

# LEVELLING THE PLAYING FIELD BETWEEN TRADITIONAL AND DIGITAL BUSINESSES

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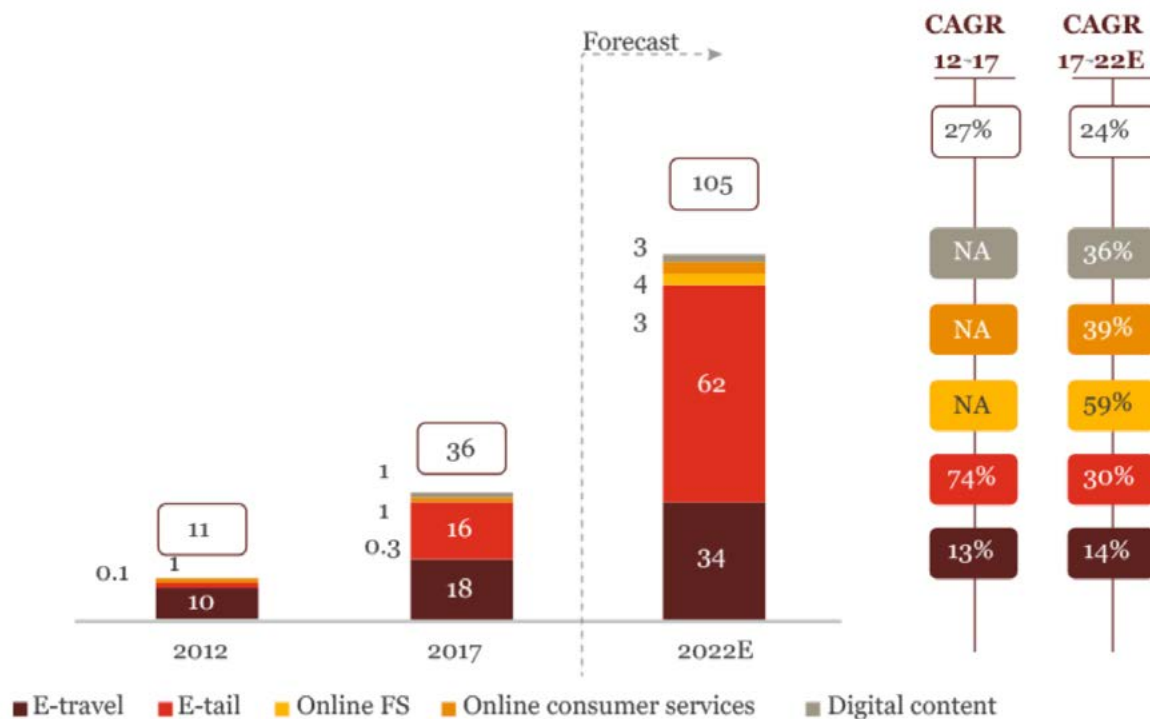
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## INTRODUCTION

A growing range of services are now delivered over the internet. Commonly known as over-the-top or OTT services, they have revolutionised sectors such as telecommunications, media, retail and transport, and are now transforming education and health.

A digital business gives consumers the advantages of information availability and intensity, customisability, and a realtime interface. For business owners the network and aggregation benefits of going digital make it easier to increase the scale of operations and customer reach.<sup>1</sup>

These advantages have led to rapid and sustained growth in internet-based services over the past decade. The e-commerce sector in India comprising online retail, travel, media, and financial services grew at a 27% CAGR between 2012–17 and is expected to sustain this trend into 2022 to value over \$100 billion.



**FIGURE 1 : GROWTH OF E-COMMERCE IN INDIA 2012–2022E (PWC)**

Growing preference for internet-based services has disrupted traditional business models. A survey of Indian consumers reveals that 55% now prefer to stream TV content online rather than watch cable TV.<sup>2</sup> Increase in the content available online, another survey shows, has led 16% of Indian consumers to forego their Direct to Home subscriptions.<sup>3</sup> Similar trends are visible in services such as retail, transport, and telecommunications.

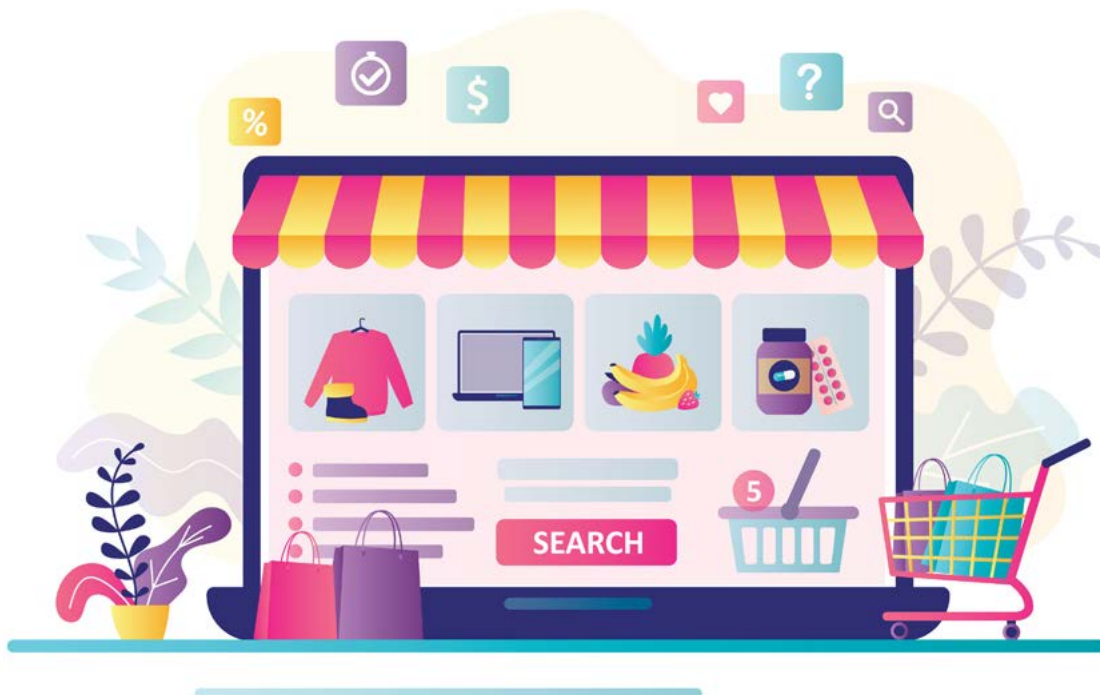
Predictably, the disruption has led to calls for regulatory intervention. Associations of small traders have called on the Government to rein in the activities of large e-commerce players such as Flipkart and Amazon.<sup>4</sup> Traditional telecom service providers, distribution organisations and cable service providers have called for a host of regulatory and licensing requirements for OTT platforms such as WhatsApp, Netflix and Hotstar.<sup>5</sup>

A common thread in these calls for intervention is the perceived need to create a level playing field between digital and traditional business. The demand finds resonance in policy decisions such as the FDI policy on e-commerce, and consultative processes such as the TRAI consultations on a regulatory framework for OTT services, all of which are intended to create a level playing field between digital and ground enterprises.<sup>6</sup>

Yet the widely accepted policy goal of maintaining competitiveness is often conflated with imposing regulatory parity. Demands to create a level playing field often boil down to the 'same service, same rules' argument : that digital and traditional businesses offer the same services, only through different media, so they should be subject to the same rules.<sup>7</sup>

The argument does not readily apply to digital services, for a variety of reasons. It ignores certain fundamental and technical characteristics unique to online services and absent in their physical counterparts. Second, it fails to adequately consider the existing obligations and restrictions on digital businesses through legislative and regulatory regimes such as the Information Technology Act and Rules. Third, it prioritises parity over other important objectives like innovation, access, and affordability.

**Applying a legacy regulatory framework to new and transformative businesses may stifle innovation and growth, even limiting the potential of traditional enterprises to become more competitive by going digital.**



The first part of this paper develops these arguments by analysing demands for regulatory parity in three areas: operational requirements (licensing, quality of service and consumer grievance redressal), price controls, and national security. These areas were chosen for their pertinence to many kinds of digital services. They are also central to the debate in the consultative processes of regulators such as the Telecom Regulatory Authority of India.

Part 2 focuses on interoperability and platform neutrality in digital services. These two areas will likely be the focus of future arguments for a level playing field and fair competition between traditional and digital firms. We highlight the implications for policymakers and regulators to consider before framing rules in these areas.

Part 3 outlines the approach the Government should adopt to regulate digital and traditional enterprises effectively. It is based on a two-pronged strategy, of deregulation and institutional strengthening, to facilitate a level playing field and protect consumer interests without compromising innovation or growth.

## 1/ DEMANDS FOR REGULATORY PARITY

The arguments made by traditional firms to support legacy regulation for digital businesses are analysed here. Fundamental differences between the two business models are considered, as well as recent legal and regulatory developments.

### Operational requirements

Proponents of the ‘same service, same rules’ argument cite a disparity in the obligations imposed on traditional and digital firms. They say traditional enterprises must fulfil licensing, quality of service and consumer protections requirements, among others, while digital enterprises must fulfil only a few of these if any. They argue that the lower regulatory costs and compliance burdens for digital enterprises, and the low barriers to entry, let them undercut traditional firms offering the same service. Here we describe the various requirements that traditional enterprises must comply with and consider whether digital enterprises do indeed bypass such regulation.

**The legacy regulatory structure in India applicable to most traditional enterprises is based on a system of licences and permits.**

Any entity offering messaging and voice-related services, for example, must obtain a Unified Service Access Licence or an Internet Service Provider licence from the relevant authority. It must also pay licensing fees, entry fees, and comply with universal service obligations. Local taxi operators must be issued a licence by the designated state authority under the Motor Vehicles Act before they begin operations. Direct to Home providers or Multi System Operators must obtain the relevant licence from TRAI, and various permissions from other institutions such as the Department of Space.<sup>8</sup> They are also required to pay an entry fee and annual licence fees (Table 1).

Traditional firms argue that a balanced regulatory regime should impose similar licence fees and requirements on all entities offering the same service. They say that digital messaging services like WhatsApp or Signal offer services similar to voice communication and text messaging without needing a licence for the same. Here much emphasis is placed on the approach taken by the European Communications Code, which prescribes a degree of regulatory parity between OTT platforms and the inter-communication services provided by telecom companies.<sup>9</sup>

Parameters	DTH	MSO	HITS	IPTV	Unified Licence
Entry Fee	Rs. 10 crore	Rs. 1 lakh	Rs. 10 crore	NIL	Rs. 15 crore (max)
Annual Licence Fee	8% of AGR	Nil	Nil	8% of AGR	8% of AGR

**TABLE 1 : LICENCE AND ENTRY FEES FOR TRADITIONAL TELEVISION ENTITIES (TRAI)**

Similarly, it is argued that Netflix and Prime Video distribute digital content competing with content aired on TV without obtaining the necessary permissions or paying the requisite fees. Restaurant and hotelier associations have argued that online travel service providers pit their services against unregistered and unlicensed entities.<sup>10</sup>

Regulatory parity is also sought in quality of service and consumer protection requirements, which are mandatory for traditional enterprises through regulations and licensing.<sup>11</sup> Failure to comply with these requirements can result in fines. On the other hand, digital enterprises are not subject to similar requirements under sectoral regulations or existing laws and rely instead on in-house procedures to address complaints by consumers.<sup>12</sup>

**It is argued that the combined effect of these operational requirements is to distort the playing field between digital and traditional, and needs correcting through regulatory intervention.**

While there are differences in operating requirements, closer scrutiny of the underlying reasons will show that this regulatory disparity does not skew the playing field in favour of digital. To begin with, in sectors such as telecom there is a marked difference in the services provided by traditional and digital firms. Research in the field emphasises that the services offered by Telecom Service Providers (TSPs) and OTT communication platforms are not strictly comparable.

First, TSPs are responsible for the network layer, while digital platforms function exclusively on the service layer. This distinction is important as functioning on the network layer requires the use of a scarce public resource: spectrum. The Government grants TSPs the privilege to use this scarce resource on behalf of the public. As the bandwidth allocated to one TSP cannot be used by another, it is crucial to ensure that all enterprises allocated spectrum have the capacity to manage and use it efficiently. The Government also has an interest in ensuring that these services remain accessible and affordable to the public at large, which is done through licensing, quality of service and consumer protection requirements.<sup>13</sup>



On the other hand, OTT platforms do not make use of a scarce public resource, and do not provide access to a network, so the need for a licensing regime does not arise. As regards quality of service, OTTs cannot deliver their services independent of the network provided by TSPs. It is TSPs which act as gatekeepers of the internet, and the quality of service delivered by an OTT platform depends most often on the quality of the underlying network.<sup>14</sup>

Second, there are significant differences between the services provided by OTT communication platforms and traditional messaging and telephony. Most OTT apps offer group messaging, recorded voice messages, and document sharing in a variety of formats, which is not possible using SMS/MMS. And as online shopping and money transfers show, the list of distinct features is continuously evolving, as digital communication platforms meet growing consumer needs.<sup>15</sup>

It is not easy even to define which OTT platforms provide communication services similar to SMS or voice calls. For example, Slack is ostensibly a communication service, but cannot be compared with traditional SMS. Other examples include platforms like Twitch and Discord, which facilitate communication between users without it being their main purpose.<sup>16</sup> Difficulty in deciding which platforms provide communication services at all has been a key criticism of the European Communications Code, often cited by traditional enterprises as an example of regulatory parity.

These instances show it is incorrect to assume that traditional and digital communication services are similar and should be subject to the same rules. But even in sectors such as retail and transport, where the nature of service provision can be considered similar, it does not follow that the same regulations should apply. Substitutability of services should not form the sole criterion in determining the existence of regulatory imbalance.



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The approach followed by the Competition Commission of India to determine relevant markets under the Competition Act, 2002 is instructive in this regard. The CCI considers factors such as network effects, price, and convenience, in addition to substitutability, to determine a relevant market in order to assess anti-competitive practices. It has relied on these characteristics in recent cases to hold that online markets differ from their offline counterparts, despite similarities in the nature of services provided.<sup>17</sup>

Finally, online platforms are already subject to a number of operational requirements. The Consumer Protection Act, 2019 and the Consumer Protection (E-commerce) Rules, 2020 establish the framework for redressing consumer complaints and grievance with regard to goods and services purchased online.<sup>18</sup> A three-tiered system is also established in the Information Technology (Intermediary Guidelines and Digital Media Ethics Code) Rules, 2021 to address complaints against digital media publishers. The Rules also require intermediaries to designate a grievance redressal officer to address complaints of any violations.<sup>19</sup>

In sum it is difficult to suggest that a regulatory imbalance exists as far as operational requirements are concerned, because a) the services provided are often dissimilar, b) similarity in services cannot be the sole criterion to judge regulatory parity, and c) recent legal and regulatory developments do impose operational requirements on digital businesses that are in some cases more onerous than on their physical counterparts.

## *Pricing and revenue sharing*

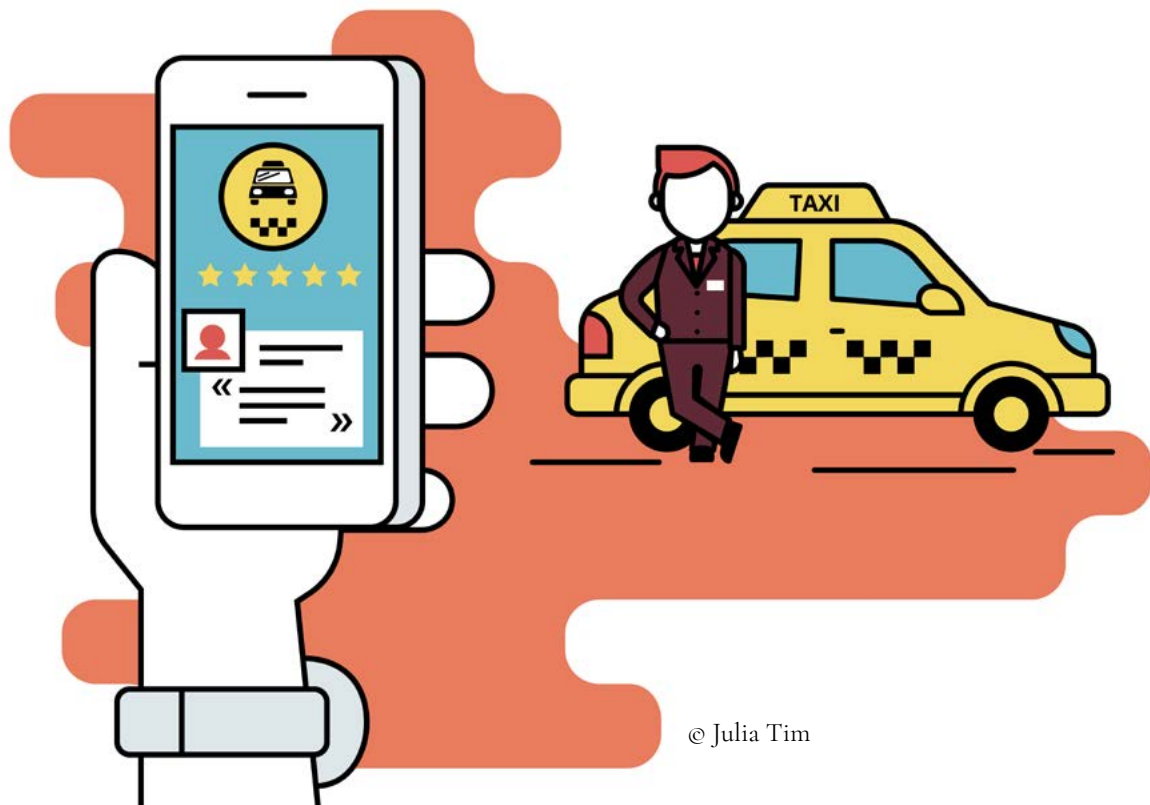
Tariff regulation and pricing is another area where traditional enterprises perceive a regulatory imbalance. Enterprises involved in telecom and TV broadcasting argue for instance that the tariffs they charge consumers are determined by regulations such as the Telecommunication (Broadcasting and Cable) Services (Eighth) (Addressable Systems) Tariff Order, 2020.<sup>20</sup> And despite a recent move towards regulatory forbearance on tariff determination by telcos, TRAI has maintained that it has the right to impose price regulations to protect consumer interests.<sup>21</sup> Such regulation stands in contrast to internet services, which it is claimed enjoy near complete freedom to determine prices..

**It is argued that limitations on tariff impact the revenue generation capabilities of traditional firms, restricting their freedom to offer new and differentiated services.**

They fear this disparity will affect their economic viability in the medium to long term, as well as their ability to continually invest in underlying infrastructure to maintain service quality.<sup>22</sup>

Traditional enterprises in hospitality and retail have flagged issues of deep discounts and predatory pricing. The Confederation of All India Traders called for a ban on the operation of Amazon and Flipkart because they offer deep discounts, a practice that CAIT argues will distort the market and hinder traditional retailers' ability to compete.<sup>23</sup>

In the hospitality sector, the Federation of Hotel & Restaurant Associations of India has called for a boycott of online aggregators such as OYO and MakeMyTrip, which they accuse of 'unethical business practices' in offering discounts well beyond those offered by the hotels themselves. They say such discounts undercut the revenues received by hotels, which are required to pay a commission on each booking made on an online platform.<sup>24</sup>



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Pricing related issues have also cropped in local transport. These relate to the surge prices charged by online aggregators such as Ola and Uber. Traditional taxi service providers by contrast are usually subject to tariff fixation by local rules, such as those determined by the Department of Tourism in Delhi,<sup>25</sup> and as a result are unable to charge sums beyond a certain amount even when demand is high, while online aggregators may charge 2-3 times the base fare when there is reduced supply or increased demand.

A related aspect is the payment of revenues to content creators, such as the print media, by digital businesses that share and display their content online. As these content creators rely on advertising revenues to sustain their operations, consumers accessing news through search engines or social media platforms without visiting their webpages results in a significant loss of revenue, to the benefit of digital platforms who they say do not share adequate revenues with them.<sup>26</sup>

Several jurisdictions have adopted regulatory and legal interventions to correct this imbalance. The EU Copyright Directive recognises a new neighbouring right news publishers can use to protect the

unauthorised reproduction of their work online.<sup>27</sup> More recently, Australia enacted a News Media and Digital Platforms Bargaining Code that mandates negotiations between digital platforms and certain news outlets to agree on adequate compensation for news content published and shared on the platform.<sup>28</sup> If no agreement is reached, the Code requires both parties to participate in arbitration proceedings that result in a binding award. These developments have led to calls for a similar intervention by the Government of India to protect traditional publishing.<sup>29</sup>

While it is true that digital enterprises enjoy more leeway to determine prices than their traditional counterparts, there are reasons to justify this. In sectors such as telecom and cable TV, the fixing of tariffs by a regulator stems from the grant and utilisation of a limited and finite public resource, spectrum, as discussed above.<sup>30</sup> For internet services the need for such allocation does not arise, as the resource is not scarce.

Another reason for the lack of price controls is the presence of many competitive platforms and apps in digital content and communications. Due to market

consolidation over the past few years, only 3 major telecom service providers now remain in the country, essentially making the sector an oligopoly.<sup>31</sup> This is significantly different from OTT communication services, where new apps that offer differentiated services and features at varying price points are continuously competing to attract customers.

**If it is still assumed that intervention is required for revenue sharing and price controls, existing legal mechanisms could well be used to address these concerns.**

For instance, the CCI is mandated to deal with issues of predatory pricing and deep discounting, and better placed than most sectoral regulators to assess market dynamics and anticompetitive practices, even in digital markets.<sup>32</sup>

It is important here to recall previous unsuccessful interventions by sectoral regulators to determine prices and tariffs in response to concerns of competition and consumer interest.

TRAI's extension of jurisdiction to include issues of predatory pricing and significant market powers has led to an extended judicial tussle causing much confusion and uncertainty.<sup>33</sup> Similarly, its Tariff Order of 2020 introduced a base network capacity fee to be paid by each DTH subscriber for a package of 100 channels. The order was meant to enable greater choice for consumers at a reduced fee, boosting TV viewership. Instead it resulted in increased subscription costs for viewers, only accelerating the exodus towards online content consumption.<sup>34</sup>

In transport too, the recent cap on surge pricing and commission rates for online travel aggregators by the Union Ministry of Road, Transport and Highways had a net negative impact on the platforms, which had been hit hard by the pandemic; on customers, who now face longer wait times and reduced availability; and on drivers, who suffer reduced earning ability due to the arbitrary cap.<sup>35</sup>

Interventions like the Australian Media Bargaining Code are also concerning. Critics argue that the Code's provisions tend to protect large media incumbents to the detriment of smaller content creators.<sup>36</sup> And by requiring digital platforms to provide notice of changes in their search and ranking algorithms, the Code may stifle innovation and differentiation.<sup>37</sup>

**The need for such legal intervention in India needs to be considered in light of the Copyright Act 1957, which provides for rightsholders to organise themselves into collective rights management organisations (CMOs) or copyright societies to bargain for better terms.**

## *National security, surveillance and monitoring*

Traditional enterprises, particularly TSPs, contend that the imbalance in surveillance, monitoring and decryption requirements raises concerns of national security. The main contention is that TSPs are subject to the lawful intercept mechanism in Section 5 of the Indian Telegraph Act, and Rule 419A of the corresponding Rules, which do not apply to OTT platforms. Further, the unified licence agreement obliges TSPs to connect their networks with the Central Monitoring System to facilitate automated and continuous interception.<sup>38</sup> They are also required to maintain call detail records and internet protocol detail records for all activity on their networks.<sup>39</sup> It is further contended that internet-based services adopt strong encryption methods, well in excess of the 40-bit limit specified for TSPs, hampering the ability of law enforcement agencies to decrypt communications.<sup>40</sup>

A more general grievance shared by most traditional enterprises is that they store most of their data within Indian territory, and make it available to authorised agencies as required.<sup>41</sup> In contrast several major digital platforms store user data abroad, making it onerous for agencies to acquire it when needed for national security or law enforcement.

It is true that traditional enterprises and internet platforms are subject to different regimes of surveillance, monitoring and decryption, but incorrect to assume that imposing the same regime on all platforms would benefit national security. A mechanism already exists under the Information Technology Act of 2000 establishing a framework for the surveillance of internet networks. Sections 69 and 69B of the Act read with the relevant Rules create an interception and monitoring regime substantively and procedurally similar to that established by the Telegraph Act.<sup>42</sup>



The table below summarises the grounds under which interception can be ordered under either regime.

Grounds under Section 5, Indian Telegraph Act	Grounds under Section 69, Information Technology Act
Sovereignty / integrity of India	Sovereignty / integrity of India
-	Defence of India
Security of the State	Security of the State
Friendly relations with foreign States	Friendly relations with foreign States
Public order	Public order
Prevention of incitement to the commission of any offence	Prevention of incitement to the commission of any offence
-	Investigation of an offence

**TABLE 2 : GROUNDS FOR INTERCEPTION UNDER THE TELEGRAPH ACT AND THE IT ACT (SFLC)**

**Proponents of regulatory parity fail to consider that this surveillance framework has been challenged before the Supreme Court for conflicting with the decision in K.S. Puttaswamy vs. Union of India.**

That decision, which recognised privacy as a fundamental right, requires that any measure violative of individual privacy must comply with the proportionality test, which holds that any measure to restrict privacy must:

- a) be in pursuit of a legitimate objective
- b) be a suitable means to achieve the intended objective
- c) be necessary to achieve the objective, i.e. there should not be a less restrictive yet equally effective measure to achieve the objective, and
- d) not have a disproportionate impact on the right holder.

While national security is considered a legitimate objective in the judgement itself, the suitability and necessity of the existing framework are questionable. The entirely executive nature of surveillance decisions may fall foul of the necessity requirement, as less restrictive but equally effective alternatives do exist, such as judicial authorisation and scrutiny after the fact.<sup>43</sup>

Calls to restrict encryption standards in the digital era are similarly shortsighted, and place excessive emphasis on national security at the cost of innovation and privacy. The 40-bit encryption limit mandated for TSPs is wholly unsuited to the digital economy, where all manner of commercial and sensitive transactions are conducted online. Prescribing encryption limits, or building backdoors into strong encryption for traceability as demanded by the IT Intermediary Rules, may negatively impact the digital economy. Forcing platforms to weaken encryption standards may compel them to cease business operations in India, or in effect create a distinct and isolated set of Indian consumers.<sup>44</sup> Besides, various sectoral regulators and institutions including SEBI and UIDAI have prescribed encryption limits much higher than 40 bits.<sup>45</sup>

With regard to data localisation, various sectoral regulators already require entities to store certain kinds of sensitive data within Indian territory. The Personal Data Protection Bill, under consideration by a Joint Parliamentary Committee, contains prescriptions for the local storage of sensitive personal information.<sup>46</sup> Such prescriptions may achieve the desired national security objective, but they are likely to increase compliance costs and entry barriers for companies, hindering the flow of investments into India.

**Demands to impose traditional regulatory requirements on transformative digital businesses rely on inaccurate comparisons between the nature of the services provided, and do not account for developments in the legal and regulatory framework that apply to digital businesses.**

The point is best illustrated through the following table.

Area of Regulation	Traditional Enterprises	Digital Enterprises
Operational requirements : <ul style="list-style-type: none"> <li>• Licensing and registration</li> <li>• Quality of service requirements</li> <li>• Consumer grievance redressal</li> </ul>	<ul style="list-style-type: none"> <li>• Subject to registration and licensing requirements</li> <li>• Regulations and laws govern quality of service; failure to comply may result in financial penalties</li> <li>• Required under a host of regulations and laws</li> </ul>	<ul style="list-style-type: none"> <li>• Licensing and registration requirements have been introduced for digital platforms in transport and hospitality</li> <li>• Quality of service and consumer grievance redressal are provided for by the Consumer Protection Act and Intermediary Guidelines</li> </ul>
Pricing and economic viability	<ul style="list-style-type: none"> <li>• Subject to tariff orders, minimum net worth requirements, and recurring infrastructure investment costs</li> </ul>	<ul style="list-style-type: none"> <li>• Price restrictions have been placed on cab aggregators; CCI is investigating deep discounting and related issues</li> </ul>

Area of Regulation	Traditional Enterprises	Digital Enterprises
Surveillance, monitoring and security	<ul style="list-style-type: none"> <li>Enterprises such as TSPs are subject to monitoring and interception requirements under laws and regulations</li> <li>Encryption standards are legally determined</li> <li>Traditional enterprises store their data locally, providing easy access to law enforcement</li> </ul>	<ul style="list-style-type: none"> <li>The IT Act provides for a lawful intercept mechanism for platforms on par with the Telegraph Act</li> <li>The Intermediary Guidelines require significant social media intermediaries to trace the originator of content within Indian borders</li> <li>Data localisation requirements for digital enterprises are prescribed by sectoral regulators (like the RBI). The PDP Bill also requires localisation of critical and sensitive personal data</li> </ul>

**TABLE 3 : A DEPICTION OF REGULATORY REQUIREMENTS FOR TRADITIONAL AND DIGITAL ENTERPRISES IN INDIA**

## 2/ EMERGING ISSUES

*The two issues examined here – interoperability, and platform neutrality – will likely be central to future arguments for a level playing field. Both relate to characteristics unique to the digital economy, such as network externalities, and both need innovative regulatory responses to address effectively. Key considerations for policymakers are discussed below.*

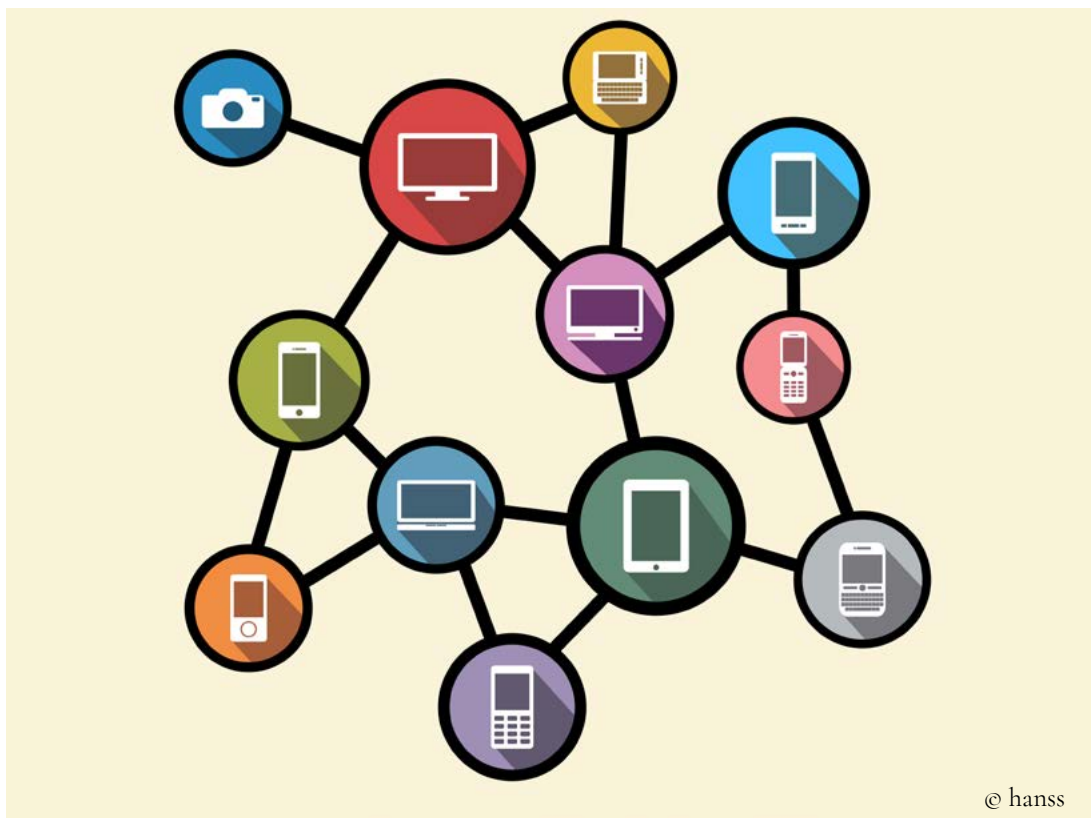
### Interoperability

Convenience and the existence of established networks are a key factor determining the use of a digital service. People are more likely to choose the platforms already used by others in the network, creating a lock-in effect. This characteristic of digital platforms, referred to as network externalities, makes it challenging for emerging competitors to rival an established incumbent.<sup>47</sup> Not only must the new entrant offer better or cheaper services, it must also coordinate network migration to incentivise users to shift.

**A possible solution to this incumbency advantage that is being considered by regulators the world over is to create ex-ante frameworks mandating interoperability between services, particularly for platforms which act as gatekeepers.<sup>48</sup>**

Interoperability is a technical mechanism to enable computer systems to work together even if they are from competing firms. The degree of interoperability ranges from data portability, where a user can export personal data in a common machine-readable format, to full protocol interoperability, where the services provided by different networks are fully integrated with one another.<sup>49</sup>

TRAI has also raised a question in this regard, in its consultation paper on a regulatory framework for OTT services. The rationale for interoperability between digital services, other than the competition concerns addressed above, is that the services provided by TSPs necessarily need to be interoperable.<sup>50</sup> TRAI is also



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considering whether to mandate interoperability between the set-top boxes of different Direct to Home providers.<sup>51</sup>

While interoperability mandates are likely to increase consumer choice and reduce the incumbency advantage, certain crucial aspects need considering. First, users can usually multi-home a number of different apps providing the same service without incurring any significant switching costs. This differs from traditional telecom services, where users are limited to one or occasionally two service providers.<sup>52</sup>

Second, differentiation in services and features is a crucial factor on which digital platforms compete. The emphasis placed on privacy by Signal, a messaging app, differentiates it from competitors like WhatsApp: the recent change to WhatsApp's privacy policy initiated an exodus of consumers towards Signal, despite WhatsApp's significant network effects. Interoperability mandates may impede the ability of developers to create different and innovative products. They may also compel start-ups to scale their existing operations and take on additional costs to meet the requirements, reducing the incentive to develop and offer new services.

Finally, the nature and utility of the service provided must be kept in mind while determining the need for interoperability. Finance and health related services being crucial to public welfare, interoperability may be necessary. A similar argument cannot be made for services in communication or content.

## *Platform neutrality*

In September last year, the outgoing TRAI Chairman flagged platform neutrality as an emerging concern to be addressed by regulatory bodies moving forward.<sup>53</sup> The issue was also flagged by entities in their response to TRAI's consultation paper on net neutrality.<sup>54</sup>

**Like net neutrality, platform neutrality requires multisided platforms such as Google (for search), Amazon (for retail) or Zomato (for food delivery) to function in a non-discriminatory manner, particularly in their platform-to-business transactions.**

Recent developments bring to light numerous instances where platforms have not acted in this way, and have used their position as platform to dictate unfair, anti-competitive terms.

The attorney-general for Washington D.C. initiated a suit against Amazon for its use of clauses restricting sellers on its platform from offering lower prices elsewhere, including on their own websites.<sup>55</sup> Similarly, Google was levied a significant fine by the European Commission when investigation revealed it had abused its dominant position in the search market to favour its own comparison-shopping service over rival services.<sup>56</sup>

In the Indian context, the CCI, in its market study on e-commerce, identified platform neutrality as a key concern raised by industry representatives across retail, food delivery and online travel aggregators.<sup>57</sup> The study highlights two practices that can impact competitiveness negatively.

The first is when a dominant platform leverages its position to give preference to certain third-party sellers, based on non-objective discriminatory criteria. An example of such leveraging is the auctioning of prominent slots to third parties by search engines. Leveraging suppresses organic search results, impeding the growth of small or medium enterprises unable to pay for prominent slots.<sup>58</sup> The ability of enterprises to uncover bias in search results is constrained by the opaque 'black box' nature of platforms' search and ranking algorithms.

The second harmful practice is self-preference, which occurs when an entity participates in a market as an intermediary (platform) as well as seller. Its participation as seller may not be direct but through third parties in which it has a stake. Where such vertical integration exists, platforms are able to use their position to give preference to their own products. They are further able to gather competitively relevant data such as price, demand, etc. and use it to create products and services that unfairly compete with products offered by third-party sellers.<sup>59</sup>

The CCI concluded that leveraging or self-preferencing in themselves need not distort market competition, which can depend on additional factors such as the platform's market power, the market it operates in, and so on as determined from case to case. But the CCI did highlight the need for ex-ante regulations to foster greater transparency and accountability in platform actions, particularly in their search and ranking functions.<sup>60</sup>

**Regulation to increase transparency through ex-ante measures is welcome, but it should be framed keeping enforcement and proprietary rights in mind.**

For instance, asking a platform to reveal its algorithms in their entirety would require it to disclose information that is private and confidential. It would also reduce the fair and justified competitive advantage it enjoys. A preferable approach would be to subject search and ranking practices to an independent and periodic audit by neutral professionals, to assess whether there is non-objective discrimination.

Such transparency and accountability mechanisms must not be limited to platforms alone. There are many instances of leveraging, self-preferencing and vertical integration in traditional enterprises as well.<sup>61</sup> The dealings between such vertically integrated components should also be subject to scrutiny, to ensure the absence of non-objective discrimination.

### 3/ HARMONISED REGULATION

Given the inaptness of legacy regulation for the dynamic and disruptive digital economy, how can the existing regulatory framework evolve to benefit both traditional and digital enterprises? The suggestions offered here are based on two key principles: deregulation of traditional enterprises, and institutional strengthening.

#### *Deregulation of traditional enterprises*

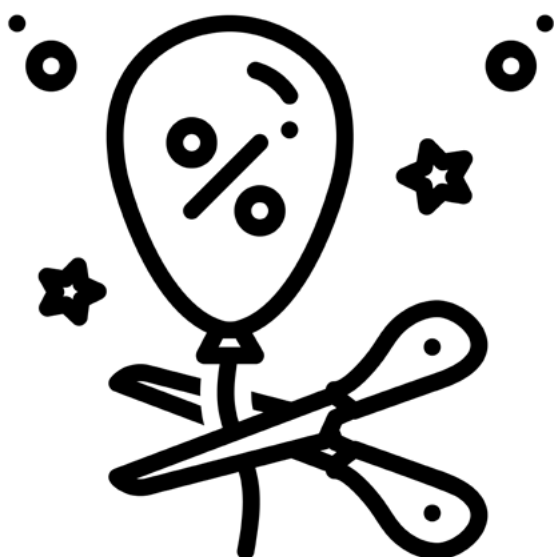
**Rather than imposing traditional regulation on new businesses, an alternate approach is to gradually reduce the regulations imposed on traditional firms.** In 1991, faced with an economic and financial crisis, India chose the path of deregulation and liberalisation to bolster economic competitiveness and productivity. Studies have since shown how deregulation reduced resource misallocation and eased market entry for smaller firms, benefiting competition and growth.<sup>62</sup> Now with Covid19 impacting the Indian economy significantly, and GDP growth at its lowest in five decades, it is an opportune moment for the Government to consider the role of deregulation in easing business recovery.

The National Digital Communication Policy of 2018 shows the Government's commitment to removing regulatory barriers that harm investment, innovation and consumer interest.<sup>63</sup> One mode of deregulation would be to rationalise the existing restrictions and charges, such as those levied on spectrum, that inhibit the ability of traditional enterprises to innovate new services and pivot to digital.

Similarly, deregulating channel offerings and network capacity fees could allow DSOs and other providers to offer channels and bouquets in response to consumer preference and demand. And state governments may consider relaxing the licence requirements and pricing norms for local taxi operators, so they can compete with their internet-enabled counterparts.

Liberalising the encryption policy imposed on telecom operators would allow them to adopt strong standards, on par with digital services like Signal. Strong encryption standards would help ensure the privacy of personal communications between citizens, and safeguard the digital commercial transactions central to the digital economy.

The Government should also reconsider the imposition of data localisation norms on all entities. There are compelling reasons to explore alternate avenues by which data stored abroad can be shared with Indian law enforcement agencies in a timely and secure manner.



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## *Institutional strengthening*

**While deregulation can foster competitiveness and innovation, left unchecked it may lead to market concentration. It is important to ensure that the institutions empowered to protect consumer interest are able to implement existing laws and regulations effectively.**

As suggested earlier, the CCI can play a key role to maintain a level playing field in digital markets. Its ability to track developments in the digital market is limited by a shortage of staff members, certain drawbacks in the legislative framework, and a lack of quasi-judicial powers.<sup>64</sup> Enacting the Draft Competition Amendment Bill, 2020 would help address some of these structural and legal issues, and improve the CCI's capacity to regulate competition in digital markets.

As remarked in Part 1, the Copyright Act provides for the registration of CMOs and copyright societies to simplify the process of licensing, as well as the collection and distribution of revenue among rightsholders who are members of the organisation or society. CMOs provide the institutional framework necessary for traditional content creators, such as authors and journalists, to collectively work toward better licensing and revenue-sharing terms with big technology companies.

Evidently however, there is a need to increase awareness of the benefits of the collective management regime: only 3 CMOs are registered at present under the Copyright Act. Legislative and structural reforms, such as the creation of guilds for specific rights, and the use of technological solutions could simplify the licensing process while protecting the interests of individual rightsholders.<sup>65</sup>

Deregulating encryption standards and easing data localisation requirements must be complemented with capacity building and institutional reform to enhance the Government's ability to access data stored abroad for purposes of national security. The first step in this

direction would be to review the domestic framework and incorporate effective procedural safeguards and oversight mechanisms to facilitate the grant of adequacy status by foreign jurisdictions.

The Government must also explore how requests under the existing MLAT framework can be expedited. Training officials to understand foreign legal requirements would help in this regard.<sup>66</sup> Due consideration must also be given to direct access agreements, such as those under the CLOUD Act and the EU e-Evidence Proposal, which are emerging as alternatives to the MLAT framework as far as data requests pertaining to serious crimes are concerned.<sup>67</sup>

**Adopting this two-pronged strategy, of deregulation and institutional strengthening, will give businesses the impetus to innovate and invest in improving their services, fostering competition and protecting consumer interest at the same time.**

## ENDNOTES

- 1 Angela Andal-Ancion, *The Digital Transformation of Traditional Business*, MIT Sloan Management Review, July 15, 2013 [sloanreview.mit.edu/article/the-digital-transformation-of-traditional-business](http://sloanreview.mit.edu/article/the-digital-transformation-of-traditional-business)
- 2 Economic Times, *55% of Indians prefer OTT platforms vs 41% that still prefer DTH: MoMAGIC survey*, August 27, 2019 [bit.ly/3fQSRQI](http://bit.ly/3fQSRQI)
- 3 Business Insider, *TRAI tariff order has led to consumers spending more time on Netflix, Amazon Prime Video and Hotstar: YouGov*, February 28, 2020 [bit.ly/2TzWVfs](http://bit.ly/2TzWVfs)
- 4 Regina M., *Ban or monitor Amazon & Flipkart's festive sales, they cause tax loss — traders' body to FM*, The Print, October 7, 2020 [theprint.in/economy/ban-or-monitor-amazon-flipkarts-festive-sales-they-cause-tax-loss-traders-body-to-fm/518925](http://theprint.in/economy/ban-or-monitor-amazon-flipkarts-festive-sales-they-cause-tax-loss-traders-body-to-fm/518925)
- 5 Outlook Money, *COAI Asks Govt To Bring OTT Services Under Licensing Regime*, February 16, 2020 [outlookindia.com/outlookmoney/apps/coai-asks-govt-to-bring-ott-services-under-licensing-regime-6186](http://outlookindia.com/outlookmoney/apps/coai-asks-govt-to-bring-ott-services-under-licensing-regime-6186)
- 6 See for instance Department for Promotion of Industrial and Internal Trade Press Note 3 (2016) [dipp.gov.in/sites/default/files/pn3\\_2016\\_o.pdf](http://dipp.gov.in/sites/default/files/pn3_2016_o.pdf)
- 7 For a detailed breakdown of the same service rules argument, see the TRAI Consultation Paper on Regulatory Framework for OTT Communication Services 2018 [TRAI CP 2018] [traigov.in/consultation-paper-regulatory-framework-over-top-ott-communication-services](http://traigov.in/consultation-paper-regulatory-framework-over-top-ott-communication-services)
- 8 For an overview of the licence requirements that DSOs, MSOs and other entities in television broadcast need to fulfil, refer to TRAI's Recommendations on Issues related to New DTH Licences [traigov.in/sites/default/files/DTH-Reco%28New-Licensing-Regime%29-uploaded.pdf](http://traigov.in/sites/default/files/DTH-Reco%28New-Licensing-Regime%29-uploaded.pdf)
- 9 For example, see Vodafone Idea's submissions to TRAI CP 2018, which regularly cite the EU Electronic Communications Code, [traigov.in/sites/default/files/VILo8o12o19.pdf](http://traigov.in/sites/default/files/VILo8o12o19.pdf). An analysis of the Code's provisions is available at [media2.mofo.com/documents/17o1oo-europe-new-code-ott.pdf](http://media2.mofo.com/documents/17o1oo-europe-new-code-ott.pdf)
- 10 Anumeha Chaturvedi, *India may become next country to impose strict guidelines on room aggregators like Oyo, Airbnb*, Economic Times, March 04, 2017 [bit.ly/2S5kWLg](http://bit.ly/2S5kWLg)
- 11 For example, The Telecommunication (Broadcasting And Cable) Services Standards of Quality of Service and Consumer Protection (Addressable Systems) Regulations stipulate requirements relating to disruption in service, relocation of subscription, customer care centres, publicity of information etc. to which broadcasters and other service providers must adhere: [traigov.in/sites/default/files/QOS\\_Regulation\\_o3\\_o3\\_2o17.pdf](http://traigov.in/sites/default/files/QOS_Regulation_o3_o3_2o17.pdf)
- 12 TRAI CP 2018, see note 7
- 13 Software Freedom Law Centre, *Response to TRAI's Consultation Paper on Regulatory Framework for OTT Communication Services*, August 01, 2019 [SFLC Response] [traigov.in/sites/default/files/sflco9o12o19.pdf](http://traigov.in/sites/default/files/sflco9o12o19.pdf)
- 14 Asia Internet Coalition, *Response to TRAI's Consultation Paper on Regulatory Framework for OTT Communication Services*, December 27, 2018 [traigov.in/sites/default/files/AsiaInternetCoalitiono8o12o19.pdf](http://traigov.in/sites/default/files/AsiaInternetCoalitiono8o12o19.pdf)
- 15 The Centre for Internet and Society, *Response to TRAI's Consultation Paper on Regulatory Framework for OTT Communication Services*, January 9, 2019 [CIS Response] [traigov.in/sites/default/files/TheCentreforInternetandSocietyIndiao8o12o19.pdf](http://traigov.in/sites/default/files/TheCentreforInternetandSocietyIndiao8o12o19.pdf)
- 16 Body of European Regulators for Electronic Communication, *Report on OTT services*, January 29, 2016 [bereg.europa.eu/eng/document\\_register/subject\\_matter/bereg/reports/5751-berec-report-on-ott-services](http://bereg.europa.eu/eng/document_register/subject_matter/bereg/reports/5751-berec-report-on-ott-services)
- 17 Koan Advisory Group, *Response to TRAI's Consultation Paper on Regulatory Framework for OTT Communication Services*, January 07, 2019 [Koan Response] [traigov.in/sites/default/files/KoanAdvisoryGroupo9o12o19.pdf](http://traigov.in/sites/default/files/KoanAdvisoryGroupo9o12o19.pdf)
- 18 Madhurima Nandy and ors., *New e-commerce rulebook places online shoppers at the centre*, Livemint, July 26, 2020 [livemint.com/companies/news/new-e-commerce-rulebook-places-online-shoppers-at-the-centre-11595766656o91.html](http://livemint.com/companies/news/new-e-commerce-rulebook-places-online-shoppers-at-the-centre-11595766656o91.html)
- 19 Part II of the Information Technology (Intermediary Guidelines and Digital Media Ethics Code) Rules, 2021, Ministry of Electronics and Information Technology [meity.gov.in/writereaddata/files/Intermediary\\_Guidelines\\_and\\_Digital\\_Media\\_Ethics\\_Code\\_Rules-2o21.pdf](http://meity.gov.in/writereaddata/files/Intermediary_Guidelines_and_Digital_Media_Ethics_Code_Rules-2o21.pdf)
- 20 TRAI Telecommunication (Broadcasting and Cable) Services (Eighth) (Addressable Systems) Tariff (Amendment) Order, 2017 [traigov.in/sites/default/files/Tariff\\_Order\\_English\\_3%2oMarch\\_2o17.pdf](http://traigov.in/sites/default/files/Tariff_Order_English_3%2oMarch_2o17.pdf)
- 21 Mint, *TRAI to assess if tariff plans meet phone users' needs*, April 04, 2021 [livemint.com/industry/telecom/trai-to-asses-if-tariff-plans-meet-phone-users-needs-11617515426o02.html](http://livemint.com/industry/telecom/trai-to-asses-if-tariff-plans-meet-phone-users-needs-11617515426o02.html)
- 22 Vodafone Idea, *Response to TRAI's Consultation Paper on Regulatory Framework for OTT Communication Services*, November 12, 2018 [traigov.in/sites/default/files/VILo8o12o19.pdf](http://traigov.in/sites/default/files/VILo8o12o19.pdf)
- 23 Business Insider, *'Amazon and Flipkart are destroying India's retail sector,' says CAIT, asks government to revise FDI policy in e-commerce*, March 18, 2021 [bit.ly/3cjJhZG](http://bit.ly/3cjJhZG)
- 24 Hospitality Biz India, *Hotels and OTAs at loggerheads*, January 8, 2019 [hospitalitybizindia.com/detailNews.aspx?aid=29722&sid=5](http://hospitalitybizindia.com/detailNews.aspx?aid=29722&sid=5)
- 25 Delhi Tourism, *Black and Yellow Roofed Taxi Fares* [delhitourism.gov.in/delhitourism/transport/taxi.jsp](http://delhitourism.gov.in/delhitourism/transport/taxi.jsp)
- 26 Vikas Kathuria, *India must take cue from Australian model of maintaining power balance between Big Tech, digital news media*, Firstpost, March 08, 2021 [firstpost.com/india/india-must-take-cue-from-australian-model-of-maintaining-power-balance-between-big-tech-digital-news-media-939o561.html](http://firstpost.com/india/india-must-take-cue-from-australian-model-of-maintaining-power-balance-between-big-tech-digital-news-media-939o561.html)
- 27 European Commission, *EU negotiators reach a breakthrough to modernise copyright rules*, 13 February 2019 [ec.europa.eu/commission/presscorner/detail/en/MEMO\\_19\\_1151](http://ec.europa.eu/commission/presscorner/detail/en/MEMO_19_1151)
- 28 Australian Competition and Consumer Commission, *FAQs: Draft news media and digital platforms mandatory bargaining code*, July 2020 [bit.ly/3fP8zvH](http://bit.ly/3fP8zvH)

- 29 Kritti Bhalla, *Indian MP Calls for Google, Facebook to pay publishers, like in Australia*, INC42, March 18, 2021 [inc42.com/buzz/indian-mp-calls-for-google-facebook-to-pay-publishers-like-in-australia](https://inc42.com/buzz/indian-mp-calls-for-google-facebook-to-pay-publishers-like-in-australia)
- 30 For more on the Government's responsibility in spectrum allocation, see *Centre for Public Interest Litigation vs. Union of India* WP (C) No. 423 of 210 [indiankanoon.org/doc/70191862](https://indiankanoon.org/doc/70191862)
- 31 SFLC Response, see note 13
- 32 The Competition Law Review Committee comprehensively studied the suitability of the Competition Act and CCI to deal with digital markets. The Committee found the existing legal framework to be sufficient provided certain amendments are made. The report can be accessed at [ies.gov.in/pdfs/Report-Competition-CLRC.pdf](https://ies.gov.in/pdfs/Report-Competition-CLRC.pdf)
- 33 Aashish Aryan, *Supreme Court admits Trai plea against TDSAT predatory pricing order*, Business Standard, January 21, 2019 [business-standard.com/article/current-affairs/supreme-court-admits-trai-plea-against-tdsat-predatory-pricing-order-119012100877\\_1.html](https://business-standard.com/article/current-affairs/supreme-court-admits-trai-plea-against-tdsat-predatory-pricing-order-119012100877_1.html)
- 34 Lata Jha, *About 50% DTH users moved to online content post Trai's new tariff order: Study*, LiveMint, February 28, 2020 [bit.ly/3z2Vere](https://bit.ly/3z2Vere)
- 35 Shreya Nandi, *Surge Fares capped for ride-hailing cos*, LiveMint, November 27, 2020 [bit.ly/3ppGtKj](https://bit.ly/3ppGtKj)
- 36 John Cullen and Alex Hutchens, *Mandatory News media bargaining code – is the model right?*, McCullough Robertson Lawyers for Mondaq, December 21, 2020 [mondaq.com/australia/social-media/1018552/mandatory-news-media-bargaining-code-is-the-model-right](https://mondaq.com/australia/social-media/1018552/mandatory-news-media-bargaining-code-is-the-model-right)
- 37 Ben Thompson, *Australia's News Media Bargaining Code, Breaking Down the Code, Australia's Fake News, Stratechery*, August 20, 2020 [bit.ly/3cjwfq6](https://bit.ly/3cjwfq6)
- 38 Dept. of Telecommunications, *License Agreement for Unified License*, available at [dot.gov.in/sites/default/files/Unified%20Licence\\_o.pdf](https://dot.gov.in/sites/default/files/Unified%20Licence_o.pdf)
- 39 Reliance Jio Infocomm Ltd., *Response to TRAI's Consultation Paper on Regulatory Framework for OTT Communication Services* [traigov.in/sites/default/files/RJIL09012019.pdf](https://traigov.in/sites/default/files/RJIL09012019.pdf)
- 40 The Centre for Internet Studies, *State of Cyber Security and Surveillance in India* [cis-india.org/internet-governance/blog/state-of-cyber-security-and-surveillance-in-india.pdf](https://cis-india.org/internet-governance/blog/state-of-cyber-security-and-surveillance-in-india.pdf)
- 41 Business Standard, *Data localisation should form integral part of e-commerce policy: CAIT to Goyal*, June 29, 2016 [bit.ly/3ikiWti](https://bit.ly/3ikiWti)
- 42 Simrit Chhabra, Renjini Rajagopalan and anr., *Framework for Regulating Encryption in India*, The Quantum Hub, August 2019 [thequantumhub.com/wp-content/uploads/2020/08/Regulation-of-Encryption-TQH-Updated-08Apr19-Final.pdf](https://thequantumhub.com/wp-content/uploads/2020/08/Regulation-of-Encryption-TQH-Updated-08Apr19-Final.pdf)
- 43 Vrinda Bhandari and Karan Lahiri, *The Surveillance State, Privacy and Criminal Investigation in India: Possible Futures in a Post-Puttaswamy World*, University of Oxford Human Rights Hub Journal 15, 3(2) 2020 [papers.ssrn.com/sol3/papers.cfm?abstract\\_id=3580630](https://papers.ssrn.com/sol3/papers.cfm?abstract_id=3580630)
- 44 SFLC Response, see note 13
- 45 Simrit Chhabra et al., *Framework for Regulating Encryption in India*.
- 46 Section 33, *Personal Data Protection Bill, 2019* [164.100.47.4/BillsTexts/LSBillTexts/Asintroduced/373\\_2019\\_LS\\_Eng.pdf](https://164.100.47.4/BillsTexts/LSBillTexts/Asintroduced/373_2019_LS_Eng.pdf)
- 47 Jacques Cremer, Yves Alexandre de Montjoye and Heike Schweitzer, *Competition Policy for the Digital Era*, European Commission, 2019 [ec.europa.eu/competition/publications/reports/kdo419345enn.pdf](https://ec.europa.eu/competition/publications/reports/kdo419345enn.pdf)
- 48 Ian Brown, *Interoperability as a tool for competition regulation*, OpenForum Europe, November 2020 [openforumeuropa.org/wp-content/uploads/2020/11/Ian\\_Brown\\_Interoperability\\_for\\_competition\\_regulation.pdf](https://openforumeuropa.org/wp-content/uploads/2020/11/Ian_Brown_Interoperability_for_competition_regulation.pdf)
- 49 Stigler Committee Report on Digital Platforms, Chicago Booth, 2019 [publicknowledge.org/wp-content/uploads/2019/09/Stigler-Committee-on-Digital-Platforms-Final-Report.pdf](https://publicknowledge.org/wp-content/uploads/2019/09/Stigler-Committee-on-Digital-Platforms-Final-Report.pdf)
- 50 TRAI CP 2018, see note 7
- 51 TRAI Recommendation on Interoperability of Set-Top Boxes, April 10, 2020 [traigov.in/sites/default/files/Recommendation\\_11042020.pdf](https://traigov.in/sites/default/files/Recommendation_11042020.pdf)
- 52 Koan Response, see note 17
- 53 Business Today, *Neutrality must for platforms, app stores and devices: Trai chief RS Sharma*, September 27, 2020 [businesstoday.in/sectors/telecom/neutrality-platforms-app-stores-trai-chief-rs-sharma/story/417130.html](https://businesstoday.in/sectors/telecom/neutrality-platforms-app-stores-trai-chief-rs-sharma/story/417130.html)
- 54 Airtel, *Response to TRAI's Consultation Paper on Net Neutrality*, April 12, 2017 [traigov.in/sites/default/files/Airtel\\_13\\_04\\_2017.pdf](https://traigov.in/sites/default/files/Airtel_13_04_2017.pdf)
- 55 Lauren Feiner and Annie Palmer, *DC attorney general sues Amazon on antitrust grounds, alleges it illegally raises prices*, CNBC, May 26, 2020 [cnbc.com/2021/05/25/dc-attorney-general-sues-amazon-on-antitrust-grounds-alleges-it-illegally-raises-prices.html](https://cnbc.com/2021/05/25/dc-attorney-general-sues-amazon-on-antitrust-grounds-alleges-it-illegally-raises-prices.html)
- 56 European Commission, *Antitrust: Commission fines Google €1.49 billion for abusive practices in online advertising*, March 20 2019 [ec.europa.eu/commission/presscorner/detail/en/IP\\_19\\_1770](https://ec.europa.eu/commission/presscorner/detail/en/IP_19_1770)
- 57 Competition Commission of India, *Market Study on E-commerce in India*, January 08, 2020 [CCI Market Study] [cci.gov.in/sites/default/files/whats\\_newdocument/Market-study-on-e-Commerce-in-India.pdf](https://cci.gov.in/sites/default/files/whats_newdocument/Market-study-on-e-Commerce-in-India.pdf)
- 58 Jan Kramer and Daniel Schnurr, *Is there a need for platform neutrality regulation in the EU?*, Telecommunication Policy 514-529, 42(7), August 2018 [doi.org/10.1016/j.telpol.2018.06.004](https://doi.org/10.1016/j.telpol.2018.06.004)
- 59 CCI Market Study p. 21
- 60 CCI Market Study p. 29
- 61 Concerns regarding vertical integration in traditional media and broadcast enterprises were raised as part of TRAI's consultative process on media ownership in 2013 [traigov.in/consultation-paper-issues-relating-media-ownership](https://traigov.in/consultation-paper-issues-relating-media-ownership)
- 62 Laura Alfaro and Anusha Chari, *Deregulation, Misallocation, and Size: Evidence from India*, The Journal of Law and Economics 897-936, 57(4) (2014) [sci-hub.do/10.1086/680930](https://sci-hub.do/10.1086/680930)
- 63 Koan Response, see note 17
- 64 Business Standard, *Staff shortage: Parliamentary panel flags structural issues at SFIO, CCI*, December 10, 2019 [business-standard.com/article/pti-stories/](https://business-standard.com/article/pti-stories/)

[parliamentary-panel-flags-staff-shortage-at-sfio-competition-commission-119121000849\\_1.html](#)

65 Aishwarya Giridhar, *Modernising Collective Copyright Management in India*, Policy Brief No. 203, ESYA Centre, October 2020 [esyacentre.org/documents/2020/10/20/modernising-collective-copyright-management-in-india](#)

66 Peter Swire, DeBrae Kennedy-Mayo and Arjun Jayakumar, *India's Access to Criminal Evidence in the U.S.: A Proposed Framework for an Executive Agreement*, Observer Research Foundation Special Report No. 123, December 2020 [orfonline.org/research/indias-access-to-criminal-evidence-in-the-us](#)

67 Smriti Parsheera and Prateek Jha, *Cross Border Data Access for Law Enforcement: What are India's Strategic Options?*, Carnegie India, November 23, 2020 [carnegieindia.org/2020/11/23/cross-border-data-access-for-law-enforcement-what-are-india-s-strategic-options-pub-83197](#)

