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Confederation of Indian Industry
The Mantosh Sondhi Centre
23, Institutional Area, Lodi Road
New Delhi – 110003, India
T : +91-11-2462 9994-7
F : +91-11-2462 6149
E : ciico@cii.in
W : www.cii.in

CII Perspective on Introducing FDI in Multi Brand Retail Trading

In the last few months, there has been significant discussion on permitting Foreign Direct Investment ("**FDI**") in Multi-Brand Retail Trading. As part of that process, the Department of Industrial Policy and Promotion ("**DIPP**") released a discussion paper on "*Foreign Direct Investment (FDI) in Multi-Brand Retail Trading*" ("**Discussion Paper**") and invited views on the same. The Confederation of Indian Industry ("**CII**") had responded to the Discussion Paper earlier (attached as Annexure 1 is a copy of the response for your reference). In addition to the views set out in the attached response, this note seeks to outline CII perspective on key issues relating to FDI in retail trading sector based on certain recent press reports on the recommended proposal of the DIPP, while highlighting the need to adopt a different approach for food and non-food sector.

1. Need for a calibrated approach

1.1. While CII strongly supports the introduction of FDI in multi-brand retail trading recognizing that it would benefit the consumers, producers (farmers and small and medium enterprises ("**SMEs**") and generate significant employment, it recommends a calibrated approach for introducing FDI in the retail sector in terms of the percentage and minimum capitalization requirements. We understand from several newspaper reports that DIPP is proposing to permit FDI in the retail sector to the extent of 51% with a minimum capitalization requirement of USD 100 million.

1.2. CII believes that while imposing a high minimum capitalization requirement of USD 100 million would facilitate large investments, at the same time it would also result in limiting foreign participation in the sector and making FDI in the retail sector restricted to select large players only, which would not be conducive to either promoting FDI or in generating healthy competition in the sector. Further, CII believes that there should also be a distinction in the approach for food and non-food sectors given the nature, configuration and sensitivities of the food and non-food retail segments in the Indian retail industry.

1.3. Consequently, CII recommends that a graded approach similar to that adopted for FDI in other sectors such as non-banking financial company and telecom could be considered for FDI in the food sector to ensure wider participation extending to all

types of investors. We would suggest that the minimum investment levels be kept at USD 15 million for the food sector

1.4. With respect to non-food sector, FDI should be permitted to the extent of 51% without imposing any requirement in relation to the minimum level of investment.

2. Investment in back-end infrastructure

2.1 Based on several newspaper reports, CII understands that as a part of its proposal, DIPP intends to propose a stipulation requiring 50% of the FDI to be utilized for back end infrastructure. In this regard, CII believes that given that retail is an integrated business and it is in the interest of the food retailers to invest in the backend to run their businesses effectively and improve their profitability, there is no need to prescribe fixed level of investments to be made in backend or frontend. Stipulating 50% of investment in the backend would, in our view, create an artificial distinction in a naturally integrated business system. While we believe that no such stipulation should be introduced, in the event that such a distinction is considered to be fundamental to the introduction of FDI in this sector, CII would suggest a graded approach be considered depending on the level of foreign participation i.e. the higher the investment, the greater the requirement to invest in back-end infrastructure. Also, to address concerns that financial investors would not be amenable for any investments in back end infrastructure, while formulating the FDI policy, DIPP can clearly demarcate between the financial investors and strategic investors suitably to ensure investments in back end infrastructure. Assuming that DIPP wishes to retain the condition relating to investment in back-end, in such case, further clarity is also required on whether investment by associate group companies, affiliates, joint ventures could be aggregated for the purposes of ensuring compliance with this condition.

3. Geographic Scope of FDI

3.1 While CII strongly supports introducing FDI in retail sector throughout the country, CII recognizes that such a gradual approach in this regard may be more productive. Therefore, as a starting point, FDI could be permitted in cities having a population of more than 1 million with the ultimate aim of extending it to the entire country.

4. Sourcing from SMEs

4.1 We also understand from newspaper reports that DIPP is considering imposing a requirement to purchase 30% of the goods from SMEs. CII supports the stipulation of local sourcing from SMEs and small vendors, however, the definition of an SME should be clarified to include direct sourcing from farmers and aggregators with respect to products such as meat, vegetable, bakery, butchery, dairy, fruits, dry fruits, spices etc. While CII supports local sourcing from SMEs, we would not

recommend imposing any requirements on sales to small retailers by front end retailers as the same falls within the ambit of the business model of cash and carry.

5. *State Intervention*

5.1 CII noted with some concern reports that suggested that state governments would be free to impose conditions in addition to the stipulations prescribed by the Central Government. CII believes that such a move would deter investments and defeat the purpose of liberalizing the sector. We understand that though the Consolidated FDI Policy requires foreign investors to comply with regulations prescribed by the State Governments in relation to the subjects in their legislative domain, we are not agreeable to any stringent intervention by the state governments. In any event, the current regulatory framework at a state / national level is adequate to protect consumer and employee interests. There are already numerous regulations in place which regulate the retail business and we believe that there is no need to make primary entry also subject to the regulations prescribed by the state, which in any event is subject to the scrutiny and approval of the Foreign Investment Promotion Board. As an example, the hypermarket business currently requires over 30 licenses and approvals, is impacted by approximately 40 different regulations and is governed by various local, state and central bodies. In fact, CII believes that instead of over-regulating the sector, the Government should consider effectively streamlining the current regulations.