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BIG TECH AND HUMAN RIGHTS: THE ROLE OF ANTITRUST TOOLS IN REGULATING BIG TECH

ABSTRACT

The growing dominance of digital platforms poses significant human rights and competition challenges, with Albania reflecting global trends. As Big Tech shapes economic and social life, concerns arise regarding privacy, freedom of expression, and market fairness. Existing antitrust frameworks, focused mainly on consumer welfare, often fail to address these complex issues. This paper examines Albania's digital transformation through national and EU legal perspectives, identifying regulatory gaps and proposing policy measures to safeguard human rights and ensure fair competition.

Purpose: *This paper explores the current state of the digital market in Albania, with a particular focus on its intersection with human rights mainly data protection and freedom of expression and competition rights*

Methods: *The research is qualitative, doctrinal, and literature-based, combining legal analysis with policy review and applied examples to critically examine how antitrust and regulatory tools are used to safeguard human rights in the digital age.*

Results: *By analyzing the Albanian legal framework, its alignment with European Union regulations, institutional practices, and emerging market trends, the paper highlights key regulatory gaps and proposes policy solutions aligned with European Union standards. The study aims to support Albania's democratic and economic development in the context of its EU integration process. The intersection of digital platform dominance and human rights necessitates a reevaluation of antitrust tools.*

KEYWORDS: *Digital Platforms, Human Rights, Antitrust Law, Albania, Competition Policy, Regulation, Digital Market*

INTRODUCTION

The digital transformation of the global economy has enabled rapid innovation but also concentrated power in the hands of a few technology giants. In Albania, the rise of digital platforms such as social media networks, e-commerce sites, and data-driven advertising services has reshaped the national economy and society. While these platforms offer convenience and access, they also introduce risks to privacy, expression, and market fairness. This paper explores how antitrust law can be used not only to maintain market competition but also to uphold fundamental human rights in Albania's evolving digital ecosystem.

Over the past decade, platforms such as Google, Apple, Meta, Amazon, and Microsoft have transitioned from being mere technological intermediaries

to becoming nearly inescapable infrastructures of public and private life. The monopolization of digital markets is no longer just about higher prices or stifled innovation; it affects the very foundations on which fundamental human rights are exercised and protected.

When a handful of companies control access to information, public discourse, and global data flows, economic inequality translates into political, cultural, and social inequality. This has sparked a renewed debate on the need to view competition law as a tool for protecting freedoms and human dignity in the digital space.

Antitrust law, traditionally focused on preventing market dominance and protecting consumer welfare, can play a broader role in safeguarding human rights. Market concentration in digital platforms enables practices that may violate rights, such as monopolistic control over information or exploitative data collection. In the EU context, the Digital Markets Act (DMA) and Digital Services Act (DSA) represent innovative regulatory approaches to reining in Big Tech. Albania, as an EU candidate country, is progressively aligning its legal and regulatory frameworks with EU standards.

By expanding the scope of antitrust frameworks to include human rights considerations, regulators can more effectively address the complex challenges posed by Big Tech, ensuring that digital spaces remain open, fair, and respectful of fundamental rights. This paper examines the intersection between human rights and digital platforms, with particular emphasis on how antitrust regulatory frameworks can be reinterpreted and effectively applied to address the growing power of Big Tech. The analysis is situated within the context of Albania's evolving digital market and its competition policy developments, aiming to assess how these tools can contribute to safeguarding fundamental rights in the digital age.

RESEARCH APPROACH

This study adopts a qualitative and doctrinal legal research methodology, which is well-suited to analyzing regulatory frameworks, legal doctrines, and policy developments. The research relies on the systematic examination of primary and secondary legal sources, including national laws,

European Union (EU) regulations, international human rights treaties, and official documents issued by institutions such as the European Commission, Albanian Competition Authority (ACA), the Electronic and Postal Communications Authority (AKEP), Albanian Information and Data Protection Commissioner and the relevant international organizations.

The doctrinal approach involves identifying, interpreting, and critically analyzing existing legal texts such as Albania's Law on Protection of Competition, the Law on Protection of Personal Data, and relevant provisions from EU instruments like the Digital Services Act and Digital Markets Act. In parallel, the study incorporates a comparative perspective by examining regulatory trends and best practices in the United State of America, European Union and Southeast Europe, thereby contextualizing Albania's progress and gaps in digital market regulation.

The qualitative component includes an extensive review of academic literature, legal commentaries, institutional reports, and policy papers. These sources provide interpretive insights and theoretical perspectives on the intersection of antitrust law, human rights, and digital regulation. Additionally, outstanding references such as (Wörsdörfer M. , 2021) (Wörsdörfer M. , 2022) practical examples and enforcement actions taken against major tech firms (e.g., Google, Meta, Amazon) are used illustratively to highlight the implications of regulatory intervention in protecting fundamental rights.

This methodology allows for a nuanced understanding of how legal and regulatory tools can be adapted to address the dual challenges of ensuring competitive digital markets and safeguarding human rights, particularly within the unique institutional and developmental context of Albania. This study adopts a qualitative and doctrinal legal research methodology to explore the relationship between Big Tech and human rights, with a particular focus on the regulatory mechanisms used to address the challenges posed by dominant digital platforms. The qualitative nature of the research allows for a comprehensive and in-depth examination of legal norms, institutional practices, and regulatory responses without relying on quantitative data or statistical analysis.

A doctrinal legal approach forms the core of the research design. This involves the systematic collection, interpretation, and analysis of primary legal sources, including international human rights treaties such as the International

Covenant on Civil and Political Rights (ICCPR), regional instruments such as the European Convention on Human Rights (ECHR), and soft law frameworks like the United Nation Guiding Principles on Business and Human Rights (UNGPs). Furthermore, the study examines European Union legislation and initiatives, such as the General Data Protection Regulation (GDPR), the Digital Services Act (DSA), the Digital Markets Act (DMA), and the proposed Artificial Intelligence Act, to assess how these legal instruments are used to regulate the behavior of large technology firms and to protect fundamental rights in the digital space.

In addition to legal texts, the research relies heavily on a review of secondary literature, including academic articles, policy analyses, and reports from regulatory bodies and international organizations. This literature review serves to contextualize the legal framework within broader scholarly debates and to identify ongoing challenges, criticisms, and proposals for reform.

Although the research is not empirical in the traditional sense, it incorporates references to real-world examples and regulatory cases involving companies such as Google, Meta (Facebook), Amazon, and others. These cases illustrate how competition law and digital market regulations have been applied in practice and highlight the broader implications for human rights protection in the digital age.

Overall, this methodological approach enables a structured and critical analysis of how existing legal and regulatory tools interact with the growing power of Big Tech, offering insights into both the strengths and limitations of current governance models.

HUMAN RIGHTS AND DIGITAL PLATFORMS

As Big Tech firms increasingly influence economic, social and political life, their practices have implications for privacy, freedom of expression, non-discrimination and democratic participation. This new hierarchy of digital power undermines at least three essential dimensions of human rights. Digital platforms influence several core human rights:

Right to Privacy: the massive collection of data creates detailed profiles that can predict and influence political and consumer behavior. This endangers

privacy not only at the individual level but also collectively, paving the way for the manipulation of political agendas and democratic structures. Data collection and surveillance practices challenge the protection of personal data, particularly in contexts with limited regulatory oversight. Numerous studies highlight the tension between Big Tech's data-driven business models and the right to privacy: (Zuboff, 2019) argues that Big Tech has created a new form of economic logic that exploits personal data without meaningful user consent. (Solove, 2020) emphasizes the inadequacy of current privacy laws to address mass data collection and profiling by tech firms. Regulatory responses like the EU's General Data Protection Regulation (GDPR) are seen as partial remedies, though enforcement remains inconsistent. Big Tech companies collect, process, and monetize vast amounts of personal data. This undermines the right to privacy as guaranteed under the International Covenant on Civil and Political Rights (ICCPR – Article 17) and the European Convention on Human Rights (ECHR – Article 8). Common violations include opaque data collection, unauthorized data sharing, and algorithmic surveillance practices.

Freedom of Expression: freedom of expression is increasingly dependent on the private rules and algorithms used by platforms to control content. A decision such as a “shadow-ban” or the suspension of an account can block an individual's or group's access to the public, often without the right to appeal. In this way, control over public discourse is shifting from democratic institutions to private companies. Moreover, significant rulings by the Court of Justice of the European Union, such as in the Google Shopping and Meta Platforms cases, reflect a shift from purely economic analysis to assessing the impact on fundamental freedoms. Content moderation and algorithmic filtering may lead to arbitrary censorship or the silencing of dissent. Big Tech platforms act as gatekeepers to digital expression. This role has brought them under scrutiny for: Arbitrary content moderation: Platforms often remove content without transparency or proper appeal mechanisms, potentially violating users' freedom of expression (Klonick, 2018); Algorithmic bias: Algorithms designed to maximize engagement can amplify misinformation or hate speech, affecting public discourse (Tufekci, 2015). Initiatives like the Facebook Oversight Board attempt to create quasi-judicial review, though their legitimacy and independence are debated.

Digital platforms serve as the new public square. However, moderation algorithms and content removal policies have led to concerns over arbitrary censorship and lack of due process. Article 19 of the ICCPR and Article 10 of the ECHR underscore the need for freedom of expression, which is threatened when private companies control access to information without adequate accountability.

Non-discrimination: Algorithmic biases can lead to discriminatory practices in employment, services, and content visibility. Algorithmic decision-making used by Big Tech can lead to systemic discrimination: various researchers referring to (Eubanks, 2018) show how data-driven systems disproportionately affect marginalized groups in areas like employment, housing, and policing. (Noble, 2018) in *Algorithms of Oppression* critiques how search engines perpetuate racial and gender biases. Calls for algorithmic transparency and auditability have grown, but corporate resistance to full accountability persists. It refers to how search engines and other algorithm-driven technologies can unintentionally or systematically reinforce existing social inequalities, such as racism, sexism, or discrimination, through biased data, design choices, or lack of oversight. Algorithmic bias in advertise delivery, hiring, and content recommendations can perpetuate or exacerbate existing social inequalities. These practices contravene the ICCPR and the Convention on the Elimination of All Forms of Racial Discrimination (CERD), calling into question the ethical design and deployment of AI tools.

Democratic Participation: the structural dominance of these platforms harms informational pluralism. Independent media and alternative providers can hardly compete with business models built on Big Tech's own advertising and distribution infrastructure. Disinformation and micro targeting campaigns threaten the integrity of political discourse and electoral processes. In Albania, these issues are increasingly relevant due to growing internet penetration and the reliance on global platforms like Meta, Google, and Amazon. Digital platforms influence elections, political participation, and public opinion. Algorithmic amplification of misinformation and political manipulation undermine the ICCPR (Article 25), which protects the right to participate in public affairs.

While international human rights law binds states, non-state actors like corporations are increasingly recognized as having responsibilities. The UN Guiding Principles on Business and Human Rights (UNGPs) and the OECD Guidelines for Multinational Enterprises call on companies to respect human rights and provide remedies for violations. In this respect, European Union leads in digital rights regulation through General Data Protection Regulation (GDPR) and imposing data subject rights and corporate obligations for data handling as well.

EVOLUTION OF ANTITRUST THEORY AND CHALLENGES IN THE DIGITAL ECONOMY

The Sherman Antitrust Act of 1890 established the foundation for U.S. anti-trust enforcement, aimed at preventing monopolistic practices and safeguarding competition. While early interpretations sought to limit excessive economic power, the late 20th-century Chicago School redirected focus toward consumer welfare, primarily assessed through price effects, thereby minimizing concerns over market structure and non-price harms. In this context, competition law provides both structural and behavioral remedies—through *ex ante* measures to prevent market dominance and *ex post* enforcement to address abuses—ensuring a balanced framework for maintaining fair competition.

The limitations of the consumer welfare standard have spurred the emergence of the New Brandeis movement, which advocates for a broader understanding of antitrust objectives. Scholars like Lina Khan (Khan L. , 2018) and Tim Wu (Wu T. , 2018) argue for antitrust enforcement that considers factors such as market structure, innovation, and the protection of democratic values. Several researcher identified the inadequacy of current antitrust frameworks in addressing the complexities of digital platforms (Khan L. , 2017), (Stucke, 2022).

Digital platforms often benefit from network effects, where the value of the service increases with the number of users. This dynamic can lead to winner-takes-all markets, making it difficult for new entrants to compete and for consumers to switch services. The accumulation and control of vast amounts of user data provide Big Tech firms with significant competitive advantages

(Hagiu, A. & Wright, J., 2025). This data dominance can create high entry barriers for competitors and raise concerns about privacy and surveillance. There is growing evidence that dominant platforms engage in self-preferencing, favoring their own products or services over those of competitors. Such practices can distort markets and limit consumer choice. (Wu T. , 2019)

In recent years, U.S. antitrust authorities have pursued major actions against Big Tech, including the Department of Justice's 2023 lawsuit against Google for alleged monopolistic conduct in the advertising technology sector. Parallel legislative initiatives, such as the American Innovation and Choice Online Act, aim to restrict self-preferencing by dominant platforms. Similarly, the European Union's Digital Markets Act (DMA) introduces obligations for designated "gatekeepers" to promote fair competition and prevent abusive market behavior. As (Monti, 2021) emphasizes in his research, although the Digital Markets Act (DMA) is generally well-designed, certain improvements remain necessary. These include aligning the DMA's objectives more closely with the obligations imposed on gatekeepers and enhancing the coherence of its enforcement framework. Furthermore, attention should be given to facilitating co-regulation, strengthening the role of private enforcement, and clarifying the relationship between the DMA and traditional competition law, (Newman, 2020). Recent enforcement actions under the DMA include significant fines levied against Apple and Meta for violating competition rules.

Traditional antitrust analysis often assumes rational consumer behavior. However, insights from behavioral economics suggest that consumers may not always act in their best interest, particularly in the context of default settings and user interfaces. Recognizing these behavioral tendencies can inform more effective antitrust interventions. There is a growing discourse (Darr, 2021) around implementing structural remedies, such as breaking up dominant firms or mandating interoperability, to restore competitive market conditions. These measures aim to dismantle entrenched market power and foster innovation.

THE DIGITAL MARKET LANDSCAPE AND COMPETITION RIGHTS IN ALBANIA

Albania has made significant strides in expanding internet access and digital infrastructure, particularly through investments in broadband connectivity and mobile networks. According to recent data from AKEP, internet penetration in Albania exceeds 80%, and digital literacy is gradually improving. The digital market in Albania is primarily composed of telecommunication companies (including Vodafone Albania and One Albania), global tech platforms, and emerging local startups. In the digital services domain, multinational platforms such as Google, Facebook, and TikTok dominate user attention and digital advertising markets. The Albanian government has adopted several initiatives to promote digital governance, notably the e-Albania portal which centralizes public services online. While these measures aim to improve transparency and efficiency, concerns about access, competition, and privacy remain.

The telecommunications sector in Albania has seen rapid technological advancements, including the rollout of 5G services. However, concerns have been raised regarding market dominance and pricing strategies. It is dominated by major players such as Vodafone Albania and One Albania. In 2025, the Competition Authority initiated a preliminary investigation into Vodafone Albania SHA and One Albania SHA concerning potential anti-competitive practices in the retail mobile services market, following complaints about price increases for prepaid packages (Autoriteti i Konkurrencës, 2025). While, E-commerce in Albania is growing, albeit from a low base. A World Bank diagnostic identified key constraints, including limited digital connectivity, underdeveloped online payment systems, and low consumer trust in online transactions. To address these issues, initiatives such as the establishment of the Albanian E-Commerce Association and government efforts to clarify online retailer obligations have been implemented.

Albania's competition policy, established under Law No. 9121 (2003) "On the Protection of Competition", aligns with EU standards and is enforced by the Albanian Competition Authority (ACA). Despite a robust legal framework, enforcement remains constrained by limited institutional capacity.

In the digital economy, challenges arise from network effects, data control, and vertically integrated platforms. The ACA faces difficulties in addressing issues such as algorithmic pricing, digital advertising, and self-preferencing, while the lack of sector-specific digital rules complicates merger assessments and heightens risks of market concentration in telecommunications and online advertising.

Albania has made significant strides in developing its digital market and aligning its competition policy with international standards. However, challenges such as enforcement capacity, the informal economy, and ensuring fair competition in digital market remain. Continued collaboration with international partners and sustained efforts to strengthen institutional capacities are crucial for fostering a competitive and inclusive digital economy. Albania is committed to aligning its legal framework with the EU *acquis communautaire*, including competition and digital market laws. The Digital Markets Act (DMA) and General Data Protection Regulation (GDPR) serve as models for reform. However, implementation capacity and institutional independence remain key challenges.

Regarding the human rights in the digital era, the Law No. 9887/2008 on Personal Data Protection provides the legal basis for privacy rights in Albania. However, enforcement remains weak, and many digital service providers operate with limited oversight regarding data collection and processing. The expansion of surveillance technologies and lack of transparency in data usage by tech platforms pose significant risks to individual privacy.

Digital platforms play a crucial role in shaping public discourse in Albania. While they facilitate access to information and political engagement, they also raise issues related to misinformation, algorithmic bias, and potential censorship. The lack of accountability mechanisms for content moderation decisions undermines the right to freedom of expression. Despite growing access to digital services, significant disparities persist, particularly in rural areas and among marginalized groups. Gender gaps in digital skills and access to technology also hinder full participation in the digital economy. Also, inclusion of digital market issues in the National Strategy for Development and Integration is a need.

Despite growing regulatory momentum, several challenges persist: jurisdictional complexities due to the global nature of digital platforms; lack of transparency in proprietary algorithms and moderation processes; insufficient remedies for users affected by rights violations, and; regulatory lag as law struggles to keep pace with technological change. The issues identified in the Albanian context converge with those highlighted by leading scholars in the field.

CONCLUSION

The literature reveals a growing consensus that Big Tech's unchecked power threatens several fundamental human rights. While regulatory and civil society initiatives are emerging, the complexity and scale of Big Tech's influence demand coordinated, global responses. The concentration of power among Big Tech firms presents multifaceted challenges that traditional antitrust tools are ill-equipped to address fully. Evolving legal theories, regulatory frameworks, and enforcement strategies reflect a global effort to recalibrate antitrust approaches for the digital age. Continued scholarly research and policy innovation are essential to ensure that antitrust enforcement effectively promotes competition, protects consumers, and upholds democratic values in the rapidly evolving digital landscape.

While voluntary frameworks like the UNGPs are valuable, binding legal instruments and robust enforcement—particularly through competition policy and data protection laws—are essential to ensure accountability. The future of digital governance lies in the harmonization of human rights law with regulatory tools that address the complexity and scale of today's technology giants.

Albania's digital transformation holds immense potential, but it must be accompanied by robust safeguards for human rights and competition. As the country moves closer to EU accession, aligning its regulatory frameworks with European norms will be crucial. A balanced approach that fosters innovation while protecting rights and ensuring market fairness is essential for Albania's digital future. Digital platforms have become central actors in Albania's economic and social transformation. While offering opportunities,

they also present risks to fundamental rights. Antitrust tools, when combined with human rights principles, can help strike a balance between innovation and accountability. By aligning its regulatory framework with EU standards and strengthening institutional capacity, Albania can build a fairer and more rights-respecting digital environment.

POLICY RECOMMENDATIONS

Strengthen Regulatory Institutions: Invest in the capacity-building of the Competition Authority, data protection offices, and regulatory agencies to address digital market issues effectively.

Promote Transparency and Accountability: Require digital platforms to disclose content moderation practices, data use policies, and advertising algorithms.

Foster Digital Inclusion: Develop policies to reduce the digital divide, promote gender equality, and support rural digital infrastructure.

Align with EU Standards: Adopt and implement EU digital legislation including the DMA, DSA, and GDPR to ensure market fairness and rights protection.

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