



Regulating Big-Techs: India & Abroad

This editorial is based on [“Taking on Big-Tech”](#) which was published in Indian Express on 29/03/2024. The article discusses the long-awaited shift in the US approach to antitrust enforcement against Big Techs, a move that mirrors actions taken by the EU for some time. This change is noteworthy globally, including in India, as it signals the removal of the protective shield previously afforded to these companies by their home country.

For Prelims: [Competition Commission of India \(CCI\)](#), [Big Tech](#), [Fintech](#), [Competition Act, 2002](#), [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 conflict between a major technology giant like Google and numerous Indian firms began years ago when app developers lodged a complaint with the [Competition Commission of India \(CCI\)](#). The complaint alleged that Google was abusing its dominant position in the Android and Play Store ecosystem. Specifically, the search engine was accused of pressuring app developers to use Google's proprietary billing system or face a fee if they opted for a competitor's service.

The situation continues to unfold, with the CCI directing its Director General to conduct an investigation and submit a report within 60 days. It is possible that the outcome, as anticipated by the CCI, will find Google's actions in violation of the Competition Act, 2002.

What are the Different Aspects Related to Big-Tech Firms?

- **About:**

BIG TECH'S INDIA PRESENCE

Amazon

JUNE 2016

India's first AWS region, sixth in Asia, launched in Mumbai

NOVEMBER 2022

Country's second AWS region launched in Hyderabad

Alphabet

NOVEMBER 2017

Google Cloud's first India cloud centre opened in Mumbai

JULY 2021

Second data centre cluster opened in the National Capital Region of Delhi

Microsoft

SEPTEMBER 2015

Three data centres opened in India in Mumbai, Pune and Chennai

2025: Fourth centre, its largest, to be operational in Hyderabad

(Facebook has a data region in Singapore, but none in India)



- Big Tech refers to the largest and most influential technology companies globally. These companies wield significant power and influence in various sectors due to their massive market capitalization, innovative products and services, and widespread user base.
- Some of the prominent examples are Google, Facebook, Amazon, Apple, etc.
- **Market Dominance and Influence:**
 - Big Tech companies typically dominate their respective markets, often holding monopolistic or oligopolistic positions. They exert considerable influence over industry trends, consumer behavior, and even public policy.
 - **Amazon:** Dominates e-commerce and cloud computing with its Amazon.com platform and Amazon Web Services (AWS).
 - **Google (Alphabet):** Controls the majority of online search traffic and digital advertising revenue through its search engine and subsidiary companies like YouTube and Google Ads.
 - **Facebook (Meta):** Leads the social media landscape with platforms such as Facebook, Instagram, and WhatsApp, shaping online communication and content consumption.
- **Technological Innovation:**
 - Big Tech companies are known for their continuous innovation, driving advancements in various fields such as artificial intelligence, cloud computing, and digital entertainment.
 - **Apple:** Renowned for its groundbreaking products like the iPhone, iPad, and MacBook, as well as services like Apple Music and iCloud.
 - **Microsoft:** Innovates across software, hardware, and cloud services with products such as Windows operating system, Office suite, Xbox gaming consoles, and Azure cloud platform.
 - **Tesla:** Disrupts the automotive industry with electric vehicles, renewable energy solutions, and autonomous driving technology.
- **Data Collection and Privacy Concerns:**
 - Big Tech companies gather vast amounts of user data through their platforms and services, raising concerns about privacy, surveillance, and data security.
 - **Google:** Collects user data through search queries, email communications, location tracking, and browsing history, fueling targeted advertising and personalized services.
 - **Facebook (Meta):** Faces scrutiny over its data collection practices, including the Cambridge Analytica scandal, which involved the unauthorized harvesting of millions of Facebook users' data for political profiling.
 - **Amazon:** Analyzes customer shopping habits and preferences to optimize product recommendations, pricing strategies, and supply chain management.
- **Regulatory Scrutiny and Antitrust Concerns:**
 - Big Tech companies often face regulatory scrutiny and antitrust investigations due to their market dominance, alleged anti-competitive behavior, and potential violations of consumer rights.
 - **Google:** Under investigation by government agencies and regulatory bodies worldwide for alleged monopolistic practices, unfair competition, and antitrust violations related to its search engine, advertising business, and Android ecosystem.
 - **Facebook (Meta):** Faces antitrust lawsuits and regulatory probes over its acquisitions of potential competitors like Instagram and WhatsApp, as well as concerns about its control over digital advertising and social networking markets.
 - **Amazon:** Subject to antitrust scrutiny over its treatment of third-party sellers on its e-commerce platform, allegations of predatory pricing, and potential conflicts of interest as both a retailer and a marketplace operator.

Note

Antitrust:

- Antitrust laws are regulations that aim to promote fair competition in the marketplace by

preventing monopolistic practices, price fixing, and other activities that could harm consumers or stifle competition.

- The goal of antitrust laws, also known as competition laws, is to ensure that consumers have access to a variety of high-quality products at fair prices.
- Antitrust laws aim to prevent companies from gaining monopoly power, which occurs when a single company or group controls a large portion of the market. Monopolies can lead to higher prices, lower quality products, and reduced innovation.

What are the Recent Steps Being Taken to Regulate Big Techs?

▪ US's Federal Trade Commission:

- The change comes due to the appointment of the Federal Trade Commission's Chairman. US Department of Justice and 16 states sued Apple alleging it monopolised and abused the smartphone market.
 - The case against Apple follows a growing list of lawsuits against Google, Meta and Amazon for abusing market power. The modus operandi is familiar – blocking, suppressing, excluding, diminishing functionality of rival products and limiting third-party wallets.

▪ EU's Initiatives:

- In a slew of measures to ensure “contestable and fair markets in the digital sector” in line with the provisions of the [Digital Markets Act \(DMA\), 2022](#) the European Commission in March, 2024 initiated ‘non-compliance investigations’ against so called [Big Techs](#) (Apple, Meta and Google's parent Alphabet). It will also investigate Amazon's ranking practices in its marketplace.

▪ India's Stand:

- **Competition Act, 2002:** In India, antitrust issues are governed by the [Competition Act, 2002](#) and the CCI checks upon monopolistic practices.
 - In 2022, the CCI imposed a penalty of Rs 1,337.76 crore on Google for abusing its dominant position in multiple markets for 'anti-competitive practices'.
- **Competition Amendment Bill, 2022:** The government has proposed amendments to the competition law in the [Competition Amendment Bill, 2022](#). The Bill receives Presidential Assent in April 2023.
 - The CCI shall frame regulations to prescribe the requirements for assessing whether an enterprise has substantial business operations in India.
 - It will strengthen the Commission's review mechanism, particularly in the digital and infrastructure space, a majority of which were not reported earlier, as the asset or turnover values did not meet the jurisdictional thresholds.

What are the Different Concerns in Functioning of Big-Techs?

▪ Prioritising In-House Services:

- The non-compliance investigations concern Alphabet's alleged rules on steering or directing its customers to its in-house services over those of its competitors. Apple will be investigated for allegedly similar practices in its App Store, as well as the way it positions its Safari browser. Lastly, Meta will be investigated for its “pay or consent model.”

▪ Non-Compliance With Digital Markets Act, 2022 (DMA) of EU:

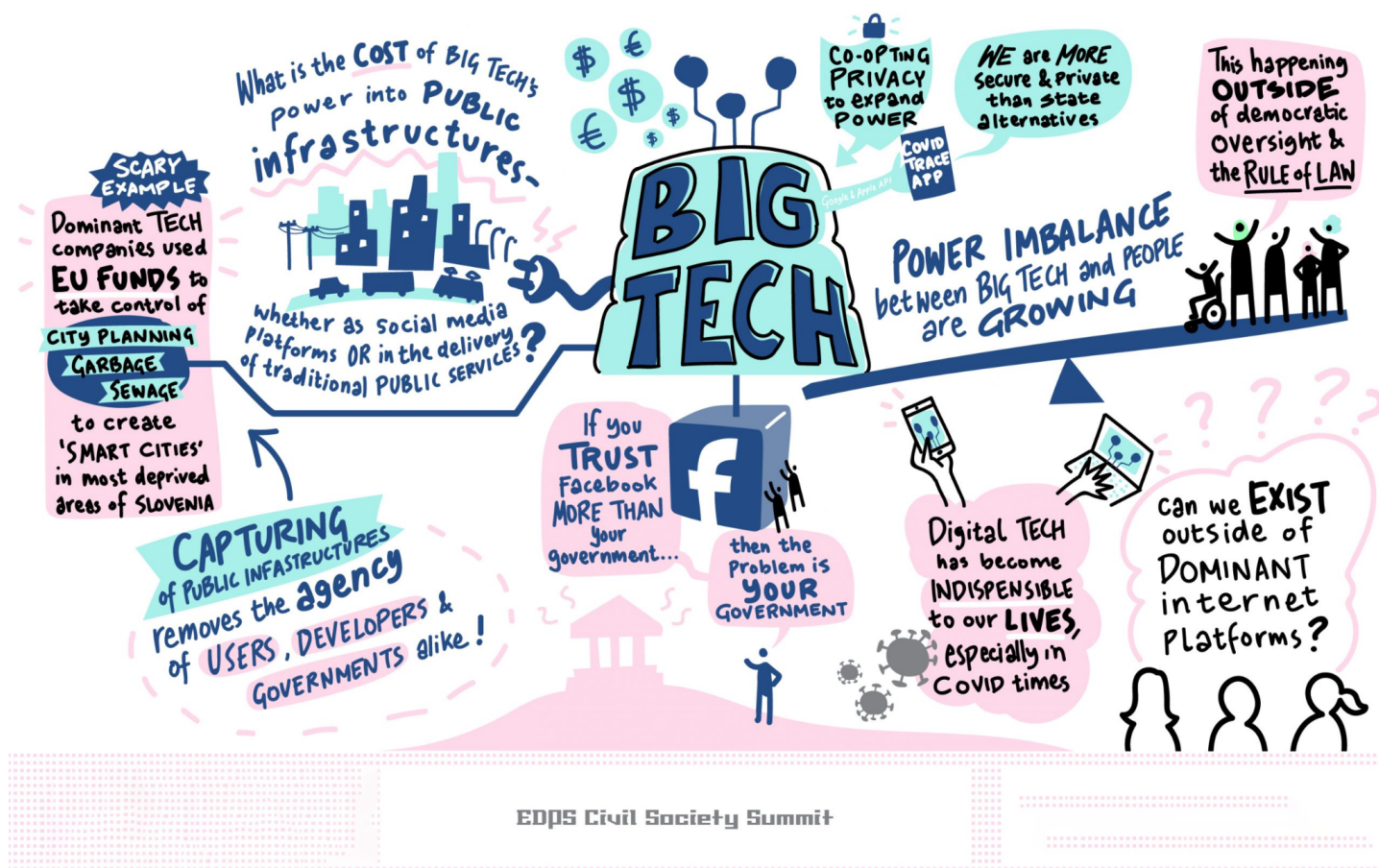
- Alphabet, Amazon, Apple, TikTok's parent company ByteDance, and Microsoft were designated as ‘gatekeepers’ in September 2023. They were expected to fully comply with obligations under the DMA by March 7, 2024.
- The European Commission assessed the mandatory compliance reports submitted by these companies and gathered feedback from stakeholders, including in the context of workshops, before launching the investigation into non-compliance of DMA provisions.

▪ Discriminatory Approach Adopted by Big-Techs:

- The European Commission aims to assess if Google's search results show bias, specifically if the company prioritizes its own verticals over competitors' services.
 - It has suggested that Alphabet's efforts to comply with the DMA may not guarantee

fair treatment for third-party services on Google's search results page, compared to Google's own services.

- Further, the CCI in March, 2024 also ordered a detailed probe against Google for alleged discriminatory practices on its Play Store pricing policy after having discovered a prima facie violation of competition law.



▪ Lowering Choices For Customers:

- In October 2020, the U.S. Department of Justice (DoJ) accused Google of "unlawfully maintaining monopolies through anti-competitive and exclusionary practices in the search and search advertising markets" and sought it "remedy the competitive harms."
- According to the DoJ, the conduct harmed consumers by reducing the quality of their search, lowering choices, and impeding innovation. Amazon too is facing heat for similarly tailoring the listings on its marketplace.

▪ Concerns Over Ecosystem Captivity:

- The European Commission is looking to assess if Apple enables users to easily uninstall any pre-installed (or presently default) software applications on iOS, change default settings, and if prompts users with choice screens that allow them to effectively and easily select alternatives to the default service.
- The investigation emanates from the Commission's concern that Apple's measures may be preventing users from "truly exercising their choice of services with the Apple ecosystem" which precisely amounts to '**concerns over ecosystem captivity**'.

▪ Concerns Over 'Binary-Choice' of Meta:

- Meta introduced a subscription model that offered people in EU, European Economic Area (EEA) and Switzerland the choice to use Facebook and Instagram without any ads. Alternatively, they could continue using these services for free while seeing ads relevant to them; in other words, consenting to personalised advertising.
- The model, however, did not seem convincing to the regulators. It held that the model's "binary choice" may not provide "a real alternative in case users do not consent, thereby not attaining the objective of preventing the accumulation of personal data by gatekeepers."

▪ **Regulatory Vacuum:**

- Due to rapid innovation and advancement by the Big Tech firms, the regulators are only able to react, not be in readiness. These giant platforms maintain that they are only intermediaries and therefore, they can't be held liable for the content.

▪ **Arbitrary 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 products themselves on these platforms. Concepts like network effects and winner-takes-all coupled with gatekeeping by Big Tech firms exacerbate the problem.

What are the Different Steps to be Adopted in Regulating Big-Techs?

The Standing Committee on Finance submitted its report on 'Anti-Competitive Practices by Big Tech Companies' in December, 2022. **Key observations and recommendations of the Committee include:**

▪ **Regulating Digital Markets:**

- Digital markets are made up of internet-based companies with millions of users. Unlike physical markets, digital markets often see returns increasing with the size of the company, driven by learning and network effects.
- This can lead to a few dominant players emerging quickly, even before policies and antitrust measures can be put in place. The Committee suggested evaluating competitive behavior before markets become monopolized, rather than the current practice of evaluating after the fact.

▪ **Digital Gatekeepers:**

- The Committee suggested that India should identify key players in digital markets that could harm competition and classify them as Systemically Important Digital Intermediaries (SIDIs) based on factors like revenue, market capitalization, and user base. SIDIs should then submit yearly reports to the Competition Commission of India (CCI) outlining their efforts to meet mandatory requirements.

▪ **Digital Competition Act:**

- The Committee observed that India needs to enhance its competition law to address the needs of the digital market. Economic drivers of this market facilitate a few players in dominating the ecosystem.
- The Committee recommended that the government should introduce a Digital Competition Act to ensure a fair, transparent, and contestable digital ecosystem.

▪ **Self-Preferencing:**

- An entity may have the dual role of providing the platform and competing on the same platform. Self-preferencing is a practice wherein a platform favours its own services or the services of its subsidiaries.
- The Committee noted that a lack of platform neutrality can lead to a negative effect on downstream markets. It recommended that SIDIs must not favour their own services over those of their competitors when mediating access.

▪ **Data Usage:**

- The Committee observed that dominant market players, with access to user data, tend to grow larger while new competitors struggle to gain traction. To address this, it recommended that SIDIs should not process personal data of end users who use third-party services that are dependent on the SIDI's core services.
- Additionally, they should not merge personal data from their core services with data from other core services, nor should they use personal data from their core service in other separately provided services without explicit user consent. Users should not be automatically signed into other platform services unless they have expressly consented to do so.

▪ **Revamping CCI:**

- The CCI regulates market competition in India. The Committee opined that CCI should be strengthened to address anti-competitive behaviour in digital markets. It suggested the creation of a specialised digital markets unit in CCI.
 - This unit would: (i) monitor established and emerging SIDIs, (ii) give recommendations to the central government on designating SIDIs, and (iii)

adjudicate on cases related to digital markets.

▪ **Third-Party Applications:**

- The Committee noted that gatekeeper entities have been found to restrict the installation or operation of third-party applications. It observed that SIDs should allow and technically enable the installation and use of third-party software applications.
 - Such software applications or software application stores should be accessible by means other than the relevant core services of the platform. However, data should not be transferred to the government of a foreign adversary from SIDs.

▪ **Bundling and Tying:**

- Many digital firms force consumers to buy related services. The Committee noted that this creates asymmetry in pricing and leads to the removal of competition from the market.
- It also enables leading players to leverage their market power in one core platform to another. It opined that SIDs should not force businesses or end users to subscribe to any further services for being able to use their core platform service.

▪ **Anti-Steering:**

- Anti-steering provisions are clauses wherein a platform prevents its business users from steering its customers to offers other than those provided by the platform.
- The Committee recommended that SIDs should not make access to their platform conditional on the purchase/use of other products or services that are not part of or intrinsic to the platform.

Conclusion

The European Commission and CCI have taken significant steps to ensure fair and competitive digital markets, initiating non-compliance investigations against tech giants like Apple, Meta, Google's Alphabet, and Amazon. These investigations focus on alleged anti-competitive practices, including the steering of users towards their own services, ranking practices, and subscription models. The investigations align with the Digital Markets Act's objective to regulate 'gatekeepers' and promote fairer competition. However, companies like Apple have argued against the DMA's provisions, stating that they may not consider the broader benefits to consumers and businesses.

Drishti Mains Question:

How do anti-trust laws address the monopolistic practices of big tech firms, ensuring fair market competition and innovation? Explain.

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)

PDF Refernece URL: <https://www.drishtiias.com/printpdf/regulating-big-techs-india-abroad>

