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Digital Competition Regulation In India: A Comparative Analysis Of The Digital Competition Bill 2024 And Its Impact On Big Tech Companies And Msmes In India And The European Union

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Abstract: The evolution of business operations in recent years has been significantly impacted by technological and digitalization advancements. A major transition from traditional marketplaces to digital platforms has been made possible by the extensive use of broadband internet and the ongoing advancement of information technology. For companies looking to stay relevant in an increasingly digitalized environment, this shift is now a necessity rather than a choice. Through data-driven marketing tactics, digital marketplaces allow businesses to increase customer interaction, broaden their customer base beyond regional boundaries, and maximise sales performance. Due to digital markets being more convenient, accessible, and efficient, consumers are moving towards them. There is less dependence on conventional brick-and-mortar businesses now that people can explore, compare, and buy goods and services whenever and wherever they want. The Digital Competition Bill, 2024 (DCB), a major regulatory breakthrough in India's digital ecosystem, was evaluated as a result of the revolutionary influence of digitalisation on market structures, which is critically examined in this article.

The DCB is at a turning point in its development, either becoming a separate regulatory body distinct from traditional competition law or developing as a specialized framework within competition law that especially addresses digital platforms. This study's main focus is on how the DCB affects big tech companies that are categorized as Systemically Significant Digital Enterprises (SSDEs) and the responsibilities placed on them. Importantly, this article also looks at the DCB's role in shielding smaller domestic digital firms from the monopolistic activities of huge Indian technology companies, while also defending Indian digital entities from the domination of global tech giants. The study assesses how the DCB seeks to establish fair competition, innovation, and sustainable growth in India's digital economy by examining the effects of these protective measures.

Furthermore, the study examines the regulatory strategies, enforcement, and market impacts of both the European Union's Digital Markets Act (DMA) and India's DCB. By evaluating the disruptions and compliance burdens that significant technology enterprises have experienced under the DMA, this paper attempts to ascertain whether the DCB will probably bring comparable regulatory hurdles and structural changes in India's digital market.

Keywords - Digital competition act, Anti-competitive, Digital market, Ex-ante regulation, Systemically significant digital enterprises.

I. INTRODUCTION

Markets have changed significantly over time due to economic and technological developments. In the past, markets were physical places where business enterprises and consumers dealt face-to-face and were subject to standard legal systems. However, the global economy has changed dramatically since the onset of digitisation. The emergence of digital payment methods, blockchain, artificial intelligence, and the internet has completely changed how companies operate and customers interact with products and services. With programs like Digital India and the quick uptake of the Unified Payments Interface (UPI), India has led this digital revolution. It is now one of the world's largest digital economies. Several benefits have resulted from this change, including increased competitiveness, accessibility, and innovation. However, it has also brought about new problems with data control, market domination, and anti-competitive behaviour, especially in large digital enterprises. The current regulatory framework, which addresses anti-competitive behaviour after it has occurred, was primarily ex-post in nature and was created for conventional market structures under the Competition Act of 2002. Over the past ten years, India has seen an enormous rise in internet usage, fueled by quick developments in digital infrastructure, reasonably priced mobile data, and rising smartphone adoption. The development of the digital ecosystem has been greatly aided by the construction of broadband networks and government programs like Digital India, which have increased internet accessibility for people in both urban and rural areas.

About 250 million people in India used the internet in 2014, most residing in urban areas. However, internet accessibility increased dramatically in 2016 with the launch of reasonably priced 4G services, sparking a digital revolution. With over 600 million internet users by 2019, India entered a period of widespread digital adoption in several industries, including banking, e-commerce, education, and entertainment. As people and companies adjusted to remote employment, online education, and digital payments after COVID-19, the dependence on digital services increased even more. Even traditionally offline industries were pushed toward digitalisation by the epidemic, which served as a stimulus for digital adoption. Therefore, India is expected to become one of the world's biggest and fastest-growing digital markets, with 907 million internet users by the end of 2023.

India's digital economy is expected to grow to a \$1 trillion consumer digital economy by 2030, partly driven by rising internet penetration. In the upcoming years, India's digital transformation is set to redefine economic growth and societal advancement as the Internet becomes a vital instrument for communication, business, and governance. This quick digitisation highlights how powerful digital platforms and large tech companies are becoming in influencing market dynamics, business models, and consumer behaviour. As a result, in this changing digital environment, regulatory frameworks like the Digital Competition Bill of 2024 seek to maintain fair competition, defend smaller enterprises, and protect consumer interests.

On the other hand, network effects, data-driven business models, and platform economies drive digital marketplaces, which function on entirely different principles. The Ministry of Corporate Affairs formed the Committee on Digital Competition Law to recognise the necessity to control digital competition. After lengthy deliberations and research regarding global best practices, the committee unveiled the Draft Digital Competition Bill, 2024 (DCB). The DCB seeks to introduce ex-ante measures, proactively preventing anti-competitive behaviour before it occurs, particularly among large digital platforms with significant market power. Drawing from regulations in the European Union and the United Kingdom, this new framework aims to ensure a level playing field while fostering fair competition in the digital economy.

II. ABUSE OF DOMINANT POSITION IN THE DIGITAL MARKETPLACE

According to Section 4 of the Competition Act 2002, "dominant position" refers to an independent dominance over the market that impacts competitors. Although it is legal to have such a position, it is illegal to abuse it. A market cannot function properly with few participants, leading to a monopoly. Instead, it is meant to provide each other with equal opportunities. As a result, abuse of a dominant position affects competition in the market.

For instance, the Competition Commission of India (CCI) recently fined the US tech giant Google USD 162 million and USD 113 million for their anti-competitive behaviour and misuse of their market dominance in the Android operating system, respectively. The misappropriation was to skew the Play Store's payment

guidelines. The CCI's measures against Google demonstrate how urgently businesses abusing their dominating position in the digital market must face consequences. Such measures were applauded for combating the irrational tactics of tech giants that harm their competitors, rivals, and customers.

The digital marketplace's rapid development has completely changed how companies run, and customers engage with products and services. However, this expansion has also raised worries about the misuse of power by large digital platforms. The ability of a business to act independently of rivals, clients, and eventually consumers is referred to as a dominating position in competition law. Abuse of a dominant position occurs when such superiority is abused to stifle competition, limit market access, or take advantage of customers.

Market power and competition are two significant issues in digital marketplaces. Search engines, social media platforms, and e-commerce marketplaces are just a few examples of internet platforms that have established dominating positions, stifling competition and creativity. Dominant companies, for example, could employ exclusionary tactics to keep smaller rivals from entering the market. The Competition Commission of India (CCI) determined in *Shamsher Kataria v. Honda Sael Cars India Ltd.* that restrictive agreements between dominant companies and foreign suppliers limited independent repairers' access to spare parts, reducing market competition.

Data security and privacy are important issues in digital markets. Large volumes of customer data are gathered and managed by dominant platforms, which raises questions about data misuse, privacy violations, and possible unfair advantages over rivals. By utilising user data, these businesses can improve predictive analytics, target advertising, and personalise services—strategies that might solidify their supremacy. Reduced competition results from the concentration of data in the hands of a limited number of players, which increases entrance hurdles for smaller businesses without comparable access.

Other important issues are algorithmic bias and consumer choice. To give preference to their goods and services over rivals, dominant platforms might influence search rankings and recommendation systems. Smaller firms lose visibility due to this self-preferring behaviour, affecting customer purchasing decisions and lessening market diversity. The Supreme Court declared in the *All India Online Vendors Association v. Flipkart* case that Flipkart did not hold a dominant position in the online retail industry. Nonetheless, there are still worries about how dominating platforms can use preferential treatment to affect competition. Platform fees and restricted procedures are another way that digital marketplaces are abused. Numerous prominent platforms impose circumstances that may disadvantage smaller merchants by charging exorbitant fees to third-party sellers. They occasionally also use anti-steering tactics, prohibiting vendors from pointing customers toward other places to buy. Such limitations strengthen the dominance of established platforms by limiting consumer choice and pricing competition.

The lock-in effect and network externalities worsen concerns over dominance in digital marketplaces. Because of collected data, social ties, and platform dependencies, users frequently find it challenging to move to other platforms. As a result, it becomes difficult for new competitors to successfully compete in a market where established companies enjoy the benefits of network effects. The *Ashish Ahuja v. Snapdeal* case demonstrated how, even though competing online markets provide distinct customer experiences, dominant platforms can influence consumer behaviour through targeted incentives and exclusive agreements.

Furthermore, handling anti-competitive activity in digital marketplaces is challenging due to regulatory obstacles. Legal actions are made more difficult by the ever-changing nature of technology and the global reach of numerous digital giants. Regulatory agencies are taking ex-ante actions more frequently to stop anti-competitive behaviour before it starts. The Digital Markets Act of the European Union serves as the model for the Digital Competition Bill 2024, which intends to proactively regulate big digital companies categorized as Systemically Significant Digital Enterprises (SSDEs) and stop abusive behaviour before it undermines market competition.

III. EX-ANTE REGULATIONS IN THE DIGITAL MARKET

The Draft Digital Competition Bill (DCB) 2024 was introduced in March 2024 after the Committee on Digital Competition Law (CDCL) suggested an ex-ante framework. Ex-ante and ex-post approaches are two general categories of regulation in competition law, each of which has a specific function in stopping anti-competitive behaviour. Ex-ante regulation, which attempts to stop anticompetitive behaviour before it starts, is essential for reducing monopolistic behaviour, especially in digital marketplaces. The Latin phrase "ex-ante," which translates to "before the event," denotes that these rules place particular duties on big businesses or significant players in the market to maintain fair competition. Ex-ante regulation, though proactive, allows regulatory bodies to consider and decide situations individually, mainly when predicting future market trends. This strategy imposes extra responsibilities on organisations with significant competitive advantages, commonly called gatekeepers, in place of a unified regulatory framework for all market participants. One example of how certain powerful digital companies are subject to different regulatory scrutiny than other digital enterprises is Google's dominance in the Android operating system industry. Ex-ante regulation guarantees a balanced approach that promotes competition while addressing possible anti-competitive practices by customising regulatory measures to such entities' unique market power and influence. The proposed Digital Competition Act, which the Indian Parliamentary Panel suggested, is a noteworthy step.

With a focus on anti-competitive practices, this Act is set to implement and enforce ex-ante regulations in digital marketplaces. Ex-post regulation, on the other hand, describes reactive legal actions that deal with anti-competitive behaviour after it has already occurred. With this strategy, regulatory bodies only intervene when a complaint or an inquiry finds that competition laws have been broken. Although both types of regulation are necessary, there is growing support for ex-ante regulation, especially in digital markets where market concentration and quick technical breakthroughs can cause significant competitive distortions before law enforcement can effectively address them. One of its main advantages is the preventive aspect of ex-ante regulation, which lowers the possibility of monopolistic behaviour by big digital companies.

Some platforms serve as gatekeepers in digital markets, limiting access to vital digital services like search engines, app stores, and online marketplaces. If unregulated, big companies may use predatory pricing, unfair data practices, or self-preferencing, which could hinder innovation and restrict smaller competitors' access to the market. Ex-ante laws offer clear standards from the start, lowering uncertainty for both market participants and regulators. This is in contrast to ex-post interventions, which can take years to complete and allow enterprises to alter their activities to avoid penalties strategically. This structured regulatory approach creates a competitive environment that promotes innovation and customer choice by preventing dominant corporations from abusing their market position.

When resolving structural problems in digital markets, where network effects and data-driven advantages make it challenging for new competitors to compete, ex-ante regulation is especially pertinent. Because of economies of scale, data control, and service integration, a few companies frequently control entire industries in the "winner-takes-all" digital economy. Once a company has solidified its market dominance, ex-post legislation might not be enough to bring competition back. Regulators can establish a more equitable playing field supporting long-term market sustainability by proactively addressing potential competition concerns through ex-ante measures like data-sharing, prohibiting exclusive agreements, or enforcing interoperability requirements.

Notwithstanding its benefits, ex-ante regulation must be implemented cautiously to prevent overregulation and undue company compliance difficulties. Critics contend that ex-ante measures, especially in a growing country like India, could hinder economic growth by placing inflexible restrictions on companies if not appropriately designed. The large giants contend that ex-antes have more drawbacks than positives. Recent reports from the Standing Committee on Finance and the Committee on Digital Competition Law (CDCL) have questioned the efficacy of this ex-post paradigm in digital marketplaces. They contend that digital platforms are rapidly expanding and changing. Because of this quick pace, one strong operator may take over

the market before the regulator can take action. The worry is that the harm to competition may already be irreparable when the CCI finishes its probe.

The lack of international agreement on using ex-ante norms for digital markets is one of the primary problems that the ex-ante model in India may impose. Through the Digital Markets Act (DMA), the European Union established ex-ante requirements, although these have drawn harsh criticism. According to experts like Frederic Jenny, the chair of the OECD Competition Committee, such regulations can do more harm than good. According to a paper by the European Centre for International Political Economy, ex-ante norms are not appropriate for rapidly evolving digital marketplaces. This is because laws take time to alter while digital platforms develop quickly. Consequently, the regulations may become antiquated and ineffectual. This issue might be even more severe in India, where legislative reforms are already sluggish. For instance, the criterion for designating dominant digital players will be reviewed only once every three years, according to the proposed Indian Digital Competition Bill. The digital world is changing too quickly for this timeline to keep up with.

On the other hand, ex-post regulation allows authorities to react to actual cases. After observing and comprehending market behavior, the CCI can make a choice based on the most recent information. Additionally, this method enables regulators to modify their logic over time, which is essential in a field that is continuously evolving.

The fact that digital marketplaces are still developing is another argument against ex-ante regulation. Our understanding of these platforms' operations, user interactions, and business models is still growing. Ex-ante laws are predicated on presumptions about the operation of digital ecosystems. However, these presumptions might be inaccurate or lacking. However, by examining actual situations, the ex-post mechanism progressively increases regulators' knowledge. The Standing Committee, for example, recognised eleven categories of anti-competitive behaviour that are prevalent in online marketplaces. However, the CCI has handled most issues through its case-by-case investigations. In a lawsuit against Google, for instance, the CCI determined that it was discriminatory and unfair to require app developers to utilise exclusively the Google Play charging system. By pre-installing its apps on Android phones, Google was discovered to be abusing its position in another instance.

Additionally, the CCI is looking into matters including advertising policies, search rankings, exclusive partnerships, and bundling. These instances demonstrate that the ex-post model may already manage intricate problems about digital competitiveness. Instead of being replaced by a strict set of predetermined rules, it needs additional resources and support.

Ex-ante restrictions also have the potential to prevent consumer-beneficial activities. Occasionally, a practice that initially appears anti-competitive ends up being advantageous. The Prachi Agarwal v. UrbanClap lawsuit accused the platform of preventing market access. However, after reviewing the information, the CCI concluded that the company's activities were not anti-competitive because they were intended to improve the user experience. Similar issues were brought up about WhatsApp Pay in Harshita Chawla v. WhatsApp. Nonetheless, the tribunal determined that there was no competition law breach because consumers had various alternative payment methods and the function was optional. Even though these behaviors weren't detrimental, they might have been halted sooner if ex-ante rules had been in place. This demonstrates how the ex-post model allows for thorough examination and fair assessment, which helps eschew needless limitations and promotes creativity.

However, if ex-ante laws are designed with flexibility and regular review processes, the advantages of guaranteeing a market that is open to innovation and competition greatly exceed the hazards. Ex-ante regulation can successfully maintain competitive markets and avoid monopolistic dominance in the digital economy by combining precise enforcement tools, stakeholder discussions, and flexibility to changing market conditions.

III. DIGITAL MARKETS AND DIFFERENCE FROM TRADITIONAL MARKETS

The digital market refers to the environment where businesses operate through online platforms and digital technologies. It encompasses industries such as e-commerce, cloud computing, digital advertising, and financial technology. With the rapid growth of Information and Communication Technology (ICT), digital markets have expanded across various sectors, including healthcare, finance, transportation, and education. These markets involve millions of participants interacting in real-time, creating an interconnected global economy. The digital market operates differently from traditional markets due to its unique economic structure, which allows firms to scale rapidly and dominate industries in a short period.

One of the fundamental differences between digital and traditional markets is how businesses grow and compete. Traditional markets follow the principle of diminishing returns to scale. As a company expands, its marginal costs increase, eventually reaching an equilibrium where multiple firms can compete effectively. In contrast, digital markets are driven by increasing returns to scale, where firms experience lower marginal costs as they grow. Once a digital product or service is developed, it can serve many users without a significant cost increase. This leads to market concentration, where a few dominant firms control large portions of the industry. In *Ashish Ahuja v. Snapdeal and Others* (2014, para. 16), about the online e-commerce business, the CCI had held that “both offline and online markets differ in terms of discounts and shopping experience and buyers weigh the options available in both markets and decide accordingly”.

Network effects further distinguish digital markets from traditional ones. In conventional markets, firms compete based on price, product quality, and service efficiency. However, in digital markets, the value of a platform increases as more users join it. This phenomenon makes it difficult for new entrants to compete against established platforms. Users prefer services with a large user base because they provide excellent connectivity and utility. Social media platforms and messaging applications are examples of businesses that benefit from network effects. A new competitor cannot easily attract users unless there is a collective shift away from the dominant platform.

The structure of digital markets often leads to monopolistic outcomes. In traditional markets, businesses face competition due to rising costs and limited economies of scale. However, leading firms can leverage their market dominance in digital markets to enter adjacent industries. This is often achieved through bundling services, acquiring emerging competitors, and using large datasets to strengthen their market position. Established digital firms can create entry barriers that prevent smaller competitors from gaining a foothold. This results in reduced market competition and limits innovation. In the case of *All India Online Vendors Associations v. Flipkart India Private Limited* (2018, para. 24), the CCI observed that “there is a difference between an online retail store and traditional as an online retail store is an extension of the overall retail chain and the online marketplace platform.

The regulatory challenges in digital markets are also distinct from those in traditional industries. In conventional markets, regulators can intervene after anti-competitive behaviour is identified. However, digital markets evolve rapidly, often reaching monopolistic structures within a few years. When authorities respond, a dominant player may already control the market. This requires policymakers to implement preventive measures before competition is eliminated. Effective regulation must address issues such as data monopolisation, platform dominance, and large tech companies' acquisition of smaller firms.

IV. SYSTEMICALLY SIGNIFICANT DIGITAL ENTERPRISES

Systemically Significant Digital Enterprises (SSDEs) are a concept introduced in the Draft Digital Competition Bill (DCB), 2024, to regulate major digital platforms dominating the Indian market. According to the Committee's recommendation, the Draft DCB should only regulate businesses that have the capacity to impact the Indian digital market and a "significant presence" in offering Core Digital Services in India. The committee suggests that these businesses be classified as "Systemically Significant Digital Enterprises" (SSDEs). These businesses mainly provide what the Bill refers to as "Core Digital Services," which include, among other things, web browsers, cloud services, online search engines, social media platforms, online intermediation, and digital advertising. If an enterprise passes two tests that demonstrate "significant presence," it is classified as an SSDE: (a) the "significant financial strength" test, which includes quantitative indicators of economic power, such as global market capitalisation, India-specific turnover, and gross merchandise value; and (b) the "significant spread" test, which assesses how present an enterprise has been in the provision of a Core Digital Service in India based on the number of end users and business users. The Draft DCB requires businesses to evaluate their performance in meeting these requirements and submit the results to the CCI. Additionally, the Draft DCB envisions residuary powers for designation in the form of "qualitative" requirements for identifying certain businesses as SSDEs that can impact the market in which they operate significantly but do not match the quantitative thresholds.

The requirements for classifying an entity as a Systemically Significant Digital Enterprise (SSDE) in connection with a Core Digital Service are described in Section 3 of the Draft Digital Competition Bill (DCB), 2024. If a company meets certain financial and user benchmarks over the previous three fiscal years and has a substantial presence in the Indian digital market, it will be classified as an SSDE. Financial thresholds include a minimum yearly turnover of ₹4,000 crore in India, a minimum global turnover of USD 30 billion, a minimum gross merchandise value (GMV) of ₹16,000 crore in India, or a minimum global market capitalization of USD 75 billion. The company must also have 10,000 corporate users or at least one crore (10 million) end customers in India. Even if an organization doesn't provide the necessary information, it can still be classified as an SSDE if it satisfies any of the user or financial requirements. Crucially, the Competition Commission of India (CCI) has the authority to designate an enterprise as an SSDE even if these thresholds are not reached. This is done by taking into account a wider range of factors, including the enterprise's economic power, network effects, entry barriers, user dependency, lock-in effects, and other market dynamics. Additionally, the law stipulates that the Central Government, in cooperation with the CCI, must periodically evaluate these thresholds every three years. In addition, future laws will provide clarification on the definitions of financial measures such as market capitalization, turnover, and GMV, as well as the identification and computation of end users and business users. Notably, in order to provide thorough control, all financial and user metrics will be calculated at the group level if an enterprise is a part of a bigger group.

Certain distinctive features of digital marketplaces make SSDE regulation necessary. Data, a resource that can be gathered, refined, and used to obtain a substantial competitive edge, is more important for success in the digital sphere than in traditional industries. Large companies, also referred to as "Big Tech," like Google, Meta, Apple, Amazon, and Microsoft, exploit enormous volumes of user data to improve engagement, personalize e-services, and produce network effects. According to this phenomena, a service's value rises with the number of users. High entry barriers and market concentration result from these platforms' economies of scale, which enable them to provide services at significantly lower prices than new competitors. The CCI fined Google Rs. 1337.76 crores in the recent case of Umar Javeed v. Google LLC (2022) after concluding that the company was clearly abusing its dominant position in the mobile operating system market by pre-installing Google-based apps on mobile devices at the time of manufacture. Google was penalized Rs 936 crores by the CCI for abusing its dominant position with regard to its Play Store policy in the additional case of XYZ(Confidential) v. Alphabet Ltd. (2022).

Even if a business does not match these requirements, the Competition Commission of India (CCI) can designate it as an SSDE based on qualitative criteria such as market structure, consumer dependency, and operational scale. This adaptability is essential when working with companies that have substantial strategic power but may not seem dominant based only on numbers. A proactive legislative response to the increasing concentration of power in digital markets is the introduction of SSDEs. The CCI can ensure fair competition, consumer choice, innovation, and data privacy in the digital economy by identifying and monitoring these businesses and taking action before anti-competitive behaviours become entrenched. Thanks to this framework, India is already in line with international regulatory trends, since countries like the UK, Japan, Germany, and the European Union have already put equivalent regulations in place or have suggested them for Big Tech.

Ten anti-competitive acts that major tech companies engage in were listed in the Parliamentary Standing Committee's Report on "Anti-Competitive Practices by Big Tech Companies." Numerous complaints from people and other small businesses against these big tech companies led to identifying these practices. Anti-steering clauses, platform neutrality and self-preferencing, adjacency, bundling and tying, data usage (using private information), pricing and deep discounting, exclusive tie-ups, search and ranking preferencing, limiting third-party applications, advertising policies, and acquisitions and mergers are among the practices. Since the Competition (Amendment) Act of 2023 adequately addressed anti-competitive mergers and acquisitions by establishing a deal value threshold for transaction notification to the CCI, the Committee believes this report should cover only the first nine abovementioned ACPs.

I] ANTI-STEERING PROVISIONS-

Dominant digital platforms, such as app stores, apply anti-steering clauses in their contracts or policies to stop business users from pushing customers to other payment methods that are not offered by the platform. These clauses essentially force app publishers and developers to process payments for transactions, including in-app and app purchases, using the platform's own payment processing infrastructure. Apple's App Store and Google's Play Store both have anti-steering rules that restrict developers' ability to tell users about or utilize alternative, possibly more affordable, or more effective payment methods.

In many areas, this behavior has sparked serious competition law problems. For instance, Google's mandate to utilize its own billing system limits app developers' options for the payment processing method that best meets their needs, according to a 2020 *prima facie* ruling issued by the Competition Commission of India. The order stressed that this restriction essentially gives Google control over a significant portion of payment processing inside this market, considering the Google Play Store's dominance in the Android ecosystem, which accounts for almost 90% of all app downloads. This is made worse by Google's commission structure, which charges a 30% fee for the majority of transactions—a rate that many stakeholders find excessive.

Additionally, Apple has come under fire from industry representatives for its restrictions that prohibit developers from contacting users about alternate payment methods outside of the App Store ecosystem. Although it did not initially enforce these rules rigorously, Google eventually declared in 2020 that it intended to make its billing system mandatory worldwide. Developers, particularly in India, fiercely opposed this action. This restriction is still in effect in other jurisdictions and has resulted in the removal of non-compliant apps, despite Google repeatedly delaying its implementation in India.

The main worry is that anti-steering clauses will make it impossible for the app ecosystem to compete for payment services. By requiring exclusive use of their systems, app stores essentially shut out third-party payment providers, even when those options provide better user experiences, more sophisticated features, or less transaction costs. In addition to raising development costs, this limitation denies customers access to potentially better services. These clauses also give the platform an unfair informational edge over other market participants by granting it access to private commercial data about the transactions.

Because anti-steering laws limit market entry and innovation, they thereby misuse dominant market power. These actions restrict the options available to consumers and force developers to incur inevitable expenses. Such clauses are exclusionary from the standpoint of competition law and may distort the market by excluding substitute service providers. Therefore, in order to maintain innovation and fairness in digital marketplaces, industry stakeholders have demanded that anti-steering be formally declared anti-competitive. This demand is both urgent and important.

II) PLATFORM NEUTRALITY/ SELF-PREFERENCING-

The idea that digital platforms should treat all business users and their offers equally, without favoring their own goods or services, is known as platform neutrality. This implies that platforms like Apple's App Store and Google's Play Store shouldn't utilize their platform control to favor their own apps in the context of digital marketplaces like app stores. This approach guarantees equitable competition and equal access to visibility and discoverability for all developers, irrespective of their platform affiliation. Self-preferencing occurs when platform operators favor their own services over those of their rivals due to a lack of platform neutrality.

Self-preferring behavior can take many forms. One of the most well-known is through the platform's search results manipulation. According to leaders of the domestic business, search results have a big influence on how visible apps are. By drawing users' attention and downloads to its own services, a platform operator stifles competition if it gives preference to its own apps in these rankings. It was claimed in the Alphabet Inc. case that Google favored its payment app, Google Pay, by changing ads and search results in the Play Store to guarantee its prominent placement. During initial setup, Android smartphones also have it pre-installed and displayed. Because of the status quo bias created by this positioning, users are more inclined to stick with the default option rather than look for alternatives, regardless of their merits.

In addition, the Competition Commission of India noted in its preliminary findings that this kind of behavior can be seen as utilizing Google's market dominance in the app store to acquire or maintain its position in the UPI payments industry. This goes against the idea of competition on the basis of merit, which states that a product's quality, effectiveness, and inventiveness should determine its success rather than its distribution channel. Platform bias causes third-party developers who might provide better or easier-to-use alternatives to be less visible when a platform skews this process. Amazon India, on the other hand, said that it is unable to engage in self-preferencing since it does not sell on its own marketplace. It asserted that it aligned its success with the success of its sellers by offering services to all sellers at arm's length and without discrimination. This is portrayed as an example of platform neutrality, in which the market serves only as a middleman and does not engage in user competition. Nonetheless, there are still issues with how these claims are actually applied in a number of jurisdictions.

Platform neutrality is necessary for more reasons than just being fair to rivals. Additionally, it impacts overall market efficiency, innovation, and customer choice. Self-preferring by a dominating platform puts up artificial barriers for innovative businesses and new entrants that might not be able to match the platform's own offers' advantages in terms of integration or visibility. Over time, this may result in less innovation and increased costs.

Consequently, a major obstacle to fair competition is the misuse of platform control through self-preferring tactics. The equal playing field that digital marketplaces are meant to offer is distorted by it. It is understandable that regulators and competition authorities require quick and efficient ways to deal with this kind of behavior. Maintaining competitive and dynamic digital ecosystems requires platform neutrality as markets become more digitalized.

III] BUNDLING AND TYING-

These commercial tactics involve combining several goods or services into one package. Bundling, as used in digital markets, is the practice of providing many goods or services at a single price or as a required package. Making the purchase of one product contingent upon the purchase of another is known as tying. These tactics can occasionally increase productivity or user convenience, but they can also have anti-competitive effects, particularly when employed by powerful firms to increase their market share and restrict consumer choice.

The actions of digital companies that require customers to accept ancillary services when utilizing their main platform serve as a clear example of this. For instance, even if alternative logistics partners provide better service or lower pricing, food delivery platforms could insist that businesses only employ their delivery services. This limits the restaurant's flexibility and raises expenses, which are frequently transferred to customers. In a similar vein, mobile operating systems frequently advertise their own services, such as web browsers and search engines, encouraging consumers to choose them by pre-installing them. Competing businesses are marginalized as a result of these methods, which also provide people limited options.

A historical example of bundling with serious competitive repercussions is the Microsoft case from the 1990s. Microsoft made its Office suite more accessible than rival offerings like Lotus SmartSuite by including it with the Windows operating system. Because of this action and Lotus's slow adoption of the new Windows architecture, Microsoft emerged as the industry leader in desktop productivity software. Microsoft was able to use its market dominance in one sector to seize another by linking its well-liked Office suite to Windows, which helped rival products lose ground.

Similar trends may be seen in the Google case, where the Competition Commission of India ordered an investigation of Google's Mobile Application Distribution Agreement (MADA). To access the Play Store, which is necessary for app distribution, manufacturers were required to pre-install the complete Google Mobile Services (GMS) suite under this arrangement. Device manufacturers could not negotiate or select specific Google services because of this requirement, which was viewed as an unfair constraint. According to the CCI, this strategy might equate to using market dominance in the app store to safeguard and increase influence in adjacent markets, such as online search.

Industry representatives have also voiced concerns with app stores combining several services, including app review, billing, and development help, into a single, inseparable package. Due to their inability to negotiate or separate these services, developers—especially smaller ones—are forced to take the full suite. These packaged services frequently have less transparency and hefty commission costs. Because of this, developers cannot find other suppliers or figure out how much each service should cost. This behaviour lowers incentives for innovation and makes it harder for rivals to enter linked markets.

The CCI has noted that pre-installation produces a behavioral bias, even though businesses like as Google contend that their bundling tactics enhance device performance and user experience and that manufacturers are free to pre-install rival programs. Users are less inclined to look at other options once an app is widely accessible. For competing services, this lowers visibility and user acquisition opportunities. Bundling can sometimes increase efficiency, but it becomes anti-competitive when it causes market foreclosure or prevents new competitors from entering the market, according to the CCI Chairperson.

Bundling and tying can greatly affect competition when employed by companies with a lot of market power. Even when there are better or more reasonably priced alternatives, these tactics may restrict the expansion of competitors and lock people into a monopolized ecosystem. Regulatory oversight is crucial to ensure that such actions don't compromise market equity or impede innovation.

IV] DATA USAGE

In the context of digital marketplaces, data utilization refers to the gathering, evaluating, and use of business and consumer data by platforms in order to enhance their offerings, target customers, and stay ahead of the competition. Although data can foster innovation and improve user experiences, competition may face serious obstacles due to big digital corporations' excessive and exclusive ownership over it. Data in these marketplaces serves as both a strategic advantage and a barrier to entrance, allowing a select few companies to solidify their market domination while obstructing the entry of new competitors.

Through constant user interaction, big digital businesses amass enormous volumes of behavioral and personal data. More data is produced as a result of user interaction with these platforms, which makes algorithms more precise and individualized. For instance, food delivery services like Swiggy and Zomato provide personalized options based on information about previous purchases. In addition to improving convenience, this degree of personalization increases the platforms' control over their users, making it more difficult for fresh platforms to draw them in. Existing businesses have a distinct advantage that grows over time thanks to the capacity to use such data to improve services.

Representatives of the industry have noted that the data that digital giants have is the main source of their power. Every new company or user that joins a platform adds to its expanding data pool, which is then utilized to improve services even more. This leads to a vicious cycle in which the larger companies keep getting better and surpassing their smaller rivals. Their ability to manage data enables them to position their services more prominently, boosting downloads and visibility, which feeds back into the loop and produces more data. Due to the unbeatable scale advantages created by this established position, it is challenging for smaller, more creative businesses to enter or grow.

While some businesses, like Apple, claim to collect little data and adhere to privacy rules by design, others, like Meta, contend that data is freely accessible and not monopolized. But according to the Competition Commission of India, Big Tech not only has a lot of data, but it also has the ability to process it using cutting-edge technologies like machine learning and artificial intelligence. Dominant platforms are able to stay well ahead of any rivals thanks to this combination. These companies have a clear advantage due to their size, integration, and analytical capabilities, even if comparable data were available elsewhere.

The Commission also noted that monopolistic results in digital marketplaces can arise from monopolistic control over data. Because of growing network effects, a platform's value increases with the number of users it draws because of the richness of its data. The outcome of this procedure has been referred to as a data-driven feedback loop. It enables top platforms to use privileged data to reach adjacent markets in addition to creating thorough user profiles. A platform that has access to behavioral data in one area, for example, might utilize it in another to improve targeting, influence offerings, and stifle competition.

The fact that data is regarded as a non-price factor that may impact user privacy is a troubling feature of this phenomena. Customers are frequently not charged directly for using a platform, but their data is gathered and used for profit. Concerns about user consent, transparency, and control over personal data are brought up by this approach. Additionally, it creates an imbalance between the dominant platforms and its business customers, who could be forced to work in an ecosystem where a few number of people own the majority of the data advantage.

The way that data is used in digital markets greatly influences the dynamics of competition. The monopolistic control and strategic use of data by dominant organizations can distort markets, impede competition, and jeopardize privacy, even though it enables businesses to develop and personalize services. Therefore, regulatory oversight is crucial to guaranteeing responsible data use and the continued openness, equity, and innovation-friendly nature of digital marketplaces.

V] MERGER AND ACQUISITION

Mergers and acquisitions (m&a) refer to the amalgamation of businesses or assets through various financial transactions. These include acquisitions, when one business acquires another, and mergers, where two businesses unite to create a new company. Businesses frequently employ mergers and acquisitions in the digital economy to increase their capabilities, break into new industries, and acquire cutting-edge technologies. However, these transactions may raise questions about market fairness and competition when they are carried out by powerful technology businesses.

Mergers and acquisitions are evaluated in traditional markets according to the turnover or asset size of the participating companies. However, it is challenging to use traditional criteria to capture the competitive consequences of such partnerships because many digital platforms have little physical infrastructure and little assets. This vacuum has been recognized by the Competition Commission of India, which has pointed out how a number of high-value transactions have escaped inspection. For example, Meta's 2014 acquisition of WhatsApp, which was valued at \$19 billion, did not result in regulatory scrutiny in India since the deal did not satisfy the legal limits for assets and sales.

The Competition Law Review Committee suggested establishing a deal-value threshold to evaluate mergers and acquisitions in digital markets in order to address these issues. A threshold like this would enable the Commission to look at transactions that might not include a lot of money or assets but could nevertheless have a big impact on market dynamics. In order to expedite the resolution of antitrust issues, the Committee also underlined the significance of implementing settlement and commitment procedures like to those in countries such as the European Union.

During a hearing before a Parliamentary Committee, Facebook India supported mergers and acquisitions as an essential component of business development and innovation. The representatives made the case that acquisitions enable bigger companies to integrate fresh ideas and skills into their operations. They asserted that acquisitions are made to improve services and reward entrepreneurial risk rather than to eradicate competition. Although this might be the case in certain situations, the larger trend of big tech firms purchasing smaller competitors before they can develop into significant rivals is what's concerning. The goal of this technique, which is frequently referred to as a "killer acquisition," is to eradicate future competition rather than just integrate.

The head of India's Competition Commission also emphasized how vulnerable digital marketplaces are to these kinds of threats. Many transactions are overlooked by present restrictions because they are asset-light. Innovative start-ups are typically preferred by large digital platforms over building comparable capabilities internally. Although effective in the near term, this build-versus-buy strategy might hurt competition over time by limiting consumer choice and decreasing the diversity of products. Due to the limited exit alternatives outside of the purchase, such acquisitions not only limit the number of possible competitors but also deter smaller businesses from making growth-oriented investments.

Furthermore, whereas mergers can be conglomerate, vertical, or horizontal, the latter is frequently more dangerous in digital markets. Companies that operate in separate but linked domains are involved in conglomerate mergers. A dominating platform may exploit its current user base and data advantages to quickly scale the new service after acquiring a company in a nearby area, stifling competition. This practice significantly hinders others and strengthens the dominant firm's position in the market.

To sum up, mergers and acquisitions are crucial instruments for the advancement of technology and the economy. However, they have the potential to skew market structures and restrict competition when utilized by powerful digital platforms without sufficient regulatory monitoring. Therefore, it is imperative that competition rules be updated to take into account the reality of the digital economy. Adopting a deal-value threshold and having the authority to enforce structural and behavioral remedies will guarantee that these deals are properly examined in order to preserve a competitive and equitable market.

VI] PRICING AND DEEP DISCOUNTING

Pricing and deep discounting are tactics that companies and platforms employ to affect the cost of products or services that are available on the market. Offering substantial discounts on goods and services is one tactic used in the context of digital platforms to draw in more customers and boost revenue. Although this could seem advantageous to customers in the near run, when it is used by market leaders, it can raise significant competition issues. These businesses' strategies have the potential to exclude smaller rivals and skew the supply and demand dynamics.

The lack of transparency surrounding these discounts is one of the main issues raised by the Competition Commission of India. It is challenging for both buyers and sellers to comprehend the true value of a product when practices like dynamic pricing—where prices are changed in real time based on customer demand—and false markdowns—where prices are exaggerated before providing discounts—are used. These strategies undermine the independence of independent companies and reduce competition by taking away the pricing power from service providers and giving the platform complete authority.

A 2019 case between Amazon and Flipkart brought the matter to light. According to the informant, only specific approved retailers, including Omnitech Retail, were eligible for these platforms' steep discounts. It was discovered that during celebratory events like Big Billion Days, Flipkart informed sellers that it would cover a portion of the expenses. Other sellers were at a disadvantage because they were not given this option. Furthermore, it was discovered that certain chosen merchants had strong ties to the platforms; in the case of Amazon, private label brands were exclusively offered for sale through these sellers. Such behavior calls into question the potential of vertical structures that impede competition as well as discriminatory pricing.

Selling goods below the cost of production with the goal of driving out rivals is regarded as predatory pricing and an abuse of dominant position under Section 4 of the Competition Act. When deep discounting is used to push out current competitors from the market rather than only to draw in new ones, it becomes problematic. Their capacity to compete and thrive is hampered by their inability to match the lower costs given on digital platforms, especially for offline shops.

The Competition Commission suggested that e-commerce sites implement clear discounting guidelines in response to these worries. Clear details on how discounts are financed and the effects of participating in discount programs on merchants should be included. The dominance of a small number of powerful companies in online markets, however, nonetheless calls into question the fairness of competition in spite of these suggestions.

The commission that Big Tech platforms charge app developers is another important pricing issue. Businesses like Apple and Google charge up to 30% in fees for in-app purchases and require users to utilize their proprietary billing systems. Even in cases where the platforms do not offer the developers any extra services for these transactions, these fees are nonetheless imposed. App developers—especially small Indian business owners—are taxed by the exorbitant commissions, which they must accept in order to use the platforms to reach customers.

Even though businesses like Google and Apple have implemented small business programs and, in some situations, give reduced commissions, the reality is that many developers still face substantial fees, particularly those who provide digital content. Furthermore, developers' capacity to control expenses and offer customers reasonable prices is hampered by the prohibitions on using third-party payment processors.

The Ministry of Corporate Affairs has admitted that these billing techniques might make developers less competitive and raise their operating costs, particularly in downstream areas like e-books and music. The user experience, choice, and affordability are all impacted if developers raise their membership rates or cut back on their service offerings to offset these expenses.

In summary, price and discounting are valid corporate strategy tools, but when they are abused by powerful digital platforms, it can result in unfair market circumstances. Selectively offering discounts or imposing mandatory commissions without offering comparable value not only hurts smaller competitors but also stifles innovation and undermines customer welfare. To preserve a just and competitive digital economy, regulatory agencies must keep examining such activities.

VII] EXCLUSIVE TIE UPS

Unique partnerships Agreements between an e-commerce platform and a specific brand or seller whereby the brand commits to sell its items only on that platform and not on any other rival marketplace define exclusive tie-ups. Although such agreements could benefit the short-term economic goals of the contractual parties, they create major competition issues, particularly when the relevant platform has a dominant market share. Particularly for smaller businesses and offline stores, exclusive alliances can lead to a closed system that harms rivals and may skew market access for other actors. These deals not only cut the product availability on other platforms but also greatly restrict consumer choice. They can cause a false concentration of sales that helps a chosen few but excludes others from significant market involvement. Related to this is the practice of platform price parity provisions, which mandate that vendors not provide cheaper pricing for the same items on any rival platform or perhaps on their own sites. This basically limits competition on the basis of price, which is a major factor in consumer welfare. Such provisions can cause price inflation and inhibit the development of more efficient or consumer-friendly companies by means of pricing uniformity.

The Competition Commission of India looked at the behaviour of food delivery companies Swiggy and Zomato in Case 16 of 2021. The worry was that exclusive contracts kept new entrants out of the market and competing on reasonable terms. The platform's control over which restaurants are highlighted and promoted reinforced their market dominance and constrained consumer choices. Likewise, in Case 40 of 2019, Flipkart and Amazon were charged with entering into exclusive tie-ups with particular smartphone merchants, where specific brands were released just on their sites. These businesses were further given premium placements, with labels like "Assured Seller" or "Fulfilled", which gave the sense of greater dependability and visibility for chosen partners. Unequal treatment exacerbated the anti-competitive consequences of monopoly. In markets where platforms already have major control over distribution, such behavior can be very harmful. Exclusivity creates a strong barrier for others to enter or stay in the market when it is combined with special treatment and forceful pricing. Exclusive tie-ups, especially those involving powerful platforms and major commercial users, CCI has warned, might block off market access to others. Although the platform and the brand could improve each other's market position, this would be at the expense of general competition and customer welfare. Ultimately, while commercially advantageous to the interested parties, exclusive tie-ups create significant anti-competitive problems. They can cause market opportunity foreclosures, lower the negotiating strength of smaller companies, stifle innovation, and finally raise costs for consumers. Regulatory examination of such policies is vital to guarantee that digital markets stay open, competitive, and favorable to fair involvement for all stakeholders.

VIII] RESTRICTING THIRD PARTY APPLICATIONS

Restricting Third-Party Applications Restricting Third-Party Applications is a major concern in the digital market, particularly in terms of platform gatekeeping. Apple and Google, two dominant actors in the operating system (OS) and app store ecosystems, have implemented stringent regulations that limit third-party program and app distributors' ability to reach users. These restrictions can take many forms, ranging from explicit prohibitions to indirect deterrents, and frequently have the effect of prohibiting market access, generating competition issues. One significant example is the anti-steering rules and platform constraints that prevent users from using services other than those pre-approved or provided by the OS vendor. For example, Apple's iOS environment only allows software distribution via its own software Store, which is pre-installed on every iPhone and iPad. Third-party app shops are specifically barred by Apple's developer agreements. Article

3.2.2(i) of the App Store Review Guidelines forbids developers from designing interfaces that display third-party apps or serve as general-interest app collections. Furthermore, Article 3.3.2 of the Apple Developer Program License Agreement says that programs cannot construct a store or storefront for other code or applications.

In a 2021 case concerning Apple Inc., the Competition Commission of India (CCI) noted these restrictive behaviors. It discovered that such terms effectively seal the app distribution market for iOS, depriving potential app distributors and alternative app store developers any meaningful access. This conduct was determined to be a prima facie violation of Section 4(2)(c) of the Competition Act of 2002, which bans denial of market access. Concerns concerning similar techniques have also been made with Google. While Google enables third-party software installations on Android smartphones, these apps are purportedly flagged as hazardous via system alerts, discouraging users from continue with the installation. In contrast, Apple takes a stricter stance, prohibiting third-party program installations outside of the program Store. These policies, while frequently justified in terms of user safety or platform security, effectively cement the dominant position of these corporate behemoths and limit customer choice.

Industry stakeholders have contended that such behavior by gatekeeper platforms stifles innovation and competition. By controlling both the distribution channel and the rules of app deployment, these platforms serve as both regulators and rivals, putting independent developers and potential newcomers at a considerable disadvantage. The limiting of third-party applications by dominant platform operators such as Apple and Google creates major competitive concerns. These efforts lead to the shutdown of major distribution channels for independent developers and app store competitors. As digital ecosystems grow more integrated into business and communication, ensuring equitable access and preventing abuse of dominance is critical to preserving competitive markets. To address these developing concerns, legislative and regulatory oversight is required, particularly in the areas of transparency, neutrality, and nondiscriminatory access.

IX] SEARCH AND RANKING PREFERENCING

Search and Ranking Preferencing is a growing concern in the digital economy, particularly on platforms that serve as both markets and advertising intermediaries. This issue concerns how products or services are sorted or prioritized in response to user searches, which has a substantial impact on their exposure. One of the principal techniques enabling this preferencing is keyword bidding, in which marketers pay to have their adverts appear when consumers search for specified keywords—including, controversially, trademarked terms. While this system is advertised as a tool for competitive advertising and customer choice, it raises fundamental questions about intellectual property (IP) rights, consumer protection, and fair competition. Industry stakeholders have pointed out that allowing bids on brand names or trademarks without the approval of the IP owners forces legitimate businesses to incur additional advertising costs solely to protect their own brand identification. This is especially problematic in sensitive industries like banking, financial services, and insurance (BFSI), where impersonation or redirection of users can cause financial harm. Fraudsters may take advantage of this paradigm by bidding on well-known trademarks in order to mislead people with fraudulent adverts that appear prominently in search results, typically claiming relevance or popularity. Google India defends its strategy, claiming that keyword bidding encourages customer choice and complies with Indian trademark law. Ads are rated based on various quality factors, including user interaction, relevance, and landing page content, in addition to the bid amount.

Google emphasizes that higher quality advertising can outperform greater bids, highlighting the importance of user behavior and ad quality in determining placement. The company also claims that the pricing mechanism is dynamic and does not always charge advertisers the entire bid amount—only what is necessary to preserve their place in the auction system. Microsoft India, which operates under a similar strategy through its Bing platform, requires marketers to conform with its intellectual property regulations. While the corporation enables keyword bidding, it emphasizes that advertisers must guarantee that their actions do not violate the rights of others. Microsoft also highlighted a distinct hurdle in the form of genericization, in which

brand names become synonymous with entire product categories, such as "Kleenex" for facial tissue, complicating enforcement efforts and blurring the distinction between fair usage and infringement. Despite these arguments, regulatory worries remain. During a meeting in July 2022, the Chairperson of the Competition Commission of India (CCI) stressed the lack of a legal framework requiring openness in search ranks. Due to a lack of algorithmic transparency, platforms can promote sponsored or in-house products above truly popular or relevant options, resulting in search bias. This undermines the integrity of organic search and leads consumers to believe that certain items are more credible or perform better than they actually are. In Case 40 of 2019 concerning Amazon and Flipkart, the CCI determined that preferred product listings, coupled with exclusive partnerships and substantial discounts, may disrupt intra-platform competition. When prominent platforms extend exclusive advantages to certain merchants, it diminishes the capacity of other sellers to compete equitably. Furthermore, as both Amazon and Flipkart utilize analogous techniques, competition between the platforms does not function as a corrective mechanism. The CCI observed that these activities necessitate a thorough inquiry to ascertain the magnitude and nature of the anti-competitive consequences. In conclusion, although keyword bidding and search-based advertising are essential to digital marketing, their unregulated application may result in market distortions. Permitting bidding on branded terms without stringent protections imposes excessive obligations on intellectual property holders and facilitates misleading advertising. The integration of search preferences with exclusive contracts exacerbates the dangers of inequitable competition. Consequently, regulatory action and a legal requirement for algorithmic transparency are crucial to guarantee that digital platforms function in a way that promotes authentic competition and safeguards consumer interests.

X] ADVERTISING POLICIES

The digital advertising landscape is increasingly controlled by Big Tech firms, prompting serious worries over market concentration, self-preferencing, and transparency deficits. These corporations frequently dominate every phase of the ad-tech supply chain—from data acquisition and audience targeting to ad hosting and bidding platforms—affording them an inequitable advantage over rivals and new entrants. Their supremacy establishes monopolistic conditions that can adversely affect both advertising and publishers by constraining options, diminishing transparency, and manipulating price frameworks. Industry representatives asserted that one such significant A major technology corporation possesses a significant dominance in search advertising. Websites must permit their web crawlers to index their material to appear in search results and attract user traffic. This establishes a compelling motivation, if not an obligation, for websites and advertisers to collaborate with the platform, so consolidating its supremacy.

By employing these tactics, the corporation accumulates extensive user data and activity insights, which it may utilize for more accurate and competitive advertising—ultimately establishing significant barriers to entry for other participants in the digital advertising ecosystem. The company's Developer Policy allows advertisements for skill-based contests and tournaments, contingent upon the hosting app having no ownership stake in the promoted service. Although this may appear neutral at first glance, such policies can affect the nature of promoted content and grant the platform authority over advertisement display. Concerns were also expressed about disparities in bargaining power within digital news publication. Stakeholders emphasized international legislative initiatives, like the Australian News Media and Digital Platforms Mandatory Bargaining Code (2021), designed to address power imbalances between news publishers and digital platforms. The Code facilitates collective bargaining and establishes a legislative framework for dispute resolution, including arbitration, to guarantee equitable compensation for the incorporation of news content on digital platforms. It also enables authorities to classify Big Tech companies as monopolies if they are determined to partake in inequitable negotiation methods or anti-competitive conduct. The Ministry of Corporate Affairs acknowledged the rapid expansion of India's digital advertising business. In 2021, India's digital advertising revenue was approximately ₹246 billion, with projections indicating it will nearly double to ₹540 billion by FY 2024. These statistics highlight the transition to digital platforms, as advertisers pursue customers in an ever-growing online economy. In 2020, platforms like as Facebook, Instagram, and LinkedIn

had substantial advertising reach, with 260 million, 80 million, and 62 million members respectively, underscoring their significance for advertisers.

As this transition intensifies, competition regulators have commenced a thorough examination of the internet advertising sector. The utilization of Artificial Intelligence (AI) and Machine Learning (ML) for personalized advertising, although effective, may potentially exacerbate market concentration. Global competition authorities are observing trends of consolidation and vertical integration within the digital advertising supply chain. This vertical integration prompts apprehensions over self-preferencing and conflicts of interest, as dominating platforms may favor their own advertising services over those of third-party competitors. In a 2021 case concerning Alphabet Inc., the Competition Commission of India (CCI) noted that Google, as an essential trading partner for digital news publishers, possesses considerable bargaining leverage regarding audience access and advertising income creation. The case underscored concerns including insufficient openness, information asymmetry, and publishers' incapacity to maximize advertising revenue, indicating possible anti-competitive conduct and market distortion.

The submissions received by the Committee and ensuing investigations indicate an increasing acknowledgment of the necessity to regulate digital advertising markets. The risk of dominant misuse, unfair competition, and exclusionary tactics highlights the need for strong institutions that ensure transparency, accountability, and equitable market access in the swiftly changing digital economy. The proposed Digital Competition Bill imposes penalties of up to 10% of global turnover on large tech firms classified as Systemically Significant Digital Enterprises (SSDEs) for non-compliance, which may include imprisonment for up to three years and fines reaching 25 crore rupees.

V. OBLIGATIONS TO BE FOLLOWED BY SSDE

Chapter III of the Digital Competition framework, “Obligations on Systemically Significant Digital Enterprises and Their Associate Digital Enterprises,” states certain obligations to be followed by the SSDE, which are given under sections 7 to 15 of the chapter.

Upon designation as a Systemically Significant Digital Enterprise (SSDE) by the Competition Commission of India (CCI), an enterprise is required to adhere to the obligations specified in Chapter III. These requirements pertain to the Core Digital Services explicitly delineated in the Commission’s ruling. All Associate Digital Enterprises (entities connected through ownership or control) are similarly obligated to adhere to the same compliance requirements and face equivalent penalties for non-compliance. This guarantees that substantial digital conglomerates cannot circumvent regulation by channeling services through associated organizations. The Commission is authorized to establish distinct conduct standards for each Core Digital Service. These needs may vary depending on the market characteristics, user demographics in India, or other pertinent factors. The CCI may impose different requirements on partner firms depending on the circumstances. The conduct requirements specify the SSDE's obligations and the associated timelines for adherence. Upon compliance with the regulatory framework, an SSDE and its affiliates are deemed to have satisfied their obligations under this chapter. The CCI is permitted to modify the behavior duties in light of practical operating obstacles, including economic viability, fraud deterrence, cybersecurity issues, legal disputes, or intellectual property rights. This clause introduces flexibility and recognizes the actual challenges an organization may encounter in adhering to digital regulations.

To prevent loopholes, SSDEs are prohibited from engaging in any behaviour—whether contractual, commercial, technical, or behavioral—that could undermine the intent of the regulations. They are also barred from discouraging users or business partners from reporting non-compliance, ensuring transparency and accountability in the ecosystem. SSDEs must establish transparent and efficient complaint handling systems, as well as regularly report to the Commission on how they are complying with their obligations. These reports must be submitted in a prescribed format and timeframe, as future regulations outline, ensuring ongoing

oversight. A key obligation is that SSDEs must operate in a fair, non-discriminatory, and transparent manner with both end users and business users. This overarching principle is intended to preserve healthy competition and protect market neutrality.

SSDEs are expressly barred from favoring their own services or products, or those of related or affiliated entities, over third-party offerings on their platforms. This is designed to prevent large platforms from unfairly elevating their own products in rankings or visibility to the detriment of competitors. SSDEs are prohibited from utilizing non-public data (data produced by business users or their clients) to compete with those business users. They are also forbidden from cross-utilizing personal data between services or disclosing it to third parties without consent. Consent for end users must adhere to the Digital Personal Data Protection Act, 2023, while a distinct definition for business user consent will be delineated. Furthermore, users must have the capability to transfer their data effortlessly, hence guaranteeing data portability and user autonomy. Applications SSDEs must not obstruct or restrict customers' capacity to download, install, or utilize third-party programs on their platforms. Users should be permitted to modify default settings in accordance with their preferences. This fosters user autonomy and platform transparency. SSDEs are forbidden from limiting business users in advertising their own or third-party services, or from engaging with end users, unless such limitations are critical to the operation of the Core Digital Service. This inhibits platforms from manipulating user behavior unjustly while preserving essential operational limits. Ultimately, SSDEs are prohibited from coercing or incentivizing users to utilize their other products or services as a prerequisite for accessing a certain Core Digital Service, unless such bundling is considered essential to the performance of that service. The CCI may define what is deemed "integral," so safeguarding market autonomy while maintaining functional consistency.

VI. COMPARISON OF THE DRAFT DIGITAL COMPETITION BILL 2024 AND THE DIGITAL MARKET ACT [DMA] [EU]

The European Union took a major step in addressing the increasing dominance of large tech companies and ensuring fair competition in digital marketplaces via the Digital marketplaces Act (DMA). It primarily targets big IT companies known as "gatekeepers," who manage access to important digital services including operating systems, app stores, social media platforms, and search engines. These gatekeepers frequently serve as a bridge between companies and customers, and they might utilize their powerful positions to promote their own goods or hinder rivals' growth. The DMA offers a legal framework that stops these businesses from participating in anti-competitive activities by formally identifying and regulating them.

The DMA's prohibition of unfair behavior is one of its main strategies for combating the influence of big tech. It forbids the practice of businesses such as Apple or Google favoring their own goods and services over those of rivals on their platforms. It also makes sure that gatekeepers don't impose their own payment methods or prevent companies from advertising their services outside of their ecosystem. By eliminating these tactics, the DMA promotes a more competitive atmosphere and helps level the playing field for smaller businesses.

On the other hand, as of May 2, 2023, the DMA is a regulatory framework that applies to the whole EU. It discusses the negative effects of large digital platforms acting as "gatekeepers" in the digital ecosystem, regulating the exchange of resources and information between themselves and end users. The DMA requires gatekeepers to obtain end-user approval for a variety of operations, provide access to third-party applications, and even change the gatekeeper's default service settings, as stated in its main requirements found in Articles 5, 6, and 7.

Large digital businesses that offer essential services including operating systems, app stores, online search engines, and messenger services are considered gatekeepers under the DMA. Companies having a market value of over \$79 billion, an annual revenue of over \$7.9 billion, and services with 45 million monthly active users in the EU are subject to the regulations. Companies including Apple, Microsoft, Amazon, Google, Meta (owner of Facebook, WhatsApp, and Instagram), and China's ByteDance (owner of TikTok) will all need to

abide by the laws, according to the Financial Times. Look for some of their services, including as Bing and iMessage. Samsung has previously made a strong case against having its web browser on the phone.

The DMA's requirements for data access and interoperability are also very important. In order to make their services work with those of third parties, gatekeepers must make sure that their messaging systems are interoperable with one another. This lessens the "lock-in" effect, which occurs when users are confined to a certain platform or service. Furthermore, the data created by platform interactions—which were previously exclusive to the gatekeepers—must be made available to business users. Innovation and good competition depend on this transparency. The act also emphasizes openness in digital advertising, mandating that gatekeepers furnish information and tools that enable publishers and advertisers to evaluate the efficacy and equity of their advertisements. These responsibilities promote trust and give smaller companies a level playing field in the marketplace. Mandatory reporting and routine audits guarantee that gatekeepers continue to be responsible and adhere to the DMA's rules.

The DMA's harsh penalties for noncompliance are intended to make sure that infractions have serious repercussions. Businesses may be punished up to 10% of their worldwide sales, and subsequent infractions may result in fines of up to 20%. The European Commission may occasionally enforce structural remedies, such dismantling a portion of the company. These effective enforcement instruments guarantee that gatekeepers pay attention to the rules and modify their business plans appropriately. Even though enforcement has recently started, the DMA's initial effects are already being felt. Companies such as Apple, Meta, and Alphabet have been the subject of several investigations due to potential non-compliance, especially with regard to data usage and anti-steering practices. This demonstrates the EU's will to hold digital companies accountable, even though it also reflects opposition from some of them. The DMA has the potential to drastically alter these businesses' operations over time, both in Europe and internationally.

The DMA is a bold and aggressive attempt to limit the unbridled power of large tech firms. By focusing on unfair practices, promoting interoperability, guaranteeing transparency, and enforcing significant fines, the DMA aims to promote a more open, inventive, and competitive digital landscape. The DMA establishes a strong precedent for digital market regulation globally, even though there are still obstacles to overcome and the full impact will not be felt for some time.

Legal Disparities and Possible Solutions

Similar to the DMA's "gatekeeper" designation, the DCB designates specific businesses in the digital ecosystem as "Systematically Significant Digital Enterprises" (or "SSDE") under Section 3, subject to specific bill requirements. In essence, these phrases categorize large-scale platforms according to certain criteria including market influence, worldwide turnover, user count, and similar factors. The specific rules mentioned under Articles 5, 6, and 7 of the DMA are reflected in the responsibilities of such designated platforms as outlined in Chapter III of the DCB. A maximum penalty of 10% of the marked platform's worldwide turnover is imposed by the DCB and the DMA for violating these duties (see DCB Section 28(2) and DMA Article 30(1)). Furthermore, in certain circumstances, both the DCB and the DMA permit exempting the major platforms from these duties. Notwithstanding these parallels, the following distinctions between the two present opportunities for examination and possible fixes:

The Distinction of Rules and Principles

First off, the DCB favors a "broad principles" type of antitrust regulation, while the DMA adopts a rules-based approach that subjects all gatekeepers to uniform and precise requirements (see paragraph 3.37 of the 2024 Report). The DCB's model of principle-based legislation is better on two levels, even though a rules-based approach has some advantages. The principles method drastically lowers compliance costs for businesses, which is a top issue in the digital economy and a significant competing interest to maintain innovation. However, if necessary, ex-post rules can always provide protections against worries about uncertainty impeding antitrust regulation. Furthermore, rules-based regulation is not abolished by the DCB. This can be

seen, for example, in Japan, where principle-based regulation permits corporations to function independently while adhering to the law. Rather, the DCB assigns these issues to particular sector-specific rules (see to paragraph 3.37). Because the regulator tailors them in the least restrictive way, the desire for predictability is not only maintained but additionally secured.

The Vertical and Horizontal Methods

When it comes to placing duties on the SSDEs, the DCB is typically less thorough than the DMA. This is because the DCB permits restrictions to be created vertically, in contrast to the DMA, which applies laterally to all gatekeepers regardless of sectoral or local market conditions. Under Section 2(6), the regulator may specify particular responsibilities according to the market circumstances and industry-specific business models of platforms offering Core Digital Services (or "CDS").

While nations like the United States and the United Kingdom adopt a more pro-innovation stance by permitting more decentralization and decision-making within market sectors, the EU's horizontal regulation approach aligns with its regulatory philosophy, which is based on centralization and is comparable to its upcoming Artificial Intelligence Act. Although there is significant uncertainty, the Indian model permits greater flexibility in this regard.

Ex-ante measures, which are already widely seen as invasive and anti-competitive, must be used extremely carefully. Particularly when there hasn't been a significant shift in the mechanics of the market, decisions shouldn't be made in response to public indignation. A vertical strategy is much better in this regard because it is less susceptible to public reaction or demand. In a situation where sectoral regulators and the Competition Commission of India (the "CCI") have conflicting concurrent jurisdictional powers or merely want to assert exclusive control to prevent legal fragmentation, it can more effectively realize the complementarity principle that the CCI seeks.

Regulatory Flexibility and Exemption Authorities

The DMA adopts a more technocratic stance by releasing designated platforms from their responsibilities. The European Commission (the "EC") may exclude gatekeepers under Article 1(1). These exemptions may be in full or in part, and they may be customized to meet specific requirements outlined in Articles 5 through 7. They will require written justifications from the EC and can only be granted on the basis of public health and security.

On the other hand, the DCB permits the Central Government to give exemptions under Section 38, in addition to vertical exemptions in the corresponding CDS rules to come, even though only the EC has the authority to do so under the DMA and EU competition law. Such exemptions might be granted for a variety of reasons, including the State's sovereign functions. The notion that the vertical exemptions given for each CDS will not be subject to parliamentary checks and balances since they are delegated legislation is even more troubling.

It is also important to remember that Section 54 of the Competition Act allows the Central Government of India to provide exemptions in the ex-post paradigm. Fair access is required since these exemptions are typically given in the public interest, mostly to organizations that are useful. The DCB makes the assumption that platforms in the digital ecosystem must be subject to the same type of exemption authority since they have the same digital "utility" as traditional companies. However, the DCB's focus, which is digital economy businesses, is very different. They are not utilities that require government involvement. Additionally, these digital businesses are frequently criticized for engaging in special interest lobbying and rent-seeking with the government. Therefore, it is excessive to provide the Central Government such powers; instead, CCI's sector-specific exempting powers ought to be adequate.

Units for Ex-Ante Fact Finding

To closely monitor the SSDEs and offer suggestions regarding their designated status, the 2022 Report suggested creating a Digital Markets Unit (or "DMU") within the CCI. The UK's own DMU, which was founded to advise the government and collect data on digital markets, served as the model for this. The CDCL responded to this proposal by pointing out that India has just created a Digital Markets and Data Unit (or "DMDU") under the CCI, negating the need for this kind of request (see paragraph 3.55).

Nonetheless, the DCB handles ex-ante sections of the Competition Act in India, whereas the DMDU was established to enforce ex-post provisions (see paragraph 1.7). The Competition Act and the DCB's legal regimes differ greatly and are not founded on or subject to the same market considerations, so even though the CDCL argued that it can be "strengthened on an urgent basis" to ensure that it is well-equipped by the time the DCB is enacted (see paragraph 3.56), it will not prove to be as effective as a separate specialized unit.

VI. EFFECT OF BIG TECH COMPANIES AND THE DIGITAL COMPETITION BILL 2024 ON MSME

Due to their extensive user bases, network effects, and access to enormous datasets, big tech businesses frequently hold a significant amount of market domination. Small enterprises may face serious difficulties as a result of this domination, especially in digital markets. Similar to how the European Union's Digital Markets Act (DMA) targets "gatekeepers," the Digital Competition Bill, which is being proposed in India, seeks to rectify these inequities by regulating the behavior of big digital companies that operate as "Systemically Significant Digital Enterprises" (SSDEs). Anti-competitive tactics, such self-preferencing, in which platforms favor their own goods or services over those of smaller rivals, are one of the main ways big tech impacts small firms. For example, small businesses may be pushed down in search results when search engines prioritize their own shopping or travel services. This hinders innovation and lowers small enterprises' prominence. By requiring platform neutrality and fair ranking guidelines, the Digital Competition Bill aims to stop this kind of activity and provide smaller competitors an equal opportunity to compete.

Data domination is another problem. In order to improve customer retention, target advertising, and enhance their services, large digital platforms gather, manage, and analyze vast amounts of user data. Small enterprises, on the other hand, are unable to compete on an equal basis since they do not have access to such data. The proposed measure places a strong emphasis on the fair, reasonable, and non-discriminatory (FRAND) requirements for data exchange, particularly with regard to business users who depend on these sizable platforms to reach clients. Whether for visibility, payments, logistics, or communication, small businesses' reliance on large tech platforms can also result in unfair contract conditions and practices like anti-steering, which prevents small firms from telling users about better deals or other platforms. By enacting ex-ante regulation—rules imposed before harm occurs—the Digital Competition Bill aims to eradicate these and stop them from becoming established.

In order to lower barriers to entry, the bill also suggests measures to improve interoperability, which would enable smaller services and apps to interface with major platforms more easily. This would make it easier for small businesses to grow and provide customers creative options. The Digital Competition Bill is a proactive move to level the playing field in India's digital economy. It seeks to promote a more competitive, open, and inclusive digital ecosystem—one in which small firms may prosper without being unjustly harmed by tech giants—by establishing explicit requirements for large tech corporations and giving the Competition Commission of India (CCI) the authority to act quickly.

Digital marketplaces provide unique promotional offers, like exclusive product releases, marketplace-specific discounts, and promotional partnerships, which are essential for helping small businesses succeed in the online retail space. Through these agreements, smaller merchants can take advantage of the marketplace's large user base, robust marketing system, and well-known brand. Such promotions directly result in increased visibility

and income for a large number of small businesses. According to the study, vendors that took part in discount programs reported a startling 25% boost in sales, demonstrating the real benefits these tactics may have on company success. However, limitations included by Clause 15 of the Digital Competition Bill (DCB) may substantially impact Systemically Significant Digital Enterprises' (SSDEs') capacity to provide such promotional agreements. In order to stop SSDEs from influencing customer choice by encouraging the use of goods or services from third parties with whom they have commercial links, this section addresses tying and bundling activities. Although preventing anti-competitive behavior is the goal, it may inadvertently prevent marketplaces from providing promotional advantages that benefit both consumers and sellers.

One major worry is that price-conscious customers may suffer if exclusive partnerships and bundled services are restricted or outright prohibited. Numerous of these agreements, including lowering shipping costs through internal logistics or improving product positioning for special launches, enable companies to cut operating expenses, which ultimately results in reduced prices for customers. Even little price increases can operate as a barrier to access in India, since a significant portion of the population has affordability issues. Eliminating these advantages could unintentionally increase consumer expenses and lessen the allure of online buying, particularly for budget-conscious consumers. The integrated nature of the services offered by digital marketplaces leads to further challenges. Services like centralized grievance redressal, single-window order tracking, and integrated logistics improve the entire experience for both buyers and sellers, even in the absence of clear savings. Such seamless service offerings can be seen as incentives under Clause 15, particularly if they are only offered as part of bundled contracts, which could deter platforms from offering these comprehensive solutions. This might result in a disjointed customer experience, which would be particularly detrimental to small firms that depend significantly on this kind of assistance to function effectively.

The DCB's strategy for promotional offers and bundled services needs to be carefully balanced, even while it seeks to encourage fair competition. The symbiotic relationship between small sellers and digital platforms may be disrupted by overregulation in this area, which might also make operations more difficult and lower customer affordability. Maintaining innovation and inclusion in India's digital economy requires a nuanced regulatory approach that makes a distinction between pro-consumer incentives and anti-competitive bundling.

To improve the user experience on aggregator platforms and digital marketplaces, listing algorithms are essential. To personalize product placements, search results, and content curation, these algorithms examine the interests and actions of each individual user. Users can use the platform more effectively as a result, while companies gain from more precisely focused exposure to prospective clients. These algorithms' automation simplifies processes, increasing the marketplace's responsiveness to customer demands and dynamic nature. Concerns regarding the possible abuse of listing algorithms are, nevertheless, becoming more widespread. The manipulation of these algorithms to favor a platform's own goods or services is one of the main problems, since it may exclude rivals and restrict equitable access to the market. This technique limits consumer choice, inhibits innovation, and lowers visibility for other enterprises. The issue is made worse by the lack of transparency surrounding the operation of these algorithms; companies are frequently kept in the dark about how their products are rated or the reasons for their potential lower visibility, which gives the impression that they are being treated unfairly and biasedly within the digital ecosystem.

Clause 12 of the Digital Competition Bill (DCB), which prohibits Systemically Significant Digital Enterprises (SSDEs) from utilizing business customers' non-public data without their express authorization, aims to allay these worries. Aggregators usually rely on large databases, such as transactional histories, customer reviews, and product-specific information, to optimise and customise results for consumers. This provision creates a substantial regulatory barrier since it would force aggregators to get prior approval from every company before using such data. This limitation may make listing algorithms less successful because aggregators may not have full access to the data needed for more granular personalisation. Incomplete data sets caused by companies refusing to provide consent may make product recommendations and search results less accurate and relevant. Businesses' visibility and sales potential may be indirectly impacted, particularly smaller ones

who depend on algorithm-driven discovery to compete with larger sellers if this leads to a less interesting or effective user experience.

Clause 12 may unintentionally lower the general usefulness of customized listings and the caliber of user interaction on platforms, even while its goal is to safeguard business users' data and stop anti-competitive actions by SSDEs. Finding the ideal balance between safeguarding private company information and preserving the efficiency and equity of the computational systems that power online marketplaces is the difficult part. With a variety of services to help developers and companies build and manage their apps, app stores are essential digital distribution channels for mobile applications. These services include international app distribution, capabilities for monetization, adherence to security guidelines, and performance-tracking statistics. App stores accept payments and charge a commission, usually between 15% and 30%, which helps to facilitate financial transactions for in-app purchases and paid apps. App shops have drawn criticism for a number of controversial practices despite their benefits. The high commission costs, which many developers consider excessive, are one of the main issues. The usage of anti-steering agreements, which prevent app developers from pushing or providing alternate payment methods, is another crucial problem. After looking into these clauses, the Competition Commission of India (CCI) found that, in one instance, forcing developers to use the Google Play Billing System in order to be listed on the Play Store was an unfair imposition that reduced the developers' autonomy and raised their operating expenses.

The EU's Digital Markets Act (DMA) and other international legal constraints forced app shops like Apple to accept third-party payment methods. Apple changed its rules to allow developers to incorporate external payment links, giving consumers and developers more options. However, because app stores now had to share transaction data with other processors, this change raised privacy and data protection issues. In an effort to deter customers from leaving the ecosystem, Apple has replied by displaying pop-up notifications when users choose to use external payment methods, stressing that the company is not liable for those transactions. Clause 15 of the Digital Competition Bill (DCB), which forbids Systemically Significant Digital Enterprises (SSDEs) from linking or bundling their services with other goods or encouraging such arrangements, adds more ramifications. App stores may be forced to unbundle their services, such as separating in-app payment processing from software distribution, if they are classified as SSDEs. Allowing different payment providers could boost customer choice and give developers more freedom, but it could also interfere with the present app stores' streamlined experience. In-house payment systems' integrated features and ease of use, which lower transaction friction for users, could be interpreted as a kind of incentive and thus be prohibited by this paragraph.

As a result, developers may have to interact with several outside vendors for necessary services like payments, which could raise expenses and complicate operations. The transaction process might become more laborious and less straightforward from the user's point of view. As a result, even if the clause attempts to stop anti-competitive behavior, it might inadvertently reduce user satisfaction and developer productivity. A poll of app developers was used to learn more about these possible consequences and gauge their apprehensions around using and paying third parties for essential services that are necessary for the operation of the app and user experience.

The Digital Competition Bill's (DCB) ban on incentives may have a number of indirect and unforeseen repercussions, especially as it lacks a clear definition of what "integral" services are. The possible effect on social media platforms, which would be prohibited from advertising their own integrated services, like online stores or integrated advertising tools, is one noteworthy result. These features have been crucial to social media networks' changing business models, turning them from simple platforms for communication into entire digital ecosystems that facilitate marketing, e-commerce, and consumer interaction.

For instance, Facebook and other platforms have integrated marketplaces that let companies sell goods straight from the site. These integrations simplify the user experience and make it easy for companies, tiny ones, to reach a wider audience. Nevertheless, these platforms may not be able to promote the usage of these features

due to the DCB's prohibition on incentives. If read widely, this provision might forbid platforms from encouraging users to use integrated services or provide incentives for doing so, which would lessen the ease and convenience that these platforms now offer. This issue has already come up in actual court cases, therefore it is not only hypothetical. WhatsApp was accused of linking its messaging service to its payment service, WhatsApp Pay, in the case of Harshita Chawla v. WhatsApp and Facebook. Similarly, the European Union opened an investigation against Meta (previously Facebook) for allegedly linking Facebook Marketplace, its classified advertisements business, to the main Facebook network. These instances demonstrate the growing regulatory worries about the potential for service bundling to impede competition within dominant digital platforms.

DCB clause 15 prohibits Systemically Significant Digital Enterprises (SSDEs) from pressuring or rewarding users or companies to use their other products or those of affiliates or third-party partners. This can require unpackaging social networking functionality like integrated login across services (for example, utilizing a Facebook account to access Facebook Marketplace or Ads Manager). In addition to making the user experience more difficult, this might make the platform less appealing and useful for companies, tiny ones that might benefit from a unified digital interface. Overall, even though Clause 15 aims to prevent anti-competitive behavior and guarantee equitable access, its wide application and ambiguity surrounding important terms like "integral" could unintentionally stifle innovation and upend the ecosystem that supports small businesses' success in the digital economy.

VII. CONCLUSION

A proactive and strong regulatory structure that can handle the particular difficulties presented by Big Tech businesses is necessary due to the quickly changing nature of digital markets. Even if they are crucial, the current competition rules' ex-post enforcement procedures cannot guarantee equitable and contestable digital ecosystems. In light of this, there is increasing international agreement including in India that ex-ante restrictions that target the system expressly are necessary. These specific actions are intended to stop anti-competitive behavior before it damages consumer choice, market dynamics, and innovation beyond repair. India has the opportunity to create the biggest and most inventive digital ecosystem in the world at this pivotal moment. To realise this potential, though, competition in all areas of the digital market needs to be protected. To guarantee a logical and customer-focused regulatory framework, this calls for modernising the current competition law and harmonising it with relevant laws, such as the Consumer Protection Act of 2020 and the e-commerce regulations. Additionally, the worldwide harmonisation of digital regulations would facilitate interoperability with international systems, lessen the burden of compliance on enterprises, and enable Indian companies to compete on a global scale. Implementing these progressive regulatory reforms requires giving the Competition Commission of India the power and resources it needs. In the end, by facilitating the emergence of vibrant new companies in India's digital economy, these policies will uphold fair competition, safeguard consumer interests, and support long-term economic progress. An important regulatory turning point in India's digital economy is the Digital Competition Bill, 2024 (DCB), particularly in its attempt to proactively address the anti-competitive behaviour of big tech companies or Systemically Significant Digital Enterprises (SSDEs). The DCB implements ex-ante regulation, which is modelled after the EU's Digital Markets Act (DMA), with the goal of preventing unfair activities before they happen as opposed to depending only on post-facto enforcement.

The operating characteristics of Big Tech businesses that dominate India's digital landscape, including Google, Apple, Amazon, Meta, Flipkart, and others, would surely change as a result of this change. These businesses might no longer be able to use their interconnected ecosystems to market their goods and services if methods like self-preferring, tying and bundling, anti-steering, and private company data are prohibited. The ban on incentives may have unforeseen repercussions, such as the disentanglement of necessary and previously streamlined services, like payment systems in app stores or retail features within social media platforms, especially if there is no clear definition of "integral" services.

These policies are intended to level the playing field and improve market contestability, even though they may initially appear to limit innovation. Since dominant platforms will no longer be able to utilise their gatekeeping position to marginalise rivals or limit user choice, smaller companies and startups will be in a stronger position to compete fairly. Additionally, the DCB safeguards consumer interests by enforcing fairness and openness, especially in data privacy, which has become a crucial non-price competitive component in the digital economy. In the long run, the DCB wants to create a healthier digital marketplace that promotes innovation, protects user privacy, guarantees fair competition, and supports the long-term expansion of the Indian digital economy, even though Big Tech companies may eventually face less operational flexibility and more compliance requirements.

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