
DIGITAL COMPETITION BILL AND BIG TECH REGULATION IN INDIA: BALANCING COMPETITION AND INNOVATION

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Introduction

The emergence of digital markets¹ has changed consumer-business interactions and the global economy. Through network effects, data aggregation, and control over important digital platforms, large technological companies often referred to as Big Tech² have significantly increased their market dominance. Even though these businesses have made a substantial contribution to economic growth and innovation, worries about anti-competitive behavior, abuse of market dominance, self-preferencing, and obstacles to entry for smaller rivals have surfaced. Some of these issues have been addressed by ex-post enforcement tools in India's current framework for competition legislation under the Competition Act, 2002. However, the limitations of the conventional regulatory approach have been shown by the distinctive features of digital markets. The Digital Competition Bill, which aims to create an ex-ante regulatory framework for Systemically Significant Digital Enterprises, was presented by the Indian government in order to address these issues. The Bill seeks to ensure a competitive and inventive digital economy, safeguard consumer interests, and encourage fair competition.

UNDERSTANDING BIG TECH AND DIGITAL MARKETS

Big tech refers to the largest and most significant technology companies which control major digital platforms, collect huge amount of user data, and have significant influence on the country's economy, society and politics. These tech companies provide important digital services such as search engines, social networking platforms, online marketplaces, cloud computing and software systems used by millions of people worldwide. While a digital market is an online environment where consumers and businesses interact, sell and buy and exchange

¹ Dr. Mrs. Vaibhava Desai, "Digital Marketing: A Review" *International Journal of Trend in Scientific Research and Development* (Conference Issue, March 2019).

² Kean Birch & Kelly Bronson, "Big Tech" 31(1) *Science as Culture* 1, 5 (2022)

goods, services and information through online platforms.

Large-scale digitization, lower transaction costs, data-driven business strategies, and the significant usage of multi-sided platforms that link various user groups are characteristics of digital marketplaces. These capabilities allow businesses to gather and use vast amounts of data while improving efficiency, innovation, and consumer choice. Strong network effects frequently enable prosperous platforms to grow quickly across several markets and improve their position in the market. Businesses often vary their offerings in order to reach more users and data. These traits, however, can also result in substantial market power and entry barriers, which complicates competition analysis and presents difficulties for regulatory bodies and competition law.

EXISTING COMPETITION LAW FRAMEWORK IN INDIA

The Competition Act, 2002, which aims to safeguard consumer welfare and encourage fair competition, is the main law governing competition in India. Three areas are generally covered by the Act. Anti-competitive agreements, including both horizontal and vertical arrangements that negatively impact market³ competition, are first forbidden. Second, it forbids businesses from abusing their dominating position by engaging in unfair, discriminatory, or exclusive acts. Third, it governs mergers, acquisitions, and amalgamations that could have a significant negative impact on Indian competition, including transactions that take place outside of India but have local ramifications.

Enforcing these laws, protecting consumer interests, and maintaining competitive marketplaces that foster efficiency, innovation, quality, and fair pricing are the responsibilities of the Competition⁴ Commission of India, which was constituted under the Act. Its main goal is to safeguard consumer interests by prohibiting anti-competitive combinations, abuses of dominant positions, and anti-competitive actions. In addition to promoting economic growth and market justice, the Commission makes sure that markets stay competitive by promoting efficiency, innovation, higher-quality products and services, and competitive prices for customers.

³ B.S. Chauhan, "Indian Competition Law: Global Context" (2012) 54(3) *Journal of the Indian Law Institute* 315.

⁴ Hemant Singh and Radha Naruka, "Competition Commission of India and Consumers' Welfare: An Analysis" (17 April 2013), Working Paper, National Law University Jodhpur, 1.

Why was the digital competition bill proposed?

In order to remedy the shortcomings of India's current competition law in regulating quickly expanding digital marketplaces, the Digital Competition Bill was put out. Predatory pricing, self-preferencing, exclusive agreements, tying and bundling, and search result manipulation are all made possible by the network effects, extensive data access, and market domination that large digital platforms frequently enjoy. These actions may limit customer choice, stifle competition, and erect obstacles for new⁵ competitors. These issues were brought to light by cases involving Google and MakeMyTrip. In addition to promoting fair competition, protecting consumers, and ensuring a more inventive and competitive digital economy, the Bill aims to establish ex-ante regulation of significant digital businesses.

With a view to foster innovation, promote competition, and protect the interests of users in India, the Draft DCB's primary goal is to identify SSDEs and regulate their practice in providing core digital services. The Draft DCB seeks to supplement the current Competition Act 2002 by adopting ex-ante measures to prevent anti-competitive acts before they occur rather than depending entirely on ex-post enforcement, much like the EU's strategy of establishing supplemental law for digital marketplaces.

Key features of the digital competition bill

Obligations

In order to guarantee equitable, transparent, and contestable digital marketplaces, the Draft Digital Competition Bill (DCB) places ex-ante responsibilities on Systemically Significant Digital Enterprises (SSDEs). Prohibiting self-preferencing and anti-steering tactics, limiting the misuse of personal data, facilitating data portability, letting users select default settings, and avoiding tying and bundling of services are some of the main responsibilities. The Bill integrates a principle-based approach with rule-based requirements, especially with regard to equitable and transparent transactions. The Draft DCB⁶ offers a more flexible framework while preserving regulatory certainty and addressing changing digital market concerns, in contrast to the Digital Markets Act (DMA) of the European Union.

⁵ Sharbani Mohapatra, "Rethinking the Digital Competition Bill in India" (2025) 3(4) *Ishan Law Journal*.

⁶ Anush Ganesh, Mohit Yadav and Gaurav Pathak, "The Indian Draft Digital Competition Bill and Report: A Critical Perspective" (2025) 9(2) *Indian Law Review* 193.

Restriction on anti-competitive practices

A firm's exploitation of particular advantages to limit competition is known as an anti-competitive behavior. This includes unfair⁷ competition through abuse of administrative power and vicious competition through market means. In order to keep and stabilize their economic dominance and profits, firms with a particular advantage, governments, or administrative power restrict and hamper some businesses.

By stopping anti-competitive behaviour before⁸ it seriously damages the market, ex-ante regulation serves a preventive function. Major digital platforms are subject to particular requirements under the proposed Digital Competition Bill in order to guarantee fair competition and stop actions like tying, anti-steering, and self-preferencing. This strategy increases regulatory clarity and lessens the need for drawn-out investigations by the Competition Commission of India. By restricting its use to digital services that are most susceptible to market dominance and consolidation, the framework simultaneously aims to strike a balance between innovation and competition.

Penalties for non-compliance

A strong framework for penalties is proposed in the Draft Digital Competition Bill (DCB) to guarantee compliance by Systemically⁹ Significant Digital Enterprises (SSDEs). The Bill gives the Competition Commission of India (CCI) the authority to penalize SSDEs who violate the Act up to 10% of their global turnover from the previous fiscal year. Where the SSDE is part of a group of enterprises, the global turnover of the entire group may be considered for calculating the penalty. This strategy was suggested by the Committee on Digital Competition Law (CDCL) in order to avoid forum shopping and preserve compliance with the Competition Act of 2002. The CCI will decide the precise amount of the penalty on a case-by-case basis.

Penalties of up to 1% of the SSDE's worldwide turnover may also be imposed for specific non-compliance, such as failing to self-report SSDE status, failing to submit compliance reports, or giving false, inaccurate, or deceptive information. Additionally, the Bill offers an appeals

⁷ Wang Zhuoming and Liu Lengxin, "Anti-Competitive Practices" in *Dictionary of Contemporary Chinese Economics* (Springer Nature, 2025) 1269–1270.

⁸ Pankhudi Khandelwal, "Tying, Self-Preferencing and the Digital Competition Bill: A Changing Landscape for Competition Intervention?" (2024) 19(2) *Indian Journal of Law and Technology*

⁹ Committee on Digital Competition Law, *Report of the Committee on Digital Competition Law* (Ministry of Corporate Affairs, Government of India, 2024).

process that allows businesses to contest CCI orders¹⁰ before the National Company Law Appellate Tribunal (NCLAT) within sixty days of paying a quarter of the penalty sum. To ensure judicial oversight and procedural fairness, additional appeals may be submitted to the Supreme Court within sixty days of the NCLAT's ruling.

Benefits and concerns

A more balanced digital economy and fair competition are the goals of the Digital Competition Bill. The Bill seeks to lessen market¹¹ concentration and stop the misuse of market power by addressing the anti-competitive actions of major internet platforms. This can promote a more competitive and diversified digital economy by giving startups and smaller businesses more chances to participate and compete in digital markets. By improving consumer choice and guaranteeing fair competition for market players, the Bill also promotes innovation. It also aims to strengthen market accountability and transparency, which would ultimately benefit customers through improved services, competitive pricing, and more innovation in the digital industry.

The Digital Competition Bill aims to lessen market concentration and encourage fair competition, but there are a number of issues with its execution. The Bill's ex-ante regulatory framework may increase compliance burdens on large digital enterprises and create regulatory overlap with other laws, particularly data protection regulations. Where competition law meets privacy and data protection frameworks, provisions pertaining to data usage, portability, and interoperability may cause ambiguity. Furthermore, the Bill's extraterritorial application may provide operational difficulties for multinational digital businesses that have to adhere to various legal frameworks in several jurisdictions. Additionally, detractors contend that limitations on behaviors¹² like data usage and self-preferencing could hinder digital platforms' capacity to innovate and create new goods and services. There are worries that excessive governmental intervention will deter investment, stall technological development, and unintentionally impede innovation in India's quickly expanding digital economy, even if the

¹⁰ Analysing India's Digital Competition Bill and its Legal Landscape (2024).

¹¹ Dubey, Aryaman, A Legal and Economic Analysis of the Draft Digital Competition Bill, 2024 (February 10, 2025).

¹² Anush Ganesh, Mohit Yadav & Gaurav Pathak, "The Indian Draft Digital Competition Bill and Report: A Critical Perspective", 9(2) *Indian Law Review* 193, 193–207 (2025).

Bill seeks to provide possibilities for startups and smaller businesses.

Conclusion

A significant step forward in India's strategy for controlling Big Tech and resolving issues with competition in digital marketplaces is the Digital Competition Bill. The Bill aims to stop anti-competitive behaviour before it seriously harms consumers and competition by imposing ex-ante duties on Systemically Significant Digital Enterprises. Its regulations on self-preferencing, data usage, interoperability, and market fairness are intended to promote innovation and level the playing field for companies. At the same time, concerns regarding regulatory overlap, compliance costs, and the potential impact on investment highlight the need for careful implementation. The capacity of regulators to strike a balance between competitive goals and technological advancement and innovation will determine whether the Bill succeeds. By encouraging fair competition, improving consumer welfare, and guaranteeing that digital marketplaces stay open, contestable, and dynamic, the Digital Competition Bill has the potential to enhance India's digital economy if it is successfully implemented.