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DATAFIED CONSUMER MARKETS AND PLATFORM GOVERNANCE: THE DIVERGENT REGULATORY TRAJECTORIES

AUTHORED BY - DR SHEEMA S DHAR

ABSTRACT

The article argues that contemporary understandings of the digital consumer are analytically incomplete unless situated within the architecture and power of digital platforms. Drawing on recent scholarship and regulatory practice, it first re-conceptualizes the digital consumer not merely as an individual using networked technologies to search, transact and participate but as an actor whose choices, vulnerabilities and agency are structured by platform mediated environments. It then demonstrates that platforms namely search engines, social media, online marketplaces, app ecosystems and payment interfaces now function as market infrastructure organizing visibility, trust, datafication, coordination and influence. Against this background the article contends that platform governance rather than classical intermediary liability alone is the appropriate normative frame for digital consumer protection. Using UK's Digital Markets, Competition and Consumers Act 2024 (DMCC) and the more market driven, immunity based approach in the United States, the article identifies systemic flaws in India's emerging platform governance regime like executive-centric conditional safe harbor, weak guarantees of user due process and transparency and fragmented, under specified consumer centric protections. These flaws are shown to produce an imbalance in which speech-restrictive and enforcement oriented measure outpace principled safeguards for freedom of expression, fair treatment and data-driven harms. The article concludes by proposing a re-orientation from "intermediary liability" to "digital consumer centered platform governance" grounded in risk based duties of care, transparency and multi stake holder oversight. In doing so it offers a normative and comparative framework for assessing whether future reforms in India can move beyond control centric regulation to a rights compatible model that meaningfully protects digital consumers in platformised markets.

KEYWORDS: Data, Consumer, Platform, Intermediary, Intermediary Liability

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INTRODUCTION

Platform governance refers to the set of rules, policies, practices and institutional arrangements that guide the management, operation and regulation of digital platforms encompassing everything from content moderation and data protection to competition policy and algorithmic accountability[1]. The concept has evolved significantly from a narrow focus on content removal to a holistic multilayer framework that governs how major digital intermediaries interact with users, states and civil society. The concept signifies the layered governance relationships structuring interactions among platform companies, users, advertisers, governments and other political actors in today's platform society. It builds on digital media, communications and governance scholarship to emphasize that platforms both govern and governed; they set their own rules while embedded in broader legal, political and economic governance structures. In this view platform governance is not only about the full spectrum of power relations around platforms but also rule making, enforcement, gate keeping over data and visibility and accountability mechanisms connecting platforms to democratic publics and states[2]. It thus aligns closely with a political science notion of governance, focusing on how authority is exercised, contested and legitimated in and around digital platforms.

Platforms are not the only possible setting for digital consumers but they have become the decisive setting and that is what gives rise to questions of platform governance. In contemporary markets most digital consumer activity namely search, comparison, communication, ordering, payment, logistics and review runs through large intermediary platforms that organize interactions, not just host them. These platforms operate as market infrastructure: they determine which offers are discoverable, how trust is signaled, how data are collected and monetized, how transactions are coordinated and how far design and algorithms can steer behavior. As all these are mediated by platform rules and system design the practical content of being a digital consumer is now largely shaped by platform choices rather than by individual merchants or consumers alone. That structural dependence makes platforms central object of regulation. The governance based on rules of transparency, data use, design, ranking and accountability becomes the key mechanism through which law can protect digital consumers, check market power and set boundaries for acceptable behavioral influence

[1] PRISM, Digital Platform Governance, PRISM SUSTAINABILITY DIRECTORY (Apr.18, 2026, 10:00 AM) https://prism.sustainability-directory.com/term/digital-platform-governance/

[2] See JOSE VAN DIJCK, THOMAS POELL & MARTIJN DE WAAL, THE PLATFORM SOCIETY: PUBLIC VALUES IN A CONNECTIVE WORLD (Oxford Univ. Press 2018); See also Hatim A Rahman, Arvind Karunakaran, Lindsey D.Cameron, Taming Platform Power: Taking Accountability into Account in the Management of Platforms, 18 ACAD. MGMT. ANNALS 251, 253 (2024).

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in data driven markets.

DEFINING PLATFORM GOVERNANCE

The term "platform governance" is used across three overlapping registers:

1. As a holistic perspective on content moderation[3]: It captures not just speech policies but all the rules architectures and norms that structure behavior in an online community, prevent abuse and facilitate cooperation.
2. As a set of legal and political relations[4]: It refers to how platform companies are enmeshed in international regulatory dynamics, especially concerning intermediary liability, data protection and facilitate cooperation.
3. As an organizational framework[5]: It refers to the internal governance of digital platforms within organizations, covering decision rights, demand management, solution development and operations

It is thus to be understood as the interplay between platform policies and a complex mesh of regulatory instruments ranging from hard legislation to soft private regulation, informal codes of conduct and transnational governance mechanisms at the national, regional and global levels.

MODELS OF PLATFORM GOVERNANCE

Model	Description	Governance focus	Typical Instruments	Power Dynamics
Centralized	A single entity holds complete decision making authority over rules and	Strong owner control over access, content rules, data use, monetization and dispute	Unilateral terms of service, internal content policies, take it or leave it contracts, top	Highly asymmetric: Users depend structurally on the platform. Eg: Social Media

[3] Robert Gorwa, The Shifting Definition of Platform Governance, CIGI ONLINE (Centre for International Governance Innovation) (Apr.18, 2026, 10:30 AM) https://www.cigionline.org/articles/shifting-definition-platform-governance/
[4] Ibid
[5] BUSINESS TECHNOLOGY STANDARD, PLATFORM GOVERNANCE ACCELERATING DIGITAL TRANSFORMATION WITH SOLUTION FACTORY (Apr.18, 2026 12:30 PM) https://www.managebt.org/wp-content/uploads/BTS-Platform-Governance-Article_s.pdf; See also Rey Lugtu, Platform Governance in Organizations, INSTITUTE FOR DIGITAL TRANSFORMATION (Apr.18, 2026, 10:30 AM) https://www.institutefordigitaltransformation.org/platform-governance-in-organizations/

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	prioritize efficiency and uniformity in control	resolution	down enforcement and sanctions	Platforms
Decentralized	Authority is distributed across multiple stake holders, often relying on community governance	Community rule making, peer moderation; emphasis on autonomy of communities and open contribution	Community guidelines voted or agreed by users, open source licenses, protocol standards	More Horizontal: power is shared between core maintainers and user communities. Eg Opens source software communities
Hybrid	Central corporate authority retains ultimate control but incorporates structured input or review by independent or semin independent bodies, advisory councils or participatory processess	Procedural checks and balances on key decisions, policy; some separation between rule making, adjudication and enforcement.	Oversight boards, multi stakeholder councils, formal appeals processes, advisory panels, public consultations, impact assessments feeding into corporate decisions	Moderate: platform still sets the frame and can often override but independent bodies can create friction and public scrutiny, partly redistributing normative authority. Eg Meta's Facebook Oversight Board
Algorithmic	Governance decisions about visibility, moderation,	Design, deployment and tuning of algorithms for	Machine learning classifiers for harmful	Power is embedded in code: engineers, data scientists

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	ranking and sometimes access are largely made through automated, data driven systems rather than direct human judgment	moderation, recommendation, rating and risk detection	content, risk scoring models	and product managers effectively govern through model design. Eg: Youtube and TikTok recommendation algorithms
Co regulatory	Public regulators set binding frameworks, principles and systemic obligations while platforms design and operate detailed procedures within that framework under supervision and enforcement.	Systemic risk management, transparency, die due diligence obligations, procedural safeguards for users, harmonized minimum standards across platforms and markets.	Legislative acts, codes of practice, mandatory audits, risk assessments, regulator approved terms, sanctions for non compliance	Shared but asymmetrical: states set outer bound can can sanction; platforms retain operational discretion but must align with public law objectives. Eg: EU Digital Services Act, IT Act 2000

PLATFORM GOVERNANCE: NORMATIVE BASELINES

Datafied consumerism describes markets where consumer behavior is constantly tracked and turned into data, making platform governance crucial because platforms control data infrastructures, shape what choices consumers see, set the norms for fairness and accountability in profiling and targeting and influence democratic life by using the same systems to distribute

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political messages as commercial ones. Consequently governance over platforms becomes a central arena in which market ordering, rights protection and democratic accountability are negotiated and only strong democratically grounded governance can redirect datafied consumerism away from opaque manipulation toward more transparent, rights respecting and contestable forms of platform mediated consumption.

UNESCO guidelines[6] set out human rights centered, multi-stakeholder blueprint for how staes and platforms should govern digital spaces so that freedom of expression and access to information are protected while addressing legitimate harms. They are not a binding treaty but a soft law framework intended to steer national laws, platform policies and co-regulatory arrangements toward a common "internet of trust". The Guidelines stated aim[7] is to safeguard freedom of expression, including access to information and other human rights in digital platform governance while dealing with content that may be restricted under international human rights law. They define roles and responsibilities for states, digital platforms, intergovernmental organizations, civil society, media, academia and the technical community insisting that all governance processes keep freedom of expression and information at their core[8].

A governance model that matches platform centrality, consumer protection and free speech limits demands:

Human-rights grounding[9]: All platform governance must be anchored in international human rights law, especially freedom of expression, access to information, equality and non discrimination. Restrictions on content must meet legality, necessity and proportionality tests[10].

Human-rights due diligence and risk assessment: Platforms should regularly assess and mitigate human rights risks rather than relying only on reactive takedown[11].

Transparency and explainability: Platforms and regulators must provide clear, accessible information about rules, algorithms, content moderation practices[12] and enforcement, enabling

[6] UNESCO, Guidelines for the Governance of Digital Platforms: Safeguarding Freedom of Expression and Access to Information through a Multi-Stakeholder Approach (Issued on September 2023), (April 19, 2026, 11:00 AM) https://unesdoc.unesco.org/ark:/48223/pf0000387339

[7] Ibid at 8

[8] Ibid at 14

[9]See also UN Human Rights Council, Guiding Principles on Business and Human Rights: Implementing the United Nations "Protect, Respect and Remedy Framework, UN Doc. A/HRC/17/31 (2011) (April 19, 2026, 11:00 AM) https://www.ohchr.org/sites/default/files/documents/publicationsguidingprinciples businesshr_en.pdf

[10] Supra note 6 at 9

[11] Ibid at 35,36

[12] UN Special Rapporteur on Freedom Opinion and Expression, A human rights approach to online content moderation (2018) (April 19, 2026, 11:00 AM) https://www.ohchr.org/sites/default/files/Documents/Issues/Expression/Factsheet 2.pdf

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users and researchers to understand and scrutinize their operation[13].

Accountability and independent oversight: Governance arrangements should embed checks and balances[14], independent supervisory mechanisms and effective remedies so users and stakeholders can contest violations and hold both states and platforms to account[15].

Multistakeholder, inclusive processes: Law and policy on platforms should be developed and implemented through open, participatory procedures that meaningfully involve diverse stakeholder including marginalized groups[16].

Protection of diversity and media/information literacy: Governance should promote cultural and viewpoint diversity and strengthen users' capacities to critically engage with digital content not simply remove harmful speech[17].

These baselines mark a shift from narrow "intermediary liability" debates toward a holistic, rights based conception of platform governance in which both state intervention and platform self regulation are constrained by human rights, transparency and accountability standards. Intermediary Guidelines in India move towards platform governance with legislative interference, but they only partially satisfy the ideal of protecting digital consumers while preserving free speech and fair treatment. They blend classical "safe harbor" based intermediary liability with new due diligence and design obligations and that mix is precisely where both their strengths and their constitutional vulnerabilities lie[18]. The country's current platform governance framework is more fragmented, enforcement-heavy and executive centric than leading regimes like the EU's and lighter on ex ante, rights based obligations around transparency, due process and systemic risk that directly protect digital consumers.

UK DIGITAL MARKETS, COMPETITION AND CONSUMER ACT 2024

The Digital Markets, Competition and Consumers Act 2024[19] (DMCC) mark a major shift in UK digital regulation by integrating competition law, consumer protection and platform oversight into a single statutory architecture. In the context of datafied consumer markets the

[13] Supra note 6 at 20,21, 42-45
[14] Puddephatt A, Letting the sunshine in: Transparency and accountability in the digital age (2021) (April 19, 2026, 11:00 AM) https://unesdoc.unesco.org/ark:/48223/pf0000377231
[15] Supra note 6 at 48,49
[16] Ibid at 50,51
[17] Ibid at 37-41
[18] See Neeti Biyani, Amrita Choudhury, Internet Impact Brief: 2021 Indian Intermediary Guidelines and the Internet Experience in India, INTERNET SOCIETY (April 19, 2026, 12:00 AM) https://www.internetsociety.org/resources/2021/internet-impact-brief-2021-indian-intermediary-guidelines-and-the-internet-experience-in-india/.
[19] Digital Markets, Competition and Consumers Act 2024, c. 13 (UK)

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Act matters because it regulates not only market power and misleading conduct, but also the interface design, informational asymmetries and behavioral steering through which platforms organize consumer choice and business-user dependence. The DMCC responds to the concept of datafied consumer markets by targeting the infrastructure of intermediation itself rather than treating each harmful instance as a discrete contractual wrong.

STRATEGIC MARKET STATUS

Part I of the Act creates the Strategic Market Status (SMS) regime, under which the Competition and Markets Authority (CMA) can designate certain platforms as systemic governors of digital markets[20]. This is done where a digital activity is linked to the UK and the undertaking has substantial[21], entrenched market power and strategic significance[22] assessed in a forward looking way with reference to factors such as scale[23], UK and global turnover and a durable ability to influence other actors. This is particularly silent in datafied markets where power stems less from price and output and more from data advantages, ecosystem integration, network effects, default status and business user dependence on platform controlled visibility and access. The SMS model embodies a structural understanding of platform power by regulating platforms[24] not merely as hosts of third party activity but as entities that organize the terms on which data, consumers and businesses interact within privately governed market environments[25].

CONDUCT REQUIREMENTS

The Act empowers the CMA to impose tailored conduct requirements[26] on SMS firms, making these obligations a central tool in Part I by allowing the regulator to target specific digital activities[27] rather than relying only on general competition rules. This is crucial for platform governance because such requirements can address informational fairness, choice architecture,

[20] Digital Markets, Competition and Consumers Act 2024, c. 13, pt. 1, § 2 (UK)
[21] Digital Markets, Competition and Consumers Act 2024, c. 13, pt. 1, § 2(1) (UK)
[22] Digital Markets, Competition and Consumers Act 2024, c. 13, pt. 1, § 2(2) (UK)
[23] Digital Markets, Competition and Consumers Act 2024, c. 13, pt. 1, §§ 5,6,7,8 (UK)
[24] Department for Digital, Culture, Media & Sport, A New Pro-Competition Regime for Digital Markets: Consultation Document (Issued on August. 8, 2021), (April 19, 2026, 11:00 AM) https://www.gov.uk/government/consultations/a-new-pro-competition-regime-for-digital-markets/consultation-document-html-version.
[25] Taylor Wessing, UK Government Set to Regulate Big Tech (April 19, 2026, 11:00 AM) https://www.taylorwessing.com/en/insights-and-events/insights/2022/05/uk-government-set-to-regulate-big-tech
[26] Digital Markets, Competition and Consumers Act 2024, c. 13, pt. 1, § 19 (UK)
[27] Digital Markets, Competition and Consumers Act 2024, c. 13, pt. 1, § 20 (UK)

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dispute handling systems and the treatment of dependent business users[28]. The model's significance lies in recognizing governance through design, enabling the CMA to set ex ante standards[29] of fair dealing and interface responsibility for dominant intermediaries and thereby linking competition concerns with consumer autonomy[30] at the level of platform architecture.

PRO-COMPETITION INTERVENTION

The CMA is empowered to make pro-competition interventions[31] in relation to SMS firms, signaling that the Act targets not only unfair conduct but also the structural features of digital markets that perpetuate concentration and dependence[32]. In datafied consumer markets where market power flows from ecosystem lock-in, access asymmetries, control over defaults and cumulative data advantages, such interventions are crucial because they can tackle deep contestability barriers that mere disclosure obligations or ex post penalties are ill-suited to resolve[33].

CONSUMER PROTECTION AS PLATFORM REGULATION

Part 3 and Part 4 creates powerful enforcement regime for consumer protection law by providing for online interface orders[34], interim online interface orders[35] and online interface notices[36]. This allows courts and CMA to require all digital interfaces to be altered, restricted or used to display warnings or corrective information where consumer law infringements are occurring[37]. It makes the interface itself a legal object of regulation, recognizing that harm in datafied markets is often produced by rankings, prompts, defaults etc rather than by explicit false statements alone.

[28] Deloitte, The Digital Markets, Competition and Consumers Act (DMCCA): Consumer Protection Regime (April 19, 2026, 11:00 AM) , https://www.deloitte.com/uk/en/blogs/ecrs/the-digital-markets-competition-and-consumers-act-dmcca-consumer-protection-regime.html.
[29] Digital Markets, Competition and Consumers Act 2024, c. 13, pt. 1, § 21 (UK)
[30] Digital Markets, Competition and Consumers Act 2024, c. 13, pt. 1, § 24 (UK)
[31] Digital Markets, Competition and Consumers Act 2024, c. 13, pt. 1, § 46 (UK)
[32] Supra note 26
[33] Clifford Chance, The Digital Markets, Competition and Consumers Act: A New UK Regime for Digital Markets, Competition and Consumer Protection (April 19, 2026, 11:00 AM) https://www.cliffordchance.com/content/dam/cliffordchance/briefings/2024/05/digital_markets_competition_consumers_act.pdf
[34] Digital Markets, Competition and Consumers Act 2024, c. 13, pt. 1, § 161 (UK)
[35] Digital Markets, Competition and Consumers Act 2024, c. 13, pt. 1, § 162 (UK)
[36] Digital Markets, Competition and Consumers Act 2024, c. 13, pt. 1, § 184 (UK)
[37] Jackie Holland, Patrick Tod & Matthew Day, Digital Markets, Competition and Consumer Act: A Game-Changer for UK Consumer Protection CLERALY ANTITRUST WATCH (April 20, 2026, 11:00 AM) https://www.clearyantitrustwatch.com/2024/06/digital-markets-competition-and-consumers-act-a-game-changer-for-uk-consumer-protection/

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UNFAIR PRACTICES AND BEHAVIORAL EXPLOITATION

Part 4 rearticulates unfair trading law for digital markets by prohibiting unfair commercial practices[38], misleading actions[39], misleading omission[40], aggressive practices[41] and omission of material information from invitations to purchase[42] while Schedule 19 lists practices considered unfair in all circumstances. In datafied consumer markets these rules because exploitative conduct is frequently behavioral and interface mediated. Consumers may be steered through dark patterns, hidden charges, subscription traps, manipulative countdowns, misleading endorsements or review systems that distort trust signals[43]. The DMCC strengthens the legal basis for treating these practices not merely as poor disclosure but as unlawful trading strategies embedded in the platform environment[44]. It suggests that UK law is moving toward a model in which platforms are expected to design against manipulation and not merely avoid overt deception.

SUBSCRIPTION MARKETS AND RECURRING EXTRACTION

Part 4 addresses subscription contracts[45] including pre contract information[46], reminder notices[47], cancellation arrangements[48], cooling off rights[49] and an offence for failing to provide information about initial cooling off rights[50]. These provisions are highly relevant to datafied consumer markets because recurring digital services often rely on low friction enrolment and high friction exit[51]. By requiring reminder notices and effective arrangements to exercise the right to end contracts, the Act targets a central extraction mechanism in platform. From governance perspective the law is no longer concerned only with what consumers agreed to at a single moment, but with whether platform design continuously undermines real exit and

[38] Digital Markets, Competition and Consumers Act 2024, c. 13, pt. 1, § 225 (UK)
[39] Digital Markets, Competition and Consumers Act 2024, c. 13, pt. 1, § 226 (UK)
[40] Digital Markets, Competition and Consumers Act 2024, c. 13, pt. 1, § 227 (UK)
[41] Digital Markets, Competition and Consumers Act 2024, c. 13, pt. 1, § 228 (UK)
[42] Digital Markets, Competition and Consumers Act 2024, c. 13, pt. 1, § 230 (UK)
[43] Grant Thornton, The DMCC: How Will It Change Behaviour? (April 20, 2026, 11:00 AM) https://www.grantthornton.co.uk/insights/the-dmcc-how-will-it-change-behaviour/
[44] Linklaters, Consumer Deep Dive: Understanding Fake Reviews Under the DMCC (May 12, 2025), https://www.linklaters.com/insights/blogs/linkingcompetition/2025/may/consumer-deep-dive_fake-reviews.
[45] Digital Markets, Competition and Consumers Act 2024, c. 13, pt. 1, § 254 (UK)
[46] Digital Markets, Competition and Consumers Act 2024, c. 13, pt. 1, §§ 256, 257 (UK)
[47] Digital Markets, Competition and Consumers Act 2024, c. 13, pt. 1, §§ 258, 259 (UK)
[48] Digital Markets, Competition and Consumers Act 2024, c. 13, pt. 1, §§ 260, 261 (UK)
[49] Digital Markets, Competition and Consumers Act 2024, c. 13, pt. 1, §§ 264, 265, 266 (UK)
[50] Digital Markets, Competition and Consumers Act 2024, c. 13, pt. 1, § 268, (UK)
[51] Geraint Lloyd Taylor & Fleur Chenevix Trench, Our Guide to the Digital Markets, Competition and Consumers Act 2024 (DMCC): Consumer Law LEWISSILKIN (April 19, 2026, 11:00 AM) https://www.lewissilkin.com/insights/2024/09/12/our-guide-digital-markets-competition-consumers-bill-focusing-consumer-law.

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informed renewal[52].

RELATION TO INTERMEDIARY LIABILITY

The DMCC is not an intermediary liability statute in the traditional sense. It does not primarily organize responsibility through safe harbor conditions or notice and take down style immunities. Instead it develops a broader form of platform responsibility grounded in market power, interface control, investigatory cooperation and compliance with consumer and competition norms[53]. In the datafied consumer markets many of the serious harms arise not from isolated third party speech but from the platforms own ranking logic, recommendation systems, advertising architecture, self preferencing, monetization practices and transactional design. At the same time Sec. 238 defence of due diligence and innocent publication show that the Act still recognizes a limited distinction between direct misconduct and certain forms of publication related liability[54].

The DMCC is best understood as a statute for governing datafied market infrastructures. It treats dominant platforms not merely as intermediaries that may occasionally enable harm but as actors that structure the conditions of visibility, access, exchange and choice across digital markets[55]. The Act does not abolish older ideas of intermediary responsibility but is subsumes them within a wider framework in which control over datafied market environments itself becomes the trigger for regulatory obligations.

UNITED STATES

The United States lacks a single, integrated statute for datafied consumer markets and platform governance instead it relies on a decentralized, sectoral and largely ex post framework build out of antitrust law, Federal Trade Commission (FTC) consumer protection powers, state and federal privacy rules and strong intermediary immunity and free speech doctrines. Competition in digital markets is addressed through general antitrust statutes like Sherman Act, Clayton Act

[52] Herbert Smith Freehills, New Digital Markets, Competition and Consumers Act – Everything You Need to Know (April 19, 2026, 11:00 AM) https://awards.concurrences.com/IMG/pdf/hsf_competition_notes_blog_-new_digital_markets_competition_and_consumers_act-_everything_you_need_to_know_about_the_new_digital_markets_competition_and_consumers_act.pdf

[53] Herbert Smith Freehills, The UK's New Digital Markets Regime: Unfettered Discretion and Power for the CMA? (April 20, 2026, 11:00 AM) (Oct. 6, 2024), https://legalblogs.wolterskluwer.com/competition-blog/the-uks-new-digital-markets-regime-unfettered-discretion-and-power-for-the-cma

[54] Gordons LLP, *The Digital Markets, Competition and Consumers Act 2024: Article 2 – Unfair Commercial Practices* (Feb. 4, 2025), https://www.gordonsllp.com/the-digital-markets-competition-and-consumers-act-2024-article-2-the-unfair-commercial-practices/

[55] Ashurst, Digital Markets Regulation in the EU and UK: DMA v DMCC (April 20, 2026, 11:00 AM), https://www.ashurst.com/en/insights/digital-markets-regulation-in-the-eu-and-uk-dma-v-dmcc/

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without a digital specific competition law equivalent to the UK's DMCC. Consumer facing harms in datafied markets like privacy intrusions, manipulative data practices are mainly tackled through the FTC's authority over "unfair or deceptive acts or practices" supplemented by sectoral statutes on children's privacy, credit reporting and financial data. Comprehensive privacy protection is left to a patchwork of state laws since there is still no overarching federal privacy act. Platform responsibility for third party content is conditioned by Sec 230 of the Communication Decency (CDA) framework and the First Amendment, which together preserve broad immunity and expressive autonomy for platforms with governance pushed toward self regulation, soft law and targeted interventions rather than a unified ex ante statutory regime.

COMPETITION AND DIGITAL MARKET POWER

In US although data advantages, network effects and ecosystem lock-in are increasingly acknowledged in enforcement theory as sources of durable market power they are analysed within the traditional monopolization and merger frameworks rather than giving rise to separate ex ante conduct-rules regime. In datafied consumer markets US law still relies on general antitrust statutes rather than any digital specific gatekeeper regime[56].

Sherman Act: The Act prohibits contracts, combinations or conspiracies in restraint of trade or commerce in interstate commerce which is the basis for challenging collusive conduct involving digital platforms[57]. It prohibits monopolization, attempts to monopolize and conspiracies to monopolise and is used to attack unilateral exclusionary conduct by dominant platforms where there is possession of monopoly power and willful acquisition or maintenance of that power as opposed to growth from a superior product or business acumen[58].

Clayton Act: It prohibits mergers and acquisitions where the effect of such acquisitions may be substantially to lessen competition or to tend to create a monopoly and is the main statutory basis for reviewing acquisitions by large digital platforms that may entrench their market power or extend their data and ecosystem control[59].

FTC Act[60]: It declares unfair methods of competition in or affecting commerce and unfair or deceptive acts or practices in or affection commerce unlawful giving the Federal Trade

[56] AI Now Institute, Antitrust and Competition: It's Time for Structural Reforms to Big Tech (April 19, 2026, 11:00 AM) https://ainowinstitute.org/publications/antitrust-and-competition
[57] Sherman Antitrust Act of 1890, 15 U.S.C. § 1 (US)
[58] Sherman Antitrust Act of 1890, 15 U.S.C. § 2 (US)
[59] Clayton Antitrust Act of 1914, 15 U.S.C. § 7 (US)
[60] Federal Trade Commission Act, 15 U.S.C. (US)

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Commission a competition mandate that extends beyond the precise contours of the Sherman and Clayton Acts.

CONSUMER PROTECTION, DARK PATTERNS AND DATAFICATION

The FTC's consumer protection jurisdiction is the main US instrument for governing datafied consumer markets. Using its authority over unfair or deceptive practices[61] the FTC has brought extensive enforcement against deceptive privacy policies[62], opaque data sharing, weak security and manipulative interface design, often resulting in stringent consent decrees, long term monitoring and design change obligations. This practice has been extended to dark patterns[63] interface strategies that subvert user autonomy such as obstructive cancellation flows, hidden charges, mislabelled buttons[64] and exploitative nudges in subscription services and apps. The commission treats these patterns as deception or unfairness[65] effectively regulating elements of choice architecture through case law and guidance. Some states have begun to legislate specifically on algorithmic pricing[66] and personlised offers, requiring disclosure when prices are set using personal data[67] or imposing limits on discriminatory data driven pricing.

PRIVACY LAW AND DATAFIED CONSUMER MARKETS

The US privacy regime is defined by sectoral federal statutes plus state comprehensive laws[68]. At the federal level laws such as Children's Online Privacy Protection Act[69] (COPPA), Fair Credit Reporting Act[70] (FCRA) and Gramm-Leach-Billey Act[71] govern children's data credit

[61] Federal Trade Commission Act, 15 U.S.C. §18 (US)
[62]FTC, Bringing Dark Patterns to Light, Federal Trade Commission Staff Report (April 19, 2026, 11:00 AM) https://www.ftc.gov/system/files/ftc_gov/pdf/P214800+Dark+Patterns+Report+9.14.2022+-+FINAL.pdf
[63] FTC Press Release, FTC Report Shows Rise in Sophisticated Dark Patterns Designed to Trick and Trap Consumers" (April 19, 2026, 11:00 AM) https://www.ftc.gov/news-events/news/press-releases/2022/09/ftc-report-shows-rise-sophisticated-dark-patterns-designed-trick-trap-consumers
[64] Frank Gorman, FTC Targets "Dark Patterns" in Actions Against Amazon and Publishers Clearing House WILMERHALE (April 19, 2026, 11:00 AM) https://www.wilmerhale.com/en/insights/client-alerts/20230814-ftc-targets-dark-patterns-in-actions-against-amazon-and-publishers-clearing-house
[65] Amy Lee Tan, Illuminating Dark Patterns: US Regulators Crack Down on Deceptive Practices Targeting Consumers STLR (April 19, 2026, 11:00 AM) https://journals.library.columbia.edu/index.php/stlr/blog/view/593
[66] New York's Algorithmic Pricing Disclosure Act, N.Y. Gen. Bus. Law § 349-a
[67] Janis Kestenbaum, Kirk A Soderquist, D. Sean West, New York Requires Disclosure of Personalized Algorithmic Pricing PERKINS COIE (April 19, 2026, 11:00 AM) https://perkinscoie.com/insights/update/new-york-requires-disclosure-personalized-algorithmic-pricing
[68] Solove & Woodrow Hartzog, "The FTC and the New Common Law of Privacy," 114 Columbia Law Review 583 (2014)
[69] Children's Online Privacy Protection Act (COPPA), 15 U.S.C. §§ 6501–6506
[70] Fair Credit Reporting Act (FCRA), 15 U.S.C. §§ 1681–1681x
[71] Gramm–Leach–Bliley Act (GLBA), 15 U.S.C. §§ 6801–6809

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reporting and financial information while the FTC uses unfairness and deception to police general data practices[72]. In the absence of a federal omnibus privacy law, states have adopted their own legislation[73] granting rights of access, deletion, portability and opt out and imposing obligations around data minimization, security and sometimes automated decision making. For datafied consumer markets this means platforms face heterogeneous obligations depending on where consumers are located wit California's regime often setting the defacto national standard.

INTERMEDIARY LIABILITY, SPEECH AND PLATFORM GOVERNANCE

US platform governance is strongly shaped by Sec.230[74] CDA and the First Amendment which together make the American model distinctive. Section 230 provides broad immunity to platforms for third party content and for good faith moderation decisions, limiting the extent to which they can be treated as publishers in civil liability regimes[75]. Constitutional free speech protections[76] further constrain attempts by federal or state lawmakers to impose duties that might be seen as compelled speech, prohibited view point discrimination or disproportionate interference with editorial discretion. Recent state level attempts to impose content moderation rules or duty of care requirements on social media services have been met with significant constitutional litigation[77]. At the same time there is a growing body of platform specific legislations and proposal around transparency reporting, risk assessments, minors' safety and addictive design but these are issue specific and frequently contented rather than forming a coherent structural code. The net effect is that platform autonomy and immunity remain the default with public law interventions focused on discrete harms rather than on a broad redefinition of platforms as regulated market infrastructures.

Taken together the US regime for datafied consumer markets and platform governance leaves more to judicial development, regulatory creativity and state experimentation while retaining

[72] 15 U.S.C. § 45(a)(1) (FTC Act § 5)
[73] California Privacy Rights Act (CPRA), Cal. Civ. Code §§ 1798.100–1798.199.120
[74] Sectin 230(c) (1) reads: "[n]o provider or user of an interactive computer service shall be treated as the publisher or speaker of any information provided by another information content provider," thereby granting broad immunity for third-party content
[75] Section 230(c) (2)
[76] Jason Kelley, Section 230 is Good, Actually EFF (April 20, 2026, 11:00 AM) https://www.eff.org/deeplinks/2020/12/section-230-good-actually
[77] Milton Mueller and Le Yang, The First Amendment and Platform Content Moderation: The Supreme Court's 'Moody' Decision, School of Public Policy Internet Governance Project (April 20, 2026, 11:00 AM) https://www.internetgovernance.org/2024/07/08/the-first-amendment-and-platform-content-moderation-the-supreme-courts-moody-decision/

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robust immunities and free speech protections that limit the scope for far reaching, centralized platform governance compared to the integrated statute of UK's DMCC.

INDIA

India's current legal regime for datafied consumers and platform governance is fragmented by increasingly dense with four main pillars: intermediary liability under IT law, consumer protection rules for ecommerce and dark pattern, data protection obligations under the DPDP Act and emerging ex ante proposals in competition law.

INTERMEDIARY LIABILITY AND PLATFORM DUTIES

Platform governance still rests heavily on the safe harbor model under the Information Technology Act 2000[78] (IT Act) and the Information Technology (Intermediary Guidelines and Digital Media Ethics Code) Rules 2021[79](Rules 2021). Section 79 of the IT Act grants intermediaries exemption from liability for third party information[80], data or communication links, conditional on limited technical involvement and observance of due diligence requirements prescribed by the Rules. The Rules 2021 translate this into concrete obligations like user agreement clauses, notice and takedown, grievance redressal[81], periodic reporting and enhanced duties such as traceability, nodal officers and 24×7 coordination for "Significant Social Media Intermediaries"[82] above specified user threshold. Thus the primary duties of platforms are still framed in terms of content moderation, cooperation with law enforcement and user rights handling not competition or market structure obligations[83].

DIGITAL CONSUMERS: UNFAIR PRACTICES, ECOMMERCE AND DARK PATTERNS

Consumers in datafied markets are protected mainly through the Consumer Protection Act 2019[84] (CPA 2019) and the Consumer Protection (E-Commerce) Rules 2020[85] (E-Commerce

[78] Information Technology Act, No. 21 of 2000, INDIA CODE (2000)
[79] Information Technology (Intermediary Guidelines and Digital Media Ethics Code) Rules, 2021, Gazette of India, Feb. 25, 2021, pt. II, sec. 3(i) (India).
[80] Information Technology (Intermediary Guidelines and Digital Media Ethics Code) Rules, 2021, r. 3(1)
[81] Information Technology (Intermediary Guidelines and Digital Media Ethics Code) Rules, 2021, r. 3(2)
[82] Information Technology (Intermediary Guidelines and Digital Media Ethics Code) Rules, 2021, r. 4
[83] See Sejal Parmar, *S*afe Harbor and Content Moderation Regulation in India *in* BHASKAR CHAKRAVORTHI, JOEL P. TRACHTMAN (Eds)DEFEATING DISINFORMATION DIGITAL PLATFORM RESPONSIBILITY, REGULATION AND CONTENT MODERATION ON THE GLOBAL TECHNOLOGICAL COMMONS (Cambridge Univ. Press 2025) (April 20, 2026, 11:00 AM) https://www.cambridge.org/core/books/defeating-disinformation/safe-harbor-and-content-moderation-regulation-in-india/F3CFF38410DE759B338D1ED6C519A559
[84] The Consumer Protection Act, 2019, No. 35 of 2019, INDIA CODE (2019)
[85] Consumer Protection (E-Commerce) Rules, 2020, G.S.R. 462(E) (India)

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Rules 2020). The CPA 2019 prohibits unfair trade practices, misleading advertisements[86] and abusive terms and provides redress mechanisms through Consumer Commissions. The E-Commerce Rules 2020 impose duties on market place[87] and inventory platforms[88] for transparent disclosure of sellers and contracts, complaint handling display of ranking parameters and obligations around review and returns. Thus the country responds to the datafied harm through general unfair practice and disclosure norms and not through a unified "design/code" statute.

DATA PROTECTION

The Digital Personal Data Protection Act 2023[89] (DPDP) and its Rules 2025[90] add a dedicated data governance layer over platform practices. The DPDP Act frames platforms and other entities as "data fiduciaries"[91] imposing obligations of lawful processing, consent, purpose limitation, data minimization, storage limitation and security with heightened duties for "significant Data Fiduciaries"[92]. The Rules 2025 operationalize this with a consent first architecture, stronger rights for data principals and penalties that can reach hundreds of crores for violations with particular impact on large consumer facing platforms. By imposing the privacy centric duties the law is still stronger on collection and consent than on constraining downstream algorithmic steering and profiling.

COMPETITION AND EMERGING EX ANTE PLATFORM REGULATION

Competition in platform markets is currently governed by the Competition Act 2002[93] applied ex post by the Competition Commission of India (CCI) to abuses of dominance, cartels and anti competitive agreements in sectors such as search, app stores and e-commerce. Analysis of Indian digital markets point out that CCI decisions increasingly recognize data, network effects, default status and multi sidedness as sources of market power but these factors are incorporated into standard dominance and merger analysis rather than into a separate tier of

[86] The Consumer Protection Act, 2019, No. 35 of 2019, § 89 INDIA CODE (2019)
[87] Consumer Protection (E-Commerce) Rules, 2020, G.S.R. 462(E) r. 6 (India)
[88] Consumer Protection (E-Commerce) Rules, 2020, G.S.R. 462(E) r. 7 (India)
[89] The Digital Personal Data Protection Act, 2023, No. 22 of 2023, INDIA CODE
[90] Digital Personal Data Protection Rules, 2025, G.S.R. _(E) (Nov. 14, 2025) (India)
[91] The Digital Personal Data Protection Act, 2023, No. 22 of 2023, § 2(i) INDIA CODE
[92] The Digital Personal Data Protection Act, 2023, No. 22 of 2023, § 10 INDIA CODE
[93] The Competition Act, 2002, No. 12 of 2003, INDIA CODE

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obligations[94]. The Committee on Digital Competition Law and the draft Digital Competition Bill 2024[95] propose an ex ante framework for "Systemically Signatnt Digital Enterprises" and "Associate Digital Enterprises" in "Core Digital Services"[96] but this remains at the proposal stage and would supplement and not replace existing laws.

Indian legal regime for datafied consumer markets and platform governance sits between the UK's highly integrated ex ante DMCC model and the US's decentralized, immunity heavy model[97]. It is more interventionist than the US on intermediary duties and data protection but less structurally coherent than the UK on platform power and interface design[98].

WHERE INDIA STANDS RELATIVE TO UK AND US[99]

Dimension	India	United Kingdom	United States
Overall Structure	Platform governance spread across IT Act & Intermediary Rules, Consumer Protection Act & E-Commerce Rules, DPDP Act and Competition Act.	DMCC integrates digital competition, consumer law and interface level enforcement in a single statute centered on the CMA.	Relied on general antitrust, FTC consumer protection enforcement, sectoral federal privacy laws and state privacy/ design statutes, layer over Section 230 immunity and First Amendment

[94] Yuvnesh Sharma, Abdullah Hussain, Network Effects and Dominance: The Evolving Approach of the CCI, 6 INDIAN COMPETITION LAW REVIEW (April 17, 2026, 11:00 AM) http://iclr.in/wp-content/uploads/2021/12/Network-effects-and-dominance-the-evolving-approach-of-the-CCI-by-Yuvnesh-Sharma-and-Abdullah-Hussain.pdf

[95] Draft Digital Competition Bill, 2024, Annexure IV to Report of the Committee on Digital Competition Law (Issued on Mar. 12, 2024) (India), (April 19, 2026, 11:00 AM) https://prsindia.org/policy/report-summaries/digital-competition-law.

[96] Ministry of Corporate Affairs GOI , Report of the Committee on Digital Competition Law 2024 (April 19, 2026, 11:00 AM) https://prsindia.org/files/parliamentry-announcement/2024-04-15/CDCL-Report-20240312.pdf

[97] Amber Darr & Madhavi Singh, Lessons From the EU and UK for Strengthening India's Digital Competition Regime, PROMARKET (April 19, 2026, 11:00 AM) https://www.promarket.org/2025/06/24/lessons-from-the-eu-and-uk-for-strengthening-indias-digital-competition-regime/

[98] Dipanshuk Ambastha, India's Digital Market Regulation: A Hybrid Model of the US and EU Is the Way Forward (April 19, 2026, 11:00 AM) https://www.ijllr.com/post/india-s-digital-market-regulation-a-hybrid-model-of-the-us-and-eu-is-the-way-forward

[99] Kapil Bhardwaj, Comparative Legal Analysis of IT and Data Protection Laws: India, US, UK, & UAE (April 19, 2026, 11:00 AM) https://www.augustattorneys.in/comparative-legal-analysis-of-it-and-data-protection-laws-india-us-uk-uae/

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			constraints.
Fragmented or Integrated	Institutional and textual framework is fragmented and resembles the US in dispersion but India lacks the same depth of antitrust and constitutional speech doctrine and does not have DMCC style integration of competition, consumer and interface tools.	Highly integrated digital-markets statute explicitly linking competition, consumer protection and interface remedies.	Highly decentralized with separate competition, consumer, privacy and speech regimes; no single integrating digital markets code.
Safe harbor model	Section 79 IT Act and 2021 Rules create a conditional safe harbor regime: intermediaries keep immunity for third party content if due-diligence and take down obligations are met; Significant Social Media Intermediaries have traceability, compliance officer and enhanced grievance redress duties	For designated SMS platforms, DMCC moves beyond classic safe harbor by imposing conduct requirements, pro competition interventions and online interface orders; hosting/safe harbor rules are no longer the main organizing principle for dominant platforms	Section 230 CDA preserves broad immunity for intermediaries as publishers of third party content; structural issues are addressed expost through antitrust and FTC enforcement rather than by narrowing safe harbor for large platforms
Safe Harbour or Structural Regulation	Regime remains liability and safe harbor centered for platform governance with	Platform regulation re centered on structural duties for gatekeepers rather	Platform autonomy and immunity remain core; structural regulation

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	structural obligations only emerging in draft DCB Proposals	than on intermediary liability logic	is indirect and ex post.
Datafication & interface design	DPDP Act and Rules provide a strong, centralized data protection layer, but regulation of dark patterns etc is mainly via general unfair practice rules, soft guidance	DMCC explicitly targets digital unfair practices and subscription traps, provides enforceable consumer rights and online interface orders, and combines these with SMS conduct duties that reach choice architecture and defaults	FTC uses FTC Act Section 5 to challenge dark patterns but design regulation is largely case-law-driven and uneven across states
Design Regulation	Strong consent and data framework but a weaker more diffuse design and interface framework compared to UK's DMCC which more directly regulate how datafied interfaces shape user behavior	Mature statutory model linking datafied design, interface governance and platform power	Growing but patch design regulation driven by enforcement and state experiments rather than a unified federal statute.

CONCLUSION AND SUGGESTIONS

The Digital Competition Bill 2024 is a commendable step in aligning India's platform governance regime with leading structural models for datafied consumer markets. It is strongly responsive on the competition or structure axis by introducing Systematically Significant Digital Enterprises and Associate Digital Enterprises for core digital services borrowing from UK SMS thinking and attaching ex ante obligations such as bans on self preferencing, unfair tying and discriminatory access. It begins to move India beyond a pure safe harbour and ex

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post enforcement paradigm, especially when combined with the proposal for specialized Digital Markets Unit within the CCI and the explicit ambition to join the DMCC family of ex ante platform rules. The Bill however remains a partial answer to the wider reform agenda identified through critical analysis. It narrowly focused on competition and business user fairness and leaves consumer facing interface governance and dark pattern control to a disperse mix of CPA, e-commerce rules and DPDP. It does not on its own cure the underlying fragmentation or creates robust coordination mechanisms prevalent. Its obligations are criticized as broad and sometimes open ended raising proportionality and innovation chilling concerns that call for clearer guidance, prioritization and internal tiering. It does not yet fully treat non personal data and algorithmic curation as distinct regulatory objects. Therefore while the DCB rightly recognizes certain platforms as systemic and embraces ex ante structural obligation India still need parallel, coordinated reforms in consumer, data protection and interface design law and clearer inter regulator architecture if it is to build a genuinely coherent framework for governing datafied consumer markets and platform power.

Based on UK and US comparison and Indian Commentary a reform agenda for datafied consumer markets and platform governance would include:

1. Either a DMCC style statute or an explicit digital markets chapter that ties together platform competition obligations, dark pattern bans, subscription rules and coordination duties across CCI, MeitY, the Data Protection Board and consumer authorities.
2. Maintain conditional immunity for third party content but layer affirmative duties on structurally significant platforms like non discrimination, interoperability, data access for business users and interface fairness obligations similar to DMCC.
3. Enact binding rules that clearly prohibit dark patterns, set minimum standards for consent and cancellation flows and mandate transparent systems and safeguards for AI driven ranking and pricing.
4. Establish a dedicated Digital Markets Units within the CCI with strong technical expertise and formal coordination channels with the Data Protection Board, MeitY and consumer authorities.
5. Explicitly empower competition and consumer regulators to act on non-personal, inferred and aggregated data practices not only on personal data covered by the DPDP Act.
6. Embed proportionality, sandbox mechanism and periodic review of obligations to protect innovation and avoid inadvertently entrenching incumbents under new digital competition rules.