

Big Data and Network Effects of Facebook: Critical Analysis of Indian and German Competition Commission

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Abstract

Network effects play a very important role in any platform market. Same applies to social networking sites and messenger like Facebook and WhatsApp. It has so become a part and parcel of people's and businesses' life that it is nearly inevitable to avoid these. All the credit for this goes to network effects. However, these larger than life platforms are worthy of attention from Anti-trust regulators and call for an immediate policy change because of the large scale data they are acquiring making them capable of not just acquiring a dominant position, but of easily abusing the same. Recent acquisitions by Facebook of widely used sources of data like Instagram and WhatsApp and subsequent changes in their privacy policy are another wake-up call for Competition law authorities. The case has been examined in Indian as well as German courts. This paper tries to draw a comparison between the analysis of different Anti-trust authorities in order to find out what might be the crucial element that they have missed. It tries to suggest an approach that can help in dealing with this expanding peril.

With the increasing rate of number of internet users, one thing that is definitely increasing is flow of data-the BIG data for the online platforms. The online platforms like Youtube and Facebook are perfect examples of modern platform markets and are a better example to explain the power of platform markets than the newspapers. To put simply, platform markets are two-sided or multi-sided markets of which one side of consumers affect the other in one or the other ways. For instance, Facebook is free for the users to make their profiles on and to make friends, and it is chargeable for the advertisers to post their advertisements on Facebook. More the number of users with their profiles, more will be the outreach of the advertisers and better will be the Facebook's service for them. It is similar to the Newspapers which earn much less from the readers but earn their main revenue from the advertisers who have to pay heavily to reach the large number of readership.¹This is how the network effects work. The network of consumers on

one side of the market directly impacts the price that a company can put on the other side of the consumers.

In today's age of globalization and digitalization, the convenience of using a technology or a service increases with the number of users that adopt it. Facebook is an excellent example of this simple yet complex phenomenon. Because of the presence of this phenomena of network effects, it is not enough for a new entrant to offer better quality and/or a lower price than the incumbent does; it also has to convince users of the incumbent to coordinate their migration to its own services. This is so because network effects have the ability to create barrier to entry for other firms and can also abuse present consumers/users to stick to their platform by putting the needful conditions.² Network effects could thus prevent a superior platform from displacing an established incumbent. The size of this

¹ See, Aberdeen Journal case Case CF/99/1200/E.

² See, United Brands case famously known as Banana case in which the dominant firm disallowed suppliers/distributors/ripeners to sell bananas that United Brand did not supply. (1976) Case 27/76.

“incumbency advantage” depends on a number of factors, including the possibility of multi-homing, data portability, and data interoperability.³

Wherever there are businesses, there exists the need of competition policy and laws. The Competition Commission of India (CCI) recently dealt with a similar issue in *Shri Vinod Kumar Gupta vs WhatsApp Inc. in 2016*. A similar case was taken up by *Bundeskartellamt* or Federal Cartel Office (“FCO”) and later on its judgment was suspended by Higher Regional Court of Düsseldorf in *Facebook Inc. v Bundeskartellamt* [Federal Cartel Office].

This paper seeks to critically analyze these three varied judgments and their contradistinctions and seeks to suggest accordingly.

THE SAME SET OF FACTS IN INDIA AND GERMANY

The internet has connected the whole world today and so have the social networking sites. Facebook has indeed been a revolution in Social network sectors and almost every other person in the world is on Facebook today using it for personal, professional or business purposes.

While Facebook was playing its game strong and also had its messenger services connecting the Facebook users, enters WhatsApp in the messenger market. It was founded in 2009 by two former employees of Yahoo! And by May 2014, WhatsApp had reached 15 million active users in India. By 2016, WhatsApp had replaced the verb texting and messaging. Most of the Indians don’t message or text today, they WhatsApp just like they don’t surf or search they, ‘Google’.

In February 2014, WhatsApp was acquired by Facebook in a hefty deal of \$ 19billion and thereafter, introduced many changes in its privacy policy in August 2016. As per the new privacy policy, the users of ‘WhatsApp’ will have to share their meta-data such

³Competition Policy for the Digital Era, A report by Jacques Crémer, Yves-Alexandre de and Montjoye Heike Schweitzer, European Commission available at <https://ec.europa.eu/competition/publications/reports/kd0419345enn.pdf>.

as device information, user’s account number etc with the parent company-Facebook to continue using the services of ‘WhatsApp’. It was made conditional on the collection of user and device-related data by Facebook and combining that information with the Facebook.com user accounts and it was mandatory to give up that data to be able to use WhatsApp even if the user did not have a Facebook account.

The incidents are more or less similar for both the countries though the exact dates or year of occurrence may vary.

The German Court presents the facts keeping in mind that Facebook had acquired WhatsApp and had introduced the privacy policy in question. It decides to present what Facebook does and what use Facebook could make of the data collected from WhatsApp users

The CCI in its judgment has simply mentioned what the informant had claimed. The CCI carried on the analysis of its facts from the point of view of WhatsApp and did not analyse the position of Facebook as the parent company and ignored the fact that it was Facebook’s decision to introduce such a privacy policy for WhatsApp and also ignored the fact that Data collected from WhatsApp was going to Facebook.

The CCI did not go in depth to analyse the importance of Data for Facebook and did not also consider the fact that Data was a very useful commodity for Facebook for commercial/revenue earning purpose of Facebook to acquire profits in its business operations through targeted advertisements. In fact, the stress is on what WhatsApp has done and not Facebook.

Such presentation of facts would have been fine had the case been a normal one or of an offline industry. It was the time that CCI could have tried to find out the importance of data. But it maintained that people were using WhatsApp free of cost. The cost of data was left neglected absolutely. CCI investigated only one face of the multi-dimensional platform market but completely forgot to look on the other side of it that is, dominant role of Facebook as Data provider for advertisers.

MARKET ANALYSIS BY FCO, CCI AND HIGHER REGIONAL COURT

For any competition law case, this is the first step for legal assessment.

In Germany:

Based on the concept of demand-side substitutability, the Bundeskartellamt defined the product market as a private social network market with private users as the relevant opposite market side. The relevant geographic market was taken to be Germany. The Bundeskartellamt examined Facebook's business model and its special characteristics as a multi-sided network market with free services. The relevant geographic market was taken to be Germany.

In India,

The Commission in regard to the relevant product market, the Commission noted that 'WhatsApp', an instant communication app for smartphones using standard cellular mobile numbers, was a platform for communication through texting, group chats and voice and video calls. It noted that instant communication apps cannot be compared with the traditional electronic communication services such as text messaging, voice calls etc. as provided by various telecommunication operators. It is so because unlike traditional modes of communication, instant messaging using communication apps are internet based and provide additional functionalities to the users. For example, users of communication apps can see when their contacts are online, when they are typing or when they last accessed the application. It did consider that 'WhatsApp' was a free to download communication application which did not charge any fee from its users for providing the services and just used internet connection on the device to send instant messages, connect voice calls etc. Thus, the Commission was of the view that the relevant product market in this case could be considered as '*the market for instant messaging services using consumer communication apps through smartphones*'. The relevant geographic market taken by the Commission was India just like the German court.

DIFFERING RESULTS IN THE INDIAN AND GERMAN COURTS

As mentioned above that the CCI did not analyse the facts considering that it was indeed Facebook which was collecting data. However, German Court examined the business model of Facebook and

importance of data for Facebook. German court took more comprehensive approach in formulating the market definition and went steps ahead of CCI in its investigation. This comprehensive analysis at investigation stage was the reason for vastly different result of findings.

To elucidate here, Facebook is a free to use social networking site for individuals to make their profiles on, make friends online, chat with them via Facebook messenger, make video calls, share photos and videos, play games online, etc. In return of this, Facebook stipulates in its privacy policy and contract with users that their data collected by Facebook can be used and shared with its advertisers. By using the data collected, it helps the advertisers from whom it charges money to use that data for targeted advertisements. To note, it is Facebook analytics that help the advertisers to target the audience and they pretty much don't have to analyse and extract anything from the raw data.

In short, Facebook charges by collecting data from individual customers and use that data to charge from advertisers.

In India, as stated already, the analysis was made for WhatsApp while ignoring the fact that the data collected was used by Facebook to improve its targeted advertising.

So, CCI decided to analyse the competitors of WhatsApp in the market while providing the similar set of services. It held that there were no significant costs preventing the users to switch from one consumer communication apps to another and laid emphasis on the switching cost. To quote,⁴ it held the following:

"It may be due to the following reasons:

- (i) all consumer communication apps are offered for free of cost or at a very low price (mostly free),
- (ii) all consumer communication apps are easily downloadable on smartphones and can co-exist on the same handset (also called 'multi homing') without taking much capacity along with other apps,

⁴Shri Vinod Kumar Gupta v WhatsApp Inc., CCI Case No. 99 of 2016, Page 8 to 10, para 15-18.

- (iii) once consumer communication apps are installed on a device, users can pass on from one app to its competitor apps in no-time,
- (iv) consumer communication apps are normally characterised by simple user interfaces so that costs of switching to a new app are minimal for consumers, and
- (v) information about new apps is easily accessible given the ever increasing number of reviews of consumer communication apps on apps store like google play store etc. Furthermore, the expansion of Hike Messenger to nearly 100 million user base within three years of launching their services into the aforesaid market reflects that in this market, there are no significant barriers to entry and consumers appear to be price sensitive.

There is no doubt to the fact that the increasing use of consumer data for commercial purposes has generated substantial gains, has allowed businesses to come up with product innovations, improve the efficiency of productive processes, forecast market trends, improve decision making and enhance consumer segmentation. The ability to generate and process large datasets can nevertheless be associated to market power, as a result of economies of scale, economies of scope and network effects, as well as real-time data feedback loops. Even if these effects do not necessarily lead to dominance or market tipping, they should be considered as part of the competitive analysis.⁵ However, none of these factors were taken into consideration by the CCI for undertaking the analysis.

Even when the CCI considered the case from only WhatsApp point of view, it mentioned about the switching costs which were not just insignificant but literally zero. However, what is more than important to have been analysed here is the “Network Effects”. CCI completely reflected the presence of network effects in the instant messaging app services market. To make it clearer, let us try to understand it by way of an

example. Assuming that Puja uses WhatsApp to chat with her mother Sheena, her best friend Sakshi, her husband Manoj and all her office colleagues. Puja has read the newly introduced privacy policy by WhatsApp and is not willing to give her data to Facebook because she does not consider it safe and also, she does not have a facebook profile for the same reason. However, her mother and her colleagues have no problem in providing data to Facebook because they trust the company and also, they find it convenient to use Whatsapp because all their other contacts are available on WhatsApp just like Puja’s and the chain continues. The question is will Puja be able to switch to another app like Hike or WeChat? If she does, who will she talk to there? Similar applies to other people if they are somehow persuaded by Puja to use another App. These questions need answers, so need to reformulate these hypothetical questions and provide simple answer, that even if individual user wants to change, the group behaviour of other users will not allow that person to switch to other platform and person will have no option but to continue with whatsapp, against his free will, for matter of convenience. This face also leads to infer dominant position of whatsapp. This was considered by German body, so it shows limited knowledge of CCI & less innovative investigation techniques in investigations. These kinds of abuses through contracts may be hard to discover. Moreover, it may start with less abusive terms that gradually develops towards a combined anti-competitive behaviour. As seen, some dominant platforms have such strong position in the market, that customers approve exploitative terms to be able to benefit from its network.⁶

This is the magic of Network effects, ignored completely by the Commission. The existence of network effects as such does not a priori indicate a competition problem in the market affected by a merger. Such effects may however raise competition concerns in particular if they allow the merged entity to foreclose competitors and make more difficult for competing providers to expand their customer base.

⁵Directorate For Financial And Enterprise Affairs Competition Committee, Big Data: Bringing Competition Policy to the Digital Era Executive Summary 29-30 November 2016.

⁶Regulating Industrial Internet Through IPR, Data Protection and Competition Law, Rosa Maria Ballardini, Petri Kuoppamäki, Olli Pitkänen, Kluwer Law International B.V., 28-Aug-2019.

Network effects have to be assessed on a case-by-case basis.⁷

However, Bundeskartellamt did consider the ‘network effects’ while analyzing the facts and making its decision based on those facts. It notes down the following:

“A key element of the market dominance test are the strong direct network effects of Facebook’s business model and the difficulties associated with switching to another social network. Facebook users connect with selected people in the social network, and it is difficult to motivate them to switch to another service as well.”⁸

It further noted that:

- The facts that competitors can be seen to exit the market and that there is a downward trend in the user-based market shares of the remaining competitors strongly indicate a market tipping process which will result in Facebook.com becoming a monopolist. This assessment is supported by the fact that the strong identity-based network effects lead to a lock-in effect which makes it difficult for users or prevents them from switching to another social network. Existing functionalities and interfaces do not alleviate the consequences of Facebook’s incompatibility with other social networks. Another important aspect of the examination are the indirect network effects encountered with Facebook as an advertising-funded service, which increase the barriers to market entry.
- Facebook also has excellent access to competitively relevant data. Facebook’s

comprehensive data sources are highly relevant for competition as a social network is driven by such personal data. In addition, these specific data facilitate highly personalised advertising. Combined with the direct and indirect network effects, this access to data constitutes another barrier to market entry for a competitor’s product that can be monetised.

- Using and actually implementing Facebook’s data policy, which allows Facebook to collect user and device-related data from sources outside of Facebook and to merge it with data collected on Facebook, constitutes an abuse of a dominant position on the social network market in the form of exploitative business terms pursuant to the general clause of Section 19(1) GWB.

The decision prohibited this conduct and orders Facebook to change its terms of service. This is an interventionist and far reaching decision: Andreas Mundt stated that *“with regard to Facebook’s future data processing policy, we are carrying out what can be seen as an internal divestiture of Facebook’s data”*. The FCO said that Facebook’s practice amounted to an exploitative abuse in the form of exploitative business terms and ordered Facebook to adapt its terms and conditions and the underlying data processing practices.

The Court assessed the potential exploitation of users based on the general clause contained in the prohibition of abuse of dominance (Sec. 19(1) German Competition Act). As a preliminary point, the Court clarified that, in general, “harm to consumer protection” may be a relevant object of Sec. 19 German Competition Act.⁹ Thus, the Court acknowledged that it is not ruled out that interfering with consumer protection standards may harm competition and thus may constitute an abuse, even if no competitors were foreclosed.

However, the Higher Court disagreed with the FCO stating that it had not sufficiently demonstrated that

⁷ REGULATION (EC) No 139/2004 MERGER PROCEDURE Article 6(1)(b) NON-OPPOSITION Date: 03/10/2014; Case M.7217 – Facebook/ WhatsApp Commission decision pursuant to Article 6(1)(b) of Council Regulation No 139/2004.

⁸B6-22/16, Facebook, Exploitative business terms pursuant to Section 19(1) GWB for inadequate data processing, page 6, available at https://www.bundeskartellamt.de/SharedDocs/Entscheidung/EN/Fallberichte/Missbrauchsaufsicht/2019/B6-22-16.pdf?__blob=publicationFile&v=4.

⁹Facebook ./ Bundeskartellamt The Decision of the Higher Regional Court of Düsseldorf (Oberlandesgericht Düsseldorf) in interim proceedings, 26 August 2019, Case VI-Kart 1/19 (V) ¶28.

Facebook's conduct had any anti-competitive effects¹⁰. In summary, the Court determined as follows:

- DHRC emphasised that an infringement of data protection law by a dominant company does not automatically amount to an abuse of that dominance for the purposes of competition law. Rather, it must be shown that the relevant conduct/infringement of data protection law (or any other consumer protection law) would not have been possible under competitive conditions i.e. there is a causal link between the conduct and the company's market power (which the court held had not been sufficiently demonstrated by the FCO in this case).
- Assessing whether terms and conditions set by a dominant company are abusive, it is necessary to consider what terms and conditions would have been likely to emerge in a more competitive market. The DHRC considered that the FCO had failed to properly consider this in the present case. The company that owns the platform is in a position to develop competing products to offer on its platform, and if it is a dominant platform provider it can leverage this market power into another vertical market. Thus, the market can be tipped in its favour. One way for a dominant company to abuse its market power is forcing competitors to agree to abusive contractual terms.¹¹ Same should apply to Facebook's forceful privacy policy imposition on users who are not using Facebook but only WhatsApp, a part of Facebook.

The Court gave a very important counter-argument that relevant consumer data is duplicable, and consumers are not economically weakened by any (permanent) abandonment of such data.¹²

- The FCO as per the Court could not establish like it is done in cases of price abuses that excessive data had been given away by consumers as it did not determine any counter-value for the given data and said that the "value of data" is more difficult to substantiate than that of a monetary consideration.¹³
- The Court determined that the FCO did not demonstrate a significant gap between what Facebook required from its users and what the social network would have been able to demand in a competitive environment.¹⁴

The Court equally rejected the "loss of control" theory the FCO had brought into play – meaning that users cannot freely determine and oversee how their personal data is used from the various Facebook data sources. The Court concluded that the failure of users to read the privacy policy is not due to Facebook's market power, but to the indifference or convenience of users.¹⁵

It is indeed true that the control over a large volume of data cannot be a sufficient factor to establish market power, as in today's digital era, a variety of data can be easily and cheaply collected by small companies - for instance, through point of sale terminals, web logs and sensors - or acquired from the broker industry. But what is important to consider is that data faces decreasing returns to the number of observations and is most valuable when combined with data analytics and good predictive algorithms, which may require high investments in complementary assets, including hardware, software and expertise.¹⁶ Data analytics may have implications for several dimensions of quality competition. On the one hand, the knowledge extracted from data allows companies to offer innovative and customised products. On the other hand, excessive collection of data and misuse of personal information may harm consumer interests, including privacy, data

¹⁰Ibid ¶30.

¹¹Regulating Industrial Internet Through IPR, Data Protection and Competition Law, Rosa Maria Ballardini, Petri Kuoppamäki, Olli Pitkänen, Kluwer Law International B.V., 28-Aug-2019.

¹²Facebook/Bundeskartellamt The Decision of the Higher Regional Court of Düsseldorf (Oberlandesgericht Düsseldorf) in interim proceedings, 26 August 2019, Case VI-Kart 1/19 (V) ¶31.

¹³Ibid ¶32.

¹⁴Ibid ¶33.

¹⁵Ibid ¶¶37, 85.

¹⁶ DIRECTORATE FOR FINANCIAL AND ENTERPRISE AFFAIRS COMPETITION COMMITTEE Big Data: Bringing Competition Policy to the Digital Era Executive Summary 29-30 November 2016.

protection, freedom of speech, consumer choice and non-discrimination rights.¹⁷

The Court of Justice elaborated in *Hoffmann-La Roche*¹⁸ that ‘the concept of the relevant market in fact implies that there can be effective competition between the products which form part of it and this presupposes that there is a sufficient degree of interchangeability between all the products forming part of the same market in so far as a specific use of such products is concerned’. In the context of platform markets which have more than one side, there are different groups that differ from each other in their demand structure and for whom the interchangeability will not be same. Therefore, the question that needs to be addressed is how the demand of different services of the platform can modify the legal standard of market definition.

It is important while competition analysis to look through all the factors that can create entry-barriers for the incumbents. In *Microsoft/Yahoo*, the European Commission referred to ‘hardware, cost of indexing the web, human capital, cost of developing and updating the algorithm and IP patents’ as investments that have to be made in order to enter the market for online search.¹⁹ In its Special report on digital markets, the Monopolkommission, an independent expert committee advising the German government and legislature in the area of competition policy, argued that the high fixed costs for setting up a search engine ‘constitute a considerable market entry barrier on the search engine market’.²⁰ Similarly, DHRC should have noted down whether one-time costs of setting up a site like Facebook are higher or lower and to which extent it can act as barrier to entry.

NEED TO REVISIT FACEBOOK’S BUSINESS MODEL

All the three courts as observed and analysed above tried to solve the respective cases with differing reasons. It is commendable that the FCO

acknowledged how Facebook worked and gave enough credit to the Network effects in expansion of its business worldwide. However, it would not be absolutely wrong to reject one of the most important argument from DHRC that data provided by consumers is replicable. Therefore, it is free for any competitor to enter the market and take that data from users and carry on their business just like Facebook or maybe, better than it.

However, there is a crucial point that the DHRC has been missing. Undeniably, data is replicable and easily available. But the question is, is the source of data available? This is where the network effects lie. Indeed, a new social networking site on lines of Facebook can be introduced in the market today. But how will it attract the users? For attracting the users, it’ll have to undo the network effects of what Facebook Analytics call as ‘Facebook’s two billion-person community.’²¹ Facebook analytics is a tool that Facebook gives to its advertisers for creating and targeting advertisement based on the data collected from the Facebook community and other data-sources like Instagram, WhatsApp and Oculus owned by Facebook and from other websites which have Facebook’s API. Facebook charges from the advertisers unlike its individual users of Facebook, Instagram and WhatsApp- the sources of data. The community or network of 2 billion was not ofcourse built in a day but has been built strategically. One should also take into account how Facebook bought Instagram and Whatsapp in a hefty deal. The problem is not collection of data, but control over major sources of data which has created unbeatable network effects. This was blatantly ignored by DHRC as well as the CCI.

It is notable that the FCO tried to analyse the relevant market from the point of view of users of Facebook who get to make their profiles on Facebook and interact with their friends for no cost at all. In return of this no cost at all, they provide their data. This data provided by individual users is the raw material used by Facebook to build its advertisement business strong and stronger. The market has always been analysed as market of ‘Social Networking Site’ but not as a ‘targeted advertisement market’. It is the advertisers

¹⁷ Ibid

¹⁸ Case C- 179/16.

¹⁹ Case No COMP/M.5727 – Microsoft/Yahoo! Search Business, 18 February 2010, par. 111.

²⁰ Monopolkommission, ‘Competition policy: The challenge of digital markets’, Special report No. 68, July 2015, par. 200, available at http://www.monopolkommission.de/images/PDF/SG/s68_f ulltext_eng.pdf.

²¹ See <https://analytics.facebook.com/>

which are real consumers for Facebook. The individual users are not really consumers of its services, but provider of data for its advertising business. This is how the market needs to be defined. So, the very way of defining the market has been wrong both by German as well as CCI.

The question should be to determine as to if any targeted advertiser can beat Facebook in its advertising game or can enter the market and have access to as much data as Facebook has? For a new entrant, it would not help much if it is a better networking site than Facebook, it'll also have to compete with its other branches by creating a photo-sharing app better than Instagram and messenger better than WhatsApp. This would not be just enough. The new entrant will have to fight with Facebook's network effects and also, the individual network effects of its branches because a user would be reluctant to switch to a new app if his/her friends or community collectively does not do so.

Also, while competition analysis of Facebook, it is important to find out which kind of network effects are playing a role here. As per our prudence, one kind that is majorly working here is Personal utility Network Effects that is, people have created an identification with their Facebook accounts and due to this, and it has become an important part of their personal or professional lives.²²

Facebook has also gradually picked up Bandwagon Network effect which works on people's psychological fear of being left out as one's all friends are on facebook, they plan events and meetings through Facebook and send invitations through Facebook.²³

Such a complex analysis can't be made in isolation by looking at one market only. Also, the digital market cannot also be treated like any other market selling tangible products. Therefore, it is more than important to study the Business model of Facebook, its evolution, the reasons for its rapid growth and widespread use, its effect on the users and most importantly, the working of its network effects.

CONCLUSION

The different courts have analysed this complex matter through three different approaches and reasons leading to three different judgments and conclusions.

However, it is essential to realise that a platform market which has more than one side must be analysed from all the different sides together to reach a plausibly sound conclusion. In this paper, we have seen that every court has missed seeing the impact of data-collection market, i.e. the social network on the targeted advertising market.

The market definition that the courts took up for their consideration is only of social networking market which we have argued, is more of a source of raw-material for successful targeted advertisement business than having its individual existence. We have also noted that the social networking site is not the only source of raw material for the giant firm; Facebook also has Instagram and WhatsApp for the same. Buying WhatsApp in a hefty deal is also a symbolic gesture showing how important it is for Facebook to control and have numerous sources of data and subsequent change in privacy policy also reflected its motive of buying WhatsApp, i.e. increasing its inflow of data and more than that, being in control of numerous sources of raw data. Control of all the available sources of data has the potential to act as a barrier to entry for any other business to enter. With respect to consumer welfare, if it keeps controlling all the data-sources, Facebook will be free to introduce privacy policy like with WhatsApp or maybe, even more restrictive where consumers would not be able to make voluntary choice of whether to give up their data or not, and it can any day be used for more instances like that of Cambridge Analytica which was not just a threat to individual's privacy but to a Nation's autonomy and sovereignty.

The entry barriers created by control over all the possible sources of data can make it a dominant firm in the market of targeted advertisements defeating the very purpose of Competition Law. It is high time that authorities stop Facebook from controlling all the sources of Data either through divestiture or by making it compulsory to share data collected with incumbent firms which wish to enter the market.

²² See *nfx.com*.

²³ *Ibid*