



## DRAFT DIGITAL COMPETITION BILL - GS III MAINS

Examine the key provisions and criticisms of India's Digital Competition Bill, 2024, and its significance in addressing anti-competitive practices in the digital market. (15 marks, 250 words)

**News:** *What the draft Digital Competition Bill proposes, why Big Tech opposes it*

### What's in the news?

- Taking a leaf out of the European regulatory handbook, India has proposed a new digital competition law that could stop tech giants like Google, Facebook, and Amazon from self-preferencing their own services, or using data gathered from one company to benefit another group company.

### Key takeaways:

- The draft law, called the Digital Competition Bill, 2024, also has provisions to set presumptive norms to curb anti-competitive practices before they actually take place, and promises to impose heavy penalties, which could amount to billions of dollars for violations.

### Digital Competition Bill:

- The Bill was drafted by a **16-member committee** on digital competition law after a year of deliberation.

### Aim:

- To **prevent anti-competitive practices, ensure transparency**, and curb unfair favoritism in the digital sector.

### Target Group:

- It focuses on regulating “**systemically significant digital enterprises**” (SSDEs), which are large tech firms with major revenue and user base in India.
- SSDEs are identified by having **at least ₹4,000 crore in Indian revenue** and \$30 billion globally.

### Need for Digital Competition Bill (DCB) 2024:

#### 1. Inadequacy of Current Ex-Post Antitrust Framework:

- The current ex-post antitrust framework, under the Competition Act, 2002, reacts to violations after they occur, often too late to protect competition effectively.
- The DCB proposes an ex-ante approach, preventing antitrust violations before they disrupt the market.

#### 2. Addressing Monopolistic Actions:



- Recent fines against big-tech companies like Google for anti-competitive behaviors underscore the need for stringent rules.
- The DCB aims to establish clear regulations to prevent such dominant practices upfront.

### 3. Anti Competitive Practice by Big-tech Companies:

- Big-tech companies have shown a history of engaging in anti-competitive practices.
- In 2023, Google was fined Rs 1.337 crore by the CCI for its anti-competitive conduct in the Android ecosystem.

### 4. Facilitating New Entrants and Innovation:

- The digital market's structure disproportionately benefits big tech, deterring new competitors.
- The DCB seeks to reduce these barriers, encouraging innovation and diversity in the marketplace.

### 5. Ensuring Fair Competition:

- Big tech's dominance often overshadows smaller entities, making competition unfair.
- The DCB focuses on creating equitable conditions that allow smaller companies to compete effectively.

### 6. Promoting Systematic Growth and Fairness:

- The bill aims to guide the digital ecosystem's growth towards fairness and competitive equity, tackling issues like arbitrary pricing and anti-competitive practices.

## Key Provisions of India's Digital Competition Bill, 2024:

### 1. Predictive Regulation:

- Proposes a preventive (ex ante) approach instead of the current post-incident (ex post) regulation.
- Aims to foresee and prevent potential anti-competitive practices before they occur.

### 2. Significant Entities:

- The Bill proposes that for certain “**core digital services**” like search engines, and social media sites.
- The Competition Commission of India (CCI) will designate “Systematically Significant Digital Enterprises” (SSDE), on various quantitative and qualitative parameters.
- Criteria include, in the last 3 financial year, turnover over Rs 4,000 crore in India, global turnover over \$30 billion, gross merchandise value in India over Rs 16,000 crore, or global market capitalization over \$75 billion.
- SSDEs must have at least 1 crore end users or 10,000 business users.

### 3. Prohibited Practices:

- SSDEs cannot engage in **self-preferencing, anti-steering, or restricting third-party applications.**



- Violations can result in fines up to 10% of global turnover.

#### 4. Associate Digital Enterprises (ADEs):

- Entities benefiting from data shared by a major tech group will be designated as ADEs.
- ADEs will have the same obligations as SSDEs.

### Significance of the Bill:

#### 1. Increases Transparency:

- Requires tech companies to be more transparent in their operations and dealings.

#### 2. Protects Innovators and Startups:

- Exempts smaller companies and startups from stringent rules, encouraging innovation.

#### 3. Aligns with Global Standards:

- Follows a similar approach to the EU's Digital Markets Act, showing an effort to align with international regulatory frameworks.

#### 4. Boosts Digital Economy:

- By regulating effectively, it supports the growth of India's digital market, expected to reach \$800 billion by 2030.

### Concerns of the Bill:

#### 1. Compliance Burden:

- Big tech companies argue that the strict regulations could shift focus from innovation to compliance.
- For example, the EU's Digital Markets Act (DMA) has increased the time to find things via Google search by 4,000%.

#### 2. Broad Definitions:

- Companies are concerned about the broad criteria for designating significant platforms.
- Unlike the EU's DMA, India's draft law leaves the decision to the discretion of the Competition Commission of India (CCI).

#### 3. Impact on Smaller Businesses:

- Tech giants claim changes to their platforms and reduced data sharing could negatively affect smaller businesses relying on their services to reach large audiences.

#### 4. Potential Arbitrary Decisions:

- The discretion given to the CCI could lead to arbitrary decision-making, impacting start-ups and smaller businesses.



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The Draft Digital Competition Bill 2024 is a significant step towards fair competition and preventing monopolies in India's digital markets. Despite concerns about compliance burdens and innovation impacts, its aim to level the playing field for new entrants and smaller businesses is crucial. Balanced implementation and stakeholder engagement will be key to promoting sustainable digital growth.



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