

26 June, 2023

Dr. Manoj Govil
Secretary, Ministry of Corporate Affairs
A-Wing, Shastri Bhawan, Rajendra Prasad Road
New Delhi - 110001

Subject: Open letter by stakeholders with regard to the proposed Digital Competition Act

Dear Sir,

We are writing this joint stakeholder letter with regard to the proposed Digital Competition Act for which is reportedly in the final stages of drafting by the Committee on Digital Competition Law (**CDCL**).

In 2022, the Parliamentary Standing Committee on Finance (**Finance Committee**) held oral evidence and meetings with industry stakeholders and government departments on the issue of “Anti-competitive practices by Big Tech companies” and tabled their report in the Parliament in December 2022. In their report, it was recommended that India should have a Digital Competition Act consisting of set rules based on recent and ongoing antitrust cases in relation to the digital markets. Unfortunately, various Civil Society Organisations (CSOs) including the signatories of this letter were not invited by the Finance Committee to present their views.

In February 2023, the Ministry of Corporate Affairs (**MCA**) formed the CDCL to evaluate the proposal for a digital competition law in India and recommend a draft Digital Competition Bill. It is now reported that the CDCL is finalizing the proposed Digital Competition Act and is likely to recommend “ten obligations that the identified gatekeepers” would have to meet. The CDCL reportedly held consultations with various industry stakeholders but once again various CSOs including the signatories of this letter were not invited by the CDCL to present their views.

We are concerned that the proposed Digital Competition Act would impact a wide range of subjects, such as digital inclusivity, user experience, data protection & security, foreign investment, cost of doing digital business for MSMEs, indirect impact on cost for consumers, etc. We feel that at present this important discourse is informed by only a few stakeholders even though the proposed law directly and indirectly affects a much wider range of stakeholders:

1. **Impact on end consumers:** Today Indian consumers are able to reap benefits of the latest technologies available globally. India is the first market in which the cutting edge of consumer technology is made available. This also helps the Indian business to provide value addition to these spaces and participate in the digital ecosystem. Historically it took a long time for technologies like the cellular telephone to become mainstream in India but today the most advanced hardware and software technologies are made available to Indian citizens almost immediately with their global launch. Keeping this in mind, only 2-3 legal systems have adopted *ex ante* laws globally. If India also introduces a prescriptive *ex ante* law then India may no longer be the “first market” for newer technologies (equivalent of Digital Competition Act does not exist in most of the other jurisdictions).
2. **Impact on Small Businesses:** An overwhelming number of Indian citizens today have embraced entrepreneurship and are reaching out to customers globally. This has been possible largely due to the advent of technological tools including advertisement and other platform tools provided by large tech companies. An *ex ante* law which limits data will naturally drive costs for advertising and digital marketing as particularly the larger brands will continue to spend even without precise targeting. Hence, the *ex ante* laws could inadvertently increase customer acquisition costs for small businesses and it would eventually decrease their global market footprint. Small businesses do not have the runway to undergo this type of change.

Having regard to the above, we urge the MCA to institute a transparent and open consultative public engagement process for the Draft Digital Competition Bill and take into consideration the concerns around impact of the Draft Digital Competition Bill on end consumers and small businesses which rely on ICT tools.

Towards this, we also request that the MCA publish comments received by them as part of the public consultation on the Draft Digital Competition Bill and provide an opportunity to all stakeholders to submit counter-comments, as is the norm in other government consultations on policies of public interest.

Notably, recently, the Ministry of Electronics and Information Technology (**MEITY**) and Department of Telecommunication (**DoT**) under the Ministry of Communications held public consultations in connection with the proposed Digital Personal Data Protection Bill, 2022 and the Draft Indian Telecommunication Bill, 2022. Similarly, MEITY is also holding open consultations for the proposed Digital India Act even in the pre-draft stage.

This submission is endorsed by the following stakeholders from India:

Sl. No	Name	Organisation/ Individual	Location	Stakeholder Group
1	CCAOI	Organisation	India	Civil Society
2	CUTS	Organisation	India	Civil society
3	DeepStrat	Organisation	India	Technical Consultancy
4	Domainx Events	Organisation	India	Consumers/ Private
5	EnDetect	Organisation	India	Private
6	India Future Foundation	Organisation	India	Consultancy
7	India Internet Foundation (IIFON)	Organisation	India	Technical
8	Indian Network Operators Group (INNOG)	Organisation	India	Technical Community
9	Internet Society Chennai Chapter	Organisation	India	Civil Society
10	Internet Society India Bengaluru Chapter	Organisation	India	Civil Society
11	Internet Society India Delhi Chapter	Organisation	India	Civil Society
12	Internet Society India Hyderabad Chapter	Organisation	India	Civil Society

13	Internet Society India Kolkata Chapter	Organisation	India	Civil Society
14	Internet Society India Mumbai Chapter	Organisation	India	Civil Society
15	Internet Society- Trivandrum chapter	Organisation	India	Civil Society
16	MediaNama	Organisation	India	Media
17	Rajesh Parashar	Organisation	India	PIIE Foundation
18	Ritu Srivastava, Jadeite Solutions	Organisation	India	Technical
19	Yaduvendra Mathur	Organisation	India	Technical Engineering Consulting
20	Youth IGF India	Organisation	India	Civil Society
21	Abhay Shukla	Individual	India	Lawyer
22	Abhishek Gautam	Individual	India	Private
23	Abhishek Sharma	Individual	India	Individual
24	Adarsh B U	individual	India	Technical Community
25	Amitabh Singhal	Individual	India	Private
26	Anupam Sanghi	individual	India	Technology and competition lawyer
27	Arun Mahendru	Individual	India	Civil Society
28	Aseem Kumar	Individual	India	Internet User
29	Ashutosh Bhattacharya	Individual	India	Individual

30	Col Kapil Handa	Individual	India	Private
31	Dr Anupam Tiwari	Individual	India	Technical
32	Dr Gnanajeyaraman Rajaram	Individual	India	Academia
33	Dr Rakesh Mohan Bhatt	Individual	India	Academia
34	Dr. Darshana	Individual	India	Academia
35	Dr. Mahesh Uppal	Individual	India	Individual
36	Dr. Mini Ulanat	individual	India	Civil Society
37	Er. Anoop Kumar Prasad	Individual	India	Techno-Legal
38	Gokul S. Vijay	Individual	India	Private
39	Ihita Gangavarapu	Individual	India	Academia
40	Jaspreet Singh	Individual	India	Technical
41	Jay Paudyal	Individual	India	Technical
42	Jigmet Dolker	Individual	India	Academia
43	K Mohan Raidu	Individual	India	Technical Community
44	Kapil Goyal	Individual	India	Academia
45	Mehran Lone	Individual	India	Individual
46	Mohammad Ali Jauhar	Individual	India	Technical Community
47	Mr.A.M.Joshi , Retd DoT Officer	Individual	India	Internet User
48	Nikhil Gehlot	Individual	India	Individual
49	Nikhil Pahwa	Individual	India	Individual
50	Rahul Sharma	Individual	India	Private

51	Ranjan Joshi	Individual	India	Pro Bono
52	Ranjit R. Nair	Individual	India	Civil Society
53	Rushabh Shah	Individual	India	Individual
54	Satish Babu	Individual	India	Civil Society
55	Shradha Pandey	Individual	India	Civil Society
56	Shrutee Bepari	Individual	India	Academia
57	Shubham Agarwal	Individual	India	Technical
58	Vinay Aseri	Individual	India	Academia