

28 April 2025

Bhartruhari Mahtab  
Chairman, Standing Committee on Finance  
Member of Parliament [Lok Sabha]  
India

**RE: ACT | The App Association views, 'Evolving Role of Competition Commission of India in the Economy, particularly the Digital Landscape'**

ACT | The App Association represents small business application developers and connected device companies located both in India and around the globe. These companies drive a global app economy [worth more than INR 151.4 billion](#), [providing nearly 1.674 million jobs](#) in India. App Association members leverage the connectivity of smart devices to create innovative solutions that introduce new efficiencies across consumer and enterprise use cases and rely on a predictable and fair approach to digital economy regulation to succeed and create new jobs.

The Parliament of India, and the Government of India, continue to examine the role of Indian competition law and of the Competition Commission of India (CCI) in supporting innovation in fairness in digital markets, namely with respect to digital platforms that are curated online marketplaces (COMs), proposing an ex-ante regulatory model akin to the European Union's Digital Markets Act (DMA). Ex-ante regulations proposed in India would impose substantial burdens on software and internet of things (IoT) developers, which include many of our small business and startup members and would undermine the hypercompetitive nature of India's business development sector and create additional friction complexity for the India's digital economy. Considering the dynamics of India's online digital ecosystem in the global market, we kindly ask you to carefully consider alternative ways to support India's platform market and app developers through more practical and effective policymaking.

The App Association writes to share its perspective on digital platform regulation proposals. We urge that, when drafting or amending related laws or policies, existing competition laws be used to address proven market monopolistic abuses without hindering the development of India's online digital market, which has positioned the country as a global leader in innovation.

## **The Value of Platforms to the Small Business Digital Economy Innovator Community**

In previous comments to the Ministry of Corporate Affairs, the App Association described the history and dynamics of today's digital markets that enable secure and seamless app distribution for countless small businesses in India.<sup>1</sup> The single most important factor in the app ecosystem's dynamic growth and success is the presence of curated platforms or app stores. Trusted app stores serve as a vital foundation for the growing uses of apps across industries and enterprises. Three key attributes led to the revolution in software distribution. Today every successful platform for mobile, desktop, gaming, and even cloud computing must provide these features or risk failing in the marketplace:

1. The provision of a bundle of services that reduces overhead costs;
2. Instantaneous and cost-effective consumer trust mechanisms; and
3. Cost-effective access to a global market.

One of the central markets at issue in the debate around the role of antitrust in new and emerging technology verticals already experiencing vigorous competition is the market for developer services, where a developer pays a platform for various services including distribution, marketing, etc. Certainly, app markets offer immense value that developers realise through lower overhead and compliance costs, built-in customer trust, increased speed to market, and wider distribution and market access. With lower costs and barriers to entry, both fledgling and established app developers can find success. These platforms provide a centralised framework for app developers to engage and secure visibility with the 5 billion app users worldwide while also serving consumers and enterprise users, representing a vibrant two-sided market.

A platform's safety and security are also important elements of developer services. Platforms' security features improved markedly over the course of their existence. Whereas unlocking a device used to require a four-digit passcode, devices are now capable of biometric-based authentication, and platforms make these authentication measures available to developers as well so that they can benefit from these heightened security measures. But the high stakes game of cat-and-mouse between cybersecurity professionals and hackers will never end, and security must continue to evolve to meet and beat the threats. Although some platforms do not control device security, developers want the platforms' security features to work seamlessly with any relevant hardware and account for all attack vectors. Platforms should continue to improve their threat sharing and gathering capabilities to ensure they protect developers across the platform, regardless of where threats originate. Moreover, they should approve and deploy software updates with important security updates rapidly to protect consumers as well as developers and their clients and users. The same is true when it comes to privacy controls. App developers want platform-level privacy controls

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<sup>1</sup> <https://actonline.org/wp-content/uploads/ACT-Positions-on-Digital-Platforms-and-Competition-for-India-MCA-15-May-2024.pdf>.

they can adapt to their products and services. The types and nature of these controls vary among platforms, and this variation should result in continuously improving options that iterate with end-user expectations and privacy risks.

Platforms play an important role in helping small developers enforce their intellectual property (IP) rights. Our member companies' IP helps eliminate the inherent disadvantages of being a small, innovative company by enabling them to protect the fruits of their ingenuity from larger firms that might want to take it. Compared to the past, IP resolution processes have significantly improved across the board, and they are important and in-demand developer services that platforms should improve to compete for developers.

### **Considerations for Market Dominance Threshold and Competitive Impacts**

The App Association believes India's online ecosystem differs substantially from others (namely, that of the EU) and urges India to continue nurturing the dynamic nature of its digital market where global tech companies and small developers coexist and flourish. Maintaining this vibrant ecosystem requires a flexible regulatory approach that avoids disproportionately burdening small developers by distorting pro-competitive dynamics within the existing ecosystem. Given that the gatekeeper regulation is a relatively new concept, Indian regulators have the opportunity to learn from the missteps of other jurisdictions that have hastily intervened into COM markets. Before considering such regulation, Indian policymakers should thoroughly assess both the benefits and potential adverse effects on users and consumers, carefully evaluating the impacts of existing regulations and their impact on competitiveness and trade. Ultimately, it is essential that any proposed regulation does not impede competition or stifle innovation in India.

We note that designating certain platform operators based on predetermined criteria is likely to create a stigma effect, effectively labelling companies as potentially abusive before any illegal conduct or its effects have been established. In rapidly evolving digital platform markets, this approach could discourage platform operators from pursuing growth opportunities, reduce internal and external investment, and conflict with the principle of respecting private autonomy.

The role of existing platforms in supporting and growing smaller companies across both developed and developing markets is a critical goal when balancing the benefits and potential drawbacks of broad regulations on online platforms. A comprehensive review of such a regulation may be necessary, but special attention should be given to ensuring that regulation does not impair the essential functions of online platforms that protect consumers in preventing fraud, protecting privacy, and enhancing usability. We urge Indian policymakers to carefully consider the potential negative impact on digital businesses and markets in the India when discussing regulations related to dominance-related regulations, and to consider self-regulation as a potential solution.

## **Refinement and Clarity Needed on the Scope of Digital Platform Regulation Proposals**

Proposed turnover and market dominance thresholds being considered should be clarified to provide certainty of fair and objective application of the law, which will benefit all who operate within or benefit from Indian digital markets. The proposed approach would designate Systemically Significant Digital Enterprises (SSDEs) based on financial and user base metrics. However, the scope of turnover and the applicability of domestic revenue is unclear. Without clear definitions, it may become difficult for platforms to predict whether the regulation applies to them, creating uncertainty for the small business developer communities that rely on platforms for reduced overhead, trust, and access.

## **Clarity Needed on Prohibited Conduct**

Proposals under consideration would address broad categories of abusive market dominance conducted by digital platform operators, such as self-preferencing and tying. However, blanket characterisations of these practices should be avoided when pro-competitive practices that enhance consumer choice can, and do, fall within the areas described. For example, in markets with multiple viable platforms, self-preferencing and tying practices can promote efficiency and quality improvements for consumers. Additionally, proposed regulations on tying fail to account for the specific dynamics of online platform markets, which often consist of products and services constantly evolving to meet consumer demands, with consumers perceiving the various services provided by a platform as a single, integrated experience. It is unreasonable to separate platform services from other goods/services without a justifiable rationale and to treat any linkage as illegal tying. Broadly mitigating or eliminating these practices would limit Indian consumers' ability to use more integrated online platforms, ultimately reducing consumer choice.

We strongly urge Indian policymakers to recognise that practices yielding greater efficiency, quality, or lower costs for small business developers and the consumers they serve—with minimal antitrust issues particularly when users face little-to-no switching costs—should not be prohibited by government mandates. Considering that smartphones now serve as music players, cameras, and multi-modal communication devices, a narrow view of one feature without recognising value derived from other aspects is inconsistent with how consumers experience these devices. Moreover, India policymakers can, and should, expect hyper-competition in digital markets to discourage harmful self-preferencing since consumers can easily leave platforms due to low switching costs. Just as in other market categories, antitrust inquiries into self-preferencing are only warranted when a company first possesses market power and then uses that power to harm competition and consumers.

## **Carefully Considering the Impacts on India's Trade Goals and Commitments**

Finally, in addition to the public policy and feasibility issues discussed above, we urge Indian policymakers to carefully consider whether proposed platform regulations and related enforcement by CCI would violate obligations under important trade agreements such as Article 16 of the General Agreement on Trade in Services, which requires that all regulations affecting trade in services 'are administered in a reasonable, objective and impartial manner'. Further, pursuing new enforcements against digital platforms in ways that would, either intentionally or in effect, target leading American platforms, is likely to undermine India's goals for the recently-announced U.S.-India Bilateral Trade Agreement, which include driving transformative change across key pillars of cooperation and demonstrating a high level of trust for a mutually beneficial partnership.

## **Recommendations for Next Steps**

The flexibility and accessibility offered by platforms are crucial for the growth and sustainability of small companies across India. These platforms reduce overhead costs and provide effective distribution channels, allowing these businesses to compete globally. Imposing improperly scoped regulation to this nascent ecosystem risks undermining these benefits, particularly if platforms restrict access or increase costs due to compliance burdens. We believe CCI, under its existing authority, should prioritise maintaining a competitive environment that supports small companies and startups. A new competition-themed intervention into developing digital platform markets would jeopardise the existing relationship between online platforms and small developers, undermining the very foundation of digital platforms and their demonstrated pro-business and pro-consumer impacts. In situations where market definition and market failure are unclear and the risk of overregulation is greater, choosing competition and innovation over unprecedented and excessive regulatory approaches would reflect an appropriate direction in the India's approach to digital competition.

Ultimately, current proposals for digital platform regulation in India would alter today's hyper-competitive app economy to resemble an environment where high compliance requirements widen the moat around established players and raise costs and reduce operational flexibilities for small businesses. Any changes to Indian policy should be preceded by substantial study that demonstrates systemic harms, as well as measures that can be taken to preserve the pro-competitive dynamics of today's COMs discussed above.

We urge for Indian policymakers to (1) rely on existing technology-neutral competition laws to monitor the Indian market for demonstrable system-wide harms to competition and (2) carefully observe the implementation of digital platform regulation laws in other markets, such as the EU, where significant concerns have arisen that question the necessity for such rules.<sup>2</sup> Additionally, we

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<sup>2</sup> <https://mobiledevmemo.com/is-a-porn-app-the-dmas-singular-achievement/>.

urge the Standing Committee, CCI, and the Government of India writ large to continue to carefully consider the experiences and views of small businesses and startups throughout its process.

Thank you for the opportunity to share our perspectives on this important issue. We welcome further discussion on how best to support fair and effective regulation in India that sustains and strengthens the vibrant online digital economy through empowering small businesses and startups without altering the features of today's system that we know works for businesses and consumers.

Sincerely,

A handwritten signature in black ink that reads "Morgan Reed". The signature is fluid and cursive, with the first name "Morgan" and the last name "Reed" clearly distinguishable.

Morgan Reed

President

**ACT | The App Association**

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CC: Smt Nirmala Sitharaman ji, Honourable Finance Minister, Government of India