To

The Secretary
Ministry of Corporate Affairs
Government of India
A Wing, Shastri Bhawan Rajendra Prasad Road
New Delhi - 110001

21st July, 2025

Subject: Panel Discussion on "Digital Competition Bill, 2024: Denial by Delay?"

Dear **Sir/ Ma'am**,

We are elated to inform that we had organized a panel discussion titled, "**Digital Competition Bill, 2024: Denial by Delay**" on 11th July, 2025.
Some of the panelists at the conference included:

1) **Pierre Bichet**, Case Handler Officer, Digital Platforms, DG COMP, European Commission
2) **Shilpi Bhattacharya**, Professor, Jindal Global Law School
3) **Keldon Bestor**, Executive Director, Canadian Anti-monopoly Project
4) **Sumit Jain** - Founding Director, CCLE

Please find attached the memorandum of the discussion along with the minutes.

We would be happy to discuss more on the topic and will be looking forward to meeting you in person.

Best Regards,
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Memorandum of the conference conducted by CCLE on the "Digital Competition Bill, 2024: Denial by Delay?"

Date: 11th July, 2025

Participants: Pierre Bichet (European Commission), Shilpi Bhattacharya (Jindal Global Law School), Keldon Bestor (Canadian Anti-monopoly Project), Sumit Jain (Centre for Competition Law and Economics)

Key highlights

1. The Indian government introduced the Draft Digital Competition Bill, 2024 to promote competition in digital markets. The law is proposed on the lines of the Digital Markets Act (DMA) in the European Union (EU) which puts ex-ante rules on certain big technology companies. While the EU has already passed two contravention orders under the new law, the Indian government is yet to enact the law.

2. The said delay could be attributed to the mixed feedback which the Indian government has received and also the geopolitical setback from the US counterparts in trade negotiations. One way to counter the geopolitical narrative is by duly publicising the fact that digital competition law is applicable on large companies regardless of the country in which they are based.

3. The DMA is enforced under two headers, i.e. regulatory dialogue and non-compliance proceedings. The objective is to ensure overall transparency with a provision to ensure coordination with other regulators, such as the data protection authority, the telecommunication regulator and the consumer protection body. The law is further enforced by a team of lawyers, economists and technologists to ensure comprehensiveness.

4. One of the guiding factors when it comes to promoting competition in digital markets is timely intervention. This is important as, conventionally, antitrust proceedings take years to complete in a market which changes very quickly. The fact that there are very few cases which have reached the Indian Supreme Court for decision is emblematic of this problem. Digital competition law and ex-ante rules might be used to ensure strict deadlines for non-compliance proceedings.

5. There is further opportunity to collaborate between various countries to define the permissible conduct in digital markets, while at the same time maintaining autonomy at the national level.

6. The question of regulatory dialogue should be approached with some caution in countries like India where the size of competition authority is a bit small as it might result in regulatory capture. The resolution is to have transparency in the regulatory process by having face-to-face dialogues and avoid closed-door conversations.

7. Some food for thought is that there might be a third approach which is emerging in Asian economies such as India, Japan and Korea and to an extent even in Brazil, for promoting competition in digital markets apart from the ex-ante and conventional approach.

Minutes of the conference

Sumit (Moderator)

Hello, everyone. I welcome you all to a panel discussion hosted by the Centre for Competition Law and Economics titled "Digital Competition Bill 2024 in India: Is there a denial by delay?" We have a great panel with us. Mr. Pierre Bichet is a case handler officer for digital platforms at DG Comp, European Commission. Dr. Shilpi Bhattacharya is a professor at Jindal Global Law School. Mr. Keldon Baster is the executive director at the Canadian Anti-Monopoly Project.

Just a brief background before we start the discussion. The Indian government, around mid-2024, proposed a law known as the Digital Competition Bill, modeled on the Digital Markets Act, which is currently in force in the European Union. The law proposes ex-ante rules for certain gatekeepers, which in India would be known as SSDEs, or 'Systemically Significant Digital Enterprises.' There is some academic commentary available regarding the similarities and differences between the DCB in India and the DMA in the EU. As the timeline clearly shows, even though this law was proposed a year ago, not much has transpired on the legislative front. However, there have been some executive developments. The nodal competition body in India, the Competition Commission of India, recently passed a contravention order against META, formerly known as Facebook, in the WhatsApp case. The crux of the matter revolves around the cross-utilization of data obtained through WhatsApp, with the group using this data to gain an advantage in other segments, specifically in its advertising domain to profile users. There has also been some progress on the executive side in the cases pending against Amazon and Apple. However, no final decisions are available yet, and all this information is currently pending before the CCI.

With this background, Pierre, thank you so much for accepting our invitation and agreeing to speak on such an important area of law. Pierre, I would like you to start with the Digital Markets Act. A lot has already been written and commented on it. The European Commission has already passed two contravention orders, one against Apple and the other against META. The European Commission is also currently holding workshops, known as "regulatory dialogues," to ensure robust enforcement of the law. I'd like to hand over to you now. Could you please discuss the successes and limitations the European Commission is observing regarding competition in digital markets, not only through the

DMA but also via Article 102, which is the conventional competition law in the EU? And what possible lessons can be drawn? Pierre, over to you.

Pierre

Thank you, Sumit, for the introduction and for inviting me to speak today. It is my pleasure to be here. I'll spend a few minutes on this, as it is a very broad topic with plenty to discuss.

I think it is fair to say that with the DMA, we have started a new era of regulation of online platforms in Europe. As you said, the DMA is an ex-ante regulation and it specifically targets conduct that we know to be either anticompetitive or detrimental to business users, consumers, and the economy at large. The DMA allows us to address all these issues in practice.

The DMA is what we call an asymmetric regulation, meaning that it applies only to designated gatekeepers and only to certain of their services. The DMA doesn't apply to all of Apple, Microsoft, or Meta. Once a gatekeeper has been designated, it must comply with a number of well-defined and balanced obligations—a list of do's and don'ts.

The DMA obligations became binding on the gatekeepers over a year ago, on 7 March 2024. Over the past 14 months, we have focused on monitoring the compliance of the gatekeepers with the DMA.

Our enforcement strategy is based on two pillars. The main and most important is what we call the regulatory dialogue. This means having open discussions with gatekeepers on how they need to comply with the DMA, being transparent about it, and engaging in parallel with different stakeholders—beneficiaries of the DMA, consumer associations, and essentially everyone involved. As you mentioned, the workshops we organize are part of this regulatory dialogue.

We had a first set of workshops where we invited the gatekeepers to present their compliance solutions. The relevant stakeholders could ask questions, raise concerns, or confirm that the gatekeepers' compliance with the DMA was satisfactory. We had the second round of compliance workshops just last week. This is really part of our regulatory dialogue strategy. Of course, when we see that the regulatory dialogue is not working, we open formal investigations. In April, we issued our first two non-compliance decisions under the DMA, which you mentioned. The first was against Apple, where we found that Apple didn't comply with the steering obligation enshrined in the

DMA. For those who don't know, steering means informing users about better offers within the app. For example, you have an app based on a freemium model. You download it for free, use it for free, and then, if you want a better service or more features, you need to take a subscription. Usually, you have to do this via the app, and you don't have a choice. We all know that Apple and Google charge relatively high commission fees, and developers must pay these.

With the steering obligation, we allow developers to say, "You want to subscribe? You can subscribe here, or, if you prefer, you can subscribe on my website for less. Here's a link—please click on it and subscribe there."

The second non-compliance decision was against Meta for its pay-or-consent model, which they rolled out in Europe. If you don't want your data to be used mainly for advertising purposes, you pay. If you don't pay, your data is used for advertising. We believe this binary choice is not compliant with the DMA. We currently have three non-compliance proceedings ongoing.

I mentioned the case against Apple and steering. We have a similar case against Google. We also have another case against Google for self-preferencing on its search core platform service, where we are concerned that Google is favoring its own services over competitors'. The third non-compliance proceeding is against Apple for what we call the business terms for app distribution. Under the DMA, it should be possible to have alternative app stores on Apple's devices—specifically the iPhones and iPads. We have concerns about how Apple has implemented its solution. In addition to non-compliance proceedings, we have the tool of specifications. Certain obligations in the DMA can be further specified. Here, we give additional guidance to gatekeepers on how to comply. We issued our first two specification proceedings against Apple. The first concerns measures to facilitate and increase interoperability with iPhone devices. For example, AirPods will naturally sync much easier with an iPhone. If you have another brand of headphones, they might not pair as easily. The aim of these specification measures is to ensure that non-Apple brands have access to the same functionalities as Apple software and products so they can compete fairly.

The second specification measure is intended to streamline access to interoperability requests. If I am a developer who wants to interoperate with Apple, I make a request, and I want to ensure my request is handled promptly. If it is rejected, there must be an explanation, and there should be some

mechanism to appeal or contest the decision. This is our current position, and the main pillar of our strategy remains these regulatory dialogues.

We have achieved a lot through this regulatory dialogue. For example, Apple has introduced choice screens. When you set up an iPhone, you get a screen asking which search engine you want to use. This was not the case before the DMA. We discussed in detail with Apple how this should look, how and when it should be presented, and where users can change their choice in settings. I also mentioned the availability of alternative app stores.

Although we are not fully satisfied, we have given end users greater control over their data. This is particularly important for social media—if you want to switch from one platform to another, you should be able to transfer your data. This is where we stand, and it's quite a lot of work accomplished.

We now have a basis to understand what is working well and what is working less well, and we can draw lessons that may interest jurisdictions such as India. Canada is also considering rules for digital markets. I have emphasized this before, but the main strength really is the regulatory dialogue, with non-compliance proceedings as a back-up. Gatekeepers are more willing to participate openly and present solutions for discussion and transparency if they know that, should dialogue fail, they may face formal non-compliance proceedings.

This has been a powerful tool. In Europe, a unique aspect is that we are a union of 27 member states, and we have private enforcement in addition to public enforcement. Some companies have already brought actions in court, claiming gatekeepers have not complied with the DMA. This is an additional incentive for compliance. We also have a mix of professionals involved: lawyers, economists, technologists, computer scientists. This ensures we have the legal and technical expertise needed to engage with gatekeepers' IT teams effectively and enforce the DMA properly. Developing these mixed teams has been a particular success. Another lesson is on timelines.

There is criticism in Europe—maybe less so in India or Canada—that antitrust proceedings take too long. Digital markets change and tip quickly, so enforcement must be timely. Issuing a decision four or five years later is often meaningless. That is why the DMA includes ambitious timelines for investigations: a soft 12-month deadline for non-compliance, and a hard 6-month deadline for specifications. This has helped ensure DMA enforcement moves quickly.

We have also managed to sideline some complexities of antitrust law. If you are a gatekeeper, you are a gatekeeper; we do not need to demonstrate dominance or abuse of dominance. I briefly mentioned specification decisions against Apple. These have proven to be efficient, providing clear guidance and instructions to gatekeepers on what to do and allowing for market testing and stakeholder input—making the process more collaborative and transparent.

This is efficient because, in non-compliance proceedings, the atmosphere is more adversarial and less collaborative. Gatekeepers are often less helpful. Finally, two last points: First, the DMA contains tools to adapt over time and address new challenges. We can revise the DMA periodically, conduct market investigations to designate new gatekeepers even if thresholds are not met, and we are equipped to prevent circumvention and malicious compliance.

Secondly, the DMA establishes cooperation mechanisms with other authorities. When dealing with personal data, the GDPR becomes relevant, so definitions and compliance must be consistent across frameworks. We have mechanisms to coordinate and consult with telecoms, data, and consumer protection authorities to ensure consistent enforcement. This is where we stand on enforcement and lessons learned. Overall, it is important to remember that the DMA is still new—we have only been enforcing it for just over a year.

Sumit

Thank you so much, Pierre, for your detailed comments. I'll come back to you on the regulatory dialogue. But before that, Shilpi, I come to you.

What are your thoughts in light of what Pierre has mentioned? Most importantly, what makes me curious is that time is passing. What is really keeping the Indian government on its toes? Such legislation is also being proposed in Brazil, if I am correct. Other countries have proposed laws similar to the DMA. However, for some reason, there are doubts about whether these should actually be enacted. What are your thoughts regarding this lack of progress? Over to you, Shilpi.

Shilpi

Thank you so much for having me here, Sumit. It was really interesting to work with you. The summary provided by Pierre was fantastic—so much detail. I don't know how you did it, but it is

very informative and good for us to hear what's happening. In India, as Sumit said, the draft Digital Competition Bill was put out for stakeholder feedback, and the ministry received a lot of input.

I believe there have been further representations and meetings. I am not in a position to tell you what is currently happening with the bill because that is not my area of expertise. However, anyone in India knows it has been a very divisive bill with a lot of pushback. So, it is receiving careful consideration due to negative feedback from a wide range of stakeholders, including lawyers, big tech companies, and various think tanks. In the meantime, the CCI has been active in its enforcement in digital markets.

As Sumit mentioned, we have seen a number of cases arise in the past year, and the CCI is investigating several more. One interesting point is that, in the last few months, we have had our first settlement order under India's new settlement and commitment framework in the Competition Act. Unsurprisingly, Google was the first entity to settle under this framework, in regard to the Android TV operating system market. They have agreed to a new agreement—called the New India Agreement—under which the Android operating system will be unbundled from the Play Store, YouTube, and other Google apps. Under the new agreement, you can license the OS and pay a fee for the Play Store without taking the entire bundle, though the bundle option still remains. This point has been a matter of dissent within the CCI.

There was a dissenting note to the settlement in which a member argued that allowing the bundle to remain does not really solve the competition problem. That is a noteworthy development. Regarding anti-fragmentation, the concern was that Google is restricting the forking and fragmentation of Android. In my view, the settlement does not adequately address this, because if you want to license the Play Store, you must have an Android-compatible device. It does not allow the Play Store to be licensed for fragmented Android devices. So, there are some challenges presented by this first settlement decision, but it has at least provided a speedy resolution.

In addition, as has been mentioned, India is drawing significantly on European competition jurisprudence. Regarding the WhatsApp abuse of dominance case—similar, but somewhat different, from what is happening in Europe—in India we received a privacy policy update from WhatsApp saying that, to continue using its services, you had to agree to share your data with Meta group companies. The take-it-or-leave-it nature of this update meant your choice was to accept or stop

using WhatsApp. Given WhatsApp's dominance, the CCI found this to be an abuse of dominance and also held that it would strengthen WhatsApp's (and thus Meta's) position in the online display advertising market.

We have drawn from European jurisprudence, but also developed our own, considering WhatsApp's conduct both as exclusionary and exploitative abuse of dominance. However, we are facing challenges with compliance and enforcement of CCI's orders. For example, the CCI found Google abused its dominance in the Play Store through anti-steering provisions and high commission rates. The anti-steering provisions were found abusive, but the CCI did not rule on whether the commission rate was excessive. Also, the fact that YouTube does not have to use Google's billing system while competitors do (and face high commission rates) was found to be discriminatory and an unfair imposition.

On appeal, the appellate authority upheld the anti-steering finding but did not find discrimination regarding YouTube's exemption from Google Play's billing system; that part was removed from the order. Meanwhile, Google attempted to comply by introducing the user choice billing system, which does not really resolve the problem.

Consequently, the CCI is now undertaking another investigation, as many app developers have complained that the commission rate is excessive—something not examined previously, but now under investigation. This is the principal concern for app developers from a competition perspective, and now the CCI is evaluating it.

Because compliance has been so problematic, the settlement framework in India is focusing more on effective remedies for market issues. Historically, the CCI has struggled to ensure enforcement of its orders, with remedies often overturned at the appellate stage. For example, in the WhatsApp order, the CCI had directed WhatsApp not to share data with Meta group companies for a certain period, but this was stayed at the appellate level because it was considered unduly disruptive to WhatsApp's business model. So, the CCI is active on many fronts, with several interesting cases and investigations ongoing. However, the question remains: how successful have these measures been in actually remedying markets? There is a significant question mark, as conduct remedies and penalties have not been effectively enforced or collected, often getting stuck at the appellate stage. This is a

matter of concern. An ex-ante regulatory framework could be very helpful in the Indian context, but implementation will be key. That is a brief overview of developments in India.

Sumit

Thank you so much, Shilpi. I'll come back to the lack of enforcement of the CCI orders, because that's an interesting area.

Keldon, now I come to you. I've followed some developments on the Canadian side. I believe the Canadian Competition Bureau is looking into advertisement technology. They have also recently opened an investigation into algorithmic price collusion. How are competition concerns in digital markets panning out in Canada? Also, what is the legislative framework there? Is Canada considering ex-ante rules for digital markets, or do they find the current ex-post conventional competition laws sufficient? Over to you.

Keldon

First off, thank you for having me, and I appreciate learning a lot about what's going on in Europe and India as well in this field. For background, Canada's approach to date has been anchored in traditional competition law—that is, an ex-post, investigatory, case-by-case approach when it comes to competition. There have been legislative efforts in areas like funding journalism and ensuring Canadian cultural content, but on the regulatory side, the focus has been on strengthening Canada's Competition Act, which is our main federal legislation.

Between 2022 and 2024, particularly in the last two years, we have seen significant strengthening of the law, especially regarding mergers, abuse of dominance, and some other areas I will mention shortly.

It's exciting to hear about Europe's opening up of private access to competition law, as Canada's enforcement has historically been quite centralized through the Competition Bureau. We've made strides, and the Bureau is stepping up its activity, focusing on digital markets as well as important domestic markets from real estate to groceries to gas stations. The last investigation focuses on whether pricing software in that industry is dampening competitive pressure.

That is encouraging, but there are some caveats. Pierre mentioned one classic issue: the time from starting a competition law investigation to achieving a remedy for problematic conduct. For example, the Bureau's investigation into Google's ad tech monopoly is structurally similar to the U.S. DOJ's case. The investigation began in late 2020 or early 2021, and the trial is scheduled for early 2027.

That illustrates the problem: without merger deadlines, in abuse of dominance cases there is little incentive to act quickly. Additionally, the Bureau has not pursued interim injunctions for abuse of dominance due to the high legal bar and some institutional conservatism.

We are wrestling with these challenges. Although we have very powerful tools to address digital markets, the timelines are long. A recent worry is that Canada backed off its digital services tax following pressure from the U.S. administration. Like the DMA, this tax drew attention from the U.S. White House. Canadian efforts to regulate big tech could become a bargaining chip in trade negotiations. That uncertainty keeps me up at night.

Regarding ex-ante regulatory approaches, that conversation is largely absent in Canada now, which I see as a problem. But I believe Canada has the opportunity to collaborate with allies—Europe, India, and others—to set common standards for conduct while preserving each nation's or bloc's ability to customize approaches.

The European Commission's collaborative posture, including Germany's competition authority, offers a model. Different approaches working together is the way forward to address these fundamentally global problems.

To sum up, Canada has doubled down on traditional competition law, which was overdue given previously weak laws regardless of the market. But this approach carries risks that have intensified recently. We need to think now about cooperation with other countries facing the same challenges if we want to effectively regulate and influence these companies—not only from a competition perspective but also in areas like privacy, online safety, and taxation. These issues are all on the table in this new environment.

Sumit

Thank you so much, Keldon, especially for highlighting the geopolitical dimension. Pierre, over to you now. The White House officially sent a letter to the European Commission stating that the Digital Markets Act "unfairly targets" certain U.S. companies, describing it as a kind of "tax." As Keldon mentioned, a similar situation occurred in Canada with the Digital Services Act.

India is also experiencing similar pressures, mostly on trade rather than competition grounds. Would you like to share your thoughts on how this plays out during your regulatory dialogue? There is some evidence suggesting Google is using these dialogues not to engage productively, but rather to question the legitimacy of the law itself. Since we are sitting in India, regulatory dialogue is extremely important, but regulatory capacity is also a concern.

There is commentary that for countries with smaller competition authorities or lower regulatory capacity, regulatory dialogue risks becoming counterproductive due to potential regulatory capture. Entities meant to be regulated might use dialogue to influence outcomes in their favor. This is often seen in sectoral regulators, although competition law is sector-agnostic. Pierre, could you share your thoughts?

Pierre

That's a fair point.

At the Commission, any sensible person would say there is no point regulating what doesn't need regulation—where markets function properly or existing tools suffice. Regarding digital markets, there is global consensus—not just in Europe—that these large digital platforms have grown too large, and these sector markets don't work properly. Studies in Europe, the UK, the U.S., and regulations or proposals from Japan, South Korea, Australia, South Africa, and Brazil underline this.

This is not an isolated issue; it is global, because these services are essentially the same worldwide. Google Search in Europe is the same as in India or Canada, with only some local variations.

When global problems are identified, it is important to tackle them globally. It's good if Europe acts, but the issue remains elsewhere. Just because India began addressing this recently, or legislation is

new, does not mean no action is needed. If your pre-existing tools cannot address the issues—as we concluded in Europe—you need new measures.

You mentioned regulatory capture risk in dialogue. That is why we strive to be as transparent as possible. We do not want closed-door negotiations where we agree with gatekeepers in private, then present something to the market that is unacceptable. Instead, we aim for open discussions with stakeholders. Gatekeepers are asked to publish their proposals publicly to gather feedback. We have also asked them to hold workshops or one-to-one meetings with developers to allow dialogue.

This creates a virtual feedback loop ensuring that market participants counterbalance gatekeepers' proposals. This openness is a powerful safeguard against capture during regulatory dialogue.

Sumit

Thank you so much, Pierre. Shilpi, I'd like to ask you whether international pressure is impacting India's work, given recent U.S. trade actions, including tariffs on non-cooperating countries. Second, you mentioned lag in enforcement of CCI orders. What solutions do you see? Even with commitment and settlement regulations, the burden of appointing a monetary agency rests on the company against which the order is passed, although CCI retains the final say. Could you address these two points?

Shilpi

Thank you for that, Sumit. Actually, what I have heard informally—though I don't have any official news—is that, as Keldon mentioned, one possible reason we haven't seen further news about our draft competition bill is the ongoing trade dialogue with the U.S. There is some informal talk that the U.S. is pressuring India not to introduce ex-ante regulation in digital markets, but this is just hearsay.

Given what both Pierre and Keldon have said, it does make sense in the Indian context. However, there has also been a great deal of internal pushback against the ex-ante framework in India, and a lot of different interests are giving their perspectives. There is a general sentiment here that the bill will chill innovation and hinder our vibrant startup ecosystem. Many people feel that India is different from Europe and that we shouldn't just copy the European approach. We have a very dynamic startup environment, and while I have my own views on this, I won't go into them here.

Another negative view is due to the low designation threshold for being considered a gatekeeper—or systemically significant digital enterprise—which means many more enterprises would be captured compared to the current DMA designations in Europe.

It's a complex issue with several competing interests involved. The U.S. pressure is one possible factor, but it's not the only one. There has also been talk of restructuring the digital competition bill to address some of the concerns raised, which I think is a good direction. As we have discussed, and as everyone has pointed out, India's traditional competition enforcement is very slow. It's not only a problem of enforcement—many CCI orders never reach finality. Very few CCI orders have made it all the way to the Supreme Court of India.

Until that happens, everything remains uncertain. For example, Sumit wrote about a recent Supreme Court judgment in an abuse of dominance case where the Court imposed an additional requirement, adopting an effects-based approach for such cases. This is a major change, as the CCI hasn't been systematically using an effects-based approach for all abuse of dominance matters. A single Supreme Court ruling can significantly alter competition jurisprudence, and we haven't had many of those. I wonder what will happen when the ongoing digital markets cases finally reach the Supreme Court. The general trend seems to be that more will be asked of the CCI than it can currently handle in terms of meeting the new legal standards for abuse of dominance. This makes enforcement in digital markets especially challenging, particularly given the CCI's limited capacity and technical expertise for collecting and analyzing complex evidence.

These are real concerns. I am closely watching what the Supreme Court might say about the recent Google and WhatsApp cases. As for the second question about enforcement, I think this is precisely why India needs a digital competition bill. The CCI does have the authority to issue interim orders—it did so in the MakeMyTrip case—but beyond that, it hasn't used this power effectively. The settlement and commitment regime, as you said, also has its own problems. I am skeptical whether it will really solve the main competition problems highlighted in these cases.

Whether through settlement or appeal, we risk losing the essence of the actual competition issue and not getting an effective remedy. From what we have learned from Europe, there needs to be more focus on actual remedies, rather than just technical debates—especially in cases where there is well-established evidence of anti-competitive conduct. In India, we're still building up the basic

jurisprudence and have not reached the stage where we can properly address complex conduct or develop meaningful remedies before the market changes again.

Sumit

Thank you, Shilpi. I think we are seven minutes short, but there are a couple of points. In the Scott Glass case, what was also different was that there was a standing minority order against the CCI majority, and that case was already more than 10 years old. I would draw a parallel with what happened in the Google Android case; that matter went up to the Supreme Court, but at first glance, the Court made it clear it would not intervene and upheld the CCI order. Unlike in the NCLAT order you mentioned in the WhatsApp case, or another case where the appellate tribunal cut some parts of the orders, that did not happen in the Google Android case.

Regarding the overturning of CCI decisions, there has been a clear shift in the last six or seven years. Our research shows that in the first seven or eight years—between 2009 and 2017/18—the reversal rate at the appellate tribunal itself was as high as 25%. If you look at the recent trend, the NCLAT has been taking a more selective approach in reversing CCI orders over the past six or seven years. But I mostly agree with your points.

So, in the interest of time, we have five minutes. Keldon, do you have any concluding thoughts on competition in digital markets and on how ex-ante regulation should be considered—not just in Canada, but also in developing countries such as India, Brazil, Japan, and others?

Keldon

I'll be brief. The main point I want to highlight—and it's something Pierre mentioned, and which I think jurisdictions like Canada and others should really note—is the transparency element of the DMA. In Canada, and I think elsewhere too, the competition authority will announce an investigation or litigation, and then there is little to no information for long periods—especially during investigations and, particularly, remedy discussions. In the case of mergers, for example, remedy negotiations are like a black box.

When the public has no view of what is going on, and the eventual outcomes are unsatisfying or questionable, it really undermines trust in the process. So, whether we use ex-post or ex-ante frameworks, all jurisdictions—especially Canada—have much to learn from the European example.

Opening up these processes to public input, discussion, and scrutiny helps everyone feel included and understand the reasons behind the decisions. If I want to leave you with one message, it is about the value of transparency and how much progress we still need to make in Canada.

Pierre

I think this conversation highlights that we are all facing the same issues and challenges on how to address them. I can only hope for more convergence and cooperation between authorities so we can tackle these issues that we have all identified.

Shilpi

Just to clarify one point about the Android order: the NCLAT did significantly reduce the remedies on appeal—it reduced the remedies in the Android order compared to other CCI orders. That was already happening.

That was just a quick clarification, but I agree with everything all of you have said. I think we need to take every opportunity to learn from others, rather than always emphasizing our differences. Much of the conduct and many challenges are similar across jurisdictions, and in India, we really need to seize the opportunity to benefit from international experience.

Sumit

Thank you, Shilpi. I would like to thank all the panelists for spending time on this very relevant issue, and most importantly, for agreeing to speak. What I learned from today's conversation is that much remains to be resolved. There is no official explanation for the delay, and there is significant negative feedback and geopolitical pushback in India.

One idea to consider is that there may be alternative approaches to promoting competition in digital markets beyond the ex-ante model or conventional competition law—approaches currently being explored by countries such as Korea, Brazil, and Japan.

I would like to thank the panelists once again. We will be preparing a memorandum on this discussion and sending it to the Indian government.