

REDEFINING ABUSE: AN EFFECTS-BASED TURN BY THE SUPREME COURT IN *SECTION 4* JURISPRUDENCE

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INTRODUCTION

The 2002 version of the Competition Act brought in a modern antitrust regime founded on consumer welfare and economic efficiency. The central theme of the statute is embedded in Section 4, which lays down penalties for acts of abuse of dominance in a relevant market. Unlike some antitrust laws in other jurisdictions that penalize dominance per se, Section 4 penalizes its abuse, such as unfair or discriminatory pricing, denial of market access, tying and leveraging, and other exclusionary or exploitative conduct.² The Competition Commission of India (CCI) jurisprudence of the last decade has swung between form-based presumptions of abuse and nuanced effects-based analyses of market harm.

The Supreme Court in the case of Competition Commission of India v. Schott Glass India Pvt. Ltd. (May 2025)³ is a landmark decision that marks this turning-point in interpreting this trend. The matter in the case began with allegations against Schott Glass India, a subsidiary. A 2000 case found that Schott Italia, a division of the German conglomerate, had abused its dominant position in a narrow pharmaceutical packaging market. Penalties and cease-and-desist order, was imposed by the CCI, largely on the grounds that the terms and pricing behaviours of Schott's contract were "unfair," against the backdrop of undisputed dominance in the relevant market.⁴ It was upheld by The National Company Law Appellate Tribunal (NCLAT) in most of the findings of the CCI. Subsequently, however, the Supreme Court reversed the orders holding that mere dominance or presence of unfair terms alone does not amount to abuse under Section 4 unless an actual or potential adverse effect on competition is shown.⁵

The judgment becomes important since it raises the threshold of evidence of proof for abuse of dominance under the Indian competition law. The Court explicitly stated that an effects-based

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² The Competition Act, No. 12 of 2003, § 4, Acts of Parliament, 2003 (India)

³ Competition Comm'n of India v. Schott Glass India Pvt. Ltd., Civil Appeal No. 5843 of 2025

⁴ Competition Commission of India, Case No. 9998 of 2012 (CCI, 2014)

⁵ Schott Glass, Civil Appeal No. 5843 of 2025

approach is mandatory in all Section 4 cases. Thus, it departed from its earlier landmark judgments in *Belaire Owner's Association v. DLF Ltd.*⁶ and *MCX Stock Exchange v. National Stock Exchange*⁷, where the abuse was inferred mainly based on structural dominance with a clear *prima facie* case of unfair or “below-cost” conduct, without detailed proof of market harm. Likewise, the Court in *Schott Glass* reaffirmed that there must be a clear demonstration that the impugned conduct actually harms the process of competition or consumer welfare.

This interpretive change has brought Indian law into closer alignment with global standards, particularly the Treaty on the Functioning of the European Union (TFEU)'s Article 102⁸ and Section 2 of the United States Sherman Act. For both jurisdictions have long held that dominant position as such is not unlawful: liability arises if and when conduct yields exclusionary or exploitative effects considered detrimental to competition on the relevant market. By importing this effects-based perspective, the Supreme Court has brought Indian jurisprudence into line with comparative antitrust frameworks and enhanced its standing on the world regulatory map.

The decision-based issues raise several fundamental questions. Does the higher evidentiary standard lead to under-enforcement, with the result that dominant firms escape liability unless quantified consumer harm is established? Or does higher evidentiary standard instil a regulatory discipline that prevents the CCI from going overboard alleging mere size or contractual terms that may actually have commercial realities behind them rather than resentment based on anti-competitive intent? This has always been the tension between effective enforcement and evidentiary rigor, and the *Schott Glass* case has put the Indian Judiciary firmly on the effects-based enforcement side.

This case comment analyses the transformative judgment on three different grounds. Firstly, it analyses the Court's reasoning with respect to Section 4, by comparing the interpretation of the statute with the economic theory and the statute itself. Next, it contrasts the Court's approach with earlier Indian precedents to underscore the jurisprudential shift. Finally, it evaluates the operative implications for regulators, dominant firms, and consumers, particularly in digital markets where issues of dominance and abuse often come up. The comment, in consequence,

⁶ *Belaire Owner's Association v. DLF Ltd.*, Case No. 19 of 2010 (CCI, 2011)

⁷ *MCX Stock Exch. v. National Stock Exch. of India*, Case No. 13 of 2009 (CCI, 2011)

⁸ Consolidated Version of the Treaty on the Functioning of the European Union art. 102, Oct. 26, 2012, 2012 O.J. (C 326) 47

advances the view that Schott Glass is not just a doctrinal clarification but a paradigm shifts in Indian competition law, thereby defining abuse of dominance in terms of proved effects on market structure and consumer welfare.

Analysis / Reasoning

a. CCI's contentions before the Court

The Competition Commission of India had held that Schott Glass India enjoyed an undisputed dominant position in the pertinent market for specialized pharmaceutical glass tubing.⁹ The relevant market had been characterized by a market share of over 80 percent, while entry barriers such as high capital requirement, proprietary technologies, and intellectual properties made for even further cementing of the dominance.¹⁰ The CCI went on to highlight two main kinds of abuse alleged:

1. Unfair Pricing and Contractual Terms: The supply contracts entered into by Schott Glass contained certain clauses that Dharmadhikari et al. considered to be unfair within the purview of Section 4(2)(a), as they allowed Schott Glass unilateral discretion with respect to price increases and delivery schedules.¹¹
2. Leveraging: Schott was accused of leveraging its dominance by bundling certain specialty glass products with others, in one segment to expand into related segments, contrary to Section 4(2)(e) of the Act.¹²

The contention of the commission was that these practices, combined as they were with Schott's overwhelming market dominance, sufficed to constitute an abuse under Section 4, irrespective of the actual quantification of harm to consumers.¹³ This reasoning was in line with previous precedents such as DLF and NSE, where mere dominance and unfair conduct were considered sufficient.

b. The Supreme Court's Reasoning

⁹ Competition Commission of India, Case No. 5843 of 2012 (CCI, 2014)

¹⁰ *ibid*

¹¹ The Competition Act, No. 12 of 2003, § 4(2)(a), Acts of Parliament, 2003 (India)

¹² The Competition Act, No. 12 of 2003, § 4(2)(e), Acts of Parliament, 2003 (India)

¹³ CCI Order, Case No. 9998 of 2012 (2014)

The Supreme Court reasoned by rejecting the CCI approach as formalistic and insufficient and proceeded with a two-fold reasoning:

1. ***Dominance*** does not amount to ***abuse***

The Court reiterated that dominance by itself is not unlawful. Section 4 penalizes only the "abuse" of such dominance.¹⁴ Thus holding a commanding market position-even a monopoly- does not trigger liability absent proof of abusive conduct.

2. **Mandatory Effects-Based Analysis**

The Court established that abuse does not automatically occur because of contract differences or price setting methods. The behaviour needs to prove that it aimed to limit competition while causing damage to consumers.¹⁵ CCI needs to prove the following:

- The procedure blocks fair competition according to the investigation.
- The analysis must determine if consumers face deterioration in their situation.
- The assessment needs to determine if the advantages of the practice surpass the possible negative effects.

The Court established a higher standard of proof which forced the Commission to perform detailed economic assessments instead of assuming facts.

Comparative Jurisprudence: EU and US Influences

The Court's decision makes Indian legislation identical to worldwide antitrust regulations.

1. **European Union-**

Article 102 TFEU establishes that having dominance stands legal until a company engages in abusive practices which the law will punish.¹⁶ The European Court of Justice has established through Hoffmann-La Roche v. Commission and United Brands v. Commission that effects-based scrutiny stands as a necessary requirement. The Intel judgment (2017) confirmed that all

¹⁴ The Competition Act, No. 12 of 2003, § 4(1), Acts of Parliament, 2003 (India)

¹⁵ Competition Comm'n of India v. Schott Glass India Pvt. Ltd., Civil Appeal No. ____ of 2025 (Supreme Court of India, decided May 2025).

¹⁶ Consolidated Version of the Treaty on the Functioning of the European Union art. 102, Oct. 26, 2012, 2012 O.J. (C 326) 47.

rebate practices which have been considered abusive before must undergo testing to see how they impact the market.¹⁷

2. United States-

The Sherman Act Section 2 establishes a standard which requires proof of exclusionary conduct that damages competition to prove monopolization.¹⁸ The Supreme Court established in *United States v. Grinnell Corp.* that monopoly power becomes illegal only when companies use anti-competitive methods to maintain it.¹⁹ The Court established in *Verizon Communications Inc. v. Law Offices of Curtis V. Trinko* that antitrust laws exist to protect market competition instead of individual market participants.²⁰

The Apex Court established its commitment to effects-based consumer welfare protection through these principles instead of following structural assumptions.

Contradiction with Indian precedents

The Schott Glass decision deviates from previous CCI rulings which depended on form-based analysis.

1. The DLF Case from 2011

In *Belaire Owner's Association v. DLF Ltd.*, the CCI held DLF guilty of abuse for imposing unilateral conditions in apartment buyer agreements.²¹ The Commission based its decision on DLF's control of Gurgaon real estate market and the existence of unfair contract terms but did not measure the extent of market damage.

2. The NSE Case from 2011

MCX Stock Exchange took legal action against National Stock Exchange because CCI determined NSE had engaged in predatory pricing by providing free trading for currency derivatives.²² The court assumed below-cost pricing would cause harm yet it failed to study

¹⁷ *International Corp. v. Comm'n*, Case C-413/14 P, ECLI:EU:C:2017:632.

¹⁸ Sherman Antitrust Act, 15 U.S.C. § 2 (1890)

¹⁹ *United States v. Grinnell Corp.*, 384 U.S. 563 (1966)

²⁰ *Verizon Commc'ns Inc. v. Law Offices of Curtis V. Trinko, LLP*, 540 U.S. 398 (2004)

²¹ *Belaire Owner's Association v. DLF Ltd.*, Case No. 19 of 2010 (CCI, 2011)

²² *MCX Stock Exch. v. National Stock Exch. of India*, Case No. 13 of 2009 (CCI, 2011)

consumer advantages in the immediate term or market entry barriers for competitors in the future.

3. The Google Android case 2018 and 2022

The CCI imposed a penalty on Google because the company forced device makers to include its app collection before users could access their devices.²³ The investigation concentrated on Google's core power structure and its binding agreements yet it did not examine the actual effects of these practices.

The Supreme Court in Schott established that courts must no longer accept such assumed facts as starting points. The proof of abuse requires showing direct harmful effects on how companies compete with each other.

Ambiguities and open questions

The Schott Glass document provides answers to many questions but fails to resolve certain specific matters.

- **Threshold of Evidence:** The CCI needs to show actual harm according to the threshold of evidence yet some argue that evidence of probable harm should be sufficient. The court decision mentions "actual or potential adverse effects" without specifying what evidence should be used to prove these effects.
- **Scope of efficiency defences:** The Court showed interest in efficiency considerations yet it failed to establish specific criteria for their evaluation. India needs to decide between the EU's balanced approach and the US's more rigorous evaluation system.
- **Digital markets:** The effects-based test faces challenges when applied to digital platforms because network effects strengthen market dominance and produce hidden damages to consumers.

The new framework established by the Court contains multiple unclear elements which future judicial decisions will determine how they will function in practice.

²³ Google Inc. v. CCI, Case No. 39 of 2018 (CCI, 2018); Google LLC v. CCI, Case No. 07 of 2020 (CCI, 2022)

c. Evaluation of Legal Reasoning

The Supreme Court maintains an effects-based analysis approach which doctrinally stands as proper and essential for regulatory legitimacy according to its principles. The law of competition exists to protect consumer interests and market competition yet it should not interfere with businesses that achieve market success. The new rules will create multiple obstacles for the implementation process.

- **Resource Intensiveness:** The CCI faces institutional challenges when conducting effects-based investigations because these studies need advanced economic tools and data analysis methods.
- **Risk of Under-Enforcement:** The CCI will encounter problems when proving exclusionary effects because the new evidentiary requirements make it harder to detect hidden exclusionary practices used by dominant companies.
- **Balance of Interests:** The Court needs to maintain equilibrium between regulatory control and free market operations while preventing regulatory overreach from leading to complete market deregulation.

The court decision shows that the enforcement of Section 4 requires proof of market damage before liability can be established.

Impact / Contribution

a. Immediate Remedies and Their Significance

The Supreme Court rejected the CCI's previous penalty in CCI v. Schott Glass India Pvt. Ltd. and ordered the Commission to conduct a new investigation through an effects-based approach.²⁴ This remedy provides two main advantages to the public:

1. The court demands competition authorities to perform thorough market analysis which prevents them from using market shares and structural dominance as their sole criteria.

²⁴ Competition Comm'n of India v. Schott Glass India Pvt. Ltd., Civil Appeal No. 5843 of 2025 (Supreme Court of India, decided May 2025)

2. The Court chose to uphold regulatory legitimacy above forceful enforcement by declining to confirm the penalty in full which showed the CCI that its excessive power could damage public faith in its rulings.

The Commission tests for improved investigative protocols through economic evidence validation of assessment results.

b. Practical implications for enforcement by CCI

- **Enhanced Burden of Proof:** The court decision establishes a higher proof standard for proving abuse. The CCI needs to show the impugned practice creates actual or potential harm to the competitive process.²⁵
- **Economic Evidence as the Cornerstone:** Future CCI investigations will need to use quantitative methods which include econometric modelling and cost-price analysis and consumer harm evaluation. The new system follows worldwide standards but creates additional stress on existing institutions.²⁶
- **Incentive for Better Advocacy by Firms:** Dominant enterprises can now defend their abuse accusations through efficiency justifications which include cost reductions and consumer benefits and innovation incentives. The legal process will see companies employ advanced legal and economic methods when they participate in proceedings.

c. Impact on business strategy

The court decision provides market participants with clear guidelines but establishes new obstacles for their operations.

- Organizations understand that market dominance does not lead to penalties unless they show evidence of exclusionary practices.
- Organizations need to maintain exact records about their efficiency and customer advantages because these details will become crucial evidence for upcoming legal discussions.

²⁵ The Competition Act, No. 12 of 2003, § 4, Acts of Parliament, 2003 (India).

²⁶ OECD, Competition Assessment Toolkit (2018)

The Indian competition law will receive attention from multinational corporations in technology and pharmaceuticals because the view of the MNCs is that the ruling as evidence of its transition toward a rule-of-reason framework.

d. Contribution to jurisprudence: from form to effects

The main legal achievement of Schott Glass comes from its complete rejection of traditional form-based legal assumptions. The Court established a new requirement which demands proof that dominant market positions together with unfair contract terms generate harmful effects on both competition and consumer welfare.²⁷

The new law brings India closer to a consumer welfare approach which aligns its antitrust regulations with European Union and United States standards. The decision also tackles concerns which emerged from previous CCI rulings about potential excessive punishment of standard business conduct through dominance penalties.

e. Impact on future case law

- **Real estate and infrastructure:** The DLF case along with other builder-buyer agreement disputes will require stronger evidence to show consumer damage and market competition barriers.²⁸
- **Digital Markets:** The CCI faces the challenge of proving both contractual restrictions and their effects on consumer selection freedom and market innovation suppression in its cases against Google and Amazon and other platforms.²⁹ The investigation process becomes more complicated yet produces fairer results.
- **Pharmaceutical and healthcare sectors:** The Court decision will impact future policy enforcement in pharmaceutical glass tubing and other areas which maintain strong intellectual property protection and technological market entry barriers because Schott Glass originated in pharmaceutical glass tubing. The Court established that companies which lead through innovation must avoid severe penalties unless evidence proves they used exclusionary methods to harm competitors.

²⁷ *Belaire Owner's Association v. DLF Ltd.*, Case No. 19 of 2010 (CCI, 2011)

²⁸ *ibid*

²⁹ *Google Inc. v. CCI*, Case No. 39 of 2018 (CCI, 2018); *Google LLC v. CCI*, Case No. 07 of 2020 (CCI, 2022)

f. Broader Policy Implications

- **Capacity building for CCI:** The CCI requires more economic specialists to work within its organization according to the decision. The organization needs to hire economists and data scientists and experts who understand specific industries.
- **Judicial-administrative dialogue:** As a disciplinary institution the Apex Court has gained more authority which has enabled it to direct the Competition Commission of India in path of international regulatory standards through this judgment. The forward-looking oversight and court-based monitoring are brought to an equilibrium appropriately by the system.
- **Alignment with India's global trade aspirations:** India aligns its competition law with EU and US standards to create a stable investment environment which draws foreign direct investment into technology and manufacturing sectors.

g. Potential Critiques of the Judgment

The decision gained public support but multiple voices have expressed their disagreement about its outcome.

- **Risk of under-enforcement:** The new evidence threshold for proving anti-competitive conduct threatens to hide complex market manipulation schemes which primarily occur in digital commerce because these practices create widespread harm to customers.
- **Institutional Weakness:** The Competition Commission of India will face difficulties to fulfil new evidentiary requirements because its capacity-building program remains insufficient which will create delays in processing cases and reduce its ability to enforce laws effectively.
- **Ambiguity in Standards:** The Court has not established clear guidelines about whether showing potential harm suffices or if proof of actual harm needs to be proven which leads to possible differences in how the law is applied.

It is observed that modern approaches are being favoured by the new judgement but several problems could be generated at the time of implementation of it within India's current competition law framework.

h. Overall Contribution to the Growth of Competition Law

The Schott Glass case established itself as a historic turning point for competition law in India:

- The ruling establishes new parameters for innovation versus regulation by protecting dominant companies from being punished solely based on their market achievement.
- The case advances the development of Section 4 by joining it to an international framework which assesses market impact beyond domestic borders.
- The case demands better analytical approaches from regulatory bodies together with organizations which ultimately advances the standard of competition law jurisprudence.

Competition law has reached to an international recognition as a framework by this decision involved in it from being a regular and mere tool for penalizing large corporations.

Conclusion

Therefore, the Hon'ble Supreme Court in Competition Commission of India v. Schott Glass India Pvt. Ltd. is having a far-reaching impact on Indian competition jurisprudence by laying a fresh focus on the contours of Section 4 of the Competition Act, 2002. The Court overturned a form-based approach that basically presumed abuse from structural dominance and contractual unfairness, and instead adopted the effects-based model that demands proof of actual or potential damage to competition and consumers.

There are a number of reasons why that shift is so important. First, Indian law is brought into line with international competition standards, especially under Article 102 TFEU in the EU and Sherman Act § 2 in the U.S., which basically accept that a dominant position or monopoly power is lawful, unless it is exercised by way of exclusionary or exploitative conduct. Second, the new legal standard will provide for the predictability and legitimacy of enforcement since it would allow enforcement only against demonstrated evidence of competitive harm and not merely a presumption of unfairness. Third, it raises, theoretically, the evidentiary burden on the CCI, increasing the weight of economic analysis, empirical evidence, and consumer welfare considerations in cases of competition law enforcement.

The judgment also disconnects itself from the decisions in past Indian cases such as DLF, NSE, and Google Android, wherein abuse was inferred from contract terms, pricing strategies, or leveraging practices without a rigorous economic effect analysis. Now, the Court emphasizes that competition law must protect competition and not competitors, thus reiterating the position taken by the U.S. Supreme Court in *Trinko*. With consumer welfare and competitive harm as the paramount considerations, the judgment casts a wary gaze at instances of regulatory overreach while tolerating genuine business behaviour.

The ruling also carries certain problems. The increased standard of proof is bound to strain the capacity of the CCI, which would now have to train its staff in economic methodology and acquire sophisticated investigative tools. Also, under-enforcement may be in the offing: subtle exclusionary conducts, presented in the form of dangerous yet complex markets, mostly digital ecosystems, might go unnoticed under a rigid application of the higher evidentiary requirements. More ambiguities left unsettling by the Court include the precise standard for establishing potential harm and the scope for efficiency justifications. These remaining open questions will largely determine the fate of Indian competition law for the years to come.

With the *Schott Glass* decision, a doctrinal recalibration of the court clarified that mere dominance in the market does not attract the provisions of the competition law but if the same is abused by the said dominant player it definitely attracts the section 4 of the Competition Act as such misuse or abuse will harm competition. This approach places India's competition law more balanced and reliable, brings it in line with global practices, and helps build trust among investors while strengthening the credibility of the system. Hence, the decision furthers the evolution of Indian competition law into a framework capable of balancing anti-competitive conduct on one hand and the promotion of innovation and market success on the other.

To summarize, the Supreme Court has carved out space for Section 4 to protect competitive process and consumer welfare rather than be hammered against dominant firms. The stage is thus set for an advancement into a competition enforcement regime in India that is more modern, coherent and worth practicing.