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MERGERS AND ACQUISITIONS IN DATA RICH INDUSTRIES: AN ANTI-TRUST ANALYSIS

ABSTRACT¹

The growth in the amount of information raises questions on the ways data is collected, used and protected. The potential misuse of sensitive personal data has triggered the need for legislative and regulatory actions worldwide. Privacy has been recognised as a fundamental right in almost all countries across the world. Thus, prevention of unauthorised access to personal data is necessary. However, data rich companies in this digital age often join hands together and invade the privacy of consumers including their decision-making power. When consumers search for a product, ads from a particular brand pop up repeatedly, even after their search is over, thus influencing them to buy the product from a particular brand. The authors have attempted to study the relationship between competition law and privacy. The relevance of privacy as a competitive parameter in mergers and acquisitions has been explained. As analysis as to how privacy falls under non-price competition parameter is made. The authors have laid down certain yardsticks that can be used to assess the competition on data privacy. The paper also studies in detail the case of Facebook -WhatsApp merger. The paper further studies the Reliance -Facebook deal and flags how it could violate the privacy of the consumers with no regulatory authority in India. In conclusion, the authors state that the Zero-price platforms must be brought within the purview of competition law. Failure to bring the same will result in degradation of privacy policy thus resulting in establishment of monopoly power by data rich companies. Competition Commission of India has a significant role to play in the privacy aspect.

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I. INTRODUCTION

Data may be considered as the new oil in a modern economy. It is considered as one of the most precious commodities apropos economic value in today's digital economy. Personal data has become an object of trade and companies compete to acquire the same. Data will play an increasingly fundamental role as a parameter of competition, with many consequences for today's businesses. Data is collected and stored with minimum legal safeguards by business firms. Of late, privacy has gained considerable attention in competition law discussions, especially where companies in data-rich industries like Google/Double Click opt for a merger or acquisition. Such scenarios create privacy as well as anti-trust concerns. Antitrust laws play a significant role this new age digital economy. When data rich firms seek merger and acquisition, two major concerns crop up: (a) the privacy and rights of consumers and (b) a massive divide is created between businesses that can indulge in data mining and those that cannot. Since the aim of antitrust law is freedom of competition; economic efficiency, and protection of consumers and competitors, the regulation of consumer data in this digital economy would fall within the purview of antitrust regulations.

Data rich companies keep a track on consumers and have a detailed information about their behaviour thus, leaving them with no choice to opt for some other brand. The algorithm is set in such a way that the consumers are influenced to support a particular brand or product always. A better product would be available in the market but due to lack of consumer data they may not be able to come in contact with the right customers who are forced to buy a particular product from a data rich company.

II. DATA: A CRITICAL RESOURCE

Gathering of data is not a novel concept but the volume of data produced every day because of proliferation of devices, services and sensors throughout the economy and society is new. In 2016, IBM reported that 90% of the data in the world had been created in the past two years alone, at 2.5 quintillion bytes of data a day.² All data may not be valuable, but it is an increasingly critical resource. Extracting information from data will makes it a valuable one. Digital data drives the economies of scale and scope globally, as it can be used, reused, copied

² Jack Loechner, 90% Of Today's Data Created In Two Years, Media Post (Sep. 17, 2020, 10:04 A.M.), <https://www.mediapost.com/publications/article/291358/90-of-todays-data-created-in-two-years.html>.

or moved and processed cheaply without any degradation at very fast pace.³ Data is a critical resource for companies as well as when larger sets of data are merged and then mined, they bring together new information that may enable a competitor or a seller, to better understand and exploit the market.⁴ Personal data has become so valuable that many companies are willing to waive monetary payment for their digital services in order to gain access to it.⁵ Though not a currency, personal data has a monetary value. Beyond the economic value which it possesses it is also linked to the dignity, personality and autonomy of the individuals.

Privacy has become a flashpoint in digital transformation. There is a rapid increase in collection of personal data without people's explicit awareness or usage of the same in ways not anticipated at the time of collection. Today, business firms have unfettered access to large volumes of personal data/information. Few years ago, when firms collected data for business strategies, consumers had sufficient control over the data they shared. However, it is not the same today - Data collected under traditional business model was limited one based on personal interaction, but big techs today have access to boundless information regarding consumer behaviour, both individual and collective that can be easily obtained by running data mining algorithms on a variety of data sets. Companies not only know customer's address, gender and birthday, but also multiple bits of other information such as household composition, purchasing history, dietary habits, frequency and duration of visits to physical and online stores, as well as information from other databases to expand the customer's profile.⁶

III. SIGNIFICANCE OF PRIVACY IN MERGER AND ACQUISITIONS

Merger and acquisitions are extremely effective mechanisms for companies to achieve important business objectives. Competition authorities have a major role to play in preventing the accumulation of market power through mergers and acquisitions, where privacy protection becomes an intrinsic product quality. The European Commission (EC) has recognised privacy as a form of non - price competition parameter.⁷ Competition law enforcement have to consider

³ OECD (2019), "Data in the digital age", OECD Going Digital Policy Note, OECD, Paris, www.oecd.org/going-digital/data-in-the-digitalage.pdf.

⁴ OECD (2016), "Big Data: Bringing Competition Policy to the Digital Era", OECD, (Sep. 18, 2020, 10:07 A.M.), [https://one.oecd.org/document/DAF/COMP\(2016\)14/en/pdf](https://one.oecd.org/document/DAF/COMP(2016)14/en/pdf).

⁵ Chris Jay Hoofnagle Jan Whittington, "Free Accounting for the Costs of the Internet's Most Popular Price", 61 UCLA L. REV. 606 (2014).

⁶ Brad Howarth, How Tesco's loyalty card transformed customer data tracking, CMO (Sep. 17, 2020, 10:04 A.M.),

<https://www.cmo.com.au/article/575497/how-tesco-loyalty-card-transformed-customer-data-tracking>

⁷ Facebook/WhatsApp, para 174.

the data protection rights of the consumers and must interfere to control the market power in the digital economy.⁸ Competition law basically deals with competitive parameters, such as the factors to which consumers respond on markets such as price, choice, quality and innovation. Generally, companies compete for the acquisition of personal data but in rare cases specify a price for it. The data protection conditions offered to the consumers can reflect the parameters of quality, innovation and choice.⁹ Detrimental changes to important data conditions indicate exploitation of consumers or prohibited methods of competition. There is competition on data protection conditions. The privacy aspect can be brought under monetary competition law by virtue of theory of harm, wherein the personal data that is shared by the user in exchange for company's services can be considered as the price which he has to pay when using a "free service". This theory formed the basis of Bundeskartellamt investigation against Facebook for abusing its market power by infringing data protection rules.¹⁰

-Of late, consumer decision making is influenced by the level of privacy offered to individual and undertakings can engage in "competition on privacy." Considering privacy as a significant and relevant parameter of non-price competition would have substantial implications for merger review and ultimately affect the decision to clear or block a merger. If, in its evaluation of whether a potential merger might greatly reduce the welfare of consumers with high privacy preferences, competition authorities could decide to prevent the acquisition of the few companies in the market providing services with better privacy protection when compared to others. The search engine DuckDuckGo gained popularity and is taking on Google because of its privacy policy. With data privacy becoming one of the most important features expected by consumers, DuckDuckGo gained popularity as it does not track users based on their browsing activity. Moreover, it does not store IP addresses or log any user information to create "personalised" search results thus attracting consumers with high privacy preferences.¹¹ The development of digital market and omnipresence of data has compelled the enforcement

⁸ Francisco Costa-Cabral and Orla Lynskey, Family Ties: The Intersection between Data Protection and Competition in EU Law, (Sep. 17, 2020, 10:04 A.M.), <http://eprints.lse.ac.uk/68470/>.

⁹ Francisco Costa-Cabral and Orla Lynskey, Family Ties: The Intersection between Data Protection and Competition in EU Law, (Sep. 17, 2020, 10:04 A.M.), <http://eprints.lse.ac.uk/68470/>.

¹⁰ Bundeskartellamt, Bundeskartellamt initiates proceeding against Facebook on suspicion of having abused its market power by infringing data protection rules, (Sep. 17, 2020, 11:04 A.M.), https://www.bundeskartellamt.de/SharedDocs/Meldung/EN/Pressemitteilungen/2016/02_03_2016_Facebook.html.

¹¹ Sohini Mitter, [App Fridays] This pro-privacy search engine is taking on Google, and here's why it should have your attention, YS (Sep. 18, 2020, 10:04 A.M.), <https://yourstory.com/2019/09/app-fridays-duckduckgo-search-engine-private-browser-google>.

authorities to re-evaluate their merger assessment policies, which are largely focused on indicators of asset turnovers.

III.I. HOW CAN COMPETITION ON DATA PROTECTION BE ASSESSED?

The following principles offer some guidance as how to assess the quality of privacy offered by the various market players, in respect of a merger or abuse of dominance position. The quality of privacy could be potentially assessed by:

- Collection minimisation as to what data is collected and is it the minimum required data to provide the good or service. It can be ascertained through requests to the relevant businesses and opinion of the expert.
- Use minimisation by assessing as to what is the data used for, for how long is it stored, and who is it shared with? Again, competition agencies could evaluate this through business requests for information, and expert advice.
- Transparency as to what information is provided to the user in terms of data collection and use and how is it provided? Privacy policies and other related disclosures could be evaluated and assessed for readability and ease of understanding.
- User control as to whether the users can easily access, modify, delete and port their data; as to what choices do the user have? Expert assessment could assist in determining this aspect.
- What security measures are in place to protect the data from unauthorized access, destruction, damage or accidental loss; Whether the business uses privacy enhancing technologies (PETs) such as end-to-end encryption, pseudonymisation and anonymization?
- In considering mergers, many competition authorities send questionnaires to the merging parties and in certain cases, to their competitors. The survey could also include questions to ascertain whether privacy is significant aspect of competition in the relevant market, and whether it is something that consumers value. For example, in its consideration of the Microsoft/LinkedIn merger in 2016, the EC had undertaken a questionnaire of social network business to, among other things, better understand whether privacy is an important driver of competition and consumer choice in this market.¹²

¹² European Commission (2016), Case M.8124 – Microsoft/LinkedIn, EC (Sep. 18, 2020, 19:04 A.M.), https://ec.europa.eu/competition/mergers/cases/decisions/m8124_1349_5.pdf.

- For cases involving abuse of dominance, evidence of how the dominant business's privacy practices have changed over time in response to different levels of competition in the market might also be useful evidence. The recent degradations in privacy on social media networks are due to high levels of market power leaving consumers with no alternative option.¹³

III.II. THE CASE OF FACEBOOK/WHATSAPP MERGER:

On February 19, 2014, Facebook had announced its decision to acquire WhatsApp for \$19 billion. As a response to significant backlash over the privacy concerns raised by this deal, both Facebook and WhatsApp promised users that nothing would change for WhatsApp users' privacy. According to Tim Grossman, a senior branding consultant at Brand Union, one of the major reasons why so many millions have flocked to WhatsApp is the added level of privacy the brand provides. He states that in a world where every word you say echoes endlessly across the internet it was a communication channel where sharing could take place on a more contained level. However, much like Google's acquisition of Nest and Facebook's of Instagram, the purchase of WhatsApp by Facebook, has made consumer information accessible to a brand that they didn't buy into. It is this intrusion that can make it feel uncomfortable, as both you and your data are seized without your say-so, he added.

Facebook offered the most widely used social network, and WhatsApp owned the leading messaging platform. The merger between the two companies has lot more to do with competition and privacy. The case demonstrates a typical merger of two horizontally differentiated products that provide consumers with a different price/privacy trade-off. WhatsApp was either free or, in some jurisdictions, it charged users with a nominal fee in exchange for an ad-free service where no personal data was collected, Facebook messaging services have always remained free, but involve the collection of data for target advertising purposes. The electronic privacy information centre had filed a complaint¹⁴ before FTC (Federal Trade Commission) over the deal, pressing the Commission to block the sale unless adequate privacy safeguard for WhatsApp user data were established. In response to the

¹³ Srinivasan, D. (2019), "The Antitrust Case Against Facebook: A Monopolist's Journey Towards Pervasive Surveillance in Spite of Consumers' Preference for Privacy", 16:1 Berkeley Business Law Journal, 40, 54-55 (2019).

¹⁴ EPIC Complaint, Request for Investigation, Injunction, and Other Relief Submitted by The Electronic Privacy Information Center and The Center for Digital Democracy, EPIC (Sep. 15, 2020, 11:45 A.M.), <https://epic.org/privacy/ftc/whatsapp/WhatsApp-Complaint.pdf>.

complaint, the FTC had sent a letter¹⁵ to Facebook and WhatsApp warning the companies of their obligation to honour the privacy promises that they had made to WhatsApp users. The letter clearly explained that failure to obtain users' opt-in consent before changing WhatsApp privacy practices would be an unfair and deceptive trade practice and may also violate the FTC's 2012 Consent Order¹⁶ with Facebook. In spite of the privacy concerns, the merger was cleared both by the FTC and European Commission on the condition that the WhatsApp service would continue to honour previous privacy policies and obtain users' consent before changing any of its policies.¹⁷ As of February 12, 2020 Electronic Privacy Information Centre (EPIC) is in federal court seeking to improve the FTC's proposed settlement with Facebook and to unwind the merger.¹⁸

On 25th of August, 2016, WhatsApp posted an entry to the company's official blog announcing the first update in more than 4 years to its Terms of Service and Privacy Policy "as part of our plans to test ways for people to communicate with businesses in the months ahead."¹⁹ WhatsApp further stated that it will share user account information "with Facebook and the Facebook family of companies, like the phone number you had verified when you registered with WhatsApp, as well as the last time you used our service." The companies plan to use WhatsApp account details to display "more appropriate Facebook ads" to users and to send marketing messages via WhatsApp to the users. The existing WhatsApp users were given 30 days to prevent their personal data from being used and transferred to Facebook for advertising purpose. This, very clearly betrays WhatsApp's commitment to privacy. The FTC is presently considering blocking the integration of Facebook and WhatsApp user data.²⁰

IV. DIGITAL PRIVACY AND COMPETITION LAW IN INDIA

India is considered as one of the largest and fastest growing markets for the digital consumers.²¹ In terms of mobile applications, users in India have downloaded 12.3 billion applications in 2018.²² Social media usage in the country has exploded in the past few years. India now has

¹⁵ <https://epic.org/privacy/internet/ftc/whatsapp/FTC-facebook-whatsapp-ltr.pdf>.

¹⁶ <https://www.ftc.gov/sites/default/files/documents/cases/2012/08/120810facebookdo.pdf>.

¹⁷ European Commission (2014), Case No COMP/M.7217 - Facebook/WhatsApp,

https://ec.europa.eu/competition/mergers/cases/decisions/m7217_20141003_20310_3962132_EN.pdf.

¹⁸ <https://www.epic.org/privacy/facebook/2011-consent-order/US-NGOs-to-FTC-re-FB-Jan-2019.pdf>.

¹⁹ <https://blog.whatsapp.com/looking-ahead-for-whatsapp>

²⁰ EPIC, FTC May Block Facebook Integration of WhatsApp User Data, EPIC (Sep, 19, 2020, 13:44 P.M.),

<https://www.epic.org/2019/12/ftc-may-block-facebook-integra.html>.

²¹ Digital India: Technology to transform a connected nation <https://www.mckinsey.com/business-functions/mckinsey-digital/our-insights/digital-india-technology-to-transform-a-connected-nation#>

²² Indian telecom services performance indicators, Telecom regulatory Authority of India, as of September, 2018.

294 million active users on social media platforms with over 200 million active users on instant messaging platforms like WhatsApp.²³ Additionally, the average Indian spends around 17 hours per week on social media, more than the United States and China.²⁴ The number of downloads and usage has been driven by major drops in mobile data costs due to technical innovations by telecom providers in India.²⁵ The most commonly downloaded and used digital products in India continue to be offered at zero-price — that is, products available to consumers without a monetary charge from platforms such as Google and Facebook.²⁶ As of now Facebook's largest user-base is India, with over 241 million active users, surpassing the United States.²⁷ Currently, Facebook supports 12 Indian local languages and its Express WiFi project is being rolled out across 20,000 hotspots across the country. Google controls almost 96% of the Internet search market in India with the product processing close to 5.6 billion searches per day worldwide.²⁸ These Zero price platforms have control over the data of the consumers. There is a necessity to place the CCI, which is tasked with protecting the interest of consumers, in a position wherein it can tackle the systemic abuse of dominant position by firms when dealing with personal data, especially in the case of zero-price platforms.

V. FACEBOOK INVESTS IN JIO:

As on 29th July 2020, Jio has 385.43 million users. Jio turns out to be the leader in Telecom sector in country with 32% market share. On 23rd April 2020, there was an announcement that Jaadhu Holdings LLC (a wholly owned subsidiary of Facebook, is acquiring the stake in Jio Platforms. Facebook created this subsidiary earlier this year which would be acquiring a 9.99% minority stake in Jio. The deal, which is worth \$5.7 billion dollars (₹43,574 crores), was approved by the Competition Commission of India on 24th June 2020.²⁹

A Study³⁰ by CCI revealed that various e commerce players compromise platform neutrality by according preferential treatment to their own subsidiaries and related parties in marketing

²³ Bhsuhan Jatania, Anti-trust and Zero-price digital Platform: An Indian Regulatory Approach, DGN (Sep. 18, 2020, 11:50 P.M.), https://datagovernance.org/files/research/IDFC_Bhusan_Antitrust_-_Paper_1.pdf.

²⁴ Ibid.

²⁵ Ibid.

²⁶ Ibid.

²⁷ Fuscaldo, D. "Facebook has more users in India than any other country" Investopedia (Sep. 18, 2020, 11:50 P.M.), <https://www.investopedia.com/news/facebook-now-has-more-users-india-any-other-country/>.

²⁸ Bhsuhan Jatania, Anti-trust and Zero-price digital Platform: An Indian Regulatory Approach, DGN (Sep. 18, 2020, 11:50 P.M.), https://datagovernance.org/files/research/IDFC_Bhusan_Antitrust_-_Paper_1.pdf.

²⁹ PRESS RELEASE No. 15/2020-21, CCI approves acquisition of 9.99% stake in Jio Platforms by Jaadhu Holdings LLC, CCI (Sep. 19, 2020, 5:30 P.M.), <https://www.cci.gov.in/node/5194>.

³⁰ Competition Commission of India, Market Study On E-Commerce In India Key Findings and Observations, CCI (June 27, 2021, 6:15 P.M.), https://www.cci.gov.in/sites/default/files/whats_newdocument/Market-study-on-e-Commerce-in-India.pdf.

and selling. The study also revealed that there is lack of transparency with regard to search rankings and user reviews. This results in e-commerce platforms determining market outcomes such as sales, price, consumer traffic rather than the competitive merits of the product. This happens because of the platform's exclusive access to massive transaction data and ability to control search rankings. Reliance Jio mart has already gone live on WhatsApp.³¹ The study further revealed that the e-commerce platforms also engage in data masking wherein they refuse to share vital customer information with market participants on the guise of privacy while mining customer data themselves to launch their own products.

V. I. BIG THREAT TO PRIVACY

Right to privacy is a fundamental right under Article 21. A nine-judge bench unanimously recognized right to privacy as an intrinsic part of right to life and personal liberty under Article 21. The Apex Court also recognised the informational privacy in the digital world.³²

Jio has already been accused by its rivals on the Indian telecom market for predatory pricing, owing to the offering made to its new customers, in the form free data, unlimited calls and SMS, which lasted for months. However, the CCI denied the claims stating that it was due to the extensive resources and wealth of its parent company (Reliance Industries Limited) Jio was able to do it. Jio has made a significant impact in the telecom sector which was the responsible for driving many competitors out of market. Whereas the number of telecom providers in the private sector was ten in the industry prior to Jio's launch in 2015, it has come down to three after its launch.³³

While Jio has 385.43 million users in India, Facebook, WhatsApp and Instagram have 346.2million, 400million and 100million users respectively (Facebook has already acquired WhatsApp and Instagram). When two companies that already have a broad customer base and hold strong positions in separate markets come together, there are chances of it leading to market foreclosure through exclusive contracts with third party data service providers, use of bundling and binding strategies or denial of data access.

³¹ Reliance JioMart goes live on WhatsApp, THE HINDU, (June 27,2021, 5:45 P.M.), <https://www.thehindu.com/sci-tech/technology/internet/reliance-jiomart-goes-live-on-whatsapp/article31442647.ece>

³² Justice K.S. Puttaswamy (Retired) v Union of India (2017) 10 SCC 1.

³³ Bhuma Shrivastava, How India's Richest Man Shook Up Its Phone Industry, in Charts, BLOOMBERG (Sep. 19, 2020, 5:30 P.M.), <https://www.bloomberg.com/news/articles/2018-10-16/how-india-s-richest-man-shook-up-its-phone-industry-in-charts>.

Non-price considerations such as creativity, product quality and privacy security are extremely important in industries such as telecommunications and social media, where services are provided for free. In the merger of Bazaarvoice and PowerReviews, the US Department of Justice adopted a line of reasoning in which the said merger was not approved because it could potentially monopolise data, creating high barriers to entry into the market.³⁴

Access between two existing companies to data can prevent new entrants from accessing the same form of data, thus, creating high barriers to market entry. Privacy security being one of the most important non-price competition considerations in sectors where the service itself is delivered for free, has considerable significance. The collection of large quantities of data, combined with targeted ads, results in the lack of privacy for the customers. Though on Jio's website the privacy policy states "We do not sell or rent personal information to any third-party entities", certain exceptions to the same has also been stated in the policy. There are two important clauses which has to be addressed. The first one being mergers or acquisitions wherein Jio has to share the information provided by the customers with other business entities.³⁵ Secondly, with partners who provide a host of services including contact information verification, payment processing, customer service, website hosting, data analysis, infrastructure provision, IT services, and other similar services.³⁶ The Jio-Facebook deal would place Facebook in the category of 'Partner'. These two subclauses in the privacy policy are major loopholes where the corporate can exploit the personal data which ultimately a major concern to the privacy.

Justice BN Srikrishna has raised a red flag over the lack of a data regulator to oversee privacy concerns originating from Reliance Jio-Facebook deal. According to Justice BN Srikrishna such a **“data deal happened precisely because there is no law”** and **“Data regulation becomes a big issue there, because of absence of regulator”**.³⁷ This point needs to be addressed deeply, because countries like U.S.A have dedicated regulatory authority called FTC³⁸ which deals with the privacy laws and privacy protection regulations likewise England

³⁴ U.S. V. BAZAARVOICE, INC, <https://www.justice.gov/atr/case/us-v-bazaarvoice-inc>.

³⁵ JIO, Privacy Policy, <https://www.jio.com/en-in/privacy-policy>.

³⁶ Ibid.

³⁷ Rukmini Rao, Justice Srikrishna red flags Reliance Jio-Facebook deal on data privacy, lack of regulator , BUSINESSSTODAY (Sep. 20, 2020, 10:06 A.M.), <https://www.businessstoday.in/current/corporate/justice-srikrishna-red-flags-reliance-jio-facebook-deal-on-data-privacy-lack-of-regulator/story/403571.html>.

³⁸ FTC, Protecting Consumer privacy security, FTC (Sep. 20, 2020, 10:08 A.M.), <https://www.ftc.gov/news-events/media-resources/protecting-consumer-privacy-security>.

has Information Commissioner's Office (ICO) to promote data **privacy** for individuals. Till date, there is no specific body or authority in India to protect the privacy of individuals. For the first time in India, the Personal Data Protection Bill, 2019³⁹ contains the provisions regarding the Establishment and incorporation of Data Protection Authority of India which will act as dedicated authority for protection of personal data of individuals.

VI. SUGGESTIONS:

- The Competition Commission of India should not exclude zero-price platforms from the horizon of competition law because they do not charge any monetary price to users. A suitable amendment regarding the same is advisable.
- Zero-price platforms should be looked upon as operating in distinct but companion markets of acquiring users and digital advertising.
- The Competition Commission of India should evaluate control over user data exercised by zero-price platforms on a case-to-case basis as a key component of scrutiny to establish dominance.
- The loss of control over data has to be regarded as a *per se* standard that the CCI should consider when dealing with zero-price platforms.
- The determination that the conduct of a zero-price platform has violated this intrinsic standard creates a presumption of abuse against such platform which must result in a remedial decision by the CCI, unless the platform presents strong evidence to rebut such presumption.
- Data protection bill has to be passed and a dedicated authority to protect the personal data of individuals is the need of the hour.

VII. CONCLUSION

Digital surveillance is not simply an inevitable by-product of how the internet works. Promises of privacy were the deciding factors that had tipped the early market in Facebook's favour, away from My Space. Thus, degradation of privacy levels by such data rich industries via mergers and acquisitions violate the interests of the consumers. Although, data as a potential anti-competitive concern is not a new issue, what has changed dramatically in recent years is the size and scope of the data that companies collect, use, and store. Competitive authorities have a significant role in promoting privacy. Though it is a new challenge to the competition policy, competition agencies must invest in understanding the competitive dynamics involving

³⁹ https://www.meity.gov.in/writereaddata/files/Personal_Data_Protection_Bill,2018.pdf

consumer data and co-operate with agencies that are established for protecting data and consumer policy. The scope of competition law has to be expanded to protect the welfare of the consumers. Monopolists march towards persuasive surveillance should not be allowed to surpass the privacy preference of consumers.

