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HOW THE DIGITAL COMPETITION BILL, 2024 COULD RESHAPE INDIA'S DIGITAL GIANTS

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ABSTRACT

The Digital Competition Bill, 2024 represents a significant evolution in India's competition law framework, introducing an ex-ante, forward-looking regulatory regime aimed at curbing the growing market power of digital giants. Unlike the conventional Competition Act, 2002, which was designed for product and price-driven markets, the DCB addresses modern challenges emerging from platform economies, data-driven business models, and algorithmic decision-making. At the core of the Bill is the concept of Systemically Significant Digital Enterprises (SSDEs), subjecting dominant digital platforms to a set of pre-defined obligations to prevent anti-competitive practices such as self-preferencing, data misuse, bundling, and killer acquisitions. Using Tata Neu as a case study, the paper explores how integrated super-app ecosystems may trigger regulatory scrutiny under the Bill, particularly concerning preferential treatment of in-house brands, data sharing across verticals, and market power consolidation. The paper also compares India's DCB with global regulatory approaches like the European Union's Digital Markets Act (DMA), while offering strategic recommendations for businesses to ensure compliance and mitigate regulatory risks. Ultimately, the DCB marks a transformative step in balancing innovation, competition, and consumer welfare in India's rapidly evolving digital economy.

Key words: Digital Competition Bill, Systemically Significant Digital Enterprises, Ex-ante, Digital markets, Big Tech, Anti-competitive

INTRODUCTION

India is no longer satisfied with just responding to the hegemony of Big Tech, it's stepping ahead. The Digital Competition Bill, 2024 (DCB) is an unprecedented step in the direction relying on conventional antitrust enforcement by adopting an ex-ante approach. Instead awaiting the occurrence of anti-competitive harm, the Bill aims to determine and monitor Systemically Significant Digital Enterprises (SSDEs), before they can be disruptive. This law has serious significance for India's digital economy in the future.

This multifaceted conversation revolves around the delicate interplay of innovation, the dynamics of competition, and the safeguarding of consumer well-being. The Ministry of Corporate Affairs has taken the lead, navigating the final stages of deliberation on the new act. This legislative endeavour serves as a direct response to the transformative shifts ushered in by the digital age, aiming to bridge the existing regulatory gap that has granted major technology corporations, commonly known as Big Tech, a significant degree of autonomy within India's lively digital markets.[19]

For large conglomerates such as Tata, which is expanding its digital ecosystem with products

[19] Pariekh Pandey, 'Need for a Separate Digital Competition Law in India: Challenges to Existing Competition Enforcement' (TCCLR, 7 April 2023), Accessed 8 June 2025.

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such as Tata Neu, the Bill is giving rise to both compliance considerations and strategic choice points. Accordingly, global technology titans like Google, Apple, Amazon, and several others have pushed back hard challenging the Bill's extent, reach, and purpose.

WHY A NEW LAW? THE THINKING BEHIND THE BILL

India's existing regulatory framework, outlined in the Competition Act, 2002,[20] was crafted for a different economic era, one shaped by traditional, product and price-centric markets. While it has effectively governed conventional business practices, the rise of the digital economy, characterized by platform-driven ecosystems, algorithmic decision-making, and data-centric business models, has introduced a new set of challenges that the current law is ill-equipped to address.

The increasing dominance of large technology firms has sparked concerns over practices such as self-preferencing, predatory pricing, exclusive bundling, self-steering, and data exploitation. These behaviours not only distort competition but also undermine innovation and consumer choice in digital markets. Recognizing these risks, the proposed DCB marks a significant step forward in aligning India's competition regime with the realities of the digital age.[21]

Momentum for reform intensified following the release of the Parliamentary Standing Committee on Finance's report on "Anti-Competitive Practices by Big Tech." The report strongly advocated for a dedicated regulatory framework to govern digital markets, making a compelling case for proactive, ex-ante measures to curb the market power of dominant digital gatekeepers and to ensure a level playing field for all participants in India's rapidly evolving digital ecosystem.

WHO WILL BE REGULATED? DEFINING SSDES

A Systemically Significant Digital Enterprise (SSDE) is a large digital platform with substantial market share in the provision of certain Core Digital Services in India; accordingly, it will be subject to enhanced regulatory scrutiny as per the proposed DCB.[22]

Accountability as an SSDE may occur in two ways:

1. Automatic Designation (based on objective thresholds):

An enterprise will automatically qualify as an SSDE if the enterprise meets both financial and user-based thresholds, in respect of all three financial years in each of the following:

A. Financial thresholds (any one of the following):

- Indian turnover of ₹4,000 crore or more, OR
- Global turnover of USD 30 billion or more, OR
- Gross merchandise value (GMV) in India of ₹16,000 crore or more, OR
- Global market capitalization or fair value of USD 75 billion or more.[23]

B. User thresholds (any one of the following in India):

- At least 1 crore (10 million) end users, OR
- At least 10,000 business users of the core digital service.[24]

Note: Even if an enterprise does not continue to maintain or provide the requisite data, an enterprise can still be considered an SSDE if it satisfies any one of the financial or user thresholds.

2. Discretionary Designation (Assessment by the Commission):

Even if an enterprise fails to meet the above criteria, the Competition Commission of India (CCI) can designate it an SSDE if it believes, based on all the available information, that the

[20] The Competition Act, 2002.
[21] Banikinkar Pattanayak, 'Competition Regulator Bolstering Tools to Plug Abuse in Digital Markets: Chairperson Ravneet Kaur' The Economic Times (12 October 2023), Accessed 8 June 2025.
[22] Section 3 of the Digital Competition Bill, 2024.
[23] *Ibid.*
[24] *Ibid.*

enterprise has a significant presence in the supply of a core digital service.[25]

Once a company qualifies as an SSDE, it must also disclose its Associate Digital Enterprises (ADEs), other group companies that are also involved in providing the same core digital services in India, the Commission may designate those entities as ADEs, thereby expanding the regulatory coverage across the larger business group.[26]

KEY REQUIREMENTS AND REGULATORY STRUCTURE: SETTING THE GROUND RULES FOR DIGITAL GIANTS

The Bill's core strength lies in its ex-ante framework, which lays out clear obligations before any misconduct occurs. Once a firm is labeled an SSDE, it must comply with a comprehensive set of behavioral and procedural obligations to promote fair competition, open markets, and consumer protection.

1. Behavioral Obligations: Standards for SSDE Conduct-

These are intended to pre-empt practices that typically lead to dominance abuse:

- Ban on Self-Preferencing[27]: SSDEs are not allowed to prioritize their own products or services over those of third parties on their platforms. This directly addresses concerns raised in cases like *Umar Javeed v. Google LLC,*[28] where Google was found to preload its own apps on Android phones, making it harder for rivals to compete. Such behavior limits consumer choice and stifles innovation.
- Restrictions on Exclusive tie-ups: Platforms can't include contract clauses that block businesses or users from directing traffic to their own websites or competitors' platforms. This echoes concerns highlighted in *National Restaurant Assn. of India (NRAI) v. Zomato,*[29] where exclusive partnerships were seen to unfairly restrict restaurant listings on other apps.
- Restrictions on Anti-steering practices[30]: In the case of *XYZ v. Alphabet Inc.,*[31] the CCI, found that Google violated Sections 4(2)(a) and 4(2)(c) of the Competition Act[32] with its anti-steering provisions on app developers. Specifically, by requiring the use of its own billing system in certain instances, and restricting the developer's ability to direct consumers to alternative payment methods, Google imposed unfair conditions. The CCI ordered Google to cease these anti-competitive practices, and permit its developer partners to utilize third-party billing services.
- Ban on restricting third party application[33]: Restricting third-party apps may violate key provisions of the **Competition Act, 2002.** It can amount to **abuse of dominance** under **Section 4(2)(a)**,[34] hinder innovation under section **4(2)(b)**,[35] impose unfair conditions under section **4(2)(c)**,[36] or allow leveraging dominance across markets under section **4(2)(e)**.[37] Refusing to deal with certain apps may breach **section 3(4)(d)**[38] by harming competition. These provisions aim to support innovation, consumer choice, and fair competition in the market. In *Matrimony.com v. Google*,[39] the **CCI** held Google guilty of **search bias** for fixing positions of search results, ruling it anti-competitive and setting a precedent against unfair ranking practices.

[25] *Ibid.*
[26] Section 4 (1) of the Digital Competition Bill, 2024.
[27] Section 11 of the Digital Competition Bill, 2024.
[28] Umar Javeed v. Google LLC, 2019 SCC OnLine CCI 42
[29] National Restaurant Assn. of India v. Zomato Ltd., 2022 SCC OnLine CCI 22
[30] Section 14 of the Digital Competition Bill, 2024.
[31] XYZ v. Alphabet Inc., 2020 SCC OnLine CCI 41
[32] Section 4 (2) (b) and 4 (2) (c) of the Competition Act, 2002.
[33] Section 13 (a) of the Digital Competition Bill, 2024.
[34] Section 4 (2) (a) of the Competition Act, 2002.
[35] *Supra.*
[36] *Supra.*
[37] Section **4(2) (e) of the Competition Act, 2002.**
[38] **Section 3(4)(d) of the Competition Act, 2002.**
[39] Matrimony.com Limited v Google LLC and Ors Case No 07 and 30/2012

- Requirements for Interoperability and Data Portability: SSDEs must enable third-party interoperability and allow users to easily transfer their data elsewhere. This helps avoid "lock-in" effects, where users are stuck on a platform simply because their data can't be moved.
- Transparency in Rankings: Platforms need to reveal how they rank or recommend products and services. This is an effort to combat algorithmic bias and back-end manipulation that usually favors the platform's own interests.[40]

2. Procedural Duties: Compliance and Oversight-

In addition to conduct, SSDEs will face stringent aspects of process:

- Obligatory Notification: Once a firm qualifies as an SSDE, it must notify the CCI within 90 days,[41] providing the CCI opportunity for initial oversight.
- ADE Disclosures: Firms must list all Associate Digital Enterprises in their group that offer digital services. This will prevent a situation where firms attempt to evade regulation by distributing their digital services across multiple corporate entities.
- Merger & Acquisition Notices: Prior to an acquisition even if it falls below the conventional triggering threshold, the firm must notify the CCI, prior to undertaking an acquisition. This is to seek to stop "killer acquisitions," when incumbent firms buy prominent emerging competitors prior to them expanding.
- Severe Penalties for non-compliance: Any non-compliance will be costly to SSDEs as they may be liable to a penalty up to 10% of worldwide turnover, and liable for subsequent daily penalties for continued non-compliance. The individual person liable may also be fined up to ₹1 lakh till for each day till the day of compliance, with a maximum of ₹10 crore, which assures that this regulation is being taken seriously.[42]
- The ADEs shall comply with all the obligations that the SSDE is required to comply with, and non-compliance with such obligations shall be subject to the same penalties that may be imposed on the SSDE.[43]

WHY BIG TECH IS FIGHTING BACK

It comes as no surprise that global tech companies including Google, Meta, Apple, and Amazon have voiced their opposition to the Bill because they have previously been accused of anti-competitive practices.[44] Their concerns are as follows:

- Risk to Innovation: They argue that pre-emptive regulation could stifle innovation in areas such as personalization and bundling that may enhance user experience.
- Redundant Regulation: The presence of existing laws such as India's IT Rules, data protection and Privacy Laws are causes for businesses concerned about regulatory overlap and confusion over which regulations apply.
- Risk to Investment: The potential unpredictability of the legislation and subsequent regulatory burden may deter long-term investment in the digital sector in India.

Despite the backlash, regulators have defended the Bill, largely on the belief that transparency, fairness, and consumer-focused regulation are required to prevent digital markets from becoming dangerously concentrated.

[40] Panikker, Arya, and Chetan Dixit. "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." *International Journal of Creative Research Thoughts (IJCRT) Www.ijcrt.org C825*, vol. 13, no. 4, 2025, pp. 2320–2882, www.ijcrt.org/papers/IJCRT2504339.pdf. Accessed 11 June 2025.
[41] *Supra.*
[42] Section 28 of the Digital Competition Bill, 2024.
[43] Section 7 (2) of the Digital Competition Bill, 2024.
[44] "Google, Amazon, Apple Lobby Group Opposes India's EU-like Antitrust Proposal." *Reuters*, 28 May 2024, www.reuters.com/technology/google-amazon-apple-lobby-group-opposes-indias-eu-like-antitrust-proposal-2024-05-28/., Accessed 9 June 2025.

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INSPIRED BY THE EU: THE DIGITAL MARKETS ACT CONNECTION

India's Bill is clearly inspired by the European Union's Digital Markets Act, 2022 (DMA),[45] which is a legislative framework that aims to regulate online platforms acting as gatekeepers in the digital economy to address unfair practices and promote competition and it is also applicable to gatekeeping platforms through ex-ante obligations. These two frameworks are designed around metrics that include market size and the reach of users.

India's approach to digital competition regulation is uniquely tailored to its domestic context, with a strong emphasis on promoting start-up growth, improving market access, and ensuring economic inclusion. Recognizing the country's distinct digital development trajectory, the draft DCB adapts the core principles of the EU's DMA, but with modifications suited to India's needs.

This adaptation demands a careful balance—between encouraging innovation, addressing India-specific market challenges, and designing locally responsive regulations, all while ensuring effective enforcement through existing institutions. By learning from global frameworks like the DMA and integrating context-specific solutions, India aims to build a regulatory regime that fosters fair competition, protects consumer interests, and nurtures a dynamic digital economy aligned with its unique socio-economic landscape.[46]

TATA GROUP AS A CASE STUDY: HOW INDIAN CONGLOMERATES COULD BE AFFECTED

Tata Neu, the flagship super-app from the Tata Group, is a pioneering example of how Indian conglomerates are leveraging digital platforms to unify diverse services—ranging from groceries (BigBasket), electronics (Croma), healthcare (1mg), fashion, travel, and financial services under a single digital roof.[47] This integrated approach not only enhances customer convenience and loyalty through features like NeuCoins and NeuPass but also positions Tata Neu as a formidable force in India's rapidly evolving digital economy.[48]

The Super-App Model: Opportunities and Concerns-

Super-apps like Tata Neu, inspired by global giants such as WeChat and Grab, aim to become one-stop digital destinations for users, offering everything from shopping and payments to travel bookings and healthcare. For conglomerates, this model unlocks significant synergies, cross-selling opportunities, and data-driven personalization. However, the very scale and integration that make super-apps attractive also raise critical regulatory questions.[49]

Key Regulatory Focus Areas-

As India moves towards a more robust digital regulatory framework, particularly with the impending Digital Competition Bill, regulators are expected to scrutinize super-apps like Tata Neu on several fronts:

1. Preferential Treatment of In-House Brands:
   Regulators will assess whether Tata Neu gives undue preference to Tata Group brands (such as BigBasket, Croma, or 1mg) over independent third-party sellers. Prioritizing in-house offerings could potentially disadvantage external businesses, raising concerns about fair competition.[50]
2. Shared Use of Customer Data:

[45] Digital Markets Act, 2022.
[46] T.K., Dayitha. Charting the Digital Frontier: Decoding India's Path to Digital Competition Law. 28 Mar. 2024, JUS CORPUS LAW JOURNAL, VOL. 4, ISSUE 3. Accessed 11 June 2025.
[47] "Tata Group Launches Super App Tata Neu." *The Times of India*, 7 Apr. 2022, timesofindia.indiatimes.com/business/india-business/tata-group-launches-super-app-tata-neu/articleshow/90713834.cms. Accessed 10 June 2025.
[48] Tandon, Suneera. "Tata Neu Aims to Keep Customers Hooked with NeuPass, NeuCoins." Mint, 2022, www.livemint.com/technology/apps/tata-digital-rolls-out-super-app-neu-11649358252171.html. Accessed 11 June 2025.
[49] Durrani, Majid, and ET BrandEquity. "Super Apps and the Potential Issues in India." *ETBrandEquity.com*, ETBrandEquity, 9 May 2022, brandequity.economictimes.indiatimes.com/blog/super-apps-and-the-potential-issues-in-india/91424722. Accessed 10 June 2025.
[50] *Supra*

The ability of Tata Neu to pool and leverage customer data across its various verticals is both a commercial strength and a regulatory flashpoint. Authorities will examine how user data is collected, shared, and used within the Tata ecosystem, ensuring that such practices do not infringe on privacy norms or create anti-competitive barriers.

3. Bundling and Market Power:
Bundling multiple services like groceries, healthcare, and electronics can incentivize customer loyalty but may also stifle competition if it restricts consumer choice or impedes the growth of independent businesses. Regulators will evaluate whether Tata Neu's bundling practices harm the interests of smaller players or limit market access.

4. Triggering Compliance Through Acquisitions and Partnerships:
Even relatively small acquisitions or strategic partnerships by super-apps could attract regulatory scrutiny under the new Bill.[51] The interconnectedness of services within a super-app means that any expansion organic or inorganic could have far-reaching implications for competition and consumer welfare.

The Imperative for Proactive Digital Compliance-

Given the scale and complexity of super-app ecosystems, larger conglomerates like Tata are under increasing pressure to develop comprehensive digital compliance strategies. This involves:

- Conducting regular audits of data sharing and privacy practices.
- Ensuring transparent algorithms and fair listing of in-house versus third-party products.
- Establishing clear protocols for integrating new acquisitions or partners.
- Engaging proactively with regulators to shape and adapt to evolving digital competition norms.[52]

As the digital landscape matures, the ability of super-apps to balance innovation, consumer convenience, and regulatory compliance will determine their long-term success and societal impact. Tata Neu's journey exemplifies both the promise and the challenges of India's super-app revolution offering valuable lessons for other conglomerates and policymakers alike.

STRATEGIC RECOMMENDATIONS: HOW TO STAY AHEAD

With the impending implementation of India's DCB, diversified digital players and conglomerates operating super-app ecosystems must proactively adapt to the evolving regulatory landscape. The Bill aims to foster fair competition, enhance consumer protection, and curb anti-competitive practices in India's fast-growing digital economy.[53] To navigate these changes effectively, businesses should adopt a comprehensive compliance and strategic framework.

- Conduct Regular Internal Audits:

Businesses should systematically evaluate their platforms and subsidiaries to determine if they meet the criteria of SSDEs under the DCB. This involves assessing market share, user base, and the extent of service integration. Regular internal audits help identify potential regulatory triggers early, enabling timely remediation and risk mitigation.

- Implement Robust Data Segregation Policies:

Given the regulatory focus on data usage across verticals, companies must institute clear policies that segregate data collection, analytics, and monetization functions. This

[51] *Supra*

[52] Pandey, Kamya. "How Would Tata Neu Fare under the Digital Competition Bill?" *MEDIANAMA*, 2 May 2024, www.medianama.com/2024/05/223-thought-exercise-digital-competition-bill-applied-to-tata-neu/. Accessed 10 June 2025, Accessed 9 June 2025.

[53] nmlaw.co.in. "DIGITAL COMPETITION BILL, 2024 REGULATING BIG TECH in the WORLD'S LARGEST DEMOCRACY - NM Law." NM Law - Legal Excellence When It Matters, Mar. 2025, nmlaw.co.in/digital-competition-bill-2024-regulating-big-tech-in-the-worlds-largest-democracy/. Accessed 11 June 2025.

separation reduces conflicts of interest and limits the risk of unfair leveraging of user data across different business lines. Transparent data governance frameworks also build trust with regulators and consumers alike.

- Review and Revise Contracts:

Agreements with vendors, partners, and third-party sellers should be scrutinized for clauses related to exclusivity, preferential ranking, or pricing that could be interpreted as anti-competitive. Revising contracts to ensure fairness and compliance with the DCB's provisions will help avoid regulatory red flags and potential penalties.

- Update Mergers & Acquisitions (M&A) Processes:

The DCB mandates regulatory risk assessments for all acquisitions, including smaller or early-stage deals that might previously have escaped scrutiny. Integrating compliance checks into M&A due diligence processes ensures that strategic expansions do not inadvertently trigger regulatory action.[54] This proactive approach also facilitates smoother approvals and reduces deal execution risks.

- Engage Proactively with Regulators:

Active participation in public consultations and regulatory forums allows businesses to contribute to the shaping of practical and balanced rules. Constructive dialogue with authorities helps clarify compliance expectations, address operational challenges, and influence policy in ways that support innovation while safeguarding competition.[55]

CONCLUSION

The Digital Competition Bill, 2024 marks a significant evolution in India's regulatory framework for digital markets, shifting from reactive antitrust enforcement to a proactive, ex-ante model. By introducing the concept of Systemically Significant Digital Enterprises (SSDEs), the Bill provides clear financial, user-based, and discretionary thresholds to identify dominant platforms, while extending compliance to Associate Digital Enterprises (ADEs) to address group-level market influence. The Bill's targeted obligations prohibiting self-preferencing, exclusive tie-ups, anti-steering, and restrictive data practices etc. directly confront anti-competitive behaviors observed in global Big Tech cases. Its merger pre-notification regime and severe penalties further strengthen regulatory oversight, especially against killer acquisitions that could undermine emerging competition.

Despite concerns raised by global tech firms regarding regulatory overlap, investment uncertainty, and definitional clarity, the Bill reflects a careful balancing of global best practices, such as the EU's Digital Markets Act, with India's unique digital and economic landscape. For Indian conglomerates like Tata, operating integrated super-apps like Tata Neu, the legislation underscores the need for robust compliance, transparent data practices, and proactive regulatory engagement.

As India pioneers this regulatory approach, the Digital Competition Bill offers not only a comprehensive framework for domestic digital governance but also a potential model for other emerging economies confronting similar digital market dynamics.

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- XYZ v. Alphabet Inc., 2020 SCC OnLine CCI 41

[54] *Supra.*
[55] Bhagat, Malini. "India's Digital Competition Bill, 2024 – the Need for Caution." *Touchstone Partners*, 11 Apr. 2024, touchstonepartners.com/indias-digital-competition-bill-2024-the-need-for-caution/., Accessed 10 June 2025.

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