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Government permits 100% FDI in e-commerce market places, but with riders

By ET Bureau | Updated: Mar 30, 2016, 01.18 PM IST

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NEW DELHI | MUMBAI: The government on Tuesday clarified that 100 per cent foreign direct investment (FDI) is allowed in online marketplaces, a move that will ostensibly come as a relief to ecommerce companies such as Flipkart, Amazon India and Snapdeal but the conditions imposed have been hailed as a victory by their brick-and-mortar rivals. Critically, a clause bars marketplaces from offering discounts on their own — these have to come from the vendors on the platforms — and the policy also seeks to end "predatory pricing" by online companies.

Overseas investment will be automatically permitted subject to certain riders such as the above, the government said in a press note, clearly defining 'marketplace'.

This ends the uncertainty over the business model being used by India's biggest online retailers which has been challenged in court by brick-and-mortar stores. The FDI policy had previously left the term undefined.

The government also appears to have taken a firm stance against deep online discounting to protect neighbourhood stores.

"We want to ensure that there is no predatory pricing by the ecommerce companies which will especially work to the detriment of the small retailers," an official said. "Government also feels that if any portal is providing discounts on goods it's holding, then it amounts to inventory-based model, which is in contradiction to the marketplace definition."

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Traditional retailers welcomed the clarification, arguing that this would put an end to what they said was an unfairness inherent in the current system.

"It's a huge step in bringing parity for retailers in the country. It changes everything," said Kishore Biyani, CEO of Future Group, the country's largest brick-and-mortar retailer. "They can't operate as a retailer and will just be technology providers. That's how they should have been in the first place."

But the restrictions on discounting as well as the 25 per cent cap on sale from a single vendor may not be welcomed by consumers, who have become accustomed to buying products at cheap rates from online sites. For their part, some ecommerce companies hailed the decision as being positive for them.

Snapdeal cofounder Kunal Bahl tweeted: "Great to see the guidelines around 100 per cent FDI in ecommerce marketplaces. Glad the govt recognises and supports an industry transforming India!"

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ET had reported on Saturday that the government would soon issue a definition of the term marketplace allowing 100 per cent FDI.

The point about marketplaces being unable to offer discounts directly was welcomed wholeheartedly by Biyani, who's often complained about being undercut by ecommerce sites.

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"They can't influence prices, which is very important to bring a level playing field. Till now, they behaved like retailers and not like marketplace. That will change," he said. "We just wanted them to not sell below cost price. That has been taken care of. It could be even a blessing in disguise for online companies as they no longer will have to burn cash to acquire customers. There is now a possibility that their sales drop but losses reduce too."

To be sure, online discounts have been dwindling as ecommerce companies have been seeking to reduce cash burn and shore up their finances. Valuations could come under pressure - a Morgan Stanley mutual fund recently marked down the value of its Flipkart holding.

The Department of Industrial Policy & Promotion (DIPP) said the marketplace-based model of ecommerce involves providing an information technology platform on a digital and electronic network and acting as a facilitator between buyer and seller. It clarified that FDI is not allowed in inventory based marketplaces or companies that sell goods and services directly to consumers. It also said that ecommerce companies won't be allowed to influence the price of the goods and services directly or indirectly and not more than 25 per cent of sales can come from a single vendor or its group companies.

Nasscom objected to this condition. "We believe that restricting sales of a vendor to only 25 per cent of the sales in the marketplace may prove to be restrictive, more so if the vendor sells high value items," the lobby group said in a release.

Warranties and after-sales service will be provided by sellers and not the marketplace companies, the guidelines said.

The government wants to promote small and medium enterprises and increase their market share in the online space. In discussions held with DIPP, retailers had aired their concerns over retaining price control.

The final notification was drafted by DIPP after consultation with various stakeholders, including ecommerce companies such as Snapdeal, Amazon, Flipkart besides small and big offline retailers.

Marketplaces can, however, provide support services to sellers such as logistics, warehousing, order fulfillment, call centres, payment collection and other services. They can also engage in transactions with sellers registered on a B2B basis,

"The move will ensure there are no monopolies and that these companies operate as a platform under marketplace and not start to do ecommerce," said Devraj Singh, executive director, tax and regulatory services, EY. "Discounts and pricing will have to come directly from the vendor."

The All India Footwear Manufacturers and Retailers Association had taken the ecommerce companies to court for violating FDI policy. DIPP was asked by the Delhi High Court for clarity on the ecommerce policy and to put in place a clear definition for the marketplace model. Biyani said the move would lead to changes in the way ecommerce companies function.

"Technically, ecommerce companies should not even advertise, at least not about offers or pricing. It will bring some sanity to the market for sure," he said.

The development comes as Chinese ecommerce giant Alibaba, which has invested in Snapdeal and Paytm, prepares to enter the Indian market on its own this year.

The Confederation of All India Traders (Cait) was, however, unhappy with the government's move. "FDI in ecommerce is nothing but a backdoor entry to global retailers which will facilitate them to sidestep restrictions in multi-brand retail since ecommerce has no geographical restrictions," said CAIT Secretary Praveen Khandelwal. The traders across the country will strongly oppose this move, the confederation in a statement.

Swadeshi Jagaran Manch (SJM), an affiliate of the RSS, slammed the move, calling it "shocking". "E-commerce websites have been indulging in malpractices by giving unreasonable discounts. This is predatory pricing. The government instead of punishing them has rewarded them with this move," SJM co-convenor Ashwani Mahajan told ET.

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