

Issues and Challenges associated with GAC

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Context - Indian digital governance recently witnessed multiple developments in its appellate mechanisms. In December 2022, Google appealed two of the most significant antitrust decisions that the Competition Commission of India (CCI), issued on the functioning of digital markets. GAC's capacity to handle complaints needs to be increased.

Google's Case of Anti-competitive Contracts

- In October 2022, CCI found Google anti-competitive in its Android licensing contracts and app store policies in two separate orders.
- The National Company Law Appellate Tribunal (NCLAT), an authority for company law, competition law, and insolvency law matters, will hear Google's appeals from 15-17 February.
- Simultaneously, the Ministry of Electronics and Information Technology (MeitY) recently announced the formation of three Grievance Appellate Committees to enforce the accountability of online intermediaries.

What is GAC?

- **Based on IT Act** - The Centre established three Grievance Appellate Committees based on the recently amended Information Technology (Intermediary Guidelines and Digital Media Ethics Code) Rules, 2021 (IT Rules 2021).
- **Three GAC's** - The Centre has announced three different GACs led by the IT, Home

Affairs, and Information and Broadcasting ministries.

- **Composition** - The committee is styled as a three-member council out of which one member will be a government officer (holding the post ex officio) while the other two members will be independent representatives.
- **Complaint within 30 days** - Users can file a complaint against the order of the grievance officer within 30 days.
- **Online dispute resolution** - The GAC is required to adopt an online dispute resolution mechanism which will make it more accessible to the users.

Importance of Appellate Jurisdiction

- **Three pillars of regulatory framework** - Regulatory frameworks stand on three pillars. These include a governing law, an empowered regulator and a fair appeals mechanism.
- **An appellate mechanism is a critical part** - An appellate mechanism is a critical part of this framework because it ensures an opportunity to remedy inappropriate application of governing laws. Therefore, if the framework is incapacitated, there will be an unfair application of law, which defeats the purpose of the legislation.
- **Appellate bodies are essential tools for digital markets** - Appellate bodies operate under a specialized mandate, which allows them to adapt their processes to the unique facets of a case. They are an essential tool for digital markets, which tend to be more complex than first meets the eye.
- For instance - Google allows Android users to bypass the Play Store and directly install apps from the internet known as sideloading. But when they do so, Google issues disclaimers about associated security risks linked to downloads from unknown sources. The CCI's order on Android calls such disclaimers anti-competitive because they reinforce Google's monopoly over app distribution.

Credibility of GACs to deal with Grievances

- **Not well equipped to deal with the user grievances** - The recently formed Grievance Appellate Committees do not seem equipped to deal with the barrage of user grievances linked to online intermediary services.
- For instance: In October 2022, Facebook received 703 complaints, Twitter 723 and WhatsApp 701. WhatsApp then banned 2.3 million accounts. And this does not even account for all other types of online intermediation, such as e-commerce intermediaries.
- **Multiple steps to arrive at a decision while the online is accessible instantly** - Online content is accessible by millions instantly, and the longer unlawful content is accessible, the greater the harm to affected parties. Accordingly, a 30-day disposal period for the appeals to the GAC has been mandated. However, any dispute resolution process involves multiple steps.
- **Prolonged dispute resolution** - The principles of natural justice also require the originator of the disputed content to be heard. Therefore, when they're implicated along with intermediaries and complainants, it prolongs the dispute resolution process.
- **GAC's may struggle to substantially resolve the grievances in time** - The Centre has announced three different GACs led by the IT, Home Affairs, and Information and Broadcasting ministries. However, the sheer volume of online user content suggests

that GACs may struggle to substantially resolve these grievances in time.

Conclusion

Effective appeals mechanisms form an integral part of the digital governance toolkit. India has a progressive adjudicatory system that recognises the need for specialized appellate mechanisms, but its potential requires actualisation. The appellate mechanism must be strengthened for any technology policy reforms to succeed.