

PRESS RELEASE

CCI Releases ‘Market Study on E-commerce in India: Key Findings and Observations’

January 8, 2020, New Delhi. The Competition Commission of India (‘the Commission’) released a Report titled ‘Market Study on E-commerce in India: Key Findings and Observations’ today, available at: https://www.cci.gov.in/sites/default/files/whats_newdocument/Market-study-on-e-Commerce-in-India.pdf. The Market Study on E-commerce in India (‘the study’) was initiated by the Commission in April 2019 with a view to better understand the functioning of e-commerce in India and its implications for markets and competition. The objective was also to identify impediments to competition, if any, emerging from e-commerce and to ascertain the Commission’s enforcement and advocacy priorities in light of the same.

The study, a combination of secondary research, questionnaire survey, focused group discussions, one-on-one meetings, a multi-stakeholder workshop and written submissions of stakeholders, covered the three broad categories of e-commerce in consumer goods (mobiles, lifestyle, electrical & electronic appliances and grocery), accommodation services and food services. 16 online platforms, 164 business entities [including sellers (manufacturers and retailers) and service providers (hotels and restaurants)] and 7 payment system providers from across India participated in the study. In addition, 11 industry associations, representing different stakeholder groups, also participated.

The study has helped gather useful insights and information on the key features of e-commerce in India, the different business models of e-commerce players, and the various aspects of commercial arrangements between market participants involved in e-commerce. The study has also provided an opportunity to learn from business enterprises on how they are responding to the advent of digital trade and has helped gauge the key parameters of competition in digital commerce.

The study confirms that online commerce is gaining importance across the sectors studied. The share of online distribution and its relative importance vis-à-vis traditional channels varies significantly across products. This divergence constrains construction of a unified competition narrative and points to the need for product-specific assessment of market and competition dynamics. Online commerce, as the study shows, has increased price transparency and price competition. The search and compare functionalities of online platforms have lowered search cost for consumers and have provided them with a wide array of alternatives to choose from. For businesses, e-commerce has helped expand market participation by aiding innovative business models.

The report released today presents the key trends identified and also discusses the issues that may, directly or indirectly, have a bearing on competition, or may hinder realisation of the full pro-competitive potential of e-commerce. These include the 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 Commission is of the view that many of these issues would lend themselves to a case-by-case examination by the Commission under the relevant provisions of the Competition Act, 2002. The report outlines these issues and presents the observations of the Commission on the same without assessing whether a conduct is anti-competitive or is justified in a particular context.

On the basis of the market study findings, the enforcement and advocacy priorities for the Commission in the e-commerce sector in India are, *inter alia*, the following:

- i) Ensuring competition on the merits to harness efficiencies for consumers
- ii) Increasing transparency to create incentive for competition and to reduce information asymmetry
- iii) Fostering sustainable business relationships between all stakeholders

The insights gained from the study will inform antitrust enforcement in these markets. Nonetheless, bargaining power imbalance and information asymmetry between e-commerce marketplace platforms and their business users are at the core of many issues that have come up in the market study. Thus, without a formal determination of violation of competition law, improving transparency over certain areas of the platforms' functioning can reduce information asymmetry and can have a positive influence on competition outcomes.

In view of the foregoing, the report enumerates certain areas for self-regulation by the e-commerce marketplace platforms. These have been advocated with a view to reduce information asymmetry and promote competition on the merits. The Commission under its advocacy mandate urges the e-commerce platforms to put in place the following transparency measures.

Search ranking

- i) Set out in the platforms' terms and conditions a general description of the main search ranking parameters, drafted in plain and intelligible language and keep that description up to date.
- ii) Where the main parameters include the possibility to influence ranking against any direct or indirect remuneration paid by business users, set out a description of those possibilities and of the effects of such remuneration on ranking.
- iii) Introduction of the above-mentioned features, however, should not entail, disclosure of algorithms or any such information that may enable or facilitate manipulation of search results by third parties.

Collection, use and sharing of data

- i) Set out a clear and transparent policy on data that is collected on the platform, the use of such data by the platform and also the potential and actual sharing of such data with third parties or related entities.

User review and rating mechanism

- i) Adequate transparency over user review and rating mechanisms is necessary for ensuring information symmetry, which is a prerequisite for fair competition. Adequate transparency to be maintained in publishing and sharing user reviews and ratings with the business users. Reviews for only verified purchases to be published and mechanisms to be devised to prevent fraudulent reviews/ratings.

Revision in contract terms

- i) Notify the business users concerned of any proposed changes in terms and conditions. The proposed changes not to be implemented before the expiry of a notice period, which is reasonable and proportionate to the nature and extent of the envisaged changes and to their consequences for the business user concerned.

Discount policy

- i) Bring out clear and transparent policies on discounts, including *inter alia* the basis of discount rates funded by platforms for different products/suppliers and the implications of participation/non-participation in discount schemes.