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TIME TO REFORM INDIA'S FINANCIAL REGULATORY WATCHDOGS: A BRIEF ENQUIRY INTO THE UPI MONOPOLY

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ABSTRACT

This brief work enumerates and analyses India's UPI ecosystem along with its legal and financial framework. Due to the evolution of the speedy internet, besides the two foreign-backed TAPAs, it dominates the retail payment market controlling nearly 80 percent of the Indian digital economy. The paper is categorised into two units. Unit I deals with the srcutinisation of Section 4 of the Competition Act and the hegemonical attitude of the two predominant TAPAs. Unit II focuses on the welfare of the consumers and the small merchants affected by the new UPI-MDR rules. Furthermore, this brief study addresses the negative impact of the usage of the internet intertwined with the UPI payments on human behaviour. In conclusion, the author attempts to give a human-centric solution of proper use of UPI payments via bank.

Keywords: *Human Behaviour, Spending Pattern, UPI Duopoly, MDR, RBI, NPCI, CCI*

INTRODUCTION

Presently, the human conduct and the financial mindset of Indian citizens have witnessed a transformation from cash to cashless Unified Payments Interface (UPI) which becoming an effortless digital transaction in our daily routine. While examining this shift through the lens of socio-psychological studies which unveils a bitter truth. That is the much-appreciated UPI system brought into India as a connive

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effort to abolish black money. Though, it seems like a positive growth from the nation's perspective. But it is totally a curse to the individual human and the dark ages to the society at large. The theory of planned behaviour, a core branch in behavioural research, says that social norms, human conduct, and habits which encourage comfort zones will make a strong negative impact on the decisions of the humans.[2] Especially the youth or the young generation who wish to live the lifestyle of absolute effortlessness and comfort on speedy payments and adopt UPI systems much faster. This attitudinal change in the youth and the adults adversely affects the spending patterns. In other words, without the exchange of cash, in just one click of a button payment happens. The absence of psychological discomfort while buying results in mindless spending. Consequently, people fail to meet their monthly budget, savings, and lastly what they get is regression. Thus, it clearly showcases how the UPI system disrupts natural human behaviour regarding fiscal well-being.

Though the UPI system generally victimises the individual's mental health, it also significantly impacts society as a whole by creating a market monopoly. Inspite of several UPI applications available in the software market like android and apple store, a monopoly of PhonePe and Google Pay holds more than 80 percent of all digital transactions in India.[3] Thus, our nation's financial stability is at greater risk due to the hegemonical manipulation by a minority yet powerful private entities. Their authority over the entire digital payments network stalls the service when a significant service provider or its bank partner faces a nationwide technical issue like the Yes Bank disaster in 2020. When a technical crisis happens in any of the two anti-competitive private companies, whether for longer or shorter durations, it affects the usefulness of other related applications in money transactions resulting in a loss in people's daily business.

UNIT I: MARKETING, DUOPOLY OF TAPAs AND INEFFICIENCY OF ANTITRUST WATCHDOGS

[2] Noor Ul Huda and Aishwarya Shrivastava, "Psycho-Social Analysis of UPI Payment Among the Youth in the Indian Context" in *The Transdisciplinary Research Approach*, pp.no.247–248 (Routledge, 2024).

[3] Pavankalyan, "Number of transactions on Google Pay & Phonepe going to be restricted, Why?" *TaxGuru*, Mar. 30, 2021.

In financial literacy, one should know the definition and meaning of third-party application providers (TPAPs) in UPI payments. The TPAPs are nothing but non-bank mobile applications that connect customers with service providers facilitating instant payments through settlement banks. Settlement banks facilitate the final payment process by transferring money from the customers' bank to the merchant's bank. The psychology behind the organic growth of the digital payment platforms is driven by strong internet connections. This fact is called the network effect. When a strong internet connection enables users to make instant payments with ease, it eventually leads to word-of-mouth publicity. The positive customer review attracts even more users. Even though it seems a convenient way to make transactions, one must remember the adage that "nothing is free". The huge investment, especially in marketing by the giant private corporates pave the way for the emergence of natural monopolies. Because of their attractive offers, like no transaction fees, rewards, etcetera, the native payment applications offered by the customer's bank are sidelined. It is also appropriate to refer to these TPAPs as TRAPS to human behaviour.

Today, PhonePe and Google Pay, two predominant mobile applications which occupy more than 85 percent of the UPI market.[4] It is to note that holding a significant share by itself is not unlawful unless or until it results in direct hegemony of the market. Actually, Section 4 of the Competition Act, 2002 (CA) underlines the same principle, in addition to that, it also prohibits unfair market practices such as direct market ejection, compelling the stakeholders to act outside the contractual obligations, and influencing them to enter into a new market using their dominance.[5] In the UPI system, though, there are positive feedbacks from the customers through their highly reliable service stations. Still, it suffers from various reasons, such as server overload, automation of anti-virus scanning, etcetera.[6]

[4] Pavankalyan, "Number of transactions on Google Pay & Phonepe going to be restricted, Why?" *TaxGuru*, Mar. 30, 2021. Also refer, Unacademy IAS: English, UPI Charges From October 15! 0.4% MDR on Payments | Detailed Video By Shyam | UPSC 2027-28, 2026, available at: https://www.youtube.com/watch?v=3SEYxu-9ZZs

[5] *The Competition Act, 2002* (Act 12 of 2003). S. 4.

[6] Giulio Cornelli, Jon Frost, Leonardo Gambacorta, Sonalika Sinha, and Robert M. Townsend, "The organisation of digital payments in India - lessons from the Unified Payments Interface (UPI)" *SUERF Policy Note No. 355* 1-12, pp. 8, (SUERF - The European Money and Finance Forum, 2024).

Though the National Payments Corporation of India (NPCI) strictly monitoring the service providers by introducing a transaction limit of 30 percent which in reality is a useless weapon against these corporate duopolies.[7] The core reason why the NPCI's rules and regulations are ineffective is primarily due to two reasons: a) repeated extensions and b) exclusion of cashbacks, payrolls, etcetera from the overall calculation. For instance, if the NPCI today itself implements its regulations, specifically the 30 percent transaction limit, again it results in greater chaos. The strict enforcement will stop the two service providers and it will affect the daily transactions. Also, the lack of alternative or limited TAPAs is unable to cater to 85 percent of customers' demand.

In the significant case, *WhatsApp LLC & Another vs Competition Commission of India & Others*[8], the High Court of Delhi upheld the action taken by the Competition Commission of India (CCI), a statutory body to act as a watchdog against unfair trade practices of WhatsApp and Facebook. The fact of the case, in 2016, WhatsApp implemented a policy that required its users to share their data with its parent company, Facebook. Now it is under giant corporations' "Metadata Platforms", which provide existing users with a 30-day period to decide whether or not to share their data with the companies.[9] But in 2021, WhatsApp implemented another policy by removing the 2016 choice clause and compelled its users to agree to its terms. If the users fail to agree, they are forced to eject from using their product. The CCI in 2021 *suo moto* launched an enquiry under Section 26 of the Competition Act, 2002, and ordered a separate investigation against WhatsApp for market dominance.

Both WhatsApp and Facebook filed a case in the Delhi High Court questioning the jurisdictional power of the CCI and also questioned that privacy matters should be dealt with by the higher courts and not by the CCI. The single judge bench dismissed the petition holding that the CCI is fully vested with statutory power to investigate unfair market practices.[10] Later, on appeal there are two issues raised by the appellant companies. One is whether their policy

[7] Pavankalyan, "Number of transactions on Google Pay & Phonepe going to be restricted, Why?" *TaxGuru*, Mar. 30, 2021. Also refer, Poorvaja G, "Legal Challenges and Consumer Protection in India's Digital Payment Ecosystem: A Comparative Study of UPI Regulations and Global Frameworks" 9 *International Journal of Law Management & Humanities* 1715, pp. 1722 (2026).

[8] WhatsApp LLC & Anr. v. Competition Commission of India & Anr., CDJ 2021 (280) DLT 179 (Del.). P.1, para 1, p.10, para 26-27

[9] WhatsApp LLC & Anr. v. Competition Commission of India & Anr., CDJ 2021 (280) DLT 179 (Del.). p.1, para 3.

[10] Ibid.,p.2, paras 9-10.

updates are violative of the right to privacy which is *lis pendens* in the Supreme Court, and two is whether the CCI is having statutory power to investigate.[11] But the division bench affirmed the *ratio* of the single judge bench stating that pending matters before a higher forum will not stop the CCI from discharge its statutory functions.[12]

UNIT II: CONCERN OVER CONSUMER AND SMALL MERCHANT WELFARE

In the early above discussions, it can be inferred that our nation's economic resilience is at greater risk due to outsourcing the digital transaction services to two foreign-backed private companies. It has already been noted that these two TAPAs are handling more than 85 percent of the transactions. Hence, as per the statistics, if any technical glitch occurs at either of the two TAPAs, almost 40 percent of the Indian users will get affected. It has been witnessed from history, that in the digital payments if any service interruptions occur to one dominant TAPA, then *en masse* of its users migrate to the next available credible TAPA for faster transactions.[13] But it will create chaos in the day-to-day life of a common man by triggering multiple areas in the system of commerce. Also, this extreme duopoly leads to critical implications for legal and consumer wellbeing with regard to data privacy and data ownership. Thus, empowering these two TAPAs to collect and consolidate their users' data will eventually result not only in a duopoly in the market but also in letting these two corporate entities to mould the spending patterns of Indian citizens.

Though the objects of the following each statute, namely, the Information Technology Act, 2000 (ITA); Payment and Settlement Systems Act, 2007 (PSSA); and Digital Personal Data Protection Act, 2023 (DPDPA), vary. But these enacted laws act as a *lex specialis* where the regulatory bodies such as RBI and CCI are used to set operational standards, investigate market oligopoly, receive complaints, conduct enquiries, and impose penalties.[14] In addition to these statutes, other significant circulars from NPCI also authorise the

[11] WhatsApp LLC & Anr. v. Competition Commission of India & Ors., CDJ 2022 DHC 748 (Del.). p.7, para.37.
[12] Ibid., p. 6, para. 31, & p. 7, paras. 32–33, 35.
[13] Pavankalyan, "Number of transactions on Google Pay & Phonepe going to be restricted, Why?" *TaxGuru*, Mar. 30, 2021.
[14] *The Payment and Settlement Systems Act, 2007* (Act 51 of 2007), Ss 3, 4, 10, 12-18, & 30; *The Competition Act, 2002* (Act 12 of 2003), Ss 4, 18, 19, 26, 27.

regulatory bodies to take cognisance of the following issues. Whether the payment initiators are masking the personal details of their customers. Whether the security systems used to protect data privacy are working in tact. Besides, the CCI and RBI are responsible for strictly adhering to all the above rules to balance the justice scale between market dominance and data exploitation.

UPI - MDR, is it a scam? Legally speaking it is not a scam nor will it affect the consumers or the small merchant payments. What is Merchant Discount Rate (MDR)? India is now witnessing a transformation in the UPI system from "no-charges" to "paid" customer service.[15] This transition may initially appear negative and burdensome to consumers, but in reality, the burden falls on the selected merchants, not the consumers. The collection of transaction fees, of 0.4 percent above 2000 rupees, from the merchants is for system maintenance which actually costs nearly twenty thousand crores per year.[16] Therefore, the union government in consultation with the settlement banks and the TAPAs, decided to amend the PSSA and has introduced this MDR, which will come into effect on 15 October 2026.

There is a need to know the difference between Person to Merchant (P2M), Person to Small Merchant (P2SM), and Person to Person (P2P) transactions to fully discern the merchant charges (MDR) in the UPI system.[17] For instance, if a consumer purchased a product for 10000 rupees online or offline from a seller, they made a UPI payment to finish the deal. Now, as per new UPI rules, there are no additional charges to the consumer, but the seller will receive the product amount form the bank, which is only 9960 rupees. That is, 0.4 percent of 10000 rupees or 40 rupees is being deducted from the pockets of the merchants or sellers as UPI maintenance expenses.

[15] Poorvaja G, "Legal Challenges and Consumer Protection in India's Digital Payment Ecosystem: A Comparative Study of UPI Regulations and Global Frameworks" 9 International Journal of Law Management & Humanities 1719, 1722 (2026).

[16] UPI Transactions Above ₹2,000: 0.4% Merchant Fee Levied, Consumer Impact & Rules Explained, Sept 15, 2026, *IndiaToday*, visit: UPI Transactions Above ₹2,000: 0.4% Merchant Fee Levied, Consumer Impact & Rules Explained - India Today

[17] Giulio Cornelli, Jon Frost, Leonardo Gambacorta, Sonalika Sinha, and Robert M. Townsend, "The organisation of digital payments in India – lessons from the Unified Payments Interface (UPI)" SUERF Policy Note No. 355 1–12 (SUERF - The European Money and Finance Forum, 2024). Also refer, Poorvaja G, "Legal Challenges and Consumer Protection in India's Digital Payment Ecosystem: A Comparative Study of UPI Regulations and Global Frameworks" 9 International Journal of Law Management & Humanities 1719, 1722 (2026).

Does the UPI-MDR slab affect payments made by small merchants? The union government has guaranteed that P2P and P2SM transactions are exempt from charges. However, the P2SM must meet a specific condition to avoid being charged. That is the P2SM is to be careful and educated enough to make their consumers/customers make a payment of less than 2000 rupees. For instance, if a customer makes three separate payments of 4500 rupees as 1500 rupees each to a small merchant, here in this situation the P2SM will not be charged 0.4 percent. Whereas, if that 4500 rupee payment is made in a single payment to that P2SM from the consumer's bank account, then 0.4 percent of 4500 rupees or 18 rupees is being deducted from the bank accounts of P2SM as a maintenance cost. Notably, the ceiling limit of UPI charges of 300 rupees to other P2Ms is its maintenance cost at a 3 percent for transactions above one lakh and more in a single payment.

CONCLUSION AND SUGGESTIONS

If one firmly studies the evolution of the speedy internet and the UPI ecosystem, one could realise that these things achieved rapid growth from 2016 to 2026. Because the citizens of India were forced to accept the 3G internet in 2016, the same year NPCI was established to govern UPI transactions.[18] In the years 2016-2018, everyone experienced the 'Jio effect' and the revolution of QR payments.[19] During the pandemic, when the world was brought to stand-still due to COVID-19, all were subjugated to UPI payments. Now with ultra 5G internet connections, all humans are addicted to these UPI transactions or in other words, the author calls them "mindless transaction".

In order to balance the UPI market and to safeguard the interest of their consumers and small merchants, the antitrust watchdogs, with all due care gradually implement the 30 percent statutory limit to the TAPAs. To achieve this human-centric approach, the watchdogs must encourage the local banks to strengthen their bank-UPI in both marketing and software, focusing on privacy and fraud risk. Additionally, the watchdogs should encourage local banks to partner with digital merchandise to provide attractive offers to their customers. This is significant because nearly 91 percent of the

[18] Visit: Press Release Page | Press Information Bureau

[19] Tanya Daga, Vipul Chandra and Anas Malik, "Effect of Reliance Jio on Digital India" 6 International Journal of Advanced Research 395 (2018), pp.397.

Indian population uses their local bank accounts for savings. Significantly, to note that the suggested changes will happen only with the support and mindset of the ruling government. Because, the Indians have already lost their conscience and culture using high-dopamine addict social media. Following the influence of senseless social media content, the society is more into the mindless spending.

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9. *The Digital Personal Data Protection Act, 2023* (Act 22 of 2023).

10. *The Payment and Settlement Systems Act, 2007* (Act 51 of 2007).

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