



# NATIONAL RESTAURANT ASSOCIATION OF INDIA

NRAI / 26-1

01 September 2020

To,  
Shri Shailendra Singh  
Additional Secretary  
Department for Promotion of Industry & Internal Trade  
Ministry of Commerce & Industry  
Udyog Bhawan  
New Delhi – 110011  
Email: [singh.shailen@nic.in](mailto:singh.shailen@nic.in)

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**Vice President**

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**MANPREET SINGH**  
Director  
K S Hotels Pvt. Ltd.  
**Hony. Treasurer**

**PRAKUL KUMAR**  
**Secretary General**

## SUGGESTIONS ON DRAFT NATIONAL E-COMMERCE POLICY

Dear Sir,

1. Greetings from the National Restaurant Association of India. On the above captioned subject, please refer our letter of even reference dated 29-03-2019 (copy enclosed for ready reference please). In continuation of the same, we would like to once again put up our suggestions on the draft policy, as are mentioned in succeeding paras.
2. At the outset we would like to compliment the DIPPT for the work and discussions around the new E-Commerce policy. We strongly agree that the purpose of the E-Commerce policy should be to encourage and facilitate the growth of E-commerce in India while ensuring compliance to the FDI policies as well as ensuring that a level playing field is available to small players in the market vis-à-vis bigger ecommerce giants.
3. The restaurant industry has an annual turnover of over Rs.4 Lakh crores and is a highly fragmented industry comprising over 5 Lakh restaurants across the country. Most of these are run by individual or family entrepreneurs. Over the last few years, the restaurant industry has seen the entry of organized online food aggregators such as Zomato and Swiggy. These aggregators provide marketplace access to Restaurants on their App and facilitate purchase of food by consumers from these restaurants through their App. They also provide other services such as delivery, collections, ratings and reviews.
4. The restaurant industry has over the last few years been at the receiving end of unfair, discriminatory and predatory business practices of these Food Aggregators. This has led to many small restaurants becoming unviable and shutting down. Since E-commerce is defined as the buying and selling of goods and services including digital products over a digital and electronic network, it is opined that these Food Aggregators should be covered under the ambit of the E-Commerce policy.



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5. However, there is some ambiguity around this and it is requested that the new E-Commerce policy clarifies and confirms that Food Aggregators are unambiguously E-commerce entities and would come under the ambit of the policy. This will ensure that all players are provided a level playing field and that there are no market distortions through predatory pricing funded by capital dumping. The E-commerce policy needs to control and regulate the business practices of aggregators to ensure compliance with the laid down policy.

6. With respect to Food Aggregators, we request that a few issues be specifically covered under the E-Commerce policy.

a) Food aggregators force restaurants to avail of their delivery service before allowing them to list on the marketplace. Aggregators must be made to unbundle their services and allow restaurants to collect orders from the platform but fulfil it themselves. Availing of delivery service cannot be made compulsory for participation in the marketplace.

b) Food Aggregators collect a vast amount of data on customer behaviour, their likes and dislikes etc. from their marketplace restaurants. They then use this data to open and operate their own private label brands through cloud kitchens. This poses a direct conflict of interest and creates an unfair and asymmetric playing field. As marketplace providers, Food aggregators must not be allowed to create and operate private label brands through cloud kitchens and thereby participate in inventory based models.

c) Food Aggregators do not share customer data with the restaurants. As a result, while the customer orders food from a specific restaurant, the restaurant has no knowledge of the buyer. Also, while the restaurants remain responsible for the food quality and the experience, they have no means of knowing where, and to whom, the food is going. This data opacity provides an artificial advantage to aggregators as they know specific details about a restaurant's customers which they can use to their advantage. We suggest that the new e-commerce policy requires food aggregators to share all customer data with the restaurants.

d) The logic used by Food Aggregators for ranking restaurants on their platform remains opaque and unclear. The difference between paid and organic search is also not always called out. Whether the rankings are based on proximity, user rating, price, discount intensity or a combination therefore is not specified. Moreover, the search results change frequently for no apparent reason. Aggregators are often suspected of giving higher visibility to brands who have better commercial terms with them. The E-Commerce

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policy must have Food Aggregators to be transparent and consistent about the logic their search algorithms use to rank restaurants.

- e) Food aggregators often use aggressive discounts and promotions to drive sales and orders. Restaurants are arm-twisted into funding such promotions if they have to show up in the aggregator rankings. We suggest that the new E-Commerce policy must regulate the excessive and predatory discounting behaviour of food aggregators and mandate that such discounts cannot be made compulsory for presence on the marketplace.
- f) Finally, Food Aggregators often nudge a restaurant to be exclusive on their platform, thereby limiting its reach to a larger set of customers. Such a practice of forced exclusivity and limiting business outreach is anti-competitive and we suggest that this be barred by the new E-Commerce policy.

7. It would be relevant to highlight that the restaurant industry has taken a body blow on account of Covid 19 and 40-50% of restaurants may shut down. The fragile state of the industry and that of the survivors will be such that they will not be able to withstand asymmetric competition from and unfair business practices of Food Aggregators.

8. Based on the above, we request that these inputs and suggestions be considered favourably in order to ensure a level playing field and survival of thousands of small restaurants. We would be happy to get into a discussion and provide additional data and clarifications if necessary.

Kind regards,  
Yours sincerely,

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For National Restaurant Association of India  
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Encl: As stated.

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