WHITE BLACK LEGAL LAW JOURNAL

ISSN: 2581-8503

Peer - Reviewed & Refereed Journal

The Law Journal strives to provide a platform for discussion of International as well as National Developments in the Field of Law.

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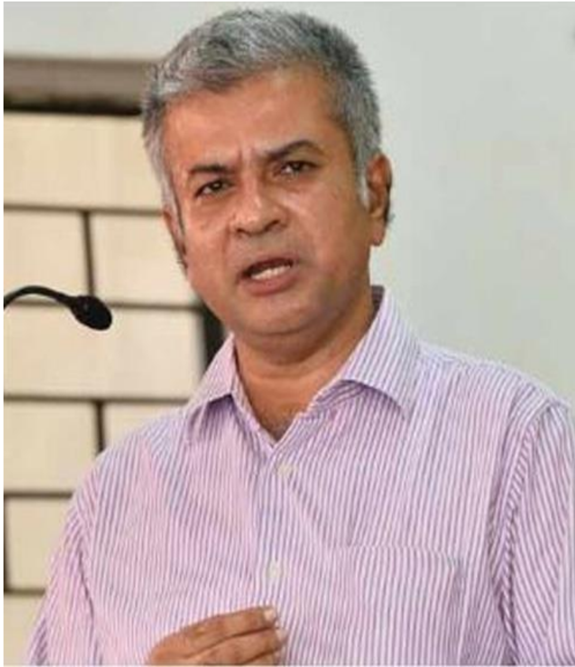

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With this thought, we hereby present to you

PREDATORY PRICING IN E-COMMERCE: CURRENT LEGAL POSITION

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ABSTRACT

In the context of the expanding e-commerce market, predatory pricing—a tactic in which a dominant firm temporarily lowers its prices to a level that is unsustainable for competitors—has taken on new importance. The way people shop has been completely transformed by e-commerce, which offers convenience, choice, and affordable prices. However, fierce competition is frequently present in the market, leading some market leaders to resort to predatory pricing as a tactic. In e-commerce, predatory pricing strategies include a range of techniques such as exclusive discounting, dynamic pricing, and loss-leader pricing. These tactics aim to create monopolistic control, eliminate competition, and force competitors out of the market. Predatory pricing in e-commerce has far-reaching and significant effects. Customers can gain from momentarily reduced prices in two ways: they can save money and have access to a wider selection of products. The long-term consequences, though, might be negative. When less competitors thrive as a result of predatory pricing, there may be less choice for consumers and more price increases and less innovation. Due to their frequent lack of funding, small and medium-sized e-commerce companies are especially susceptible to ongoing predatory tactics.

The importance of reevaluating antitrust laws and regulatory frameworks in light of how quickly e-commerce is evolving is highlighted by this Note. Encouraging competition while preventing anti-competitive behavior is crucial for protecting the interests of small businesses and consumers alike. This Note delves into the complex aspects of predatory pricing in e-commerce, illuminating the tactics used, the broad ramifications, and the regulatory difficulties it presents.

Keywords: Predatory pricing, E-commerce, Regulatory challenges, Antitrust policies

INTRODUCTION

Predatory pricing presents a conundrum that has confounded and captivated the antitrust community for many decades. On one side of the coin, historical precedent and economic theory suggest that predatory pricing can serve as a tool of abuse in the competitive landscape. On the flip side, price reductions stand as the quintessential element of competition, offering consumers the tangible benefits they most covet from the economic system.[1] In essence, predatory pricing embodies a paradox within the realm of commerce. We have all encountered that enticing scenario where a plethora of market players offers a product or service at seemingly unbeatable, rock-bottom prices, only to witness an abrupt surge in pricing down the road. This is the hallmark of predatory pricing. It is a strategy deployed by formidable organizations with deep pockets, designed to flood the market with goods or services priced so aggressively that no competitor can hope to keep up. As competitors struggle to match these unsustainable prices, they are eventually driven out of the business, leaving the predatory giant to capitalize on the vacuum created, cease the benevolent discounts, and, in turn, exploit consumers.

Predatory pricing represents a delicate equilibrium between competition and anti-competitive behavior. On one hand, it may initially appear as though consumers benefit immensely from these cut-rate offerings. However, in the long run, the consequences can be dire. As competitors succumb to the financial pressures imposed by the predatory pricing tactics, the market is left with fewer choices, reduced innovation, and potentially higher prices once the dominant player establishes a monopolistic grip. The predilection for predatory pricing is not exclusive to e-commerce but extends to various sectors where dominant market players seek to strengthen their foothold. The implications are profound, as small and medium-sized enterprises are particularly vulnerable, often lacking the financial resources to endure prolonged predatory practices. This translates into diminished economic diversity and hampers the broader entrepreneurial landscape. Furthermore, regulating predatory pricing is a complex endeavor, with regulators wrestling with defining the boundaries between aggressive competition and anti-competitive conduct. Questions surrounding the determination of predatory intent, the temporal scope of assessing predation, and the development of appropriate remedies loom large.

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1 Patrick Bolton, Joseph F. Brodley, & Michael H. Riordan, Predatory Pricing: Strategic Theory and Legal Policy

Addressing predatory pricing necessitates a reevaluation of antitrust policies and regulatory frameworks, particularly within the context of the evolving digital economy. Achieving the delicate balance between promoting competition and preventing anti-competitive behavior is an imperative task that holds far-reaching implications for consumer welfare and the vitality of market dynamics.

CONCEPTUAL FRAMEWORK

Predatory pricing in the e-commerce sector is a complex phenomenon that straddles the fine line between aggressive competition and anticompetitive practices.[2] A sound conceptual framework provides a foundation for comprehending the multifaceted nature of predatory pricing in e-commerce and guides further research and policy development in this ever-evolving digital landscape. To construct a robust conceptual framework for understanding predatory pricing in e-commerce, one must consider several key dimensions, including strategies, implications, regulatory challenges, and the economic impact. [3]

FACTORS ESTABLISHING PREDATORY PRICING

A. Dominance.

The practice of predatory pricing requires the predator to endure financial losses as they sell their products below the standard cost. Thus, only market players with substantial capital reserves can persist in such a situation. Consequently, predatory pricing can only be executed by the player who holds a dominant position in the market. This dominance can be evaluated by considering factors such as the geographic scope of the market, the specific product in question, and an analysis of product demand and its substitutability. The market power of this dominant player can also be assessed by examining their position in other related markets.[4]

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2 Damien Geradin & Jochen Stutz, Online Markets and Offline Welfare Effects: Price Coordination in Brick-and-Mortar Retail, 16 J. Competition L. & Econ. 439 (2020).

3 Id

4 William E. Kovacic & Carl Shapiro, Antitrust Policy: A Century of Economic and Legal Thinking, 17 J. Econ. Persp. 43 (2003)

B. Roadblocks to entry and as re-entry.

To successfully carry out a profitable predatory pricing strategy, it's essential to establish entry barriers that deter potential competitors from reentering the market when the dominant player eventually raises prices to recover losses and return to competitive pricing levels. These entry barriers are effective because new entrants would face costs, such as fixed investments, that the dominant player, who currently controls the market, will no longer have to bear.[5]

C. Excess Capacity.

For a dominant player in the market to effectively execute predatory pricing, they need the capacity to capture all the increased demand generated by the deliberate price reductions.[6] The predator must also have the ability to draw customers away from their competitors. If the predator is unable to accomplish this, the heightened demand will surpass the predator's production capabilities, giving competitors an opportunity to re-enter the market and sustain their presence.

D. Non-price Predation.

This strategy encompasses actions like product differentiation and innovation, aimed at driving up the costs incurred by competitors. When the costs for rivals increase, the dominant player seizes the opportunity to profit, even if the competitors continue to operate in the market.[7]

LEGAL PERSPECTIVE

The Raghavan Committee, a high-level body, was established to create a report addressing concerns related to the abuse of market dominance. Among the issues it tackled was predatory pricing and its impact on consumers. The Committee's findings mirrored a ruling made by the Supreme Court of India in the "*Haridas Exports v. All India Floating Glass Mfrs. Association and Ors*"[8] case. In this case, the court ruled that selling a product at a price lower than its average

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5 Michael A. Salinger, Predatory Pricing: Strategic Theory and Legal Policy, 96 Yale L.J. 449 (1986)

6 Id

7 Lina M. Khan, Amazon’s Antitrust Paradox, 126 Yale L.J. 710 (2017).

8 AIR 2002 SC 2728

cost should not always be prohibited. However, this ruling was contingent upon the condition that the price reduction should not harm the existing competition in the market, thus safeguarding consumer interests.

In the committee's report, it was emphasized that restrictions on price reductions should only be imposed when those reductions are deliberately intended to hinder competition and drive out other competitors. Conversely, restrictions should not apply to firms with a larger market share due to their greater efficiency and lower prices. Therefore, a careful distinction must be made between a deliberate attempt to undermine competition and price reductions resulting from the greater efficiency of the dominant market player. It is in the former scenario that consumer interests are jeopardized and negatively affected.

When a predatory entity lowers product prices with the aim of stifling competition and eliminating competitors, the dominant enterprise, once it deems the situation secure enough, will subsequently raise prices to recover the losses incurred during the discount period and to increase its profits.[9]

Predatory Pricing is mostly dependent upon the use/ misuse of dominant position. As per Section 4(2) of the Competition Act, 2002 dominant position has been described as:

> *"dominant position" means a position of strength, enjoyed by an enterprise, in the relevant market, in India, which enables it to—*
>
> *(i) operate independently of competitive forces prevailing in the relevant market; or*
>
> *(ii) affect its competitors or consumers or the relevant market in its favour*

A "dominant position" is a term used to describe a situation in which an enterprise in India holds a position of strength within a specific market.[10] In this position, the enterprise can operate independently, largely unaffected by the competitive forces that typically shape the market. Additionally, it has the capability to influence its competitors, consumers, or the overall

9 Lina M. Khan, Amazon's Antitrust Paradox, 126 Yale L.J. 710 (2017).

10 AIR 2002 SC 2728

dynamics of the relevant market to its own advantage. This definition underscores the significant market power and control that a dominant player possesses, allowing them to shape the market environment to suit their interests and potentially limit the scope of competition.

ANALYSIS

In order to promote fair competition in the marketplace and safeguard consumer interests, the Competition Act of 2002 was introduced to replace the Monopolies and Restrictive Trade Practices Act of 1969 in India. Recognizing the risks and challenges associated with predatory pricing, a practice that often constitutes an abuse of a company's "dominant position" in the market and is inherently illegal, India's regulations on predatory pricing, as outlined in the Competition Act of 2002, draw inspiration from similar provisions in the English Competition Act of 1998 and the Clayton Act of 1914. These regulations are designed to address and prevent anticompetitive practices, such as predatory pricing, that can harm competition and consumer welfare.

Section 4(2) (a) of the Competition Act, 2002 states that:

> *There shall be an abuse of dominant position under Sub-section (1), if an enterprise or a group,-*
>
> *(a) directly or indirectly, imposes unfair or discriminatory-*
>
> *(i) condition in purchase or sale of goods or service; or*
>
> *(ii) price in purchase or sale (including predatory price) of goods or service.*
>
> *Explanation.— For the purposes of this clause, the unfair or discriminatory condition in purchase or sale of goods or service referred to in sub-clause (i) and unfair or discriminatory price in purchase or sale of goods (including predatory price) or service referred to in sub-clause (ii) shall not include such discriminatory condition or price which may be adopted to meet the competition*

As per explanation (b) at the end of Section 4 predatory pricing refers to a practice of driving rivals out of business by selling at a price below the cost of production. Which reads as follows:

> *""predatory price" means the sale of goods or provision of services, at a price which is below the cost, as may be determined by regulations, of production of the goods or provision of services, with a view to reduce competition or eliminate the competitors."*

The brief mention of market access denial in this section, when considered in conjunction, is explicitly forbidden by Section 4 (2) (c) of the Competition Act, 2002.

Section 4 of the Competition Act, 2002 aligns with Clause 4 in the explanatory notes of the Competition Bill, 2001, which is worded as follows:

> *This clause prohibits abuse of dominant position by any enterprise. Such abuse of dominant position, inter alia, includes imposition, either directly or indirectly, or unfair or discriminatory purchase or selling prices or conditions, including predatory prices of goods or services, indulging in practices resulting in denial of market access, making the conclusion of contracts subject to acceptance by other parties or supplementary obligations and using dominant position in one market to enter into or protect other market.*

Nevertheless, in the year 2007, the Competition Act, 2002, specifically Section 4, underwent modification through the Competition (Amendment) Act, 2007. The rationale and justifications behind this amendment were elucidated in the explanatory notes associated with the clauses of the Competition (Amendment) Bill, 2007, stating that:

> *This clause seeks to amend Section 4 of the Competition Act, 2002 relating to abuse of dominant position. The existing provisions of Section 4 apply only to an enterprise and not to the group of enterprises. Clause (c) Sub-section (2) of Section 4 states that there shall be an abuse of dominant position if an enterprise indulges in practice or practices resulting in denial of market access.*

While India has enacted legislation and established regulatory bodies to address predatory pricing, there remain significant gaps in the legal remedies available to combat this anticompetitive practice. Some of the notable gaps in the existing legal framework include:

Complexity in Determining Predation: Predatory pricing cases can be intricate to prove, as distinguishing between legitimate price competition and predatory intent is often challenging.[11] Indian law lacks a precise definition or criteria for predatory pricing, making it difficult for enforcers and businesses to identify violations.

Inadequate Enforcement: The Competition Commission of India (CCI) is tasked with enforcing antitrust laws, but its resources and capacity may be limited. The CCI faces challenges in investigating and prosecuting predatory pricing cases due to a high caseload and resource constraints.

Burden of Proof: The burden of proving predatory intent lies with the complainant, which can be challenging and costly. Smaller businesses or consumers may find it financially prohibitive to provide the necessary evidence, leaving many violations unaddressed.

Ineffectiveness of Remedies: While the CCI can impose penalties and issue cease-and-desist orders, these remedies may not always deter predatory pricing effectively. The penalties may be insufficient to cover the losses suffered by competitors, and cease-and-desist orders may not prevent dominant players from repeating such practices.

Lack of Clarity on Predatory Pricing Tests: Indian law does not provide clear guidelines or tests for evaluating predatory pricing, leading to uncertainty for businesses and enforcers. The absence of specific thresholds for determining predatory pricing makes it challenging to establish violations.[12]

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11 Aparna R, Analysis on the Predatory Pricing in the Indian E-commerce Sector, Indian Corp. & Fin. L. Rev., May 11, 2021.

12 Id

Slow Legal Process: Legal proceedings can be protracted and time-consuming. The slow pace of adjudication may undermine the effectiveness of legal remedies, allowing anticompetitive practices to persist during litigation.

Inadequate Consumer Redress: The remedies available under consumer protection laws may not fully address the harm caused by predatory pricing. Consumers may find it challenging to seek compensation for their losses resulting from such practices.

Lack of Coordination: Coordination between different regulatory bodies and enforcement agencies may be lacking. Predatory pricing cases often require collaboration between the CCI and consumer protection agencies, and this coordination may not always be seamless.

India's legal remedies against predatory pricing, while a step in the right direction, are not without their shortcomings. These gaps in the legal framework and enforcement mechanisms pose challenges for effectively addressing predatory pricing, protecting consumer interests, and ensuring a fair and competitive marketplace. Addressing these gaps through legal reforms and enhanced enforcement mechanisms is crucial for fostering healthy competition and safeguarding the interests of both businesses and consumers.

CONCLUSION

In conclusion, predatory pricing serves as an intricate puzzle in the realm of competition and consumer welfare. It underscores the need for a nuanced approach to regulation that ensures that competition remains robust, benefits consumers, and safeguards against the consolidation of market power by a few dominant players. Balancing these conflicting objectives will continue to be a central challenge for regulators and policymakers in the years to come.

SUGGESTIONS

The current antitrust framework falls short in recognizing certain forms of anti-competitive harm, making it ill-equipped to truly foster competition. This deficiency becomes especially pronounced in the context of online platforms and data-driven markets. The limitations of the existing framework can be attributed to certain assumptions rooted in the Chicago School framework and how it evaluates competition.

Remarkably, the existing approach is inadequate even if one believes that antitrust should exclusively serve consumer interests. Importantly, consumer interests encompass not only cost considerations but also factors like product quality, variety, and innovation. Protecting these broader, long-term interests demands a more comprehensive understanding of "consumer welfare" than what currently guides the antitrust approach. Moreover, the excessive focus on consumer welfare is misguided; it diverges from the legislative history, which demonstrates that antitrust laws were enacted to advance a range of socio-economic goals, encompassing the well-being of workers, producers, entrepreneurs, and citizens. Furthermore, it incorrectly replaces concerns about the process and structure of markets (i.e., whether power is adequately dispersed to maintain competitiveness) with an assessment of outcomes (i.e., whether consumers are materially better off).[13]

Antitrust law and competition policy should prioritize competitive markets over a narrow interpretation of consumer welfare. By redirecting attention to the process and structure of markets, this approach would align more closely with the legislative history of significant antitrust laws. It would also foster genuine competition, in contrast to the existing framework, which appears to tolerate the concentration of power that poses a risk to genuine competition.

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8. Aparna R, Analysis on the Predatory Pricing in the Indian E-commerce Sector, Indian Corp. & Fin. L. Rev., May 11, 2021.

LITERATURE REVIEW

1. Raimundas Moisejevas, Predatory Pricing: A Framework for Analysis, 10 Baltic J.L. & Pol. 1 (2017).

In this article, the framework used by the Court of Justice and the European Commission to analyze predatory pricing is critically reviewed. It acknowledges that economists have tried to describe the concept of 'predatory pricing', but a common agreement on the content of this term has not been reached, while also pointing out that the definitions of predatory pricing provided in judicial practice and jurisprudence are quite similar: predatory pricing occurs when the dominant undertaking sets prices lower than the costs of production and excludes competitors or creates additional barriers for new competitors to enter the market and subsequently establishes high prices, which could not have been established without the exclusion of the competitors (or creation of additional barriers), thus causing damage to the consumers. The author puts forth the idea that usually the Court of Justice focuses on analysis of four key elements in predatory pricing instead of focusing on application of a concept of predatory pricing to the circumstances of the case. Firstly, it analyses whether the price of the products covers all the costs. There are different cost benchmarks: average variable costs, average avoidable costs, average total costs and long run average incremental costs. Secondly, it

analyses whether the dominant undertaking by establishment of low prices intends to eliminate competitors from the market, to increase its share in the market. Thirdly, it analyses whether the actions of the alleged predator may exclude competitors from the market and whether dominant undertaking will be able to recoup experienced losses. Fourthly, it analyses whether the predator may justify illegal actions by providing objective justifications. In this article, the author focuses on the abovementioned main elements of predatory pricing, since they are analysed in the cases on predation. Thus, the article is structured in accordance with the analysis of the main elements of predatory pricing. Section II covers the main goals of competition law. Section III focuses on pricing below costs. Section IV discusses predatory intent. Section V focuses on recoupment of losses. Section VI is devoted to objective justifications. Section VII provides conclusions. The author conducts a comprehensive analysis of numerous significant cases involving EU and Amerian cases revolving around predatory pricing under each of these sections to reach various inferences. The author is of the view that The Court of Justice, the General Court and the Commission should not recognize the relationship between costs and prices of the dominant undertaking as a key element in predation cases and that most important is the evaluation of the effect of predatory pricing on competition in the market and consumers. The author further proposes the view that The Court of Justice, the General Court and the Commission while assessing predatory pricing give too much importance to the intent of the dominant undertaking. He believes that intention to predate should be only additional evidence for the determination of abuse. He proposes recognizing that dominant undertaking can be referred to as predatory pricing only if there is evidence that the dominant undertaking may recoup losses. In case recoupment is recognized as a necessary element, competition institutions would evaluate whether dominant undertakings' actions caused damage to consumers. If recoupment is not considered, competition law rules might be too strict and dominant undertakings will not charge low prices that are beneficial for consumers.

2. UNCTAD Secretariat, Competition Issues in the Digital Economy, Note, TD/B/C.I/CLP/54 (2019).

The authors outline how large technology companies have penetrated many aspects of people's lifestyles, from shopping to social interaction. Amazon, Apple, Facebook and Google have replaced oil and gas and telecommunications firms among the top 10 global companies based on market capitalization in 2018. The aothors point out that such digital platforms have gained significant control of consumer data, which confers market power. This has raised not only competition-related concerns, but also concerns related to consumer protection and privacy. The authors point out that many countries are studying the negative effects of the market power of these platforms and seeking ways to deal with the related challenges. This note focuses on the features specific to digital platforms and their implications for competition law and policy. It identifies the areas of competition law in which there is need for adaptation, to deal with negative outcomes that may arise from dominant digital platforms. The note presents some policy options for protecting and promoting competition in the digital economy. The authors also refer to the point that research on behavioural tendencies shows that there is a cognitive cost in switching platforms, in terms of time, effort, energy and the concentration and sustained thought required; competition is therefore not "one click away". This further reinforces dominant platform market power and dominance. Given a handful of dominant platforms that do not face any competition, consumers have few choices and almost no control over the collection and use of their data. This has raised competition and consumer protection concerns worldwide. The authors state that the current dominant approach in antitrust is the consumer welfare standard, which is based on measuring benefits or harm to consumers in the form of lower or higher prices, respectively. Under this framework, there is no concern over practices such as predatory pricing, which is a key element of the business strategy of dominant platforms providing an online marketplace, to grow and monopolize their market. This practice results in lower prices for consumers in the short to medium terms, until competitors are driven out of the market. Afterwards, prices may increase, and choice decreases due to there being less or no competition. However, such practices do not come under antitrust scrutiny since, given the lower prices, they seem to be to the benefit of consumers at the start. Another difficulty with the consumer welfare standard is that it may not be easy to conduct price analyses of online platforms providing marketplace infrastructure due to rapid price fluctuations and personalized pricing facilitated by algorithms. Further, price is not the most appropriate criterion in competition analysis involving online platforms, as many services are offered for free, although, in fact, consumers pay through the provision of personal data. Certain practices by dominant

platforms or in mergers may thus still give rise to consumer harm in forms other than price. The authors argue that consumer welfare should therefore be broadened to include other criteria such as consumer privacy and choice, personal data protection, switching costs and the lock-in effects of dominant platforms.

3. Lina M. Khan, Amazon’s Antitrust Paradox, 126 Yale L.J. 710 (2017).

This Note selects Amazon and its monopolistic ambitions and actions as a perfect case study to minutely dissect the framework of anti-trust laws and their application to e- commerce. The author expertly navigates through Amazon’s effects on the market to point out shortcomings in the current doctrine relating to identifying understanding the current dynamics of market power in a digital economy. This Note makes the case that the current antitrust framework, in particular its linkage of competition to "consumer welfare," which is defined as short-term price effects, is ill-suited to capture the architecture of market power in the contemporary economy. If we only evaluate competition in terms of price and output, we will not be able to recognize the potential harms to competition that Amazon's dominance may cause. In particular, the risk of predatory pricing and how integration across various business lines may prove anticompetitive are underappreciated by current doctrine. For two reasons, the author believes, these worries are magnified in the context of online platforms. First, platform market economics encourage businesses to prioritize growth over profits, a course of action that has been rewarded by investors. Even though current doctrine views predatory pricing as irrational and thus unlikely, it becomes highly rational under these circumstances. Second, because they act as crucial middlemen, online platforms that integrate across business sectors are better positioned to control the vital infrastructure that their competitors rely on. Due to its dual function, a platform can also use the data it collects on clients to discredit them as rivals. The author outlines the various facets of Amazon's hegemony. Making sense of its business strategy, illuminating anticompetitive features of Amazon's structure and behavior, and emphasizing flaws in current doctrine are all made possible by doing this. The Note concludes by examining two possible regimes for curtailing Amazon's power: applying common carrier obligations and duties or reintroducing traditional antitrust and competition policy principles. The author begins by exploring—and challenging—modern antitrust law’s treatment of market structure. Part I gives an overview of the shift in antitrust away from economic structuralism in favor of price theory and identifies how this departure has played out in two areas of enforcement: predatory pricing

and vertical integration. Part II questions this narrow focus on consumer welfare as largely measured by prices, arguing that assessing structure is vital to protect important antitrust values. The Note then uses the lens of market structure to reveal anticompetitive aspects of Amazon's strategy and conduct. Part III documents Amazon's history of aggressive investing and loss leading, its company strategy, and its integration across many lines of business. Part IV identifies two instances in which Amazon has built elements of its business through sustained losses, crippling its rivals, and two instances in which Amazon's activity across multiple business lines poses anti-competitive threats in ways that the current framework fails to register. The Note then assesses how antitrust law can address the challenges raised by online platforms like Amazon. Part V considers what capital markets suggest about the economics of Amazon and other internet platforms. Part VI offers two approaches for addressing the power of dominant platforms: (1) limiting their dominance through restoring traditional antitrust and competition policy principles and (2) regulating their dominance by applying common carrier obligations and duties.

4. Aparna R, Analysis on the Predatory Pricing in the Indian E-commerce Sector, Indian Corp. & Fin. L. Rev., May 11, 2021.

In this article the author explains how in order to gain market monopoly, dominant entities in the e-commerce market have attempted to benefit from the shortcomings in the current legal framework governing the e-commerce sector. The main factor in determining the fate of other businesses in the market is whether or not such business strategies and agreements involving dominant entities violate market competition. The author suggests that it is always correct to assume that companies looking to make a profit will always find a way to do so, and that predatory pricing is nothing more than the practice of a business setting the price of its goods so low that other market participants struggle to stay in business and ultimately have to leave the market. The market conditions, including demand elasticity and product brand value, can have a significant impact on how much a company charges for its goods. The author puts forward the suggestion that the market price of a product can be influenced by how consumers react to a price change, and that predatory pricing strategy in e-commerce is used when businesses engage in predatory behavior by offering products or services at exorbitant discounts in an effort to drive rivals off the market. A predatory pricing strategy may have severe repercussions, claims the author. Not only does it put the players in that market at risk, but it also puts the market for related or replacement products at risk. Additionally, it has partially

destroyed the retail shopping tradition and promoted the culture of deep discounts, making it challenging for brick and mortar store owners to maintain such low prices. Predatory pricing practices are illegal under Section 4 (i) of the Competition Law. Since 2002 the competition law policy has been going through a lot of amendments according to the trends of the market and it has been ever growing. This article specifically addresses predatory pricing in relation to the Indian e-commerce market. The author is of the view thateven though the CCI has maintained that it doesn't have a dominant position over brick and mortar stores, the e-commerce market has attracted a sizable consumer base due to its innovative method of product delivery. While addressing the concept of predatory pricing in e-commerce market, the author suggests, the case of Mr. Ashish Ahuja v. Snapdeal.com becomes significant to discuss. In this case, the Commission while considering the relevant geographic market, included both the offline and online market to analyse whether the company Sandisk was enjoying a monopolistic position. In the author’s opinion, such consideration by the Commission stands slightly flawed because the whole issue in this case is that a party was selling products at a competitive price in a “web portal”, and that such being the fact, in order to determine the competition, only the online portals should have been considered as a relevant geographic market. The author also relies on a host of other Indian cases to argue that the current legal framework has proven to be ineffecient when it comes to identifying, as well as dealing with, predatory pricing in e-commerce.