

DMA's Hidden Victims: What India's Digital Competition Bill Must Learn Before It's Too Late

By: Toshit Shandilya & Nandini Modi



Edited By Geeta Gouri & Swarnim Shrivastava

DMA's Hidden Victims: What India's Digital Competition Bill Must Learn Before It's Too Late

By: Toshit Shandilya & Nandini Modi (AZB & Partners)^j

India's Digital Competition Bill (DCB) proposes a prohibitory rules framework for digital enterprises. This is the same framework the Parliamentary Standing Committee on Finance sent back for revision in 2025, with the discussion driven by concerns about the reach of large platforms, the advantages they accumulate, and the difficulty smaller players face in dislodging them. The DCB seeks to intervene early and prevent competitive harm before it occurs.

Whether India needs a bill of this kind at all is a debate worth having on its own terms, and one that requires a separate discussion. However, a narrower question can be answered now: assuming such a framework is enacted, would it actually work?

For its answer, India can draw on Europe's experience, having run a similar experiment for three years now. Its recent review of the Digital Markets Act (DMA) concluded that the landmark regulation remains "fit for purpose". Meanwhile, much of the debate has focused on whether the DMA is succeeding in constraining gatekeepers. Yet a little attention has been given to the effects of these changes on the businesses that now depend on digital platforms to grow.

Visible changes like choice screens, modified data-sharing practices, expanded interoperability options, and redesigned interfaces are among the factors included by the European Commission's review¹, holding these as evidence that platforms are complying with the DMA's requirements. But

compliance and competitive effects are not the same thing. Three years is a short time for markets characterized by network effects and continuous technological change. While compliance can be measured relatively easily, impacts on innovation, business formation, investment and market entry often take much longer to materialize. Europe provides an important point of reference before India considers adopting a similar framework, albeit in a different market context.

I. The Hidden Costs

One of the DMA's central ambitions was to reduce stakeholders' dependence on the digital ecosystem, i.e. startups, app developers, publishers, merchants, creators, etc. who become dependant on gatekeeper platforms. Yet the evidence on whether that has occurred remains mixed. European startups already operate in a more constrained funding environment than their US counterparts,² and a recent study³ suggests that venture capital investment has declined following the introduction of multiple digital regulatory frameworks. Causation remains contested, but the trend underscores the need for careful scrutiny before assuming that regulatory interventions are costless.

For a small business online, the hardest part is discovery. Consumers almost never land on a marketplace already knowing which seller to buy from. They get steered there by rankings, recommendations, reviews, personalized advertising, and search tools. For large firms, these mechanisms are useful. For smaller firms, they are often indispensable. Even modest reductions in discoverability can have disproportionate effects on businesses that lack alternative channels for customer acquisition. This is significant because small and medium-

¹ https://digital-markets-act.ec.europa.eu/system/files/2026-04/DMA%20Review%20Report_COM_2026_178_1_EN.pdf

² <https://actonline.org/2025/03/10/the-eus-dma-at-one-year-are-smes-better-off/>

³ <https://ccianet.org/news/2026/03/study-finds-europes-digital-regulation-targeting-the-u-s-didnt-help-europe-gain-more-startups-or-ipos/>

sized businesses are not a marginal part of the ecosystem. On Amazon's European stores, small and medium-sized businesses account for roughly 60% of sales by the company's own account⁴.

The DMA obligations on personalization, data use, ranking and interoperability have forced these systems to be redesigned. The objective is to promote fairness and competition. The risk is that these same interventions may reduce the efficiency of the mechanisms through which businesses and consumers find one another.

In a recent survey,⁵ many European consumers reported spending more time locating relevant content online, finding search results less useful, and experiencing declines in the quality of recommendations across various digital services. These figures are projections rather than observed outcomes and come from stakeholders with a direct interest in the debate. This highlights an important point, that interventions in digital ecosystems can lead to consequences that extend well beyond the platforms themselves.

Publishers provide a useful example. Since January 2024, every publisher monetizing through AdSense, Ad Manager or AdMob has had to run a Google-certified CMP just to keep serving personalized ads in the EU. For a publisher with an in-house legal and engineering team, that's an integration task. Transplant the rule to India and the burden does not change, but the capacity to absorb it does: a vernacular news portal or a single-person YouTube channel absorbs the same engineering and legal cost, on a fraction of the revenue, while the ad income it depends on shrinks the moment personalization is curbed.

Innovation presents a similar challenge. Apple

delayed⁶ the rollout of certain AI features in the EU while assessing DMA-related compliance requirements. Google has similarly argued⁷ that some DMA-related changes have affected user journeys and traffic flows to businesses that depend on digital visibility.

Whether those decisions are justified remains debated. What is harder to dispute is that compliance requirements consume engineering resources, increase uncertainty, and can slow deployment timelines. In Europe, a delayed feature may have limited commercial consequences, because the market it reaches is already built. If the same delay happens in India, it has vastly different consequences. A feature held back here is not a postponed convenience but a rung removed from a ladder firms are still climbing. In fast-moving fields like Artificial Intelligence, a year lost is a market lost.

The cost of compliance lands just as unevenly, and that unevenness is itself a competition problem: a burden a gatekeeper writes off as a rounding error can read as a wall to the firm trying to climb past it. The test case is when the European data protection regime, the GDPR was implemented; small businesses had to pay a higher compliance cost. A 2019 survey found that over half of Europe's small businesses spent between €1,000 and €50,000 just to meet GDPR, a sum a large platform barely notices and a small seller feels keenly. Now picture the same fixed cost landing on a seller in a small Indian town or an app developer in Bangalore, for whom €1,000 is not a line item but a monthly margin. The same impact from a rule that a European firm readily absorbs can price an Indian company out of the market it was meant to keep open.

II. Indian Realities are Distinct

⁴

<https://www.aboutamazon.eu/news/policy/amazons-perspective-on-the-european-commissions-first-review-of-the-dma>

⁵ chrome-extension://efaidnbmnnnibpcajpcglclefindmkaj/ht

[tps://www.nextradegroupplc.com/_files/ugd/478c1a_9d7c98475ce8404188d2f8dbb1c9d2ff.pdf](https://www.nextradegroupplc.com/_files/ugd/478c1a_9d7c98475ce8404188d2f8dbb1c9d2ff.pdf)

⁶ <https://www.apple.com/newsroom/2025/09/the-digital-markets-acts-impacts-on-eu-users/>

⁷ <https://www.csis.org/blogs/charting-geo-economics/guarding-gates-digital-markets-act-and-lessons-ex-ante-regulation>

The distinction mentioned above is particularly relevant because India's situation is different from Europe's in some key aspects. First, the DMA was introduced into relatively mature digital markets, while India remains in a different phase of its digital journey. Its digital economy, roughly 11.74% of GDP and growing by close to 30% a year, is still being built rather than defended. Millions of businesses are still coming online for the first time. For a first-generation seller in Surat or Coimbatore, platforms such as Amazon, Instagram or Google Search are often not obstacles to market access but the cheapest route to a customer.

A set of rules that a mature digital economy can absorb without much strain may bite quite differently in one still being built out. The question is not whether large platforms should face obligations, but which obligations, calibrated to what, and enforced by whom.

Second, there is an institutional dimension the design debate tends to skip. An *ex-ante* code does not enforce itself; it asks the regulator to define gatekeepers, police a list of standing prohibitory obligations, and adjudicate disputes on a continuous basis across fast-moving markets. The European Commission devoted a large, specialized enforcement apparatus to that task and still found compliance slipping. The CCI runs a broader docket on far thinner resources. A law that grows faster than the ability to apply it effectively is not better at protecting markets. It just loses precision. And poorly calibrated rules hurt small firms first.

III. The Lesson for India

Indian competition law has required regulators to identify a concrete harm before intervening. *Ex-ante* regulation inverts that logic; it fixes conduct

in a statute and applies it across the board before any harm is shown. In an economy where millions of businesses are still building their first digital presence, such rules require a deeper analysis. Impact assessment ahead of obligations, proportionality in what is imposed, and room to recalibrate as the market matures are not procedural niceties here. They are how an effects-based system helps reduce unintended consequences.

The DMA demonstrates how difficult it is to predict the long-term consequences of *ex-ante* regulation in rapidly evolving markets. Some of its objectives may ultimately be realized. Some of its costs may only become visible over time.

For India, the asymmetry runs deeper. The DMA was imposed on markets where digital gatekeepers were already firmly entrenched. The DCB, by contrast, would apply to an ecosystem where many of the firms it seeks to regulate are also the infrastructure through which first-time sellers, app developers and small publishers reach customers. A remedy designed to discipline a gatekeeper may, at this stage of market development, end up imposing costs on the very challengers it is meant to help. That is precisely the kind of unintended consequence an effects-based inquiry is designed to identify.

If and when the DCB returns, the key question should not be how effectively it constrains gatekeepers. It should be whether intervention improves outcomes across the digital ecosystem. Equally important is whether the benefits of intervention outweigh the costs it may impose on other market participants. Competition law has long been guided by effects rather than form. Any framework that departs from that principle risks undermining the very competition it seeks to promote.

ⁱ The views expressed are personal and should not be attributed to the firm.