

REPORT NO.

176



सत्यमेव जयते

PARLIAMENT OF INDIA
RAJYA SABHA

DEPARTMENT RELATED PARLIAMENTARY STANDING COMMITTEE
ON COMMERCE

ONE HUNDRED AND SEVENTY SIXTH REPORT

**Action Taken by Government on the Recommendations/
Observations of the Committee contained in its
One Hundred and Seventy Second Report on
'Promotion and Regulation of E-Commerce in India'**

(Presented to the Rajya Sabha on 24th March, 2023)

(Laid on the Table of Lok Sabha on 24th March, 2023)



Rajya Sabha Secretariat, New Delhi
March, 2023/ Chaitra, 1945 (Saka)

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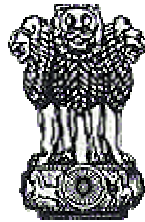
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COMPOSITION OF THE COMMITTEE
(Constituted w.e.f. 13th September, 2022)

1. Dr. Abhishek Manu Singhvi — *Chairman*

RAJYA SABHA

2. Shri Ayodhya Rami Reddy Alla
3. Shrimati Priyanka Chaturvedi
4. Shri Jayant Chaudhary
5. Shri Jugalsinh Lokhandwala
6. Shri Dhananjay Bhimrao Mahadik
7. Shri Deepak Prakash
8. Shri Vikramjit Singh Sahney
9. Shri K. Vanlalvena
10. Vacant

LOK SABHA

11. Shri Prasun Banerjee
12. Shri Raju Bista
13. Shri Rajkumar Chahar
14. Shrimati Kalaben Mohanbhai Delkar
15. Shri Rameshbhai Lavjibhai Dhaduk
16. Shri Arvind Dharmapuri
17. Dr. Nishikant Dubey
18. Shri Santosh Kumar Gangwar
19. Shri Srinivas Kesineni
20. Shri Manoj Kishorbhai Kotak
21. Shri Ajay Kumar Mandal
22. Shrimati Manjulata Mandal
23. Shri Nakul K. Nath
24. Dr. Gautham Sigamani Pon
25. Dr. Manoj Rajoria
26. Shri Nama Nageswara Rao
27. Shri Ashok Kumar Rawat
28. Shri Magunta Sreenivasulu Reddy
29. Shri Prajwal Revanna
30. Shri Gowdar Mallikarjunappa Siddeshwara
- *31. Shri Arvind Ganpat Sawant

SECRETARIAT

Dr. Vandana Kumar, Additional Secretary
Smt. Kusum Sudhir, Joint Secretary
Smt. Nidhi Chaturvedi, Additional Director
Shri Kuldip Singh, Under Secretary
Shri V. Summinlun, Assistant Committee Officer

* Nominated w.e.f. 15th December, 2022.

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 Sixth Report of the Committee on the Action Taken by Government on the recommendations/ observations of the Committee on Commerce contained in its One Hundred and Seventy Second Report on 'Promotion and Regulation of E-Commerce in India'.

2. The One Hundred and Seventy Second Report of the Department Related Parliamentary Standing Committee on Commerce was presented to Rajya Sabha and laid on the Table of the Lok Sabha on 21st July, 2022.

3. The Department for Promotion of Industry and Internal Trade, Ministry of Commerce and Industry, furnished the Action Taken Notes on the One Hundred and Seventy Second Report of the Committee on 19th December, 2022.

4. The Committee considered the draft Report and adopted the same at meeting held on 6th February, 2023.

NEW DELHI;
6th February, 2023
Magha 17, 1944 (Saka)

DR. ABHISHEK MANU SINGHVI
Chairman,
Department Related Parliamentary
Standing Committee on Commerce
Rajya Sabha.

ACRONYMS

AI	Artificial Intelligence
AIOCD	All India Organization of Chemists and Druggists
API	Application Programming Interface
AR	Augmented Reality
BBA	Bachelor of Business Administration
BCs	Banking Correspondents
BHIM	Bharat Interface for Money
BMP	Bharatmala Pariyojana
BMS	Bachelor of Management Studies
BTS	Base Transceiver Station
CAIT	Confederation of All India Trader
CBIC	Central Board of Indirect Taxes and Customs
CCEA	Cabinet Committee on Economic Affairs
CCI	Competition Commission of India
CFS	Container Freight Station
CISA	Certified Information System Auditor
CISOs	Chief Information Security Officers
CLRC	Competition Law Review Committee
CoEs	Center of Excellence
CSC-SPV	Common Services Centers- Special Purpose Vehicle
CSR	Corporate Social Responsibility
DEH	Districts as Export Hub
DEPCs	District Export Promotion Committees
DGFT	Directorate General of Foreign Trade
DGS&D	Directorate General of Supplies and Disposals
DMDU	Digital Markets and Data Unit
DNKs	Dak Ghar Niryat Kendras
DISA	Diploma in Information System Audit
DoT	Department of Telecommunications
DPIIT	Department for Promotion of Industry and Internal Trade
e-BAAT	electronic-Banking Awareness and Training
EAP	Externally Aided Projects
ECOs	E-Commerce Operators
ED	Enforcement Directorate
EEZs	E-Commerce Export Zones
EoDB	Ease of Doing Business
EXIM	Export-Import
FAME	Financial Awareness Messages
FDI	Foreign Direct Investment
FEMA	Foreign Exchange Management Act
FLCs	Financial Literacy Camps

FPOs	Foreign Post Offices
FTAs	Free Trade Agreements
FY	Financial Year
GB	Giga Byte
GDP	Gross Domestic Product
GeM	Government e-Marketplace
GI	Geographical Indications
GoM	Group of Ministers
GPs	Gram Panchayats
GST	Goods and Services Taxes
GSTN	Goods and Services Tax Network
GSTR	Goods and Services Tax Return
HBIC	Hyderabad Bengaluru Industrial Corridor
HNIC	Hyderabad Nagpur Industrial Corridor
HWIC	Hyderabad Warangal Industrial Corridor
ICAI	Institute of Chartered Accountants of India
ICDs	Inland Container Depots
ICEGATE	Indian Customs Electronic Data Interchange Gateway
ICT	Information and Communications Technology
IEC	Import Export Code
IMC	Inter Ministerial Committee
IoT	Internet of Things
IPR	Intellectual Property Rights
IRDAI	Insurance Regulatory and Development Authority of India
ISACA	Information Systems Audit and Control Association
ISEA	Information Security Education & Awareness
ISPs	Internet Service Providers
IT	Information Technology
ITC	Input Tax Credit
LEADS	Logistics Ease Across Different States
LPI	Logistics Performance Index
LSSC	Logistics Sector Skill Council
LWE	Left Wing Extremism
Mbps	Megabits per second
MCA	Ministry of Corporate Affairs
MDR	Merchant Discount Rate
MeitY	Ministry of Electronics and Information Technology
MESC	Media and Entertainment Skills Council
MMLPs	Multimodal Logistics Parks
MoHFW	Ministry of Health and Family Welfare
MSDE	Ministry of Skill Development and Entrepreneurship
MSMEs	Micro, Small & Medium Enterprises

NAPIX	National API Exchange Platform
NBFC	Non-Banking Financial Company
NBM	National Broadband Mission
NDA	Non-Disclosure Agreements
NE	North East
NECB	North East Capacity Building
NHs	National Highways
NHDP	National Highways Development Project
NH (O)	National Highways (Original)
NICDCL	National Industrial Corridor Development Corporation Limited
NICDIT	National Industrial Corridor Development and Implementation Trust
NIELIT	National Institute of Electronics & Information Technology
NMP	National Master Plan
NPCI	National Payments Corporation of India
NSIC	National Small Industries Corporation
NSQF	National Skills Qualifications Framework
NSWS	National Single Window System
NWRs	Negotiable Warehouse Receipts
O&M	Operation and Maintenance
ODOP	One District One Product
OFC	Optical Fibre Cable
ONDC	Open Network for Digital Commerce
PAs	Payment Aggregators
PAN	Permanent Account Number
PBE	Postal Bill of Export
PCS	Port Community System
PGAs	Partner Government Agencies
PIN	Personal Identification Number
PM	Prime Minister
PMS	Procurement and Marketing Support
PM-WANI	Prime Minister Wireless Access Network Interface
PPI	Prepaid Payment Instrument
PPoB	Principal Place of Business
PRIME	Prescribed Right To Income And Maximum Equity
PSOs	Payment System Operators
PSP	Payment Service Provider
PSUs	Public Sector Undertakings
QR	Quick Response
RBI	Reserve Bank of India
REs	Regulated Entities
RoW	Right of Way

RPL	Recognition of Prior Learning
RVNL	Rail Vikas Nigam Limited
SARDP-NE	Special Accelerated Road Development Programme for the North East Region
SEZ	Special Economic Zone
SH	State Highways
SHA	Shareholders' Agreement
SHGs	Self Help Groups
SMS	Short Message Service
SMV	Seller Merchandise Value
SOP	Standard Operating Procedure
SSA	Share Subscription Agreement
TCS	Tax Collected at Source
TOS	Terminal Operating System
TRAI	Telecom Regulatory Authority of India
TSPs	Telecom Services Providers
TV	Television
UCBs	Urban Cooperative Banks
ULIP	Unified Logistics Interface Platform
UPI	Unified Payments Interface
USOF	Universal Service Obligation Fund
USSD	Unstructured Supplementary Service Data
UT	Union Territory
VFX	Visual Effects
VR	Virtual Reality
V-PT	Vulnerability Analysis-Penetration Testing
WDRA	Warehousing Development and Regulatory Authority
Wi-Fi	Wireless Fidelity

REPORT

The Action Taken Report of the Committee deals with the action taken by the Department for Promotion of Industry and Internal Trade, Ministry of Commerce and Industry on the sixty four recommendations contained in One Hundred Seventy Second Report of the Department Related Parliamentary Standing Committee on Commerce on 'Promotion and Regulation of E-Commerce in India'. The Report was presented to Rajya Sabha and laid on the Table of Lok Sabha on the 21st July, 2022.

2. Action Taken Note (ATN) has been received from Department for Promotion of Industry and Internal Trade, Ministry of Commerce and Industry in respect of the recommendations/ observations contained in the One Hundred Seventy Second Report.

This has been categorized as follows: -

Chapter I: Recommendations/Observations which have been accepted by the Government: Para:- 2.3, 5.4, 6.6, 6.8, 6.10, 13.4, 14.4, 14.6, 14.8, 14.10, 17.2, 17.8, 17.14, 17.16, 18.2, 21.5, 21.15, 21.16 (Total-18).

Chapter II: Recommendations/Observations which the Committee does not desire to pursue in view of the Government's replies: Para:- 2.4, 5.5, 5.6, 10.4, 11.3, 15.3, 15.6, 15.11, 15.13, 15.16, 17.5, 17.11, 18.3, 18.7, 19.3, 19.5, 20.3, 21.11 (Total- 18).

The Committee is convinced with the explanation furnished by the Ministry and, therefore, does not want to pursue above-mentioned recommendations further.

Chapter III: Recommendations/Observations in respect of which replies of the Government have not been accepted by the Committee: Para:- 7.3, 7.5, 7.8, 7.12, 8.2, 8.3, 9.5, 9.7, 9.10, 9.11, 10.6, 10.7, 10.9, 10.11, 11.6, 12.2, 15.9, 15.15, 16.9, 16.10, 17.3, 17.18, 18.8, 21.3, 21.7, 21.9, 21.13 (Total -27).

Chapter IV: Recommendations/Observations in respect of which final replies of the Government are still awaited: Para: 11.7 (Total - 01)

3. The Committee desires that the Department should furnish pointed and detailed Action Taken Notes in respect of all the further Recommendations/Observations made by the Committee.

4. The details of ATR have been discussed in respective Chapters in succeeding pages.

CHAPTER – I

RECOMMENDATIONS/OBSERVATIONS WHICH HAVE BEEN ACCEPTED BY THE GOVERNMENT

OVERVIEW OF E-COMMERCE MARKET

Recommendation/Observation

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)

Action Taken

1.2 Steps are being initiated to put a mechanism in place for inclusion of e-commerce market data in GDP.

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

Recommendation/Observation

1.3 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)

Action Taken

1.4 The recommendation is duly noted.

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

Recommendation/Observation

1.5 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)

Action Taken

1.6 The existing Consumer Protection (E-Commerce) rules require e-commerce companies to appoint a nodal officer or an alternate senior designated functionary who is resident in India, to ensure compliance with the provisions of the act or the rules made under Rule 4(1). Further, under Rule 4(4), e-commerce entities are required to appoint a grievance office for consumer grievance redressal.

1.7 With respect to the measures proposed in the draft rules for grievance redressal, the recommendations of the committee have been noted.

Recommendation/Observation

1.8 *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.*

(Para 6.8)

Action Taken

1.9 The observations of the committee regarding overlap with the mandate already accorded to another statutory body have been noted.

Recommendation/Observation

1.10 *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.*

(Para 6.10)

Action Taken

1.11 The provision on fraudulent flash sales was added in the draft rules to protect consumers from sales which involve fraudulently intercepting the ordinary course of business to enable only a specified seller or group of sellers to sell goods online. The recommendations of the committee have been noted.

SAFE HARBOUR AND FALLBACK LIABILITY

Recommendation/Observation

1.12 *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 necessitates 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)

Action Taken

1.13 The e-commerce rules stipulate distinct rules providing for duties of e-commerce entities, marketplace e-commerce entities, sellers on marketplace and inventory e-commerce entities. The recommendations by the committee have been noted.

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

DIFFERENTIAL TREATMENT OF OFFLINE AND ONLINE SELLERS

Recommendation/Observation

1.14 *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)

Action Taken

1.15 To bring parity between online and offline sellers, GST Council in 47th meeting has given its in-principal approval for relaxation of the provisions of registration for suppliers making supplies through E-Commerce Operators (ECOs) and accordingly, the requirement of mandatory registration for person supplying goods through ECOs is to be waived, subject to certain conditions, such as, his

annual aggregate turnover should be below the threshold limit of Rs 40 lakh/ Rs 20 lakh required for taking registration and he should not be making any inter-State taxable supply. This change is expected to be notified w.e.f. 01.01.2023, as it would require technical changes to be made on portal, as also by ECOs.

GOODS AND SERVICES TAXES (GST) COMPOSITION SCHEME

Recommendation/Observation

1.16 *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)

Action Taken

1.17 GST Council in 47th meeting has given its in-principal approval for allowing composition taxpayers to make intra-State supply through e-commerce operators. This change is expected to be notified w.e.f. 01.01.2023, as it would require technical changes to be made on portal, as also by E-Commerce Operators (ECOs).

PERMITTING A VIRTUAL PLACE OF BUSINESS

Recommendation/Observation

1.18 *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)

Action Taken

1.19 As per Section 22 of Central Goods and Services Tax Act, 2017 every supplier is liable to be registered under this act in the State or Union territory, from where he makes a taxable supply of goods or services or both, if his aggregate turnover in a financial year exceeds threshold limit of Rs. 40 lakh/ Rs. 20 Lakh required for taking registration. This requirement is in consonance with the federal scheme of GST, which is a destination-based consumption tax levied concurrently both by Centre and States on a common base.

1.20 However, recommendation of the Hon'ble Committee to make suitable changes 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 is well noted for taking appropriate action.

STREAMLINING COMPLIANCES

Recommendation/Observation

1.21 *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)*

Action Taken

1.22 As context of this recommendation is discussed in Para 14.9 of the report which reads as follows:

“The current reporting framework in GSTR-I 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.”

1.23 In this regard it is submitted that, in GST, system-based credit and liability matching/auto-population is at the core of its design and hence, in GSTR-I supplier is required to disclose supplies made through each e-commerce operator invoice-wise, however in Form GSTR-8, an e-commerce operator is required to report details of supplies made through it by every supplier at a gross level along with the reporting of Tax Collected at Source (TCS). As GSTR-8 doesn't capture granular data like GSTR-I, it is not a duplication rather purpose of GSTR-8 is to keep a track on supplies made through e-commerce operator and to validate it by matching with the data reported by sellers to prevent any tax evasion on the part of seller or e-commerce operator.

1.24 However, consequential to the relaxation in mandatory requirement of registration for making a supply through ECOs and thereby allowing unregistered sellers to supply through ECOs, subject to certain conditions, the requirement of

ECOs to declare Permanent Account Number (PAN), Principal place of business and the supplies made by such unregistered persons through the ECOs by suitably amending the FORM GSTR-8 is also being contemplated and deliberated.

1.25 Further, Recommendation of the Hon'ble Committee to deliberate upon the feasibility and practicality of introduction of seller-wise reporting based on Aadhar/PAN by the e-commerce operator in GSTR-8 with the relevant stakeholders is well noted for taking appropriate action.

E-COMMERCE EXPORTS

Recommendation/Observation

1.26 *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)

Action Taken

1.27 The view of the committee has been examined and accepted. The department is in the process of incorporating a dedicated chapter on e-commerce exports in the upcoming Foreign Trade Policy.

Recommendation/Observation

1.28 *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)

Action Taken

1.29 The observations of the committee are duly noted. Exports of e-commerce shipments are allowed through cargo, courier and postal modes. Exports through courier mode have average dwell time of 3-4 hours. Further, the clearances through cargo and courier modes are end-to-end digitized. CBIC in consultation

with the Department of Post is in the process of development of a system to digitize exports of goods by Postal mode as well. There is no restriction for exports of e-commerce goods as such from land borders. The exporters can use any mode (air, sea or land borders) for export of goods.

Recommendation/Observation

1.30 *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)*

Action Taken

1.31 CBIC has formulated and notified a Standard Operating Procedure (SOP) for handlings of export of e-commerce jewellery in courier mode *vide* Circular 09/2022 dated 30th June 2022. The said circular also incorporates provisions for re-import of jewellery returned. It has been developed in consultation with all stakeholders including authorised couriers.

Recommendation/Observation

1.32 *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)*

Action Taken

1.33 CBIC has amended the Courier Imports and Exports (Electronic Declaration and Processing) Regulations, 2010 to allow re-import of jewellery in courier mode *vide* Notification No. 57/2022-Customs (N.T.) dated 30.06.2022. A Circular No. 09/2022 dated 30th June 2022 has also been issued specifying the Standard Operating Procedure (SOP) for handling of jewellery in courier mode including re-import.

ON-BOARDING MSMEs: DIGITAL LITERACY AND SKILLING

Recommendation/Observation

1.34 *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)

Action Taken

1.35 Ministry of MSME is scheduled to undertake Techno-Feasibility Study of MSMEs to gauge the existing gap in current policies meant for the MSMEs and women entrepreneurs.

1.36 So far as the recommendation of the special incentive scheme is concerned, the component 5.0 (II) (C) of the Procurement and Marketing Support (PMS) scheme, “Adoption of e-Commerce by Micro Enterprises” includes Providing financial assistance on annual membership fee /subscription fee / contingency expenses (photography, cataloguing, advertising etc.) for selling their products or services by Micro Enterprises (up to 10 new products) through e-commerce portal “MSME Global Mart” being operated by National Small Industries Corporation.

1.37 The financial assistance may be provided 75 per cent of paid amount by Micro Enterprises subject to maximum Rs. 25,000 (excluding applicable taxes), whichever is less per financial year. Micro Enterprises with valid Udyam Registration are eligible for reimbursement. Also for providing the incentives to the women entrepreneurs, a portal SAMARTH has been launched by the Ministry of MSME in the Month of March, 2022.

1.38 Under the Samarth initiative of the Ministry, following benefits will be available to aspiring and existing women entrepreneurs:

- 20 per cent Seats in free Skill Development Programs organized under skill development schemes of the Ministry will be allocated for Women. More than 7500 women will be benefitted.
- 20 per cent of MSME Business Delegations sent to domestic & international exhibitions under the schemes for Marketing Assistance implemented by Ministry will be dedicated to women owned MSMEs.
- 20 per cent Discount on annual processing fee on National Small Industries Corporation’s (NSIC) commercial schemes.
- Special Drive for registration of women-owned MSMEs under Udyam Registration.

1.39 Through this initiative, Ministry of MSME is focusing on providing Skill Development and Market Development Assistance to women and more than 7500 women candidates from rural and sub-urban areas will be trained in the FY 2022-23. Besides, thousands of women will be getting marketing opportunities to showcase their products in domestic and international exhibitions.

SUMMATION

Recommendation/Observation

1.40 *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)

Action Taken

1.41 The recommendation of the Committee has been noted and the concerns raised will be kept in mind while formulating any statutory framework related with e-commerce sector under the provisions of the Consumer Protection Act, 2019.

Recommendation/Observation

1.42 *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)

Action Taken

1.43 The observation made by the committee is duly noted.

Recommendation/Observation

1.44 *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)

Action Taken

1.45 The observations made by the committee have been noted.

CHAPTER – II

RECOMMENDATIONS/OBSERVATIONS WHICH THE COMMITTEE DOES NOT DESIRE TO PURSUE IN VIEW OF THE GOVERNMENT'S REPLY

OVERVIEW OF E-COMMERCE MARKET

Recommendation/Observation

2.1 *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)

Action Taken

2.2 All e-commerce companies are required to register with GST. It may not be in interest of Ease of Doing Business to mandate another registration. DPIIT gets the registration data from Goods and Services Tax Network (GSTN).

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

Recommendation/Observation

2.3 *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)

Action Taken

2.4 In terms of Para 3 of the Annexure 5 of the Consolidated FDI Policy, 2020 ("FDI policy"), FDI is a capital account transaction and thus any violation of FDI regulations are covered by the penal provisions of the FEMA. Reserve Bank of India administers the FEMA and Directorate of Enforcement under the Ministry of Finance is the authority for the enforcement of FEMA. The Directorate takes up investigation in any contravention of FEMA.

2.5 Therefore, maintaining the extant powers assigned to ED under the Foreign Exchange Management (FEMA) Act, 1999, representations alleging violation of FDI Policy on E-commerce, as and when received in DPIIT, are forwarded to ED and RBI for necessary examination and investigation. The matter is thereafter regularly followed up with the said regulatory authorities.

2.6 In this regard, the recommendation of the Committee suggesting creation of Digital Markets Division under CCI as an expert division which shall act as an overarching regulatory body to bridge the existing gaps in enforcement may be considered.

Recommendation/Observation

2.7 *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)

Action Taken

2.8 FDI policy on E-commerce was last amended by way of Press Note 2 (2018) dated 26.12.2018. Thereafter, no amendments/changes have been made to the said policy nor any proposal is presently under consideration in the Department.

2.9 FDI Policy is periodically reviewed in consultation with the stakeholders to ensure that the FDI regulatory regime is aligned with the larger economic and financial policy priorities and International developments.

INFORMATION AND COMMUNICATIONS TECHNOLOGY (ICT) INFRASTRUCTURE AND CYBER SECURITY

Recommendation/Observation

2.10 *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)

Action Taken

2.11 National Broadband Mission (NBM) was launched on 17th December 2019 with a vision to fast-track growth of digital communications infrastructure, bridge the digital divide, facilitate digital empowerment and inclusion, and provides affordable and universal access of broadband for all. Progress of the National Broadband Mission is as below:

- i) **Broadband Connectivity to Villages** - Under the BharatNet project 1,77,550 Gram Panchayats (GPs) have been made service ready till June 2022. The scope of BharatNet on 30.06.2021 has been extended upto all inhabited villages beyond GPs in the country. Timeline of the BharatNet Project is upto 2025.
- ii) **Availability of Broadband Speeds (Mbps)** - Telecom Regulatory Authority of India (TRAI) has been obtaining Crowd- sourced data about download and upload speed for different service providers through TRAI My Speed App (<http://myspeed.trai.gov.in/>). It is envisaged to achieve broadband speeds up to 50 Mbps by 2024-25.
- iii) **Fiberisation (Lakh Km) Cumulative** - Total Optical Fibre Cable (OFC) laid is approximately 34.62 lakh Km as on June 2022. It is envisaged to be increased up to 50 lakh Km by 2024-25.
- iv) **Towers (in Lakhs) Cumulative** - 7.23 Lakh towers have been installed up to June 2022. It is envisaged to be increased up to 15 lakh towers by 2024-25.
- v) **Fiberisation of Telecom Towers/ Base Transceiver Station (BTS) (per cent) Cumulative** - Approximately 35.11 per cent of Telecom Towers/ BTSs is fiberised as on June 2022. It is envisaged to be increased up to 70 per cent by 2024-25.
- vi) **Mapping of Fiber Cumulative** - 10 lakh Route Km of Optical Fibre Cable laid by the PSUs is mapped on the PM GatiShakti NMP Portal.

2.12 The investment envisaged under the National Broadband Mission (NBM) is to be mobilized largely by Telecom Licensees and infrastructure providers and by Government through Universal Service Obligation Fund (USOF). Plan of action under the Mission includes:

- i) All villages to have access to broadband;
- ii) Accelerate fiberisation;
- iii) Increasing tower density;
- iv) Increase fiberisation of telecom towers;

- v) Easing of Right of Way (RoW) permissions in coordination with State/ Union Territories & other central Ministries.

2.13 Launch of Centralized RoW portal- Gatishakti Sanchar, inaugurated on 14th May 2022 facilitates online Right of Way applications, processing, clearance and dashboards for top level monitoring.

2.14 Further, to provide quality of internet services in rural and remote areas, Department of Telecommunications (DoT) is working on project to upgrade the 2G/3G connectivity with 4G. Further, Union Cabinet has approved on 27.07.2022 a project for saturation of 4G mobile services in uncovered villages at a total cost of Rs. 26,316 core. The project will provide 4G mobile services in 24,680 uncovered villages in remote and difficult areas. The project has a provision to include 20 per cent additional villages on account of rehabilitation, new settlements, withdrawal of services by existing operators, etc. In addition, 6,279 villages having only 2G/ 3G connectivity shall be upgraded to 4G.

2.15 As per the data released by TRAI, for the years 2019, 2020 and 2021, the average wireless data usage per subscriber per month has been increasing from 9.85 Giga Byte (GB) to 11.76 GB to 14.04 GB respectively. In this connection salient regulatory steps taken by the department are as follows:

- i) In an effort to facilitate Internet Service Providers (ISPs), with effect from 6.10.2021, the Department has reduced the amount of Performance Bank Guarantee and Financial Bank Guarantee to be submitted by the ISPs by 80 per cent.
- ii) The Department has allowed a new framework for Proliferation of Broadband through Public Wi-Fi Networks named as Prime Minister Wireless Access Network Interface (PM-WANI). Under the distributed architecture and unbundling of functions, the entities under PM-WANI ecosystem are not required to take any license from the Government. The distributed model will allow smaller players to provide high speed internet services in the country including in rural areas using Wi-Fi.

2.16 Mobile/Broadband/Internet services are provided in a phased manner by the Government and Telecom Services Provider (TSPs) in the uncovered villages of the country. The Government, with funding from Universal Service Obligation Fund (USOF), has schemes namely Comprehensive Telecom Development Plan for North Eastern Region, Left Wing Extremism (LWE) Affected Area schemes, Aspirational Districts Schemes, Comprehensive Telecom Development Plan for Islands, etc. to extend mobile connectivity through setting up of towers in the uncovered villages of the country. About 4,300 mobile towers have been installed under various USOF schemes.

PAYMENT SYSTEMS AND FINANCIAL SECURITY

Recommendation/Observation

2.17 *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)

Action Taken

2.18 It is stated that in terms of financial literacy of the customers and Committee recommendations to create awareness among customers regarding sharing of sensitivities financial data, the following measures have been taken by RBI:-

- a) RBI has been running campaigns in media/ social media under the “RBI Kehta Hai” initiative. 'RBI Kehta Hai' was the first 360-degree campaign initiated by RBI using all mass media such as television, radio, newspapers, hoardings, web banners GIFs, social media and SMS.
- b) Regional Offices of RBI organise regular electronic-Banking Awareness and Training (e-BAAT) programmes to improve public awareness.
- c) RBI, *vide* notifications dated June 22, 2020 and January 28, 2022, had sensitised the general public on certain safety measures to be followed for digital payment transactions.
- d) Prepaid Payment Instrument (PPI) issuers are also required to create awareness and educate customers in the secure use of PPIs.

2.19 Further, RBI has advised its Regulated Entities (REs) to continuously create public awareness on the types of threats and attacks used against the consumers while using digital payment products and precautionary measures to safeguard against the same. This includes, among other things, to caution customers against commonly known threats in recent times like phishing, vishing, reverse-phishing, remote access of mobile devices and educate the customers to secure and safeguard their account details, credentials, PIN, card details, devices, etc.

2.20 In order to strengthen cyber security of financial transactions, RBI has informed that it prescribes various guidelines and circulars to commercial banks and Urban Cooperative Banks (UCBs) including Cyber Security Framework, 2016 for Scheduled Commercial Banks and Comprehensive Cybersecurity Framework

issued in 2019 for UCBs. RBI has also issued Master Direction on Digital Payment Security Controls on 18th February, 2021 enumerating various controls to be implemented by banks for ensuring safe digital transactions.

2.21 RBI has also stated that Regulated Entities (REs) have been advised to carry out Cyber Security Audits, Vulnerability Analysis-Penetration Testing (V-PT) on periodic basis by RBI. Further, all authorised Payment System Operators (PSOs) *vide* circulars dated 7th December, 2009, 27th December, 2010 and 15th April, 2011, were directed to get a System Audit conducted by CERT-In empanelled auditors or Certified Information System Auditor (CISA) and registered with Information Systems Audit and Control Association (ISACA) or by a holder of a Diploma in Information System Audit (DISA) qualification of the Institute of Chartered Accountants of India (ICAI), on an annual basis.

2.22 The scope of the System Audit was reviewed and enhanced in January 2020 in order to ensure standardisation along with the need to encompass all relevant areas of information system processes and applications to be covered as part of the audit. The scope includes, inter-alia, information security governance, access control, network and data security, physical and environmental security, human resource security, business continuity management, vendor management, incident management, change management, patch management, etc.

2.23 To strengthen the payment infrastructure, RBI has prescribed the necessary security controls for digital payment products and services offered by banks and credit card issuing NBFCs.

- a) RBI issues advisories and alerts to authorised PSOs from time to time on information security threats including cyber-attacks, outlining best practices to combat such threats.
- b) PPI issuers and PAs are mandated certain baseline security measures to ensure safety and security of their Information Systems.

2.24 Various steps taken by Banks to enhance awareness regarding digital payments, inter-alia, are as under:

- a) **Financial Literacy Camps (FLCs):** Banks have been advised to conduct special camps through their FLCs (2 camps per month on "Going Digital" through UPI and *99# (USSD) including tailored camps for different target groups viz., farmers, Micro and Small Entrepreneurs, school children, Self Help Groups and Senior citizens;
- b) Rural Branches of Banks are required to conduct one camp per month covering all the messages that are part of Financial Awareness Messages (FAME) booklet and the two digital platforms UPI and *99# (USSD); and
- c) **Banking Correspondents (BCs) led initiative:** A strong network of about 5.18 lakh BCs, representing the last mile connect in the Banking Services

delivery system is also creating awareness while facilitating transactions in the rural areas, because of their familiarity with Local/Rural population.

LOGISTICS AND ALLIED INFRASTRUCTURE

Recommendation/Observation

2.25 *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)

Action Taken

2.26 The Ministry of Road Transport and Highways is primarily responsible for development and maintenance of National Highways (NHs). Development and maintenance of NHs is a continuous process. Works on notified NHs are taken up as per the traffic density, *inter-se* priority and availability of funds.

2.27 Length of NHs in the country has increased by 57 per cent since FY 2014-15, from 91,287 km as on 1st April, 2014 to 1,42,254 km as of 31st August, 2022. The Ministry took up development of NHs/roads in the country under various phases of National Highways Development Project (NHDP), Special Accelerated Road Development Programme for the North East Region (SARDP-NE) including Arunachal Pradesh Package of Roads, Special Programme for Development of Roads in the Left Wing Extremism (LWE) affected areas, Externally Aided Projects (EAP), National Highways (Original) [NH (O)] scheme, etc. Various phases of NHDP envisaged development of NHs to 4/6 lane and 2 lane NH standards, development of expressways, etc. Developments of most of the roads/ NHs under other schemes envisage their upgradation to 2 lane NH standards.

2.28 Bharatmala Pariyojana Phase-I, approved by the Cabinet Committee on Economic Affairs (CCEA) on 24.10.2017, includes development of 24,800 km length of Greenfield Expressways / Access Controlled Highways / Economic Corridors, Inter-corridor and feeder roads including National Corridors Efficiency improvement projects, Border and International connectivity roads, Coastal and port connectivity roads and balance approximately 10,000 km subsumed under National Highways Development Projects (NHDP).

2.29 A network of 35 Multimodal Logistics Parks (MMLPs) is planned to be developed as part of Bharatmala Pariyojana (BMP). Of this, MMLPs at 15

prioritized locations will be developed as part of Phase I of Bharatmala Pariyojana with a total investment of Rs.22,000 crore.

2.30 In October, 2021, Cabinet Committee on Economic Affairs (CCEA) has approved the proposal for development of 'PM GatiShakti National Master Plan (NMP)' for providing multimodal connectivity infrastructure to various Economic Zones of the Country. The PM GatiShakti NMP will depict the economic zones and the infrastructure linkages required to support them with an objective to holistically integrate all the multimodal connectivity projects and remove missing gaps for seamless movement of people, goods & services. The Ministry has targeted providing connectivity to 783 Economic nodes under BMP Phase-I out of 860 Economic nodes identified in the country.

2.31 Although the Ministry is not directly responsible for the development of last mile connectivity and gap in connectivity between rural and urban areas, however, the Ministry has taken up following initiatives to connect remote areas, LWI affected areas, Tribal districts and Aspiration districts. As a result of this, all the Tribal and aspirational districts are connected with the National Highways (NHs) network.

2.32 **NHs Connectivity with Tribal Districts** - During the last 3 years, the Ministry, through its implementation agencies, has sanctioned works in 11,258 km length and constructed 4,586 km of NHs passing through tribal districts (connecting one or more adjoining districts and also connecting tribal districts with other districts), thereby investing Rs.40,277 crore on development of such NHs.

2.33 **NHs Connectivity with Aspirational Districts** - During the last 3 years, the Ministry, through its implementation agencies, has awarded works in 2,207 km length and constructed 3,143 km of NHs passing through aspirational districts.

2.34 **NHs Connectivity in Left Wing Extremist (LWE) areas** - The Government has approved a scheme for development of about 1,177 km of NHs and 4,276 km of State Roads in Left Wing Extremism (LWE) affected areas as a Special Project with an estimated cost of about Rs.7,300 crore. As on 30th June, 2022, the detailed estimates for 5,422 km length have been sanctioned at an estimated cost of Rs.8,946 crore, out of which, works on 5,422 km length costing Rs.8,996 crore have been awarded. Development in 5,097 km length has been completed and cumulative expenditure incurred so far is Rs.8,575 Crore.

2.35 **Development of Vijayawada – Ranchi Corridor** - Out of 1,622 km long LWE affected Vijayawada - Ranchi route, development of 600 km (net length 592 km) of State Roads in Odisha (549 km newly declared NH and 43 km SH), not covered in any Central or State Scheme was approved by the Government at a cost of Rs.1,200 crore. So far, the detailed estimates for all the 9 packages in an aggregate length of 592 km have been sanctioned at an estimated cost of Rs.1,347

crore and works were awarded. The development on 592 km has been completed at a cumulative expenditure of Rs.1,112 crore.

2.36 Railway Projects are taken up on the basis of remunerativeness, last mile connectivity, missing links and alternate routes, augmentation of congested/saturated lines, socio- economic considerations, etc. which covers connectivity in backward and rural areas also. Most of the new line projects have been taken up primarily on socio economic considerations in backward and remote areas for speedy development of economically backward areas and to provide seamless logistics movement. As on 01.04.2022, across Indian Railways, 183 New Line projects of total length of 20,937 km, costing approx. Rs. 4.0 lakh crore are in different stages of planning/sanction/execution, out of which, 2,831 Km length has been commissioned and an expenditure of approx. 1.13 lakh crore has been incurred upto March, 2022.

Recommendation/Observation

2.37 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)

Action Taken

2.38 The National Logistics Policy was launched by the Hon'ble Prime Minister on the 17th September, 2022 for efficiency in services (process, digital systems, and regulatory framework) and human resources. The policy has a vision to develop a technologically enabled, integrated, cost-effective, resilient, sustainable and trusted logistics ecosystem in the country for accelerated and inclusive growth. The policy provides a comprehensive document which addresses areas of logistics with specific action plans. Specific focus has been given on development of digital platforms and systems to facilitate greater visibility of cargo within the supply chain. Further, standardization of various physical assets in the logistics ecosystem has also been addressed through comprehensive handbook of standards.

2.39 The Unified Logistics Interface Platform(ULIP) has been conceptualized with the vision of "PM GatiShakti" which aims at breaking individual silos, promote integration among various Ministries/Departments and create a single

window thus bringing efficiency and transparency in the logistics industry and ‘*Atmanirbhar*’ in the logistics sector. ULIP’s mechanism is architected in a way to contribute immensely for enhancing India’s rank in Ease of Doing Business (EoDB), Logistics Performance Index (LPI), reducing overall logistics cost & time, and enhancing the overall economy of the country.

2.40 The ULIP Platform has been integrated with 30 systems through 100+ APIs, covering 1600+ fields i.e. NAPIX Portal (VAHAN, SARATHI), FASTag of Ministry of Road Transport and Highways, FOIS of Ministry of Railways, Import Export Code (IEC) of Directorate General of Foreign Trade (DGFT) under Ministry of Commerce & Industry, Air Cargo Community System of Ministry of Civil Aviation, Port Community System (PCS) of Indian Ports Association, Terminal Operating System (TOS) of Ministry of Ports, Shipping & Waterways, DigiLocker system of Ministry of Electronics and Information Technology, ICEGATE system of Ministry of Finance have been completed successfully. Further, integration between GSTN E-waybill and ULIP is under consideration by the Ministry of Finance. Also, the integration with Partner Government Agencies (PGAs) with ULIP is under progress for enhancing the overall experiential scenario of EXIM trade happening in India.

2.41 Information on all modes of transportation (Road, Rail, Air, Sea) are now integrated for providing multi-modal visibility to the logistics ecosystem. In house ULIP Use Cases application have already been developed i.e. Know your Transporter, Track your Transport, LDB 2.0 (Tracking & Documentation Flow), Empty Carrier Discovery and Empty Container Discovery for aiming to address the challenges of Indian logistics sector by utilizing ULIP. Other ULIP Use Cases are being developed by various private players by executing Non-Disclosure Agreements.

2.42 Total 18 Non-Disclosure Agreements (NDA) with Industry players, Enterprises and Start-ups have already been executed to build Use Cases on presentation layer of ULIP by utilizing the API. The discussion with 21 Industry players, Enterprises and Start-ups are under process for executing NDAs to develop the ULIP Use Cases.

2.43 As per the Information Technology Act, 2000, e-commerce marketplaces are generally considered as intermediaries. Government has notified the Information Technology (Intermediary Guidelines and Digital Media Ethics Code) Rules, 2021 under the Information Technology Act, 2000. These Rules require that the intermediaries follow certain due diligence as prescribed. They are required to publish privacy policy and terms of use of their platform.

2.44 Artificial Intelligence and robotics are the most revolutionary technologies in the modern world. AI and robotics are playing crucial role in various sectors including logistics, health, agriculture, finance, etc. Ministry of Electronics and

Information Technology (MeitY) has initiated various initiatives in the area of AI and Robotics. Recently, MeitY has constituted the ‘Inter Ministerial Committee’ (IMC) for Robotics. The key objectives of the committee are to study the best practices on role of Government in supporting and fostering domestic robotics industry and to suggest way forward for end to end ecosystem enhancement for robotics in India.

Recommendation/Observation

2.45 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)

Action Taken

2.46 In order to address the skill gap and institutionalise the vocational education in the logistics sector, Logistics Sector Skill Council (LSSC) has successfully launched apprenticeship embedded graduate programs with a duration of 3 years, specifically in logistics with BBA in Logistics and also apprenticeship embedded specialised graduate programs like BMS in e-commerce, BMS in Land transportation, etc.

2.47 Further, to strengthen and reinforce the necessity of skilled workforce, Recognition of Prior Learning (RPL) program has been implemented and approximately 1.5 lakh existing workforce in Logistics Sector have been certified, to imply the importance of skilled and certified workforce.

2.48 LSSC has also partnered/ collaborated with various companies’/industry players operating in the sector, to establish centres of excellence, in associations with various government schemes and also through the CSR initiatives of the organizations.

2.49 In pursuance of the PM Gatishakti National Master Plan (NMP) post-budget Webinar, it was decided to develop a National Logistics Workforce Strategy for upskilling and re-skilling of the existing workforce with regards to various logistics

sub-sectors. The mapping of skilling opportunities for major projects under PM GatiShakti NMP has also been decided. In this regards, Ministry of Skill Development and Entrepreneurship has constituted a Task Force for submitting recommendation which will help in finalizing the National Logistics Workforce Strategy with representatives from MSDE, DPIIT, LSSC and representatives from Logistics Association and Logistics Companies.

Recommendation/Observation

2.50 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)

Action Taken

2.51 Logistics Ease Across Different States (LEADS) Survey conducted by DPIIT is aimed at improving overall logistics ecosystem in the country. The survey captures vision of each State for creation of warehousing infrastructure, multimodal logistics parks, ease of getting various approvals for setting up these infrastructure, grievance redressal mechanism and its promptness so as to improve logistics efficiency and reduce logistics cost in the State. Based on feedback obtained from the survey, all the States are placed in order of the LEADS ranking. The yearly exercise promotes healthy competition among the States by showcasing whether a State has moved upward in the ranking in comparison to other States. It also identifies areas where States can focus for bringing about logistics efficiency.

Recommendation/Observation

2.52 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)

Action Taken

2.53 For 2022-23, an allocation of Rs. 5000 crore has been done in the form of 50 years interest free loan over and above the normal borrowings allowed to the States to assist the States in catalysing overall investments in the logistics sector. The investment will augment infrastructure related to e-commerce in areas including:

- i) ICDs, CFS, Warehouse, Multimodal or uni-modal logistics parks, modern aggregation centres, etc.
- ii) Connectivity Infrastructure for Providing first and Last mile connectivity to industrial parks, economic zones.
- iii) Inter connected infrastructure for attaining multimodal connectivity.
- iv) Connectivity projects for cargo terminals being developed by M/o Railways
- v) Connectivity projects to ensure 24x7 freight flow in the State.

E-COMMERCE EXPORTS

Recommendation/Observation

2.54 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)

Action Taken

2.55 Under the ‘Districts as Export Hubs Initiative’, Products/services (including GI products, agricultural clusters, toy clusters, etc.) with export potential in each District have been identified in all the districts of the country. Institutional mechanism in the form of State Export Promotion Committees at State/UT level and District Export Promotion Committees at the district level has been created to provide support for export promotion and address the bottlenecks for export growth in the districts. District Export Promotion Committees (DEPCs), in collaboration with DGFT Jurisdictional Regional Authorities, are preparing District Specific Export Action Plans in consultation with all the relevant stakeholders from the Center, State and the District. These plans also include identifying and addressing challenges for exports of such identified products/services, improving supply chains, market accessibility, addressing e-commerce opportunities and handholding for increasing exports. Through Districts as Export Hubs initiative, Government of India is contributing to the goal of Atma Nirbhar Bharat, Vocal for local and Make in India by providing employment opportunities and through significantly increasing the manufacturing and exports from urban areas while focusing on generating interest and economic activity in the rural hinterland to push new businesses to export. Handholding of exporters by disseminating all export related information and the promotion of

e-commerce exports from the districts is the function assigned to the district level committee and many districts are actively working in this area.

Recommendation/Observation

2.56 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)

Action Taken

2.57 Department of Posts, in co-ordination with CBIC, has undertaken certain steps to promote commercial exports from India, including e-commerce, through postal channel. In this regard 28 Foreign Post Offices have been notified by CBIC across the country to be set up in phased manner. Facility of Postal Bill of Exports (PBE) has been introduced for the exporters and digitization of PBE has also been undertaken for ease of filing customs documentation and clearance.

2.58 In order to further expand the presence for booking of commercial export shipments from different parts of the country, online electronic filing of customs documentation and handhold small exporters, a scheme has been approved recently to set up Dak Ghar Niryat Kendras (DNKs) at identified post offices in the districts having export potential. The implementation process has been initiated from 2022-23. The Dak GharNiryat Kendras having justified volumes of shipments are envisaged to close direct dispatches to mapped Foreign Post Offices for faster transmission and avoid any back Routing.

2.59 The Hub and Spoke model has already been developed and live testing is being carried out to obtain necessary feedback from exporters and field formations. Simultaneously, corresponding regulations are also being prepared. The requirement of notifying new FPOs shall be considered as per the request from trade and in consultation with Department of Post.

ON-BOARDING MSMEs: DIGITAL LITERACY AND SKILLING

Recommendation/Observation

2.60 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)

Action Taken

2.61 Media and Entertainment Skills Council (MESC) has developed National Skills Qualifications Framework (NSQF) aligned qualification for skilling on digital marketing, Social Media, Graphic Design, Content Strategist, Advertising, IP Management, etc. Apart from this, the online platform of MESC such as Vidyadaan and Creative Warriors provides awareness sessions and online skilling respectively.

2.62 The orientation training covers aspect of digital uses like digital payment, digital security, and online uses of banking services. The training content is available in English Language and its conversion to vernacular language is under process.

2.63 National Institute of Electronics & Information Technology (NIELIT) Leh is conducting training on entrepreneurship, e-commerce, and digital photography for the artisans of Ladakh under IT incubation project. Under NECB project, NIELIT has a target of 40-50k candidates in Digital payment, e-commerce, etc. for all NE centres.

2.64 NIELIT Kohima centre is providing an entrepreneurship development programme that offers 36 hours duration on digital marketing branding, e-commerce and digital payment and security. NIELIT Agartala is conducting a course on Digital Marketing using Social Media Platform under Future Skills PRIME- Social & Mobile for 90 hours. NIELIT Aurangabad is also conducting a course on Digital Marketing for 40 hours.

Recommendation/Observation

2.65 *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)

Action Taken

2.66 The Central Government has initiated the One District One Product (ODOP) in different States/Union Territories (UTs) of the country. ODOP is seen as a transformational step towards realizing the true potential of a district, fuelling economic growth, generating employment and rural entrepreneurship, taking us to the goal of Aatmanirbhar Bharat. ODOP initiative is operationally merged with 'Districts as Export Hub (DEH)' initiative of the DGFT, Department of Commerce, with the Department for Promotion of Industry and Internal Trade (DPIIT) as a major stakeholder.

2.67 The ODOP initiative focus on identifying the local, traditional, unique and specialized products/crafts (including GI tag products) from each district of the country which need support for their revival/sustenance. The aim is to provide handholding at grass root level to manufacturers/artisans for preservation and development of local crafts/skill/art.

2.68 Under this initiative, Government has coordinated with various e-commerce platforms for on-boarding various products of artisans, craftsman, weavers, etc. The ODOP Storefront on GeM portal was unveiled by the Hon'ble Commerce & Industry Minister on 29.08.2022 with 75 plus categories of products to mark 75 years of India's Independence.

2.69 Open Network for Digital Commerce (ONDC) is an initiative by DPIIT aiming at promoting open networks for all aspects of exchange of goods and services over digital or electronic networks. ONDC is based on open-sourced methodology, using open specifications and open network protocols independent of any specific platform.

2.70 The foundations of ONDC are open protocols for all aspects in the entire chain of activities in exchange of goods and services, similar to hypertext transfer protocol for information exchange over internet, simple mail transfer protocol for exchange of emails and unified payments interface for payments. These open protocols are used for establishing public digital infrastructure in the form of open registries and open network gateways to enable exchange of information between providers and consumers.

2.71 ONDC protocols are meant for standardizing operations like cataloguing, inventory management, order management and order fulfilment. Hence, small retailers and small businesses can easily and more economically get registered over an electronic network, be discoverable by buyers from across various platforms and conduct transactions.

2.72 Government e-Marketplace (GeM)-Hon'ble Prime Minister, based on recommendations of the Group of Secretaries, decided to set up a dedicated e-market for different goods & services procured by Government Organisations /

Departments / PSUs. This meant transforming DGS&D to a digital ecommerce portal for procurement and selling of goods and services.

2.73 Government e Marketplace (GeM), created in a record time of five months, facilitates online procurement of common use Goods & Services required by various Government Departments / Organisations / PSUs. GeM aims to enhance transparency, efficiency and speed in public procurement. It provides the tools of e-bidding, reverse e-auction and demand aggregation to facilitate the government users, achieve the best value for their money.

2.74 The purchases through GeM by Government users have been authorised and made mandatory by Ministry of Finance by adding a new Rule No. 149 in the General Financial Rules, 2017.

GOVERNMENT e-MARKETPLACE (GeM)

Recommendation/Observation

2.75 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)

Action Taken

2.76 Government e-Marketplace (GeM) has integrated with Udyam Registration Portal and has allowed MSMEs registering there to get auto registration on GeM through this integration process. All MSMEs who have shown interest in getting registered on GeM are getting provisionally registered on GeM automatically. Till date, nearly 36.73 lakh+ MSEs have registered on GeM through this API-integration and are now in various stages of their seller journey in public procurement.

2.77 Government e-Marketplace (GeM), is working with CSC e-Governance Services India Ltd. (CSC-SPV), and Department of Posts, for the advocacy, outreach, mobilization and capacity-building of last-mile MSE sellers and service providers in public procurement.

2.78 Nearly 4.5 lakh+ Common Service Centres (CSC) and approx. 1.5 lakh+ India Post offices across India are being trained to assist last-mile micro, small enterprises (MSE) with buyer/ seller registration, product catalogue upload and management, order acceptance, fulfilment and invoice generation functionality on GeM portal.

2.79 Value-added services such as photography of product images, packaging, logistics and shipment of packages through Speed Post and Business Parcel, through India Post website, will also be delivered by CSC and Department of Posts.

Recommendation/Observation

2.80 *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)

Action Taken

2.81 Government e-Marketplace (GeM) was established as a not-for-profit section 8 company. GeM has given an initial grant of INR 200 crore to develop the portal and operationalise it. GeM was supposed to become a self-sustaining organisation and no further grants were sanctioned to GeM since then. With a view to ensure wider participation of sellers on GeM platform, GeM follows a policy of not charging any registration fee from sellers. GeM only charges a nominal fee from the sellers as per the transaction charge policy to manage its expenses and cost of Operation and Maintenance (O&M) and future developments. Furthermore, GeM's Revenue Policy has mandated a threshold merchandise value below which no commission / charge is levied upon the sellers. Accordingly, it is pertinent to note that no transaction charge is payable in case:

- i) For orders less than Rs. 5 lacs in value.
- ii) For orders which are placed and accepted by seller before the Seller Merchandise Value (SMV) of INR 20 Lacs is reached.

2.82 Accordingly, a seller is charged only after reaching a minimum threshold merchandise value on GeM platform as per GeM Revenue Policy.

2.83 It is also worth mentioning that Sellers, as a matter of business practice, are supposed to add the Transaction Charge as per GeM revenue policy in their offer price and hence the charges are indirectly transferred to Buyer i.e. Government only and are not supposed to be financed through Seller's profit margin. This may

also be looked into perspective of huge reduction in marketing efforts brought in by GeM as compared to other procurement modes where sellers have to invest heavily in marketing and bidding costs etc.

OPEN NETWORK FOR DIGITAL COMMERCE (ONDC)

Recommendation/Observation

2.84 *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)

Action Taken

2.85 Open Network for Digital Commerce (ONDC) business and technical architecture provide for the democratisation of digital commerce with equal opportunities for big and small business enterprises and existing e-commerce entities. This is enabled by means of an open protocol that allows business enterprises to publish their digital catalogue onto the open network irrespective of the platform they are part of or by using standard software solutions. ONDC has initiated a variety of strategies to encourage and onboard diverse market players onto the network. A number of initiatives are being taken for expansion of the network on national scale.

2.86 ONDC is compliant with all existing laws and regulations concerning e-commerce in India, and while no changes/modifications are required to enable the network, the network is designed to enable the interpretation and technology-driven implementation of laws and regulations in India. It has business rules which clearly delineate the rights and obligations of each category of network participants. These provisions take into consideration all existing laws and regulations, including but not limited to the Consumer Protection Act, 2019, Consumer Protection (E-Commerce) Rules, 2020, Information Technology Act, 2000, Legal Metrology Act, 2009, Information Technology (Reasonable Security Practices and Procedures and Sensitive Personal Data or Information) Rules, 2011,

Foreign Exchange Management (Non-Debt Instruments) Rules, 2019, Foreign Direct Investment Policy, RBI Guidelines etc.

2.87 ONDC is taking comprehensive steps to ensure trust, fairness and transparency on the network, including fairness in search and discovery, payment mechanisms, KYC requirements, reviews and ratings, enforcement etc. which have been published in a public consultation document, and while the responses are being collected, the initial response from various stakeholders has been positive.

SUMMATION

Recommendation/Observation

2.88 *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)

Action Taken

2.89 The Draft E-Commerce Policy has provision for promotion of Open Network for Digital Commerce (ONDC) which addresses the concerns of the traditional brick and mortar shops and local business.

2.90 DPIIT has initiated ONDC aiming at promoting open networks for all aspects of exchange of goods and services over digital or electronic networks. ONDC is based on open-sourced methodology, using open specifications and open network protocols independent of any specific platform.

2.91 The foundations of ONDC are open protocols for all aspects in the entire chain of activities in exchange of goods and services, similar to hypertext transfer protocol for information exchange over internet, simple mail transfer protocol for exchange of emails and unified payments interface for payments. These open protocols are used for establishing public digital infrastructure in the form of open registries and open network gateways to enable exchange of information between providers and consumers.

2.92 ONDC protocols are meant for standardizing operations like cataloguing, inventory management, order management and order fulfilment. Hence, small retailers and small businesses can easily and more economically get registered over an electronic network, be discoverable by buyers from across various platforms and conduct transactions which would result in increase in penetration of e-commerce in India.

CHAPTER – III

RECOMMENDATIONS/OBSERVATIONS IN RESPECT OF WHICH REPLIES OF THE GOVERNMENT HAVE NOT BEEN ACCEPTED BY THE COMMITTEE

COMPETITION ACT, 2002

Recommendation/Observation

3.1 *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)

Action Taken

3.2 Ministry of Corporate Affairs (MCA) constituted a Competition Law Review Committee (CLRC) in October 2018 to review and recommend a robust competition law framework. After Comprehensive review, CLRC submitted its report to the Government in July 2019. Based on their commendations of CLRC, a draft Competition (Amendment) Bill was prepared. The Inter-Ministerial consultations on the Draft Bill were carried out. Further, public and stakeholder consultations were also held and accordingly, the Draft Bill has been finalised.

ABUSE OF DOMINANT POSITION

Recommendation/Observation

3.3 *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)

Action Taken

3.4 Ministry of Corporate Affairs (MCA) constituted a Competition Law Review Committee (CLRC) in October 2018 to review and recommend a robust competition law framework. After Comprehensive review, CLRC submitted its report to the Government in July 2019. Based on the Recommendations of CLRC, a draft Competition (Amendment) Bill was prepared. The Inter-Ministerial

consultations on the Draft bill were carried out. Further, public and Stakeholder consultations were held and accordingly the Draft Bill has been finalised.

Recommendation/Observation

3.5 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)

Action Taken

3.6 As per the regulatory and statutory framework as provided under the extant scheme of the Competition Act, 2002, the issue of dominance is determined on case to case basis in light of the factors provided in Section 19(4) of the Competition Act i.e. (a) market share of the enterprise; (b) size and resources of the enterprise; (c) size and importance of the competitors; (d) economic power of the enterprise including commercial advantages over competitors; (e) vertical integration of the enterprises or sale or service network of such enterprises; (f) dependence of consumers on the enterprise; (g) monopoly or dominant position whether acquired as a result of any statute or by virtue of being a Government company or a public sector undertaking or otherwise; (h) entry barriers including barriers such as regulatory barriers, financial risk, high capital cost of entry, marketing entry barriers, technical entry barriers, economies of scale, high cost of substitutable goods or service for consumers; (i) countervailing buying power; (j) market structure and size of market; (k) social obligations and social costs; (l) relative advantage, by way of the contribution to the economic development, by the enterprise enjoying a dominant position having or likely to have an appreciable adverse effect on competition; and (m) any other factor which the Commission may consider relevant for the inquiry. As such, the factors for assessment of dominance are quite comprehensive and in a given case, including those pertaining to digital markets, depending upon the specificities involved, one or more of such factors may be relevant. In fact, the CLRC examined the existing factors under Section 19(4) of the Competition Act and noted that Section 19(4) of the Competition Act is inclusive in nature and is broad enough to include control over data, network effects as factors for determining the dominant position of an enterprise under the Competition Act. Thus, no change was recommended in this regard. Further, as the digital markets are not homogenous monolith in nature, being diverse, dynamic and fast evolving, it may not be feasible to provide separate dominance standards for guidance across the verticals in digital markets.

Moreover, the orders passed by the Commission spell out the approaches being adopted in assessing dominance in digital markets which also serve as guidance to the relevant stakeholders. Lastly, it is pertinent to highlight that at present, there is no explicit provision in the statute which empowers the Commission to issue such guidance notes on *ex ante* basis.

MERGER AND ACQUISITIONS

Recommendation/Observation

3.7 *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. (Para 7.12)*

Action Taken

3.8 As regards the recommendation “*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*”, the same may require an enabling statutory framework in the Competition Act, 2002. Further, an in-house Committee has been setup in CCI to study the different methods/strategies adopted/considered in other jurisdictions for such identification and to explore feasibility of *ex-ante* regulatory framework in India to govern the operations of such entities.

3.9 The recommendations of CLRC have been noted and criteria other than assets or turnover have been incorporated in the Draft Bill to capture combinations in new age economy, e-commerce, digital market, multi-sided platforms, etc. Further, in so far as matter related to identifying entities having significant market power is concerned, it is stated that the existing provision of Section 4 of the Competition Act (the Act) provides mechanism to check abuse of dominance by enterprises.

3.10 In case of contravention of provisions of section 4 of the Act, CCI may levy a penalty of up to 10 per cent of the income of the entity as per Section 27 of the Act. Further under Section 28 of the Act, CCI can also direct division of an enterprise enjoying dominant position to ensure that such enterprise does not abuse its dominant position.

ENFORCEMENT GAPS IN CURRENT REGULATORY REGIME

Recommendation/Observation

3.11 *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)

Action Taken

3.12 The Commission has set up an in-house Digital Markets and Data Unit (DMDU) that will act as a specialised interdisciplinary centre of expertise for Digital Markets.

3.13 The DMDU will inter alia connect with experts; engage with industry, academia, other regulators/ departments, international agencies. However, to effectuate the recommendation made by the Committee to task such Division with regulation of digital markets with participation from all the existing regulators concerned with e-commerce, legislative backing would be required by way of amendments to the Competition Act, 2002 to enable discharge of such mandate.

Recommendation/Observation

3.14 *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)

Action Taken

3.15 The Commission has set up an in-house Digital Markets and Data Unit (DMDU) that will act as a specialised interdisciplinary centre of expertise for Digital Markets.

3.16 The DMDU will inter alia connect with experts; engage with industry, academia, other regulators/ departments, international agencies.

3.17 However, to effectuate the recommendation made by the Committee to task such Division with regulation of digital markets with participation from all the existing regulators concerned with e-commerce, legislative backing would be required by way of amendments to the Competition Act, 2002 to enable discharge of such mandate.

GAPS IN CURRENT REGULATORY REGIME

Recommendation/Observation

3.18 *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 gate keeping 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)

Action Taken

3.19 In the Draft Competition (Amendment) Bill, it has been proposed to introduce criteria other than assets or turnover such as deal value threshold based on size of transaction test in order to equip CCI to meet the challenges that lie ahead given the increasing importance of digital markets in the economy.

Recommendation/Observation

3.20 *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)

Action Taken

3.21 The importance of technology based businesses, the business practices of Big Tech and the competition problems arising from the same are being debated globally. There have been reports which have argued that the key features of digital platform markets present the hallmarks of market failure, warranting regulatory action, in addition to *ex-post* antitrust enforcement, in view of their significant influence on markets and society at large. Accordingly, over the past year many jurisdictions have proposed some form of *ex-ante* regulation to supplement existing *ex-post* competition law enforcement. Based on this debate, a view/narrative seems to be emerging that digital platform markets have particular characteristics that may warrant specific *ex-ante* regulations. Code of Conduct stipulating do's and don'ts for market platforms through *ex-ante* regulation can play an important role in achieving the desired outcomes and complement the anti-trust enforcement and merger control. *Ex-ante* regulation and *ex-post* competition enforcement work in-tandem as they pursue complementary and associated, but nevertheless different and legitimate objectives. Recently, there have been developments in various jurisdictions in relation to new statutory and regulatory framework being established by various jurisdiction *viz.* European Union, United States, United Kingdom, Germany, Japan, South Korea, etc. The recommendations of the Committee would require amendments to the Competition Act, 2002 for providing *ex-ante* regulatory framework, to be administered by CCI. In fact, an internal committee has already been set up in CCI to explore and study *ex-ante* measures put in place/ proposed in foreign jurisdictions for regulating Big Tech; for examining suitability and feasibility thereof for adoption in the domestic framework.

Further Recommendation/ Observation on Para No. 7.3, 7.5, 7.8, 7.12, 8.2, 8.3, 9.5 & 9.7

3.22 The Committee notes that resolution of the above-mentioned recommendations of the Committee lies in the enactment of the Competition Amendment Bill. The Committee also observes that the delay in finalisation and passage of the Competition Amendment Bill might have far reaching adverse and irreversible implications for competition in digital markets in India. The Committee, therefore, recommends the Ministry of Corporate

Affairs to take concerted efforts to finalise and get the bill enacted at the earliest. The Committee further recommends that necessary provisions should be incorporated in the amendment bill to empower and enable the Competition Commission of India (CCI) as well as the Digital and Markets and Data Unit (DDMU) to effectively regulate the fast paced digital market taking into account the present day realities.

Recommendation/Observation

3.23 *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)

3.24 *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)

Action Taken

3.25 Ministry of Health and Family Welfare (MoHFW) has published a draft gazette notification *vide* G.S.R.B17(E) dated 28th August 2018 for amendment to the Drugs and Cosmetics Rules, 1945 to regulate the online sale of medicines through e-platform in the country. The draft rules published on 28.08.2018 contain provisions for registration of e-pharmacy, periodic inspection of e-pharmacy, prohibition of sale of certain categories of drugs through e-pharmacy, monitoring of e-pharmacy, etc. A large number of comments were received which were compiled and examined. Summary of comments received from stakeholders are as under:

- i. Stakeholders especially Chemists and Druggists Associations opposed the proposed e-pharmacy rules stating that approximately 8 lakh chemist would be out priced and shall go out of business.
- ii. It was also represented that the concept paper is not in accordance to FDI policy since it prohibits business to customer sale model.

- iii. The chemists are presently not allowed to home deliver drugs while this is being permitted for online pharmacies.
- iv. The chemists represented that online pharmacies should only be permitted to sell medicines on the basis of e-prescription to avoid multiple dispensing of same medicines.
- v. The chemists' association represented against permitting habit forming drugs, anti-tubercular drugs and higher antibiotics through online pharmacies.
- vi. The offline chemists represented that data with respect to patients is prone to misuse since it will be available online to e-pharmacy holders.

3.26 The All India Organization of Chemists and Druggists (AIOCD) has been opposing online sale of medicines on the grounds that sale of restricted drugs without proper prescriptions would be detrimental to public health, besides leading to manipulation of prices and adversely affecting availability of life-saving drugs. Their resentment got further accentuated after the Notification on the pharmacies. Members of AIOCD hold that online sale of medicines has already affected their business. AIOCD had organized nationwide bandh on October 14, 2015 and May 30, 2017 over the issue and participated in the "Bharat Bandh, Vypar Bandh" on 28.09.2018 called by the Confederation of All India Trader (CAIT) Government has taken note of the protest.

3.27 Three groups of Assistant Secretaries, one each in the Ministry of Electronics and Information Technology, Department of Pharmaceuticals and Ministry of Health and Family welfare were constituted to study the draft rules and submit their reports. Recommendations of Assistant Secretaries received from the respective Departments were considered by the Ministry of Health and Family Welfare, and a few recommendations were agreed to. The Prime Minister's Office *vide* communication dated 20.09.2019 constituted a Group of Ministers (GoM) to further examine the details of the proposal to notify e-pharmacy rules and make suitable recommendations. The recommendations of the GoM are under consideration of the Government.

Further Recommendation/ Observation

3.28 The Committee observes that online sale of medicines has not been regulated despite objections and concerns raised by stakeholders. The Committee further notes that no decisions have been taken on the recommendations made by Group of Ministers (GoM). The Committee opines that delay in such crucial policy matter is not conducive to the fast paced digital market. The Committee, therefore, reiterates its recommendation and urges the Ministry of Health and Family Welfare to notify E-Pharmacy Rules and formulate comprehensive guidelines with regard to e-pharmacy/e-health platforms.

INFORMATION AND COMMUNICATIONS TECHNOLOGY (ICT) INFRASTRUCTURE AND CYBER SECURITY

Recommendation/Observation

3.29 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)

Action Taken

3.30 Right to privacy is a Fundamental Right protected under Article 21 of the Constitution. Government is sensitive to the right to privacy related to information and is committed to ensure an Open, Safe & Trusted and Accountable Internet to its users. The Information Technology (IT) Act, 2000 has provisions for dealing with protection of sensitive personal data of users.

3.31 Social media platforms are body corporate in the context of the IT Act, 2000. Section 43A of the IT Act and the Information Technology (Reasonable security practices and procedures and sensitive personal data or information) Rules, 2011 notified under this section provide safeguards for sensitive personal data or information collected by a body corporate. The Rules mandate that body corporate including social media platforms must provide policy for privacy and disclosure of such information, so that user is well aware of the type of personal data collected, purpose of collection and usage of such information. The rules also specify mode of collection of information, disclosure of information, transfer of information, etc. Also, section 72A of the IT Act provides for punishment for disclosure of information in breach of the lawful contract.

3.32 The Government introduced The Personal Data Protection Bill, 2019 in Parliament during winter session in year 2019. The Bill was referred to Joint Committee of Parliament and the Joint Committee of Parliament has tabled its report on The Personal Data Protection Bill, 2019 in Parliament in December, 2021. The report and the Bill were under examination in the ministry. Now, The Personal Data Protection Bill, 2019 ('The Data Protection Bill, 2021' as reported by

Joint Committee of Parliament) has been withdrawn on 03.08.2022 in recently concluded Monsoon session of Parliament.

Recommendation/Observation

3.33 *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)

Action Taken

3.34 The Ministry of Electronics and Information Technology (MeitY) has taken steps toward 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 & to make specific suggestions for consideration in the regulation of Non-Personal Data. The work of the committee is at an advanced stage.

3.35 At present Section 43A and section 72A of the Information Technology (IT) Act, 2000 provide for privacy and security of data in digital form. Section 43A of the Act provides for compensation to be paid to the affected users in case of unauthorized access of information and leakage of sensitive personal information (including financial information such as Bank account or credit card or debit card or other payment instrument details) respectively. It mandates ‘body corporate’ to implement ‘reasonable security practices’ for protecting ‘sensitive personal information’ of individuals. Cases related to section 43A of the Act are dealt with by Secretaries of Department of Information Technology of each State and Union Territory as Adjudicating Officers on receipt of a complaint by affected person. This Ministry has no role or power in adjudication of such cases. Section 72A of the Act provides for punishment in the form of imprisonment upto 3 years and fine of Rs. 5 lakh for disclosure of information in breach of the lawful contract. Further, section 43 provides penalty and compensation for damage to computer system.

3.36 Also, Information Technology (Intermediary Guidelines and Digital Media Ethics Code) Rules, 2021 notified under the IT Act, 2000 require that the intermediary shall publish the rules and regulations, privacy policy and user agreement for access or usage of its computer resource by any person.

3.37 The Ministry has been working in collaboration with multiple stakeholders on key interventions to harness the potential of data for public good and create an ecosystem that enables data-driven governance, public service delivery, research, and innovation. MeitY has published the draft ‘National Data Governance Framework Policy’ which aims to realize the full potential of India’s digital

government vision, maximize the efficiency of data-led governance & public service delivery and catalyze data-based research and innovation. The policy proposes to launch the India Datasets Program and Platform, to provide access to high-quality non-personal datasets from government and private entities to researchers and Startups.

Further Recommendation/Observation on Para No. 10.6 & 10.7

3.38 The Committee has been informed by the Department for Promotion of Industry and Internal Trade that the Personal Data Protection Bill, 2019 was withdrawn on 3rd August, 2022 which has further delayed the enactment of a dedicated data protection regulation at a time when there is an urgent requirement for a robust data policy. The Committee feels that this delay in enactment of the Bill will have an adverse impact on economy on account of failure to capitalise on the virtual treasure trove that data has provided, as absence of a clear cut data regulatory framework could also hinder the maximum exploitation of data which is considered as the new oil. The Committee, therefore, recommends the Ministry of Electronics and Information Technology to make concerted efforts to formulate a data policy with regard to personal and non-personal data.

Recommendation/Observation

3.39 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 through enhanced investment in these field. (Para 10.9)

Action Taken

3.40 To foster innovation through research in the emerging areas, Ministry of Electronics and Information Technology (MeitY) has created several ‘Centres of Excellence’ on various emerging technologies including Internet of Things (IoT), Artificial Intelligence, Block chain, Augmented Reality (AR) and Virtual Reality (VR) Gaming, Visual Effects (VFX), etc. One of the objectives of these centres is to enable India to emerge as a global innovation hub in emerging technologies through democratization of innovation and realization of prototypes. These Centres of Excellence connect various entities such as startups, enterprises, venture capitalists, government and academia. The focus areas of CoEs on AI & IoT are on healthcare, industry 4.0, agriculture, automobiles, etc. It enables start-ups in areas

of IoT, Big Data, Augmented Reality/Virtual Reality, Artificial Intelligence and Robotics to reach their maximum potential.

Further Recommendation/Observation

3.41 **The Committee appreciates the proactive measures taken by the Ministry in the field of various emerging technologies such as Internet of Things (IoT), Artificial Intelligence, Block chain, Augmented Reality (AR) and Virtual Reality (VR) Gaming & Visual Effects (VFX), etc. The Committee opines that advancement made in the above-mentioned fields will go hand in hand with the requirement of more data storage centres. The Committee, therefore, reiterates its recommendation and urges the Ministry of Electronics and Information Technology to constitute an expert body to prepare a roadmap for expansion of data centres and server farms in the country and to lay down domestic standards of data infrastructure such as towers and tower stations, equipment, optical wires, signal transceivers, antennae, and smart devices, etc.**

Recommendation/Observation

3.42 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)

Action Taken

3.43 Ministry of Electronics and Information Technology (MeitY) has taken a number of legal, technical and administrative measures to prevent cyber-crimes. At present section 43A and section 72A of the Information Technology (IT) Act, 2000 provide for privacy and security of data in digital form. Section 43A of the Act provides for compensation to be paid to the affected users in case of unauthorized access of information and leakage of sensitive personal information including financial information such as bank account or credit card or debit card or other payment instrument details respectively. It mandates body corporate to implement reasonable security practices for protecting sensitive personal information of individuals. Cases related to section 43A of the Act are dealt with by Secretaries of Department of Information Technology of each State and Union Territory as Adjudicating Officers on receipt of a complaint by affected person.

This Ministry has no role or power in adjudication of such cases. Section 72A of the Act provides for punishment in the form of imprisonment upto 3 years and fine of Rs. 5 lakh for disclosure of information in breach of the lawful contract. Further, section 43 provides penalty and compensation for damage to computer system.

3.44 Also, Information Technology (Intermediary Guidelines and Digital Media Ethics Code) Rules, 2021 notified under the IT Act, 2000 require that the intermediary shall publish the rules and regulations, privacy policy and user agreement for access or usage of its computer resource by any person.

3.45 MeitY through a program, namely, Information Security Education & Awareness (ISEA), has been creating awareness among users highlighting the importance of following the ethics while using Internet and advising them not to share rumors/fake news. A dedicated website for information security awareness (<https://www.infosecawareness.in>) provides the relevant awareness material. Government has issued general guidelines for Chief Information Security Officers (CISOs) for securing applications and infrastructure and their key roles and responsibilities for compliance.

Further Recommendation/Observation

3.46 **The Committee observes that the Ministry has adopted a fragmented approach with regard to matters relating to cybercrimes. The Committee believes that such fragmented approach will not serve the purpose keeping in view the critical nature of the cyber infrastructure with increasing reliance on digital technology. The Committee further opines that cybercrimes and its related matters 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. merits attention in the form of a National Cybercrime Policy. The Committee, therefore, recommends Government to formulate a comprehensive cybercrime policy or legislation in consultation with stakeholders and industry experts.**

PAYMENT SYSTEMS AND FINANCIAL SECURITY

Recommendation/Observation

3.47 *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)*

Action Taken

3.48 It may be noted that section 269SU was inserted in the Income-tax Act *vide* the Finance (No.2) Act, 2019 in furtherance of the policy objective of the Central Government to encourage digital transactions and move for towards a less-cash economy. This section requires every person having a business turnover of more than Rs. 50 crore to mandatorily provide facilities for accepting payments through prescribe electronic modes.

3.49 Subsequently, *vide* notification no. 105/2019 dated 30.12.2019, Debit Card powered by RuPay, Unified Payments Interface (UPI) (BHIM UPI) and UPI Quick Response (QR) Code (BHIM UPI QR Code) have been notified as the prescribed electronic modes under ruled 119AA of the Income-Tax rules. From the above, it can be seen that section 269SU or the rules 119AA only prescribe the modes which a merchant has to necessarily make available to its customers to enable electronic payments.

3.50 Matters relating to MDR on digital payments are covered by Payments and Settlements Systems Act, 2007 which is handled by Department of Financial Services and, thus, comprehensive consultation on this issue is a matter relating to Department of Financial Services.

Further Recommendation/Observation

3.51 The Committee observes that the action taken reply has been furnished to the Committee without referring the recommendation to the appropriate Department. The Committee, therefore, recommends the Department for Promotion of Industry and Internal Trade to refer the recommendation of the Committee to Department of Financial Services and furnish appropriate reply at the earliest.

IPR INFRINGEMENT IN E-MARKETPLACE

Recommendation/Observation

3.52 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)

Action Taken

3.53 The Consumer Protection Act, 2019 defines “Spurious goods” under Section 2(43) as such goods which are falsely claimed to be genuine. Manufacturing of spurious goods or offering such goods for sale constitutes an unfair trade practice under Section 2(47)(vi) of the Act. Further, Section 91 of the Act provides punishment for manufacturing for sale or for storing or selling or distributing or importing spurious goods which includes fine, imprisonment and cancellation of license.

3.54 Under the e-commerce rules, the liabilities of marketplace e-commerce entities include taking reasonable efforts to maintain a record of relevant information allowing for the identification of all sellers who have repeatedly offered goods or services that have previously been removed or access to which has previously been disabled under the Trade Marks Act, 1999 and Copyright Act, 1957.

3.55 In respect to the recommendation that due diligence measures 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 same is outside the purview of IPR Laws.

3.56 Further w.r.t recommendation 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 current legal framework under the relevant IPR Acts, i.e. Copyright Act, 1957 and the Trade Marks Act, 1999. Patents Act, 1970, Design Act, 2000, Geographical Indications Act, 1999 lay out a strong framework for protection of intellectual property rights of a rights holder and provides extensive remedies against acts of infringement extending to infringement in physical commerce and also in e-commerce space. This when read with available provisions under Sec 79 of Information Technology Act, 2000 and IT Intermediary Rules and Guidelines lay out a clear framework for remedies available with right holders to take appropriate action to prevent IP infringement in digital and e-commerce.

3.57 Additionally, department in conjunction with several stakeholders has organised dedicated awareness programmes and social media campaigns to create awareness and educate consumers on counterfeiting of trademarks and copyright piracy and their adverse health and safety impacts and to help consumers distinguish between original and counterfeit products. Some of these steps include:

- a. Anti-piracy videos screened in cinema halls and TV to dissuade people from engaging in piracy.
- b. Series of webinars held on “Anti-Counterfeiting and Enforcement in the wake of Covid-19 disruption in India” to create awareness towards the changing trends of counterfeits and the challenges faced in enforcement.

3.58 Animated videos explaining the importance of IP rights have been produced by the Department for creating public awareness.

Further Recommendation/Observation

3.59 **The Committee observes that the current regulatory framework is restricted to prevention and identification of sellers who have violated rules regarding Intellectual Property Rights. However, there exist gaps in enforcement mechanism with regard to provision for imposing *ex-post* penalty on sellers who have violated the relevant rules. The Committee, therefore, recommends the Department for Promotion of Industry and Internal Trade to develop appropriate mechanism for enforcement of rules related to Intellectual Property Rights in e-commerce space in consultation with the relevant Ministries/Departments.**

LOGISTICS AND ALLIED INFRASTRUCTURE

Recommendation/Observation

3.60 *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)

Action Taken

3.61 Integration of Warehousing Development and Regulatory Authority (WDRA) registration portal with DPIIT National Single Window System (NSWS) has been completed and made live in the month of May, 2022. Now all applications can be received through NSWS in live environment i.e. the application will land on the WDRA portal for further processing immediately on being entered in the NSWS. Further, it is informed that Warehousing Development and Regulatory Authority (WDRA) do not give regulatory approvals for the construction of warehouses. WDRA only registers already constructed warehouses which intend to issue Negotiable Warehouse Receipts (NWRs).

Further Recommendation/Observation

3.62 The Committee observes that the Department has not furnished reply with regard to the recommendations on extending financial incentives to warehousing sector, accelerated adoption of automated warehousing processes and extension of necessary support through increased investment in automation technology. The Committee, therefore, recommends the Department to examine the recommendations of the Committee and furnish revised reply thereto.

Recommendation/Observation

3.63 *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)

Action Taken

3.64 Government of India in December 2020 approved total 32 projects under 11 Industrial Corridor in 4 Phases as part of National Industrial Corridor Programme. The details of relevant corridors as below:

- a) **Hyderabad Bengaluru Industrial Corridor (HBIC):** The proposal of inclusion of HBIC under the ambit of Industrial Corridor Programme of the Government of India was approved by National Industrial Corridor Development and Implementation Trust (NICDIT) in the meeting held on 19th August 2020 on basis of the request from Government of Andhra Pradesh. Under HBIC, a priority node at Orvakal in Andhra Pradesh has been identified for development and project development activities of Detailed Master Planning and Preliminary Engineering have been initiated by the Project Consultants appointed by National Industrial Corridor Development Corporation Limited (NICDCL).
- b) **Hyderabad Warangal and Hyderabad Nagpur Industrial Corridor (HWIC and HNIC):** State Government of Telangana requested Government of India for inclusion of HWIC and HNIC under the aegis of NICDIT Framework and the same was approved in the NICDIT meeting on 19th August 2020. State Government has prepared master planning and cost estimates for the identified priority node of Hyderabad Pharma City under HWIC. However, the project is on hold as the State Government is yet to

confirm their participation with Government of India for development of the Node. Further, Zaheerabad has been identified as priority node in the State of Telengana as part of HNIC for which master planning and cost estimates have been prepared by the State Government. NICDIT in its meeting on 21st September 2021 has approved the proposal for development of Zaheerabad Industrial Area. Share Subscription Agreement (SSA) / Shareholders' Agreement (SHA) for the project is yet to be confirmed by the State Government and balance land acquisition also needs to be expedited by the State Government.

3.65 Recommendations on Railway Coach Factory in Warangal, Integrated Steel Plant at Bayyaram and National Institute of Design do not pertain to Industrial Corridor Section of DPIIT and may be taken up by the respective section/ line ministries.

3.66 There is no proposal as such under consideration for setting up of a Rail Coach Factory at Warangal. Rail Coach Factories in Indian Railways are sanctioned based on the requirement of coaches. Works already sanctioned are sufficient to meet the Indian railway requirement in the near future. However, a workshop for wagon periodic overhaul has been sanctioned for Kazipet at a cost of Rs 521.36 crore. Ministry of Railways has assigned the work to Rail Vikas Nigam Limited (RVNL) and the tendering process is currently on.

Further Recommendation/Observation

3.67 The Committee observes that the reply furnished by the Department for Promotion of Industry and Internal Trade with regard to Railway Coach Factory in Warangal, Integrated Steel Plant at Bayyaram and National Institute of Design is unsatisfactory. The Committee, therefore, recommends the Department to take up the matter with the concerned Department/Ministries and furnish revised reply in this regard.

COMPETITION ISSUES IN E-COMMERCE MARKETPLACE

Recommendation/Observation

3.68 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 web store 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. (Para 16.9)*

Action Taken

3.69 CCI has proposed the following obligations to be followed by e-commerce platforms/ players with significant market power:

- (i) Set out in the platforms' terms and conditions the main search ranking parameters, drafted in plain and intelligible language and keep that description up to date.
- (ii) Set out a clear and transparent policy on data that is collected on the platform, the use of such data by the platform and also the potential and actual sharing of such data with third parties or related entities.
- (iii) Adequate transparency over user review and rating mechanism is necessary for ensuring information symmetry, which is a prerequisite for fair competition. Adequate transparency to be maintained in publishing and sharing user reviews and ratings with the business users.
- (iv) Notify the business users concerned of any proposed changes in terms and conditions. The proposed changes not to be implemented before the expiry of a notice period, which is reasonable and proportionate to the

nature and extent of the envisaged changes and to their consequences for the business users concerned.

- (v) Bring out clear and transparent policies on discounts, including inter alia the basis of discount rates funded by platforms for different products/suppliers and the implications of participation/ nonparticipation in discount schemes.

3.70 Further, as mentioned earlier, an in-house committee has already been set up in CCI to internally explore and study *ex-ante* measures put in place/proposed in foreign jurisdictions for regulating Big Tech; for examining suitability and feasibility thereof for adoption in the domestic framework.

3.71 Certain recommendations, particularly in respect of significant intermediaries/gatekeeper platforms, can be explored after completion of the in-house exploratory study for adoption of *ex-ante* framework for regulating Big Tech, is completed. If the study finds adoption of such framework in Indian context feasible, it may require suitable amendments to the Competition Act, 2002.

3.72 Under the existing e-commerce rules, every marketplace e-commerce entity shall include in its terms and conditions generally governing its relationship with sellers on its platform, a description of any differentiated treatment which it gives or might give between goods or services or sellers of the same category.

3.73 The present recommendation suggests actions to address “competition issues” in e-marketplace irrespective of the platforms being funded by foreign or domestic entities. The competition issues are dealt with under the Competition Act, 2002, as amended from time to time, which is the exclusive domain of Competition Commission of India.

3.74 It may be noted that E-commerce entities with FDI are regulated as per Para 5.2.15.2 of the Consolidated FDI Policy, 2020 (“FDI policy”). FDI Policy is periodically reviewed in consultation with the stakeholders to ensure that the FDI regulatory regime is aligned with the larger economic & financial policy priorities and International developments.

Recommendation/Observation

3.75 *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)

Action Taken

3.76 Under Rule 5(4) of the e-commerce rules:

Every marketplace e-commerce entity shall include in its terms and conditions generally governing its relationship with sellers on its platform, a description of any differentiated treatment which it gives or might give between goods or services or sellers of the same category

3.77 The steps recommended by the committee to improve transparency have been noted.

3.78 The Government introduced The Personal Data Protection Bill, 2019 in Parliament during winter session in year 2019. The Bill was referred to Joint Committee of Parliament and the Joint Committee of Parliament has tabled its report on The Personal Data Protection Bill, 2019 in Parliament in December, 2021. The report and the Bill were under examination in the ministry. Now, The Personal Data Protection Bill, 2019' ('The Data Protection Bill, 2021' as reported by Joint Committee of Parliament) has been withdrawn on 03.08.2022 in recently concluded Monsoon session of Parliament.

3.79 As per the Information Technology Act, 2000, e-commerce marketplaces are generally considered as intermediaries. Government has notified the Information Technology (Intermediary Guidelines and Digital Media Ethics Code) Rules, 2021 under the Information Technology Act, 2000. These Rules require that the intermediaries follow certain due diligence as prescribed. They are required to publish privacy policy and terms of use of their platform.

Further Recommendation/Observation on Para 16.9 & 16.10

3.80 The Committee recommends that the proposal made by CCI with regard to obligations to be fulfilled by e-commerce platforms/ players with

significant market power should be implemented to the letter. The Committee further recommends that the previous recommendations of the Committee at Para 16.9 and Sl. No (iv) of Para 16.10 should also be implemented to address competition issues in e-marketplace.

E-COMMERCE EXPORTS

Recommendation/Observation

3.81 *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)

Action Taken

3.82 It is pertinent to note that SEZs set up after the enactment of SEZ Act, 2005 are primarily private investment driven initiatives. Accordingly, SEZ division can share knowledge and guidance with respect to the policy related aspects for setting up of SEZs and can facilitate any proposal received in this regard as per due process.

3.83 Further, SEZ division supports the recommendation for undertaking a study on the feasibility and practicality of setting up EEZs as the study will inform about the legal, and policy changes required and the challenges in setting up EEZs.

Further Recommendation/Observation

3.84 The Committee notes that the Special Economic Zones (SEZ) division is in agreement with the recommendation of the Committee. The Committee, therefore, recommends the Department for Promotion of Industry and Internal Trade along with the Department of Commerce to undertake a study on the feasibility and practicality of setting up EEZs in the top export clusters in India at the earliest.

Recommendation/Observation

3.85 *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)

Action Taken

3.86 The observations of the Committee are duly noted. CBIC has amended the Courier Imports and Exports (Electronic Declaration and Processing) Regulations, 2010 to allow re-import of Jewellery in courier mode *vide* Notification No. 57/2022-Customs (N.T.) dated 30.06.2022. A Circular No. 09/2022 dated 30th June 2022 has also been issued specifying the Standard Operating Procedure (SOP) for handling of Jewellery in courier mode. Fields have been introduced in the Courier Bill of Entry and Courier Shipping Bill Forms to capture e-commerce transaction identifiers. For exports through Postal mode e-commerce export data is already captured in the form prescribed.

3.87 Further, amendments to the Bill of Entry and Shipping Bill forms for cargo mode for capturing e-commerce related data is being taken up for examination.

Further Recommendation/Observation

3.88 The Committee observes that the reply furnished by the Department is not in consonance with the recommendation of the Committee. The recommendation of the Committee pertains to identification and differentiation of imported products and products which are being returned after exports while the Department furnished reply with regard to allowing re-import of Jewellery in courier mode. The Committee, therefore, recommends the CBIC to furnish revised reply to the recommendation made by the Committee.

ON-BOARDING MSMEs: DIGITAL LITERACY AND SKILLING Recommendation/Observation

3.89 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)

Action Taken

3.90 Media and Entertainment Skills Council (MESC) has developed NSQF-aligned Qualification for skilling on digital marketing, social media, graphic

design, content strategist, advertising, IP Management, etc. Apart from this, the online platform of MESC such as Vidyadaan and Creative Warriors provides awareness sessions and online skilling respectively. The orientation training covers aspect of digital uses like digital payment, digital security, and online uses of banking services.

Further Recommendation/Observation

3.91 The Committee notes that Government has taken measures to augment the presence of MSMEs and local stores on e-commerce platforms. The Committee, however, opines that leveraging the technical and procedural expertise of industry stakeholders will supplement the steps taken by Government. The Committee, therefore, reiterates its recommendation 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 be included in the upcoming e-commerce policy.

SUMMATION

Recommendation/Observation

3.92 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)

Action Taken

3.93 The Draft of National e-Commerce policy is at the stage of inter-ministerial consultations.

Recommendation/Observation

3.94 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)

Action Taken

3.95 The Draft National e-Commerce policy is at the stage of inter-ministerial consultations. The issues related to ownership of data, sharing of data and spelling

out the roles and responsibility of stakeholders are the domain of Ministry of Electronics and Information Technology (MeitY).

Further Recommendation/Observation on Para 21.3 & 21.9

3.96 The Committee notes that the Draft National E-Commerce Policy is at the stage of inter-ministerial consultations and could not be finalised till date. The Committee reiterates its observation and recommendation 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 for e-commerce sector. Any further delay in formulating and notifying a dedicated policy may further accentuate the prevailing issues in the fast paced digital market. The Committee, therefore, urges the Department for Promotion of Industry and Internal Trade to finalise the draft National E-Commerce Policy at the earliest.

Recommendation/Observation

3.97 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)

Action Taken

3.98 Provisions on protection of personal data of consumers would be in line with the provisions of the upcoming Personal Data Protection Bill.

3.99 As per the Information Technology Act, 2000, e-commerce marketplaces are generally considered as intermediaries. Government has notified the Information Technology (Intermediary Guidelines and Digital Media Ethics Code) Rules, 2021 under the Information Technology Act, 2000. These Rules require that the intermediaries follow certain due diligence as prescribed. They are required to publish privacy policy and terms of use of their platform. As per the said Rules, any intermediaries shall provide robust grievance redressal mechanism.

Further Recommendation/Observation

3.100 The Committee observes that no reply has been furnished with regard to inclusion of pro-customer regulatory framework and institution of a robust grievance redressal mechanism, anti-counterfeiting and anti-piracy measures, customer support services, timely delivery of products along with easy return and replacement policy in the e-commerce policy. The Committee, therefore,

recommends the Department for Promotion of Industry and Internal Trade to furnish replies on the above matters.

Recommendation/Observation

3.101 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)

Action Taken

3.102 The Code on Social Security, 2020 (36 of 2020) has been enacted by the Government, which subsumes 9 Central labour laws relating to Employee's Provident Funds, Employees' State Insurance, Unorganised Workers, Gratuity, Maternity Benefit, Employee's compensation, etc. This code envisages extending social security to all employees and workers either in the organised and unorganised or any other sectors. Further, it also envisages that the Central Government to frame any other scheme or schemes for the purposes of providing social security benefits under this code to self-employed workers or any other class of persons.

3.103 There is no definition of gig workers in the existing Central labour laws. However, the Code on Social Security, 2020, for the first time, defines gig workers and platform workers. The Code on Social Security, 2020 envisages framing of suitable social security schemes for gig workers and platform workers on matter relating to life and disability cover, accident insurance, health and maternity benefits, old age protection, etc. It is provided in the Code on Social Security Fund and one of the sources of fund, is contribution from aggregators between 1 to 2 per cent of annual turnover of an aggregator subject to the limit of 5 per cent of the amount paid by an aggregator to such workers. Further, the Government has launched e-Shram portal on 26.08.2021 for registration and creation of a Comprehensive National Database of Unorganised Workers including gig and platform workers. It allows a person to register himself or herself on the portal on self-declaration basis, which is spread across around 400 occupations.

3.104 The matter under reference was referred to Insurance Regulatory and Development Authority of India (IRDAI) for comments and IRDAI has supported

the views of the Committee to recommend e-commerce companies to extend the social security benefits including necessary insurance solutions to the targeted segment referred therein and the companies may be encouraged to offer Personal Accident, Health Insurance and Life insurance covers to their employees as part of their pay package/ remuneration. IRDAI has further informed that they have put in place necessary framework to offer insurance cover to employees on a group platform, which can be considered by e-commerce companies to offer insurance coverage to its employees.

3.105 In this regard, it is submitted that Group insurance is an important activity of insurance business and the schemes offered by the insurance companies provide certain classes of individuals, the advantage of a beneficial coverage at a moderate cost wherein a group should consist of persons who come together with a commonality of purpose, other than insurance, or engaging in a common economic activity.

3.106 IRDAI has further informed that as per their records, through group insurance platform, some of insurance companies have so far insured 43.56 lakh employees of e-commerce companies under health insurance covers and another 6.28 lakh employees of e-commerce companies under personal accident policies. Many life insurance companies too are offering insurance covers to employees of unorganised sector.

Further Recommendation/Observation

3.107 The Committee recommends that the provisions listed in the Code on Social Security, 2020 (36 of 2020) relating to the contractual, platform and gig workers should be implemented at the earliest. The Committee also takes note of the observation of the Insurance Regulatory and Development Authority of India (IRDAI) and recommends Government to draw up enabling provisions for compulsory extension of social security benefits by e-commerce companies to gig and platform workers. The Committee also observes that reply has not been furnished with regard to incorporation of skill development strategy in the e-commerce policy. The Committee, therefore, recommends the Department for Promotion of Industry and Internal Trade to furnish revised reply in this regard.

CHAPTER – IV

RECOMMENDATIONS/OBSERVATIONS IN RESPECT OF WHICH FINAL REPLIES OF THE GOVERNMENT ARE STILL AWAITED

PAYMENT SYSTEMS AND FINANCIAL SECURITY

Recommendation/Observation

4.1 *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)

Action Taken

4.2 Comments from Department of Financial Services are still awaited.

RECOMMENDATIONS/ OBSERVATIONS - AT A GLANCE

GAPS IN CURRENT REGULATORY REGIME

1. The Committee notes that resolution of the above-mentioned recommendations of the Committee lies in the enactment of the Competition Amendment Bill. The Committee also observes that the delay in finalisation and passage of the Competition Amendment Bill might have far reaching adverse and irreversible implications for competition in digital markets in India. The Committee, therefore, recommends the Ministry of Corporate Affairs to take concerted efforts to finalise and get the bill enacted at the earliest. The Committee further recommends that necessary provisions should be incorporated in the amendment bill to empower and enable the Competition Commission of India (CCI) as well as the Digital and Markets and Data Unit (DDMU) to effectively regulate the fast paced digital market taking into account the present day realities. (Para 3.22)

2. The Committee observes that online sale of medicines has not been regulated despite objections and concerns raised by stakeholders. The Committee further notes that no decisions have been taken on the recommendations made by Group of Ministers (GoM). The Committee opines that delay in such crucial policy matter is not conducive to the fast paced digital market. The Committee, therefore, reiterates its recommendation and urges the Ministry of Health and Family Welfare to notify E-Pharmacy Rules and formulate comprehensive guidelines with regard to e-pharmacy/e-health platforms. (Para 3.28)

INFORMATION AND COMMUNICATIONS TECHNOLOGY (ICT) INFRASTRUCTURE AND CYBER SECURITY

3. The Committee has been informed by the Department for Promotion of Industry and Internal Trade that the Personal Data Protection Bill, 2019 was withdrawn on 3rd August, 2022 which has further delayed the enactment of a dedicated data protection regulation at a time when there is an urgent requirement for a robust data policy. The Committee feels that this delay in enactment of the Bill will have an adverse impact on economy on account of failure to capitalise on the virtual treasure trove that data has provided, as absence of a clear cut data regulatory framework could also hinder the maximum exploitation of data which is considered as the new oil. The Committee, therefore, recommends the Ministry of Electronics and Information Technology to make concerted efforts to formulate a data policy with regard to personal and non-personal data. (Para 3.38)

4. The Committee appreciates the proactive measures taken by the Ministry in the field of various emerging technologies such as Internet of Things (IoT), Artificial Intelligence, Block chain, Augmented Reality (AR)

and Virtual Reality (VR) Gaming & Visual Effects (VFX), etc. The Committee opines that advancement made in the above-mentioned fields will go hand in hand with the requirement of more data storage centres. The Committee, therefore, reiterates its recommendation and urges the Ministry of Electronics and Information Technology to constitute an expert body to prepare a roadmap for expansion of data centres and server farms in the country and to lay down domestic standards of data infrastructure such as towers and tower stations, equipment, optical wires, signal transceivers, antennae, and smart devices, etc. (Para 3.41)

5. The Committee observes that the Ministry has adopted a fragmented approach with regard to matters relating to cybercrimes. The Committee believes that such fragmented approach will not serve the purpose keeping in view the critical nature of the cyber infrastructure with increasing reliance on digital technology. The Committee further opines that cybercrimes and its related matters 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. merits attention in the form of a National Cybercrime Policy. The Committee, therefore, recommends Government to formulate a comprehensive cybercrime policy or legislation in consultation with stakeholders and industry experts. (Para 3.46)

PAYMENT SYSTEMS AND FINANCIAL SECURITY

6. The Committee observes that the action taken reply has been furnished to the Committee without referring the recommendation to the appropriate Department. The Committee, therefore, recommends the Department for Promotion of Industry and Internal Trade to refer the recommendation of the Committee to Department of Financial Services and furnish appropriate reply at the earliest. (Para 3.51)

IPR INFRINGEMENT IN E-MARKETPLACE

7. The Committee observes that the current regulatory framework is restricted to prevention and identification of sellers who have violated rules regarding Intellectual Property Rights. However, there exist gaps in enforcement mechanism with regard to provision for imposing *ex-post* penalty on sellers who have violated the relevant rules. The Committee, therefore, recommends the Department for Promotion of Industry and Internal Trade to develop appropriate mechanism for enforcement of rules related to

Intellectual Property Rights in e-commerce space in consultation with the relevant Ministries/Departments. (Para 3.59)

LOGISTICS AND ALLIED INFRASTRUCTURE

8. The Committee observes that the Department has not furnished reply with regard to the recommendations on extending financial incentives to warehousing sector, accelerated adoption of automated warehousing processes and extension of necessary support through increased investment in automation technology. The Committee, therefore, recommends the Department to examine the recommendations of the Committee and furnish revised reply thereto. (Para 3.62)

9. The Committee observes that the reply furnished by the Department for Promotion of Industry and Internal Trade with regard to Railway Coach Factory in Warangal, Integrated Steel Plant at Bayyaram and National Institute of Design is unsatisfactory. The Committee, therefore, recommends the Department to take up the matter with the concerned Department/Ministries and furnish revised reply in this regard. (Para 3.67)

COMPETITION ISSUES IN E-COMMERCE MARKETPLACE

10. The Committee recommends that the proposal made by CCI with regard to obligations to be fulfilled by e-commerce platforms/ players with significant market power should be implemented to the letter. The Committee further recommends that the previous recommendations of the Committee at Para 16.9 and Sl. No (iv) of Para 16.10 should also be implemented to address competition issues in e-marketplace. (Para 3.80)

E-COMMERCE EXPORTS

11. The Committee notes that the Special Economic Zones (SEZ) division is in agreement with the recommendation of the Committee. The Committee, therefore, recommends the Department for Promotion of Industry and Internal Trade along with the Department of Commerce to undertake a study on the feasibility and practicality of setting up EEZs in the top export clusters in India at the earliest. (Para 3.84)

12. The Committee observes that the reply furnished by the Department is not in consonance with the recommendation of the Committee. The recommendation of the Committee pertains to identification and differentiation of imported products and products which are being returned after exports while the Department furnished reply with regard to allowing re-import of Jewellery in courier mode. The Committee, therefore, recommends the CBIC to furnish revised reply to the recommendation made by the Committee. (Para 3.88)

ON-BOARDING MSMEs: DIGITAL LITERACY AND SKILLING

13. The Committee notes that Government has taken measures to augment the presence of MSMEs and local stores on e-commerce platforms. The Committee, however, opines that leveraging the technical and procedural expertise of industry stakeholders will supplement the steps taken by Government. The Committee, therefore, reiterates its recommendation 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 be included in the upcoming e-commerce policy. (Para 3.91)

SUMMATION

14. The Committee notes that the Draft National E-Commerce Policy is at the stage of inter-ministerial consultations and could not be finalised till date. The Committee reiterates its observation and recommendation 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 for e-commerce sector. Any further delay in formulating and notifying a dedicated policy may further accentuate the prevailing issues in the fast paced digital market. The Committee, therefore, urges the Department for Promotion of Industry and Internal Trade to finalise the draft National E-Commerce Policy at the earliest. (Para 3.96)

15. The Committee observes that no reply has been furnished with regard to inclusion of pro-customer regulatory framework and institution of a robust grievance redressal mechanism, anti-counterfeiting and anti-piracy measures, customer support services, timely delivery of products along with easy return and replacement policy in the e-commerce policy. The Committee, therefore, recommends the Department for Promotion of Industry and Internal Trade to furnish replies on the above matters. (Para 3.100)

16. The Committee recommends that the provisions listed in the Code on Social Security, 2020 (36 of 2020) relating to the contractual, platform and gig workers should be implemented at the earliest. The Committee also takes note of the observation of the Insurance Regulatory and Development Authority of India (IRDAI) and recommends Government to draw up enabling provisions for compulsory extension of social security benefits by e-commerce companies to gig and platform workers. The Committee also observes that reply has not been furnished with regard to incorporation of skill development strategy in the e-commerce policy. The Committee, therefore, recommends the Department for Promotion of Industry and Internal Trade to furnish revised reply in this regard. (Para 3.107)

MINUTES

V*
FIFTH MEETING

The Department Related Parliamentary Standing Committee on Commerce met at 04.30 P.M. on Monday, the 6th February, 2023 in Committee Room 'A', Ground Floor, Parliament House Annexe, New Delhi.

MEMBERS PRESENT

1. Dr. Abhishek Manu Singhvi — *Chairman*

RAJYA SABHA

2. Shri Ayodhya Rami Reddy Alla
3. Shrimati Priyanka Chaturvedi
4. Shri Jayant Chaudhary
5. Shri Jugalsinh Lokhandwala
6. Shri Dhananjay Bhimrao Mahadik
7. Shri Deepak Prakash
8. Shri Vikramjit Singh Sahney
9. Shri K. Vanlalvena

LOK SABHA

10. Shri Prasun Banerjee
11. Shri Raju Bista
12. Shri Rajkumar Chahar
13. Dr. Nishikant Dubey
14. Shri Manoj Kishorbhai Kotak
15. Shrimati Manjulata Mandal
16. Shri Nakul K. Nath
17. Dr. Gautham Sigamani Pon
18. Shri Arvind Ganpat Sawant

SECRETARIAT

Shrimati Kusum Sudhir, Joint Secretary
Shrimati Nidhi Chaturvedi, Additional Director
Shri Kuldip Singh, Under Secretary
Shri Raghubir Singh, Committee Officer

2. At the outset, the Chairman welcomed the Members to the meeting and informed them about the agenda of the meeting. The Committee, then, took up for consideration and adoption the following draft Reports:

- (i) Draft 176th Report on Action Taken by Government on the Recommendations/ Observations of the Committee contained in its

* 1st to 4th Meetings pertain to other matters.

One Hundred and Seventy Second Report on 'Promotion and Regulation of E-Commerce in India';

(ii) * * *

(iii) * * *

3. After some discussion, the Committee decided to adopt the draft 176th *** Report with some modifications/alterations and authorised the Chairman to make modifications. * * *

The Committee also authorised the Chairman to decide the date of presentation of the Reports.

4. * * *

5. The Committee then adjourned at 5.53 P.M.

*** Pertains to other matters.

X*
TENTH MEETING

The Department Related Parliamentary Standing Committee on Commerce met at 04.30 P.M. on Thursday, the 23rd March, 2023 in Committee Room 'A', Ground Floor, Parliament House Annexe, New Delhi.

MEMBERS PRESENT

1. Shrimati Priyanka Chaturvedi — *In the chair*

RAJYA SABHA

2. Shri Ayodhya Rami Reddy Alla
3. Shri Jugalsinh Lokhandwala
4. Shri Dhananjay Bhimrao Mahadik

LOK SABHA

5. Shri Raju Bista
6. Shri Rajkumar Chahar
7. Shri Rameshbhai Lavjibhai Dhaduk
8. Dr. Nishikant Dubey
9. Shri Santosh Kumar Gangwar
10. Shri Manoj Kishorbhai Kotak
11. Shri Magunta Sreenivasulu Reddy
12. Shri Arvind Ganpat Sawant

SECRETARIAT

Shrimati Kusum Sudhir, Joint Secretary
Shrimati Nidhi Chaturvedi, Additional Director
Shri Kuldip Singh, Under Secretary
Shri Raghubir Singh, Committee Officer

2. In the absence of Chairman, Smt Priyanka Chaturvedi, M.P, Rajya Sabha, who had been authorised by the Chairman presided over the meeting. At the outset, the Chairman welcomed the Members of the Committee to the meeting and informed them about agenda of the meeting. * * *

3. The Committee also decided that along with Draft 180th Report, the following draft reports which were adopted by the Committee in its previous meetings held on 06.02.2023 * * * may also be presented/laid to both the Houses of Parliament:

* 6th to 9th Meetings of the Committee pertains to other matters.

*** Pertains to other matters.

i) Draft One Hundred and Seventy Sixth Report on Action Taken by Government on the Recommendations/ Observations of the Committee contained in its One Hundred and Seventy Second Report on 'Promotion and Regulation of E-Commerce in India' adopted on 06.02.2023;

- ii) * * *
- iii) * * *
- iv) * * *

4. The Committee, thereafter, decided that the above Reports will be presented by Shri Dhananjay Bhimrao Mahadik, M.P in the absence of the Chairman or by Shri Ayodhya Rami Reddy Alla, M.P in case of absence of both the Chairman and Shri Dhananjay Bhimrao Mahadik, M.P in Rajya Sabha on 24th March, 2023. It was also decided that Dr. Nishikant Dubey, M.P and in his absence Shri Rajkumar Chahar, M.P. will lay the Reports in the Lok Sabha on 24th March, 2023.

5. The Committee then adjourned at 5.30 P.M.

*** Pertains to other matters.