



# Standing Committee Report Summary

## Promotion and Regulation of E-Commerce in India

- The Standing Committee on Commerce (Chair: Mr. V.V. Reddy) presented its report on ‘Promotion and Regulation of e-commerce in India’ on June 15, 2022. Key observations and recommendations of the Committee include:
  - **Competition issues in e-commerce entities:** Anti-competitive practices in the e-commerce marketplace include: (i) lack of platform neutrality, i.e., providing preferential treatment to selected sellers, (ii) deep discounting, i.e., discounts of preferred sellers are selectively funded by the platform, (iii) non-transparent search rankings, and (iv) misuse of data. The Committee recommended formulating a policy which clearly defines marketplace and inventory-based models of e-commerce. It recommended that marketplace-commerce entities should: (i) not sell goods that it owns or controls, (ii) not have any direct or indirect relationship with sellers who sell on the platform, and (iii) be prohibited from licensing their brand to third party sellers on the platform.
  - The Committee also recommended prohibition of selective discounts and arbitrary classification of buyers and sellers on e-commerce platforms. To improve transparency in data handling and search rankings, it recommended that the government should to formulate a clear policy regulating the collection of data on the platform, its use and sharing of such data with third parties. In addition, e-commerce platforms should publish their criteria for determining rankings, and disclose terms and conditions required to become a seller on the platform such as platform fee, commissions, and levies. Unilateral revision of these terms and conditions which can be detrimental to any stakeholder must be prohibited.
  - **FDI Policy:** The FDI Policy on E-Commerce allows FDI-backed e-commerce entities to operate only as a marketplace. The Committee observed that the policy is limited in addressing anti-competitive practices in e-marketplace. The Committee noted that there should be a framework to address these issues for both foreign and domestic funded marketplaces. It recommended the inclusion of such a framework in the National E-Commerce Policy.
  - **E-Commerce Rules:** The draft amendments to the Consumer Protection (E-Commerce) Rules, 2020 place certain obligations on e-commerce entities such as appointment of chief compliance officer and nodal contact person along with setting up a grievance redressal mechanism on the entity’s website. The Committee observed that the blanket imposition of these obligations, irrespective of the size of the entity, can be counter-productive and decelerate the growth of the sector. It recommended that the proposed amendments should be applicable for only those entities that qualify a certain threshold.
- **Competition Act:** The Competition Act, 2002 seeks to prevent practices that have an adverse impact on market competition. The Committee observed that, under the Act, factors determining whether an agreement will adversely impact competition are outdated. Similarly, the Committee also recommended making necessary amendments to the Act for determining the abuse of dominant position. It highlighted that delay in undertaking necessary amendments to the regulatory framework may lead to irreversible effects on competition in digital market.
- The Committee noted that international practices recognise that digital companies of a certain size need targeted regulation. They are designated as gatekeeper entities. The Committee recommended that India should set a threshold for qualifying entities as gatekeepers. It recommended amending the Act to add quantitative criteria such as active consumers and sellers on a platform, and volume of revenue generated to identify gatekeeper identities. Platforms must be obligated to notify the regulator on their own after reaching the prescribed gatekeeper threshold.
- **Extending tax exemptions:** Under the Goods and Services tax (GST), offline sellers with turnover less than Rs 40 lakh for goods and Rs 20 lakh for services are exempt from GST registration. However, online sellers, irrespective of their size have to mandatorily register and pay tax. The Committee recommended: (i) exempting online sellers from GST registration in line with offline sellers, (ii) allowing online sellers with annual turnover less than 1.5 crore to pay 1% of the turnover as flat tax, and (iii) permitting online sellers to register a virtual place of business.
- **Open Network for Digital Commerce (ONDC):** The Committee noted that ONDC, an initiative of the Department of Industry and Internal Trade (DPIIT), aims to promote an open network for all aspects of digital trade. However, the Committee recommended that DPIIT should address issues such as maintaining a level playing field between small businesses and e-commerce giants and provide technical support to small and local businesses.

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