

Competition Bill: MCA moves to fix thresholds for large digital cos

RE-LOOKING LIMITS. 'Request for proposal' floated for market study on qualitative and quantitative thresholds

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The Ministry of Corporate Affairs (MCA) has renewed efforts to finalise the threshold of systemically significant digital enterprises (SSDE) for redrafting the Digital Competition Bill (DCB).

Last year, following strong opposition from various stakeholders including big tech companies, the draft Bill was withdrawn.

It was decided that "an evidence-based foundation through market studies is required to consider all relevant aspects for ex-ante regulation, considering that it is in nascent stage of implementation".

KEY OBJECTIVES

Accordingly, the Ministry floated a 'request for proposal' (RFP) to undertake a market study on the 'qualitative and quantitative thresholds for big tech com-

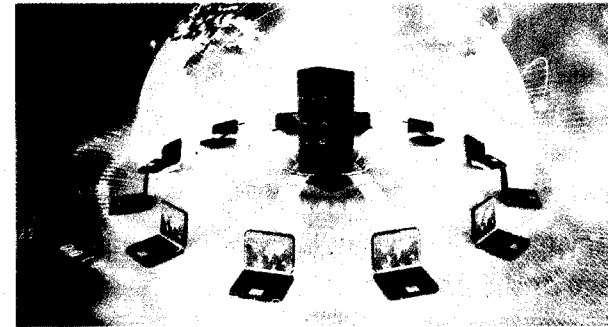
panies and core digital services'. According to the RFP, the study will have four key objectives.

First, to review and evaluate the proposed qualitative and quantitative thresholds outlined in the draft Digital Competition Bill.

Second, to review the list of proposed core digital services included in Schedule I of the draft DCB.

Third, to evaluate the implications of the draft DCB for the services and their stakeholders, including the potential impact on competition and market entry. Fourth, to assess the potential impact of the proposed ex-ante framework on smaller players, including start-ups and micro, small and medium enterprises (MSMEs).

Earlier, the draft Bill had proposed that an entity engaged in "core digital services" shall be deemed as an SSDE if its turnover in India is at least ₹4,000 crore, or global turnover is at least \$30 billion, or gross merchandise



STAKEHOLDER VIEW. The study will gather data from major tech firms, platforms, think tanks, start-ups, MSMEs and experts

value in India is at least ₹16,000 crore, or global market capitalisation or fair market value is \$75 billion; and if its core digital service had at least 1 crore end-users or at least 10,000 business users in India in each of the preceding three financial years.

Now, the study will gather data/ facts from major technology firms/ e-commerce platforms, think tanks, domestic and foreign digital enterprises providing digital services in India, start-ups

and MSMEs, civil society organisations, experts in competition law and policy and from industry associations. "The sample of stakeholders will be constructed including at least 30 big technology firms/ 30 start-ups/ researchers/ domestic firms/ MSMEs and 5 firms supplying core digital services," the RFP document said.

OTHER PROPOSALS

Earlier, the draft Bill was mooted to bring in a separate

Digital Competition Act and an ex-ante framework to enable the Competition Commission of India (CCI) to selectively regulate large digital enterprises.

Post the submission of the draft, the Ministry had initiated e-consultation between March and May 2024.

There were responses from more than 100 stakeholders, ranging from legal professionals to industry associations, civil society organisations, and domestic and foreign digital enterprises providing digital services in India.

The important suggestions included ex-ante regulation under the DCB; reconsideration of quantitative thresholds, which suffer from both over-inclusivity and under-inclusivity; reconsideration of key obligations related to data usage; and reconsideration of services included in core digital services list under the schedule of the draft.