

REPORT NO.

172



PARLIAMENT OF INDIA  
**RAJYA SABHA**

DEPARTMENT RELATED PARLIAMENTARY STANDING COMMITTEE  
ON COMMERCE

**ONE HUNDRED AND SEVENTY SECOND REPORT**

**Promotion and Regulation of E-Commerce in India**

*(Presented to Hon'ble Chairman, Rajya Sabha on 15<sup>th</sup> June, 2022)*

*(Forwarded to Hon'ble Speaker, Lok Sabha on 15<sup>th</sup> June, 2022)*



**Rajya Sabha Secretariat, New Delhi**  
**June, 2022/ Jyaishta, 1944 (Saka)**

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# PARLIAMENT OF INDIA RAJYA SABHA

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सत्यमेव जयते

**Rajya Sabha Secretariat, New Delhi**  
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**COMPOSITION OF THE COMMITTEE**  
(Constituted w.e.f. 13<sup>th</sup> September, 2021)

1. Shri V. Vijayasai Reddy — *Chairman*

**RAJYA SABHA**

2. Shri P. Bhattacharya
3. Shri Anil Desai
- \* 4. Shrimati Roopa Ganguly
- # 5. Shri Naresh Gujral
6. Shri Sushil Kumar Gupta
7. Shri Om Prakash Mathur
8. Shri Deepak Prakash
9. Shri Dharmapuri Srinivas
- @ 10. Shri Jugalsinh Lokhandwala

**LOK SABHA**

11. Shri Prasun Banerjee
12. Shri Raju Bista
13. Shri Rajkumar Chahar
14. Shri Rameshbhai Lavjibhai Dhaduk
15. Shri Arvind Dharmapuri
16. Shri Santosh Kumar Gangwar
17. Shri Manoj Kotak
18. Shri Ajay Kumar Mandal
19. Shrimati Manjulata Mandal
20. Shri Nakul Kamal Nath
21. Shri Hemant Shriram Patil
22. Dr. Gautham Sigamani Pon
23. Dr. Manoj Rajoria
24. Shri Nama Nageswara Rao
25. Shri Ashok Kumar Rawat
26. Shri Magunta Sreenivasulu Reddy
27. Shri Prajwal Revanna
28. Shri Gowdar Mallikarjunappa Siddeshwara
29. Shri Kesineni Srinivas (Nani)
30. Shri Mansukhbhai Dhanjibhai Vasava
31. Vacant

**SECRETARIAT**

Shri S. Jason, Joint Secretary  
Shri T.N. Pandey, Director  
Smt. Nidhi Chaturvedi, Additional Director  
Shri Kuldip Singh, Under Secretary  
Shri V. Summinlun, Assistant Committee Officer

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\* Retired w.e.f. 24th April, 2022.

# Retired w.e.f. 9th April, 2022.

@ Nominated w.e.f. 8<sup>th</sup> December, 2021.

## INTRODUCTION

I, the Chairman of the Department Related Parliamentary Standing Committee on Commerce, having been authorised by the Committee, present this One Hundred and Seventy Second Report of the Committee on 'Promotion and Regulation of E-Commerce in India'.

2. The Committee selected the subject for detailed examination on 20<sup>th</sup> October, 2021 and the same was notified *vide* Parliamentary Bulletin Part-II dated 26<sup>th</sup> October, 2021. As a part of examination of the subject, the Committee considered the subject in detail in its three meetings wherein it heard the views of Department for Promotion of Industry and Internal Trade, Ministry of Commerce and Industry; Department of Revenue, Ministry of Finance; Vidhi Centre for Legal Policy; National Restaurant Association of India; and Ecom Express.

3. The Committee also undertook one study visit to Hyderabad, Bengaluru and Mumbai from 18<sup>th</sup> to 22<sup>nd</sup> April, 2022 on the subject and held interactions with various stakeholders as well as representatives of the State Governments of Andhra Pradesh, Telangana, Karnataka, and Maharashtra.

4. The Committee considered the draft Report and adopted the same at its meeting held on 8<sup>th</sup> June, 2022.

NEW DELHI;  
8<sup>th</sup> June, 2022  
*Jyaishta* 18, 1944 (*Saka*)

V. VIJAYASAI REDDY  
*Chairman,*  
*Department Related Parliamentary*  
*Standing Committee on Commerce*  
*Rajya Sabha.*

## ACRONYMS

AAEC	Appreciable Adverse Effect on Competition
AFS	Air Freight System
AI	Artificial Intelligence
ASPA	Authentication Solution Providers' Association
B2C	Business-to-Consumer
CBIC	Central Board of Indirect Taxes and Customs
CCI	Competition Commission of India
CFS	Container Freight Station
CGST	Central Goods and Services Tax
CLRC	Competition Law Review Committee
CSB	Courier Shipping Bill
DHP	Digital Health Platforms
DPIIT	Department for Promotion of Industry and Internal Trade
EC	European Commission
ECCS	Electronic Cargo Clearance System
ED	Enforcement Directorate
EEZs	E-Commerce Export Zones
EGMM	Employment Generation and Marketing Mission
EU	European Union
EUMR	EU Merger Regulation
EXIM	Export Import
FDI	Foreign Direct Investment
FPOs	Foreign Post Offices
FTAs	Free Trade Agreements
GeM	Government E-Marketplace
GDP	Gross Domestic Product
GMV	Gross Merchandise Value
GST	Goods and Services Tax
GSTR	Goods and Services Tax Return
HTTps	Hypertext Transfer Protocol Secure
IBEF	Indian Brand Equity Foundation
ICD	Inland Container Depot
ICT	Information And Communications Technology
IIPA	Indian Internet Pharmacies Association
IoT	Internet of Things
IPR	Intellectual Property Rights
IT	Information Technology
ITC	Input Tax Credit

LoI	Letter of Intent
MDR	Merchant Discount Rate
MeitY	Ministry of Electronics and Information Technology
MMLPs	Multi-Modal Logistic Parks
MSMEs	Micro, Small & Medium Enterprises.
NAD	National Accounts Division
NPCI	National Payments Corporation of India
NSDC	National Skill Development Corporation
NSIC	National Small Industries Corporation
ONDC	Open Network for Digital Commerce
PAN	Permanent Account Number
P2B	Platform-to-Business
PBE	Postal Bill of Export
PCI DSS	Payment Card Industry Data Security Standard
PG	Payment Gateway
PO	Purchase Order
PPoB	Principal Place of Business
PPP	Public-Private Partnership
PSCAM	Paramount Significance for Competition Across Markets
PSP	Payment Service Providers
RBI	Reserve Bank of India
SARAS	Sale of Articles of Rural Artisans Society
SEZ	Special Economic Zone
SHGs	Self-Help Groups
SOPs	Standard Operating Procedures
TCS	Tax Collected at Source
UK	United Kingdom
UNCTAD	United Nations Conference on Trade and Development
UPI	Unified Payment Interface
USD	United States Dollar



# REPORT

## INTRODUCTION

The e-commerce industry has evolved and attained a foothold in the Indian market and picked up a significant momentum during the past few years. The rapid proliferation of the digital economy has led to growth of e-commerce industry at a rapid pace which was further accelerated by compulsions on account of COVID-19. At the heart of the rapid expansion of e-commerce is the multiplicity of benefits the e-marketplace offers to both sellers and consumers, in comparison to traditional brick and mortar markets. The online platforms provide benefits such as flexibility in business models, access to wider audience and scalability of business to the sellers. Additionally, sellers can also purchase services from the online platforms which include warehousing, storage, packaging and shipment facilities of products. To consumers, such online platforms offer products at massive discount rates coupled with facilities such as door-step delivery and return services, which thereby result in high consumer satisfaction. With attractive and convenient shopping options at the core of the consumer-facing business, the e-commerce industry also offers the power to create an innovative, sustainable, consistent and seamless shopping experience across all channels.

1.2 The rise of e-commerce in India, however, has not been without problems. The e-commerce market in India exhibits a clear pattern of concentration, where few e-marketplace giants hold control over a large part of the market, making them indispensable for sellers/business users seeking access to such e-marketplaces' sizeable online consumer bases. Additionally, numerous allegations of anti-competitive and unfair trade practices such as deep discounting, self-preferencing of private labels owned by platform operators, and opacity regarding search rankings, reviews and usage of data have been routinely levelled against platforms by their sellers/business users. Several trade organisations and unions in India have repeatedly approached the Competition Commission of India (CCI), the Ministry of Commerce and Industry and the Enforcement Directorate to remedy the same.

1.3 In this background, the Department Related Parliamentary Standing Committee on Commerce has taken up the subject, 'Promotion and Regulation of E-Commerce in India' for examination. The Committee, in its Report, observes and analyses the various competition issues that are prevalent in the e-commerce marketplace with the objective of ensuring that benefits of the e-commerce ecosystem are reaped by all the stakeholders, viz., the platform, the sellers and the buyers/consumers. The Committee has also examined various challenges in the e-commerce marketplace such as digital exclusion of MSMEs, IPR infringement, gaps in the current regulatory and enforcement mechanism,

procedural issues in logistics and courier services, GST regime and e-commerce exports.

## **OVERVIEW OF E-COMMERCE MARKET**

2.1 The Department for Promotion of Industry and Internal Trade (DPIIT) informed the Committee that as per data published by the Statista in February, 2022, the global retail e-commerce sales have increased from USD 1,336 billion in 2014 to USD 4,938 billion in 2021. As per Indian Brand Equity Foundation (IBEF) report in November, 2021, the Indian e-commerce market is expected to grow from USD 46.2 billion in 2020 to USD 111.40 billion by 2025 and is further projected to attain the value of USD 200 billion by 2026. According to Bain & Company Report, India's social commerce Gross Merchandise Value (GMV) stood at USD 2 billion in 2020 and it is expected to reach USD 20 billion by 2025, with a potentially monumental jump to USD 70 billion by 2030, owing to high mobile usage.

2.2 With an objective of gaining insights on the market structure of the domestic e-commerce sector and its impact on the economy, the Committee enquired about the number of registered e-commerce operators, share of e-commerce sector in GDP, and direct and indirect employment generated in the e-commerce sector. It was informed by DPIIT that as per mandatory Tax Collected at Source (TCS) registration under GST system, 15,638 e-commerce operators are registered as on 31<sup>st</sup> March, 2022. The Department also informed that the information as to whether these registered e-commerce operators are owned by foreign or domestic entity, it is not captured under the system. As regards to the data on the share of e-commerce market in GDP, the Department informed that the National Accounts Division (NAD) does not compile value addition separately for e-commerce. It further informed that data regarding the direct and indirect employment generated by the e-commerce sector is not available.

**2.3 The Committee is perturbed to observe that critical data regarding e-commerce such as share of e-commerce market in GDP and direct and indirect employment generated by e-commerce sector has not been collated and maintained by the Government. The Committee opines that such data forms crucial inputs in formulating a long term policy for the e-commerce sector and enables data based policy formulation. The Committee, therefore, recommends the Department to direct its resource towards maintaining of appropriate data regarding e-commerce and make it readily available.**

**2.4 The Committee also observes that e-commerce companies are not registered with the DPIIT despite the fact it being the parent Department with regard to e-commerce. The Committee feels that enabling mandatory**

**registration of e-commerce companies with the Department will be the first step towards streamlining the regulation of e-commerce and will also assist in gauging the progress of the sector. The Committee, therefore, recommends the Department to make it mandatory for all e-commerce companies to be registered with them. The Committee further recommends that the process of registration with Department must be simple and in line with ease of doing business.**

## **UNIQUE FEATURES OF E-COMMERCE PLATFORMS**

### **1) Data as an economic resource**

3.1 The business model of digital platforms such as e-marketplaces is based on users' personal data, and flow of this data from one side to another. Such platforms collect, store, and use large amounts of data, derived from consumers that transact upon them. This accumulated consumer data is a veritable goldmine for e-marketplaces which can be processed to study consumption trends and monetised in various ways to compete against their business users by internally developing products and services for which there is demonstrated consumer appetite.

3.2 Additionally, singular access to aggregated data can present a form of competitive advantage. A data-rich incumbent is able to further bolster its market position through an effect known as the 'feedback loop'. Such feedback loops reinforce the strength of an incumbent giant in the market and, therefore, constitute a formidable barrier to entry for emerging e-marketplaces to effectively compete with incumbent giants.

### **2) Network Effects**

3.3 'Network effects' refers to increased utility that a user derives from a service when the number of other users consuming the service increases. Therefore, a competitive lead in such markets is self-reinforcing. This creates an effect where not only the product, but also the network of its users bears utility to the user. The greater the popularity of a digital platform, the harder it becomes to create an equally or more attractive competitor.

### **3) Economies of Scale**

3.4 Economies of scale refers to a situation where the cost of production of a good or service decreases with the increase in the number of goods or services produced. While this generally holds true for all markets, the way this phenomenon plays out is far more extreme in case of digital platforms. The increment in the cost of production of service to a new consumer acquired is almost negligible in case of a platform. This peculiarity also results in pre-existing dominant players having a huge competitive advantage over new entrants in terms of the price at which the service of the platform is offered. Additionally, in order to grow in size with the ultimate goal of reaping benefits

of economies of scale, large platforms (which may not necessarily be dominant in a given market) defer their profits indefinitely by running at losses.

## **REGULATORY FRAMEWORK IN E-COMMERCE**

4.1 E-commerce platforms display certain distinct and unique features that set them apart from the traditional brick and mortar model of business. The Committee was informed that different laws and regulations across sectors govern the present e-commerce activities owing to the cross-cutting nature of e-commerce, some of which are, FDI Policy on E-Commerce and Foreign Exchange Management Act, 1999, Consumer Protection Act, 2019, Competition Act, 2002, Central Goods and Services Tax (CGST) Act, 2017, Finance Act, 2016-Equalisation Levy, Income Tax Act, 1961-TDS on E-Commerce transaction, etc.

### **FDI POLICY ON E-COMMERCE AND FOREIGN EXCHANGE MANAGEMENT ACT, 1999**

5.1 The FDI policy on E-Commerce and Foreign Exchange Management Act, 1999 regulates FDI in e-commerce sector. The policy permits FDI backed e-commerce entities to only operate as a marketplace and expressly prohibits such e-commerce entities from operating as an inventory-based model. In marketplace model, e-commerce platforms are restricted to have equity share or have control over inventory of sellers on their platform directly or through its group companies. In this regard, inventory of seller is deemed to be controlled by an e-commerce platform if more than 25 per cent of purchases of such vendor are from the marketplace entity or its group companies.

5.2 The FDI policy also places obligations upon e-marketplaces to maintain a level playing field, specifically by refraining from directly or indirectly influencing the sale price of goods or services sold on its platform. It further mandates parity between contracts and offers such as cashbacks to be made available to all sellers indiscriminately. Additionally, the policy also prohibits e-commerce marketplace entities from mandating any business user to sell any product exclusively on its platform. In order to ensure compliance to the FDI rules, e-commerce platforms, who have received FDI are required to obtain and maintain a report of statutory auditor by 30<sup>th</sup> of September every year and confirm their compliance to e-commerce guidelines. Enforcement Directorate (ED) under the Ministry of Finance undertakes investigations regarding contravention of FDI rules.

5.3 The Committee was informed that the extant FDI policy attempts to promote fair and competitive e-marketplace by targeting a number of anti-competitive practices such as self-preferencing, lack of platform neutrality, deep discounting, exclusive agreements and preferential treatment to selected sellers. However, the efficacy of the FDI policy in promoting fair competition in e-marketplace is limited given the fact that it is applicable only to foreign-

funded e-commerce entities resulting in the domestically funded e-commerce entities escaping the obligations under the FDI policy. Further, the fact that obligations under the FDI policy are formulated and notified by the DPIIT but enforced by the Enforcement Directorate has reportedly led to confusion and dissatisfaction amongst several trade organisations regarding its enforcement efficacy. Additionally, many market players have also alleged that uncertainty around the FDI policy given its frequent revisions that require expensive internal restructuring, reduce the ease of doing business.

**5.4 The Committee notes that FDI policy is limited in addressing anti-competitive practices in the e-marketplace such as self-preferencing, lack of platform neutrality, deep discounting, exclusive agreements and preferential treatment to selected sellers. The Committee opines that a holistic framework that addresses these issues, irrespective of the marketplace being funded by foreign or domestic entities, is the need of the hour. The Committee, therefore, recommends the Department to work out a comprehensive framework that regulates the e-commerce and include it in the National E-Commerce Policy.**

**5.5 The Committee observes that while the FDI policy on E-Commerce attempts to address various issues in the e-commerce sector, it fell short in its enforcement mechanism. The Committee, therefore, recommends that the enforcement mechanism under the FDI policy are effectively strengthened and proactive actions are taken against e-commerce giants that are found to flout the FDI rules. A time-bound investigation mechanism is required to address the fast paced digital market and to ensure that unfair market practices do not occur due to sluggish investigation process.**

**5.6 The Committee opines that frequent changes to policy are against the ethos of ease of doing business as it brings uncertainty in the policy regime. The Committee, therefore, recommends that a stable FDI policy regime be ensured in the e-commerce sector to bring about certainty and boost the confidence of potential investors.**

## **CONSUMER PROTECTION ACT, 2019 AND THE CONSUMER PROTECTION (E-COMMERCE) RULES, 2020**

6.1 The Consumer Protection (E-Commerce Rules), 2020 has been notified by Ministry of Consumer Affairs, Food and Public Distribution under the Consumer Protection Act, 2019. The rules, which are applicable to all activities covered under e-commerce, specified the duties and liabilities of the e-commerce entities and sellers.

6.2 The Committee was informed that the Department of Consumer Affairs, Ministry of Consumer Affairs Food and Public Distribution published draft amendments to the E-Commerce Rules (Draft Rules) for public comments on

21<sup>st</sup> June 2021. The Draft Rules, with a view to further consumer welfare, seek to propose numerous accountability and transparency enabling obligations upon e-commerce entities. These obligations include the appointment of a Chief Compliance Officer, Nodal Contact Person, a Resident Grievance Officer and the setting up of a Grievance Redressal Mechanism on the entity's website.

6.3 The Committee was informed that while the above measures are a welcome step in fostering accountability for e-commerce entities, a blanket applicability of such requirements upon all e-commerce entities irrespective of their size may prove to be onerous and cumbersome for smaller e-commerce companies and Startups. In fact, the increased compliance costs and exposure to liability may decelerate the growth of smaller e-commerce business and drive potential competitors of existing incumbent giants away from the Indian e-commerce market.

6.4 Various international practices view that digital companies of a certain size need specialised targeted regulation. For instance, the Digital Services Act Package proposed by the European Union (EU) in February, 2020 targets platforms that are designated as gatekeepers based on well defined criteria which are to be reviewed periodically. Similarly, in the United Kingdom (UK), the new regime for digital businesses will be applicable to companies with Strategic Market Status. A similar approach is being adopted by Germany. In the US, the Federal Trade Commission, the US antitrust regulator, has been extremely vocal about Big Tech and the need for nuanced regulation to ensure a level playing field.

6.5 In the domestic regulatory landscape too, the recently notified Information Technology (Intermediary Guidelines and Digital Media Ethics Code) Rules, 2021 (IT Rules) has adopted a calibrated approach to digital regulation wherein social media intermediaries are classified based on the number of registered users and differential obligations imposed upon them. The requirement of appointing a Chief Compliance Officer, a Nodal Contact Person and a Resident Grievance Officer have only been placed on significant social media intermediaries that qualify a certain threshold of registered number of users notified by the Government.

**6.6 The blanket imposition of increased obligation on e-commerce companies, irrespective of their size, may be counterproductive and may decelerate the growth of e-commerce in India. The Committee, therefore, recommends that a calibrated approach be adopted towards regulating e-commerce entities and the additional duties and liabilities sought to be introduced through the Draft Rules should be made applicable specifically to only e-commerce entities that qualify a certain threshold, devised particularly to regulate e-commerce giants.**

6.7 The Draft Rules also aim to promote free and fair competition, through placing prohibitions on abuse of dominance, unfair pricing and self-preferencing. The Committee was informed that while increased market competition is in the interest of consumers, the issues that the Draft Rules aim to address falls squarely within the mandate of the Competition Commission of India (CCI) established under the Competition Act, 2002. An express transplanting of powers under the Competition Act, 2002 into the Draft Rules may provide avenues for enforcement overlaps, forum shopping and regulatory arbitrage. Moreover, such an overlap of mandate will give an advantage to existing e-commerce giants which have the money and manpower to devote to multiple legal proceedings as can potentially delay conclusion of legal proceedings and enforcement of orders endlessly.

**6.8 The Committee opines that while the intent of the draft rules is appreciable, the overlap in mandate and transplanting of power already accorded to a statutory body may not result in enhancing regulatory mechanism. The Committee, therefore, recommends that the manner of regulation of e-commerce platforms and division of responsibility amongst regulators be consciously designed with a view to avoid overlaps of mandate. The Committee further recommends that a robust mechanism of co-operation between various ministries/regulators and the CCI must be devised to bring about increased enforcement success, administrative efficiency, expertise building as well as bolstering the ease of doing business.**

6.9 The Draft Rules under Rule 39(e) place a prohibition on e-commerce entities from organising flash sales. However, the Press Notification dated 21<sup>st</sup> June 2021 released by the Ministry of Consumer Affairs, Food and Public Distribution states that conventional flash sales are not banned, but only specific flash sales or back-to-back sales which limit customer choice, increase prices and prevent a level playing field are not allowed. The above distinction between conventional flash sales and other specific flash sales that are sought to be banned appears to be ambiguous.

**6.10 The Committee opines that ambiguity in policy may adversely impact its enforcement and also create confusion among the stakeholders, which is not conducive for business. The Committee, therefore, recommends that clarity on the precise scope and applicability of the prohibition on flash sales be provided in the draft rules.**

## **COMPETITION ACT, 2002**

7.1 The Competition Act, 2002 has been enacted to prevent practices having adverse effect on competition, promote and sustain competition in markets, protect the interests of consumers and ensure freedom of trade carried on by

other participants in markets. The Act is sector agnostic and covers all sectors/industries including e-commerce/digital markets.

#### **ANTI-COMPETITIVE AGREEMENTS**

7.2 The Committee was informed that while determining whether an agreement has an Appreciable Adverse Effect on Competition (AAEC) under Section 3 of the Competition Act, 2002, the Competition Commission of India (CCI) is required to consider a limited set of factors laid out in Section 19(3) of the Competition Act. These factors were formulated over two decades ago and may not always account for considerations that are unique to the current platform economy. The Report of the Competition Law Review Committee which was submitted to the Ministry of Corporate Affairs on 26<sup>th</sup> July, 2019, recommended the widening of Section 19(3) to make it an inclusive provision with a view to allow newer considerations which may be relevant for digital markets to be factored in while assessing AECC of an agreement. However, recommendations of the CLRC are yet to be codified.

**7.3 The Committee is surprised at the undue delay in undertaking the necessary procedure for codification of recommendation of Competition Law Review Committee (CLRC). It is of the strong opinion that prompt action in undertaking appropriate changes in regulatory framework is crucial in the fast paced digital market. The Committee, therefore, recommends that factors laid out in Section 19(3) of the Competition Act, 2002 are updated after due consultation with stakeholders without further delay. The Committee further recommends that the Competition Commission of India (CCI) be empowered to undertake necessary updation to Section 19(3) in line with market realities.**

#### **ABUSE OF DOMINANT POSITION**

7.4 The pre-condition for assessing whether a certain practice is abusive under Section 4 of the Competition Act, 2002 is to establish that the entity in question is dominant within the relevant market. Establishing dominance in relevant markets is fraught with complexities due to the multisided and cross cutting nature of e-commerce market. It has been argued that many tools that are traditionally used in the assessment of relevant market may not adequately capture features such as the impact of direct and indirect network effects on prices, the presence of interconnected but distinct markets on different sides of the platform, and the implicit price of data paid by a consumer. The Competition Law Review Committee (CLRC) Report recommended widening the scope of delineation of relevant markets under Sections 19(6) and 19(7) of the Competition Act to accommodate for factors that may apply to new-age digital markets. Further, while the CLRC Report concluded that non-monetary considerations such as data may be captured in the definition of price as per the



Competition Act, a comprehensive legal assessment that captures such nuances of e-marketplaces is yet to be examined by the CCI in practice.

**7.5 The Committee recommends the Competition Commission of India (CCI) to take forward the recommendations of the Competition Law Review Committee (CLRC) and make necessary amendment to Sections 19(6) and 19(7) of the Competition Act, 2002 to accommodate for factors that may apply to new-age digital markets. The Committee would further like to emphasise that delayed action in undertaking necessary amendments to the regulatory framework may result in unwanted irreversible effect on competition in digital market.**

7.6 After establishing the relevant market, the next step to initiating anti-competitive investigation is the establishment of dominance within the relevant market. It is pertinent to mention here that the business modes of e-commerce platforms are different from traditional business model wherein the priority of e-commerce platforms is the expansion of user base, growth of the platform as opposed to profit maximisation, access to data, and network effects. It is, therefore, argued that a traditional assessment using statutory metrics such as market share does not serve as a useful proxy for dominance. The CLRC Report acknowledges that access to data and network-effects are important considerations while determining dominance and have concluded that the inclusive nature of Section 19(4) of the Competition Act enables the Competition Commission of India (CCI) to consider such factors while assessing dominance.

7.7 The Committee was informed that the CCI is technically empowered within the framework of the Competition Act, 2002 to adopt a differentiated standard for ascertaining dominance in digital markets, given that dominance is assessed on a case-by-case basis. However, even if one accounts for unique features of digital markets, establishing the high threshold of dominance of a particular e-marketplace may not be a simple exercise within the contours of the existing jurisprudence on dominance and may require departure from the existing jurisprudence on dominance.

**7.8 The Committee recommends that guidance elaborating on the different dominance standard for digital markets be issued by the Competition Commission of India (CCI) pursuant to adequate stakeholder consultation. The Committee opines that such guidance will not only provide certainty to stakeholders but also have a far reaching signalling effect on all market players. The Committee further recommends that clear and precise qualitative and quantitative parameters may be outlined in the guidance taking into account the realities of the digital market.**

## **MERGER AND ACQUISITIONS**

7.9 In regard to regulation of combinations, the extant framework under Sections 5 and 6 of the Competition Act, 2002 stipulates mandatory notification of all combinations qualifying prescribed thresholds of asset value or turnover to the Competition Commission of India (CCI). A qualifying transaction cannot be consummated till the CCI approves it. The CCI, however, does not have any residuary power to examine transactions which do not meet the asset value or turnover based thresholds prescribed in the Competition Act even if they entail clear competitive harm to Indian markets.

7.10 Globally, including the European Union (EU), Germany and United Kingdom (UK), competition regulators are increasingly recognising that significant combination transactions in digital markets may escape the traditional thresholds of asset value and turnover. In the EU for instance, the European Commission (EC) issued guidance in March, 2021 on Article 22 of the EU Merger Regulation (EUMR) which states that the EC will work with domestic competition regulators to scrutinise concentrations that, even though they do not meet existing domestic thresholds for triggering antitrust scrutiny, have the potential to adversely affect competition. Further, the EU has proposed the Digital Market Act which recognises intermediaries as digital gatekeepers, based on certain qualitative and quantitative parameters which are previously not included in combination scrutiny. The US has also taken cognisance of the need to develop new approaches that capture the impact of mergers on competition in the digital sector. To this end, the United States House Judiciary Committee in June, 2021 approved a bill, namely, the Platform Competition and Opportunity Act of 2021, which prohibits acquisitions, total or partial, by Covered Platforms of the stocks or assets of any person engaged in or implicating commerce. The Bill outlines criteria for designating a digital platform as a 'Covered Platform' which includes, among others, the number of monthly active users, number of business users, etc. Similar approach has been adopted by countries such as UK, Germany, Brazil and Singapore to bridge the existing gaps in scrutinising combinations in the digital marketplaces.

7.11 In India too, Competition Law Review Committee (CLRC) noted that certain significant transactions in digital markets do not meet the existing asset and turnover based thresholds for them to qualify as notifiable combinations under the Competition Act, 2002. It also observed that, in digital markets, acquisitions often derive value from some business innovation of target companies which often do not have a large asset base. Further, the business model of tech companies is often focused on creating a large user base and not on revenue maximisation. Therefore, asset and turnover based thresholds may not fully capture the significance of a transaction for competition. The CLRC has recommended the inclusion of additional notification thresholds that may empower the CCI to scrutinise such transactions. Accordingly, the Draft

Competition (Amendment) Bill, 2020 incorporates a proviso that empowers the Central Government to notify additional criteria to widen the ambit of merger scrutiny. Upon enforcement, the provision may be aptly used by the CCI to ensure that the market for e-marketplaces remains contestable and does not undergo structural changes that cannot be undone.

**7.12 The Committee notes that the power of the Competition Commission of India (CCI) is presently limited to combination transactions which meet the asset value or turnover based thresholds prescribed in the Competition Act. The Committee also takes note of the fact that asset and turnover based thresholds may not fully capture the significance of a combination transaction in the current digital market and such transactions may escape the traditional thresholds metrics and subsequently the scrutiny of CCI. The Committee opines that the enactment of the Draft Competition (Amendment) Bill, 2020 that will empower the Central Government to notify additional criteria to widen the ambit of merger scrutiny is the need of the hour to prohibit e-marketplace giants from engaging in anti-competitive transactions that may irremediably tip the Indian e-commerce market. The Committee, therefore, recommends that sincere effort is made for the enactment of the Draft Competition (Amendment) Bill, 2020 at the earliest. The Committee further recommends that a comprehensive framework for identifying entities that have significant market power may be worked out and references may be drawn from international practices around the world in this regard.**

## **ENFORCEMENT GAPS IN CURRENT REGULATORY REGIME**

8.1 The governance of e-commerce is fragmented with a multitude of authorities regulating different aspects of e-commerce that fall under their respective domains. Such a fragmented approach is inherently prone to arbitrage, overlaps and gaps. In the absence of a cohesive model that mandates information exchange and coordination on enforcement practices, legislation and policy making, the persisting friction is expected to continue. Absence of a clear mandate to oversee digital markets has resulted in a play of musical chairs among various Ministries/Departments and regulators trying to do their bit. The lack of clarity has spurred fragmented and sporadic action as well as inaction. International experiences such as the European Union and the United Kingdom shows that there is a huge reliance on coordinated policy responses by multiple agencies in order to effectively regulate digital markets. For example, recently a proposal to establish the ‘Digital Regulation Co-operation Forum’ has been floated in the United Kingdom (UK) to bring together all regulators that oversee digital markets such as the Information Commissioner’s Office, the Office of Communications and the Financial Conduct Authority to support regulatory engagement, coordination and knowledge exchange.

8.2 The Committee opines that lack of coordination between different Ministries/Departments concerned with e-commerce has resulted in enforcement gaps in the current regulatory regime. The Committee, therefore, recommends that a framework may be formulated to enable the periodic interaction and information exchange among Competition Commission of India (CCI) and other regulatory bodies and Ministries such as Department for Promotion of Industry and Internal Trade (DPIIT), Ministry of Electronics and Information Technology, Ministry of Consumer Affairs, Food & Public Distribution, etc., that govern aspects of e-commerce in India.

8.3 The Committee feels that the presence of an overarching regulatory body that glues together different Ministries/Departments and Authorities that presently regulate e-commerce will strengthen the regulatory regime and bridge the existing gaps in enforcement. The Committee recommends that a Digital Market Division within the Competition Commission of India (CCI) be created as an expert division specifically tasked with regulation of the digital markets with participation from all the existing regulators concerned with e-commerce such as Department for Promotion of Industry and Internal Trade, Ministry of Consumer Affairs, Food and Public Distribution, Ministry of Electronics and Information Technology, Reserve Bank of India, etc.

### **GAPS IN CURRENT REGULATORY REGIME**

9.1 The Committee was informed that the existing statutory instruments are inadequate to effectively monitor and regulate the competition dynamics at play in e-marketplaces which are different from traditional brick-and-mortar retail competition. It was also informed that a comprehensive approach to regulate the relationship between platforms and business users is missing and there is lack of a comprehensive *ex-ante* approach to regulate e-marketplaces. The regulatory vacuum in governing the Platform-to-Business user (P2B) relationship and predominant reliance on *ex-post* model of regulation has resulted in unsatisfactory outcomes.

9.2 The Committee was also informed that *ex-post* enforcement does not always lead to optimal restoration of competition in evolving and fast paced markets, especially involving gatekeepers. It may also be mentioned that *ex-post* investigations are limited due to the fact that the investigations are applicable only to the narrow claims made in each specific case. They may do little to address similar anti-competitive conduct arising in regard to the same entity's conduct in a different/associated market or a different entity's conduct resulting in the same issues as investigated.

9.3 Regulatory bodies around the world have recognised the unique nature of e-marketplaces, the asymmetric relationship between platforms and business

users, shortcomings in *ex-post* regulation framework and have accordingly, devised various mechanisms to bridge the regulatory gaps. The proposed Digital Market Act of European Union (EU), proposed *ex-ante* regime for gatekeeper equivalent entities and creation of Digital Market Unit in United Kingdom, introduction of *ex-ante* regime for regulating conduct of entities having Paramount Significance for Competition Across Markets (PSCAM) in Germany, and the antitrust legislative package in USA, etc., are the steps taken by regulatory bodies around the world.

9.4 The Committee was informed that the first step to formulate an *ex-ante* model of regulation is the identification of entities that act as gatekeepers in the digital markets. International regulatory bodies around the world have introduced additional criteria such as assessment of resources of the platform, volumes of data aggregated, its bargaining position *vis-à-vis* its business users and consumers, its gatekeeping function and ability to set the rules of the ecosystem to cast a wider net for entities that have not yet attained the dominance threshold under the existing statutory framework.

**9.5 The Committee is of the opinion that it is high time India revamps and strengthens its *ex-ante* regulatory framework and take steps to identify entities that act as gatekeeper platforms and set a threshold for qualifying as gatekeeper. The Committee recommends that the Competition Act, 2002 be amended to prescribe additional quantitative criteria such as number of registered/active consumers and sellers on the platform, number of transactions taking place and volume of revenue generated to identify entities that act as a gatekeeper platform. Further, in line with international emerging practices, criteria such as assessment of resources of the platform, volumes of data aggregated, and its bargaining position *vis-à-vis* its business users and consumers, its gatekeeping function and ability to set the rules of the ecosystem may also be included. The Committee further recommends that an obligation must be placed on platforms to *suo moto* notify the regulator once it reaches the prescribed gatekeeper threshold.**

9.6 The second step to the *ex-ante* framework is the formulation of a code of conduct that will be applicable to digital platforms. It is crucial to understand that digital platforms have vastly different business models and monetisation schemes. One may rely on advertising as its main source of revenue while the other may have no business interest in promoting pure play advertisements on its platform. It would be erroneous to think of them as homogenous competitors in one common sector. Rather they are gatekeepers of completely different markets with completely different incentives. Reliance on technology and data generated by their users is one of their only underlying commonalities. Therefore, it is imperative that any attempt at regulating digital platforms must be tailored to the business model of the platform.

**9.7 The Committee recommends the Competition Commission of India (CCI) to formulate a mandatory code of conduct that clarifies acceptable conduct between operators of e-marketplaces on the one hand and their business users and consumers on the other after extensive consultation with all stakeholders. The code should be comprised of a set of core principles as well as a list of hardwired do's and don'ts and must be tailored to the business model of the platform. Certain practices that may be prohibited *ex-ante*, subject to the business model of the platform include self-preferencing, discriminatory treatment between business users, using data anti-competitively and including most-favoured nation clauses in contracts between business users and the platform. The Committee further recommends that the code of conduct should also mandate certain practices to be carried out by platforms such as facilitating data interoperability, enabling multi-homing, facilitating data mobility and ensuring transparency in usage of data, in addition to enumerating prohibitions.**

9.8 The Committee was informed that the scope for e-commerce in pharmaceutical industry is immense and if properly regulated, online pharmacies in India could prove beneficial to various stakeholders. However, there is a serious need for framing the laws within India, as the online pharmacy laws in India are still in nascent stage and there are no dedicated online pharmacy laws in India. In the absence of regulatory guidelines, there is always a threat/possibility for supplying illegal or unethical medicines or outdated, substituted, or counterfeit medications to the person who ordered the drug instead of the real medication. Other concerns include potential lack of confidentiality, improper packaging, and intake of harmful drug interactions among several other issues.

9.9 The Indian Internet Pharmacies Association (IIPA), renamed as Digital Health Platforms (DHP), which is a consortium of entrepreneurs in the online pharmacy and health space is currently working actively with the Government to bring in changes to the regulations including the use of Aadhar linked prescriptions to ensure there is no misuse and member pharmacies striving to self-regulate until the law of the land catches up to advancements. The Ministry of Health and Family Welfare has also come out with Draft E-Pharmacy Rules on 28 August 2018 which aims to regulate the sale of drugs through online/e-pharmacies and provide patients access to genuine drugs from authentic online portals.

**9.10 The Committee, while appreciating the rise of e-commerce in the pharmacy and health sector, expresses concern at the possible misuse of such avenues for distribution of illegal or unethical medicines or outdated, substituted, or counterfeit medications amid the absence of regulations. Stringent regulation of the e-health and e-pharmacy sector is essential in view of the potential harm it can cause to health of end user in case of**

**misuse. The Committee, therefore, recommends that a comprehensive guideline that encompasses the due diligence measures to be undertaken by the e-pharmacy/e-health platforms, mandatory registration with the appropriate authority for sale of drugs, assigning responsibility on such platforms for the sale of genuine drugs, regulating the sale of controlled drugs, etc., should be formulated in consultation with the stakeholders.**

**9.11 The Committee is appalled to observe that the Draft E-Pharmacy Rules have not been finalised till date. The Committee reiterates that undue delay in adopting a definitive regulatory framework results in uncertainty which is not conducive for the fast pace digital markets. The Committee, therefore, recommends the Draft E-Pharmacy Rules are finalised and implemented without further delay.**

## **INFORMATION AND COMMUNICATIONS TECHNOLOGY (ICT) INFRASTRUCTURE AND CYBER SECURITY**

10.1 Quality network connectivity, information technology and access to the internet are prerequisites for e-commerce. Technical failures can cause unpredictable effects on total processes. As per report published by Indian Brand Equity Foundation (IBEF) in May, 2021, the number of internet users in India has increased significantly to 747.41 million in 2020 and internet penetration in rural India is expected to grow at the rate of 45 per cent by the end of 2021.

10.2 The UNCTAD B2C E-Commerce Index measures an economy's preparedness to support online shopping. India ranked 71<sup>st</sup> in the UNCTAD B2C E-Commerce Index, 2020 with only 34 per cent of the population using internet in 2019 and only 389 people out of 1 million having secure internet servers in 2019.

10.3 The Committee was informed that Government has not been proactive in adopting the changes in the digital space and has always lagged behind other countries. An example is the case of delay in roll out of 5G. The necessary changes in regulatory framework to embrace the fast changing digital technology always lagged behind when compared to other developed countries.

**10.4 The Committee observes that while internet penetration has increased over the years, India still has a long way to realise its full potential and cover maximum population of the country to access internet. The Committee also expresses concern with regard to the quality of internet with slow speed of 4G network, and 5G networks yet to be launched. The Committee, therefore, recommends that Department of Telecommunications takes proactive steps to expand internet connectivity to rural and remote areas, and improve its infrastructure to provide fast and stable internet speed to business users and customers. The Committee further recommends Government to be proactive in aligning its regulatory**

**framework and policy guidelines to promptly adopt technological changes to enable the country to compete with others in the digital space.**

10.5 Taking note of the fact that numerous data is generated on e-commerce platforms through business transactions and interactions between different market players on the platforms, the Committee enquired about the availability of data policy and rules that govern the ownership, access, storage, use and sharing of data generated on e-commerce platforms. The Committee also enquired about the presence of a policy to govern the sharing of data between G2B, B2B and cross-border movement of data. In response, DPIIT informed that the Report on the Personal Data Protection (Bill) 2019 tabled in Parliament on 16<sup>th</sup> December, 2021 is under examination by the Government. It further informed that the Ministry of Electronics and Information Technology (MeitY) has also taken steps towards developing a governance framework around non-personal data. MeitY formed a committee of experts under the Chairmanship of Shri Kris Gopalakrishnan to study various issues relating to non-personal data and to make specific suggestions for consideration in the regulation of non-personal data. The work of the committee is at an advanced stage.

**10.6 The Committee is perturbed at the absence of a policy and regulatory framework around the use of data which may result in misuse and exploitation of data by a handful of companies which when coupled with network effects might distort competition in e-marketplace. The finalisation and enactment of The Personal Data Protection Bill, 2019 is crucial as this will provide the guiding principles for formulation of rules regarding the ownership and storage, use and access and cross border movement of data. The undue delay in the bill may result in failure to capitalise on the virtual treasure trove that data has provided and may result in economic loss to the country. The Committee, therefore, recommends that The Personal Data Protection Bill, 2019 be enacted without further delay. The Committee further recommends that clear guidelines regarding the use and sharing of data generated on e-commerce platforms are formulated and introduced at the earliest.**

10.7 The Committee is of the view that treatment of personal and non-personal data within the same regulatory framework might not be conducive in the process of using data to obtain quantifiable economic benefit. The Committee, therefore, recommends that a separate framework for regulation of personal and non-personal data may be formulated in such a way that the Data Protection law exclusively deal with Personal Data and a separate statutory framework be formulated for governing non-personal data.

10.8 The Committee was informed that as per industry reports by JLL Research report Data Centre outlook, Data Centre Sector capacity (IT load)



available with private sector is around 499 MW and an additional capacity of 508 MW is expected to be added by Private sector, taking the total capacity to approximately 1007 MW by 2023. It was further informed that capacity of National Data Centres owned by NIC and other State Data Centres is around 17 MW and additional capacity of about 22 MW is also planned to be added through National Data Centres of NIC, taking Government Data Centre capacity to approximately 39 MW by 2025. It was also informed that lack of infrastructure or Industry status to the Data Centres, complex clearance processes, time consuming approvals, high cost of power, lack of published standards, absence of specialised building norms for building the Data Centres, submarine cable network connectivity limited to few States and high cost of capital and operational expenditure, etc. impeded the development of Data Centres.

**10.9 The Committee is of the opinion that the rapid digitisation coupled with increasing reliance on digital technology will result in explosion of data thereby requiring expansion of data storage centres. The Committee, therefore, recommends Government to constitute an expert body to prepare a roadmap for expansion of data centres and server farms in the country and to formulate domestic standards of data infrastructure such as towers and tower stations, equipment, optical wires, signal transceivers, antennae, and smart devices etc. The Committee also recommends that research and innovation in the field of AI, IoT, Smart Devices, etc., which feeds on data, be encouraged though enhanced investment in these field.**

10.10 Along with the increasing use of digital technology and data, concerns on increasing instances of cyber attacks and cyber crimes have also been raised. These vulnerabilities cast doubts in the minds of customers regarding the safety of online shopping and discourage business entities to shift their business to online platforms. Further, small businesses do not have the financial and technical capability to protect themselves against cyber attacks which results in downtime in their operation due to such attacks, thereby, affecting their business. The Committee was informed that the existing network of cybercrime investigation through local police stations is highly inadequate. The existing law and order frameworks need to be revamped with sufficient skilled and trained investigators for handling incidents of frauds and cybercrimes reported by general public.

**10.11 The Committee is of the opinion that a National Cybercrime Policy or legislation that lays down the framework for addressing all aspects related to cyber crime such as, skilling and training in digital crimes investigation, creation of dedicated cybercrime division, cyber security standards, investigation process and grievance redressal mechanism, capacity building of stakeholders, etc., is required in view of the increasing reliance on digital technology. The Committee, therefore, recommends**

**Government to formulate comprehensive cyber crime policy or legislation in consultation with stakeholders and industry experts. The Committee also recommends Government to keep in mind the interest of the small businesses and enable them to adopt an appropriate cyber security framework.**

## **PAYMENT SYSTEMS AND FINANCIAL SECURITY**

11.1 The Payment and Settlement Systems Act, 2007 provides for the regulation and supervision of payment systems in India and designates the Reserve Bank of India (RBI) as the authority for that purpose and all related matters. Under the Act, RBI issues guidelines that are also applicable to e-commerce entities, payment gateways and payment aggregators with the objective of ensuring protection of financial data.

11.2 The Committee was informed that e-commerce sites constantly face the threat of cyber attacks as they deal with personal and financial data. Further, it was informed that issues of technical failures in financial transaction have increased from 1 per cent to 2 per cent since the pandemic. As a result, several customers hesitate from transacting online on account of these concerns. To boost the confidence of customers and to ensure protection of their financial data, measures/Standard Operating Procedures (SOPs) are laid down for e-commerce businesses which include compliance with Payment Card Industry Data Security Standard (PCI DSS), use of secure protocol (HTTPS) by e-commerce portals for online data security, intimation of transaction details through SMS/Email, one-time additional factor authentication for recurring transactions using debit cards, credit cards, and Unified Payments Interface, etc.

**11.3 The Committee observes that the financial security system that is in place for ensuring secure financial transactions and protection of financial data relies heavily on the alertness and financial literacy of the customers. The Committee, therefore, recommends banking institutions and e-commerce platforms to create awareness among customers regarding sharing of sensitive financial data. The Committee further recommends that periodical cyber security audits be undertaken by e-commerce platforms, payment gateways and payment aggregators and financial institutions. The Committee also recommends Government to strengthen the payment infrastructure to mitigate transaction failures and enable seamless financial transactions.**

11.4 E-commerce purchases are facilitated by a host of online payment modes, several of which are provided by banks in collaboration with other entities in the payment ecosystem. The different payment mode includes UPI (Unified Payment Interface), Debit Card, Internet Banking, Payment Gateway (PG) services and Mobile Banking.

11.5 The Committee was informed that while the Payment Service Providers (PSP) such as GooglePay, Paytm, PhonePe, etc., generate revenue from

transactions through their platform and command a major share in e-commerce transactions, they are not responsible for cases of frauds that occur through their UPI. It was further informed that the Merchant Discount Rate (MDR) which was applicable on UPI transactions has been waived off and at the same time banks also have to pay PSP (Payment Service Provider) fee to service providers like GooglePay, Paytm, PhonePe, etc. In this regard, banks made a submission to the Committee that the MDR on UPI transactions may be reintroduced and the PSP fee, switching fee and interchange fee are restructured so that all participant banks/PSPs in the UPI ecosystem share the payable fee proportionately.

**11.6 The Committee feels that a relook into the Merchant Discount Rate (MDR) in UPI transactions and the structure of Payment Service Provider (PSP) fee is essential as financial transactions *via* UPI is expected to increase further in the future. The Committee, therefore, recommends the National Payments Corporation of India (NPCI) and Ministry of Finance to undertake comprehensive stakeholders' consultation in this regard and furnish action taken note on the same.**

**11.7 The Committee opines that ensuring the security of financial transactions through UPI is vital given the fact that majority of e-commerce payment is undertaken through this platform. The Committee, therefore, recommends that security measures/Standard Operating Procedures that are applicable to banks should be made mandatory to UPI based Payment Service Providers (PSPs) to avoid financial frauds on their payment platforms. The Committee further recommends the payment platforms should be held accountable for financial frauds perpetuated on their platforms in case of non-compliance to mandatory security measures.**

#### **IPR INFRINGEMENT IN E-MARKETPLACE**

12.1 The Internet is borderless with minimum regulation and, therefore, protecting Intellectual Property Rights (IPRs) on the Internet becomes a growing concern. There are currently several significant IPR infringement issues including misuse of trademark and copyright. According to the Authentication Solution Providers' Association (ASPA), India suffers a loss of over Rs. 1 lakh crore a year owing to the sale and purchase of counterfeit goods. While India has a well-defined legal and regulatory framework for the protection of IPRs, it is yet to completely update the laws for complete efficiency in the virtual world.

**12.2 The Committee is deeply concerned by the prevalence of counterfeit products. The unhindered presence of such products negatively impacts the revenue of genuine manufacturers and the absence of protection to the trademark and copyright products may also act as a deterrent to innovation. The Committee, therefore, recommends that due diligence measures must be imposed on the sellers and platforms to ensure that the**

**products sold on platforms are authentic and do not infringe upon Intellectual Property Rights. The Committee further recommends that the sellers of counterfeit products should be made to pay the loss suffered by genuine rights holder and must be barred from the e-commerce space. The Committee also recommends that the IPR Act be strengthened and detailed guidelines issued under the Act to deal with IPR infringement in the e-commerce space.**

### **SAFE HARBOUR AND FALLBACK LIABILITY**

13.1 The Committee was informed that safe harbour provisions available to marketplace e-commerce entities (as intermediaries) are not usually upheld by consumer courts due to intermingling of roles and responsibilities of various players in case of e-commerce transactions. It was suggested to the Committee that a codified law that recognises the liabilities and responsibilities of parties involved in handling e-commerce transactions is required. The regulation should account for roles of different service providers which would facilitate the consumer courts to attribute responsibilities for defects and deficiencies of products and services appropriately.

13.2 It was also informed by e-commerce marketplaces that The Consumer Protection (E-Commerce) Rules, drafted by the Ministry of Consumer Affairs, propose to impose fallback liability on e-commerce marketplaces for the negligence or omissions by sellers in fulfilling their duties thereby causing loss to the consumer. This proposed provision was introduced to prevent consumers from being adversely affected in the event where a seller fails to deliver the required quality of goods or services due to its negligent conduct and to ensure regulatory oversight over the activities of the sellers.

13.3 The e-commerce platforms further submitted that the platform only acts as intermediaries by providing the software solution to connect sellers and buyers, and has no control over the conditions of the contents being delivered, nor exercises ownership or control over any item sold or delivered using its services at any point in time.

**13.4 The Committee feels that it will not be in the interest of customers to totally absolve e-commerce marketplaces of their responsibility in maintaining the quality and standard of goods sold on their platforms. The Committee recommends that responsibility should be placed on the e-commerce marketplace and necessitate them to play active role in resolution of issues related to delivery of sub-standard counterfeit products and services on their platforms and require them to act as the intermediary between the customers and sellers. The Committee further recommends that codified guidelines that assign roles and responsibilities of the parties involved in the e-commerce transactions should be formulated in a balanced manner and notified.**

## **GOODS AND SERVICES TAX (GST) REGIME IN E-COMMERCE**

14.1 The Goods and Services Tax (GST) is an indirect tax levied on goods and services sold in India. The GST is paid by consumers, but it is remitted to the Government by the businesses selling the goods and services. Section 24 (ix) & (x) of the CGST Act, 2017 which deals with compulsory registration of the seller and e-commerce operators; Section 10(2)(d) of the CGST Act, 2017 regarding eligibility for Composite Taxation Scheme; and Section 52 of the CGST Act, 2017 which provides for collection of tax at source by electronic commerce operator are the sections which are directly concerned with e-commerce.

### **DIFFERENTIAL TREATMENT OF OFFLINE AND ONLINE SELLERS**

14.2 The Committee was informed that Section 24(ix) of the Central Goods and Services Taxes Act (CGST) Act, 2017 makes it mandatory for sellers who conduct businesses through e-commerce platforms to pay Tax Collected at Source (TCS) irrespective of their sales value, which means that all sellers selling online must get GST registration. In contrast, offline sellers with turnover less than Rs. 40 lakh in case of sale of goods and turnover of less than Rs. 20 lakh in case of provision of services are exempted from GST registration. The mandatory registration requirement has placed additional burden on small sellers, increased the compliance and operation costs for such sellers, which negatively affects their margins, thereby resulting in a significantly high drop-out rate in the range of 60-70 per cent.

14.3 The Committee was also informed that return of orders is a regular feature of online retail and this impacts sales value and the GST liability of sellers as there is refund involved. A seller selling online needs to input transaction details from returns and ensure that correct GST liability is reported. For MSMEs not well versed in GST compliances, this creates complications and they often need professional help from Chartered Accountants (CAs) to address such issues. This unnecessarily adds to compliance costs and eats into the slim profit margins of MSMEs.

**14.4 The Committee observes that the mandatory GST registration has placed undue burden on small sellers doing business through e-commerce platforms. The high dropout rate of 60-70 per cent from online platforms is alarming. The Committee, therefore, recommends that the exemption provided to offline sellers with regard to GST registration be extended to online sellers as well with same applicable threshold limit by the Government. The registration exemption may be provided to the unregistered sellers on an annual basis, on a declaration that their turnover is within the prescribed limit and a declaration by such sellers that they will only sell Intra-State. The Committee further recommends that onboarding of small sellers on online platforms be allowed based on a three**

**way authentication of Aadhaar, Permanent Account Number (PAN) and bank details in place of mandatory GST registration.**

#### **GOODS AND SERVICES TAXES (GST) COMPOSITION SCHEME**

14.5 The Composition Scheme is a simple and attractive scheme under Goods and Services Taxes (GST) for small businesses wherein a taxpayer opting for the scheme is required to pay 1 per cent tax on their annual turnover, instead of calculating GST liability monthly and is permitted to make only intra-State supplies. Under the scheme, small taxpayers can get rid of tedious GST formalities and pay GST at a fixed rate of turnover and this scheme can be opted for by any taxpayer whose turnover is less than Rs. 1.5 crore. However, Section 10(2)(d) restricts businesses/individuals registered under the scheme to sell through e-commerce platforms. The Committee was informed that this restriction create barriers for many businesses which are presently selling offline to leverage online marketplaces.

**14.6 The Committee notes that the exclusion of online sellers under the Goods and Services Taxes (GST) Composition Scheme acts as a barrier to MSMEs in adopting e-marketplace. The Committee opines that the extension of the scheme to online sellers will incentivise MSMEs to adopt e-marketplaces, leverage the benefits of e-marketplaces and also further simplify and streamline the compliance process for MSMEs. The Committee, therefore, recommends to the Government that the scheme be extended to online sellers subject to turnover threshold of Rs. 1.5 crore.**

#### **PERMITTING A VIRTUAL PLACE OF BUSINESS**

14.7 As per GST law, a supplier is required to have a physical presence and obtain a Principal Place of Business (PPoB) registration in every State from where taxable supplies are made. In the digital era, such requirement not only adds to the working capital and increased manpower requirement, but also creates significant inefficiencies. The reason being, while all the stock is maintained at the warehouses of e-commerce platforms in various States, the books of accounts are maintained digitally at the head office of the seller in the home State.

**14.8 The Committee feels that streamlining and aligning of rules in consonance with the requirements of stakeholders and in the ethos of easing business environment is required. The Committee, therefore, recommends that suitable changes be made in the Goods and Services Taxes (GST) Rules to allow online sellers, who utilise warehouse of e-commerce operators to store their goods, to register the warehouse of e-commerce operators across States on the basis of a single Principal Place of Business (PPoB) registration in the home State of the seller instead of mandatory physical PPoB in each State of operation.**

## STREAMLINING COMPLIANCES

14.9 The current reporting framework in GSTR-1 requires a supplier to disclose supplies made to each e-commerce operator. Similarly, e-commerce operator is required to report details of supplies made through it by every supplier in the GSTR-8 form at a gross level. This creates duplicity in GST compliance process, firstly at the level of sellers and secondly at the level of e-commerce operators. It was suggested to the Committee that the introduction of seller-wise reporting based on Aadhar/PAN by the e-commerce operator in GSTR-8 will help in comprehensive reporting and removes duplicity in GST compliance.

**14.10 The Committee opines that the introduction of seller-wise reporting based on Aadhar/PAN by the e-commerce operator in GSTR-8 will ease the compliance process and reduce the compliance burden on sellers, especially small sellers. The Committee, therefore, recommends that the feasibility and practicality of such compliance mechanism be deliberated with the relevant stakeholders.**

## LOGISTICS AND ALLIED INFRASTRUCTURE

15.1 Tier-II and Tier-III cities have recently emerged as the growth drivers of e-commerce market. As per the study done by Unicommerce and Kearny, the overall contribution of Tier-II and Tier-III+ to overall e-commerce market increased from 32 per cent in Q4 of 2019 to 46 per cent in 2020, eating up the 14 per cent share of traditional metropolitan and Tier I cities. The Tier- II and Tier-III+ cities witnessed an astounding growth rate of 151 per cent and 87 per cent respectively, which outpaced the growth rate in Tier-I cities, which shows a muted growth rate of 19 per cent during Q4 2020 as compared to the to the same period in the previous year. It is evident that the further expansion of the e-commerce market will be driven by Tier-II and Tier-III+ cities which, therefore, have to be supported with a robust and efficient logistics and delivery networks across these cities.

15.2 The Committee was informed that India's current state of logistics is still emerging and has a long way to go to match up with its global counterparts. India's transport and logistics sector is fragmented, with a need to improve infrastructure and information technology penetration to help tackle operational inefficiencies. There are bottlenecks in hinterland connectivity resulting in higher lead times in cargo movement and higher turnaround time in the supply chain. The weak transportation network in the rural parts also pose challenges which directly impacts the transportation of goods.

**15.3 The Committee observes that there exists a gap in connectivity between rural and urban India which has to be bridged for increased penetration and adoption of e-commerce in remote areas. The improvement in roads and highway network will help address the**

**connectivity gap and also build efficiencies that can alleviate some cost externalities such as rising fuel costs in overall context of business sustainability of logistics services companies. The Committee, therefore, recommends Government to accelerate its road and railway infrastructure projects in rural and remote areas to provide seamless logistics movement.**

15.4 One of the key reasons for poor productivity in the logistics sector is the lack of automation in logistics process. In India, automation of processes is still in the embryonic stage and non-standardisation in the industry due to its fragmentation further slows down the progress. Acceptance and adoption of technological advancements like GPS tracking solutions, warehouse management systems, policy framework on drones, etc., can resolve the issues between domain requirements and IT.

15.5 It was submitted to the Committee that the private sector is playing a significant role in digitising logistics, most notably providing technological solutions. It is essential to have schemes for investment in technology and policy on information and data sharing for efficient data collection, management and analysis. Despite the overall high logistics costs, service providers struggle to earn profits and are often replaced for the slightest cost differential. There is a lack of premium for technology-driven, automated logistics processes over traditional ones. There is a dire need for a policy framework in the fields of robotics, locational intelligence, machine learning and Artificial Intelligence to enable the development of more efficient and cost effective support system in the domestic market.

**15.6 The Committee takes note of the fact that lack of comprehensive policy governing critical areas such as data and automation technology, and non-standardisation of procedures in logistics process has hindered the development of the sector. The Committee, therefore, recommends Government to formulate enabling policies on such areas for incentivising greater participation of the private sector to build quality digital infrastructure. The Committee further recommends Government to stimulate innovation in disruptive technology such as robotics, locational intelligence, machine learning and Artificial Intelligence (AI) in logistics sector through increased investment in research and development in the sector and also provide tax incentives to private players engaging in such activities. The Committee also recommends the Government to formulate guidelines regarding use of drone technology in e-commerce deliveries.**

15.7 The efficiency of warehouse process plays critical role in timely delivery of e-commerce consignments. The Committee was informed that warehousing sector can be strengthened by improving the quality of storage infrastructure including specialised warehouses, and increasing warehousing capacity by identifying areas of standardisation and optimisation. The need of the hour is to



develop adequate warehousing infrastructure in the fringe areas of major metropolitan trade hubs of the country and high commerce corridors. It was also informed that the time-consuming process of obtaining multiple approvals from various Government Departments hindered the construction of warehouse.

15.8 The Committee was also informed that cement and steel constitute around 61 per cent of the construction cost of warehouses. It was suggested to the Committee that support in the form of tax rebates or incentives for procuring cement and steel for construction of warehouse will incentivise greater participation in the warehousing sector.

**15.9 The Committee recommends Government to provide a single window clearance facility with stipulated timeline of approval and also allow relaxations in regulatory approvals to accelerate the pace of warehousing construction. The Committee also recommends Government to extend support to warehousing sector in the form of capital subsidies for construction of Grade-A warehouses in small towns, facilitate better credit facilities and low-interest rates in warehousing sector and provide tax rebate in procurement of cement and steel for warehouse construction. The Committee opines that such measures will spur more investment and participation of private players into the warehousing sector, increasing warehousing capacity in fringe areas of major metropolitan trade hubs of the country and high commercial corridors. The Committee further recommends Government to take concerted efforts for accelerated adoption of automated warehousing processes and extend necessary support through increased investment in automation technology.**

15.10 The Committee was informed that logistics providers are unable to find skilled manpower such as data scientists, robotics specialists, operations research experts, etc. According to a report by National Skill Development Corporation (NSDC), India will need around 28.4 million workers in India's booming transportation, logistics, warehousing and packaging sector. The Indian logistics sector is also facing an inward tech pattern and the workforce, existing and new, needs to instil Information Technology in their logistics specific skill set. The available skill set needs to be upgraded urgently. A trained workforce is necessary for both the third-party logistics sector and the manufacturing and retailing sectors, which are very weak and need attention.

**15.11 The Committee opines that while the existing skill gap in the logistic sector is of concern, it also presents ample opportunity for employment generation if addressed with a robust capacity building framework for the employable workforce. The Committee recommends Government to chart out a clear time-based road map in collaboration with industry players by identifying the output and financial outlays for skill development projects, focusing on transportation, warehousing and cold chain sectors. It will be**

**imperative that setting up development centres to provide sector-specific knowledge and exposure to individuals is included in such road map. The Committee also recommends market leaders to pull together their clout and resources to establish an institutionalised infrastructure and create incentives for training by designing and developing certification levels for recruits in collaboration with Government. The Committee, further, recommends Government to provide support to the industry players through Skill India Mission by providing adequate budgetary allocation under the scheme for capacity building in the logistics sector.**

15.12 The Committee during its study visit to Hyderabad, Bengaluru and Mumbai interacted with representatives of the State Governments regarding status of logistics chain and other support infrastructure of e-commerce. The representatives of the State Government of Andhra Pradesh informed the Committee that the State has taken calibrated measures to ensure integrated, seamless, efficient, reliable, green, sustainable and cost-effective logistics network through development of Multi-Modal Logistic Parks (MMLPs), collaborating with e-commerce and 3PL companies for expanding warehouses and sorting centres, and preparing a road map for expansion of warehousing capacity in the State. The State Government of Karnataka also informed that a Logistics Action Plan focusing on city logistics/freight smart cities, green logistics, EXIM logistics infrastructure, smart enforcement, Inland Container Depot (ICD)/Container Freight Station (CFS)/Air Freight System (AFS) are under consideration. Further, a dedicated Logistics Sector Skill Council has been established to deliver relevant skills in the sector and to impart the relevant skill set to youth ready to join the workforce. Additionally, it is also working with Flipkart to provide necessary skill training relevant for e-commerce. The representatives of the State Government of Telangana also informed that the State has introduced the Telangana State Logistics Policy which includes the development of warehouses and cold storages, Multi Modal Logistics Parks, Integrated Container Depots, skill centres, etc.

**15.13 The Committee notes with appreciation on the proactive steps taken by the State Governments in facilitating the development of logistics and warehousing infrastructure across the States. The successful implementation of the policy and roadmap prepared by the State Governments will accelerate the growth of e-commerce. The Committee recommends the State Governments to ensure accelerated implementation of the plans and roadmaps outlined by them and continue to act as a facilitator in e-commerce by enabling the development of robust support infrastructure.**

15.14 During interaction with representatives of the State Government of Telangana, it was brought to the attention of the Committee that delay in implementation of Hyderabad-Bengaluru, Hyderabad-Warangal and

Hyderabad-Nagpur industrial corridors has hindered the development of seamless logistics network between technologically significant city of Hyderabad with cities in other States. Further, presence of National Institute of Design in the State would facilitate the development of modern designs that suit the taste of consumers in the traditional arts and crafts sector and small scale industries. It was also submitted that the development of Railway Coach Factory in Warangal and setting up of Integrated Steel Plant at Bayyaram would facilitate the overall economic development of the State which would percolate to enable the development of various sectors including the e-commerce markets.

**15.15 The Committee is of the opinion that the accelerated implementation of the Hyderabad-Bengaluru, Hyderabad-Warangal and Hyderabad-Nagpur industrial corridors is crucial in the development of inter-State connectivity and to further augment inter-State movement of goods and services which will be beneficial to the e-commerce markets. The Committee, therefore, recommends the DPIIT to accord priority in the implementation and completion of these crucial projects. The Committee, further, recommends Government to take up on priority basis the setting up of Railway Coach Factory in Warangal, Integrated Steel Plant at Bayyaram and National Institute of Design to provide the much needed economic upliftment to the State of Telangana.**

**15.16 The Committee also recommends Government to make concerted efforts to augment infrastructure related to e-commerce and provide adequate budgetary allocation for the same. The Committee further recommends that existing logistics infrastructure be suitably aligned to cater to the needs of the e-commerce sector.**

## **COMPETITION ISSUES IN E-COMMERCE MARKETPLACE**

16.1 The Committee undertook extensive discussions with stakeholders ranging from e-commerce platforms, sellers/business users, financial institutions, industry associations, State Governments, etc. From the submission made by the stakeholders, it has been observed that there exist certain underlying issues in the operation dynamics of the e-marketplace which are discussed below.

### **1. Lack of Platform Neutrality**

16.2 It has been alleged that platforms indirectly control selected preferred sellers and extend preferential treatment to them to the detriment of independent third party sellers on the marketplace platform thereby violating the principle of platform neutrality. A few examples of preferred sellers include Cloudtail India and Appario Retail on Amazon and RetailNet and OmnitechRetail on Flipkart. Further, marketplace platforms have private label products (wholly/partially owned by the marketplace) which compete with products of third party independent sellers on the same marketplace. For example, Amazon has private

labels like Solimo, Amazon Basics and Vedaka, and Flipkart has private labels like SmartBuy, Marq, etc., which compete with products of third party sellers in the same product categories.

## **2. Deep Discounting**

16.3 Selective funding of discounts by platforms to its selected/preferred sellers creates a distortionary effect on competition in e-marketplace. In the Income Tax Appellate Tribunal Case no 202 & 693/Bang/2018, the personnel of e-commerce players have admitted that they indulge in predatory pricing to capture market and help their retailers to survive in the developing e-commerce market which reveals that platforms can capture market by burning cash. The United States Sub Committee on Antitrust, Commercial and Administrative Law of the Committee on the Judiciary (Sub-Committee Report), released a Report in 2020, which confirmed that e-commerce entity faced losses of USD 200 million in one month to drive out its rival, Quidsi, from the market of providing baby supplies. The Committee was informed that while predation may be beneficial for consumers in the short run when prices charged by the firm with superior market power are particularly low, it becomes detrimental for consumers in the long run. Once the existing competitors are driven out of the market, the predator achieves a position which allows it to raise prices or charge supra-competitive prices.

## **3. Non-Transparent Search Ranking**

16.4 The dual role of the platform, as facilitator and seller gives rise to the concern of ranking biases that may be created by the platform as a discriminatory device. It has been alleged that in the goods category, the platforms' private labels reportedly are typically showcased as bestsellers to customers, while in the food services segment the platforms' own cloud kitchens are given prominent placement. The black box nature of the search algorithm and lack of transparency *vis-à-vis* the search ranking criteria made sellers/business users assume that the commissions paid by them influenced their search ranking and thus the so called organic listing on platforms also effectively amounted to paid listing.

## **4. Use/Misuse of Data by Platforms**

16.5 It has been alleged that e-commerce platforms utilise the data aggregated on their platform and monetise the same by launching their own private label products by ownership/proxy on their platforms. Similarly, personal data are used by platforms for targeted advertising, which may be used by the platforms to the advantage of selected sellers. While platforms monetise data accumulated on their platforms in various ways, it does not provide sellers/business users access to the same data citing privacy concerns.

## **5. Exorbitant Commission and Coerced Bundling of Service**

16.6 Due to sheer asymmetry in the bargaining power between the marketplaces and business users, there are many unfair and one-sided clauses in the contracts which are imposed by these aggregators, including coerced bundling of services and excessive commission. The representatives of National Restaurant Association of India submitted that unbundling of services will result in increased innovation in the entire value chain, substantive reduction in commission rates and subsequently reduction in final price of the products.

## **6. Platform Parity Clauses**

16.7 A platform price parity clause restricts sellers/service providers from offering their goods or services at lower prices on other platforms. It is contractually imposed by platforms on the sellers/service providers to guarantee the lowest price for the platform itself.

## **7. Exclusivity**

16.8 Platforms enter into exclusivity agreements with the sellers and often compel them to commit exclusively to be listed on the platform. Sellers enter into these agreements when exclusivity is incentivised by platforms by way of offering better terms of engagement, such as lower commission/service fee charged and business assurance and revenue sharing. Moreover, these aggregators also use incentives as a tactic to keep the sellers loyal to their platforms and minimise switching to other platforms.

**16.9 The Committee observes that the underlying cause of the issues and concerns raised by sellers/business users is the lack of neutrality in platforms. In the absence of a clear policy and guidelines that specifically spell out what practices amount to conflict of interest in the e-marketplaces and what are the acceptable conducts of platforms, irrespective of the platforms being funded by foreign or domestic entities, such contestation between platforms and business user are bound to happen. The Committee opines that inculcating a culture of transparency in operations of platforms and formulating a dedicated and comprehensive policy that governs the e-commerce marketplace is the need of the hour. The Committee, therefore, recommends the following actions may be taken to address the competition issues in e-marketplace:**

**(i) A clear definition of marketplace and inventory model of e-commerce should be spelt out in consultation with stakeholders.**

**a) *A marketplace e-commerce entity should not sell any goods owned or controlled by it on such e-commerce marketplace platform. All the sellers on the platform should only be third party sellers.***

**b) *An Inventory based e-commerce entity or e-commerce store or webstore should own the inventory of goods or services and sell such goods or services owned by it directly to the consumers on a principal-to-principal basis. The e-commerce entity should be the only seller on***

*such e-commerce store platform and there should not be any third-party seller on such e-commerce store platform.*

**(ii) To avoid conflict of interest in the platform and to ensure that marketplace e-commerce does not indulge in inventory based model, e-commerce platforms functioning under the marketplace should not be allowed to have any direct or indirect relationship with entities acting as sellers on the platform.**

**(iii) An e-commerce entity, operating under both marketplace and inventory model must be mandated to use separate branding for each of the platforms.**

**(iv) An e-commerce entity, operating under the marketplace model, must be prohibited to directly or indirectly license its brand or private label products to third parties selling products on its platform. The restriction should be extended to the marketplace entity's associated enterprises or its related parties.**

**(v) Arbitrary classification of sellers and buyers and selective application of discounts/incentives to sellers and buyers should be prohibited on e-commerce platforms. Any incentives/discounts provided by platforms should be on a non-discriminatory basis.**

**16.10 The Committee also recommends the following steps to improve transparency in handling of data, search rankings, and contract terms and also to promote innovation and competition in the entire value chain:**

**(i) A clear and transparent policy on data that is collected on platform, the use of such data by the platform and also the potential and actual sharing of such data with third party or related entities should be formulated.**

**(ii) The e-commerce platforms should publish on its website the criterion and main parameters, the weightage assigned to each parameter in determining the ranking of goods and sellers on its platforms. The relative importance of the parameters should also be published in a plain and intelligible language.**

**(iii) Marketplaces must disclose the complete terms and conditions of the agreement that are required to become a seller on the platform including but not limited to platform fee, commission, discounts and relaxations, all types of charges and levies amongst others, applicable to all sellers in a particular category. Unilateral revision of terms and conditions which is to the detriment of any concerned stakeholders must be prohibited.**

**(iv) All services in the supply chain, including but not limited to, cartable menu, logistics, payment gateway, should be unbundled and the sellers seeking registration on the platform should not be coerced, directly or indirectly, to accept the bundled services. The decision to avail such support services should be left at the discretion of the seller.**

## **E-COMMERCE EXPORTS**

17.1 Exports play an important role in the economy contributing a significant share in India's GDP. E-commerce exports enable businesses to sell directly to customers across the world. It helps businesses transcend boundaries and get access to a much larger pool of customers. It also provides an easy to adopt and scale mechanism for MSMEs to grow their business outside India, without having any footprint locally in international markets and reducing dependence on intermediaries thereby bringing the seller closer to the customer. Leveraging the advantages accorded by e-commerce to expand the markets of domestic manufacturers especially the MSMEs will contribute significantly to the growth of exports. However, entry barriers like market access, navigating the complexities of cross border logistics and payments, large initial investments and an uncertainty of demand deters these businesses from realising their full potential.

**17.2 The Committee is of the view that giving due cognisance to the crucial role played by e-commerce route in boosting export and making it a part of our export strategy and policy is the need of the hour. The Committee, therefore, recommends that a dedicated chapter on promotion of e-commerce export should be included in the upcoming Foreign Trade Policy. The Committee further recommends that e-commerce exports should also be made a part of the strategy and framework in negotiating Free Trade Agreements (FTAs) with other countries.**

**17.3 The creation of an E-Commerce Export Zones (EEZs), based on the Special Economic Zone (SEZ) model, as a one-stop shop for storage, certification, testing, customs clearance, expedited processing of export incentives, Input Tax Credit (ITC) refunds, and duty drawbacks warrant serious consideration in view of the increasing importance of e-commerce in global trade. This will create a comprehensive ecosystem with world class infrastructural and regulatory facilities, and could help India leapfrog as a significant player in e-commerce exports. The Committee, therefore, recommends the Department for Promotion of Industry and Internal Trade, in consultation with Department of Commerce and other stakeholders to undertake a study on the feasibility and practicality of setting up EEZs in the top export clusters in India.**

17.4 The Committee was informed that there are more than 4.2 crore MSMEs in India, who manufacture and trade products, including authentic handicrafts that are in good demand all over the world. However, only very few MSME sellers are exporting to foreign markets due to lack of awareness about the benefits of e-commerce exports.

**17.5 Creation of awareness and handholding the MSMEs to navigate through the complex customs process is crucial to enable them to sell to**

**global markets through e-commerce platforms. The Committee, therefore, recommends the Department of Commerce, through its Export Promotion Councils, Trade Promotion Organisation, and apex trade bodies to create awareness on the benefits e-commerce exports brings to businesses. The Committee further recommends that dedicated e-commerce exports promotion cells within these entities at District level should be created to disseminate relevant knowledge on destination market, collate demand data and conduct training on e-commerce exports procedure, brand building and digital marketing.**

17.6 The Committee was informed that customs clearance for exports takes around 2 days for air transport, and around 4 days for sea route due to the cumbersome documentary procedures, congestion at cargo complexes, manual processes, etc. This lengthens delivery timelines, something that is crucial for e-commerce deliveries.

17.7 On enquiring about the steps taken for easing customs process in e-commerce exports, Central Board of Indirect Taxes and Customs (CBIC) informed that, it has over the last few years, brought in multiple improvements by way of amending law and regulations, and simplifying and automating the procedures to facilitate and promote e-commerce sector. The CBIC has digitised e-commerce clearance through the Electronic Cargo Clearance System (ECCS). To further expedite clearances through courier, CBIC has initiated a dialogue with e-commerce operators for sharing of shipment data with CBIC on pre-arrival basis. The prior receipt of data, such as description of goods, classification, value, etc., would enable CBIC to further facilitate customs clearance of such consignments using risk management techniques.

**17.8 The Committee takes cognisance of the measures taken by the Central Board of Indirect Taxes and Customs (CBIC) for facilitating and promoting e-commerce exports. The Committee, however, is of the opinion that the time taken for clearance of e-commerce exports needs to be further reduced in view of the time sensitive nature of e-commerce exports. The Committee, therefore, recommends the establishment of dedicated customs clearance lanes, equipped with barcode system of clearance, for e-commerce exports at all international courier terminals. The Committee further recommends the CBIC to ensure end-to-end digitisation of the clearance process to bring about efficiency, repeatability and traceability of transactions. The Committee also recommends the CBIC in coordination with Department of Commerce to take steps to enable e-commerce exports through land borders.**

17.9 The CBIC informed that the present architecture for exports through post requires an exporter to come to one of the notified Foreign Post Offices (FPOs) to file the postal bill of export (PBE) and handover the consignment for



shipment. Many of the important commercial hubs do not have proximate FPO, constraining the exporter to travel long distances to reach the nearest FPO for exporting an e-commerce shipment thereby making exports more difficult for MSMEs which are in remote places.

17.10 To address this, CBIC and Department of Posts have worked together to devise an innovative hub and spoke system to facilitate postal exports. In the new system, an exporter would not be required to visit a FPO. He would, rather be enabled to file Postal Bill of Export (PBE) online from his workplace, and then visit any nearby post office to drop the export parcel. The PBE would then be forwarded through the electronic system to one of the 28 FPOs for customs clearance. The parcel would also be transported to the same FPO for customs examination and export. The Department of Post has already started live testing on the model and CBIC is preparing regulations in consultation with the Department of Posts.

**17.11 The Committee applauds the proactive steps taken by the CBIC and Department of Post to facilitate e-commerce export through post from rural and remote areas. The innovative hub and spoke model, if implemented efficiently, has the potential to enable the MSMEs to access global markets and boost e-commerce exports from remote areas. The Committee, therefore, recommends the CBIC and Department of Posts to accord priority to the implementation of the model and ensure its completion at the earliest. The Committee further recommends that the presence of Foreign Post Offices (FPOs) should also be expanded across the country, especially to the areas recognised as commercial hubs, as re-routing of the export consignments from post offices to the limited FPOs might extend the delivery timelines.**

17.12 The representatives of Gem & Jewellery Export Promotion Council informed the Committee that targeting individual customer across borders through e-commerce exports of gems and jewellery would result in higher value addition. However, lack of clarity in customs process related to gems and jewellery export has hindered businesses to export such products through e-commerce route. It further informed that authorised couriers are unwilling to handle gems and jewellery shipments in courier mode for want of a Standard Operating Procedure (SOP)/clarification from Central Board of Indirect Taxes and Customs (CBIC) for handling Courier Shipping Bill (CSB) filing and customs clearances despite the presence of procedure laid down by Customs Manual, 2018 regarding handling of gems and jewellery export.

17.13 On enquiring about the steps taken to ease the customs process in gems and jewellery exports, the CBIC informed that it has been working with stakeholders to put in place a simplified regime for facilitating exports of jewellery sold on e-commerce platforms through courier mode. The CBIC

further informed that the regulatory framework shall be implemented by June this year.

**17.14 The Committee recommends the Central Board of Indirect Taxes and Customs (CBIC) to formulate and notify a Standard Operating Procedure (SOP) for handling of gems and jewellery in courier mode at the earliest. Thereafter, the CBIC should also instruct all stakeholders, including authorised courier service providers, to accept gems and jewellery export in courier mode.**

17.15 The Committee was informed that Regulation 2(2)(a)(iv) of Courier Imports and Exports (Electronic Declaration and Processing) Regulations, 2010 restricts import of Precious and Semi precious Stones, Gold and Silver in any form.

**17.16 The Committee takes note of the fact that returns and thereby re-import of products is a regular feature of e-commerce model of business. The Committee opines that restriction in re-import of gems and jewellery will adversely affect the seller's return policy and subsequently the confidence of buyer to purchase the product through e-commerce platforms. The Committee, therefore, recommends the CBIC to look into the matter and suitably amend the Courier Imports and Exports (Electronic Declaration and Processing) Regulations, 2010 to allow re-import of gems and jewellery in courier mode. The Committee further recommends the CBIC to formulate and notify a Standard Operating Procedure (SOP) regarding the same to provide clarity to all stakeholders.**

17.17 The Committee, while interacting with stakeholders, was informed that sellers have to pay duty and undertake compliance twice for e-commerce based goods which are sold and then returned, i.e., first on export at the time of sale and then on re-import at the time of return. The reason being, under the current legal regime, no distinction on whether the goods being imported have discharged duties at an earlier stage and they are being re-imported after export. This discourages sellers from selling to global markets.

**17.18 The Committee recommends the CBIC to re-examine the customs rules and procedures and to remove the duplicity in compliance process in e-commerce exports. The Committee further recommends the CBIC to streamline the customs system and procedure, and formulate a mechanism to differentiate between imported products and products which are being returned after exports.**

## **ON-BOARDING MSMEs: DIGITAL LITERACY AND SKILLING**

18.1 In India, around 1.2 crore Kiranas, which are hyper-local neighbourhood provision stores, account for 80 per cent of the retail sector in India, with 90 per cent of them being self-organised and most of them digitally excluded. As per

the Annual Report (2021) of the Ministry of MSMEs, India is estimated to have 4.25 crore Micro, Small and Medium Enterprises (MSMEs) that have the potential to flourish with innovative sales and marketing efforts but are not part of this digital revolution. There is also low participation of rural women in e-commerce marketplace even though they expressed their willingness to participate in the e-commerce business. It was informed that lack of awareness about onboarding procedures and modalities acts as a barrier and women entrepreneurs have urged Government to institute capacity building programs to address the information gap on this.

**18.2 The Committee notes that majority of the MSMEs and women entrepreneurs are not part of the digital revolution which implies that most of them could not avail the benefits that the e-commerce market offers. The MSMEs and women entrepreneurs need to be equipped with the required skill set and digital capabilities to enable them to successfully tap into the e-commerce market; however, they do not have the financial capacity to acquire the required skill set nor digitise their business. The Committee recommends Government to undertake techno-economic feasibility study of the MSMEs to gauge the existing gaps in the current policies meant for the MSMEs and women entrepreneurs. The Committee further recommends Government to provide a special incentive scheme for digitisation which is targeted specifically at e-commerce business to MSMEs and women entrepreneurs.**

**18.3 The Committee also recommends Government to leverage the Digital India and Skill India Programmes to design capacity building programmes specifically related to the e-commerce markets, such as, imaging and cataloguing, digital marketing, brand building, e-commerce on-boarding, digital payments, etc. The Committee further recommends that such skill training programmes and curriculum are designed in vernacular languages to enable wider reach of such programmes.**

18.4 The Committee was informed that the industry is enabling the onboarding of MSMEs by assisting them in documentation, portfolio development, packaging and online vendor management. The representatives of Amazon informed that more than 90 per cent of sellers on its platform are local and medium business and a good number of them are from Tier-II and Tier-III cities. The Amazon Karigar, Flipkart Samarth Program, IKEA DISHA are some of the programmes launched by industry leaders to assist the MSMEs in their on-boarding process and impart the required skills to operate their business on e-commerce platforms.

18.5 The Committee was also informed that the State Governments of Telangana, Andhra Pradesh and Karnataka have provided support to MSMEs through various incentives/schemes and imparted the required digital skills in

collaboration with industry experts. The State Government of Telangana has devised various schemes and mechanisms such as Be'Nishan, KiranaLinker, etc., to link farms products and local stores with digital retail market. The State Government of Karnataka has collaborated with several e-commerce based organisations such as Meesho, Udaan, etc., to onboard local shops and MSMEs on digital platforms and has also tied up with Amazon to train exporters in MSMEs clusters including Bellari, Mysuru and Channapatna to sell their products in the global market.

18.6 With regard to digital skilling too, the State Governments have played an active role in imparting digital skills to MSMEs. The State Government of Andhra Pradesh has been collaborating with sectorial leaders to make sure the workforce is employable and is also working on setting up skill centres in each parliamentary constituency. The State Government of Karnataka is working with large tech players to implement initiatives which include promoting digital literacy and financial inclusion in the State, which will ultimately be a key enabler for ecommerce. The State Government of Telangana, through Employment Generation and Marketing Mission (EGMM), provides skilled manpower support to retail companies by training youth in retail sales and other retail related trainings.

**18.7 The Committee applauds the active and facilitative role played by the State Governments in digitising the business of MSMEs and also creating a skilled workforce that is suited to the ever expanding digital space. The Committee, however, observes that majority of the MSMEs are still left out of the digital revolution and require continued support of the concerned State Government to enable them to flourish in the digital space. The Committee recommends the State Governments to identify manufacturing and MSME clusters in their State and initiate targeted onboarding programmes in such cluster, leverage the One District One Product Programme to promote targeted products and tap into the expertise of industry stakeholders to promote e-commerce. The Committee further recommends the State Governments to collaborate with e-commerce platforms to facilitate the inclusion of more vernacular languages on their platforms.**

**18.8 The Committee also observes that e-commerce platforms have provided assistance to MSMEs and local stores to digitise their business and imparted digital and marketing skills through various skill training and on-boarding programmes. The Committee recommends that a comprehensive framework to leverage industry expertise through PPP model for partnering with e-commerce platforms in imparting the required digital and marketing skills in e-commerce business should be included in the upcoming e-commerce policy. The Committee further recommends the Government to introduce a policy in line with the existing Corporate Social**

**Responsibility (CSR) Policy to place an obligation on the large e-commerce companies to provide training to small retailers and onboard them on their platforms.**

### **GOVERNMENT e-MARKETPLACE (GeM)**

19.1 The Department of Commerce introduced Government e-Marketplace (GeM) portal to facilitate online procurement of common use goods and services required by various Government Departments/Organisations/PSUs. The Department informed that rural Self-Help Groups (SHGs) are enabled to display their products to Government buyers through Sale of Articles of Rural Artisans Society (SARAS) collection initiative of GeM and Deen Dayal Antyodaya Yojana.

19.2 Upon enquiring about the number of sellers registered on the platform and the value of products sold through the platform, the Committee was informed that till date, 40,62,311 sellers are registered on the GeM platform, out of which 7,64,547 are MSME sellers and service providers. Further, goods and services to the tune of Rs. 1,06,764 crore have been sold on the platform during 2021-22, out of which Rs. 59,027 crore are sold by MSME sellers and service providers.

**19.3 The Committee applauds the digital platform provided by Department of Commerce to sellers and service providers, including the MSMEs and Self Help Groups (SHGs), to showcase and sell their products. The Committee observes that positive results have been yielded by the platform as can be seen from the value generated through the platform. The Committee, however, feels that the portal has the potential to have a greater impact in the domestic digital marketplace by onboarding more number of MSMEs on the platform in view of the fact that only 7,64,547 out of 4.25 crore MSMEs have been onboarded till date. The Committee, therefore, recommends the Department of Commerce to create more awareness about the benefits of the platform and provide training on onboarding and compliance process to enable more MSMEs to be onboard on the GeM platform.**

19.4 During interaction with stakeholders representing MSMEs, the Committee was informed that the GeM portal levied a charge at the rate of 0.5 per cent of the Purchase Order Value to download the Purchase Order (PO)/Letter of Intent (LoI), as a commission for downloading the order. It was pointed out that the GeM portal does not process tender/enquiry nor it processes the tender evaluation. The levying of high commission charge, i.e. 0.5 per cent of the Purchase Order Value is not justified as the GeM portal merely facilitates uploading the documents forwarded by the purchaser and downloading of Purchase Order by MSMEs. The Committee was further informed that the National Small Industries Corporation (NSIC) has provided services to the

MSMEs without levying any charge prior to the introduction of GeM. The Committee was also informed about the non-availability of some products especially laptops when the procurement quantity is large in numbers.

**19.5 The Committee is of the view that levying of commission increase the operation costs and eats into the already slim profit margin of the MSMEs. Providing exemption to the payment of commission on GeM will incentives more MSMEs to join the platform and enhance their profitability. The Committee, therefore, recommends the Department of Commerce to exempt the MSMEs from payment of 0.5 per cent commission charged on the platform. The Committee also recommends that Government to look into the issue of non-availability of products when the procurement is large in numbers.**

### **OPEN NETWORK FOR DIGITAL COMMERCE (ONDC)**

20.1 The Open Network for Digital Commerce (ONDC), which is an initiative of the Department for Promotion of Industry and Internal Trade (DPIIT), aims at promoting open networks for all aspects of exchange of goods and services over digital or electronic networks. The ONDC is based on open-sourced methodology, using open specifications and open network protocols independent of any specific platform and will enable local commerce across segments, such as mobility, grocery, food order and delivery, hotel booking and travel, among others, to be discovered and engaged by any network-enabled application.

20.2 A strategy paper titled, ‘Open Network for Digital Commerce-Democratising Digital Commerce in India’ was published in January, 2022. On perusal of the strategy paper, it is found that that the success of the ONDC is contingent upon certain factors, such as, the successful onboarding of the existing digital commerce apps and platforms, the compatibility and interoperability of the existing platforms/applications of the buyers and seller and the technical capability of small and medium enterprises to be onboarded on the digital network. However, the strategy paper is silent on these issues and does not lay out a road map/strategy for addressing these issues. Another issue is that the local business will find it extremely challenging to compete with the discounts, sale and other lucrative offers, being offered by prominent e-commerce players which may result in local business being squeezed out of the network in the long run. Further, the strategy paper is silent on the issues regarding liability on the network in case consumer faced issues regarding transactions, delivery of substandard products and service and there is also lack of clarity on applicability of the existing e-commerce laws to the network.

**20.3 The ONDC is an ambitious and revolutionary initiative that has the potential to categorically alter the e-commerce landscape in India. However, various issues regarding operational strategy, fair competition,**

technical capability of MSMEs to leverage the network and clarity in assigning liability is yet to be addressed. The Committee, therefore, recommends DPIIT to formulate a concrete strategy to onboard existing e-commerce platforms, ensure a level playing field between local/small business and e-commerce giants, and provide technical support to small and local business to design a technical tool, compatible with ONDC protocol to achieve its intended goal of democratising e-commerce and digital onboarding of MSMEs. The Committee further recommends the Department to provide clarity regarding the issue of liability on the network by assigning definite roles and responsibilities to all the participants, namely, e-commerce platforms, buyers and sellers, and also clarify the extent of application of the e-commerce rules on the network.

## SUMMATION

21.1 Fuelled by higher internet penetration and increasing acceptance among consumers and businesses alike, e-commerce has been on an upward trajectory and is expected to rise further. The e-commerce marketplace is, however, plagued with issues such as concentration, unfair competition, prevalence of counterfeit products, complicated tax regime, etc. Various regulatory bodies attempted to address such issues one way or the other, but that has resulted in a fragmented regulatory regime, thereby, causing confusion and ineffective regulations which are not conducive for the overall development of e-commerce. In the absence of a dedicated e-commerce policy to address such issues, fragmented and piecemeal approach to regulation is expected to continue.

21.2 The Committee was informed that the Department for Promotion of Industry and Internal Trade (DPIIT) has prepared the draft National E-Commerce Policy and the first draft was placed in public domain on 23<sup>rd</sup> February, 2019. The Department further informed that a revised draft has been prepared based on comments and suggestions received from over 120 stakeholders including Indian and foreign companies, industry associations, think tanks and foreign Governments.

**21.3 The Committee observes that the absence of a dedicated e-commerce policy has resulted in a fragmented and ineffective regulation. Further, the absence of an enabling policy has resulted in strategy vacuum to effectively benefits from e-commerce. Any further delay in formulating and notifying a dedicated policy may further accentuate the issues in the fast paced digital market. The Committee, therefore, recommends the Department for Promotion of Industry and Internal Trade to finalise the draft National E-Commerce Policy at the earliest.**

21.4 In devising a regulatory framework for e-commerce, it is vital to recognise that e-commerce is just one segment of the overall online commerce

ecosystem. There are models of e-commerce that have evolved over the years which cater to niche segments such as e-health, e-pharmacy, e-grocery, etc. Further, there are newer models, such as social commerce, open-commerce, etc., which are still evolving, the benefits and challenges of which are yet to be effectively identified. Quick commerce is another new model which is coming up rapidly in the country and is expected to touch about USD 5.5 billion market size by 2025.

**21.5 The presence of a comprehensive policy and regulation is of utmost importance for any sector's strategic growth. At the same time, it is also prudent for policies and regulations to be developed with the effective understanding of the sector's many segments and nuanced challenges. The Department should understand the vibrant and dynamic nature of the overall online commerce ecosystem while formulating policy and regulation, and should be cautious not to implement one-size-fits-all mechanism to regulate the diverse e-commerce models. The Department should drive the industry towards developing standards for the evolving ecosystem, formulate definite mechanisms for e-commerce players to enable self-regulation, and should be receptive to the feedback and inputs from various stakeholders and ecosystem participants. The Government should address the concerns associated with quick commerce like creation of dark stores and the safety of riders.**

21.6 Within the e-commerce model of business, concerns among consumers include data privacy, fraud and identity theft, product quality, uncertain delivery, scope of replacement, etc. Consumers are more likely to trust e-commerce entities if they are confident that an error, if any, can be corrected with swift and reliable redressal mechanism.

**21.7 The e-commerce policy should ensure the protection of consumer rights and privacy through inclusion of pro-customer regulatory framework and institution of a robust grievance redressal mechanism. It is important that anti-counterfeiting and anti-piracy measures are brought forward in the policy along with stringent enforcement mechanism. Simple and friendly customer support services, timely delivery of products along with easy return and replacement policy should also be taken care of in the e-commerce policy. The policy should also ensure the protection of personal data in consonance with the upcoming Personal Data Protection Bill.**

21.8 Opacity in the operation of the e-marketplaces, unfair competition practices, absence of guidelines in use of data generated on e-commerce platforms, asymmetry in Platform-to-Business (P2B) relations, etc., are some of the issues prevalent in the e-commerce. These issues need to be addressed in a comprehensive manner to ensure that the benefits of e-commerce are equitably



reaped by all stakeholders, i.e., consumer, e-commerce platforms and sellers/business users.

**21.9 The Department should make sure that issues of competition and contestation between e-commerce platforms and sellers/business users are ironed out in a balance manner. The e-commerce policy should encompass guidelines regarding the ownership, use and sharing of data, spell out the roles and responsibility of all stakeholders and bring about transparency in the operation of e-commerce platforms.**

21.10 E-commerce brings about numerous benefits to business through flexibility in business models, access to wider audience and scalability of business. On the flipside, the traditional brick and mortar shops and local business, which do not have the technical and financial capacity to digitise their business model, face the fear of being squeezed out due to higher competition. It has been documented that numerous businesses in the mobile phone retail sector have been forced to shut down due to competition from e-marketplaces. The same will continue if the small and local businesses are not equipped with the required digital skill to take their business to online platforms.

**21.11 The e-commerce policy should address the concerns of the traditional brick and mortar shops and local business and it should lay out a strategy and road map for onboarding them on the e-commerce platforms. Industry leaders in e-commerce have launched various initiatives to onboard small and medium business and local sellers on their platforms. The Department should tap into the in-hand experience and expertise of industry leaders in formulating strategy for onboarding more sellers on e-commerce platforms. A framework for PPP partnership in onboarding sellers should be included in the e-commerce policy.**

21.12 The growing e-commerce has provided opportunity for employment generation across the value chain. However, the existing skill gap has deterred unemployed youth to capitalise on the growing employment opportunities in e-commerce value chain. It is important that the existing capacity building programmes such as the Skill India Mission should be effectively utilised to impart specific skills, such as catalogue management, delivery operations, packaging, etc., which are suited to e-commerce.

**21.13 The Committee recommends the Department to outline a specific skill development strategy in the e-commerce policy. The strategy should be formulated by gauging the various requirements in the e-commerce value chains and designing a skill training framework to suit such requirements. Private players and stakeholders in the e-commerce value chain should be lured in for implementation of such strategy. Further, in line with increased employment in e-commerce, measures to promote the**

**welfare and protection of contractual workers should be espoused in the policy. The Government should frame suitable social security schemes relating to insurance, working conditions, disability and other benefits, and also formulate appropriate labour laws relating to working hours, holidays, minimum pay, etc., for gig and platform workers, and mandate e-commerce companies to extend such benefits to them.**

21.14 The increasing significance of e-commerce exports in global trade could no longer be ignored. E-commerce provides opportunity to sellers to connect with global customers beyond the limit of geographic boundary and, if leveraged appropriately, could boost our exports. However, the complexity of customs process, various barriers in international markets, lack of awareness about benefits of e-commerce exports, etc., deterred business to export through e-commerce route. It is essential that such issues and concerns of sellers are addressed to promote e-commerce exports.

**21.15 The Committee recommends the Department to deliberate on the issues faced by business in e-commerce export and device approach to address such issues in the e-commerce policy. An inclusion of an enabling framework, to benefit from e-commerce and stimulate more sellers to export their products through e-commerce route, is essential in the e-commerce policy.**

**21.16 The Committee hopes that the Government brings in the much needed reforms in the e-commerce sector in a time bound manner in order to give a fillip to the trade industry while instilling customer confidence and providing a level playing field to the stakeholders.**

## **RECOMMENDATIONS/OBSERVATIONS - AT A GLANCE**

### **OVERVIEW OF E-COMMERCE MARKET**

1. The Committee is perturbed to observe that critical data regarding e-commerce such as share of e-commerce market in GDP and direct and indirect employment generated by e-commerce sector has not been collated and maintained by the Government. The Committee opines that such data forms crucial inputs in formulating a long term policy for the e-commerce sector and enable data based policy formulation. The Committee, therefore, recommends the Department to direct its resource towards maintaining of appropriate data regarding e-commerce and make it readily available.

(Para 2.3)

2. The Committee also observes that e-commerce companies are not registered with the DPIIT despite the fact it being the parent Department with regard to e-commerce. The Committee feels that enabling mandatory registration of e-commerce companies with the Department will be the first step towards streamlining the regulation of e-commerce and will also assist in gauging the progress of the sector. The Committee, therefore, recommends the Department to make it mandatory for all e-commerce companies to be registered with them. The Committee further recommends that the process of registration with Department must be simple and in line with ease of doing business.

(Para 2.4)

### **FDI POLICY ON E-COMMERCE AND FOREIGN EXCHANGE MANAGEMENT ACT, 1999**

3. The Committee notes that FDI policy is limited in addressing anti-competitive practices in the e-marketplace such as self-preferencing, lack of platform neutrality, deep discounting, exclusive agreements and preferential treatment to selected sellers. The Committee opines that a holistic framework that addresses these issues, irrespective of the marketplace being funded by foreign or domestic entities, is the need of the hour. The Committee, therefore, recommends the Department to work out a comprehensive framework that regulates the e-commerce and include it in the National E-Commerce Policy.

(Para 5.4)

4. The Committee observes that while the FDI policy on E-Commerce attempts to address various issues in the e-commerce sector, it fell short in its enforcement mechanism. The Committee, therefore, recommends that the enforcement mechanism under the FDI policy are effectively strengthened and proactive actions are taken against e-commerce giants that are found to

flout the FDI rules. A time-bound investigation mechanism is required to address the fast paced digital market and to ensure that unfair market practices do not occur due to sluggish investigation process. (Para 5.5)

5. The Committee opines that frequent changes to policy are against the ethos of ease of doing business as it brings uncertainty in the policy regime. The Committee, therefore, recommends that a stable FDI policy regime be ensured in the e-commerce sector to bring about certainty and boost the confidence of potential investors. (Para 5.6)

#### **CONSUMER PROTECTION ACT, 2019 AND THE CONSUMER PROTECTION (E-COMMERCE) RULES, 2020**

6. The blanket imposition of increased obligation on e-commerce companies, irrespective of their size, may be counterproductive and may decelerate the growth of e-commerce in India. The Committee, therefore, recommends that a calibrated approach be adopted towards regulating e-commerce entities and the additional duties and liabilities sought to be introduced through the Draft Rules should be made applicable specifically to only e-commerce entities that qualify a certain threshold, devised particularly to regulate e-commerce giants. (Para 6.6)

7. The Committee opines that while the intent of the draft rules is appreciable, the overlap in mandate and transplanting of power already accorded to a statutory body may not result in enhancing regulatory mechanism. The Committee, therefore, recommends that the manner of regulation of e-commerce platforms and division of responsibility amongst regulators be consciously designed with a view to avoid overlaps of mandate. The Committee further recommends that a robust mechanism of co-operation between various ministries/regulators and the CCI must be devised to bring about increased enforcement success, administrative efficiency, expertise building as well as bolstering the ease of doing business. (Para 6.8)

8. The Committee opines that ambiguity in policy may adversely impact its enforcement and also create confusion among the stakeholders, which is not conducive for business. The Committee, therefore, recommends that clarity on the precise scope and applicability of the prohibition on flash sales be provided in the draft rules. (Para 6.10)

## **COMPETITION ACT, 2002**

### **ANTI-COMPETITIVE AGREEMENTS**

9. The Committee is surprised at the undue delay in undertaking the necessary procedure for codification of recommendation of Competition Law Review Committee (CLRC). It is of the strong opinion that prompt action in undertaking appropriate changes in regulatory framework is crucial in the fast paced digital market. The Committee, therefore, recommends that factors laid out in Section 19(3) of the Competition Act, 2002 are updated after due consultation with stakeholders without further delay. The Committee further recommends that the Competition Commission of India (CCI) be empowered to undertake necessary updation to Section 19(3) in line with market realities.

(Para 7.3)

### **ABUSE OF DOMINANT POSITION**

10. The Committee recommends the Competition Commission of India (CCI) to take forward the recommendations of the Competition Law Review Committee (CLRC) and make necessary amendment to Sections 19(6) and 19(7) of the Competition Act, 2002 to accommodate for factors that may apply to new-age digital markets. The Committee would further like to emphasise that delayed action in undertaking necessary amendments to the regulatory framework may result in unwanted irreversible effect on competition in digital market.

(Para 7.5)

11. The Committee recommends that guidance elaborating on the different dominance standard for digital markets be issued by the Competition Commission of India (CCI) pursuant to adequate stakeholder consultation. The Committee opines that such guidance will not only provide certainty to stakeholders but also have a far reaching signalling effect on all market players. The Committee further recommends that clear and precise qualitative and quantitative parameters may be outlined in the guidance taking into account the realities of the digital market.

(Para 7.8)

### **MERGER AND ACQUISITIONS**

12. The Committee notes that the power of the Competition Commission of India (CCI) is presently limited to combination transactions which meet the asset value or turnover based thresholds prescribed in the Competition Act. The Committee also takes note of the fact that asset and turnover based thresholds may not fully capture the significance of a combination transaction in the current digital market and such transactions may escape the traditional

thresholds metrics and subsequently the scrutiny of CCI. The Committee opines that the enactment of the Draft Competition (Amendment) Bill, 2020 that will empower the Central Government to notify additional criteria to widen the ambit of merger scrutiny is the need of the hour to prohibit e-marketplace giants from engaging in anti-competitive transactions that may irretrievably tip the Indian e-commerce market. The Committee, therefore, recommends that sincere effort is made for the enactment of the Draft Competition (Amendment) Bill, 2020 at the earliest. The Committee further recommends that a comprehensive framework for identifying entities that have significant market power may be worked out and references may be drawn from international practices around the world in this regard.

(Para 7.12)

### **ENFORCEMENT GAPS IN CURRENT REGULATORY REGIME**

13. The Committee opines that lack of coordination between different Ministries/Departments concerned with e-commerce has resulted in enforcement gaps in the current regulatory regime. The Committee, therefore, recommends that a framework may be formulated to enable the periodic interaction and information exchange among Competition Commission of India (CCI) and other regulatory bodies and Ministries such as Department for Promotion of Industry and Internal Trade (DPIIT), Ministry of Electronics and Information Technology, Ministry of Consumer Affairs, Food & Public Distribution, etc., that govern aspects of e-commerce in India.

(Para 8.2)

14. The Committee feels that the presence of an overarching regulatory body that glues together different Ministries/Departments and Authorities that presently regulate e-commerce will strengthen the regulatory regime and bridge the existing gaps in enforcement. The Committee recommends that a Digital Market Division within the Competition Commission of India (CCI) be created as an expert division specifically tasked with regulation of the digital markets with participation from all the existing regulators concerned with e-commerce such as Department for Promotion of Industry and Internal Trade, Ministry of Consumer Affairs, Food and Public Distribution, Ministry of Electronics and Information Technology, Reserve Bank of India, etc.

(Para 8.3)

### **GAPS IN CURRENT REGULATORY REGIME**

15. The Committee is of the opinion that it is high time India revamps and strengthens its *ex-ante* regulatory framework and take steps to identify

entities that act as gatekeeper platforms and set a threshold for qualifying as gatekeeper. The Committee recommends that the Competition Act, 2002 be amended to prescribe additional quantitative criteria such as number of registered/active consumers and sellers on the platform, number of transactions taking place and volume of revenue generated to identify entities that act as a gatekeeper platform. Further, in line with international emerging practices, criteria such as assessment of resources of the platform, volumes of data aggregated, and its bargaining position *vis-à-vis* its business users and consumers, its gatekeeping function and ability to set the rules of the ecosystem may also be included. The Committee further recommends that an obligation must be placed on platforms to *suo moto* notify the regulator once it reaches the prescribed gatekeeper threshold. (Para 9.5)

16. The Committee recommends the Competition Commission of India (CCI) to formulate a mandatory code of conduct that clarifies acceptable conduct between operators of e-marketplaces on the one hand and their business users and consumers on the other after extensive consultation with all stakeholders. The code should be comprised of a set of core principles as well as a list of hardwired do's and don'ts and must be tailored to the business model of the platform. Certain practices that may be prohibited *ex-ante*, subject to the business model of the platform include self-preferencing, discriminatory treatment between business users, using data anti-competitively and including most-favoured nation clauses in contracts between business users and the platform. The Committee further recommends that the code of conduct should also mandate certain practices to be carried out by platforms such as facilitating data interoperability, enabling multi-homing, facilitating data mobility and ensuring transparency in usage of data, in addition to enumerating prohibitions. (Para 9.7)

17. The Committee, while appreciating the rise of e-commerce in the pharmacy and health sector, expresses concern at the possible misuse of such avenues for distribution of illegal or unethical medicines or outdated, substituted, or counterfeit medications amid the absence of regulations. Stringent regulation of the e-health and e-pharmacy sector is essential in view of the potential harm it can cause to health of end user in case of misuse. The Committee, therefore, recommends that a comprehensive guideline that encompasses the due diligence measures to be undertaken by the e-pharmacy/e-health platforms, mandatory registration with the appropriate authority for sale of drugs, assigning responsibility on such platforms for the sale of genuine drugs, regulating the sale of controlled drugs, etc., should be formulated in consultation with the stakeholders. (Para 9.10)

18. The Committee is appalled to observe that the Draft E-Pharmacy Rules have not been finalised till date. The Committee reiterates that undue delay in adopting a definitive regulatory framework results in uncertainty which is not conducive for the fast pace digital markets. The Committee, therefore, recommends the Draft E-Pharmacy Rules are finalised and implemented without further delay. (Para 9.11)

## **INFORMATION AND COMMUNICATIONS TECHNOLOGY (ICT) INFRASTRUCTURE AND CYBER SECURITY**

19. The Committee observes that while internet penetration has increased over the years, India still has a long way to realize its full potential and cover maximum population of the country to access internet. The Committee also expresses concern with regard to the quality of internet with slow speed of 4G network, and 5G networks yet to be launched. The Committee, therefore, recommends that Department of Telecommunications takes proactive steps to expand internet connectivity to rural and remote areas, and improve its infrastructure to provide fast and stable internet speed to business users and customers. The Committee further recommends Government to be proactive in aligning its regulatory framework and policy guidelines to promptly adopt technological changes to enable the country to compete with others in the digital space. (Para 10.4)

20. The Committee is perturbed at the absence of a policy and regulatory framework around the use of data which may result in misuse and exploitation of data by a handful of companies which when coupled with network effects might distort competition in e-marketplace. The finalization and enactment of The Personal Data Protection Bill, 2019 is crucial as this will provide the guiding principles for formulation of rules regarding the ownership and storage, use and access and cross border movement of data. The undue delay in the bill may result in failure to capitalise on the virtual treasure trove that data has provided and may result in economic loss to the country. The Committee, therefore, recommends that The Personal Data Protection Bill, 2019 be enacted without further delay. The Committee further recommends that clear guidelines regarding the use and sharing of data generated on e-commerce platforms are formulated and introduced at the earliest. (Para 10.6)

21. The Committee is of the view that treatment of personal and non-personal data within the same regulatory framework might not be conducive in the process of using data to obtain quantifiable economic benefit. The Committee, therefore, recommends that a separate framework for regulation



**of personal and non-personal data may be formulated in such a way that the Data Protection law exclusively deal with Personal Data and a separate statutory framework be formulated for governing non-personal data.**

(Para 10.7)

**22. The Committee is of the opinion that the rapid digitisation coupled with increasing reliance on digital technology will result in explosion of data thereby requiring expansion of data storage centres. The Committee, therefore, recommends Government to constitute an expert body to prepare a roadmap for expansion of data centres and server farms in the country and to formulate domestic standards of data infrastructure such as towers and tower stations, equipment, optical wires, signal transceivers, antennae, and smart devices etc. The Committee also recommends that research and innovation in the field of AI, IoT, Smart Devices, etc., which feeds on data, be encouraged though enhanced investment in these field.**

(Para 10.9)

**23. The Committee is of the opinion that a National Cybercrime Policy or legislation that lays down the framework for addressing all aspects related to cyber crime such as, skilling and training in digital crimes investigation, creation of dedicated cybercrime division, cyber security standards, investigation process and grievance redressal mechanism, capacity building of stakeholders, etc., is required in view of the increasing reliance on digital technology. The Committee, therefore, recommends Government to formulate comprehensive cyber crime policy or legislation in consultation with stakeholders and industry experts. The Committee also recommends Government to keep in mind the interest of the small businesses and enable them to adopt an appropriate cyber security framework.**

(Para 10.11)

## **PAYMENT SYSTEMS AND FINANCIAL SECURITY**

**24. The Committee observes that the financial security system that is in place for ensuring secure financial transactions and protection of financial data relies heavily on the alertness and financial literacy of the customers. The Committee, therefore, recommends banking institutions and e-commerce platforms to create awareness among customers regarding sharing of sensitive financial data. The Committee further recommends that periodical cyber security audits be undertaken by e-commerce platforms, payment gateways and payment aggregators and financial institutions. The Committee also recommends Government to strengthen the payment infrastructure to mitigate transaction failures and enable seamless financial transactions.**

(Para 11.3)

25. The Committee feels that a relook into the Merchant Discount Rate (MDR) in UPI transactions and the structure of Payment Service Provider (PSP) fee is essential as financial transactions *via* UPI is expected to increase further in the future. The Committee, therefore, recommends the National Payments Corporation of India (NPCI) and Ministry of Finance to undertake comprehensive stakeholders' consultation in this regard and furnish action taken note on the same. (Para 11.6)

26. The Committee opines that ensuring the security of financial transactions through UPI is vital given the fact that majority of e-commerce payment is undertaken through this platform. The Committee, therefore, recommends that security measures/Standard Operating Procedures that are applicable to banks should be made mandatory to UPI based Payment Service Providers (PSPs) to avoid financial frauds on their payment platforms. The Committee further recommends the payment platforms should be held accountable for financial frauds perpetuated on their platforms in case of non-compliance to mandatory security measures. (Para 11.7)

#### **IPR INFRINGEMENT IN E-MARKETPLACE**

27. The Committee is deeply concerned by the prevalence of counterfeit products. The unhindered presence of such products negatively impacts the revenue of genuine manufacturers and the absence of protection to the trademark and copyright products may also act as a deterrent to innovation. The Committee, therefore, recommends that due diligence measures must be imposed on the sellers and platforms to ensure that the products sold on platforms are authentic and do not infringe upon Intellectual Property Rights. The Committee further recommends that the sellers of counterfeit products should be made to pay the loss suffered by genuine rights holder and must be barred from the e-commerce space. The Committee also recommends that the IPR Act be strengthened and detailed guidelines issued under the Act to deal with IPR infringement in the e-commerce space. (Para 12.2)

#### **SAFE HARBOUR AND FALLBACK LIABILITY**

28. The Committee feels that it will not be in the interest of customers to totally absolve e-commerce marketplaces of their responsibility in maintaining the quality and standard of goods sold on their platforms. The Committee recommends that responsibility should be placed on the e-commerce marketplace and necessitate them to play active role in resolution of issues related to delivery of sub-standard counterfeit products and services on their platforms and require them to act as the intermediary between the customers and sellers. The Committee further recommends that codified guidelines that

**assign roles and responsibilities of the parties involved in the e-commerce transactions should be formulated in a balanced manner and notified.**

**(Para 13.4)**

## **GOODS AND SERVICES TAX (GST) REGIME IN E-COMMERCE**

### **DIFFERENTIAL TREATMENT OF OFFLINE AND ONLINE SELLERS**

**29. The Committee observes that the mandatory GST registration has placed undue burden on small sellers doing business through e-commerce platforms. The high dropout rate of 60-70 per cent from online platforms is alarming. The Committee, therefore, recommends that the exemption provided to offline sellers with regard to GST registration be extended to online sellers as well with same applicable threshold limit by the Government. The registration exemption may be provided to the unregistered sellers on an annual basis, on a declaration that their turnover is within the prescribed limit and a declaration by such sellers that they will only sell Intra-State. The Committee further recommends that onboarding of small sellers on online platforms be allowed based on a three way authentication of Aadhaar, Permanent Account Number (PAN) and bank details in place of mandatory GST registration.**

**(Para 14.4)**

### **GOODS AND SERVICES TAXES (GST) COMPOSITION SCHEME**

**30. The Committee notes that the exclusion of online sellers under the Goods and Services Taxes (GST) Composition Scheme acts as a barrier to MSMEs in adopting e-marketplace. The Committee opines that the extension of the scheme to online sellers will incentivise MSMEs to adopt e-marketplaces, leverage the benefits of e-marketplaces and also further simplify and streamline the compliance process for MSMEs. The Committee, therefore, recommends to the Government that the scheme be extended to online sellers subject to turnover threshold of Rs. 1.5 crore.**

**(Para 14.6)**

### **PERMITTING A VIRTUAL PLACE OF BUSINESS**

**31. The Committee feels that streamlining and aligning of rules in consonance with the requirements of stakeholders and in the ethos of easing business environment is required. The Committee, therefore, recommends that suitable changes be made in the Goods and Services Taxes (GST) Rules to allow online sellers, who utilise warehouse of e-commerce operators to store their goods, to register the warehouse of e-commerce operators across States on the basis of a single Principal Place of Business (PPoB) registration in the home State of the seller instead of mandatory physical PPoB in each State of operation.**

**(Para 14.8)**

## **STREAMLINING COMPLIANCES**

32. The Committee opines that the introduction of seller-wise reporting based on Aadhar/PAN by the e-commerce operator in GSTR-8 will ease the compliance process and reduce the compliance burden on sellers, especially small sellers. The Committee, therefore, recommends that the feasibility and practicality of such compliance mechanism be deliberated with the relevant stakeholders. (Para 14.10)

## **LOGISTICS AND ALLIED INFRASTRUCTURE**

33. The Committee observes that there exists a gap in connectivity between rural and urban India which has to be bridged for increased penetration and adoption of e-commerce in remote areas. The improvement in roads and highway network will help address the connectivity gap and also build efficiencies that can alleviate some cost externalities such as rising fuel costs in overall context of business sustainability of logistics services companies. The Committee, therefore, recommends Government to accelerate its road and railway infrastructure projects in rural and remote areas to provide seamless logistics movement. (Para 15.3)

34. The Committee takes note of the fact that lack of comprehensive policy governing critical areas such as data and automation technology, and non-standardisation of procedures in logistics process has hindered the development of the sector. The Committee, therefore, recommends Government to formulate enabling policies on such areas for incentivising greater participation of the private sector to build quality digital infrastructure. The Committee further recommends Government to stimulate innovation in disruptive technology such as robotics, locational intelligence, machine learning and Artificial Intelligence (AI) in logistics sector through increased investment in research and development in the sector and also provide tax incentives to private players engaging in such activities. The Committee also recommends the Government to formulate guidelines regarding use of drone technology in e-commerce deliveries. (Para 15.6)

35. The Committee recommends Government to provide a single window clearance facility with stipulated timeline of approval and also allow relaxations in regulatory approvals to accelerate the pace of warehousing construction. The Committee also recommends Government to extend support to warehousing sector in the form of capital subsidies for construction of Grade-A warehouses in small towns, facilitate better credit facilities and low-interest rates in warehousing sector and provide tax rebate in procurement of cement and steel for warehouse construction. The Committee

**opines that such measures will spur more investment and participation of private players into the warehousing sector, increasing warehousing capacity in fringe areas of major metropolitan trade hubs of the country and high commercial corridors. The Committee further recommends Government to take concerted efforts for accelerated adoption of automated warehousing processes and extend necessary support through increased investment in automation technology. (Para 15.9)**

**36. The Committee opines that while the existing skill gap in the logistic sector is of concern, it also presents ample opportunity for employment generation if addressed with a robust capacity building framework for the employable workforce. The Committee recommends Government to chart out a clear time-based road map in collaboration with industry players by identifying the output and financial outlays for skill development projects, focusing on transportation, warehousing and cold chain sectors. It will be imperative that setting up development centres to provide sector-specific knowledge and exposure to individuals is included in such road map. The Committee also recommends market leaders to pull together their clout and resources to establish an institutionalised infrastructure and create incentives for training by designing and developing certification levels for recruits in collaboration with Government. The Committee, further, recommends Government to provide support to the industry players through Skill India Mission by providing adequate budgetary allocation under the scheme for capacity building in the logistics sector. (Para 15.11)**

**37. The Committee notes with appreciation on the proactive steps taken by the State Governments in facilitating the development of logistics and warehousing infrastructure across the States. The successful implementation of the policy and roadmap prepared by the State Governments will accelerate the growth of e-commerce. The Committee recommends the State Governments to ensure accelerated implementation of the plans and roadmaps outlined by them and continue to act as a facilitator in e-commerce by enabling the development of robust support infrastructure. (Para 15.13)**

**38. The Committee is of the opinion that the accelerated implementation of the Hyderabad-Bengaluru, Hyderabad-Warangal and Hyderabad-Nagpur industrial corridors is crucial in the development of inter-State connectivity and to further augment inter-State movement of goods and services which will be beneficial to the e-commerce markets. The Committee, therefore, recommends the DPIIT to accord priority in the implementation and completion of these crucial projects. The Committee, further, recommends Government to take up on priority basis the setting up of Railway Coach**

**Factory in Warangal, Integrated Steel Plant at Bayyaram and National Institute of Design to provide the much needed economic upliftment to the State of Telangana.** (Para 15.15)

**39. The Committee also recommends Government to make concerted efforts to augment infrastructure related to e-commerce and provide adequate budgetary allocation for the same. The Committee further recommends that existing logistics infrastructure be suitably aligned to cater to the needs of the e-commerce sector.** (Para 15.16)

### **COMPETITION ISSUES IN E-COMMERCE MARKETPLACE**

**40. The Committee observes that the underlying cause of the issues and concerns raised by sellers/business users is the lack of neutrality in platforms. In the absence of a clear policy and guidelines that specifically spell out what practices amount to conflict of interest in the e-marketplaces and what are the acceptable conducts of platforms, irrespective of the platforms being funded by foreign or domestic entities, such contestation between platforms and business user are bound to happen. The Committee opines that inculcating a culture of transparency in operations of platforms and formulating a dedicated and comprehensive policy that governs the e-commerce marketplace is the need of the hour. The Committee, therefore, recommends the following actions may be taken to address the competition issues in e-marketplace:**

**(i) A clear definition of marketplace and inventory model of e-commerce should be spelt out in consultation with stakeholders.**

*a) A marketplace e-commerce entity should not sell any goods owned or controlled by it on such e-commerce marketplace platform. All the sellers on the platform should only be third party sellers.*

*b) An Inventory based e-commerce entity or e-commerce store or webstore should own the inventory of goods or services and sell such goods or services owned by it directly to the consumers on a principal-to-principal basis. The e-commerce entity should be the only seller on such e-commerce store platform and there should not be any third-party seller on such e-commerce store platform.*

**(ii) To avoid conflict of interest in the platform and to ensure that marketplace e-commerce does not indulge in inventory based model, e-commerce platforms functioning under the marketplace should not be allowed to have any direct or indirect relationship with entities acting as sellers on the platform.**

**(iii) An e-commerce entity, operating under both marketplace and inventory model must be mandated to use separate branding for each of the platforms.**

**(iv) An e-commerce entity, operating under the marketplace model, must be prohibited to directly or indirectly license its brand or private label products to third parties selling products on its platform. The restriction should be extended to the marketplace entity's associated enterprises or its related parties.**

**(v) Arbitrary classification of sellers and buyers and selective application of discounts/incentives to sellers and buyers should be prohibited on e-commerce platforms. Any incentives/discounts provided by platforms should be on a non-discriminatory basis.** (Para 16.9)

**41. The Committee also recommends the following steps to improve transparency in handling of data, search rankings, and contract terms and also to promote innovation and competition in the entire value chain:**

**(i) A clear and transparent policy on data that is collected on platform, the use of such data by the platform and also the potential and actual sharing of such data with third party or related entities should be formulated.**

**(ii) The e-commerce platforms should publish on its website the criterion and main parameters, the weightage assigned to each parameter in determining the ranking of goods and sellers on its platforms. The relative importance of the parameters should also be published in a plain and intelligible language.**

**(iii) Marketplaces must disclose the complete terms and conditions of the agreement that are required to become a seller on the platform including but not limited to platform fee, commission, discounts and relaxations, all types of charges and levies amongst others, applicable to all sellers in a particular category. Unilateral revision of terms and conditions which is to the detriment of any concerned stakeholders must be prohibited.**

**(iv) All services in the supply chain, including but not limited to, cartable menu, logistics, payment gateway, should be unbundled and the sellers seeking registration on the platform should not be coerced, directly or indirectly, to accept the bundled services. The decision to avail such support services should be left at the discretion of the seller.** (Para 16.10)

## **E-COMMERCE EXPORTS**

42. **The Committee is of the view that giving due cognisance to the crucial role played by e-commerce route in boosting export and making it a part of our export strategy and policy is the need of the hour. The Committee, therefore, recommends that a dedicated chapter on promotion of e-commerce export should be included in the upcoming Foreign Trade Policy. The Committee further recommends that e-commerce exports should also be made a part of the strategy and framework in negotiating Free Trade Agreements (FTAs) with other countries.** (Para 17.2)

43. **The creation of an E-Commerce Export Zones (EEZs), based on the Special Economic Zone (SEZ) model, as a one-stop shop for storage, certification, testing, customs clearance, expedited processing of export incentives, Input Tax Credit (ITC) refunds, and duty drawbacks warrant serious consideration in view of the increasing importance of e-commerce in global trade. This will create a comprehensive ecosystem with world class infrastructural and regulatory facilities, and could help India leapfrog as a significant player in e-commerce exports. The Committee, therefore, recommends the Department for Promotion of Industry and Internal Trade, in consultation with Department of Commerce and other stakeholders to undertake a study on the feasibility and practicality of setting up EEZs in the top export clusters in India.** (Para 17.3)

44. **Creation of awareness and handholding the MSMEs to navigate through the complex customs process is crucial to enable them to sell to global markets through e-commerce platforms. The Committee, therefore, recommends the Department of Commerce, through its Export Promotion Councils, Trade Promotion Organisation, and apex trade bodies to create awareness on the benefits e-commerce exports brings to businesses. The Committee further recommends that dedicated e-commerce exports promotion cells within these entities at District level should be created to disseminate relevant knowledge on destination market, collate demand data and conduct training on e-commerce exports procedure, brand building and digital marketing.** (Para 17.5)

45. **The Committee takes cognisance of the measures taken by the Central Board of Indirect Taxes and Customs (CBIC) for facilitating and promoting e-commerce exports. The Committee, however, is of the opinion that the time taken for clearance of e-commerce exports needs to be further reduced in view of the time sensitive nature of e-commerce exports. The Committee,**



therefore, recommends the establishment of dedicated customs clearance lanes, equipped with barcode system of clearance, for e-commerce exports at all international courier terminals. The Committee further recommends the CBIC to ensure end-to-end digitization of the clearance process to bring about efficiency, repeatability and traceability of transactions. The Committee also recommends the CBIC in coordination with Department of Commerce to take steps to enable e-commerce exports through land borders. (Para 17.8)

46. The Committee applauds the proactive steps taken by the CBIC and Department of Post to facilitate e-commerce export through post from rural and remote areas. The innovative hub and spoke model, if implemented efficiently, has the potential to enable the MSMEs to access global markets and boost e-commerce exports from remote areas. The Committee, therefore, recommends the CBIC and Department of Posts to accord priority to the implementation of the model and ensure its completion at the earliest. The Committee further recommends that the presence of Foreign Post Offices (FPOs) should also be expanded across the country, especially to the areas recognised as commercial hubs, as re-routing of the export consignments from post offices to the limited FPOs might extend the delivery timelines.

(Para 17.11)

47. The Committee recommends the Central Board of Indirect Taxes and Customs (CBIC) to formulate and notify a Standard Operating Procedure (SOP) for handling of gems and jewellery in courier mode at the earliest. Thereafter, the CBIC should also instruct all stakeholders, including authorised courier service providers, to accept gems and jewellery export in courier mode.

(Para 17.14)

48. The Committee takes note of the fact that returns and thereby re-import of products is a regular feature of e-commerce model of business. The Committee opines that restriction in re-import of gems and jewellery will adversely affect the seller's return policy and subsequently the confidence of buyer to purchase the product through e-commerce platforms. The Committee, therefore, recommends the CBIC to look into the matter and suitably amend the Courier Imports and Exports (Electronic Declaration and Processing) Regulations, 2010 to allow re-import of gems and jewellery in courier mode. The Committee further recommends the CBIC to formulate and notify a Standard Operating Procedure (SOP) regarding the same to provide clarity to all stakeholders.

(Para 17.16)

49. The Committee recommends the CBIC to re-examine the customs rules and procedures and to remove the duplicity in compliance process in

e-commerce exports. The Committee further recommends the CBIC to streamline the customs system and procedure, and formulate a mechanism to differentiate between imported products and products which are being returned after exports. (Para 17.18)

#### **ON-BOARDING MSMEs: DIGITAL LITERACY AND SKILLING**

50. The Committee notes that majority of the MSMEs and women entrepreneurs are not part of the digital revolution which implies that most of them could not avail the benefits that the e-commerce market offers. The MSMEs and women entrepreneurs need to be equipped with the required skill set and digital capabilities to enable them to successfully tap into the e-commerce market; however, they do not have the financial capacity to acquire the required skill set nor digitise their business. The Committee recommends Government to undertake techno-economic feasibility study of the MSMEs to gauge the existing gaps in the current policies meant for the MSMEs and women entrepreneurs. The Committee further recommends Government to provide a special incentive scheme for digitisation which is targeted specifically at e-commerce business to MSMEs and women entrepreneurs.

(Para 18.2)

51. The Committee also recommends Government to leverage the Digital India and Skill India Programmes to design capacity building programmes specifically related to the e-commerce markets, such as, imaging and cataloguing, digital marketing, brand building, e-commerce onboarding, digital payments, etc. The Committee further recommends that such skill training programmes and curriculum are designed in vernacular languages to enable wider reach of such programmes. (Para 18.3)

52. The Committee applauds the active and facilitative role played by the State Governments in digitizing the business of MSMEs and also creating a skilled workforce that is suited to the ever expanding digital space. The Committee, however, observes that majority of the MSMEs are still left out of the digital revolution and require continued support of the concerned State Government to enable them to flourish in the digital space. The Committee recommends the State Governments to identify manufacturing and MSME clusters in their State and initiate targeted onboarding programmes in such cluster, leverage the One District One Product Programme to promote targeted products and tap into the expertise of industry stakeholders to promote e-commerce. The Committee further recommends the State

**Governments to collaborate with e-commerce platforms to facilitate the inclusion of more vernacular languages on their platforms. (Para 18.7)**

**53. The Committee also observes that e-commerce platforms have provided assistance to MSMEs and local stores to digitize their business and imparted digital and marketing skills through various skill training and on-boarding programmes. The Committee recommends that a comprehensive framework to leverage industry expertise through PPP model for partnering with e-commerce platforms in imparting the required digital and marketing skills in e-commerce business should be included in the upcoming e-commerce policy. The Committee further recommends the Government to introduce a policy in line with the existing Corporate Social Responsibility (CSR) Policy to place an obligation on the large e-commerce companies to provide training to small retailers and onboard them on their platforms. (Para 18.8)**

#### **GOVERNMENT e-MARKETPLACE (GeM)**

**54. The Committee applauds the digital platform provided by Department of Commerce to sellers and service providers, including the MSMEs and Self Help Groups (SHGs), to showcase and sell their products. The Committee observes that positive results have been yielded by the platform as can be seen from the value generated through the platform. The Committee, however, feels that the portal has the potential to have a greater impact in the domestic digital marketplace by onboarding more number of MSMEs on the platform in view of the fact that only 7,64,547 out of 4.25 crore MSMEs have been onboarded till date. The Committee, therefore, recommends the Department of Commerce to create more awareness about the benefits of the platform and provide training on onboarding and compliance process to enable more MSMEs to be onboard on the GeM platform. (Para 19.3)**

**55. The Committee is of the view that levying of commission increase the operation costs and eats into the already slim profit margin of the MSMEs. Providing exemption to the payment of commission on GeM will incentives more MSMEs to join the platform and enhance their profitability. The Committee, therefore, recommends the Department of Commerce to exempt the MSMEs from payment of 0.5 per cent commission charged on the platform. The Committee also recommends that Government to look into the issue of non-availability of products when the procurement is large in numbers. (Para 19.5)**

#### **OPEN NETWORK FOR DIGITAL COMMERCE (ONDC)**

**56. The ONDC is an ambitious and revolutionary initiative that has the potential to categorically alter the e-commerce landscape in India. However,**

various issues regarding operational strategy, fair competition, technical capability of MSMEs to leverage the network and clarity in assigning liability is yet to be addressed. The Committee, therefore, recommends DPIIT to formulate a concrete strategy to onboard existing e-commerce platforms, ensure a level playing field between local/small business and e-commerce giants, and provide technical support to small and local business to design a technical tool, compatible with ONDC protocol to achieve its intended goal of democratising e-commerce and digital onboarding of MSMEs. The Committee further recommends the Department to provide clarity regarding the issue of liability on the network by assigning definite roles and responsibilities to all the participants, namely, e-commerce platforms, buyers and sellers, and also clarify the extent of application of the e-commerce rules on the network. (Para 20.3)

## **SUMMATION**

57. The Committee observes that the absence of a dedicated e-commerce policy has resulted in a fragmented and ineffective regulation. Further, the absence of an enabling policy has resulted in strategy vacuum to effectively benefits from e-commerce. Any further delay in formulating and notifying a dedicated policy may further accentuate the issues in the fast paced digital market. The Committee, therefore, recommends the Department for Promotion of Industry and Internal Trade to finalise the draft National E-Commerce Policy at the earliest. (Para 21.3)

58. The presence of a comprehensive policy and regulation is of utmost importance for any sector's strategic growth. At the same time, it is also prudent for policies and regulations to be developed with the effective understanding of the sector's many segments and nuanced challenges. The Department should understand the vibrant and dynamic nature of the overall online commerce ecosystem while formulating policy and regulation, and should be cautious not to implement one-size-fits-all mechanism to regulate the diverse e-commerce models. The Department should drive the industry towards developing standards for the evolving ecosystem, formulate definite mechanisms for e-commerce players to enable self-regulation, and should be receptive to the feedback and inputs from various stakeholders and ecosystem participants. The Government should address the concerns associated with quick commerce like creation of dark stores and the safety of riders. (Para 21.5)

59. The e-commerce policy should ensure the protection of consumer rights and privacy through inclusion of pro-customer regulatory framework and

**institution of a robust grievance redressal mechanism. It is important that anti-counterfeiting and anti-piracy measures are brought forward in the policy along with stringent enforcement mechanism. Simple and friendly customer support services, timely delivery of products along with easy return and replacement policy should also be taken care of in the e-commerce policy. The policy should also ensure the protection of personal data in consonance with the upcoming Personal Data Protection Bill.** (Para 21.7)

**60. The Department should make sure that issues of competition and contestation between e-commerce platforms and sellers/business users are ironed out in a balance manner. The e-commerce policy should encompass guidelines regarding the ownership, use and sharing of data, spell out the roles and responsibility of all stakeholders and bring about transparency in the operation of e-commerce platforms.** (Para 21.9)

**61. The e-commerce policy should address the concerns of the traditional brick and mortar shops and local business and it should lay out a strategy and road map for onboarding them on the e-commerce platforms. Industry leaders in e-commerce have launched various initiatives to onboard small and medium business and local sellers on their platforms. The Department should tap into the in-hand experience and expertise of industry leaders in formulating strategy for onboarding more sellers on e-commerce platforms. A framework for PPP partnership in onboarding sellers should be included in the e-commerce policy.** (Para 21.11)

**62. The Committee recommends the Department to outline a specific skill development strategy in the e-commerce policy. The strategy should be formulated by gauging the various requirements in the e-commerce value chains and designing a skill training framework to suit such requirements. Private players and stakeholders in the e-commerce value chain should be lured in for implementation of such strategy. Further, in line with increased employment in e-commerce, measures to promote the welfare and protection of contractual workers should be espoused in the policy. The Government should frame suitable social security schemes relating to insurance, working conditions, disability and other benefits, and also formulate appropriate labour laws relating to working hours, holidays, minimum pay, etc., for gig and platform workers, and mandate e-commerce companies to extend such benefits to them.** (Para 21.13)

**63. The Committee recommends the Department to deliberate on the issues faced by business in e-commerce export and device approach to address such issues in the e-commerce policy. An inclusion of an enabling framework, to**

**benefit from e-commerce and stimulate more sellers to export their products through e-commerce route, is essential in the e-commerce policy. (Para 21.15)**

**64. The Committee hopes that the Government brings in the much needed reforms in the e-commerce sector in a time bound manner in order to give a fillip to the trade industry while instilling customer confidence and providing a level playing field to the stakeholders. (Para 21.16)**

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# MINUTES

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**XVI\***  
**SIXTEENTH MEETING**

The Department Related Parliamentary Standing Committee on Commerce met at 03.00 P.M. on Tuesday, the 29<sup>th</sup> March, 2022 in Main Committee Room, Ground Floor, Parliament House Annexe, New Delhi.

**MEMBERS PRESENT**

1. Shri V. Vijayasai Reddy — *Chairman*

**RAJYA SABHA**

2. Shri Anil Desai
3. Shrimati Roopa Ganguly
4. Shri Naresh Gujral
5. Shri Sushil Kumar Gupta
6. Shri Deepak Prakash
7. Shri Jugalsinh Lokhandwala

**LOK SABHA**

8. Shri Prasun Banerjee
9. Shri Raju Bista
10. Shri Rajkumar Chahar
11. Shri Rameshbhai Lavjibhai Dhaduk
12. Shri Santosh Kumar Gangwar
13. Shri Manoj Kotak
14. Shrimati Manjulata Mandal
15. Shri Nakul Kamal Nath
16. Dr. Manoj Rajoria
17. Shri Nama Nageswara Rao
18. Shri Magunta Sreenivasulu Reddy

**SECRETARIAT**

Shri S. Jason, Joint Secretary  
Shri T.N. Pandey, Director

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\* 1<sup>st</sup> to 15<sup>th</sup> meetings of the Committee pertain to other matters.



Shrimati Nidhi Chaturvedi, Additional Director  
Shri Kuldip Singh, Under Secretary

## **WITNESSES**

### **REPRESENTATIVES OF DEPARTMENT FOR PROMOTION OF INDUSTRY AND INTERNAL TRADE (DPIIT), MINISTRY OF COMMERCE AND INSUSTRY**

1. Shri Anurag Jain, Secretary
2. Ms. Manmeet Kaur Nanda, Joint Secretary

### **REPRESENTATIVES OF DEPARTMENT OF CONSUMER AFFAIRS, MINISTRY OF CONSUMER AFFAIRS, FOOD & PUBLIC DISTRIBUTION**

Shri Rohit Kumar Singh, Secretary

### **REPRESENTATIVES OF CENTRAL BOARD OF INDIRECT TAXES AND CUSTOMS**

1. Shri Vimal Kumar Srivastava, Principal Commissioner
2. Shri Nimba Ram, Additional Commissioner

### **REPRESENTATIVES OF CENTRAL BOARD OF DIRECT TAXES**

Shri Chetan P.S. Rao, Director

### **REPRESENTATIVES OF MINISTRY OF ELECTRONICS AND INFORMATION TECHNOLOGY**

1. Dr. Sathyanaryan, Scientist 'E'
2. Shri Ajay Kumar Garg, Director

2. The Chairman, at the outset, welcomed the Members of the Committee and informed them that the Committee would be deliberating on a new subject, namely, Promotion and Regulation of E-Commerce in India. Attention of the Members was also drawn to the Rule (i) of the Rules of Procedure and Conduct of Business in the Council of States (Rajya Sabha) regarding declaration of interests.

3. The Chairman, thereafter, welcomed Secretary, Department for Promotion of Industry and Internal Trade and Secretary, Department of Consumer Affairs and their colleagues to the meeting and sought their views on the subject. He invited suggestion to onboard small and medium enterprises to e-commerce platforms; protect country's interest at international level; set up a dedicated regulator for

e-commerce space to address anomalies; monitor unfair trade practices to maintain transparency; and govern processing and sharing of data generated through e-commerce platforms.

4. Secretary, Department for Promotion of Industry and Internal Trade gave a brief introduction about e-commerce sphere which comprised of two models, namely, marketplace model and inventory-based model which is further divided into single-brand retail, multi-brand retail and food retail sectors. Thereafter, the representatives of Department for Promotion of Industry and Internal Trade made a power point presentation highlighting laws and regulators governing e-Commerce entities, FDI policy in the e-commerce sphere, initiative to promote e-commerce business and salient aspects of draft e-commerce policy. The Committee was informed that the conflict of interest that arises due to control of inventory of vendor by e-marketplace entity will be addressed by providing a clear-cut distinction between marketplace model and inventory based model. It was also apprised that to promote One District One Product initiative, training in rural areas is being imparted for branding, marketing and showcasing of products on e-commerce platforms.

5. The Committee was given to understand that there have been interactions for long-term planning for expansion of e-commerce in the wake of rapidly changing technology and immediate steps needed to cope up with the same. The Committee was briefed about the concept of Open Network for Digital Commerce (ONDC) envisaged to provide facilities on the lines of Unified Payments Interface (UPI) for better opportunities and address monopolistic tendencies occurring in e-commerce ecosystem. It was stated that preventive actions have been taken in the form of pecuniary penalty on companies which are taking consumers for a ride and also authorities have been established to protect consumers' interest such as National Consumer Helpline and Commissions, and Central Consumer Protection Authority. It was submitted that to address the issues of advertisement and video clips added on personnel social media accounts and e-commerce platforms developed and owned by foreign entities, Government has come out with revised intermediary guidelines for having a dedicated Grievance Officer and accountable person of the concerned platform for handling such practices.

6. The Committee also deliberated upon the prospect of incorporating better practices evolved and implemented by developed countries in the arena of e-commerce ecosystem; preventing misuse of sensitive consumers data stored on e-commerce platforms; and developing co-ordination among different Ministries regulating to e-commerce on account of the multi-sector nature of the e-commerce sphere.

7. The Chairman thanked the representatives for the information provided and requested the Department to furnish the replies in writing on the issues not addressed during the interaction.
8. A verbatim record of the proceedings of the meeting was kept.
9. The Committee then adjourned at 05.00 P.M.

**XVIII\***  
**EIGHTEENTH MEETING**

The Department Related Parliamentary Standing Committee on Commerce met at 03.00 P.M. on Thursday, the 12<sup>th</sup> May, 2022 in Main Committee Room, Ground Floor, Parliament House Annexe, New Delhi.

**MEMBERS PRESENT**

1. Shri V. Vijayasai Reddy — Chairman

**RAJYA SABHA**

2. Shri P. Bhattacharya

**LOK SABHA**

3. Shri Prasun Banerjee
4. Shri Santosh Kumar Gangwar
5. Shri Manoj Kotak
6. Dr. Manoj Rajoria
7. Shri Ashok Kumar Rawat

**SECRETARIAT**

Shri S. Jason, Joint Secretary  
Shri T.N. Pandey, Director  
Shrimati Nidhi Chaturvedi, Additional Director  
Shri Kuldip Singh, Under Secretary

**WITNESSES**

**REPRESENTATIVES OF VIDHI CENTRE FOR LEGAL POLICY**

1. Ms. Manjushree RM, Senior Resident Fellow
2. Ms. Manmayi Sharma, Research Fellow

**REPRESENTATIVES OF ECOM EXPRESS**

1. Shri Ashish Sikka, Chief Strategy Officer
2. Shri Vishwachetan Nadamani, Chief Operating Officer

**REPRESENTATIVES OF NATIONAL RESTAURANT ASSOCIATION OF INDIA**

3. Shri Kabir Suri, President

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\* 17<sup>th</sup> meeting of the Committee pertain to other matter.

4. Shri Prakul Kumar, Secretary General
5. Shri Thomas Fenn, Member
6. Shri Amardeep Singh Ahluwalia, Member
7. Shri Mukesh Mehta, Member
8. Shri Abir Roy, Member

2. The Chairman, at the outset, welcomed the Members of the Committee and informed them about agenda of the meeting. He then welcomed the representatives of Vidhi Centre for Legal Policy, Ecom Express and National Restaurant Association of India (NRAI), and sought their views on the subject 'Promotion and Regulation of E-Commerce in India'. The Chairman flagged various issues on e-commerce marketplace and also sought suggestions on the steps to be taken for strengthening the regulatory regime in e-commerce, protect Intellectual Property Rights in e-marketplaces and augmenting logistics and warehousing infrastructure in remote and hilly areas.

3. The representatives of Vidhi Centre for Legal Policy informed the Committee that there exists an asymmetric relationship between platform and business users/sellers in e-marketplace. The asymmetric relationship coupled with the absence of a well defined regulatory regime enabled dominant e-commerce platforms to exploit the e-commerce market and resort to anti-competitive practices. They further informed that a nodal body that is tasked with regulation of e-commerce and coordinate with the existing regulatory bodies and various Department/Ministries is essential to streamline e-commerce regulation.

4. The representatives of Ecom Express apprised the Committee about the need for expanding and strengthening the logistics and warehousing infrastructure beyond Tier II cities. They informed that providing subsidy to offset the increasing input cost for warehouse construction will incentivise the expansion of warehousing infrastructure in rural and remote areas. They further informed that there exists a huge skill gap in the logistic sector which needs to be bridged through the coordinated effort of Government and private sector.

5. The representatives of National Restaurant Association of India (NRAI) highlighted issues in e-marketplaces such as, lack of platform neutrality, unfair contract terms in Platform-to-Business (P2B) relation, coerced bundling of services, unfair use of data aggregated on e-commerce platforms, deep discounting, etc. They informed that such issues need to be addressed to enable the e-commerce marketplace to thrive and provide a level playing field in P2B relation in e-marketplace.

6. The Committee then discussed about the market structure in e-commerce which shows a clear pattern of concentration/oligopoly, where a few players

dominate the e-commerce marketplace. It was informed that dominance *per se* is not problematic but the absence of stringent rules to regulate dominant players and abuse of dominance by such players distorts competition in the marketplace. It was further informed that the formulation of guidelines that regulate the relationship between platform and business users and clearly lay out unacceptable practices on e-marketplaces is urgently required.

7. The Committee, thereafter, discussed measures to onboard standalone restaurants and food stalls on e-commerce platforms, opacity in search ranking, strengthening *ex-ante* regulation, issues of private labels and cloud kitchens on e-commerce platforms, and diverse business model in e-commerce.

8. The Chairman thanked the representatives for the information provided and requested them to furnish the replies in writing on the issues not addressed during the interaction.

9. A verbatim record of the proceedings of the meeting was kept.

10. The Committee then adjourned at 4.37 P.M.

**XIX  
NINETEENTH MEETING**

The Department Related Parliamentary Standing Committee on Commerce met at 11.00 A.M. on Friday, the 13<sup>th</sup> May, 2022 in Main Committee Room, Ground Floor, Parliament House Annexe, New Delhi.

**MEMBERS PRESENT**

1. Shri V. Vijayasai Reddy — Chairman

**RAJYA SABHA**

2. Shri Sushil Kumar Gupta
3. Shri Om Prakash Mathur

**LOK SABHA**

4. Shri Prasun Banerjee
5. Shri Santosh Kumar Gangwar
6. Shri Manoj Kotak
7. Shri Nama Nageswara Rao

**SECRETARIAT**

Shri S. Jason, Joint Secretary  
Shri T.N. Pandey, Director  
Shrimati Nidhi Chaturvedi, Additional Director  
Shri Kuldip Singh, Under Secretary

**WITNESSES**

**REPRESENTATIVES OF DEPARTMENT OF REVENUE, MINISTRY OF FINANCE**

1. Shri Tarun Bajaj, Secretary
2. Shri Sanjay Mangal, Principal Commissioner (GST), CBIC
3. Shri Kamlesh Chandra Varshney, Joint Secretary, CBDT
4. Shri Vimal Kumar Srivastava, Commissioner (Customs & EP)

2. The Chairman welcomed the members of the Committee and informed them about the agenda of the meeting. Thereafter, he welcomed the Secretary, Department of Revenue and his colleagues to the meeting on the subject 'Promotion and Regulation of E-Commerce in India'.

3. The Chairman sought the views of the Department on differential treatment between online and offline sellers with regard to Goods and Services Tax (GST)

registration, extension of Composite GST Scheme to small businesses engaged in online retail and double compliance process on e-commerce exports in case of returns. He also desired to be briefed on the relevant income tax laws and rules applicable to e-commerce and training programmes on GST laws and income tax process for MSMEs.

4. The Secretary, Department of Revenue, informed the Committee that e-commerce operators are mandatorily required to pay Tax Deducted at Source (TDS) at the rate of one per cent which are later returned as tax credit. Further, equilisation levy at the rate of 6 per cent on online advertisement service and 2 per cent on online sales and services are levied to non-resident e-commerce operators who do not have permanent establishment in India.

5. The Committee was informed that e-commerce operators and online sellers are required to mandatorily obtain GST registration and e-commerce operators are required to collect Tax Collected at Source (TCS) at the rate of 1 per cent on the net value of taxable supplies made through it. It was also informed that aggregators, who made only intra-State supply are not required to collect TCS and suppliers who operate through such aggregators are exempted from mandatory GST registration subject to a threshold limit of Rs. 20 lakhs per year.

6. As regards to mandatory GST registration and extension of Composite GST Scheme to online sellers, the Secretary informed that the matter has been deliberated by a Sub-Committee of GST Council. He further elaborated that the proposal for providing registration exemption and extending Composite Scheme to online sellers who undertake only intra-State supply is under consideration.

7. The Committee was also apprised about the measures taken by Central Board of Indirect Taxes & Customs (CBIC) to facilitate e-commerce exports. It was informed that CBIC has taken measures to digitise e-commerce clearance through courier mode. Further, the Electronic Cargo Clearance System and risk management system are implemented at all international courier terminals having courier workload. It was also informed that CBIC has initiated a dialogue with e-commerce operators for sharing of shipment data on pre-arrival basis to facilitate faster custom clearance using risk management system.

8. The Committee, thereafter, deliberated on measures to facilitate gems and jewellery exports through courier mode, international regime for taxation of e-commerce entities, enhance financial inclusion of rural populace, digital literacy of MSMEs, higher adoption of online payments and cyber security in e-commerce transactions.



9. The Chairman then thanked the Secretary, Department of Revenue and his colleagues for the information on the subject and requested them to provide written replies to the issues not addressed during the meeting.
10. A verbatim record of the proceedings of the meeting was kept.
11. The Committee then adjourned at 12.12 P.M.

## **XX TWENTIETH MEETING**

The Department Related Parliamentary Standing Committee on Commerce met at 1.00 P.M. on Wednesday, the 8<sup>th</sup> June, 2022 in Committee Room No. 4, Block 'A', First Floor, Parliament House Annexe Extension Building, New Delhi.

### **MEMBERS PRESENT**

1. Shri Magunta Sreenivasulu Reddy — *In the Chair*

### **RAJYA SABHA**

2. Shri Om Prakash Mathur
3. Shri Deepak Prakash
4. Shri Jugalsinh Lokhandwala

### **LOK SABHA**

5. Shri Prasun Banerjee
6. Shri Rajkumar Chahar
7. Shri Rameshbhai Lavjihbai Dhaduk
8. Shri Santosh Kumar Gangwar
9. Shri Manoj Kotak
10. Shri Ajay Kumar Mandal
11. Dr. Gautham Sigamani Pon
12. Dr. Manoj Rajoria
13. Shri Nama Nageswara Rao
14. Shri Kesineni Srinivas (Nani)

### **SECRETARIAT**

Shri S. Jason, Joint Secretary

Shri T.N. Pandey, Director

Shrimati Nidhi Chaturvedi, Additional Director

Shri Kuldip Singh, Under Secretary

2. In the absence of Chairman, Shri Magunta Sreenivasulu Reddy, who had been authorized by the Chairman, presided over the meeting. He welcomed the Members of the Committee and informed about the agenda of the meeting. The Committee, thereafter, took up for consideration the \* \* \*  
(iii) Draft 172<sup>nd</sup> Report on Promotion and Regulation of E-Commerce in India. After a brief discussion, the Committee adopted the Draft \* \* \*

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\*\*\* Pertain to other matter.

172<sup>nd</sup> Report with minor modification \* \* \*  
The Committee then authorized the Chairman to incorporate the modification suggested by the Committee in the \* \* \* 172<sup>nd</sup> Report.

3. The Committee also authorized the Chairman to present all the above-mentioned Reports to Hon'ble Chairman, Rajya Sabha since both the Houses of Parliament are not in session. Thereafter, these Reports will be presented/laid in both the Houses of Parliament during the next session. The Committee decided that these Reports will be presented in Rajya Sabha by Shri Deepak Prakash, M.P. and in his absence by Shri Jugalsinh Lokhandwala, M.P. In Lok Sabha, Shri Manoj Kotak, M.P. and in his absence, Shri Magunta Sreenivasulu Reddy, M.P. would lay these Reports.

4. The Committee then adjourned at 1.30 P.M.

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\*\*\* Pertain to other matter.