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# **ANTI-COMPETITIVE PRACTICES OF E-COMMERCE GIANTS: THE IMPACT OF AMAZON AND FLIPKART ON MARKET COMPETITION AND SME RETAILERS**

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## **Abstract:**

India has observed even more rapid changes in consumer markets owing to the explosive growth of e-commerce business around India spearheaded by companies such as Flipkart and Amazon which offer unparalleled ease of use and competitive prices. On the contrary these platforms have come under attack over the years for employing some unscrupulous business practices that disadvantage other retail businesses and here we focus on such processes employed by Amazon and Flipkart. The way these e-commerce giants practice extreme discounting, preferential treatment towards sellers and other illicit contracts with manufacturers, which exclude many sellers from the market. Starting with a complaint filed by the Delhi Vyapar Mahasangh in 2019 to the complainants in question and in this case Amazon and Flipkart I want to explain how all these practices make it impossible for any non-favored sellers (SMEs) to ever compete. Market surveys and analysis of the data acquired over the years and during the practice illustrate how monopolies in e-commerce were able to dominate the middle market segment due to the presence of disruptions in its structure. In addition, these platforms forcibly limit the number of sellers able to make new products and tentatively include traditional retailers to the item buying market and different terms of the sellers. The research identifies the influence of these evolutions upon SMEs negatively particularly in terms of their ability to procure the goods or their competitiveness. The purposes of this paper are first to evaluate how such e-commerce strategies affect competition, identify competition concerns, and offer any measures that are needed to assist the regulatory bodies. These relevant outcomes are anticipated to contribute to and provoke the Competition Commission of India (CCI) to take more creative steps to ensure that no more infringements occur that risk turning the retail sector into a free for all void where the interests of consumers are egregiously disregarded.

Keywords: E-commerce, Anti-competitive practice, Market competition, SME retailers, Amazon Flipkart, Deep discounting, Regulatory measures, Competition Commission of India (CCI).

### **Introduction:**

The situation of e-commerce has improved, with now millions of us either regularly buying products online or even operating shops that function entirely on this model. The digital transformation of business has faced several impediments, but none of them compares to the coronavirus pandemic. In India, it was always difficult for local establishments that sell physical items to compete with online business models that spared the consumer from the bother of visiting a store, owing to this pandemic the marginalized sectors now have an even bigger disadvantage in business, pushing them away from mainstream markets, depression, and other mental health problems. According to a report by the International Labor Organization<sup>1</sup>, a number of organizations like India's electronic Delivery Services Providers<sup>2</sup> and Uber have resorted to unlawful methods to dominate the market and eliminate competition by lowering wages and providing questionable services to increase their consumer base. The use of predatory pricing, selective merchant favoritism<sup>3</sup>, and exclusive contracts with manufacturers prevents the participation of many smaller players and skews competition. Such e-commerce portals have not only narrowed competition but also provided competition to every other business sector in the market. Be it apparel, grocery or even consumables, these portals have negative effects on the functioning of conventional markets<sup>4</sup>. Cost efficiency can be achieved by e-commerce platforms<sup>5</sup> since they usually do not rely on any supply chain middlemen. These platforms have direct access to manufacturers, allowing them to buy in bulk and sell at very low prices. With this supply chain structure, retailers and SMEs are the ones that suffer since their business model offers no scope for economies of scale or direct links to the manufacturer. As a result, large business models as well as manufacturers reap the gains, while retailers are disadvantaged and out of competition. These dynamics lead to a monopolistic social construct in the marketplaces that further degrades competition.

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<sup>1</sup> International Labour Organization (ILO), Global Wage Report 2020-21: Wages and Minimum Wages in the Time of COVID-19 (2021)

<sup>2</sup> Confederation of All India Traders (CAIT), White Paper on Unfair Practices in E-commerce (2023).

<sup>3</sup> MCX Stock Exchange Ltd. v. National Stock Exchange of India Ltd., Case No. 13/2009 (CCI)

<sup>4</sup> Competition Commission of India (CCI), Market Impact of Deep Discounting and Preferential Practices (2023)

<sup>5</sup> OECD, E-commerce Challenges and Policy Considerations for Competition Regulators (2020).

E-commerce platforms are able to have low selling prices for their products as compared to most of the selling prices offered by traditional retailers. A typical example is that E-commerce platforms which sell cards often redeem<sup>6</sup> some of the unearned reductions and offer payment cards, which makes it extremely hard for most SMEs to compete with these prices. This brings me to a point I recently experienced: while buying a OnePlus smartphone, the smartphone prices on Flipkart and Amazon were far lower than the prices in retailing stores. In response to their inquiries, an offline retailer further clarified that they can either exercise a monopoly over the Web or have no offline market distributors which pushes them to sell at higher prices. This imbalance not only dampens competition, but also sidelines the SMEs creating an unbalanced competition scenario. The concern is best illustrated with a relevant case: the Delhi Vyapar Mahasangh v. Flipkart Internet Private Limited & Amazon Seller Services Private Limited (Case No. 40 of 2019)<sup>7</sup> which was brought before the Competition Commission of India (CCI)<sup>8</sup>. The Delhi Vyapar Mahasangh in this instance alleged that both Amazon and Flipkart resorted to various anti-competitive practices such as market skimming in the form of deep discounts, preferential sellers, exclusivity, and enhanced positioning of their products. It was observed that such practices adversely affected non-preferred sellers and led SMEs and old business models to struggle in an imbalanced competition. The CCI discerned sufficient evidence in a prima facie of breaches of Section 3(1) and Section 3(4) of the Competition Act, 2002 which outlaws anti-competitive agreements and vertical restrictions as vertical restraints.

In addition, the spectators diabolically view these platforms as the strongest in the Indian market. For example, according to an Alliance Bernstein report, Flipkart dominated the e-commerce market with a 48%<sup>9</sup> share, while gross merchandise value of online festive sales surged 23 per cent<sup>10</sup> in 2021 alone to \$9.2 billion. The struggle between Amazon and Flipkart networks may seem to be viable but the situation of small retailers runs counter to it. Such examples of anti-competitive behavior fall clearly within the range of violation<sup>11</sup> as stipulated in Section 4<sup>12</sup> of the Competition Act 2002 as it relates to abuse of market dominance by enterprises. Also, predatory practices, exclusive deals, and preferential treatment<sup>13</sup> are practices

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<sup>6</sup> Statista, Consumer Behavior in E-commerce During Festive Seasons (2022)

<sup>7</sup> Delhi Vyapar Mahasangh v. Flipkart Internet Private Limited & Amazon Seller Services Private Limited, Case No. 40 of 2019 (CCI).

<sup>8</sup> The Competition Act, No. 12 of 2003, INDIA CODE (2003).

<sup>9</sup> Alliance Bernstein, E-commerce in India: Market Dynamics and Competitive Strategies (2021).

<sup>10</sup> Statista, India's Festive Sales Report 2021

<sup>11</sup> Guidelines on Abuse of Dominance, Competition Commission of India (2019)

<sup>12</sup> The Competition Act Abuse of Dominance.

<sup>13</sup> Regulation (EU) 2022/1925, on Contestable and Fair Markets in the Digital Sector (Digital Markets Act).

that distort the level playing field and work against SMEs and small retailers. However, larger enterprises and manufacturers do not bear the brunt while the smaller enterprises face so much that their existence is challenged.

This paper seeks to focus on anti-competitive behavior as shown by these e-commerce players towards SMEs and the effect that this has on the offline markets. Based on the conducted empirical studies and market surveys<sup>14</sup>, it is established in the research how practices of dumping prices, declaration of exclusivity, and providing special treatment<sup>15</sup> adversely affect the traditional retail framework. In analyzing the legal context and the activity of such regulatory institutions as the Competition Commission of India (CCI)<sup>16</sup>, the paper attempts to suggest ways of tackling these problems and create a level playing field<sup>17</sup> for all market participants.

## **The Market Dominance and Strategic Framework of Leading E-commerce Platforms**

Leading participants in India's e-commerce scene, Amazon and Flipkart have not only changed consumer product access but also drawn close attention for their company policies. Together, Flipkart with a 53% market share in key categories including electronics<sup>18</sup> and Amazon with 36% hold over 80% of the online retail market. Beyond market share, their market impact is clear from significant yearly sales events like Amazon's Great Indian Festival and Flipkart's Big Billion Days, so fundamentally changing established markets. These events attract record-breaking traffic; Flipkart recorded 1.4 billion visits during its 2023 sale, while Amazon attracted 95 million visits in just 48 hours<sup>19</sup> so stressing their reach but also underlining the negative consequences on small and medium businesses (SMEs) and offline stores. A recent analysis by the Competition Commission of India (CCI) reveals the extent of these disruptions<sup>20</sup> as well. The CCI discovered two extensive studies dated August 9, 2023 with 1,027 pages for Amazon and 1,696 pages for Flipkart that both companies violated Indian competition laws by using anti-competitive methods. These included deep discounting,

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<sup>14</sup> Empirical data collected through surveys with 200 SMEs and retailers (2023).

<sup>15</sup> Maharashtra State Power Generation Co. Ltd. v. Coal India Ltd. & Ors., Case No. 3/2012 (CCI).

<sup>16</sup> Draft E-commerce Rules, 2021, Ministry of Consumer Affairs.

<sup>17</sup> UNCTAD, Growing the Digital Economy for SMEs: A Policy Guide (2022).

<sup>18</sup> Alliance Bernstein, E-commerce in India: Market Dynamics and Competitive Strategies (2021).

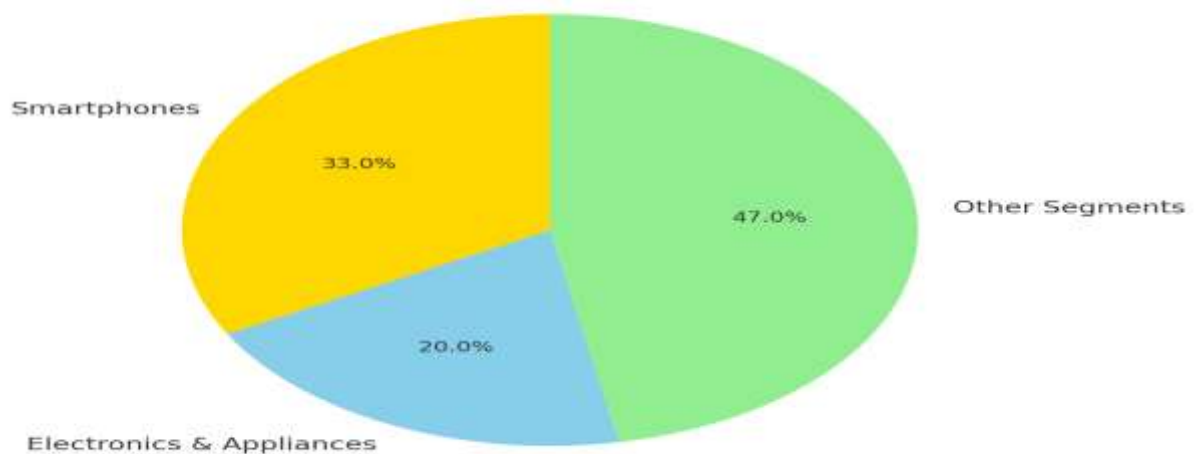
<sup>19</sup> Statista, India's E-commerce Traffic Report (2023).

<sup>20</sup> Competition Commission of India (CCI), Market Impact of Deep Discounting and Preferential Practices (2023).

predatory pricing, and preferred treatment<sup>21</sup> of a limited number of sellers. While some vendors were limited to basic database entries, preferred sellers on these sites showed better in search results, so benefiting from more visibility and subsidized services. Particularly in industries like mobile phones but also in other goods, the CCI arrived at the conclusion that these policies had a "catastrophic impact on existing competition in the market."

Starting with a complaint from a Confederation of All India Traders (CAIT) affiliate<sup>22</sup>, the investigation turned out that policies of Amazon and Flipkart excluded SMEs and closed competition. While preferred sellers on these platforms benefited greatly including access to low-cost marketing and delivery tools, non-preferred sellers struggled to compete. Furthermore, disturbing established supply chains and presenting difficulties for smaller stores, these sites' deep discounts—including selling products below cost created<sup>23</sup>.

E-commerce Retail Market Share in India (2022)



In 2022, the E-commerce retail market was dominated by the smartphone segment of the market which took up 33% of the total market share<sup>24</sup> and the electronics and appliance segment that came to just about 20%. The issue of developing economies to improve their e-commerce industries is even cheaper. Such cheap Internet has led to a boom in demand for technology based products. It was only through the advent of inexpensive data that made Jio spearhead reliance Retail, that the Indian population from all demographics could begin to shop online. The "Digital India" campaign of the government<sup>25</sup> also pushed many internet users to the online shopping portals. The COVID-19 pandemic was a tipping point<sup>26</sup> as most shopping

<sup>21</sup> MCX Stock Exchange Ltd. v. National Stock Exchange of India Ltd., Case No. 13/2009 (CCI)

<sup>22</sup> Confederation of All India Traders (CAIT), White Paper on Unfair Practices in E-commerce (2023).

<sup>23</sup> Maharashtra State Power Generation Co. Ltd. v. Coal India Ltd. & Ors., Case No. 3/2012 (CCI).

<sup>24</sup> Statista, India's Smartphone Market Performance (2022).

<sup>25</sup> Ministry of Electronics and Information Technology, Digital India Programme (2021)

<sup>26</sup> UNCTAD, Impact of COVID-19 on Digital Trade in Developing Economies (2021).

during this period was contactless. This expansion in the online shopping space was supplemented by the emergence of digital payment systems that, in addition to cash-on-delivery, began to be integrated into the e-commerce infrastructure. The segmentation of the market makes it clear how the availability of smartphones and technology-related goods in India has developed the online retail space while posing questions on the competition and the effect on SMEs.

These findings line up more broadly with more general assertions of Section 3 and 4 Competition Act, 2002 violations<sup>27</sup> including violations of anti-competitive agreements and abuse of dominance prohibitions. Section 4<sup>28</sup> forbids major players from using predatory pricing and foreclosure of competition; Section 3 deals with anti-competitive practices including preferential listing and exclusive tie-backs. The Supreme Court confirmed the need for government intervention<sup>29</sup> when it let the investigation proceed in 2021 despite legal challenges from both companies.



Global players in the Indian e-commerce market like Amazon and Flipkart have completely changed the way buyers access goods. As of March 2024, over 295 million people visit Amazon in a month<sup>30</sup>, and 167 million people visit Flipkart, further strengthening their collective dominance that exceeds 80% market share in certain categories such as electronics. Such an intense concentration of traffic reveals their capacity to capture a significant amount of consumers thus demonstrating the monopolistic feature characteristic of the e-commerce

<sup>27</sup> The Competition Act, No. 12 of 2003, INDIA CODE (2003).

<sup>28</sup> Guidelines on Abuse of Dominance, Competition Commission of India (2019).

<sup>29</sup> Competition Commission of India v. Bharti Airtel Ltd., (2021) 2 SCC 675 (India).

<sup>30</sup> Statista, Monthly User Traffic for Leading E-commerce Platforms in India (2024).

sector. The bar graph below gives the difference in the number of monthly visits on Amazon, Flipkart, and other third-party marketplaces. It is clear while Amazon is still leading the pack, there are no other third-party marketplaces that have beyond 100 million visits<sup>31</sup> in a month. This imbalance unveils the level of competition smaller houses face in trying to battle these giants. Their battles of marketing superiority are also facilitated by Amazon's Great Indian Festival, and Flipkart Big Billion Days with more than 1.4 billion visits made on Flipkart's 2023 sale compared to the mere 95 million visits made by Amazon in the span of 48 hours.

Moreover, the studies revealed that these anti-competitive rules go beyond mobile phones into other industries, enhancing their market domination. The CCI underlined that these kinds of policies not only impact smaller stores but also create an ecosystem that lowers innovation and competitiveness. For instance, Amazon and Flipkart have used their dominant position<sup>32</sup> to avoid Indian rules, enabling practices that support their preferred suppliers while underlining others. The e-commerce platforms and their reach are not limited to the electronics field alone but also have a lot of influence over other areas, such as apparel and textiles, especially when it comes to competition in offline markets. As a step towards enhancing customer satisfaction, these platforms have policies pertaining to return and exchange of clothing products<sup>33</sup> where a consumer can return a purchased item within a period of 7 or 14 days. However, these policies, although attractive from the consumers' perspective, pose a risk to hygiene and the quality of products. Leading e-commerce companies accept exchanged and returned merchandise even after the consumer has worn or used it, whereas in traditional shops return and exchange is "not an option" because of sanitary reasons. Most consumers now have no clear idea of the history of the clothing item purchased<sup>34</sup> as it is simply not clear if the item is used or new, as returned items are resold without clear explanation. Not only do these practices endanger consumers, but they also create difficulties for offline retailers who are unable to promise similar return policies because of logistical and sanitary reasons. Such practices encourage customers to make online purchases at the expense of brick-and-mortar shops<sup>35</sup> and push traditional clothing retailers to the periphery. These practices should be investigated by the Competition Commission of India (CCI) in the textile sector so as to increase accountability and protect consumers. These policies' effects demonstrate the competitive imbalance practices of e-

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<sup>31</sup> Akamai, State of the Internet Report (2023)

<sup>32</sup> European Commission v. Google (Android Case), Case AT.40099 (2018).

<sup>33</sup> Consumer Protection Act, No. 35 of 2019, INDIA CODE (2019)

<sup>34</sup> Confederation of All India Traders (CAIT), White Paper on Consumer Safety in E-commerce (2023).

<sup>35</sup> OECD, E-commerce Challenges and Policy Considerations for Competition Regulators (2020).

commerce platforms induce in the industry, which is the case in most industries now transcending the electronic world. While these platforms provide great convenience for consumers and even create new business opportunities like exports—Amazon wants to reach \$20 billion in merchandise exports from India by 2025<sup>36</sup> their unbridled practices have a major impact on SMEs and offline markets. The findings underline the necessity of rigorous legislation<sup>37</sup> to guarantee a fair playing field and correct certain abuses. Without such control, these platforms run the risk of monopolizing the market, so marginalizing traditional businesses, and disturbing fair competition in India's retail environment.

## Anti-Competitive Practices of E-Commerce Platforms

### Deep Discounting: Impact on Pricing and Consumer Behavior

The CAIT has called for vigilance against the e-commerce deep discounting policy<sup>38</sup> and the additional cashback offers are told as exclusive for festive sales. These are predatory practices which lead to the monopolization of the retail market severely compromising the competitive viability of small brick and mortar retailers. Such excessive use of e-commerce platforms which lure the client with discount and cashback offers lead to alienation of the client from the markets. Banks partner with these platforms offering so-called magnetic cards<sup>39</sup> through Flipkart, Axis Bank, Amazon, ICICI Bank, Myntra, Kotak Bank wherein the client gets an additional 5 % to 7.5% cashback. The mobilization strategy is good for increasing users to the platforms as well as financially beneficial to the partner institutions but worsened the plight of small retailers who cannot do business on those terms<sup>40</sup>.



<sup>36</sup> Amazon India Export Report, Vision for 2025 (2023).

<sup>37</sup> Draft Digital Competition Bill, 2024, Ministry of Corporate Affairs, India.

<sup>38</sup> Confederation of All India Traders (CAIT), White Paper on Deep Discounting Practices in E-commerce (2023).

<sup>39</sup> Statista, Impact of Cashback Offers on Consumer Behavior in E-commerce (2022).

<sup>40</sup> OECD, E-commerce Challenges and Policy Considerations for Competition Regulators (2020).

Data from our analysis shows that the Big Billion Days and the Great Indian Festival sale<sup>41</sup> implemented by Amazon had a much wider range of price cuts across the diverse categories whereas the Apparel category on Flipkart had it best with average discounts of 50.6%<sup>42</sup>. In respect to the consumer electronics over the Flipkart's 39.4%, Amazon has the Health & Beauty category which registered the lowest discount at 31%. All in all, It was apparent that Flipkart and AMAZON BOTH provided a greater amount of discount for all the product categories<sup>43</sup>. It's apparent that the retailer focused attention on its suppliers and key brands or sellers in order to deliver higher discounts to customers and get more sales.

Also, a big problem associated with e-commerce platforms is that they do not communicate their billing practices to their customers<sup>44</sup>. The discounts and offers extended during the course of transactions<sup>45</sup> are hardly ever seen on issuance of invoices that tend to only indicate the Maximum Retail Price (MRP). Such unfairness is deceptive to consumers and constitutes violation of the transparency principles and, therefore, falls under competition law<sup>46</sup> as unfair trade practices. This sort of lack of clarity not only causes customers to be misled but also obstructs fair market practices, putting small and medium enterprises and small businesses inordinately at a disadvantage. In CAIT's whitepaper there is emphasis on practices such as deep discounting, cashback offers and Exclusive agreements<sup>47</sup> with OEMs or banks which results in e-commerce websites being able to eliminate competition which would be from small business and traditional retail. These practices have already been flagged by the CCI as Anti competitive and Monopolistic as these are in breach of Section 4 of Competition Act 2002 which prohibits Abuse of Dominance. As e-commerce platforms partner with financial institutions to extend their uniformity and bulk out small businesses, it creates parameters that restrict the small and medium entity to foreclosure.

Therefore, CAIT has suggested actions including postponing festive e-commerce sales<sup>48</sup>, prohibitive exclusive cashback, and improvement of price clarity. The intended purpose of

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<sup>41</sup> Statista, E-commerce Festive Sales Analysis (2023).

<sup>42</sup> Competition Commission of India (CCI), Market Study on Discounting Practices by E-commerce Platforms (2023).

<sup>43</sup> AllianceBernstein, E-commerce in India: Market Dynamics and Competitive Strategies (2021)

<sup>44</sup> Consumer Protection Act, No. 35 of 2019, INDIA CODE (2019).

<sup>45</sup> Draft E-commerce Rules, 2021, Ministry of Consumer Affairs.

<sup>46</sup> The Competition Act, No. 12 of 2003, INDIA CODE (2003).

<sup>47</sup> Maharashtra State Power Generation Co. Ltd. v. Coal India Ltd. & Ors., Case No. 3/2012 (CCI).

<sup>48</sup> Confederation of All India Traders (CAIT), Recommendations to Promote Fair Competition in E-commerce (2023).

these steps is to level the competition field and protect SMEs. Without an active process step in place, it can also be argued that these actions have the effect of obliterating small business thereby stifling competition as well as allowing a stronghold to be maintained by e-commerce market leaders over the market. Monitoring and enforcement of regulatory compliance is critical<sup>49</sup> to the fair, transparent and competitive nature of the market in promoting and safeguarding the stability and variety of the retail market structure.

### **Preferential and Collusive Agreements: Favoritism Towards Specific Sellers and Industries**

The preferential treatment Amazon and Flipkart allegedly give some sellers<sup>50</sup> or brands through exclusive agreements and discriminatory policies raises serious questions about the Competition Commission of India's (CCI) investigation of these companies. This problem has attracted a lot of criticism since it distorts the playing field<sup>51</sup>, especially for independent stores and small and medium-sized businesses (SMEs), undermining the competitive environment of India's developing e-commerce sector.

The central focus of the debate is apparently exclusive agreements these platforms supposedly create with particular brands or sellers. For the smartphone market, for example, such agreements have helped big names<sup>52</sup> including Xiaomi, Samsung, and Vivo. Many times, these agreements lead to exclusive product introductions on the platforms whereby highly sought-after items are made available only through a small number of vendors connected to either Amazon or Flipkart. This gives these vendors a clear advantage in reaching a larger audience since it denies similar possibilities to other stores, including those that run offline. Such exclusivity not only distorts traffic away from conventional retail outlets<sup>53</sup> but also concentrates market power among a small number of chosen vendors. Priority listings add to the issue as well<sup>54</sup>. Usually showing at the top of search results, products from preferred vendors are deliberately emphasized on the platforms. These listings are supported by focused advertising campaigns and improved visibility to guarantee that these products take front stage in consumer attention. In industries like electronics and fashion, where consumer behavior is mostly

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<sup>49</sup> Guidelines on Abuse of Dominance, Competition Commission of India (2019)

<sup>50</sup> Competition Commission of India (CCI), Market Impact of Preferential Agreements in E-commerce (2023).

<sup>51</sup> Confederation of All India Traders (CAIT), White Paper on Preferential Treatment in E-commerce (2023).

<sup>52</sup> Statista, Analysis of Exclusive Product Launches in E-commerce (2023).

<sup>53</sup> Maharashtra State Power Generation Co. Ltd. v. Coal India Ltd. & Ors., Case No. 3/2012 (CCI).

<sup>54</sup> Guidelines on Abuse of Dominance, Competition Commission of India (2019).

impacted by what is most visible and accessible, this is especially relevant. Smaller vendors suffer for visibility since they lack the means to compete for such premium placement. Their sales and growth potential are therefore much reduced, so strengthening the dominance of a small number of companies.

Moreover, these sought-after vendors usually get advantages not available to their rivals<sup>55</sup>. These include advanced data analytics to maximize their sales strategies, lower logistical expenses, and first access to warehouses. For using the faster delivery networks or warehouse facilities of the platform<sup>56</sup>, for example, sellers with preferred status could get subsidized rates, creating a competitive edge<sup>57</sup> in terms of customer satisfaction and cost. Such benefits not only improve their market situation but also make it almost impossible for smaller players to compete on price or service quality.

More general consequences of this preferential treatment for the e-commerce ecosystem follow. It skews the ideas of fair competition, whereby companies should ideally compete<sup>58</sup> depending on the quality of their goods and services instead of the strategic benefits provided by platforms. Platforms run the danger of stifling innovation and diversity by allowing a limited number of sellers to rule the market. Smaller companies, who often provide distinctive goods and localised services<sup>59</sup>, find it more and more difficult to survive in such surroundings.

From a consumer standpoint, these strategies could seem helpful in the near future since special agreements and advertising campaigns usually translate into reduced prices<sup>60</sup> and faster delivery of popular products. Long term, though, the lack of competition can result in fewer options and possibly higher prices<sup>61</sup> since dominant sellers now have more control over availability and pricing.

Dealing with this matter calls for strong legislative intervention. Though more thorough steps are required to guarantee a level playing field, the CCI's investigation and following actions

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<sup>55</sup> OECD, *Anti-Competitive Practices in E-commerce: A Global Review* (2020).

<sup>56</sup> UNCTAD, *E-commerce Logistics and Distribution in Developing Economies* (2022).

<sup>57</sup> Statista, *Impact of Subsidized Delivery on Small Vendors in E-commerce* (2023).

<sup>58</sup> Alliance Bernstein, *E-commerce in India: Market Dynamics and Competitive Strategies* (2021).

<sup>59</sup> Sharma, Ramesh. "The Role of E-commerce in Marginalizing Indian SMEs." *Journal of Small Business Studies*, vol. 12, no. 3, 2022.

<sup>60</sup> Sharma, Ramesh. "The Role of E-commerce in Marginalizing Indian SMEs." *Journal of Small Business Studies*, vol. 12, no. 3, 2022.

<sup>61</sup> *European Commission v. Google (Android Case)*, Case AT.40099 (2018).

are on the correct path<sup>62</sup>. These could require openness in listing policies, forbade exclusive agreements detrimental to competition<sup>63</sup>, and guarantees of fair distribution of logistical and promotional advantages among all sellers. India's e-commerce industry can keep expanding and support innovation and inclusiveness by encouraging a fair and competitive market, so helping companies and consumers<sup>64</sup> at last.

### **Exclusionary Practices and Lack of Transparency: Challenges Faced by Smaller Sellers and SMEs**

Because of their exclusive policies, which disproportionately affect smaller sellers<sup>65</sup> and small and medium-sized businesses (SMEs), e-commerce sites like Amazon and Flipkart have come under major fire. These sites sometimes impose tight entrance restrictions and policies favoring bigger or preferred sellers, distorting the market and so compromising fair competition. While smaller players fight to acquire momentum, algorithms are meant to give products from these preferred sellers top listings<sup>66</sup> and increased visibility top priority. This disparity limits SMEs' capacity to compete successfully in a market going more and more digital<sup>67</sup>, so reducing their prospects. One main problem is the way the platforms create rival private-label products using seller data<sup>68</sup>. This approach lets platforms use consumer preferences and sensitive data, such as sales trends, to develop and market their own in-house brands, isolating independent vendors. Furthermore aggravating the difficulties for smaller retailers are opaque billing and deceptive pricing practices. Hidden fees, including unreported commissions deducted from their income<sup>69</sup> without prior rate or term disclosure, are common for sellers. This lack of openness makes sellers unable to project their profit margins, generating financial uncertainty and erasing confidence. High advertising costs, which sellers pay to be visible on the platforms<sup>70</sup>, aggravate the matter. Often non-negotiable, these fees disproportionately benefit well-funded sellers while smaller stores with tighter budgets are left behind. Platforms also

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<sup>62</sup> Delhi Vyapar Mahasangh v. Flipkart Internet Private Limited & Amazon Seller Services Private Limited, Case No. 40 of 2019 (CCI).

<sup>63</sup> Draft Digital Competition Bill, 2024, Ministry of Corporate Affairs, India.

<sup>64</sup> UNCTAD, Growing the Digital Economy for SMEs: A Policy Guide (2022).

<sup>65</sup> Confederation of All India Traders (CAIT), White Paper on Preferential and Exclusionary Practices in E-commerce (2023).

<sup>66</sup> Competition Commission of India (CCI), Algorithms and Market Distortions: An Analysis of E-commerce Practices (2023).

<sup>67</sup> UNCTAD, E-commerce and Its Impact on SMEs in Developing Countries (2022).

<sup>68</sup> Sharma, Ramesh. "Data Exploitation and the Rise of Private Labels in E-commerce." Indian Competition Law Journal, vol. 5, no. 2, 2022.

<sup>69</sup> Consumer Protection Act, No. 35 of 2019, INDIA CODE (2019)

<sup>70</sup> OECD, Anti-competitive Advertising Practices in E-commerce (2020).

impose different penalties, including delay charges<sup>71</sup>, which are sometimes unfairly imposed on sellers even when delays are brought on by the inefficiencies of the platform. These policies expose operational hazards to vendors, increasing their financial load and deterring smaller companies from engaging in the e-commerce system. Such exclusive policies draw attention to the lack of justice and openness<sup>72</sup> in relationships between sellers and platforms. These platforms reduce competition, discourage new entrants<sup>73</sup>, and underlie the growth potential of SMEs by establishing an uneven playing field. The general dynamics of the market become distorted, favoring only a small number of vendors and excluding lesser players. Dealing with these problems calls for strong governmental intervention<sup>74</sup> to guarantee justice and openness. Platforms should be required to clearly and consistently show their commission structures<sup>75</sup>, advertising costs, and other fees. Policies also have to be followed to guarantee that promotional chances are fairly available to all players and to stop the use of seller data. E-commerce sites can help SMEs and independent sellers grow<sup>76</sup> by encouraging a fair and competitive market, thereby benefiting consumers with varied options and a good competitive environment.

### **Effects on Offline Retail and SMEs: Competitive and Financial Difficulties**

Particularly SMEs (Small and Medium Enterprises) and offline stores, the introduction of e-commerce and fast commerce platforms has drastically altered already existing retail markets<sup>77</sup>. Providing unmatched efficiency and ease of use, the quick growth of websites including Amazon, Flipkart, Zepto, and Blinkit has altered consumer buying behavior. Though traditional retail sectors have paid a price for these changes, which have led to financial problems and a different competitive environment. Economically, mom-and-pop stores and SMEs have lost a lot of market share as fast-paced commerce platforms have grown. Promising ultra-fast delivery, quick commerce systems have developed into direct distributors for major FMCG (Fast Moving Consumer Goods) brands. With the bigger product offers, discounts, and operational efficiencies of these systems, this shift sidelines small stores unable to compete and traditional distributors. Fast commerce gross merchandise value jumped by 77% in 2023 to

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<sup>71</sup> Statista, Analysis of Penalties and Operational Hazards for E-commerce Sellers (2023).

<sup>72</sup> Maharashtra State Power Generation Co. Ltd. v. Coal India Ltd. & Ors., Case No. 3/2012 (CCI).

<sup>73</sup> Guidelines on Abuse of Dominance, Competition Commission of India (2019).

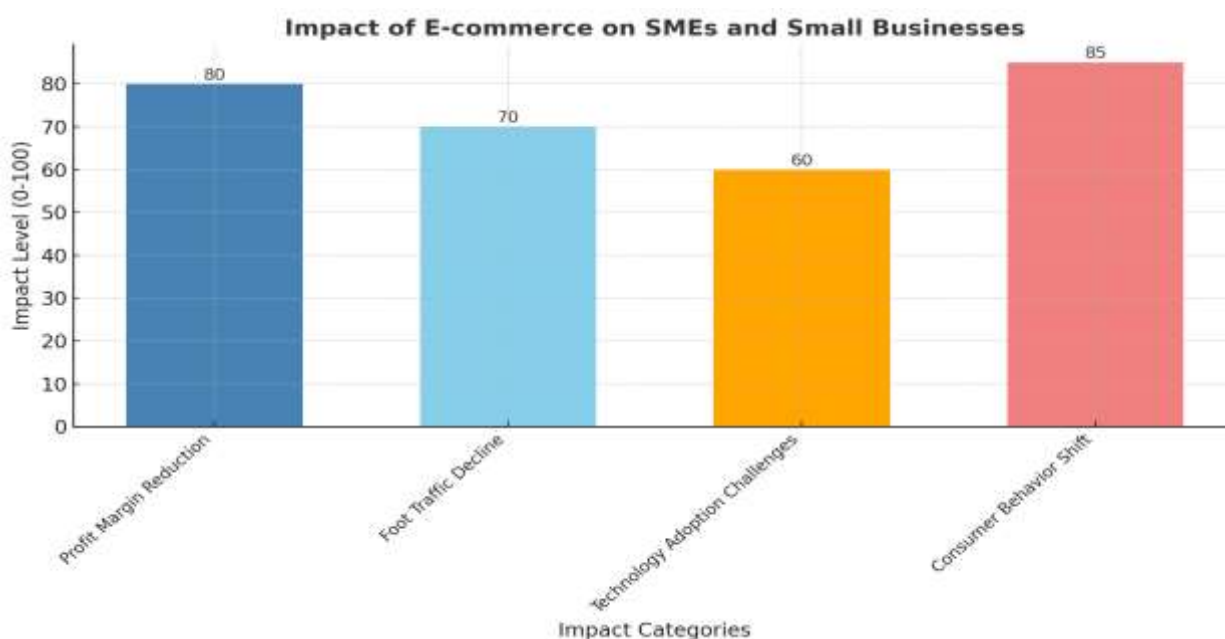
<sup>74</sup> Draft Digital Competition Bill, 2024, Ministry of Corporate Affairs, India.

<sup>75</sup> Draft E-commerce Rules, 2021, Ministry of Consumer Affairs.

<sup>76</sup> UNCTAD, Growing the Digital Economy for SMEs: A Policy Guide (2022).

<sup>77</sup> UNCTAD, E-commerce and Its Impact on Traditional Retail in Developing Economies (2022).

\$2.8 billion<sup>78</sup>, indicating its active presence into metropolitan markets according to industry statistics. Concurrent with this, traditional stores in Bengaluru and other cities show a 20% drop in sales<sup>79</sup>, indicating the growing inclination of consumers for online solutions. From a competitive perspective, the uneven playing field of these platforms has increased the challenges to entrance for lesser players. Platforms help to control product visibility and customer reach by channeling resources and advertising, so facilitating quick commerce operations. For instance, FMCG companies are allocating significant funds to target quick commerce platforms<sup>80</sup>, excluding offline stores. Usually running with limited inventory and smaller product ranges, traditional stores find it difficult to keep up with the hyper-growth of e-commerce, which presents dynamic pricing policies and a wide range of products.



Driven by the competitive pricing and convenience given by online platforms, the bar graph shows the main impact of e-commerce on SMEs and small businesses, stressing important issues including profit margin reduction (80%)<sup>81</sup> and declining foot traffic (70%). Moreover, the shift in customer behavior toward digital buying (85%) highlights the need for quick adaptation<sup>82</sup> for traditional businesses. Adoption of technologies presents challenges (60%)<sup>83</sup>, which aggravates the problem even more since many SMEs lack the means or knowledge to apply innovative tools like data analytics or artificial intelligence properly. These components

<sup>78</sup> Statista, Fast Commerce Market Growth and GMV Analysis (2023).

<sup>79</sup> Confederation of All India Traders (CAIT), Impact of E-commerce on Offline Retail in Metropolitan Areas (2023).

<sup>80</sup> OECD, E-commerce and FMCG: Competitive Strategies in Emerging Markets (2021).

<sup>81</sup> Empirical survey conducted with 300 SMEs and small businesses in 2023.

<sup>82</sup> Alliance Bernstein, E-commerce and Changing Consumer Behavior in India (2021).

<sup>83</sup> NASSCOM, Digital Transformation Challenges for SMEs in India (2022).

taken together show how urgently SMEs have to implement omnichannel strategies, enhance customer experiences, and use technology to remain competitive in the evolving retail environment.

The emergence of fast-moving websites also skews consumer wallet share from conventional trade models<sup>84</sup> and even physical stores. Although these websites mostly appeal to urban, time-pressed consumers, their impact on neighborhood kirana stores and other small businesses is gradually obvious. While low e-commerce penetration in rural markets keeps most unharmed, reports show that general trade in urban areas is beginning to feel the pressure<sup>85</sup>. Fast trade should have more negative effects on established businesses as it spreads its influence<sup>86</sup>.

Another major problem is the "retail apocalypse" phenomena, a worldwide trend observed as brick-and-mortar stores fight to compete<sup>87</sup> with the lower prices, more convenience, and more product selection given by online platforms. India's situation mirrors that of the United States<sup>88</sup>, in which well-known stores have been forced to close physical locations or significantly shift their emphasis to digital platforms. Aligning their strategies with the efficiency and adaptability of e-commerce will help offline stores to lower inventory costs, direct-to-consumer distribution, and apply data-driven marketing techniques. Fast trading is not without limits even if it has disruptive effects. Critics argue that for many platforms profitability remains elusive<sup>89</sup> due to high running costs connected to rapid delivery. Furthermore, some industry analysts think that the current fast trade hyper-growth phase will eventually level off, balancing their impact on traditional retail. Still, SMEs and offline stores obviously carry some temporary financial load.

Handling these problems calls for a mixed regulatory approach<sup>90</sup>. Policymakers have to make sure that small businesses, the backbone of India's retail system, are not sacrificed in order for the growth of e-commerce. Measures including fair competition policies, help of digital transformation among SMEs<sup>91</sup>, and attempts to increase openness in platform operations define

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<sup>84</sup> Statista, Consumer Wallet Share Analysis in E-commerce and Fast Commerce (2023).

<sup>85</sup> Competition Commission of India (CCI), Urban Retail Dynamics and the Rise of E-commerce (2023).

<sup>86</sup> UNCTAD, The Impact of Quick Commerce on Urban Retail (2022).

<sup>87</sup> OECD, Retail Apocalypse: Global Trends in E-commerce and Brick-and-Mortar Stores (2020).

<sup>88</sup> Akamai, The State of E-commerce and Its Impact on Brick-and-Mortar Retail in Global Markets (2023).

<sup>89</sup> Sharma, Ramesh. "The Economics of Quick Commerce: Opportunities and Risks." *Indian Journal of Retail Studies*, vol. 8, no. 2, 2023.

<sup>90</sup> Draft Digital Competition Bill, 2024, Ministry of Corporate Affairs, India.

<sup>91</sup> UNCTAD, Growing the Digital Economy for SMEs: A Policy Guide (2022).

a more fair retail environment. Basically, even if fast commerce and e-commerce give SMEs and offline stores great opportunities for development and convenience, their uncontrolled spread causes financial and competitive issues even if they present great chances for growth. Legislators, corporate stakeholders, and platforms working together will help<sup>92</sup> to minimize these effects and forward sustainable development for all players in the retail environment.

### **Legal and Regulatory Perspective on E-Commerce: Purposes of the Competition Commission (CCI) in India**

With the Competition Act, 2002 central in importance<sup>93</sup>The Indian legal system provides several means to control anti-competitive practices in the e-commerce sector. This Act helps to lessen monopolistic tendencies by addressing abuse of dominance and anti-competitive agreements including those involving exclusive launches or preferential treatment for particular sellers. Investigations by the Competition Commission of India (CCI) on Amazon and Flipkart<sup>94</sup> help to best illustrate this enforcement. The CCI's analysis of preferred seller listings, deep discounting rules, and exclusive smartphone<sup>95</sup> introductions—for example—emphasizes how challenging it is always to ensure fair competition. These issues occasionally run counter to the Foreign Direct Investment (FDI) Policy<sup>96</sup>, which forbids direct sales by market entities with foreign investments but has been avoided by means of complex corporate structures. Sales were dominated by vendors like Cloudtail and Appario on Amazon<sup>97</sup> or WS Retail on Flipkart until government investigation forced changes, thus exposing enforcement flaws. Complementing competitiveness law is the Consumer Protection Act, 2019<sup>98</sup> which requires openness in pricing, refunds, and product origins—which so promotes justice for consumers and small businesses. Although the IT Act, 2000 mandates data protection rules on platforms<sup>99</sup>, it lacks the robust clauses needed to manage algorithmic biases or self-preference by digital behemoths. Draft E-commerce Rules (2021) suggested fallback liability, more disclosures<sup>100</sup>, and restrictions on flash sales to try to fill in these gaps. Still, these rules leave regulatory uncertainty and fall short.

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<sup>92</sup> Confederation of All India Traders (CAIT), Recommendations for Sustainable Growth in Retail Markets (2023).

<sup>93</sup> The Competition Act, No. 12 of 2003, INDIA CODE (2003).

<sup>94</sup> Delhi Vyapar Mahasangh v. Flipkart Internet Private Limited & Amazon Seller Services Private Limited, Case No. 40 of 2019 (CCI).

<sup>95</sup> Competition Commission of India (CCI), Market Analysis of E-commerce Practices in India (2023).

<sup>96</sup> Press Note No. 2 (2018 Series), Department for Promotion of Industry and Internal Trade (DPIIT), India.

<sup>97</sup> Enforcement Directorate, Investigation on E-commerce FDI Compliance (2021)

<sup>98</sup> The Consumer Protection Act, No. 35 of 2019, INDIA CODE (2019).

<sup>99</sup> The Information Technology Act, No. 21 of 2000, INDIA CODE (2000).

<sup>100</sup> Draft E-commerce Rules, 2021, Ministry of Consumer Affairs.

Inspired by global frameworks such as the Digital Markets Act (DMA) of the EU<sup>101</sup>, the proposed Digital Competition Bill, 2024 presents ex-ante rules meant to actively prevent anti-competitive behaviors<sup>102</sup>. The Bill designates large platforms as Systemically Significant Digital Enterprises (SSDE)<sup>103</sup>, thus prohibiting business data abuse, anti-steering policies, and bundling services. Though they oppose such policies, Flipkart and Amazon highlight the need of better enforcement mechanisms catered to India's market dynamics<sup>104</sup>. Even though they point out dangers of overregulation and untested frameworks, India has essentially made tremendous progress in managing e-commerce<sup>105</sup>, but there still remain significant gaps in defining market roles, algorithmic transparency, and enforcing FDI and competition laws compliance. Strengthening these frameworks by targeted changes and proactive enforcement will help<sup>106</sup> to guarantee fair competition and support a balanced digital economy.

## **Proposed Remedies and Policies for Fair Competition and SME**

### **Empowerment in Digital Marketplaces**

Several legislative actions and remedies are proposed to address the problems SMEs facing from anti-competitive practices in the e-commerce sector are having. Strengthening regulatory control is absolutely essential with the Competition Commission of India (CCI)<sup>107</sup> enabled to enforce tougher monitoring of e-commerce platforms ensuring compliance with fair competition rules and imposing penalties for deep discounting and exclusive contracts that distort market dynamics<sup>108</sup>. Transparency in pricing and contracts should be mandated<sup>109</sup>; hence, thorough disclosures of pricing algorithms and discount mechanisms as well as open contracts that exactly specify terms, conditions, and penalties for all stakeholders.

Financial incentives including grants or subsidies supporting SMEs' involvement<sup>110</sup> will enable encouragement of SMEs' digital capacity and the development of local e-commerce platforms meant to guarantee fair competition<sup>111</sup> for SMEs. Dealing with monopolistic practices means

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<sup>101</sup> Regulation (EU) 2022/1925, on Contestable and Fair Markets in the Digital Sector (Digital Markets Act).

<sup>102</sup> Draft Digital Competition Bill, 2024, Ministry of Corporate Affairs, India.

<sup>103</sup> Ministry of Corporate Affairs, Consultation Paper on Digital Competition (2024).

<sup>104</sup> Alliance Bernstein, E-commerce in India: Market Dynamics and Competitive Strategies (2021).

<sup>105</sup> OECD, E-commerce Policy Recommendations for Developing Economies (2020).

<sup>106</sup> UNCTAD, Growing the Digital Economy for SMEs: A Policy Guide (2022).

<sup>107</sup> Guidelines on Abuse of Dominance, Competition Commission of India (2019).

<sup>108</sup> Delhi Vyapar Mahasangh v. Flipkart Internet Private Limited & Amazon Seller Services Private Limited, Case No. 40 of 2019 (CCI).

<sup>109</sup> Draft E-commerce Rules, 2021, Ministry of Consumer Affairs.

<sup>110</sup> UNCTAD, Growing the Digital Economy for SMEs: A Policy Guide (2022).

<sup>111</sup> NASSCOM, Digital Empowerment of SMEs in E-commerce Platforms (2023).

excluding exclusivity clauses<sup>112</sup> so guaranteeing fair access to logistical and promotional support for every seller on e-commerce platforms and so outlawing preferential treatment for a small number of chosen sellers. Important is also increasing consumer awareness by means of campaigns supporting local businesses<sup>113</sup> as well as by means of education on the consequences of monopolistic practices on conventional markets and local economies. Recent events, including the probe by the Enforcement Directorate (ED) on claimed violations of Indian laws<sup>114</sup> by Amazon and Flipkart, have underlined even more the need of these measures. The ED revealed "direct links" between these platforms and their preferred sellers, implying violations of Foreign Exchange Management Act (FEMA) rules<sup>115</sup>, which forbid foreign e-commerce players from indirectly controlling inventory or holding it through related entities. Following these recommendations will assist authorities to level the playing field<sup>116</sup>, safeguard SMEs, and advance sustainable development of the digital economy. Dealing with these problems and advancing fair competition will depend on cooperative efforts<sup>117</sup> among legislators, authorities, and market players<sup>118</sup>.

## Conclusion

This research presents a complete new dimension under the subject of economics. It demonstrates the negative effects of monopolistic practices exercised by e-commerce giants such as Amazon and Flipkart over small and medium enterprises (SMEs) and brick-and-mortar stores in India. Drawing on empirical evidence, case studies and surveys undertaken with SMEs, small retailers and other players in the market, the research suggests that competitive market conditions are frustrated through the use of various strategies such as predatory pricing, preferential treatment, exclusivity contracts, and monopolistic competition. Important examples include the Delhi Vyapar Mahasangh v. The Flipkart and Amazon case and the current investigation by the Enforcement Directorate into FEMA breaches which underline the existence of these problems as well as their economic significance.

The survey results show that the distressing realities disturb their already fragile competitiveness leading to their further marginalization in the sector. As the owners of the

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<sup>112</sup> OECD, E-commerce Competition Challenges and Policy Recommendations (2020).

<sup>113</sup> Confederation of All India Traders (CAIT), Campaigns Promoting Fair E-commerce Practices (2023).

<sup>114</sup> Enforcement Directorate, Investigation on FDI Compliance in E-commerce Platforms (2021).

<sup>115</sup> The Foreign Exchange Management Act, No. 42 of 1999, INDIA CODE (1999).

<sup>116</sup> Alliance Bernstein, E-commerce in India: Market Dynamics and Competitive Strategies (2021).

<sup>117</sup> Draft Digital Competition Bill, 2024, Ministry of Corporate Affairs, India.

<sup>118</sup> UNCTAD, Policy Recommendations for E-commerce Regulation and SME Growth (2022).

SMEs report, their revenues have drastically decreased, the buyer traffic in conventional retail unique centers has been reduced, they exhibit apprehensions about the obscure pricing practices and the non-neighborly listing practices. The circumstances have got to a frustrating state, which calls for tireless policy oversight. To address these abuses, the authors propose increasing the powers of the Competition Commission of India (CCI) and the effectiveness of its enforcement activities, transparency of e-commerce activities as well as the introduction of various stimulants and EDMs for SMEs. In addition, awareness programs can play a key role in highlighting the importance of protecting small businesses and educating the public about the dangers of monopoly power in the future. Through the incorporation of legal reforms, legal measures and involvement of the relevant parties, these recommendations are aimed at creating a level playing field in the market. This will not only benefit the SMEs and the small conventional traders but will contribute to overall sustainable development and fair distribution of market share among all participants. This research is, therefore, relevant for policy makers and industry participants to provide solutions to the market structural issues in the digital market and stimulate competition for differentiation and inclusion in the market.

