

# Google's antitrust battle in India: The quest for digitisation with equity

The question is whether consumers should get affordable products even at the price of monopoly

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On January 19, the Supreme Court declined to interfere with the National Company Law Appellate Tribunal's (NCLAT) order that refused to stay the penalty imposed by the Competition Commission of India (CCI) on Google.

The CCI views Google's acts as anti-competitive. Imposing a fine of ₹1,337.76 crore on Google, it observed that original equipment makers (OEMs) had to enter into several agreements to use Google's applications and services. One of these is the Mobile Application Distribution Agreement (MADA), which licenses OEMs to freely distribute Google's proprietary applications to end-users within specified territories. However, for an OEM to install even one application from Google mobile services (GMS), it must agree to pre-load a full suite of Google applications on its device.

Further, MADA prescribes placement of Google applications

on the screen space. For example, a Google search widget and a folder (labelled Google) containing all GMS applications must be pre-loaded on the home screen of mobile or tablet devices. The CCI opined that Google's practices created a behavioural bias among users, eliminating competition.

It held that the bundling strategy furthered Google's dominance across markets and affected the viability of the competition in segments such as web browsing and online advertising. While an OEM is not obliged to pre-install any Google application, the CCI observed that the absence of these applications eroded the marketability of the devices.

Thus, in theory, OEMs may not be required to sign MADA and other agreements, but they did not have a commercially viable and meaningful choice. Accordingly, CCI concluded that the requirements imposed on OEMs could only be construed as anti-competitive. While levying the penalty on Google, it also drew up a list of cease-and-desist measures for the tech giant.



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The matter then went to the NCLAT, which listed a final hearing in April 2023. Aggrieved by NCLAT's denial of interim relief, Google approached the Supreme Court. The apex court refused to interfere with the proceedings at NCLAT, though it "requested" the tribunal to dispose of the appeal by March 31, 2023.

## A BLOW TO DIGITISATION?

In a blog titled 'The heart of the matter', Google said CCI's order strikes a blow at the ecosystem-

wide efforts to accelerate digital adoption in the country. It further stated that Android has been a vital part of the growth story of Indian mobile, and the development of affordable and high-quality applications was a huge challenge.

According to Google, the CCI's order poses a huge implication since India is a market where the cost of adoption is the most significant barrier.

Further, it was contended that the Android and GMS ecosystem has incentivised more app de-

velopers to make applications for Android.

Google expects CCI's order to increase exposure to online harm and create more privacy risks. The lack of secure, malware-free applications or system updates would make many internet users vulnerable to threats of financial fraud, data theft and other dangers on the internet. Lastly, Google contends that CCI's order will lead to higher cost of developing applications, which will make the smartphone costly for end-users.

Following the Supreme Court decision, Google introduced some changes in the Android ecosystem in India. OEMs will now be able to license individual Google applications for installation. In addition, Android users will have more options to customise their devices. As India stands at a critical juncture in the age of digitisation, it is essential to strike a delicate balance to attain maximum digital adoption while maintaining digital equity among market players.

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