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A Survey-Based Study

IMPLICATIONS OF THE PROPOSED DIGITAL COMPETITION BILL FOR SMALL BUSINESSES IN INDIA

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Implications of the Proposed Digital Competition Bill for Small Businesses in India

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List of Abbreviations

ACP	Anti-Competitive Practices
CCI	Competition Commission of India
CDCL	Committee on Digital Competition Law
CDS	Core Digital Services
DCB	Draft Digital Competition Bill of 2024
DMA	Digital Markets Act of 2022
DMCCA	Digital Markets, Competition & Consumers Act, 2024
DPIIT	Department for Promotion of Industry & Industrial Trade
EU	the European Union
FBA	Fulfilment by Amazon
FBF	Fulfilment by Flipkart
FMCG	Fast Moving Consumer Goods
GDPR	General Data Protection Regulation
GMS	Google Mobile Services
MADA	Mobile Application Distribution Agreement
MRP	Maximum Retail Price
MCA	Ministry of Corporate Affairs
MSME	Micro, Small & Medium Enterprises
OTA	Online Travel Agencies
PSC	Parliamentary Standing Committee on Finance
SMS	Strategic Market Status
SSDE	Systemically Significant Digital Enterprises
UK	the United Kingdom

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Executive Summary

The Government of India's proposed Draft Digital Competition Bill of 2024 (DCB/the Bill) aims to ensure a level playing field and prevent unfair practices that stifle competition in digital markets. Such concerns are currently addressed through the evidence-based antitrust framework under the Competition Act of 2002 (the Act), enforced by the Competition Commission of India (CCI/Commission). However, the DCB adopts an ex-ante approach, requiring all qualifying digital service providers, termed ‘Systemically Significant Digital Enterprises’ (SSDEs), to pre-emptively adhere to a set of obligations and prohibitions without assessing evidence or establishing anti-competitive harm.

This approach is novel and largely untested, with frameworks like the European Union’s (EU) Digital Markets Act of 2022 (DMA) and the United Kingdom's (UK) Digital Markets, Competition and Consumers Act of 2024 (DMCCA) adopting a similar model. Some experts argue that per se prohibitions could stifle innovation and disrupt legitimate business practices, while others contend that the DCB's pre-emptive approach lacks the rigorous analysis needed to justify sweeping regulations.[1] Additionally, critics highlight the regulatory uncertainty[2] and increased costs that the proposal could impose on its intended beneficiaries—downstream businesses and start-ups.[3]

To test this, we surveyed over **300 respondents[4]** who utilise digital services covered by the DCB. The survey aimed to understand their perception of the value added by digital services and the perceived downstream costs resulting from DCB-driven product changes. The majority of respondents **(~96%)** meet the Ministry of Micro, Small & Medium Enterprises' quantitative criteria for Micro, Small, and Medium Enterprises (MSMEs), and close to **89.6%** meet the definition of start-ups by the Department for Promotion of Industry and Internal Trade (DPIIT).

While all respondents confirmed availing digital services in their day-to-day operations, **69%** of the respondents were themselves engaged in the provision of digital content or services.[5] The majority of respondents are small businesses, with **74.6%** having a turnover of less than INR 5 crore and **64.8%** having an investment of less than INR 1 crore. Relying on our survey, we arrived at the following conclusions:

1. Digital Services Enhance Businesses’ Ability to Compete Effectively

Digitisation has brought significant efficiencies, often overlooked in proposals for pre-emptive regulation of digital services. Policymakers must quantify these efficiencies and assess how restricting digital service providers' terms could reduce benefits for small and medium businesses undergoing digital transition. A comprehensive cost-benefit analysis is essential to prevent hindering a key driver of India's economy based on unsubstantiated claims of "unfairness" from a few sellers, especially given the abundant evidence of business efficiencies acknowledged by the groups these proposals aim to protect.

For instance, of those surveyed, **88.8%** of respondents believe that the digital services they use are essential for their business' success, and **82.2%** believe that digital services enhance their ability to compete effectively in markets. Specifically, respondents pointed to the following key benefits of digital services in their day-to-day operations:

1. Lazar Radic, “India Should Question Europe’s Digital-Regulation Strategy - Truth on the Market,” Truth on the Market, April 12, 2024, https://truthonthemarket.com/2024/04/12/india-should-question-europes-digital-regulation-strategy/.
2. Tejasi Panjiar, “Summary of IFF’s Submission on the Draft Digital Competition Bill,” Internet Freedom Foundation, June 7, 2024, https://internetfreedom.in/iffs-submission-on-the-digital-competition-bill/.
3. Shreshtha Verma, “Will India'S Digital Competition Bill Level up the Field for Startups?,” TICE News, October 2, 2024, https://www.tice.news/tice-trending/will-india-digital-competition-bill-level-up-the-field-for-startups-7238824.
4. For the purposes of this survey, the respondents were limited to businesses incorporated in India (hereinafter referred to as 'businesses,' 'responding businesses,' or 'respondents').
5. Digital content goods or services are those that exist in a digital format.

1.1. Cost Optimisation

69.1% of respondents cited cost optimisation as a key benefit of digital services. Specifically, **74%** reported reduced customer acquisition costs, and **72.8%** saw lower operational costs. Moreover, **70.1%** of participants noted better advertising and marketing spend optimisation, and **64.2%** experienced increased returns on marketing investments due to digital services. Additionally, **61.2%** of users acknowledged optimising logistics costs as another key benefit, underscoring the broad impact of digital services on cost efficiency.

1.2. Customer Interaction

Survey data shows most respondents recognise the value of digital services for enhancing customer interaction. **79.7%** view digital services as crucial for improving overall customer engagement abilities. **80.5%** believe digital tools have enhanced reach and customer trust. **79.9%** acknowledge digital services' role in offering competitive prices, and **79.6%** recognise their importance in providing a safe and secure customer experience. **78.4%** note enhanced customer service and grievance redressal, while **76.6%** appreciate the ability to address customer needs using behavioural and preference insights generated through digital services.

1.3. Reach and Visibility

Most respondents believe the absence of sponsored posts or special listings on search engines, online retail, and social media services would negatively impact their businesses. **67.1%** foresee a negative impact if search engines no longer offer these features, with **25.1%** anticipating a strong negative impact. Similarly, **66.9%** predict a negative impact if such options were removed from online retail and social media, with **37.6%** expecting a strong negative impact. By contrast, only **14.8%** and **12.1%** of participants respectively believe removing these features would positively impact their businesses on search engines and online retail/social media.

1.4. Business Expansion

Respondents recognise digital services enhance their business expansion capabilities. **76.4%** believe digital services have significantly improved their overall business expansion abilities. Specifically, **84%** highlight improvements in transitioning operations and processes to digital services, while **82.5%** note digital services have accelerated new product/service rollouts. Additionally, **80.2%** report enhanced access to new domestic markets, and **79.6%** believe digital services have improved their ability to enter international markets.

2. Businesses Report Broad Satisfaction with the Choice, Terms and Pricing of Digital Services

Proponents of pre-emptive antitrust regulation of digital services have expressed a lack of choice for businesses availing digital services – leading to businesses settling for allegedly unfair terms of service and pricing. However, our survey reveals that **64%** of the respondents are satisfied with digital service providers (in terms of choice, terms and prices). In contrast, only **16%** expressed dissatisfaction with the three parameters. Specifically, of those surveyed, **77%** reported satisfaction with the choice of digital services at their disposal, and **63%** reported being satisfied with the prices and fees for availing of digital services. Notably, **51.5%** of the respondents reported a positive perception of the terms on which digital services are made available.

Notwithstanding the limitations of our survey, the findings make a case for a fresh evaluation of claims of unfairness, as raised by businesses, before committing to pre-emptive constraints and standards that could reduce the quality of digital services provided without any demonstrable welfare gains for businesses utilising such services. On the contrary, structural interventions in markets, with a view towards predetermined outcomes, viewed as “fair” by a handful of businesses, risk undermining the competitive process by creating an uneven playing field amongst service providers – with size-based restraints being applicable only to a small subset of service providers.

3. Businesses Foresee a Net Negative Impact of the DCB in terms of Customer Engagement, Customer Service and Customer Safety

While acknowledging the potential unintended consequences of the DCB, including its impact on innovation, the Committee on Digital Competition Law (CDCL) did not conduct a comprehensive empirical cost-benefit analysis. Our survey addresses this gap by examining the DCB's potential downstream effects on retail and business consumers of digital services. We specifically investigated how the proposed changes might impact various aspects of business operations.

The DCB aims to regulate several aspects of digital service provision. For instance, it proposes a complete prohibition of tying and bundling practices by prohibiting SSDEs from requiring or incentivising the use of additional products or services. Similarly, it proposes to prohibit cross-utilisation of data generated across multiple services offered by a digital service provider. These restrictions could potentially have a downstream impact on pricing, hamper businesses' customer engagement channels, and even limit their ability to provide a safe and secure service environment.

3.1. Impact on advertising reach

The DCB's data usage provisions may increase consent fatigue, given the additional requirements of the Digital Personal Data Protection Act, 2023, which mandates user consent for personal data processing. Moreover, requiring explicit consent for data cross-usage could potentially limit tailored ad placements. **71.6%** of responding businesses expect a negative impact if digital services cannot effectively target ads, with **29.6%** anticipating a strong negative effect.

3.2. Impact on social media functionalities

The DCB could limit social media services’ ability to offer integrated services like advertising tools and online storefronts. **73.3%** of respondents expect a negative impact if these functionalities are eliminated.

3.3. Impact on third-party engagement

The DCB may prevent app stores from offering their own payment services. **47.7%** of responding businesses worry about engaging with third parties for essential services, while **57.1%** believe the absence of a "one-stop shop" for app discovery and distribution would negatively affect them.

3.4. Impact on special promotion deals

The DCB could prevent marketplaces from offering special promotional deals. **46.8%** of respondents expect a negative impact if these deals are barred.

3.5. Impact on allied support services

The DCB may limit marketplaces' ability to offer allied support services like logistics and fulfilment solutions. **48.5%** of responding businesses anticipate a negative impact if these services are restricted.

3.6. Restrictions on cross-channel insights

The DCB could limit digital services' ability to use insights across multiple channels. **71.9%** of responding businesses expect a negative impact from such restrictions.

3.7. Impact on listing algorithms

The DCB may regulate service providers’ (aggregators/ discovery services) ability to customise user experiences based on preferences. **66.2%** of responding businesses believe this would negatively impact their business.

3.8. Data sharing and transparency obligations

The DCB may require service providers to share businesses’ ad performance data with other third-party advertisers. However, this may raise concerns about confidentiality and disclosure of marketing strategies. Resultantly, of businesses expect a negative impact from this obligation.

3.9. Impact on Customer Security

The DCB could limit app stores' ability to restrict potentially risky apps. **54.1%** of businesses believe this would negatively affect their business.

4. Conclusion and Way Forward

The DCB proposes an ex-ante approach to ensure fair competition in digital markets, departing from the current evidence-based anti-trust framework. This approach may need to be reconsidered in light of our survey findings. Digital services form a significant input for downstream businesses, and our survey points to businesses' broad satisfaction with the choice, terms, and fees of available digital services. Our survey reveals:

a. **64%** of businesses are broadly satisfied with digital service providers.
b. **77%** are satisfied with the choice of digital services.
c. **63%** are satisfied with prices and fees.
d. **51.5%** are satisfied with the terms on which digital services are made available.
e. **88.8%** believe digital services are crucial for their business success.
f. **82.2%** think digital services enhance their market competitiveness.

In its current framing, the DCB entails potentially high error costs, particularly for start-ups and MSMEs. Responding businesses anticipate an overall negative impact of some of the proposals contained in the DCB. For instance, restrictions on tying, bundling, and data cross-utilisation could significantly impact pricing, customer engagement, and service security.

Our findings indicate a need for a more nuanced approach. The high satisfaction levels among respondents and the potential negative impacts of the proposed changes necessitate a thorough reassessment of the DCB's necessity and its potential consequences on India's digital economy. In light of our research, the Government should:

a. Reconsider the necessity of the proposed digital competition law, given the risk of hindering a key economic driver based on unsubstantiated claims of "unfairness".
b. Prioritise proactive enforcement by the CCI under the existing competition law regime in sectors where dissatisfaction exists.
c. Conduct a comprehensive empirical cost-benefit analysis of the DCB's potential effects on retail and business consumers of digital services.
d. Re-evaluate claims of unfairness before implementing pre-emptive constraints that could reduce service quality without demonstrable welfare gains.
e. Commission research to quantify digitisation efficiencies and assess how restricting large digital service providers' terms could impact small and medium businesses, ensuring all stakeholders understand the trade-offs of DCB-like proposals.

01
Introduction

The Draft Digital Competition Bill of 2024 (DCB/the Bill), proposed by the Government of India in March 2024, aims to ensure a level playing field and prevent unfair practices that stifle competition in digital markets. Currently, enforcement of competition concerns across industries, is guided by the Competition Act of 2002 (the Act), administered and enforced by the Competition Commission of India (CCI/the Commission) – based largely on evidence of market harm and any other pro-competitive benefits of an enterprise's conduct, except in cases of *per se* violations such as cartelisation.

In the technology markets the CCI has intervened on approximately 20 occasions. Despite the CCI having taken on proactive enforcement measures, the government has followed the lead of other jurisdictions, such as the European Union (EU) and the United Kingdom (UK), by exploring *ex-ante* (pre-emptive) and size-based regulations for technology markets. However, in doing so, the DCB risks pushing a *per se* approach, for instances of vertical restraints or unilateral conduct that would otherwise be evaluated based on context-specific assessments to establish harm rather than presumptions of anti-competitive intent.

In its report, the Committee on Digital Competition Law (CDCL) justifies the introduction of such pre-emptive frameworks to tackle: (a) multiple complaints concerning similar theories of harm against certain digital service providers, (b) the lengthy enforcement process involving investigations, adjudications, and appeals, and (c) the risk of markets "irreversibly tipping" due to delayed action.[6] However, this approach risks prematurely categorising certain conduct as anti-competitive without sufficient evidence or consideration of the pro-competitive and pro-consumer benefits of such practices.

While the proposed regulatory framework aims to address specific instances of anti-competitive conduct linked to certain digital services, the current discourse adopts an overly broad approach that encompasses all digital services. This generalisation fails to account for the unique efficiencies, benefits, and competitive dynamics across various sectors. For instance, the payment market in India is highly competitive,[7] while the sectors such as online retail[8] and curated video streaming[9] etc., remain intensely contested, with diverse players driving innovation and consumer choice. Despite this, these services have been brought under the ambit of the proposed DCB. Notably, the Report of the Committee on Digital Competition Law (CDCL Report/the Report) does not adequately assess the efficiencies or competitive characteristics of the sectors targeted for regulation.

In fact, by overlooking such efficiencies, the CDCL has also skimmed over the fact that while certain businesses have raised concerns over the terms of availing digital services, there continues to be a large segment of businesses that continue to use and scale their operations, building on the efficiencies generated by such services. Resultantly, in the absence of a detailed evaluation of such benefits, hasty intervention could have a negative impact on a significant majority of businesses and their competitiveness. However, there isn't sufficient data on this, since the CDCL did not undertake any empirical evaluation of the impact, nor were such businesses consulted in any programmatic manner.

6. Ministry of Corporate Affairs, *Report of the Committee on Digital Competition Law. Ministry of Corporate Affairs, 2024.* https://www.mca.gov.in/bin/dms/getdocument?mds=gzGtvSkE3zIVhAuBe2pbow%253D%253D&type=open#:~:text=In%20this%20 backdrop%2C%20the%20Committee,for%20digital%20markets%20in%20India.
7. CyberMedia Research (CMR), "India'S Digital Payments Market Is Becoming Extremely Competitive," Cybermedia Research (CMR), August 29, 2024, https://cmrindia.com/indias-digital-payments-market-is-becoming-extremely-competitive/.
8. Statista, "Topic: Streaming Industry in India," Statista, May 15, 2024, https://www.statista.com/topics/9425/streaming-industry-in-india/.
9. Statistia, "Topic: Streaming Industry in India."

The rapid adoption of digital services has significantly benefited small businesses, including MSMEs and start-ups, by improving market access, operational efficiency, and scalability. Overlooking these benefits could undermine the very ecosystem that aims to empower small businesses, potentially stifling their growth and innovation. The study, therefore, attempts to shed light on these gaps by way of a survey aimed at gauging: (a) businesses' perception of the value addition of digital services; (b) their satisfaction with choice, terms and prices, and lastly, (c) business' perception of how their businesses might be directly/indirectly impacted by some of the changes proposed under the DCB. Our study is informed through a survey of businesses that utilise digital services, including those qualifying the criteria for Micro, Small, and Medium Enterprises (MSMEs) and start-ups.[10]

Chapter 2 elaborates on the scope of the research and the research methodology adopted. **Chapter 3** evaluates businesses' perception of the value generated by digital services for their businesses. **Chapter 4** assesses their satisfaction with the choice, terms, and prices of digital services. Chapter 5 examines the perceived impact of the DCB's proposed changes on businesses. Chapter 6 summarises the findings of the study and provides recommendations.

10. Considering the scope of the study, it is pertinent to note that our focus is on businesses that are legal entities and not on natural persons who supply or provide goods or services through digital services.

02

Scope, Research Questions and Research Methodology

2.1. Scope of the Study

The DCB does not define a "digital service" or provide any definition or criteria for "core digital services," i.e., digital services sought to be regulated under the DCB. To define digital services for the purpose of this study, we rely on the UK's Digital Markets, Competition, and Consumer Act (DMCCA). Accordingly, digital services in this study refer to services on the internet and the provision of one or more pieces of digital content (including services and content provided for free).[11]

Further, the definition of *"businesses"* includes incorporated entities in India, including those who qualify the government's quantitative criteria to qualify as 'start-ups' or 'MSMEs.'[12] All the businesses surveyed in the study utilise digital services, while a certain percentage themselves provide digital content or services.[13]

"Digital service providers" refers to entities offering a wide range of digital services businesses rely on for their operations. This includes providers of digital advertising services, online retail marketplaces, social media networks, cloud services, and other online tools essential for digital business activities.

2.2. Research Questions

For this study, we employed a deductive approach to investigate the following four key research questions:

a. What is the perceived value addition of digital services for businesses?
b. To what extent are businesses satisfied with the choices available to them in terms of digital service providers?
c. To what extent are businesses satisfied with the prices/fees and terms of services provided by digital service providers?
d. What is the perceived impact of the changes that can be unintentionally introduced by the DCB in the digital ecosystem?

2.3. Literature Review and Gap

A review of the existing literature indicates that research on the impact of *ex-ante* frameworks has been attempted in various jurisdictions. For example, Oxera[14] highlights that the DMA may unintentionally stifle innovation and burden service providers. However, in India, the literature on the impact of digital competition regulations remains limited. Gaurav S. Ghosh and Subhashish Gupta (2023)[15] examine India's experience with *ex-ante* regulation and conclude that while disclosure laws and transparency regulations could be effective, comprehensive *ex-ante* regulation might be premature in India's context.

11. U.K. Parliament, Digital Markets, Competition & Consumers Act, 2024 (DMCCA), sec. 3(1), https://www.legislation.gov.uk/ukpga/2024/13/enacted.
12. The definition includes but is not limited to those businesses that can be classified as 'startups' as per the quantitative criteria of the DPIIT and those that can fall under the quantitative criteria of 'MSMEs' by the Ministry of MSMEs.
13. Digital content or services are those that exist in a digital format.
14. Oxera, **How Platforms Create Value for Their Users: Implications for the Digital Markets Act. 2021,** https://www.oxera.com/wp-content/uploads/2021/05/How-platforms-create-value.pdf.
15. Gaurav S. Ghosh, and Subhashish Gupta, "Ex-ante Regulation in Digital Markets in India: Some Practical Considerations." Working Paper No. 683/2023. KREA University and Indian Institute of Management Bangalore, June 2023, https://ssrn.com/abstract=4492393.

Furthermore, literature focusing specifically on the impact of regulatory measures on businesses like MSMEs and start-ups is sparse, with most studies available internationally. For instance, a study by Catalyst Research[16] argues that regulatory measures like the DMA may inadvertently hinder the *growth and competitiveness* of small and medium-sized enterprises. Another study estimates the potential harm to small and medium-sized businesses in the U.S.[17] However, in the Indian context, such studies, particularly quantitative ones, are limited.

A study by the Esya Centre[18] explores the extent to which MSMEs depend on digital service providers for advertising and customer acquisition, as well as the potential impact of the DCB on MSMEs in India. It focuses on the effects of two key provisions of the DCB: data usage [Section 12(2)] and tying and bundling [Section 15], particularly when regulation or legislation places restrictions on Systemically Significant Digital Enterprises (SSDEs).

However, there remains a lack of comprehensive quantitative studies addressing the value addition and satisfaction of digital services for businesses, their satisfaction with the available choices, terms and fees, and the perceived impact of unintentional consequences of the DCB on businesses in India. This study aims to contribute to filling this gap in the literature.

2.4. Research Methodology

A mixed-method approach was employed, combining secondary research with a cross-sectional survey. The secondary research involved a comprehensive review of existing literature related to the study's theme. This was complemented by a structured survey targeting a diverse sample of Indian businesses.

The questionnaire was designed to assess businesses' satisfaction with digital services, their perceived significance, and the potential impact of the DCB. The sampling strategy followed a mixed-method approach, beginning with stratified sampling by geography and then applying random sampling within regions to avoid bias. A pilot survey was conducted to test the protocol and refine the questionnaire. The final survey was distributed via email, with follow-up communication to ensure a satisfactory response rate. This process yielded **371 responses,** with **338 valid responses** after data cleaning.

Once data collection was complete, responses underwent statistical analysis, including both descriptive and inferential techniques.

2.5. Limitations of the Research Study

The study has the following limitations, emanating due to the limited sample size upon which the survey relies:

a. **Limited Sample Size:** This study does not claim to represent the entire business ecosystem in India. The number of businesses in India is likely to be very large. Significant time, logistics, and financial resources are required to conduct a sample survey of that size, which was unavailable. Therefore, a small sample size was considered.
b. **Exclusion of Natural Persons:** The definition of "businesses" does not cover businesses that are natural persons, such as delivery partners, taxi drivers, or providers of personal urban services.

16. Data Catalyst, "Misfire: How the Digital Markets Act Will Unwittingly Hurt European Small Businesses," Catalyst Research, 2021, https://datacatalyst.org/wp-content/uploads/2021/08/CR-DMA-Working-Group-Report-62221-2.pdf.
17. Data Catalyst, "Estimates of Potential Harm to U.S. Small and Medium Sized Businesses from Proposed Antitrust Legislation Aimed at Large Digital Platforms," Catalyst Research, 2022. https://datacatalyst.org/wp-content/uploads/2022/08/Estimates-of-Potential-Harm-to-U.S.-Small-and-Medium-Sized-Businesses-from-Proposed-Antitrust-Legislation-Aimed-at-Large-Digital-Platforms.pdf.
18. Meghna Bal, and Vipul Gautam, *A Survey-Based Assessment of the Impact of the Draft Digital Competition Bill, 2024 on MSMEs in India,* Esya Centre, 2024, March 2024. https://static1.squarespace.com/static/5bcef7b429f2cc38df3862f5/t/66064be16caf107df12c6e1f/1711688684866/Esya+Centre+Report+-+A+Survey-Based+Assessment+of+the+Impact+of+the+Draft+Digital+Competition+Bill+2024+on+MSMEs+in+India.pdf.

c. **Sectoral and Demographic Scope:** The study cannot represent businesses of all sectors using digital services. This is due to the wide range of businesses that could potentially use digital services. Hence, this study is limited to the perception of businesses from the sectors specifically mentioned under section 1.1. in Annexure 1.
d. **Focus on Small Businesses:** The majority of respondents are small businesses, with 74.6% reporting having a turnover of less than INR 5 crores and 64.8% having an investment of less than INR 1 crores.
e. **Neutral Responses:** The study did not collect data on the reasons for neutral responses (e.g., "neither yes nor no," "neither satisfied nor dissatisfied," and "no impact"), limiting insights into why certain businesses may perceive no relevance or impact from digital services or proposed regulations.

03
Perceived Value Addition of Digital Services for Businesses

The CDCL Report identifies potential concerns within digital markets but overlooks businesses' potential strategic objectives in using digital services or evaluating the functionality of these services. Therefore, a more nuanced approach that integrates an understanding of ***if and how*** digital services contribute to businesses is essential to foster an environment where regulation supports businesses' interests while addressing legitimate concerns about market competition.

3.1. Value addition of digital service providers for businesses

Digital services add significant value to businesses by offering digital marketing strategies,[19] marketing tools and marketplaces,[20] building customer relations,[21] offering cost-effective services[22] for start-ups with limited resources,[23] and offering technologies enabling start-ups to access resources, innovating[24] and expanding their market.[25] For example, Meesho is collaborating with Google Cloud to drive increased operational efficiency.[26] Similarly, other services like Amazon Web Services are working with Indian start-ups to drive innovation.[27] While some start-ups have in-house data analytics, others depend on digital service providers for value addition.

Digital services offer businesses economies of scale and network effects, where the value increases as more users join, giving start-ups wider reach and access to a larger customer base. On the contrary, this value might also be overstated due to varying degrees of access and capability among businesses to harness digital services effectively. Factors like disparities in digital infrastructure, skills gaps, and financial constraints may limit the extent to which these businesses may derive maximum benefits.[28]

Therefore, to *assess whether or not businesses believe that digital services provide value for them*, we conducted primary research on various benefits that businesses may or may not accrue from digital services. We assessed this in the following ways:

19. A.M. Gupta, Grover, and S. Mishra, "The Role of Digital Marketing in Startups," https://events.rdias.ac.in/wp-content/uploads/2021/06/The-Role-of-Digital-Marketing-in-Start-up.pdf.
20. Ali Akeel, and Manisha Gubhaju, "Digital Marketing and Its Effects on Start-Up Business, Thesis, 2020," https://www.diva-portal.org/smash/get/diva2:1526073/FULLTEXT01.pdf.
21. Isa, Sofie, and Petya Dimitrova, "Digital Marketing in Start-Ups: The Role of Digital Marketing in Acquiring and Maintaining Business Relationships," Edited by Tatyana Anisimova and Peter Oghazi 2018.
22. Vidisha Sharma and Vijayakumar Bharathi, "Social Media for Start-Ups - an Effective Marketing Tool," *SSRN Electronic Journal,* January 1, 2013, https://doi.org/10.2139/ssrn.2333262.
23. Gupta, A.M. Grover, and S.Mishra, "The Role of Digital Marketing in Startups," https://events.rdias.ac.in/wp-content/uploads/2021/06/The-Role-of-Digital-Marketing-in-Start-up.pdf.
24. B. Medina Nilasari, Farida Jasfar, Agustinus Sri Wahyudi, "The Effect of Interactivity, Cost Effectiveness, and Compatibility on the Use of Social Media and Its Implications for Organizational Performance," *American Research Journal of Business and Management* 5, no. 1 (2019), https://doi.org/10.21694/2379-1047.19003.
25. M.A. Usman, & Xibon Sun, (2023), "The impact of digital platforms on new startup performance: Strategy as moderator," *Heliyon,* 9(12), e22159, https://doi.org/10.1016/j.heliyon.2023.e22159.
26. Meesho, "Meesho Teams Up with Google Cloud for Faster Innovation at Scale," Meesho, May 2, 2022, https://www.meesho.io/blog/meesho-teams-up-with-google-cloud-for-faster-innovation-at-scale.
27. Avik Roy, "AWS Working with Indian Startups to Solve for the World," The Economic Times, March 19, 2024, https://economictimes.indiatimes.com/tech/technology/aws-working-with-indian-startups-to-solve-for-world/articleshow/108595348.cms?from=md.
28. UNCTAD, "Digital Economy Report Pacific Edition 2022, Chapter III: Digital platforms, e-commerce and value creation and capture," UNCTAD, 2022, https://unctad.org/system/files/official-document/dtlecdc2022d4_ch3_en.pdf.

a. **Cost Optimisation and Reduction:** We examined the value addition of digital services in helping businesses reduce the costs incurred on: establishing and maintaining distribution channels, customer acquisition costs, and cost of operations. Further, we looked at the extent to which businesses could optimise the costs incurred in logistics, advertising, and marketing. Lastly, we looked at the value addition of digital services for increasing return on marketing spend.
b. **Customer Interaction:** The extent to which digital services provide value for businesses in customer interaction was also assessed. The parameters examined include the importance of digital services in reaching the target audience, offering competitive prices, building consumer trust, addressing customer needs, improving grievance redressal, and ensuring a safe and secure experience.
c. **Business Expansion:** We asked businesses about the value addition of digital services in expansion on the following metrics: accessing new national, sub-national and international markets and rolling out new products and services. Additionally, we evaluated the role of digital services in helping businesses transition from traditional offline operations to the online space.

The survey results of perceived value addition on each metric mentioned above have been discussed below.

3.2. Cost Optimisation

Businesses face significant financial constraints due to several reasons, such as the cost of logistics, marketing,[29] fragmented supply chains, limited access to capital, vast geographical expanse, diverse consumer preferences, and costly talent acquisition - collectively leading to elevated costs and operational difficulties.[30] However, certain factors, including digital services, can help alleviate some of these cost-related issues. Key findings from the survey regarding this are provided below:

What percentage of businesses believe that digital services have enhanced their overall ability to optimise and reduce costs?

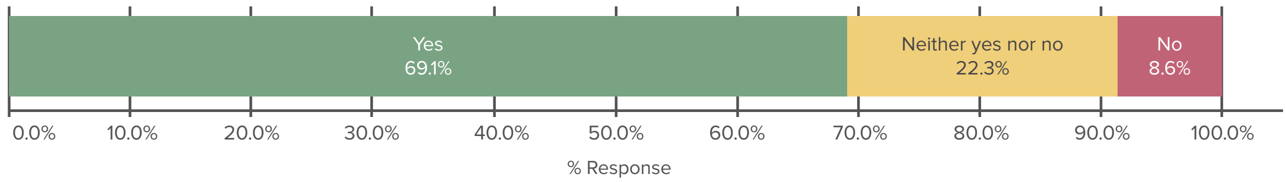


Figure 1: Percentage of businesses who believe that digital services have enhanced their overall ability to optimise and reduce costs.

[29] Yogesh K. Dwivedi, Elvira Ismagilova, David L. Hughes, Jamie Carlson, Rosario Filieri, Jacob Jacobson, Varsha Jain, Harri Karjaluoto, Hajer Kefi, Anjala S. Krishen, Vikas Kumar, Md. Mahmudur Rahman, Rohit Raman, Philipp A. Rauschnabel, Jennifer Rowley, Jari Salo, Gia Anh Tran, and Yichuan Wang, "Setting the Future of Digital and Social Media Marketing Research: Perspectives and Research Propositions," *International Journal of Information Management* 59 (2021): 102168, August 2021, https://doi.org/10.1016/j.ijinfomgt.2020.102168.
[30] Sabrina Korreck, "The Indian Startup Ecosystem: Drivers, Challenges and Pillars of Support," Observer Research Foundation, September 12, 2019, https://www.orfonline.org/research/the-indian-startup-ecosystem-drivers-challenges-and-pillars-of-support.

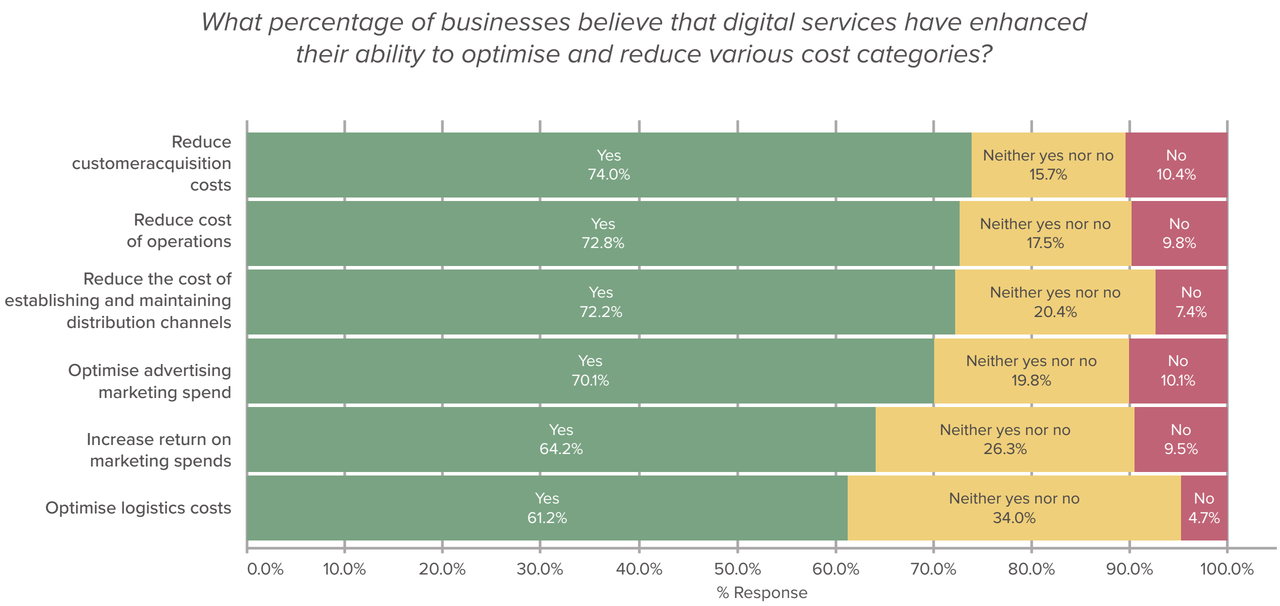


Figure 2: Percentage of businesses who believe that digital services have enhanced their ability to optimise and reduce various cost categories.

The majority of businesses recognise the role of digital services in enhancing their ability to reduce and optimise their costs. Key findings from the research study are provided below:

a. **Significance for enhancing overall ability: 69.1%** reported that digital services have enhanced their ability to reduce and optimise costs, while **8.6%** believe that digital services have not enhanced this ability. This is based on an aggregation of the below-mentioned facets of customer interaction.
b. **Reduce customer acquisition costs: 74%** reported that digital services have enhanced their ability to reduce customer acquisition costs, while **10.4%** of respondents believe that digital services have not enhanced this ability.
c. **Reduce cost of operations: 72.8%** reported that digital services had enhanced their ability to reduce their cost of operations, while **9.8%** believed that digital services had not enhanced this ability.
d. **Reduce the cost of establishing and maintaining distribution channels: 72.2%** reported that digital services had enhanced their ability to reduce their cost of maintaining and establishing distribution channels. In comparison, **7.4%** believed that digital services had not enhanced this ability.
e. **Optimise advertising and marketing spend: 70.1%** reported that digital services have enhanced their ability to optimise advertising and marketing spend, while **10.1%** believed that digital services have not enhanced this ability.
f. **Increase return on marketing spend: 64.2%** reported that digital services have enhanced their ability to receive increased return on marketing spend; while **9.5%** believed that digital services have not enhanced this ability.
g. **Optimise logistics cost: 61.2%** of businesses believe that digital services have enhanced their ability to optimise their logistics costs, while **4.7%** of respondents stated that digital services have not enhanced this ability.

Notably, the majority of businesses reported that digital services have enhanced their ability to reduce and optimise various costs.

3.3. Customer Interaction

We assessed whether businesses believe digital services have enhanced their ability to handle various aspects of customer interaction. A typical consumer interaction cycle for a company involves several key phases to ensure a seamless and valuable customer experience. These phases may include reaching an ideal target audience,[31] offering competitive prices,[32] gaining customer trust,[33] building customer relations, and providing a safe and secure experience by protecting data[34] and providing reliable customer support.[35]

The survey assessed the role of digital services in various facets of customer interaction, as provided below.

What percentage of businesses believe that digital services have enhanced their ability with regard to overall customer interaction?

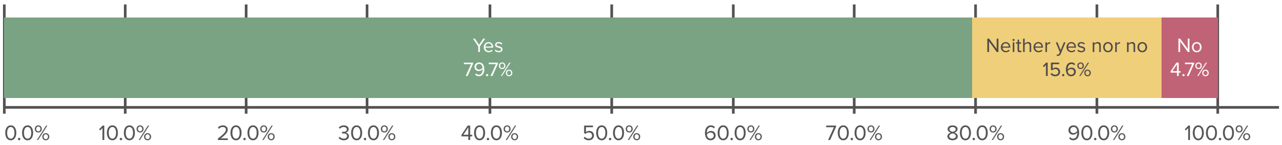


Figure 3: Percentage of businesses who believe that digital services have enhanced their ability with regard to overall customer interaction

What percentage of businesses believe that digital services have enhanced their ability with regard to various facets of customer interaction?

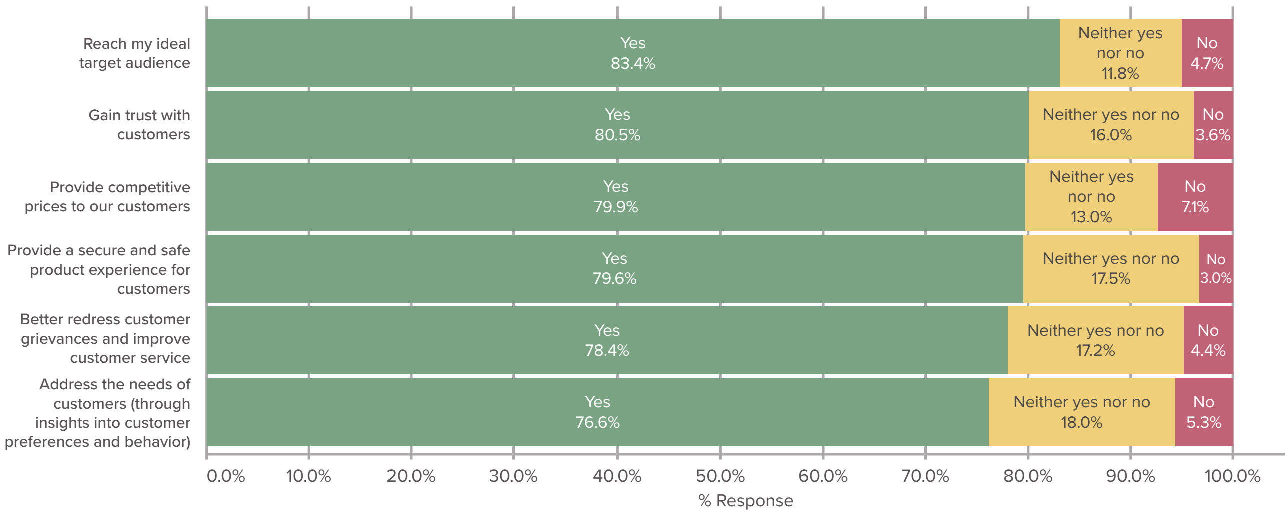


Figure 4: Percentage of businesses who believe that digital services have enhanced their ability with regard to various facets of customer interaction.

31. S.M. Ikhtiar Alam, "The Customer Interaction Cycle: The Moments of Truth in CRM' *Journal of Micro & Small Business Management,* Volume 3, Issue-1, January-June 2022, https://www.researchgate.net/publication/358044964_The_Customer_Interaction_Cycle_The_Moments_of_Truth_in_CRM/link/62050fd287866404a15d265f/download?_tp=eyJjb250ZXh0Ijp7ImZpcnN0UGFnZSI6InB1YmxpY2F0aW9uIiwicGFnZSI6InB1YmxpY2F0aW9uIn19

32. Faiz Zainal Abidin, Adibah Jamaluddin, Vani a/p Tanggamani, Siti Anis Nadia, Afidah Sapari, "Pricing Strategies: Determining the Best Strategy to Create Competitive Advantage" *International Journal of Academic Research in Business and Social Sciences,* 13(6), 1623 – 1629, April 2023, http://dx.doi.org/10.6007/IJARBSS/v13-i6/17593.

33. Amar Chahal, "Why is Customer Trust Important," Hypercomply, 6 August 2024 https://www.hypercomply.com/blog/why-is-customer-trust-important.

34. European Data Protection Board, "Data protection benefits for you" https://www.edpb.europa.eu/sme-data-protection-guide/data-protection-benefits-for-you_en#:~:text=4.,or%20your%20organisations'%20confidential%20information.

35. Blake Morgan, "50 Stats That Prove the Value of Customer Experience," Forbes, December 10, 2021, https://www.forbes.com/sites/blakemorgan/2019/09/24/50-stats-that-prove-the-value-of-customer-experience/?sh=544511b04ef2.

Most businesses recognise the value of digital services in enhancing their abilities regarding customer interaction. Key Findings from the survey are provided below:

a. **Significance for enhancing overall ability: 79.7%** reported that digital services have enhanced their ability to improve overall customer interaction, while **4.7%** believe that digital services have not improved this ability. This is based on an aggregation of the facets of customer interaction below.
b. **Reaching target audience: 83.4%** reported that digital services have enhanced their ability to reach their target audience, while **4.7%** believe that digital services have not enhanced this ability.
c. **Gaining trust with customers: 80.5%** reported that digital services have enhanced their ability to gain customer trust, while **3.6%** believe that digital services have not enhanced this ability.
d. **Provide competitive prices: 79.9%** reported that digital services have enhanced their ability to provide competitive prices to their customers, while **7.1%** believe that digital services have not enhanced this ability.
e. **Provide a safe and secure customer experience: 79.6%** reported that digital services have enhanced their ability to provide a safe and secure customer experience. In comparison, **3%** believe digital services have not enhanced this ability.
f. **Better redress customer grievances and improve customer service: 78.4%** reported that digital services have enhanced their ability to redress customer grievances and improve customer services, while **4.4%** believe that digital services have not enhanced this ability.
g. **Address customer needs through customer insights on behaviour and preferences: 76.6%** reported that digital services have enhanced their ability to address customer needs through insights on behaviour and preferences. In comparison, **5.3%** believe digital services have not enhanced this ability.

Notably, many responding businesses believe that digital services have enhanced their ability to interact with customers.

3.3.1. Reach and Visibility

83.4% of respondents believe digital services have enhanced their ability to reach their target audience, underscoring its importance for advertising. Respondents were asked about the potential impact on them if various functionalities for advertising on digital services were restricted. The results are provided below.

What is the perceived impact on businesses if search engines no longer offered sponsored posts or special listings that could be purchased?

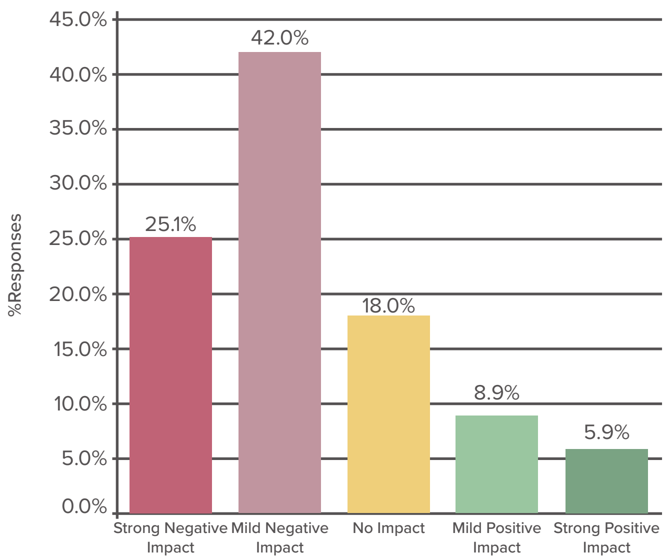


Figure 5: Perceived Impact on businesses if search engines no longer offered sponsored posts or special listings that could be purchased

Businesses believe that if they were no longer offered sponsored posts or special listings that could be purchased, it would have an impact on them to varying degrees. The findings are provided below:

a. **67.1%** reported that if search engines no longer offered sponsored posts or special listings that could be purchased, it would negatively impact their business. While **25.1%** of respondents believe there will be a strong negative impact, **42.0%** believe there will be a mild negative impact.
b. **14.8%** reported that if search engines no longer offered sponsored posts or special listings that could be purchased, it would positively impact their business. While **5.9%** believed there would be a strong positive impact, **8.9%** believed there would be a mild positive impact.
c. **18%** reported that if search engines no longer offered sponsored posts or special listings that could be purchased, it would have no positive or negative impact on their business.

What is the perceived impact on businesses if they were no longer able to use sponsored posts or special paid listings on online retail and social media networks?

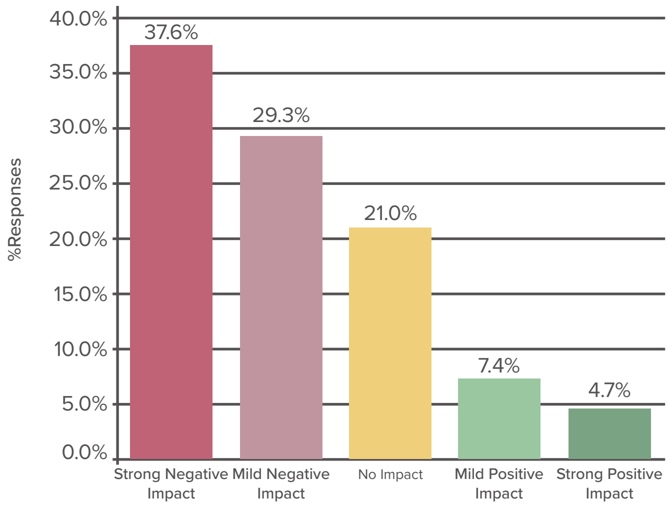


Figure 6: Perceived Impact on businesses if they were no longer able to use sponsored posts or special paid listings on online retail and social media networks

Businesses believe that if they were no longer able to use sponsored posts or special paid listings on online retail and social media networks, it would have an impact on them to varying degrees. The findings are provided below:

a. **66.9%** reported that if they were no longer able to use sponsored posts or special paid listings on online retail and social media networks, it would negatively impact their business. While **37.6%** believed there would be a strong negative impact, **29.3%** believed there would be a mild negative impact.
b. **12.1%** reported that if they were no longer able to use sponsored posts or special paid listings on online retail and social media networks, it would have a positive impact on their business. While **4.7%** believed there would be a strong positive impact, **7.4%** believed there would be a mild positive impact.
c. **21%** reported that if they were no longer able to use sponsored posts or special paid listings on online retail and social media networks, it would have no positive or negative impact on their business.

A notable portion of businesses believe that if sponsored posts or special listings on search engines, social media sites, and online retail websites were not offered, it would negatively impact them.

3.4. Business Expansion

The prospect of business expansion faces several key challenges, as it is difficult to penetrate new national, sub-national, or international markets. A key challenge for businesses is developing comprehensive market research and strategy, understanding the competitive landscape, and aligning with local consumer preferences.[36] Given the extensive nature of this process and the need for gathering accurate data and insights, businesses need to invest significant time and resources in this process. However, small businesses often lack the resources to execute such extensive strategies.[37] Here, digital services can help by offering cost-effective marketing,[38] streamlined logistics,[39] and global reach without heavy infrastructure investment — for e.g., online retail services aid international sales by simplifying logistics and payments.[40]

The survey explored the perceived value of digital services for business expansion. The results are provided below:

What percentage of businesses believe that digital services have enhanced their ability with respect to overall expansion?

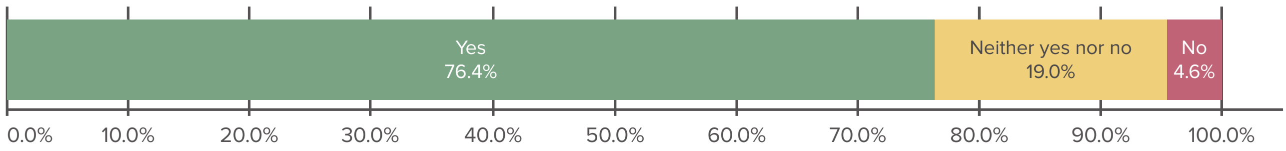


Figure 7: Percentage of businesses who believe that digital services have enhanced their ability with respect to overall expansion

What percentage of businesses believe that digital services have enhanced their ability with respect to various facets of business expansion?

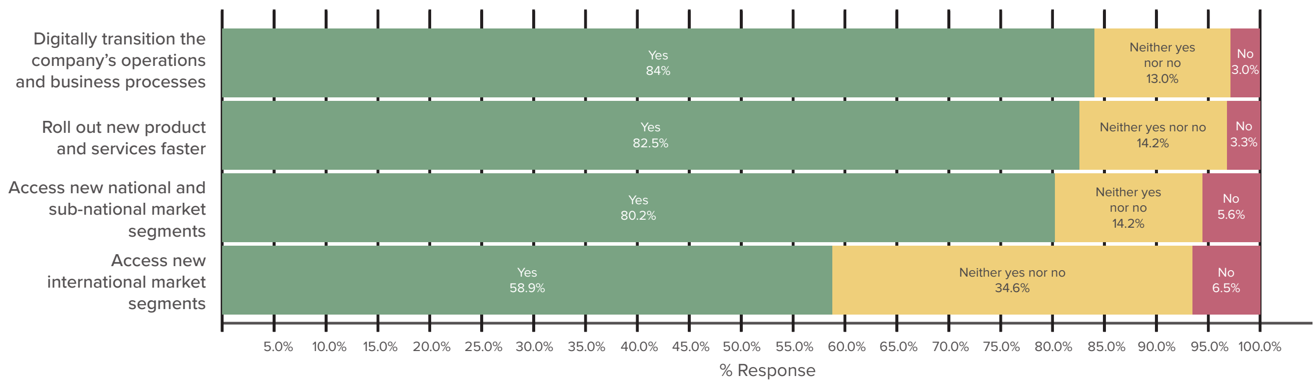


Figure 8: Percentage of businesses who believe that digital services have enhanced their ability with respect to various facets of business expansion

36. M. Skare and D. Riberio Soriano, "How globalization is changing digital technology adoption: An international perspective," *Journal of Innovation & Knowledge,* Volume 6, No. 4, pp. 222–233, Oct. 2021, doi: 10.1016/j.jik.2021.04.001; Ida Farida and Doddy Setiawan, "Business Strategies and Competitive Advantage: The Role of Performance and Innovation," *Journal of Open Innovation Technology Market and Complexity* 8, no. 3 (September 1, 2022): 163, https://doi.org/10.3390/joitmc8030163.
37. M. Mohamed and P. Weber, "Trends of digitalization and adoption of big data & analytics among UK SMEs: Analysis and lessons drawn from a case study of 53 SMEs," 2020 *IEEE International Conference on Engineering, Technology and Innovation (ICE/ITMC),* Cardiff, UK, 2020, pp. 1-6, doi: 10.1109/ICE/ITMC49519.2020.9198545.
38. Amar Chahal, "Why is Customer Trust Important," Hypercomply, 6 August 2024 https://www.hypercomply.com/blog/why-is-customer-trust-important.
39. Abdel-Aziz Ahmad Sharabati et al., "The Impact of Digital Marketing on the Performance of SMEs: An Analytical Study in Light of Modern Digital Transformations," *Sustainability* 16, no. 19 (October 8, 2024): 8667, https://doi.org/10.3390/su16198667.
39. Yasanur Kayikci, "Sustainability Impact of Digitization in Logistics," Procedia Manufacturing 21 (January 1, 2018): 782–89, https://doi.org/10.1016/j.promfg.2018.02.184.
40. UNCTAD, "DIGITAL ECONOMY REPORT PACIFIC EDITION 2022," 2022.

The survey data suggests that the majority of businesses recognise the significance of digital services in enhancing their ability with regard to business expansion. Key findings are provided below:

a. **Significance for enhancing overall ability: 76.4%** reported that digital services have enhanced their ability to expand their businesses overall, while **4.6%** believe that digital services have not. This is based on an aggregation of the facets of business expansion mentioned below.
b. **Digitally transition the company's business operations and processes: 84%** reported that digital services have enhanced their ability to transition the company's business operations and processes digitally. In comparison, **3%** believe digital services have not enhanced this ability.
c. **Roll out new products and services faster: 82.5%** reported that digital services have enhanced their ability to roll out new products and services faster. In comparison, **3.3%** believe digital services have not enhanced this ability.
d. Ac**cess to new national and sub-national market segments: 80.2%** reported that digital services have enhanced their ability to access new national and sub-national markets. In comparison, **5.6%** believe digital services have not enhanced this ability.
e. **Access new international market segments: 58.9%** reported that digital services have enhanced their ability to access new international market segments, while **6.5%** believe that digital services have not enhanced this ability.

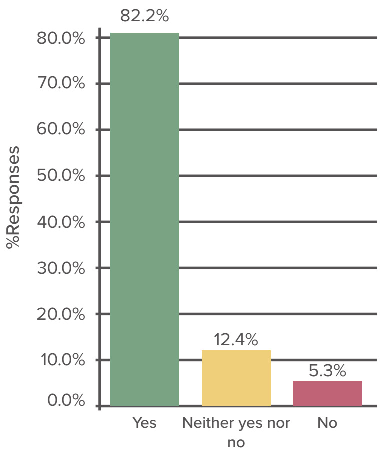
Notably, many businesses believe digital services have enhanced their ability to expand businesses.

3.5. Conclusion

Based on our assessment, a significant proportion of businesses believe that digital services enhance their ability with regard to i) cost reduction and optimisation, ii) customer interaction, and iii) business expansion. These enhancements likely lead to pro-competitive benefits for businesses, a facet of interaction between digital service providers and businesses that receives very little policy attention.

To further explore the pro-competitive benefits digital services may present, the survey asked businesses if digital services enhance their ability to i) compete effectively in markets and ii) differentiate themselves from their competitors. The results are provided below.

What percentage of businesses believe that digital services have enhanced their ability to compete effectively? (Left)
What percentage of businesses believe that digital services have enhanced their ability to differentiate themselves from their competitors? (RIght)



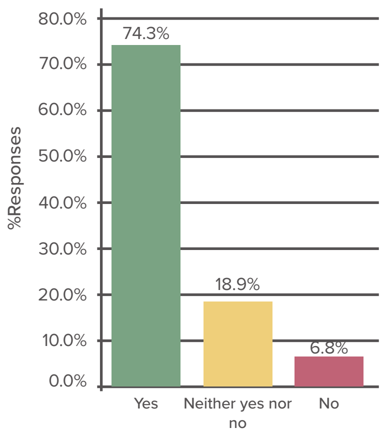


Figure 9 (L): Percentage of businesses who believe that digital services have enhanced their ability to compete effectively in markets
Figure 10 (R): Percentage of businesses who believe that digital services have enhanced their ability to differentiate themselves from their competitors.

Notably, **82.2%** of businesses believe that digital services have enhanced their ability to compete effectively in markets, while **5.3%** believe that digital services have not enhanced this ability. Further, **74.3%** of businesses believe that digital services have enhanced their ability to differentiate themselves from their competitors, while **6.8%** believe that digital services have not enhanced this ability. Considering that a key proportion of respondents agree that digital services have enhanced their ability to compete in markets, these facets must be considered in policy discussions on digital market regulations.

The DCB can draw inspiration from the DMCCA, wherein countervailing exemptions are provided under section 29 of the DMCCA.[41] This exemption applies if the conduct in question benefits users or potential users of the digital activity, outweighs any adverse impact on competition, is indispensable and proportionate to realising those benefits, and does not eliminate or prevent effective competition.[42]

What percentage of businesses believe that digital services they use for day-to-day operations are important for the success of their business?

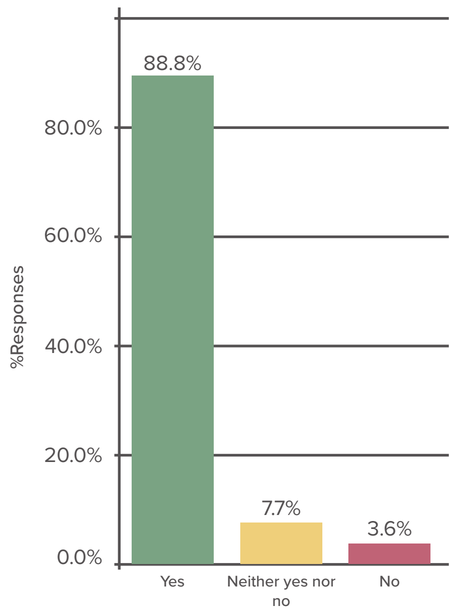


Figure 11: Percentage of businesses who believe that digital services used by them for day-to-day operations are important for the success of their business

These considerations are crucial considering the indispensable role of digital services for businesses, as provided above. The success of businesses like start-ups and MSMEs is important for the economy's growth and the digital ecosystem, and digital services have a crucial role to play here. This is underscored by the fact that **88.8%** of respondents believe that digital services used for day-to-day operations are important for the success of their business.

In this light, relevant adjustments may be needed to the discourse on digital competition, i.e., i) increased consideration of the importance and benefits of digital services for businesses, and ii) providing relevant exemptions in legal frameworks to enable consideration of these benefits.

41. DMCCA, https://bills.parliament.uk/bills/3453.
42. DMCCA, https://bills.parliament.uk/bills/3453.

04

Businesses' Extent of Satisfaction with Digital Services

4.1. Introduction

The last few years have seen remarkable growth in the Indian digital ecosystem, driven by the rise of digital and tech-driven entrepreneurship.[43] However, the satisfaction levels of businesses with digital service providers have been an area of significant interest, especially in view of various cases before the CCI such as the *XYZ v. Alphabet Inc.* case investigating the mobile OS market,[44] *People Interactive India v. Google LLC*. case relating to Google's user choice billing system,[45] and the *Federation Hotel & Restaurant Associations of India v. MakeMyTrip* case concerning price parity clauses imposed by online travel agencies (OTA).[46] The degree of satisfaction encompasses various factors contributing to their overall experience and perception of value. **Three parameters** have emerged as the most intense subjects of discussion:

a. **Choice of Digital Service Providers:** This involves the variety and quality of options for businesses when selecting digital service providers. It reflects the market competition and businesses' ability to find a provider that meets their needs. For example, businesses may perceive a lack of meaningful choice in markets where only a few digital service providers are present, such as Swiggy and Zomato for food delivery[47] or Google and Apple for app stores[48]. This may lead to issues of choice, as businesses must opt for one of the few available providers, often compromising on terms that may not be entirely favourable.
b. **Fees/Prices:** The costs associated with using digital services, including fees and commissions, are significant in user satisfaction. Businesses often scrutinise these costs to ensure they receive adequate value for their expenditures. The "Market Study on e-commerce in India" ('E-commerce Study') cited commission fees charged by service providers as one of the major factors influencing businesses' choice to avail services of a digital service provider, whether it be an online travel aggregator or a food aggregator service.[49] Additionally, recently, the CCI also investigated Google's Play Store for charging commissions as high as 30% for in-app purchases.[50]
c. **Terms of Engagement:** This parameter includes the contractual and operational terms under which digital services are provided. It covers aspects such as the flexibility of contracts, service level agreements (SLAs), and the overall ease of doing business with the provider. Several concerns over preferential agreements and tying and bundling provisions on businesses have arisen. For example, the mandatory pre-installation of the entire Google Mobile Services (GMS) suite under the Mobile Application Distribution Agreement (MADA) was seen as an imposition of unfair conditions on device manufacturers.[51]

43. Ministry of Corporate Affairs, Report of the Committee on Digital Competition Law (CDCL Report), Paras 1.19–1.23, Pages 29–30.
44. XYZ v. Alphabet Inc. Case No. 7 of 2020, https://www.cci.gov.in/images/antitrustorder/en/order1666696935.pdf.
45. People Interactive India Private Limited And Alphabet Inc. & Others, Mebigo Labs Private Limited And Alphabet Inc. & Others, Indian Broadcasting, and Digital Foundation & Another And Alphabet Inc. & Others Case No. 37 of 2022, 17 of 2023, 27 of 2023, https://www.cci.gov.in/antitrust/orders/details/1106/0.
46. Federation Hotel & Restaurant Associations of India v. MakeMyTrip Case No. 39 of 2018, https://www.cci.gov.in/images/antitrustorder/en/odrer1666182873.pdf.
47. Anushka Singh, "Food Delivery War: Zomato Extends Lead Over Swiggy with 58% Market Share," Inc42 2024, https://inc42.com/buzz/food-delivery-war-zomato-extends-lead-over-swiggy-with-58-market-share/#:~:text=Food%20Delivery%20War:%20Zomato%20Extends,Swiggy%20With%2058%25%20Market%20Share.
48. Yashika Soni, "The Many Sides of Google Play Store's 30% Commission & India's Search for Alternatives," Inc42 2020. https://inc42.com/features/the-many-sides-of-google-play-stores-30-commission-indias-search-for-alternatives/.
49. Competition Commission of India, *Market Study on E-Commerce in India: Key Findings and Observations, 2020,* https://www.cci.gov.in/images/marketstudie/en/market-study-on-e-commerce-in-india-key-findings-and-observation1653547672.pdf
50. XYZ v. Alphabet Inc. Case No. 7 of 2020, https://www.cci.gov.in/images/antitrustorder/en/order1666696935.pdf.
51. Competition Commission of India. Case No. 39 of 2018. In Re: Mr. Umar Javeed, Ms. Sukarma Thapar, and Mr. Aaqib Javeed vs Google LLC and Google India Private Limited, https://www.cci.gov.in/images/antitrustorder/en/order1666344260.pdf; National Company Law Appellate Tribunal. Comp App (AT) No. 01 of 2023, In Re: Google LLC and Google India Private Limited v. Competition Commission of India, Mr. Umar Javeed, Ms. Sukarma Thapar, and Mr. Aaqib Javeed. https://regmedia.co.uk/2023/03/30/google_march_29_india_appeal_order.pdf.

Although these instances reflect the level of satisfaction of certain groups of businesses with the sufficiency of choice, prices and terms in their dealings with digital service providers, a wider level of assessment of businesses' satisfaction must be undertaken. Therefore, we conducted an assessment to better understand business satisfaction levels with digital service providers across a broader demographic.

4.2. Satisfaction with the available choice of digital service providers

To foster a healthy technology market, it is crucial to have a choice of digital service providers. A diverse marketplace encourages digital service providers to continually improve their offerings due to competition, leading to affordable and quality services for downstream businesses.[52]

There is an assumption that certain technology markets are foreclosed due to a limited number of players in the market. It is perceived that businesses have limited choices or are not satisfied with the choices available to them in terms of digital service providers. The premise underlying *ex-ante* laws is that, in certain markets, there is an assumption of a lack of adequate options for digital service providers due to monopolistic, duopolistic or oligopolistic conditions. However, this may not fully capture the complexity of market dynamics. A more detailed, *case-by-case* evaluation may be more appropriate to determine whether specific practices are truly harmful and are foreclosing the market or whether there is sufficient choice in certain markets that serve legitimate business interests and enhance market efficiency.

While policymakers believe that there is limited choice in digital markets, it is crucial to note that there is no definitive data on whether businesses multi-home in the Indian context and whether or not they are satisfied with the current level of choice. Therefore, we sought to understand **two key market trends:** i) do businesses multi-home across different digital service providers, and ii) are they satisfied with the choices available in terms of these providers. The results are provided below.

4.2.1. Extent of multi-homing by businesses

Multi-homing refers to the practice of using multiple service providers for the same service or function. For instance, a business might use both Google Cloud and AWS for cloud services. Evidence of multi-homing indicates that businesses have choices and are not dependent on a single provider. As is also pointed out in the CCI's e-commerce study, most sellers and service providers use multiple service providers to access online customers.[53] This flexibility allows businesses to switch providers if they encounter issues such as high costs, poor service quality, or unfavourable terms.[54] In the study, we further explored the extent to which businesses in India multi-home. The results are provided below.

52. Jens-Uwe Franck, Richard Feasey, Daniel Schnurr, Marc Bourreau, Pierre Senellart, Sally Broughton Micova, and Alexandre De Streel, "Digital Markets and Online Platforms: New Perspectives on Regulation and Competition Law", Edited by Jan Krämer, Centre on Regulation in Europe, November 2020, https://cerre.eu/wp-content/uploads/2020/11/CERRE_Digital-markets-and-online-platforms_new-perspectives-on-regulation-and-competition-law_November 2020.pdf.
53. Competition Commission of India, *Market Study on E-Commerce in India: Key Findings and Observations 2020,* https://www.cci.gov.in/images/marketstudie/en/market-study-on-e-commerce-in-india-key-findings-and-observations1653547672.pdf.
54. Paul Belleflamme, and Martin Peitz, "Platform Competition: Who Benefits from Multihoming?" *International Journal of Industrial Organization* 64 (2019): 1–26. https://doi.org/10.1016/j.ijindorg.2018.03.014.

On average, how many digital service providers are used by businesses for various digital services?

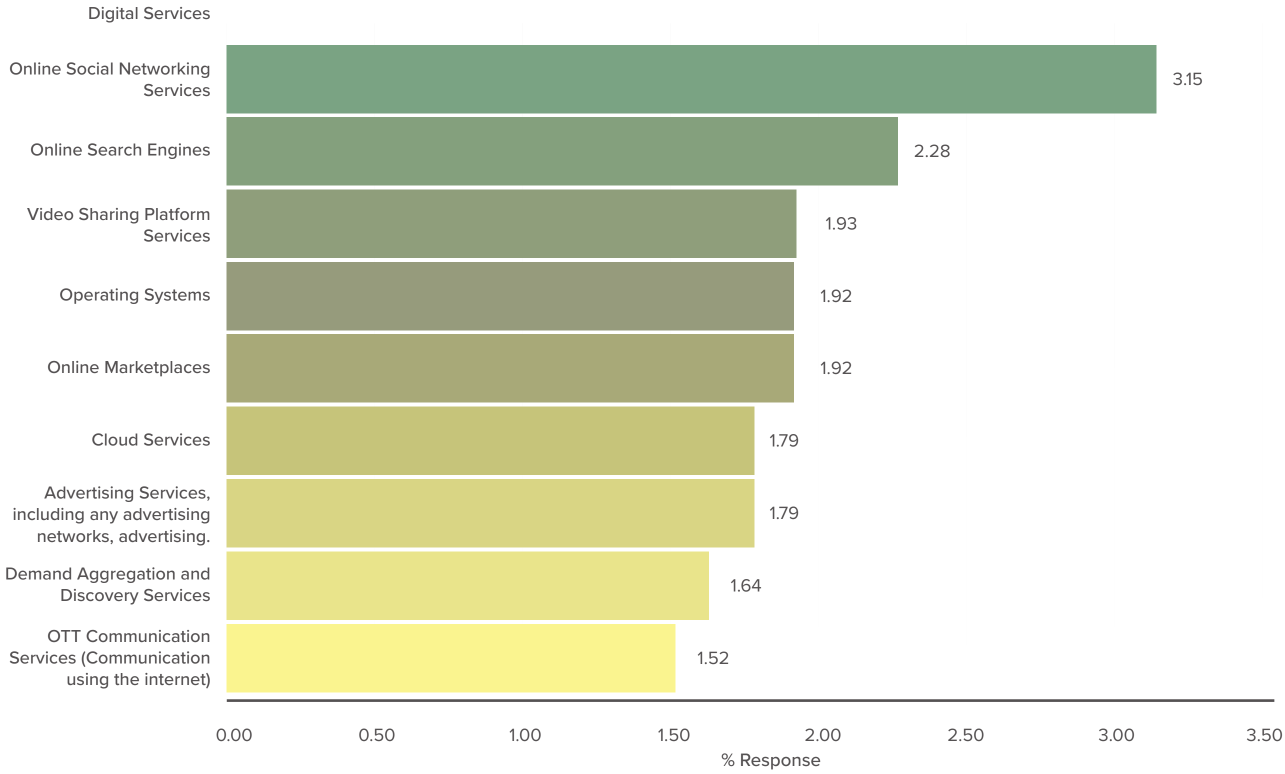


Figure 12: Number of digital service providers used by businesses for various digital services

The presence of multiple service providers being used suggests that businesses **do multi-home.** Data on the average number of digital service providers businesses use across different categories illustrates this trend. For instance, businesses typically use an average of **3.15 (rounded off to 3)** online social networking services. In contrast, the number of search engines and marketplaces varies from **2.28 (rounded off to 2) to 1.92 (rounded off to 2),** respectively. On the other hand, the choice for OTT communication services is as low as **1.52 (rounded off to 2).**

This indicates that while multi-homing is prevalent, the extent varies across digital services. Some categories, like social networking and search engines, exhibit higher levels of multi-homing, suggesting more choice. In contrast, categories like OTT communication services show lower levels of multi-homing, indicating fewer choices and potential areas for market improvement. Businesses have an average of **1.99 (rounded off to 2)** providers across the **9** digital services mentioned above. It can, therefore, be said that, on average, businesses use **2 digital service providers** for their digital service needs.

4.2.2. Extent of satisfaction with available choice

The question of whether businesses have sufficient choices of digital services for day-to-day operations addresses the availability and diversity of options across various sectors, such as online retail, cloud computing, payment processing, etc. However, it is also important to understand whether businesses are satisfied with the extent of their choice regarding digital service providers. Findings in this regard are provided below.

What percentage of businesses are satisfied with the choice of digital service providers?

Figure 13: Percentage of businesses satisfied with the choice of digital service providers.

When surveyed about their satisfaction with the choices of digital services available for their daily operations, approximately **77%** of businesses expressed satisfaction, indicating a high level of contentment. On the other hand, around **11%** of businesses expressed dissatisfaction, highlighting that a small minority finds the available choices lacking or insufficient for their needs. It must also be noticed that **11.5%** of businesses replied 'neither satisfied nor dissatisfied'.

4.2.3. Conclusion

Multi-homing demonstrates that businesses can exercise choices and are not confined to a single provider. The average number of digital service providers businesses use across various categories underscores the prevalence of multi-homing. However, its extent can vary significantly depending on the type of service.

The data also indicates that businesses are largely satisfied with the choices available to them. In light of this, there may be value in assessing whether certain nuances of an ex-ante law, which is premised on a lack of meaningful choice and the presumption of lock-in effects, may need to be reconsidered. Instead, a more targeted approach that addresses specific areas where competition and choice are evidenced to be limited could be more effective. This could involve focused interventions in markets showing low or no multi-homing rates while avoiding broad regulations that seek to encompass the digital ecosystem at large.

4.3. Satisfaction with Prices and Fees

Digital service providers offer a range of services and typically charge various fees for these services depending on their business models. Common types of fees include subscription fees, transaction fees, listing fees, commission fees, advertising fees, service fees, and freemium models.[55] The DCB aims to influence the fees charged by digital service providers through various provisions. For example, the anti-steering provision seeks to prevent digital service providers from restricting businesses' ability to guide customers to alternative payment methods or sales channels.[56]

By allowing businesses to direct consumers to cost-effective options, these provisions can indirectly pressure digital service providers to lower their fees to remain competitive. The Bill further encourages data portability between digital service providers.[57] This means users can easily switch from one digital service provider to another without losing their data. The Bill also requires digital service providers to engage in fair dealing with businesses.[58] This aims to prevent digital service providers from imposing exorbitant fees and ensure that fee structures are just and reasonable.

4.3.1. Survey Insights

To gain deeper insights, the survey sought to determine businesses' perceptions of pricing practices. The survey offered insights into the satisfaction levels of businesses regarding the prices and fees associated with availing digital services for day-to-day operations or not. It is important to understand this metric to check whether the perceived pricing issue requires competition law interventions.

What percentage of businesses are satisfied with fees and prices associated with availing digital services for day-to-day operations?

Figure 14: Percentage of businesses satisfied with fees and prices associated with availing digital services for day-to-day operations

[55] Dave Chaffey, "Revenue Model Options for Digital Businesses" Smart Insights, June 2, 2023, https://www.smartinsights.com/digital-marketing-strategy/online-business-revenue-models/online-revenue-model-options-internet-business/.
[56] CDCL Report, Annexure IV: Draft Digital Competition Bill, 2024 (Draft DCB), clause 14.
[57] Draft DCB, clause 12(3).
[58] Draft DCB, clause 10.

a. **63.3%** of businesses said that they are satisfied with the prices and fees, with **45%** responding that they are somewhat satisfied, while **18.3%** are strongly satisfied.
b. **21.3%** of businesses said that they are dissatisfied with the prices and fees, with **14.5%** responding that they are somewhat dissatisfied, while **6.8%** are strongly dissatisfied.
c. **15.4%** of businesses stated that they were neither satisfied nor dissatisfied.

Overall, the majority of businesses, **63.3%**, are satisfied with the prices and fees of digital services, indicating that these users find the pricing structures generally acceptable. Therefore, there may be merit in considering that the price and fee issues raised by businesses before the CCI through market studies and case laws might be isolated to dissatisfied stakeholders rather than reflecting widespread discontent across the larger business ecosystem. Re-evaluating the necessity of broad regulatory measures through new legislation could be prudent.

Simultaneously, it's crucial to acknowledge that a portion of businesses express dissatisfaction with the pricing structures of digital service providers. Addressing these concerns through a case-by-case assessment under the competition law framework may suffice. This assessment ensures that only genuine competition law issues are addressed, while legitimate strategies that benefit consumers and competition are not unduly restricted.

4.3.2. CCI's Approach

There has been considerable debate over the Commission's role in regulating prices in the past, exemplified by *the XYZ v. Google case.*[59] Here, the Commission investigated whether Google's fee structure of 15-30% charged to app developers was excessive. Google contended that the Commission should not intervene to set or adjust market-determined service fees. Ultimately, due to insufficient information, the Commission refrained from determining the adequacy of Google's commission fee. However, recently the CCI in the case of *People Interactive India Private Limited v. Google*[60] has ordered investigation into Google's user choice billing system.

The CCI has typically taken a cautious approach to matters of price regulation, maintaining that its role does not extend to setting prices, which it has reiterated in the recent investigation launched against Google's user choice billing system.[61] This approach recognises that a variety of market-specific factors influence pricing dynamics and should be evaluated on a case-by-case basis. For instance, in *Biocon Ltd. v. F. Hoffmann-La Roche AG,* the CCI rejected an allegation of excessive pricing for the anti-cancer drug Trastuzumab. The Commission recognised that the high price was attributable to substantial R&D costs and the innovation required for developing the drug, underscoring the importance of considering economic justifications for pricing practices.[62]

Furthermore, in the case of *Manjit Singh Sachdeva v. DGCA & Ors.*[63], the CCI dealt with allegations of arbitrary high airfares by airlines. The Commission explicitly stated that it "can neither go into the issue of MRP (Maximum Retail Price)," i.e., what should be the MRP for any product or service and fix the MRP, nor the Commission can give direction to the Government of India that it should fix MRP of a service being provided by private entrepreneurs." The CCI clarified that such interventions would contradict the spirit of competition law, which prioritises market-driven outcomes over administrative controls. Additionally, in *Vijay Gopal v. Big Tree Entertainment Pvt. Ltd. (BookMyShow),*[64] the Commission held that it could not act as a price regulator to determine the correct fee.

The legal principle established in *United Brands v Commission*[65] and adopted by the CCI in *Shamsher Kataria* emphasises that abuse of dominance occurs when there is a lack of reasonable nexus between the price

59. XYZ v. Alphabet Inc. Case No. 7 of 2020, https://www.cci.gov.in/images/antitrustorder/en/order1666696935.pdf.
60. People Interactive India Private Limited and Alphabet Inc. & Others, Mebigo Labs Private Limited and Alphabet Inc. & Others, Indian Broadcasting and Digital Foundation & Another and Alphabet Inc. & Others. Case Nos. 37/2022, 17/2023, 27/2023, https://www.cci.gov.in/antitrust/orders/details/1106/0.
61. People Interactive India Private Limited and Alphabet Inc. & Others, Mebigo Labs Private Limited and Alphabet Inc. & Others, Indian Broadcasting and Digital Foundation & Another and Alphabet Inc. & Others. Case Nos. 37/2022, 17/2023, 27/2023, https://www.cci.gov.in/antitrust/orders/details/1106/0.
62. Biocon Limited & Others v. F. Hoffmann-La Roche AG & Others. Case No. 68/2016, https://www.cci.gov.in/antitrust/orders/details/180/0.
63. Mr. Manjit Singh Sachdeva vs. Director General, Directorate General of Civil Aviation & Ors. Case No. 682/2012, http://164.100.58.95/sites/default/files/682012_0.pdf.
64. Vijay Gopal v. Big Tree Entertainment Pvt. Ltd. (BookMyShow) and Others. Case No. 45/2019, https://www.cci.gov.in/antitrust/orders/details/1038/0.
65. United Brands v. Commission. Case 27/76, https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX%3A61976CJ0027.

charged and the underlying economic value of the product or service.[66] The CCI noted that if the price substantially exceeds the cost of production, the magnitude of the difference must be assessed to establish whether it is excessive enough to warrant a review of the price's fairness. However, such interpretations often overlook hidden costs that contribute to economic value, such as investments in research and development, branding, and operational risks.

These factors, which are integral to innovation and market development, may not be reflected in a straightforward price-cost analysis. This raises concerns that an overly simplistic approach to assessing excessive pricing could undermine incentives for businesses to innovate or take risks. As such, any evaluation of economic value and fairness must account for both visible costs and the broader, less tangible expenditures that drive business growth and consumer benefit.

Hence, competition authorities should focus on fostering competition ensuring that market forces drive efficiency and innovation. While the Competition Act empowers the CCI to investigate predatory pricing when prices are too low,[67] assessing whether high prices are "unfair" poses significant challenges. This is due to the absence of an objective benchmark for determining the "underlying economic value" of a product or service. Economic value encompasses more than production costs; it includes sunk costs for R&D, failed experiments, and innovation.[68]

Regulatory intervention in such cases risks dampening firms' willingness to take necessary risks, particularly when their pricing decisions are subject to scrutiny without clear and measurable standards. That said, in a concentrated market having a few players with high barriers to entry, competitive pressure does not always lower prices. Instead, companies may mirror each other's pricing strategies. This has led some regulators to consider *ex-ante* rules to address potential inefficiencies and lack of competition in such concentrated markets.

Further, even if competition law and policy seek to regulate prices, it is important to analyse whether there is a ***need*** to influence pricing in digital markets. Before implementing regulatory measures to address pricing and fee issues with digital service providers, it is essential to accurately understand business satisfaction levels with prices. This approach ensures that regulatory actions are evidence-based and effectively target areas of genuine concern within the market.

4.4. Satisfaction with terms offered by digital service providers

4.4.1. Survey Insights

Considering that the DCB is looking to regulate the nature of terms that are offered by digital service providers to businesses, there is merit in checking whether there is a need for ex-ante regulation of this market dynamic. To assess this, the survey asked businesses if they are satisfied with the terms offered by digital service providers to avail digital services.

66. Shri Shamsher Kataria v. Honda Siel Cars India Ltd. & Others. Case No. 03/2011, Para 20.5.86 (2014), https://www.cci.gov.in/images/antitrustorder/en/0320111652434256.pdf.
67. Competition Act, 2002, sec. 4.
68. Biocon Limited & Others v. F. Hoffmann-La Roche AG & Others. Case No. 68/2016, https://www.cci.gov.in/antitrust/orders/details/180/0.

What percentage of businesses are satisfied with the terms on which digital services are offered to them by digital service providers?

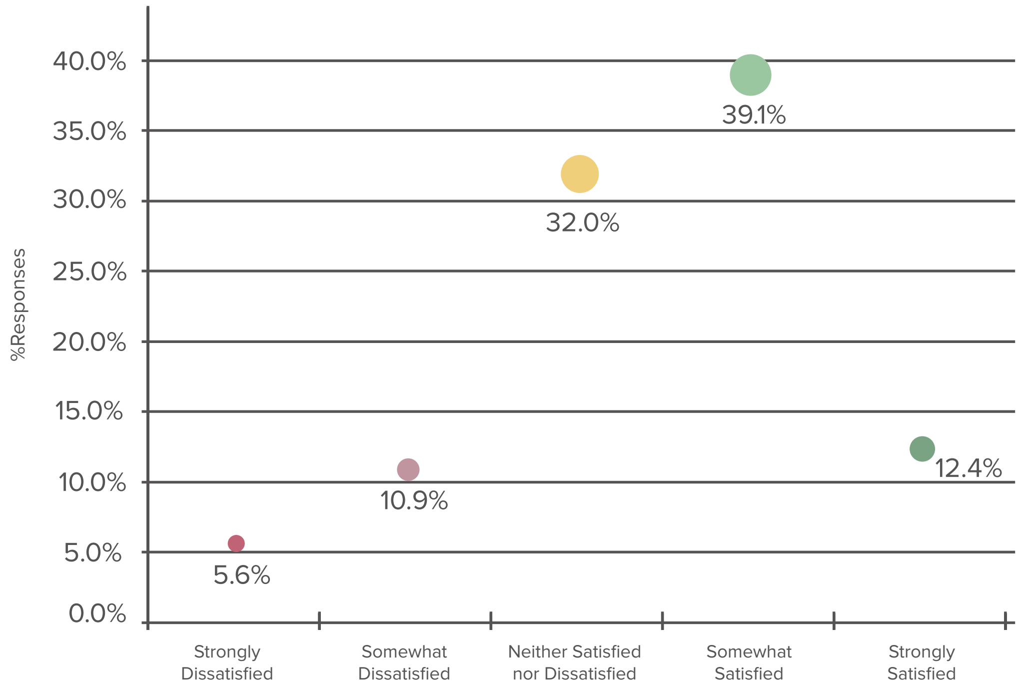


Figure 15: Percentage of businesses that are satisfied with the terms on which digital services are offered to them by digital service providers

a. **51.5%** of businesses said that they are satisfied with the terms, with **39.1%** responding that they are somewhat satisfied, while **12.4%** are strongly satisfied.
b. **16.5%** of businesses said that they are dissatisfied with the terms, with **10.9%** responding that they are somewhat dissatisfied while **5.6%** are strongly dissatisfied.
c. **32%** of businesses said that they were neither satisfied nor dissatisfied.

When surveyed about their satisfaction with the terms of engagement with digital service providers for availing digital services, businesses expressed a range of opinions. Specifically, **12.4%** of businesses strongly agreed. The numbers highlight that while the majority of users are content to some degree, there is still a notable minority that finds the terms unsatisfactory. This distribution reflects varied experiences and levels of satisfaction among businesses in their interactions with digital service providers.

As to the implications for the DCB, the findings suggest that the concerns about the terms of engagement raised by some businesses before the CCI during enforcement actions and e-commerce studies might be limited to a certain set of dissatisfied users rather than the entire ecosystem at large. For instance, in the E-commerce Study, only 164 business entities were surveyed.[69] The results of the e-commerce study showed dissatisfaction among users, primarily attributed to the bargaining power imbalance and information asymmetry between online retail marketplaces and their businesses. Therefore, it may be worth reconsidering the necessity of regulating these terms broadly through an entirely new law.

[69] Competition Commission of India, *Market Study on E-Commerce in India: Key Findings and Observations. 2020,* https://www.cci.gov.in/images/marketstudie/en/market-study-on-e-commerce-in-india-key-findings-and-observations1653547672.pdf.

However, it cannot be ignored that a percentage of businesses are indeed dissatisfied with the terms offered by digital service providers. To address this issue, a case-specific approach may be appropriate. A case-by-case assessment under the existing competition law framework could be sufficient to resolve individual grievances without imposing broad regulatory changes that might not reflect the needs of the wider business community.

4.4.2. CCI's Approach

In arrangements between businesses and digital service providers, several terms have garnered significant attention in competition law and policy. Notable among these are clauses that affect the ability of businesses to engage with other digital service providers, due to arrangements such as exclusivity clauses and anti-steering provisions. For example, in the *Federation Hotel & Restaurant Associations of India v. MakeMyTrip case,*[70] the Commission investigated the 'price-parity clauses' imposed by MakeMyTrip (MMT) requiring that the prices offered by hotels on their OTA are not below those offered on any OTA. As per the CCI, this practice allowed MakeMyTrip to reduce incentives for other OTAs to compete on price, thereby weakening price competition among OTAs and stifling innovation. Other issues that are often raised in terms of overall satisfaction with terms, extend to issues such as: (a) lack of transparency, (b) the one-sided nature of contractual terms, and (c) the absence of avenues for negotiation or dispute resolution.

While these factors may create dissatisfaction among businesses, the issue does not appear uniformly across all digital service markets. Different markets have distinct dynamics, and in some sectors, businesses may have sufficient alternatives or leverage to negotiate fair terms without the need for heavy-handed regulation. For instance, unfair practices such as price parity clauses might be more prominent in markets like OTAs, but less so in other digital sectors, where competition or market mechanisms naturally resolve dissatisfaction.

Therefore, a blanket regulatory approach could inadvertently lead to overregulation in certain markets, thereby stifling innovation and flexibility. Accordingly, any regulatory intervention should be based on clear evidence of harm or unfairness in specific sectors. To avoid overreach and unintended consequences, the DCB could incorporate safeguards that ensure the CCI exercises restraint in developing codes of conduct and only intervenes where there is clear evidence of harm or anti-competitive effects.

4.5. Conclusion

What percentage of businesses are satisfied with digital service providers overall (choice, price/fees, terms)?

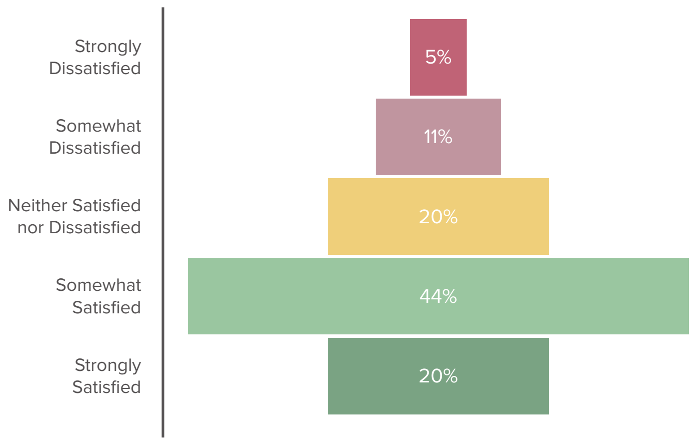


Figure 16: Percentage of businesses who are overall satisfied with digital service providers (choice, price/fees, terms)

70. Federation of Hotel & Restaurant Associations of India v. Make My Trip, Case No. 39 of 2018, https://www.cci.gov.in/images/antitrustorder/en/odrer1666182873.pdf.

Based on an aggregate analysis of the 3 parameters (choice, price/fees, terms) considered above, it can be seen that **64%** of businesses are overall satisfied with digital service providers (in terms of choice, terms and prices), whereas **16%** of businesses are dissatisfied.

Certainly, these survey results provide an aggregated perception of satisfaction at large. It's important to acknowledge that the extent of satisfaction can vary significantly across different types of digital service providers and business models. The discrepancy in business models among these providers makes it challenging to generalise the extent of choice and satisfaction universally.

In conclusion, a significant majority of businesses are satisfied with the choices available in digital service providers. With **77%** of businesses satisfied with the choice of digital service provider options available to them, it suggests that the perceived lack of choice in digital markets may not be as widespread as previously thought. In this light, there may be value in reconsidering the need for ex-ante laws like the DCB, which seek to resolve competition bottlenecks that arise from the assumed lack of choice in digital markets.

At the same time, it cannot be denied that for certain digital services, the choice available is perceived to be limited. However, prior to any intervention, it is imperative to assess whether such dissatisfaction is rooted in actual anti-competitive conduct leading to foreclosure and harm. A case-by-case assessment of potential foreclosure and harm could ensure that interventions are warranted and proportionate to the actual issues at hand. The Competition (Amendment) Act’s recent deal value thresholds could be valuable for this.

Furthermore, with **51.5%** of businesses satisfied with terms and **63.3%** of businesses with prices/fees, the dissatisfaction reported by some may be limited to specific sectors or limited stakeholders rather than a reflection of overall discontent. Therefore, instead of a sweeping digital competition law, targeted and proactive enforcement by the CCI in sectors where dissatisfaction is prevalent would be more appropriate.

05

Proposed Digital Competition Bill: Unintended Consequences and their Perceived Impact

As established in previous chapters, businesses attach significant value to the services provided by digital service providers. Further, they are generally satisfied with the choices, terms, and prices associated with them. However, challenges raised before the CCI in digital markets have prompted proposals for a new *ex-ante* law. While this could address concerns some businesses raise, it risks unintended consequences, potentially disrupting market dynamics and causing losses. Recent studies highlight some of these potential consequences in more detail.[71] Additionally, the CDCL also acknowledges that high error costs may be associated with an *ex-ante* competition framework.[72]

In competition, error-cost framework seeks to ensure that rules minimise the costs of i) erroneous condemnation and deterrence of beneficial conduct ("false positives," or "Type I errors"); ii) erroneous allowance and under-deterrence of harmful conduct ("false negatives," or "Type II errors"); and iii) the costs of administering the system (including the cost of making and enforcing rules and judicial decisions, the costs of obtaining and evaluating information and evidence relevant to decision-making, and the costs of compliance).[73] Although the study does not seek to estimate the error cost of the DCB, it does look at different types of unintended consequences that may qualify as type 1 errors.

Further, the study assessed the perceived impact of the potential unintended consequences that the DCB can prompt through the survey.

a. **Impact on Advertising Reach:** The survey explored the impact on advertising capacities of businesses, considering how businesses might be affected if digital services can no longer tailor ad placements to effectively reach their target audiences. Through this survey, we explored the perception of businesses (both positive and negative) due to this potential change.
b. **Impact on Access to Tied or Bundled services:** Second, the survey explored the impact on access to tied or bundled services. This included the potential consequences if social media networks stopped offering integrated functionalities such as advertising or online storefronts. Additionally, it considered the challenges app developers might face if they had to engage with and pay third parties for crucial services, like payment processing for in-app payments. The survey also examined the implications of companies being unable to provide a "one-stop shop" for various aspects of app discovery and distribution. Moreover, it looked at the impact on marketplaces if they were barred from offering special promotional deals, exclusive launches, marketplace-specific discounts, and allied support services.
c. **Impact on value derivation from data processing:** The survey also assessed the impact on value derivation from data processing. It investigated the restrictions that might be placed on digital distribution channels, such as interpersonal communication services and social media networks, by using insights gained from other digital channels to reach end users. It also considered the limitations on an aggregator's ability to customise user experiences based on preferences and the implications of businesses being required to share data with third parties who also advertise with the same digital service provider.

[71] Meghna Bal, and Vipul Gautam, *A Survey-Based Assessment of the Impact of the Draft Digital Competition Bill, 2024 on MSMEs in India,* Esya Centre, 2024.
https://static1.squarespace.com/static/5bcef7b429f2cc38df3862f5/t/66064be16caf107df12c6e1f/1711688684866/Esya+Centre+Report+-+A+Survey-Based+Assessment+of+the+Impact+of+the+Draft+Digital+Competition+Bill+2024+on+MSMEs+in+India.pdf.
[72] CDCL Report, Page 97, Para 3.2.
[73] Manne, Geoffrey. "Error Costs", Concurrences, https://www.concurrences.com/en/dictionary/error-costs-108946.

d. **Impact on safety:** Lastly, the survey examined the impact on safety, particularly if app stores were unable to impose restrictions on other available apps, even if it might threaten the safety and security of users. These areas highlight the potential challenges and disruptions that businesses might face if the DCB's obligations are implemented.

5.1. Impact on Advertising Reach

Digital service providers provide several advertising services, including targeted ad placements, personalised marketing campaigns,[74] and data-driven advertising solutions[75] allowing them to reach specific audience segments through efficient marketing efforts,[76] enhance engagement, and optimise their advertising spend.[77] Through data-driven targeting, businesses can increase engagement and conversion rates. It is estimated that the click-through rate for behavioural advertising is 5.3 times higher than for standard advertising.[78]

Meanwhile, for re-targeted consumers, the click-through rate is estimated to be 10.8 times higher. This improves ROI on advertising spend, strengthens customer relationships by delivering personalised messages, and helps businesses maintain a competitive edge through optimised, real-time campaigns. However, certain facets of advertising services have been observed to have anti-competitive effects.

These effects are being sought to be resolved through ex-ante frameworks like the DMA in the EU. After being designated as a gatekeeper, Google has introduced stringent consent requirements to comply with the DMA. For example, businesses working with Google Ads and Google Marketing Platform must now ask all iOS and Android app users within the European Economic Area (EEA) for consent to share data with Google Ads and Google Marketing Platform and to be retargeted with personalised ads. They must also transmit this consent data to Google, either directly or through a consent management platform.[79]

The DCB includes similar data usage provisions. The DCB mandates that an SSDE cannot, without the explicit consent of end users or businesses, intermix or cross-use personal data collected from different services, including its CDS, or permit the use of such data by third parties.[80] These consent requirements under the DCB and DMA mean businesses must obtain multiple consents for various data uses, potentially leading to increased consent fatigue.

An increase in consent fatigue could lead to reduced availability of data which can ultimately hinder the ability of digital services providers to effectively provide targeted ads. For instance, regulatory requirements like the General Data Protection Regulation (GDPR) have led to an increase in consent fatigue.[81] Ultimately, businesses may face challenges in delivering personalised ads tailored to specific audience segments, impacting their advertising effectiveness and marketing outcomes.

Therefore, if digital service providers are unable to specifically tailor ad placements, this may also have certain implications for businesses. However, the extent to which this change can impact businesses in India remains to be seen. The survey sought to understand the business perspective in this respect in more detail.

74. Ali Akeel, and Manisha Gubhaju, "Digital Marketing and Its Effects on Start-Up Business" Thesis, 2020. https://www.diva-portal.org/smash/get/diva2:1526073/FULLTEXT01.pdf.
75. Simone Aiolfi, Silvia Bellini, and Davide Pellegrini, "Data-driven Digital Advertising: Benefits and Risks of Online Behavioral Advertising," *International Journal of Retail & Distribution Management* 49, no. 7 (May 14, 2021): 1089–1110, https://doi.org/10.1108/ijrdm-10-2020-0410.
76. Musammat Tahmina Khanom, "Using Social Media Marketing in the Digital Era: A Necessity or a Choice," *International Journal of Research in Business and Social Science (2147-4478)* 12, no. 3 (May 6, 2023): 88–98, https://doi.org/10.20525/ijrbs.v12i3.2507.
77. Ali Akeel, and Manisha Gubhaju, "Digital Marketing and Its Effects on Start-Up Business" Thesis, 2020. https://www.diva-portal.org/smash/get/diva2:1526073/FULLTEXT01.pdf.
78. Niklas Fourberg et al., "Online Advertising: The Impact of Targeted Advertising on Advertisers, Market Access and Consumer Choice," 2021, https://www.europarl.europa.eu/RegData/etudes/STUD/2021/662913/IPOL_STU(2021)662913_EN.pdf.
79. Adjust Help Center, "Google Compliancy with the Digital Markets Act (DMA)" Adjust Help Center, https://help.adjust.com/en/article/google-compliancy-with-the-dmaa.
80. Draft DCB, clause 12.
81. Daniel J. Solove, "Murky Consent: An Approach to the Fictions of Consent in Privacy Law," *SSRN Electronic Journal,* January 1, 2023, https://doi.org/10.2139/ssrn.4333743; Charlie Barrett, "What Does GDPR Mean for UX ?" UX Collective, Medium, December 7, 2021, https://uxdesign.cc/what-does-gdpr-mean-for-ux-9b5ecbc51a43.

According to businesses, what is the perceived impact on them if digital services are unable to specifically tailor ad placement to enable them to reach their target audience?

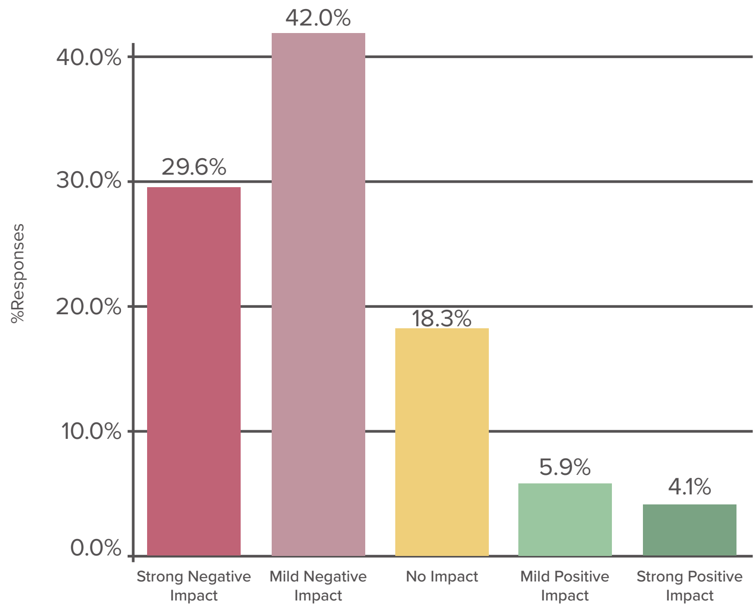


Figure 17: Perceived impact on businesses if online digital services are unable to specifically tailor ad placement to enable them to reach the target audience

Businesses that were a part of the survey have the following perception of changes to the advertising ecosystem:

a. **71.6%** of businesses believe that if digital services are unable to specifically tailor ad placement to enable them to reach their target audience, it will have a negative impact on their business. While **29.6%** of respondents believe there will be a strong negative impact, **42%** believe there will be a mild negative impact.
b. **10%** of businesses believe that if digital services are unable to specifically tailor ad placement to enable them to reach their target audience, it will have a positive impact on their business. While **4.1%** of respondents believe there will be a strong positive impact, **5.9%** believe there will be a mild positive impact.
c. **18.3%** of businesses believe that if digital services are unable to specifically tailor ad placement to enable them to reach their target audience, it will have no positive or negative impact on their business.

Notably, the majority of businesses believe that a proposed change to these market dynamics will negatively impact them.

It is also essential to understand the **extent** to which the proposed change could impact businesses. For this purpose, we assessed the positive or negative impact on businesses through data analysis of the survey results. Our assessment revealed a **mildly negative impact** on businesses due to the proposed changes. This means that, on average, if online digital services are unable to specifically tailor ad placement to enable them to reach their target audience, there will be a *mildly negative impact* on businesses.[82]

Therefore, considering the anticipated negative impacts of impaired, tailored ad placement, there is a critical need to rework the data usage obligations, particularly as they pertain to advertising markets.

82. The result of the extent can be found in Annexure 4: "Extent of perceived positive or negative impact on a five-point scale."

5.2. Impact on Access to Tied or Bundled Services

The DCB seeks to regulate tying and bundling by prohibiting SSDEs from requiring or providing incentives to businesses or end users to use other products or services offered by the enterprise, related parties, or third parties with whom the enterprise has agreements, alongside the CDS unless using such products or services are 'integral' for providing the CDS.[83] In a tying arrangement, the sale of one product is often conditional on the purchase of a second product, whereas bundling involves offering multiple products or services together as a single combined unit, often at a discounted price.

Tying and bundling have been deemed anti-competitive in cases such as the CCI case against Google. The Commission investigated Google's practice of bundling its proprietary apps with the Android operating system, which the CCI believed restricted competition by forcing device manufacturers to pre-install Google apps, thereby limiting consumer choice. However, the CDCL Report also highlighted that tying and bundling may have pro-competitive effects in the form of reduced manufacturing and distribution costs, as well as better product quality.[84]

The DCB introduces the term "integral" to determine whether the use of additional products or services is essential for providing the CDS. However, "integral" is undefined in the Bill, which could create significant ambiguity in enforcement. This lack of clarity necessitates either dropping the tying provisions or providing detailed guidance for defining what constitutes "integral" to avoid over-reliance on the CCI's discretion. Without such guidance, regulatory uncertainty could stifle legitimate business practices and harm innovation.

5.2.1. Impact related to accessing additional functionalities on social media

The prohibition on incentivisation under the DCB, especially in the absence of a clear definition of the term 'integral', can result in several indirect and unintended implications. For example, social media networks may no longer be able to promote their own integrated functionalities, such as advertising or online storefronts.

Social media networks have evolved significantly, offering a variety of additional functionalities beyond simple networking. For instance, online retail integrations such as Facebook marketplace allow businesses to sell products directly through social media. Several anti-competitive concerns have been raised regarding these integrated functionalities. For instance, in *Harshita Chawla v Whatsapp and Facebook,*[85] allegations were raised against WhatsApp for tying its messaging service with the payment service, i.e. WhatsApp Pay. Similar investigations have been launched worldwide as well. In the EU, an investigation was launched against Meta for tying its online classified ads service, Facebook Marketplace, to its personal social network, Facebook.[86]

The DCB's obligations in this context are important to be assessed. The DCB prohibits SSDEs from requiring or incentivising[87] businesses or end users[88] to use their other products or services (or those of related or third parties). This could impact social media networks by limiting their ability to offer integrated functionalities.[89] The clause could obligate social media networks to unbundle services and require separate registration/login to different services.

83. Draft DCB, clause 15.
84. CDCL Report, Page 109.
85. Harshita Chawla v. WhatsApp Inc. and Facebook Inc., Case No. 15 of 2020, Order under Section 26(2) of the Competition Act, 2002. Page 1.
86. European Commission, *Antitrust: Commission sends Statement of Objections to Meta over abusive practices benefiting Facebook Marketplace,* Press releas, Dec 19, 2022. https://ec.europa.eu/commission/presscorner/detail/en/ip_22_7728.
87. The term "incentivising" is undefined under the DCB, and it is important to consider the potential impact of this ambiguity. The survey results are based on the assumption that "incentivising" refers to offering direct incentives. But if "incentivising" is interpreted more broadly to include other measures such as promotion or preferential treatment, the negative effects of this prohibition would be even more pronounced. This broader interpretation could further restrict SSDEs from encouraging the use of their additional services, potentially limiting their ability to offer integrated solutions that could benefit businesses. Therefore, the impact of this provision may be more far-reaching depending on how the term "incentivising" is defined and enforced.
88. Draft DCB, clause 15.
89. European Commission, "For Example, the EC Started Inquiry Against Meta for Tying Its Online Classified Ads Service, FacebookMarketplace,toItsPersonalSocialNetwork,Facebook." https://ec.europa.eu/commission/presscorner/detail/en/ip_22_7728; European Commission, *Antitrust: Commission Sends Statement of Objections to Meta Over Abusive Practices Benefiting Facebook Marketplace,* Press Corner, December 19, 2022. https://ec.europa.eu/commission/presscorner/detail/en/ip_22_7728.

For example, subsequent to Meta's compliance under the DMA, upon accessing Facebook Messenger for the first time, users have the option to either choose between registering to a combined Facebook and Facebook Messenger account or to register to a Messenger without a Facebook account.[90] Similarly, users can now access the Facebook Marketplace as a standalone service without registering with Facebook.[91]

The DCB goes a step further than the DMA as it prevents businesses from 'incentivising' users to use these services. A potential unintended consequence of the DCB is that social media networks might no longer be able to offer users the choice between using a single login for multiple services or standalone logins for individual services as the provision of a single login or integrated interfaces may constitute incentivisation.

In this context, we asked respondents about the perceived impact of regulatory frameworks on them if they had affected certain changes to additional functionalities of social media networks.

According to businesses, what is the perceived impact on them if social media networks do not permit additional functionalities such as advertising or offering an online storefront?

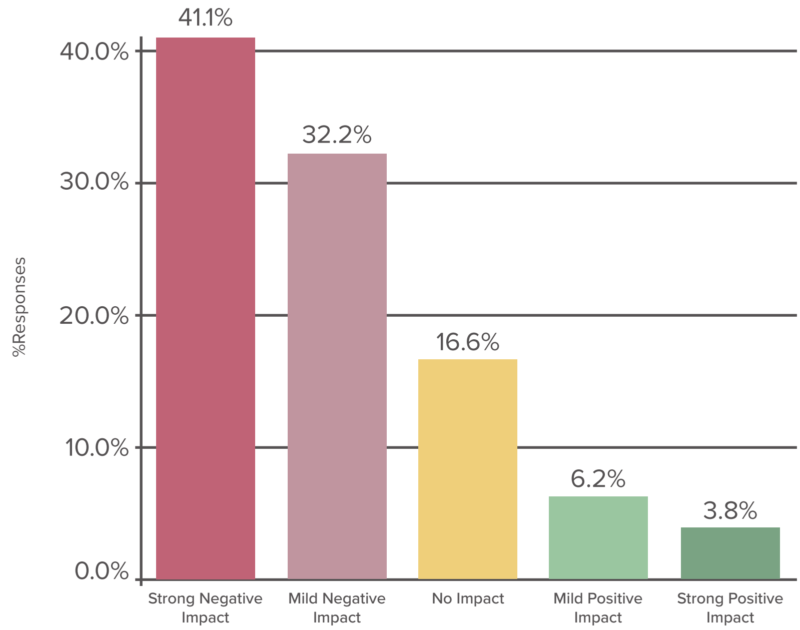


Figure 18: Perceived Impact on businesses if social media networks do not permit additional functionalities such as advertising and offering an online storefront

According to businesses, if social media networks do not permit additional functionalities such as advertising and offering an online storefront, it would have an impact on them to varying degrees, as provided below:

a. **73.3%** of businesses believe that if social media networks do not permit additional functionalities, it will have a negative impact on their business. While **41.1.%** of respondents believe there will be a strong negative impact, **32.2%** believe there will be a mild negative impact.
b. **10.%** of businesses believe that it will have a positive impact on their business. While **3.8%** of respondents believe there will be a strong positive impact, **6.2%** believe there will be a mild positive impact.
c. **16.6.%** of businesses believe that it will have no positive or negative impact on their business.

Notably, a significant percentage of businesses believe that the regulatory change will negatively impact them.

90. "Meta's Compliance With the Digital Markets Act Non-Confidential Public Summary," March 6, 2024, https://content.mlex.com/Attachments/2024-03-06_69K2JU623XIL53ZE%2F430022744_1423199094953674_5272390883683653506_n.pdf.
91. "Meta's Compliance With the Digital Markets Act Non-Confidential Public Summary."

5.2.2. Impact on third-party engagement

App Stores are a comprehensive digital distribution service provider primarily for phone applications. For businesses and developers, app stores provide a variety of services designed to facilitate the distribution, monetisation, and management of their apps.[92] These services include offering global app distribution, monetisation tools, security compliance,[93] and analytics for app developers.[94] Additionally, for paid apps and in-app purchases, app stores facilitate payment processing, collecting a commission for transactions.

However, several issues have been highlighted regarding this interaction. The primary concern is the commission fees charged by app store providers, which range from 15% to 30% for paid apps and in-app purchases. Additionally, the CCI has also looked into anti-steering clauses deployed by app stores that restrict app developers from using alternative modes of processing payment. The Commission, in one case, concluded that making access to the Play Store for app developers, dependent on mandatory usage of the Google Play Billing System for paid apps and in-app purchases, constitutes an imposition of unfair conditions on app developers.[95]

As per the DMA, app stores were required to offer alternatives to their own payment solutions. For instance, to provide its users with more options, Apple was required to adjust its policies to allow developers to integrate external payment links within their apps. This shift is intended to provide businesses with a range of payment providers and ability to choose amongst them. However, this also raised concerns related to privacy and data protection as the app stores are now required to share transactions with third-party processors. Apple has implemented changes in its practices to allow developers to include external payment links within their apps.[96] However, when users opt to use these alternative payment providers, Apple gives a pop-up message notifying the users that the transaction will occur outside of Apple's ecosystem, with the intent to communicate that Apple is not responsible for the privacy or security of such transactions.[97]

Clause 15 of the DCB has significant implications for engagement with third parties, especially app developers. Clause 15 prohibits SSDEs from requiring or ***incentivising*** businesses or end users to use their other products or services, or those of related parties or third parties with whom they have arrangements, alongside the CDS. This clause could potentially require app stores, if designated as SSDEs, to unbundle services. For example, they might need to separate app store functions from payment services, unintentionally forcing app developers to use third-party services for essential functions like in-app payment processing.

To the extent the provision prohibits tying and bundling, it could lead to more choices for users. However, an unintended consequence of the restriction on incentivisation is that app stores may no longer be able to offer their own payment services. The convenience of using the app store's own payment system, which might involve fewer steps and a more streamlined process, could be considered a form of incentivisation. Therefore, this restriction might prevent the Play Store from offering its own payment services, impacting the user experience by making payments solely through third-party systems, potentially making it more cumbersome.

Hence, to assess the potential impact of these prohibitions, our survey inquired app developers about their perception if they had to engage with and pay third parties for services integral to the purchase or use of their apps by consumers, such as payment processing for in-app payments. The impact of this on businesses was assessed through our survey.

92. "Distribute Your Apps & Games on Google Play," Android Developers, n.d., https://developer.android.com/distribute.
93. "Distribute Your Apps & Games on Google Play," Android Developers, n.d., https://developer.android.com/distribute; "Play Integrity API," Android Developers, n.d., https://developer.android.com/google/play/integrity.
94. Google Play Console, "Acquisition Reporting," Google Play Console, n.d., https://play.google.com/console/about/acquisitionreporting/.
95. XYZ v. Alphabet Inc. Case No. 07 of 2020, https://www.cci.gov.in/images/antitrustorder/en/order1666696935.pdf.
96. George Davis, *Complying with the Digital Markets Act: Apple's Efforts to Protect User Security and Privacy in the European Union,* March 2024 https://developer.apple.com/security/complying-with-the-dma.pdf.
97. "EU Digital Markets Act Explained (Updated for March 2024)," Checkout, https://www.checkout.com/blog/checkout-com-explains-the-eu-digital-markets-act.

What is the perceived impact on businesses if, as app developers, they had to engage with and pay third parties (i.e., not the digital service provider) for services that are integral to the purchase or use of their apps by consumers, such as payment processing for in-app payments?

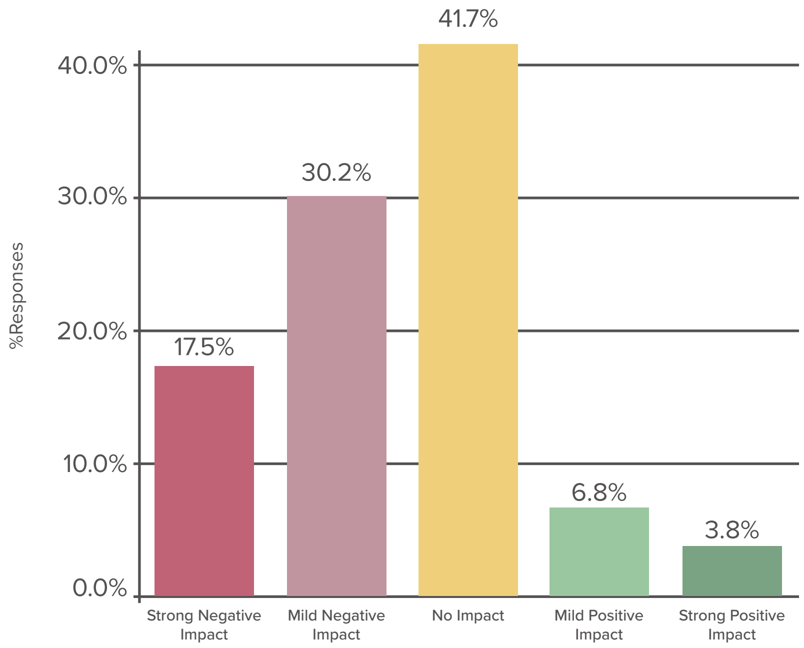


Figure 19: Perceived Impact on businesses if, as an app developer, they had to engage with and pay third parties (i.e., not the digital service provider) for services that are integral to the purchase or use of their apps by consumers, such as payment processing for in-app payments

According to businesses, if, as app developers, they had to engage with and pay third parties (i.e., not the digital service provider) for services that are integral to the purchase or use of their apps by consumers, such as payment processing for in-app payments, it would have an impact on them to varying extent, as provided below:

a. **47.7%** of businesses believe that if, as app developers, they had to engage with and pay third parties for services integral to the purchase or use of their apps by consumers, it would have a negative impact on their business. While **17.5%** of respondents believe there will be a strong negative impact, **30.2%** believe there will be a mild negative impact.
b. **10.6%** of businesses believe that if, as app developers, they had to engage with and pay third parties for services integral to the purchase or use of their apps by consumers, it would have a positive impact on their business. While **6.8%** of respondents believe there will be a strong positive impact, **3.8%** believe there will be a mild positive impact.
c. **41.7%** of businesses believe that if, as app developers, they had to engage with and pay third parties for services integral to the purchase or use of their apps by consumers, it would have no positive or negative impact on their business.

Therefore, a significant percentage of businesses believe that engagement with third parties on integral services will negatively impact them.

5.2.3. Impact related to one-stop-shop access to app discovery and distribution

App discovery and distribution are often tied together by major service providers like Google Play and Apple's App Store. These app stores not only host apps but also offer various services such as app reviews, ratings, payment processing, and promotional tools. For instance, Google Play provides a unified ecosystem where users can discover apps through curated lists and recommendations, make in-app purchases, and leave reviews—all within the same app store. However, these integrated services have raised anti-competitive concerns.

For instance, Play Store's provision of its own payment processing services for in-app purchases has been a constant subject of scrutiny. However, under the DCB, app stores might no longer be able to provide one-stop-shop access to different services due to the requirements of Clause 15. This clause does not directly prohibit app stores from offering multiple services, but it does ban incentivising the use of their own services. As a result, the convenience of accessing various services under one umbrella could be seen as a form of incentivisation, creating an obstacle for app stores.

Various businesses also rely on app stores' ability to provide integrated services and act as 'one-stop shops' for various functionalities. In this context, it is important to understand the impact on businesses, if regulatory frameworks effectuate this change.

What would be the perceived impact on businesses if companies are not able to offer a "one-stop shop" for various aspects of app discovery and distribution, e.g., app review, moderation of such reviews, app ecosystem safety, payments, etc.

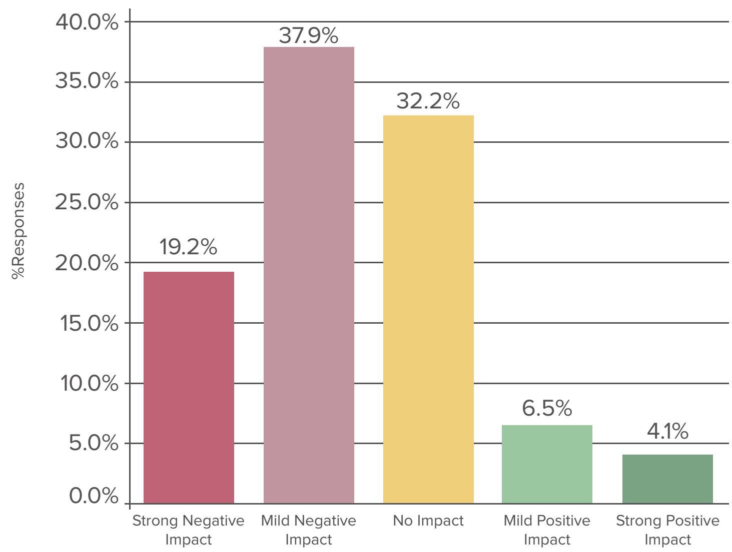


Figure 20: Perceived impact on businesses if companies are not able to offer a "one-stop shop" for various aspects of app discovery and distribution, e.g., app review, moderation of such reviews, app ecosystem safety, payments, etc.

Businesses who were a part of the survey have the following perception of the impact on them if companies are not able to offer a one-stop shop for various aspects of app discovery and distribution:

a. **57.1%** of businesses believe that if companies are not able to offer a "one-stop shop" for various aspects of app discovery and distribution, it will have a negative impact on their business. While **19.2%** of respondents believe there will be a strong negative impact, **37.9%** believe there will be a mild negative impact.
b. **10.6%** of businesses believe that if companies are not able to offer a "one-stop shop" for various aspects

of app discovery and distribution, it will have a positive impact on their business. While **4.1%** of respondents believe there will be a strong positive impact, **6.5%** believe there will be a mild positive impact.

c. **32.2%** of businesses believe that if companies are not able to offer a "one-stop shop" for various aspects of app discovery and distribution, it will have no positive or negative impact on their business.

It must be noted that a significant percentage of businesses believe that the change would negatively impact them. Therefore, before a new law regulates or imposes restrictions on the ability of digital service providers to give one-stopshop access to businesses, the users' perceived impact of this change must be also discussed.

5.2.4. Impact on special promotion deals

Special promotion deals offered by marketplaces, such as exclusive launches, marketplace-specific discounts, and promotional tie-ups, play a crucial role in helping businesses access online retail affordably and sustainably. These promotions can significantly boost visibility and sales for small businesses by leveraging the marketplace's extensive user base and marketing reach. For instance, small sellers reported an increase in visibility and a 25% increase in sales due to discount campaigns.[98]

Clause 15 of the DCB addresses tying and bundling practices by requiring SSDEs to avoid incentivising end users to use products of third parties with whom they have arrangements. This restriction could prevent SSDEs from offering special promotional deals, such as exclusive tie-ups or marketplace-specific discounts. For instance, marketplace service providers often engage in exclusive launch agreements with businesses where a product is launched exclusively on a specific marketplace, gaining higher visibility on the marketplace's website.

The concern goes beyond marketplaces'ability to engage in such practices — it directly impacts end consumers. Exclusivity arrangements, including those linked to bundled services or tied incentives, often result in reduced prices for consumers.[99] For example, sellers using a marketplace's logistics services may be able to offer lower overall costs to consumers due to economies of scale or integrated grievance redressal mechanisms. In a price-sensitive country like India, where a significant portion of the population is economically constrained, even minor cost savings can make a substantial difference. By eliminating the ability of the marketplaces to provide such incentives, the DCB risks inadvertently increasing costs for end consumers.

Moreover, even offering logistics services alongside marketplace discovery services without explicit discounts or bundled pricing could be construed as incentivisation due to the integrated nature of these services. This interconnectedness, which enhances the consumer experience by offering seamless solutions and centralised grievance redressal, could be undermined by overly restrictive interpretations of Clause 15. The real harm lies in the potential loss of consumer benefits, such as lower prices and improved convenience, highlighting the need for a more nuanced approach to regulating these practices.

The extent to which bars on offering special promotional deals will also impact businesses was assessed through the survey.

98. "How E-Commerce Discounts During Festive Season Impact Brand Profitability," Financial Express, October 24, 2023. https://www.financialexpress.com/business/industry-how-e-commerce-discounts-during-festive-season-impact-brand-profitability-3285127.

99. Qian Wu and Niels J Philipsen, "The Law and Economics of Tying in Digital Platforms: Comparing Tencent and Android," *Journal of Competition Law and Economics*, Volume 19, Issue 1, March 2023, Pages 103–122, https://doi.org/10.1093/joclec/nhac011.

What is the perceived impact on businesses if marketplaces are barred from offering special promotional deals such as exclusive launches / tie-ups or marketplace-specific discounts?

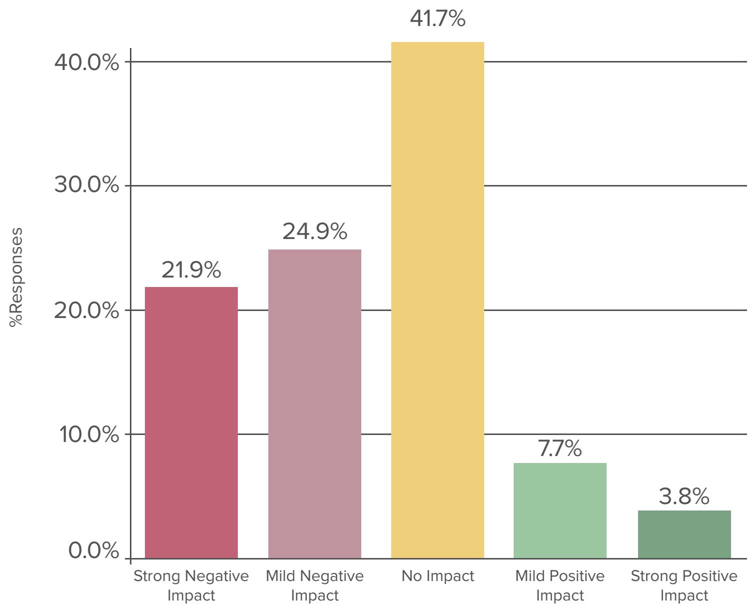


Figure 21: Perceived impact on businesses if marketplaces are barred from offering special promotional deals such as exclusive launches / tie-ups or marketplace-specific discounts

Businesses believe that if marketplaces are barred from offering special promotional deals, it may impact them to varying degrees, as provided below:

a. **46.8%** of businesses believe that if marketplaces are barred from offering special promotional deals, it will have a negative impact on their business. While **21.9%** of respondents believe there will be a strong negative impact, **24.9%** believe there will be a mild negative impact.
b. **11.5%** of businesses believe that if marketplaces are barred from offering special promotional deals, it will have a positive impact on their business. While **3.8%** of respondents believe there will be a strong positive impact, **7.7%** believe there will be a mild positive impact.
c. **41.7%** of businesses believe that if marketplaces are barred from offering special promotional deals, it will have no positive or negative impact on their business.

Therefore, a significant percentage of businesses believe that a bar on promotional deals on marketplaces will negatively impact them.

5.2.5. Impact on Allied Support Services

Marketplaces offer a variety of allied support services that significantly benefit small sellers. These services include logistics and fulfilment solutions, such as warehousing, packing, and shipping, which reduce the burden of managing inventory and delivery logistics. For instance, Services like Amazon's Fulfilment by Amazon (FBA)[100] or Flipkart's Fulfilment by Flipkart (FBF)[101] allow small sellers to store their products in the marketplace's warehouses, where they are picked, packed, and shipped directly to customers, which reduces the need for independent investment in these areas from small sellers. Additionally, marketplaces often provide customer service support, including handling returns and refunds, simplifying operations and saving small sellers' time.

100. Amazon.in, "The Many Sides of Google Play Store's 30% Commission & India's Search for Alternatives," https://sell.amazon.in/shipping-and-fulfillment/fulfillment-by-amazon.
101. Flipkart.com, "Sell Online with Flipkart," https://seller.flipkart.com/sell-online.

Clause 15 of the DCB restricts SSDEs from providing incentives to businesses or end users to use other products or services offered by the enterprise unless these products or services are essential for providing the CDS. This provision could prohibit SSDEs from even incentivising the use of additional services such as logistics, inventory tracking, or marketing alongside their CDS. For instance, marketplaces might be prevented from incentivising sellers to use their own logistics services by offering lower prices.

Moreover, even offering logistics services alongside marketplace discovery services without discounts or bundled pricing could be seen as incentivisation due to the interconnected nature of these services, which makes the user experience more seamless and integrated and consumer behaviour. For example, a business might prefer using the marketplace's logistics service because it makes it easier for the user to seek resolution of grievances from one source, i.e., the entity showcasing and delivering the product.

In this context, the perceived impact of this change on businesses was assessed through the survey.

What is the perceived impact on businesses of marketplaces being prohibited from offering allied support services?

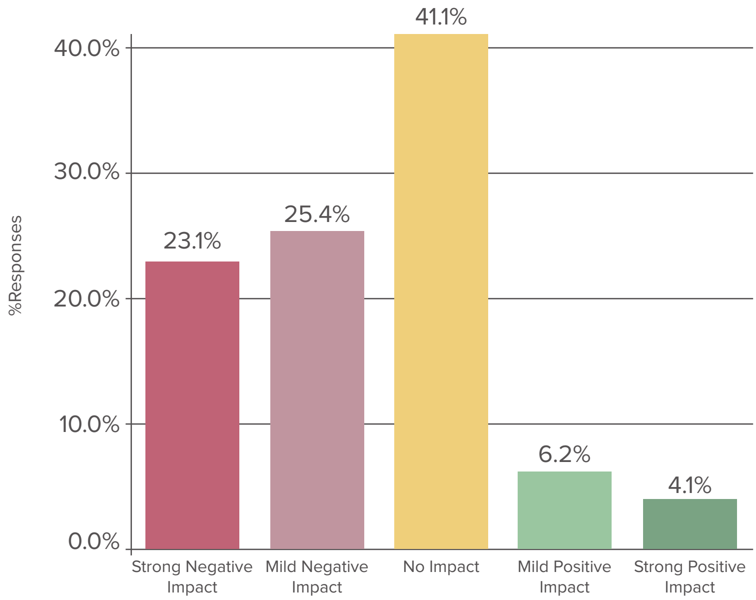


Figure 22: Perception of business on the impact of marketplaces being prohibited from offering allied support services

Businesses believe that if marketplaces are prohibited from offering allied support services, it may impact them to varying degrees, as provided below:

a. **48.5%** of businesses believe that if marketplaces are prohibited from offering allied support services, it will negatively impact their business. While **23.1%** of respondents believe there will be a strong negative impact, **25.4%** believe there will be a mild negative impact.
b. **10.3%** of businesses believe that if marketplaces are prohibited from offering allied support services, it will positively impact their business. While **4.1%** of respondents believe there will be a strong positive impact, **6.2%** believe there will be a mild positive impact.
c. **41.1%** of businesses believe that if marketplaces are prohibited from offering allied support services, it will have no positive or negative impact on their business.

A significant proportion of respondents said that the change would have no impact on them. To the extent that is due to lack of relevance to their business model or the change is too insignificant, there is limited need to make interventions. Further, a substantial portion of businesses believe that the law will negatively impact them.

5.2.6. Conclusion

The perceived impact on businesses due to unintended restrictions on digital services pertaining to tying and bundling under the DCB can vary significantly, depending on their specific business models and reliance on bundled offerings. However, based on survey results, we also determined the extent of the perceived impact the regulation might have on businesses. Our assessment revealed a mildly negative impact on businesses due to the proposed changes.[102]

Based on our survey results, it is evident that restrictions on various tied and bundled services under the Bill can have the potential to generate significant concerns and negative impacts. For instance, **73.3%** of businesses believe that if social media networks do not permit integrated functionalities, it will have a negative impact on their business. Therefore, moving forward, the DCB should consider refining its approach to tied and bundled services to mitigate unintended negative consequences for businesses. This may involve assessing sector-specific concerns and implementing targeted interventions that allow for fair competition while safeguarding against anti-competitive conduct.

5.3. Impact on changes related to value derivation from data processing and third-party sharing of data

Businesses derive significant value from the data processing capacities of digital service providers. Through advanced analytics and data processing tools, these providers can offer insights that help businesses understand consumer behaviour and optimise marketing strategies. Therefore, any changes to market dynamics of value derivation from data processing need to be assessed carefully. The DCB seeks to regulate various dynamics of data processing through its provisions, as explained in relevant parts.

Further, there is significant discourse related to the sharing of data by digital service providers. There are suggestions that mandate third-party data sharing, which may introduce both opportunities and challenges. On one hand, it can democratise access to valuable data, allowing smaller players to benefit from insights. On the other hand, there are concerns that such sharing could lead to privacy issues and data misuse, as well as potential anti-competitive behaviour if service providers use the data to their own benefit. For example, some digital service providers have been accused of using their data processing capabilities to engage in ACP, such as self-preferencing their own products or services over those of competitors.[103]

The DCB seeks to regulate these market dynamics by imposing restrictions on the intermixing and cross-usage of personal data and other mandates. While this aims to prevent ACP, its overall impact on businesses remains to be fully understood. Our study aims to shed light on this issue, evaluating whether these regulations will promote fair competition or inadvertently hinder the benefits that come from effective data processing.

5.3.1 Restrictions on cross-channel insights

Digital distribution channels, such as social media networks, search engines, and online marketplaces, function by aggregating and analysing vast amounts of user data to optimise content delivery and user engagement. These channels glean insights from various interactions across their ecosystems, enabling them to create comprehensive user profiles. For example, an online marketplace can analyse purchase behaviours and search queries to suggest relevant products to users.[104]

However, the use of digital distribution channels to gather insights from other channels has also sparked conversations on anti-competitive concerns. Cross-using data can lead to anti-competitive issues, such as

[102] The result of the extent can be found in Annexure 4: "Extent of perceived positive or negative impact on a five-point scale."
[103] National Restaurant Association of India (NRAI) v. Zomato Limited (Zomato) & Others. Case No. 16/2021.
[104] Shiu Li Huang., and Y. H. Lin, "Exploring Consumer Online Purchase and Search Behavior: An FCB Grid Perspective," *Asia Pacific Management Review* 27, no. 4 (December 2022): 245–256. https://doi.org/10.1016/j.apmrv.2021.10.003.

when channels leverage their vast data pools to unfairly prioritise their services or products or develop their own products to compete with other businesses.[105] For instance, a search engine might use data from its email service to enhance its advertising precision, thereby disadvantageous competitors who do not have access to similar data.

The DCB includes provisions that could potentially impact the ability of digital services to derive value from data processing across multiple channels. Specifically, clause 12(2) of the DCB states that an SSDE shall not, without the consent of end users or business users, intermix or cross-use the personal data of end users or business users collected from different services, including its CDS.[106]

For instance, if a social media network is designated as an SSDE, it would be restricted from using insights derived from data collected through its CDS (e.g., online social networking services;) to target users on other digital channels, such as interpersonal communications services, without explicit user consent. As discussed earlier, this could lead to increased consent fatigue. This limitation could hinder the digital service provider's ability to deliver personalised and relevant content, offers, or advertisements to end users across multiple touchpoints, potentially providing value for businesses. Respondents were asked how a restriction of this nature would impact their businesses, and their responses were as follows:

What is the perceived impact on businesses if there are restrictions on digital distribution channels from using insights gained from other digital channels to reach out to their end users?

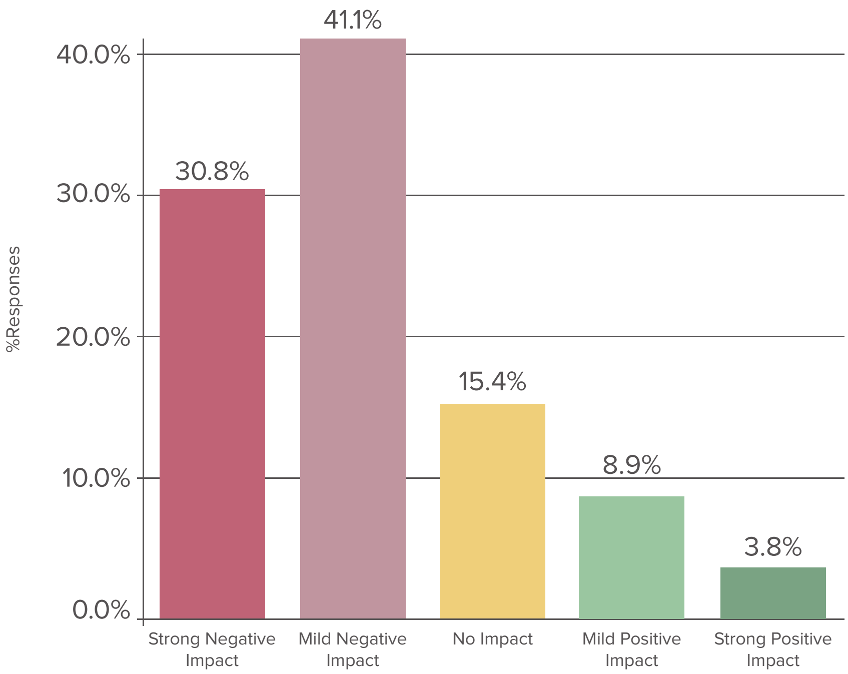


Figure 23: Perception of businesses on the impact of restrictions on digital distribution channels (such as interpersonal communication services, social media networks, etc.) from using insights gained from other digital channels to reach out to their end users

105. CDCL Report, Page 122.
106. Draft DCB, clause 12.

Businesses believe that if restrictions were imposed on digital distribution channels from using insights to reach out to their end users, it would have an impact on them to varying degrees, as provided below:

a. **71.9%** of businesses believe that if restrictions were imposed on digital distribution channels from using insights to reach out to their end users, it would have a negative impact on their business. While **30.8%** of respondents believe there will be a strong negative impact, **41.1%** believe there will be a mild negative impact.
b. **12.7%** of businesses believe that if restrictions were imposed on digital distribution channels from using insights to reach out to their end users, it would have a positive impact on their business. While **3.8%** of respondents believe there will be a strong positive impact, **8.9%** believe there will be a mild positive impact.
c. **15.4%** of businesses believe that if restrictions were imposed on digital distribution channels from using insights to reach out to their end users, it will have no positive or negative impact on their business.

Notably, a significant portion of businesses feel that restrictions of this nature would have a negative impact on their businesses.

5.3.2. Impact on listing algorithms

Listing algorithms are used by digital service providers to customise user experiences based on individual preferences and behaviours, thereby enhancing their overall experience in the marketplace.[107] Additionally, listing algorithms increase efficiency by automating the process of content curation and product placement, thereby streamlining user interactions. However, there are concerns that listing algorithms could be manipulated to prioritise the marketplaces' own products or services over those of competitors, which would be disadvantageous to other businesses in the marketplace and ultimately lead to reduced consumer choice and innovation.[108] Further, the opacity of listing algorithms raises questions about fairness in how products are displayed to users. Businesses may face challenges in understanding and influencing their visibility in the marketplace, potentially leading to unequal market access.

The DCB will potentially regulate the ability of aggregators and marketplaces to customise their listing experience based on user preference. The restriction imposed by clause 12 of the DCB on SSDEs from using non-public data of business users directly affects the ability of aggregators to customise user experiences through their listing algorithms.[109] Aggregators typically gather vast amounts of data from businesses, including product listings, customer reviews, and transaction histories.

However, under the DCB, SSDEs are required to obtain explicit consent from businesses before utilising their non-public data. This means aggregators must either obtain consent from each business to use their data or refrain from using such data altogether. The need for explicit consent could limit the aggregator's ability to use the data of businesses for fine-tuning its listing algorithms. Customising search results and recommendations based on user preferences and behaviour typically relies on analysing non-public data, such as past interactions, preferences, and browsing history. Without access to this data or with only partial data due to incomplete consent, the aggregator may struggle to provide highly personalised or relevant recommendations. The impact this could have on businesses was assessed, and the results are provided below.

107. Ragnhild Eg, Özlem Demirkol Tønnesen, and Merete Kolberg Tennfjord, "A Scoping Review of Personalized User Experiences on Social Media: The Interplay Between Algorithms and Human Factors," *Computers in Human Behavior Reports* 9 (December 23, 2022): 100253, https://doi.org/10.1016/j.chbr.2022.100253.
108. Oren Bar-Gill, Cass R. Sunstein, and Inbal Tor-Caspi, "Algorithmic Harm in Consumer Markets," *Journal of Legal Analysis* 15, no. 1 (2023): 1–47. https://doi.org/10.1093/jla/laad001.
109. Draft DCB, clause 12.

What is the perceived impact on businesses if an aggregator's listing algorithm can not customise its experience based on the user's preference?

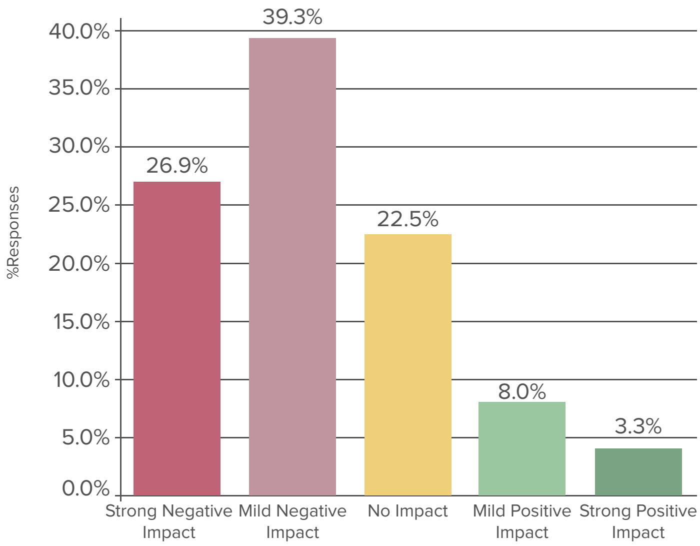


Figure 24: Perceived impact on businesses if an aggregator's listing algorithm cannot customise its experience based on the user's preference

Businesses believe that if an aggregator's listing algorithm cannot customise its experience based on the user's preference, it would have an impact on them to varying degrees, as provided below:

a. **66.2%** of businesses believe that if an aggregator's or listing algorithm cannot customise its experience based on the user's preference, it will have a negative impact on their business. While **26.9%** of respondents believe there will be a strong negative impact, **39.3%** believe there will be a mild negative impact.
b. **11.3%** of businesses believe that if an aggregator'slisting algorithm cannot customise its experience based on the user's preference, it will have a positive impact on their business. While **3.3%** of respondents believe there will be a strong positive impact, **8.0%** believe there will be a mild positive impact.
c. **22.5%** of businesses believe that if an aggregator's listing algorithm cannot customise its experience based on the user's preference, it will have no positive or negative impact on their business.

Notably, the majority of respondents think that a change of this nature would lead to a negative impact on them.

5.3.3. Data sharing with other advertisers

Clause 10 of the DCB, which emphasises fair, non-discriminatory, and transparent dealings, can lead to significant obligations for service providers regarding data disclosure. To comply with this clause, service providers may be required to disclose relevant data to other advertisers, including detailed information on ad performance. This ensures that all advertisers have access to the same information and prevents discriminatory practices. Additionally, pricing transparency becomes essential under this clause, meaning that service providers must openly disclose how pricing is determined, including any discounts, fees, or associated costs.

This allows advertisers to understand how their expenditures impact their campaigns and ensures there are no hidden charges. Furthermore, service providers might need to grant access to performance metrics, such as click-through rates and conversion rates, enabling advertisers to evaluate their campaign effectiveness and make informed decisions. This is in line with the 53rd Report of the Parliamentary Standing Committee on

Finance (PSC report) wherein the Finance Committee expressed concern over companies' presence at every stage of the advertising ecosystem which provides them with an unfair advantage.[110] The committee recommended mandating gatekeepers to provide advertisers with information on a daily basis.[111]

Although well-intentioned, such obligations may result in concerns. For example, the data shared with competing advertisers is not limited to that owned solely by SSDEs but also includes data generated by business users themselves. These businesses contribute valuable information such as customer interactions, purchase histories, and demographic details through their activities on digital service providers.

For businesses advertising on these digital services, the mandated data sharing could impact their competitive position and marketing strategies. If competitors gain access to detailed performance metrics and data about advertising inventory, it may create an uneven playing field. Furthermore, businesses may find it harder to differentiate their offerings or target specific demographics effectively if their competitors have access to similar insights and can adjust their advertising strategies accordingly.

Moreover, issues related to data privacy and user consent arise, as users may not always be fully aware of or consent to their data being shared across multiple advertisers for targeted advertising purposes. Enforcing these obligations would be challenging, as balancing transparency with the protection of sensitive business data could lead to high administrative costs and operational disruptions. Managing data sharing while addressing both competition and privacy concerns under the DCB could create significant difficulties for businesses.

We assessed the perceived impact of this proposed regulatory change on businesses through the survey.

What is the perceived impact on businesses if they were required to share data with third parties who also advertise on the same advertising services?

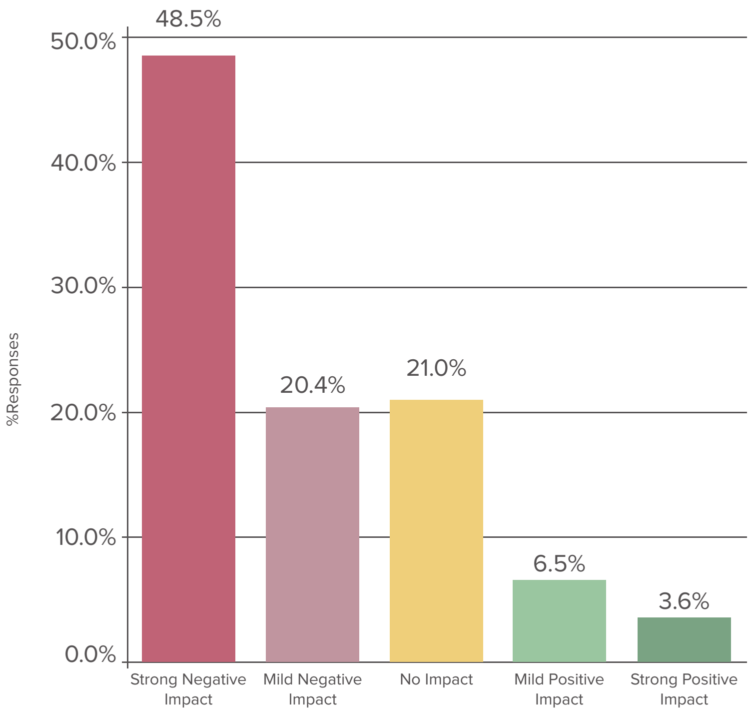


Figure 25: Perception of businesses on the impact of sharing data with third parties who also advertise on the same advertising services

110. Government of India, *Parliamentary Standing Committee on Finance 53rd Report: Anti-competitive practices by Big Tech Companies* (PSC Report), Pages 25-26.
111. PSC Report, Pages 37-38.

Businesses believe that if they had to share data with third parties (aggregated or non-aggregated) with third parties who also advertise on the same advertising services, it would have an impact on them to varying degrees, as provided below:

a. **68.9%** of businesses believe that if they had to share data with third parties (aggregated or non-aggregated) with third parties who also advertise on the same advertising services, it would have a negative impact on their business. While **48.5%** of respondents believe there will be a strong negative impact, **20.4%** believe there will be a mild negative impact.
b. **10.1%** of businesses believe that it will have a positive impact on their business. While **3.6%** of respondents believe there will be a strong positive impact, **6.5%** believe there will be a mild positive impact.
c. **21%** of businesses believe that it will have no positive or negative impact on their business.

A notable portion of respondents believe that the proposed change to the market dynamic would negatively impact them.

5.3.4. Conclusion

Most respondents believe that various changes pertaining to data processing and sharing will negatively impact them. We sought to check the extent to which these changes will impact them. Our assessment revealed a *mildly negative impact* on businesses due to the proposed changes.[112]

Therefore, businesses' perceived impact regarding changes associated with value derivation from data processing and third-party data sharing with other advertisers leans towards negativity. For instance, 71.9% of businesses believed that if restrictions were imposed on digital distribution channels from using insights to reach out to their end users, it would have a negative impact on their business. Therefore, addressing these concerns requires a balanced approach that mitigates risks and supports sustainable business practices in an increasingly data-driven ecosystem.

It is crucial that, in this light, provisions in the DCB pertaining to data processing and sharing are either reconsidered or substantially changed. These adjustments should be made by keeping in mind the value that the data processing capacity of digital service providers has for businesses. This could ensure that there are no unintended consequences and that competition law concerns are resolved without a disproportionately negative impact on businesses.

5.4. Impact of restrictions on cyber security measures

App stores often impose restrictions on apps if they perceive them to pose potential risks to the safety and security of users. For instance, one common restriction is disallowing alternate payment methods within apps. While these restrictions intend to protect users from potential fraud or security breaches, they have also sparked debates about control over app ecosystems. For example, the Play Store faced scrutiny over not allowing third-party payment services.

However, the DCB includes certain obligations that could potentially impact the ability of digital services, particularly app stores, to ensure the safety and security of their users. A relevant provision is Clause 14 of the DCB,[113] which states that SSDEs shall not restrict businesses from communicating or directing their end users to their own- or third-party services. This obligation could have implications for the ability of app stores to impose restrictions on third-party applications that might threaten the safety and security of their users.[114]

112. The result of the extent can be found in Annexure 4: "Extent of perceived positive or negative impact on a five-point scale."
113. Draft DCB, clause 14.
114. Andrew Schurr, "Navigating the Digital Markets Act's Impact on Mobile App Security" NowSecure, Inc., February 21, 2024. https://www.nowsecure.com/blog/2024/02/21/navigating-the-digital-markets-acts-impact-on-mobile-app-security/.

Requiring app stores to allow third-party services may limit the company's ability to review apps for any safety concerns. For example, the DMA requires Apple to allow app developers to use an alternative payment processor and direct users to complete a transaction for digital content and services on their external webpage. However, this may create new threats to user security and privacy and may compromise the user experience.[115] The extent to which this may impact businesses was assessed through the survey.

What is the perceived impact on businesses of app stores being unable to impose restrictions on other available apps, even if they might threaten the safety and security of users of the businesses?

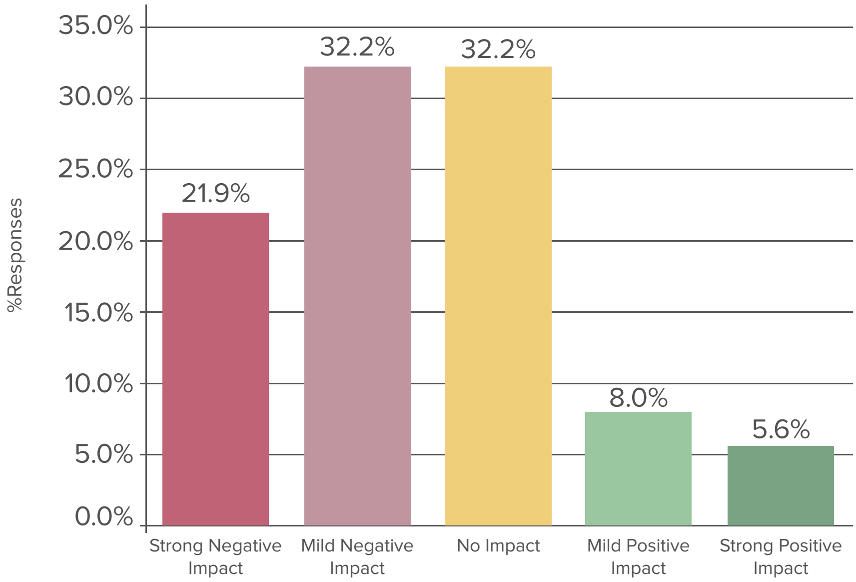


Figure 26: Perception of businesses on the impact of app stores being unable to impose restrictions on other available apps, even if they might threaten the safety and security of users of the businesses

Businesses believe that if app stores are unable to impose restrictions on other available apps, even if they might threaten the safety and security of users of the businesses, it would have an impact on them to varying degrees, as provided below:

a. **54.1%** of businesses believe that if app stores are unable to impose restrictions on other available apps, even if they might threaten the safety and security of businesses' users, it will negatively impact their business. While **21.9%** of respondents believe there will be a strong negative impact, **32.2%** believe there will be a mild negative impact.
b. **13.6%** of businesses believe that it will positively impact their business. While **5.6%** of respondents believe there will be a strong positive impact, **8.0%** believe there will be a mild positive impact.
c. **32.2.%** of businesses believe that it will have no positive or negative impact on their business.

Notably, **54.1%** believe this restriction will negatively impact them. Further, a significant percentage also believes this would have no positive or negative impact on them. To the extent this might be attributed to a lack of awareness among businesses about potential security issues in the app store ecosystem and the impact of DCB, there is a crucial need for education and awareness initiatives.

115. Apple, *Apple's Non-Confidential Summary of DMA Compliance Report*, Page 7, 2024. https://www.apple.com/legal/dma/dma-ncs.pdf.

It can be seen that most respondents believe that these changes may lead to a *negative impact* on them. Further, we sought to check the ***extent*** to which these changes pertaining to the ability of app stores to impose restrictions will impact them. Our assessment revealed a mildly negative impact on businesses due to the proposed changes. This means that, on average, if app stores are unable to impose restrictions on other available apps, even if they might threaten the safety and security of businesses' users, the negative impact will be *mildly negative*.[116]

5.5. Conclusion

The chapter highlights various unintended consequences that may result in digital ecosystems if the DCB is implemented in its current form. Further, the survey findings discuss the significant impact on businesses across multiple dimensions if these regulatory changes are implemented. Overall, the impact was deemed to be negative. Firstly, regarding advertising capacities, the survey revealed that businesses rely heavily on tailored ad placements to target their audiences effectively, and more than 70 per cent believe that if digital services are unable to specifically tailor ad placement to enable them to reach their target audience, it will have a negative impact on their business.

Secondly, the survey highlighted concerns about access to tied or bundled services, illustrating potential challenges for businesses if service providers cease offering integral functionalities like advertising and online storefronts. Lastly, regarding safety concerns, particularly if app stores are unable to enforce restrictions on potentially harmful apps, app developers found the impact to be negative.

Therefore, there may be a pressing need to consider whether a proposed ex-ante digital competition law will actually benefit businesses as it intends to or will unintentionally end up hurting them. The survey provides a starting point and concludes that there will be a negative impact. Further detailed studies, including impact assessments for impact on businesses and cost-benefit analysis, must be done to ensure that the law is equipped to help market participants and will not lead to losses for them. Further, considering the high probability of an *ex-ante* regime of this nature negatively impacting businesses, it may be prudent to consider alternative modes of intervention in digital markets, like case-by-case analysis, to resolve competition bottlenecks.

116. The result of the extent can be found in Annexure 4: “Extent of perceived positive or negative impact on a five-point scale.”

06
Conclusion and Way Forward

The study undertook a comprehensive analysis of the interaction between digital services and businesses and assessed it on various criteria, including i) the perception of value addition by digital service providers for businesses, ii) the satisfaction of businesses with digital service providers and iii) perceived impact of changes to the digital ecosystem that may unintentionally result from an ex-ante digital competition law.

It also looked at the perceived impact of businesses if regulatory frameworks change various key aspects of the digital ecosystem. The study has led to the following key conclusions and recommendations:

a. **Reassess the Need for the DCB:** The survey found that **77%** of businesses expressed satisfaction with the available choices of digital service providers, while **63.3%** were satisfied with pricing and **51.5%** with terms. These figures indicate that dissatisfaction is sector-specific rather than systemic. Imposing blanket pre-emptive regulations could hinder innovation and growth, especially for sectors where competition is already robust. Policymakers should carefully evaluate whether such a sweeping framework is necessary, given the lack of evidence supporting widespread anti-competitive practices. Further, various obligations provided under the DCB, for instance, restrictions on tying and bundling and data usage practices, should also be revisited.
b. **Prioritise Targeted Enforcement:** Instead of introducing a new law, the focus should be on strengthening enforcement of the existing competition regime under the CCI. The study highlights that certain sectors may face challenges that warrant targeted intervention. Proactive enforcement in these areas can address specific instances of dissatisfaction while avoiding unintended disruptions to well-functioning markets. This approach ensures that interventions are proportionate and evidence-based. The changes introduced by the Competition (Amendment) Act, 2023, and the CCI's powers to review mergers may also be leveraged for this purpose.
c. **Conduct a Comprehensive Cost-Benefit Analysis:** Before implementing the DCB, the Government should undertake an empirical analysis to assess its potential economic impact. The study's findings suggest that businesses derive significant value from digital services, and restrictive regulations could diminish these benefits. A thorough cost-benefit analysis should evaluate how the DCB might affect the pricing, quality, and availability of digital services for retail and business consumers. This assessment should also consider the broader economic implications, including the potential effect on innovation and investment in India's digital economy.
d. **Scrutinise Claims of Unfairness:** Allegations of unfair practices by digital service providers must be rigorously re-evaluated. Broad claims of "unfairness" often lack substantiation and could lead to pre-emptive constraints that may reduce service quality and innovation without delivering on clear welfare gains. Policymakers should ensure that regulatory interventions are grounded in robust evidence rather than perceived grievances of select entities.
e. **Commission Research:** To inform the debate, it is essential to quantify the efficiencies generated by digital services and examine the trade-offs involved in regulating large service providers. Limiting the terms offered by large providers could disproportionately harm these smaller players. Therefore, the government should assess these impacts and provide stakeholders with a clearer understanding of the potential consequences of DCB-like proposals.

In this light, it may be prudent to revisit the need for the proposed law and focus instead on alternative interventions to resolve market bottlenecks where preliminary evidence of structural competition bottlenecks is available. Further, if an ex-ante law is proposed to be implemented, it should be done only after undertaking comprehensive assessments of the impact on businesses to avoid error costs.

ANNEXURE 1
Sample Stratification

1. Sample Stratification

The businesses surveyed in the research study came from diverse backgrounds in terms of financial strength, geography, age, size, and sectors. More information about the sample stratification can be found below.

a. **Geographical Split of Businesses:** Respondents are split across the 4 regions, i.e., north, south, east and west. The highest number of businesses in the sample are from North India, i.e., **33%** and the least number of respondents are from the *Eastern part of the country, i.e.,* **16%**.

b. **Age of Businesses:** Most respondents are early-stage businesses, with **71.9%** of businesses having an age of less than 5 years. Few businesses, **18.9%,** fall within the category of 5-10 years of operation. The remaining **9.2%** have been in operation for more than 10 years.

c. **Size of Company:** The vast majority of respondents, **81.4%**, have less than 50 employees. Few businesses, **9.8%**, have employees between 50 and 100. The remaining businesses, **8.8%**, have more than 100 employees.

d. **Company's annual turnover:** The majority of the respondents, **74.6%,** have a turnover of less than INR 5 crores. Around **18.6%** of respondents have a turnover between INR 5 and 50 crores. The remaining **6.8%** of respondents have a turnover of more than INR 50 crores.

e. **Investment in company to date:** The vast majority of the respondents, **64.8%**, have invested less than INR 1 crore in their company to date. Around **25.7%** have invested between INR 1 and 10 crores, whereas the remaining **9.5%** have invested more than INR 10 crores.

f. **Sectoral Presence:** The majority of the respondents have described their businesses as belonging to the Retail and Fast Moving Consumer Goods (FMCG) sector and the Information and Communication Services sector, with **17.5%** in each.

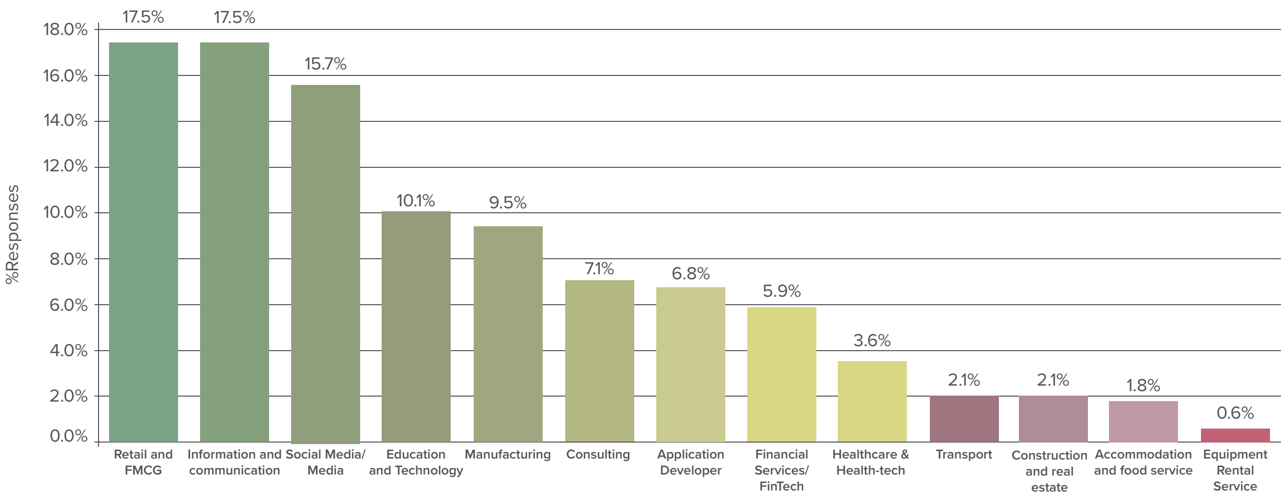


Figure 1: Percentage of respondents in different sectors across the digital ecosystem

g. **Provision of digital content or services:** Most respondents, **69%**, agreed that their business, in day-to-day operations, provides "digital content or services." Such digital services include, but are not limited to, financial services and app developers.

h. **Qualification as MSMEs: 96%** of respondents satisfy the quantitative criteria for qualifying as MSMEs based on their annual turnover and net investment.

i. **Qualification as Start-ups: 89.6%** of the respondents satisfy the quantitative thresholds to qualify as a 'start-up', as defined by DPIIT.[117]

2. Standard Deviation

We calculated the standard deviation (average variation) of responses for the study's **key statistics.** The calculation was performed across the 13 'Sectors' and 4 'Annual Turnover' groups of respondents, as described earlier. The results indicate low levels of standard deviation, suggesting consistency in responses across these categories. Detailed standard deviation values can be found in **Annexure 3.**

[117] As per the DPIIT, a start-up should be in existence for 10 years only & should have a turnover of less than INR 100 Crores in any of the previous financial years since its incorporation. Furthermore, the start-up should be "working towards innovation, development or improvement of products or processes or services, or if it is a scalable business model with a high potential of employment generation or wealth creation." However, an entity formed by splitting up or reconstructing an existing business does not qualify as a start-up. We acknowledge that due to certain limitations of the survey the data collected could not have been verified in all aspects of these criteria set by the DPIIT. DPIIT Startup Recognition & Tax Exemption. (n.d.-b). Startup India. https://www.startupindia.gov.in/content/sih/en/startupgov/startup_recognition_page.html#:~:text=Turnover%20should%20be%20less%20than,the%20date%20of%20its%20incorporation

ANNEXURE 2
Overview - Draft Digital Competition Bill

This annexure provides a comprehensive understanding of the DCB and the CDCL report, focusing on how they seek to regulate the relationship between businesses and digital service providers.

1. Draft DCB, 2024: Overview

The DCB aims to designate certain enterprises as SSDEs if they engage in CDS and meet specific thresholds. CDS, listed in Schedule I of the DCB, include services like "online search engines, online social networking services, video-sharing platform services, interpersonal communications services, operating systems, web browsers, cloud services, advertising services, and online intermediation services (includes web-hosting, service providers, payment sites, auction sites, app stores, e-commerce marketplaces and aggregators, etc.)".[118]

To qualify as a SSDE, an enterprise must meet the 'twin test': the "Financial Strength Test"[119] (e.g., achieving INR 4000 crore turnover in India or USD 30 billion globally) and the "Significant Spread Test"[120] (having over one crore end-users or 10,000 business users in India). These metrics provide a quantitative framework for assessing the financial strength and market presence of enterprises within the digital landscape.

2. Obligations under the DCB

The CDCL Committee recommended a *principle-based framework,* suggesting that specific code requirements for each CDS be outlined through regulations.[121] The DCB proposes six key obligations corresponding to the practices such as tying and bundling, self-preferencing, data usage, fair and transparent dealing, restricting third-party apps, and anti-steering. The report further recommends allowing the CCI to specify tailored conduct requirements for different business models within a CDS if applicable.[122]

Additionally, although most obligations under the DCB are proposed to apply to Associate Digital Enterprises (ADEs), the CCI would have the authority to specify differentiated obligations to alleviate compliance burdens for them.[123] The DCB states that certain business enterprises within the SSDE group that provide CDSs will be designated as Associate Digital Enterprises upon notification by the CCI.

The obligations and the rationale, as provided by the PSC and the CDCL, behind the inclusion of each of these obligations are discussed below:

a. **Tying and Bundling:** The DCB bars SSDEs from mandating or incentivising business users or end users to utilise other products or services offered by the enterprise, its related parties, or third parties with whom the enterprise has agreements alongside the CDS. Exceptions are allowed only if such products or services are essential to providing the CDS.[124] Although bundling can have pro-competitive effects,[125] the CDCL emphasises that it often restricts market entry for smaller rivals.[126]

118. Draft DCB, Schedule I.
119. Draft DCB, clause 3(2)(a)
120. CDCL Report, Pages 102-104.
121. CDCL Report, Page 110, Paras 3, 38.
122. CDCL Report, Page 110.
123. CDCL Report, Page 110, Paras 3, 40.
124. Draft DCB, clause 15.
125. CDCL Report, Page 109.
126. CDCL Report, Page 121, Annexure 1.

b. **Fair and Transparent Dealing:** SSDEs are required to engage with end users and business users in a fair, non-discriminatory, and transparent manner.[127] The CDCL notes, for instance, that ACP such as 'exclusive tie-ups' and 'pricing / deep discounting' may fall under this obligation.[128] According to the PSC report, this obligation is required to ensure equal access to essential information and to eliminate discriminatory practices.[129]

c. **Self-Preferencing:** SSDEs are prohibited from favouring their products, services, or business lines—or those of their affiliates or partners—over offerings by other business users on their CDS.[130] The CDCL highlights that self-preferencing gives SSDEs an unfair market advantage,[131] which can harm downstream players and reduce third-party competition, stifle innovation and consumer choice.[132]

d. **Restricting Third-Party Apps:** The DCB requires SSDEs not to restrict the ability of end users or business users to download or use third-party apps on its CDS. Additionally, the SSDEs must allow end users and business users to change default settings.[133] As per the CDCL Report, large enterprises tend to prevent users from accessing third-party apps through exclusionary anti-steering policies.[134]

e. **Anti-Steering:** The DCB prohibits SSDEs from restricting business users from communicating their offers to end users or directing end users to third-party services unless such restrictions are integral to the provision of the CDS.[135] As per the CDCL Report, anti-steering can prevent consumers and business users from shifting to third-party service providers.[136]

f. **Data Usage:** The DCB seeks to restrict SSDEs from using non-public data of business users operating on their CDS to compete with those business users. Additionally, SSDEs are prohibited from intermixing, cross-using or sharing the personal data of end users or business users across different services without their consent. Moreover, they must enable easy data portability for business users and end users of their CDS, as specified by regulations.[137] As per the CDCL Report, large enterprises possess vast amounts of data which they use to entrench their market position. This raises privacy issues, enable targeted consumer profiling, and creates entry barriers for new players, ultimately harming competition.[138]

127. Draft DCB, clause 10.
128. CDCL Report, Page 229, endnote 652.
129. PSC Report, Pages 35–36.
130. Draft DCB, clause 11.
131. CDCL Report, Page 121.
132. CDCL Report, Page 109.
133. Draft DCB, clause 13.
134. CDCL Report, Page 123.
135. Draft DCB, clause 14
136. CDCL Report, Page 121, Annexure 1.
137. Draft DCB, clause 12.
138. CDCL Report, Page 122, Annexure 1.

ANNEXURE 3
Standard Deviation for Key Statistics

We calculated the standard deviation (average variation) of responses for the study's key statistics. The calculation was performed across the 13 'Sectors' and 4 'Annual Turnover' groups of respondents, as described earlier. The results indicate low levels of standard deviation, suggesting consistency in responses across these categories.

1. Chapter 3: Perceived Value Addition of Digital Services for Businesses

1.1. Standard Deviation based on sectors of the respondents

Figure No. and Title	Average Yes %	Standard Deviation	Minimum Range	Maximum Range
Figure 1: Percentage of businesses who believe that digital services have enhanced their overall ability to optimise and reduce costs	69%	10.75%	Construction and real estate - 55%	Equipment Rental Service - 100%
Figure 3: Percentage of businesses who believe that digital services have enhanced their ability with regard to overall customer interaction	80%	5.40%	Social Media/ Media - 70%	Healthcare & Health-tech - 93%
Figure 5: Perceived Impact on businesses if search engines no longer offered sponsored posts or special listings that could be purchased	67%	13%	Accommodation and food service, Consulting - 50%	Equipment Rental Service - 100%

Figure No. and Title	Average Yes %	Standard Deviation	Minimum Range	Maximum Range
Figure 6: Perceived Impact on businesses if they were no longer able to use sponsored posts or special paid listings on online retail and social media networks	67%	16%	Accommodation and food service - 33%	Equipment Rental Service - 100%
Figure 7: Percentage of businesses who believe that digital services have enhanced their ability with respect to overall expansion	76%	5.06%	Construction and real estate - 68%	Equipment Rental Service - 88%
Figure 9: Percentage of businesses who believe that digital services have enhanced their ability to compete effectively in markets	82%	12.18%	Equipment Rental Service - 50%	Accommodation and food service - 100%
Figure 10: Percentage of businesses who believe that digital services have enhanced their ability to differentiate themselves from their competitors	74%	12.67%	Transport - 43%	Equipment Rental Service - 100%

Figure No. and Title	Average Yes %	Standard Deviation	Minimum Range	Maximum Range
Figure 11: Percentage of businesses who believe that digital services used by them for day-to-day operations are important for the success of their business	89%	6.70%	Financial Services/ FinTech - 80%	Accommodation and food service, Construction and real estate, Equipment Rental Service, Transport - 100%

1.2. Standard Deviation on the basis of the respondents' turnover

Figure No. and Title	Average Yes %	Standard Deviation	Minimum Range	Maximum Range
Figure 1: Percentage of businesses who believe that digital services have enhanced their overall ability to optimise and reduce costs	69%	12.53%	More than 250 Crores - 65%	INR 100- 250 Crores - 100%
Figure 3: Percentage of businesses who believe that digital services have enhanced their ability with regard to overall customer interaction	80%	4.62%	Less than INR 5 Crores - 79%	INR 100- 250 Crores - 92%

Figure No. and Title	Average Yes %	Standard Deviation	Minimum Range	Maximum Range
Figure 7: Percentage of businesses who believe that digital services have enhanced their ability with respect to overall expansion	76%	5.00%	INR 5 - 50 Crores - 76%	INR 100- 250 Crores - 88%
Figure 9: Percentage of businesses who believe that digital services have enhanced their ability to compete effectively in markets	82%	7.98%	Less than INR 5 Crores - 81%	INR 100- 250 Crores, More than 250 Crores - 100%
Figure 10: Percentage of businesses who believe that digital services have enhanced their ability to differentiate themselves from their competitors	74%	11.62%	More than 250 Crores - 70%	INR 100- 250 Crores - 100%
Figure 14: Percentage of businesses satisfied with fees and prices associated with availing digital services for day-to-day operations	89%	5.74%	Less than INR 5 Crores - 86%	INR 100- 250 Crores, More than 250 Crores - 100%

2. Chapter 4: Businesses' Extent of Satisfaction with Digital Services

2.1. Figure 2: Number of digital service providers used by businesses for various digital services

Sector / Digital Services	OSN	OSE	VSS	OS	OM	CS	AS	DA	OTT	Sectoral Average
RF	3.03	1.71	1.95	1.41	2.54	1.32	1.76	1.42	1.08	1.80
ICS	3.02	2.63	1.88	2.00	1.78	2.29	1.59	1.71	1.80	2.08
SM	3.89	2.64	2.62	2.21	2.08	2.00	2.23	2.06	2.25	2.44
ET	2.79	1.38	1.32	1.53	1.00	1.65	1.59	0.71	1.12	1.45
MF	3.06	2.84	1.88	2.25	2.63	1.63	2.25	1.97	1.19	2.19
CT	3.00	2.17	1.75	1.79	1.63	1.50	1.67	2.04	1.33	1.88
AD	3.35	2.13	2.22	2.22	1.52	2.35	1.83	1.52	1.57	2.08
FT	3.05	2.70	1.80	2.00	1.10	1.95	1.85	1.35	1.45	1.92
HT	3.67	3.58	1.67	3.00	1.83	2.08	2.08	2.42	1.92	2.47
TP	1.57	1.00	1.43	1.43	2.86	1.00	0.57	1.43	1.86	1.46
CR	2.71	1.14	1.14	1.43	0.29	0.86	1.00	0.71	1.14	1.16
AFC	3.67	3.17	2.17	2.67	3.83	1.50	1.00	2.33	1.00	2.37
ERS	2.00	2.00	1.50	1.00	2.00	1.50	1.00	1.50	1.50	1.53
Digital Services Average	3.15	2.28	1.93	1.92	1.92	1.79	1.79	1.64	1.52	

Figure 2: Number of digital service providers used by businesses for various digital services

Key	
Digital Services: OSN: Online Social Networking Services OSE: Online Search Engines VSS: Video Sharing Services OS: Operating Systems OM: Online Marketplace CS: Cloud Services AS: Advertising Services, including any advertising networks / exchanges DA: Demand Aggregation and Discovery Services OTT: OTT Communication Services (Communication using the internet)	**Sector:** RF: Retail & FMCG ICS: Information and Communication Services SM: Social Media/Media ET: Education Technology MF: Manufacturing CT: Consulting AD: App Developers FT: Fintech HT: Healthcare & Healthtech TP: Transport CR: Construction & Real Estate AF: Accommodation and food service ERS: Equipment Rental Service

Colour Key				
Less No. of Services Providers Used				More No. of Service Providers Used

2.2. Satisfaction levels with choice, fees, terms and overall satisfaction

2.2.1. Standard Deviation based on sectors of the respondents

Figure No. and Title	Average Yes %	Standard Deviation	Minimum Range	Maximum Range
Figure 13: Percentage of businesses satisfied with the choice of digital service providers.	77.20%	9.80%	Social Media/ Media - 70%	Accommodation and food service, Equipment Rental Service - 100%

Figure No. and Title	Average Yes %	Standard Deviation	Minimum Range	Maximum Range
Figure 14: Percentage of businesses satisfied with fees and prices associated with availing digital services for day-to-day operations	63.30%	10.18%	Transport - 43%	Accommodation and food service - 83%
Figure 15: Percentage of businesses are satisfied with the terms on which digital services are offered to them by digital service providers	51.50%	16.07%	Construction and real estate - 29%	Equipment Rental Service - 100%
Figure 16: Percentage of businesses who are overall satisfied with digital service providers (choice, price/fees, terms)	64%	9.27%	Construction and real estate, Transport - 52%	Accommodation and food service, Equipment Rental Service - 83%

2.2.2. Standard Deviation on the basis of the Respondents' turnover

Figure No. and Title	Average Yes %	Standard Deviation	Minimum Range	Maximum Range
Figure 13: Percentage of businesses satisfied with the choice of digital service providers.	77.20%	10.55%	Less than INR 5 Crores - 74%	INR 100- 250 Crores -100%

Figure No. and Title	Average Yes %	Standard Deviation	Minimum Range	Maximum Range
Figure 14: Percentage of businesses satisfied with fees and prices associated with availing digital services for day-to-day operations	63.30%	14.27%	Less than INR 5 Crores - 59%	INR 100- 250 Crores -100%
Figure 15: Percentage of businesses are satisfied with the terms on which digital services are offered to them by digital service providers	51.50%	12.47%	Less than INR 5 Crores, INR 100-250 Crores, More than 250 Crores - 50%	INR 50-100 Crores - 82%
Figure 16: Percentage of businesses who are overall satisfied with digital service providers (choice, price/fees, terms)	64%	10.67%	Less than INR 5 Crores - 61%	INR 50-100 Crores - 91%

3. Chapter 5: Draft Digital Competition Bill: Unintended Consequences and their Perceived Impact

3.1. Standard deviation with regards to the percentage of respondents with a 'negative' perception of impact

3.1.1. Standard deviation based on the respondents' sectors

Figure No. and Title	% of users with perceived -ve impact	Standard Deviation	Minimum Range	Maximum Range
Figure 17: Perceived impact on businesses if online digital services are unable to specifically tailor ad placement to enable them to reach the target audience	72%	14%	Consulting, Healthcare & Health-tech - 50%	Equipment Rental Service - 100%
Figure 18: Perceived Impact on businesses if social media networks do not permit additional functionalities such as advertising and offering an online storefront	73%	13%	Accommodation and food service - 50%	Equipment Rental Service - 100%
Figure 19: Perceived Impact on businesses if, as an app developer, they had to engage with and pay third parties (i.e., not the digital service provider) for services that are integral to the purchase or use of their apps by consumers, such as payment processing for in-app payments	48%	20%	Accommodation and food service - 16.67%	Equipment Rental Service - 100%
Figure 20: Perceived impact on businesses if companies are not able to offer a "one-stop shop" for various aspects of app discovery and distribution, e.g., app review,	57%	20%	Accommodation and food service - 16.67%	Equipment Rental Service - 100%

Figure No. and Title	% of users with perceived -ve impact	Standard Deviation	Minimum Range	Maximum Range
moderation of such reviews, app ecosystem safety, payments, etc.				
Figure 21: Perceived impact on businesses if marketplaces are barred from offering special promotional deals such as exclusive launches / tie-ups or marketplace-specific discounts	47%	19%	Construction and real estate - 28.57%	Equipment Rental Service - 100%
Figure 22: Perception of business on the impact of marketplaces being prohibited from offering allied support services	49%	22%	Construction and real estate - 14.28%	Equipment Rental Service - 100%
Figure 23: Perception of businesses on the impact of restrictions on digital distribution channels (such as interpersonal communication services, social media networks, etc.) from using insights gained from other digital channels to reach out to their end users	72%	12%	Accommodation and food service - 50%	Equipment Rental Service - 100%
Figure 24: Perceived impact on businesses if an aggregator's listing algorithm cannot customise its experience based on the user's preference.	66%	12%	Accommodation and food service - 50%	Equipment Rental Service - 100%

Figure No. and Title	% of users with perceived -ve impact	Standard Deviation	Minimum Range	Maximum Range
Figure 25: Perception of businesses on the impact of sharing data with third parties who also advertise on the same advertising services	69%	13%	Accommodation and food service, Healthcare & Health-tech - 50%	Equipment Rental Service - 100%
Figure 26: Perception of businesses on the impact of app stores being unable to impose restrictions on other available apps, even if they might threaten the safety and security of users of the businesses	54%	16%	Consulting - 41.6%	Equipment Rental Service - 100%

3.1.2. Standard deviation based on the respondents' turnover

Figure No. and Title	% of users with perceived -ve impact	Standard Deviation	Minimum Range	Maximum Range
Figure 17: Perceived impact on businesses if online digital services are unable to specifically tailor ad placement to enable them to reach the target audience	72%	10.37%	INR 100- 250 Crores - 50%	INR 50-100 Crores - 81.81%
Figure 18: Perceived Impact on businesses if social media networks do not permit additional functionalities such as advertising and offering an online storefront	73%	11.06%	More than 250 Crores - 70%	INR 100- 250 Crores - 100%

Figure No. and Title	% of users with perceived -ve impact	Standard Deviation	Minimum Range	Maximum Range
Figure 19: Perceived Impact on businesses if, as an app developer, they had to engage with and pay third parties (i.e., not the digital service provider) for services that are integral to the purchase or use of their apps by consumers, such as payment processing for in-app payments	48%	20.43%	INR 5 - 50 Crores - 46%	INR 100- 250 Crores - 100%
Figure 20: Perceived impact on businesses if companies are not able to offer a “one-stop shop” for various aspects of app discovery and distribution, e.g., app review, moderation of such reviews, app ecosystem safety, payments, etc.	57%	17.14%	INR 50-100 Crores - 54.54%	INR 100- 250 Crores - 100%
Figure 21: Perceived impact on businesses if marketplaces are barred from offering special promotional deals such as exclusive launches / tie-ups or marketplace-specific discounts	47%	10.82%	More than 250 Crores - 30%	INR 50-100 Crores - 63.63%
Figure 22: Perception of business on the impact of marketplaces being prohibited from offering allied support services	49%	10.97%	More than 250 Crores - 40%	INR 50-100 Crores - 72.72%

Figure No. and Title	% of users with perceived -ve impact	Standard Deviation	Minimum Range	Maximum Range
Figure 23: Perception of businesses on the impact of restrictions on digital distribution channels (such as interpersonal communication services, social media networks, etc.) from using insights gained from other digital channels to reach out to their end users	72%	13.28%	More than 250 Crores - 60%	INR 100- 250 Crores - 100%
Figure 24: Perceived impact on businesses if an aggregator's listing algorithm cannot customise its experience based on the user's preference	66%	16.42%	INR 100- 250 Crores - 50%	INR 50-100 Crores - 100%
Figure 25: Perception of businesses on the impact of sharing data with third parties who also advertise on the same advertising services	69%	13.32%	INR 100- 250 Crores - 50%	INR 50-100 Crores - 90.90%
Figure 26: Perception of businesses on the impact of app stores being unable to impose restrictions on other available apps, even if they might threaten the safety and security of users of the businesses	54%	18.93%	INR 5 - 50 Crores - 46%	INR 100- 250 Crores - 100%

ANNEXURE 4
Extent of perceived positive or negative impact on a five-point scale

Based on survey results, we try to determine under the chapter titled *"Proposed Digital Competition Bill: Unintended Consequences and their Perceived Impact"* the extent of the broad impact the regulation might have on businesses. We assessed the impact on a five-point scale of -2 to 2, where -2 represents strong negative impact, -1 represents mild negative impact, 0 represents no impact, 1 represents mild positive impact and 2 stands for strong positive impact. Based on the respondents' responses, the impact metric is -0.65. Our assessment revealed the following impact:

1. Impact on advertising reach

What is the extent of perceived positive or negative impact on businesses If online digital services are unable to specifically tailor ad placement to enable them to reach their target audience?

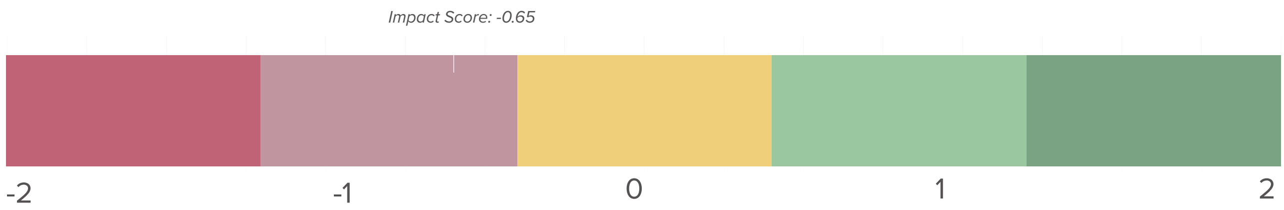
Strong Negative Impact: -2, Mild Negative Impact: -1, No Impact: 0, Mild Positive Impact: +1, Strong Positive Impact: +2

Figure 3: Extent of perceived positive or negative impact on a five-point scale: If online digital services are unable to specifically tailor ad placement to enable them to reach the target audience

We assessed the impact on a scale of -2 to 2, where -2 represents strong negative impact, -1 represents mild negative impact, 0 represents no impact, 1 represents mild positive impact and 2 stands for strong positive impact. Based on a response of the respondents, the impact metric is **-0.87**. This means that, on average, if online digital services are unable to specifically tailor ad placement to enable them to reach their target audience, there will be a **mildly negative impact** on businesses.

2. Impact on Access to Tied or Bundled Services

What is the Extent of perceived positive or negative impact on businesses if there are various restrictions on digital services pertaining to tying and bundling?



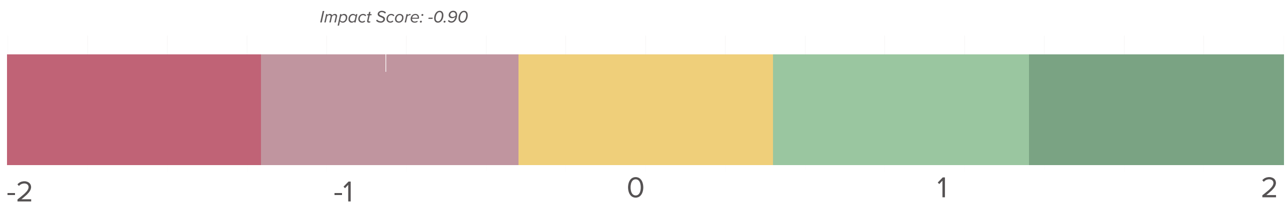
Strong Negative Impact: -2, Mild Negative Impact: -1, No Impact: 0, Mild Positive Impact: +1, Strong Positive Impact: +2

Figure 4: Extent of overall perceived positive or negative impact on a five-point scale: If there are restrictions related to tied and bundled services of digital service providers

We assessed the impact on a scale of -2 to 2, where -2 represents strong negative impact, -1 represents mild negative impact, 0 represents no impact, 1 represents mild positive impact and 2 stands for strong positive impact. Based on the respondents' responses, the impact metric is **-0.65**. This means that, on average, if there are regulatory changes with respect to tying and bundling of services, as mentioned above, the negative impact will be **mildly negative**.

3. Impact on changes related to value derivation from data processing and third-party sharing of data

What is the extent of overall perceived positive or negative impact on a five-point scale if there are respect to changes associated with value derivation from data processing and third-party data sharing with other advertisers?



Strong Negative Impact: -2, Mild Negative Impact: -1, No Impact: 0, Mild Positive Impact: +1, Strong Positive Impact: +2

Figure 5: Extent of overall perceived positive or negative impact on a five-point scale: If there are changes associated with value derivation from data processing and third-party data sharing with other advertisers.

We assessed the impact on a scale of -2 to 2, where -2 represents strong negative impact, -1 represents mild negative impact, 0 represents no impact, 1 represents mild positive impact, and 2 stands for strong positive impact. Based on the respondents' responses, the impact metric is **-0.9**. This means that, on average, if there are changes associated with value derivation from data processing and third-party data sharing with other advertisements discussed above, the overall negative impact will be **mildly negative**.

4. Impact of restrictions on cyber security measures

What is the extent of overall perceived positive or negative impact on a five-point scale if app stores are unable to impose restrictions on other available apps, even if they might threaten the safety and security of users of businesses?

Strong Negative Impact: -2, Mild Negative Impact: -1, No Impact: 0, Mild Positive Impact: +1, Strong Positive Impact: +2

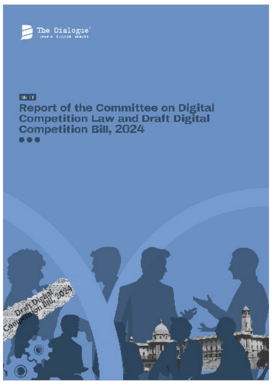
Figure 6: Extent of overall perceived positive or negative impact on a five-point scale: if app stores are unable to impose restrictions on other available apps, even if they might threaten the safety and security of users of businesses.

We assessed the impact on a scale of -2 to 2, where -2 represents strong negative impact, -1 represents mild negative impact, 0 represents no impact, 1 represents mild positive impact and 2 stands for strong positive impact. Based on the respondents' responses, the impact metric is **-0.57.** This means that on average, if app stores are unable to impose restrictions on other available apps, even if they might threaten the safety and security of users of businesses, the negative impact will be **mildly negative.**

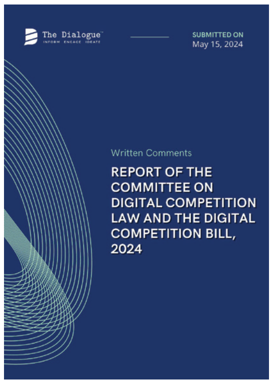
5. Table Summarising the Statistics Mentioned Above

Figure No. and Title	Average Impact Score	Standard Deviation
Figure 3: Extent of perceived positive or negative impact on a five-point scale: If online digital services are unable to specifically tailor ad placement to enable them to reach the target audience	-0.87	1.04
Figure 4: Extent of overall perceived positive or negative impact on a five-point scale: If there are restrictions related to tied and bundled services of digital service providers	-0.65	1.04
Figure 5: Extent of overall perceived positive or negative impact on a five-point scale: If there are changes associated with value derivation from data processing and third-party data sharing with other advertisers	-0.90	1.08
Figure 6: Extent of overall perceived positive or negative impact on a five-point scale: if app stores are unable to impose restrictions on other available apps, even if they might threaten the safety and security of users of businesses	-0.57	1.09

More from
our research



Brief – Report of the Committee on Digital Competition Law and Draft Digital Competition Bill, 2024



Written Comments: Report of the Committee on Digital Competition Law and the Digital Competition Bill, 2024

Written Comments Competition Commission of India's Draft Regulations on Settlement and Commitment

Competition (Amendment) Bill, 2023: Changes in light of the Finance Committee's Recommendations

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