

**GOVERNMENT OF INDIA**  
**MINISTRY OF CORPORATE AFFAIRS**  
**LOK SABHA**  
**UNSTARRED QUESTION NO. 965**  
**ANSWERED ON MONDAY THE 29<sup>TH</sup> JULY, 2024/**  
**7 SHRAVAN , 1946 (SAKA)**

**Anti-Competitive Practices in Indian Digital Market**

**QUESTION**

**965 Shri Anto Antony:**

**Will the Minister of CORPORATE AFFAIRS  
be pleased to state:**

- (a) the specific instances where the current ex-post framework has proven inadequate in addressing anti-competitive practices in the Indian digital market;**
- (b) the rationale behind these thresholds and outline any measures planned to mitigate potential negative impacts on domestic innovation and entrepreneurial ventures;**
- (c) the way by which the Bill strikes a balance between fostering an environment of fair competition and enabling small businesses to leverage digital tools for growth; and**
- (d) whether the Bill will be structured to address the specific challenges posed by big tech companies while ensuring a regulatory framework that fosters the growth of domestic start-ups?**

**ANSWER**

**MINISTER OF STATE IN THE MINISTRY OF CORPORATE AFFAIRS AND MINISTER  
OF STATE IN THE MINISTRY OF ROAD TRANSPORT AND HIGHWAYS.**

**(SHRI HARSH MALHOTRA)**

**(a) to (d): On the recommendations of Parliamentary Standing Committee on Finance in its 53<sup>rd</sup> report on the subject titled “Anti-Competitive Practices by Big Tech Companies”, a Committee on Digital Competition Law (CDCL) was constituted vide order dated 06.02.2023 to inter-alia examine the need for a separate law on competition in digital markets. The Committee submitted its report to the Government in February 2024, along with a Draft Digital Competition Bill (Draft DCB) which was subsequently placed in public domain for stakeholders’ consultation.**

**The Committee in its report has stated that it deliberated on how the present ex-post framework under the Competition Act, 2002(the Act) is not designed to facilitate timely and speedy redressal of anti-competitive conduct by digital enterprises given the extensive fact-finding and a tiered adjudicatory process involved in ex-post enforcement proceedings.**

**The Committee has stated that an ex-ante framework as a more efficient market correction mechanism compared to current ex-post interventions under Sections 3 and 4 of the Act.**

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**The Committee has recommended quantitative thresholds for identifying and designating an enterprise as Systemically Significant Digital Enterprises (SSDEs) under the Draft DCB based on a dual test which demonstrates significant presence in the context of competition concerns; (a) ‘the significant financial strength’ test which comprises quantitative thresholds serving as proxies for economic power, and (b) the ‘significant spread’ test which comprises metrics relating to the number of business users and end users of the Core Digital Service(CDS) in India. Additionally, the Draft DCB envisages residuary powers for designation in the form of ‘qualitative’ criteria for designating certain enterprises as SSDEs that do not meet the quantitative thresholds but nonetheless have the ability to significantly influence the market in which they operate.**

**The Committee has stated that the Draft DCB should apply to a pre-identified list of Core Digital Services that are susceptible to concentration. Noting India’s thriving digital economy, the Committee has emphasised the need to strike a fine balance between increased regulation and enabling innovation.**

**The Committee has noted that the digital market is increasingly becoming concentrated with a few large digital enterprises that wield immense control over the market. This gives them an edge over other business users and start-ups. This ultimately makes smaller digital enterprises and start-ups dependent on large digital enterprises and gives rise to an imbalance in bargaining power and information asymmetry in the digital market.**

**The Committee has felt that it is important to ensure that policy measures are carefully crafted only to address anti-competitive conduct by existing large digital enterprises, and to not throttle the growth of emerging digital enterprises that have the capacity to grow into global players.**

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