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## New challenges of Competition Law against the rise of Electronic Commerce

### *Nuevos retos del Derecho de Competencia frente el auge del Comercio Electrónico*

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**ABSTRACT:** Electronic commerce has established itself in recent years as one of the best marketing strategies globally for its efficiency and ability to bring producers and consumers closer together. However, the increase in the use of digital channels has generated a recent discussion in the legal community regarding the implications that this fact has on Competition Law. This note then aims to analyse the challenges facing free competition law in the scenario of new technologies and digital commerce. Moreover, this research note states that there are great difficulties for Competition Law since the consolidation of Big Tech also since these dilemmas are related to Ecuador as a consequence of its current regulations and the little technical expertise.

**KEYWORDS:** Globalisation, electronic commerce, efficiency, market, legislation.

**RESUMEN:** El comercio electrónico se ha consolidado en los últimos años como un mecanismo que promete revolucionar el mercado en el mundo por su eficiencia y capacidad de acercar a productores y consumidores. Sin embargo, el aumento

en el uso de canales digitales ha generado discusión en la comunidad jurídica respecto a las implicancias que este hecho puede tener sobre el Derecho de Competencia. En este orden de ideas, esta nota de investigación introductoria tiene como objetivo realizar un análisis acerca de los diferentes desafíos que enfrenta el Derecho de Competencia en el escenario de las nuevas tecnologías y el comercio electrónico a través del análisis del contexto ecuatoriano a comparación de otras realidades. A lo largo de las siguientes páginas se exponen una serie de argumentos que ilustran los nuevos retos que trae la consolidación de gigantes tecnológicos como las Big Tech en el mercado y además se argumenta como estos dilemas se amplifican en el contexto ecuatoriano como consecuencia de la calidad de su regulación y la poca experticia del país en la materia.

**PALABRAS CLAVE:** Globalización, comercio electrónico, eficiencia, mercado, legislación.

## INTRODUCTION

Nowadays, electronic commerce has become an innovative mechanism that offers agility and versatility when it comes to bringing producers and consumers together through new forms of interaction such as digital channels on web pages, which are very useful for offering goods and services. However, these changes in the market seem to generate a crisis in line with those mainstream economic concepts that deserve to be reviewed or contextualised in the current global and technological scenario

This research note reflects and develops in a preliminary and introductory way on a current issue such as competition law in the face of the transfer of commercial interactions to digital platforms. Then, an approach will be introduced about how the law has reacted to this phenomenon and the challenges for emerging countries such as Ecuador.

In this work, several questions are presented that revolves around several questions among which are: How have other States managed the new digital commerce processes ?; How can digital media abuse by companies with excellent market power be avoided ?; What does the traditional doctrine of Competition Law have to say about this reality?

To answer these questions, in this essay, a bibliographic review methodology will be used, through which a series of criteria are exposed that allow us to elucidate the previous approaches in a broadway.

In this order of ideas, in the first place, issues related to Competition Law and the incursion of digital commerce will be addressed, in this section, we try to demonstrate how electronic commerce represents a sudden situation for some of the traditional bases of Competition Law. Throughout the second point, the dilemma of the power of “Big tech” will be mentioned as an iconic fact that has marked relevant precedents in developed countries such as the United States. For them, some cases are described in this area and, finally, We proceed to make mention of the Ecuadorian reality in front of new technologies and how this has influenced the country’s commercial sector, also highlights the main obstacles that Ecuador must face inserting its economy in this new reality.

## **1. ELECTRONIC COMMERCE AS A NEW PROTAGONIST OF COMMERCIAL RELATIONS.**

Today, traditional marketing methods have been affected by the incursion of digital commerce that is characterised by offering more magnificent facilities to consumers and having tools that boost sales by making it more agile and personalised thanks to online searches. Electronic commerce has grown exponentially in recent decades and has brought to the table the discussion of the role of Free Competition in this new and changing field.

Technological changes have brought several implications in the economic policy of the States and carry a series of remains on various issues. Therefore, it is essential to ask, How will the Law face these challenges? How to regulate the handling of consumer information? How to control the dominant position of specific companies? These are topics that are very unnoticed by the legislator and cannot be treated lightly despite the multiple advantages that electronic commerce brings. (Witker, 2018, p. 9)

Even though digital commerce has several positive aspects, it is evident that it requires the necessary implementation of regulations that avoid anti-competitive practices. However, its implementation is hard work, which will take time and extensive studies, especially in developing countries—development where the theory of Competition Law itself does not register significant levels of development.

Society in the 21st century has a logic of consumption that seeks much faster and simpler means, as Eugenio Urdaneta points out “high-technology systems are increasingly necessary, due to the” time “factor, people live in a highly competitive society where everything is managed according to time. ” (Urdaneta, 2005, p. 213). It is for this reason that in the traditional physical market every day, it loses more ground before the electronic media, and this can be increased in scenarios such as the COVID-19 pandemic.

It is increasingly common to observe in Ecuadorian society the effort of various sectors to engage in online commerce, not only because it is an advantageous mechanism for doing business, but because it is a necessary strategy to stay in a market where individuals choose to Simple strategies to acquire goods and services. Thus, producers have been forced to adapt to this new reality, that is, to adjust and take advantage of the modern trade model. Regarding this adaptation, it is essential to add what Fernando Moliní points out. Who states that the lack of adaptability to the new technologies of the modern company is a very relevant negative factor. (Moliní, 2002, p. 137)

As the author expresses in the previous statement, whoever does not adapt to the reality of online commerce has a significant barrier to the exercise of economic activity and runs the risk of being expelled from the market, even today it can be seen that Customer acquisition strategies have focused on the use of digital platforms exhaustively.

The digitisation of the marketing brings other benefits for companies such as the possibility of establishing more robust relationships to generate more effective exchanges of information between them, at low prices. Also, a prominent example is the algorithms that platforms such as Facebook or YouTube have that offer goods and services in a personalised way based on the behaviour of users. Furthermore, such information is used by several companies that have established strong ties with each other.

These advantages have generated high expectations for entrepreneurship and innovation, which is why emerging companies see the fertile ground in the current context from which to take off, a terrain that is more efficient than the physical market. As Maximiliano Palos indicates:

One of the essential advantages in electronic commerce is that it allows us to increase the efficiency of the company since it makes the steps for purchases shorter and faster and, on the other hand, the image of the company becomes more attractive to buyers, since they have a better perspective when seeing sales or promotions in images than in letters and it is cheaper for companies to create an online promotion than to create a physical poster. (Palos, 2014, p. 10)

Entering electronic commerce translates into great possibilities within the market, implies the latest strategies of economic globalisation, and that is why companies have spared no effort to enhance this dimension and even demonstrate various benefits that commerce can have. Electronic.

In this way, the purchasing procedures have been simplified and have less and fewer difficulties and more significant advantages for consumers. Also, it has undoubtedly increased the predisposition to purchase and consumer confidence in the good they have purchased. Moreover, it is essentially highlighting the strategies of companies to achieve a friendly and safe environment for the consumer in their online channels. Then, that security in electronic commerce is no longer a reason for concern because lately, it has improved substantially, mainly since Large technology corporations (seeking to keep a high ranking worldwide in their sales). Besides, improving communication between producers and users have generated a climate of trust in this area.

The demands for higher standards of quality and simplicity have resulted in an improvement in purchasing procedures that now have higher guarantees against any inconvenience that may arise concerning the acquisition of a good or service and gives the possibility to consumer the possibility of knowing in advance the form of distribution, organisation and if necessary, the conditions for the due process of return. (Linero and Botero, 2020, p. 213)

It is evident that users invest much time in digital platforms and this has been appreciated as an essential factor for corporate growth since the internet offers excellent facilities to reach potential consumers with the offer, and this is a great reason to suspect that in a few years the vast majority of commercial activity will be strictly linked to the internet.

For these reasons, electronic commerce currently grows steadily, mainly in developed countries where companies have been able to respond to consumer needs.

At this time, the active participation of the main actors in the process of technological innovation linked to communications and information technology is observed in the world, in the sense of generating a state of consciousness about the importance of the development of electronic commerce and, in particular,

to elaborate a framework of multilateral rules of the game that are respectful and promoters of said development. (Esteves and Fernández, 2019, p. 27)

A world where electronic commerce is the undeniable protagonist of the market is inevitable. It is not known whether this reality will come in the short or long term. However, in developing countries such as Ecuador and other Latin American states, a review of the most primitive institutions that govern our legislation and local Competition Law is crucial. To the opposite side, we have those developed countries where there are efficient regulations on the matter. Then, developing countries await a complicated scenario where rules of the game are not established and efficient to take advantage of the digital commerce correctly and fairly.

## **2. THE DILEMMA OF THE POWER OF THE HIGH TECH AND ITS IMPLICATIONS IN THE RIGHT OF COMPETITION**

Competition Law is understood as the field of law that aims to control prohibited conduct or unfair acts that affect the market. It has its characteristic in the interaction between elements of public law and private law. Also, it establishes specific limits for natural and legal persons, and it establishes specific parameters regarding what they can or cannot do in their participation in the market so that their actions do not affect competition. For example, it limits the conclusion of specific contracts that directly or indirectly affect competition, as well as the prohibition of certain abusive practices. (Palacios, 2013, p. 87)

Competition is considered very important for the health of the market since it creates efficient conditions for those who participate in it and allows the final recipient of the goods to receive quality products and services, without interference from abusive behaviours that affect the producer and the consumer. It is one of the main postulates of Competition Law which must be observed by economic agents to know the proper way to carry out their economic activities, to this can be added a precession manifested by Parot and Reveco:



It is not an unfair competition to capture a client from a competitor, a matter of the essence of a market, but it will be when using means that violate the decency and correction of the conduct of the competitors. (Reveco and Padilla, 2017, p. 377)

In this way, Competition Law is constituted as a critical element in the market in order to guarantee the freedom to compete and offer of economic agents. However, its the main objective to specify an effective economic system where equal conditions are reflected to ensure both free choice and fair economic development (where everyone has the same opportunities in the market).

The traditional postulates of Competition Law have not met much opposition and for years have been embraced by legislation and economic policies. Nevertheless, in recent years Competition Law seems to face a significant challenge derived from technological advances and digitisation of the market and this challenge seems to be more acute in developing countries due to questions inherent to the quality of its regulation and the time it takes to adapt to technological changes.

The technological advances of the last decades have brought about the emergence of large companies known as “Big tech”, and their appearance has relativised the foundations of traditional Competition Law that have encountered difficulties due to innovations such as electronic commerce and the potential of technology to Identifying consumer interests. Big Tech has now gained significant weight in the market thanks to various business strategies, such as establishing relationships based on the exchange of information between large corporations.

Although this has a positive effect by allowing exponential economic growth, it also raises concerns about the situation of small corporations, who are overwhelmed by the upturn in Big Tech, which has become a kind of monopoly thanks to its high power. The reason why their sales and growth are threatened and in fact, today, the technological and commercial sphere is dominated by companies with high power of influence such as

Amazon, Google, Facebook and Apple. Therefore, the debate has increased about the role of Competition Law before these giants and the necessary conditions to allow fair competition between the various actors participating in a market that now has a strong digital component.

Competition law dictates that the market must be made up of a multiplicity of competitors who are in an equal position with each other and can benefit under fair conditions of economic activity. From classical liberal theory, competition is conceived as a factor that favours the market economy since it provides the necessary conditions for market actors to obtain benefits, in this way consumers can choose the products and services that are most convenient to their wishes and needs and producers can make their offers freely.

The current discussion is about how the economic activities of Big tech, due to their enormous market power, generate an effect on competition, which obviously can result in an effect on allocative efficiency and freedom of choice. (Araya, 2012, p. 242)

In recent years and without most people realising it, market dominance has moved to the internet, specifically to digital platforms belonging to technology giants that can offer different goods or services based on consumer preferences obtained through an aggressive information gathering policy. While this is not in itself detrimental to the market or competition, it is crucial to question the implications that a small number of companies have so much power in such a short time; This can indeed harm the market and other fundamental rights of individuals.

Today's society is attracted to Big tech thanks to the ease that it gives them to acquire any good through their platforms. However, this form of commercialisation is not subject to the same control as physical, economic activities and this is due to the inaction of governments on the matter who still have significant gaps regarding how to promote a competitive market in the digital sphere.

The business models supported by the new technologies arrived very abruptly, making it difficult in the short term all the implications of the Big tech field. It is characterised mainly by market speed and e-commerce business strategies that constitute a continuous improvement process which has managed to increase sales at an exorbitant rate thanks to its multiple intelligent management tools. (Esteves and Fernández, 2019)

In this way, several corporations that make up Big tech have positioned themselves as the centre of various monopoly accusations, especially in recent times under the argument that their digital power can become a tool to manipulate the market according to their interests. Furthermore, there seems to be a solid basis for claiming that anti-competitive trade practices do indeed occur, even if Big Tech does not recognise it in this way. For this, in the following lines, some aspects in which Competition Law has been affected in this area and some specific cases that portray the challenges to generate a competitive digital market are mentioned.

First of all, it is worth mentioning the enormous capacity for interaction that Big tech has with consumers, which has been shown to influence choice effectively, here the problem lies in the risk that Big Tech can promote and sell goods and services at its convenience overshadowing other bidders. It is the case of Amazon, which has been repeatedly accused of modifying search algorithms to give visibility to a limited number of brands and products for the benefit of its interests.

Another factor that has affected Competition Law in this area is the uneven development of electronic commerce in each country, which can translate into scenarios such as Amazon's having a higher probability of occurring in countries with systems that are not open to digitisation. of the market, nations that, eventually, will be forced to revise their legislation in the matter to make way for these changes that, although they represent a significant contribution to the development and that ferment economic growth, carry a series of inconveniences related to the Right to Competition.

The situation of Big Tech, for the time being, has had an impact in developed countries, such as the United States. In this country, several corporations have received sanctions and fines for anti-competitive behaviour, such as modifying search results for their benefit to grant advantages to certain products, which may eventually lead to market failure. (Soto-Pineda and Pabón-Almanza, 2019, p. 281)

Another recent case with a Big Tech company was the controversy unleashed behind the Cambridge Analytica case in which a private company was accused of marketing with confidential information of Facebook users in order to influence, by manipulating their preferences. Results of the 2016 presidential elections in the US and as a result, it was necessary for Mark Zuckerberg to appear before the Senate to render his version of what happened in an uncomfortable session for the Facebook CEO who was criticised for creating a “monster technological “that has lost all control; Similar cases were presented in the UK under the context of the BREXIT in which the influence of Facebook on the results of the 2016 referendum is suspected.

The origins of the referendum might be traced back to the last decade, insofar as scepticism concerning the EU was increased in UK politics, about that some people even think that exist influence in social media to motivate this feeling. (Craig, 2016, p. 35)

The US government has thus seen the need to seek urgent regulations that allow greater equality in the digital market to generate the possibility that small corporations may reach more consumers and that their attention is not biased towards Big tech, which, thanks to its enormous capacity to collect user data, has a significant advantage over other providers from a more diverse group. It is essential to highlight that the solution lies in a comprehensive improvement of the regulation and not exclusively in the sanction even though, in the words of Katsoulacos, Motchenkova and Ulph (2019), this is considered the most comfortable and fastest solution in the matter. Developing countries like Ecuador should take this and

other essential lessons from developed countries into account in order to know how to react correctly when Big Tech makes a deeper foray into their economies.

### **3. ECUADORIAN COMPETITION LAW, NEW TECHNOLOGIES AND ELECTRONIC COMMERCE**

In this section, we will proceed to address specific issues related to Ecuadorian legal development in matters of electronic commerce, and from this point, it can be stated that it still has a long way to go to deal with issues related to Competition Law. However, they are remarkable some progress that has materialised in recent years.

To illustrate how Competition Law is carried out in Ecuador, it is important to mention first aspects related to the Constitution of the Republic, which is the supreme norm addresses general economic and legal issues. Hence, it is necessary to mention the term “economic constitution” refers to the economic issues established at the constitutional level where notions such as property and work are addressed, as well as the participation of the State in the economy and the processes of trade regulation.

The 2008 Constitution has a relationship with the economy that is highly criticised mainly in liberal spheres, and this is a consequence of its strong ideological content oriented to the social aspects of property and with the mission of stimulating the development of different economic activities through of the application of a legal order based on Andean constitutionalism and the creation of new equitable rules of the game that manage to promote, encourage and protect economic activities, especially small businesses and the social economy.

The Constitution of the Republic of Ecuador has as one of its purposes, at least formally, to provide the necessary mechanisms to guarantee the excellent state of the market. However, it can be stated that it has a very poorly developed perspective on issues of Free Competition, something Worrying as it is an essential aspect at a legal and economic

level, however, if it has certain notions that may be useful in the field of Competition Law, but they are not always sufficient. Therefore, certain advances in the matter are mentioned below, as well as some difficulties that must be overcome in the digital commerce scenario.

In the first place, it can be mentioned that the constitution guarantees rights such as property rights and company freedoms, besides, it provides guidelines that govern lower standards, the constitutional framework concerning the economic system dictates that the State act in favour of compliance with specific objectives set in favour of the optimal balance of the market. The Ecuadorian constitution also aims to create an optimal commercial environment where all producers have ethical conduct in the different activities they carry out to create an optimal commercial environment.

Another essential aspect that can be highlighted in the field of Consumer Law is that the constitution considers these as one of the priority attention groups. However, the latter is debatable. It can be affirmed that it has generated a solid basis for the state worry about the commercialisation of products that present the necessary conditions to be offered, that is, being accessible to consumers. They have sufficient confidence to purchase said product.

Based on the above, several national plans have been carried out in Ecuador that seek to strengthen the existing market networks in the country, however, for this, a more schematic and objective strategy in defence of competition will be necessary to boost the economy to levels favourable. (Monteiro, 2017, p. 3). It is also essential to consider the control of monopolies and oligopolies present in the national economy, the existence of which directly affects the proper functioning of the market in general, which is why it is so essential that one of the tasks of the State, in its pursuit of development, is to control of the different anti-competitive behaviours that may eventually translate into market failures.

Although the above recommendations are known, and measures have been taken in this regard, it is essential to question whether the State is performing these tasks efficiently, at the lowest possible cost and, above all, if it is considering the field of electronic commerce in these activities.

The Ecuadorian State has made some progress at the legislative level and has recognised the new forms of electronic commerce in the Commercial Code issued in May 2019 that includes issues related to the digital market such as the recognition of online consent, however, there are still issues pending to guarantee market access opportunities for the population, and to achieve such access and the integration of Ecuador into a more extensive and beneficial commercial field at the national and international level Marcelo Sevilla (2010) mentions that:

It is vital to guarantee suitable legal mechanisms to reach a social and solidarity economy within the framework of competition: additionally, the objectives of the competition rules are precisely the search for the well-being of society through the rules dictated by the State ( competition legislation), with which the most significant and best products on the market is achieved so that consumers acquire goods or services at the lowest prices and the best quality, according to their choice. (p. 50)

One of the main difficulties to mention is that Ecuador during its history has had severe problems concerning competition within the market, starting with the fact that there are substantial barriers to entry, such as the business creation process, which is not very advantageous for economic agents Ecuador has established a large number of restrictions that have adverse effects on the market and do not allow development, and this is further exacerbated by the complicated economic and social situation that the country has been through forever. All of this hinders foreign investment, and therefore it is not very common to see foreign companies investing in the country in the long term.

Although the new commercial code has introduced notions of electronic commerce, it is worrying that more attention has not been paid to the Organic Law on the Regulation and Control of Market Loss, considering that this regulatory body is in charge of regulating Competition Law. At the national level, this can be very damaging in the future when large technology companies make a more significant foray into Latin American economies.

At the international level, for its part, it is essential to highlight that Ecuador is, together with Peru, Bolivia and Colombia, a member of the Andean Community, so its policies should comply with the guidelines outlined in Decisions 608 and 616, which address issues related to promoting free competition. CAN Decision 608 in its article 7 sets out a series of conducts that the organisation considers to be anti-competitive, and its article 8 addresses issues related to the abuse of the dominant position.

For its part, Decision 616 empowers the country to adopt legal standards to ensure free competition by decreeing the entry into force of Decision 608; However, it is essential to mention that both instruments do not address issues related to electronic commerce and this is a significant deficiency today when considering the circumstances of the market and its progressive digitisation.

Another challenge facing the development of electronic commerce in Ecuador is the access of the population to technology since for full access to the digital market this is a necessary condition. In developed countries, the telecommunication bases and the necessary means are generally available to the vast majority of the population (although it is right not universally), at an affordable cost.

In developing countries such as Ecuador, the computer media that are essential to digital commerce have long been limited and restricted to a relatively low percentage of the population that could pay for them, in the same way, a significant number of Both small and medium-sized companies



did not have access to advanced technologies that would allow them to progress in this new business model. It is a compelling reason why legislative and social development in this regard is very slow in the country.

Even though Ecuador is among the first countries with the highest use of the Internet in Latin America for some years, specific difficulties still exist, such as the lack of long-term planning and the lack of legal certainty; With these problems on the table, it does not matter if the use of technology is a crucial component of citizens' lives, the drawbacks to developing a robust Competition Law in the virtual field will continue, which is why it is essential to implement regulatory improvement programs and look for new opportunities to change this reality, not very promising in the commercial environment.

Ecuador is currently considered one of the South American countries that have the most significant number of users that interact on the web, and this has been appreciated by Big Tech as an opportunity to enter the national market. Large companies such as Amazon or Facebook with this strategy have reached surprising levels of growth in Latin American countries. Therefore, digital commerce in Ecuador is increasing every year generating development, however, the risk that these large monopolies effect to the national economy without the possibility that the legislation or the authorities do something about it as a consequence of the low development in this matter.

The arrival of social networks was the first step of the incursion of Big Tech in the country. Currently, they are widely accepted in the Ecuadorian market, consumers have taken advantage of them to make many online purchases, it is essential to add that electronic commerce links The Ecuadorian economy is even stronger with the international economy since the majority of companies that can handle this type of commercialisation are mainly established in developed countries such as the United States, South Korea, China, and others.

Ecuador, through the development of electronic commerce, plans to have more significant interaction between consumers and private companies, increasing production and digital transactions. Many authorities in the country have stated that the growth of electronic commerce depends not only on the production within it but also on the confidence that the public has to make online purchases, this last point is one of the main problems in Ecuador given that The level of insecurity in the data exchange processes over the Internet is known, another aspect that has been little developed in the country.

It should be mentioned that managing money on the web is very risky without the necessary security measures because personal information is exposed to a multiplicity of servers that may eventually be victims of a hack. The country must apply more exceptional digital security strategies and marketing regulations in order not to be left behind and take advantage of the economic benefits that this new trade model can bring, as Gladys Rodríguez (2005) mentions:

This need for world trade interrelation has led to a notable increase in the economies of the different countries; which is why they have had to adapt their legal framework in such a way that this guarantees security, confidentiality, consumer protection and authenticity in commercial transactions. (p. 4)

The use of electronic commerce by consumers brings countless advantages, however, in order to take advantage of these benefits, it is necessary to make the necessary changes as evidenced by the reality of developed countries where the legislation has had to carry out various optimisations, as a consequence of the enormous impact of the economy due to the rise of digital commerce.

The application of legislation that can provide the corresponding levels of security and efficiency is a constant effort to obtain assurance that the different businesses conducted over the Internet will not have significant problems related to the danger of exposure of personal information and

abuses towards competitors. Also, a positive expectation must be generated for the commercial, manufacturing, institutional, corporate sectors, and others. The adaptation of Ecuador to this model of electronic commerce is not a static task, on the contrary, it is a dynamic task aimed at improving the country's economy both internally and in the face of the rest of the world.

The role of public policies concerning electronic commerce and new technologies is crucial. It should not be underestimated, especially the need to adequately control and optimise different aspects that surround companies when entering this commercial strategy, for example, the correct determination of the quality of the goods and services offered to users, control of anti-competitive behaviours and vigilance for the control of unnecessary bureaucratic barriers.

In the same way, the importance of having clear and understandable legislation in the field of electronic commerce, which is harmonious with the standards of other States, should not be neglected, since the characteristics of this market make it necessary to coordination between the various actors that make its existence possible and for such coordination, the legislation must be simplified and efficient, in this regard Mariano Carbajales (2019) states:

In its purest form, regulation refers to the promulgation of a set of binding norms accompanied by specific mechanisms, usually a public agency, to monitor and ensure compliance. The drafting of rules (rule-making) and the control mechanisms for their enforcement (enforcement) need to be located in a single institution. (p. 47)

Following the above, it is essential to add that Ecuador has a great challenge ahead and it is to gather the necessary conditions to adapt its legislation to these new changes, especially within the field of Competition Law where it is still a very new State. It is necessary to keep economic activities in constant evolution, under fair and competitive conditions. In short, regulation guarantees the stability and balance of

the system as long as it is carried out under the perspective of economic efficiency and above all guarantees freedom in the flow of goods and services.

## CONCLUSIONS

Throughout this essay, issues related to Competition Law and the challenges it faces from new technological developments were addressed, which makes it increasingly necessary for a regulation consistent with the benefit of all economic agents in the market. However, competition can indeed be enhanced thanks to the innovations implemented in the world. Sometimes this can be a counterproductive factor.

In the first place, it was about how Competition Law enters an uncertain field and how the traditional business model adapts to contemporary advances where technology is a fundamental pillar of daily life, it is Thus, electronic commerce appears as an alternative to bring producers and consumers closer, but at the same time, it constitutes a new challenge for the traditional postulates of Competition Law.

Second, the “Big Tech” dilemma was addressed as an example of how new technologies can lead to potential abuses of market power and commercial domination, detrimental to proper growth and development. Among the companies known as “Big Tech” are Google, Facebook, Amazon and Apple; Among its main activities is the sale of different products of public interest and they are characterised by the reliability they inspire consumers, however, it is concluded that there is an evident need to control them for certain anti-competitive practices that they may develop.

Different techniques have been adopted in order to establish control over these platforms. However, they have proven to be inefficient in avoiding the constitution of what can be defined as a kind of monopoly in the consumer access network, the challenge now It is looking for efficient mechanisms capable of generating a positive economic impact, especially in the commercial environment.

It is also concluded that another difficulty is the disparity of technological progress between developed and developing countries where the context is very different, and its law finds more significant disadvantages when it comes to regulating electronic commerce, adding that any country that intends to enter into Correctly, in this new trade model, it must take into account its factors such as the level of access to the network by the population and the development of its Competition Law.

Finally, it is necessary to highlight that legislation has a critical role given the importance of avoiding anti-competitive behaviour, however, it must be efficient and include current notions to take full advantage of these new realities. It must be recognised that electronic commerce constitutes an excellent opportunity to boost a country's economy. However, Competition Law cannot be left behind in the face of this unknown and profoundly changing scenario in which its field of action is considerably reduced.

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