

Okay. Um, So your question that revolves around whether settlements, uh, the new mechanism to uh, terminate inquiry without reaching a conclusive finding of contravention. against an investigated party, will have, in some sense, a negative effect on the rule making process through the precedential value of the CCI's decisions. I think to respond to this question, we need to step back a little bit and understand why is it that competition rules include a mechanism for settlements. And this boils down to 2 key factors. One is obviously the regulator's capacity to enforce the law in a time bound manner. And not just enforce the law by punishing the entity, which might be on the wrong side of the law. But also, uh, direct changes to their business models, which will address the idea of anti-competitive harm or the regulator's notion of the potential anti-competitive harm, that the conduct entails. Obviously, when the regulator suggests changes to the product design, particularly in fast evolving technology markets, the regulator's design of the corrective measures may not be either practical for the investigated party to implement, or may not be sufficient enough to address the harm that the regulator has identified, or their directions may actually be overbroad. So finding the right solution to address an anti-competitive harm, particularly in fast moving technology markets, is very, very difficult. So what are the benefits there for for a settlement mechanism? Number one, they can save the resources of a regulator which otherwise is resource constraint. They can find a practical middle ground to solve an anti-competitive harm that the regulator thinks the conduct entails. And the regulator and the investigated parties when they together come and discuss and agree to propose changes of the product model, product design, or the business model, then we might end up finding an optimum solution. So these are the benefits of settlements. And if we have to weigh that against the development of law through precedence, then do the benefits of settlements outweighed. Let's assume for a moment that the settlement decisions do not carry high degree of precedential value. Then the question is whether settlements outweigh the potential disadvantage by those decisions not comprising precedent. And I would think that in a country like India, which is still despite the size of its economy and the GDP, the regulators lack expertise and experience, and therefore settlement is a nice tool to plug the gap between expertise and experience that the regulators end. And yet, correct the market. Anomaly that the regulated things arises from the investigated conduct. So it's a good practical measure. It's the benefits, to my mind, outweigh the loss which could arise because of their decisions, not carrying the same high degree of precedent value as other decisions can. That said, it is not that the settlement orders cannot have any precedential value. These orders are reasoned orders, these orders identify the regulator's theory of harm. These orders identify the proposed changes to the product design or the business model. And therefore, to that extent, these decisions will have informative value for sure for the industry as a whole. So while they may not sit at the higher legal, the rest of qualifying as a binding precedent, they do carry strong, persuasive value. And therefore, on a whole, on a balance, settlements are a good thing because they are able to resolve a problem in a quick, efficient, and practical manner. Number number three. So we move to the 2nd question? Data as an economic asset. Where should the line be drawn between privacy regulation? And antitrust enforcement, postmeta slash WhatsApp decision. So there are a bunch of questions underlying this one large question. First one is data and economic asset. If it is an economic asset, then How do the privacy concerns interact with antitrust enforcement? There are 2 subsets to this question. Let me start with the 1st one and let's again take a step back. These data are always an economic asset, and if it is

an economic asset, then who should have the ownership over that data? Large technology companies, including, for example, Meta and WhatsApp, are built around offering a service for which they do not take a monetary compensation for which they do not charge anything. For example, on WhatsApp, there are 100,000,000s of users close to 400,000,000 Indians use WhatsApp as a means of communication. None of these 400,000,000 users pay by way of money to Meta or using their WhatsApp product. So where does Meta therefore make money? There are no free lunches. WhatsApp is an incredibly important and a super efficient communication channel today. As an enterprise, Meta should have the flexibility to make money. And therefore, they make money by. Today, WhatsApp is still free in India. So they make money through a bunch of means. Very recently about a year ago, WhatsApp introduced a feature for running advertisements on the status bar. But prior to that, WhatsApp used to take data, not WhatsApp, Meta used to take data, collected, uh, through WhatsApp, on individual users. Transport that data to Instagram and Facebook, for the purposes of showing targeted advertisement. And they used to make money from the advertisers to whom the ability to show targeted advertisements is a meaningful economic tool to reach out to end users in a very targeted and focused way. So this is the way in which Meta monetized the user base of its WhatsApp platform while keeping the WhatsApp platform free of monetary charge for end users like me. Now, but this has a background, let's also spend some couple of minutes on how is the global economy today operating, the global economy in the online world, is all about reaching the end consumer with the least cost of discovering an end consumer. So when you are when you see a targeted ad on Instagram, the advertiser is able to reach out to a potentially high paying consumer base by targeting them. So the world of commerce has moved to a good degree, to the world of online transactions. The entire online economy is built around the ability of these large technology platforms like Meta, Google, Amazon, etc., to monetize the data that they collect on user preferences and user profiles by showing by selling that data to potential advertisers, or by selling tools built on that data, to potential advertisers, for targeted advertisement. This is a way in which the online economy has developed in the last 20 years. If this is the way that the online economy is operating today, then the question that comes is should a platform like Meta have, unrestricted ability to. Take user's data, collect it on one platform, which is WhatsApp. And use it to make the targeted advertisement on its other platforms, which is Instagram, which is Facebook, more effective. more efficient. And I think as a business construct, there's nothing wrong with it. But we do have, in India today, a legislation which protects user autonomy and their choices when it comes to privacy of their own personal privacy. Right to privacy is a fundamental right recognized under the Indian Constitution. The state or the Indian government cannot take away that right. And therefore, neither should large corporations take away that, right? So we now have a specific legislation which imposes duties on large corporations for protecting the privacy of individuals whose data they collect. And as long as these large corporations continue to be in compliance with the specific privacy legislation, then I would think that an antitrust enforcement, purely on the ground that these technology companies are not upholding the rights that individual users, like me and you, have under the privacy legislation, is misplaced. It is not the antitrust regulators domain to step in and tell a technology platform that you are not complying with the privacy legislation. It's a separate legislation. There is a separate mechanism for enforcement of the provisions of that legislation. And if an occasion of infringement of the requirements under the privacy legislation arises, then

the antitrust regulator has no place. It should go through the privacy related regulator, not the anti-trust regulator. So that's point number one. Two, uh, if data combination is taking place in a manner that, uh, it leads to exclusionary effects on meta's competitors. The exclusionary effects could be felt in number independent messaging services, such as WhatsApp. It can be felt in the world of online advertisement where meta operates its tools and offers the real estate for facilitating online advertisements. Then those exclusionary effects, if any, can be examined by the antitrust regulator. So, to sum up, what I'm suggesting is that let the privacy aspect be regulated under the privacy law and enforced by the specific regulator that the privacy laws have created, let the antitrust concerns, let the exclusionary effect related concerns, be then examined by the antitrust regulator. So there has to be a clear division of labor, no one regulator should impinge on the jurisdiction of the other, because it would lead to conflict between two laws, and the end, if the end game is to find a solution, then the best solution would come from regulators who stick to their own domain, and not step beyond what their own jurisdiction is.