



## DRAFT DIGITAL COMPETITION BILL - GOVERNANCE AND GS II MAINS

Q. Why has India proposed the Digital Competition Bill, of 2024? Discuss the potential benefits and challenges of this bill for tech companies in India. (15 marks, 250 words)

**News:** *What is the draft Digital Competition Bill?*

### What's in the news?

- Recently, the Ministry of Corporate Affairs has put out a draft Digital Competition Bill to regulate anti-competitive practices in the digital space.

### Key Provisions from the Draft Digital Competition Bill:

#### 1. Dominant Digital Enterprises:

- It is inspired by the EU's Digital Markets Act.
- The bill focuses only on “dominant” digital enterprises rather than all.
- It identifies ten key digital services such as search engines and social networking platforms.

#### 2. Criteria for Determining Digital Dominance:

- It establishes clear rules for the CCI to determine if digital companies are dominant.
- It considers financial strength through the “significant financial strength” test and market presence in India through the “significant spread” test.

#### 3. Designation of SSDEs:

- The CCI can designate “systemically significant digital enterprises (SSDEs)” even if they don't meet quantitative criteria.

#### 4. Restriction on SSDEs:

- They must operate fairly, non-discriminatively, and transparently with users.
- The draft Bill prohibits SSDEs from self-preferencing, restricting third-party app availability, and blocking user settings changes.
- They cannot use user data from one service to benefit another or unfairly leverage non-public user data.

### Need of the Draft Digital Competition bill:

#### 1. Ensure 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.

#### 2. Prevent Monopoly:

- 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. Inadequate Current 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.

### Reasons for the Opposition to the Bill:

#### 1. Ex-Ante Regulatory Model in India:

- There are doubts about how well an ex-ante regulatory model will work in India, as it seems to be copied from the EU without considering the differences between these regions.

#### 2. Lack of Evidence:

- There's no evidence that this regulatory approach has succeeded in the EU, which raises doubts about its efficacy in India.

#### 3. Impact on Investment:

- It could deter investments in Indian startups. This is because startups may avoid scaling up to avoid crossing quantitative thresholds.

#### 4. Impact on MSMEs:

- Limitations on tying, bundling, and data usage could harm Micro, Small, and Medium Enterprises (MSMEs) that depend on big tech to reduce expenses and reach more customers.

#### 5. Broad Definition:

- Companies are concerned about the broad definition — both quantitative and qualitative — of who a significant platform could be.

#### 6. Arbitrary Decision:

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