

The Diffusion of Digital Competition Regulations

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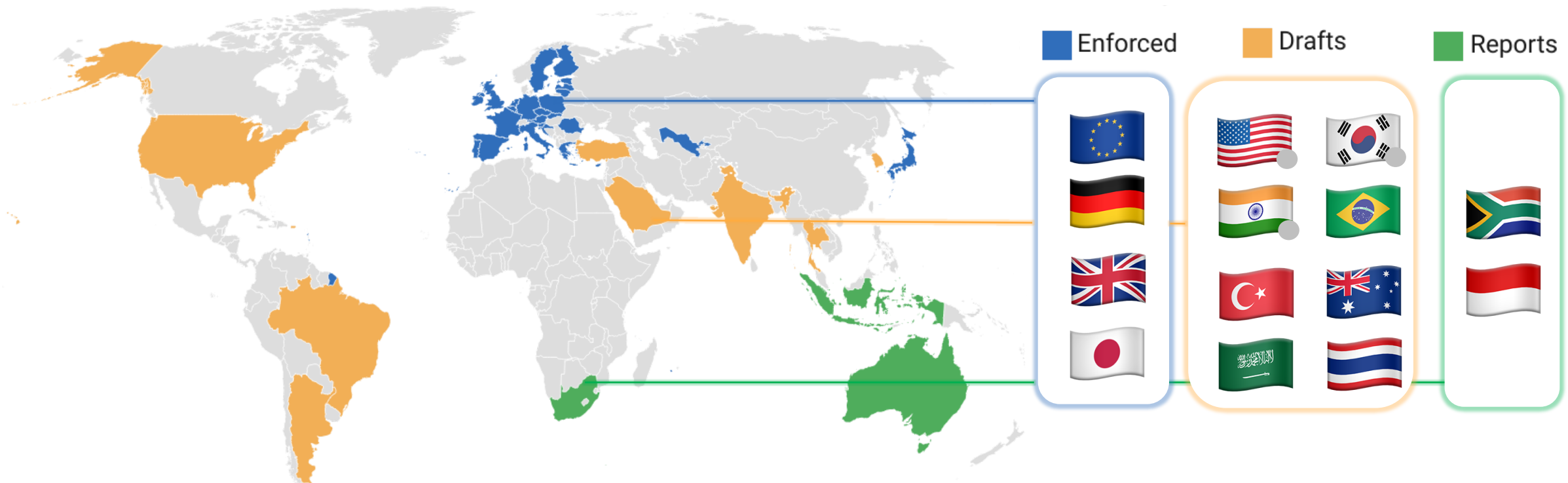
DMA and Beyond Conference (6-7 February 2025)

The DMA-Like Law and Initiatives Around The World?

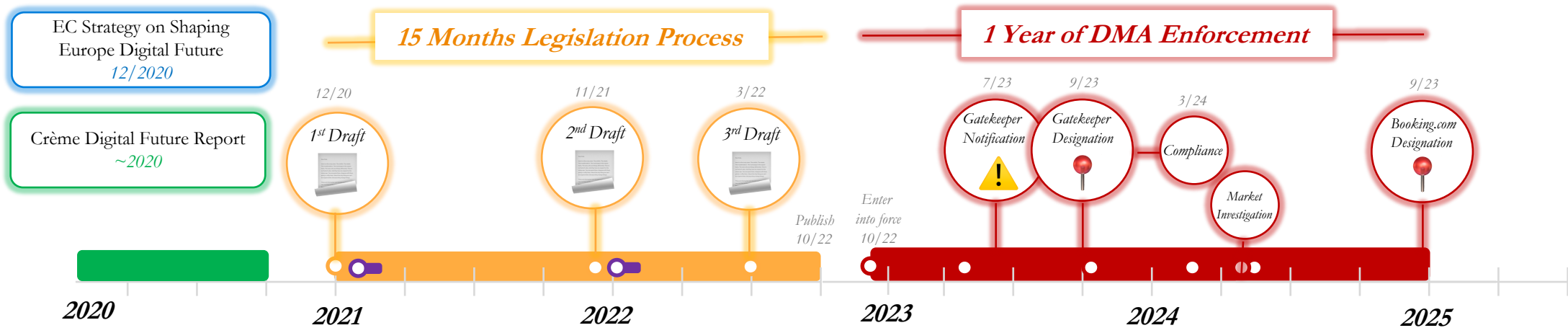
- **Global Diffusion of Ex-Ante Regulations** – Trends and Patterns Leading to Adoption
- **Customization** – Local Context – Gatekeepers and Priorities?
- **Implications** – Political Economy and Coalitions in the Legislative Process.

~1 Year (May 2023)

After EU's Digital Market Act
Rules Came Into Effect



Tracing the Digital Competition Regulations Diffusion



Reports



> Legislation Comments & Analysis



> Implementations and Non-compliance.



Tracing the Digital Competition Regulations Diffusion

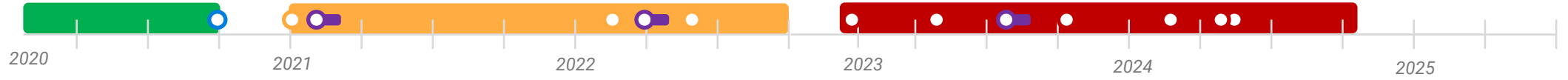
Step 1
Announcement

Step 2
Expert Report

Step 3
Draft Legislation

Step 4
Public Consultation

Step 5
Enforcement



(1) **Asia Jurisdiction:** Incremental developments of service-specific regulations to more multi-services sectors.



Digital Platform Service Inquiry 2020-2025.



Revised Telecom Act

Election

Task Force
Explore ex-ante regulation

Congress-Election



Act on Improving Transparency and Fairness of Digital Platforms

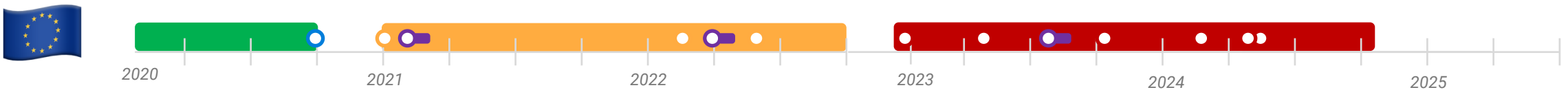
Task Force: Competition Assessment of the Mobile Ecosystem.

Smartphone Software Competition Promotion Act (3)



G7 inventory of new rules for digital markets
Prepared by the OECD Competition Division for the 2023 G7 Joint Competition Policy Makers and Enforcers Summit

Tracing the Digital Competition Diffusion



Media and Digital Platforms Market Inquiry [Nonbinding Market Inquiry]



Digital Competition Bill



Digital Platforms Report (October 2024) By Ministry of Finance 2024



BRICS 1st report



(June 2022)



Harnessing the Interaction between Digital Platforms and MSMEs
Recommended Best Practices for Digital Platforms (RDP)



BRICS 2nd report (2024)

Customization: Local Context & Priorities?

1. Lowering the Thresholds for gatekeepers designation

+

2. Obligations and Core Service

+

3. Fines

4. Governance? – Australia

- Allocations of roles in administration/oversight
- Right to review decision, Regulation review
- Supervisory Toolbox.

5. New Data, Research and Developments

- Understanding – designated, compliance reports & investigation,
- How the outsource process works.

Table 17: The Customization of Gatekeeper Quantitative Criteria In Existing Drafts.

Jurisdiction		Significant Impact on the Market		Important gateway for business users to reach end user (active user)		
Country	Population (million)	Annual turnover in 3 years	Average market capitalization	End user (monthly)	Business user (Yearly)	Continued period (year)
EU	448	€ 7.5 billion	€ 65 billion	45 million	10,000	3
South Korea	51.6	\$2.3 billion (KRW 30 trillion)	\$23 billion	10 million	50,000 (Monthly)	3
India	1417	Global ~\$3 billion India ~\$482.8 million	\$75 million	10 million	10,000	3
Brazil	215.3	(~\$15 million (BRL \$70 million)	-	-	-	-
Uzbekistan	35.6	~\$3 million	-	50,000	-	-

Table 11: Fines

Country	Fines	
	Violations + Repeated infringements	Rate
European Union*	10% up to 20%	Global turnover
United Kingdom*	5% up to 150,000	Global turnover
India	10%	Global turnover
South Korean	10%	Korean revenue
Turkey	10% up to 20%	Global turnover
Brazil	10%	Brazil revenue
US (Draft AICOA)	15%	US revenue

*Enforced

Implications – Political Economy: Coalitions in the Legislative Process.

Depending on customization, Lines are drawn in stakeholder participation.



The New York Times
The Antitrust Enforcers Aimed at Big Tech. Then Came the Backlash.
 South Korea pledged to protect its online platforms from marketplace giants, but lobbyists are crying foul play.



THE ECONOMIC TIMES | News
Big Tech, few Indian entities oppose ex-ante regulation under new law; others lend their support



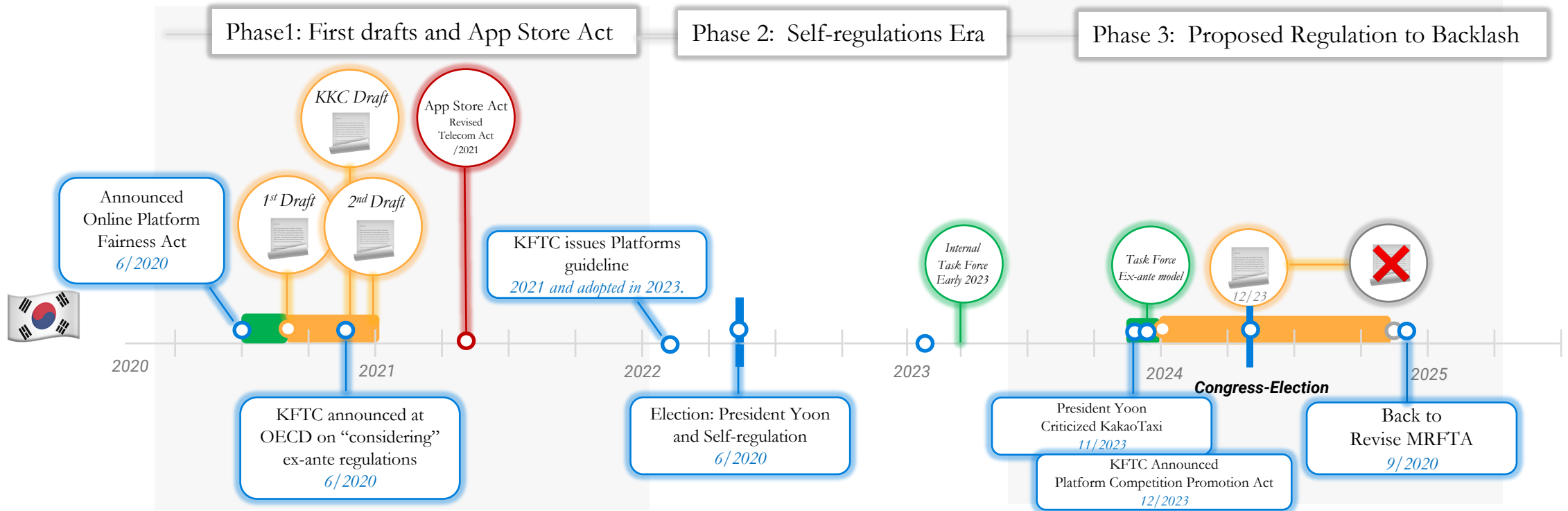
Indian digital competition law teeters, lawyers call for rethink
 Charles McConnell
 26 September 2024

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Political Economy Factors	Concentrated Interest Group Platforms mobilize push back against DMA-like laws	Fragmented Countervailing Force Less bureaucratic capacity and civil society engagement
	Factors Internal: Voters, National champions, External: International Organizations, Trade Agreements	

Korean: Roller-coaster developments.

Rushed process, Top-down reforms, reaction to crisis and less participatory.



Korean: Roller-coaster developments and phases.

The New York Times

Phase 1: First drafts and App Store Act

Phase 2: Self-regulations Era

Phase 3: Proposed Regulation to Backlash

Apple and Google's Fight in Seoul Tests Biden in Washington

A proposal in the South Korean legislature is an early test of how forcefully the Biden administration will defend the companies abroad while trying to trim their power at home.

Topics / International /

U.S. Chamber Warns Against Rush to Pass Korea's Online Platform Competition Promotion Act; Calls for Transparency and Dialogue



2020

2021

2022

2023

2024

2025

The New York Times

The Antitrust Enforcers Aimed at Big Tech. Then Came the Backlash.

South Korea pledged to protect its online platforms from marketplace giants, but lobbyists are crying foul play.

KFTC announced at OECD as "considering"

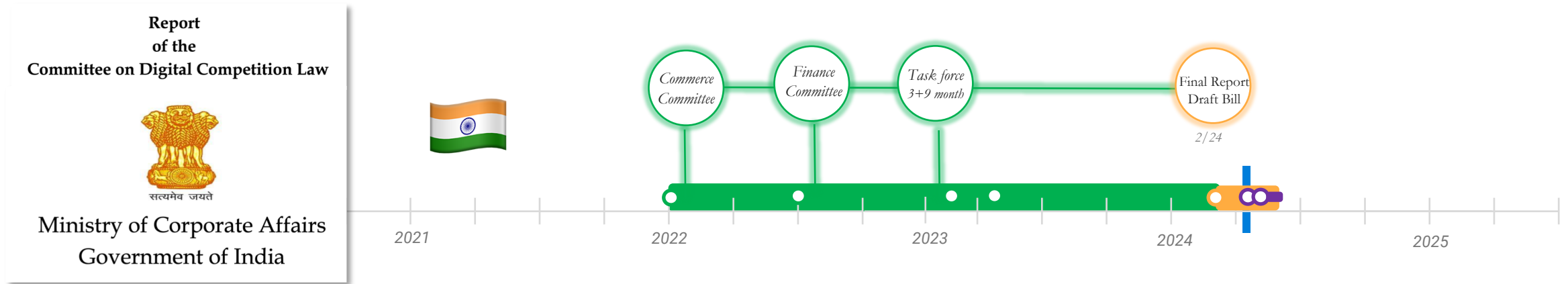
Election: President Yoon and Self-regulation

President Yoon Criticized KakaoTaxi

Back to

Kim Min-ho, a law professor at Sungkyunkwan University, said the shift in Mr. Yoon's position was likely tied to the election in April, when his party will look to win over small-business owners, taxi drivers and delivery service workers who have been supportive of the opposition party's position to regulate large technology companies. Some smaller businesses have signaled support, according to the Korea Federation of Micro Enterprise, which in a [survey](#) found that 84 percent of respondents were in favor of the act.

India: Active Discussion in Parliament Committees. Tension between US and local tech.



- 29 submission were made but the scope and framing is limited to short answer and yes/no
- Almost divided across international – national identity line:

S. No	Name of the Stakeholder	Submissions of Stakeholders	Observations on need for a new digital competition law
3.	Amazon	<ul style="list-style-type: none"> Amazon is already heavily regulated by the FDI Policy which mandates that it can only act as an online marketplace and not as a seller, and that it should provide fair terms to all sellers. 	Not in favour of <i>ex-ante</i> regulation.
10.	Confederation of All India Traders	<ul style="list-style-type: none"> Large digital enterprises in the e-commerce sector provide reduced commission or discounts and more favourable terms for preferred sellers; do not follow platform neutrality; 	In favour of <i>ex-ante</i> regulation.

S. No	Name of the Stakeholder	Submissions of Stakeholders	Observations on need for a new digital competition law
15.	Google	<ul style="list-style-type: none"> There has been no global consensus on a regulatory approach to govern digital markets. Most regimes are untested and provide for rigid rules adversely impacting product innovation and benefits to consumers 	Not in favour of <i>ex-ante</i> regulation except under certain conditions.
13.	Federation of Hotel & Restaurant Associations of India	<ul style="list-style-type: none"> OTAs and food service aggregators indulge in <i>inter alia</i> cartelisation; predatory pricing and deep discounting; charging exorbitant commissions from restaurant partners; non-transparent bookings; imposition of arbitrary and unfair terms in contracts; collection and use of consumer data; and lack of transparency in search algorithms 	In favour of <i>ex-ante</i> regulation.

India:

Unsuccessful Lobby efforts from US and Local Chamber of Internet And Mobile Association of India (IAMAI)

Domestic Push Back

ABA and other submissions

May 14, 2024

TO: Ministry of Corporate Affairs, Government of India

SUBJECT: Joint Section Comment on India's Draft Bill on Digital Competition Law



d. The United States has not introduced ex-ante law to regulate digital markets.

The CDCL Report cites draft legislation proposed in the U.S. Congress to change U.S. antitrust law, especially concerning introduction of ex-ante regulation of technology platforms.⁹ By way of a

b. The definition of CDS is overly broad and ought to be revised to limit uncertainty.

The Sections recommend a careful approach to defining "online intermediation services" (OIS). The DCB defines OIS to encompass any digital service that does not fall under the other eight CDSs under Schedule I.¹⁸ These additional service providers include "web-hosting service providers, payment



सत्यमेव जयते

Ministry of Corporate Affairs
Government of India

Finance Committee

Task force 3+9 month

POLICY PLUNGE

Online Industry Divided Over Draft Digital Competition Bill, Stringent Penalties

2/24

Founder Anupam Mittal criticized IAMAI for furthering the interests of foreign companies at the expense of Indian startups. Janakiraman even said, "Unfortunately today, a Google employee is the chairperson [of IAMAI] and a Meta employee is the vice chairperson. So, it is largely influenced by the interests of the global big tech companies," which, in hindsight, seems to have foreshadowed the turn of events.

Table: Parameters for intervention under ex-ante control in international jurisdictions⁶⁰²

Jurisdiction	Applicable law	N	Quantitative thresholds	
			Criteria	
	DMA		✓	✓
	DMCC		X ⁶⁰³	✓
	ARC		X	✓
4. Australia	Bargaining Code		X	
	5 th DPSI Report		✓	
5. USA	AICO		✓	
	EPM		✓	
	OAM		✓	
6. Japan	TFDP Act		✓	
7. China	AML (as amended in 2022)		X	
	Draft Classification Guidelines		✓	
8. South Korea ⁶⁰⁴	App-Store Act		-	-
	Platform Guidelines		-	-

DRAFT DIGITAL COMPETITION BILL, 2024

Out with the old and in with the new: IAMAI elects Dream Sports co-founder Harsh Jain as Chairman



KAMYA PANDEY on MAY 25, 2023 — LEAVE A COMMENT

2 MINUTE READ

1. Short title, extent and commencement

(1) This Act may be called the Digital Competition Act, 2024.

Thailand

ร่างพระราชบัญญัติ
**เศรษฐกิจ
แพลตฟอร์ม
ดิจิทัล**
พ.ศ.

เปิดรับฟังความคิดเห็นผ่านระบบกลางทางกฎหมาย
หรือสแกนQR Code ด้านล่างนี้



ตั้งแต่วันที่
ถึง
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2568

Draft Act on Digital Platform Economy is now up for
consultation via Central Law platform
Now - 15 February 2025.
For submissions in English or Mandarin Chinese,
please email to nr0913@ocs.go.th

平台经济法草案公开征求意见
从今天起至2025年2月15日详细信息请扫下方二维码
英文或中文意见请发至nr0913@ocs.go.th

(Draft) Act on Digital Platform Economy

- Framework: DMA + DSA
- Different Digital Economy Landscape
 - US, China but also regional platforms
- Less Experience in Digital Regulation and Cases

“Submissions in English or Mandarin Chinese”

Thank you