial resources, which can then be used to increase the quality of the targeted advertisement services for the end-users, and (ii) attract more advertisers on the other side of the market under the closing of the transaction. Indeed, in its Google/DoubleClick decision, the Commission examined whether the combination of the parties' data would lead to market foreclosure in the related product market by enabling the postmerger to enter a position on the market that its rivals would not be able to achieve or challenge.[27]

TomTom and Tele Atlas case

Looking at the above merger deal, TomTom, a manufacturer of portable navigation devices and navigation software, acquired Tele Atlas, which was one of the main suppliers of navigable digital map databases, a key input for such navigation devices and software. It was a vertical merger since both the companies were at different levels of the supply chain. On the review of the deal, the commission concluded that there is a significant amount of competitive advantage of data with this combined entity in respect to other competitors in the market.

The Commission looked at the dimension of privacy and held that "confidentiality concerns can be considered as similar to product degradation in that the perceived value of the map for PND manufacturers would be lower if they feared that their confidential information could be revealed to TomTom". According to the Commission, confidentiality concerns as to the customer information in question could lead to reputational damage and customers considering switching products. Thus, privacy was considered as a quality component in the competitive assessment of the merger. Data was also used by the parties in TomTom/Tele Atlas as an efficiency defence. The parties argued that data in the form of feedback from TomTom's large customer base would allow the combined entity to produce better maps faster. The Commission did not evaluate the likely data-driven efficiencies, since it found the transaction not to be anticompetitive, irrespective of efficiencies.

Facebook/WhatsApp – privacy as a dimension of product quality? The Commission found that privacy was one of many parameters of competition between consumer communications apps along with other parameters such as price, reliability of the

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[27] Google/DoubleClick decision, supra note 26, para. 359.

service, functionalities offered, size of the network, trendiness, etc. The majority of consumer communication apps do not compete (mainly) on privacy features – with some exceptions such as apps offering increased security of communications like Threema or Telegram. The Commission's decision is without prejudice to the application of EU data protection rules to any privacy-related concerns flowing from the increased concentration of data within the control of Facebook.

Merger enforcement has the potential to complement data protection law where protecting competition includes protecting privacy as an important parameter of competition/privacy concerns tied to a significant impact on effective competition tools are "fit for purpose"; but this requires a very fact-specific assessment linked to the features of the market; the position of the players; the barriers to entry etc.

VII. CONCLUSION

The author acknowledges the fact that in this new age digital market where DATA has become oil and e-commerce has brought about pro-competitive outcomes also like increase in the competition via the use of multiple digital platforms simultaneously, use of digital tools to compare pricing and features of the products, no barriers to move from one platform to another, economies of scale etc but competition regulatory authorities cannot ignore the undesirable risks these markets bring with them when there can be concentration data in few multinational giants. It will make it difficult for small firms to survive unless they deliver products or services which are novel and highly innovative.

An analysis has to be drawn to look from various jurisdictions the global developments and provisions concerning e-commerce and to see whether India has the flexibility to include Digital markets issues in it with our existing framework under competition laws or do we need to amend our laws specifically to deal with what digital markets necessitate.

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