



## **IAMAI Welcomes Press Note 2 But Seeks Time For Implementation**

**New Delhi, January 15, 2019:** Internet and Mobile Association of India [IAMAI] has welcomed Press Note 2 (2018) because it makes the market place model more robust and transparent. It may be recalled that India has chosen the marketplace model over the inventory based model in order to promote FDI in e-commerce in India. This model of e-commerce has led to the emergence of several Indian start-ups who have managed to scale, thanks to the FDI inflow into this sector. At 2-2.5% of overall retail market, there is a large headroom for growth and investment in this sector. It is a well known fact that E-commerce has been instrumental in empowering lakhs of new sellers and enabling millions of existing ones.

Press Note 2 (2018) is also very helpful as it clearly exempts services e-commerce out of its purview. The note clearly states that FDI in sale of services through e-commerce will be under the automatic route.

However, IAMAI has pointed out that few provisions in the Press Note 2 (2018) are unclear and onerous.

For example, the Press Note 2 (2018) suggests FDI in e-commerce is allowed only in B2B and not in B2C sector. IAMAI would like to point out that Press Note 3 (2016) had earlier clarified that FDI in e-commerce in B2C was allowed under certain conditions.

IAMAI thus requests that Press Note 2 (2018) align its position with Press Note 3 (2016) to allay all confusion about FDI in B2C e-commerce.

Secondly, Press Note 2 (2018) states “Inventory of a vendor will be deemed to be controlled by e-commerce marketplace entity if more than 25% of purchases of such vendor are from a marketplace entity or its group companies.”

According to IAMAI, it is not possible for online marketplaces to track or monitor all sales from any vendor given a vendor is free to sell their products across multiple online platforms and even offline. Moreover, a bigger concern is when one calculates this benchmark of 25% sales. If platforms realize that this benchmark of 25% has been crossed, they cannot recall or cancel a transaction which has already taken place to rectify the situation!

On the other hand, predicting this benchmark is an almost impossible task as platforms cannot have a definite measure of future sales from every vendor as it is completely dependent on the buyers' choice.

IAMAI thus suggests that this provision be relooked for a better drafting that is feasible for implementation.

Moreover, Press Note 2 (2018) also states “e-commerce marketplace entity will not mandate any seller to sell any product exclusively on its platform only.”

IAMAI would like to highlight that many small scale sellers opt to go for exclusive sales through online platforms as these platforms offer warehousing, logistics, and wider market access. Many new manufacturers prefer digital platforms to avoid high capital expenditures in



developing distribution networks and marketing channels. Platforms cannot mandate sellers for exclusive agreements as no seller would accept such a term that would restrict their own businesses.

According to IAMAI, B2B agreements between sellers and online marketplaces are best determined by market dynamics and choices made by sellers. Such agreements should have no bearing on the FDI Policy for online marketplaces that offer their services to multiple sellers.

In view of the above-mentioned observations, IAMAI requests for deferment of the implementation of Press Note 2 (2018) and suggests for a consultative process with a wide cross section of e-commerce companies.

#### **About IAMAI**

The Internet and Mobile Association of India [IAMAI] is a young and vibrant association with ambitions of representing the entire gamut of digital businesses in India. It was established in 2004 by the leading online publishers, but in the last 13 years has come to effectively address the challenges facing the digital and online industry including online publishing, mobile advertising, online advertising, ecommerce, mobile content and services, mobile & digital payments, and emerging sectors such as fin-tech, edu-tech and health-tech, among others.

Thirteen years after its establishment, the association is still the only professional industry body representing the digital and mobile content industry in India. The association is registered under the Societies Act and is a recognized charity in Maharashtra. With a membership of over 300 Indian and overseas companies, and with offices in Delhi, Mumbai, Bengaluru and Kolkata, the association is well placed to work towards charting a growth path for the digital industry in India.

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