Amity Management Review
2015, Vol. 4, No. 2

Study on Impact of Reforms in E-Commerce Business in India Through Foreign Direct Investment

Saurabh Sharma*

The foreign direct investment (FDI) policy in the e-commerce sector was released by government of India. Ambiguities in the policy have not only given rise to uncertainties to players in the sector, but have also resulted in multiple rounds of litigation. As they demonstrate, the dominant e-tailers have gravitated towards the "marketplace" model of e-commerce, in some ways by taking advantage of the ambiguities in the policy. The Government of India issued press note no 3 (2016 series), which clarifies the position on FDI in e-commerce business of India, and legitimizes the marketplace model, but with some significant riders. The purpose of this research is to examine this important FDI reform with a view to determining the extent of impact it may have on the e-commerce sector of the Indian Economy. As the statistical data on growth of E commerce business which clearly reflects that CAGR is around 35% which is very positive sign. The government is very keen to make the E commerce business more transparent with regard to the pricing strategy which these e - tailersfollow to capture the market by offering deep discount to the customer.

Key words: E tailers, Market place, E commerce, FDI

Introduction

Present Scenario of FDI on E - Commerce business to Indian Context.

One of the most important burning issues to be considered in the area of Services sector is that of electronic commerce. In order to begin a policy dispute on the subject, it would beuseful to present some of the key factors and emerging issues in this area. TheWTO associated issues for electronic commerce require be spelling out and investigative from the viewpoint of rising countries in general and India in scrupulous. For an India country policy and plan point of view, it is also significant to focus on some of the key policy frame work proposal that require being intense upon for e -commerce to be useful and winning. This paper seeks to position these for discussion and debate. Globalization and the new "digital economy" jointly are having a major crash on the global economy. The impact of e - commerce for increasing countries is at present mainly in the international trade sector. Recently governmenthas issued new guidelines for FDI has permitted up to 100% in e-commerce activities. Importantly though, this covered only B2B trading and not retail trading (i.e. B2C). B2C trading was permitted through limited ways such as where

(i) a manufacturer of products in India could sell online, and

(ii) a single brand retail entity could sell products online as a means of supplementing its brick and mortar sales.

However, pure-play B2C trading activities were out of bounds through the reforms which take place by the government of India in the recent time.In order to overcome these restrictions on the e tailers of the Indian marketer which clearly focuses on various e-commerce companies began carrying out retail trading through the marketplace model whereby the companies would only provide a technology platform to enable trades to take place between various sellers and purchasers of goods. One may consider this to be a form of regulatory arbitrage. Although investigated by the authorities and challenged in courts, there was nothing unequivocal to indicate the illegality of the model.It is in this milieu that the Government issued Press Note 3 to clarify the regulatory position regarding FDI in B2C e-commerce. The current uncertainty has been put to an end, as the Government has declared the marketplace model to be an acceptable one so long as it has been accompanied by compliance with certain stringent conditions the Government has prescribed. The e-commerce industry has disrupted the market thoroughly and brought so many innovations to the fore. However, it is not without its share of challenges. As an online merchant, safety and security of online monetary

* *Assistant Professor, School of Business and Commerce, Manipal University, Jaipur*

transactions is one of the most critical concern the industry faces and one that needs urgent attention. The other drawbacks include:

- Limited availability of debit or credit cards and a nationwide credit card system
- Underdeveloped technological infrastructure.
- Lack of skilled human resources and key technologies. Even within this segment, there is a surprising lack of awareness or lack of trust when it comes to online businesses and their inherent functionalities that can simplify life.
- Fear factor: The mindset that online transactions are unsafe is hugely prevalent in Indian consumers. Once this mental block clears, it creates that many customers and the industry grows even further.

With ambitious plans like Digital India, the Union Budget 2016-17 is expected to deliver on providing investments in India's technology infrastructure. A substantial amount would be required to develop a robust network infrastructure across the country to build the foundation for India's digital economy. Programs such as Digital India, Smart cities and Skill India require the creation of technological infrastructure that will need budgetary support for effective implementation of plans and policies. The development of e-commerce has revolutionized the way business operates. It has also challenged the adequacy and validity of principles of international taxation such as physical presence, place of establishment etc. that has formed the basis of asserting tax liability of a particular business. In India especially in the e-commerce industry as of 2015, the taxation laws are advent of multiple e-commerce ventures in India. The Government is finding it difficult to adapt its existing rules to meet the requirement of newer kind of businesses. The allocation of taxing rights must be based on mutually agreed principles and a common man understanding of how these principles should be applied. While the Economic Survey appreciated the services sector for being the primary trigger in growth in FY15, importance towards a promising FY16 in the form of reduced vulnerabilities, coupled with a heightened sense of expectation for increase in growth, better infrastructure and steps takentowards increasing manufacturing should lead to a better market.

Recent Reforms with regard to E commerce Business in India and its impact.

The e-commerce business is bifurcate into the two major categories:

(i) Marketplace model and

(ii) Inventory based model.

It then goes on, from an FDI perspective, to conditionally embrace the former while conclusively shunning the latter.The marketplace model as one that provides "an information technology platform by an e-commerce entity on a digital & electronic network to act as a facilitator between a buyer and a seller". It also defines the inventory based model as one "where inventory of goods and services is owned by e-commerce entity and is sold to the consumers directly". While 100% FDI under the automatic route is permissible under marketplace model, FDI is prohibited under the inventory based model: two diametrically opposing results depending upon which model is chosen.

More importantly, the liberal FDI in the marketplace model is subject to several conditions. It would be helpful to touch upon some of those. E-commerce entities are entitled to provide support services to sellers. However, the policy clearly prevents them from taking on ownership over the goods sold. If they do so, they will be treated instead as an inventory based model (which will cause them to be in breach of the FDI policy).

A condition that has attracted some level of controversy relates to that fact that no more than 25% of an e-commerce entity's sales can relate to one vendor or its group of companies. Evidently, this is an anti-abuse provision, in order to ensure that the true nature of the marketplace model is preserved, and that an inventory based activity is not carried on in the garb of a marketplace. This would prevent entities from creating marketplaces that are effectively extensions or outsourced vehicles of trading arms. This would call into question some of the currently marketplace structures, which operate as platforms for group entities that effect the sales of the goods.

Consistent with the marketplace model, the responsibility for sales, after-sales services and customer satisfaction will lie with the sellers, and cannot be assumed by the e-commerce entity.

Similarly, any warranties or guarantees relating to the product are only the responsibility of the sellers.

Another condition that has invoked a great deal of discussion relates to pricing and discounts, which would now lie only with the sellers of the goods. The policy is explicit in stating that the e-commerce entities "will not directly or indirectly influence the sale price of goods or services and shall maintain level playing field". This is ostensibly with a view to ending the discount wars that are prevailing between various e-tailers and which enable them to compete more effectively with brick and mortar traders. In other words, the marketplace model is a true reflection of the fact that the e-commerce entity provides nothing but the platform, and can in no way influence or intervene in the commercial terms of the transaction, which is purely a matter between the seller and the buyers of the goods. While the underlying concern behind this seems to be to protect small businesses and brick and mortar stores against discounted products offered online, it remains to be seen how this condition can be implemented. How does one determine "influence", whether direct or indirect that the e-commerce entity can exercise over the sellers? Much would be left to the discretion of the regulators, which may therefore leave some uncertainty in the process.

Reforms of 2012 and its impact

In September 2012, the government made a landmark announcement allowing 51% FDI in multi-brand retail, subject to certain conditions. Initially, this announcement was applauded by e-Commerce players, since it was assumed that this would attract foreign investments in B2C e-Commerce. However, the initial euphoria was short-lived, since the Department of Industrial Policy and Promotion (DIPP), an arm of the Ministry of Commerce and Industry, later clarified that this mandate does not apply to B2C e-Commerce retail and is applicable only to retailers with brick-and-mortar operations. One of the reasons cited for this was the difficulty encountered in monitoring inter-state transactions in e-Commerce activities. Therefore, this relaxation does not benefit pure-play B2C e-Commerce players and may not also benefit retailers engaged in B2C e-Commerce operations.

Segment	Impact
Foreign sites operating outside India	No impact for cross-border shipment, but not allowed to set up operations in India
Foreign sites operating in India, but only listing products or services	No impact since these do not hold or own inventory
Indian e-Commerce sites	Will come under the FDI directive.
B2B portals	No impact on their 100% limit

Major E Commerce player opinion about the government's decision on not allowing Foreign Direct Investment in B2C e-Commerce retail is mixed. Some players are indifferent and maintain that this new directive does not provide any thing for them; others have expressed their disappointment. However, consensus is that this may prevent foreign e-Commerce companies from entering India. They could have brought in the much-needed investments in the ecosystem, e.g., in logistics, payments, to drive market growth. To access foreign capital, some players have set up a separate entity for activities where 100% FDI is allowed. This covers back-end operations such as logistics, inventory and technology, which enables 100% Indian-owned and controlled front-end entities to leverage on the capabilities of these back-end operations. With this new directive, future investments would be routed through the same path as earlier. A positive aspect of the regulation is that it would buy more time for local e-Commerce players to consolidate and leverage their presence in India. Many of these have made significant investments and have offered deep discounts to generate recurring cash flows. Therefore, this mandate gives hope to domestic players to not worry about customers' defection to global players. While most players are pressing for FDI in e-Commerce, when the government will do so is a subject that is open to debate and conjecture. Overall, Indian players are expected to benefit from the current directive to consolidate and build their capabilities before facing competition from the eventual arrival of global players in India.

Reforms of 2016 and its impact

India is already host to some of the largest global e-commerce players. The announcement that 100% FDI will now be allowed in e-commerce is going to open the floodgates to a host of other players in this segment. The impact that this development will have on Indian real estate will be significant. In the first place, the new players - like their predecessors - will require large office spaces to house their back-end teams. They will naturally direct this requirement to the country's top 10 cities with intensive penetration of population.

The second impact will be on the demand for warehousing and logistics real estate. Unlike the demand for office spaces, this additional requirement will be spread fairly evenly across Indian cities. E-commerce players need to be able to deliver quickly to their customers, and one of the most important clientele segments for them are in the tier 2 and tier 3 cities. We will therefore see a significant step-up in demand for warehousing spaces in and around these cities.

On the flip side, there has been a rider clause attached to the FDI liberalisation on e-commerce. This is that e-commerce players now will be unable to sell below market prices and not more than 25% of sales will happen via one vendor (this proviso does raise a question about the term 'market price', given that there is fairly broad accepted range for most products). In any case, this announcement brings brick-and-mortal retailers on a more level playing field, and would help to still the outcry over unfair trade practices with regard to prices upto an extent.

Overall, this is positive for the retail industry; more rational behaviour will now prevail in terms of market trade practices, and mounting of losses by most e-commerce companies will be curtailed. Online sales may reduce as deep discounts disappear, although losses will also be capped. If we consider the trends at the West, e-commerce and brick-and-mortar players coexist happily, and this dynamic can definitely reflect on the Indian terrain as well. With e-commerce in India still at the nascent stage, the base being low even now and the growth rate very high, there is enough scope for both e-commerce and brick-and-mortar retail to flourish.

Conclusion

The recent reforms clarify the position regarding FDI in e-commerce, which has been shrouded in uncertainty until now. It is likely to reduce any possibility of regulatory arbitrage that has been rampant in the sector. Activities in the form of the marketplace model that were being carried out under the prevailing uncertain regime have now been legitimized with conditions. While some of the existing players may now have to reorient their affairs to meet with this more onerous conditional regime, it may open up the space for other players and investors who have been waiting in the wings for a clearer regulatory regime.

The policy has received opposing reactions with equal strength. On the one hand, some believe that the heavy conditionality's accompanying the marketplace model make it virtually unviable. Others believe that the opening up of the e-commerce sector itself poses a threat to domestic brick and mortar businesses. This is not surprising given that FDI in the retail sector has been an emotive issue for a number of years. While the earlier debates were largely steeped in the perceived threat of large shopping chains owning mega stores across the country, this round has been focused on sales through electronic means. Apart from a variation in the mechanics of how the browsing and shopping takes place, the real issues and controversies are rather similar. Given the polemic nature of the issue, the debates are likely to continue, as are the legal challenges before courts.

References

Roger, D. Blackwell, Paul W. Miniard and James F. Englel, (2010): Consumer behavior, Thomson South Western, Vikas Publishing House.

Daniel, Amor (2000): E-Business (R) Evolution, Prentice Hall PTR (First India Reprint).

Joseph, P. T. (2013): E-commerce- An Indian perspective, Prentice Hall, India.

Chhabra, T.N., R. K. Suri and Sanjeev Verma (2006): Public E-commerce - new vistas for business, Dhanpat Rai & Co., Delhi.

Whiteley, David (2015): E-commerce strategy, technologies and application, Tata McGraw Hill publishing company limited, New Delhi.

Bajaj, Kamlesh K. and Debjani Nag (2014): E-commerce the cutting edge of the business, Tata McGraw Hill publishing company limited, New Delhi.

Dumm, Randy E. & Robert E. Hoyt (2003): "Insurance Distribution Channels: Markets in Transition", Journal of Insurance Regulation, Vol. 22, No. 1.

Berman, Berry & JOE R. Evans (2007): Retail Management- A strategic approach, Pearson & Prentice Hall.

Pradhan, Swapna (2013): Retailing Management, Tata McGraw Hill company Ltd.

Kaur, Pradeep and Joshi, Mukesh (2012): "E-Commerce in India: A Review", IJCST, Vo l. No. 3.

Kaur, Ramneet (2012): "E-Commerce in India, Asian journal of research in business economics and management", vol. 2, No. 6.

Rosen, Anita (2000): The E-commerce Question and Answer Book, USA: American Management Association.

Lawrence, E. (2009): Internet Commerce: Digital Models for Business, Wiley.

Websites:

www.times.com

www.businessworld.com

www.icai.ac

www.iamai.in

www.digitaligility.com

www.ideagroup.com

www.sitecore.com