

How Flipkart, Amazon may bring deep discounts back to e-commerce

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Legal experts say that e-commerce companies might look at different ways to ensure deep discounts continue.

Amazon brought back one of its biggest sellers, Cloudtail, on the e-commerce portal barely a week after revised FDI rules barred e-commerce companies from selling their controlled-entity products on their own platforms. While Amazon got Cloudtail back online by reportedly restructuring the shareholding, legal experts say that e-commerce companies might look at different ways to ensure deep discounts continue.

E-commerce companies might have to offer subscription service for sellers in exchange for support offered by them in terms of logistics, payments, etc, after the revised guidelines bars them to have equity stake in sellers on their platform.

“We have seen them thinking of possibly offering subscription service. For instance, sellers who subscribe to that service voluntarily will get better terms of listing their products for offering them at more competitive pricing. Also, companies can help sellers through offerings like discounts on logistics cost etc. So there are certain thoughts on how to do it,” Archana Tewary, Partner, J Sagar Associates told Financial Express Online.

Earlier this year, the government barred entities having equity stake by FDI-backed e-commerce marketplaces or its group companies to sell its products on the platform run by such marketplaces.

Befriending Scale

The likes of Amazon and Flipkart might also get into something called ‘Best Friends’ agreement that doesn’t legally bind a company to do business with a certain entity.

Companies, much like Amazon, can fully divest their stakes in the seller organisations for them to function as independent sellers. Companies can then enter into a Best Friends alliance to continue with their support to them while attracting investors to take care of the investment part.

“Through Best Friends agreement, for example, Amazon after divesting its equity can get investors to invest in the seller company saying that it will continue its support to the seller but the investments will be done investors,” said Ravi Singhanian, Managing Partner, Singhanian & Partners.

“Investors may invest in it even if there is a certain limit by the government ahead,” said Anil Joshi, Founder and Managing Partner at Unicorn India Ventures.

Best Friend alliance is possible theoretically and is completely doable, said Kartik Maheshwari, a technology lawyer at Nishith Desai Associates. It is a defensible argument to be made by the independent seller for such agreement that it is trying to build its brand or grow etc., through the support received by other company, Maheshwari added.

Post 1 February 2019, Amazon had to remove thousands of items retailed by its large sellers Cloudtail and Appario on its marketplace since Amazon had indirect stake of 49% in the two sellers.

However, Cloudtail had reportedly returned to Amazon with its more than 300,000 products after Amazon reduced its holding in the company from 49% to 24%, Reuters had reported earlier.