



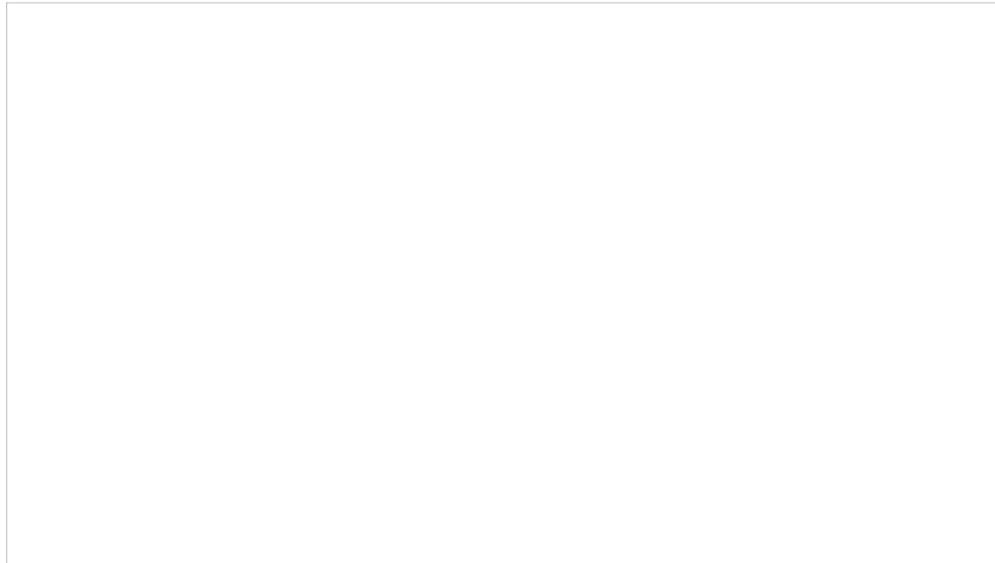
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How To Regulate The Digital Economy

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(The editorial is based on the article “How To Regulate The Digital Economy” which appears in BusinessLine for 27th November 2018.)

Light touch regulation or in some cases zero regulation, has largely been the mantra of the global tech industry from the start and many rightfully credit it for the pace of growth and innovation the industry has seen.



Technology symbolizes innovation, growth, and markets while regulation places limits on growth and symbolizes bureaucracy. Technology and regulation are often posed as adversaries. However, the regulation itself is a technology.

What is a Digital Economy

The “**digital economy**” is a term for all of those economic processes, transactions, interactions, and activities that are based on digital technologies. The digital economy is different from the internet economy in that the internet economy is based on internet connectivity, whereas the digital economy is more broadly based on any of the many digital tools used in today's economic world.

Advantages of a Digital Economy

- **Removal of Black Economy:** When transactions are made digitally, they can be monitored. By restricting cash-based transactions and using only digital payments, the government can efficiently expel the black economy.
- **Increase in Revenues:** Since each transaction is recorded, customers will get a bill for their purchase, and the merchants are bound to pay sales tax to the government. This, in turn, increases the revenue of the government – thus resulting in the growth of the overall financial status of the country.
- **Empowerment to People:** One of the biggest advantages of moving towards a digital economy is that it empowers citizens. One example of that would be the LPG subsidy that the government gives to the common people. This subsidy payment is done via bank transfers only.
- **Paves the way to e-governance:** The quicker, safer, and more efficient alternative to traditional governance, e-governance will be the ultimate outcome of the digital economy. Digital economy will definitely pave a way to e-governance, where delivery of all government services would be done electronically.
- **Creation of new jobs:** The digital economy has a lot of potentials to enhance job opportunities in new markets as well as increasing employment opportunities in some of the existing occupations in the government. This way, the unemployment rate in the country is bound to decrease.

Why Regulation is Needed?

- **“Free” services, almost the sine qua non of the digital world, aren’t really so. Firms earn money by using the personal data collected to ensure targeted advertising, cross-selling other products/services.** Personalization is based on data. Notwithstanding the compelling advantages, unless suitably regulated, the consumer will be severely disadvantaged.
- Though digital operations benefit consumers by increasing competition and innovation. To protect users from frauds and scams regulations are vital.
- To control the growth of the dark web and to check the spread of rumour (eg. fake news) which lead to social disturbances, digital economy regulations are necessary.

- In particular, the exponential growth of online applications in two areas—short-term property rentals and ride sharing—have led to calls for greater scrutiny and regulation. The growth of these services has been met with concerns in a number of jurisdictions about passenger safety as well as labor standards for drivers.

Current Regulatory Framework

- The Information Technology Act, 2000 (IT Act, 2000) and Information Technology (Intermediaries Guidelines) Rules, 2011 (Rules) govern all Information Technology intermediaries.
- Section 79 of the IT Act provides that an intermediary is not liable for any third-party content hosted/made available through such intermediary when:
 - The contravention is done without its knowledge, or
 - The intermediary observes due diligence and abides by other guidelines prescribed by the Government.

Way Forward

- **The internet is fragmented, which has resulted in a differentiated approach to policy-making.** The Indian draft law on data localization is a glaring example. Instead of focussing on strengthening the mechanisms to improve data access for law enforcement, it has suggested that all data should have a copy in India (which is not a good solution to the problem and almost impractical).
- Regulation must, therefore, be technology agnostic — meaning it must be effective, irrespective of the underlying technology. **Our regulatory systems, therefore, need to be equipped to understand the evolving risks and guide firms to place appropriate safeguards.**
- While addressing **price elasticity*** and curbing ill-effects of monopolies, regulators will have to ensure that they don't reinvent the wheel. **At any cost, the government/regulatory body must resist getting into the business themselves.**
- The increasing pace and scope of innovation and other geopolitical dynamics like globalization may restrict the government's scope for regulation. To overcome this restriction while providing sufficient legroom for innovations, what can be done is enforce some sort of **'technology sandboxing*'** (sandboxes are very common in computing and regulatory sandboxes* common in the financial sector). Moreover, global institutions like the UNCTAD are at the forefront, discussing ways to protect/regulate data globally, and India should heed to and recommend its own, recommendations on such global forums.

- While there is increasing consensus that there is a real need for more regulation, there is also increasing concern about the ‘how’. Regulations should create a competitive environment and also not be apprehensive of incumbents failing (as more startups in this sector fail than succeed).
- There is a need for co-creation and co-ownership of a digital world where innovation and security co-exist. This would require not just industry and regulators/government to meaningfully co-operate but also the regulators and government bodies to harmonize their regulatory approaches so that they see the “big picture” together.
- ***Price elasticity of demand** is a measure of the change in the quantity demanded or purchased of a product in relation to its price change.
- ***Sandboxing** : (in computing) an isolated environment in which a program can be run or tested, for example to prevent accidental damage to other parts of the system; A regulatory sandbox is a framework set up by a regulator that allows FinTech startups (Financial Technology) and other innovators to conduct live experiments in a controlled environment under a regulator's supervision.

Learn More: UNCTAD-Data protection regulations and international data flows: Implications for trade and development

Examples where debates on digital economy matter:

- **Example 1:** If a product bought on a platform malfunction and causes harm, then to what extent is the platform liable? Consider these anomalies. A self-driven car crashes. On who do we pin primary responsibility? Manufacturer? Software developer? The owner or, the occupant?
- **Example 2:** A 3D printed furniture collapses! Who’s to take responsibility — the store, the designer, or the printer manufacturer? Again, Ola/ Uber/Lyfts of the world are forever fighting cases where their drivers have caused harm. Apportioning liability appropriately is increasingly becoming a grey area.