

DIGITALISING INDIAN RETAIL

CAPACITY BUILDING FOR A GLOBAL CONTEXT

February 2021 | No. 007



ESYA
centre

ABOUT THE AUTHOR

Mohit Chawdhry is a Junior Fellow at the Esya Centre.

ACKNOWLEDGEMENTS

This report would not have been possible without the support of Amazon India. While several stakeholder inputs were taken in the course of writing this report, all views expressed here, as well as errors therein are the authors' alone.

ABOUT THE ESYA CENTRE

The Esya Centre is a New Delhi based technology policy think tank. The Centre's mission is to generate empirical research and inform thought leadership to catalyse new policy constructs for the future. It aims to build institutional capacities for generating ideas that will connect the triad of people, innovation and value to help reimagine the public policy discourse in India. More details can be found at www.esyacentre.org.

TABLE OF CONTENTS

EXECUTIVE SUMMARY	/ 4
1/ OVERVIEW	/ 6
2/ CAPACITY DEFICITS	/ 9
3/ TOWARDS A DEVELOPMENT AUTHORITY	/ 12
4/ AN INDIAN DEVELOPMENT AUTHORITY	/ 15
NOTES	/ 19

SUMMARY

E-COMMERCE AND GLOBAL TRADE

- Talks on a global compact governing e-commerce have progressed rapidly in the last three years. The Joint Initiative on Electronic Commerce, launched at the 11th WTO Ministerial Conference in Buenos Aires in 2017, comprises 86 member states that account for nearly 90% of global trade. The pace is more rapid than in the preceding two decades, when progress in the WTO Work Programme on Electronic Commerce was negligible.
- India has opposed formalising any discussion of e-commerce at the WTO. It maintains that a significant digital divide persists between Indian enterprises, particularly MSMEs, and larger global enterprises. It is crucial that developing countries safeguard their ability to create domestic e-retail policies that would permit local capacity building.
- While other developing economies have echoed this sentiment in the past, several are now participating in the Joint Initiative. They are also entering regional free trade agreements that contain clauses governing e-commerce, whereas India pulled out of such an FTA in the Regional Comprehensive Economic Partnership. We ask what has enabled other developing nations to participate in shaping a treaty governing e-commerce.

REMEDYING CAPACITY DEFICITS

- A crucial factor that let developing countries contribute to the Joint Initiative is state-supported local capacity building that targets key deficits in technology adoption, particularly for MSMEs. In India, these constraints pertain to infrastructure, finance, and skill development.
- Despite the many public schemes and initiatives designed to overcome these deficits, there has been little progress, and India fares poorly on measures such as internet access, financial inclusion, and skilled manpower. Countries such as Singapore, Malaysia, Thailand are all ranked higher and consistently improving their performance.
- This marked difference stems from the methods adopted by these states to regulate digital technology and e-retail. Unlike them India continues to follow a prescriptive approach, focused on establishing standards for what firms should or should not do.
- Meanwhile, states in the Indo-Pacific such as Singapore, Malaysia and now Myanmar have adopted a development led approach focused on enabling local enterprise, particularly MSMEs to benefit from online retail. The developmental approach makes strategic investments, promotes skill development, attracts foreign investment, and builds the infrastructure necessary for support.
- Most states that follow this approach have created specialised bodies with broad mandates to implement. The design and functioning of these bodies is guided by the following key principles: Agencification, Planning and goal-setting, Results-based evaluation, and Inclusive consultation.

AN INDIAN DEVELOPMENT AUTHORITY

- The Government has signalled its intent to finalise and introduce an e-commerce policy, the last public draft of which proposes a regulatory authority and several prescriptive standards to be followed by e-retail platforms. At this juncture it becomes crucial to assess whether India's local and global ambitions are best served by persisting with a prescriptive approach.
- A development authority is a viable alternative to a regulator. Such an authority could be tasked with building local capacity and preparing Indian enterprises to compete effectively with larger global firms. This would let India adopt a more nuanced negotiating strategy at the WTO, to participate in consensus building particularly with other developing nations.
- An Indian E-Retail Development Authority (IeRDA) could function as an attached office of the Ministry of Electronics and Information Technology (MeitY), its work guided by the principles outlined above. A Governing Council of Ministers and personnel from various regulatory bodies would exercise oversight. It would be headed by a CEO, and its operations divided across four verticals: Skill development, Finance and inclusion, Infrastructure, and Exports.

1/ OVERVIEW

E-commerce gained significant attention at the 11th Ministerial Conference in Buenos Aires in 2017, where 71 member states released a Joint Statement affirming their intent to advance negotiations on trade related aspects of e-commerce under the WTO ambit.¹ E-commerce was first recognised in global trade agreements at the Second Ministerial Conference in Geneva in 1998, where member states adopted a Declaration on Global Electronic Commerce and called to establish a Work Programme to examine issues of e-commerce related to trade (Figure 1).

The Work Programme was required to pay specific attention to the economic, financial and development

needs of developing countries.² India participated in the early rounds of discussion, raising key issues of intellectual property in e-commerce in its communication to the Council for Trade Related Aspects of International Property Rights in 1999.³ Its representative noted before the General Council the importance of e-commerce, specifically e-retail, for development. But he also stressed the importance of providing adequate policy space for developing states to establish domestic policies to govern e-commerce, and to build capacity among domestic MSMEs.⁴ These concerns were echoed by other developing states.⁵ As a result of this fundamental disagreement, progress under the Work Programme has been slow in the past two decades.

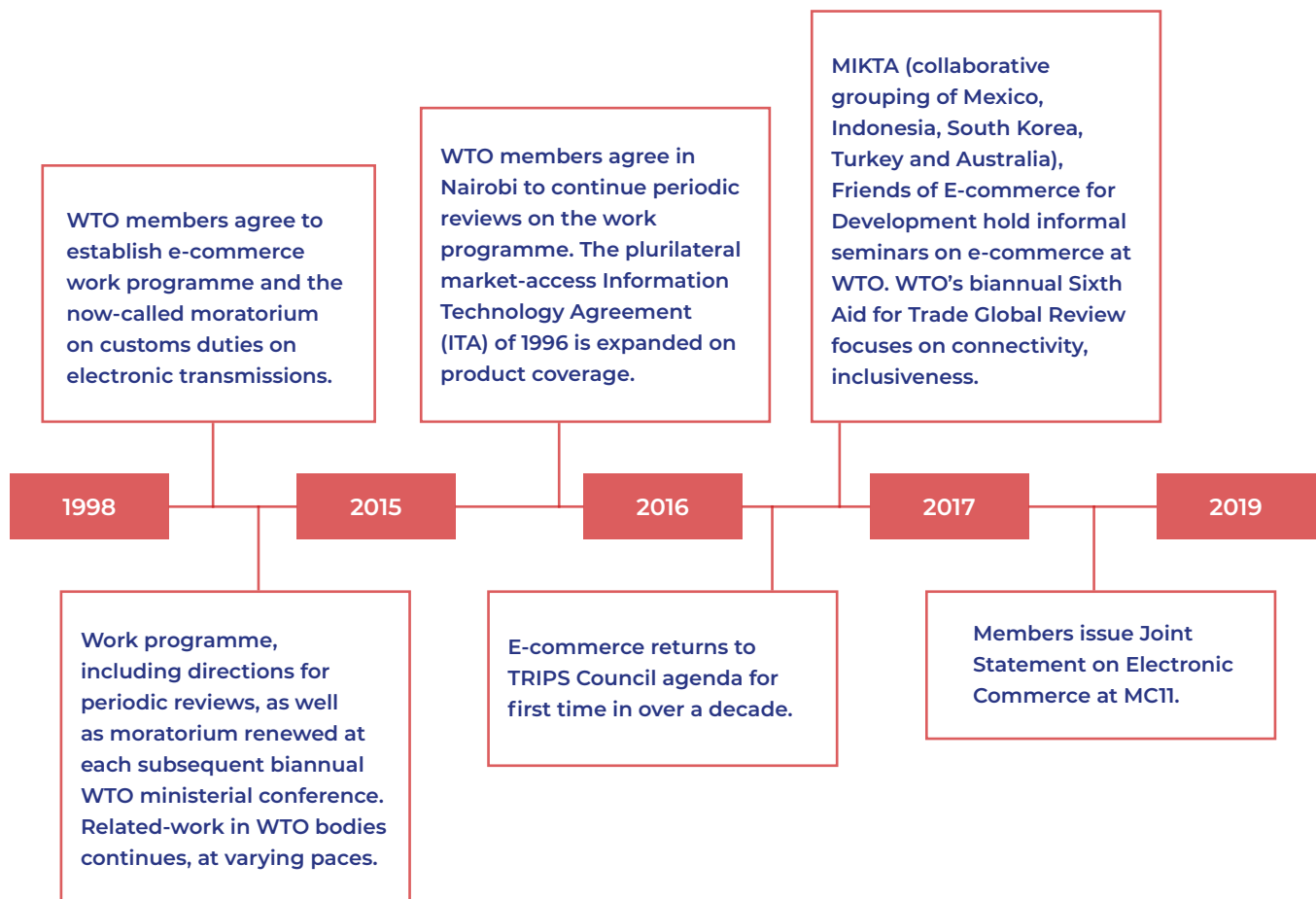


Figure 1 : History of e-commerce at the WTO
ICTSD, 2018

Recent years have seen a marked shift in the positions of several developing and Less Developed Countries, which are moving now toward a global compact on e-commerce. China, Saudi Arabia, Thailand and Kenya are just a few of the states to have signed and participated in discussions under the Joint Statement Initiative.⁶

Another prominent trend is the emergence of regional, interest-based groupings to promote the use of e-commerce for development. For instance the Friends of E-Commerce for Development, a group of developed and developing countries that include Pakistan, Sri Lanka and Australia, are working together to use e-commerce in a manner supportive of local

industry and small enterprises.⁷ Further, regional trade agreements or RTAs increasingly incorporate clauses related to e-commerce. A recent study found that of 275 RTAs registered with the WTO, 75 contained at least one clause dealing explicitly with e-commerce.⁸ Yet India continues to oppose the formalisation of talks on e-commerce under the WTO. In its communication to the General Council prior to MC11, India advocated continuing talks under the existing Work Programme without altering its mandate.⁹ Statements from Indian representatives at the WTO show this opposition remains grounded in apprehension, that the entry of global retail brands would significantly hinder the development of domestic retail enterprises.

	Comprehensive and Progressive Partnership (2018)	Japan-EU FTA (2018)	US-Mexico-Canada (USMCA) (2020)	RCEP
Electronic Signatures and Authentication	×	×	×	×
Online Consumer Protection	×	×	×	×
Unsolicited Commercial Messages	×	×	×	×
Paperless Trading	×		×	×
Cross-border Information Flow	×	×	×	×
Custom Duties	×	×	×	×
Non-Discriminatory Treatment of Digital Products	×		×	
Location of Competing Facilities	×		×	×
Source Code	×	×	×	
Domestic Regulations	×	×	×	×
Cybersecurity	×		×	×
Transparency	×		×	×
Cooperation	×	×	×	×

Figure 2 : Regional FTAs dealing with issues of e-commerce
Source: Author's compilation

Failure to develop a more nuanced negotiation strategy at the WTO may have significant consequences for India. It risks being cut off from the preferential market access to be gained from participation in any multilateral or plurilateral agreement. This would hinder the flow of investments into the country, and its integration with the global supply chain.¹⁰ By choosing to completely distance itself from ongoing negotiations, India also loses the opportunity to shape global rules of digital trade. Historically, states that adopted global rules and technical standards have gained a significant first-mover advantage.

To negotiate more effectively at the WTO, India must first build sufficient local capacity, so that domestic products can effectively compete in global markets. It can learn from the experiences of nations such as Malaysia, Singapore and Thailand, which adopted a state-led approach to online retail development, and are able as a result to participate in deliberations under the Joint Initiative.

The focus of this analysis is online retail, a narrower sector than e-commerce. E-retail is concerned primarily with the online sale and purchase of goods, while e-commerce includes a wide range of services such as OTT platforms. A key impediment to India's participation in global talks on e-commerce is the apprehension that its domestic retail sector will be unable to compete with large global corporations: this can be overcome through capacity building backed by the state, to let domestic retailers harness online retail opportunities, and eventually compete with foreign entities.

This paper attempts to define the broad contours of a specialised development agency that could undertake such capacity building effectively. The next section surveys the existing literature to identify key capacity deficits faced by Indian MSMEs in adopting digital technologies and e-retail. Section 3 outlines India's approach to regulating e-commerce, contrasting it with the specialised bodies in other developing countries, and identifying certain principles of regulatory design that inform their functioning. Section 4 suggests how these principles could be applied within the Indian context.

2/ CAPACITY DEFICITS

MSMEs form the backbone of developing economies. India is no different, being home to 6.3 crore MSME units that contribute 32% of total GVA and 48% of total exports.¹² Despite their importance, MSMEs find it hard to operate at scale or increase productivity.¹³ A key reason is their low adoption of useful technology. Recent surveys indicate that only 5–7% of Indian MSMEs have fully adopted digital tools for operations management, customer management, or banking and payment services.¹⁴ They spend only minuscule amounts promoting or marketing their goods online, as they tend not to consider the internet a viable channel for generating sales.¹⁵

Their low technology adoption is reflected in the fact that only a small proportion of Indian retail sales are conducted digitally: e-retail accounts for just 1.6% of Indian retail; the figure is 24% for China and 14% for the rest of the world.¹⁶ Indian MSMEs are unable to enjoy the benefits of digital economy which include better price discovery, a greater network of consumers, increased efficiency, and reduced logistical costs.¹⁷ A 2015 survey indicates that SMEs using the internet and related technologies earn 51% more revenue and 49% more profits than others.¹⁸ Therefore a key aspect of improving MSME productivity and efficiency is to remove obstacles they face in adopting technology. This chapter reviews existing literature to identify the key constraints in technology adoption for MSMEs.

1 / INFRASTRUCTURE

A major factor hindering MSME technology adoption in India is the lack of requisite infrastructure.

PHYSICAL INFRASTRUCTURE

In e-retail, physical infrastructure primarily refers to logistics, including shipping, land transport, and last mile connectivity to ensure the door-to-door delivery of goods and services. Well performing logistics facilitate the timely delivery of goods and a seamless experience of returns and replacements.¹⁹ India lags behind leaders like Singapore, Malaysia and Vietnam in its infrastructure and logistics performance. Inadequate infrastructure prevents MSMEs from expanding their customer base and the geographic extent of operations. As a result they mainly serve their local region, making digital retail less useful.

DIGITAL INFRASTRUCTURE

The success of e-retail depends on adequate digital infrastructure, extending beyond internet availability to include connection speed, reliability, and access equity. The ICT Development Index published by the ITU measures a host of indicators to determine the status of a country's information and communication systems. India is ranked 134th in the most recent index,

Country	Year	LPI Rank	LPI Score	Customs	Infra-structure	International ship-ments	Logistics compe-tence	Track- ing & tracing	Timeli-ness
Singapore	2018	7	4.00	3.89	4.06	3.58	4.10	4.08	4.32
Thailand	2018	32	3.41	3.14	3.14	3.46	3.41	3.47	3.81
Malaysia	2018	41	3.22	2.90	3.15	3.35	3.30	3.15	3.46
India	2018	44	3.18	2.96	2.91	3.21	3.13	3.32	3.50

Table 1: Rankings in the Logistics Performance Index (World Bank Logistics Performance Index)

Country	Most Recent Year	Most Recent Value
Singapore	2019	122,481
Malaysia	2019	6,724
Thailand	2019	1,404
India	2019	389

Table 2 : Secure internet servers per million people (World Bank)

visibly behind Asian counterparts such as Malaysia (63), Thailand (78), Vietnam (108) and Sri Lanka (117). The lack of reliable high-speed internet impacts e-retail in particular, as it can cause payment gateway technologies to fail, leaving both consumers and sellers dissatisfied.²⁰

Secure internet servers are also needed to carry out payments and transactions online. Despite a significant increase in the number of servers per million people in recent years, India falls well behind other major economies in the Indo-Pacific, as shown in Table 2.

Inadequate physical and digital infrastructure is compounded by difficulty in accessing finance for MSMEs, as well as the limited use of online modes of payment by Indian consumers.

2 / FINANCE, TRUST AND PRIVACY

Access to formal and reliable sources of credit is crucial for enterprises to adopt new technologies and digitise their business processes. Only 16% of MSMEs receive formal credit in India, leaving an estimated credit gap of \$380 billion. The rest are forced to rely on informal credit sources that charge prohibitively high interest rates, often entangling them in a debt trap.²¹ In 2019 over a quarter of MSMEs identified challenges in raising finance and capital as a major impediment to e-retail uptake.²²

Another hurdle is Indian consumers' preference for cash. Nearly two-thirds of all orders placed on major e-commerce platforms use cash on delivery as the payment option. This discourages enterprises from adopting e-commerce. Moreover, 33% of CoD orders result in returns, increasing costs for the vendor.²³ In India the value of cashless transactions per person is far below such nations as Singapore, South Africa and Indonesia. Despite the recent growth of digital payment solutions such as wallets and the UPI, the overall penetration of digital payment systems remains low and largely concentrated in urban areas.²⁴

A key reason for this is lack of trust in the internet, stemming from cybersecurity and online privacy concerns. In the CIGI Ipsos Global Survey nearly 60% of internet users in India said they were 'very concerned' about online privacy.²⁵ The figure is significantly higher than in Brazil, Australia or China. Instances of data breach and cyberattacks have left vendors wary of digitising their business for fear of potential costs. A recent study estimates the average cost of a data breach to an online vendor at \$172 per record breached.²⁶ A KPMG enterprise survey saw 89% of respondents identify 'cybercrime' as a major threat and deterrent to their digital operations.²⁷

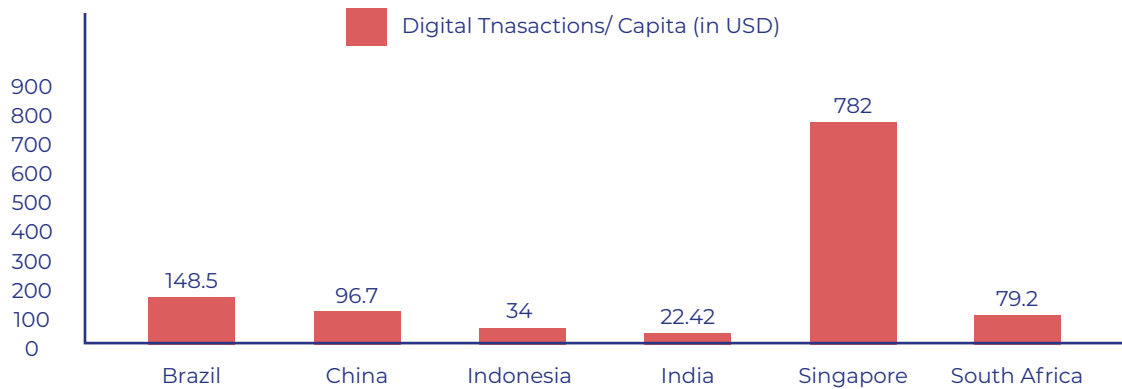


Table 3 : Digital transactions per person (BIS payments data; Deepening Digital Payments Report)

3 / SKILLS, AWARENESS, LITERACY

Firms will only adopt e-retail if they have the digital literacy and skills to use computers, smartphones and other devices. While 34% of Indians use the internet, only a small fraction are given any guidance or training in how to use it optimally, restricting their ability to participate in online retail transactions.²⁸ Despite a mobile penetration rate of 88%, studies show that the majority of Indians, particularly those in rural areas use their phones only to make basic voice calls, and lack the skills needed to use the internet effectively.²⁹

Within firms, there is a lack of awareness of the benefits of electronic commerce.³⁰ Vendors and shop owners do not have the knowhow to set up their own websites or accounts on e-commerce platforms. Those who do, face numerous problems in digitally managing inventory, orders and payments. Their investment in online marketing and promotion is also minimal. Limited

resources hinder firms from hiring skilled employees to run digital operations for them.³¹ Further, interpersonal relationships and familiarity are key to conducting business in many Asian societies. The anonymous and impersonal nature of digital transactions undermines this familiarity and tradition, hampering the uptake of digital transactions in both B2B and B2C online commerce.³²

In sum, the adoption of digital services by MSMEs is hindered by a lack of infrastructure, skills, and trust. These shortcomings have been consistently highlighted by economists and trade experts in the last two decades. Lack of local capacity is regularly cited as a reason for India to distance itself from global negotiations on e-commerce (Table 4). So it becomes important to ask why the regulatory approach to e-commerce pursued by India for 20 years has not yielded the desired results. The next chapter undertakes this analysis, contrasting this approach with other states in the Indo-Pacific.

Author	Capacity Deficit			
	Infra	Skill	Finance	Trust
Arvind Panagariya, 2000 ³³	✓	✓		
C. Satapathy, 2001 ³⁴	✓	✓		✓
Didar Singh, 2002 ³⁵	✓	✓	✓	✓
Sacha Wunsch-Vincent, 2006 ³⁶	✓	✓	✓	
Biswajit Dhar, 2017 ³⁷	✓	✓		
Rashmi Banga, 2018 ³⁸	✓	✓		
Parminder Jeet Singh, 2018 ³⁹	✓	✓	✓	✓

Table 4 : Prior literature discussing constraints in e-adoption for MSMEs (Author compilation)

3/ TOWARDS A DEVELOPMENT AUTHORITY

In a bid to harness the development potential of e-retail, India enacted the Information Technology Act in 2000, which grants legitimacy to digital signatures and online transactions. It was meant to be a foundation for the growth of e-retail, but the regulatory challenges cut across Ministries, Departments and Regulators.⁴⁰ For instance, FDI limits for e-commerce entities and rules governing internal trade are decided by the Ministry of Commerce and Industry, while MeitY regulates the conduct of online intermediaries. Decisions on taxes, duties and payment systems are made by the Ministry of Finance and the Reserve Bank of India, and antitrust concerns by the Competition Commission of India. Recent amendments to the Consumer Protection Act bring the actions of e-commerce firms under the jurisdiction of the Central Consumer Protection Authority. And infrastructure development, including at the last mile, is the responsibility of the Ministry of Road, Transport and Highways along with State Governments.

The involvement of many institutions regulating e-retail can lead to regulatory overlap and arbitrage. The telecom sector, which poses similar regulatory challenges, has witnessed a tussle between the CCI and TRAI to determine which body has jurisdiction over antitrust concerns.⁴¹ If certain proposals pending before the Government are passed, the sectoral regulators

involved in governing the digital economy (and e-retail thereby) would number at least 6. Meanwhile, schemes and initiatives aimed at improving infrastructure, financial inclusion and worker skills are also spread across various Ministries, making it difficult to adopt a unified approach.⁴² The result is that India has been unable to adopt a consistent, principles-based approach to regulating e-commerce, and finds itself in an uncomfortable position on negotiations at the WTO.

The Government began work on a comprehensive and overarching National E-Commerce Policy in 2016.⁴³ The published drafts give an idea of the objectives it seeks to achieve. The most recent draft, released early in 2019, focuses on prescribing standards for data localisation, consumer protection, and government access to data, as opposed to capacity building for MSMEs: the proposed regulator's development agenda stands limited to increasing internet access and improving cloud storage capabilities.⁴⁴ It can be questioned whether the prescriptive approach adopted by the Draft Policy is suited to regulating a sector as dynamic as e-commerce, given that prescriptive standards (a) are usually based on past experience and are not forward looking, (b) may serve as a barrier to open markets and access, and (c) may be more expensive to comply with than other regulatory solutions.⁴⁵

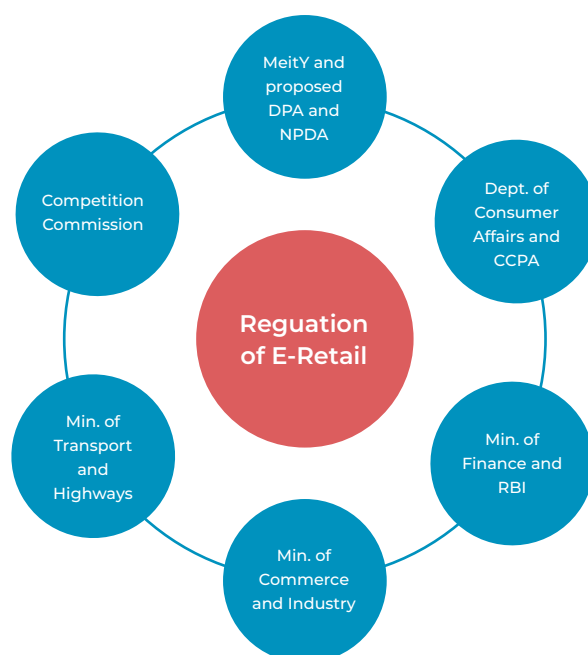


Figure 3 : Ministries, departments and regulators involved in e-retail regulation
Source: Author's compilation

A prescriptive approach to regulation stands in contrast to the developmental model increasingly adopted by other states in south Asia and the Indo-Pacific, such as Malaysia, Singapore and Myanmar. This approach focuses on building local capacity by providing state support to MSMEs for necessary training, investment, and infrastructure. By investing in their domestic ecosystem, these states are able to participate effectively in e-commerce discussions at the WTO and other international forums, secure in the knowledge that their local industry can compete with others. Singapore, one of the countries leading the Joint Initiative at the WTO, set up its digital economy authority (the Infocomm Media Development Authority) in 2016, and in the four years since has improved its ranking in the UNCTAD B2C E-commerce Index to the point where it is now ranked third. In the same period, India has gone from being ranked 90 out of 137 countries to 73 out of 152, and continues to rank below Malaysia and Thailand.⁴⁶

The developmental approach is also in line with the changing global dynamics of making rules. The change is best reflected in the evolution of international agreements on climate change: while earlier agreements such as the Kyoto Protocol and Rio Declaration were based on the principle of common but differentiated responsibilities, and developed nations took greater responsibility, offering concessions and exemptions to developing ones, the 2016 Paris Agreement requires all members to make binding commitments on carbon reduction, afforestation and other mitigation measures, regardless of their economic level. In the face of reduced support, it is all the more important for developing countries to make systematic, planned investments in their domestic ecosystems.

Some regulatory design principles essential to the developmental approach are discussed below.

AGENCIIFICATION

A major trend in public services since the 1980s has been the marked shift from systems of command and control based on hierarchical bureaucracy, to a more decentralised system centred on autonomous or semi-autonomous agencies.⁴⁷ This trend begun in nations such as the UK, Australia and New Zealand has now spread to other regions as well. Japan's Independent Administration Institutions are the classic example of such an agency. An IAI is created by the elected representative to achieve specific goals over a 3 to 5 year plan period. Malaysia, Myanmar, and Singapore have all opted for semi-autonomous bodies, created by statute or as corporations, to regulate their digital economy including e-commerce.⁴⁸

PLANNING AND GOAL-SETTING

Such agencies are geared toward the achievement of clear and specific objectives. For instance, the plans published by IAIs in Japan must detail the expected gains in efficiency and improvements in public service delivery.⁴⁹ Agencies in the four other countries mentioned above have all created detailed road maps targeting improvements on various parameters and indices. The Digital Economy Roadmap of Myanmar's DEDC for instance, publishes targeted improvements in mobile user penetration, proportion of internet users, and proportion of SMEs adopting technology, as well as clearly defined improvements in indices such as the ICT Development Index (Figure 4). Similarly, each goal in the roadmaps of the Malaysia Digital Economy Corporation is benchmarked against a measurable parameter or outcome.⁵⁰

Digital Transformation and Digital Trade	Current	2020	2025
High degree of financial and operational autonomy	-	10%	30%
Effective utilization of digital technology by SMEs	-	20%	50%
Digital financial service transactions	0.5%	15%	30%
Improve ranking in WEF Network Readiness Index	133	130	120

Figure 4 : An example of clear goal-setting from the DEDC's Digital Economy Roadmap

RESULTS-BASED EVALUATION

Such agencies usually function outside the traditional bureaucracy, with a great deal of autonomy in deciding their course of action. And unlike classical systems of public service, where the political executive exercises prior control over decisions, such an agency is held accountable after the fact.⁵¹ The plan or roadmap it develops is expected to contain budgetary requirements: once this is approved, the agency enjoys great freedom in determining how it will be spent, with little political interference. Its performance is judged against the objectives laid out in the plan document: for instance, a Commission has been created in the Japanese Ministry of Public Management to exclusively monitor and evaluate the performance of IAIs.⁵²

INCLUSIVE CONSULTATION

Great emphasis is laid on the inclusion and participation of individuals from private sector entities. In Singapore, the elected representative has near unrestrained freedom to choose outstanding individuals as members of the IMDA. Even the position of CEO can be occupied by people who are not civil servants.⁵³ The IMDA board of directors includes a host of professionals from fields such as AI, digital media, finance and health.⁵⁴ Malaysia and Myanmar too have healthy representation from the private sector in their respective agencies' leadership and boards. The plans they create further contain

detailed roadmaps for consultations and meetings with the private sector (Figure 5). For instance, the MDEC initiative to improve e-commerce logistics involves conducting quarterly meetings with associations representing express carriers and courier service providers.⁵⁵

Considerable importance is given also to a central forum or platform for various regulators to coordinate their actions and resolve jurisdictional disputes. The DEDC for example comprises Ministers from 9 or 10 Ministries, and Chairpersons of the relevant regulatory authorities.

There are several benefits to adopting an agency-led developmental model of public service delivery. It reenvision public service with an emphasis on efficiency, transparency and inclusion. It delinks policy formulation (by the political executive) from policy implementation (by the agency) thereby reducing the politicisation of Government programmes and schemes. Studies of IAIs in Japan have shown that agency employees are more conscious of quality and cost reduction, display greater customer orientation, and are more effective and efficient in general.⁵⁶ Finally, including the private sector permits the involvement of domain experts in policymaking. This is important for sectors inherently technical and complex, such as the digital economy and e-retail.



Figure 5 : The MDEC envisions the involvement of all relevant stakeholders (MDEC Roadmap)

4/ AN INDIAN DEVELOPMENT AUTHORITY

The previous section described the principles that have informed the creation of development authorities in some Indo-Pacific nations. Here these principles are used to assess which public bodies or institutions in India can deliver on a development mandate.

STRUCTURE AND RESPONSIBILITIES

The executive branch includes a variety of bodies and enterprises tasked with implementing the policies drawn up by Ministries and Departments. These include constitutional bodies, attached offices and autonomous bodies. Each differs in its source of authority, degree of autonomy and the scope of its powers. The respective strengths and drawbacks of each are summarised in the table below.

Administrative Body	Strengths	Drawbacks
<p>CONSTITUTIONAL BODIES: Established through a specific constitutional amendment</p> <p>e.g. Election Commission, UPSC</p>	<p>High degree of financial and operational autonomy</p> <hr/> <p>Specific mandate with broad powers</p> <hr/> <p>Largely transparent process of appointment/nomination</p>	<p>Created to fulfil a constitutional or sovereign function, not a development objective</p> <hr/> <p>Requires amendments to the Constitution, a slow process and prone to delays</p> <hr/> <p>Manned largely by public sector experts, such as former judges and civil servants</p>
<p>STATUTORY BODIES: Established by an Act of Parliament</p> <p>e.g. SEBI, RBI, RERA</p>	<p>Fixed mandate, terms of employment, remuneration. Most regulators are statutory bodies</p> <hr/> <p>Autonomy and accountability protected by enabling statute</p> <hr/> <p>Less prone to political influence and exploitation</p>	<p>Detailed procedures can make decision-making slow and cumbersome</p> <hr/> <p>No separation of policymaking from implementation</p> <hr/> <p>Autonomy only in theory: recent instances of political influence and regulatory capture</p>
<p>AUTONOMOUS BODIES/ SOCIETIES: established to implement specific policy objectives of the Government</p> <p>e.g. IITs, IIMs, the CBSE</p>	<p>Fixed mandate, terms of employment, remuneration. Most regulators are statutory bodies</p> <hr/> <p>Autonomy and accountability protected by enabling statute</p> <hr/> <p>Less prone to political influence and exploitation</p>	<p>Detailed procedures can make decision-making slow and cumbersome</p> <hr/> <p>No separation of policymaking from implementation</p> <hr/> <p>Autonomy only in theory: recent instances of political influence and regulatory capture</p>

ATTACHED OFFICES: Offices within Ministries or Departments for ground-level policy implementation, and to act as repositories of technical information e.g. CPWD, National Health Authority	Provide decentralised policy implementation Flexible and dynamic bodies that can be structured in accordance with policy objective Private sector experts can be brought on board	Lacking statutory or constitutional sanction, their success is heavily determined by political support
--	---	--

*Table 5: Comparative analysis of various kinds of administrative bodies
(Bimal Julka Committee Report, other online sources)*

Keeping in mind the key principle of agencification identified in the preceding chapter, an Attached Office is best suited to work as a development authority. It will allow policymaking to be separated from implementation, and private sector involvement to be shaped to specific requirements of e-commerce. A recent example of such an office with a broad implementation mandate is the National Health Authority, an attached office of the Ministry of Health and Family Welfare, responsible for nationwide implementation of the Pradhan Mantri Jan Arogya Yojana. It functions independently of the Ministry, is headed by a CEO from the private sector, and is accountable to a Governing Council.⁵⁷

Similarly, an Indian E-Retail Development Authority (IeRDA) could be created as an attached office of MeitY or the Ministry of Commerce and Industry, with the responsibility to implement policies and initiatives geared toward facilitating e-commerce uptake by local enterprises. The Authority should be led by a CEO (equivalent to a Secretary in the Government of India) and her core team, which should include experts from the public and private spheres. Selection of the CEO and other key positions could be entrusted to a body like the UPSC to ensure transparency. For other staff positions, the CEO and her team should be given leeway

to determine terms of remuneration, conditions of work etc. to attract the best talent. To further streamline the functioning of IeRDA, its work could be split across four verticals, each responsible to address key deficits in (a) infrastructure development, (b) finance and inclusion, (c) skill development, and (d) export promotion and facilitating trade.

IeRDA could also draw upon existing institutions in MeitY: for example the Digital India Corporation could help it improve internet connectivity. It should enjoy full functional autonomy in its day-to-day operations. Its budget should be clearly earmarked to provide a degree of financial autonomy.

A Governing Council composed of Ministers and Chairpersons of the key Ministries and Regulators identified above should be created to ensure accountability. The Council could also function as a forum for cooperation and non-adjudicatory resolution of disputes between the Authority and any other Ministries or sectoral regulators. In its functioning it could take inspiration from the UK Regulators Network, which brings together 13 regulators operating in the finance and transport sectors, to ensure a consistent and holistic Government approach to regulation.⁵⁸

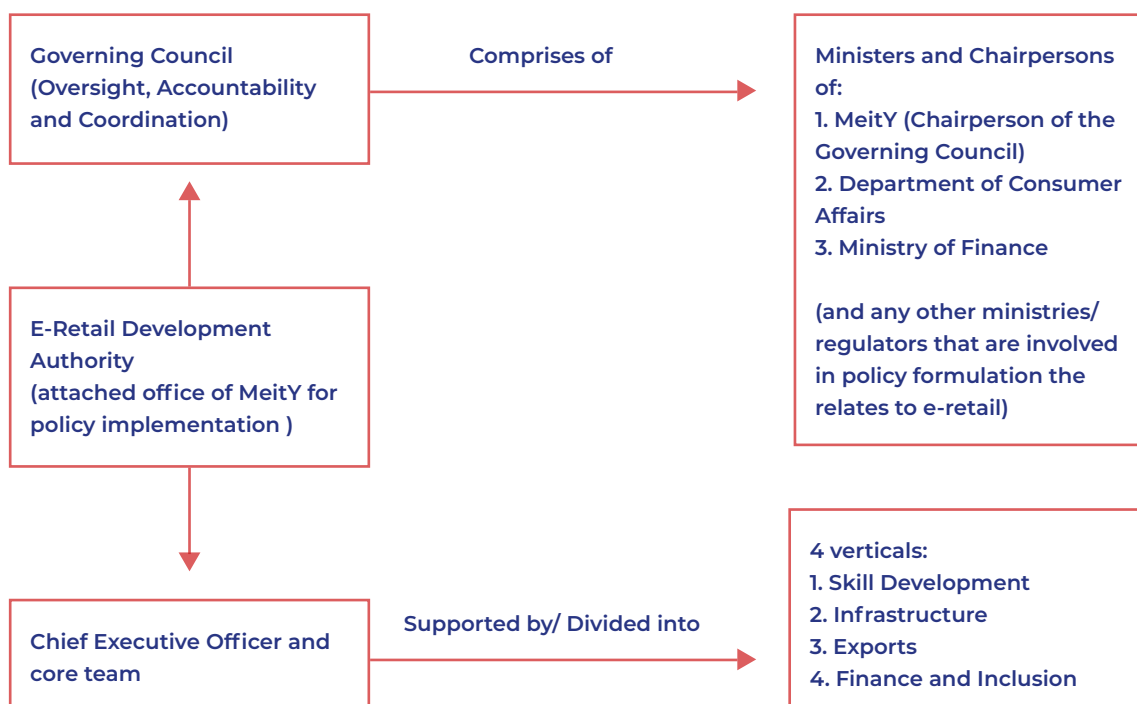


Figure 6: The proposed structure of the Indian E-Retail Developmental Authority

PLANNING AND GOAL-SETTING

IeRDA should take inspiration from its counterparts in other states, such as the MDEC and DEDC to formulate clear roadmaps based on outcomes for e-retail. These should state exactly what improvements the Authority is targeting and how it will go about achieving them over a period of 3 to 4 years. In the process the Authority could consult the relevant sectoral regulator or body to ensure smooth implementation. For example, in Malaysia the MDEC appoints a lead agency or Ministry for each intervention it seeks to make in its e-commerce roadmap. While the SME Corporation Malaysia is the ‘program lead’ for on-boarding and skilling MSMEs, the Ministry of Finance is the lead for increasing public procurement from MSMEs. The private sector can also play an important role at this stage, identifying interventions in which their expertise can be used: Thailand leveraged the expertise of Unilever and Procter & Gamble to modernise the storefronts of nearly 10,000 mom and pop stores.⁵⁹

RESULTS-BASED EVALUATION

IeRDA’s Roadmap should form the basis of evaluating its success. Upon completion of the Roadmap period the Authority should submit a progress report to the Governing Council, as well as the Standing Committee on Information Technology, stating which outcomes have been achieved, where work remains to be done, and reasons for the shortfall. To prepare this report it could work closely with the Data Monitoring and Evaluation Office in the NITI Aayog to develop an effective monitoring system.⁶⁰ It should also incorporate stakeholder feedback in the progress report.

A key challenge in programme implementation has been the continuation and even expansion of programmes and schemes that are ineffective.⁶¹ The Council should therefore closely examine any unexplained shortfalls in particular schemes, to decide the extent of the budgetary outlay required from the Union Government. This holistic evaluation should be complemented by quarterly meetings of the Council, where IeRDA would apprise it of new initiatives, as well as cross-sectoral issues impeding its progress. The Council could thereafter request the relevant Minister or Chairperson to look into these issues and resolve them.

INCLUSIVE CONSULTATION

The structure of the Authority as described above permits the inclusion of the private sector in its day-to-day operations. Not only will this bring in professionalism and expertise, it will ensure a variety of stakeholders are represented in the decision-making process, preventing regulatory or institutional capture by a set of interests.

Including all relevant stakeholders is crucial for fair and equitable decision making. The Roadmap prepared by IeRDA should clearly state which interventions require private sector participation, and set timelines for consultations akin to what is being done in Malaysia.

The current global scenario gives India the opportunity domestically to adopt a state-backed capacity building effort, and give shape to the rules governing digital trade internationally. It must harness the opportunity by creating an IeRDA to make systematic investments to enable e-retail adoption by local firms, particularly MSMEs. This approach will also give India time to determine its position on key issues at trade negotiations, such as cross-border data transfers and source-code requirements, without binding itself to any domestic policy orientation.

ENDNOTES

- 1 Joint Statement on Electronic Commerce, 25 January 2019 <https://trade.ec.europa.eu/doclib/docs/2019/january/tradoc_157643.pdf>
- 2 The Geneva Ministerial Declaration on e-commerce, 18 and 19 May 1998 <https://www.wto.org/english/tratop_e/ecom_e/mindecl_e.htm>
- 3 Communication from India to the Council for Trade Related Aspects of Intellectual Property Rights pertaining to the Work Programme on Electronic Commerce, 8 July 1999 <t.ly/jhTW>
- 4 Statement of the Indian Representative to the General Council, Para 104, 8 and 9 May 2001 <bit.ly/34Ihw9Q>
- 5 See for example statements by Malaysia (para 127) and Singapore (para 110) to the General Council, December 2000 <<https://docs.wto.org/dol2fe/Pages/SS/directdoc.aspx?filename=Q:/WT/GC/M61.pdf>>
- 6 See list of members in the Joint Statement, note 1
- 7 UNCTAD, Friends for E-Commerce for Development: Mapping e-Trade for All Development Objectives into a WTO Framework for E-Commerce <https://unctad.org/system/files/non-official-document/eweek-2018c01FED_en.pdf>
Also see the MIKTA, a similar association of states seeking to build consensus on e-commerce <<http://www.mikta.org/document/others.php?at=view&idx=235&ckattempt=1>>
- 8 José-Antonio Monteiro and Robert Teh, Provisions on Electronic Commerce in Regional Trade Agreements, WTO Working Paper, June 2017 <https://www.wto.org/english/res_e/reser_e/ersd201711_e.htm>
- 9 Communication by India to the General Council, November 2017 <https://docs.wto.org/dol2fe/Pages/FE_Search/DDFDocuments/240274/q/3Jobs/GC/153.pdf>
- 10 CII, November 2019 <<https://www.deccanherald.com/business/business-news/not-being-part-of-rcep-will-harm-indias-exports-cii-773026.html>>
- 12 Annual Report 2019–20, Ministry of MSMEs <https://msme.gov.in/sites/default/files/FINAL_MSME_ENGLISH_AR_2019-20.pdf>
- 13 Chapter 3, Economic Survey 2019–20 <<https://www.indiabudget.gov.in/budget2019-20/economicsurvey/doc/echapter.pdf>>
- 14 ‘Only 5% of MSMEs have fully embraced digital technology’, January 2019 <bit.ly/370mvbS> ‘Indian MSMEs struggle for technology adoption continues’, November 2019 <financialexpress.com/industry/sme/msme-tech-small-business-technology-msme-cloud-adoption-digital-technology-india-sme-forum-intel-india/1770091/>
- 15 UNESCAP, Embracing the E-commerce Revolution in Asia and the Pacific, June 2018 <<https://www.unescap.org/resources/embracing-e-commerce-revolution-asia-and-pacific>>
- 16 World Bank, Unleashing E-Commerce for South Asian Integration, 2020 <<https://openknowledge.worldbank.org/bitstream/handle/10986/32718/9781464815195.pdf?sequence=4&isAllowed=y>>
- 17 WTO, E-commerce in Developing Countries, 2013 <https://www.wto.org/english/res_e/publications_e/ecom_devel_countries_e.htm>

-
- 18 KPMG, Impact of e-commerce on SMEs in India, 2015 <https://assets.kpmg/content/dam/kpmg/pdf/2015/10/Snapdeal-Report_-_Impact-of-e-Commerce-on-Indian-SMEs.pdf>
- 19 World Bank, see note 16
- 20 Paypal, August 2017 <cnb.cx/384NV5K>
- 21 Monish Anand, March 2020 <<https://www.financialexpress.com/industry/msme-fin-indias-answer-to-its-problem-of-380-billion-msme-credit-gap-lies-in-these-type-of-lenders-to-step-up/1887426/>>
- 22 Vidit Mohan and Salman Ali, Challenges Faced by Indian MSMEs in Adoption of Internet Marketing and E-commerce, Academy of Marketing Studies Journal, 2019 <<https://www.abacademies.org/articles/challenges-faced-by-indian-msmes-in-adoption-of-internet-marketing-and-ecommerce-7881.html>>
- 23 Narvar, November 2019 <<https://www.news18.com/news/business/one-out-of-three-cash-on-delivery-orders-in-india-remain-undelivered-report-2382381.html>>
- 24 Kaushik Roy, December 2019 <<https://bit.ly/3anABdU>>
- 25 CIGI Ipsos, Global Survey on Internet Security and Trust <<https://bit.ly/2Mpgnsb>>
- 26 IBM and the Ponemon Institute, December 2020 <<https://digitalguardian.com/blog/whats-cost-data-breach-2019>>
- 27 KPMG, Cybercrime Survey Report, 2014 <https://assets.kpmg.com/content/dam/kpmg/pdf/2014/07/KPMG_Cyber_Crime_survey_report_2014.pdf>
- 28 Google India, September 2019 <<https://indianexpress.com/article/education/international-literacy-day-why-india-needs-to-achieve-digital-literacy-now-more-than-ever-5972022/>>
- 29 Ericsson Mobility Report, 2017 <<https://www.ericsson.com/assets/local/mobility-report/documents/2017/ericsson-mobility-report-november2017-central-and-eastern-europe.pdf>>
- 30 Harish Pal Kumar, National Report on E-commerce Development in India, UNIDO <https://www.unido.org/sites/default/files/2017-10/WP_15_2017_.pdf>
- 31 Ibid.
- 32 Bebenroth, R., N. Kshetri, and R. Hünerberg, Foreign Firms' Access to the Japanese Market, European Journal of International Management <https://libres.uncg.edu/ir/uncg/f/N_Kshetri_Foreign_2014.pdf>
- 33 Arvind Panagariya, E-Commerce, WTO and Developing Countries, UN Policy Series in International Trade and Commodities, 2000 <https://unctad.org/system/files/official-document/itcdtab3_en.pdf>
- 34 C. Satapathy, WTO Work Programme on E-Commerce Strategy for Further Negotiations, Economic & Political Weekly, 2001 <<https://www.epw.in/journal/2001/39/commentary/wto-work-programme-e-commerce.html>>
- 35 Didar Singh, Electronic Commerce: Issues Of Policy And Strategy For India, ICRIER Working Paper No. 86, 2002 <<https://icrier.org/pdf/WP-86.pdf>>
- 36 Sacha Wunsch-Vincent, WTO, E-commerce, and Information Technologies, a report for the UN ICT Task Force <https://www.wto.org/english/tratop_e/serv_e/sym_april05_e/wunschvincent_e.pdf>
- 37 Biswajit Dhar, Electronic Commerce and the WTO: The Changing Contours of Engagement, Madhyam Briefing Paper 21, 2017 <<https://www.madhyam.org.in/wp-content/uploads/2017/11/BP-21-on-ecommerce-WTO.pdf>>

-
- 38 Rashmi Banga, *Is India Digitally Prepared for International Trade?*, RIS Discussion Paper 235, 2018 <<http://www.ris.org.in/newasiaforum/sites/default/files/Publication%20File/DP%20235%20Rashmi%20Banga-.pdf>>
- 39 Parminder Jeet Singh, *Digital Industrialisation in Developing Countries*, IT For Change, 2018 <<https://itforchange.net/sites/default/files/add/Digital-industrialisation-May-2018.pdf>>
- 40 'No plans for an e-regulatory body for e-commerce, says Piyush Goyal', July 2019 <<https://www.medianama.com/2019/07/223-no-plans-of-an-e-regulatory-body-for-e-commerce-says-piyush-goyal/>>
- 41 Pankhudi Khandelwal, *Mechanism for Resolving Jurisdictional Conflicts between Competition Commission & Sector Regulators*, *Journal of European Competition Law & Practice*, May-June 2020 <<https://academic.oup.com/jeclap/article-abstract/11/5-6/287/5856776>>
- 42 For more information on Gol schemes relevant to e-commerce, see note 30
- 43 Draft National E-Commerce Policy, 2019 <https://dipp.gov.in/sites/default/files/DraftNational_e-commerce_Policy_23February2019.pdf>
- 44 CIS Response to Call for Stakeholder Comments: Draft E-Commerce Policy, March 2019 <<https://cis-india.org/internet-governance/resources/e-commerce-submission>>
- Ambika Khanna, 'A Critique of India's Draft National E-commerce Policy', April 2019 <<https://www.gatewayhouse.in/india-e-commerce-policy/>>
- 45 Sanhita Sapatnekar, Ila Patnaik and K. Kishore, *Regulating Infrastructure Development in India*, National Institute of Public Finance and Policy <https://macrofinance.nipfp.org.in/PDF/PatnaikSapatnekarKishore-regulating_infrastructure_development_in_india.pdf>
- GSMA, *A New Regulatory Framework for the Digital Ecosystem*, 2016 <<https://www.gsma.com/publicpolicy/resources/new-regulatory-framework-digital-ecosystem>>
- 46 UNCTAD B2C E-Commerce Index 2019 <https://unctad.org/system/files/official-document/tn_unctad_ict4d14_en.pdf>
- UNCTAD B2C E-Commerce Index 2016 <https://unctad.org/system/files/official-document/tn_unctad_ict4d07_en.pdf>
- 47 Koen Verhoest, 'Agencification Processes and Agency Governance: Organizational Innovation at a Global Scale?' in Valkama et al, *Organisation Innovation in Public Services*, 2013 <https://link.springer.com/chapter/10.1057/9781137011848_4>
- 48 Second Administrative Reforms Commission, Tenth Report, Chapter 10, November 2008 <https://darpg.gov.in/sites/default/files/personnel_administration10.pdf>
- 49 Ibid.
- 50 Malaysia Digital Economy Corporation, *National E-commerce Strategic Roadmap* <<https://mdec.my/about-malaysia/government-policies/national-ecommerce-strategic-roadmap>>
- 51 UNDP, *From Old Public Administration to the New Public Service*, 2015 <<https://www.undp.org/content/undp/en/home/librarypage/capacity-building/global-centre-for-public-service-excellence/PS-Reform.html>>
- 52 2nd ARC, see note 48
- 53 The Act places virtually no restrictions on who can be a member of the IMDA <<https://sso.agc.gov.sg/>>

Act/IMDAA2016#pr1->

54 IMDA <<https://www.imda.gov.sg/Who-We-Are/about-imda/our-team/our-board-of-directors>>

55 MDEC, see note 50

56 Kiyoshi Yamamoto, Performance of semi-autonomous public bodies: Linkage between autonomy and performance in Japanese agencies, Public Administration and Development, 2006

57 PM-JAY <<https://pmjay.gov.in/about/nha>>

58 UK Regulators Network <<https://www.ukrn.org.uk/about/>>

59 Department of Business Development Thailand, Annual Report 2018 <https://www.dbd.go.th/download/publicdevelop_file/annualreport/annualreport_ThEng61.pdf>

60 NITI Aayog <<https://niti.gov.in/development-monitoring-evaluation-office-dmeo>>

61 Karthik Muralidharan and Abhijeet Singh, Improving Public Sector Management At Scale? Experimental Evidence On School Governance India, National Bureau of Economic Research Working Paper, 2020 <[econweb.ucsd.edu/~kamurali/papers/Working%20Papers/MPSQA%20\(NBER%20WP\).pdf](http://econweb.ucsd.edu/~kamurali/papers/Working%20Papers/MPSQA%20(NBER%20WP).pdf)>



www.esyacentre.org