

● **SEARCHING QUESTION**

Will fining Google foster fairplay or stifle talent?

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Last month, the Competition Commission of India (CCI) had, in two separate orders, fined Google ₹2,274.2 crore for alleged anti-competitive activities.

The first was over Google's Android mobile operating system and other proprietary mobile applications, including the Play Store, Google Chrome and YouTube. It was held that Google's mobile application distribution agreement gave it a significant market lead.

In the second instance, the CCI was concerned over the mandatory terms of usage in Google Play Billing System (GBPS) for purchase of applications or in-app purchases. The CCI observed that Google Play was the primary distribution channel for mobile applications installed by Android users.

The selling of applications along

with in-app services constituted a major source of income for developers.

However, Google required developers to configure the application in a manner that all purchases were routed through GBPS.

Google was found to be "dominant" across several "relevant markets", including the market for the licensable operating system, application store for smart mobiles, general web search, and online video hosting platforms in India.

PRO- OR ANTI-COMPETITION?

The CCI's orders have sparked a debate with some experts arguing that this will ultimately have a positive effect on the entire Android ecosystem and its developers, who would stand a real chance of developing applications that offer a viable alternative to the services provided by Google.

Thus, if Google were to implement the directions of the CCI, consumers could have more



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choices for services used in the Android ecosystem.

They also felt that it would curb the 'take it or leave it' arrangement that existed between Google and

the OEMs or developers.

Others believe that the CCI's orders might stifle competition and innovation. According to some competition law practitioners, the

CCI's rulings did not consider the historical developments that made Android the market leader in the first place.

The process of becoming a market leader was founded on the bedrock of consistent innovation and adaptation to the requirements of the relevant markets.

Thus, they contended, there was no holistic assessment involved in the investigation.

GOOGLE TO APPEAL

Google is reportedly planning to file an appeal against the two orders of the CCI on three broad grounds. First, the nature of the fine levied is more "penal" than "token".

Second, the CCI appears to have overlooked the patent perspective in the Android ecosystem. Third, the CCI has not been taken through any credible evidence on the effect on consumers.

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