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Tracing the Changing Landscape of the Grocery Sector in the Digital Era through the Lens of Competition Law

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Abstract

Food and grocery are fundamental to the well-being of human beings and are a part and parcel of their daily lives. World Bank data reveals that the cost of a healthy diet in India is almost at par with the citizens' median income, which implies that a person has to spend almost all of their income to afford a healthy diet. Over the last few years new business models are emerging in the grocery sector with the advent of supermarkets to e-grocers. The shift from traditional to a technology driven sector has been rapid especially post-covid. From a highly fragmented market dominated by local kirana stores the grocery retail sector is witnessing consolidation of market power with a few large players in the online grocery retail segment. These have triggered debates and discussions raising concerns on the impacts of these changes on the competitiveness of the market as well as the consumers. In jurisdictions like Canada, Australia, and New Zealand, the governments have identified the need for regulating grocery markets to protect consumer interests and have conducted market studies to explore the threats and regulatory gaps. This paper aims to establish the need to analyse the changes in the grocery markets by the Competition Commission of India in the wake of digitalisation, especially in the post-COVID era and its possible impacts on market competition and consumers in India.

Keywords: Digital Markets, Grocery Sector, Horizontal theory of Harm, Market Competition, Quick Commerce

1. Introduction

Digitalisation has touched upon every facet of human life. With the rapid rise in the use of mobile phones and digital services, there have been palpable changes in the structure of markets and consumer behaviour. Post COVID-19, a larger fraction of the population, especially in metros

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and Tier-I cities, has been growing increasingly dependent on the online grocery platforms to fulfil their day-to-day needs. Online grocery purchases increased by 80% in 2020.[1] In 2024, the All India Consumer Products Distributors Federation (AICPDF) had filed a petition with the Competition Commission of India (CCI) alleging violation of the Competition Act, 2002, through deep discounting and predatory pricing strategies being adopted by quick commerce platforms Blinkit, Swiggy Instamart and Zepto.[2] They raised concerns that these practices were disrupting the competition in the market and affecting offline stores and distributors.[3] In the wake of rampant changes in the Indian grocery retail sector ranging from a shift from traditional models to technologically driven ones, merger and acquisitions, influx of FDI, vertical integrations and an overall shift in consumer buying behaviours, it is crucial for the Competition Commission of India (CCI) to conduct a detailed market study to ensure that these changes do not disrupt the competitive balance in the sector.

Market studies have served important tools for assessing the need for enforcement action, information gathering, assessing the need for modification of laws, ex-post assessment of laws, policies, regulations etc.[4] Competition authorities initiate market studies to gain a comprehensive understanding of the state of competition in a sector. Effective competition is indispensable for proper functioning of markets and consumer welfare. The structural changes and shifts in buying patterns in the grocery sector over the last few years are not exclusive to India, but are also traceable in other countries. Understanding the need to assess the changes, the competition authorities of Canada, Australia and New Zealand had initiated market studies in the grocery sectors of their respective jurisdictions and have identified the areas that require attention to maintain a level playing field in the market.[5] The first part of the paper explains the recent changes in

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1 Indian Chamber of Commerce, *Quick Commerce & Kirana Stores: An Analysis*, https://indianchamber.org/upload/page/pdf/quick-commerce.pdf, last acces sed 27 June, 2026.

2 India FMCG distributors file petition with CCI against Blinkit, Zepto, Instamart, BRICS Competition Law & Policy Centre, https://bricscompetition.org/news/india-fmcg-distributors-file-petition-with-cci-against-blinkit-zepto-instamart, last accessed 27 June, 2026.

3 *Id*.

4 Organisation for Economic Co-operation & Development (OECD), *Market Studies and Other Market Analysis Tools for Competition Authorities*, OECD Competition Policy Roundtables No. 327 (2025).

5 See Commerce Commission (N.Z.), *Market Study into the Retail Grocery Sector: Final Report* (2022); Competition Bureau Canada, *Canada Needs More Grocery Competition: Retail Grocery Market Study Report* (2023); Australian Competition & Consumer Commission, *ACCC Supermarkets Inquiry: Issues Paper* (2024).

the grocery retail sector in India and their potential impacts. The second part focuses on the market studies conducted by the concerned authorities in Canada, Australia and New Zealand for identifying the state of competition in their respective grocery sectors in the light of the changing dynamics of the grocery sector, especially post COVID-19. The paper concludes opining the need for conducting an in-depth analysis of the growth of e-commerce platforms in the grocery sector and its possible impacts on competition.

1.1. Research Structure

The researcher has undertaken an exploratory and policy-oriented research to study the changing dynamics of the online grocery sector in India and assess the necessity of conducting a market study by the CCI for developing a robust regulatory framework addressing the needs of the sector. The researcher has used the doctrinal approach and relied on the Competition Act, 2002, Competition (Amendment) Act of 2023, Digital Competition Bill, Parliamentary Reports, Report by Competition Law Review Committee, Judicial Precedents, Working Paper by The Confederation of All India Traders (CAIT), Newspaper Articles, Journal Articles, Market studies conducted by Canada, New Zealand and Australia. The pivotal research question is to determine whether there is a necessity to strengthen the regulatory framework for the e-grocery sector? The researcher is of the view that since the market is at a nascent stage and experiencing a structural and a functional shift, the problems that are alleged to be anti-competitive need careful assessment by the CCI for developing a regulatory framework suitable for digital markets, considering the structure and function of the grocery sector to promote growth and innovation and balance it with fairness, transparency and competition to optimise consumer welfare.

2. Transition in Grocery Retail: Is there a need for Regulation?

Supermarkets have been popular in Western countries like the USA and the UK since the twentieth century.[6] They gained popularity in Southeast Asian countries also by the late 1990s and early 2000s.[7] However, in India, food retail was dominated by small traditional retail stores and local bazaars, where the former catered to household and non-perishable needs while the latter fulfilled the needs of perishable items like fresh fruits, vegetables, poultry, meat, and fish.[8] In 2012, the Indian government allowed foreign direct investment in food retail.[9] However, as recorded in 2019, more than

6 Amy J. Cohen, *Supermarkets in India: Struggles over the Organization of Agricultural Markets and Food Supply Chains*, 68 U. Miami L. Rev. 19 (2013).

7 *Id*.

8 Cohen, *Supermarkets in India*, supra note 6, at 35.

9 Press Release, Press Info. Bureau, Ministry of Commerce & Industry, Gov't of India, *FDI in Multi Brand Retail* (Aug. 13, 2012).

95% of the food and grocery sector businesses were run by traditional retailers.[10] Kirana stores have contributed to 11% of the GDP and formed 88% of the total retail sector.[11] But in recent times, the food and grocery sector in India is undergoing an unforeseen change where consumers prefer to procure their groceries online or from supermarkets, causing a change in the market structure. It paves the way for several uncertainties, such as the future of the small retailers, loss of employment, and the concentration of the food and grocery market.

In his article '*The Wheel of Retailing*', Prof. Hollander challenged the famous hypothesis of how new retailers enter the market with low margins, status, and price models, but with continuous investments, acquisitions of bigger establishments and facilities, and higher operating costs, they develop into high-cost and high-price business units.[12] The same wheel of retailing continues with the entry of newer entrants in the market who go through the same process.[13] Professor Hollander opined that all retail institutions may not enter the market with low price models and status but rather commence operations with higher investment models such as planned shopping centres and vending machines. The Indian food and grocery retail sector has witnessed the emergence of newer modes of retail over the years. A decade back, even though the local stores were facing some competition from supermarket chains, surprisingly, they were not impacted much as India's home-grown brands of supermarkets accounted for merely 2% of food and grocery sales in the country.[14] However, with Reliance Jio introducing affordable 4G services in 2016 and increased use of digital wallets post-demonetisation, consumers found an easier way to shop for groceries through digital apps like Bigbasket.[15] Within a few years, similar platforms such as Milkbasket, JioMart, etc., started operations, followed by the entry of Swiggy Instamart, Zepto, Blinkit, etc., in the online grocery sector, leading to the emergence of quick commerce. The latest addition to the food and grocery sector is dark stores, which are integral to quick commerce.[16] Online

[10] B.S. Nagesh & Sameer Amte, *Transforming Kirana Stores to Drive Economic Growth*, Trust for Retailers and Retail Associates of India (2020).

[11] *Id*.

[12] Stanley C. Hollander, *The Wheel of Retailing*, 25 J. Marketing 1, 37-42 (1960).

[13] *Id*.

[14] Raja R. Choudhury, *Challenges and future of grocery business in India*, 14 Advance Res. J. Multidisciplinary Discoveries 1, 9-19 (2017).

[15] Rohan Goyal, Modernization of Kirana Stores in India, Invest India (2021), https://www.investindia.gov.in/team-india-blogs/modernization-kirana-stores-india, accessed 30 August 2024.

[16] Gauri Rajnekar & Debjit Roy, *Rise of Quick Commerce in India: Business Models and Infrastructure Requirements*, Ctr. for Transp. & Logistics, Indian Inst. of Mgmt. Ahmedabad, (2023).

and quick commerce platforms, unlike traditional grocery stores, require higher investments and expand not only through lower prices but also by enhancing the assortment of their goods and services and factors like network effect. Therefore, the wheel of retailing theory might not work for e-commerce platforms in the grocery sector as entry barriers to this sector are high due to higher investments, technology integration and network effects.

The nationwide lockdown due to COVID-19 led to unprecedented growth in e-commerce and quick commerce in food and grocery, and in 2020 alone, the Gross Value Merchandise (GVM) in the sector saw a twofold increase.[17] Recently, the food and grocery sector has witnessed several mergers and acquisitions and expansion activities by which corporate behemoths like Reliance, Tata, Flipkart, and Amazon have entered the online grocery sphere, raising concerns over the concentration of power and the survival of smaller retailers.[18] Although the user base of e-grocery platforms is still around 11% of the total population, the growth rate of the e-grocery sector in terms of Gross Merchandise Value is exponentially high at 64%.[19] As per reports by Goldman Sachs, the Indian e-grocery market's size in terms of gross order value is approximately around $11 billion with $ 5 billion being contributed by quick commerce.[20] The leading FMCG companies like Nestle, ITC, Parle, Emami and Marico have also expressed that quick commerce accounts for around 30-50 percent of their total e-commerce sales.[21] The market is concentrated with key players like Blinkit, Swiggy Instamart, Zepto and BB Now.[22] The quick commerce sector is expected to grow further with Reliance and Flipkart making moves to enter the market.[23] However, it

17 Mukhopadhyay, Mayukh, *Who Moved My Grocery, in 10 Minutes? - A Light on Indian Dark Stores*, LIBA National Case Development Conference, Case Ref CDC-GM-110 (2022).

18 McKinsey & Co., *The State of Grocery Retail in India* (2022), https://www.mckinsey.com/~/media/mckinsey/industries/retail/our%20insights/the%20state%20of%20grocery%20retail%20in%20india/the-state-of-grocery-retail-in-india.pdf. last accessed 31 December 2024.

19 Mrigank Gutgutiya, *Will eGrocery crack the code among digital non-natives?* Redseer Strategy Consultants (2023), https://redseer.com/newsletters/will-egrocery-crack-the-code-among-digital-non-natives/, last accessed 31 December 2024.

20 Next disruption? Reliance's JioMart to enter e-commerce space to take on Blinkit, Zepto and others, ET Online (May 29 2024), https://economictimes.indiatimes.com/industry/services/retail/next-disruption-reliances-jiomart-to-enter-quick-commerce-space-to-take-on-blinkit-zepto-and-others/articleshow/110526696.cms?from=mdr, last accessed 31 December 2024

21 The 10-minute challenge: Quick-commerce becomes the villain for neighbourhood Kirana stores, ET Online (Feb 28, 2024); Also see supra note 23.

22 *Id*.

23 *Supra* note 23.

is feared that it might impact the sales of existing e-grocery platforms and local kirana stores.[24] The supermarkets have expressed resentment over their declining sales due to the deep discounting strategies implemented by quick commerce.[25] The Ministry of Consumer Affairs has communicated similar concerns regarding aggressive discounts and the rapid rise of dark stores, as it is anticipated that these practices can have an adverse impact on the competitive balance of the market.[26] The quick commerce companies have an inherent technological and logistical advantage over the smaller retailers which threaten their survival.[27] It is also apprehended that the unregulated growth of quick commerce platforms can lead to social disruptions, as these platforms are assuming the role of traditional distributors and small retailers by becoming direct distributors of major FMCG companies.[28] It is also concerning that these platforms often blur the lines between operating on marketplace models and inventory models, which are violative of FDI guidelines.[29] Amidst all the growing apprehensions and concerns, it becomes growingly important for the government to conduct a detailed market study to identify the competitive concerns in the food and grocery retail market in India post the advent of e-commerce and quick commerce platforms. It is essential to divert attention towards maintaining competition in the grocery sector as food and groceries are fundamental to human existence. The grocery sector is characterised by repeated and high-frequency buying behaviour. Market distortions may have serious repercussions on consumers who are already combating inflation in the consumer price index. It is also important to protect the smaller retailers who have served as the backbone of Indian food and grocery retail and provide employment to millions of Indians.

3. The Potential Harms of Concentration and Growth of Digital Platforms

The online grocery delivery sector in India is concentrated with a few prominent players who hold a considerable amount of market power. Considering the increasing market presence of the e-grocery platforms, it is important for the competition authorities to differentiate between market

24 *Supra* note 24.

25 *Id*.

26 Government flags competition concerns amid quick commerce surge: Sources, CNBC TV 18 (.Aug 23 2024). s-19464715.htm, last accessed 31 December 2024.

27 *Id*.

28 FMCG distributors write to Piyush Goyal, raise concerns over rapid growth of quick commerce platforms, CNBC TV 18 (Aug. 24 2024), https://www.cnbctv18.com/business/companies/fmcg-distributors-write-to-piyush-goyal-raise-concerns-over-rapid-growth-of-quick-commerce-platforms-19464937.htm, last a ccessed 31 December 2024.

29 *Id*.

power that has been acquired through an efficient competitive process and market power that is enhanced by the firms by using anti-competitive strategies.[30] The aim of competition law is not to stagger the growth of firms that acquire market power through innovation and efficiency, but to prohibit the accumulation of power through the distortion of competition and abuse of such power. Regulation becomes necessary where the competitive balance of the market is distorted or threatened by the conduct of dominant entities. Over the years, depending on the nature of markets and practices adopted by the market players, the theories of harm have been pivotal in analysing the conduct of the market players and determining whether regulation is necessary. The theories of harm have been established over time when markets witnessed novel issues, and their horizon is ever-expanding. Traditionally, the horizontal theory of harm was applied to analyse the impacts of horizontal integrations on the market and consumers, but with the growing complexities of digital markets, newer non-horizontal theories of harm are applied to analyse the conduct of digital platforms.

The Horizontal theories of harm explain the probable effects of horizontal integrations in the markets. The Indian grocery sector has seen an increase in mergers and acquisitions in recent times.[31] Horizontal mergers and acquisitions help in removing existing as well as potential competitive constraints from the market. It can have adverse effects, such as a rise in prices and a reduction in quality.[32] Further, it eliminates the possibility of the customers switching between the firms.[33] Horizontal mergers lead to unilateral effects due to the rise in market power of firms.[34] Platform-based companies are not only creating new markets but are also bringing in changes in the existing downstream markets.[35] The complex and unique nature of digital platforms necessitates the application of non-horizontal theories of harm along with the horizontal theories while assessing anti-competitiveness. The digital market has certain quintessential features such as the existence of network effects, multisidedness, data-driven economies of scope and scale, and rapid innovative strategies that might not be assessed properly by applying the traditional horizontal theories of harm.[36] For instance, the Greek Delivery

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30 Avsasheva Svetlana & Korneeva Dina, Theories of Harm for Multi-Sided Platfor ms: Challenges for Competition Policy and BRICS Answers, CRESSE (2019).

31 McKinsey & Co., *The State of Grocery Retail in India* (2022).

32 Organisation for Economic Co-operation & Development (OECD), Theories of Harm for Digital Mergers: Background Note, DAF/COMP(2023)6 (2023).

33 *Id*.

34 OECD, *Theories of Harm for Digital Mergers*, supra note 32

35 Svetlana and Dina, supra note 34.

36 Tomaso Duso Et al., Discussion Paper on The Evolution of Theories of Harm in EU Merger Control, German Inst. for Econ. Research (2024).

Hero Case was assessed through the conglomerate theory of harm where the merging entities are related horizontally or vertically.[37] Delivery Hero was Greece's leading online food delivery platform and enjoyed significant market power in the Greek markets. This platform was planning to acquire multiple business entities from unrelated sectors ranging from wholesalers supplying goods to supermarkets, retail grocery store chains, online intermediation service providers for groceries, restaurants, etc.[38] E-table, one of the target companies also had considerable market power in Greece, and therefore the competition authorities identified that the acquisition would lead to conglomerate effects.[39] Therefore, the acquisition was sanctioned subject to cautious conditions such that the market competition is preserved.[40]

In India, the food delivery duopolists, Zomato and Swiggy have extended their presence in the grocery delivery sector through Blinkit and Instamart, respectively. Conglomerate mergers and acquisitions like these pose a threat of cross-subsidisation in the grocery sector. Online grocery platforms are characterised by their strategies to tap consumers by keeping prices lower through deep discounting mechanisms. At present, the Indian laws do not consider cross-subsidisation while assessing predatory pricing strategies. In addition to financial power, Zomato and Swiggy have access to huge volumes of consumer data and an established logistics network due to their prolonged and prominent presence in the food delivery market.[41] Both players operate on a vertically integrated model in the quick-commerce segment and have significant market presence. They have been able to thrive in the market despite the losses faced by them by capitalising on the well-established logistics of Swiggy and Zomato and the support of their investors.[42] Moreover, Blinkit, Instamart and Zepto also use their B2B segments to supply goods to their preferred sellers. These vertical integrations have adverse impacts on smaller retailers due to restricted market access, which is anti-competitive under Section 4(2) (c) of the Competition Act, 2002. They further concentrate the market to the advantage of the e-commerce platforms.[43] Not just food delivery platforms, but e-commerce corporations like Amazon and

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37 Victoria H.S.E. Robertson, Digital Merger Control: Adapting Theories of Harm, 20 Eur. Competition J. 2, (2024).

38 *Id.*

39 Robertson, *Digital Merger Control*, supra note 37.

40 *Id.*

41 Pacta, Data Driven Anti-Competitive Practices of Food Service Aggregators in India, (2023), https://www.pacta.in/Food_Delivery_Platforms_Research.pdf, last accessed 31 December 2024

42 Confederation of All India Traders (CAIT), White Paper on Q-Commerce, (2024), https://cait.in//images/press-release/pdf_1734931402.pdf, last accessed 31 December 2024.

43 *Id.*

Flipkart are also significant players in the e-grocery segment, making the market more complex.

Apart from prominent e-commerce companies, conglomerates like Tata and Reliance are also prominent players in the e-grocery segments. The grocery platforms are able to exercise further control through the last-mile delivery offered by them. The sellers who are dependent on these platforms have to also avail their logistics for the delivery of goods. Although in the *NRAI v Zomato* case, tying in of logistics with delivery for platforms whose core business is to provide on-time deliveries was not held to be anti-competitive.[44] With the presence of established incumbents, the market becomes difficult to invade for new entrants who do not have the same investor backing, logistics facilities or access to data. The incumbents can easily out-compete the new entrants on scale, pricing, discounting strategies and usage of data which are quintessential to survive and grow in the e-commerce sector.

The online grocery market is gradually becoming an oligopoly, which might impact the entry of new firms. In such a market, it is difficult to prove the dominance of individual firms despite their significant position in the market, but nonetheless, it raises the risks of collective dominance. The financial requirements for the establishment of e-commerce platforms are high and are also supplemented by other factors such as technology, access to data and network effects, especially due to the multisidedness. These make it difficult for new entrants to enter and thrive in the market. In the *Ani Technologies* case[45], it was held that recoupment of losses is not possible due to the lack of entry barriers, but the same might not be applicable to grocery platforms. The firms can charge higher prices once the market is tipped. Not only growing concentration but high prices of commodities once markets are tipped, and a decline in quality and investment in innovation , can also harm consumers.[46] Certain platforms, owing to their market power and network externalities, adopt harmful pricing strategies where they offer high-quality services to consumers at zero prices by charging the advertisers and external producers exorbitantly.[47] The platforms act as bottlenecks to competition as they charge monopoly prices due to their market power. Since the producers do not have a choice but to pay the same to reach the final consumers through them, they end up paying high platform fees. It inflates their costs, and they add it to the final price of the commodities, which negatively affects

44 National Restaurant Association of India ('NRAI') v. Zomato Limited ('Zomato') & Others, Case no. 16 of 2021 CCI (Apr. 4, 2022)

45 Samir Agarwal v. ANI Technologies & Others, Case no. 37 of 2018, CCI, (Nov. 6, 2018)

46 Geoffrey Parker et al., Digital Platforms and Antitrust, Brugel Working Paper 06/2020, (2020).

47 *Id.*

consumer welfare. Price parity clauses and algorithmic systems for setting prices also distort the competition in the markets as all the platforms charge almost the same prices.[48] These practices inflate the prices of commodities, create entry barriers and lead to tacit collusions that are detrimental to the markets.[49]

The quick commerce platforms in India are alleged to be spending most of their capital procured through Foreign Direct Investment on covering operational losses incurred through deep discounts and predatory prices rather than building assets.[50] Through deep discounting and predatory pricing strategies, the e-commerce platforms are abusing their position under Section 4(2) (a) (ii)[51] and driving out local kiranas and shops from the market and capturing market share.[52] The quick-commerce platforms operate through an established network of preferred sellers.[53] A significant portion of their capital is also spent on providing subsidised warehouses, inventory, logistics, platform fees and delivery systems to their preferred sellers.[54] It restricts competition for independent sellers by placing them at a disadvantage.

With data being one of the most valuable assets for growth in the market, more advanced theories, such as the data-related theory of harm, discuss how the acquisition of commercially sensitive data can provide the firm with a competitive advantage.[55] Accumulation of data can create potential entry barriers.[56] The platforms have access to large volumes of consumer data. They can determine the emotional state of consumers and create customised offerings.[57] Emotional manipulations and targeted sales adversely impact consumer welfare.[58] Platforms like Swiggy, Zomato, Blinkit, and Amazon have incorporated AI in their operations to streamline operations, create personalised offerings and enhance user experience.[59] Integrating AI is

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48 Parker et al., *Digital Platforms and Antitrust*, supra note 46

49 *Id*

50 Supra note 46.

51 Competition Act, No. 12 of 2003, India Code (2003).

52 *Id.*

53 Competition Act, supra note 51.

54 *Id.*

55 Supra note 34.

56 Duso et al., supra note 41.

57 Parker et al., supra note 52.

58 *Id.*

59 Deeksha Somani, How Zomato, Swiggy, Myntra and other delivery giants of India are using GEN AI, Times of India (Nov. 25, 2024), https://timesofindia.indiatimes.com/technology/tech-news/how-zomato-swiggy-myntra-and-other-delivery-giants-of-india-are-using-gen-ai/articleshow/114147626.cms, last accessed 20th December 2024.

expensive, especially for local competitors, and thus creates barriers to entry. The incumbent platforms, in order to maintain their market shares, collect excessive user data, which further raises concerns of data privacy of consumers. They have control over framing consumer choices, technical standards and policies for supply of goods through the platform and platform access rules.[60] The platforms can keep a constant track of shopping behaviour and patterns of the customers and use predictive tools to forecast their future buying decisions. Bigbasket uses Amazon Redshift, Amazon Simple Storage Service and Amazon Elasticsearch Service for carrying out data crunching and conducting sales forecasting.[61] With AI, the platforms can also make near-accurate demand forecasts, make better product placements and pricing decisions, providing them with a competitive edge over local retailers. Most of the e-grocers have adopted the hybrid model of operations and launched their private labels which are listed along with the products of other retailers. Integration of AI and algorithms in retailing gives the platforms a competitive edge where they can steer consumers using self-preferencing practices, making it difficult for the other brands to compete, therefore violating their position under Section 4 of the Competition Act, 2002.

Platforms engage in exclusive contracts, vertical integrations in upstream markets, biased recommendations, practices where they do not share critical information with trading partners, etc., often leading to market foreclosure and negative welfare effects.[62] With innovation also being a crucial factor in the digital markets, it is extremely important to regulate acquisitions where incumbents acquire nascent innovative competitors.[63] Firms that function in a competitive market have the incentive to innovate.[64] The newer firms invest in innovation to enhance their market share, and the incumbents innovate to maintain their market share.[65] Although the growing concentration in the digital markets has been a topic of discussion in recent years, very few mergers and acquisitions have been challenged, and one of the reasons might be that there are no adequate theories of harm to capture the competitive concerns arising from the mergers in digital markets.[66] The growth of digital platforms and increased concentrations requires careful analysis through

60 Parker et al., *supra* note 52.

61 Amazon Web Services, *BigBasket Grows Bigger with 400,000 Daily Orders on AWS*, (2021), https://aws.amazon.com/solutions/case-studies/big-basket/, last accessed 31 December 2024.

62 Parker et al., *supra* note 52.

63 Duso et al., *supra* note 41.

64 Parker et al., *supra* note 52.

65 *Id*.

66 Robertson, *supra* note 42..

the theories of harm to determine their impact on the market and consumers. The e-commerce platforms backed by large conglomerates, established e-commerce companies or Foreign Direct Investment use aggressive pricing strategies, low-margin models, data and algorithms to outcompete the local retailers.[67] The grocery sector, being more regulated at present, is exposed to the threats of declining competition and negative consumer welfare. To assess whether the practices of the e-grocers amounts to abuse of their dominant position, it is important to delineate the relevant market. Delineation of the relevant market in sectors where consumers use both online and physical channels remains challenging owing to the lack of a clear legal framework. Looking at the jurisprudential development, it is evident that Competition Commission of India (CCI) is increasingly considering the differences between offline and online markets while also taking into account the intricacies of the nature of operations carried out by the online platforms. *In FHRAI v MakeMyTrip and Ors.*,[68] CCI looked into factors like higher visibility, search and compare features and lower pricing which differentiate online markets from offline ones. Similarly, in the dispute between *Lifestyle and Amazon*[69], the Commission considered the cross-side network effects involved in a platform like Amazon while delineating the relevant market in the case. The Commission further differentiated single-brand markets from platform markets in the Apple case[70]. The delineation of the relevant market, although it has been a pivotal necessity in assessing dominance in the Indian competition law regime, is not a mandatory prerequisite. This was affirmed by the CCI in the NRAI v Zomato[71] case, where the commission desisted from defining the relevant market as they did not consider it to be necessary. In this case, the CCI also looked into the aspect of conflict of interest and self-preferencing by the platforms where they operate private labels and list them along with the products of competing retailers.

A similar concern is prominent in the online grocery platforms, where most of the market players like BigBasket, Amazon Fresh, JioMart, Swiggy Instamart and Blinkit have private labels.[72] However, vertical agreements

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67 *Supra* note 46.

68 *Federation of Hotel & Restaurant Associations of India (FHRAI) v. MakeMyTrip India Pvt. Ltd. (MMT) & Others,* Case no. 14 of 2019, CCI, (Oct. 19, 2022)

69 *Lifestyle Equities C.V. & Others v Amazon Seller Services Private Limited & Others,* Case No. 09 of 2020, CCI, (Sept. 11, 2020)

70 *Together We Fight Society v. Apple Inc. & Others*, Case no 24 of 2021, CCI, (Dec. 31, 2021)

71 National Restaurant Association of India ('NRAI') v Zomato Limited ('Zomato') & others.

72 Bigbasket's INR 4000 Cr. Private Label Moat against Zepto & Co, INC.42, (2025), https://inc42.com/features/bigbasket-inr-4000-cr-private-label-moat-quick-commerce-zepto-brands/, last accessed 25 June 2026.

under the Indian competition law regime require a Rule of Reason analysis considering the factors provided under Section 19(3), which consists of positive and negative factors. Although the threats of competitive harm remain, the online grocery platforms have undeniably provided benefits to consumers in the form of convenience, increased choices, etc., enabled faster deliveries and promoted technological integration in the grocery sector.[73] Therefore, the practices of the platforms and their impacts on competition and consumer welfare require careful analysis by the CCI.

4. Market Studies conducted in Canada, Australia and New Zealand and the Suggested Approach for Maintaining Competition in the Grocery Sector

Considering the changing landscape of the grocery sector and the essentiality of enhancing competition, market studies have been conducted in Canada, Australia and New Zealand. This section examines the emerging trends in the grocery market, competitive concerns and the measures suggested for maintaining the competitive balance in the sector.

4.1. Findings of Market Study in Canada

The Competition Bureau of Canada[74] conducted a detailed study on the grocery retail market and found that the market is concentrated, with a few large grocers dominating the market. The big players function through thousands of stores, making it extremely difficult for new entrants to enter the market. A concentrated market limits the choice of both consumers and suppliers as they have limited options to deal with. The study also reveals that the price of groceries in Canada has increased. One of the possible reason identified was the disruption in supply chains due to Russia's invasion of Ukraine, but it was seen that the rise in prices pre-dates the event. Moreover, the study reveals that the profits earned by the grocers have increased with the rise in grocery prices. The increasing food inflation is impacting consumer buying behaviour, where more consumers are shifting to private labels, which is again benefiting the supermarkets, but is detrimental to the existence of suppliers of branded products.

Although supermarkets continue to be the primary choice for buying groceries in Canada, there has been a growth in the number of consumers who choose to buy groceries online post COVID-19. The major players in

[73] India Brand Equity Foundation, The Evolution of Quick Commerce In India: A Sectoral Analysis, (2026).

[74] Competition Bureau Can., *Canada Needs More Grocery Competition: Retail Grocery Market Study Report* (2023), https://competition-bureau.canada.ca/sites/default/files/attachments/2023/CB-Retail-Grocery-Market-Study-Report-EN-2023-06-23.pdf, last accessed 31 December 2024.

the Grocery sector have been making significant investments in developing their online channels. Grocery stores sell a high proportion of premium quality private labels at good prices, which makes them highly popular among consumers. Grocers in Canada sell other non-food commodities such as pharmaceuticals and beauty products to enhance profits. A significant change recommended by the Competition Bureau pertains to the change in merger control laws, especially with respect to the acquisition of smaller stores by the big grocers, which might not prima facie have a major impact on overall competition but can restrict consumer choices in that particular area. It is noteworthy that the Canadian grocery market is already concentrated, and unregulated mergers and acquisitions may lessen competition further. Independent grocers face several issues in the Canadian grocery market, which make their survival and growth difficult. Firstly, if the larger grocers are allowed to continuously acquire smaller stores, the independent grocers will be wiped away from the market. Secondly, certain large retailers are also wholesalers and have their own warehouses. The independent grocers are sometimes dependent on the large grocers for the procurement of products, making it difficult to compete with them on price. Moreover, the larger stores control access over real estate, which makes it difficult for small independent grocers to find property which is spacious and accessible with sufficient parking lots. The new online grocers have expressed similar concerns, such as heavy reliance on incumbents for product supply, high costs for building warehouses and distribution centres, difficulty in finding investors, and consumer hesitancy to shift to newer grocers. Apart from concerns related to market players, the Competition Bureau is concerned about protecting the interests of consumers and providing the scope for making informed purchasing decisions.

The Competition Bureau has identified that it is important to enhance and restore competition in the grocery sector in Canada for the best interest of consumers and the market. They recommend the influx of international grocers in the Canadian market to increase competition. The Bureau also consulted the authorities from other international competition agencies and made meaningful recommendations. Issues arising due to highly concentrated grocery market have been noticed in New Zealand, the UK, Australia and Mexico as well. These jurisdictions have either introduced or are in the process of introducing a code of conduct to balance the relationship between the larger grocery retail units and the suppliers. The Canadian Bureau is also considering the implementation of an appropriate Code to promote competition in the grocery markets.

Unfettered access to property also places the large retailers in a highly advantageous position and is harmful to competition. Therefore, it has been recommended that there should be a system to check their real estate holdings. The Bureau has highlighted the importance of unit pricing and incorporating tools for price comparison to enable consumers to make informed choices.

4.2. Findings of Market Study in Australia

The Australian Competition and Consumer Commission (ACCC)[75] has also identified concerns in the supermarket sector. The grocery retail sector in Australia is $135 billion and comprises three major vertically integrated chains- Woolworths, Coles and ALDI and some other independent supermarkets. All these retailers are dependent on Metcash for a major portion of their wholesale supplies. Similar to all other jurisdictions, online sales in Australia also saw a rise during COVID-19, which changed the dynamics of the grocery sector. The integration of technology in the grocery market made it important for the ACCC to analyse the changing competition dynamics of the grocery sector to ensure that the markets work smoothly and the interests of consumers are safeguarded. The ACCC conducted the study with the objective of analysing the degree of price and non-price competition between the supermarkets and existing competitive dynamics. The ACCC identified major changes in the grocery sector. Firstly, there has been a change in the pricing strategies of the supermarkets, where they provide discounts and promotional prices. It is important to identify how competition impacts their pricing strategies. Further, supermarkets are now reliant on data and data analytics for developing strategies for their product and price range. Therefore, it is necessary to analyse the role played by data in coordinating prices with the use of price algorithms, as it may enhance price transparency and enable the supermarkets to react promptly to the price changes by the competing firms.

Another change which is evident in the Australian grocery markets is the introduction of loyalty and rewards programs, which has an impact on the willingness of consumers to procure groceries from competitors. Lastly, like most other countries, the supermarkets are majorly competing on convenience, where they are increasing efforts to make grocery shopping easier and faster for their consumers. It has also led to the emergence of dark stores in the Australian markets. Changes in the grocery market give rise to competitive concerns related to barriers to entry of new firms. Some of the barriers identified pertain to the accessibility to appropriate real estate, presence of exclusivity arrangements between supermarkets and suppliers, strong brand loyalty, economies of scale and scope, strategic behaviour of competing firms, links to other industries and access to high volumes of consumer data. The large supermarkets enjoy a higher buying power that enables them to impose terms and conditions on suppliers that are favourable to them. It can potentially impact the efficiency and sustainability of the supply chain in the long term. The trading terms between retailers and suppliers are generally governed by the Food and Grocery Code of

75 Austl. Competition & Consumer Comm'n, *ACCC Supermarkets Inquiry: Issues Paper* (2024), https://www.accc.gov.au/system/files/supermarkets-inquiry-issues-paper_0.pdf?ref=0&download=y, last accessed 31 December 2024.

Conduct, Horticulture Code of Conduct and Dairy Code in Australia, but it is important to keep a check on their implementation. In light of the recent developments, preserving competition at every level of grocery supply chains has been considered crucial.

4.3. Findings of Market Study in New Zealand[76]

The Commerce Commission of New Zealand published their report based on a Market Survey of the grocery retail sector in 2022. The study was aimed at finding out whether the competitive balance in the grocery sector was maintained in the presence of a high level of concentration. Woolworths NZ and Foodstuffs enjoy a duopoly in the grocery sector, and there are a few other small retailers that have a negligible impact on competition. The two large retailers have similar competitive strategies and enjoy a stable market share over time. The new businesses find it difficult to enter the market due to a lack of suitable sites for setting up stores. The major retailers in the grocery sector have restrictive and exclusive covenants on lands and leases, which restrict the accessibility of other retailers. The smaller retailers find it difficult to scale their operations due to the barriers in sourcing a comprehensive array of groceries at competitive prices, due to the scarcity of wholesale suppliers for dry groceries in New Zealand. New Zealand is also seeing a surge in online grocery shopping; however, given the market conditions in New Zealand, it might be difficult for new entrants to compete with the two major grocers in the country. The grocery prices in New Zealand are considerably higher when compared to other countries, making it the fifth most expensive grocery market worldwide. Another pressing concern identified by the Commission is the slow rate of innovation in the grocery sector. The lack of proper use of unit pricing, complex reward and loyalty programmes, and pricing and promotional strategies implemented by the grocers hinders the freedom of buyers to make informed choices. Loyalty programmes and benefits attached to them often make it difficult for consumers to shift to alternate options and affect competition. The market being a duopoly leads to an imbalance in bargaining power between the retailers and suppliers. Using their buying power, the large retailers can impose uncertain and restrictive terms on suppliers that are prejudicial to their interests. The threat of self-preferencing looms over the retail grocery sector, as there is a risk of private labels being favoured by the large retailers over other branded products.

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76 Commerce Comm'n (N.Z.), *Market Study into the Retail Grocery Sector: Executive Summary* (2022), https://comcom.govt.nz/__data/assets/pdf_file/0023 /278402 /Market-study-into-the-retail-grocery-sector-Executive-summary-8-March-2022.pdf, accessed 31 December 2024.

Considering the lack of competition in the grocery sector and threats thereof, the Commission considers that removing entry and expansion barriers is pivotal for enhancing competition. Liberalising overseas investment procedures and other licensing laws improves accessibility to the grocery markets for other market players. It is also necessary to improve access to suitable real estate for new entrants to set up stores and make available an adequate number of wholesale facilities for the supply of groceries. The Commission recommends the implementation of a mandatory code of conduct for addressing the power imbalances and ensuring fairness and transparency in business-to-business dealings. The Commission has highlighted the need to address the concerns related to improving the consumers' ability to make informed buying decisions. They recommend that the grocers ensure that the promotional tools and pricing strategies used by them are easy to comprehend. They have emphasised the use of unit pricing by the grocers and enabled effective price comparisons. Additionally, the grocers should have adequate disclosures regarding their loyalty and reward programmes and the data collected by them to maintain transparency. One of the unique recommendations put forward by the commission is the setting up of a sectoral regulator and the implementation of a scheme for dispute resolution. It would ensure the effective implementation of the code of conduct and help in monitoring the grocery sector in general to improve performance and competition.

Therefore, it is evident that there is a change in the structure and functioning of the grocery retail sector across various jurisdictions. The shift from offline to online models, growth of private labels, growth of market concentration, power imbalances, pricing strategies, loyalty programmes and the interplay with real estate are some of the pivotal concerns. The Indian grocery market is experiencing a similar shift, and novel problems such as horizontal and vertical integrations, pricing strategies, dark stores, membership programmes, private labels, etc., raise questions regarding the effectiveness of the current regulatory regime, which was designed for brick-and-mortar stores.

5. The Need for Regulation and Suggestions

India, like Canada, Australia and New Zealand, is witnessing a sea change in the market dynamics of the grocery sector. From an extremely fragmented Kirana store system, which catered to the grocery demands of a particular locality, we are transitioning to the era of online grocery shopping platforms, which are operating on a regional or national level and sometimes even international. From the experiences of the market studies discussed in the former part, it is evident that competition plays a pivotal role in the regulation of grocery prices, innovation, growth and sustenance of smaller retailers, maintenance of transparency and fairness in the supply chain and ultimately the protection of consumer interests. Concentration of the market leads to power imbalances that are detrimental to the interests of suppliers. India is also witnessing an increased level of vertical integrations and a high growth of private labels,[77] which is adding to the competitive concerns.

The online platforms have subscription systems and loyalty benefits,[78] which can have an impact on their choices to procure groceries from competing firms and local stores. With the expansion of dark stores, the dynamics are changing further. The use of data and artificial intelligence is steering the growth of the e-commerce platforms at an unprecedented pace. The benefits accrued by the use of data, availability of large investors and foreign direct investment are increasing the potential of the e-commerce platforms manifold to the extent where it is becoming unsustainable for the local shops to compete. The e-commerce platforms are leveraging their financial power through FDI or support of large conglomerates or established online marketplaces to survive in the market by implementing strategies such as deep discounting or below-cost pricing for longer periods of time to eliminate competition. This is destroying the level playing field for other market players, especially local retailers and kiranas. At present, FDI is permitted for e-commerce platforms that operateon the marketplace model[79], but it is necessary to examine the permissibility of hundred per cent FDI for online grocery platforms that are getting increasingly integrated at multiple levels of the supply chain.

The Digital Competition Bill, 2024, although withdrawn at present, marks an important landmark in the field of competition law in India. The Bill was designed with the dual objectives of designation and disclosure.[80] Online intermediation has been identified as one of the Core Digital Services (CDS).[81] The firms designated as Systemically Significant Digital Enterprises (SSDEs) and Associate Digital Enterprises (ADEs) engaged in CDS will have

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77 Deloitte, *Future of Retail Emerging Landscape of Omni-channel Commerce in India*, (2023),https://www2.deloitte.com/content/dam/Deloitte/in/Documents/about-deloitte/in-ad-future-of-retail-noexp.pdf, last accessed 31 December 2024

78 *See* BB Daily, https://www.bbdaily.com/subscription.html; Blinkit Smart Bachat Club, https://blinkit.com/prn/smart-bachat-club-membership/prid/380182; Zepto Launches Loyalty Programme Offering Free Delivery Discounts, Bus. Standard (Feb. 29, 2024), https://www.business-standard.com/companies/news/zepto-launches-loyalty-programme-offering-free-delivery-discounts-124022900611_1.html; MilkBasket Membership Policy, https://www.milkbasket.com/terms-and-conditions.html#membership-policy, last accessed 31 December 2024.

79 Ministry of Commerce & Indus., Gov't of India, Press Note No. 3 (2016 Series), *Guidelines for Foreign Direct Investment (FDI) on E-Commerce* (2016), https://www.dpiit.gov.in/static/uploads/2025/07/b6c50d2edd0fcb817287b0088fc043ef.pdf.

80 Standing Comm. on Fin., *Evolving Role of Competition Commission of India in the Economy, Particularly in the Digital Landscape*, Twenty-Fifth Report, Eighteenth Lok Sabha (2025).

81 *Id*.

an obligation to maintain fair and transparent dealings and refrain from anti-competitive practices like self-preferencing, anti-steering, tying and bundling, unfair data usage, and restrictions on third-party applications.[82] If the Bill is adopted in India, like several other sectors, it will have a marked impact on the online grocery sector as well. It designates the SSDE status based on financial criteria and users' criteria, and the e-grocery platforms will be coming under the regulatory ambit. If we consider the annual turnover criteria for SSDEs, which is at present set at INR 4000 crore[83], the prominent e-grocers come within the regulatory ambit as SSDEs or ADEs as per their turnovers or their parent company's turnovers in FY 2024-25.

Bigbasket	Blinkit	Swiggy Instamart	Amazon Fresh	Zepto
7673 crore INR[84]	4343 crore INR[85]	2129.58 crore INR[86], wholly owned subsidiary of Swiggy, which had a turnover of 15226.75 crore INR[87]	Subsidiary of Amazon India, which had a turnover of 30139 crore INR	9668.8 crore INR[88]

Source: Compiled by the Author

The Bill also designates a platform as SSDE based on end users.[89] Most of the platforms, due to the massive expansion of e-grocery, will fulfil the criteria of having 1 crore consumers. The Bill was withdrawn as there

82 Standing Comm. on Fin., *Evolving Role of Competition Commission of India in the Economy, Particularly in the Digital Landscape*, supra note 80.

83 *Id*.

84 BigBasket turnover declines in FY25 amid rising quick commerce competition, The Economic Times (July 24, 2025), https://economictimes.indiatimes.com/tech/startups/bigbasket-turnover-declines-in-fy25-amid-rising-quick-commerce-competition/articleshow/122875515.cms?from=mdr,last accessed 29 April, 2026.

85 Blinkit, *Annual Return FY 2025*, https://blinkit.com/annual-return?srsltid=AfmBOoqG8GNcOIp552mm2h_2UHw-KrwZb0MVqHhgjhq8_3m3-fpGzm7z.

86 Swiggy Completes Rs 2,400 Crore Rapido Stake Sale, Transfers Instamart to Subsidiary, HDFC Sky, (Sept. 24, 2025), https://hdfcsky.com/news/swiggy-completes-rs-2400-crore, last accessed 29 April 2026.

87 Swiggy's Q4 loss widens to Rs 1081 cr; annual revenue rises 35% to Rs 15227 cr in FY25, ET Retail, (May 9, 2025), https://retail.economictimes.indiatimes.com/news/e-commerce/e-tailing/swiggys-q4-loss-widens-to-rs-1081-cr-annual-revenue-rises-35-to-rs-15227-cr-in-fy25/121030585, last accessed 29 April 2026.

88 Zepto's losses widen 177pc in FY25 to Rs 3367.3 crore, ET Retail, (Dec. 27, 2025), https://retail.economictimes.indiatimes.com/news/e-commerce/e-tailing/zeptos-losses-widen-177-pc-in-fy25-to-rs-3367-3-crore/126199778#:~:text=Published%20On%20Dec%2027%2C%202025,total%20sales%20including%20other%20income., last accessed 29 April 2026.

89 *Supra* note 84.

is a threat of overregulation, which might stifle growth and innovation. However, the idea is not discarded outright, which leaves the way for the development of a reasoned regulatory framework for the digital markets in India. As suggested by the Standing Committee, legal and economic analysis alone might not be sufficient to assess threats and benefits to competition and consumers. The current market scenario requires technical expertise as well. Therefore, as suggested, detailed market studies for essential sectors are indispensable to understand and develop regulatory frameworks, and the online grocery sector is also one of the essential sectors which form an essential part and parcel of the life of a consumer. The hyperlocal nature and repeated purchases add to the uniqueness of the sector, which needs to be studied to assess competitiveness in the sector. In the wake of such developments and changes, it is essential that the Competition Commission of India (CCI) conducts a market study on the grocery sector in India to understand the level of competition and its impacts on grocery retailers and consumers.

It is pertinent to analyse the pricing and discounting strategies adopted by the platforms for promoting sales and their impact on consumer behaviour and buying patterns. Furthermore, it is also important to check the merger and acquisition activities and the control of real estate by the few large grocery retailers in India to ensure a level playing field for the entrants and smaller retailers. The CCI may also address the concerns regarding the use of consumer data by retailers and mandate them to adopt practices that promote transparency and uphold the right of consumers to make informed choices. India may also consider the implementation of a code of conduct for the grocery sector to promote transparency, fairness, and ethical practices. Real estate is seen as a major determinant of competitiveness in the grocery sector as per the market studies of Australia, Canada, and New Zealand and therefore. With the race for establishing more and more warehouses, dark stores, and stock-keeping units, the e-commerce and quick commerce platforms might not leave access to suitable real estate opportunities for small and local retailers. Regulation of real estate holdings by the e-commerce platforms may be considered for protecting local retailers. Considering the pace at which the grocery market is getting concentrated with the entry of larger players, it is important to preserve the local retailers. It is praiseworthy that start-ups, corporates, and the government are making efforts to revive the Kiranas and integrate them into the technologically driven grocery markets in India so that they remain relevant.[90] The Kiranas

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[90] Nagesh and Amte, *supra* note 14; *see also Rohan Goyal, Modernization of Kirana Stores in India, Invest India (2021), https://www.investindia.gov.in/team-india-blogs/modernization-kirana-stores-india; MSME Sector: Empowering Kiranas for Lasting Growth, Indian Retailer, https://www.indianretailer.com/article/retail-business/food-grocery/msme-sector-empowering-kiranas-lasting-growth; Kirana Club: Empowering*

can act as a strong competitive check on the large retailers, as it is evident that over the years, Indians have relied mostly on these local stores for their grocery requirements. They can also be integrated into e-commerce to provide quicker deliveries, which will enhance the convenience of buyers. More competition in the grocery sector will not only help in protecting the interests of market participants at every level of the supply chain, but will also promote innovation, transparency and reasonable pricing of staples and items of daily consumption.

the Super Heroes of India's Retail Ecosystem, BusinessWorld, https://businessworld.in/article/kirana-club-empowering-the-super-heroes-of-india%E2%80%99s-retail-ecosystem-444936., last accessed 31 December 2024.