



Countering Monopolisation of Big Tech

This article is based on [“Big Tech and the need in India for ex-ante regulation”](#) which was published in The Hindu on 13/12/2022. It talks about the Market dominance by Big Tech in India and related issues.

For Prelims: Competition Commission of India (CCI), Big Tech, Fintech, Competition Act, 2002, Sensitive data, Start-ups, Micro, Small and Medium Enterprises, European Union Digital Services Act, Open Network for Digital Commerce (ONDC) platform, Consumer Protection (E-Commerce) Rules 2020.

For Mains: Role of Big Tech in Transforming India’s Digital Space, India’s Current Approach to Regulate Big Tech, Challenges Associated with Big Tech Firms in India, Competition Amendment Bill, 2022.

The Indian antitrust body, the [Competition Commission of India \(CCI\)](#)’s move to impose a **penalty of ₹1,337.76 crore on Google** for abusing its dominant position in the android mobile device ecosystem, has forced us to **rethink the market power of Big Tech companies**.

Big Tech companies are **celebrated for their innovative products** and services which bring tremendous benefits to **consumers, businesses, and governments**. But they are also **criticised for market monopolisation** and undermining democratic processes.

Therefore it’s high time for India to **update its competition law** and make amendments to ensure a **free, fair, and justified competitive market**.

What is Big Tech?

- The term ‘**Big Tech**’ is used to refer to a **handful of large**, globally significant technology companies, such as **Google, Facebook, Amazon, Apple and Microsoft**.
- Big Tech is better **understood as a concept, rather than a static set of companies**. New companies may enter this category just as existing ones may drop out of it.

How Big Techs are Transforming India’s Digital Space?

- **Revenue Source:** They play a prominent role in the [fintech market](#), an **attractive revenue source** particularly because of **low per user ad revenues** in India.
- **Overcoming Literacy Barriers:** **Voice-based and regional language interfaces** are offered by Big Tech companies to reach new users and **overcome literacy barriers**.
- **Bridging Infrastructural and Employment Gaps:** New business verticals that **bridge existing infrastructural and employment gaps** by providing warehousing, delivery facilities and job opportunities are helping **India to serve Indian markets better**.
- **Social and Political Progress:** Most Indian internet users rely on one or more **Big Tech platforms** to access **information, communicate, and participate** in political and social life.
 - This is also **democratising the exercise of the constitutional right of free speech**.

What is India's Current Approach to Regulate Big Tech?

- In India, antitrust issues are governed by the [Competition Act, 2002](#), and the Competition Commission of India **checks upon monopolistic practices**.
 - For instance, the **Competition Commission of India** has **recently raised concerns over Google's commercial flight search option**, making it a dominant position in the online search market.
 - Google was also found guilty in 2019 of **misusing its dominant position in the mobile Android market** to impose unfair conditions on device manufacturers.
- In addition, the government has proposed amendments to the competition law in the [Competition Amendment Bill, 2022](#).

What are the Challenges Associated with Big Tech Firms in India?

- **Unrestricted Flow of Sensitive Data:** While the **data economy has evolved**, we have not dealt with its **regulation as effectively**. There is [sensitive data](#) stored on these platforms (financial records, phone location, and medical history).
 - Big corporations have asserted ownership of the right to use or transfer this data **without restriction**.
- **Monopolising Internet:** Tech giants acquire competitors to gain monopolies in **different spheres of business instead of earning consumers' loyalty**. They lock in consumers into their ecosystem and make them bound to use their platforms.
 - It is also possible for them to **swing elections** and **change the political mood of a nation** with their combined power.
- **Regulatory Vacuum:** As Big Tech firms innovate rapidly, the **regulators are only able to react, not prepare**. These platforms maintain that they are **only intermediaries** and therefore **cannot be held responsible for the content they generate**.
- **Discretionary Pricing:** In the **non-digital arena, price determination happens through market forces**. However, in the digital space, **rules are largely dictated by the large platforms**. Consumers are themselves products on these platforms.
 - Concepts like **network effects and winner-takes-all coupled with gatekeeping by Big Tech firms** exacerbate the problem.

What Should be the Way Forward?

- **Regulating Digital Marketplace:** With India now on the cusp of a [digital transformation](#), it is essential that the country has a level-playing field to ensure a fair opportunity for **new-age start-ups and Micro, Small and Medium Enterprises**.
 - The **Competition Act of 2000** was largely constituted to deal with the physical marketplace. There is an urgent need to **contextualise the law to the digital marketplace**.
 - The EU has already noted this need through the [European Union Digital Services Act](#). It is time that **similar legislation is adopted in India**.
- **Price Monitoring:** **Pricing plays a fundamental role in defining the position of any digital platform** in the marketplace. It is essential to establish an **ex-ante framework** for pricing to **ensure a level playing field for local sellers**.
 - The Government's [Open Network for Digital Commerce \(ONDC\) platform](#) is a reliable option for these small players.
- **Ensuring Neutrality, Interoperability and Accountability:** Platform Neutrality should be made a mandatory norm so that **Big Tech platforms cannot unfairly discriminate against other businesses** using their platform.
 - **Interoperability**, to enable consumer choice and reduce the weight of AI based algorithms.
 - **Algorithmic Accountability**, to identify, assess and penalise harmful algorithmic amplification.
- **Providing Cushion to Consumers:** For consumers, there is a need to establish harmony of

the **Competition law with the new [Consumer Protection \(E-Commerce\) Rules, 2020](#)**.

- There is a need to devise a mechanism to ensure **fair compensation for consumers who face the brunt of the anti-competitive practices** of the Big Techs.
- **Data Privacy and Security:** Governments around the globe have implemented **stringent laws to protect users' right to privacy** by requiring tech companies to adhere to certain basic and essential measures for **[data security and privacy](#)**.
 - In this context, the **dedicated data protection norms should be devised for all digital market players** that will also monitor cross border flow to ensure that transfer of data outside India **does not inhibit domestic innovation, law enforcement or other services**.

Drishti Mains Question

“Big Tech firms have revolutionised India’s digital space but also monopolised the digital marketplace”.
Comment.

UPSC Civil Services Examination, Previous Year Question (PYQ)

Prelims

Q. With reference to ‘consumers’ rights/privileges under the provisions of law in India, which of the following statements is/are correct? (2012)

1. Consumers are empowered to take samples for food testing.
2. When a consumer files a complaint in any consumer forum, no fee is required to be paid.
3. In case of death of consumer, his/her legal heir can file a complaint in the consumer forum on his/her behalf.

Select the correct answer using the codes given below:

- (a)** 1 only
- (b)** 2 and 3 only
- (c)** 1 and 3 only
- (d)** 1, 2 and 3

Ans: (c)