

## Key Highlights on the Government panel to weigh need for separate competition law in digital markets

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The Ministry of Corporate Affairs in its order dated 6 February 2023 has set up a panel chaired by the Secretary, Ministry of Corporate Affairs, Mr. Manoj Govil, to weigh the need for a separate regulation governing digital markets. It is to discuss and examine the issue of competition in the digital marketplace and determine whether there is a need for a separate legal framework to regulate competition in this sector. The committee is expected to submit a report to the government including a draft Digital Competition Act (DCA) within 3 months.

The panel will likely consider various factors such as the unique characteristics of digital markets, the role of technology in shaping competition, the effects of market concentration, and the need to protect consumer interests. Based on their findings and recommendations, the government may decide to introduce new laws or regulations to address competition concerns in digital markets.

Some key highlights of this panel will be as follows:

- **Focus on Digital Markets:** The panel is focused on studying competition in digital markets, including online platforms, e-commerce, and the technology sector.
- **Multi-stakeholder approach:** The panel is taking a multi-stakeholder approach and is engaging with various stakeholders, including technology companies, consumer groups, experts, and academics, to gather perspectives and insights.
- **Analysis of existing competition law:** The panel is examining the effectiveness of existing competition law in addressing competition concerns in digital markets and whether a separate competition law is necessary to address the unique challenges posed by these markets.
- **Consideration of international experiences:** The panel is also looking at international experiences with competition law in digital markets and is evaluating best practices and lessons learned from other jurisdictions.

There has been a lot of discussion on the need for amendments to existing laws or the enactment of new laws to better cover digital markets:

- **Parliamentary Standing Committee on Finance report:** In December 2022, the Parliamentary Standing Committee on Finance submitted an extensive report advocating for identifying and designating leading digital market firms and introducing a separate competition act for digital businesses. It also stressed on the need for ex-ante regulations.
- **Proposed amendments to Competition Act:** In August 2022, the Indian government proposed amendments to the Competition Act, 2002, that allows the CCI to better look into issues like “killer acquisitions” by Big Tech companies, expands the scope of what is considered an anti-competitive agreement, requires CCI to have a member experienced in technology, etc. These amendments are yet to go into effect.
- **Parliamentary Standing Committee on Commerce report:** In June 2022, the Parliamentary Standing Committee on Commerce submitted a report that also called for ex-ante regulations targeted at digital markets and highlighted the urgent need for amendments to the Competition Act, 2002, as recommended by the Competition Law Review Committee (more below).
- **Competition Law Review Committee report:** The Competition Law Review Committee (CLRC), which was set up by the Indian government during the year 2018-19 to review and suggest amendments to the Competition Act, 2002, submitted its report in July 2019, recommending a wide range of changes to the Competition Act to better address concerns in digital markets.

*SKV Comment: Due to the emerging digital economy, it has become very important for governments to take a closer look at the competition in digital markets as the growth of technology and the increasing importance of digital commerce have led to significant changes in the way that businesses operate and compete. Ensuring a fair and competitive digital marketplace is essential for promoting innovation, protecting consumer rights, and promoting economic growth.*