Discussion Paper on
E-commerce in India

Introduction:

E-commerce in recent times has been growing rapidly across the world. According to Report of Digital–Commerce, IAMAI-IMRB (2013), e-commerce industry in India has witnessed a growth of US$ 3.8 billion in the year 2009 to US$ 9.5 billion in 2012. By 2013, the market is expected to reach US$12.6 billion, showing year to year growth of 34%. Industry sources indicate that this growth can be sustained over a longer period of time as e-commerce will continue to reach new geographies and encompass new markets. E-commerce means sale or purchase of goods and services conducted over network of computers or TV channels by methods specifically designed for the purpose. Even though goods and services are ordered electronically, payments or delivery of goods and services need not be conducted online. E-commerce transaction can be between businesses, households, individuals, governments and other public or private organizations. There are numerous types of e-commerce transactions that occur online ranging from sale of clothes, shoes, books etc. to services such as airline tickets or making hotel bookings etc.

1.2 The bookings done through electronic communication could be Business to Business (B2B) or Business to Consumer (B2C). **Business to Business i.e. B2B** is e-commerce between businesses such as between a manufacturer and a wholesaler or between a wholesaler and a retailer. As per the WTO report WT/COMTD/W/193, global B2B transactions comprise 90% of all e-commerce. According to research conducted by USA based International Data Corporation, it is estimated that global B2B commerce, especially among wholesalers and distributors amounted to US$12.4 trillion at the end of 2012.

1.3 The bookings done electronically between **Business to Consumer** for purchase or sale of goods and services is known as **B2C e-commerce.** Although B2C e-commerce receives a lot of attention, B2B transactions far exceed B2C transactions. According to IDC, global B2C transactions are estimated to have reached US$ 1.2 trillion at the end of 2012, ten times less than B2B transactions. B2C e-Commerce entails business selling to general public/ e-catalogues that make use of shopping place. There are several variants in B2C model that operate in e-commerce arena.

1.4 From the point of view of business, there are two models of e-commerce. First model is known as 'Market Place' model, which works like exchange for buyers and sellers. The 'Market Place' provides a platform for business transactions between buyers and sellers to take place and in return for the services provided, earns commission from sellers of goods/services. Ownership of the inventory in this model vests with the number of enterprises which advertise their products on the website and are ultimate sellers of goods or services. The 'Market Place', thus, works as a facilitator of e-commerce. Different from the 'Market Place' model is the second category of business known as 'Inventory Based' model. In this model, ownership of goods and services and market place vests with the same entity. This model does not work as a facilitator of e-commerce, being delineated therefrom, but is engaged in e-commerce directly.

2. Status of the global e-commerce industry:

2.1 According to a report by the Interactive Media in Retail Group (IMRG), a U.K. online retail trade organization, Global business-to-consumer e-commerce sales will pass the **US$ 1,250 billion mark by 2013**, and the total number of Internet users will increase to approximately 3.5 billion. Around 90% of the global e-commerce transactions are in the nature of B2B, leaving meager 10% as B2C e-commerce.

2.2 The biggest e-commerce markets are U.S.A. followed by U.K. and Japan. In Asia, China, India and Indonesia are the fastest growing e-commerce markets. Major global e-Commerce companies are Alibaba.com, Amazon.com, Walmart, Apple, Dell, e-bay, Mercadolibre Inc., Rakuten Inc., Crate & Barrel, Symantec, Autozone, Microsoft, Gap, Nike, Disney stores, HP, ASOS PLC, Blue Nile Inc. etc.

3. E-commerce in emerging economies:

3.1 Middle class in many of the developing countries, including India, is rapidly embracing online shopping. However, India falls behind not only US, China and Australia in terms of Internet density, but also countries like Sri Lanka and Pakistan. Sri Lanka has an internet penetration of 15 percent. Better internet connectivity and the presence of an internet-savvy customer segment have led to growth of e-commerce in Sri Lanka with an existing market size of USD 2 billion. Pakistan, with an internet penetration of 15 percent has an existing market size of consumer e-commerce of USD 4 billion. Incidentally FDI in inventory-based consumer ecommerce is allowed in both these countries. (IAMAI-KPMG report, September 2013).

3.2 A.T. Kearney's 2012 E-Commerce Index examined the top 30 countries in the 2012 Global Retail Development Index™ (GRDI). Using 18 infrastructure, regulatory, and retail-specific variables, the Index ranks the top 10 countries by their e-commerce potential. The 2012 E-Commerce Index of emerging economies is given as under:

E-Commerce Index rank	**2012 GRDI rank**	**Country**	**Region**	**Online market attractiveness (50%)**	**Online Infrastructure Establish-ment (20%)**	**Digital laws and regu-lations (15%)**	**Retail Development (15%)**	**2012**
1	3	China	Asia	100	56	56	58	78
2	1	Brazil	Latin America	84	56	67	90	77
3	26	Russia	Eastern Europe	83	39	23	48	60
4	2	Chile	Latin America	35	78	100	71	59
5	28	Mexico	Latin America	53	41	75	26	50
6	7	United Arab Emirates	Middle East	22	100	77	49	50
7	11	Malaysia	Asia	27	78	79	46	48
8	4	Uruguay	Latin America	23	40	71	100	45
9	13	Turkey	Eastern Europe	25	76	65	33	43
10	8	Oman	Middle East	13	61	97	51	41

0= low attractiveness 0 = poor infrastructure 0 = no digital laws 0 = undeveloped retail market 100 = developed retail market

100 = high attractiveness 100 = developed infrastructure 100 = strong digital laws 100 = developed retail market
Sources : Euromnitor, International Telecommunication Union, Planet Retail, World Bank, Economic Forum; A.T.Kenney

3.3 Following are some other major findings of the Index:

i) China occupies first place in the Index. The G8 countries (Japan, United States, United Kingdom, Germany, France, Canada, Russia, and Italy) all fall within the Top 15.

ii) Developing countries feature prominently in the Index. Developing countries hold 10 of the 30 spots, including first-placed China. These markets have been able to shortcut the traditional online retail maturity curve as online retail grows at the same time that physical retail becomes more organized. Consumers in these markets are fast adopting behaviors similar to those in more developed countries.

iii) Several "small gems" are making an impact. The rankings include 10 countries with populations of less than 10 million, including Singapore, Hong Kong, Slovakia, New Zealand, Finland, United Arab Emirates, Norway, Ireland, Denmark, and Switzerland. These countries have active online consumers and sufficient infrastructure to support online retail.

iv) India is not ranked. India, the world's second most populous country at 1.2 billion, does not make the Top 30, because of low internet penetration (11 percent) and poor financial and logistical infrastructure compared to other countries.

3.4 It is seen that countries making in the top list of the table of e-commerce have required technologies coupled with higher internet density, high class infrastructure and suitable regulatory framework. India needs to work on these areas to realize true potential of e-commerce business in the country.

4. Status of e-commerce sector in India:

4.1 As already mentioned above, growth of e-commerce industry has been phenomenally high. However, its growth is dependent on a number of factors and most important of them is internet connectivity. As per Forrester McKinsey report of 2013, India has 137 million internet users with penetration of 11%. Total percentage of online buyers to internet users is 18%. Compared to India, China, Brazil, Sri Lanka and Pakistan have internet population of 538 (40%), 79 (40%), 3.2 (15%) and 29 (15%) millions respectively. Therefore, lower internet density continues to remain a challenge for e-commerce.

4.2 According to Report of Digital–Commerce, IAMAI-IMRB (2013), e-commerce is growing at the CAGR of 34% and is expected to touch US$ 13 billion by end of 2013. However, travel segment constitutes nearly 71% of the transactions of consumer e-commerce industry, meaning thereby that e-tailing has not taken of in India in any meaningful way. Share of e-tail has grown at the rate of 10% in 2011 to 16% in 2012.

4.3 Industry surveys suggest that e-commerce industry is expected to contribute around 4 percent to the GDP by 2020. In comparison, according to a NASSCOM report, by 2020, the IT-BPO industry is expected to account for 10% of India's GDP, while the share of telecommunication services in India's GDP is expected to increase to 15 percent by 2015. With enabling support, the e-commerce industry too can contribute much more to the GDP.

4.4 Around 90% of the global e-commerce transactions are stated to be in the nature of B2B, leaving meagre 10% as B2C e-commerce. Case of India is no different where most of such transactions are in the nature of B2B. Moreover Indian e-commerce industry is characterized by 'Market Place' model. It allows large number of manufacturers/traders especially MSMEs to advertise their products on the 'Market Place' and benefit from increased turnover.

4.5 The growing e-commerce industry can have a positive spillover effect on associated industries such as logistics, online advertising, media and IT/ITES. Currently e-commerce accounts for 15-20 percent of the total revenues for some of the big logistics companies. The revenue for logistics industry from inventory based consumer e-commerce alone may grow by 70 times to USD 2.6 Billion (INR 14,300 crores) by 2020. Currently, the inventory based consumer e-commerce model alone provides direct employment to approximately 40,000 people and is estimated to create 1 million direct and another 0.5 million indirect jobs by 2020. Low entry barriers have attracted many young and enterprising individuals to try their hand at entrepreneurship. A significant 63% of e-commerce ventures have been started by first time entrepreneurs. Indian e-commerce industry is in nascent stage and is nowhere in the league of big global players. Major domestic e-commerce companies are Flipkart, Snapdeal, Fashionandyou, Myntrainkfruit, Dealsandyou, Homeshop18 etc.

4.6 Although many factors support the growth of e-commerce in India, the fledgling industry is faced with significant hurdles with respect to infrastructure, governance and regulation. Low internet penetration of 11 percent impedes the growth of e-commerce by limiting the internet access to a broader segment of the population. Poor last mile connectivity due to missing links in supply chain infrastructure is limiting the access to far flung areas where a significant portion of the population resides. High dropout rates of 25-30 percent on payment gateways, consumer trust deficit and slow adoption of online payments are compelling e-commerce companies to rely on costlier payment methods such as Cash on Delivery (COD).

4.7 As stated earlier, over 70% of all consumer e-commerce transactions in India are travel related, comprising mainly of online booking of airline tickets, railway tickets and hotel bookings. The biggest players in the travel category are Makemytrip.com, Yatra.com and the IRCTC website for railway bookings. Non-travel related online commerce comprises 25-30 percent of the B2C e-Commerce market. The unfettered growth of online travel category has been possible because the regulatory and infrastructure issues do not impede its growth. Also, it does not face the infrastructure challenges since the goods need not be transferred physically.

5. Existing regulations on e-commerce in the country:

5.1 As per extant FDI policy, FDI, up to 100%, under the automatic route is permitted in B2B 'e-commerce activities'. The relevant paragraph 6.2.16.2.1 of 'Circular 1 of 2013-Consolidated FDI Policy', effective from 05 April, 2013, is given below:

"E-commerce activities refer to the activity of buying and selling by a company through the e-commerce platform. Such companies would engage only in Business to Business (B2B) e-commerce and not in retail trading, *inter-alia* implying that existing restrictions on FDI in domestic trading would be applicable to e-commerce as well."

Paragraphs 6.2.16.4 (2) (f) and 6.2.16.5(1) (ix) further provide that " Retail trading, in any form, by means of e-commerce, would not be permissible, for companies with FDI, engaged in the activity of single brand retail trading or multi-brand retail trading." As such, extant FDI policy does not permit FDI in B2C e-commerce.

5.2 **Information Technology Act, 2000** provides legal recognition for transactions carried out by means of electronic data interchange and other means of electronic communication, commonly referred to as "electronic commerce", which involve the use of alternatives to paper-based methods of communication and storage of information, to facilitate electronic filing of documents with the Government agencies.

5.3 India has the **Consumer Protection Act 1986**. However, nothing in the Act refers explicitly to e-commerce consumers. It provides for regulation of trade practices, creation of national and state level Consumer Protection Councils, consumer disputes redressal forums at the National, State and District level to redress disputes, class actions and for recognized consumer associations to act on behalf of the consumers. The Act provides a detailed list of unfair trade practices, but it is not exhaustive.

5.4 The legal requirements for undertaking e-commerce in India also involve compliance with other laws like Contract Law, Indian Penal Code, etc. Further, online shopping in India also involves compliance with the banking and financial norms applicable in India. For instance, take the example of PayPal in this regard. If PayPal has to allow online payments receipt and disbursements for its existing or proposed e-commerce activities, it has to take a license from Reserve Bank of India (RBI) in this regard. Further, cyber due diligence for Paypal and other online payment transferors in India is also required to be observed.

6. FDI in B2C e-commerce:

6.1 In recent months there has been a lot of interest and debate around permitting FDI in B2C e-commerce. While its proponents perceive enormous benefit, there is no dearth of people who have serious apprehensions to this proposition. In response to news reports appearing in print and electronic media, a number of representations have been received in this Department from different stakeholders. Their broad points of view are described in the following paragraphs.

6.2 A national level **body of internet and mobile phone companies**, highlighting the challenges as regulatory restriction to raise funds from foreign PE/VC, has suggested a caveat based approach to allowing FDI in the sector. Another national body of software and IT companies has made persuasive case for allowing FDI in B2C e-commerce. It is stated that e-commerce can be aligned to the objectives of national development by providing impetus to manufacturing sector, order consolidation and distribution, facilitating and supporting SMEs, improving outreach and access to buyers/sellers, bringing traceability and transparency in transactions, empowering consumers with information and data and finally creating new job opportunities. **One body of industries** has stated that MSMEs / traders are currently benefitting from e- commerce in India and there is huge scope of further involvement and growth of MSMEs / traders with further boost to e-commerce. Even small traders have enhanced their coverage by using e-commerce platforms like JustDial, Quikr etc. **An international council** has stated that India could reap enormous and nearly immediate benefits by creating an exemption from its retail FDI rules to permit the unrestricted marketing of retail goods through e-commerce.

6.3 A national **body of traders** has strongly opposed allowing any FDI in e-commerce. They have stated that Indian market is not yet ready for opening up e-retail space to foreign investors. Small time trading or opening corner stores still remains a large source of employment. FDI in the sector will have disastrous impact on this domestic industry leading to monopolies in e-commerce, manufacturing, logistics, retail sector etc. and causing large scale unemployment. Because of scale of economic operations, e-commerce players will have more bargaining powers than standalone traders. Allowing FDI in e-commerce will provide e-commerce players with complete geographical reach, which will be against the spirit of FDI in multi brand retail trade i.e. being restricted to cities with a population of more than one million in consenting states or any other city of their choice. Moreover, Indian e-commerce industry which is at a nascent stage of development will be seriously threatened.

6.4 Representations have also been received from certain multinational companies. One such MNC engaged in the inventory based e-commerce has stated that open and deregulated e-commerce sector would create new markets for small businesses/entrepreneur and help them scale at almost no cost and generate employment through investment/innovation in supply chain management, warehousing, logistic services and other ancillary sector. It is suggested that in order to bring much-needed parity between e-commerce and recently liberalized brick and mortar retail trade policy, enabling greater inclusion of remote consumers and small businesses, a separate policy framework for FDI in e-commerce that relies on nuanced, functionality-based treatment of e-commerce platforms in their various existent forms could be considered. Another MNC which also operates front end stores is in favour of opening the sector to FDI. However, another MNC engaged in 'Market Place' model of e-commerce having presence in the country since last few years has not given any views on opening of FDI for inventory based B2C e-commerce. It may be mentioned that FDI in Market Place model is already present in the country.

6.4.1 As regards domestic e-commerce companies, their views appear to be divided. This is on account of varying commercial considerations of entrepreneurs i.e. opting to stay in or exiting out of business, capital requirement, choosing between financial and strategic investment etc. One of the leading domestic companies has stated that India's e-commerce industry has been developed by first time Indian entrepreneurs with active participation from the PE / VC industry which has infused approx. US$ 2 billion in India's fledgling e-commerce industry over the last 2 years. It is stated that the outlined need for foreign capital in this industry can be met by VCs and PEs which are willing to invest. Therefore, it is suggested that foreign capital in the inventory led e-commerce industry may be allowed in financial form and not in strategic form. However, 100% strategic investment over a period of 3 - 4 years in a phased manner, by which time these companies would build scale and can compete with large corporations, can be considered. Another domestic entity citing a number of benefits, has suggested to allow 100% FDI under automatic route in the sector, subject to certain conditions like no offline retail trading activity by B2C e-commerce company, 40% sourcing from SME/MSME and other local business and no sale of food/agriculture produce/ processed food on B2C e-commerce platforms.

7. **Advantages and disadvantages of FDI in B2C e-commerce:**

7.1 Following are stated to be the major advantages of FDI in the sector:

i) Boost to the infrastructural development: Increased capital will help to establish supply chain, distribution system and warehousing.
ii) Impetus to manufacturing sector: Growth in retail sector will have cascading effect in the manufacturing sector which will positively contribute to overall growth of economy and job creation.
iii) More efficient supply chain management: Will reduce the need for middlemen leading to lower transaction costs, reduced overhead and reduced inventory and labour costs.
iv) Adopting best global business practices: Will lead to better work culture and customer service.
v) Increased outreach: Will provide increased access to buyers/sellers, allow MSMEs and artisans to reach out to customers far beyond their immediate location, both locally within India and abroad.
vi) Traceability and transparency: Will not only empower consumers with information and data but also help in better compliance of regulatory framework.
vii) Reduced costs: On marketing and distribution, travel, materials and supplies will benefit businesses.
viii) Improved customer service: providing more responsive order taking and after-sales service to customers and competitive pricing.

7.2 Following are stated to be the major disadvantages of FDI in the sector:

i) Works against the spirit of FDI policy in MBRT. Allowing FDI in e-commerce will provide e-commerce players complete geographical reach which will be against the spirit of FDI in multi brand retail trade i.e. being restricted to cities with a population of more than one million or any other city as per the choice of consenting states.
ii) Indian market is not yet ready for opening up e-retail space to foreign investors. It will seriously impair small time trading of brick and mortar stores. Small time shopkeepers are not highly qualified and will not be able to compete with sound e-retail business format.
iii) Because of scale of economic operations, e-commerce players in the inventory based model will have more bargaining power than standalone traders and will resort to predatory pricing.
iv) The infrastructure created by major e-commerce players will be captive and government will not be able to achieve its objective of creating back end infrastructure.
v) Indian e-commerce market is at a nascent stage of development. With FDI in e-commerce, global players will have adverse impact on this domestic industry. It will lead to monopolies in e-commerce, manufacturing, logistics and retail sector.
vi) Inventory based e-commerce competes directly with MSMEs. Indian e-commerce B2C is growing in an eco- system with Indian owned/led companies offering open marketplace models which provide a technology platform to help MSME reach across India and even globally. These marketplaces do not compete with MSME or retailers and allow everyone to trade. On the other hand, allowing the entry of inventory based large foreign e-tailers may shrink Indian entrepreneurship and the MSME sector.

vii) MNCs may dump their cheaper products in the market causing a negative impact on the Indian manufacturing sector in general and to MSMEs in particular.

viii) Small time businesses/ kirana stores remain the largest source of employment in the country. Opening of B2C e-commerce on inventory based model is likely to seriously impact these shopkeepers leading to large scale unemployment.

8. Conclusion and recommendations:

8.1 Overall, e-commerce including online retail in India constitutes a small fraction of total sales, but is set to grow to a substantial amount owing to a lot of factors such as rising disposable incomes, rapid urbanization, increasing adoption and penetration of technology such as the internet and mobiles, rising youth population as well as increasing cost of running offline stores across the country.

8.2 This discussion paper is put out to seek the views of relevant stakeholders on the following issues in suggested format:

Sl. No.	Question	Pros	Cons
i.	Should FDI be allowed in B2C e-commerce?		
ii.	Should it be open for all products or only for non-food products?		
iii.	Should a limit for minimum capitalization be laid down?		
iv.	Should a limit for percentage of sourcing from domestic manufacturers be prescribed? If yes, what should be the limit?		
v.	How will retail sale under MBRT be restricted to States that have agreed to open frontend stores?		
vi.	What should the entry routes and caps be in FDI in B2C e-commerce companies? Should it be automatic up to 50%?		
vii.	What are likely benefits to Indian economy particularly in terms of- (a) FDI inflows (amount) (b) Additional employment (numbers) (c) Back-end infrastructure (amount) (d) Efficiency (e.g. lower price to customers, higher price to producers/manufacturers, ease of operations etc.)		
viii.	What should B2C e-commerce encompass- -Goods -Services -Intellectual Property		

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