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I. Introduction:

Digital technologies have entered almost every sector of the economy, and digital platforms are increasingly integral to market operations. In India's e-commerce sector in particular, certain platforms have, because of their scale and indispensability, increasingly become essential infrastructure for users.[2] These platforms are no longer merely intermediaries connecting buyers and sellers; they have evolved into infrastructural firms that increasingly serve as the backbone facilitating most economic and social activities. By controlling this infrastructure a handful of platforms have gained significant power over markets and users. Yet, India's existing competition-law framework may not adequately address such power when a platform has not attained statutory dominance.[3]

The Competition Commission of India ("CCI") has initiated abuse-of-dominance proceedings involving several digital platforms. However, these cases have generally concerned platforms whose position could be assessed under the statutory dominance framework in Section 4 of the Competition Act, 2002.[4] Horizontal e-commerce presents a different challenge. Complaints against horizontal e-commerce platforms have largely been dismissed at the *prima facie* stage because the market structure does not readily support a finding of dominance by any single platform.

The CCI has observed that India's e-commerce sector neither reflects a dominant position nor a classic monopoly, but may, at most, raise questions of collective dominance. Indian competition law does not recognise collective dominance, however. Since a finding of dominance is ordinarily necessary for the CCI to direct an investigation under Section 26(1) of the Competition Act, 2002,[5] this framework leaves potentially exclusionary conduct by structurally powerful but non-dominant e-commerce platforms outside effective scrutiny.

Against this backdrop, no single e-commerce platform appears to be traditionally dominant on a *prima facie* basis. Yet the absence of statutory dominance does not mean the absence of

market power. Beneath this statutorily non-dominant structure lies a new dimension of market power, symptomatic of a deeper problem, perhaps an even more troubling form of concentrated power. The root problem is that these platforms can shape market structure while evading scrutiny from competition authorities. This new dimension of market power can be referred to as "gatekeeping power".

The article examines how horizontal e-commerce platforms perform gatekeeping functions, and why this form of power raises competition concerns even without conventional dominance.

We begin with a discussion of India's e-commerce market environment and examine how certain e-commerce platforms function as gatekeepers and exercise gatekeeping power. It then examines the existing regulatory and policy framework and its limitations in addressing platform-to-business ("P2B") competition concerns associated with gatekeeping power. Finally, the article examines the pacing problem in the e-commerce sector, drawing on the Collingridge dilemma and the experience of search engines and social networks, where market structures have become increasingly difficult to challenge. Against this background, the article argues that complementary *ex ante* regulation may be necessary to address competition concerns before market structures become so entrenched that later intervention is harder.

II. E-commerce in India

e-commerce industry in India is growing at an unprecedented scale, changing how consumers shop. The comfort of shopping from home, along with premium one-day delivery options, cash-on-delivery, large discounts, and easy returns or refunds, has expanded the consumer base for e-commerce platforms. This growth stems from easier access to e-commerce platforms, even in remote and rural areas of India, driven by increased smartphone penetration, improved internet access, affordable data, and seamless integration with digital payments.[6]

These factors have made India one of the fastest-growing e-commerce markets. With a population of 1.48 billion[7] and a growing middle class,[8] India represents a huge, potentially lucrative market for e-commerce platforms, making long-tail economic transactions a reality. Until recently, internet use for online commerce

platforms was heavily skewed toward consumers in tier I towns. However, the latest statistics show significant growth in e-commerce users in tier II and III towns, and this growth is expected to continue over the next five years.[9] These consumers currently account for more than 80 per cent of the total population. The online retail market is expected to reach US$ 250 billion by 2030, up from US$ 90 billion in 2025, driven by the rapid expansion of e-commerce in tier II and III cities.[10] The industry is growing rapidly and is expected to become the world's second-largest, surpassing the U.S. by 2034[11]. E-commerce has brought significant benefits not only to consumers and end users but has also contributed to the market by opening new business opportunities for sellers and business users. For example, it has given new avenues to Micro, Small and Medium Enterprises ("MSMEs") or Small and Medium Enterprises ("SMEs") by connecting them to a wide range of consumers, which would be highly unlikely without e-commerce platforms.

The above statistics show that India has strong potential to develop a competitive e-commerce segment. However, statistics on the actual distribution of horizontal e-commerce players in India paint a different picture: a narrow oligopoly with a concentrated market structure.

III. The Distribution of Horizontal E-commerce Players in India

The horizontal e-commerce market is highly concentrated, with Amazon and Flipkart accounting for most of the market's activity. Recent estimates place Amazon's market share at approximately 30–35% and Flipkart's at around 48%, highlighting the substantial concentration of the Indian horizontal e-commerce market.[12] By contrast, other platforms have considerably smaller market shares, with Meesho accounting for approximately 9% of the market, while Snapdeal operates at a substantially smaller scale.[13] This concentration has persisted over time, with Amazon and Flipkart together accounting for a substantial share of India's e-commerce market since 2016.

The difference is even clearer when looking at platform usage. Amazon and Flipkart have about 280.43 million and 234.02 million monthly visits, respectively, while competing platforms have much lower traffic and do not even cross the hundred million mark. Meesho receives approximately 43.15 million monthly visits,

while Snapdeal receives 4.26 million.[14] Amazon and Flipkart also have extensive seller ecosystems, with substantially more sellers on their platforms than most competing platforms. Amazon India has more than 2 million sellers, while Flipkart reports more than 1.4 million sellers. By comparison, Meesho reportedly has approximately 1.04 million annual transacting sellers, while Snapdeal has reported approximately 0.50 million registered sellers.[15] Although these figures are not directly comparable because the platforms use different measures of their seller bases, they nevertheless illustrate the scale of Amazon and Flipkart's presence on both sides of the market. Together with their market shares and consumer reach, these figures strengthen their position as key gatekeepers between sellers and consumers.

Amazon and Flipkart are substantially ahead of their competitors in terms of market share and consumer traffic, while also maintaining extensive seller ecosystems. These factors alone do not establish statutory dominance under Section 4 of the Competition Act, 2002, but they do show the breadth and depth of the two platforms and their commercial importance, allowing them to act as important intermediaries between consumers and sellers. This, in turn, sets the stage for Amazon and Flipkart to exercise gatekeeping power.

IV. The Concept of Gatekeeper Platform

To understand the meaning of a gatekeeper platform in digital markets we turn tothe definition given by the EC: digital gatekeepers are platforms which "serve as an important gateway for business users to reach their customers, and which enjoy, or will foreseeably enjoy, an entrenched and durable position. This can grant them the power to act as private rule-makers and to function as bottlenecks between businesses and consumers".[16]

From this definition, three distinct features can identify online platforms as gatekeepers. First, business users largely depend on a platform with market power to connect with end users, leaving them with few viable alternatives, if any.

Second, online platforms must have durable and stable market power. Overall, no new competitor has effectively challenged the incumbent platform's substantial market power in recent years, making the platform less prone to disruption. This does not mean that a new

platform cannot theoretically contest the incumbent by offering more innovative services or additional features. However, features such as access to large amounts of data, strong network effects, feedback loops, and high switching costs and lock-in effects significantly reduce the probability of success by preventing users from switching to a new platform, regardless of its offerings. These features should not be regarded in isolation but as interdependent factors. The question is therefore not whether barriers are low enough to permit the simple entry of a new platform, but whether entry on a scale capable of providing a competitive check on incumbent platforms can occur. The absence of a viable alternative or competing service thus reinforces the platform's relevance to users and gives it the character of a gatekeeper.

Third, this lack of choice gives the incumbent platform a distinct type of market power, enabling it to act as a private rule-maker by controlling entry to the platform and the terms of access and exit. This power can be termed gatekeeping power.

V. Fitting E-commerce Within the Definition of a Gatekeeper Platform

We now turn to whether certain e-commerce platforms operating in India fit the EC's definition of a gatekeeper. Although over 19,000 e-commerce platforms operate in India, most of which are SMEs, Amazon and Flipkart capture the largest share of the overall value generated. Both platforms also have the most visitors. End users and business users depend mainly on either platform because viable alternatives are scarce. As their network strength has grown, end users and business users have had to remain on these platforms[17].This satisfies the first characteristic of a gatekeeper.

Second, Amazon and Flipkart together account for a substantial share of India's e-commerce market and have maintained strong, durable positions since 2016. Their position has become entrenched, as rival platforms have failed to keep pace in recent years. This satisfies the second characteristic of a gatekeeper. Taken together, the first and second characteristics, in the absence of meaningful alternatives, have increased business users' and end users' dependence

on these platforms and allowed them to act as rule-setters in the marketplace by imposing conditions on entry to and exit from the platforms. Together, the given characteristics have allowed Amazon and Flipkart to position themselves as gatekeepers in the e-commerce segment.

Against this backdrop, stakeholders have alleged that these platforms' gatekeeper status stems not from efficient conduct but from legally unfair practices. Their gatekeeping power has led to claims that the platforms engaged in anti-competitive behaviour.[18] Journalistic investigations and media reports have also identified legally dubious conduct by Amazon and Flipkart that may affect market structure[19]. Several trade organisations, unions, individual third-party sellers, and start-ups have approached the CCI and the Ministry of Commerce and Industry to raise concerns about the two e-commerce platforms' conduct and the risk they pose to sellers and consumers. The next section examines whether India's current competition, consumer protection, and other regulatory frameworks can address this gap.

VI. The Regulatory Framework Governing E-commerce Platforms in India

India does not lack e-commerce regulation; rather, it lacks a framework specifically designed to address the competitive risks created by large gatekeeper platforms. Several instruments govern different aspects of e-commerce, but their objectives and enforcement mechanisms leave important gaps in addressing P2B competition concerns.

The Foreign Direct Investment ("FDI") Policy represents perhaps India's closest approximation to *ex ante* regulation of platform conduct. It permits foreign investment in marketplace e-commerce but prohibits foreign-funded platforms from operating an inventory-based model. It also restricts platforms from sourcing more than 25 per cent of their sales from a single vendor. These restrictions aim to reduce incentives for self-preferencing and preferential treatment of affiliated sellers by prohibiting platforms from acting as intermediaries and retailers. But Amazon and Flipkart's experience shows the limits of this strategy. Corporate structures involving affiliated entities and wholesalers have allowed platforms to operate through the supply chain while formally maintaining a marketplace model. More fundamentally, the FDI Policy does not address the competitive use of

commercially sensitive data generated by third-party sellers. Further, it is applicable only to foreign-funded entities.

The consumer-protection framework is similarly ill-equipped to address P2B competition. The Consumer Protection Act, 2019 is meant to protect consumers, and it does not cover purchases made for commercial purposes. The Consumer Protection (E-Commerce) Rules, 2020 impose transparency and disclosure obligations on platforms, but do not impose meaningful constraints on conduct that affects business users. Proposed amendments to address issues such as the use of non-public seller data and conflicts in relation to related-party sellers were introduced in 2021, but the relevant anti-competitive provisions were never notified.

Other instruments do little to close the gap. The Draft National E-Commerce Policy, 2019, addressed issues including e-commerce marketplaces, data, regulatory matters and infrastructure development, but did not establish a framework for addressing platform competition. The Information Technology (Intermediary Guidelines and Digital Media Ethics Code) Rules, 2021, focus primarily on intermediary due diligence, content regulation and grievance redressal rather than anti-competitive conduct. The Digital Personal Data Protection Act, 2023, in turn, is concerned with the protection and lawful processing of individuals' personal data, rather than the competitive implications of platforms' use of commercially sensitive seller data.

The result is a fragmented regulatory framework in which consumer protection, foreign investment and data privacy are regulated separately, while the competitive relationship between gatekeeper platforms and their business users remains insufficiently addressed. This gap is particularly consequential in e-commerce, where platform scale, network effects and access to transaction-level data can allow market power to become entrenched before conventional competition-law intervention is triggered. India therefore faces a regulatory pacing problem: market developments may outpace the legal framework, leaving regulators to address competitive harms only after market power has become entrenched.

VII. The Pacing Problem:

As Larry Downes observes, technology changes exponentially, while legal and social systems change incrementally.[20] This problem is particularly acute in digital markets, where regulators may acquire sufficient information to identify competitive harm only when intervention has become more difficult. This tension is captured by the Collingridge dilemma: early in a technology's development, its consequences are difficult to predict, but intervention remains relatively feasible. As information about those consequences improves, however, network effects, economies of scale, switching costs and user dependence may make the resulting market structure increasingly difficult to change.

This is easier to understand by looking at the impact of social network and search engine sites on market structure. Both platforms have grown significantly and taken the lead in their respective segments in India, with Facebook and Google synonymous with social networks and search engines, respectively. Two decades ago, it was hard to imagine Facebook and Google permeating users' lives so inextricably. Initially, many believed these platforms would have a positive spillover effect on society, leading to better communication and the decentralisation of information and ideas. However, the last two decades have shown a completely different, unforeseeable picture. A series of anti-competitive practices by these platforms has contributed to highly concentrated market structures, leaving users with limited viable alternatives, an outcome that may not have been anticipated when these platforms were launched. Today, both the search engine and social network markets have tipped in favour of particular platforms, while *ex post* remedies have failed to meaningfully restore competition in these markets. A gap exists between technological development in the social network and search engine segments, driven by strong network effects, economies of scale and scope, switching costs, etc., and the legal oversight mechanisms, which have lagged in ensuring timely and appropriate regulatory responses. From this, it may be drawn that the technological developments in the e-commerce segment may be more successfully regulated when they are still in an early developmental stage, but when the consequences of their adoption (both positive and negative) are difficult to understand and predict.

CCI has previously stated that e-commerce is in its infancy, with a long development trajectory ahead, and that premature intervention might hinder the sector's growth. Primarily, CCI has cited the lack of information about e-commerce's future repercussions as a reason for not considering alternative approaches to regulating gatekeeper platforms. This uncertainty has contributed to CCI's reluctance to adopt a regulatory framework for such platforms in India.

Though it is correct that, with the passage of time, more information may become available about the impact of e-commerce platforms on market structure and their consequences may become easier to predict, the resulting market trajectory may become increasingly difficult to regulate, creating a real risk that effective intervention could become difficult, if not nearly impossible.[21] E-commerce is already concentrated, with two gatekeeper platforms that have developed and proliferated rapidly and established durable, stable positions over the past decade.

This creates an important paradox: more information may improve the regulator's ability to identify harm while reducing its ability to remedy it. As discussed above, by the time the competitive consequences of platform conduct became clearer in search and social networking, these platforms had become deeply embedded in users' everyday lives and markets. *Ex post* intervention therefore confronted markets materially different from those that existed when these platforms were still developing. The implication is not that e-commerce should be regulated simply because it is growing. Rather, the absence of established dominance should not become a reason to disregard emerging structural risks.

VIII. Conclusion

The central challenge posed by India's e-commerce sector is not simply whether a platform is dominant under Section 4 of the Competition Act, 2002, but whether significant market power can develop without triggering that framework. Amazon and Flipkart illustrate how scale, dependency and durability can create gatekeeping power even in the absence of conventional dominance. When such power lets platforms shape the conditions of market participation, a purely dominance-based approach may intervene

only after competitive structures become difficult to change.

The experience of search and social networks therefore offers a cautionary lesson for e-commerce: waiting for the market to tip before intervening may mean waiting until intervention can no longer effectively restore competition. *Ex ante* regulation is consequently not about predicting the future with certainty; it is about preserving the possibility of competition while the market can still be shaped.

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[2] The discussion is confined to horizontal retail e-commerce platforms and does not examine vertical e-commerce platforms.

[3] See *Mr. Ashish Ahuja v. Snapdeal.com Through Mr. Kunal Bahl, CEO & Ors.*, Case No. 17 of 2014 (Competition Commission of India May 19, 2014); *Mr. Mohit Manglani v. M/s. Flipkart India Pvt. Ltd. & Ors.*, Case No. 80 of 2014 (Competition Commission of India Apr. 23, 2015); *Mr. Deepak Verma v. Clues Network Pvt. Ltd. & Ors.*, Case No. 34 of 2016 (Competition Commission of India July 26, 2016); *All India Online Vendors Association v. Flipkart India Pvt. Ltd. & Anr.*, Case No. 20 of 2018 (Competition Commission of India Nov. 6, 2018); *Lifestyle Equities C.V. & Anr. v. Amazon Seller Services Pvt. Ltd. & Ors.*, Case No. 9 of 2020 (Competition Commission of India Sept. 11, 2020).

[4] Section 4 defines 'dominance' as 'a position of strength, enjoyed by an enterprise, in the relevant market, in India, which enables it to operate independently of competitive forces prevailing in the relevant market; or affect its competitors or consumers or the relevant market in its favour'. Put simply, Section 4 facilitates intervention against anti-competitive unilateral conduct if the undertaking holds a position of dominance. But it does not prevent the same anti-competitive behaviour if the entity does not hold a dominant position.

[5] Section 26(1) of CA, 2002 provides for Procedure for inquiry under section 19: "On receipt of a reference from the Central Government or a State Government or a statutory authority or on its own knowledge or information received under section 19, if the Commission is of the opinion that there exists a prima facie case, it shall direct the Director General to cause an investigation to be made into the matter: Provided that if the subject matter of an information received is, in the opinion of the Commission, substantially the same as or has been covered by any previous information received, then the new information may be clubbed with the previous information".

[6] There are 958 million active internet users in India. Of these, 548 million are in rural India, while the rest are in urban India. See: 'India now has 958 million active internet users; 57% of these are from rural areas', *The Hindu* (29 January 2026)

[7] Statista Research Department, 'Estimated population of India from 1980 to 2031', (*Statista* 15 April 2026).

[8] Middle class consists of those households which have an annual income between 0.5 million and 3 million per year. See, Akanksha Mishra, 'Middle class set to boom in India, avg household income to be Rs20L/year by 2047, finds PRICE survey', *The Print* (6 July 2023)

[9] The Government of India categorises the cities into four parts. Tier I, II, III and IV. This classification is based on parameters such as population size, infrastructure development, economic development, health care facilities, educational institutions, and administrative importance. For instance, Tier-1 cities exhibit the following features: a. Largest population, followed by Tier -II, III and IV cities; b. Robust business environment based on the highest employment opportunities and contribution to per capita income; c. Strongest infrastructure, characterised by a well-developed transportation network, extensive roadways, modern airports, and advanced communication systems. d. Have prestigious universities, research institutions, and top-notch healthcare centres. The availability and quality of these facilities may vary as one moves to lower-tier cities. See, 'Decoding Indian Cities: Classifications in Tier I, II, III and IV. Also see, Kearney, Value e-commerce: the next big leap in India's retail market' (*Kearney*,16 August 2021).

[10] Deloitte, *India's E-Commerce Market to Reach $250 Billion by 2030* (Apr. 7, 2026)
[11] Indian Brand Equity Foundation, *E-Commerce Industry in India*; Shiprocket, *eCommerce in the New Bharat & Its Future* (2023).
[12] Paul Sonneveld, *Unlocking India's E-Commerce Boom: Marketplaces, Social Commerce, and Quick Commerce in 2025* (MerchantSpring Apr. 6, 2026).
[13] GS1 India, Uncovering the Hidden Cost of Poor Product Data in Indian E-Commerce 5 (2026); Urvashi Mishra, Forgotten Unicorn, Snapdeal Bets on Bharat, Budget Fashion to Script a Comeback, Fortune India (June 20, 2026).
[14] Semrush, *Website Traffic Statistics* (Aug. 2026) (Amazon India, Flipkart, Meesho, and Snapdeal website traffic data).
[15] Amazon India, *Amazon India's Seller Base Grows to 20 Lakh, Marking Strongest Growth in Three Years* (Sept. 8, 2026); Flipkart, *Flipkart's Big Billion Days Returns for Its 13th Edition on October 9 with Record Seller Participation* (Oct. 6, 2026); Meesho Ltd., *Earnings Release 2026* (2026); Snapdeal, *Snapdeal's Edge in Value E-Commerce Sector* (Dec. 16, 2024).
[16] Regulation (EU) 2022/1925 of the European Parliament and of the Council of 14 September 2022 on Contestable and Fair Markets in the Digital Sector (Digital Markets Act), art. 2(1), 2022 O.J. (L 265) 1.
[17] The network strength is signified with the help of market share, total number of visitors per month, and total number of sellers.
[18] Competition Commission of India, *Market Study on E-Commerce in India: Key Findings and Observations* (2020); Department-Related Parliamentary Standing Committee on Commerce, *One Hundred and Seventy-Second Report on Promotion and Regulation of E-Commerce in India* (2022); Parliamentary Standing Committee on Finance, *Fifty-Third Report on Anti-Competitive Practices by Big Tech Companies* (2022); Ministry of Corporate Affairs, Government of India, *Report of the Committee on Digital Competition Law* (2024).
[19] Aditya Kalra & Steve Stecklow, *The Intimidation Game: Amazon Copied Products and Rigged Search Results to Promote Its Own Brands, Documents Show*, Reuters (Oct. 13, 2021).
[20] Larry Downes, *The Laws of Disruption: Harnessing the New Forces That Govern Life and Business in the Digital Age* (Basic Books 2009).
[21] Fabio Besti & Francesco Samorè, *Responsibility Driven Design for the Future Self-Driving Society* (Giannino Bassetti Foundation 2018).