

FAQs on India's Digital Competition Law

1. What is the Digital Competition Act?

The *Digital Competition Act* is a proposed law aimed at regulating large digital enterprises in India to prevent anti-competitive practices and ensure fair competition in digital markets. The law introduces proactive (ex-ante) measures to monitor and control the behavior of dominant digital players, often referred to as *Systemically Significant Digital Enterprises (SSDEs)*.

2. Why does India need a new Digital Competition Law?

India's existing competition law, governed by the *Competition Act, 2002*, is designed to regulate traditional markets and relies on reactive (ex-post) enforcement. However, digital markets are fast-moving and prone to monopolistic behaviors. The *Digital Competition Act* aims to address these unique challenges by enabling authorities to take preventive action against anti-competitive practices before they cause irreparable harm to market competition.

3. What are Systemically Significant Digital Enterprises (SSDEs)?

Systemically Significant Digital Enterprises (SSDEs) are large digital companies that have a substantial presence in India's digital economy. These enterprises, such as e-commerce platforms, social media networks, and digital payment providers, hold significant power in their respective markets. Under the *Digital Competition Act*, SSDEs will be subject to additional regulations to ensure they do not abuse their dominant market position.

4. What kind of digital services will be regulated under the Digital Competition Act?

The law will focus on *Core Digital Services* that are prone to monopolistic practices. These services include, but are not limited to:

- E-commerce platforms
 - Digital payment systems
 - Search engines
 - Social media platforms
 - Digital advertising services
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5. What anti-competitive practices will the Digital Competition Act address?

The act targets a range of anti-competitive behaviors commonly exhibited by large digital enterprises, including:

- Self-preferencing (favoring their own products over competitors)
- Predatory pricing (setting prices too low to eliminate competitors)
- Data misuse (exploiting consumer data for competitive advantage)
- Bundling and tying (forcing customers to buy related services)
- Restricting access to third-party apps

6. How will the Digital Competition Act impact consumers?

The act aims to protect consumers by ensuring fair competition in digital markets. This will lead to better choices, competitive pricing, and enhanced innovation. By curbing monopolistic behaviors, consumers will benefit from more transparent and diverse digital services.

7. How will the law affect small businesses and start-ups?

The *Digital Competition Act* is designed to protect small businesses and start-ups from being overshadowed by large digital enterprises. By preventing anti-competitive practices like predatory pricing and self-preferencing, the law ensures a level playing field, enabling smaller companies to compete fairly in the digital marketplace.

8. Will the Digital Competition Act stifle innovation in India's digital sector?

No, the act is designed to balance regulation with innovation. While it imposes additional obligations on large digital enterprises, it also includes provisions for exemptions to avoid overburdening smaller firms. This approach ensures that innovation continues to thrive, particularly among start-ups and smaller enterprises, while preventing unfair market dominance by large players.

9. What are the penalties for non-compliance under the Digital Competition Act?

Non-compliance with the act's regulations can lead to substantial penalties, including fines of up to 10% of a company's global turnover. The law also allows for other remedies, such as ordering the separation of business units within a company if necessary to prevent conflicts of interest.

10. How will the law be enforced?

The *Competition Commission of India (CCI)* will be responsible for enforcing the *Digital Competition Act*. To strengthen its capabilities, a dedicated *Digital Markets Unit* will be created within the CCI, composed of experts in digital markets and technology. This unit will monitor the conduct of large digital enterprises and ensure compliance with the law. Additionally, a specialized bench within the *National Company Law Appellate Tribunal* will handle disputes related to digital markets.

11. How does the Digital Competition Act compare with international regulations?

The act draws inspiration from global digital competition laws, including the European Union's *Digital Markets Act (DMA)* and the United Kingdom's *Digital Markets, Competition and Consumers Bill*. By aligning with international best practices, India ensures that its regulatory framework remains competitive on a global scale while addressing the unique challenges of its domestic digital economy.

12. When will the Digital Competition Act come into effect?

As of now, the *Digital Competition Act* is still a proposal based on the recommendations of the *Committee on Digital Competition Law*. The Ministry of Corporate Affairs will need to draft and pass the legislation through India's Parliament before it comes into effect. This process is expected to take some time, but the framework has been clearly outlined.

13. What role will data protection play under the Digital Competition Act?

The act recognizes the critical role data plays in digital markets, especially in terms of competition. While the *Digital Personal Data Protection Act (DPDP Act)* handles personal data protection, the *Digital Competition Act* focuses on preventing the misuse of data by large enterprises for anti-competitive purposes, such as targeting ads unfairly or using data to block competitors.

14. How will the act ensure transparency in digital services?

The *Digital Competition Act* mandates that large digital enterprises provide clear information about their ranking algorithms, search results, and pricing policies. This ensures that consumers and smaller businesses understand how digital platforms operate, promoting transparency and fair competition.
