

Panel Discussion

on

INDIA'S DIGITAL RESET: ROLE OF REGULATORS IN TIMES OF COVID-19



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Professor & Dean, Jindal School of Banking & Finance
and Co-Director, Jindal Initiative on Research in IP
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OPENING REMARKS



PROF. (DR.) C. RAJ KUMAR

Founding Vice Chancellor
O.P. Jindal Global University

INAUGURAL ADDRESS



PROF. DABIRU SRIDHAR PATNAIK

Professor and Registrar
Chief Proctor
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CONCLUDING REMARKS

DISTINGUISHED SPEAKERS



PROF. AVIRUP BOSE

Associate Professor
Jindal Global Law School

MODERATOR



DR. GEETA GOURI

Former Member
Competition Commission of India



PROF. DANIEL SOKOL

Professor, University of
Florida Levin College of Law



MR. MANAS KUMAR CHAUDHURI

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MS. SANGEETA SINGH

Director, EY

MODERATOR

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4:30 PM
to **5:30 PM**

YouTube

<https://youtu.be/RJ2Zxkzo>

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Programme

4:30 PM - 4:35 PM

Opening Remarks

DR. ASHISH BHARADWAJ, Professor & Dean, Jindal School of Banking & Finance
and Co-Director, Jindal Initiative on Research in IP and Competition (JIRICO)

4:35 PM - 4:40 PM

Inaugural Address

PROF. (DR.) C. RAJ KUMAR, Founding Vice Chancellor, O.P. Jindal Global University

4:40 PM - 5:30 PM

Panel Discussion and Q & A

5:30 PM - 5:35 PM

Concluding Remarks

PROF. DABIRU SRIDHAR PATNAIK, Professor and Registrar, Chief Proctor
O.P. Jindal Global University

CONCEPT NOTE

India's Digital Reset: Role of Regulators in Times of COVID-19

COVID-19 has reset India's march towards a \$1 trillion digital economy by 2025. While digital start-ups concentrating on travel marketplaces, cab hailing, entertainment etc. have been adversely affected to a large extent, under the new normal, sectors such as online learning and food delivery have done much better than the rest in terms of business and funding. Relatively newer lines of start-ups such as online pharmacy and online payments have also attracted investors.

The Government too has intensified its focus on the digital economy. It introduced several policies, including the National Policy on Electronics (NPE) and the National Policy on Software Products (NPSP) earlier in 2019. Further, the Government aimed to boost the domestic digital markets, building a comprehensive digital manufacturing and research and development (R&D) ecosystem. This was intended to complement the Government's existing policy efforts, already underway to improve digital literacy and infrastructure under the "Digital India" programme. Data from the Reserve Bank of India (RBI) show that India is now clocking around 100 million digital transactions a day with a volume of 5 trillion rupees (\$67 billion), about a five-time jump from 2016. RBI expects this to further grow five-fold to 1.5 billion transactions a day worth 15 trillion rupees (\$200 billion).

India's antitrust regulator – the Competition Commission of India (CCI) in 2018, initiated a market study on ecommerce industry, which is booming because of larger number of Indians having access to digital network and which may be posing to be a threat to the brick & mortar setup of conducting business. The study was conducted with a view to understand the functioning of ecommerce, business models of ecommerce companies and implications of ecommerce on the Indian buying and selling markets from competition perspective.

CCI's objective was to ascertain any competitive constraints emerging from India's digital economy and tailor its enforcement and advocacy priorities. CCI released its report in January 2020, identifying key trends of India's digital economy which directly or indirectly has a bearing on competition - issues of lack of platform neutrality, unfair platform-to-business contract terms, exclusive contracts between online marketplace platforms and sellers/service providers, platform price parity restrictions and deep discounts. The report outlines these issues and presents the observations of the CCI on the same without any a-priori assessment if such conduct is anti-competitive or is justified in any particular context.

To examine the relevance and application of India's antitrust rules to its burgeoning digital markets the Government set up the 'Competition Law Review Committee' (CLRC) on October 1st, 2018 to review the Competition Act, 2002 and other incidental rules thereunder. Keeping in mind, the legislative mandate for a robust framework for promoting disruptive growth of India's digital markets, the CLRC released its report in July 2019. After incorporating certain reforms suggested by the CLRC, the draft Competition (Amendment) Bill, 2020 (Bill) was released in February 2020 for public comments. Further, the CCI on 19th April 2020 issued an advisory to businesses acknowledging that COVID-19 has caused disruptions in supply chains and that information sharing and coordination may be required by businesses to ensure continued supply and fair distribution of products and services.

CCI's real challenge, however, lies in ensuring its ability to navigate an increasingly complex and uncertain Indian and global regulatory environment, where the regulator can offer practical advice and robust strategies to protect and promote business, during an ongoing global pandemic.

QUESTIONS FOR THE PANEL

- What solutions should Competition Commission of India consider to respond to evolving problems of consumer harm during/in the aftermath of COVID-19?
- Is “Competitor cooperation” the new normal in the aftermath of COVID-19? What would be an appropriate regulatory framework to assess inter-competitor cooperation?
- Is consumer exploitation by firms during the ongoing pandemic an antitrust problem? Should CCI be the appropriate regulator for such regulatory scrutiny?
- Should CCI prioritize its enforcement mandate for behavioural issues to deal with the impact of the pandemic on the market behavior of dominant companies?
- Given that the digital economy will form the central driver of the post-pandemic economic recovery, how should CCI approach the issues of data governance and data security? Should Competition Commission of India be the appropriate regulator for such scrutiny?
- Should investments, especially foreign investments into Indian digital markets, be regulated at all in a recession-hit post-COVID-19 global economy?
- Does the economic impact of COVID-19 demand a more innovative application of competition and industrial policy tools? How to balance interests of consumers, domestic and foreign firms and the future of India's digital economy?