

CCI gets mandate to approve all pharma M&As

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A HIGH-LEVEL meeting chaired by Prime Minister Manmohan Singh today decided that all mergers and acquisitions (M&As) in the pharmaceutical sector should be vetted by the Competition Commission of India (CCI) and not by the Foreign Investment Promotion Board (FIPB) as sought by the health and commerce and industry ministries.

"For six months though, the FIPB will continue to approve all pharma deals. The CCI will get six months to strengthen its processes for handling such M&As. The threshold limits for the acquisition of pharma companies will be reduced. A more careful screening of takeovers with adequate filters is required given the sensitivity of the health sector," Arun Maira, member, Planning Commission told *The Indian Express*. The Maira committee, set up by the Cabinet Committee on Economic Affairs in April this year, was asked to prepare a report on FDI in pharmaceutical sector.

Maira said it has also been proposed that a standing advisory committee be set up by the health ministry to periodically monitor the pharmaceutical sector and keep the CCI informed about developments.

In its report, the Maira committee had recommended that M&A proposals should not come under the purview of FIPB. The department of industrial policy and promotion (whose representative was also a part of the committee) had, however, dissented arguing that the M&A threshold levels specified by the competition watchdog were high and the CCI cannot suo motu take up M&A cases as per the Competition Act. The issue was then referred to the Prime Minister.

When contacted, sources in the Competition Commission said changes in threshold limits



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sible, but will set a wrong precedence. Under the Competition Act, only those M&A proposals where the combined threshold of the acquirer and acquiree is Rs 4,500 crore or more in terms of turnover and Rs 1,500 crore or more in terms of assets need CCI approval.

The corporate affairs ministry, the administrative ministry for CCI, will now work out a suitable mechanism, the sources said.

At present, the government allows 100 per cent FDI in new projects in the pharmaceutical sector, but all M&As are cleared by the FIPB. Given the sharp difference in opinion between the committee's report and the DIPR, the report along with the dissent note was referred to the Prime Minister. The meeting was attended by Commerce and Industry Minister Anand Sharma, Health Minister Ghulam Nabi Azad, Finance Minister Pranab Mukherjee, Pharmaceutical and Chemical Minister MK Alagiri and Planning Commission Deputy Chairman Montek Singh Ahluwalia.

According to a press statement issued later in the day, there will be no cap on FDI in the pharma sector — both in greenfield and brownfield projects. In greenfield projects 100 per cent FDI will be allowed under the automatic route. Brownfield projects will require CCI approval six months after today's

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