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India: Developing Regulation of Technological Platforms for Digital Economy Growth[1]

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Abstract

India's government set the goal to grow the country's digital economy to $1 trillion by 2025–26. Dynamic growth of digital markets is one of the government's priorities for attaining this goal. Digital platforms are important drivers of growth. Simultaneously, big tech's non-competitive practices create risks of economic and moral damage for consumers and distort competition in the markets. India's authorities shape regulation of the digital markets in two main directions: consumer protection and prevention of digital platform behaviours that might impair competition. To protect consumers, the government has amended the consumer protection rules and expanded their application to digital enterprises. India adopted the Consumer Protection Act (2019), the Consumer Protection in E-Commerce Rules (2020), and the Digital Personal Data Protection Act (2023). To ensure contestability, fairness, and transparency in digital markets, in 2023 the Competition (Amendment) Act was approved by Parliament, placing digital markets within the legal framework of competition. The Committee on the Digital Competition Law developed a draft Digital Competition Bill (2024), which aims to regulate systemically significant digital enterprises through an ex ante approach.

The article reviews the government of the Republic of India's policy on digital platform regulation, exploring the main instruments and difficulties in shaping the new system and determining a regulatory approach. The study draws on a survey of the regulatory bills and rules, reports, bill drafts, experts' assessments, and research articles. The authors focus on the amendments to the consumer and competition protection laws adopted in recent years. The article concludes with the authors' views regarding the adoption of the Digital Competition Bill and perspectives on India's interest in deepening international cooperation on digital markets regulation, including in the BRICS group (Brazil, Russia, India, China, South Africa, and others) and the Shanghai Cooperation Organisation (SCO).

Key words: India, digital markets, digital platforms, ex ante regulation, Consumer Protection Act, draft Digital Competition Bill, Systemically Significant Digital Enterprises

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The digital economy is one of the drivers of economic growth in India. Between 2014 and 2019, India's digital economy (broadly defined to include digital technologies, as well as goods and services in non-digital sectors) grew on average 2.4 times faster than the country's economy as a whole. Large technology companies have significantly contributed to this growth. India has the largest number of users of major digital platforms such as WhatsApp and YouTube, and the second-largest number of internet users after China [Mandavia, 2021]. Projections indicate that India will achieve the government's goal of expanding the digital economy to $1 trillion by 2025–26 [Sharma, 2023], while the number of internet users will reach 900 million [RM et al., 2024]. By 2028, the digital advertising market is expected to reach $7.1 billion [Statista, n.d.].

Globally, India is the largest consumer internet market for international tech giants. According to Inc42, India provides the largest user base for six of the seven dominant internet platforms (Google—692 million, YouTube—467 million, WhatsApp—400 million, Facebook[2]—315 million, Instagram[3]—229 million, and Snapchat—200 million). Only X (formerly Twitter) has more users in the U.S. (95.4 million) and Japan (67.5 million) than in India (35 million). This popularity is due not only to the availability of platform services in multiple regional languages and the fact that 95% of smartphones in India run on Android, which integrates Google and YouTube, but also to the absence of Indian companies capable of competing with foreign platforms [INC42, 2023]. Government policy is aimed at promoting digitalization of the economy and society, including the creation of accessible public digital infrastructure and a startup support ecosystem. During India's Group of 20 (G20) presidency in 2023, Prime Minister Narendra Modi initiated the inclusion of building digital infrastructure as a public good into the G20 agenda. National e-commerce platforms make up the majority of the top 100 e-commerce platforms in India [Nuvoretail, 2023]. However, foreign platforms still dominate India's digital market.

In India, as worldwide, large platform companies often act both as goods- and services-selling intermediaries and as suppliers of those goods and services on their platforms. This trend raises concerns about the potential economic harm caused by the concentration of market power in the digital economy [Prado, 2020]. Hence, regulating the behaviour of large technology companies in digital markets has become a priority for the Indian authorities. Regulation is focused on two main tracks: consumer protection in the digital economy and prevention of potentially anti-competitive behaviour by digital platforms.

This article analyzes the Indian government's approach to regulating digital platforms, systematizes its main tools, and identifies the challenges in forming and selecting a regulatory model. The study is based on the analysis of the existing legislative framework and law enforcement practices, reports and draft laws on digital competition regulation, expert assessments, and academic articles. The article reviews recent changes in consumer protection legislation, amendments to the Competition Act, the Inter-Ministerial Committee on Digital Competition Legislation proposal for ex-ante regulation, and the Digital Competition Bill aimed at regulating the behaviour of "systemically significant digital enterprises." The positions of key departments and the business community regarding the provisions of the Digital Competition Bill

[2] The social media has been banned in Russia as extremist.
[3] The social media has been banned in Russia as extremist.

are also considered. In conclusion, the article discusses the similarities and differences in the model implemented by the Indian government compared to those adopted or considered in jurisdictions such as the European Union (EU), the U.S., the UK, and China. It also assesses the prospects for enforcing the Digital Competition Bill into law, and deepening India's international cooperation on platform regulation, including within the BRICS group (Brazil, Russia, India, China, South Africa, and others) and the Shanghai Cooperation Organisation (SCO).

Consumer Rights Protection

Rapid development of e-commerce has brought to life new methods and channels for selling goods and services and opened new opportunities for consumers. At the same time, consumers have become more vulnerable to new forms of unfair trade and unethical business practices. Responding to this, in 2019, India adopted its new Consumer Protection Act [Government of India, n.d.a], which replaced the previous act that had been in place since 1986. The new law introduced significant changes in terms of scope and penalties for violations and established a new government body—the Central Consumer Protection Authority (CCPA)—with regulatory and oversight powers.

The 2019 Consumer Protection Act applies to the purchase or sale of goods or services through digital or electronic networks, specifically including digital goods and services, as well as to entities that provide technologies enabling sellers to participate in advertising or selling goods or services to consumers (that is, platform operators). The law also covers marketplaces and online auctions, equating e-service providers with traditional offline sellers, thereby subjecting them to the same responsibilities. The law introduces a new type of unfair trade practice related to disclosure of any personal information confidentially provided by a consumer. Therefore, in addition to traditional consumer protection measures, the law covers aspects of data protection and privacy.

The law established the Central Consumer Protection Authority (CCPA) accountable to the Ministry of Consumer Affairs. The CCPA has the authority to regulate and investigate violations of consumer rights and cases of unfair trade practices on its initiative, or to do so based on complaints received from affected consumers or guided by government directives. Specific actions the CCPA can take include conducting investigations into consumer rights violations and initiating appropriate cases, issuing orders for the recall of unsafe goods and services, making decisions to halt unethical commercial practices or false advertising, and imposing fines on suppliers or publishers of false advertisements. The CCPA has the authority to impose fines ranging from 100,000 to five million rupees (approximately $10–60,000) or to decide on imprisonment for up to a life sentence depending on the type of violations committed. Additionally, a dispute resolution mechanism is provided for compensating affected consumers [Government of India, n.d.a].

In 2020, exercising powers granted by the new Consumer Protection Act, the Indian government adopted the Consumer Protection (E-Commerce) Rules [Government of India, n.d.b]. These rules primarily address the duties and responsibilities of the e-commerce entities engaged in marketing and selling goods and services to consumers via online platforms. The rules apply to all electronic retailers (e-sellers) registered in India or abroad offering goods and services to Indian consumers. To ensure enforcement, a special representative should be appointed in the jurisdiction of presence. This approach is typical for most jurisdictions, including Russia's BRICS partners.

The rules empower the central government to act against unfair trade practices in e-commerce and require online sellers to refund goods and services, address customer complaints, and prevent discrimination against sellers by platforms. The rules apply to all goods and services bought or sold through any digital platform, covering all e-commerce models and forms of unfair trade practices. According to the rules, an e-commerce entity refers to any person who owns or

manages digital or electronic equipment or an e-commerce platform, but does not include sellers offering their goods or services for sale on the marketplace. An e-commerce entity can be any company registered under the Companies Act of India or any company registered outside India but operating in the country or having an office, a branch, or an agency in India owned or controlled by a person residing outside India.

The rules define requirements that e-commerce entities must comply with, including the requirements on transparency of activities and consumer safety, such as:

- appointing an officer residing in India to ensure compliance with various provisions of the act and rules;
- keeping clear and accessible information about the name of an e-commerce entity, the geographic location of its office and headquarters, details about its website, and contact information such as email addresses and hotline numbers for consumer complaints;
- taking strict measures against any unfair trade practices on their platform or otherwise;
- appointing an officer to handle consumer complaints, whose details must be displayed on the platform; the designated officer must acknowledge each complaint within 48 hours and take measures to address it within one month;
- providing the name and details of the importer and seller for each imported good or service offered for sale on the platform;
- waiving cancellation fees unless similar charges are borne by a seller;
- ensuring that consumer consent for purchases is not automatically recorded, including through setting it by default; consent for purchasing any goods or services must be an explicit and affirmative action;
- processing all accepted refund requests within reasonable terms as prescribed by the Reserve Bank of India or any other competent authority; and
- avoiding illegal activities such as manipulating prices of goods or services offered on the platform to make unjustified profits or imposing any unreasonable prices on consumers considering prevailing market conditions.

E-commerce marketplaces (that is, e-commerce entities that provide an information technology platform in digital or electronic networks to facilitate transactions between buyers and sellers) are obliged to:

- ensure accuracy of information and quality of goods and services displayed on the online platform and delivered to consumers;
- display detailed information about sellers offering goods and services, including their name, address, customer support number, any rating or other aggregated reviews about the seller, and any other information necessary for consumers to make informed decisions at the time of purchase; additionally, upon request the marketplace must provide necessary information about the seller from whom the consumer made a purchase, including the headquarters and all branch addresses;
- create a mechanism for consumers to track the status of their complaints and provide information on returns, refunds, exchanges, delivery, payment methods, and mechanisms of reviewing complaints;
- disclose main parameters of goods and services that help consumers determine product or seller ratings on the online platform;
- disclose key terms and conditions governing relationships with sellers on their platform and describe any differentiated treatment they provide or may provide between goods or services or sellers of the same category; and
- update the information about the sellers who have repeatedly offered the goods or services that had been previously removed or disabled due to violations of intellectual property laws.

The rules also provide a comprehensive set of duties for sellers, including:

- avoiding unfair trade practices when offering goods and services on online platforms or otherwise;
- prohibiting misrepresentation as a consumer and posting false reviews about goods or services;
- prohibiting refusal to return goods and services or provide refunds if the characteristics of goods and services do not match those advertised or if they are delivered late, except in force majeure cases;
- appointing an officer to handle consumer complaints who must acknowledge receipt of a complaint within 48 hours and resolve it within one month from the date of receipt;
- offering for sale only those goods and services that are presented and advertised by the seller on the online platform;
- providing the e-commerce entity with information, including name or title, address, website, email address, and customer support contact details; and
- providing the e-commerce entity with information about goods and services (expiry date, country of origin, warranties, and terms related to delivery and return).

Thus, as regards consumer rights protection, India's regulatory development in recent years has expanded the coverage of previously adopted norms to new entities—e-commerce digital platforms and their business users—with due account of the specifics of their activities. The responsibility for violations lies directly with the entity committing the offense, and sanctions vary depending on a concrete violation. For example, any manufacturer or service provider that places false or misleading advertisements damaging the interests of consumers may be punished by imprisonment of up to two years and a fine of up to one million rupees ($12,000), with each subsequent similar offense punishable by up to five years of imprisonment and a fine of up to five million rupees ($60,000) [Government of India, n.d.a].

The Digital Personal Data Protection Act, adopted in August 2023 [2023] to replace the Information Technology Act of 2000, also aims to protect consumer rights. Like most such documents, the law regulates the processing of digital personal data in India if the data is collected online or digitized within or outside the country for offering goods or services in India. The law will strengthen platform accountability and responsibility. The Data Protection Board of India established under the law is authorized to monitor compliance and impose fines of up to 2.5 billion rupees (approximately $30.5 million). The government is empowered to define a range of enforcement procedures, including the processes of informing consumers about data breaches, and to appoint the board and define its functioning [Gaur, Sreekumar, 2023].

Experts have identified some problematic areas with the law. For instance, the law grants the central government the right to exempt government agencies from complying with any or all provisions in the interests of state security and public order, which may lead to the collection, processing, and storage of data beyond necessity and violation of privacy rights. The law does not provide for the right to data portability or the right to be forgotten. The bill allows the transfer of personal data outside India, except to countries restricted by government decisions. In the absence of robust data protection in the destination country, the transferable data may be vulnerable to unauthorized use [PRS Legislative Research, n.d.a]. Nevertheless, the law sets the stage for protecting personal digital data and increasing platform accountability. The law has been designed with consideration of the experience of other jurisdictions, including the EU (General Data Protection Regulation) and China (Personal Information Protection Law of the People's Republic of China (PIPL)) [Burman, 2023].

Proposals for Strengthening Existing Antimonopoly Rules

The foundation of India's antimonopoly regulation is the Competition Act of 2002, enacted to prevent practices that adversely affect competition, promote and sustain competition in markets, protect consumer interests, and ensure freedom of trade among various market participants. The 2002 act requires regulatory approval by the Competition Commission of India for mergers and acquisitions if they meet certain criteria in terms of the assets under control of the participating companies and their turnovers. However, given its enactment over 20 years ago, the act primarily regulates traditional offline markets and does not adequately address competition in digital markets. As India's digital markets evolve, the necessity of putting in place regulation for markets dominated by large technology firms has become self-evident.

In 2018, India's Ministry of Corporate Affairs established the Competition Law Review Committee to assess the Competition Act of 2002 in light of new market realities. The committee noted that some market practices are not regulated by the existing legal framework. In its report, the committee made a number of proposals regarding competition in digital markets. After considering the committee's recommendations, bill to amend the Competition Act was introduced in 2022. The bill aimed to expand the scope of anti-competitive agreements, introduce merger and acquisition assessments based on transaction value, and establish a settlement system to reduce litigation [PRS Legislative Research, n.d.b]. Some amendments took effect in 2023, having significantly enhanced the powers of the competition commission. Further changes will be implemented once the commission issues the necessary regulations. It is expected that an impact-based approach will be adopted for assessing abuse of dominant position, and fines will be calculated based on global turnover, considering the model's specifics and the cross-border nature of digital platforms [Norton Rose Fulbright, 2023].

The amendments have introduced a new criterion for mergers and acquisitions in digital markets. The Competition Commission of India will assess mergers and acquisitions exceeding INR 20 billion (approximately $250 million). It is specifically noted that the parties to the transaction must have "substantial business operations in India." The bill shortens the approval time for mergers and acquisitions by the Competition Commission of India from 210 to 150 days. Additionally, the Competition Commission of India may initiate cases against companies based on anti-competitive agreements or abuse of dominant position. Proceedings can be closed if the company offers to settle through financial compensation or commitments, which may be structural or behavioural. The mechanisms and framework for financial settlements and commitments are to be determined by the Competition Commission itself.

The bill is seen as an important step toward developing India's antimonopoly regulation and as a response to the changing nature of modern markets. Moreover, the amendments provide a logical approach to controlling anti-competitive practices already prevalent in the market, bringing digital markets within the scope of the Competition Act and ensuring swift approval of transactions that meet established criteria.

Alongside the bill's discussion, there have been suggestions that adapting existing competition regulations may not be sufficient to effectively control large digital companies and prevent them from accumulating and using excessive market power. In December 2022, India's Standing Committee on Finance presented to the lower house of Parliament a report titled "Anti-Competitive Practices by Big Tech Companies" [Lok Sabha Secretariat, 2022]. Considering that anti-competitive practices by large tech companies are increasingly coming under the scrutiny of competition authorities worldwide, including the Competition Commission of India, the committee, after consulting various stakeholders, identified key competition policy measures in the digital sector and proposed the adoption of a digital competition bill to implement ex-ante regulation of the digital market.

Proposals for Ex-Ante Regulation of Digital Platforms

On 6 February 2023, India's Ministry of Corporate Affairs established the interdepartmental Committee on Digital Competition Law, consisting of 16 members, to assess the need for a separate ex-ante competition law for digital markets [Constitution of the Committee on Digital Competition Law, 2022]. The committee was mandated to prepare a report for the government and to draft a bill. The ministry outlined specific areas of work for the committee, namely:

- to assess whether the existing provisions of the Competition Act of 2002, rules and regulations formulated under it, and other norms are sufficient to address the issues arising from the growth of the digital economy;
- to study the need for introducing a separate piece of legislation for ex-ante regulation of digital markets;
- to examine international best practices in the digital markets regulation;
- to study other regulatory regimes, institutional mechanisms, and government policies on the digital markets competition; and
- to analyze the practices of leading players and systemically significant companies that limit or may harm digital markets.

After several months of work, the committee noted that digital markets had a number of characteristics distinct from traditional markets. Since they demonstrate increasing returns on scale and scope driven by network effects, rapid scaling is the best strategy for digital businesses. Typically, digital markets quickly achieve high levels of the market power concentration, with one or two players becoming market leaders within a short period of three to five years. Given that monopolistic digital market structures might form faster than adequate anti-competitive behaviour policies can be formulated, the committee recommended that the companies with a potential to influence competition in digital markets should be assessed in advance, before the markets become monopolized.

The committee recommended introduction of a digital competition act to ensure a fair and transparent digital environment and establishment of a digital market unit within the Competition Commission of India. This unit would, in particular, monitor the activities of the identified systemically significant intermediaries, new intermediaries, and other digital market players not falling under this definition, ensuring their compliance with the new law and making decisions in case of violations. In July 2023, the Competition Commission created a specialized digital markets and data unit (DMDU) to study the antimonopoly practices of tech companies, to facilitate interdepartmental exchange and discussion on the digital markets issues with academia and other industry regulators involved, to coordinate positions on the platforms for international dialogue, to support law enforcement in digital markets, and to conduct market research [Uberoi et al., 2023].

The committee concluded that the Indian authorities should identify a small number of leading market players that could negatively impact the competitiveness, fairness, and transparency of digital markets, referred to as "systemically significant digital enterprises" (SSDEs). It was proposed that the status of these SSDEs should be determined based on their revenues, market capitalization, and the number of active corporate participants and end consumers on their platforms. According to the draft bill [Government of India, 2024a], the Competition Commission of India (CCI) may designate an enterprise as systemically significant concerning the primary digital service[4] it provides if the enterprise meets the threshold values for turnover and user

[4] A primary digital service refers to any service listed in Schedule I of the act. Currently, the list includes: online search engines, online social networking services, video-sharing platform services, interpersonal

numbers in each of the three immediately preceding financial years. The financial threshold implies that the enterprise's turnover in India exceeds INR 40 billion (approximately $482 million), or global turnover exceeds $30 billion, or the gross merchandise value in India exceeds INR 160 billion (approximately $1.9 billion), or global market capitalization exceeds $75 billion. The user threshold stipulates coverage of the primary digital service for more than 10 million end users or more than 10,000 business users in India [DataGuidance, 2024]. If an SSDE is part of a group and some enterprises in the group participate in provision of the SSDE's services, the commission may designate them as associated digital enterprises (ADE), which must also comply with the law's requirements for their digital services. The requirements include annual submission of a compliance report to the Competition Commission of India and placement of a summary of such report on the website.

The committee identified 10 anti-competitive practices that the Digital Competition Act should prevent.

1) Platform Neutrality and Self-Preferencing. The committee observed that self-preferencing[5] negatively impacts markets and provides an unfair advantage to the leading player, that is, the platform itself. Consequently, the committee concluded that platform neutrality must be maintained at all costs and recommended that systemically significant enterprises should be prohibited from engaging in practices that favour their own products or services while mediating market access for the offering and sale of goods or services. This includes presenting their own offerings more favourably and pre-installing or integrating their own products into devices or any other offerings provided by the platform. The relevant requirements are detailed in Article 11, Chapter III of the draft bill.

2) Use of Data. The committee noted that the data collected by various digital companies should be viewed as a zero-price factor or a non-price factor that can threaten privacy, while in a competitive digital business environment data privacy must be ensured. In this context, the committee recommended that SSDEs should be prohibited from processing the personal data of consumers (using third-party services) for providing online advertising services, combining personal data obtained through core platform services with personal data from third-party sources, cross-using personal data obtained through core services for other services, or subscribing consumers to other platform services to combine personal data without providing the end consumer with a specific choice and obtaining their consent. Article 12, Chapter III of the draft bill prohibits the use of the business users' proprietary data[6] to compete against them, as well as the cross-use of personal data collected from different services offered by the enterprise without user consent. The article also requires that the platform must allow business users and end users to easily transfer their data in a specified format and manner.

3) Anti-Steering Provisions.[7] The committee observed that steering practices restrict the users' choice of alternatives and recommended that systemically significant enterprises should not condition access to the platform, privileged status, or placement on the platform on the purchase

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communication services, operating systems, web browsers, cloud services, advertising services, and online intermediation services (including web hosting, service providers, payment sites, auction sites, app stores, marketplaces, and e-commerce aggregators) [Mathi, 2024].

[5] Self-preferencing is the practice in which a digital platform prioritizes its own services or those of its subsidiaries, directly or indirectly, in situations where it serves a dual role (both providing platform services and competing on that platform with other business users).

[6] Any aggregated or non-aggregated data generated by business users, which may be collected during the commercial activities of business users or their end users on the platform.

[7] These are provisions under which the platform does not allow business users to "steer" their consumers toward offerings other than those provided by the platform, which may be cheaper or otherwise potentially attractive alternatives for consumers.

or use of their own products or services. This recommendation is partially incorporated in Article 14, Chapter III of the draft bill.

4) Bundling and Tying.[8] The committee noted that many digital companies compel consumers to purchase ancillary services, leading to information asymmetry and limiting consumer choice, ultimately resulting in higher prices for consumers and elimination of competitor companies. Therefore, the committee recommended that SSDEs should be prohibited from requiring business users or end consumers to subscribe to or register for any ancillary services as a condition for accessing any of the core services of the platform. Article 15, Chapter III of the draft bill mandates that SSDEs refrain from bundling services.

5) Mergers and Acquisitions. The committee observed that "killer acquisitions"[9] are a common issue in digital markets. Given that the Competition Commission of India currently reviews transactions based on asset and turnover thresholds, several significant deals involving leading technology companies have not been reviewed (for example, Facebook's[10] acquisition of WhatsApp in 2014 for $19 billion)[11] as they did not meet the established thresholds. Therefore, the committee recommended that SSDEs should inform the Competition Commission of India in advance of any proposed concentration or agreement, announcement of public bids, or acquisition of a controlling stake (if the merging companies or the target company provide services in the digital sector or facilitate data collection) regardless of whether such actions meet the current notification thresholds. This requirement is not reflected in the current version of the draft bill.

6) Significant Discounts and Dynamic Pricing. The committee noted that large discounts are a common problem on e-commerce, food delivery, and hotel booking sites. Additionally, practices such as "dynamic pricing,"[12] fake sales,[13] and markdowns have deprived actual providers of services of control over final prices as platforms determine discount rates, undermining the ability of offline players to sell and profit. Therefore, the committee recommended that SSDEs should be prohibited from restricting business users in their ability to differentiate commercial terms[14] on platforms and offer the same products or services to end consumers through third-party online intermediation services or their direct online sales channels at different prices and conditions. This recommendation is partially reflected in Article 14, Chapter III of the draft bill, which prohibits restricting business users from directly or indirectly interacting with, promoting their offers to consumers, or directing their end users to their services or third-party services.

7) Exclusive Ties and Parity Clauses. The committee noted that exclusive arrangements by e-commerce platforms[15] not only hinder other platforms' operations but also can cause losses for traditional (offline) sellers. Additionally, the use of price parity clauses[16] by platforms leads to higher prices for consumers. Accordingly, the committee concluded that exclusive ties by large digital platforms could restrict market access, undermine competition, and ultimately lead to

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[8] For example, food delivery apps that mandate restaurants to use only their platform's delivery services, mobile operating systems that require users to use their own search engine, or television networks that generate advertising revenue by offering channel packages to downstream distribution companies.

[9] Transactions where large companies acquire high-value startups without being subject to regulatory scrutiny for the legality of mergers and acquisitions.

[10] The social media has been banned in Russia as extremist.

[11] Meta's activities have been banned in Russia as extremist.

[12] The practice of tracking consumer demand and preference data and raising prices during periods of high demand.

[13] Inflating prices followed by offering sales or discounts.

[14] Including price, elevated commissions, exclusion from listings, and other equivalent conditions.

[15] The committee noteed that an e-commerce platform can enter into an agreement with a brand to permit the exclusive sale of that brand's products on its platform.

[16] Such provisions prohibit a business user from selling at lower prices on any platform other than the one with which they have the agreement.

higher retail prices. Therefore, the committee recommended that SSDEs should be prohibited from preventing business users from offering the same goods or services to end consumers through third-party online intermediaries or their direct online sales channels at different prices and conditions, which would otherwise distort fair market conditions. This recommendation is not reflected in the draft bill, which formulates a broad but unspecified requirement that SSDEs must operate fairly, non-discriminatorily, and transparently toward end users and business users (Article 10, Chapter III).

8) Search and Ranking Preference. The committee noted that users perform keyword searches on any platform and receive results based on algorithms. Therefore, general search results should list products and services without bias, that is, placing the best-selling or highest-rated ones at the top of the search list, rather than prioritizing any sponsored products and services. If search results show that certain products and services are prioritized, this indicates search bias in favour of such sponsored products and services, or those offered by the platform itself. Additionally, the committee noted that choosing quality relevant keywords for advertising campaigns can help advertisers find the right customers at the right time. Therefore, the committee recommended that SSDEs should provide any third party with the opportunity to offer online search engine services on fair, reasonable, and non-discriminatory terms, that any query, click, and view data containing personal data should be anonymized, and that systemically significant digital intermediaries should be prohibited from favouring their own platform's products, services, and activities over those of other business users in an unfair and discriminatory manner. This recommendation is not specifically highlighted in the draft bill.

9) Third-Party Applications. The committee noted that SSDEs, as "gatekeepers," restrict the installation or operation of third-party applications, preventing the use of applications other than their own. Therefore, the committee recommended that SSDEs should be required to allow the installation and use of third-party applications and app stores using their operating systems and should be prohibited from preventing the installation of third-party applications or app stores by default. The respective requirement is provided in Article 13, Chapter III of the draft bill.

10) Advertising Policy. The committee noted that consumer data can be used for cost-effective targeted advertising, leading to increased market concentration at various supply chain levels, self-preferencing practices, and conflicts of interest. Therefore, the committee recommended that SSDEs should be prohibited from processing the personal data of end consumers (using third-party services) to provide online advertising services. Additionally, the committee suggested that new regulations are needed to ensure fairness and transparency in contracts between news publishers and systemically significant digital intermediaries. The draft bill does not include this prohibition, although Article 12, Chapter III prohibits mixing or cross-using end user or business user personal data, or allowing their use by any third party without the consent of the end users or business users.

In summary, the committee's proposals included both direct antimonopoly measures (for example, merger and acquisition requirements) and measures addressing the protection of consumer rights and interests, as well as preventing excessive monopoly power of digital platforms. Not all of the committee's proposals are reflected in the current version of the draft bill. Antimonopoly measures were left out of the project, likely due to the Competition Commission of India's desire to exercise authority over platform behaviour under the updated competition law.

The draft bill empowers the Competition Commission to conduct investigations, mandate behavioural changes for enterprises, and impose fines. The fine for non-compliance with the law's requirements can reach up to 10% of an enterprise's global turnover in the previous financial year. For failing to provide a status report or providing false, incomplete, or misleading information—up to 1% of the global turnover. All proceedings from fines, settlements, and legal costs will be credited to the Consolidated Fund of India.

The draft bill grants broad powers to the central government, including the authority to exempt enterprises from one or more provisions of the act in the interest of national security or public interest, or in accordance with an obligation undertaken by India under any treaty, agreement, or convention with another country. It also empowers the central government to amend the list of services, to establish rules for implementing the act's provisions, and to give directions to the commission and to replace it if necessary.

The proposed ex-ante regulation model for designated large platforms is based on the approach implemented within the EU's Digital Markets Act, although the requirements formulated in the draft bill are milder and their scope is significantly narrower. Preventive multilevel regulation based on size and defining differentiated requirements for digital services provided by different categories of online intermediaries allows for customization that takes account of the business model's specifics and the scale of their operations. This approach ensures that the increase in compliance costs is proportional to the scale of the company's activities and the risks it might incur, thereby increasing the likelihood of compliance.

Conclusion

Responding to active development of digital platforms, the Indian authorities are primarily focusing on ensuring consumer protection and preventing anti-competitive behaviour by digital platforms. In terms of consumer protection, the scope of regulation has been expanded and existing norms fine-tuned to the current context by the Consumer Protection Act (2019), the Consumer Protection (E-Commerce) Rules (2020), and the Digital Personal Data Protection Act (2023).

To protect competition in digital markets, in 2023, amendments were made to the Competition Act of 2000. The Competition Commission established a specialized unit for digital markets and data to monitor law enforcement, conduct research, and coordinate approaches with other regulators. In 2024, the Digital Competition Bill was published, targeting "identifying systemically significant digital enterprises and associated digital enterprises, regulating their practices in providing key digital services according to the principles of competitiveness, fairness, and transparency to promote innovation, competition, and the interests of their service users in India" [Government of India, 2024a]. Thus, the goals and approach to ex-ante regulation of digital platforms declared in India align with general trends of the best regulatory model for large tech companies discussed by governments and antimonopoly authorities worldwide.

Most of the proposed requirements are essentially similar to those established or discussed in jurisdictions such as the EU, the U.S., the UK, and China, although their scope is significantly narrower. A number of recommendations proposed by the Digital Competition Legislation Committee, including those concerning mergers and acquisitions, are not reflected in the current text of the bill. This approach is probably due to the Competition Commission of India's desire to regulate platform behaviour within the framework of the updated competition law. Some experts and industry representatives support this approach.

Experts emphasize that, unlike the EU, the UK, and the U.S., India is a developing economy that is just beginning to reap the benefits of internet development in the form of a growing digital economy and a robust ecosystem of digital startups. Therefore, excessive efforts to introduce ex-ante regulation, even if aligned with the cutting-edge practices, could potentially be counterproductive and might have unforeseen negative consequences. It is noted that the initiative to formulate new platform policies should be guided not only by the need to regulate anti-competitive behaviour of large tech companies but also by considering the benefits citizens gain from using such companies' goods and services and the high costs of excessive regulation on both local and large global tech companies. New regulations could primarily reduce companies' incentives to innovate, to the detriment of consumers. Accordingly, India should wait and take

advantage of studying the side effects and experiences of jurisdictions that have implemented or will soon implement ex-ante regulation.

The Internet and Mobile Association of India (IAMAI) addressed the Digital Competition Legislation Committee with the letter opposing the preventive bill [IAMAI, n.d.]. The association believes that regulation will negatively impact rapidly growing Indian tech companies that dominate their domains (Naukri.com, PolicyBazaar, BookMyShow, Zomato, and Swiggy). The risk of being classified as systemically significant digital enterprises will limit their innovation, investment, growth, and market share. Startups and small companies offering services and products on one platform may lose the opportunity to reduce costs and create innovative products for consumers if they cannot combine services and share data [Mathi, 2023a].

Many Indian platforms (Shaadi.com, Matrimony.com, Paytm, Match Group, ShareChat, Spotify, and TrulyMadly) opposed the association's position, arguing that ex-ante regulation would create better conditions for competition and consumers, and accused the association of representing the interests of large tech companies [Mathi, 2023b].

The ambiguous attitude toward ex-ante regulation of digital platforms is one reason for ongoing discussions. The Digital Competition Legislation Committee has decided to consult with news portal operators, startups, and large tech companies on the proposed legislation [Srivats, 2023]. In March 2024, the Ministry of Corporate Affairs announced the start of public consultations on the committee's report and the Digital Competition Bill. After the discussion (ending on 15 April 2024), the regulator and the Indian government will decide on the need for a separate law on the digital market competition [Government of India, 2024b] and will define and clarify regulatory requirements.

The proposed model, which defines differentiated requirements for digital services provided by various categories of digital enterprises, provides a good foundation for a balanced approach to regulating different participants in the country's dynamically developing digital market. The new ex-ante regulation, considering business model features and activity scales, can be crucial for the growth of India's digital economy by creating conditions to stimulate competition and innovation, curbing anti-competitive practices, and preventing the abuse of dominant positions by large tech companies. Given the cross-border nature of platform activities, India is interested in coordinating policies both bilaterally and multilaterally, including within BRICS, the G20, the SCO, the Group of 7 (G7), the World Trade Organization (WTO), and regional associations [Government of India, n.d.c]. India aims to utilize advanced international experience and influence rules for the global digital markets. It appears that India is likely to support deepening cooperation on the digital economy within BRICS and the SCO, including integration into this agenda the issues of digital platform regulation.

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