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Anti-Google Law and It's Analysis

SHIVANGI SINGH¹

ABSTRACT

Monopolies can significantly affect the market thus affecting the effectiveness of the economy. States therefore work to prevent monopolies from existing or from having an influence on the markets. The Telecommunication Business Act, or "Anti-Google Law," was amended in South Korea in 2021. The reason for the amendment is the focus of this paper. It emphasises on how Google and Apple were crucial to the amendment's success. It also examines whether AGL is beneficial to developers or not. The report makes an effort to demonstrate how AGL has affected the market globally as well as in India. The report further conducts a survey to find out why customers pick these Big Giants over rivals and are the users open to using various payment methods.

Keywords: *Anti-Google Law, Abuse of Dominant Position, In-App purchases, Monopolistic behaviour.*

I. INTRODUCTION

Following the worldwide COVID-19 pandemic, which led normal consumers to spend more time online than ever before—working on Zoom, buying on Amazon, or bingeing on Netflix—big tech's influence in everyday life became increasingly evident. As the amount of time spent gazing at screens increases, so does the amount of money spent online, particularly through smartphone apps. Consumer spending on apps increased by \$2 billion in the first and second quarters of 2021, according to Forbs.²

In a rapidly evolving digital technology sector, it is predicted that the competition enforcement system would incorporate methods that can be used to volatile competition. With the South Korean government enacting stronger regulations to restrict such abuse, would a transition from a retrospective process to an ex-ante framework provide a feasible option to enact meaningful adjustments to limit abuse of dominance in the digital marketplace.³

(A) Background

Prior to the amendment of South Korea's Telecommunications Business Act, Apple had been collecting 30% revenue from developers since 2009. This income was collected from clients

¹ Author is a student at Amity Law School, Lucknow Campus, India.

² (Hart, 2021)

³ (GEORGE, 2021)

who made in-app purchases. Then, in 2020, the Epic Games creators known for their game "Fortnite" revealed this policy. In response, they announced a 20% discount on in-app purchases, which was against the guidelines.⁴ Epic Games also filed antitrust lawsuits against Google and Apple, and launched the Twitter hashtag campaign "#FreeFortnite" Both Google and Apple pulled Fortnite from their respective app stores, where it remains unavailable as of September 2021.⁵ Concessions were made as a result of mounting criticism and regulatory threats.

Google proposed to lower its commission to 15% on March 16, 2021. Apple will also allow developers to send e-mails to their clients about payment methods that are not available in their iOS app.⁶

II. ANTI-GOOGLE LAW (AGL)

In South Korea, the Anti-Google law was enacted to prohibit app store owners from abusing their market dominance to force payment methods on app developers and cripple third-party payment systems. Google stated in September 2020 that applications in the Play Store will only be able to take payments through Google's payment system and no other method. Regulators throughout the world are concerned about Google's market domination in in-app purchase payment systems, internet advertising, and a variety of other e-commerce industries.⁷ China has levied fines for many anti-monopoly crimes, but some nations require legislation.

The Telecommunications Business Act was amended and adopted by South Korea's National Assembly Legislation and Judiciary Committee. According to Article 1 of this Act, the objective of this Act is to promote public welfare by fostering sound growth of telecommunications businesses and assuring comfort to telecoms service consumers via effective administration of such businesses. Article 3 states that a telecommunications business operator may not refuse to provide any telecommunications service for justifiable reasons, must ensure fairness, speed, and accuracy in conducting his business, and must charge a reasonable fee for telecommunications services. Article 6 of this Act addresses the promotion of fair competition, user protection, service quality enhancement, and the effective use of information and communication resources. Article 34 of this Act particularly mentions the Promotion of Competition, while Article 50 specifically mentions the banning of certain conduct.⁸

⁴ (Martens, 2020)

⁵ (Jack Nicas, 2020)

⁶ (Brian Heater, 2021)

⁷ (Google makes Play Billings mandatory for in-app purchases from September 2021, 2020)

⁸ (Commission, 2018)

(A) South Korean-enforced changes

South Korea is the first country to implement the Anti-Google Law. The nation became aware of the exploitation practised by firms like Apple and Google and resolved to put a stop to it. It was critical for other Play stores to have a fair shot at success. The country's National Assembly ratified the "Anti-Google Law" amendment to the Telecommunications Business Act on August 31, 2021. This was a watershed moment for the country, and it sets a precedence for others to follow. The proposed amendment received 180 votes in favour out of a total of 188 votes cast.⁹ The new legislation restricts app marketplaces from unjustly imposing a certain payment mechanism on content makers based on their market position. Furthermore, the Act forbids delays in the evaluation of mobile material when content providers utilise alternative payment platforms or systems. This delay was a form of retribution by app store owners when content producers utilised a different payment mechanism. The Act also requires app marketplaces to include refund and payment information in their terms and conditions. Furthermore, the Act empowers the Korea Communications Commission (KCC) and the Ministry of Science and Information and Communications Technologies (ICT) to investigate the activities of app marketplaces in order to safeguard content suppliers.¹⁰

(B) International Perspective

Other nations, in addition to South Korea, have suggested legislation to prohibit large technology corporations from monopolising and abusing their market power. The European Union (EU) introduced the Digital Markets Act in December 2020 to prohibit huge technological platforms from acting as gatekeepers. Furthermore, 36 states in the United States launched an antitrust complaint against Google for its monopoly on in-app purchase transactions. Aside from that, the US Senate has sponsored a bipartisan measure to limit the activities of Apple and Google app stores and put limits on platform app developers. Similarly, the Australian Competition and Consumer Commission (ACCC) is exploring laws to limit Apple, Google, and WeChat payment methods.¹¹

(C) Indian Perspective

In 2020, 56 Indian start-up entrepreneurs requested the Ministry of Electronics and Information Technology against Google's proposed modifications to the payment method used by app developers. Google's new policy specified that app developers would be charged a 30% fee and

⁹ (Yang, 2021)

¹⁰ (Bae, 2021)

¹¹ (Jagga, 2022)

that payments could only be made through Google's payment channel. India does not have any particular legislation aimed at limiting Apple and Google's monopolies over in-app purchases; but, it does have its own anti-competitive provisions. The Monopolies and Restrictive Trade Practices Act, 1969 (MRTP Act) was created in India to limit the concentration of economic power in a few hands. The Competition Act, 2002 (Competition Act) was adopted by the Parliament of India in 2002 to regulate economic practices and to discourage practices that are destructive to competition in India. Anticompetitive agreements, misuse of dominant position, and combinations are all prohibited under the Competition Act. Because we already have an Act that specifically deals with Anti-Competitive Agreements and Abuse of Dominant Position, many cases have been filed against Google, and the CCI recently imposed a monetary penalty of Rs. 1337.76 crore on Google for anti-competitive practices in relation to Android mobile devices on October 20, 2022.¹²

(D) Objective behind the research

- The purpose of this research paper is to learn about the reasons behind the amendment of South Korea's Telecommunications Business Act.
- To comprehend how this Anti-Google Law has affected other nations, including India.
- To comprehend Google and Apple store dominance in the market and how they are abusing it.
- Examining the Anti-Google Law and its effect

(E) Research problem

- i. Does the Anti-Google Law benefit consumers?
- ii. Do users even want to use various payment platforms for different apps?
- iii. If the monopolistic nature of Apple and Google is having an effect on the people?
- iv. Why customers choose these Big Giants over other competitors?

(F) Methodology

This study has been conducted to comprehend the significance of the Anti-Google Law in India and look for outcomes to the issues raised in the heading above. I will use qualitative ethnography in this study to examine consumer behaviour. I'll be conducting a survey of 100 people to better understand customer behaviours in order to fulfil the aforementioned goal. In

¹² (Google Llc & Anr vs Competition Commission Of India, 2022)

addition to this primary data gathering technique, I will also use secondary data, such as citations from research papers, reports, statutes, and case law.

(G)Literature review

The Anti-Google Law (AGL), according to this article, runs the danger of having the opposite impact by making tiny app developers even more dependent on powerful platforms than they already are. (Kim, 2021)

The article compares and contrasts the recent South Korean bill known as the "Anti-Google law" to examine how India may use it as a model for new legislation. And came to the conclusion that the Anti-Google law's shortcoming is that it neglected to take into account the likelihood that users may discontinue using free mobile apps. The author proposes that in order to address this issue, Android-based developers should band together behind payment methods that won't take advantage of them in the same way that Apple or Google do. (Jagga, 2022)

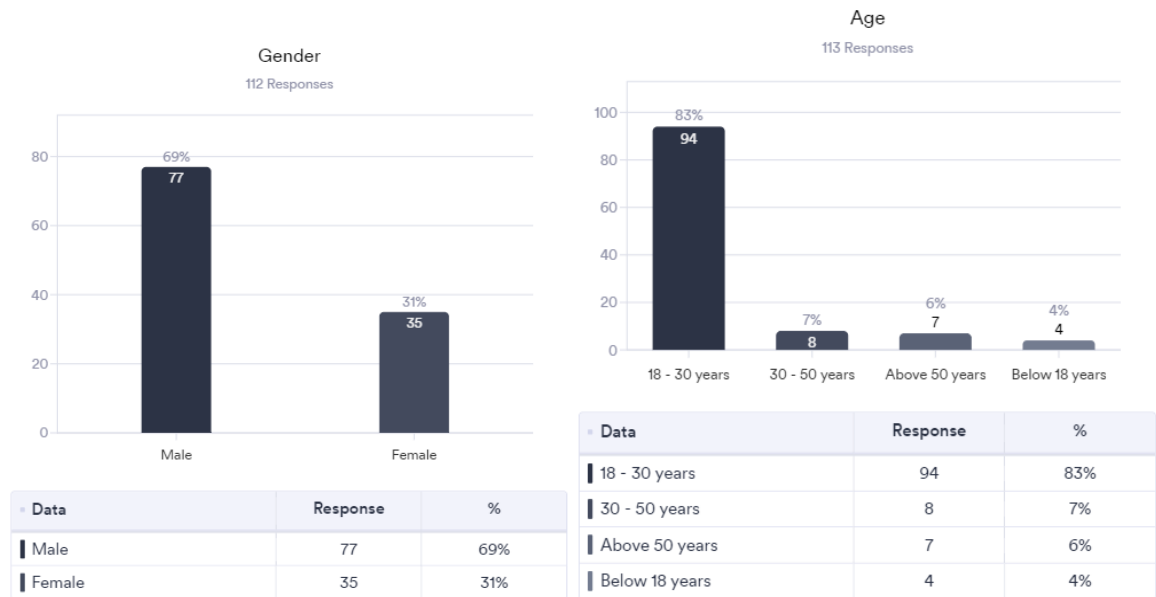
In order to support important case law, the researcher aims to do a brief study on the competition laws of the United States, the United Kingdom, and India. In addition, the researcher plans to examine the function of the international trade organisation and how it forces in light of how the global trade system has changed, the majority of the government will reevaluate its national competition policy and implement any required modifications. (Radhu & Tare, 2019)

The current articles continues by examining a case and examples of misuse of a dominating position in the pertinent market. Due to shortcomings in the law of competition act's execution, many businesses and corporations have come to rely on monopolisation and financial might to achieve their positions. However, the researcher has noted in the study that while dominance per se is not undesirable, abusing such a position is detrimental to the firm's other companies. (Singh, 2019)

This study contends that Google now owns and can sustain a dominant position in the search engine sector. The article analyses the possible hazards of Google's engagement with the Chinese market and artistically presents it. This study has repercussions for the examination of Google's position and potential course of development. (Si & Si, 2022)

III. SURVEY

(A) Data Collection

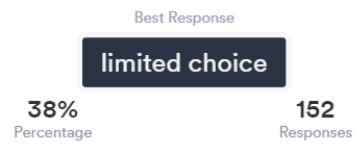


Do you believe that these Big Giants should be subject to stricter regulation to ensure Fair competition and prevent Monopolistic behaviour?
112 Responses

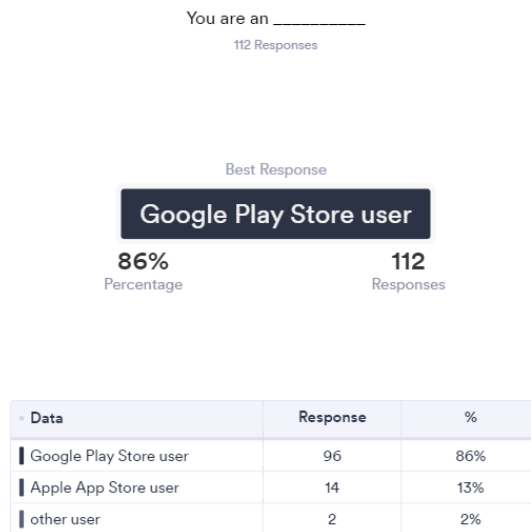


Data	Response	%
Yes	96	86%
No	16	14%

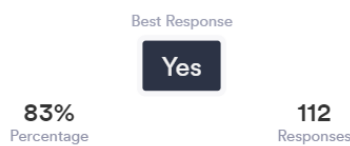
How does this monopolistic behaviour impact your choices as a consumer? (can choose multiple options)
152 Responses



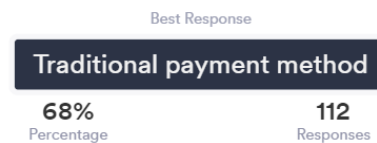
Data	Response	%
limited choice	58	38%
convenient services	47	31%
Trust in brand	47	31%



Do you believe that users should have the option to use traditional payment methods for in-app purchases, even if the app offers it's own payment system? {In-app purchases means extra content or subscriptions that you buy inside an App }
112 Responses



What will you prefer
112 Responses



(B) Data Interpretation

- i. The majority of respondents in the study were between the age range of 18 and 30.
- ii. There is no correlation between age and the amount of convenience we desire in an application.
- iii. The null hypothesis (H₀) was that users were assumed to desire tougher laws to prevent monopolistic behaviour and be open to using an alternative to support smaller developers. Yet, the outcomes were the exact reverse. At the same time as they desire a harsher rule, users also want to continue utilising the same old, conventional methods.

IV. CONCLUSION AND SUGGESTIONS

After this law, Epic Games and even all other businesses who resisted Google and Apple's market domination were generously compensated for their entire effort. When the AGL comes

into force, it appears that each app will independently build its own payment mechanism. Not every app, though, need its own payment mechanism. Instead of setting up payment mechanisms independently, the AGL misses the possibility that customers would uninstall small applications. The market's smaller developers suffered as a result of this law. Even the survey results demonstrate that individuals prioritise convenience over all other factors.

The author suggests that small developers should employ such other payment methods that won't dominate as Google and Apple did in order to overcome the problem mentioned earlier. The punishment for abuse of a dominant position should be increased by the state, and repeat offenders should be barred from that relevant market.

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