Summary: DSCI's feedback to the Draft Digital Competition Bill, 2024

The Data Security Council of India (DSCI) has submitted its detailed feedback to the Ministry of Corporate Affairs (MCA) on the Draft Digital Competition Bill (DCB), 2024. While appreciating the government's intent to promote fair competition and curb anti-competitive practices in the digital economy, DSCI strongly advocates for a measured, evidence-based, and innovation-friendly approach to digital competition regulation in India.

1. Emphasizing Market Readiness and Regulatory Caution

India's digital economy is in a high-growth phase, driven by innovation, rising internet penetration, and digital inclusion. DSCI cautions against the premature adoption of ex-ante competition regulation, as proposed in the DCB, particularly when empirical evidence of systemic market failures is lacking. Ex-ante frameworks are typically suited for markets where dominant players have already stifled competition or harmed consumer choice—conditions that are still evolving in India.

DSCI recommends that India adopt a "wait and watch" approach, allowing existing competition law (under the Competition Act) and recent institutional reforms (like the Digital Markets Unit) to mature before introducing a parallel regulatory regimes.

2. Ensuring Harmony with India's Existing Regulatory Architecture

The Draft DCB introduces a new set of compliance obligations for digital enterprises, many of which may already be regulated under other laws and frameworks such as:

- The Digital Personal Data Protection Act, 2023
- The Information Technology Act, 2000
- Sector-specific regulations (e.g., in financial services and telecom)

DSCI's submission highlights the risk of overlapping jurisdictions, regulatory fragmentation, and compliance confusion if these frameworks are not harmonized. It advocates for a coherent and integrated policy approach, where existing sectoral and privacy regulations are respected, and digital competition measures are calibrated to avoid duplication.

3. Definitional Concerns Around SSDEs and CDS

The DCB proposes new designations such as:

- Systemically Significant Digital Enterprises (SSDEs)
- Core Digital Services (CDS)

These are intended to identify large digital platforms that may require stricter oversight. However, DSCI points out that the quantitative thresholds for designating SSDEs (based on turnover, global user base, or market capitalization) could lead to over-inclusion, potentially covering a broad range of Indian and foreign digital firms, including startups and scale-ups.

Moreover, the categorization of CDS—which includes a wide array of services such as online search engines, digital advertising, app stores, cloud computing, and even web browsers—could result in obligations being imposed on firms that are not necessarily gatekeepers in their respective markets.

DSCI recommends that the government:

- Adopt a principles-based and qualitative assessment of systemic significance
- Include consultations and self-assessment mechanisms before designation
- Provide a clear, transparent methodology for SSDE classification

4. Impact on Ease of Doing Business, Innovation, and Investment

DSCI's comments stress that several proposed obligations—such as mandatory data sharing, interoperability, app unbundling, and restrictions on preferential treatment of own services—could be:

- Operationally intrusive
- Technologically impractical
- Harmful to user experience and product innovation

These rules, if implemented prematurely, may:

- Increase compliance costs
- Reduce business flexibility and competitiveness
- Create uncertainty for foreign and domestic investors

For a country like India, which aspires to become a global digital innovation hub, such outcomes could hinder progress toward "Digital India" goals and affect the global competitiveness of Indian tech firms.

5. Need for Broader Stakeholder Engagement and Phased Implementation

Recognizing the sweeping scope of the DCB, DSCI has called for a wider and more inclusive consultative process, involving:

- Industry stakeholders across large and small digital enterprises

- Academia and civil society
- Legal experts and consumer representatives

Additionally, DSCI recommends a phased implementation strategy with adequate regulatory sandboxing, pilot programs, and impact assessments before rollout. This will allow the government to refine its approach and minimize unintended consequences.

Conclusion

DSCI reiterates its support for a competitive and open digital economy in India. However, it emphasizes that any regulatory framework must also safeguard innovation, consumer trust, and business growth. The organization urges policymakers to adopt a balanced and future-ready approach to digital competition—one that fosters fair markets without impeding technological progress or overwhelming the digital ecosystem with disproportionate compliance mandates.

By aligning competition objectives with India's digital transformation priorities, the government can ensure a vibrant, inclusive, and globally competitive digital economy.