

Competition body chief calls for review of M&A processes

OUR BUREAU

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The government must revisit the need for uniform threshold framework for the merger review control regime in the country, Devender Kumar Sikri, Chairman, Competition Commission of India (CCI), has said.

This is a must to achieve the intended goals across sectors, including the digital space, Sikri said at an Assocham event on 'Data Protection, Privacy and Security' in the Capital on Friday.

"We must have a sector-wise threshold and I think the time has come for this and the digital sector must be abreast of this," he said.

On mergers between companies holding big data which may result in profiling of individuals thereby invading their privacy in

the digital space, Sikri said, "Since data is not accounted as an asset, the traditional asset turnover criteria which we apply in competition law may fail to capture potentially those transactions from the competition review, that is our worry."

He also said the targets in these sectors (digital companies) have a limited actual turnover or physical assets and thus the asset turnover based threshold which has been enforced today in the country might have a blind spot in the digital sector.

Sikri highlighted the need to strike a balance to embrace the social benefits of big data while avoiding harms to the individual. "Transparency, accountability and informed consent are going to be the keywords," he said.

CCI chief seeks changes in uniform threshold framework for M&As

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CCI CHIEF DK Sikri on Friday pitched for revisiting the uniform threshold framework under competition law for M&As, saying the current system based on assets and turnover of companies might have a "blind spot" when it comes to deals in the digital space.

He also said the regulator would be writing to the government proposing changes in the threshold framework for M&A transactions.

Mergers and acquisitions beyond a certain threshold require approval from the Competition Commission of India (CCI). At present, there is a uniform criteria across sectors in terms of deciding on whether a particular deal need the regulator's nod.

Sikri said that a firm legal framework for data protection is the foundation on which data-driven innovation and entrepreneurship can flourish while also keeping personal data of citizens secure.

"Merger between companies that hold big data would allow the resultant entity to have even more tools to profile individuals and invade privacy. It is well known that many large



tech companies require other companies with the primary objective of having access to data owned by that firm. In most of these cases, the deal size is strikingly high, reflecting essentially the value of the data owned by the target company," he said at a conference here.

According to him, since data is not accounted for as an asset, "the traditional asset (and) turnover criteria under competition law might fail to capture those transactions during review. That is our worry".

"This is because targets in these sectors have limited actual turnover or physical assets. That is asset, turnover base notification threshold which we have in force in the country, in the digital sector they may have a blind spot. If relied on solely, we will not be

able to take stock and evaluate them in mergers," the CCI chairperson said.

Speaking at a conference organised by industry body Assocham, Sikri also noted that probably time has come to revisit the desirability of uniform threshold across sectors and pitched for sector-wise thresholds. "We are just proposing... We are writing to the (Corporate Affairs) Ministry," he told PTI on the sidelines of the conference.

The regulator comes under the administrative control of Corporate Affairs Ministry.

Stressing that there needs to be a balance in terms of embracing social benefits of big data and avoiding harm to individuals, Sikri said, "transparency, accountability and informed consent are going to be the key words".

He also said that rapidly evolving data landscape and more and more data centric businesses are posing colossal challenge. "They are altering the traditional parameters of regulation. They are making the regulators develop innovative perspective on how to apply the existing instruments and devise new tools wherever necessary," he added.

Emphasising that regulations and regulators have to work in tandem, Sikri said there could be potential abuse of dominance case, which might also involve breach of data protection issues.

"There should be then appropriate remedies which could address both anti-competitive practices and data (issues). Authorities responsible for data protection in the digital economy will have to have a continuous dialogue to ensure that a cohesive regulatory architecture is in place for most efficient digital markets. In this quest, industry will have a significant role to play," he said.

In his address, Law Secretary Suresh Chandra said that by creating a good data protection law, India could extend well beyond being a mere supplier to the world's multinational corporations.

Competition watchdog to check pricing of air tickets

New Delhi: The Competition Commission of India (CCI) plans to assess algorithms used by domestic airlines for ticket pricing to check for possible cartelisation, a top official said on Friday amid instances of sharp fluctuations in airfares during peak demand.

The watchdog, which keeps tabs on unfair business practices across sectors, has been looking into the issue after the Jat agitation in early 2016 when ticket prices on Chandigarh-to-Delhi flights shot up sharply.

CCI chairperson D K Sikri said the regulator is looking at how algorithms function when it comes to pricing of air tickets in order to check for possible cartelisation. He was speaking on the sidelines of a confe-

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rence organised by industry body Assocham. Sikri said collusion among digital players through self-learning algorithms is one of the biggest challenges that is being faced by competition law enforcers.

Citing the sudden rise in airfares for flights between Chandigarh and Delhi during the Jat agitation, he wondered how can it happen.

"We asked the airlines. (They said) we don't know, the algorithms are driving it up. What are algorithms? These are not kind of systems that are moving on their own. Somebody has designed them, logic has been put into it..." Sikri said.

"They (airlines) say we have these indicators, variables — but they are not showing the weightage given to them. So we are talking to a lot of technical people... how do we bring them down to understanding these algorithms," he noted.

According to him, one suggestion was for the CCI to develop its own algorithm to look at the issue but that would require huge investment. AGENCIES

CCI lens on algorithms used for air ticket prices

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New Delhi, May 11

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they are not showing the weightage given to them. So we are talking to a lot of technical people...how do we bring them down to understanding these algorithms," he said.

According to him, one suggestion was for the CCI to develop its own algorithm to look at the issue but that would require huge investment.

Another suggestion, he said, was to develop a hypothesis and "tell them (airlines) to satisfy the hypothesis with your algorithm. If it fails, hold them responsible".

