TK Viswanathan Committee on Fair Market Conduct

What is the issue?

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- The SEBI-appointed TK Viswanathan committee on fair market conduct recently released its report.
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- Granting more powers to Securities and Exchange Board of India (SEBI) has given way to many concerns.
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What was the committee on?

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- The regulation of securities markets has evolved, since the setting up of the SEBI.
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- However it is still a work in progress as mischievous practices continue to exist.
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- The committee was aimed at addressing the illegal practices and ensuring fair conduct among investors.
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What are the key recommendations?

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- **Malpractices** - The committee said Benami trading should also be deemed fraudulent if it leads to manipulation.
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- Also, SEBI may consider any trading by players beyond their known 'financial resources' as fraud.
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- The committee has suggested changes to existing regulations to better prosecute malpractices as these.
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- It said the scope of regulations on fraud should not just cover intermediaries.
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- It should also cover employees and agents of these intermediaries who often escape after indulging in fraudulent activity.
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- It is also suggested that SEBI be given the power to grant immunity to whistle-blowers who help uncover illegal activities.
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- **Insider trading** - It is a practice wherein investment decisions are made by having access to otherwise non public information.
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- Among a number of recommendations on insider trading, is the creation of two separate codes of conduct.
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- One would set minimum standards on dealing with insider information by listed companies.
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- The other would set standards for market intermediaries and others who are handling price-sensitive information.
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- **Information** - Companies should maintain details of
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    i. immediate relatives of designated persons who might deal with sensitive information
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    ii. people with whom the designated person might share a material financial relationship or who share the same address for a year
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- Such information may be maintained by the company in a searchable electronic format.
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- It may also be shared with the SEBI when sought on a case-to-case basis.
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- **Calls** - Currently, SEBI has the power to only ask for call records including numbers and durations.
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- The committee has recommended direct power for SEBI to tap telephones and other electronic communication devices.
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- This is to check insider trading and other frauds.
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- However, proper checks and balances over this power are to be ensured by necessary amendment in the relevant laws.
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- **Front entities** - Front entities are that which lent their names or trading accounts to others.
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- The committee has recommended the inclusion of a new sub-section within the SEBI Act, 1992 in this regard.
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- This would specifically prohibit devices, schemes or artifices employed for manipulating the books of accounts or financial statements of a listed company.
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What are the benefits?

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- A strong regulator serves as a good deterrent to fraudulent practices in the market.
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- Greater executive powers can help the regulator take swifter action against offenders.
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- They do not, instead, have to rely on government bodies such as the Ministry of Corporate Affairs.
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- This could also free SEBI from various manifestations of political influence.
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- As SEBI can better understand the complex nuances that financial market fraud entails, it may be better placed to enforce the law.
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What are the contentions?

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- **Calls** - Powers such as tapping phone calls are already vested in the police and investigating agencies. E.g. CBI
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- So it might be extreme and tyrannical if extended to financial regulators as well.
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- This gains significance in the backdrop of the increasing importance for privacy in recent times.
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- **Frauds** - SEBI is set to be granted the power to act directly against "perpetrators of financial statements fraud".
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- In essence, this means SEBI can act not only against listed entities under its extant powers.
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- Rather, it could also act against those who aid or abet financial fraud, including the accountants and auditors.
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- Too much of deterrence could possibly discourage and drive away the genuine investors.
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Source: Business Standard, The Hindu

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