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Comparing Competition Law: Anti-Monopolization in Pakistan, India, the UK, and the USA

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Abstract

The paper made a comparative research study between the Pakistan, India, United Kingdom, and the United States anti-monopolization laws with emphasis on the legal, institutional, and economic aspects of regulating dominant market power. Based on statutory structures, judicial interpretations and enforcement processes, the research paper points out the way each jurisdiction interprets dominance, the restriction of monopolistic activities and allows enactment of competition laws. Whereas Pakistan and India take on the administrative models under influence of EU meaning the focus on the interests of the population and equity, the UK pursues a hybrid regime based on the principles of EU competition law and influenced by post-Brexit development. Conversely, the United States has been using a tradition of common law where judicially established standards are identified to favor consumer welfare and economic efficiency. According to the analysis, one of the most notable differences pertains to the local enforcement approach, levels of proof and remedies as they are the result of various historical legacies, economy, and institutional capability. The paper holds that in spite of all the four jurisdictions aiming the hindrance of the abuse of market dominance, they have different legal traditions and policy goals, which results in different regulatory consequences. This relative view provides important lessons to the policymakers and the scholars that are concerned with implementing effective competition law regimes in the advanced economies and the developing economies.

Keywords

Anti-Monopolization, Competition Law, Market Dominance, Comparative Legal Analysis, Regulatory Enforcement

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1. Introduction

Competition policy started as a mainly trans-Atlantic issuebut in the past thirty years has become an internationalized near-universal priority, driven by globalized supply chains, the adoption of digital platforms of the winner-takes-most variety, and by growing evidence that high degrees of market power have led to a collective drag on productivity, innovation and real wages (OECD, 2022). However, the legal framework that is meant to address the problem of monopolization is represented by a strikingly scattered pattern. Pakistan and India can be classified as being similar to EU-inspired, agency-oriented laws; the United Kingdom has a hybrid regime undergoing a realignment following Brexit; whereas the United States continues to be ruled by judge-made common-law standards, in which welfare-based economics takes center-stage when it comes to consumers (Hoencamp, 2020). This variety also poses an underlying question, which is, how are various legal traditions, enforcement institutions and economic philosophies used to advocate practically the dominant market powers?

Natural laboratory is provided by these four jurisdictions. Competition Act 2010 was prepared largely under the assistance of the EU and it is one of the latest administrative regimes of South Asia (Soomro, Khan, Elizabeth, & Davis, 2021). The Competition Act 2002 in India put aside the domestic focused MRTP regime and directly incorporated the ideas of the Article 102 TFEU to the benefit of an economy quickly opening up (Chakravarthy, 2012). The UK Competition Act 1998 which long jumbled with EU law must survive on its own now, without dominance redefined in a post-Single-Market world needing to be reapprehended by the

Competition and Markets Authority (CMA) (Whish & Bailey, 2021). In contrast, antitrust failure and conviction of bulk purchasing cartels, under the Sherman Act, Section 2, appears to continue to be rooted in precedent-based notions of monopoly power and rule-of-reason assessment guided by Chicago-School and the post-Chicago economics (Hovenkamp, 2020). Current literature is inclined to study each system separately or globally national dichotomies. The comparative literature on the South-Asian jurisdictions is less thick and tends to be more descriptive than explanatory, rather than providing any answers to the issue of how the variability of the statutory tests and standards of proof, and the sets of tools available in remedy treatment affect the real results in cases. In addition, new digital-market investigations, not just with Android in India, but also on App-store antitrust claims in the United States and the United Kingdom, indicate that market-share benchmarks may require adjustment (OECD, 2022). The present paper thus has three aims: to compare the formulations of dominance and scope of forbidden behaviour in the two jurisdictions, to observe the influence of enforcement design (quasi-judicial based enforcement versus judicial based enforcement; public and private enforcement actions) on the speed and intensity of intervention and to conclude in terms of lessons to be learnt by the emerging economies that wish to modernise or constitute competition laws that preclude abuse without inhibiting scale-intensive efficiencies. The current study makes use of doctrinal comparison of statutory text, leading case law and agency guidelines, accompanied by effects- based approach which balances consumer-welfare, fairness and market-contestability objectives. The Competition Act 2010 (PK), the Competition Act 2002 (IN), the Competition Act 1998 (UK) and the Sherman Act 1890 (US) come at or near the top of the list of primary materials and pivotal cases include United States v. The Google-Android order of Grinnell Corp. and the CCI. Secondary sources Hovenkamp (2020), Whish and Bailey (2021), Soomro et al. (2021), Chakravarthy (2012) and recent OECD round-tables give doctrinal background and empirical patterns. The cross-jurisdictional analysis is done deliberately, following the path how similar legal text in a statute can lead to different enforcement patterns when passed through rules of law of different legal cultures and different economic priorities.

Section 2 defines the comparative methodology which follows this introduction. Section 3 contains analysis on the legal structures that regulate dominance. Section 4 discusses definitional tests of monopoly power and section 5 provides a list of forbidden behavior. Section 6 reviews institutions of enforcement and standards of proof; Section 7 reviews remedies and penalties. Section 8 draws generalised lessons and policy propositions to offer to legislators and antitrust enforcers who face the challenge of both old style industrial concentration and fast-changing digital eco-systems. This placement of Pakistan and India among the UK and USA helps the current paper to enlighten not only statutory variations but the more fundamental normative choices that regimes of competition, throughout the world, need to make between administrative predictability, economic maturity and judicial discretion. That knowledge is essential to jurisdictions both developed and developing that aim to relibrate antitrust instruments in a world that is changing not only technologically, but geopolitically, in unprecedented ways.

2. Methodology

In this study, the comparative doctrinal and institutional approach will be based on the framework put forward by Majeed and Hilal (2022) that combines a normative analysis of law with situational practical knowledge of jurisdictions. The method is based on the conventional comparative legal theory stated by Reitz (1998) who surmises that successful comparative legal research should not rely on the superficial uniformities in law texts but rather focus on verging equivalence of law norms in their functional contexts. The study started

with a descriptive overview of main legal sources, i.e., primary legal sources such as domestic legislation Competition Act 2010 Pakistan, India Competition Act 2002, United Kingdom Competition Act 1998, United States Sherman Antitrust Act 1890. Besides texts of legislation, the research looked at the case law, reports of the enforcement agencies, and judicial guidelines which help ascertain the meaning of anti-monopolization regulations. Thematic analysis of such sources was performed identifying the qualitative coding scheme based on extraction of definitions of dominance, categories of banned behavior, and enforcement strategies. The comparative process was conducted along the lines of a functionalist approach where the rules used in various jurisdictions are analyzed based on its functionality and not by the letter of the rules. This comparative functional analysis allowed this study to make notes of the commonality between the goals of the two laws, namely the prevention of abusive behavior in the market but also showed that there is a lack of convergence in terms of institutional enforcement, thresholds of evidence, and assumptions made about the economy. Contextual variables (i.e., level of economic development, legal tradition, and institutional strength) were included and rated so as to determine why enacting of similar legal regulations creates different regulation outcomes. According to Majeed and Hilal (2022), the absence of such so-called contextual consonance can be misleading at the time of getting comparisons between systems which have different social, economic, and legal systems in place.

The work is based on the extensive doctrinal legal argument but supplemented with a minimum of empirical sources, especially in the context of operation enforcement, where trends in the amounts of the fines imposed, case load and the number of judicial interventions provide some information on practical efficiency. As a way of promoting systematic coding of documents and agency decision, a software tool referred to as NVivo was utilized to enable systematizing coding and the results were triangulated with academic resources and policy reports by bodies like OECD and national competition authorities. This approach allows comparing legal regulations on abuse of dominance in both established and emerging competition regimes by textual comparison and by applying institutional and functional perspectives. It enables the research to move beyond legal formalities regarding statutory differences, and to consider more profound normative and functional logics upon which competition law is intertwined in each jurisdiction.

3. Legal Framework

All the jurisdictions of investigation having different legal systems to regulate the abuse of market dominance include Pakistan, India, the United Kingdom, and the United States. The Competition Act, 2010 of Pakistan prerequisites the anti-monopolization whereas the Monopolies and Restrictive Trade Practices Ordinance of 1970 is earlier. It partially followed the example of the EU competition law Article 102 of the Treaty on the Functioning of the European Union (Khan, 2021). The Competition Act, 2002 of India is also highly influenced by EU legal provisions and was enacted to supplant the decades old MRTP Act to strike a balance of efficiency in the market and the interests of the people (Chakravarthy, 2005). The Competition Act, 1998 of the UK came into force in 1998 and Chapter II implements longstanding EU theory and practice of dominance, although after the Brexit referendum practice has changed to a UK-focused model by the Competition and Markets Authority (Whish & Bailey, 2021). In comparison, the U.S. antitrust regulation lies in Section 2 of the Sherman Act, 1890, which stipulates criminalizing monopolization, presented via case law interpretation, focusing on economic damage and consumer welfare (Hovenkamp, 2020). Although the same four systems restrict abuse behavior, the U.S. model brings into effect the judicial enforcement as the key regulation system.

4. Comparative Analysis of Anti-Monopolization Legal Framework

Comparing the legal frameworks of anti-monopolization in Pakistan, India, the United Kingdom and the United States, we can see that they have some convergence and divergence with references to their legal culture, institutional patterns and economic aim. Pakistan and India use administrative structures following the European Union model and control abuse of dominance, not dominance (Khan, 2021; Chakravarthy, 2005). The UK, which previously adhered to EU legislation, still uses a comparable standard after its departure in its Competition Act 1998 (Whish & Bailey, 2021). Instead, the United States regulates monopolization by a court-centered approach founded on Section 2 of the Sherman Act, which focuses on economic impact and consumer wellbeing (Hovenkamp, 2020).

4.1 Statutory Source

This analysis focuses on the work of Pakistan and the European union in the legislative domain in terms of legislative texts and their background and scope alongside with their legal basis.

Competition Act of 2010 is the primary law in Pakistan to control monopolies and superseded the Monopolies and Restrictive Trade Practices (Control and Prevention) Ordinance of 1970. Section 3 of the Act makes it provides that abusing dominant positions is unlawful, and an exclusive control in itself is not unlawful in the terms of the legislation. Business establishments that enjoy dominant position are either capable of operating on their own without competing with market rivals or actually control the competitors or consumers within the relevant market segment. Indian competition regime closely adheres to the EU competition rules particularly Article 102 of treaty on functioning of European Union (TFEU) with high emphasis on administrative power and interest of the people when compared to judicial action (Khan, 2021). Anti-monopoly laws in India are based on the competition law of 2002 with section 4 that monitors abuses of the dominant firm positions. Both the country and Pakistan do not prohibit dominance as such, but only the abusive exercise of dominant force. Dominant position is achieved when a company is able to operate without the market competition and when their operations have positive market impact to both businesses and consumers. With the Competition Act of 2002, Indian competition law was changed as the old Monopolies and Restrictive Trade Practices Act (MRTP Act), 1969 was replaced (Chakravarthy, 2005). This legislation also includes Indian economic development needs and objectives of public interest as well as EU regulatory effects.

Section 2 remains the foundation of antitrust legislation under the Sherman Act of 1890 and addresses monopolization and even attempts to create monopoly situation. The U.S. law not only criminalizes monopolization but also empowered the judges through its vague definition to provide their own interpretation in their opinions. Nobody is meant to intentionally accumulate monopolies due to their skills and technical expertise unless in inadvertent ways (U.S. v. Grinnell Corp., 1966). In the U.S. system, antitrust regulation is enforced by the courts based on the benefits of consumer welfare as opposed to administrative discretion (Hovenkamp, 2020). The Competition Act, 1998 chapter II prohibits abusive practices by UK companies with a dominant market power. Brexit Article 102 of the TFEU moved to Chapter II of the Competition Act 1998 and interpretation and enforcement powers will transfer to the CMA. The state of the law According to the statute, which definition of abuse is EU law-compatible and encompasses unfair pricing alongside output restrictions as well as discriminatory terms and conducts. Compared to the U.S. model, the enforcement of the UK model lacks the enforcement under the U.S. model since the U.S. model subscribes to administrative control in its decision-making processes but enforces economic and effects-based reasoning

in its judgments (Whish & Bailey, 2021). The intersections between anti-monopolization legal systems in Pakistan, India, the United States, and the United Kingdom vary due to various historical, law-related, institutional, and economic considerations.. These potential theories illustrate the variations between anti-monopolists regimes in Pakistan India the United States and United Kingdom.

A significant cause of differences among the laws lies in the legal traditions. Section 2 of the Sherman Act is designed to have broad meanings through judicial decisions since the United States operates under a system of common law together with a powerful rule of judicial interpretation. In comparison with the US, Pakistan along with India and the UK moved out of their common law history into a law-based system of administration that specifically regulates competition law. However, such jurisdictions enforce competition laws via regulatory agencies that are technically judicial authorities in as much as they proactively supervise. The second principal cause of this movement lies in the fact that it relates to the historical conditions of industrial and economic growth. In 1890, when big industrial trusts controlled American markets, the Sherman Act was enacted to deal with Standard Oil and U.S. steel and other trusts. American judges developed their antitrust reaction based on their perception that the power to control economic power should be avoided along with the belief in the principles of free markets and individual control (Hovenkamp, 2020). Both the British and European Union antitrust regulations were created after the American regulations and focused their application on the stability of the economy combined with the protection of consumers after World War II and the introduction of European Common Markets. The developing economies in India and Pakistan developed their first industrial framework using a state mechanism in the early stages prior to replacing it with market-based mechanisms thereby introducing their competition law in the years 2002 and 2010 as a result of liberalization and globalization pressures. Economic philosophy and enforcement priorities are independent of one another. The specifications of the U.S. antitrust law involve substantial economic considerations and high levels of proofs as to whether or not it should act due to its emphasis on primarily economic impacts along with consumer welfare and efficiency gains. In Section 2, firms have to prove power to monopolize as illegal and anticompetitive mistreatment or false in order to pass the two-fold examination. Pakistan and India have opted to have a formalistic system of enforcement, emphasizing objectives of the public interest in the sector including preservation of business by small participants and fairness in the market and access to universal service. UK put in place a balanced consideration of market standard effects analysis during its EU association although it included further considerations in social and market spheres. The fourth and the final critical ingredient is the manner in which the institutions have been designed alongside the systems that are in place. In the U.S. antitrust enforcement regime, there is an accompanying level of: through private litigation, class actions with tripled damages and two federal enforcement agencies (FTC and DOJ). The United States under its enactment style has judicial procedures that are more warmed up and greatly impacted by market realities. UK, along with India and Pakistan, applies the antitrust policies with a single administrative government structure and contains an official investigatory framework unsimilar to the U.S. model. The various enforcement mechanisms define the levels at which the investigations can be activated as well as the remedial measures employers will be subjected to once it is revealed that their infringements contravene antitrust policies. Global aspects play significant roles in such situations. The doctrine of abuse of dominance contained in EU competition law is similar and nearly identical in both UK and India competition laws. Writers of the Competition Act in India have enjoyed TECHNICAL assistance by EU since the drafting stage unlike the UK who intentionally harmonized its laws

with EU laws when it was still a EU member. Donor influence and the need to harmonize regional laws also led Pakistan to embrace a lot of EU values. In contrast to the European models, the United States created its policy independently and it is powerful globally even though its laws regarding the digital sector are not part of the European ones. The level of market development is the last stage of influence in legal frameworks. Older economies like the USA and UK distinguish their legal interests with developing countries Pakistan and India where emphasis are on barriers to market entry in addition to price control mechanisms and unofficial monopolies. The differing market situations define the wording and application of the law as well as the financial standards under which each jurisdiction can operate.

Pakistan, India and the UK have each adopted their statutory preconditions that resemble the European anti-dominance protocols to prevent monotonous conduct yet not make dominance per se a crime. The U.S. policy adheres to specific structural principles that make the willful monopolization the main constituent concept, whereas judges can significantly influence the interpretation and decision-making process based on economic efficiency. Competition protection is the main goal of all approaches but these regimes differ in the matter of origin and theories and also in the system and method of their enforcement and in the constructions of their organizations.

4.2 Definition of Dominance/Monopoly Power

Both systems are interested in preventing abuse of the markets by concentrated firms but determine their tests of dominance by considering three distinct elements: customs of the legal framework and economic descriptions of theories and regulatory directives.

As per Competition Act 2010 of Pakistan an undertaking can be deemed to be dominant when it enjoys an economic strength position with the ability to render effective market competition dead and the ability of that undertaking to operate utterly independent of its competitors, customers, consumers and suppliers (Competition Act, 2010, SS2(1)(e)). The definition of dominance in Pakistan is equivalent to the Article 102, TFEU of the European Union. Dominance in the market is dependent on three factors, which are: a control of the product sector and discretion of entry barriers and the possibility of operating without the market. The Competition Commission of Pakistan (CCP) enforces the effects-based assessment supported with economic measures to gauge a market power, whereas imposition is partially influenced by instituting and procedural administrative barriers (Khan, 2021). Being enterprise power, dominant position is defined in the Indian Competition Act, 2002 as a position by which an enterprise can operate without competition in the market or discriminate advantageously the business or consumer or participant in any market under section 4 Explanation (a). Indian law system does not prohibit domination but rather makes it illegal to misuse it. Dominance is defined by the Competition Commission of India (CCI) by analysis of market share of the enterprise and also its assets value together with its financial ability and vertical placement within the sector and its repercussions on the market position of its customer companies. According to the Indian judiciary, market dominance cannot be proved by the value of a certain portion of ownership in the market, but over 50 percent of ownership can create probable assumptions (Mehta & Thomas, 2012).

In Section 2 Sherman Act (1890), the United States Supreme Court explains the concept of monopoly power based on court rulings instead of specific legislative definitions. United States v. Grinnell Corp. (1966) considers relevant market determination as the fundamental to recognize the monopoly power founded on price regulation and contest withholding. Under this jurisdiction, the definition of the economy has gone past extended economic definition seen in South Asian Jurisdictions and European jurisdictions. There is no one

punished in existing legislation since dominance as an act is not against the law but gaining or control of the monopoly status through anti-competitive efforts is an unlawful conduct. The courts require demonstrating the presence of power monopoly on the one hand and very bad market behavior that often shows itself through economic data along with analytical models on the other (Hovenkamp, 2020). The definition of dominance provided in Chapter II of the Competition Act 1998 to the UK corresponds those of EU law and in particular sets that of Article 102 TFEU. A firm in such an economic position acquires market power which enables it to make its decisions without consultations to the other market rivals as well as the consumers. The Competition and Markets Authority (CMA) identifies the market power by considering the market shares amongst other factors such as dominance durations and barriers of entry and buyer power. The signs of possible domination become noticeable once a business organization obtains a market share above 40%. Nevertheless, power of a dominant market position is measured on a case-by-case basis. Brexit triggered the UK, which was able to make its own determination of market dominance rules based on self-regulated methods (Whish & Bailey, 2021).

Other historical facts and legal-economic systems and institutional elements cause the difference in definition of dominance or monopoly power in Pakistan and India and the United States and the United Kingdom. The exact provisions of dominance or monopoly power in every country reflect the forms of regulation applied as well as legal frameworks and degrees of economic growth along with international laws. These discrepancies in definition are predominantly because of two factors that overlap, i.e., background or national law and enforcement approaches. The United States is a common law jurisdiction and therefore is more dependent on the judicial interpretation. The definition of monopoly power is not defined in section 2 of the Sherman Act; therefore the courts provided a definition of monopoly power by using legal cases. The definition came as a result of economic criteria whereby, power to fix a price or the power to exclude competition are parts of the main concepts on its definition as seen in United States v. Grinnell Corp (1966). Grinnell Corp. (1966). The definition of dominance in Pakistan and India and in the UK is provided by the laws since all these countries practice common law but adapted to the European competition law, which values administrative supervision and followed by the rule of law framework in enforcement (Whish & Bailey, 2021). The history is substantive in producing competition law together with use of statutory terms. The development of the U.S antitrust regime in the late 19 th century has its roots in the prevalence to regulate the influence of the strong monopolies like Standard Oil that were now dictating the market. It was aimed at preventing market exclusions and offer consumers relief based on court-rendered decisions since its inception hence establishing this model that is focused on jurisprudence (Hovenkamp 2020). India and Pakistan continued to adhere to state-controlled economic models that had been given to them by the preceding colonial era following the achievement of independence. Reforms of competition law in those countries were made after the economic liberalization processes that took place in late 20 th and early 21 st century therefore allowing them to shift to European-like model of competition regulation. The Competition Act of 2002 in India has superseded the MRTP Act of 1969 to move, instead, toward facilitating competition (Chakravarthy 2005).

The differences in the course of development exhibit jurisdictions which were affected by the adoption of interpretations of international law among nations. The United Kingdom, through its membership to the EU, has exported the concepts of European competition law such as Article 102 TFEU to both India and Pakistan. These parallel forms of expression came to be because the concept explains the economic strength of an

undertaking that allows it to do things freely even about competitors and consumers. The legal provisions took an international route towards obtaining international standards in the trade and investment policies (Khan, 2021). The U.S. system is independent of the EU public enforcement approaches since it illustrates alternative dynamics towards the standards of market concentration excluding instances where exclusionary happenings wield the proof. Such differences are caused by the diverging economic policy objectives as well as varying regulatory priorities. The U.S antitrust system requires robust economic evidence of a monopoly power that is required to maintain an economic efficient and consumer welfare agenda. The market share is not in itself a sufficient reason of the classification of dominance. The prevailing policy synthesized between Pakistan and India goes beyond dissimulation of the market-to-market access in terms of realizing the smaller businesses. Such generalized definitions allow CCP and CCI regulators to evaluate structural as well as behavioral signs despite the non-strict validation of economic evidence (Mehta & Thomas, 2012). Various institutions with their methods of enforcement dictate how the dominance will be characterized and applied. The United States uses two enforcement devices (FTC and DOJ) and also the court action by citizens as well as requesting the courts to provide legal definitions of monopoly powers. These forms of regulation lead to clear and specific borders of legal standards. India as a combined initiative with Pakistan and United Kingdom provided their centralized administrative powers of (CCI, CCP, CMA) with extensive investigation authority in terms of guidelines to undertake investigation of market dominance. The system is also flexible in different circumstances but it also allows different officials to interpret differently. The situations are influenced by economic development, as well as market structures. The two economies of Pakistan and Indian and the market are a state of reduced diversification with the two countries having few firms and poor governing units. The regulatory authority enjoys such wide definitions of its dominance that offers the authority greater options of intervention. U.S. along with the UK have mature markets where regulators need to focus on efficiency effects and the barriers to new product development rather than focusing on the market share levels.

Pakistan, India and the United Kingdom have the same regulatory definition of dominance that is only available in the EU competition law whereas United States have a more court-made economical definition of monopoly power. Market power alone or abuse of it by the exclusion of competitors, or damage to consumers is unlawful behavior as described by all jurisdictions.

4.3 Forbidden Behavior

The essence of prohibited monopolistic behavior in the Pakistani and Indian law of economic competition is the same as the prohibited activities in the jurisdiction of United States and the United Kingdom. The legal systems determine anti-monopolistic abuse using standard measures that have these aspects of behavior.

Predatory pricing and exclusive dealing in forms of tied selling agreements and refusal to sell and discrimination in prices and restricted production or accessibility to a market are major forbidden activities in terms of anti-monopolization legislations of Pakistan, India, United States and United Kingdom. The jurisdiction laws state that powerful companies need to avoid both the blocking of competitors and also mistreating their clients with their existing market superiority. A corporation which lessens competition by selling cheap will be predatory as long as it is willing to increase prices in future as part of recouping of initial losses. Under Explanation (b) to Section 4 of the Indian Competition Act of 2002, the law governs pricing of goods or services at below cost to cut competition. The predatory pricing as given under Competition Act 2010 of Pakistan section 3 (3) (g) is the direct contravention of the dominant position abuse. Chapter II of

the Competition Act 1998 of the United Kingdom considers predatory pricing to be a competitive procedure-harming practice on its own. The Sherman Act of the U.S. Section 2, which is applied in the U.S. courts, according to the Brooke Group Ltd. v. Brown & Williamson Tobacco Corp. (1993), requires the professional grade evidence of the price reduction with enormous possibility to recover losses. The United States has been implementing these standards as it sustains its penalization in punitive actions that aim at cutting exclusionary competition that leads to justified market monopolization.

There are legal standards, which indicate that supplier restrictions of customers sourcing competitors may be involved in abusing practices. These are arrangements that are unregulated per se in the whole of India and Pakistan unless it can be deemed as market-blocking measures or competing with the available market competitors. The Competition Commission of Pakistan subjects all the exclusionary business practices to review so as to know the impact they have to businesses and the consumer market choices. Section 4 has been implemented by the Competition Commission of India (CCI) aimed at evaluating the harm related to the market which arises with regards to exclusive distribution agreements. The Chapter II of the UK law states that an exclusive dealing arrangement is an abuse in case it creates substantial foreclosure in the market. In order to strike a balance between impacts on the competition and efficiencies of performance the United States uses a rule of reason benchmark when considering such deals. The court identifies the durations and scope of contracts and access to the competing suppliers of products by the customers. An abusive practice under this mechanism entails a tie-in arrangement which involves compulsory additional acquisition of product in order to acquire desired one. The Pakistan Competition Act of 2010 in section 3(3) (d) proceeds the same way as the Indian Competition Act in section 4(2) (d) to prohibit dominant enterprises to enter into these prohibited transactions. Investigation of tie-in practices abuse in the UK is done through assessment of the effects of tie-in practices in business rivalry increase and client selection dismissal. When Sherman Act and section 3 of the Clayton Act play a role in enforcement of the tie activities they have no legal ground on the boundaries of the U.S law but courts do pass certain conditions like tying in the market of the tying product activity and significant constraints of the tied products according to Jefferson Parish Hospital District No. 2 v. Hyde (1984). Hyde (1984).

Absence of essential products or services provided by the contractor with reasonable reasons can make businesses in India and Pakistan, earn dominant abuse status. Such jurisdictions have reached an agreement that refusal to supply necessary services or raw materials in the market may be considered a certain negative action. Refusals to supply products without any reasonable justifications can lead to chapter II exclusions as stipulated by the UK competition authority. In this regard United States follows some strategy that needs more care. Based on its decision in Verizon Communications Inc. v. Trinko, (2004), the U.S. Supreme Court removed any doubt about the fact that businesses are expected to do that only when they refuse to assign competitive deals as one of the provisions of a larger anticompetitive effort.

Setting different prices to customers based on non-existing bases is regarded as an anticompetitive step taken by any regulatory authority. Section 3(3)(c) of the Pakistani antitrust law prohibits discriminatory prices and the ban on unfair methods of pricing is also contained in the Indian antitrust law under Section 4(2)(a) (i) that criminalizes unfair methods of pricing. Discrimination of customers is illegal under the legal frameworks of UK as long as the discriminatory acts attract competitive harms and consumer losses. Enforcement of the Robinson-Patman Act has been reduced in the United States during the 2000s both because economic tests set by the Act were found too hard to meet and because antitrust enforcement has been shifted towards

consumer welfare protection. Product restrictions and restricted entry of products are some of the fundamental forms of abuse that cause the widest havoc as compared to other associated violations. Section 3(3)(a) law has prohibited businesses in the Pakistan government to reduce their production output so as to fetch a better price. Section 4(2)(b) of the Indian law prevents businesses to force their restrictions on production that may lead to consumer problems. According to the UK competition law, the output restrictions are illegal and should be treated as the misconduct of businesses along with other acts of abuses. The United States companies have an opportunity to use the Section 2 of Sherman Act against lessening the supply of goods in the market to have the sway of monopoly power and judicial practice solely relies on outcome-based analysis to prove that both efficiency justification and anti-monopoly justification are absent.

Dominating the market itself is not enough to bring about the restrictions of competition since it should use its status in the market against the purpose of hurting competitors or rather the consumers as per all fiscal jurisdictions. Every country formulates its policies on anti-competitive interventions by harmonizing its legal tradition with its economic settlements and the institutional strengths that it has available.

4.4 The Enforcement Agencies

The jurisdiction then sets up special competition authorities to monitor the anti-monopolization laws as part of the legal and administrative mechanisms. These institutions also work precisely along perceptions of traditions of Pakistan, India, the United States, and the United Kingdom. The maintenance of competition on the market and the prevention of dominance, abuse and monopolization are the two-part mission of all enforcement authorities as they all also operate under different operational structure, decision-making powers and procedural systems and institutional approach.

The Competition Commission of Pakistan (CCP) is an autonomous quasi-judicial authority and a self-governing body of the state that was created to uphold the Competition Act of 2010 and was formed under the Competition Act of 2010 which itself is a statutory body under Pakistani laws. According to Section 3 of the Act, the CCP has the powers to investigate and adjudicate and/or enforce breaches that relate to abuse of dominant position. The Competition Commission of Pakistan as an independent agency uses its prerogative to conduct probe and then give show-cause notices before applying the calculated sanctions in the form of fines and remedial procedures such as cease-and-desist orders. The CCP experiences the constriction in its activities since it is modeled after the European Commission and the CCI in India but still meets the opposition of the critics who say that it is interfering with its capacity to enforce regulations due to the small numbers of staff and a large time lag in responding to the complaints and political interference (Khan, 2021).

Competition Commission of India (CCI) is committed in the active enforcement of Section 4 of the Competition Act 2002 as the chief India agency in dominance abuse issues. After starting its operations in 2003, the CCI completed its building in 2009 and had the authority to carry an investigation under suo motu process or based on information provided by the consumers and competitors among other stakeholders. The CCI applies a process framework whereby a case must first be investigated by the Director General who next forwards or hands over a report to the Commission who decides accordingly. Such penalties that can be imposed by the CCI comprise of the financial punishment up to ten percent of the average turnover rate of that enterprise at fault and the obligatory systemic and behavior correction actions. The CCI has also demonstrated its effectiveness as a competition watchdog with the help of the large jurisprudence of cases on its website and exploration of some of the most popular examples such as DLF (real estate) and Google (search bias) and Amazon/Flipkart (platform dominance) (Mehta & Thomas, 2012).

The enforcement by the American antitrust system via Section 2 of the Sherman Act operates beneath the supervision of the Department of Justice Antitrust Division (DOJ) and Federal Trade Commission (FTC). The department of justice has an exclusive charge of criminal cases as well as civil claims made in federal jurisdictions though most of its operations are processed through proceedings by the Federal Trade Commission Act. The freedom to break-up monopolistic firms is attained in the hands of the DOJ by virtue of its authority and in the hands of the FTC through their administrative power of complaint to order businesses to cease anti-competitive behaviour. Antitrust actions can be filed by private parties seeking the U.S courts to award them triple damages along with their attorney fees. The inclusion of both government antitrust and antitrust enforcement in the antitrust system of the United States makes the American antitrust system the most legally active entity in global antitrust enforcers. Decisions involving monopoly issues are bare under Section 2 because to prove such allegations, there must be powerful evidence but the outcomes of such cases have severe impacts on the accused persons as witnessed in the past cases of United States v. Microsoft Corp (2001). Microsoft Corp. 2001. Competitions and Market Authority (CMA) is the law implementation body of the United Kingdom monopoly abuse laws Chapter II of the competition act 1998 that arose in 2014 when the OFFER of Fair Trading was replaced. The CMA is an independent non-ministerial department and as such the CMA has both investigatory powers as well as adjudicatory. The body also has the power to initiate investigations and impose temporary solutions as well as take settlements by violators in addition to handing out financial penalties not exceeding 10 percent of global business income. The CMA has the authority to refer markets to extensive reviews and remedy structural solutions to allow markets to enhance. Brexit has established a greater autonomy of the CMA in determining market abuses under the UK competition policy since UK is no longer aligned to EU law as per the Article 102 of the TFEU. The post-Brexit UK competition organization uses the vast majority of the EU enforcement strategies but has introduced increased flexibility to consider the local business scenarios (Whish & Bailey, 2021).

The objectives of the four enforcement agencies are parallel to avoid misuse of market power whenever possible but to serve the customer interests as well as to have healthy competition with appropriate market arrangements. The intervention of the courts and Commercial litigation is the primary characteristics of the U.S. system of competition enforcement together with the need to have strong economic evidence. Pakistan and the other countries of India and United Kingdom follow the administrative enforcement mechanism since their competition authority both assumes the responsibility of enforcing and adjudicating their antitrust law structure. Agencies are successful due to the laws they have the right to but the efficiency may seriously rely on how much they are able to do and independence along with economic knowledge.

4.5 Standard of Proof/Economic Analysis

The criteria of the anti-monopolization cases and use of economic analysis between Pakistan and India, is radically different as compared to the criteria of United States and Britain due to the countries having different legal systems, procedure based regulation, and assets of institutions. There exist two unique relationships of control and determination of criteria used in establishing the behavior responsibility.

Since Pakistan employs administrative enforcement in the regulation of abuse of dominance there is an application of low standards of proof in the country than in the developed economies. Competition Commission of Pakistan (CCP) works under rules-based model of operation which affirms violation of abuse when predominant bodies adopt predatory payments or undertaking arrangements or generate denials to provide goods. The nature of the investigation of the CCP is mainly based on qualitative findings

accompanied by the market share analysis along with entry barriers and conduct analysis but proves to have limited economic analysis strength. Decisions made following the economics of competitive force incompetence as well as an appreciable limitation of competition typically are based on structural indicators without the extensive empirical measurement. There are two obstacles in precise economic monitoring of CCP due to budget limitations and a lack of technical expertise that compel the commission to use standard legal evaluation criteria as indicated by Khan (2021). The Competition Commission of India (CCI) has forged sophisticated analysis of Section 4 of the Competition Act, 2002 on interpretations that have merged evidence and effects analysis. The modern tendency in the solving of the digital market cases has substituted the classical market share decision-making method with a price strategy and cost examination and network conduct and customer shifts owing to the economical data. Competition Commission of India needs sufficient evidence to prove the existence of dominant position and abuso by the use of the standards of the preponderance of probabilities in administrative and civil proceedings. The CCI works along with the Director General who formulates investigation reports based on market research consisting of statistical details but not always involving an adversarial assessment. The Indian courts apply a rule of conduct-specific and economic outcomes as a foundation of accountability in conducting competition regulation that gives rise to an emerging edition of the enforcement regime (Mehta & Thomas, 2012).

The breach of section 2 of the Sherman Act compels any American plaintiff to show two elements, which include the monopoly power in a specific market and intentionally avoiding erection of competition. Economic evidence that is utilized in the decision-making processes of courts relies immensely on price-cost analysis findings and market share statistics and measurements of consumer harm models, which helps to provide elasticity of the demand data. The rule of reason principles has been adopted in definitions so as to determine that only actions which bring actual harm to competition are illegal according to law. According to the laws of the US, market competition and exclusionary action are separated by the evidence requirements which protect acceptable business actions against injury due to an identical allegation. As an example, the case of United States v. Economical modelling done by the professionals showed that browser-OS tying practices of Microsoft Corp. (2001) and damaged the competitiveness of the market. The evidence rules of the United States government demand a high level of economic skills, and hence they have to apply court procedures of examination and confrontation methods (Hovenkamp, 2020). The United Kingdom determines dominant firms under the provisions of Chapter II of competition Act 1998 by considering the effects of the firms in the markets actually causing a decline in consumer welfare as well as competition. The Competition and Markets Authority (CMA) should provide economic evidence that shows market boundaries and its counterfactuals and then argue over efficiency. When using legal terminology, the test of balance of probabilities is applied but the CMA must prove a strong case regarding dominance to accompany anticompetitive behavior to satisfy the test of proof. The competing standards of procedures in the UK competition regulation are building on a more rigorous model that is designed by CMA in terms of judging mergers and the standards of market definition in order to reach an economic hierarchy other than adhering to merely administrative procedures. The Brexit triggered the interest of CMA to its economic evaluations especially within areas of pharmaceuticals and digital platforms (Whish & Bailey, 2021).

The philosophical and institutional modes of approach are shown in the systems with varying ways of assessing evidence and economics. Quantitative measurement of damage is a necessary condition to initiate a judicial inquiry in the current system of the United States. The factor that makes the practice in the UK

exist is related to the enforcement authority through the presence of administrative agencies. India and Pakistan competition enforcement systems have improved their capacity to analyze the aspects of market-based economics using semi-formalistic methodologies. Structures among the competition authorities affect legal results of cases and perception of the employees regarding reliability and confidence of the system and fairness of procedures in systems of competition.

4.6 Penalties and Remedies

Legal penalties and remedies against monopolies contained in the Pakistani and Indian as well as in America and Britain laws only exist given the particular method of enforcement used by the country coupled with its culture and the ability of its government. All systems are designed to prevent and modify the abusive behavior of powerful companies but these initiatives reveal broad variations due to either their judicial or administrative or mixed nature.

It provides an ability to penalize through several measures against enterprises that misuse their dominating position in the market through the Competition Act 2010 via the Pakistani Competition Commission (CCP) under the Section 3 of the Act. Competition Commission of Pakistan is empowered to pay a financial penalty of PKR 75 million and other sanction which could include a compliance based maximum rate of 10 per cent of annual turnover. The CCP has enforced the punishment of combinations of monopolistic practices that consist of the tying arrangement besides discriminatory prices and limitation of output capacity. In some situations, the CCP may recommend the use of splits when there is a majority need of abuse prevention due to the extreme needs required. Just as is the European approach the CCP possesses enforcement capability; however enforcement capability of the CCP cannot be described as consistent due to the lack of sufficient institutional resources and judicial support according to Khan (2021). Sections 27 of the Competition Act, 2002 enables Competition Commission of India (CCI) to give up a monetary punishment in circumstances where dominance abuse is identified. The power of the Commission is to direct enterprises to stop abusive practices and fix the monetary penalty that could not be more than 10 per cent of average business revenue of the last three financial years. The amount of penalty will be the higher of three times the profiting or ten percent turnover in the case of a violation of cartelization (under Section 3). The CCI imposed huge fines of INR 600 crore on DLF Limited, on top of which Google had to cough up INR 1,337 crore in their misuse on Android mobile markets. When CCI applies the rules by behavioral remedies, it can instruct parties to modify their terms of contract and in special cases, it may recommend structure changes. Under the Competition Act, the advantage of the leniency programs is availed to the participants of the cartel and it is also possible to seek compensation to the concerned parties under the NCLAT (Mehta & Thomas, 2012).

Monopolization offenses for the United States Sherman Antitrust Act of Section 2 will be either civil or criminal depending on the nature of the violation. The process of criminal prosecution through the Department of Justice (DOJ) must either involve conspiracy or intent to defraud whereas much of the infractions of the Section 2 involve civil law. The combination of the injunction and divestiture order can be issued by the court along with other structural provisions that may consist of the requirement that firms should be broken. The right under law of private parties who succeed in their claims of monopolization is the recovery of treble damages together with court costs, as well as, attorney fee which constitutes a great deterrent effect. The case of the United States v. remains one of the most prominent cases in law suits that were filed using Section 2 of the Sherman Act. In the same way, the DOJ actually instituted the case against Microsoft and also the breakup of AT&T in 1982 to seek structural remedies in both instances. The American

system, however, is a very stringent and efficient instrument to thwart monopolistic undertakings, as it combines the opportunities of a private enforcer along with the substantial financial punishment (Hovenkamp, 2020). According to Chapter II of the Competition Act 1998, the Competition and Markets Authority (CMA) is allowed to impose penal amounts, which are 10 percent (10%) of the worldwide turnover, of the undertaking breaking the law in the United Kingdom. The CMA possesses the authority to direct the instant remedial measures and binding behavioral settlements in addition to holding the chance of compelling firms to sell certain resources in this or that case. Once the CMA declares anticompetitive conduct, it may seek correcting of licensing agreements, pricing agreements and selling-off requirements. Enterprise Act 2002 only permits that cartel activity should be punished criminally; therefore, the role of the Chapter II section is still advantageous in enforcement as to a civil. The Competition Appeal Tribunal (CAT) facilitates the recovery of damages to the consumers and competitors by giving them a platform to impose private damages relating to anticompetitive conducts. Since Britain exited the EU CMA received increased independence to enforce the antitrust regulations in the present-day digital market conditions by imposing fresh penalty schemes and settlement arrangements (Whish & Bailey, 2021).

The four jurisdictions have the same authority to penalize corporations and prevent abusive practices and make organizational reforms but the manner and the severity of their enforcement differs with their procedures. United States is ranked as the most severe and penal regime that allows both criminal punishment and personal civil monetary compensation damages. The UK government along with India and Pakistan resorts to issuance of fines and orders of behaving using their administrative agencies and are progressive in their methods of enforcement. The legal force that is given to Pakistan is in existence but the country is finding it hard to achieve some consistency in the results of the enforcement. All these systems take different strategies towards enforcement due to their way of procedure as well as their ability in a given institution and as regards their basic insights in economic and legal philosophies.

5. Conclusion

The current comparative analysis of the anti-monopolization frameworks in Pakistan, India, the United Kingdom, and the United States shows the severity of the role those legal traditions, institutional set-ups, and economic philosophies play in the interpretation and application of the competition law. Although all the four jurisdictions are united in the same goal which is to prevent the breach of dominant market positions, they are significantly different in the channels in which this goal is sought. Basing on European Union law, Pakistan and India are based on the concepts of the administration agencies who use formalistic approaches and considerations of the public interest. The United Kingdom has maintained its post-Brexit model that is still influenced by the EU and it is in the process of developing an independent enforcing path based on the Competition and Markets Authority. The United States uses a more judicial and economics-based approach, which places consumer welfare and strong anticompetitive impact evidence as a priority. These divergences are not simply procedural but involve overall normative decisions on the optimal allocation of market freedom, regulatory power and the ability to act within institutions. Emerging jurisdictions such as Pakistan and India lack an institutional autonomy, technical competence and political intrusion, which may interfere with the success of their competition regimes regardless of their text having strong legal provisions. In the same breath, however, the experience of the US and the UK with mature enforcement systems offers helpful points of reference in evidence-based, market-sensitive measures, especially when dealing with new complications of digital platform dominance. Finally, comparative lessons of this paper are that no model of

anti-monopolization can be seen as superior in all contexts. Rather than this, there should be successful context sensitivity of competition regulation which is the result of a combination of good law with good institutional structure and dynamic enforcement approaches. The policy implications of the findings are obvious to policymakers in developing economies: Legal reforms should be tailored to suit the local market designs and capacity limits as well as rooted in a selective adaptation of international best practice in order to enhance the existing domestic competition laws.

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