

Digital economy: New era

Simran Kaur Kohli¹

Introduction

“Creative destruction”: competition driven by innovation, investment and entrepreneurship. The words that appear above summarize economist Joseph Schumpeter stance on changing dynamics of economy. This concept emphasizes that the use of an invention to create a new commercial product or service, is the key force in creating new demand. Innovation creates new demand and entrepreneurs bring this innovation to the market. This destroys the existing markets and creates new ones. For example, in an electronic age, traditional retailers first re-invented themselves to make their presence in online world by initially developing websites and enabling online sales. Forward thinking retailers now leverage technologies to reach and serve customers through a variety of channels hurting to those traditional retailers who remained stagnant. Netflix and Amazon have negatively affected brick-and-mortar movie and gaming rental stores, as evidenced by massive store closings. The ‘Schumpeterian’ nature of competition for the market as opposed to competition in the market is a recurring theme in the literature on the digital economy. The digital economy has caused a paradigm shift in the ways business was done and there remains no sector or industry which is untouched by the growth of digital economy.

Impact of Emerging Digital economy in India

The challenges faced by the government regulators in balancing the possible economic efficiencies of the digital economy with the anti-competitive threat are inevitable. Economy regulators have well adapted tools for regulating the practices of traditional markets. But the question arises whether it is equipped with the right tools to regulate the challenges posed by digital economy?

India is witnessing a very fast development in the digital economy which is challenging for existing policies. The digitization of Indian economy is rampant. The Indian government is on a trip to make India a digital first economy

Various problems are created by the fast growing digital economy for the regulators.

The three major problems posed by it which are apparent are:-

1. digital monopolies can strangle the competition and innovation
2. digitalization raises the issues related to privacy and data protection

¹B.A.LL.B (H), Ideal Institute of Management and Technology and School of Law GGSIPU, Dwarka.

3. competition could possibly be distorted by avoidance of tax

These are not the only problems which are faced by the business regulators but they are evident to anyone who looks at the rise of digital economy.

Strangulation of competition and innovation

The digital economy provides a platform for dynamic market interaction however still it leaves room for the successful digital firms to acquire great degree of market power. Instead of innovating to enter future market, firms tend to acquire an innovative technology from small companies. These innovations flourish the activity of acquiring firm by supplementing its existing activities. This acquisition leads to elimination of competition from the market.

These kinds of pre-emptive mergers kill the future competition at its inception only.

However, it is not easy for the competition authorities to distinguish whether the merger is with anti competitive motive or not.

Privacy and data protection

Private companies tend to capitalize from the personal data of the public. While using any digital platform, consumers are usually unaware of the amount of their personal information being shared with the companies. Consumers are least aware of the risk involved if their data falls under wrong hands. The introduction of Aadhaar by the government is being termed as violative of right of privacy and it is vulnerable to data theft. So access to digital platforms often raises the concern over the issue of privacy and data protection.

Avoidance of tax

MNCs tend to avoid tax by exploiting the lacunas left in the taxation system. They often transfer their funds from high tax jurisdictions to low tax jurisdiction so as to avoid taxation (Google has been accused for evading tax by such method). Since the digital companies hold mostly intangible assets, it is easy for them to evade tax by practicing such transfer.

Way Ahead

The pre-emptive mergers fall within the reach of anti-trust law. It is difficult to distinguish anti-competitive motives from normal business strategies. In order to deal with the problem of pre-emptive mergers, the competition regulators in India have to be cautious and analyze each and every aspect of the acquiring firm to reach any conclusion. The policy should be formulated to adapt protection and privacy regulation. There is a need of data protection law to deal with both the issue of privacy and data protection. There is a need of universal solution to the problem of tax evasion. A policy action is necessary to propose Common

Corporate Tax Base and the formulation of digital exchange of information between tax authorities of different States regarding tax rulings and business taxation.

India is on its path to become digitally empowered nation.