

**GOVERNMENT OF INDIA
MINISTRY OF COMMERCE & INDUSTRY
DEPARTMENT FOR PROMOTION OF INDUSTRY AND INTERNAL TRADE
RAJYA SABHA**

**UNSTARRED QUESTION NO. 358
TO BE ANSWERED ON FRIDAY, THE 4TH FEBRUARY, 2022.**

FDI IN E-COMMERCE

358 SHRI DEREK O' BRIEN:

Will the Minister of **Commerce and Industry** be pleased to state:

- (a) the mechanism for implementation of FDI policy in E-commerce, contained in Press Note 2 (2018 Series), the details thereof;
- (b) whether it is a fact that the said policy is often violated by E-commerce companies, the details of the monitoring process for violation of the said policy;
- (c) if so, the details of the instances of violation in the last three years and action taken against this violation; and
- (d) whether Government is planning steps to ensure better implementation of FDI policy in E-commerce, the details thereof?

ANSWER

**THE MINISTER OF STATE IN THE MINISTRY OF COMMERCE & INDUSTRY
(SHRI SOM PARKASH)**

- (a): Policy pronouncements on FDI through Consolidated FDI Policy Circular/Press Notes/Press Releases are notified and enforced through the Foreign Exchange Management (Non-Debt Instruments) Rules, 2019 under the Foreign Exchange Management Act, 1999 (FEMA) issued by the Department of Economic Affairs, Ministry of Finance. As per the extant FDI Policy on e-commerce sector, e-commerce entities are permitted to engage only in Business to Business (B2B) e-commerce and not in Business to Consumer (B2C) e-commerce. Further, 100% FDI under automatic route is permitted in marketplace model of e-commerce. FDI is not permitted in inventory-based model of e-commerce. The extant FDI Policy inter-alia mandates E-commerce marketplace entities with FDI to obtain and maintain a report of statutory auditor by 30th of September every year for the preceding financial year confirming compliance of the e-commerce guidelines.
- (b) & (c): The Government has received complaints from trader and industry associations against marketplace e-commerce entities alleging violation of the Foreign Direct Investment (FDI) Policy on e-commerce sector. It has been alleged that certain marketplace e-commerce entities have created complex ownership structures and

are engaging in inventory-based model of e-commerce through controlled vendors/preferred sellers.

With regard to violation of FDI Policy, the extant FDI Policy provides that “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 (RBI) administers the FEMA and Directorate of Enforcement (ED) under the Ministry of Finance is the authority for the enforcement of FEMA. ED takes up investigation in any contravention of FEMA.” Accordingly, maintaining the extant position of powers assigned to ED under FEMA, such complaints against e-commerce entities have been forwarded to ED.

- (d):** The Government reviews the FDI policy on an ongoing basis to ensure that India remains an attractive and investor friendly destination. Changes are made in the policy after intensive consultations with all stakeholders including apex industry chambers, associations, representatives of industries/groups and other organizations and taking into consideration their views/comments and suggestions.
