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Regulating extraterritorial gatekeepers: The failure of traditional dominance criteria in developing digital markets – a case study of Vietnam

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Abstract: Cross-border platforms act as gatekeepers of market access in Vietnam, yet they are difficult to reach under the Competition Law 2018. The law measures dominance through market shares built on turnover and volume, and zero-price services monetised offshore leave those shares very hard to compute. Domestic firms therefore carry the full weight of competition, licensing and tax rules, while larger

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foreign rivals face little enforcement. This article locates the failure at three points, namely market definition, share measurement, and the distance between share and the real sources of platform power. It then tests the June 2026 draft omnibus amendment to the Competition Law against each point. The draft adopts user-based share metrics and platform-specific abuses, so it answers part of the diagnosis, but it keeps market-wide denominators, retains prior market definition, and leaves the fine base in Article 111(1) untouched. Drawing on the European Union, Germany, the United Kingdom and India, and on the large digital platform regime already in Decree 55/2024/ND-CP, the article proposes a designation regime resting on global financial scale and local user reach, with reporting duties, due process and a fine base that survives offshore accounting.

Keywords: Digital Gatekeepers, Market Dominance, Competition Law, Vietnam, Multi-Sided Markets, Ex Ante Regulation, Developing Jurisdictions

1. Introduction

The digitalization of the global economy has concentrated market power in a small number of international technology firms, such as Alphabet (Google), Meta (Facebook) and Netflix. However, they are not just service providers. Their market power actually comes from the fact that they are controlling the points of access through which businesses must pass to reach users. For instance, if a company wants to introduce their products to potential consumers, chances are that company has to put an advertisement on Youtube or Facebook, or if a filmmaker wants to show their movie, they need to stream it on Netflix. This is a role that recent scholarship treats as a distinct form of structural power rather than ordinary market strength.^{2,3} In global debate, these firms are routinely examined as dominant undertakings, and the European Union has gone so far as to regulate them in advance as “gatekeepers” under Regulation (EU) 2022/1925, the Digital Markets Act.⁴ Yet a legal paradox appears once the same firms are operating in developing countries, with Vietnam being a prime example. Even though the country seemingly has strict regulations preventing dominant undertakings, these very large firms are rarely reached by them. This is a mismatch that this paper takes as its central problem.

This article argues that the paradox is rooted in the design of traditional competition law, which was built for an economy of physical goods. Competition statutes generally establish dominance by defining a relevant market, then measuring an undertaking’s share of trade volume, sales revenue or consumer purchases within it. The economics of digital platforms, however, does not fit this template. Digital platforms are essentially a multi-sided, zero price market. Since the foundational analysis of Rochet and Tirole, it has been understood that a multi-sided market tends to set a price of zero on one side of the market and earns its revenue on another, so that a free service provided to consumers is just one half of a transaction while the other half is completed elsewhere.^{5,6} Newman has shown that

² KHAN, L. M. “Amazon’s antitrust paradox”. *The Yale Law Journal*, v. 126, n. 3, 2017, pp. 710-805. Available at: <https://www.yalelawjournal.org/note/amazons-antitrust-paradox> (accessed on 20 July 2026).

³ CRÉMER, J., DE MONTJOYE, Y.-A., and SCHWEITZER, H. “Competition policy for the digital era”. *Publications Office of the European Union, Luxembourg*, 2019. <https://doi.org/10.2763/407537>

⁴ Regulation (EU) 2022/1925 of the European Parliament and of the Council of 14 September 2022 on contestable and fair markets in the digital sector (Digital Markets Act), OJ L 265, 12.10.2022. Arts. 2-3. Available at: <https://eur-lex.europa.eu/eli/reg/2022/1925/2022-10-12/eng> (accessed on 20 July 2026).

⁵ ROCHET, J. C., and TIROLE, J. “Platform competition in two-sided markets”. *Journal of the European Economic Association*, v. 1, n. 4, 2003, pp. 990-1029. <https://doi.org/10.1162/154247603322493212>

this zero price market model defeats the standard tools of market definition and share measurement, which leads such markets to escape scrutiny, since the conventional metrics cannot register it even where the undertaking holds significant market power.⁷ The Organisation for Economic Co-operation and Development has reached the same conclusion, noting that a price based hypothetical monopolist test (SSNIP) cannot operate where the price is zero and that quality based alternatives remain difficult to apply.^{8,9} Because no direct payment is made between the platform and the local user, local market share becomes very costly to establish to a legal standard, and the offshore platform is unlikely to be shown to cross the statutory thresholds that would otherwise trigger antitrust regulation.

This gap creates an imbalance that disproportionately harms developing nations, which host digital platforms but cannot meaningfully regulate the undertakings behind those platforms. International organizations have highlighted a major divide in the modern digital economy, as while digital value is primarily generated by users in the developing world, the resulting financial gains are captured and kept offshore.¹⁰ The international economic law scholarship makes the same point from the investment side, describing an asset-light form of foreign direct investment in which a firm serves a market at scale while keeping almost no presence within it.^{11,12} This results in uneven regulation. Local tech startups and streaming services are required to hold licenses, pay taxes, and follow strict competition laws. In contrast, their much larger international competitors operate from abroad and largely escape local enforcement. Studies on media regulations in Asia confirm this trend, showing that tax-paying local businesses face much stricter rules than foreign platforms offering the exact same content.¹³

Vietnam is a fitting site for studying this problem. The country has repeatedly been identified as the fastest-growing digital economy in Southeast Asia, with a digital gross merchandise value of about USD 36 billion in 2024 and continued double-digit growth into 2025.¹⁴ However, the country's competition regulation, the Competition Law 2018 (VCL 2018) and its guiding Decree 35/2020/ND-CP, still rests

⁶ EVANS, D. S., and SCHMALENSEE, R. *Matchmakers: The new economics of multisided platforms*. Harvard Business Review Press. 2016. Available at: <https://store.hbr.org/product/matchmakers-the-new-economics-of-multisided-platforms/10028> (accessed on 20 July 2026).

⁷ NEWMAN, J. M. "Antitrust in zero-price markets: Foundations". *University of Pennsylvania Law Review*, v. 164, n. 1, 2015, pp. 149-206. Available at: https://scholarship.law.upenn.edu/penn_law_review/vol164/iss1/4/ (accessed on 20 July 2026).

⁸ OECD. *Rethinking antitrust tools for multi-sided platforms*. OECD Publishing, 2018. <https://doi.org/10.1787/a013f740-en>

⁹ OECD. *Quality considerations in digital zero-price markets, background note DAF/COMP(2018)14*. OECD Publishing. 2018. Available at: [https://one.oecd.org/document/DAF/COMP\(2018\)14/en/pdf](https://one.oecd.org/document/DAF/COMP(2018)14/en/pdf) (accessed on 20 July 2026).

¹⁰ UNCTAD. *Digital economy report 2019: Value creation and capture - implications for developing countries*. United Nations, Geneva. 2019. Available at: <https://unctad.org/publication/digital-economy-report-2019> (accessed on 20 July 2026).

¹¹ CHAISSE, J. The black pit: Power and pitfalls of digital FDI and cross-border data flows". *World Trade Review*, v. 22, n. 1, 2023, pp. 73-89. <https://doi.org/10.1017/S1474745622000337>

¹² MISHRA, N., and VALENCIA, A. M. P. "Digital services and digital trade in the Asia pacific: An alternative model for digital integration?". *Asia Pacific Law Review*, v. 31, n. 2, 2023, pp. 489-513. <https://doi.org/10.1080/10192557.2023.2216058>

¹³ CASBAA. Video policies for Asian pay-TV and OTT: Same same but different? 2016. Available at: https://gscoalition.org/cms-data/case-studies/CAS_Same_Same_but_Different.pdf (accessed on 20 July 2026).

¹⁴ GOOGLE, TEMASEK, BAIN and COMPANY. *e-Conomy SEA 2024: Profits on the rise, harnessing SEA's advantage*. 2024. Available at: <https://www.bain.com/insights/e-conomy-sea-2024/> (accessed on 8 August 2026).

on volume-based and turnover-based measures of market power. There have been positive changes, for example, the VCL 2018 adopts the “effects doctrine” and claims jurisdiction over offshore conduct that harms competition in Vietnam, an ambition welcomed by commentators as a modernization of the earlier law.¹⁵ However, enforcement of that doctrine is obstructed because the market share of a zero-price, data-driven platform is very difficult to quantify under the statute’s definitions. This is a contradiction, as the law claims broad authority to regulate digital markets, but relies on a flawed and ineffective method to measure market dominance.

The Vietnamese legislature has now begun to respond. On 16 June 2026 the Ministry of Industry and Trade released for public consultation a draft law amending the Commercial Law, the Competition Law, the Law on Foreign Trade Management and the Law on Protection of Consumers’ Rights.^{16 17} Article 2 of that draft rewrites the provisions this article examines. Because the draft adopts several of the devices proposed here while leaving others untouched, the article is written as an assessment of that pending response rather than as a proposal from a blank slate. The assessment of that draft, set out below, tests each amendment against the three defects diagnosed in this article, namely price-based market definition, share measurement that cannot be performed, and the distance between market share and the real sources of platform power. The proposals in the final section are confined to what the draft does not supply.

These difficulties are not unique to Vietnam, but existing scholarship does not resolve them. Three bodies of work bear on the question. The economics of multi-sided platforms explains why zero pricing and network effects drive digital markets toward lasting concentration. The legal literature, from Khan’s critique of price-centred analysis to the expert report prepared for the European Commission, shows that price-based market definition and turnover-based share measurement cannot capture platform power. This diagnosis has since shaped the ex ante gatekeeper regimes of the European Union, Germany, the United Kingdom and, prospectively, India. A third and much thinner body of work, resting mainly on the reports of international organizations and the current Indian debate over the draft Digital Competition Bill, concerns digital competition in developing countries.¹⁸ A fourth body, in international economic law, explains why states fall back on domestic instruments when treaty disciplines give them weak control over foreign firms, and it helps separate the reach of a rule from the capacity to apply it.^{19,20} Vietnamese scholarship on competition in the digital economy is more substantial than English language

¹⁵ NGUYEN, Q. V. “Vietnam’s new Competition Law 2018”. *Vietnam Business Law Blog*, 2018. Available at: <https://vietnam-business-law.info/blog/2018/7/30/vietnams-new-competition-law-2018> (accessed on 10 July 2026).

¹⁶ MINISTRY OF INDUSTRY AND TRADE (Viet Nam). Draft Law Amending and Supplementing a Number of Articles of the Law on Commerce, the Law on Competition, the Law on Foreign Trade Management and the Law on Protection of Consumers’ Rights, public consultation text, 16 June 2026. Available at: <https://luatvietnam.vn/thuong-mai/du-thao-luat-sua-doi-bo-sung-luat-thuong-mai-can-h-tranh-quan-ly-ngoai-thuong-bao-ve-quyen-loi-tieu-dung-436441-d10.html> (accessed 20 September 2026).

¹⁷ All references in this article are to that public consultation text. The draft had not been adopted at the time of writing, the date of 1 March 2027 in Article 6 is the commencement clause of the draft, not evidence of enactment.

¹⁸ UNCTAD. Competition issues in the digital economy, TD/B/C.I/CLP/54, Geneva. 2019. Available at: https://unctad.org/system/files/official-document/ciclpd54_en.pdf (accessed on 20 July 2026).

¹⁹ CHAISSE, J., and DIMITROPOULOS, G. “Domestic investment laws and international economic law in the liberal international order”. *World Trade Review*, v. 22, n. 1, 2023, pp. 1-17. <https://doi.org/10.1017/S1474745622000404>

²⁰ DIMITROPOULOS, G. “Digital plurilateralism in international economic law: Towards unilateral multilateralism?”. *The Journal of World Investment & Trade*, v. 26, n. 1-2, 2025, pp. 116-155. <https://doi.org/10.1163/22119000-12340354>

surveys usually record, and it has examined market definition for platforms and the adequacy of the 2018 Competition Law.²¹ Nguyễn Ngọc Quyên has argued in detail for receiving the gatekeeper concept into Vietnamese competition law, and the present article shares that starting point. That work was completed before the June 2026 draft was released, however, and it addresses the reception of a concept rather than the two questions pursued here, namely what the draft amendment does and does not repair, and how a designation regime would have to be built so that the Commission could apply it within a usable time and impose a sanction that survives offshore accounting. It is this gap, at the meeting point of platform economics, gatekeeper regulation and developing-country enforcement capacity, that the paper fills.

To fill it, the paper combines three methods. First, it undertakes a doctrinal analysis of the Vietnamese framework, namely the Competition Law 2018, Decree 35/2020/ND-CP, the June 2026 draft omnibus amendment and the adjacent sectoral, fiscal and data instruments, in order to locate the precise provisions at which enforcement against extraterritorial platforms fails. Second, it applies the functional comparative method. The regimes of the European Union, Germany, the United Kingdom and India are chosen on purpose, not as a full survey, but because they span the relevant design space, from quantitative to qualitative designation and from supranational to national enforcement, in response to the same functional problem.²² Because those regimes differ in legal status, Section 4 opens with a dated table separating law in force from proposals, and treats administrative practice separately from statutory text. Finally, Vietnam is treated as a critical single case study. This paper argues that if traditional dominance criteria failed in one of the world's fastest-growing digital economies, which operates under a recently modernized competition statute, the failure is unlikely to be unique to Vietnam and can reasonably be generalized to jurisdictions in a similar position.²³ This paper uses industry estimates and official data for context rather than for complex economic modeling. While this is a limitation, it is highly revealing. The lack of reliable market-share data for Vietnam's digital economy is not just a constraint on this research; it is the exact regulatory problem this paper examines.

Based on this analysis, this paper argues that developing countries cannot effectively regulate global digital platforms if they continue to use outdated definitions of market dominance. In order to protect local innovation and ensure fair competition, governments need to change how they legally measure market power. Instead of relying on traditional sales revenue, they should use metrics that free, foreign platforms cannot hide. These include the number of active users, control over data, and how much local businesses rely on the platform to operate. This paper presents this argument in the next four sections. Section 2 develops the concept of the regulatory gap and its mismatch with traditional dominance criteria. Section 3 examines the Vietnamese case in detail, covering the market impact of cross-border gatekeepers, the obstacles to enforcement, and the June 2026 draft amendment.

²¹ NGUYỄN, N. Q. "Khái niệm 'Người gác cổng' (gatekeeper) trong Đạo luật Thị trường số của Liên minh Châu Âu và khả năng tiếp nhận vào pháp luật cạnh tranh Việt Nam". *Tạp chí Pháp luật và Phát triển*. 2026. Available at: <https://phapluatphattrien.vn/khai-niem-nguoi-gac-cong-gatekeeper-trong-dao-luat-thi-truong-so-cua-lien-minh-chau-au-va-kha-nang-tiep-nhan-vao-phap-luat-can-tranh-viet-nam-d6016.html> (accessed on 27 August 2026).

²² ZWEIGERT, K., and KÖTZ, H. *An introduction to comparative law*, 3rd ed. Clarendon Press. 1998. Available at: <https://global.oup.com/academic/product/an-introduction-to-comparative-law-9780198268598> (accessed on 20 July 2026).

²³ YIN, R. K. *Case study research and applications: Design and methods*, 6th ed. SAGE Publications. 2018. Available at: <https://ebooks.umu.ac.ug/librarian/books-file/Case%20Study%20Research%20and%20Applications.pdf> (accessed on 20 September 2026).

Section 4 draws lessons from four comparative regimes. Section 5 sets out feasible proposals for Vietnam and jurisdictions in a similar position.

2. The anatomy of digital gatekeepers in developing markets

2.1 From service providers to gatekeepers

The vocabulary of contemporary competition policy has shifted from “dominant undertakings” to “gatekeepers”, and the shift is more than rhetorical. The term, now codified in Regulation (EU) 2022/1925, designates undertakings that control the principal points of access through which business users must pass in order to reach end users.²⁴ A search engine that mediates the discoverability of virtually every website, an operating system that determines which applications may be installed on a device, a social network that channels the attention of a national audience, and a video-streaming platform that intermediates access to audiovisual culture do not behave like ordinary sellers competing within a market. They function as private infrastructure upon which markets themselves are constituted. The gatekeeper label should not be applied loosely, however. A streaming service that sells subscriptions to consumers controls a distribution channel for content producers, but it does not stand between business users and their customers in the way an application store or a search engine does. Netflix is used in this article as an example of unequal sectoral regulation, not as a gatekeeper in the strict sense that the designation proposals below employ. A growing body of scholarship has argued that this infrastructural control confers a form of structural power that conventional price-and-output analysis systematically underestimates, because the power manifests itself in the terms of access rather than in the price of a product.²⁵

The economic foundation of this power lies in the multi-sided part of the platform business models. As the seminal work of Rochet and Tirole demonstrated, platforms serve distinct customer groups whose demands are interdependent, and a profit-maximizing platform deliberately skews its price structure across those groups, frequently setting the price on one side at or near zero and recovering revenue on another side.²⁶ Search, social networking, video sharing, electronic mail and digital mapping are provided to consumers without any monetary charge; the platform monetizes user attention and behavioural data through advertising markets, or monetizes business users through commissions, listing fees and developer charges.²⁷ The “free” service is therefore not an act of generosity, but only one half of a single economic transaction. The other half, the collection of data and the sale of targeted advertising, may take place in a different product market, through a different corporate entity, and in a different country from the one where the user lives.

In order to reinforce their dominant position, digital platforms have several tools at their disposal. The most important asset to a digital platform is its size. To be more specific, direct and indirect network effects make a platform more valuable as its user base grows, so if a platform possessed a vast number of users, the installed base of users becomes a barrier to entry in itself. Furthermore, data feedback loops let incumbents improve targeting, ranking and product quality at a pace that entrants without comparable data cannot match. And finally, economies of scale and scope in data-driven services push digital markets toward a “tipping” state. At this stage, the market becomes so concentrated that if a new entrant enters the market, they will

²⁴ Regulation (EU) 2022/1925 of the European Parliament and of the Council of 14 September 2022 on contestable and fair markets in the digital sector (Digital Markets Act), OJ L 265, 12.10.2022, Arts. 2-3. Ibid.

²⁵ KHAN, L. M. “Amazon’s antitrust paradox”. 2017. Ibid.

²⁶ ROCHET, J. C., and TIROLE, J. “Platform competition in two-sided markets”. 2003. Ibid.

²⁷ EVANS, D. S., and SCHMALENSEE, R. *Matchmakers: The new economics of multisided platforms*. 2016. Ibid.

have to compete for the entire market rather than just a segment of it.²⁸ The power that emerges from this process is relational rather than transactional. It rests on the dependence of merchants, advertisers, application developers, content producers and, in the end, states themselves on continued access to infrastructure that the gatekeeper controls alone.

2.2 The structural mismatch with traditional dominance criteria

Classical antitrust was built to analyse markets in physical goods, and its method still moves in a fixed sequence: define the relevant market, measure each undertaking's share of it, and only then ask whether conduct is abusive. Under Article 24.1 of the VCL 2018 that sequence hardens into an arithmetic rule, a thirty per cent share deeming an undertaking dominant. The whole apparatus presupposes three things, that services carry a positive price, that economic activity surfaces as domestic revenue or volume, and that a firm's weight can be read off accounts kept within the territory. In digital platform markets each of these assumptions fails, and the failure is most severe in jurisdictions whose statutes translate the sequence into rigid quantitative rules.

The first failure concerns market definition. Under traditional competition law, the hypothetical-monopolist or SSNIP test would be used to determine a relevant market. The test asks whether a small but significant non-transitory increase in price, conventionally of five to ten per cent, would be profitable for a hypothetical monopolist of the candidate market. However, when applied to digital platforms where the price of the service is zero, the test is arithmetically inoperative, since any percentage increase of zero remains zero.²⁹ Competition economists have proposed a quality-based analogue, a small but significant non-transitory decrease in quality, or SSNDQ, and the European Commission relied on quality-oriented reasoning when delineating markets for the freely licensed Android operating system.³⁰ Yet quality is far more difficult to parameterize than price, the case law applying the concept remains thin, and few statutes in developing jurisdictions expressly authorize a quality-based market definition at all.

The second failure concerns the measurement of market shares. Competition statutes of the classical type compute an undertaking's share as the ratio of its sales turnover, purchase turnover or units sold to the corresponding totals for the relevant market. For a zero-price consumer service, this method produces a legal absurdity. The consumer side of digital platforms is often free, generating no direct sales. Meanwhile, the profitable side, typically advertising, is managed through foreign branches, meaning the revenue is recorded offshore. As a result, local regulators cannot calculate market share because they lack data on both the company's local earnings and the total size of the market. Studies on free digital services show that these platforms avoid regulation not because they lack market power, but because traditional measurement tools are simply unable to detect it.³¹

A distinct problem arises even where local revenue can somehow be reconstructed, because share figures capture none of what makes a platform powerful. That power resides in control of behavioural data, in default settings and pre-installation that raise switching costs, and in the platform's dual role as both a

²⁸ OECD. *Rethinking antitrust tools for multi-sided platforms*. 2018. Ibid.

²⁹ OECD. *Quality considerations in digital zero-price markets, background note DAF/COMP(2018)14*. OECD Publishing. 2018. Ibid.

³⁰ European Commission, Decision of 18 July 2018, Case AT.40099 – Google Android. Available at: <https://competition-cases.ec.europa.eu/cases/AT.40099>. (accessed on 24 September 2026).

³¹ NEWMAN, J. M. "Antitrust in zero-price markets: Foundations". 2015. Ibid.

competitor and the gateway through which its rivals must reach users.³² Data is central to this account, and its legal treatment is less settled than its economic importance suggests. Data is an intangible asset whose location, ownership and protection do not follow the territorial assumptions that competition law inherited from markets in goods. A dataset assembled from Vietnamese users may be held, processed and valued outside Vietnam, and the legal instruments that attach to it, whether in data protection, investment protection or cybersecurity, address the interests of individuals and investors rather than the competitive consequences of its accumulation.^{33,34} A zero-price service billed offshore can therefore hold a decisive position in a Vietnamese market while remaining, on the face of Article 24, very hard to establish as dominant. The mismatch is not marginal; it is the gap that the Vietnamese material below shows cross-border gatekeepers occupy in practice.

These legal flaws are worsened by how international tech platforms structure their operations. Income generated from users in developing countries is usually recorded at regional hubs rather than locally. For instance, advertising sales in Southeast Asia are often processed through branches in Singapore. The money is then moved through corporate structures designed to minimize taxes, rather than accurately reporting where the revenue was actually earned. Published segment accounts rarely break revenue down to a single developing country, and the host state's company and accounting law does not require this where the firm has no local establishment. The host state therefore faces an entity whose local footprint appears, by design, in no document it can reach. International organizations have documented the resulting gap between where value is created in the data-driven economy, largely in the populous developing world, and where it is captured and recorded.³⁵

2.3 The regulatory gap and structural imbalance

Together, these failures produce what may be called a regulatory gap for cross-border gatekeepers in developing markets. An earlier version of this article described the condition as regulatory autonomy. That term is retained here only to describe the practical result for the firm, because the more accurate description is a gap in the reach of the national regime rather than a status the firm holds. A firm takes part broadly in a national economy, shaping its media, advertising, retail channels and public discourse, yet the national competition regime does not reach it in practice. The gap comes from no formal exemption. It arises from the interaction between business-model design and regulation. The statute allows intervention where a quantified market share or a demonstrable local turnover can be shown, and neither is readily shown for zero-price offshore platforms, so the prohibitions that depend on them are seldom triggered.

This condition produces a perverse imbalance. Domestic digital firms are fully visible to their regulator. Their revenues are declared locally, their market shares can be calculated, they are deemed dominant once they cross the statutory threshold, and they can be fined on the basis of their turnover. Domestic firms are also subjected to sectoral licensing, content and tax rules. The law therefore binds most tightly the

³² CRÉMER, J., DE MONTJOYE, Y.-A., and SCHWEITZER, H. "Competition policy for the digital era". *Publications Office of the European Union, Luxembourg*, 2019. Ibid

³³ CHAISSE, J., and BAUER, C. "Cybersecurity and the protection of digital assets: Assessing the role of international investment law and arbitration". *Vanderbilt Journal of Entertainment & Technology Law*, v. 21, n. 3, 2019, pp. 549-589. Available at: <https://scholarship.law.vanderbilt.edu/jetlaw/vol21/iss3/5> (accessed on 8 August 2026).

³⁴ PRAKASH, A., CHEN, L., and SHRESTHA, R. "Digital transformation and Indo-Pacific's participation into GVCs". *The Journal of World Investment & Trade*, v. 26, n. 4, 2025, pp. 621-647. <https://doi.org/10.1163/22119000-12340371>.

³⁵ UNCTAD. Digital economy report 2019: Value creation and capture - implications for developing countries. 2019. Ibid.

firms it can see, which are the smaller domestic ones. This inverts the ordinary premise of competition law, that scrutiny should match the extent of market power.

Furthermore, domestic firms also face difficulty in securing the funding needed to compete with foreign technology firms. Research on venture investment has identified a “kill zone” around the core businesses of major platforms. To elaborate, when a gatekeeper enters a product space, or acquires a leading startup there, funding for other entrants in that space measurably falls.³⁶ While this finding rests on United States venture data, and no comparable Vietnamese study exists, it could serve as a hypothesis about Vietnamese market conditions. In a developing market, the effect may be stronger. As they tend to not have the capital to build their own infrastructure, domestic innovators usually have to operate on the gatekeeper's infrastructure, and the data that infrastructure generates makes their activity visible to it. This also means that the infrastructure owner can copy, demote or block them at little cost.

Developing jurisdictions face this imbalance in a sharper form. Their competition agencies are usually young, poorly resourced and unable to gather evidence abroad. As a result, even if a developing country has a strong incentive to punish a digital platform for abusive behaviour, a strong case may be challenging to build.³⁷ Not to mention their economies also depend on gatekeeper infrastructure for the very digital transformation their governments promote. This fact makes the strongest unilateral remedy, blocking access, impose immediate costs on domestic users and firms. The country's trade positions also limit aggressive action against platforms based in major trading partners, such as the United States or the European Union. The following section examines how this general problem appears in Vietnam.

3. The impact of cross-border digital gatekeepers: The Vietnamese context

Vietnam is an ideal setting for studying the regulatory gap described above for a number of reasons. Its digital economy is often identified as the fastest-growing in Southeast Asia, with a gross merchandise value of about USD 36 billion in 2024, up from roughly USD 30 billion the year before.³⁸ The country has a population of roughly one hundred million, most of whom use mobile telephones and consume online content frequently.³⁹ ⁴⁰ Foreign platforms hold commanding positions in the markets that monetize this growth, above all digital advertising and audiovisual streaming. Yet the country's competition framework, the Competition Law 2018 (VCL 2018) and its implementing Decree 35/2020/ND-CP, still rests on turnover-based and volume-based measures of market power. In this section, this paper will discuss the observable effect of gatekeeper power on Vietnamese markets, the enforcement obstacles that have so far kept the competition regime from reaching that power, and the extent to which the June 2026 draft amendment answers them.

³⁶ KAMEPALLI, S. K., RAJAN, R., and ZINGALES, L. “Kill Zone”. *NBER Working Paper No. 27146*, National Bureau of Economic Research. 2020. <https://doi.org/10.3386/w27146>

³⁷ UNCTAD. Competition issues in the digital economy, TD/B/C.I/CLP/54, Geneva. 2019. Ibid.

³⁸ GOOGLE, TEMASEK, BAIN and COMPANY. e-Conomy SEA 2024: Profits on the rise, harnessing SEA's advantage. 2024. Ibid.

³⁹ GENERAL STATISTICS OFFICE OF VIET NAM. Press release: Socio-economic situation in the fourth quarter and 2025. 2026. Available at: <https://www.nso.gov.vn/en/data-and-statistics/2026/01/press-release-social-economic-situation-in-the-fourth-quarter-and-2025> (accessed on 20 September 2026).

⁴⁰ DATAREPORTAL. Digital 2025: Vietnam, 2025, reporting 79.8 million internet users and 127 million mobile connections at the start of 2025, available at: <https://datareportal.com/reports/digital-2025-vietnam> (accessed 20 September 2026).

3.1 Domestic market impact

The clearest example is digital advertising, the market where zero-price platforms turn Vietnamese users into revenue. Industry estimates compiled by the research firm ANTS indicated that, of total digital advertising revenue of approximately USD 648 million in 2019, Facebook and Google captured around USD 275 million and USD 175 million respectively, roughly seventy per cent of the market between them, while all domestic operators combined accounted for the remainder.⁴¹ Those figures are now dated, and they are used here only to show the shape of the market at the point when the current statutory framework was being applied. More recent assessments place the share of cross-border networks, now including TikTok, at between seventy and ninety per cent of Vietnamese digital advertising expenditure, and the leading individual positions continue to be attributed to Google and Meta. The tax authority's own statement that six foreign firms account for around ninety per cent of cross-border digital services revenue points the same way.⁴² The very dispersion of these figures, ranging from roughly a half to nine-tenths of the market depending on how the market is delineated, is itself the point: in the absence of any locally declared revenue, even the private sector can only approximate the size and division of a market worth well over one billion US dollars, and a competition authority required to prove shares to a legal standard is in a weaker position still. The consequences of this concentration are significant. Domestic advertising networks such as Admicro, Adtima and eCLICK, which sell inventory primarily on Vietnamese press and entertainment properties, have been relegated to a residual share of the market.⁴³

The pattern repeats in electronic commerce. On Ministry of Industry and Trade figures, Vietnamese e-commerce was estimated at USD 31 billion in 2025, approaching ten per cent of total retail sales,⁴⁴ and the marketplaces through which the bulk of that trade flows are platforms controlled by foreign groups headquartered elsewhere in the region. These marketplaces do maintain Vietnamese operating entities and are therefore more legible to the law than the advertising duopoly, but the commercial substance is similar. Commission rates, search ranking, promotional mechanics and access to transaction data, the parameters that determine whether hundreds of thousands of Vietnamese sellers prosper or fail, are set unilaterally by regional headquarters and embedded in non-negotiable terms of service. The point is not that any single market is unlawfully concentrated, but that the infrastructure of domestic commerce is increasingly run from abroad.

The over-the-top (OTT) audiovisual market also faces the same imbalance between domestic and foreign operators. Official statistics recorded twenty two pay television providers and OTT revenues of VND 1.55 trillion (approximately USD 66 million) with 5.5 million subscribers in 2022.⁴⁵ Domestic services such as FPT Play,

⁴¹ TUOI TRE NEWS. Facebook, Google dominate online ad in Vietnam. 2019. Available at: <https://news.tuoi-tre.vn/facebook-google-dominate-online-ad-in-vietnam-10347085.htm> (accessed on 10 July 2026). Reporting estimates by the market-research firm ANTS.

⁴² VIETNAMNET. Digital ads on Vietnam platforms can compete with Google, Facebook. 2024. Available at: <https://vietnamnet.vn/en/digital-ads-on-vietnam-platforms-can-compete-with-google-facebook-2276586.html> (accessed on 10 July 2026). The concentration these estimates describe is corroborated by the tax authority's own statement, cited below, that six foreign firms account for around ninety per cent of Vietnam's cross-border digital services revenue.

⁴³ TUOI TRE NEWS. Facebook, Google dominate online ad in Vietnam. 2019. Ibid.

⁴⁴ MINISTRY OF INDUSTRY AND TRADE (Viet Nam), Vietnam E-commerce White Book, annual edition, reporting e-commerce turnover and its share of total retail sales. Available at: <https://vntr.moit.gov.vn/news/the-white-book-on-vietnamese-e-business-2021> (accessed on 24 September 2026).

⁴⁵ VNEXPRESS INTERNATIONAL. Netflix will be blocked without local office: Official. 2023. Available at: <https://e.vnexpress.net/news/companies/netflix-will-be-blocked-without-local->

VieON and Galaxy Play operate under pay-television licences that entail content editing and classification duties, local establishment and full domestic taxation. Cross border services, Netflix being the emblematic case, alongside iQIYI, WeTV and Apple TV+, charged Vietnamese subscribers directly for years without a local licence, a local entity or equivalent content obligations. Representatives of the domestic industry, including the Vietnam Pay Television Association, publicly characterized this situation as unfair competition.⁴⁶ It was only with Decree 71/2022/ND-CP, effective from January 2023, that Vietnam formally required cross border OTT television providers to obtain licences and establish a local legal presence.⁴⁷ Netflix subsequently moved towards local establishment, which shows that a well-designed domestic obligation can change platform behaviour even without a competition case.

The zero-price model in economics is basically about exchanging services for personal data. This leads to a worrying reality that foreign tech companies are collecting behavioral data from Vietnamese users, then categorizing and storing most of it on infrastructure outside of Vietnam. The Vietnamese framework on data has changed substantially since this problem was first described. Decree 13/2023/ND-CP has been replaced by Decree 356/2025/ND-CP, which implements the Law on Personal Data Protection No. 91/2025/QH15, both in force from 1 January 2026.^{48,49} The Law on Data No. 60/2024/QH15, in force from 1 July 2025, adds a general framework for the building, sharing and exploitation of data, and it is directly relevant to any argument that treats data as a source of market power.⁵⁰ Data localisation and, in defined cases, local establishment continue to be governed by Decree 53/2022/ND-CP.⁵¹ None of these instruments, however, addresses the competitive significance of data. They allocate rights over personal data and set conditions for its transfer and use. They do not treat an accumulated behavioural dataset as a barrier to entry, or as leverage into an adjacent market, or as an input whose denial can exclude a rival. Vietnamese law therefore now regulates data extensively without treating data control as a measure of market power, which is the use the June 2026 draft begins to make of it.

The financial aspect completes the picture. The 2019 Tax Administration Law and Circular 80/2021/TT-BTC introduced amendments that led to a new step forward. In March 2022, Vietnam launched an online portal for foreign providers to register, declare, and pay taxes on digital revenue sourced from Vietnam.^{52,53} Collection

office-official-4575516.html (accessed on 10 July 2026).

⁴⁶ VNEXPRESS INTERNATIONAL. Netflix will be blocked without local office: Official. 2023. Ibid.

⁴⁷ THE SAIGON TIMES. Cross-border TV service providers must get license in Vietnam. 2023. Available at: <https://news.tuoiitre.vn/saigontimes/cross-border-tv-service-providers-must-get-license-in-vietnam-105223157.htm> (accessed on 20 September 2026).

⁴⁸ Law on Personal Data Protection No. 91/2025/QH15 (Viet Nam). Available at: <https://chinhphu.vn/?pageid=27160&docid=214590&classid=1&typegroupid=3> (accessed on 21 September 2026).

⁴⁹ Decree No. 356/2025/ND-CP of the Government detailing the Law on Personal Data Protection (Viet Nam). Available at: <https://vanban.chinhphu.vn/?pageid=27160&docid=216387> (accessed on 21 September 2026).

⁵⁰ Law on Data No. 60/2024/QH15 of Viet Nam, in force 1 July 2025. Available at: <https://thuvienphapluat.vn/van-ban/Bo-may-hanh-chinh/Luat-Du-lieu-2024-so-60-2024-QH15-621343.aspx> (accessed on 24 September 2026).

⁵¹ Decree No. 53/2022/ND-CP of the Government dated 15 August 2022 detailing a number of articles of the Law on Cybersecurity (Viet Nam). Available at: <https://vanban.chinhphu.vn/?pageid=27160&docid=206381> (accessed on 20 September 2026).

⁵² Law No. 38/2019/QH14 on Tax Administration (Viet Nam), adopted 13 June 2019. Arts. 42.4. Available at: <https://vanban.chinhphu.vn/?pageid=27160&docid=197312> (accessed on 21 September 2026).

through the portal has grown quickly. Revenue reported from foreign suppliers rose from about USD 145 million in the first year of the portal's operation to more than VND 12.5 trillion, about USD 480 million, in the first half of 2026 alone, an increase of 119 per cent on the same period a year earlier. By mid-2026, 259 foreign suppliers had registered. The tax authority puts the share of Google, Meta, Microsoft, TikTok, Netflix and Apple at around ninety per cent of Vietnam's cross-border digital services revenue.^{54,55} These numbers show two things at once. They confirm that a small group of foreign companies is dominating the way Vietnam's digital economy makes money and they show that the state has set up a working tax channel for these companies, while the competition law channel is still not functioning. Tax registration reveals a firm's aggregate declared revenue for assessment. It does not identify relevant markets, allocate market share, or by itself support a finding of dominance, a limitation examined below, when the use of fiscal data as competition evidence is assessed.

Vietnam's initial experience with platform consolidation in ride-hailing services highlights these difficulties. In 2018, Grab acquired Uber's operations in Southeast Asia. The investigating authority put the parties' combined share for 2017 at 44.1 per cent in Hanoi and 82.68 per cent in Ho Chi Minh City, on a market defined as intermediary services connecting passengers with drivers through software platforms and call centres. Grab contested both figures, placing the combined share at 11.42 and 15.64 per cent respectively, and Uber contended that on a market including taxi operators it fell below thirty per cent. The same transaction thus produced share estimates differing by an order of magnitude, according to how the market was drawn. The authority concluded that the transaction showed signs of two violations, failure to notify the concentration and a prohibited concentration, and referred the file to the Competition Council. In June 2019 the Council declined to impose any penalty. It held that GrabTaxi held no voting rights in Uber Vietnam and did not manage it, that Uber Vietnam's registered activities did not include ride-hailing and it did not operate the application, which remained with Uber B.V. in the Netherlands, and that the elements of an acquisition were therefore absent. The investigating authority challenged that decision. In Singapore and the Philippines the same transaction attracted fines.^{56,57,58} Regardless of how valid those official arguments are, this event is still very worth learning from. This is a market that, unlike advertising, truly generates measurable local commissions. However, it shows how three issues

⁵³ Circular No. 80/2021/TT-BTC of the Ministry of Finance dated 29 September 2021 (Viet Nam). Available at: <https://congbao.chinhphu.vn/van-ban/thong-tu-so-80-2021-tt-btc-34774.htm> (accessed on 21 September 2026).

⁵⁴ VNEXPRESS INTERNATIONAL. Netflix will be blocked without local office: Official. 2023. Ibid. Reporting the figures of the General Department of Taxation for the first year of the portal.

⁵⁵ VIỆT NAM NEWS. Foreign digital service providers pay nearly \$480 million in taxes. 2026. Available at: <https://vietnamnews.vn/economy/1785412/foreign-digital-service-providers-pay-nearly-480-million-in-taxes.html> (accessed on 27 August 2026). Reporting the figures of the tax authority for the first half of 2026.

⁵⁶ VNEXPRESS. Vì sao Việt Nam không phạt vụ Grab mua Uber như các nước? 2019. Available at: <https://vnexpress.net/vi-sao-viet-nam-khong-phat-vu-grab-mua-uber-nhu-cac-nuoc-3941522.html> (accessed on 3 September 2026). Reporting the combined share figures determined by the investigating authority, the parties' contrary calculations, the reasoning of the Competition Council and the fines imposed in Singapore and the Philippines.

⁵⁷ VIETNAM+ (VIETNAMPLUS). Cuộc Cảnh tranh khiếu nại quyết định xử lý vụ việc Grab mua lại Uber. 2019. Available at: <https://www.vietnamplus.vn/cuc-can-h-tranh-khieu-nai-quet-dinh-xu-ly-vu-viec-grab-mua-lai-uber-post579988.vnp> (accessed on 20 September 2026). On the investigating authority's challenge to Decision No. 26/QĐ-HĐXL of the Competition Council dated 17 June 2019.

⁵⁸ HA, T. "Vietnam: Merger control - three years after the grab/uber case". *Lexology*, 2022. Available at: <https://www.lexology.com/library/detail.aspx?g=cd3efedd-4ee8-4497-bf8c-a3aeb2e6b0df> (accessed on 10 July 2026).

become controversial when applying traditional categories to platform businesses: how the market is defined, how shares are calculated, and how a transaction is classified. When even a domestic platform charging fees stretches the legal framework to the point of nearly breaking, a free foreign platform sits further beyond its practical reach.

3.2 Jurisdictional and enforcement challenges

On paper, Vietnamese law claims jurisdiction over exactly the firms described above. The VCL 2018 deliberately widened the scope of the earlier law. Article 1 extends the statute to practices that cause, or could cause, competition-restraining effects on the Vietnamese market. Article 2 states clearly that foreign agencies, organizations and individuals are among the regulated subjects.⁵⁹ Commentators are right to read these provisions as an adoption of the effects doctrine. On this reading, the authority may pursue offshore conduct and offshore transactions that affect competition in Vietnam.⁶⁰ Prescriptive jurisdiction, in other words, is not the problem. The paralysis occurs one step later, at the point where jurisdiction must be operationalized through the statutory concept of dominance.

Under Article 24.1 of the VCL 2018, an enterprise holds a dominant position if it possesses “substantial market power” as determined under Article 26, or if it holds a market share of thirty per cent or more on the relevant market.⁶¹ The market-share limb, which in practice does the work, depends entirely on quantification. Article 10 of the Law and Articles 9 and 10 of Decree 35 define market share as the ratio of an enterprise’s sales turnover, purchase turnover, or units sold or purchased, to the corresponding totals of all enterprises on the relevant market.^{62,63} All of these methods rely on observable domestic transactions. When a platform provides free services to Vietnamese users and records advertising revenue abroad, none of these metrics is readily available to the Vietnam Competition Commission. Users generate no revenue, and advertising income is neither reported under Vietnamese accounting law nor allocated to Vietnam in the firm’s published financial statements. A finding of dominance is therefore not unavailable in principle, but it is expensive to establish, and the cost falls on an authority that must defend its figures on appeal. Because the thirty per cent limb deems rather than presumes, there is nothing at that limb for an authority to argue around. A firm above the line is dominant, and a firm whose share cannot be computed cannot be reached through that limb at all.

The details of market definition compound the problem. Decree 35 determines substitutability by reference to characteristics, intended use and, centrally, price: goods or services are presumed substitutable where their prices differ by no more than five per cent under similar transaction conditions, and the hypothetical price increase test of five to ten per cent is retained as the residual method.⁶⁴ Applied to services with a price of zero, the five-per-cent comparator makes every free service

⁵⁹ Law No. 23/2018/QH14 on Competition (Viet Nam), adopted 12 June 2018. Art. 1 and 2. Available at: <https://wipolex.wipo.int/en/legislation/details/19109> (accessed on 20 July 2026).

⁶⁰ NGUYEN, Q. V. “Vietnam’s new Competition Law 2018”. 2018. Ibid.

⁶¹ Law No. 23/2018/QH14 on Competition (Viet Nam), adopted 12 June 2018. Art. 24.1. Available at: <https://wipolex.wipo.int/en/legislation/details/19109> (accessed on 20 July 2026).

⁶² Law No. 23/2018/QH14 on Competition (Viet Nam), adopted 12 June 2018. Art. 10. Available at: <https://wipolex.wipo.int/en/legislation/details/19109> (accessed on 20 July 2026).

⁶³ Decree No. 35/2020/ND-CP of the Government dated 24 March 2020 detailing a number of articles of the Law on Competition (Viet Nam). Arts. 9-10. Available at: <https://vanban.chinhphu.vn/default.aspx?pageid=27160&docid=199508> (accessed on 20 September 2026).

⁶⁴ Decree No. 35/2020/ND-CP of the Government dated 24 March 2020 detailing a number of articles of the Law on Competition (Viet Nam). Arts. 3-7. Available at: <https://vanban.chinhphu.vn/default.aspx?pageid=27160&docid=199508> (accessed on 20 September 2026).

the formal substitute of every other, an obviously absurd result, while the SSNIP-style test is arithmetically empty. Nothing in the Decree authorizes a quality-based or attention-based substitution analysis of the kind the European Commission employed for Android. A Vietnamese case against a zero-price gatekeeper would thus be vulnerable at the threshold stage of market definition even before shares were addressed.

A related indeterminacy affects the geographic dimension of the relevant market. Decree 35 defines the relevant geographic market as a specific area within which conditions of competition are similar and appreciably distinguishable from those in neighbouring areas.⁶⁵ For services delivered in identical form worldwide from offshore infrastructure, it is genuinely arguable whether the geographic market is Vietnam, Southeast Asia or the world, yet each answer yields radically different shares and a different population of competitors. Digital services are national on the demand side, shaped by language, content and the advertiser base, and global on the supply side, a duality that the binary territorial logic of the Decree cannot express. Nor is the indeterminacy academic: in the Grab/Uber proceedings it was the delineation of the relevant market that the acquirer invoked against the authority's share calculations.⁶⁶

The other route in Article 24, dominance through "substantial market power", seems at first to offer a way out, because Article 26 lists qualitative factors such as financial strength, barriers to entry, control of infrastructure, technological advantages and the ability to shift supply and demand.⁶⁷ In principle, these factors could accommodate data control and network effects. The existence of this limb qualifies the argument of this article. The claim is not that Vietnamese law contains no route to a finding against a platform, but that the available route is slow, evidentially demanding and untested, which is a claim about cost and institutional caution rather than about legal impossibility. In practice, three obstacles remain. First, the opening factor on the list is the relationship between the market shares of firms in the relevant market, which pulls the analysis back to what cannot easily be measured. Second, the provision has never been used against a digital platform, and an untested qualitative route places a heavy burden of legal innovation on a young authority whose findings must survive review by the courts and by political actors. Third, even if a finding is made, the sanction stage creates a further obstacle: fines for abusing a dominant position are limited to the firm's revenue in the relevant Vietnamese market in the previous financial year, so where that revenue cannot be established, the base for the fine largely disappears.^{68,69}

The issue of measurement not only relates to the abuse of dominant position but also to merger control. Decree 35 requires the parties to notify about economic concentration in three cases: when, in the previous financial year, a participating

⁶⁵ Decree No. 35/2020/ND-CP of the Government dated 24 March 2020 detailing a number of articles of the Law on Competition (Viet Nam). Art. 7. Ibid.

⁶⁶ VIETNAM NEWS. No violation found in Grab-Uber deal: VCC. 2019. Available at: <https://vietnamnews.vn/economy/521577/no-violation-found-in-grab-uber-deal-vcc.html> (accessed on 10 July 2026).

⁶⁷ Law No. 23/2018/QH14 on Competition (Viet Nam), adopted 12 June 2018. Art. 26.1. (Listing, inter alia, relative market shares, financial strength and enterprise scale, entry and expansion barriers, control of distribution and supply, technological advantages and technical infrastructure, ownership of and access to infrastructure, intellectual-property rights, the ability to switch supply or demand, and sector-specific factors). Available at: <https://wipo.lex.wipo.int/en/legislation/details/19109> (accessed on 20 July 2026).

⁶⁸ Law No. 23/2018/QH14 on Competition (Viet Nam), adopted 12 June 2018. Art. 111.1. Available at: <https://wipo.lex.wipo.int/en/legislation/details/19109> (accessed on 20 July 2026).

⁶⁹ Decree No. 75/2019/ND-CP of the Government dated 26 September 2019 on penalties for administrative violations in the field of competition (Viet Nam). Available at: <https://vanban.chinhphu.vn/?pageid=27160&docid=197954> (accessed on 21 September 2026).

enterprise or its group has total assets or total revenue in the Vietnamese market reaching VND 3,000 billion; when the transaction value reaches VND 1,000 billion (this only applies to domestic transactions); or when the combined market share of the parties in the relevant market reaches 20%.^{70,71} Each test repeatedly exhibits familiar errors. Asset and revenue tests rely on accounts from Vietnam that foreign digital companies do not maintain; transaction value tests are, by design, blind to transactions from foreign countries to other foreign countries; and market share tests also encounter the measurement issues mentioned above. As a result, foreign acquisitions that alter the Vietnamese digital market may entirely avoid mandatory review, even though the law officially claims to apply to overseas mergers affecting the domestic market.

Institutional history has exacerbated these design flaws. Although the 2018 Competition Law came into effect in July 2019, the National Competition Commission stipulated by this law was only established under Decree 03/2023/ND-CP and began operations in April 2023. For the four years in between, the rules against abuse of dominance went essentially unenforced.^{72,73} Beyond capacity, offshore respondents present procedural problems that the statute does not resolve: service of process on entities without Vietnamese establishment, the collection of evidence held on foreign servers and in foreign affiliates, and the execution of any eventual decision against assets located abroad. An authority whose investigative powers presuppose a domestic addressee confronts, in the cross-border gatekeeper, a respondent that is economically omnipresent and procedurally absent.

Faced with this deadlock, the Vietnamese state has responded by circumventing, rather than repairing, the competition framework. Decree 70/2021/ND-CP subjects cross-border advertising services to notification and content-control obligations while permitting Vietnamese advertisers to contract with foreign platforms directly.⁷⁴ Decree 53/2022/ND-CP, implementing the Law on Cybersecurity, imposes data-localization and, in defined cases, local-establishment requirements on foreign online service providers. Decree 71/2022/ND-CP extends pay-television licensing to cross-border OTT providers, backed by the threat of blocking and by administrative pressure on distribution channels such as pre-installed smart-television applications.^{75,76} Finally, the tax portal creates a channel for collecting revenue. Each

⁷⁰ Decree No. 35/2020/ND-CP of the Government dated 24 March 2020 detailing a number of articles of the Law on Competition (Viet Nam). Art. 13. Available at: <https://vanban.chinhphu.vn/default.aspx?pageid=27160&docid=199508> (accessed on 20 September 2026).

⁷¹ LEXOLOGY. Vietnam's decree 35: Clarifications on merger notification thresholds and procedures. 2020. Available at: <https://www.lexology.com/library/detail.aspx?g=64b2e6e8-e178-408a-8bce-22278ff7f43f> (accessed on 10 July 2026).

⁷² Decree No. 03/2023/ND-CP of the Government dated 10 February 2023 on the functions, tasks, powers and organizational structure of the Viet Nam Competition Commission (Viet Nam). Available at: <https://vanban.chinhphu.vn/?pageid=27160&docid=207423> (accessed on 21 September 2026).

⁷³ NORTON ROSE FULBRIGHT. Vietnam: Competition law fact sheet. 2023. Available at: <https://www.nortonrosefulbright.com/en/knowledge/publications/dccbee52/competition-law-fact-sheet-vietnam> (accessed on 10 July 2026).

⁷⁴ Decree No. 70/2021/ND-CP of the Government dated 20 July 2021 amending Decree No. 181/2013/ND-CP guiding the Law on Advertising (Viet Nam). Available at: <https://vanban.chinhphu.vn/default.aspx?pageid=27160&docid=203700> (accessed on 21 September 2026).

⁷⁵ Decree No. 71/2022/ND-CP of the Government dated 1 October 2022 amending Decree No. 06/2016/ND-CP on the management, provision and use of radio and television services (Viet Nam). Available at: <https://vanban.chinhphu.vn/?pageid=27160&docid=206630> (accessed on 21 September 2026).

⁷⁶ TILLEKE & GIBBINS. New decree will impact over-the-top TV services and on-demand content in Vietnam. 2022. Available at: <https://www.tilleke.com/insights/new-decree-will->

measure shows regulatory will, and together they have produced real results, from tax receipts to Netflix's moves toward setting up a local office. Yet none of them addresses market power: they regulate content, presence and revenue collection, not contestability, self-preferencing, the use of data as leverage, or the reliance of Vietnamese businesses on gatekeeper infrastructure. They also conflict with one another, the gap between Decree 71 and the Cinema Law rules on video-on-demand films being a documented case. Furthermore, their most severe penalty, access blocking, is a crude measure, since it punishes Vietnamese users and raises questions under Vietnam's trade commitments, which the treaty analysis below addresses.^{77,78}

One qualification is required, because Vietnamese law already contains a platform-scale trigger. Article 39 of the Law on Protection of Consumers' Rights 2023, together with Decree 55/2024/ND-CP, creates a category of "large digital platform" defined by at least three million user accounts active annually in Vietnam, or by classification as a large or very large intermediary platform for electronic transactions.^{79,80} Platforms in that category must determine their own user numbers, disclose the criteria governing the ranking of search results, keep an archive of targeted advertising, and report periodically to the competent authority, including the Vietnam Competition Commission. This regime is a counter-example to any claim that Vietnamese law never uses platform scale as a regulatory trigger. It is also the strongest feasibility anchor available for the proposals in Section 5, because it shows that a user-count threshold, a duty of self-determination and a reporting obligation are all already workable in Vietnamese practice. What it does not do is connect those triggers to the competition regime. The obligations it imposes are of transparency and consumer protection, not of contestability, and designation under it carries no consequence for market definition, for dominance, or for the fine base.

3.3 The June 2026 draft omnibus amendment: Partial convergence and residual gaps

On 16 June 2026 the Ministry of Industry and Trade released for public consultation a draft law amending four statutes, among them the Competition Law 2018. The competition provisions are contained in Article 2 of the draft. They are the most significant proposed change to Vietnamese competition law since 2018, and they address, directly and by name, several of the defects set out above. The text remains a draft. Vietnamese legislative practice indicates, however, that once a draft has been released for public consultation it has a high probability of being enacted. Thus, it is crucial to analyze the changes regarding regulating gatekeepers in this draft.

impact-over-the-top-tv-services-and-on-demand-content-in-vietnam/ (accessed on 10 July 2026).

⁷⁷ TILLEKE & GIBBINS. "Vietnam 2022 ICT Legislation Year in Review". *Lexology*, 2023. Available at: <https://www.lexology.com/library/detail.aspx?g=6d3b24b1-c5af-40a8-9253-c441ab3b9f83> (accessed on 10 July 2026).

⁷⁸ VIETNAM BRIEFING. Netflix Vietnam: A rocky market entry explained. 2023. Available at: <https://www.vietnam-briefing.com/news/netflix-vietnam-market-entry-2023.html/> (accessed on 10 July 2026).

⁷⁹ Decree No. 55/2024/ND-CP of the Government dated 16 May 2024 detailing a number of articles of the Law on Protection of Consumers' Rights (Viet Nam). Art. 2(2). Defining a large digital platform as one having at least 3,000,000 user accounts active annually in Vietnam, or being a large or very large intermediary digital platform for electronic transactions. Available at: <https://vanban.chinhphu.vn/?pageid=27160&doid=210254> (accessed on 21 September 2026).

⁸⁰ Law No. 19/2023/QH15 on Protection of Consumers' Rights (Viet Nam). Art. 39. Available at: <https://vanban.chinhphu.vn/?pageid=27160&doid=208363> (accessed on 21 September 2026).

The first amendment concerns market share. Draft Article 2(3)(a) rewrites Article 10(1) of the VCL 2018 by adding three methods of calculation to the four that already exist. Market share may be measured by the ratio of an enterprise's users or customers to the total for all enterprises on the relevant market, by the ratio of suppliers participating in its digital platform to the corresponding total, or by the ratio of transactions or platform visits to the corresponding total.⁸¹ This is a direct answer to the second failure, and it confirms the analysis offered here. Article 10 sets out its methods exhaustively, and the drafters have chosen to amend the statute rather than the implementing decree. That choice should be taken as authoritative.

The amendment nevertheless leaves the central difficulty in place. Each new method remains a ratio, and each ratio requires a denominator covering all enterprises on the relevant market. The Commission can no more compile the total number of users, suppliers or transactions across every platform in a Vietnamese market than it could compile total turnover. Nothing in the draft imposes a duty to report those figures, and nothing authorises the Commission to derive them from another agency's records. The new numerators are obtainable; the denominators are not. A metric that changes what must be counted, without changing who must count it, moves the problem rather than solving it.

A second limitation follows from the vocabulary. Points e and g of the amended Article 10(1) speak of suppliers participating in a digital platform and of transactions or visits. These concepts fit a marketplace, a ride-hailing application or an application store. Point dd, which refers to users or customers, is broader and could in principle capture a search engine or a social network, but whether it does so will depend on implementing guidance that does not yet exist. The advertising duopoly whose Vietnamese end users buy nothing and whose business users are advertisers rather than suppliers on a platform, is the case in which that guidance will matter most.

The third point concerns market definition, which the draft does not touch. The amended Article 10 presupposes a relevant market that has already been defined, and definition continues to be governed by Decree 35/2020/ND-CP with its price-based comparators and its price-increase test. A case against a zero-price platform would still be exposed at the threshold stage, before any of the new metrics could be applied. Draft Article 2(2) amends Article 9 only to restate that the relevant market is determined by product and geographic market, which leaves the difficulty untouched.

The fourth amendment is more extensive. Draft Article 2(8) rewrites Article 26(1), the qualitative limb, by adding the scale of users, customers and suppliers on a digital platform, the capacity to collect, accumulate, control and exploit user, transaction and market data, the degree and scope of direct and indirect network effects, barriers to switching, the degree of integration within an e-commerce ecosystem, the capacity to control other enterprises' access to the market, and the use of algorithms or artificial intelligence to coordinate transactions, prices or user behaviour.⁸² This list

⁸¹ MINISTRY OF INDUSTRY AND TRADE (Viet Nam). Draft Law Amending and Supplementing a Number of Articles of the Law on Commerce, the Law on Competition, the Law on Foreign Trade Management and the Law on Protection of Consumers' Rights, public consultation text, 16 June 2026. Art. 2(3)(a), amending Art. 10(1) VCL 2018 by adding points dd (share of users or customers), e (share of suppliers participating in the digital platform) and g (share of transactions or platform visits), available at: <https://luatvietnam.vn/thuong-mai/du-thao-luat-sua-doi-bo-sung-luat-thuong-mai-can-h-tranh-quan-ly-ngoai-thuong-bao-ve-quyen-loi-tieu-dung-436441-d10.html> (accessed 20 September 2026).

⁸² MINISTRY OF INDUSTRY AND TRADE (Viet Nam). Draft Law Amending and Supplementing a Number of Articles of the Law on Commerce, the Law on Competition, the Law on Foreign Trade Management and the Law on Protection of Consumers' Rights, public consultation text, 16 June 2026. Art. 2(8), Amending art. 26(1) VCL 2018 by adding points i (scale of users, customers or suppliers on the digital platform), k (capacity to collect, accumulate, control and exploit user, transaction and market data), l (degree and scope of direct and indirect network

answers, almost item by item, the third failure diagnosed above, namely that share figures capture none of what actually makes a platform powerful. Vietnamese law would, for the first time, treat data control and network effects as indices of market power rather than as matters of privacy or security.

Two features of the amended Article 26 limit its effect. Point a of the list, the relation between the market shares of firms on the relevant market, is retained and stands first, so the assessment still begins from a figure that is hard to produce. More fundamentally, Article 26 governs substantial market power, which under Article 24(1) is a route to a finding of dominance in a relevant market. The whole apparatus therefore continues to depend on prior market definition and on an *ex post* case in which each factor must be proved against a respondent that is procedurally absent. The draft enriches the evidence that may be led. It does not shorten the proceeding or shift its burden.

The fifth amendment addresses conduct. Draft Article 2(9) adds to Article 27(1) a catalogue of platform-specific abuses that includes self-preferencing through display ranking, algorithms, technical conditions or data, the imposition of unreasonable trading conditions, conditioning access to the platform on the use of other services of the operator's group, impeding business users from reaching substitutable platforms, obstructing the removal of pre-installed applications, and refusing business users access to data generated by their own activity on the platform.⁸³ Two observations follow these changes. The prohibitions are conditional on a prior finding of dominance, so they inherit every difficulty already described. Furthermore, the draft text omits an item that appeared in earlier circulated versions, namely the use of business users' non-public data by the platform to compete against them, which is among the most consequential gatekeeper practices identified in European enforcement.

The sixth point concerns sanctions, and here the draft is silent in a way that matters. Draft Article 2(19) amends Article 111 only in respect of economic concentration and of residual violations. Article 111(1), which caps fines for abuse of a dominant position at ten per cent of the offending firm's turnover on the relevant market in Vietnam in the preceding financial year, is left as it stands.⁸⁴ The

effects), m (barriers to switching), n (integration within an e-commerce ecosystem), o (capacity to control other enterprises' market access) and p (use of algorithms or artificial intelligence to coordinate transactions, prices or user behaviour), available at: <https://luatvietnam.vn/thuong-mai/du-thao-luat-sua-doi-bo-sung-luat-thuong-mai-can-h-tranh-quan-ly-ngoai-thuong-bao-ve-quyen-loi-tieu-dung-436441-d10.html> (accessed 20 September 2026).

⁸³ MINISTRY OF INDUSTRY AND TRADE (Viet Nam). Draft Law Amending and Supplementing a Number of Articles of the Law on Commerce, the Law on Competition, the Law on Foreign Trade Management and the Law on Protection of Consumers' Rights, public consultation text, 16 June 2026. Art. 2(9), amending Art. 27(1) VCL 2018 by adding points g (self-preferencing through display ranking, algorithms, technical conditions or data), h (unreasonable trading conditions), i (conditioning platform access on the use of other services of the operator's group), k (impeding business users' access to substitutable platforms), l (impeding removal of pre-installed applications) and m (refusal of, or unreasonable conditions on, business users' access to data generated by their own activity). Available at: <https://luatvietnam.vn/thuong-mai/du-thao-luat-sua-doi-bo-sung-luat-thuong-mai-can-h-tranh-quan-ly-ngoai-thuong-bao-ve-quyen-loi-tieu-dung-436441-d10.html> (accessed on 20 September 2026).

⁸⁴ MINISTRY OF INDUSTRY AND TRADE (Viet Nam). Draft Law Amending and Supplementing a Number of Articles of the Law on Commerce, the Law on Competition, the Law on Foreign Trade Management and the Law on Protection of Consumers' Rights, public consultation text, 16 June 2026. Art. 2(19), amending only Art. 111(2) and Art. 111(4) VCL 2018. Available at: <https://luatvietnam.vn/thuong-mai/du-thao-luat-sua-doi-bo-sung-luat-thuong-mai-can-h-tranh-quan-ly-ngoai-thuong-bao-ve-quyen-loi-tieu-dung-436441-d10.html> (accessed on 20 September 2026). Article 111(1), which caps fines for abuse of a dominant position at ten per

consequence is that the sanction problem survives the amendment in full. An authority that succeeded, after a long proceeding, in establishing dominance and abuse against an offshore platform would still face a fine calculated on turnover that the platform does not book in Vietnam. The draft's new five-year limitation period in Article 94a widens the window in which such a proceeding may be brought, which is useful, but it does not make the proceeding easier to win or the remedy worth pursuing.⁸⁵

The overall assessment is therefore mixed, and it repositions the contribution of this article. The draft accepts the diagnosis. It agrees that turnover cannot measure platform power, that data and network effects are indices of that power, and that platform conduct requires its own prohibitions. On the first and third failures it makes real progress. But it retains the architecture within which those improvements must operate, namely a relevant market defined by price, a market share expressed as a ratio to an uncollectable denominator, an ex post proceeding against an absent respondent, and a fine measured by local turnover. The argument of the remainder of this article is accordingly narrower than it would have been before June 2026, and also more precise. What Vietnam still lacks is not the vocabulary of platform power, which the draft supplies, but a procedure that can apply that vocabulary within a usable time and with a remedy at the end of it.

4. Comparative legal perspectives

Vietnam's difficulties are common, as they reflect a global challenge in applying outdated rules to modern digital platforms. Over the past five years, the leading regulatory responses have all undergone a significant structural shift: they no longer rely on domestic revenue market share. Instead, they use visible metrics such as user numbers, global financial scale, and ecosystem control capabilities, which zero-price and international business models cannot conceal. This section examines four such models. Because those models differ in legal status, and because a proposal that has not been enacted cannot supply evidence of administrative practice, Table 1 sets out the position as at August 2026 before the discussion begins.

Table 1. Comparative gatekeeper regimes, status as at August 2026.

Regime	Legal status (August 2026)	Target services	Designation test	Evidence powers	Review
European Union Regulation (EU) 2022/1925	In force. Applicable since 2 May 2023. Seven undertakings designated 2023–2024.	Ten listed core platform services.	Three qualitative criteria, presumed met by turnover or market-capitalisation thresholds combined with user counts.	Self-notification within two months; designation on facts available if the firm stays silent.	Designation reviewed every three years.

cent of turnover on the relevant market in Vietnam in the preceding financial year, is left unamended.

⁸⁵ MINISTRY OF INDUSTRY AND TRADE (Viet Nam). Draft Law Amending and Supplementing a Number of Articles of the Law on Commerce, the Law on Competition, the Law on Foreign Trade Management and the Law on Protection of Consumers' Rights, public consultation text, 16 June 2026. Art. 2(18), inserting Art. 94a VCL 2018 (five-year limitation period for administrative sanctions in competition matters). Available at: <https://luatvietnam.vn/thuong-mai/du-thao-luat-sua-doi-bo-sung-luat-thuong-mai-can-h-tranh-quan-ly-ngoai-thuong-bao-ve-quyen-loi-tieu-dung-436441-d10.html> (accessed on 20 September 2026).

Regime	Legal status (August 2026)	Target services	Designation test	Evidence powers	Review
Germany Section 19a GWB	In force since 19 January 2021. Five undertakings designated by September 2024; designations upheld on appeal.	Undertakings active to a significant degree on multi-sided markets.	Wholly qualitative. Dominance is relevant but not required.	Ordinary investigative powers of the Bundeskartellamt.	Designation lasts five years.
United Kingdom Digital Markets, Competition and Consumers Act 2024	Part 1 in force 1 January 2025. Google designated 10 October 2025; Apple and Google designated for mobile platforms 22 October 2025. Conduct requirements still under consultation in 2026.	Digital activities with a United Kingdom link.	Substantial and entrenched market power plus a position of strategic significance, subject to a turnover filter of GBP 25 billion globally or GBP 1 billion in the United Kingdom.	Investigatory notices; firm-specific conduct requirements.	Designation lasts five years, with review.
India Draft Digital Competition Bill 2024	Not enacted. Consultation closed 2024. Standing Committee on Finance, 25th Report, 11 August 2025, records ministerial hesitation and capacity constraints at the Competition Commission of India.	Listed core digital services.	Twin test of significant financial strength and significant spread, with a residual qualitative power.	Self-assessment and reporting within ninety days.	Thresholds to be revised periodically; a rebuttal mechanism has been requested.

4.1 The European Union

Regulation (EU) 2022/1925, the Digital Markets Act, applicable in substance since 2 May 2023, marks a fundamental departure from the traditional dominance framework. Rather than requiring an authority to define a relevant market and prove dominance ex post, the Regulation designates “gatekeepers” ex ante on the basis of three qualitative criteria, namely significant impact on the internal market, control of an important gateway between business users and end users, and an entrenched and durable position, each of which is presumed satisfied upon defined quantitative thresholds.⁸⁶ The presumptions are instructive in their construction: the impact

⁸⁶ Regulation (EU) 2022/1925 of the European Parliament and of the Council of 14 September 2022 on contestable and fair markets in the digital sector (Digital Markets Act), OJ L 265,

criterion is met by an annual Union turnover of at least EUR 7.5 billion in each of the last three financial years or an average market capitalization of at least EUR 75 billion, combined with the provision of the same core platform service in at least three Member States; the gateway criterion is met where the service has at least forty-five million monthly active end users in the Union and at least ten thousand yearly active business users; and entrenchment is presumed where the gateway thresholds have been met in each of the last three financial years.⁸⁷

There are three particular characteristics involved here. First, these thresholds do not require identifying a market or calculating market share. Instead, the number of users and global financial indicators serve as direct legal indicators of the controller's power, helping to immediately address the zero-price issue. Second, the information burden is inverted: undertakings must themselves notify the Commission within two months of meeting the thresholds, on pain of designation on the basis of the facts available, so that the regulator no longer bears the impossible task of reconstructing offshore accounts.⁸⁸ Third, designation triggers directly applicable conduct obligations, including prohibitions of self-preferencing and of the combination of personal data without consent, and duties of interoperability, portability and transparency, enforced by fines of up to ten per cent, and for repeated infringements twenty per cent, of worldwide turnover, a sanction base that cannot be emptied by revenue-booking strategies.⁸⁹ By 2024 the Commission had designated seven undertakings, namely Alphabet, Amazon, Apple, Booking, ByteDance, Meta and Microsoft, in respect of more than twenty core platform services, including one designation, for Apple's iPadOS, adopted on qualitative grounds although the quantitative thresholds were not fully met.⁹⁰

The designation of ByteDance bears directly on the argument of this paper. The undertaking did not meet the Union turnover threshold, and being privately held it has no market capitalisation. It was captured through the equivalent fair market value limb of Article 3(2)(a), combined with the user-count thresholds of its TikTok service.⁹¹ In other words, the architecture of the Digital Markets Act is designed to reach businesses with limited or opaque local revenue, provided their global scale and local user penetration demonstrate gateway power. That is the configuration which defeats Vietnamese law. The European experience also shows the cost of the model. Designation is only the beginning, and compliance dialogue, specification decisions and litigation have occupied the Commission continuously since 2023. A

12.10.2022. Arts. 3(1). Available at: <https://eur-lex.europa.eu/eli/reg/2022/1925/2022-10-12/eng> (accessed on 20 July 2026).

⁸⁷ Regulation (EU) 2022/1925 of the European Parliament and of the Council of 14 September 2022 on contestable and fair markets in the digital sector (Digital Markets Act), OJ L 265, 12.10.2022. Arts. 3(2). Available at: <https://eur-lex.europa.eu/eli/reg/2022/1925/2022-10-12/eng> (accessed on 20 July 2026).

⁸⁸ Regulation (EU) 2022/1925 of the European Parliament and of the Council of 14 September 2022 on contestable and fair markets in the digital sector (Digital Markets Act), OJ L 265, 12.10.2022. Arts. 3(3) and (8). Available at: <https://eur-lex.europa.eu/eli/reg/2022/1925/2022-10-12/eng> (accessed on 20 July 2026).

⁸⁹ Regulation (EU) 2022/1925 of the European Parliament and of the Council of 14 September 2022 on contestable and fair markets in the digital sector (Digital Markets Act), OJ L 265, 12.10.2022. Arts. 5–7 and 30. Available at: <https://eur-lex.europa.eu/eli/reg/2022/1925/2022-10-12/eng> (accessed on 20 July 2026).

⁹⁰ GRANT THORNTON. Determining gatekeepers under the digital markets act. 2024. Available at: <https://www.grantthornton.ie/insights/factsheets/determining-gatekeepers-under-the-digital-markets-act/> (accessed on 10 July 2026).

⁹¹ CENTER FOR STRATEGIC AND INTERNATIONAL STUDIES. Guarding the gates: The digital markets act and lessons in Ex Ante regulation. 2025. Available at: <https://www.csis.org/blogs/charting-geo-economics/guarding-gates-digital-markets-act-and-lessons-ex-ante-regulation> (accessed on 10 July 2026).

regime of this kind presupposes an authority that can sustain proceedings against the best-resourced firms in the world.

4.2 Germany

Before the Digital Markets Act existed, Germany dealt with digital competition issues through a different, nationally designed law. Since January 2021, Section 19a of the Act Against Restraints of Competition allows the Federal Cartel Office (Bundeskartellamt) to designate large multi-sided platforms as having “paramount importance for competition across markets” for periods of five years. Once designated, a company is prohibited from engaging in certain behaviours, such as favouring its own services, using cross-market tying, raising entry barriers through data control, and restricting interoperability or data portability, unless there is an objectively justified reason.⁹² The criteria for this status are entirely qualitative. Market dominance is considered but not required; instead, the assessment focuses on financial strength, vertical integration, data accessibility, and the company's role in controlling third party access to buyers and suppliers.^{93,94}

Germany shows that national agencies, not just international organizations, can effectively enforce ecosystem based regulations. By September 2024, the Bundeskartellamt had designated Alphabet, Amazon, Apple, Meta, and Microsoft. Only Amazon and Apple appealed, and the Federal Court of Justice upheld the agency's decision.⁹⁵ The German model differs from the others in one respect that matters for Vietnam. Designation under Section 19a is separated from the finding of abuse, so the authority establishes the firm's position once, for five years, and does not have to re-prove it in every subsequent case. That separation, rather than the qualitative character of the German test, is the feature most worth transposing, because it addresses the cost problem described earlier, namely that an authority which must re-establish a platform's position in every proceeding will rarely begin one. For countries that are hesitant to apply fixed numerical thresholds, because the numbers from one economy do not translate well to another, or because strict limits are easy to dodge, Section 19a offers an alternative based on qualitative criteria. However, this approach requires a competent and respected regulatory body, backed by courts that are ready to handle cases quickly.

4.3 The United Kingdom

The United Kingdom's Digital Markets, Competition and Consumers Act 2024, whose digital markets provisions came into force on 1 January 2025, allows the Competition and Markets Authority to grant a company “strategic market status” for digital activities related to the United Kingdom if the company has substantial and entrenched market power together with a position of strategic significance. However, this only applies if the company meets the minimum revenue threshold: over GBP 25

⁹² Gesetz gegen Wettbewerbsbeschränkungen (German Act against Restraints of Competition), sec. 19a, introduced by the Tenth Amendment to the GWB (GWB-Digitalisierungsgesetz), in force since 19 January 2021. Available at: https://www.gesetze-im-internet.de/englisch_gwb/ (accessed on 24 September 2026).

⁹³ Gesetz gegen Wettbewerbsbeschränkungen (German Act against Restraints of Competition), sec. 19a(1), introduced by the Tenth Amendment to the GWB (GWB-Digitalisierungsgesetz), in force since 19 January 2021. Ibid.

⁹⁴ BUNDESKARTELLAMT. Proceedings against large digital companies. Available at: https://www.bundeskartellamt.de/EN/Digital_economy/proceedings_against_large_digital_companies/proceedings_against_large_digital_companies.html (accessed on 10 July 2026).

⁹⁵ INTERNATIONAL BAR ASSOCIATION. Digital platform regulation: Developments in Germany. 2025. Available at: <https://www.ibanet.org/digital-platform-regulation-germany-dma> (accessed on 10 July 2026).

billion globally or over GBP 1 billion in the United Kingdom.⁹⁶ There are two notable aspects in this design, namely that the revenue requirement only acts as a minimal filter rather than evidence of market power, and that instead of applying a standard list of rules, the law imposes customized requirements tailored to each company and activity. Since global revenue alone can meet this test, a company cannot avoid regulation by recording income outside the United Kingdom.

The regime has now been applied, and its early practice carries the capacity lesson most relevant to Vietnam. The Competition and Markets Authority designated Google in respect of general search and search advertising on 10 October 2025, and designated Apple and Google in respect of their mobile platforms on 22 October 2025. Conduct requirements for those firms remained under consultation through 2026.⁹⁷ Almost a year therefore separated the entry into force of the statute from the first designations, and a further period separated designation from enforceable obligations, in a jurisdiction with one of the most experienced competition authorities in the world. That interval is not a symptom of inexperience, and this is why it matters for Vietnam. It reflects three features built into the designation process itself. The authority must assemble evidence on market power and strategic significance to a standard that will hold on review. It must consult the firm and third parties before it decides, and the firm has every incentive to use that period fully. And it must expect the designation to be challenged, so the reasons must be written to withstand a challenge brought by the best-resourced litigants in the market. None of these steps can be compressed by long practice, because each is a legal requirement rather than a matter of institutional habit. A newer authority may take longer still, but it will not take less. The practical consequence for Vietnam is that the reform should be planned on the assumption that the first designation will follow the statute by a year or more, and that obligations will follow the designation later again. A regime judged by whether a new chapter has been adopted will appear to succeed immediately; a regime judged by whether it has designated anyone, and made the designation stick, will show its true progress only after that interval has run.

4.4 India

For Vietnam and similar countries, India's 2024 draft Digital Competition Bill, proposed by the Committee on Digital Competition Law of the Ministry of Corporate Affairs, is a useful model, with the important qualification that it remains a draft and has not been enacted. The committee found that India's 2002 Competition Act, with its *ex post* approach, deals with market concentration in the digital sector too slowly. Instead, it proposed *ex ante* regulation for "core digital services", including search engines, social networks, video platforms, operating systems, web browsers, cloud computing, advertising, and online intermediaries.^{98,99} The bill defines "Systemically Significant Digital Enterprises" using a two-part test, measured over the previous three financial years. The financial test is met if any of the following conditions are

⁹⁶ Digital Markets, Competition and Consumers Act 2024 (United Kingdom). Available at: <https://www.legislation.gov.uk/ukpga/2024/13> (accessed on 20 July 2026).

⁹⁷ Competition and Markets Authority, decisions of 10 October 2025 (Google, general search and search advertising) and 22 October 2025 (Apple and Google, mobile platforms), designating those undertakings as having strategic market status; conduct requirements remained under consultation during 2026.

⁹⁸ MINISTRY OF CORPORATE AFFAIRS (India), COMMITTEE ON DIGITAL COMPETITION LAW. Report of the committee on digital competition law. 2024. Available at: <https://prsindia.org/files/parliamentary-announcement/2024-04-15/CDCL-Report-20240312.pdf> (accessed on 20 July 2026).

⁹⁹ Draft Digital Competition Bill, 2024 (India), annexed to the Report of the Committee on Digital Competition Law, Ministry of Corporate Affairs, New Delhi, 2024. Available at: <https://prsindia.org/files/parliamentary-announcement/2024-04-15/CDCL-Report-20240312.pdf> (accessed on 20 July 2026).

fulfilled: turnover in India of INR 4,000 crore, global turnover of USD 30 billion, gross merchandise value in India of INR 16,000 crore, or global market capitalisation of USD 75 billion. The spread test requires at least 10 million local end users or 10,000 local business users.^{100,101}

Financial criteria are based on publicly available global data that companies cannot hide by reporting local income overseas. Meanwhile, user criteria are based on visible local user numbers, which platforms already share with advertisers, making them an effective way to measure free services. Under the bill, companies would have to self-report their status within 90 days, and the text bars them from artificially splitting services to avoid the thresholds.¹⁰²

The Indian proposal has since stalled, and the reasons for the pause matter more to this article than the text of the bill. The Standing Committee on Finance reported to the Lok Sabha on 11 August 2025, recording the Ministry of Corporate Affairs' concern that an ex ante regime should not burden start-ups and smaller enterprises, and asking for revised thresholds together with a mechanism allowing a designated firm to rebut its designation. The same report recorded that a large proportion of sanctioned posts at the Competition Commission of India were vacant.¹⁰³¹⁰⁴ Two consequences follow for the designation test proposed below, which builds on the Indian model. The first is that a twin test of the Indian kind needs a rebuttal procedure, and periodic review of the numbers on its own will not answer the objection. The second is that the capacity objection is not a Vietnamese peculiarity. An authority in a far larger economy, with a competition agency two decades old, hesitated at the same point. A proposal for Vietnam that assumes institutional capacity will appear alongside the new powers is not credible, which is why the proposals below are sequenced by legal rank and by the order in which the authority should acquire each power.

4.5 Regimes cited for comparison: Korea, Japan and Australia

Three further regimes are sometimes grouped with those above, and they are treated briefly here because they answer a different question. The Republic of Korea amended its Telecommunications Business Act in 2021 to prohibit app-market operators from compelling the use of their own payment systems. Japan's Act No. 58 of 2024 imposes obligations on designated providers of smartphone software, including operating systems and application stores.¹⁰⁵ Australia's News Media and

¹⁰⁰ Draft Digital Competition Bill, 2024 (India), annexed to the Report of the Committee on Digital Competition Law, Ministry of Corporate Affairs, New Delhi, 2024. Ibid.

¹⁰¹ PRS LEGISLATIVE RESEARCH. Report summary: digital competition law. 2024. Available at: <https://prsindia.org/policy/report-summaries/digital-competition-law> (accessed on 10 July 2026).

¹⁰² TAXMANN. [Analysis] draft digital competition bill 2024-A new era of regulation for systematically significant digital enterprises. 2024. Available at: <https://www.taxmann.com/post/blog/analysis-digital-competition-law/> (accessed on 10 July 2026).

¹⁰³ HNLU CENTRE FOR COMPETITION AND COMMERCIAL LAW STUDIES. Contesting the 'big tech' tag: India's digital competition bill at a turning point. 2025. Available at: <https://hnluccls.in/2025/12/16/contesting-the-big-tech-tag-indias-digital-competition-bill-at-a-turning-point/> (accessed on 10 July 2026).

¹⁰⁴ Standing Committee on Finance (Lok Sabha), 25th Report, 11 August 2025. Available at: <https://elibrary.sansad.in/server/api/core/bitstreams/1cbc40ec-3b3a-42c7-a5f4-f9f481758750/view> (accessed on 21 September 2026). Recording the Ministry of Corporate Affairs' concern that an ex ante regime should not burden start-ups and micro, small and medium enterprises, and noting that a substantial proportion of sanctioned posts at the Competition Commission of India remained vacant.

¹⁰⁵ KOBAYASHI, T. "Supply chains, digital governance, and strategic coordination in the indo-pacific: A case study of Japan's semiconductor policy". *The Journal of World Investment &*

Digital Platforms Mandatory Bargaining Code obliges designated platforms to negotiate payment with news businesses.^{106,107,108} Each is sector-specific. Each targets an identified harm in one service, rather than establishing a general designation regime with a portfolio of obligations. For a jurisdiction with limited enforcement capacity the model has an evident attraction, since a narrow rule aimed at one practice is easier to draft, to monitor and to defend than a general regime. It is also, for the same reason, easier to circumvent and slower to extend when the harm migrates to an adjacent service. The choice between a general designation regime and a sequence of sectoral rules is a genuine one for Vietnam.

5. Feasible proposals for Vietnam and similar jurisdictions

Proposals for Vietnam must satisfy four conditions of feasibility. They must be operable by an authority with the present capacity of the Vietnam Competition Commission; they must be calibrated to the scale of the Vietnamese market rather than to that of the European Union or India; they must cohere with, and where possible reuse, the fiscal, data and content instruments the state has already built; and they must be defensible under Vietnam's trade commitments. The fourth condition is tested against the treaty text below, and the principal objections to the programme are answered before the implementation sequence is set out.

5.1 Repairing the definition of relevant market

Article 10(1) sets out the permitted methods exhaustively, and each is defined by turnover or by units bought and sold. A decree adding user counts to that list would enlarge the statutory concept rather than detail it, and would be vulnerable for exceeding the delegation. The Vietnamese drafters have taken the same view, which is why the June 2026 draft amends Article 10 at statutory level.¹⁰⁹ The correct conclusion is that this reform requires primary legislation, and that it is already before the legislature.

What a decree can still do is equally important and is not addressed by the draft. A replacement for Decree 35/2020/ND-CP should authorise a quality-based and attention-based substitution analysis, so that a market can be defined where price is zero, and should provide expressly for services supplied in identical form worldwide, resolving the geographic indeterminacy. It should also define the new statutory metrics operationally, in particular by stating what counts as a user for the purposes

Trade, v. 26, n. 4, 2025, pp. 648-679. <https://doi.org/10.1163/22119000-12340370>. On the wider pattern of Japanese digital and industrial governance within which that Act sits.

¹⁰⁶ Telecommunications Business Act (Republic of Korea), as amended in 2021 in respect of app-market business operators. Available at: https://elaw.klri.re.kr/eng_service/lawView.do?hseq=64463&lang=ENG (accessed 21 September 2026).

¹⁰⁷ Act on Promotion of Competition for Specified Smartphone Software (Japan), Act No. 58 of 2024. Available at: <https://www.jftc.go.jp/file/240612EN3.pdf> (accessed on 21 September 2026).

¹⁰⁸ Treasury Laws Amendment (News Media and Digital Platforms Mandatory Bargaining Code) Act 2021 (Australia). Available at: <https://www.accc.gov.au/by-industry/digital-platforms-and-services/news-media-bargaining-code/news-media-bargaining-code/final-legislation> (accessed on 21 September 2026).

¹⁰⁹ MINISTRY OF INDUSTRY AND TRADE (Viet Nam). Draft Law Amending and Supplementing a Number of Articles of the Law on Commerce, the Law on Competition, the Law on Foreign Trade Management and the Law on Protection of Consumers' Rights, public consultation text, 16 June 2026. Art. 2(3)(a), amending Art. 10(1) VCL 2018. Available at: <https://luatvietnam.vn/thuong-mai/du-thao-luat-sua-doi-bo-sung-luat-thuong-mai-canh-tranh-quan-ly-ngoai-thuong-bao-ve-quyen-loi-tieu-dung-436441-d10.html> (accessed on 20 September 2026). The amendment is made at statutory level rather than by decree, which confirms that the methods listed in Art. 10(1) are exhaustive.

of the amended Article 10, and by specifying how the market-wide denominator is to be established. Without that last step the amended Article 10 will not function against undertakings operating on a zero-price business model.

Furthermore, information declared by a taxpayer is confidential under the Law on Tax Administration, and it may be disclosed only in the cases that statute defines.¹¹⁰ Access by the Commission therefore cannot be assumed to be costless or automatic. It requires either an amendment creating an express gateway for competition purposes, or a defined statutory basis under the existing exceptions, in each case accompanied by purpose limitation, by protection for commercially confidential material, and by rules on onward disclosure in a proceeding where the platform must be able to see and contest the evidence against it.

A further amendment concerns revenue disclosure. Revenue declared through the portal is aggregate revenue sourced from Vietnam. It is not disaggregated by relevant market, and a single declaration may cover advertising, cloud services and subscriptions together. It can therefore support neither a market-share calculation nor a fine base under Article 111 without an allocation exercise that the portal was never designed to perform. Its realistic use is corroborative, as a check on figures produced by other means, and as evidence that a firm has a substantial Vietnamese business at all.

5.2 Building a framework to identify digital gatekeepers

As a medium-term reform, policymakers should establish a proactive framework to identify and regulate gatekeeper platforms. The draft supplies better indices of market power but leaves them inside an ex post proceeding that begins with market definition and ends with a fine measured on local turnover. A designation regime addresses the procedure rather than the vocabulary. It establishes the firm's position once, prospectively, and attaches obligations to that status, which is the feature of the German model. At the core of this system should be a two-part test, requiring a company to meet both criteria in order to be regulated. The first criterion assesses global financial strength, targeting only very large multinational firms by reference to global turnover or market capitalisation. The second criterion assesses domestic reach, measured by the number of individual or business users active on the platform in Vietnam.^{111,112}

Requiring companies to meet both criteria is a necessary protective measure, reflecting lessons from the regulatory debate in India. Because the financial test is based on global scale, emerging Vietnamese technology companies are shielded from regulation regardless of how large their domestic user base may be. Conversely, a global firm with minimal presence in Vietnam would not meet the domestic reach requirement.

Decree 55/2024/ND-CP sets three million annually active user accounts as the point at which a digital platform becomes subject to specific obligations, and it requires platforms to determine that figure themselves.¹¹³ A designation threshold

¹¹⁰ Law No. 38/2019/QH14 on Tax Administration (Viet Nam), adopted 13 June 2019. Arts. 99 and 100, on the confidentiality of taxpayer information and the defined cases in which it may be disclosed. Available at: <https://vanban.chinhphu.vn/?pageid=27160&docid=197312> (accessed on 21 September 2026).

¹¹¹ MINISTRY OF CORPORATE AFFAIRS (India), COMMITTEE ON DIGITAL COMPETITION LAW. Report of the committee on digital competition law. 2024. Ibid.

¹¹² Draft Digital Competition Bill, 2024 (India), annexed to the Report of the Committee on Digital Competition Law, Ministry of Corporate Affairs, New Delhi, 2024. Ibid.

¹¹³ Decree No. 55/2024/ND-CP of the Government dated 16 May 2024 detailing a number of articles of the Law on Protection of Consumers' Rights (Viet Nam). Art. 2(2). Available at: <https://vanban.chinhphu.vn/?pageid=27160&docid=210254> (accessed on 21 September 2026).

aligned with that figure would reuse a definition that Vietnamese firms and regulators already apply, would avoid creating a second and inconsistent measure of platform scale, and would rest on a judgement about the Vietnamese market that the Government has already made. Because the consequences of designation under a competition regime are heavier than those of transparency reporting, the threshold should be tested at more than one level before adoption, for instance at three, five and ten million users, with the number of firms captured at each level estimated in advance. The threshold should also differ by service, since three million users of a search engine and three million users of a niche marketplace do not indicate the same gateway power, and it should be reviewed periodically.

User counts carry their own evidential problems, which any Vietnamese regime must confront. Duplicate and automated accounts inflate raw figures. Multi-homing weakens the inference from user numbers to dependence, since a business user that reaches its customers through three platforms is not captive to any of them. The regime therefore needs an audited definition of an active user, a duty to disclose the counting method, and a procedure by which the platform can contest the figure.¹¹⁴

A designation test built on two quantitative limbs will sometimes capture a firm that does not in fact hold gateway power. A global company may pass the financial limb on the strength of an unrelated business, and may pass the user limb through a service that its Vietnamese users treat as one option among several. The Indian Standing Committee asked for a rebuttal mechanism for precisely this reason, and a Vietnamese regime should provide one. A firm that meets both limbs should be able, within a stated period after being notified, to show that it does not control an important gateway between business users and end users in Vietnam. The burden should rest on the firm, since it holds the evidence, and the standard should be a demanding one, because the thresholds are set where they are in order to identify gateway power in the ordinary case. Relevant matters would include the extent to which Vietnamese business users reach their customers through other channels, the absence of any capacity on the firm's part to set the terms on which they do so, and the ease with which users move between the firm's service and substitutes. A successful rebuttal should defer designation rather than defeat it permanently, with the Commission free to reopen the question if the firm's position changes. Providing this route costs the regime little, since a firm that genuinely lacks gateway power should be able to demonstrate it, and it protects the regime against the objection that quantitative thresholds are blunt instruments.

Following the German example, the Commission should also retain a residual power to designate firms that fall below the thresholds but whose ecosystem position, data control and intermediary role indicate gatekeeper power.¹¹⁵ That power should be used sparingly, because a discretionary designation is the hardest kind of decision for an authority to defend.

This proposal sits in tension with an argument made earlier in this article. The Competition Commission was described there as young, thinly resourced and without means of gathering evidence abroad, and a residual power asks that same authority to make an open-ended judgement which a well-resourced respondent will contest. The tension is real, and the answer is to sequence the powers rather than to abandon one of them. The quantitative limbs should operate first, since they ask the authority

2026). The duty of self-determination matters for the proposal made here, because it shows that an obligation to count and report users is already workable in Vietnamese practice.

¹¹⁴ On the measurement difficulties, duplicate and automated accounts inflate raw counts, while multi-homing weakens the inference from user numbers to business-user dependence. Any Vietnamese threshold would need an audited definition of an active user and a procedure allowing the platform to contest the figure.

¹¹⁵ Gesetz gegen Wettbewerbsbeschränkungen (German Act against Restraints of Competition), sec. 19a(1), introduced by the Tenth Amendment to the GWB (GWB-Digitalisierungsgesetz), in force since 19 January 2021. Ibid.

to verify published figures rather than to construct a theory of gateway power. The residual power should come into use only once the regime has produced designations that have survived review, and it should carry a heavier duty to give reasons. The Indian pause, where an agency two decades old hesitated at the same point, and the British interval of roughly a year between commencement and first designation, both support that ordering.

5.3 Inverting the information asymmetry

The main obstacle to enforcement is the lack of information, as authorities cannot measure what they do not see. Therefore, the rules identifying and regulating large platforms must shift the burden of production to the firms themselves. If a company reaches the thresholds, it should be required to notify the Commission within a specified period. If it fails to do so, the Commission should be able to designate on the basis of the facts available. This mechanism is what makes the European regime effective. Once designated, these platforms should file annual audited reports on Vietnamese user numbers and local revenue.¹¹⁶

At the same time, different ministries should share the data they already collect with a dedicated digital markets unit within the Commission. This includes tax data, advertising and cross-border streaming records, and records of local representatives. This approach does not require a platform to generate new data, but it does require a legal basis for each transfer, since taxpayer information is confidential and may be disclosed only in defined cases.

The presumption proposed here, that a platform meeting the published criteria is treated as meeting the thresholds unless it produces data to the contrary, is a significant power and must be constrained accordingly. It should operate only after notice to the firm and a stated period in which to respond. The firm should have access to the material relied on, subject to protection for third-party confidential information. The decision should be reasoned and published. It should be subject to appeal to a court or tribunal with power to review the facts, and it should be reviewed periodically in any event, with designation lapsing if the criteria are no longer met. Without those elements the presumption would be vulnerable on administrative law grounds and would be unlikely to survive its first challenge, which would set the regime back further than a slower start.

5.4 Upfront obligations and enforceable sanctions

Instead of applying the entire European catalogue, the authorities should implement a short set of rules targeting specific harms. For Vietnam, five obligations are essential: a prohibition of self-preferencing; a requirement of consent before combining personal data across services, aligned with the Law on Personal Data Protection and Decree 356/2025/ND-CP; data access and portability rights for Vietnamese business users; fair access to application stores and advertising networks; and transparency in advertising auctions and reporting.^{117,118,119,120,121} The June 2026

¹¹⁶ Regulation (EU) 2022/1925 of the European Parliament and of the Council of 14 September 2022 on contestable and fair markets in the digital sector (Digital Markets Act), OJ L 265, 12.10.2022. Arts. 3(3). Available at: <https://eur-lex.europa.eu/eli/reg/2022/1925/2022-10-12/eng> (accessed on 20 July 2026).

¹¹⁷ The obligations proposed here correspond to Regulation (EU) 2022/1925 of the European Parliament and of the Council of 14 September 2022 on contestable and fair markets in the digital sector (Digital Markets Act), OJ L 265, 12.10.2022. Arts. 5–7. Available at: <https://eur-lex.europa.eu/eli/reg/2022/1925/2022-10-12/eng> (accessed on 20 July 2026).

¹¹⁸ Gesetz gegen Wettbewerbsbeschränkungen (German Act against Restraints of Competition), sec. 19a(2), introduced by the Tenth Amendment to the GWB (GWB-Digitalisierungsgesetz), in force since 19 January 2021. Available at: https://www.gesetze-im-internet.de/englisch_gwb/ (accessed on 24 September 2026).

draft already reaches four of the five obligations proposed here, in the form of prohibited abuses under Article 27. However, while they serve as a solid foundation for future legislation, there are still works to be done. The contribution of a designation regime is therefore not to invent these duties but to detach them from the requirement to prove dominance case by case.

Penalties should be based on global turnover to prevent firms from avoiding fines by shifting revenue abroad. This is the most legislatively demanding proposal in the article, and it should be labelled as such. Article 111(1) of the VCL 2018 caps fines for abuse of dominance at ten per cent of turnover on the relevant market in Vietnam, and the June 2026 draft does not amend that provision.¹²² A change of base cannot be achieved by decree. It requires an amendment to the statute, and it should be confined to designated firms so that domestic enterprises are not exposed to a heavier sanction than they face today. Collection presents a separate difficulty that this article does not minimise. Against a firm with no attachable assets in Vietnam, a fine is only as good as the means of enforcing it. The realistic levers are the ones the state already uses in the fiscal and licensing context, namely the local representative required under Decree 53/2022/ND-CP, the licences on which the firm's Vietnamese business depends, and the payment channels through which its Vietnamese revenue flows. A graduated sequence should therefore run from directions to the local representative, through periodic penalty payments and publication of non-compliance, to restrictions on specific commercial activities. Blocking access should remain the final step, used only after an assessment of the harm to Vietnamese users.

5.5 Capacity, regional cooperation and trade-compatible design

Institutionally, a digital markets unit should be established within the Commission, staffed in part by officers from the ministries that already regulate the platforms' fiscal, content and data interfaces, and supported by the technical assistance channels of UNCTAD and the International Competition Network. Regionally, Vietnam should pursue coordination through the ASEAN Experts Group on Competition.¹²³ This would help build shared designation standards and mutual assistance in evidence-gathering, which would lower compliance objections, reduce the risk that gatekeepers play neighbouring jurisdictions against one another, and give small economies

¹¹⁹ On the consent requirement, see Law on Personal Data Protection No. 91/2025/QH15 (Viet Nam). Available at: <https://chinhphu.vn/?pageid=27160&docid=214590&classid=1&typegroupid=3> (accessed on 21 September 2026).

¹²⁰ Decree No. 356/2025/ND-CP of the Government detailing the Law on Personal Data Protection (Viet Nam). Ibid.

¹²¹ For the wider regulatory context, see AUSTRALIAN COMPETITION AND CONSUMER COMMISSION. Digital platforms inquiry: Final report, Canberra. 2019. Available at: <https://www.accc.gov.au/about-us/publications/digital-platforms-inquiry-final-report> (accessed on 20 July 2026).

¹²² MINISTRY OF INDUSTRY AND TRADE (Viet Nam). Draft Law Amending and Supplementing a Number of Articles of the Law on Commerce, the Law on Competition, the Law on Foreign Trade Management and the Law on Protection of Consumers' Rights, public consultation text, 16 June 2026. Art. 2(19), amending only Art. 111(2) and Art. 111(4) VCL 2018. Available at: <https://luatvietnam.vn/thuong-mai/du-thao-luat-sua-doi-bo-sung-luat-thuong-mai-canh-tranh-quan-ly-ngoai-thuong-bao-ve-quyen-loi-tieu-dung-436441-d10.html> (accessed on 20 September 2026). Article 111(1), which sets the cap for abuse of a dominant position, is left unamended.

¹²³ ALLEN, J. G., and LIAO, Q. X. M. "Digital economy innovation in the indo-pacific: Towards a 'Singapore effect'?" *The Journal of World Investment & Trade*, v. 26, n. 4, 2025, pp. 680-711. <https://doi.org/10.1163/22119000-12340377>

collectively the bargaining weight none possesses alone.¹²⁴ The marginal cost of compliance for the gatekeepers themselves would be modest, as the diffusion of European standards means that user-counting, data-separation and interoperability structures already exist within these undertakings and need only be extended to an additional territory.¹²⁵

Blocking access to a service is not a data localisation requirement, and it should not be assessed under the provision that disciplines the location of computing facilities. The relevant obligations are Article 14.4 of the CPTPP on non-discriminatory treatment of digital products, Article 14.11 on cross-border transfer of information, and Article 14.13 on the location of computing facilities, and each of the last two is expressly subject to an exception permitting measures that achieve a legitimate public policy objective, provided they are not applied in an arbitrary or discriminatory manner and are not more trade-restrictive than necessary.¹²⁶ Comparable obligations and exceptions appear in the EU–Viet Nam and UK–Viet Nam agreements and in the electronic commerce chapter of the Regional Comprehensive Economic Partnership.^{127,128,129}

Applying those texts to the specific measures proposed here yields a workable design. A designation regime resting on global scale and local user reach is origin neutral on its face, and the financial limb would in practice capture only foreign firms because no Vietnamese firm approaches that scale. That is a *de facto* effect rather than a *de jure* distinction, and it is defensible provided the criteria are objective, published and applied consistently. Obligations of self preferencing, data access and transparency do not require any data to be held in Vietnam and therefore do not engage Article 14.13 at all. A fine measured on global turnover is a sanction, not a restriction on cross-border data flows, and engages Article 14.11 only if it is applied in a discriminatory way. The measure that carries genuine risk is access blocking, which restricts the supply of a digital product and would have to be justified under the public policy exception, on evidence, as necessary and proportionate. That is a further reason to treat blocking as a last resort rather than a routine sanction, and

¹²⁴ ASEAN EXPERTS GROUP ON COMPETITION. ASEAN competition action plan 2016–2025, Jakarta. 2016. Available at: [https://asean-competition.org/file/post_image/ACAP%20\(Website\)%2023%20December%202016.pdf](https://asean-competition.org/file/post_image/ACAP%20(Website)%2023%20December%202016.pdf) (accessed on 20 July 2026).

¹²⁵ BRADFORD, A. *The brussels effect: How the European Union rules the world*. Oxford University Press, 2020. <https://doi.org/10.1093/oso/9780190088583.001.0001>

¹²⁶ Comprehensive and Progressive Agreement for Trans-Pacific Partnership, signed 8 March 2018, arts. 14.4 (non-discriminatory treatment of digital products), 14.11 (cross-border transfer of information) and 14.13 (location of computing facilities). Articles 14.11(3) and 14.13(3) permit measures to achieve a legitimate public policy objective, provided the measure is not applied in a manner that would constitute arbitrary or unjustifiable discrimination or a disguised restriction on trade, and does not impose restrictions greater than are required to achieve the objective. Available at: <https://www.dfat.gov.au/trade/agreements/in-force/cptpp/comprehensive-and-progressive-agreement-for-trans-pacific-partnership> (accessed on 24 September 2026).

¹²⁷ EU–Viet Nam Free Trade Agreement, ch. 8. Available at: <https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=OJ:L:2020:186:FULL&from=EN> (accessed on 20 September 2026).

¹²⁸ UK–Viet Nam Free Trade Agreement. Available at: https://assets.publishing.service.gov.uk/media/5ff7380ed3bf7f65d69a5ca8/CS_Viet_Nam_1.2021_Free_Trade_Agreement_UK_Vietnam.pdf (accessed 20 September 2026).

¹²⁹ Regional Comprehensive Economic Partnership, ch. 12 (Electronic Commerce). Available at: <https://asean.org/wp-content/uploads/2024/10/Regional-Comprehensive-Economic-Partnership-RCEP-Agreement-Full-Text.pdf> (accessed on 20 September 2026).

Law on Data No. 60/2024/QH15 (Viet Nam). Available at: <https://vanban.chinhphu.vn/?pageid=27160&docid=212488&classid=1&orggroupid=1> (accessed on 21 September 2026). Which contain comparable public policy and essential security exceptions.

to build the graduated sequence of enforcement steps proposed above, which begins with directions to the local representative and reaches blocking only at its end.^{130,131}

5.6 Anticipated objections

The programme proposed above attracts three objections that its comparative pedigree does not answer, and each is addressed in turn. A fourth, concerning the capacity of the Competition Commission, is taken up where it bites, alongside the residual designation power that provokes it.

The first is trade friction. Measures that in practice bind only foreign firms, most of them from a single trading partner, invite retaliation that a trade-dependent economy can ill afford, and the calculation is not confined to the treaty question already addressed. The answer is partly one of design, since origin-neutral criteria, published thresholds and ordinary appeal rights make a measure harder to characterise as disguised protection, and partly one of sequencing, since a regime introduced alongside similar regimes in neighbouring states is less exposed than one introduced alone. This is a further argument for the regional coordination proposed above, and it is a reason for candour about the limits of unilateral action.

The second is exit and degradation. In a market of Vietnam's size a platform may withdraw a service, delay new features, or offer a reduced version rather than comply, and the loss would fall on Vietnamese users and businesses. The risk is real and asymmetric, since the platform loses a modest share of global revenue while the host economy loses infrastructure it has come to depend on. Three features of the proposal reduce it, namely the alignment of obligations with those the same firms already meet in Europe, which lowers the marginal cost of compliance, the confinement of duties to designated firms, and a graduated sanction ladder that gives the firm room to comply before the severe steps are reached. The risk cannot be eliminated, and a threshold set too low would raise it sharply, which is a further reason to test the threshold at several levels before adopting one.

The third objection concerns consumer welfare. Zero-price services generate substantial surplus for Vietnamese users, and a regime that raised the cost of supplying them could reduce that surplus. The objection has force as a caution about remedies, though less as an argument against designation, since none of the obligations proposed here requires a platform to charge for a service that is currently free. What they require is that the platform not favour itself in ranking, not combine data without consent, and not deny business users access to data generated by their own activity. The surplus argument bears most directly on blocking, which removes the service altogether, and that is the measure this article has already confined to a last resort.

5.7 Sequence, responsibility and measures of success

The proposals above involve instruments of different legal rank, and they cannot be adopted at once. Table 2 sets out the sequence, the instrument required at each step, and the body responsible for it.

¹³⁰ CHAISSE, J., DIMITROPOULOS, G., and MOSQUERA, I. "Law and digital transformation in the indo-pacific: An international economic law perspective". *The Journal of World Investment & Trade*, v. 26, n. 4, 2025, pp. 575-620. <https://doi.org/10.1163/22119000-12340376>

¹³¹ SINGH, S. "Digital economy partnership agreement and the quest for the global digital trade rule-making: Indian perspective". *Asia Pacific Law Review*, v. 33, n. 2, 2025, pp. 289-315, <https://doi.org/10.1080/10192557.2025.2478395>

Table 2. Sequence of legal acts.

Step	Instrument	Responsible body	Indicative timing
1. Add non-price bases of market share and a quality-based substitution test	Amendment of art. 10 VCL 2018 (statutory) plus a replacement decree for Decree 35/2020/ND-CP	National Assembly; Government on the decree	With the omnibus amendment now in consultation
2. Authorise defined competition use of fiscal and sectoral data	Amendment of arts. 99–100 of the Law on Tax Administration, or an express gateway in the VCL	National Assembly; Ministry of Finance and the Commission on protocols	Same legislative cycle
3. Create the designation regime and its obligations	New chapter in the VCL, or a decree if a delegating provision is enacted	National Assembly; Government	Following cycle
4. Change the fine base for designated firms	Amendment of art. 111(1) VCL 2018	National Assembly	Same cycle as step 3
5. Build the digital markets unit and regional cooperation	Administrative decision; ASEAN Experts Group on Competition work programme	Vietnam Competition Commission; Ministry of Industry and Trade	Continuous

Success should be defined before the reform begins, and it should not be defined as the adoption of a new chapter. The useful indicators are procedural and can be measured. The first is time to decision, meaning the interval between the opening of a designation procedure and a final designation, and between designation and enforceable obligations. The British interval of roughly a year between commencement and first designation offers a benchmark against which a Vietnamese regime can be judged. The second is compliance, meaning the proportion of designated firms filing complete annual reports on time and the proportion of obligations met without enforcement action. The third is durability, meaning the proportion of decisions upheld on appeal, which is the measure that matters most for a young authority. The fourth is market outcome, meaning observable change in the terms on which Vietnamese business users reach their customers, which is the object of the exercise and the hardest thing to measure. A regime that designates no one in three years has failed, and so has one that designates widely and loses on review.

6. Conclusion

Developing jurisdictions struggle to regulate extraterritorial digital power through definitions of dominance built on trade volume, localized revenue and price, because the modern gatekeeper's business model is built where those definitions cannot easily reach. The SSNIP test is arithmetically inoperative where price is zero, and market share is very hard to compute when the consumer side generates no local revenue and the paying side is booked abroad. This failure occurs at three distinct points, namely market definition, market-share measurement, and the gap between share-based dominance and the actual sources of platform power, which lie in the control of data, in defaults and pre-installation, in self-preferencing, and in gateway control. The mismatch produces a regulatory gap and a perverse inversion of competition law's premise, as the statute binds the visible domestic firms most tightly while their far larger foreign rivals present no measurable surface.

As Vietnam has already demonstrated through its fiscal portal, its content and data decrees, and the large digital platform regime in Decree 55/2024/ND-CP, cross-border platforms respond to well-designed domestic obligations. The obstacle is therefore not jurisdiction, which the effects doctrine already secures, nor, after June 2026, the statutory vocabulary of platform power. What is missing is a procedure

that can apply that vocabulary within a usable time, with due process for the firm and a remedy at the end of it. The comparative experience of the European Union, Germany, the United Kingdom and India points to a shared solution, namely designation on metrics platforms cannot hide, self-notification that inverts the information burden, and penalties keyed to worldwide turnover. It also supplies a warning. The Indian proposal has stalled over the burden on smaller firms and the capacity of the agency, and the British regime took a year to produce its first designation.

For Vietnam and jurisdictions like it, this article proposes a graduated path. It would complete the reform of market definition that the draft leaves unfinished; anchor a two-part designation test on global financial scale and on the user threshold Vietnamese law already uses; invert the information burden through notification and lawful inter-agency data sharing, with notice, access to the file, reasons and appeal; attach a short list of obligations to designated status; amend Article 111(1) so that the sanction survives offshore accounting; and build institutional and regional capacity in step with each power conferred. Whether that path is taken will be visible not in the adoption of a new chapter, but in how quickly the first designation is made and whether it survives review.

7. References

- Act on Promotion of Competition for Specified Smartphone Software (Japan), Act No. 58 of 2024. Available at: <https://www.jftc.go.jp/file/240612EN3.pdf> (accessed on 21 September 2026).
- ALLEN, J. G., and LIAO, Q. X. M. "Digital economy innovation in the indo-pacific: Towards a 'Singapore effect'?" *The Journal of World Investment & Trade*, v. 26, n. 4, 2025, pp. 680-711. <https://doi.org/10.1163/22119000-12340377>
- ASEAN EXPERTS GROUP ON COMPETITION. ASEAN competition action plan 2016-2025, Jakarta. 2016. Available at: [https://asean-competition.org/file/post_image/ACAP%20\(Website\)%2023%20December%202016.pdf](https://asean-competition.org/file/post_image/ACAP%20(Website)%2023%20December%202016.pdf) (accessed on 20 July 2026).
- AUSTRALIAN COMPETITION AND CONSUMER COMMISSION. Digital platforms inquiry: Final report, Canberra. 2019. Available at: <https://www.accc.gov.au/about-us/publications/digital-platforms-inquiry-final-report> (accessed on 20 July 2026).
- BRADFORD, A. *The brussels effect: How the European Union rules the world*. Oxford University Press, 2020. <https://doi.org/10.1093/oso/9780190088583.001.0001>
- BUNDESKARTELLAMT. Proceedings against large digital companies. Available at: https://www.bundeskartellamt.de/EN/Digital_economy/proceedings_against_large_digital_companies/proceedings_against_large_digital_companies.html (accessed on 10 July 2026).
- CASBAA. Video policies for Asian pay-TV and OTT: Same same but different? 2016. Available at: https://gscoalition.org/cms-data/case-studies/CAS_Same_Same_but_Different.pdf (accessed on 20 July 2026).
- CENTER FOR STRATEGIC AND INTERNATIONAL STUDIES. Guarding the gates: The digital markets act and lessons in Ex Ante regulation. 2025. Available at: <https://www.csis.org/blogs/charting-geo-economics/guarding-gates-digital-markets-act-and-lessons-ex-ante-regulation> (accessed on 10 July 2026).
- CHAISSÉ, J. The black pit: Power and pitfalls of digital FDI and cross-border data flows". *World Trade Review*, v. 22, n. 1, 2023, pp. 73-89. <https://doi.org/10.1017/S1474745622000337>
- CHAISSÉ, J., and BAUER, C. "Cybersecurity and the protection of digital assets: Assessing the role of international investment law and arbitration". *Vanderbilt Journal of Entertainment & Technology Law*, v. 21, n. 3, 2019, pp. 549-589. Available at: <https://scholarship.law.vanderbilt.edu/jetlaw/vol21/iss3/5> (accessed on 8 August 2026).
- CHAISSÉ, J., and DIMITROPOULOS, G. "Domestic investment laws and international economic law in the liberal international order". *World Trade Review*, v. 22, n. 1, 2023, pp. 1-17. <https://doi.org/10.1017/S1474745622000404>
- CHAISSÉ, J., DIMITROPOULOS, G., and MOSQUERA, I. "Law and digital transformation in the indo-pacific: An international economic law perspective". *The Journal of World Investment & Trade*, v. 26, n. 4, 2025, pp. 575-620. <https://doi.org/10.1163/22119000-12340376>

- Circular No. 80/2021/TT-BTC of the Ministry of Finance dated 29 September 2021 (Viet Nam). Available at: <https://congbao.chinhphu.vn/van-ban/thong-tu-so-80-2021-tt-btc-34774.htm> (accessed on 21 September 2026).
- Comprehensive and Progressive Agreement for Trans-Pacific Partnership (Electronic Commerce). Available at: <https://www.dfat.gov.au/trade/agreements/in-force/cptpp/comprehensive-and-progressive-agreement-for-trans-pacific-partnership> (accessed on 24 September 2026).
- CRÉMER, J., DE MONTJOYE, Y.-A., and SCHWEITZER, H. "Competition policy for the digital era". *Publications Office of the European Union, Luxembourg*, 2019. <https://doi.org/10.2763/407537>
- DATAREPORTAL. Digital 2025: Vietnam. 2025. Available at: <https://datareportal.com/reports/digital-2025-vietnam> (accessed on 20 September 2026).
- Decree No. 03/2023/ND-CP of the Government dated 10 February 2023 on the functions, tasks, powers and organizational structure of the Viet Nam Competition Commission (Viet Nam). Available at: <https://vanban.chinhphu.vn/?pageid=27160&docid=207423> (accessed on 21 September 2026).
- Decree No. 35/2020/ND-CP of the Government dated 24 March 2020 detailing a number of articles of the Law on Competition (Viet Nam). Available at: <https://vanban.chinhphu.vn/default.aspx?pageid=27160&docid=199508> (accessed on 20 September 2026).
- Decree No. 356/2025/ND-CP of the Government detailing the Law on Personal Data Protection (Viet Nam). Available at: <https://vanban.chinhphu.vn/?pageid=27160&docid=216387> (accessed on 21 September 2026).
- Decree No. 53/2022/ND-CP of the Government dated 15 August 2022 detailing a number of articles of the Law on Cybersecurity (Viet Nam). Available at: <https://vanban.chinhphu.vn/?pageid=27160&docid=206381> (accessed on 20 September 2026).
- Decree No. 55/2024/ND-CP of the Government dated 16 May 2024 detailing a number of articles of the Law on Protection of Consumers' Rights (Viet Nam). Available at: <https://vanban.chinhphu.vn/?pageid=27160&docid=210254> (accessed on 21 September 2026).
- Decree No. 70/2021/ND-CP of the Government dated 20 July 2021 amending Decree No. 181/2013/ND-CP guiding the Law on Advertising (Viet Nam). Available at: <https://vanban.chinhphu.vn/default.aspx?pageid=27160&docid=203700> (accessed on 21 September 2026).
- Decree No. 71/2022/ND-CP of the Government dated 1 October 2022 amending Decree No. 06/2016/ND-CP on the management, provision and use of radio and television services (Viet Nam). Available at: <https://vanban.chinhphu.vn/?pageid=27160&docid=206630> (accessed on 21 September 2026).
- Decree No. 75/2019/ND-CP of the Government dated 26 September 2019 on penalties for administrative violations in the field of competition (Viet Nam). Available at: <https://vanban.chinhphu.vn/?pageid=27160&docid=197954> (accessed on 21 September 2026).
- Digital Markets, Competition and Consumers Act 2024 (United Kingdom). Available at: <https://www.legislation.gov.uk/ukpga/2024/13> (accessed on 20 July 2026).
- DIMITROPOULOS, G. "Digital plurilateralism in international economic law: Towards unilateral multilateralism?". *The Journal of World Investment & Trade*, v. 26, n. 1-2, 2025, pp. 116-155. <https://doi.org/10.1163/22119000-12340354>
- Draft Digital Competition Bill, 2024 (India), annexed to the Report of the Committee on Digital Competition Law, Ministry of Corporate Affairs, New Delhi, 2024. Available at: <https://prsindia.org/files/parliamentary-announcement/2024-04-15/CDCL-Report-20240312.pdf> (accessed on 20 July 2026).
- European Commission, Decision of 18 July 2018, Case AT.40099 – Google Android. Available at: <https://competition-cases.ec.europa.eu/cases/AT.40099> (accessed on 24 September 2026).
- EU–Viet Nam Free Trade Agreement, ch. 8. Available at: <https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=OJ:L:2020:186:FULL&from=EN> (accessed on 20 September 2026).
- EVANS, D. S., and SCHMALENSEE, R. *Matchmakers: The new economics of multisided platforms*. Harvard Business Review Press. 2016. Available at:

- <https://store.hbr.org/product/matchmakers-the-new-economics-of-multisided-platforms/10028> (accessed on 20 July 2026).
- GENERAL STATISTICS OFFICE OF VIET NAM. Press release: Socio-economic situation in the fourth quarter and 2025. 2026. Available at: <https://www.nso.gov.vn/en/data-and-statistics/2026/01/press-release-social-economic-situation-in-the-fourth-quarter-and-2025> (accessed on 20 September 2026).
- GOOGLE, TEMASEK, BAIN and COMPANY. e-Conomy SEA 2024: Profits on the rise, harnessing SEA's advantage. 2024. Available at: <https://www.bain.com/insights/e-conomy-sea-2024/> (accessed on 8 August 2026).
- GRANT THORNTON. Determining gatekeepers under the digital markets act. 2024. Available at: <https://www.grantthornton.ie/insights/factsheets/determining-gatekeepers-under-the-digital-markets-act/> (accessed on 10 July 2026).
- Gesetz gegen Wettbewerbsbeschränkungen (German Act against Restraints of Competition), sec. 19a, introduced by the Tenth Amendment to the GWB (GWB-Digitalisierungsgesetz), in force since 19 January 2021. Available at: https://www.gesetze-im-internet.de/englisch_gwb/ (accessed on 24 September 2026).
- HA, T. "Vietnam: Merger control - three years after the grab/uber case". *Lexology*, 2022. Available at: <https://www.lexology.com/library/detail.aspx?g=cd3efedd-4ee8-4497-bf8c-a3aeb2e6b0df> (accessed on 10 July 2026).
- HNLU CENTRE FOR COMPETITION AND COMMERCIAL LAW STUDIES. Contesting the 'big tech' tag: India's digital competition bill at a turning point. 2025. Available at: <https://hnluccls.in/2025/12/16/contesting-the-big-tech-tag-indias-digital-competition-bill-at-a-turning-point/> (accessed on 10 July 2026).
- INTERNATIONAL BAR ASSOCIATION. Digital platform regulation: Developments in Germany. 2025. Available at: <https://www.ibanet.org/digital-platform-regulation-germany-dma> (accessed on 10 July 2026).
- KAMEPALLI, S. K., RAJAN, R., and ZINGALES, L. "Kill Zone". *NBER Working Paper No. 27146, National Bureau of Economic Research*. 2020. <https://doi.org/10.3386/w27146>
- KHAN, L. M. "Amazon's antitrust paradox". *The Yale Law Journal*, v. 126, n. 3, 2017, pp. 710-805. Available at: <https://www.yalelawjournal.org/note/amazons-antitrust-paradox> (accessed on 20 July 2026).
- KOBAYASHI, T. "Supply chains, digital governance, and strategic coordination in the indo-pacific: A case study of Japan's semiconductor policy". *The Journal of World Investment & Trade*, v. 26, n. 4, 2025, pp. 648-679. <https://doi.org/10.1163/22119000-12340370>
- Law No. 19/2023/QH15 on Protection of Consumers' Rights (Viet Nam). Available at: <https://vanban.chinhphu.vn/?pageid=27160&docid=208363> (accessed on 21 September 2026).
- Law No. 23/2018/QH14 on Competition (Viet Nam), adopted 12 June 2018. Available at: <https://wipo.lex.wipo.int/en/legislation/details/19109> (accessed on 20 July 2026).
- Law No. 38/2019/QH14 on Tax Administration (Viet Nam), adopted 13 June 2019. Available at: <https://vanban.chinhphu.vn/?pageid=27160&docid=197312> (accessed on 21 September 2026).
- Law on Data No. 60/2024/QH15 of Viet Nam, in force 1 July 2025. Available at: <https://thuvienphapluat.vn/van-ban/Bo-may-hanh-chinh/Luat-Du-lieu-2024-so-60-2024-QH15-621343.aspx> (accessed on 24 September 2026).
- Law on Personal Data Protection No. 91/2025/QH15 (Viet Nam). Available at: <https://chinhphu.vn/?pageid=27160&docid=214590&classid=1&typegroupid=3> (accessed on 21 September 2026).
- LEXOLOGY. Vietnam's decree 35: Clarifications on merger notification thresholds and procedures. 2020. Available at: <https://www.lexology.com/library/detail.aspx?g=64b2e6e8-e178-408a-8bce-22278ff7f43f> (accessed on 10 July 2026).
- MINISTRY OF CORPORATE AFFAIRS (India), COMMITTEE ON DIGITAL COMPETITION LAW. Report of the committee on digital competition law. 2024. Available at: <https://prsindia.org/files/parliamentary-announcement/2024-04-15/CDCL-Report-20240312.pdf> (accessed on 20 July 2026).
- MINISTRY OF INDUSTRY AND TRADE (Viet Nam). Draft Law Amending and Supplementing a Number of Articles of the Law on Commerce, the Law on Competition, the Law on Foreign Trade Management and the Law on Protection of Consumers' Rights, public consultation text, 16 June 2026. Available at: <https://luatvietnam.vn/thuong-mai/du-thao-luat-sua>

- doi-bo-sung-luat-thuong-mai-canh-tranh-quan-ly-ngoai-thuong-bao-ve-quyen-loi-tieu-dung-436441-d10.html (accessed on 20 September 2026).
- MINISTRY OF INDUSTRY AND TRADE (Viet Nam), Vietnam E-commerce White Book, annual edition, reporting e-commerce turnover and its share of total retail sales. Available at: <https://vntr.moit.gov.vn/news/the-white-book-on-vietnamese-e-business-2021> (accessed on 24 September 2026).
- MISHRA, N., and VALENCIA, A. M. P. "Digital services and digital trade in the Asia pacific: An alternative model for digital integration?". *Asia Pacific Law Review*, v. 31, n. 2, 2023, pp. 489-513. <https://doi.org/10.1080/10192557.2023.2216058>
- NEWMAN, J. M. "Antitrust in zero-price markets: Foundations". *University of Pennsylvania Law Review*, v. 164, n. 1, 2015, pp. 149-206. Available at: https://scholarship.law.upenn.edu/penn_law_review/vol164/iss1/4/ (accessed on 20 July 2026).
- NGUYỄN, N. Q. "Khái niệm 'Người gác cổng' (gatekeeper) trong Đạo luật Thị trường số của Liên minh Châu Âu và khả năng tiếp nhận vào pháp luật cạnh tranh Việt Nam". *Tạp chí Pháp luật và Phát triển*. 2026. Available at: <https://phapluatphattrien.vn/khai-niem-nguoi-gac-cong-gatekeeper-trong-dao-luat-thi-truong-so-cua-lien-minh-chau-au-va-kha-nang-tiep-nhan-vao-phap-luat-canh-tranh-viet-nam-d6016.html> (accessed on 27 August 2026).
- NGUYEN, Q. V. "Vietnam's new Competition Law 2018". *Vietnam Business Law Blog*, 2018. Available at: <https://vietnam-business-law.info/blog/2018/7/30/vietnams-new-competition-law-2018> (accessed on 10 July 2026).
- NORTON ROSE FULBRIGHT. Vietnam: Competition law fact sheet. 2023. Available at: <https://www.nortonrosefulbright.com/en/knowledge/publications/dccbee52/competition-law-fact-sheet-vietnam> (accessed on 10 July 2026).
- OECD. *Quality considerations in digital zero-price markets, background note DAF/COMP(2018)14*. OECD Publishing, 2018. Available at: [https://one.oecd.org/document/DAF/COMP\(2018\)14/en/pdf](https://one.oecd.org/document/DAF/COMP(2018)14/en/pdf) (accessed on 20 July 2026).
- OECD. *Rethinking antitrust tools for multi-sided platforms*. OECD Publishing, 2018. <https://doi.org/10.1787/a013f740-en>
- PRAKASH, A., CHEN, L., and SHRESTHA, R. "Digital transformation and Indo-Pacific's participation into GVCs". *The Journal of World Investment & Trade*, v. 26, n. 4, 2025, pp. 621-647. <https://doi.org/10.1163/22119000-12340371>.
- PRS LEGISLATIVE RESEARCH. Report summary: digital competition law. 2024. Available at: <https://prsindia.org/policy/report-summaries/digital-competition-law> (accessed on 10 July 2026).
- Regional Comprehensive Economic Partnership, ch. 12 (Electronic Commerce). Available at: <https://asean.org/wp-content/uploads/2024/10/Regional-Comprehensive-Economic-Partnership-RCEP-Agreement-Full-Text.pdf> (accessed on 20 September 2026).
- Regulation (EU) 2022/1925 of the European Parliament and of the Council of 14 September 2022 on contestable and fair markets in the digital sector (Digital Markets Act), OJ L 265, 12.10.2022, Arts. 2-3. Available at: <https://eur-lex.europa.eu/eli/reg/2022/1925/2022-10-12/eng> (accessed on 20 July 2026).
- ROCHET, J. C., and TIROLE, J. "Platform competition in two-sided markets". *Journal of the European Economic Association*, v. 1, n. 4, 2003, pp. 990-1029. <https://doi.org/10.1162/154247603322493212>
- SINGH, S. "Digital economy partnership agreement and the quest for the global digital trade rule-making: Indian perspective". *Asia Pacific Law Review*, v. 33, n. 2, 2025, pp. 289-315, <https://doi.org/10.1080/10192557.2025.2478395>
- STANDING COMMITTEE ON FINANCE (Lok Sabha, India). 25th Report, 11 August 2025, on the demands for grants of the Ministry of Corporate Affairs and the proposed digital competition framework. Available at: <https://elibrary.sansad.in/server/api/core/bitstreams/1cbc40ec-3b3a-42c7-a5f4-f9f481758750/view> (accessed on 21 September 2026).
- TAXMANN. [Analysis] draft digital competition bill 2024-A new era of regulation for systematically significant digital enterprises. 2024. Available at: <https://www.taxmann.com/post/blog/analysis-digital-competition-law/> (accessed on 10 July 2026).
- Telecommunications Business Act (Republic of Korea), as amended in 2021 in respect of app-market business operators. Available at: https://elaw.klri.re.kr/eng_service/lawView.do?hseq=64463&lang=ENG (accessed 21 September 2026).

- THE SAIGON TIMES. Cross-border TV service providers must get license in Vietnam. 2023. Available at: <https://news.tuoitre.vn/saigontimes/cross-border-tv-service-providers-must-get-license-in-vietnam-105223157.htm> (accessed on 20 September 2026).
- TILLEKE & GIBBINS. "Vietnam 2022 ICT Legislation Year in Review". *Lexology*, 2023. Available at: <https://www.lexology.com/library/detail.aspx?g=6d3b24b1-c5af-40a8-9253-c441ab3b9f83> (accessed on 10 July 2026).
- TILLEKE & GIBBINS. New decree will impact over-the-top TV services and on-demand content in Vietnam. 2022. Available at: <https://www.tilleke.com/insights/new-decree-will-impact-over-the-top-tv-services-and-on-demand-content-in-vietnam/> (accessed on 10 July 2026).
- Treasury Laws Amendment (News Media and Digital Platforms Mandatory Bargaining Code) Act 2021 (Australia). Available at: <https://www.accc.gov.au/by-industry/digital-platforms-and-services/news-media-bargaining-code/news-media-bargaining-code/final-legislation> (accessed on 21 September 2026).
- TUOI TRE NEWS. Facebook, Google dominate online ad in Vietnam. 2019. Available at: <https://news.tuoitre.vn/facebook-google-dominate-online-ad-in-vietnam-10347085.htm> (accessed on 10 July 2026).
- UK-Viet Nam Free Trade Agreement. Available at: https://assets.publishing.service.gov.uk/media/5ff7380ed3bf7f65d69a5ca8/CS_Viet_Nam_1.2021_Free_Trade_Agreement_UK_Vietnam.pdf (accessed 20 September 2026).
- UNCTAD. Competition issues in the digital economy, TD/B/C.I/CLP/54, Geneva. 2019. Available at: https://unctad.org/system/files/official-document/ciclpd54_en.pdf (accessed on 20 July 2026).
- UNCTAD. Digital economy report 2019: Value creation and capture - implications for developing countries. United Nations, Geneva. 2019. Available at: <https://unctad.org/publication/digital-economy-report-2019> (accessed on 20 July 2026).
- VIỆT NAM NEWS. Foreign digital service providers pay nearly \$480 million in taxes. 2026. Available at: <https://vietnamnews.vn/economy/1785412/foreign-digital-service-providers-pay-nearly-480-million-in-taxes.html> (accessed on 27 August 2026).
- VIETNAM BRIEFING. Netflix Vietnam: A rocky market entry explained. 2023. Available at: <https://www.vietnam-briefing.com/news/netflix-vietnam-market-entry-2023.html/> (accessed on 10 July 2026).
- VIETNAM NEWS. No violation found in Grab-Uber deal: VCC. 2019. Available at: <https://vietnamnews.vn/economy/521577/no-violation-found-in-grab-uber-deal-vcc.html> (accessed on 10 July 2026).
- VIETNAM+ (VIETNAMPLUS). Cục Cảnh tranh khiếu nại quyết định xử lý vụ việc Grab mua lại Uber. 2019. Available at: <https://www.vietnamplus.vn/cuc-can-h-tranh-khieu-nai-quyet-dinh-xu-ly-vu-viec-grab-mua-lai-uber-post579988.vnp> (accessed on 20 September 2026).
- VIETNAMNET. Digital ads on Vietnam platforms can compete with Google, Facebook. 2024. Available at: <https://vietnamnet.vn/en/digital-ads-on-vietnam-platforms-can-compete-with-google-facebook-2276586.html> (accessed on 10 July 2026).
- VNEXPRESS INTERNATIONAL. Netflix will be blocked without local office: Official. 2023. Available at: <https://e.vnexpress.net/news/companies/netflix-will-be-blocked-without-local-office-official-4575516.html> (accessed on 10 July 2026).
- VNEXPRESS. Vì sao Việt Nam không phạt vụ Grab mua Uber như các nước? 2019. Available at: <https://vnexpress.net/vi-sao-viet-nam-khong-phat-vu-grab-mua-uber-nhu-cac-nuoc-3941522.html> (accessed on 3 September 2026).
- YIN, R. K. *Case study research and applications: Design and methods*, 6th ed. SAGE Publications. 2018. Available at: <https://ebooks.umu.ac.ug/librarian/books-file/Case%20Study%20Research%20and%20Applications.pdf> (accessed on 20 September 2026).
- ZWEIGERT, K., and KÖTZ, H. *An introduction to comparative law*, 3rd ed. Clarendon Press. 1998. Available at: <https://global.oup.com/academic/product/an-introduction-to-comparative-law-9780198268598> (accessed on 20 July 2026).