

# Steering digital titans away from monopoly's edge

The Digital Competition Act aims to curb Big Tech's monopolistic grip, ensure fair play, and foster innovation in India's rapidly evolving digital economy



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**T**he digital economy is increasingly becoming monopolistic, with a handful of large players dominating major market segments. This concentration of power has led to mounting concerns about anti-competitive practices, particularly among “Big Tech” companies, which typically dominate digital platforms.

These digital monopolies stifle competition by controlling significant portions of the market and engaging

in anti-competitive practices such as charging exorbitant fees, controlling access to key services, or dictating terms to smaller businesses that rely on their platforms.

A clear example of this behaviour was when Twitter refused to take down content that violated local laws in India. By doing so, Twitter asserted its dominance over online discourse and subverted the authority of the Indian government, which eventually had to step in to enforce content removal.

Digital monopolies may stifle competition by charging exorbitant fees, controlling access to key services, or dictating terms to firms that rely on them.

Ex-ante regulation can address potential anti-competitive practices before they take hold in the market, providing much-needed policy stability.

Such instances highlight the serious challenge digital monopolies pose to a free and competitive economy. These platforms leverage the network effect to become essential infrastructures businesses depend on, supporting millions of jobs. However, this power can quickly become a means to smother competition and, more alarmingly, undermine governmental authority, which demands immediate attention.

#### THE CASE FOR PROACTIVE REGULATION

While digital monopolies may initially appear beneficial due to the jobs and economic activity they generate, their potential to stifle competition, engage in significant anti-competitive behaviour, and disregard government authority has become increasingly evident. No government can afford to dismantle large businesses that underpin vast sections of the economy. However, allowing these monopolies to operate unchecked threatens national sovereignty. This underscores the urgent need for proactive regulation to prevent such scenarios.

To avoid such scenarios, it is crucial to have ex-ante regulation, the rules that come into force before digital monopolies begin acting against the interests of the economy and the country. This approach contrasts with ex-post regulation, which implies a reactionary, post-facto measure often too late to be effective. Ex-ante regulation can address potential anti-competitive practices before they take hold in the market, providing much-needed policy stability.

A recent incident involving Google underscores this need for proactive regulation. Google imposed a 30% charge on all revenues from startups on its Google Play platform, far higher than the typical payment gateway service fee, which ranges from 0.5% to 3%. This led to the Competition Commission of India (CCI) enforcing non-monetary guidance requiring Google to allow app developers to use third-party billing and payment processing services for in-app purchases or purchasing apps. This move was necessary to

ensure that Google's market power did not unfairly disadvantage smaller players.

The more users a platform has, the more valuable it becomes to other users—a phenomenon known as the Network Effect. By monopolising the app ecosystem, Google has created a significant barrier to entry for new app stores, as it becomes increasingly difficult to attract users to a new platform when everyone is already using an established one.

#### THE DIGITAL COMPETITION ACT AND ITS IMPLICATIONS

To address these challenges, the proposed legislation identifies “Systematically Significant Digital Enterprises” (SSDEs)—large digital platforms that wield substantial market power due to their extensive user base and influence. SSDEs are defined as having a turnover of over Rs 4,000 crore in India or over USD 40 billion globally.

Under the new act, these entities would face specific obligations designed to curb their ability to engage in monopolistic practices, thereby promoting a fairer digital economy. These obligations will be based on factors such as market power, user base, and overall influence and include restrictions on self-preferencing, data exploitation, and other behaviours that stifle competition.

The draft Bill does not seek to regulate all digital enterprises but only places obligations on those dominant in digital market segments and classified as SSDEs. The primary requirement for SSDEs is to avoid anti-competitive practices and adhere to good business practices that promote competition. This includes operating in a fair, non-discriminatory, and transparent manner with users.

Key provisions in the draft Bill prohibit SSDEs from favouring their own products on their platforms over those of third parties (self-preferencing), restricting the availability of third-party applications, not allowing

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### IN BRIEF

- Digital monopolies stifle competition by controlling key markets, creating significant barriers for smaller players and new entrants.
- Ex-ante regulation is crucial to proactively address anti-competitive practices before they become entrenched in the digital economy.
- Google’s 30% revenue charge on startups exemplifies the need for regulatory intervention to prevent unfair market dominance.
- The proposed legislation targets “Systematically Significant Digital Enterprises” (SSDEs) to promote a fairer, more competitive digital landscape.
- Critics argue regulation may deter investment, but a stable, transparent environment could ultimately attract ethical and sustainable business growth.

users to change default settings, restricting business users of the service from directly communicating with their end users (anti-steering), and tying or bundling non-essential services. Additionally, SSDEs are barred from cross-utilising user data collected from core digital services for other purposes or using non-public user data to give unfair advantages to their own services.

Critics of the Bill argue that such regulation could deter investment in India by adding regulatory compliance burdens. However, this concern seems unfounded. An ex-ante regulatory approach will create a predictable and stable environment for doing business in the country. The regulation asks digital entities to behave fairly and transparently, which should be standard practice. If investors are deterred by regulations preventing unfair business practices, such investments may not benefit India after all.

Another significant criticism is that the proposed act regulation might stifle innovation by imposing burdensome conditions on new digital ventures and startups. However, this concern is misplaced, as the act would apply only to SSDEs already defined by high turnover thresholds. Hence, startups and new ventures are unlikely to fall under the provisions of this act.

The Digital Competition Act is a much-needed piece of legislation designed to protect India’s digital economy from the dangers of monopolistic practices. By proactively addressing anti-competitive behaviour, the act will help ensure that competition and innovation thrive, ultimately benefiting businesses and consumers alike. 🌟

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