

India must lead in regulating Big Tech

Big Tech firms have played a transformative role. But they enjoy power without accountability. Rein them in

It's obvious now. The internet, once the promised land of free and open interactions for all, is now controlled by a few gigantic technology companies — often referred to as Big Tech. These companies include Facebook, Apple, Amazon, Netflix, Google, Microsoft, Paypal, and some others.

Efforts to rein in the fast-growing power of these platforms has waxed and waned over the last few years. As a result, we have allowed media and economic power to be consolidated stealthily into the hands of a few Big Tech firms. But recent events in the United States (US), when these same companies shut down a sitting US president, without due process, have alerted us to their unchecked power.

We are all ardent users of Big Tech goods and services. Big Tech companies provide citizens powerful platforms to transact, express themselves, seek out information, and consume entertainment. Social media has democratised communications, weakening the power of traditional media gatekeepers and breaking the hold of prima donna editors who long held unchallenged power to influence pub-

lic opinion. Big Tech has brought us doorstep delivery of an extraordinary range of goods, services, and entertainment. It would be no exaggeration to say that it is Big Tech that enabled us to conduct our lives near-normally through the Covid-19 pandemic. In fact, modern life would not be possible without Big Tech.

While providing us these benefits, Big Tech has also been accumulating vast, unregulated powers. For instance, social media platforms have the power to shape narratives and, therefore, incite public behaviour. When used by bad actors, social media platforms become a dangerous force multiplier for fomenting hate and violence. Conversely, these platforms also have the power to silence opinions by playing the role of censor and publisher. But this power is firmly in the hands of Big Tech barons with no corresponding accountability and compliance requirements.

Similarly, e-commerce platforms have the ability to make or break millions of small merchants. Their pricing and promotion decisions can be managed subtly to favour some merchants and their own private label products. Once platforms start certain promotional schemes, their financial clout and consumer knowledge make

it impossible for other retailers to compete. Big Tech companies have also been avid acquirers of smaller, fast-growing companies — thereby snuffing out competition before it gets a chance to establish itself.

Big Tech firms have acquired extraordinary amounts of data on individuals. How we browse, what

goods we covet, where we shop, what shows we watch, what music we listen to, where we travel, who our friends are, who we follow — all this information is now sitting in vast server farms around the world. At a click, Big Tech barons can summon up this information and sell it to whoever they want. Moreover, this transaction happens outside the country beyond the reach of our tax authorities. So Big Tech takes full advantage of a country's prosperity yet makes limited tax contributions.

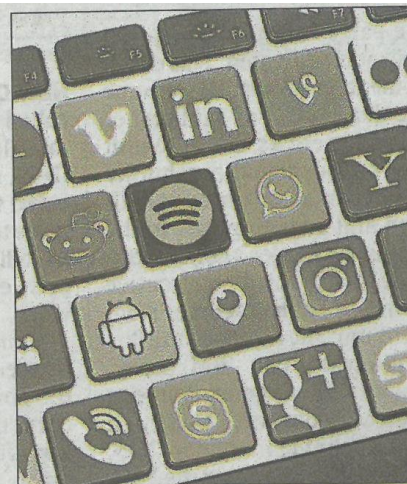
As Big Tech has become pervasive, its conduct has to be evaluated across multiple dimensions. First, are markets contestable and fair? Big Tech often engages in competitive practices that require detailed scrutiny by the Competition Commission of India. These practices include tying or bundling different products and services together, acquisition of competitors, predatory pricing, and exclusive



Jayant Sinha



Rajeev Chandrasekhar



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arrangements with the trade.

Second, how do we best tax these digital services? Economic activity that is based in India should be taxed appropriately in terms of transactions, income, and other earnings. Third, what is the best way to protect data? We need to ensure that data is appropriately localised and that individuals are provided full privacy protection. The joint parliamentary committee working on the data protection bill is evaluating all these issues.

Finally, we need to evaluate how to enable the right to free speech on social media platforms as per Article 19 in the Constitution of India. Note that our Constitution has clearly defined free speech and the limits that can be put on that right to free speech. The takedown policies, community standards or algorithms of all platforms must be compliant with and not go beyond Article 19(2) exceptions. Moreover, this standard has to be equitably applied as per Article 14. In effect, by applying these principles, platforms have become publishers.

Our current legal and technical framework has to evolve to regulate all these emerging Big Tech powers. Our framework must be integrated,