



A new digital competition regime

Proposal paper

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In the spirit of reconciliation, the Treasury acknowledges the Traditional Custodians of country throughout Australia and their connections to land, sea and community. We pay our respect to their Elders past and present and extend that respect to all Aboriginal and Torres Strait Islander peoples.

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Consultation Process

Request for feedback and comments

This proposal paper seeks information and views to inform policy development on a proposed new digital competition regime with upfront rules to promote effective competition in digital platform markets by addressing anti-competitive conduct and conduct that creates barriers to entry or exploits the market power of certain digital platforms. Questions are included throughout the paper to guide comments. Interested parties may wish to provide responses to some or all of the questions, or to comment on issues more broadly. While submissions may be lodged electronically or by post, electronic lodgement is preferred. For accessibility reasons, please submit responses sent via email in a Word or RTF format. An additional PDF version may also be submitted.

Publication of submissions and confidentiality

All information (including name and address details) contained in formal submissions will be made available to the public on the Australian Treasury website, unless you indicate that you would like all or part of your submission to remain confidential. Automatically generated confidentiality statements in emails do not suffice for this purpose. Respondents who would like part of their submission to remain confidential should provide this information marked as such in a separate attachment.

Legal requirements, such as those imposed by the *Freedom of Information Act 1982*, may affect the confidentiality of your submission.

If you would like to share information and views that may be sensitive, you are welcome to indicate that you would like all or part of your submission to remain confidential. Treasury also welcomes the opportunity to discuss your views in a meeting.

Closing date for submissions: 14 February 2025

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The principles outlined in this paper have not received government approval and are not yet law. As a consequence, this paper is merely a guide as to how the principles might operate.

A new digital competition regime

1. Why do we need a new competition regime for digital platforms?

The digitisation of the economy through the services offered by digital platforms has provided significant benefits for Australian consumers and businesses. However, the rise and dominance of large international platforms, their market power and ability to restrict competition, and their central role in facilitating interactions between businesses and consumers, have also created important regulatory challenges.

Australian businesses rely heavily on a few global digital platforms and the services they provide to access and engage with consumers. The significant market power of these platforms provides them with the ability to impose ‘take it or leave it’ terms on businesses and make unilateral decisions that have significant consequences for Australian businesses and flow-on effects for broader commerce. These include direct financial impacts for Australians, where increased costs are passed on to consumers.

There are multiple other examples of common pain points for Australian consumers and businesses. These include search engines and app stores preferencing their own products and services above those of rival businesses in rankings and search results; difficulties for a consumer trying to switch to a new brand of phone without losing data; difficulties for a small business trying to understand how their digital advertising dollars are being spent and whether they are getting value for money; and restrictions on app users trying to access payment options other than those offered by app store providers, including options which may offer cheaper prices on in-app purchases.

The Australian Competition and Consumer Commission (ACCC) has examined competition and consumer issues regarding digital platforms in Australia since 2017. Throughout the ACCC’s current Digital Platform Services Inquiry (2020 – 2025) (DPSI), the ACCC has identified a lack of effective competition in a range of digital platform services. The ACCC has also observed that the positions of substantial market power held by large digital platforms give them the ability and incentive to engage in strategic conduct to entrench and extend that market power. These systemic issues can impact businesses and consumers through higher prices, reduced choice, and lower innovation and quality of products and services.

The characteristics and dynamic nature of digital platform markets mean that enforcement of existing economy-wide provisions of the *Competition and Consumer Act 2010* (Cth) (CCA) may not on its own be sufficient to protect and promote competition, or well-suited to addressing the range and scale of competition harms identified in digital platform markets.¹ Further, the fast-moving nature of digital platform markets may mean that significant, and sometimes irreversible, damage to Australian businesses or consumers can occur, even where a successful outcome is achieved through litigation.

The ACCC recommended the government implement a new digital competition regime with ‘ex ante’ or upfront rules.² Ex ante upfront rules aim to prevent anti-competitive conduct from occurring in the first place. Traditional ‘ex post’ competition frameworks intervene after anti-competitive conduct has occurred, when consumers may have already experienced losses and competition has been stifled.

Multiple jurisdictions around the world have arrived at the same conclusion that traditional competition law is insufficient in addressing these issues. The European Union, the United Kingdom,

¹ ACCC, Digital Platform Services Inquiry, [September 2022 interim report on regulatory reform](#), pp 8-9.

² ACCC, Digital Platform Services Inquiry, [September 2022 interim report on regulatory reform](#).

Germany, Japan, India and Brazil have implemented or proposed new digital competition regimes with ex ante upfront rules. In the jurisdictions that have already implemented reforms, governments are expecting consumers to directly benefit from greater competition in digital platform services. For example, the European Commission has estimated a consumer benefit of EUR 13 billion (AUD 21.4 billion) per year,³ and the UK Government has estimated a consumer benefit of GBP 798 million (AUD 1.5 billion) per year.⁴

Treasury consulted on the ACCC's recommendations from 20 December 2022 to 15 February 2023.⁵ Following Treasury's consultation, the government released its response to the ACCC's recommendations on 8 December 2023.⁶ The government accepted the ACCC's findings that existing provisions by themselves are not sufficient to address current or potential future competition harms and supported-in-principle the development of a new digital competition regime.

The government's consideration of a new digital competition regime sits within the broader context of work underway in Australia to address issues and harms related to digital platforms. The proposed regime would complement the new Scams Prevention Framework being considered by Parliament, implementation of the government's response to the Privacy Act Review, the passing of Digital ID laws, work regarding the News Media and Digital Platforms Mandatory Bargaining Code, and ongoing work related to artificial intelligence. These efforts seek to ensure Australia has the right regulatory settings for the digital economy.

Purpose of consultation

This proposal paper seeks stakeholder views on the proposed approach to implement the government's response to recommendations for a new digital competition regime.

Your feedback will inform the government's consideration of the design of a proposed new digital competition regime and more broadly, how to regulate digital platform harms while still positioning Australia as an attractive economy for digital innovation.

By ensuring Australia has the right regulations to be a leading digital economy, Australian consumers, businesses and the economy can continue to enjoy the benefits and opportunities afforded by technology.

A consolidated list of questions can be found at section 7.1.

³ European Commission, [Europe fit for the Digital Age: New online rules for businesses](#).

⁴ UK Department for Business & Trade and UK Department for Science, Innovation & Technology, [Digital Markets, Competition and Consumers Bill Impact Assessment](#), November 2023, p 22.

⁵ Treasury, [Digital Platforms – Consultation on Regulatory Reform](#).

⁶ Australian Government, [Government's response to the ACCC Digital Platform Services Inquiry](#), 8 December 2023.

2. The proposed framework and legislative approach

The proposed framework would introduce new, upfront requirements for certain ‘designated’ digital platforms with a critical position in the Australian economy.

Amendments to the CCA would establish overarching principles, the ability to designate identified digital platform entities in respect of a specific service, broad obligations, enforcement and compliance mechanisms, and a framework for making subordinate legislation with detailed obligations applying at the service-level. Once a digital platform entity has been designated in respect of a specific service, the ACCC would be responsible for enforcing the obligations.

The legislation would set out the scope of digital platform services which would be subject to designation.

It is proposed that the first services to be investigated for designation under the regime would be app marketplace services and ad tech services. Comment is also sought on whether social media services should be similarly prioritised.

2.1. Overview of the government’s proposed approach

Treasury has worked closely with the ACCC to develop the proposed framework and key features of a new digital competition regime. The proposed framework would introduce new, upfront requirements for certain digital platforms with a critical position in the Australian economy. These requirements would complement enforcement of existing competition law.

As set out in Figure 1, the overarching framework would be established in primary legislation (likely the CCA) and supplemented by subordinate legislation (such as regulations):

- Primary legislation would contain key features such as designation, broad obligations, enforcement and compliance mechanisms and a framework for making subordinate legislation, and
- Subordinate legislation would impose further detailed obligations on specified digital platform services at the service level and would be developed by the government, in consultation with the ACCC.

The framework would provide the ability to designate digital platform entities in respect of specific services in primary law and impose upfront obligations to address identified competition harms.

The objective of the CCA is “to enhance the welfare of Australians through the promotion of competition and fair trading and provision for consumer protection”.⁷ We consider this proposed new framework sits appropriately within this objective. Further principles would be included as part of the regime’s provisions to clarify the goals of the framework.

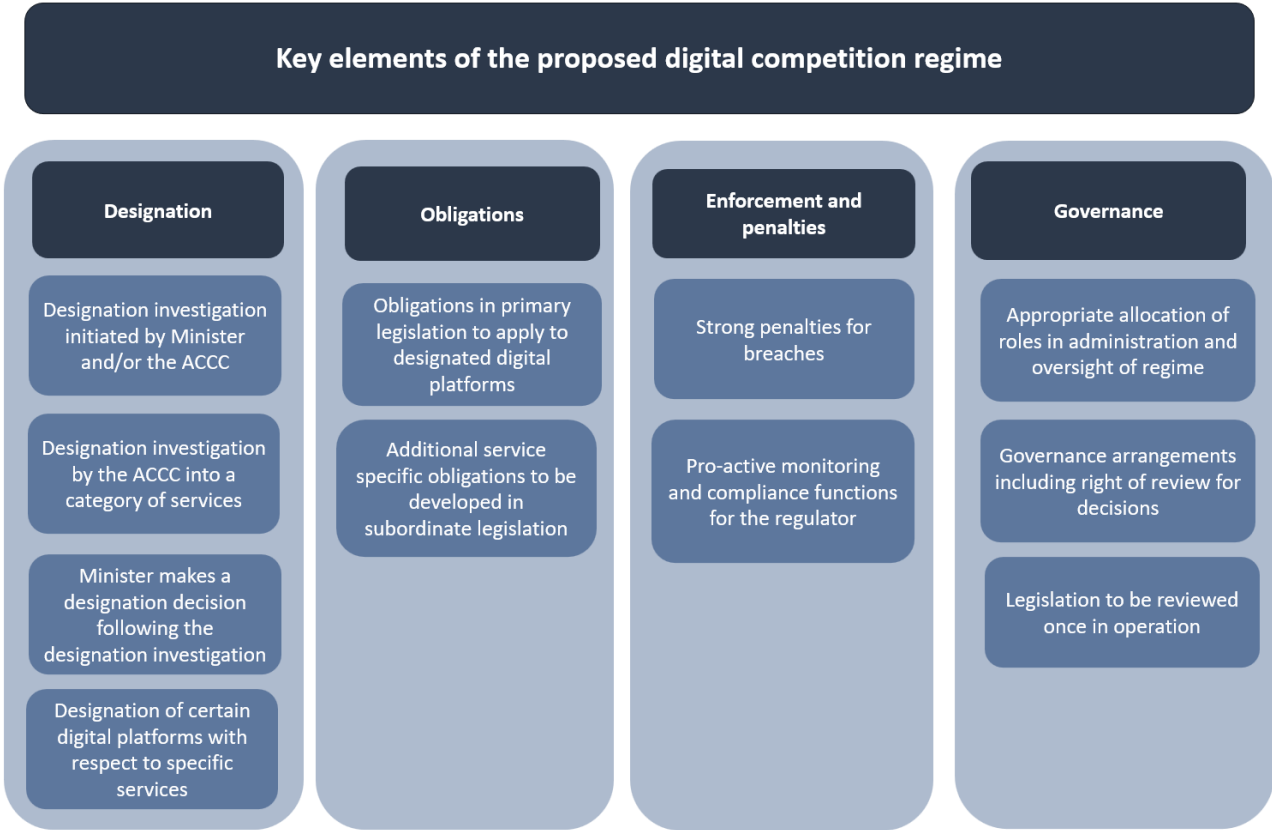
The proposed new digital competition regime would be administered by the ACCC through pro-active monitoring and compliance arrangements, which would be supported by effective enforcement powers with international coordination.

⁷ CCA, section 2.

The proposed regime is intended to be a model that is fit-for-purpose for the Australian context whilst being complementary and cohesive with international approaches. It has been informed by significant international developments in digital platform regulation in jurisdictions such as the European Union, the United Kingdom, Germany, Japan, and India (summaries of some of these regimes are set out at section 7.2).

As noted above, the proposed new digital competition regime sits within the context of other work underway in Australia by government to address policy issues and harms related to digital platforms, including scams, privacy reforms, the News Media and Digital Platforms Mandatory Bargaining Code, Digital ID and artificial intelligence. Treasury will engage with relevant agencies to ensure any new regulation is coherent with other policy work related to digital platforms.

Figure 1: Proposed framework



2.2. Scope of the proposed framework

The proposed framework would address identified competition issues in specific digital platform services that are not adequately addressed within the current competition framework. The proposed regime would be targeted to certain digital platforms in respect of services that have a critical position in the Australian economy and where there is the greatest risk of competition harms. It is not intended to be applicable across the economy. To ensure the proposed regime is appropriately targeted, the legislation would specify what parts of the digital economy would be captured by the new regime.

The term “digital platform services” is not currently defined in Australian legislation. The proposed regime would not adopt an all-encompassing general definition of “digital platform services”, as this is unlikely to provide adequate certainty for industry and may result in over-capture of services which are not the intended target of regulation. Instead, the proposed model draws on the current list-based

approaches used in Australia and overseas. The Ministerial Direction for the ACCC to conduct the Digital Platform Services Inquiry 2020-2025 lists “digital platform services”⁸ including internet search engine services, social media services, online private messaging services, and electronic marketplace services. Internationally, the European Union’s Digital Markets Act features a broad list of ‘core platform services’⁹ and India’s proposed Digital Competition Bill similarly specifies a list of ‘core digital services’.¹⁰

It is proposed that legislation would stipulate a list of digital platform services that would be regulated under the regime. The proposed list would include the digital platform services listed in the Ministerial Direction for the Digital Platform Services Inquiry¹¹ and could substantially align with the types of ‘core platform services’ subject to potential regulation under the European Union’s Digital Markets Act. For example, the list could include:

- app distribution services (app marketplace services)
- digital content aggregation platform services
- social media services
- search engine services (including general and specialised search services)
- electronic marketplace services (e.g. general online marketplace services)
- video-sharing platform services
- online private messaging services (including text messaging, audio messaging and visual messaging)
- operating systems
- web browsers
- virtual assistants
- cloud computing services
- online advertising services (including ad tech services)
- media referral services.

At the same time, the digital competition regime should be capable of addressing new and emerging digital platform services resulting from changes to technology and market dynamics. To do so, the framework would include an ability to update the list of specified digital platform services. For example, following advice informed by the ACCC’s proposed compliance and monitoring functions and a consultation process, the relevant minister could specify additional types of digital platform services that would be subject to the new competition regime in subordinate legislation.

⁸ [Competition and Consumer \(Price Inquiry—Digital Platforms\) Direction 2020](#), 10 February 2020.

⁹ EU [Digital Markets Act](#), Article 2.

¹⁰ Indian Ministry of Corporate Affairs, Draft Digital Competition Bill 2024 (see Annexure IV of the [Report of the Committee on Digital Competition Law](#), published March 2024), Schedule 1.

¹¹ [Competition and Consumer \(Price Inquiry—Digital Platforms\) Direction 2020](#), 10 February 2020.

2.3. Priority services

The ACCC's inquiries into digital platform markets including the DPSI have uncovered harms on a number of digital platform services. Building on the extensive work completed by the ACCC, Treasury sought further feedback on priority harms and priority services during its previous consultation. Treasury has also engaged extensively with international counterparts developing or implementing new regulation to inform the focus for the digital competition regime.

Throughout these processes, competition issues in the supply of app marketplaces and ad tech services were continually highlighted as priority concerns. In addition, ongoing and emerging concerns in the supply of social media services (including closed channel display advertising) might warrant action. The ACCC raised issues related to these services, including anti-competitive self-preferencing, anti-competitive tying, lack of transparency and the lack of interoperability between products and services. It is proposed that these would be the first services to be investigated for designation under the proposed framework.

App marketplace services

The Apple App Store and Google Play Store are the most significant app marketplaces in Australia.¹² For developers to reach customers, they must comply with the relevant terms of service, including restrictions on the use of alternative in-app payment systems and strict terms of access. These app marketplaces are either mandatory to use or have entrenched use on the relevant mobile operating system (OS) in Australia. The ACCC found the importance of app marketplaces for developers, and Apple and Google's dominance in mobile OS, gives these providers market power in mobile app distribution in Australia, and that it is likely that this market power is significant.¹³

App marketplaces have been a focus of international regulation, with both Japan and South Korea implementing specific regulation, and the European Union designating relevant app marketplace providers as part of the Digital Markets Act. Anti-competitive conduct in the supply of app marketplaces has also been the subject of numerous investigations and court proceedings by regulators and the business users of platforms.¹⁴ During Treasury's consultation in 2022, a number of concerns were raised by stakeholders, including a lack of options for in-app payments, and issues with the app review process.

Ad tech services

Advertisers and publishers use technology services called 'ad tech services' to facilitate the buying and selling of digital display advertising through open display channels. Google is a major supplier of ad tech services in Australia, with products including Google Ads and Google Ad Manager.

The ACCC completed the Ad Tech Inquiry in 2021, making a number of findings and recommendations related to the supply of ad tech services.¹⁵ Many Australian businesses, including small businesses, depend on the ad tech supply chain to sell advertising space online (publishers) and to purchase advertising space to target potential customers (advertisers). However, the ACCC found that there is a lack of transparency in the supply chain, and that Google's vertical integration and strength in ad tech services has allowed it to engage in a range of conduct which has lessened competition over time and

¹² ACCC, Digital Platform Services Inquiry, [March 2021 interim report on app marketplaces](#), p 24.

¹³ ACCC, Digital Platform Services Inquiry, [March 2021 interim report on app marketplaces](#), p 4.

¹⁴ See for example the European Commission's EUR 1.8 billion fine issued to Apple for breaching European competition laws through anti-steering provisions that prevent music app streaming app developers from informing iPhone users about cheaper payment options outside the App Store ([4 March 2024](#)); and Epic Games' legal proceedings in Australia instituted against Apple in 2020 and Google in 2021 regarding their in-app payment requirements.

¹⁵ ACCC, Digital Advertising Services Inquiry 2020-2021, [Final Report](#).

entrenched its dominant position. Multiple international jurisdictions have also initiated investigations or court proceedings against Google in respect of alleged anti-competitive conduct in its supply of ad tech services.¹⁶

Social media services

Social media platforms provide important services for all Australians and are key intermediaries for businesses and advertisers to reach consumers.¹⁷ Significant concentration in this market can increase the risk of conduct that harms competition and consumers. Meta (through its Facebook and Instagram platforms) is the most significant and widely used supplier of social media services in Australia.¹⁸ The ACCC found that Meta has significant market power in social media, and relatedly, has a strong position among social media platforms for display advertising services on closed channels.¹⁹

Limited competition in the supply of social media services may result in consumers accepting terms and conditions that result in excessive data collection and use, which in turn provides dominant platforms with significant competitive advantages from its accumulation of data.

With respect to closed channel advertising, the ACCC's DPSI March 2023 interim report found some social media platforms do not offer advertisers sufficiently transparent or verifiable information about the performance of their advertisements.²⁰ This can increase advertisers' costs, which are ultimately passed on to consumers. Various issues in closed channel display advertising, such as a lack of transparency, price increases and poor customer service, were raised in Treasury's consultation.

Multiple international competition authorities have issued fines, investigations, or initiated proceedings against Meta in respect of alleged anti-competitive conduct²¹ in the supply of social media services, including its data practices.²² Ex ante regulation in Germany and the European Union have also targeted competition concerns in the supply of social media services.²³

¹⁶ For example, the European Commission opened formal proceedings into possible anticompetitive conduct by Google in the ad tech sector in June 2021 and, in [June 2023](#), issued a Statement of Objections with a preliminary view that Google has breached antitrust rules; the UK Competition and Markets Authority similarly issued a Statement of Objections in [September 2024](#) that it has provisionally found that Google has abused a dominant position through its conduct in ad tech; and in [January 2024](#), the US Department of Justice filed proceedings against Google for allegedly monopolising multiple ad tech products.

¹⁷ In Australia, Meta has the most users on mobile apps, the most advertisers and the largest amount of advertising revenue. See ACCC, Digital Platform Services Inquiry, p 8, 11.

¹⁸ ACCC, Digital Platform Services Inquiry, [March 2023 interim report on social media](#), p 8, 11.

¹⁹ ACCC, Digital Platform Services Inquiry, [March 2023 interim report on social media](#), p 8, 13, 89; ACCC, [Digital Platforms Inquiry Final Report](#), July 2019.

²⁰ ACCC, Digital Platform Services Inquiry, [March 2023 interim report on social media](#), pp 86-87.

²¹ For example, in [August 2021](#), the US Federal Trade Commission filed a complaint against Facebook that alleged it had abused its excessive market power to eliminate threats to its dominance, including using a 'buy or bury scheme'. On [14 November 2024](#), the European Commission fined Meta €797.72 million for breaching EU antitrust rules by tying its online classified ads service, Facebook Marketplace, to its social media network, Facebook, and imposing unfair trading conditions on Facebook Marketplace's competitors for its benefit.

²² For example, Italy's Autorità Garante della Concorrenza e del Mercato has issued numerous fines to Meta for data practices that have breached the Italian Consumer Code – most recently in [June 2024](#). In [December 2018](#), Germany's Bundeskartellamt found Meta (then Facebook) to be dominant in the market for social networks and that it abused its market power through its collection, merging and use of data in user accounts, and accordingly imposed restrictions on its processing of user data in 2019.

²³ For example, in September 2023, the [European Commission](#) designated the following social media services under the Digital Markets Act: Meta's Facebook and Instagram, ByteDance's TikTok and Microsoft's LinkedIn. In [May 2022](#), Germany's Bundeskartellamt designated Meta as a firm of paramount significance for competition across markets under section 19a of the German Competition Act.

The proposed framework and legislative approach

1. Are there any major implementation challenges associated with the proposed framework?
2. Is the proposed scope of digital platform services targeted appropriately? Are there any digital platform services that should be added or removed?
3. Do you agree with the proposal that app marketplaces, ad tech services and social media services should be prioritised as the first services to be investigated for designation under the framework?

3. Designation

Designation is a key mechanism to ensure the proposed digital competition regime is appropriately targeted. Designation would apply to a digital platform entity in respect of specific services it supplies. Once designated, digital platforms would be required to comply with obligations in the digital competition regime.

As with similar international regimes, designation decisions would be made based on specified designation considerations. The designation considerations would include both quantitative thresholds (such as Australian and/or global service-specific revenue and number of Australian end users or business users) and qualitative factors (such as the market position held by the digital platform in the relevant service and whether it holds an important intermediary position between groups of users, such as consumers and businesses). Following a designation investigation by the ACCC, the relevant minister would make the designation decision. In making the decision, the minister will consider the information relevant to the qualitative and quantitative elements, including the advice from ACCC.

3.1. Overview of designation

The new framework is intended to apply only to digital platforms with a critical position in the Australian economy and that are significant to Australian consumers and businesses. Designation is the key mechanism to target the obligations. Designation decisions would be made based on the designation considerations and would apply to digital platform entities in respect of a specific digital platform service they provide. For example, as discussed above, ad tech is a priority service for the proposed regime. Digital platform entities providing ad tech services would be investigated for possible designation. Following this investigation, the minister may choose to designate some of those entities in relation to the ad tech service they provide. Once designated, digital platforms would be required to comply with broad service agnostic obligations along with any relevant service-specific obligations.

While designation is used in various Australian contexts, for the purposes of the proposed framework it would ensure the regime is appropriately targeted to address problematic conduct in digital platform markets, while seeking to minimise unintended impacts and over capture of other entities.

The proposed regime seeks to provide a fair, clear and robust process for designation while affording sufficient flexibility and promoting timely outcomes.

3.2. Designation considerations

Designation considerations would include both quantitative and qualitative elements, which would be stipulated in legislation.

- **Quantitative thresholds** would include Australian and/or global service-specific revenue, Australian and/or firm-wide revenue, the number of Australian users or business users for the service and/or the relevant entity's market capitalisation.
- **Qualitative factors** would include the market position or degree of market power held by the digital platform in the relevant service, and whether it holds an important intermediary position for business users to reach end users.

Under the proposed framework, quantitative thresholds would act as the primary criteria to ensure the regime only targets large digital platforms with critical positions in the Australian economy. Specific metrics such as Australian and/or global service-specific revenue could be the initial quantitative threshold applied, with other thresholds used where sufficient information is not available. Quantitative thresholds would provide clarity and a degree of certainty to stakeholders on whether they could potentially be impacted by the digital competition regime. Where an entity does not meet any of the quantitative thresholds in respect of the relevant service, it is unlikely to be designated subject to rare circumstances (discussed below).

The proposed quantitative thresholds could be aligned with the metrics used by similar international regimes (discussed in Box 1), which would be adjusted to reflect the size of the Australian economy and population.

Box 1: Examples of quantitative thresholds in the European Union and the United Kingdom

The European Union's Digital Markets Act includes consideration of quantitative thresholds for:

- the annual European **turnover** or **market capitalisation** of the relevant entity or its corporate group (met where the entity or group achieves an annual turnover in Europe of at least EUR 7.5 billion in each of the last 3 financial years, or where its market capitalisation or fair market value amounted to at least EUR 75 billion in the last financial year), and
- **user numbers** for the relevant core platform service (met where the service had at least 45 million monthly active end users and 10,000 yearly active business users in the European Union in the last financial year).²⁴


The UK's *Digital Markets, Competition and Consumers Act 2024* includes one quantitative criterion based on the **turnover** of the relevant entity or its corporate group (satisfied where the regulator estimates either that the annual global turnover of the entity or group exceeds GBP 25 billion, or that the annual UK turnover of the entity or group exceeds GBP 1 billion).²⁵

Qualitative factors would include considerations such as the market position or degree of market power held by the digital platform in the relevant service and/or whether it holds a critical intermediary position between groups of users, such as businesses and consumers. A qualitative assessment would also allow some flexibility to consider different business models and services, and enable the decision maker to undertake a more holistic consideration of whether designation is appropriate. A qualitative assessment would be particularly relevant in the rare circumstances where it is unclear whether the quantitative thresholds are met because the relevant information is not available, unsuitable²⁶ or cannot be verified. Figure 2 below outlines the proposed application of the designation considerations.

²⁴ EU [Digital Markets Act](#), Article 3.

²⁵ UK [Digital Markets, Competition and Consumers Act 2024](#), section 7.

²⁶ For example, global digital platforms may record revenue that could be attributable to services provided to Australian users as revenue earned to international subsidiaries. In these cases, an entity's Australian-based revenue recorded for the service may not be a suitable indicator of whether designation is appropriate.

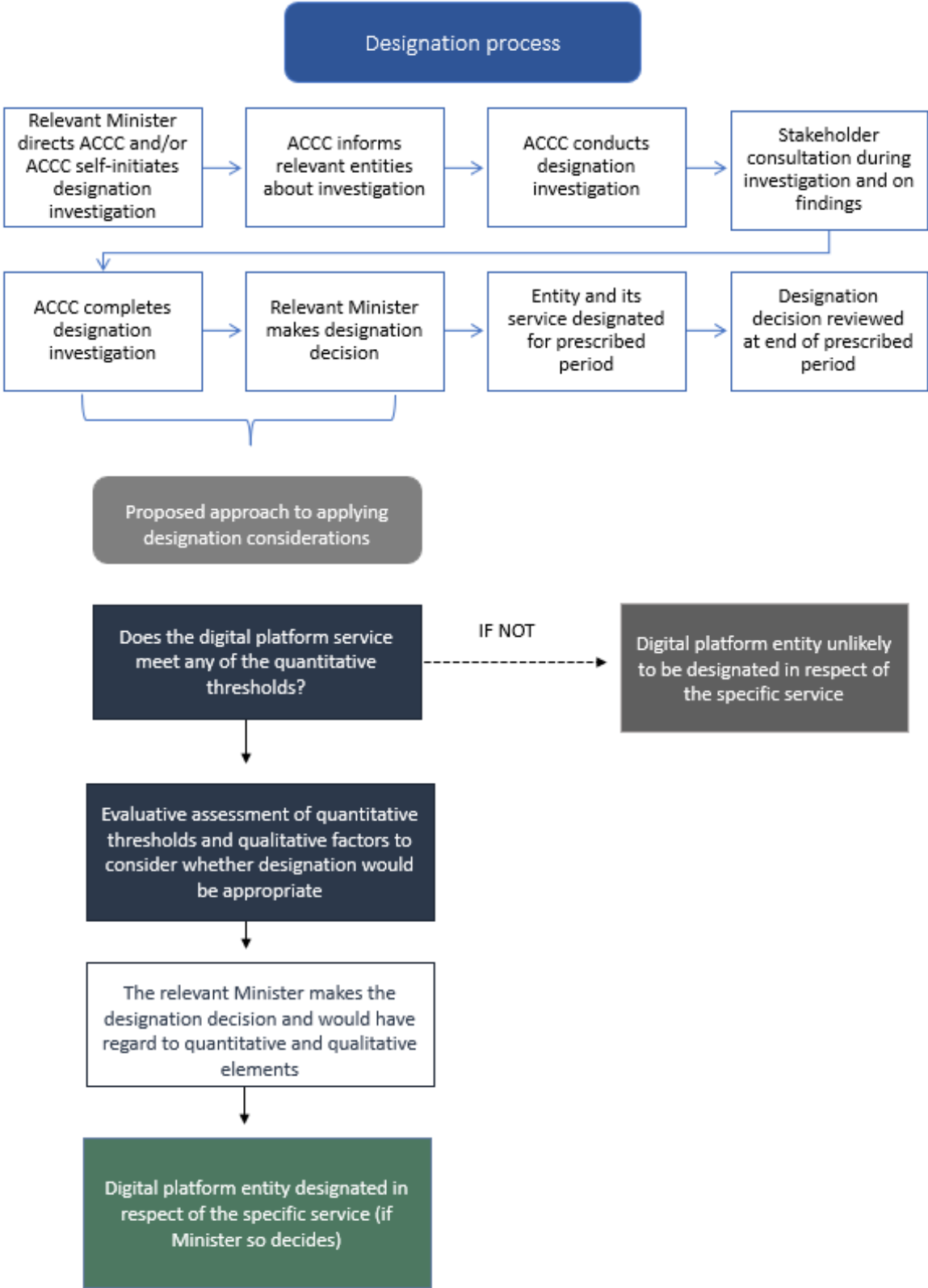


The considerations for designation would be informed by approaches used in international jurisdictions to promote regulatory alignment, and to reduce regulatory burden on large digital platforms subject to competition regimes in various jurisdictions. The proposed approach is broadly consistent with the European Union’s Digital Markets Act and the United Kingdom’s Digital Markets, Competition and Consumers Act. The proposed interaction between the quantitative and qualitative elements would be similar to the UK’s approach, which involves consideration of both qualitative and quantitative criteria, but requires a firm to meet certain turnover thresholds to be considered for designation.²⁷

Under the proposed framework, the relevant minister would make a designation decision, following an investigation conducted by the ACCC. In making the decision, the minister will consider the information relevant to the qualitative and quantitative elements, including the advice from ACCC. Further information on the designation process is at section 3.3.

²⁷ UK [Digital Markets, Competition and Consumers Act 2024](#), section 2.

Figure 2: Proposed designation process



3.3. Designation process and investigations

Under the proposed framework in Figure 2, the ACCC would be required to conduct a designation investigation. The relevant minister could direct the ACCC to conduct a designation investigation into a category of digital platform services. The ACCC could also self-initiate designation investigations. This would provide the benefit of enabling the ACCC to utilise information obtained through its pro-active monitoring and compliance functions (such as when issues come to light in the supply of particular services), while maintaining appropriate oversight of the proposed regime.

This designation investigation would be an evaluative assessment of whether it would be appropriate to designate any digital platforms that provide a specific category of services (such as app marketplaces) based on the quantitative thresholds and qualitative factors.

Once a designation investigation has been initiated, the ACCC would be required to inform relevant digital platforms providing the specific digital platform service about the investigation and to consult relevant parties. To identify the relevant digital platforms that would be in scope, the ACCC could have regard to findings from its previous inquiries and reports as well as public information on the major service providers in Australia. The ACCC would also be able to use information gathering powers to seek information and documents to inform its assessment. This would promote a timely process and ensure the veracity of the information provided. Further information on information gathering is at section 5.2.

Designation investigations would need to be completed within 6 months to ensure timeliness, with an option for a short extension where necessary.

On completion of its designation investigation, the ACCC would provide its findings to the relevant decision maker.

Internationally, the UK's Digital Markets, Competition and Consumers Act has similar requirements.²⁸ The UK Competition and Markets Authority (CMA) is required to conduct an investigation on whether a firm has 'strategic market status' before making a designation decision (SMS investigation). The CMA can initiate an SMS investigation where it has reasonable grounds to consider it may be able to designate the firm. As part of the process, the CMA must issue an SMS investigation notice to the firm (outlining the reasonable grounds, purpose and scope) and must carry out a public consultation. The CMA must give notice of its decision within 9 months and publish a statement summarising the notice.

3.4. Designation decisions and the relevant decision maker

The relevant minister would be the decision maker in respect of designation decisions under the proposed framework. This would ensure appropriate oversight and governance for the digital competition regime.

The relevant minister would make their decision by way of subordinate legislation following the completion of a designation investigation by the ACCC.

Once a digital platform entity is designated in respect of a specific service, it would be designated for a prescribed period and would be required to comply with obligations under the regime.

Treasury will consider whether the ACCC would be required to publish a non-confidential summary of its designation investigation findings to promote transparency and provide stakeholders with a greater understanding of the designation process.

²⁸ UK [Digital Markets, Competition and Consumers Act 2024](#), sections 9-14.

3.5. Duration of designation decisions

Treasury proposes that designation should apply for 5 years under the new digital competition regime (designation decisions may be able to be reviewed before the expiry of the 5-year timeframe in limited instances, for example where there is a material change in circumstances). Designation decisions could be renewed, following a process to ensure designation is still appropriate, based on the relevant considerations.

Internationally, designation decisions under the German and UK regimes last up to 5 years.²⁹ Under the Digital Markets Act, the European Commission will review whether ‘gatekeepers’ meet the requirements for designation at least every 3 years, including whether the list of ‘core platform services’ needs to be updated.³⁰

Designation

4. What are the benefits and risks of the various designation approaches taken or proposed internationally?
5. Would the proposed quantitative thresholds and qualitative factors appropriately target entities that are significant to Australian consumers, businesses and the economy? What other quantitative thresholds or qualitative factors should be considered to ensure they are adaptable to a variety of circumstances? How could any risks of over and under capture be mitigated?
6. For quantitative thresholds, the proposed regime would draw on the threshold levels used by international regimes, adjusted to reflect the size of the Australian economy and population. Is this approach appropriate?
7. Are there any circumstances where quantitative thresholds may be sufficient by themselves to inform a designation decision and if so, what circumstances would they be?
8. The proposed framework provides the relevant minister the ability to direct the ACCC to conduct designation investigations and the ACCC to also self-initiate designation investigations. On what basis should the ACCC be able to self-initiate investigations?
9. Should the ACCC be required to publish a non-confidential summary of its designation investigation findings?
10. The digital competition regime proposes designation to last for up to 5 years. Is this time period appropriate?

²⁹ UK [Digital Markets, Competition and Consumers Act 2024](#), section 18; Federal Ministry of Justice, [Act against Restraints of Competition](#), as amended by Article 4 of the Act of 9 July 2021 (Federal Law Gazette I, p 2506), section 19a(1)–(2).

³⁰ EU [Digital Markets Act](#), Article 53.

4. Potential obligations

The proposed framework would include the use of broad obligations to target anti-competitive conduct, conduct that creates barriers to entry, and unfair treatment of business users, as well as the ability to establish service-specific obligations in subordinate legislation (such as regulations). All designated entities would be required to comply with the broad obligations in respect of their designated services. Service-specific obligations would only apply to entities designated in respect of the relevant service.

The proposed framework would also provide for the ACCC to grant exemptions permitting conduct that may otherwise breach obligations, in order to minimise the risk of unintended consequences.

4.1. Potential broad and service-specific obligations

There is a spectrum of approaches to addressing anti-competitive conduct in digital platform markets. On one end, obligations can be broad, with each regulated digital platform service subject to the same broad obligations (for example, prohibitions on anti-competitive tying and self-preferencing and requirements regarding transparency and data portability), as in the European Union's Digital Markets Act.³¹ On the other end, obligations can be targeted specifically to the service. For example, obligations for app marketplace services can be fully tailored and separate to obligations for ad tech services.

The proposed framework would include the use of both broad and service-specific obligations to target anti-competitive conduct occurring across digital platform services and identified issues in particular services. The obligations would be established through primary and subordinate legislation. This proposed hybrid model – which aims to leverage the strongest parts of various international regimes – would provide a scalable and adaptable approach, with adequate parliamentary scrutiny and clarity for stakeholders.

Under the proposed model, broad obligations specified in primary legislation would set the general scope of the obligations of the new regime, and promote consistency in the application of regulation across different platform services.

However, given the dynamic nature of digital platform services, and the different business models and service offerings, the proposed regime would also have flexibility to provide service-specific obligations for each designated service type. Having more specific obligations targeted at the service level would clarify the requirements of the broad obligations for each service. These service-specific obligations would be contained in subordinate legislation (developed by government, in consultation with the ACCC), and could be updated over time as needed to respond to market and technology changes. This flexibility has the added benefit of adjusting for any avoidance or 'malicious compliance' behaviour by platforms. New or updated service-specific obligations would be made following stakeholder consultation.

This hybrid model is similar to the new ex ante digital competition model recently proposed by the Indian government.³² Under India's Draft Digital Competition Bill 2024, designated entities would be

³¹ See section 7.2 for further information on various international regimes, including the Digital Markets Act.

³² Indian Ministry of Corporate Affairs, Draft Digital Competition Bill 2024 (see Annexure IV of the [Report of the Committee on Digital Competition Law](#), published 12 March 2024). The Ministry of Corporate Affairs consulted on the Bill between March and May 2024 and, as at the date of this paper, has not published a response to the consultation.

required to comply with broad service-agnostic obligations set out in primary law. The competition regulator would be empowered to make regulations specifying mandatory separate conduct requirements for each 'core digital service' in relation to the primary law obligations. Where a designated entity complies with the regulations for its designated service(s), it is deemed to have complied with the primary law obligations.³³

Broad obligations

The proposed framework would include broad obligations to target anti-competitive conduct that is common across different digital platform services, which would be contained in primary legislation. If an entity is designated, it would be required to comply with these obligations in respect of the relevant designated service(s). For example, broad obligations would target:

- Anti-competitive self-preferencing
- Anti-competitive tying
- Impediments to consumer switching
- Restrictions on interoperability that limit effective competition
- Unfair treatment of business users
- Lack of transparency.

Service-specific obligations

In addition to broad obligations, the proposed framework would enable the establishment of service-specific obligations which would be contained in subordinate legislation (such as regulations) developed by government, in consultation with the ACCC. These obligations would only be relevant for entities designated in respect of that service. For example, app marketplace obligations would only be relevant to entities designated for providing app marketplace services.

The main purpose of the service-specific obligations would be to inform the content and application of the broad obligations, and each service-specific obligation would be linked to one of the broad obligations. For example, app marketplace obligations would specify in greater detail the requirements of designated app marketplace service providers in fulfilling their broad obligations regarding anti-competitive self-preferencing, unfair treatment of business users, etc.

The service-specific obligations will generally be confined to the conduct within the supply of the specified service. However, in some circumstances, obligations would extend to conduct occurring in the supply of other related services, where competition harms are occurring as a result of the digital platform's market power or control of the related service. For example, service-specific obligations for app marketplaces could address harms occurring in the supply of app marketplaces through a platform's control of the mobile OS, where the conduct closely relates to the supply of apps or app marketplaces.

Table 1 below sets out examples of conduct that could be addressed through broad obligations and service-specific obligations under the proposed regime. These examples are presented for preliminary feedback from stakeholders on the types of obligations that could form part of the regime.

³³ Indian Ministry of Corporate Affairs, Draft Digital Competition Bill 2024, section 7.



How broad and service-specific obligations would work together

All designated entities would be required to comply with the broad obligations in respect of their designated service, regardless of whether or not service-specific subordinate legislation has been made for that service.

It is anticipated that in most cases, where a designation has been made in respect of a service, service-specific subordinate legislation would also be made for that service. In these circumstances, the entities designated for that service must comply with the service-specific obligations in order to comply with the broad obligations. Non-compliance with a service-specific obligation would automatically constitute breach of the relevant broad obligation.

Table 1: Examples of conduct to be addressed through obligations in the proposed digital competition regime

Categories of conduct that could be addressed through broad obligations	Specific conduct identified by the ACCC that could be addressed in subordinate legislation for app marketplaces	Specific conduct identified by the ACCC that could be addressed in subordinate legislation for ad tech services
Anti-competitive self-preferencing	App marketplaces providing more favourable treatment to their own apps in app store search result rankings	Ad tech providers directing demand from their display-side platforms to their own supply-side platforms
	App marketplaces using commercially sensitive data collected from the provision of app store services to develop their own apps	Ad tech providers using their own publisher ad servers to preference their own supply-side platforms
		Ad tech providers using their control over auction rules in their publisher ad servers to advantage the provider's other services
Anti-competitive tying	App marketplaces requiring app developers to use their first party in-app payment systems as a condition of using their app store	Ad tech providers requiring advertisers to purchase important ad inventory using that provider's own ad tech services
	Mobile OS providers requiring device manufacturers to pre-install other first-party apps as a condition of pre-installing their app stores	
Impediments to consumer switching	App marketplaces restricting developers' ability to communicate to consumers regarding alternative payment or purchase channels	
	Mobile OS providers restricting users' ability to delete or un-install apps on a mobile OS	

Categories of conduct that could be addressed through broad obligations	Specific conduct identified by the ACCC that could be addressed in subordinate legislation for app marketplaces	Specific conduct identified by the ACCC that could be addressed in subordinate legislation for ad tech services
	Mobile OS providers restricting users' ability to switch between services or apps accessed via a designated service	
Restrictions on interoperability that limit effective competition	Mobile OS providers not providing third-party providers of apps and services with reasonable and equivalent access to hardware, software, and functionality	Ad tech providers restricting how their supply-side platforms work with third-party ad servers
	Mobile OS providers restricting the use and download of third-party app stores (including cloud gaming stores) on their OS	
Unfair treatment of business users	App marketplace providers imposing restrictive terms and conditions for access to their app stores	Ad tech providers not managing conflicts of interest arising from its position as a supplier of services across the supply chain and not acting in the best interests of advertisers or publishers
	App marketplace providers imposing different rules for first-party and third-party app providers	
	App marketplace providers imposing terms and conditions that restrict business users from exercising or enforcing their legal rights	
Lack of transparency	App marketplace providers not providing sufficient transparency over policies and processes governing app review and approval	Ad tech providers not providing advertisers and publishers with transparent information about the price and quality (performance) of their services, limiting informed decision-making

Limited power for ACCC to set rules on matters of technical detail

In some regulatory regimes, the regulator has some powers to make enforceable rules on matters of detail. Such powers are typically limited and relate to facilitating the ongoing administration and enforcement of the regime. For example, under the Gas Market Code, the ACCC can make a determination specifying additional requirements for record keeping by suppliers;³⁴ and the Australian Communications and Media Authority is able to set technical standards, labelling requirements and equipment rules in various contexts for telecommunications, broadcasting and radiocommunications.³⁵ These rule making powers can be useful in fast moving or high-risk sectors, provided there are clear governance arrangements and limitations around their creation. For the proposed digital competition regime, consideration will be given as to whether the ACCC should be given a limited power to develop rules to further specify the technical requirements for obligations (for example, specifying an applicable standard³⁶ for an obligation).

4.2. Exemptions

The overriding focus of a new digital competition regime would be on promoting effective competition to benefit Australian consumers and businesses. It is important that regulation does not inadvertently generate negative consequences for consumers or businesses, such as reduced availability or quality, or increased cost of some services.

The proposed framework would provide for the ACCC to grant exemptions to permit conduct that may otherwise breach obligations in order to minimise the risk of such unintended consequences. Australian competition law already provides an exemptions-like mechanism by allowing the ACCC to explicitly authorise conduct that would otherwise breach this law.³⁷ Exemptions are also a feature of some upfront digital competition regimes internationally. For example:

- the European Union's Digital Markets Act provides for the European Commission to fully or partially exempt a designated digital platform from a particular obligation on the grounds of public health or public security³⁸
- the UK's regime provides for a 'countervailing benefits' exemption, where the CMA can exempt a designated platform from complying with a particular obligation if it considers that the benefits to users from the non-compliant conduct outweigh any actual or likely detrimental impact on competition, those benefits could not be realised without the conduct, the conduct is proportionate to the realisation of those benefits, and the conduct does not eliminate or prevent effective competition.³⁹

Grounds for exemptions

The grounds for granting an exemption would require some flexibility to ensure they are adaptable to a wide range of circumstances. However, there should be a high threshold for granting an exemption, given the potential harms of conduct that would otherwise breach an obligation, and to promote

³⁴ Competition and Consumer (Gas Market Code) Regulations 2023, section 33(3).


³⁵ See Australian Communications and Media Authority, [Technical standards](#).

³⁶ For example, standards made by the ISO (International Organization for Standardization) and IEC (International Electrotechnical Commission). These organisations publish international standards on a wide range of matters including technology.

³⁷ See for example Part VII of the CCA.

³⁸ EU [Digital Markets Act](#), Article 10.

³⁹ UK [Digital Markets, Competition and Consumers Act 2024](#), section 29.



compliance and the effective administration of the regime. It is proposed that the threshold for a 'countervailing benefits' exemption under this regime would be higher than the current 'net public benefit' test for authorisations under section 90(7)(b) of the CCA. Alternatively, to reduce the risk of overuse of exemptions applications, the regime could also include a more targeted model with grounds for exemptions tailored for individual obligations (for example, exemptions for privacy and security reasons would likely be relevant for some obligations but not all). However, overall having more flexible grounds is likely to be preferable to avoid any unintended consequences of a more limited exemptions regime.

To promote coherence with international regimes, when determining whether to grant an exemption, the ACCC could take into account any similar exemptions granted overseas in respect of the relevant obligation, where it is appropriate to the Australian context and legal frameworks.

Process for exemptions

A designated digital platform seeking an exemption from a particular obligation would make an application to the ACCC. The ACCC would have a specified timeframe to assess the application (e.g. 6 months), and could use information gathering powers and consultation processes to inform its assessment. The ACCC would only be required to grant an exemption where a platform has demonstrated the relevant grounds to the ACCC's satisfaction. Where a platform has applied for an exemption, the relevant obligation should continue to apply until an exemption is granted.

Where an exemption is granted, the ACCC would have the ability to initiate a review of the exemption decision in certain circumstances (for example, where the ACCC considers a condition to which the exemption was expressed to be subject has not been complied with, or where there has been a change of circumstances since the exemption was granted).

Obligations and exemptions

11. What are the costs, benefits and risks of the proposed framework comprising both broad and service-specific obligations? How can any costs or risks be mitigated? How should broad and service-specific obligations interact?
12. Are there any additional types of anti-competitive conduct common across different digital platform services the government should consider when drafting broad obligations?
13. For app marketplaces, ad tech services and social media services, are there any additional types of anti-competitive conduct in the supplies of these services the government should consider when drafting service-specific obligations?
14. Are there particular obligations or design features in similar regimes in international jurisdictions the government should consider including or not including in a regime in Australia?
15. What are the benefits and risks of various international approaches to exemptions (such as the EU's Digital Markets Act and the UK's Digital Markets, Competition and Consumers Act)?
16. For the grounds for exemption, would a broad 'countervailing benefits' exemptions mechanism with a high threshold be appropriate? What measures should there be to reduce the risk of vexatious applications?
17. Are there any potential obligations for which exemptions should not be available?

5. Enforcement and compliance

The ACCC would be responsible for monitoring compliance and enforcing breaches of obligations under the proposed digital competition regime. As part of this function:

- the ACCC would continue to monitor developments and issues in digital platform markets, and engage closely with international regulators
- information gathering powers would be included in the proposed digital competition regime to assist with obtaining accurate information for designation investigations, assessing exemption applications, updating obligations and monitoring compliance
- the ACCC would prepare regulatory guidance and engage with stakeholders to assist with compliance, and
- there will be a mechanism to allow the ACCC to consider and accept compliance proposals from designated digital platforms to implement compliance measures in other jurisdictions to Australia.

Treasury will consider whether additional penalties are required to promote compliance and act as an effective deterrent, and whether record keeping requirements are needed to administer the regime.

5.1. Pro-active monitoring and compliance functions

The proposed digital competition regime would require pro-active monitoring, compliance and international and domestic coordination functions to support its development and administration. As part of these functions, the ACCC would continue to monitor digital platform markets to ensure the proposed framework can address harms by new or emerging digital platform services. Ongoing monitoring could also inform future designation investigations and assist with updating service-specific obligations.

International and domestic engagement would be an important aspect of these functions. This would include engaging with industry stakeholders and providing guidance material to clarify obligations and assist compliance, and continued efforts regarding digital platforms regulation in Australia (such as the ACCC's participation in the Digital Platform Regulators Forum or DP-REG).⁴⁰ Internationally, collaborating and working closely with overseas authorities would promote regulatory consistency, and ensure Australia is well-placed to leverage the experience of international regulators administering similar regimes.

⁴⁰ See [Digital Platform Regulators Forum](#).

5.2. Information gathering powers and tools

Information gathering powers

The government, in its response to the fifth interim report of the DPSI, noted that it would consider providing the ACCC with information-gathering powers to enforce a new digital competition regime and other reforms.⁴¹

Including information gathering powers as part of the proposed digital competition regime would enable the ACCC to obtain accurate and necessary information, documents and data from global firms in international jurisdictions.⁴² It is proposed that the ACCC's information gathering powers under section 155 of the CCA would be made available for the digital competition regime. This would enable the ACCC to compel information, documents and require company executives to appear before the ACCC and provide oral evidence to assist with:

- assessing whether it would be appropriate to designate a digital platform based on the designation considerations, as part of designation investigations
- monitoring ongoing compliance once a platform is designated
- informing the development of further service-specific obligations
- investigating potential breaches of obligations or compliance proposals (see section 5.3), and
- assessing exemption applications and compliance proposals.

Amendments to the ACCC's information gathering powers will be made as part of the proposed merger reforms. These changes to the CCA will enable the ACCC to seek relevant information and evidence, including from individuals carrying on a business in Australia, but who are not present in Australia.⁴³

Any information gathering powers will require appropriate safeguards to ensure they are used in appropriately and proportionately, given such powers can impose burden and compliance costs on affected parties.

Compliance functions and record keeping rules

Other tools may also be needed to administer the regime, such as mandatory reporting requirements for designated platforms. For example, the European Union's Digital Markets Act requires 'gatekeepers' to report annually on their compliance efforts and provide supporting documentation.⁴⁴ A similar requirement would be considered for the proposed digital competition regime.

Record keeping rules would also be considered as part of the proposed digital competition regime to assist with designation investigations and monitoring compliance. For example, designated digital platforms could be required to hold certain information such as Australian and/or global revenue, user numbers in Australia, data relating to the content of the obligations, records of compliance measures and complaints numbers in a standardised format. Limited record keeping requirements could also

⁴¹ Australian Government, [Government response to the ACCC Digital Platform Services Inquiry](#), 8 December 2023. See also Australian Government, [News Media and Digital Platforms Mandatory Bargaining Code: The Code's first year of operation – Government Response](#), 18 December 2023.

⁴² ACCC, Digital Platform Services Inquiry, [September 2022 interim report on regulatory reform](#), p 190.

⁴³ Treasury, [Merger Reform: A Faster, Stronger and Simpler System for a More Competitive Economy](#), p 8.

⁴⁴ EU [Digital Markets Act](#), Article 11. See also European Commission, [Designated gatekeepers must now comply with all obligations under the Digital Markets Act](#), 7 March 2024.

apply to entities that have not yet been designated to assist with designation decisions. For example, entities that meet specified global revenue thresholds may be required to maintain certain records (such as Australian revenue and user numbers). Entities would be required to retain records for a specified period (such as 2 years) to assist with monitoring compliance. Record keeping requirements are used in other sectors in Australia including telecommunications, banking and finance.⁴⁵

Consideration would also be given to empowering the ACCC to set record keeping rules to more directly monitor compliance with detailed obligations, as part of potential rule-making powers discussed in section 4.1.

Any record keeping rules would need to be carefully considered to ensure their utility is balanced with potential regulatory burden on designated digital platforms.

Where appropriate, some of the information collected under the proposed record keeping rules could be made public if it would be of benefit to consumers and/or business users of platforms.

5.3. Mechanisms to recognise compliance overseas as compliance in Australia

In recommending a new digital competition regime, the ACCC noted that many stakeholders supported consistency and coherence between international regulatory regimes. Given the global reach of many digital platforms, the benefits of international coherence include reducing the burden and compliance costs on platforms and other affected stakeholders, supporting greater and faster compliance with any new obligations in Australia, and assisting international agencies to coordinate on these cross-jurisdictional issues.

To promote international coherence, the new regime would include a mechanism to allow platforms to give compliance proposals noting their compliance measures adopted for similar overseas regimes, and committing that those same measures would be rolled out in Australia.⁴⁶

For example, a platform could submit a compliance proposal to the ACCC about their compliance measures in other jurisdictions and how the platform will apply those measures in Australia. The ACCC would assess the compliance proposal to ensure that the platform's proposals are suitable for the Australian market and legal framework and the intent of the Australian digital competition regime. The ACCC may also negotiate the terms of the compliance proposal with the platform as necessary (for example, where some customisation is required in the context of the Australian market). The ACCC could use information gathering powers and other consultation processes to inform its assessment. Where a platform has offered a compliance proposal, the relevant obligation(s) would continue to apply until the proposal is accepted.

If the platform submits an appropriate compliance proposal that is accepted by the ACCC, this would have the effect of the platform being 'deemed' to meet some or all of the obligations that apply to the platform under the Australian regime in respect of the relevant service. Penalties would apply for breach of the proposal, with maximum penalties set at the same level as penalties for a breach of the obligations.

Where the ACCC has accepted a compliance proposal, it would have the ability to withdraw or vary the proposal in certain circumstances (for example, where there has been a change in circumstances since the proposal was accepted). Platforms would also be able to withdraw or vary their compliance proposals with the consent of the ACCC.

⁴⁵ See for example, section 60 of the *Banking Act 1959* (Cth); section 76A of the *Life Insurance Act 1995* (Cth); section 49Q of the *Insurance Act 1973* (Cth) and Part XIB of the CCA.

⁴⁶ It is proposed that the potential compliance proposal mechanism for this regime would be separate to the general undertakings mechanism under section 87B of the CCA.

5.4. Penalties (monetary and non-monetary)

The proposed digital competition regime should have sufficient penalties to effectively deter harmful conduct and promote compliance with obligations, such as the largest available under CCA.

Overseas jurisdictions have implemented or proposed significant penalties for digital platforms that breach upfront competition rules. For example, under the European Union's Digital Markets Act, the European Commission can impose fines for non-compliance for up to 10 per cent of a firm's worldwide annual turnover and up to 20 per cent of worldwide turnover for repeated infringements.⁴⁷ The EC may also impose behavioural or structural remedies in cases of systematic non-compliance.

The UK regime also includes the ability to impose significant fines of up to 10 per cent of global turnover for breaches, and to impose civil penalties on senior managers for non-compliance with information requests.⁴⁸ The UK CMA can also impose a range of pro-competition interventions on SMS firms, including behavioural or structural remedies, to address the sources of market power.⁴⁹

Following the passing of the *Treasury Laws Amendment (More Competition, Better Prices) Act 2022* (Cth), maximum financial penalties for businesses for a breach of a provision under the CCA is the greatest of AUD50 million, three times the value of the benefit obtained, or 30 per cent of adjusted turnover during the breach period.⁵⁰ Treasury considers that these maximum penalty amounts are appropriate for the proposed digital competition regime. Treasury will consider whether the regime should allow the ACCC to issue an infringement notice for an alleged breach as an alternative to applying to the court for a pecuniary penalty order.

In addition to monetary penalties, Treasury's view is that the proposed digital competition regime should allow for other types of orders available under the CCA including injunctions, declarations and disqualification orders.⁵¹ At this stage, we do not propose that the regime would provide for structural remedies (that is measures requiring changes to the structure of an entity, for example, an order for an entity to sell part of their business or assets to a rival or new entrant). However, Treasury will consider whether the regime should include a mechanism for the ACCC to require that, where a platform has implemented a structural remedy overseas under an equivalent international regime, the platform roll out that same remedy in Australia.

5.5. Obligations would apply while reviews or applications are underway

It is expected that designated digital platform entities would be required to comply with all relevant obligations while reviews or applications are underway. For example, this would include:

- where an entity has applied for review of certain decisions (such as designation), the entity would be required to comply with the decision while waiting for the review to be finalised
- where an entity has offered a compliance proposal to the ACCC, the relevant obligations would apply until the ACCC accepts the proposal, and
- where an entity has applied for an exemption from a particular obligation, the relevant obligations would apply until the ACCC grants the exemption.

⁴⁷ EU [Digital Markets Act](#), Article 30.

⁴⁸ UK [Digital Markets, Competition and Consumers Act 2024](#), sections 85-87.

⁴⁹ UK [Digital Markets, Competition and Consumers Act 2024](#), part 1, chapter 4.

⁵⁰ Treasury Laws Amendment (More Competition, Better Prices) Act 2022.

⁵¹ Disqualification orders allow the Court to impose a time period during which the person cannot be involved in the management of a company (CCA section 86E).

This would ensure that the proposed regime retains flexibility and balances a robust and fair process with the importance of achieving timely outcomes.

Enforcement and compliance

18. What safeguards are required to ensure any information gathering powers for the proposed regime are used appropriately?
19. The proposed framework could include record keeping requirements for designated digital platforms to record and keep certain information in a standardised format. How could these requirements be scoped to limit regulatory burden? Would there be any public benefit of publishing some of these records?
20. The regime could include limited record keeping obligations for entities that meet specified global revenue thresholds but are not yet designated. How could this requirement be scoped to limit regulatory burden and impacted entities? Are there any risks of this approach and how could these be mitigated?
21. What guidance or resources would be needed by stakeholders to clarify and assist compliance with the obligations?
22. Are increased monetary penalties and/or new specific non-monetary penalties required in the new digital competition regime? If so, why?
23. Should the new digital competition regime provide for structural remedies similar to those available in overseas regimes? Alternatively, should the regime include a mechanism for the ACCC to require that, where a platform has implemented a structural remedy overseas under an equivalent international regime, the platform roll out that same remedy in Australia?
24. Is the proposed compliance proposals regime an efficient and workable way of recognising platforms' compliance with similar international regimes as compliance in Australia?

6. Other implementation considerations

Other factors to consider in implementing the proposed digital competition regime include:

- **Review of decisions:** Treasury will consider whether merits review would be appropriate for any decisions under the regime.
- **Potential cost recovery arrangements:** the proposed regime would require ongoing resourcing to support its administration and enforcement. Treasury will consider potential funding arrangements, including cost recovery from industry.
- **International alignment and pace of reform:** internationally, several major jurisdictions have implemented or proposed similar reforms for digital platform services. There is benefit in Australia positioning itself as a ‘fast follower’. This would ensure Australia is well-positioned to learn from and leverage successful reforms overseas, while ensuring that Australian businesses and consumers enjoy the same benefits as their overseas counterparts are gaining from similar reforms.
- **Ensuring the regime is flexible and fit-for-purpose:** the proposed regime would include several mechanisms to ensure the framework is flexible and remains fit-for-purpose to address harms in fast moving and dynamic digital platform markets.

6.1. Review of decisions

The ability for affected parties to seek reviews of decisions in a robust, timely and effective way is an important safeguard and would promote the integrity of the proposed framework. Whether review on the merits is available would impact the regulated entities as well as the timeliness, effectiveness and costs of a new competition regime. While merits review enables parties to comprehensively appeal a decision, it does not apply in some contexts where the nature, effect or costs of review of the decision render merits review unsuitable (for example, legislation-like decisions of broad application, or decisions that do not involve discretionary considerations).⁵² On the other hand, judicial review is limited to testing the legality of a decision, and may not by itself adequately address certain parties’ grievances, with highly significant ramifications for their businesses.

Treasury will consider whether, under the proposed framework, regulated entities should be able to seek merits review of certain regulatory decisions (for example, these could include exemption decisions by the ACCC). Treasury will also consider whether possible limitations should apply to any such review (for example, that the review must take place ‘on the papers’, that no new evidence is to be provided to the reviewer, etc.)

⁵² See Chapters 3 and 4 of the Administrative Review Council’s guide, [What decisions should be subject to merits review? 1999](#). In the competition context, there are examples where merits review has initially been made available and subsequently removed. For example, in 2017, merits review of decisions by the Australian Energy Regulator was abolished on the basis that it involved significant costs, led to significant regulatory and price uncertainty, and led to increased energy prices for consumers (see [explanatory memorandum](#) for the *Competition and Consumer Amendment (Abolition of Limited Merits Review) Act 2017* (Cth)).

6.2. Cost recovery

The proposed new digital competition regime would require resourcing to support its ongoing administration and enforcement. The level of resourcing needed in Australia would ultimately depend on the final parameters, scope and complexity of the new competition regime and the pace of its implementation. Cost recovery for the proposed regime will be considered alongside cost recovery considerations for other regulations currently underway, such as scams, privacy and online safety.

One option would be to include a mechanism to recover the costs of administering a new digital competition regime from designated platforms. The Australian Government Cost Recovery Policy provides that “where appropriate, non-government recipients of specific government activities should be charged some or all of the costs of those activities”.⁵³ Relevant activities include the provision of regulation to specific organisations. For example, ASIC, APRA and ACMA each recover the costs of industry-specific regulatory activities from the industries in question, including from foreign entities as needed.

The Cost Recovery Policy set out the relevant factors for when it might be appropriate to recover costs from regulated firms, including:

- whether there is an identifiable entity or group that creates the need for regulation
- the impact of cost recovery on competition, innovation or the financial viability of those who may need to pay charges and the cumulative effect of other government activities
- whether the costs of administering cost recovery are appropriate to the proposed charges
- how cost recovery might affect the policy outcomes for the activity, other government policies and Australia’s obligations under international treaties.⁵⁴

Based on these factors, Treasury’s preliminary view is that it may be reasonable to recover the costs of a new digital competition regime from designated platforms. If so, it will be important to consider which pricing approach could be used to recover costs for this regime, what level to set recovery at and how to allocate the costs across the regulated entities. The Cost Recovery Policy considers several types of pricing models including:

- **Levy** – where the levy reflects the efficient overall costs of the government activity (suitable for recovering the costs of monitoring compliance, investigations and enforcement). This could be suitable for recovering the costs of the ACCC’s general regulatory functions under the regime from designated platforms.⁵⁵
- **Fee for service** – where the fee reflects the efficient unit costs of a specific government good or service (suitable for recovering the costs of licences, registrations, approvals and patents). This could be suitable for recovering the costs of certain ‘service-like’ functions under the regime, for example assessing exemption applications.

Two recent international regimes allow for cost recovery specifically for regulation of digital platforms: the levy provisions of the UK’s Digital Markets, Competition and Consumers Act;⁵⁶ and the supervisory fee provisions of the EU’s Digital Services Act.⁵⁷ These regimes include models for ensuring alignment between expenses incurred by a regulator in carrying out digital platform regulatory functions, and

⁵³ See Department of Finance, [Australian Government Cost Recovery Policy](#) at paragraph 10.

⁵⁴ See Department of Finance, [Australian Government Cost Recovery Policy](#) at paragraph 11.

⁵⁵ Cost recovery would not apply to any costs incurred by the ACCC for the purposes of litigation.

⁵⁶ UK [Digital Markets, Competition and Consumers Act 2024](#), section 110.

⁵⁷ EU [Digital Services Act](#), Article 43.

revenue sought from digital platforms to cost-recover for those functions, which Australia could adapt.

6.3. Ensuring the regime is flexible and fit-for-purpose

It is important that the proposed framework is flexible and remains fit-for-purpose to address harms in fast moving and dynamic digital platform markets. The proposed framework would include several mechanisms to ensure the regime can be updated to address issues in new or emerging services resulting from changes to technology and market dynamics, while also having appropriate procedural safeguards. These include:

- **The list of specified digital platform services could be updated.** The relevant minister could specify additional types of digital platform services that would be subject to the new competition regime in subordinate legislation, as discussed in section 2.2.
- **The ability to develop additional obligations for specific services.** In addition to the broad obligations in primary law that would apply across various digital platform services, service-specific obligations would be developed to clarify the requirements of the broad obligations for specific service types. Stakeholders would be consulted on any new obligations.
- **Service-specific obligations could be updated in response to changes to technology and/or practices by designated entities.** The ACCC's pro-active monitoring and compliance function could help inform whether any updates or changes are needed to service-specific obligations. Stakeholders would be consulted on any updates to obligations.

6.4. International alignment and pace of reform

Internationally, major jurisdictions including the European Union, the UK, Germany, Japan, India and Brazil have implemented or proposed similar reforms for digital platform services (summaries of some of these reforms are set out at section 7.2).⁵⁸

There are benefits from aligning Australia's regulatory approach to successful international regimes, including through creating more transparent and predictable regulatory outcomes, reducing policy implementation costs, and potentially lowering the compliance burden on regulated firms. As a result, key design features of the proposed framework have been informed by international approaches. However, there may be additional ways to incorporate successful overseas approaches, where they are compatible with the Australian context. Treasury seeks stakeholder views on the benefit of adopting approaches from major international jurisdictions, as well as what customisation might be required for Australia.

In terms of the pace of reform, Treasury considers there is benefit in Australia positioning itself as a 'fast follower' of similar international regimes. This would allow Australia to build on the progress made overseas, and ensure that Australian businesses and consumers enjoy the same benefits that overseas businesses and consumers are gaining from similar reforms. In addition, Australia would be

⁵⁸ South Korea recently announced it is proposing to amend existing antitrust laws to address anti-competitive conduct such as self-preferencing, tying, restrictions on multi-homing and demanding favourable treatment in digital platform markets. C McConnell, [Korea scraps DMA-style bill, seeks to amend existing antitrust law instead](#), GCR, 10 September 2024.

well-positioned to learn from the experiences of international counterparts on what approaches are most effective and efficient for consumers and businesses.

6.5. Review of legislation

A review of the new digital competition regime would be conducted after it has been in operation after a sufficient period to assess its overall effectiveness and to assess the outcomes for consumers and the relevant markets. The review of legislation is an important aspect of governance and would ensure the digital competition regime remains fit-for-purpose.

Reviews of legislation are a common practice for example, the recent Independent Review of the changes to continuous disclosure laws, as well as the Treasury review of the News Media and Digital Platforms Mandatory Bargaining Code.⁵⁹

Other implementation considerations

25. Should merits review be available for certain administrative decisions under this regime (such as exemption decisions)? What would be the associated risks, and can these risks be mitigated?
26. Would it be appropriate for government to recover the costs of administering the regime from industry?
27. Are any additional measures required to ensure that the framework remains fit-for-purpose to address harms in fast moving and dynamic digital platform markets?
28. Noting the benefits of Australia adopting the approach taken in international jurisdictions, where might a customised approach for Australia be warranted and why?
29. Is the proposed approach for Australia to be a 'fast follower' of international regimes appropriate?

⁵⁹ See Treasury, [Report of the independent review of the changes to the continuous disclosure laws](#), 14 May 2024 and Treasury, [News Media and Digital Platforms Mandatory Bargaining Code - The Code's first year of operation](#), 1 December 2022.

7. Annexures

7.1. List of stakeholder questions

The proposed framework and legislative approach

1. Are there any major implementation challenges associated with the proposed framework?
2. Is the proposed scope of digital platform services targeted appropriately? Are there any digital platform services that should be added or removed?
3. Do you agree with the proposal that app marketplaces, ad tech services and social media services should be prioritised as the first services to be investigated for designation under the framework?

Designation

4. What are the benefits and risks of the various designation approaches taken or proposed internationally?
5. Would the proposed quantitative thresholds and qualitative factors appropriately target entities that are significant to Australian consumers, businesses and the economy? What other quantitative thresholds or qualitative factors should be considered to ensure they are adaptable to a variety of circumstances? How could any risks of over and under capture be mitigated?
6. For quantitative thresholds, the proposed regime would draw on the threshold levels used by international regimes, adjusted to reflect the size of the Australian economy and population. Is this approach appropriate?
7. Are there any circumstances where quantitative thresholds may be sufficient by themselves to inform a designation decision and if so, what circumstances would they be?
8. The proposed framework provides the relevant minister the ability to direct the ACCC to conduct designation investigations and the ACCC to also self-initiate designation investigations. On what basis should the ACCC be able to self-initiate investigations?
9. Should the ACCC be required to publish a non-confidential summary of its designation investigation findings?
10. The digital competition regime proposes designation to last for up to 5 years. Is this time period appropriate?

Obligations and exemptions

11. What are the costs, benefits and risks of the proposed framework comprising both broad and service-specific obligations? How can any costs or risks be mitigated? How should broad and service-specific obligations interact?
12. Are there any additional types of anti-competitive conduct common across different digital platform services the government should consider when drafting broad obligations?
13. For app marketplaces, ad tech services and social media services, are there any additional types of anti-competitive conduct in the supplies of these services the government should consider when drafting service-specific obligations?

14. Are there particular obligations or design features in similar regimes in international jurisdictions the government should consider including or not including in a regime in Australia?
15. What are the benefits and risks of various international approaches to exemptions (such as the EU's Digital Markets Act and the UK's Digital Markets, Competition and Consumers Act)?
16. For the grounds for exemption, would a broad 'countervailing benefits' exemptions mechanism with a high threshold be appropriate? What measures should there be to reduce the risk of vexatious applications?
17. Are there any potential obligations for which exemptions should not be available?

Enforcement and compliance

18. What safeguards are required to ensure any information gathering powers for the proposed regime are used appropriately?
19. The proposed framework could include record keeping requirements for designated digital platforms to record and keep certain information in a standardised format. How could these requirements be scoped to limit regulatory burden? Would there be any public benefit of publishing some of these records?
20. The regime could include limited record keeping obligations for entities that meet specified global revenue thresholds but are not yet designated. How could this requirement be scoped to limit regulatory burden and impacted entities? Are there any risks of this approach and how could these be mitigated?
21. What guidance or resources would be needed by stakeholders to clarify and assist compliance with the obligations?
22. Are increased monetary penalties and/or new specific non-monetary penalties required in the new digital competition regime? If so, why?
23. Should the new digital competition regime provide for structural remedies similar to those available in overseas regimes? Alternatively, should the regime include a mechanism for the ACCC to require that, where a platform has implemented a structural remedy overseas under an equivalent international regime, the platform roll out that same remedy in Australia?
24. Is the proposed compliance proposals regime an efficient and workable way of recognising platforms' compliance with similar international regimes as compliance in Australia?

Other implementation considerations

25. Should merits review be available for certain administrative decisions under this regime (such as exemption decisions)? What would be the associated risks, and can these risks be mitigated?
26. Would it be appropriate for government to recover the costs of administering the regime from industry?
27. Are any additional measures required to ensure that the framework remains fit-for-purpose to address harms in fast moving and dynamic digital platform markets?
28. Noting the benefits of Australia adopting the approach taken in international jurisdictions, where might a customised approach for Australia be warranted and why?
29. Is the proposed approach for Australia to be a 'fast follower' of international regimes appropriate?

7.2. International developments

	European Union: Digital Markets Act	Germany: Competition Act	United Kingdom: Digital Markets, Competition and Consumers Act 2024	Japan: Act on Promotion of Competition for Specified Smartphone Software ⁶⁰	India: Draft Digital Competition Bill 2024
Overview	Establishes broad obligations and prohibitions for designated ‘gatekeepers’.	Enables the regulator to ‘activate’ certain prohibitions for designated platforms of ‘paramount significance for competition across markets’.	Enables the regulator to set and enforce individually tailored obligations and interventions for designated firms with ‘strategic market status’ in respect of a ‘digital activity’.	Establishes broad obligations and prohibitions for designated operators of certain types of smartphone software.	If enacted, would establish broad obligations for designated ‘systematically significant digital enterprises’. Would also enable the regulator to make service-level obligations for different service types.
Status	In force since 1 November 2022, with the majority of provisions becoming applicable on 2 May 2023. Obligations on affected platforms take effect six months after their designation under the legislation.	In force since January 2021. Five platforms have been designated. No prohibitions have yet been ‘activated’, but proceedings conducted by the regulator under the regime have resulted in commitments from Google.	Received Royal Assent on 24 May 2024 and expected to come into force in January 2025 .	Passed by Japanese legislature on 12 June 2024. Will come into force by December 2025 at the latest.	Consulted on by the Indian Ministry of Corporate Affairs between March and May 2024. As at the date of this paper, no response has been published.
Regulator	European Commission (EC)	German Bundeskartellamt (BKartA)	UK Competition and Markets Authority’s Digital Markets Unit (DMU)	Japan Fair Trade Commission (JFTC)	Competition Commission of India (CCI)
Relevant digital platforms	Designated ‘gatekeeper platforms’ that have a significant impact on the market, operate a ‘core platform service’, and enjoy an entrenched and durable position.	Designated firms that are active to a significant extent on multi-sided markets and are of ‘paramount significance for competition across markets’.	Designated firms with ‘strategic market status’ (SMS) in respect of a ‘digital activity’, where the digital activity is linked to the UK and the firm has substantial and entrenched market power and a position of strategic significance.	‘Designated providers’ that operate specified smartphone software, including operators of mobile operating systems, app stores, browsers and search engines.	Designated ‘systematically significant digital enterprises’ (SSDE) with a significant presence in the provision of a ‘core digital service’ in India.
Designation criteria and thresholds	The EC can designate a provider of ‘core platform services’ as a ‘gatekeeper’ in respect of the service if: <ul style="list-style-type: none"> (a) it has a significant impact on the internal market • presumed to be satisfied when the parent company of the core platform service has an annual European turnover of EUR 7.5 	The BKartA may determine a firm to be ‘of paramount significance for competition across markets’, taking into account: <ul style="list-style-type: none"> (a) its dominant position on one or several market(s) (b) its financial strength or its access to other resources 	The DMU may designate a firm as having SMS in respect of a digital activity if: <ul style="list-style-type: none"> (a) the firm’s total global turnover exceeds GBP 25 billion (AUD 47 billion), or total UK turnover exceeds GBP 1 billion (AUD 1.86 billion) 	The JFTC will designate smartphone software providers whose business reaches a certain scale, as set out in a separate Cabinet Order (to be made later). The Cabinet Order will set criteria for each software segment — mobile OS, app stores, browsers and search engines. The JFTC released a paper for public	The CCI can designate an enterprise as a SSDE in respect of a core digital service where, in each of the preceding three financial years: <ul style="list-style-type: none"> (a) it meets any of the four specified financial thresholds (domestic turnover, global turnover, domestic gross merchandise value, global market capitalisation), and

⁶⁰ An English translation of this Act is not yet available. Information in this column is based on Japan Fair Trade Commission’s press release, [Regarding the passage of the Act on Promotion of Competition for Specified Smartphone Software](#), 12 June 2024; see also [Message from JFTC Chair on Cabinet Decision on the Bill for the Act on Promotion of Competition for Specified Smartphone Software](#), 26 April 2024.

	European Union: Digital Markets Act	Germany: Competition Act	United Kingdom: Digital Markets, Competition and Consumers Act 2024	Japan: Act on Promotion of Competition for Specified Smartphone Software ⁶⁰	India: Draft Digital Competition Bill 2024
	<p>billion (AUD 12.2 billion) or where its market capitalisation is at least EUR 75 billion (AUD 122 billion).</p> <ul style="list-style-type: none"> the core platform service must also be provided in at least three EU member states. <p>(b) it operates a core platform service that serves as an important gateway for business users to reach end users, and</p> <ul style="list-style-type: none"> presumed to be satisfied where the core platform service has more than 45 million monthly active users and 10,000 yearly active business users. <p>(c) it enjoys an entrenched and durable position in its operations or it is foreseeable that it will enjoy such a position in the near future.</p> <ul style="list-style-type: none"> presumed to be satisfied where the thresholds in point (b) are met in each of the last three years. 	<p>(c) its vertical integration and its activities on otherwise related markets</p> <p>(d) its access to relevant data for competition</p> <p>(e) the relevance of its activities for third party access to supply and sales markets and its related influence on the business activities of third parties.</p>	<p>(b) it has substantial and entrenched market power in respect of the digital activity, and</p> <p>(c) it has a position of strategic significance in respect of the digital activity, which will be satisfied when one or more of the listed conditions is met (e.g. the firm has achieved a position of significant size or scale in respect of the digital activity; a significant number of other firms use the digital activity in carrying on their business; etc.).</p>	<p>comment on 28 October 2024 that proposes providers of smartphone operating systems, app stores, browsers and search engines with average monthly users over 40 million would be designated under the Act, and would also be required to notify the JFTC that they have reached the threshold.</p>	<p>(b) it meets either of the two specified end user or business user thresholds in respect of the relevant service.</p> <p>If an enterprise does not maintain or furnish data mentioned in (a) or (b), it is deemed to be a SSDE if it meets any of the thresholds in (a) or (b).</p> <p>The CCI can also designate an enterprise as SSDE in respect of a core digital service even if it does not meet the criteria above, where the CCI is of the opinion that it has significant presence in respect of the service, based on a list of factors (including the economic power of the enterprise, the dependence of end users or business users on the enterprise, etc.).</p>
Firms designated	The EC has designated 7 entities (Alphabet, Amazon, Apple, Booking, ByteDance, Meta and Microsoft) in respect of 24 core platform services.	The BKartA has designated 5 entities (Alphabet, Amazon, Apple, Meta, and Microsoft).	To be determined.	To be determined.	To be determined.
Obligations	<p>Obligations are set out in primary legislation and automatically apply to all designated entities.</p> <p>Requires all designated platforms to (among other things):</p> <ul style="list-style-type: none"> allow un-installation of apps, changes to default settings and sideloading of apps 	<p>Obligations are set out in primary legislation but do not automatically apply. BKartA can 'activate' some or all of the obligations for designated platforms.</p> <p>For example, the BKartA may prohibit designated platforms from:</p> <ul style="list-style-type: none"> impeding competitors by treating their offers differently 	<p>DMU will set tailored obligations for each individual SMS firm via notices and orders.</p> <p><u>Conduct requirements</u></p> <p>The DMU can set individual tailored rules for each SMS firm via notice to the firm, with the overall objectives of preventing firms from:</p>	<p>Obligations are set out in primary legislation and automatically apply to all designated entities.</p> <p>Prohibits all designated platforms from engaging in anti-competitive practices such as:</p>	<p>Broad obligations are set out in primary legislation and automatically apply to all designated entities. CCI can also make regulations with service-specific obligations.</p> <p><u>Broad obligations</u></p> <p>All SSDEs will be required to comply with broad service-agnostic obligations set out in primary legislation in respect of:</p> <ul style="list-style-type: none"> reporting and compliance

	European Union: Digital Markets Act	Germany: Competition Act	United Kingdom: Digital Markets, Competition and Consumers Act 2024	Japan: Act on Promotion of Competition for Specified Smartphone Software ⁶⁰	India: Draft Digital Competition Bill 2024
	<ul style="list-style-type: none"> allow interoperability with hardware and software features ensure transparency about performance in ad intermediation provide access to data generated by business users provide third-party online search providers access to search data ensure data portability. <p>Prohibits all designated platforms from (among other things):</p> <ul style="list-style-type: none"> tying of core platform services self-preferencing in ranking and favourable terms compared with third party users restrictions on switching use of non-public data to compete with business users price parity and exclusivity clauses anti-steering provisions usage restrictions requirements on business users to use certain ancillary services. 	<p>from the platform’s own offers when providing access to supply and sales markets</p> <ul style="list-style-type: none"> creating or raising barriers to entry by using data obtained from the opposite side of a dominated market making the interoperability of products or services or data portability more difficult using tying or bundling offers to rapidly expand its position in a market. <p>In certain circumstances, the BKartA can order a firm to provide a dependent firm with access to data in return for adequate compensation.</p> <p>The BKartA also has powers to intervene in cases where a platform market threatens to ‘tip’ towards a large supplier.</p>	<ul style="list-style-type: none"> treating users unfairly and interacting with them on unreasonable terms limiting choices available to users restricting information needed to make informed choices. <p><u>Pro-competition interventions</u> The DMU can, via order to an SMS firm, impose targeted interventions to address the root causes of competition issues in digital markets. For example, SMS firms may be required to allow greater interoperability or data access.</p>	<ul style="list-style-type: none"> restricting access to third-party app stores and payment systems setting their services as default without providing easy access to alternatives anti-competitive self-preferencing using data collected from third-party apps for their own benefit restricting functions on third-party apps available on their operating systems. 	<ul style="list-style-type: none"> fair and transparent dealing self-preferencing data usage restricting third-party applications anti-steering tying and bundling. <p><u>Service-specific obligations</u> In addition, the CCI will be empowered to make regulations specifying separate conduct requirements for each ‘core digital service’ in relation to the primary law obligations, and designated entities would also be required to comply with these requirements.</p>
Penalties and remedies	Fines of up to 10% of a company’s annual worldwide turnover, or up to 20% of annual worldwide turnover for repeated infringements. Additional remedies for systematic infringements include behavioural and structural remedies.	Fines of up to the larger of EUR 1 million or 10% of global turnover in the preceding business year. Additional remedies include behavioural and structural remedies, and orders for a firm to disgorge an economic benefit gained from a breach.	Fines of up to 10% of global turnover and director disqualification. Remedies include structural separation, ability to enforce conduct requirements through a final offer arbitration mechanism.	Fines of up to 20% of domestic turnover, with a maximum of 30% for repeat offenders.	Fines of up to 10% of global turnover in the preceding financial year. The CCI can also make orders directing a SSDE to discontinue or modify conduct, or any other order as it deems fit.

7.3. Proposed framework process

Summary of proposed framework process

