**TECH GIANTS’ TRYST WITH ANTITRUST ENFORCEMENT : DECODING THE LEGAL INTRICACIES**

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Abstract : Global Competition Law is at peak now a days, all the credit goes to the ever increasing power and dominance of corporations. As a legal professional, one must have come across the competition regimes being strictly implemented upon the big conglomerates to control the market situation and unnecessary high rate of inflation. The need for Antitrust regimes is being felt lately due to the ever increasing anti-competitive conducts. As a matter of fact, new legislation and regimes are being enacted since Competition Law is still a niche and is constantly under development. With increasing complexity around the working pattern of conglomerates more detailed study and approach is needed to solve antitrust issues. Antitrust laws of United States, United Kingdom, India and Australia have a much larger global presence as compared to other countries. The Antitrust laws differ from jurisdiction to jurisdiction. Some authorities might take a liberal approach in a particular situation and other might take a rigid approach in the same situation and circumstances. Antitrust intricacies are becoming a regular issue with the big corporate entities. The laws of a particular jurisdiction drives the fair and equitable market conditions for sellers as well as buyers for a prosperous growth of economy. Often times, the horizontal overlapped corporations join hands to form a cartel (which is among the main concerns for Competition enforcers) and then modify the market rules by manipulating prices as per their whims and wishes. This paper will give a crisp and clear view of recent trends of Antitrust lawsuits surrounding the technology giants and aims to analyse why such issues are becoming more common. Same circumstances might yield different decisions depending upon the jurisdiction. A company wise approach is taken i.e each tech company’s major antitrust case is taken from around the major enforcements across the globe.

**INTRODUCTION**

There’s a reason why tech giants like Google, WhatsApp, Facebook and Amazon are under vigilant surveillance and radar of competition law enforcers across the world. These enterprises constitute the top position among the wealthiest and biggest corporations in the world. These companies earn a staggering billions[[1]](#footnote-0) of dollars of profit every year that is further used to expand their stronghold in their relevant industry. Due to their sheer size and audacity they are always in the controversy surrounding legal intricacies[[2]](#footnote-1) and violations. They have so much impact on the world that they are expected to follow standards and protocols set by antitrust regimes. Several times these companies are sued by either individuals or organizations. Irrespective of whether they are wrong or right, the law enforcers see these giants as a big corporate entity whose only aim is to earn profit and maintain its monopoly in the relevant market. Competition can be considered as a major element of growth of economy of any country. It coerces the manufacturer to produce quality goods with reasonable rates so as to develop consumer friendly products and after sale services. The producers also spend in Research and development of the relevant product. All this generates capital investment and give chance to plethora of newcomers who want to establish themselves in the relevant market. The lack of competition on the other hand, literally stops the economic development, side by side creating one large monopoly or cartel that will use the arrangement to reap unfair profits without providing quality. All this certainly leads to the unbalanced economy, high inflation rate, poor quality products, detrimental effects on the overall market system. Along with it comes the matter of privacy and data, which is also compromised since consumers and other competitors are not able to fight the unfair terms imposed. Ultimately, the new entrant will shift to other business or consumer will be forced to accept the product as it is. This will again empower the already existing monopoly and will lead to vicious cycle of price manipulation. The present technology giants have created the entry barriers so high that it will be impossible to overcome them for small businesses. Ultimately the latter merge or converge themselves into the former thereby stepping up the game for these giants. Apart from this it is also observed that the digital marketplace across the globe is highly concentrated on few companies who have created a stronghold in their relevant markets. In the United States, these corporations are often termed as ‘Gatekeepers’ because they act as a barrier for other small competitors as well as consumers. The accessing of data enables company for better analysing of engagement and target audiences. To cover all such aspects and take control of the anti-competitive conduct of these giants, several Antitrust Watchdogs of different jurisdictions across the globe are observing lawsuits and pleas filed by small enterprises or consumers against these corporate entities. This paper will thoroughly analyse the relevant concepts and take you through such cases which involve some of the biggest corporations and in which billions of dollars were put to stake due to legal obligations. So without further ado lets begin.

**ANTITRUST ISSUES SURROUNDING TECHNOLOGY GIANTS**

The big corporations that handle technological aspects are in a much higher state of responsibility[[3]](#footnote-2) than other average normal companies. These contribute heavily to our society and to the world at large and thereby creating a plausible impact on us. Today we can’t even imagine what life would be like if it weren’t for these corporations. Surely the impact weighs equally on both the sides - the pros as well as cons. Along with easing our lives, they also affect us negatively. The benefits one get doesn’t come sans unwanted effects. Our privacy, mental state, overall well being, our self esteem, all such things are hugely depended on our addiction of these applications. As a matter of fact, these enterprises are under the constant surveillance of Antitrust Authorities of their particular areas. When we talk of such huge corporations, which indirectly controls most aspects of the world, one thing is for sure - the figures and amounts revolving around these industries is staggering. Billions of dollars are being spent by these companies every year to maintain their position, status and grip in the relevant sector they are in. They will anything and everything to successfully establish and then run their dominance over the market. They are at the echelon level of hierarchy. Often their acts and conducts result into unnecessary lawsuits and compliants. They also have to pay a heavy penalties in case of any proven misconduct or wrongdoing. The emergence and need for internet and advance technology created a very lucrative opportunity for technology companies. With the growing trend of technology induced life, the technology world came in the hands of limited but tremendous powerful enterprises. The fact that nowadays everything depends on technology adds to the already effective stature of them. The author will analyze each tech company’s antitrust lawsuits across regions like US, UK and India.

***GOOGLE -***

The first and foremost name in the international antitrust issues is always Google. Its not only a company, but a masterpiece that has helped revolutionized the technology sector. Without it the world would never have been where it is now. Today we cannot imagine our day without google and its services. Right from the time of waking up to going to bed at night we consciously or subconsciously use google through our smartphones. Checking weather, traffic status, using various applications and other innumerable things which we do for our accessibility and ease of things. Its all because of google. The key feature of the company was its Page rank algorithm which placed different pages for web results in accordance with its popularity and relevance. The company has been dominating the tech market in internet related services and products including search engine and cloud computing since more than a decade. It will be fair to say that google has collected, arranged and processed more data than any other corporation in the world. The company has been thriving and shaping the technological advancements, innovation and providing the data in a more reformed manner. *“Data is the new Oil”,* supposedly coined by British Mathematician Clive Humby in 2006. The comparison of data with oil pertains to the fact that oil was considered as a biggest valuable commodity in the world due to its nature, usage and demand in the international global market. Without oil the world will stop undoubtedly. And with it the normal working and operation of the world will come to halt. On the same note, data is now (as per the current circumstances and observing future aspects) the most valuable thing on this planet. With the world moving towards more advanced technological and digitized way of life, this problem will become more and more true as the time passes. But all this status and power comes with a huge responsibility to act, behave and operate as per the relevant legal and public standards. As they say ‘Nothing in the world is free’ and everything definitely comes with a price. The information stored in google servers/data centers is used by various third party authorities. The google exchanges the data stored belonging to a particular person for monetary benefits. The main source of income for google is advertising. You might have noticed that the ads we see while using any application or website always pertain to something we recently searched or stored. That’s the reason why we get similar suggestions or like minded things in our smartphones. The google servers note down each and everything about us - which applications we use, how much we use it, what are our digital preferences, our locations, likes and dislikes and almost everything we do in our smartphones. This interference in everyone’s life and growing problem of tech company’s influence calls for a robust regime which will govern the aspects of the operation of company. A company like Google has much bigger responsibility to properly follow regulations & protocols. Only then it will be able to run smoothly and efficiently and make a mark, build their reputation globally with as minimum legal intricacies and restrictions as possible. This success of Google definitely comes with a cost. The Tech Giant has always been involved in controversies and legal issues (especially antitrust issues).

***Antitrust Cases across Europe***

In the recent years it has been accused of violating antitrust regulations across various jurisdictions ranging from Europe to United States. The Europe’s Antitrust watchdog has till now imposed a total penalty of $ 10 Billion in three cases, the recent[[4]](#footnote-3) one (in 2019) with an amount of $ 1.7 Billion pertaining to indulging in unfair and inappropriate means to avoid other competitors of google’s products and services in the Advertisement market. Google by its audacity has been able to control the technology sector and since its most popular services - Android Operating System, Search Engine and Data Processing are being by almost everyone on the planet, it easily manages to take ahold of the competition and maintain its stronghold in the relevant sector. Google was accused for entering in illegal contracts with the third party to favour itself. It had gained impunity from following market protocols antitrust regulations. It was found that Google inserted certain illegal clauses on rival applications and services so as to keep them out of the industry and provide unfair advantage to its tie-ups. With the help of Google Adsense, the website owners can easily provide a search option preoccupied in their website. Google made it impossible for other search engines to fairly and properly compete with it. The publishers were strictly denied to display other search engine’s results in their websites if they are using Google Adsense. Hence google’s competitors were unable to display their results in most clicked sections of the website. As a result, Google left no choice for the rivals. This wrongdoing was being conducted since more than 10 years.

Another case in 2018 against Google involved a fine of whooping $ 5 Billion (4.34 Billion Euros) for abusing its dominant position in the market. The European[[5]](#footnote-4) Commission laid down that Google abused its dominant position in the technology market by giving an over the edge preference to its own products from other competitors. Dominant Position per se is not illegal. It is the abuse of dominance, which attracts the antitrust law enforcers. The European Commission found 3 issues regarding this case - a) google coerced smartphone manufacturers to pre-install the Google Apps bundled in a form and thwarted smartphone makers from using any other rival operating system on their devices. b) it mandated to pre-install the Google Search app and Chrome browser as a condition for getting license for Google’s Play store. c) prevented smartphone manufacturers to sell phone containing any unapproved or unauthorized version of android. The Commission directed the company to stop this illegal conduct or else face further penalty. The Commission found Google guilty of abusing its dominant position in the three market scenarios - a) Internet related Services, b) Licensable Mobile Operating System, c) Play Store (Google’s App Store). All the three activities were clearly violating the European Union’s Antitrust regulations. As a result the fine was imposed on Google for indulging in serious anti-competitive practices to fine tune its dominant position across the market and was directed to stop the existing illegal practice within 90 days from the date of the order. The penalty amount was stipulated at 4.34 Billion Euros.

Defending google’s initiative, Chief Executive Officer, Sundar Pichai addressed that the decision will upset the balance of Google with Android.

In 2017 also, EU groped[[6]](#footnote-5) on google on account of giving violating the EU Antitrust rules by giving undue advantage to its own products in a shopping comparison website. The company has been abusing its dominant position by providing unfair weightage to its own comparison shopping website. Since google has the biggest market share in general internet search, automatically the consumers would use google as a search engine for relevant comparison. This enabled google to manipulate the search results and display google’s own comparison shopping website in the relevant searches. The competitors name were displayed at bottom results or next pages. So even if the website has a better service than google’s product, it was not displayed in the place where it should be. This created a monopoly for Google and made it next to impossible for other comparison shopping websites to flourish in the internet. The google’s website was able to attract much better traffic and response. The EU sighting all this, imposed a penalty of 2.4 Billion Euros on google taking into account the seriousness of the antitrust law infringements and directed to stop this activity and refrain from any further activity that causes a similar effect.

***Antitrust Cases in the United States***

In 2020, the United States Department of Justice, filed a lawsuit[[7]](#footnote-6) against the tech giant Google alleging that it has created a monopoly and has been involved in an illegal deal among several bigshot tech companies (Apple and Samsung) for making google’s search engine a default option in their devices. A total of 11 State Attorney Generals had filed compliant initially, which increased to 40 recently in December 2020. The compliant is filed stating breach of section 2 of the Sherman Act by telling that google is involved in serious antitrust violations by maintaining its monopoly in the digital industry. The first 11 states include Arkansas, Florida, Georgia, Indiana, Kentucky, Louisiana, Mississippi, Missouri, Montana, South Carolina and Texas. States like California and Albama opted for a separate but parallel legal proceedings. The lawsuit is a result of more than a year long investigations into the working pattern and operation of google as a multinational corporation. The crux of the suit revolved around the illegal conduct[[8]](#footnote-7) by google of creating tie-ups with same level competitors and entering into agreement with them for making Google’s Search Engine, the default search engine in their devices. Thus lead to closure of competition and made it almost impossible for other search engine brands to compete with the mighty google. The company also has revenue -sharing agreements with its competitors to make its own product a default one in the devices. The search results by google favoured its own results and harmed fruitful competition by blocking the competitors to appear in top search results. Also Google pays about $ 8 Billion to $ 12 Billion per year to Apple in lieu of making Google’s Search Engine default in Apple devices.

Another recent case[[9]](#footnote-8) against Google by United States was recently filed in 2020 by Texas Attorney General in assistance with other states. The suit pertains to illegal agreements between Google and Social Media giant Facebook to manipulate bids and auctions in their favors related to advertisement. Allegations spewed into the lawsuit claims that Google tried to illegally acquire market share and a unshakable monopoly in the digital advertisement market. The company is believed to act as a middleman between parties to the transaction, thereby reaping profits from both sides. As per the compliant, when Facebook announced that it will directly compete with Google in ad tech space. Sensing a danger on its monopoly, google without any further delay cut a deal with Facebook to eliminate the competition. As part of the plan google will now offer certain special benefits to the Facebook. The Social Media Giant is also names as co-conspirator in the alleged deal. The Texas Attorney General Ken Paxton claimed that Google successfully managed to curb its competition and become the undisputed king of digital world. On the contrary, a company spokesperson said that all claims are baseless and don’t have any evidentary value. He said that Google is always involved in delivering quality and trust and above all the benefit to its consumers. The low prices and high contribution towards the digital world are the proof that Google’s primary motive is to provide excellent services rather than reaping huge profits.

***Antitrust Cases in India***

Google has a very unique type of relation with Antitrust regulations in India. The company has been a target of various lawsuits apropos antitrust regulations. Recently in November 2020, the Competition Commission of India ordered[[10]](#footnote-9) a probe against G-pay, a UPI based payment application, taking note of an anonymous compliant filed by an informant. The application urges the top court to raise issue on Google’s stronghold in the Android market and Play Store, thereby unjustly promoting its own app G-pay over other competitors (other apps) and leading to unfair competitive terms for both consumers as well as competing apps. The commission stated that Play Store’s payment options for app purchasing and IAPs violates the liberty to choose a payment processing option. It was of the view that mandatory pre-installation of applications create a sense if dominance and permanency since consumers might not go for other downloadable options. The G-pay has a fair share of market users in India. Much of this credibility goes to the brand value and position of Google. The compliant raised several issues like a) Pre-installation of Google apps like Chrome and G-pay and making latter as a default payment method. b) causing other competitor applications to back out or creating unfavourable circumstance for them. c) Search Advertisement Manipulation in Play Store. d) Imposing unfair and unjust trade conditions so as to eliminate competition and maintain monopoly. The bench strongly laid down that this conduct of google blocks the choices available to the app developers for choosing payment method. The respondent ( i.e Google) defended itself by stating that Google does not prominently favour its own app, its main motive is to deliver service to its customers as accurate and realistic as possible. As far as pre-installation is concerned it doesn’t coerce the smartphone makers to insert G-pay as a mandatory application. And for exclusivity of payment, it said that G-pay is not the only payment option available in the Play Store. And users can play with any of the competing application available in the store. At last the respondent also raised an issue on the anonymity of the applicant. They concluded that the compliant can only be filed by the person who has directly suffered damage and not unauthorized people who would falsely file a deceptivs report. The Commission dismissed this argument and held it unacceptable that only suffered person can approach the authority.

In October 2020, a case was filed[[11]](#footnote-10) against Google regarding the alleged violation of antitrust rules by restricting TV manufacturers to opt for Operating System other then that of Google’s (i.e Android) and in case of failing to do so, the manufacturer would permanently lose access to the Android and Play Store services. The plea was filed by 2 Antitrust lawyers in India stating that the conduct of google is creating barriers for healthy competition across the Smart TV market. If a TV manufacturer wants to use Android, it must compulsorily sign the agreement that it will not switch to other competitors or will not insert other Operating System into their device. If failed to do so, the accessibility to Google’s services will immediately be stopped for that manufacturer. The Google’s Android has a strong grip in Smartphone market in India and across the world. And now it also wants to create a monopoly on TVs. The plea also states that currently Google’s pact with Xiaomi and TCL causes them to stick to Android as Google has left them no choice.

***FACEBOOK***

Facebook is the biggest social networking platform across the globe. It operates primarily by offering these 5 products and services - (a) Facebook - social media platform. (b) Instagram - social media application for photos and videos. (c) WhatsApp - Personal messaging application. (d) Messenger - Facebook’s own messaging application. (e) Oculus As per the latest estimates, Facebook includes 1.79 Billion daily active users and 2.70 Billion Monthly active users. Facebook is one of those companies which have helped revolutionizing digital services. The social media giant has always been involved in legal controversies surrounding antitrust issues. Apropos Antitrust laws, the CEO, Mark Zuckerberg has been accused across several nations of creating and establishing monopoly in the social media market by purchasing two other major personal messaging companies - WhatsApp and Instagram thereby eliminating the existing competition and gain total control over the market. In 2019, Facebook openly stated the fact that Federal Trade Commission has commenced an investigation against it. The US Department of Justice (DOJ) also initiated an preliminary investigation citing antitrust issues against Facebook. During the investigation, the documents and reports submitted by Facebook clearly suggest that it has successfully maintained the monopoly and its dominant position and it is embedded in the social media market so well that it is almost next to impossible for any other application to compete with Facebook given the statistics and high entry barriers - high switching costs and network effects and data advantage. The company is literally immune from competitive dangers from other application no matter what product or services they provide. Facebook has also been accused of eliminating its rivals either by merging with them or acquiring them. This way it had created one of the most successful social media enterprises along with creating barriers for anyone trying to compete with it by providing similar products and services. As per the reports, Facebook has acquired a total of 63 companies till now which includes WhatsApp, Instagram, Livewire and Oculus.

***Antitrust Cases in United States***

Recently in December 2020, the Federal Trade Commission (a federal agency of the United States), filed a lawsuit[[12]](#footnote-11) along with 46 US states after a thorough multistate investigation of 18 months in assistance with the federal agency alleging that the social media giant of anti-competitive conduct and removing the competitors by joining hands with them or acquiring them. The accusation have been made regarding illegally gaining monopoly[[13]](#footnote-12) and controlling it so that the competitors wouldn’t disturb the dominance going on since years. The crushing of competitors and competition increasingly raised concern among the Antitrust Law Enforcers to stop and reverse back the harmful effects of this practice of rooting out competition. The allegations mainly pertain to the controversies[[14]](#footnote-13) surrounding acquisition of Instagram by Facebook in the year 2012 and of WhatsApp by Facebook in 2014. Both the deals involved billions of dollars of money, $ 19 Billion for WhatsApp and $ 1 Billion for Instagram to be specific and this illicit attempt to eradicate the competition. Facebook always try to manipulate the relevant market when it senses that there’s a danger on its dominant position, alleges director of Ian Conner, the Director of Federal Trade Commission’s Bureau of Competition. He said *“Facebook’s actions to entrench and maintain its monopoly deny consumers the benefits of competition. Our aim is to roll back Facebook’s anti-competitive conduct and restore competition so that innovation and free competition can thrive.”* The case has been registered invoking provisions under Section 2 of the Sherman Act along with Section 5. The lawsuit also accused Facebook of harming competition and leaving no option for consumers for using social media websites. The purchasing of Instagram and WhatsApp is termed as a long term big strategy by Facebook to clear its way for maintaining its dominant position in the social media market. Unnecessary restrictions on third party developers is also cited as a misconduct on the part of it. The plea seek remedies for the above mentioned intricacies and a mandatory condition to be imposed on Facebook for approval before such mergers or joint ventures. All these accusation were vehemently defended by the lawyers on behalf of Facebook. The counsel brought to notice the competitor apps and stated that users have the total autonomy to switch over to other apps. They recalled that the questions arising apropos the merger can’t be sustained because at the time of deal FTC itself approved the deal and then only the merger was successfully established.

***WHATSAPP***

WhatsApp was created on February 2009 by Jan Koum and Brian Acton to provide simple updates to their contacts. It was different from other messaging applications since it required an internet connection to use rather than mobile number connections. On February 2014, Facebook publicly stated[[15]](#footnote-14) the news of it acquiring WhatsApp. The FTC opened an investigation on March 2014 directing WhatsApp to continue using its privacy policy and make no changes regarding that even after acquisition. The European Commission also investigated[[16]](#footnote-15) the deal and gave a clean chit to Facebook observing that the consumers will not get limited options for switching to other similar platforms. The reason why Facebook acquired WhatsApp is that it viewed latter as a potent competitor and to maintain its position in the market, it approached WhatsApp. The Personal Messaging Giant is undoubtedly the most widely[[17]](#footnote-16) used personal messaging application in the world, no matter what the operating system is. It has total 2 Billion users around the globe out of which nearly 340 million[[18]](#footnote-17) users are from India. Our country also accounts for most number of downloads[[19]](#footnote-18) - 17.86 Million times from the Google’s Play Store as of 2020. With these staggering figures, its not a big deal to understand the significance and control of WhatsApp in our life. Although, WhatsApp has an image of being outside the scrutiny of Antitrust Enforcement most of the times, but being such a big corporation, it had to face the legal battle sometime or the other.

***Antitrust Case in India***

In the recent times, WhatsApp has been on the close scrutiny of Indian Antitrust Enforcement - The Competition Commission of India. In mid March, 2020, a compliant was filed against WhatsApp in the Supreme Court alleging the misuse of its dominant position across the personal messaging market. The Personal Messaging giant is testing since 2018 its beta application for Payment services in India. If successful, the move will allow Facebook’s WhatsApp to establish monopoly in the digital payments market. The main concern of the plea was that the WhatsApp can easily make its market even though a newcomer in payment interface. The reason being, its already available customer base of the messaging app will eventually help it in gaining control. It will lead to consumers using WhatsApp Payment Service by default not because of their choice but out of ease of accessibility and convenience. Regarding the other payment platforms, it will surely curb the market for WhatsApp’s competitors since the latter doesn’t have the similar strong customer base ready to use.

***AMAZON***

The Amazon has been one of the most magnificent and diversified companies the world has ever seen. The E-commerce giant is giving a huge competition to nearly every sector’s top application and services. It was founded as a online book store in 1994 by Jeff Bezos (who is now the wealthiest person on the planet) and is based on Seattle. It is now a marketing platform, logistics network, payment service, book publisher and much more. For example, apart from its E-Commerce services, it also has a OTT platform named Prime Video directly competing with Netflix. Prime Music directly competing with globally most used music streaming application - Spotify. Amazon Alexa in place of Google Home. Amazon Pay instead of Google Pay. Amazon Logistics competing with FedEx. Amazon Web Services competing with Google Cloud. From the example mentioned, one can easily understand that Amazon is in the epitome of the capitalistic trend going on in the world. It is clearly trying to give a cut throat competition to every sector’s biggest and most respected brand. Amazon’s nearly 80% sales occur from ‘Buy Box’. It controls and dominates approximately 70% of US online market. Also it is the most trafficked website in the world for online shopping. Amazon has also purchased several companies since its inception of which the most notable[[20]](#footnote-19) and biggest till date was acquisition of Whole Foods by Amazon involving $ 13.7 Billion. Other acquisitions include Ring ($ 1.2 Billion), Zappos ($ 1.2 Billion), Pill Pack($ 1 Billion), Twitch Interactive ($ 970 Million) among others. By its aggressive and predatory approach Amazon has successfully established and maintained its dominance over the retail market. This cutting edge competition and ever increasing thirst for market capture definitely attracted some Antitrust issues surrounding the Amazon. Although Amazon has been evading the antitrust scrutiny for long, such acts pose threat of anti-competitive concerns.

***Antitrust Case in Europe***

Recently in November 2020, Amazon came into the radar[[21]](#footnote-20) of European Commission which considered its view on Amazon that the company has breached EU Antitrust Regulations by disturbing the fair competition in online retail markets. It has been accused of manipulating the non-public business data of independent sellers who sell on its platform to unfairly give advantage to Amazon’s own services directly competing with such independent sellers. Also the control of the ‘Buy Box’ ( the system through which schemes and offers given to customers by various sellers) allegedly favors Amazon’s own applications for Prime users. This aspect is important because the illegal anti-competitive conduct procures benefit for Amazon’s services at the cost of loss of other independent sellers which are direct competitors. Amazon has been using the data to reap benefit for its own thereby promoting unfair competition and favoring Amazon’s own enterprises at the cost of its competitors. The dual role of Amazon has been emphasized by the Executive Vice President of the European Commission - Margrethe **Vestager stating that “** *Data on the activity of third party sellers should not be used to the benefit of Amazon when it acts as a competitor to these sellers. The conditions of competition on the Amazon platform must also be fair.  Its rules should not artificially favour Amazon's own retail offers or advantage the offers of retailers using Amazon's logistics and delivery services.”* Amazon has a dual role model when it comes to its E-Commerce services. First, it acts as a base for independent sellers who wish to sell their product on Amazon. Second, it also markets its own products in its own E-Commerce website directly competing with the products listed therein. The data of non-public business sellers is automatically stored in Amazon servers to use it to generate value based information used to strengthen the strategies and policies of Amazon’s products. This blatantly allows the giant to surpass the risks of retail competition and to maintain its monopoly across the platform. If found true, these acts will be violating Article 102 of the Treaty on the Functioning of the European Union[[22]](#footnote-21) (TFEU) that prohibits the abuse of a dominant market position. The Commission also initiated a second formal investigation into Amazon citing the preferential treatment of Amazon’s retail market. The allegations pertain to the criteria selected by Amazon to choose winner of the ‘Buy Box’ service as a gift of loyalty to the Amazon Prime customers. As of now, the investigation is going on by the EU Antitrust Officials. They are searching for more antitrust issues concerning the Amazon. It seems there are very less chances of Amazon being cleared by the EU Competition watchdog due to the aggressive approach adopted by it.

***Antitrust Case in US***

The US Congress and Federal Trade Commission have been scrutinizing the Amazon’s pattern with regard to the Antitrust violations supposedly challenged by small independent sellers through Antitrust Committees investigation. Unlike the EU Antitrust Laws, US Antitrust regimes are more towards the Consumer centric approach whereas the EU Regulations take a more broader approach while analyzing any anti-competitive conduct. As a result it is comparatively difficult to legally frame the company in Antitrust violations in the US. A long and exhaustive study by the committee suggested that Amazon might have to split its business wherever needed as ordered by the enforcement or coerce companies to backup the claims that prove the non-harming nature of the company in the court. Amazon can also be ordered to reach a settlement with the regulators to be within certain restrictions. Sometimes, the only monetary fines become a ‘hit or miss’ instigating companies to simply conduct antitrust moves and later pay the fine thereby denying the importance of following protocols. Replying to the US authorities, Amazon called all the allegations a “Fringe notions” and an attempt to curb the normal working of the company.

***Antitrust case in India***

The CCI followed a new compliant[[23]](#footnote-22) filed in August against Amazon filed by a representative of small group of sellers accusing it of favoring selected sellers which are subsidiaries of the Amazon itself. The complaint was a 700 page document containing screenshots of product listings The CCI issued a notice and ordered Amazon to give a reply within the time stipulated on account of two things - Firstly, How and why certain specific sellers are given undue advantage? And the second one - the selling of Amazon’s own products and services in its market platform. The Indian Antitrust watchdog is also assessing the Amazon;s biggest rival - Flipkart’s Antitrust case pending before it. The investigation is currently going on for both the E-Commerce websites and proper judgement will be delivered in time.

***APPLE***

Apple is a technology giant started in 1977 by Steve Jobs, Steve Wozniak and Ronald Wayne and is headquartered in Cupertino, California. The company is the first American public company & conglomerate to cross the milestone of trillion dollars. It is valued at $ 2 Trillion[[24]](#footnote-23). It is the second company in the world after Saudi Aramco which is valued at a trillion dollar basis. It is truly an independent company. The Apple manufactures its own devices, operating system, processors technology equipment, computers and much more related to the technological field. Apple’s tremendous power in smartphone market arise from its level of sophistication and accuracy with which it manufactures its devices. The operating system iOS is one of the two biggest smartphone operating systems across the globe. Apple’s dominance over its operating system and software distribution is the main reason behind its success which allows it to generate staggering amount worth billions of dollars a year. Being the sole manufacturer & distributor of Apple software it prevents substitutes of its products and services. As a result, developers have no choice other than to pay the prescribed fees or leave the App store. Unlike Google, which has kept its Android OS free and customizable, Apple’s devices and OS are a bit complex whether in terms of user friendliness or third party sellers or applications. It holds about 45%[[25]](#footnote-24) of smartphone market share in the US alone. Since last year, the company has initiated the purchasing of small companies in the field of AI and Software applications among others. Apple’s biggest acquisition till date was worth $ 3 Billion which saw Beats Electronics under Apple. This was pursuant to the launch of Apple Music. The company is always accused of charging biased rates and high charges for using its service. So in 2020 a study[[26]](#footnote-25) conducted revealed the results that similar tech entities like Google, Amazon and Microsoft have same rates of services offered by them. The US Department of Justice together with Attorney General of 33 states filed a lawsuit[[27]](#footnote-26) against Apple citing a conspiracy to fix e- book market rates in 2012. It was found to have violated Antitrust regulations and fine amount was stipulated at $450 Million.

As per the recent reports, social media giant Facebook is all set to initiate legal proceedings against the Tech giant Apple citing the antitrust conduct by the latter by forcing app developers to mandatorily follow the App store which are not considered compulsory for Apple’s own applications and products, thereby creating an unfair restrictions on the other application developers which are willing to publish their apps in App store. Apple allegedly has been abusing its power. The two powerful corporations have been on the edge[[28]](#footnote-27) with each other due to the recent upgradation in Apple’s privacy policy[[29]](#footnote-28) for iOS. At the Worldwide Developers Conference, Apple introduced various policy changes for iOS, including a new system known as App Tracking Transparency that will enable users to give authority to applications to access their personal data or not. The update will be least beneficial to the Facebook since its main source of revenue is through advertisement. With the elimination of default agreement by users to access their data, Facebook will not have access to its customer’s data by default. Now the data of only those person will be taken who permit the Facebook application to access critical information. Due to the untimely changes, Apple decided to implement these changes by the beginning of 2021, thereby giving time to application to get accustomed to the already announced modifications. Facebook’s spokesperson said that Apple is behaving in a pure anti-competitive conduct which will hamper the former’s revenue generating capabilities in the iOS devices given the upcoming strict privacy policy regulations.

In another case against Apple, the EU has commenced a formal scrutiny into Apple App store’s regulations for developers and third party sellers that are believed to be conducting anti-competitive practices. The allegations pertain to the fact that Apple is preventing users and developers from pursuing payment options other than that of Apple’s. executive Vice - President of EU Margrethe Vestager stated that “It appears that Apple obtained a “gatekeeper” role when it comes to the distribution of apps and content to users of Apple's popular devices. We need to ensure that Apple's rules do not distort competition in markets where Apple is competing with other app developers, for example with its music streaming service Apple Music or with Apple Books.”

The EU has clearly stated in its notice that it will be going to investigate two aspects in this lawsuit - (a) Compulsory use of Apple’s own payment (IAP- In App Purchases) system through which it levies 30% of the total payment from users and developers. (b) Curbing the applications to intimate users and purchasers about other cheaper options available to them. On the same note regarding the first aspect, Spotify[[30]](#footnote-29) ( a global music streaming platform) accused Apple of Anti-competitive conduct that former is not able to provide in-app purchases in the App store due to the 30% fees charged by the Apple. Although it doesn’t prevent Spotify to publish itself in App store but, it unfairly creates a barrier and high cost if it wishes to market itself in the iOS. It has been alleged of disturbing the fair competition in the music streaming applications & restricting user choice. To cover the extra cost of fees, consumers are being unknowingly targeted by the application developers and it is also prohibited to make aware the consumers about reason of increased price. Since Spotify is a direct competitor to the Apple music, the latter is getting benefited since Apple doesn’t charge its own apps and services to be on App store, whereas Spotify must pay 30% fees to Apple for publishing itself on App store. Spotify’s global share is no doubt larger than Apple music, so with this step, it created an unfair competition term for all other third party music streaming applications. Currently the investigation is going on apropos App store conducts. If proved guilty of breaching competition regulations of EU, the company will be charged under Article 101[[31]](#footnote-30) of Treaty on Functioning of the European Union (TFEU).

***CONCLUSION***

The recent times of COVID-19 might have created a huge distraction from every important thing going on out there, but the Competition Law Enforcers haven’t lost track of cases. They are investigating various cases which comes under their respective jurisdictions. One might notice a pattern that the enforcement often takes into account some of the biggest corporations in the world are regularly being targeted by EU Antitrust Division, US Department of Justice and Competition Commission of India among others. A robust Antitrust regulation ensures that laws are being abided by. These laws acts like the nervous system to the welfare of market as well consumer. Whether the dominance is of Oil Tycoons or of Big Data Enterprises, the competent authorities make sure that any of these organizations do not breach the local regimes set by competent authority. As Capitalism grew stronger in the modern world order so did the need for its regulations to control businesses. The antitrust battles involve very high stakes in terms of money. Each and every lawsuit is settled by spending several millions dollar or in some cases billions also depending upon the size and audacity of the company. The new world order will enhance the power and reach of capitalism and capitalist economy even more and it will cause a shift in political social, cultural and demographic aspects in our society. With the upcoming trend of lawsuits and pleas against the big corporations, we will surely witness a large number of big antitrust case in the near future given the current times and the direction in which the things are approaching.

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3. The whole concept of responsibilities surrounding the technology giants is thoroughly explained in Chapter II of this article. Haochen Sun, Faculty at Hong Kong University of Law, *Corporate Fundamental Responsibility: What Do Technology Companies Owe the World?,* University of Miami Law Review, Volume 74, Number 3 Article 6, 28/04/2020. https://repository.law.miami.edu/cgi/viewcontent.cgi?article=4606&context=umlr [↑](#footnote-ref-2)
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