

Asia Internet Coalition (AIC) Statement on 53rd Report on the Standing Committee on Finance on Anti-Competitive Practices by Big Tech Companies, India

6 January 2023

The Asia Internet Coalition (“AIC”) is concerned that the digital competition law recommended by the Parliamentary Standing Committee on Finance may dampen digital innovation in India. We urge the government to conduct wider stakeholder consultations to ensure that any new legislative proposals meet international best practices, are evidence-based, and are for the purpose of benefiting innovation, growth, and consumers. Otherwise, transplanting legislative reforms designed for a foreign jurisdiction with high digital penetration into India, could lead to disproportionate costs to consumers in India and an impact on innovation and investment by businesses in India - especially at a time when the government is rightly focusing on bringing connectivity to all under the Digital India initiative.

The report put forward by the Committee is prescriptive, absolutist and regressive in nature, incorporating proposals from the European Union’s (“EU”) Digital Markets Act (“DMA”). The DMA has been criticised within Europe and elsewhere, including by Frederic Jenny, Chair of the OECD Competition Committee, who stated that “... the EU proposal could actually restrict competition or innovation of such ecosystems in the name of fairness or of protecting competition within an ecosystem.” The Report also makes references to the American Innovation and Choice Online Act (“AICOA”) and the Open App Market Act (“OAMA”). Notably, both AICOA and OAMA failed to attain bipartisan support due to substantive disagreements and concerns for unintended consequences on consumers, growth, and innovation. In sum, there is no consensus that a DMA-style *ex ante* legislation is the way forward for addressing potential competition concerns in the digital space.

Regulatory proposals such as the DMA have long transition and implementation periods. It will be some time before it can be determined whether these new and experimental regulations will be necessary, and work and deliver the benefits claimed. We urge the Government to first observe whether these overseas regulatory developments bring about benefits that outweigh costs.

Specifically, it is important to note that the Government has recently proposed two significant bills, i.e the Digital Personal Data Protection Bill and the Competition Amendment Bill (“CAB”), both of which seek to protect consumers, preserve competition and promote tech innovation, with a special focus on digital markets. Accordingly, it is critical to first understand the effects of these two bills on the digital ecosystem before introducing any new legislative proposals.

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About the Asia Internet Coalition

The Asia Internet Coalition (AIC) is an industry association comprising leading Internet and technology companies. The AIC seeks to promote the understanding and resolution of Internet policy issues in the Asia Pacific region. Visit www.aicasia.org for more information.