Draft Digital Competition bill

Why in news?

India proposes a new law to prevent anti-competitive practices by tech giants like Google, Facebook, and Amazon.

What are the key proposals of draft digital competition bill?

- **Aim**- To curb market dominance by tech companies and prevent anti-competitive practices before they occur, drawing inspiration from European Union's Digital Market Act.
- **Predictive regulation**- The bill introduces a forward-looking, preventive, and presumptive law (an ex ante framework) to foresee potential harms that can arise from antitrust issues and prescribes pre-determined no-go areas.
- **Associate Digital Enterprises (ADEs)-** The bill aims to regulate not just the primary tech giants but also their associated companies within a conglomerate.
- **Criteria for ADE designation**- If a subsidiary or related entity benefits from data collected by a core service of the conglomerate, it could be designated as an ADE.
- **Obligation**-Once designated, ADEs would be subjected to the same regulatory obligations as SSDEs.
    - Example: Google Maps could be designated as an ADE if it benefits from data gathered by Google Search.
- **Systematically Significant Digital Enterprise (SSDE)**- The bill proposed that the Competition Commission of India (CCI) should designate companies as SSDE based on various quantitative and qualitative parameters.

Criteria for SSDEs	
Key aspects	**About**
Turnover	A company must have a turnover in India of at least Rs 4,000 crore or a global turnover of 30 billion dollars in the last three financial years.
Global market capitalization	It should be at least 75 billion dollars.
User base	It should be at least 1 crore end users or 10,000 business users for their core digital services.
Prohibited activities for SSDEs	
Self preferencing	Giving their own services preferential treatment over those of competitors
Anti-steering	Preventing or discouraging users from using or switching to competing services
Restricted third party applications	Limiting the ability of third-party applications to interact with their platform

- **Penalty**- If the provisions are violated it could result in fines of up to 10% of the company's global turnover.

Competition Commission of India would designate the firms as SSDE and ADE

What are the concerns raised by tech companies regarding the bill?

- **Compliance burdens**- The ex ante requirements might impose significant compliance burdens, diverting resources from innovation and research to regulatory compliance.
- **Operational efficiency**- Industry executives are worried about the operational impact of such regulations.
- **Concerns with EU's Digital Markets Act**- It has led to a significant increase in the time required for basic operations, such as finding information via Google search.
- **Arbitrary definitions**- There is concern over the broad definitions of significant platforms and the discretionary power given to the Competition Commission of India (CCI) in designating SSDEs and ADEs.
- **Impact on startups**- Critics fear this could lead to arbitrary decision-making and potentially impact startups.
- **Impact global competitiveness**- As firms navigate complex regulatory landscapes, they might struggle to compete with counterparts in regions with more flexible regulatory frameworks.
- **Regulatory uncertainty**- Companies may be unsure about their status and obligations under the new law, leading to hesitancy in business expansion and investment.
- **Impact on venture investments**- Internet and Mobile Association of India (IAMAI) argues that the ex ate regulatory framework proposed by the bill could deter venture investments in tech startups.
- **Impact scalability**- IAMAI argues that the stringent thresholds and pre-emptive regulations might limit the scalability of businesses, as these rules could act as a ceiling on growth potential.

What is the stand of the government?

- **Historical anti-competitive practices**- Government argue that tech giants have a history of engaging in anti-competitive practices.
- **Fine on Google**- The fine imposed on Google (Rupees 1.337 crore) by the Competition Commission of India (CCI) for its anti-competitive behavior in the android ecosystem serve as evidence of ongoing issues.
- **Foster digital competition**- Innovation is largely confined to a few major tech companies, primarily from the US.
- **High market barriers**- It is created by dominant players which make it difficult for new entrants to challenge their supremacy.

References

1. Indian Express- Big tech opposed draft digital competition bill
2. MCA- Report of the committee on digital competition law

