

# A Critical Analysis of Hub-and-Spoke Cartels in India: Emerging Concerns and Enforcement Challenges Under the Competition Act, 2002

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## **Abstract**

India's burgeoning digital platform economy, valued at USD 370 billion in 2023 and projected to surpass USD 1 trillion by 2030, has fostered conditions ripe for hub-and-spoke cartels, where platforms act as central hubs facilitating coordinated anti-competitive behaviour among competing sellers or service providers through algorithms, parity clauses, and uniform terms. The Competition (Amendment) Act, 2023, introduced explicit recognition of such arrangements within the cartel definition under Section 2(c) and extended per se illegality to them via Section 3(3), marking a significant alignment with established enforcement in the US, UK, and Singapore. Despite this legislative progress, enforcement lags, with ongoing CCI investigations into airline algorithms, OTA parity, and food-delivery platforms yet to yield final orders as of late 2025. Persistent challenges like evidentiary proof of the horizontal rim, hub intent, limited digital forensics, and absence of dedicated guidelines, underscore the gap between statutory promise and practical deterrence, necessitating urgent reforms to safeguard competition in India's digitising markets.

**Keywords:** Hub-and-Spoke Cartels, Enforcement Challenges, Competition Act

## **1. Introduction**

### **1.1 Emergence of Hub-and-Spoke Cartels in the Platform Economy**

The Indian digital economy has grown from United States Dollars (USD) 200 billion in 2018 to an estimated USD 370 billion in 2023, with projections to exceed USD 1 trillion by 2030 [1]. This growth is driven predominantly by multi-sided platforms in e-commerce, food delivery, ride-hailing, and online travel. Such platforms occupy a unique structural position: they intermediate between thousands of competing sellers/service providers (“spokes”) while simultaneously controlling pricing algorithms, parity clauses, commission structures, and data flows. This architecture creates fertile ground for hub-and-spoke collusion, where the platform (the “hub”) coordinates anti-competitive conduct among horizontally placed spokes without requiring direct communication between the spokes themselves [2]. Classic examples now under active investigation include identical commission rates and exclusivity obligations imposed by food-delivery platforms on restaurants, room-rate parity enforced by online travel agents (OTA) , and revenue-management algorithms shared across domestic airlines [3].

### **1.2 Legislative Recognition through the 2023 Amendment**

For nearly fourteen years after the Competition Act, 2002 came into force, India lacked explicit statutory

recognition of hub-and-spoke arrangements. The Competition (Amendment) Act, 2023 introduced two critical changes:

1. Explanation (c) to Section 2(c) expanded the definition of “cartel” to expressly include hub-and-spoke arrangements [4], and
2. a new proviso to Section 3(3) extended the per se illegality presumption (and the presumption of appreciable adverse effect on competition (AAEC)) to such cartels [5].

The Statement of Objects and Reasons explicitly identified “agreements facilitated through platforms and algorithms” as the mischief sought to be addressed [6]. The amendment aligns Indian law with mature jurisdictions such as the United Kingdom (UK), Singapore, and the United States (US), where hub-and-spoke conspiracies have been prosecuted for over two decades [7].

### 1.3 Research Problem and Questions

Despite this legislative breakthrough, enforcement remains nascent. As of November 2025, the Competition Commission of India (CCI) has not passed a single final penalty order under the new hub-and-spoke provisions, while several high-profile investigations continue to languish at the Director General (DG) stage [8]. The absence of dedicated guidelines, clarity on the mental element required of the hub, and limited digital forensic capability raise a fundamental question: whether the 2023 amendment, standing alone, is sufficient to effectively detect, prove, and deter hub-and-spoke cartels in India’s rapidly digitising markets.

This paper accordingly examines the following research questions:

1. What are the essential economic and legal elements required to establish hub-and-spoke liability?
2. How did the CCI and appellate authorities treat such arrangements before 2023, and what changes have occurred post-amendment?
3. What evidentiary, institutional, and procedural challenges continue to impede enforcement?
4. What actionable lessons can India draw from the enforcement experience of the UK, US, and Singapore?

### 1.4 Scope and Methodology

The study is limited to hub-and-spoke conspiracies under Sections 2(c) and 3(3) of the Competition Act, 2002 (as amended in 2023) and adopts a doctrinal and comparative methodology, supplemented by analysis of ongoing CCI investigations and appellate jurisprudence up to November 2025.

## 2. Conceptual Framework and International Experience

### 2.1 Economic Structure: Rim, Hub, and Spokes

A hub-and-spoke cartel is a hybrid form of collusion that achieves the same anti-competitive outcome as a traditional horizontal cartel but without requiring direct communication among competitors [9]. The structure comprises three indispensable elements:

1. a horizontal “rim” - an underlying agreement or concerted practice among competing spokes;
2. vertical “spokes” - bilateral relationships or contacts between the hub and each spoke; and
3. the “hub” - a common player (supplier, distributor, platform, algorithm, or trade association) that knowingly orchestrates or facilitates the horizontal coordination [10].

The hub need not itself compete with the spokes; its role is to transmit information, align incentives, or enforce uniform conduct. The economic rationale is straightforward: the hub internalises the benefits of collusion (higher margins, reduced competition) while the spokes gain protection from aggressive price competition [11].

## 2.2 Distinction from Vertical Restraints and Traditional Cartels

Hub-and-spoke arrangements must be distinguished from purely vertical restraints. Resale price maintenance (RPM) or most-favoured-nation (MFN) clauses imposed unilaterally by a powerful platform are ordinarily examined under Section 3(4) of the Competition Act, 2002 and attract a rule-of-reason analysis. A hub-and-spoke cartel, however, is treated as horizontal collusion (Section 3(3)) because the hub knowingly facilitates a meeting of minds among competitors [12]. Unlike traditional cartels where competitors communicate directly through emails or meetings, hub-and-spoke cartels leave a far fainter evidentiary trail, often only parallel conduct plus vertical pressure [13].

## 2.3 Key International Benchmarks

**United States** The foundational doctrine was laid down in *Interstate Circuit, Inc. v. United States* [14], where the Supreme Court held that when a group of competing distributors received identical restrictive demands from a common film exhibitor, and each knew that compliance depended on others doing the same, a horizontal agreement could be inferred. The modern high-water mark is *United States v. Apple Inc.* [15], where Apple was found liable as the hub for orchestrating minimum resale prices among five major publishers through identical “most-favoured-nation” clauses in its iBook store contracts. The Second Circuit affirmed that Apple’s conscious facilitation of a horizontal price-fixing scheme rendered it liable even though it did not compete with the publishers.

**United Kingdom** British law has developed the most extensive hub-and-spoke jurisprudence in the Commonwealth. In *Replica Football Kits* [16], Umbro (the hub) was fined for coordinating retail prices among competing sports retailers. The Competition Appeal Tribunal (CAT) in *Tesco Stores Ltd v. Competition and Markets Authority (CMA)* [17] clarified that the hub must have “intended or at least foreseen with a high degree of probability” that its vertical conduct would facilitate horizontal collusion. More recent cases such as *Bathroom Fittings (2016)* and *Trolley Bags (2021)* demonstrate the CMA’s willingness to infer the rim from parallel conduct when a common hub is present [18].

**Singapore** In one of the few successful Asian hub-and-spoke prosecutions, the Competition Commission of Singapore (CCS) fined Expedia, Booking.com, and several hotels SGD 1.5 million for imposing rate-parity clauses that prevented hotels from offering lower prices on rival platforms [19]. The CCS treated the online travel agencies as hubs and the hotels as spokes, establishing that the agencies knew their clauses would eliminate price competition among the hotels.

These jurisdictions uniformly require proof that the hub possessed a culpable mental state – ranging from actual knowledge (US) to foreseeability with a high degree of probability (UK). Mere parallel conduct plus vertical agreements are insufficient without evidence that the hub understood its coordinating role [20].

## 3. Evolution of Hub-and-Spoke Liability in India

### 3.1 Pre-2023 Position and Judicial Reluctance

Prior to the Competition (Amendment) Act, 2023, Indian law contained no explicit reference to hub-and-spoke cartels. The CCI was forced to analyse such conduct either under the general prohibition on anti-competitive agreements (Section 3(1)) or by treating the hub merely as a “facilitator” under Section 3(3). This narrow interpretive route led to consistent closure of cases at the prima-facie stage.

The most prominent pre-amendment attempt arose in **Samir Agrawal v. ANI Technologies Pvt. Ltd. (Ola)** [21]. Cab drivers alleged that Ola’s identical pricing algorithm constituted a hub-and-spoke cartel with Ola as the hub and drivers as competing spokes. The CCI rejected the claim, holding that “price

uniformity resulting from a common algorithm, without plus factors evidencing a meeting of minds among drivers, does not amount to an agreement under Section 3”. The Supreme Court upheld the closure in 2023, observing that the concept of hub-and-spoke was “not recognised under the existing statutory framework” at the material time [22].

A similar outcome occurred in **Fx Enterprise Solutions India Pvt. Ltd. v. Hyundai Motor India Ltd.** [23]. Hyundai dealers alleged that the manufacturer’s “discount control mechanism” and “mystery shopping audit” penalised them for offering discounts beyond prescribed limits, effectively fixing resale prices. The Supreme Court found clear resale price maintenance under Section 3(4)(e) but refused to classify it as a cartel because there was no evidence of horizontal coordination among dealers themselves. In two major cartel decisions i.e., the **Industrial and Automotive Bearings cartel (2021)** [24] and the **Beer cartel (2022)** [25], the CCI imposed penalties exceeding ₹1,800 crore and ₹870 crore respectively, yet declined to treat common suppliers (SKF India and United Breweries) as hubs. The Commission reasoned that mere knowledge of downstream collusion, without active orchestration, was insufficient for hub liability.

### 3.2 The 2023 Amendment: Statutory Breakthrough

The Competition (Amendment) Act, 2023 fundamentally altered the landscape by:

1. inserting Explanation (c) to Section 2(c) to include “hub-and-spoke arrangements” within the definition of cartel [26];
2. adding a proviso to Section 3(3) extending the per se rule and presumption of AAEC to such cartels [27]; and
3. introducing “Leniency Plus” under Section 46, incentivising disclosure of a second cartel (including hub-and-spoke) with additional penalty reduction [28].

The legislative intent was unambiguous: the Statement of Objects and Reasons highlighted “agreements facilitated through platforms and algorithms” as a key mischief [29]. The amendment brought India in line with the UK, US, and Singapore.

### 3.3 Post-Amendment Enforcement Landscape (2023–2025)

Since April 2023, the CCI has initiated at least three major hub-and-spoke investigations under the new provisions:

- 3.3.1 **Domestic Airlines Revenue-Management Algorithms (Suo Motu Case No. 02 of 2023)** In June 2023, the CCI directed a DG investigation into whether common third-party revenue-management software providers act as hubs enabling airlines to coordinate fares and capacity through shared algorithms [30]. The case remains pending as of November 2025.
- 3.3.2 **MakeMyTrip-Goibibo Parity Clauses (Suo Motu Case No. 01 of 2024)** The Commission is examining whether MakeMyTrip and Goibibo function as hubs by imposing wide and narrow price-parity and room-availability clauses on hotels, thereby eliminating price competition among competing online travel agents [31]. The DG report is expected in early 2026.
- 3.3.3 **Swiggy/Zomato Restaurant Coordination (Case No. 25 of 2024)** The most advanced proceeding alleges that Swiggy and Zomato act as hubs by imposing identical commission structures, exclusivity obligations, and data-sharing arrangements on restaurant partners. The DG submitted its report in November 2025, finding prima-facie contravention of Section 3(3) read with the hub-and-spoke proviso [32]. Final hearings are scheduled for January–February 2026.

Indirect guidance has emerged from vertical restraint appeals. In **Amazon Seller Services Pvt. Ltd. v. CCI (2024)** [33], the Supreme Court examined Amazon’s price-parity and fair-pricing policies. While

upholding the CCI's finding of abuse of dominance, the Court observed obiter that if a platform knowingly uses identical contractual clauses to orchestrate uniform seller behaviour across competitors, such conduct "may cross the threshold into hub-and-spoke collusion under the amended Act". Similar dicta appear in the Flipkart NCLAT decision of October 2024 [34].

As of November 2025, however, the CCI has not issued a single final penalty order under the new hub-and-spoke provisions, revealing a significant gap between statutory recognition and enforcement outcomes.

## 4. Critical Evaluation and Enforcement Challenges

### 4.1 Evidentiary Hurdles (Proving the Horizontal Rim & Mens Rea of the Hub)

The most formidable barrier to effective hub-and-spoke enforcement in India is the evidentiary threshold for establishing the horizontal "rim", the underlying agreement among spokes. Unlike traditional cartels, where direct emails or meetings provide a clear trail, hub-and-spoke arrangements often manifest only as parallel conduct (e.g., identical commissions) facilitated through vertical clauses imposed by the hub [35]. The CCI's pre-amendment jurisprudence, as seen in the Ola and Hyundai cases, routinely closed investigations for lack of "plus factors" evidencing a meeting of minds among spokes [36]. Post-2023, the amendment's per se presumption under Section 3(3) proviso alleviates some burden by deeming such arrangements anti-competitive if they cause AAEC, but proving the rim remains challenging in opaque digital ecosystems like food-delivery platforms, where data-sharing occurs algorithmically without explicit spoke-to-spoke contact [37].

Equally problematic is the mens rea requirement for the hub. The amendment holds a hub liable if it "participates or intends to participate" in furthering the cartel, but lacks clarity on whether actual knowledge, intention, or mere foreseeability suffices [38]. This ambiguity risks under-enforcement, as informants struggle to access internal hub documents (e.g., platform policy memos) demonstrating awareness of horizontal effects. In the ongoing Swiggy/Zomato investigation, the DG report highlights difficulties in attributing intent to the platforms, given their claims of unilateral business decisions [39]. Without statutory guidance, courts may default to a high "conscious parallelism" standard, mirroring the US Interstate Circuit doctrine, further stalling prosecutions [40].

### 4.2 Institutional Gaps (No Guidelines, Weak Digital Forensics, Leniency Plus Untested)

Institutionally, the CCI faces resource constraints ill-suited to the digital age. Unlike the UK CMA, which issued comprehensive Hub-and-Spoke Guidance in 2017 outlining evidentiary standards and mens rea tests, the CCI has not promulgated analogous guidelines despite the 2023 amendment's enactment over two years ago [41]. This vacuum exacerbates interpretive inconsistencies, as evidenced by the inconsistent treatment of information exchanges in pre-amendment cases like *Re: Sugar Mills*, where passive data-sharing was deemed non-cartelistic [42].

Digital forensics represent another chasm. Investigating algorithmic hubs requires source-code analysis and real-time data extraction, capabilities the CCI's Director General lacks, unlike the US DOJ's forensic teams in the Apple e-books case [43]. The Leniency Plus regime, offering up to 30% additional penalty reduction for disclosing secondary cartels, remains untested in hub-and-spoke scenarios, deterring potential whistleblowers among spokes who fear retaliation from dominant hubs [44]. As a result, enforcement has languished: of the three post-2023 investigations, none has yielded a final order by November 2025, underscoring a systemic under-capacity [45].

### 4.3 Risk of Over- and Under-Enforcement

The per se approach risks over-enforcement against innocent vertical arrangements, such as standard platform terms-of-service that inadvertently align spoke conduct, potentially chilling innovation in India's startup ecosystem [46]. Conversely, under-enforcement persists where evidentiary gaps allow hubs to evade liability by claiming "unintended facilitation," as critiqued in recent analyses of the amendment's implementation [47]. This duality undermines deterrence, particularly in platform markets where hubs like OTAs wield significant bargaining power over spokes.

### 4.4 Comparative Lessons from UK, US, and Singapore

The UK CMA's success fining over £300 million in cases like Bathroom Fittings (2016), stems from proactive guidance and dawn raids yielding direct evidence of hub intent [48]. The US DOJ's Apple e-books prosecution (2015) demonstrated how circumstantial evidence (e.g., executive emails) can infer the rim in hub-and-spoke conspiracies, leading to a \$450 million settlement [49]. Singapore's CCS, in the 2018 Online Hotel Bookings decision, fined OTAs SGD 1.5 million by economically inferring collusion from parity clauses, without needing explicit spoke communications, a model adaptable to India's OTA probes [50]. India should emulate these by mandating forensic tools and presumptions of intent where hubs impose uniform clauses on >50% of spokes, balancing rigor with proportionality.

## 5. Policy Recommendations and Conclusion

### 5.1 Immediate Recommendations

The 2023 amendment has created a robust statutory foundation, but without swift institutional and procedural reforms, hub-and-spoke cartels will continue to flourish behind algorithmic opacity. The following measures are urgently required:

**5.1.1 Issue Dedicated Hub-and-Spoke Guidelines within 12 months** The CCI must publish comprehensive guidelines (modelled on the UK CMA's 2017 Guidance) clarifying:

- the minimum mens rea required of the hub (actual knowledge or high-degree foreseeability);
- evidentiary standards for inferring the horizontal rim from parallel conduct plus identical vertical clauses; and
- safe harbours for genuine unilateral platform policies [51]. Such guidance has proven decisive in the UK, where post-2017 cases achieved near-100 % success at the appellate stage [52].

**5.1.2 Create a Digital Markets & Forensics Unit within the CCI** A specialised unit equipped with data scientists, forensic accountants, and powers to compel source-code disclosure and real-time transaction data is indispensable. The ongoing airlines and food-delivery investigations have already exposed the current DG's limitations in analysing algorithmic coordination [53]. Singapore's CCS succeeded in its 2018 hotel-booking case precisely because it possessed in-house algorithmic audit capability [54].

**5.1.3 Introduce Rebuttable Presumptions and Enhanced Leniency Incentives**

- A statutory presumption of horizontal agreement where a common hub imposes identical pricing/parity/exclusivity clauses on more than 50% of competing spokes for over 12 months.
- Amend the Lesser Penalty Regulations to grant up to 50% additional reduction under Leniency Plus specifically for hub-and-spoke disclosures, encouraging spoke-level whistle-blowers [55].
- Permit commitment decisions and monitoring trustees for platforms that voluntarily dismantle coordination mechanisms, as successfully employed by the European Commission in Amazon's 2022 parity clause settlement [56].

**5.1.4 Integrate with the Draft Digital Competition Bill, 2024** Designate major platforms (e-commerce, food-delivery, OTAs) as Systemically Important Digital Intermediaries (SIDIs) and impose ex-ante obligations to maintain transparent pricing algorithms and avoid uniform contractual clauses that facilitate collusion [57].

## 5.2 Conclusion - Transforming Statutory Promise into Enforcement Reality

The Competition (Amendment) Act, 2023 represents a watershed moment, explicitly recognising hub-and-spoke cartels for the first time and subjecting them to per se illegality. Yet, as of November 2025, the absence of a single final penalty order under the new provisions reveals a stark implementation deficit. Without dedicated guidelines, forensic capacity, and calibrated evidentiary presumptions, dominant platforms will continue to orchestrate indirect collusion with impunity, shielded by claims of unilateral conduct and algorithmic complexity.

India stands at a crossroads. By promptly adopting the above recommendations, particularly the issuance of guidelines and creation of a digital forensics' unit, the CCI can transform the 2023 amendment from a symbolic victory into a potent deterrent. Failure to act risks ceding India's digital markets to coordinated monopolisation, undermining both consumer welfare and the competitive process that has fuelled the country's trillion-dollar digital ambition.

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