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To: "advmn@trai.gov.in"<advmn@trai.gov.in>
Date: Fri, 01 Aug 2025 23:50:40 +0530
Subject: Comments on Consultation Paper on The Regulatory Framework for the Sale of Foreign Telecom Service Providers SIM/eSIM Cards for the use in M2M/IoT Devices meant for Export purposes.
========== Forwarded message ==========

Dear Authority ,

Please find enclosed comments on the Consultation Paper on **The Regulatory Framework for the Sale of Foreign Telecom Service Providers SIM/eSIM Cards for the use in M2M/IoT Devices meant for Export purposes**.

The comments are being submitted by Mr. Swar Kansagra , the Founder of WITH LAW , a cutting-edge law firm in Ahmedabad that works on emerging technologies like AI , ESG , blockchain , dispute resolution etc .The consultation paper addresses critical aspects of , the growing need for Indian manufacturers exporting IoT/M2M devices to integrate foreign SIM/eSIM cards in India for devices that will function only outside the country.

For any further clarification or discussion, we would be happy to engage.

Warm Regards,
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By: SWAR MANOJBHAI KANSAGRA
WITH LAW, Ahmedabad

Comments on Consultation Paper on the Regulatory Framework for the Sale of Foreign Telecom Service Providers SIM/eSIM Cards for the use in M2M/IoT Devices meant for Export purposes

Q1. Which of the following approaches should be followed for regulating the sale of foreign telecom service providers' SIMs/ eSIM cards in India for the use in M2M/ IoT devices meant for export purposes:

(a) To introduce a new service authorisation for the sale of foreign telecom service providers' SIMs/ eSIM cards in India for the use in M2M/ IoT devices meant for export purposes under Section 3(1)(a) of the Telecommunications Act, 2023; or

(b) To include the activity of the sale of foreign telecom service providers' SIMs/ eSIM cards in India for the use in M2M/ IoT devices meant for export purposes within the scope of the proposed service authorisation for the sale/ rent of international roaming SIM cards/ global calling cards of foreign operators in India?

Please provide a detailed response with justifications.

Comments: The preferred regulatory approach for overseeing the sale of foreign telecom service providers' SIMs/eSIM cards in India specifically for use in M2M (Machine-to-Machine)/IoT (Internet of Things) devices intended for export should be to introduce a new service authorisation under Section 3(1)(a) of the Telecommunications Act, 2023, tailored expressly for this purpose.

Rationale: It is advisable to create a new, standalone provision rather than amending existing regulations for international roaming/global calling cards because M2M/IoT connectivity is a fundamentally different category from voice and data services intended for human communication. Attempting to consolidate both under one regulatory umbrella would introduce complexity and potential confusion, given the specialized information, technical requirements, and compliance obligations attached to M2M/IoT use cases. The volume of information and unique operational scenarios in IoT/M2M deployments simply cannot be adequately or efficiently accommodated within legacy frameworks that were never designed with this context in mind. Developing a bespoke regulatory route not only upholds legislative clarity but also ensures future-proofing, as IoT/M2M ecosystems continue to expand and diversify, requiring tailored oversight as technology and industry use-cases evolve.

Q2. In case it is decided to introduce a new service authorisation under Section 3(1)(a) of the Telecommunications Act, 2023 for the sale of foreign telecom service providers' SIMs/ eSIM cards in India for the use in M2M/ IoT devices meant for export purposes, what should be 32 the terms and conditions for such a service authorisation? Please provide inputs with respect to the following aspects:

(a) Eligibility conditions for the authorisation;
(b) Application processing fee for the authorisation;
(c) Period of validity of the authorisation and conditions for its renewal;
(d) Service area of the authorisation;
(e) scope of service of the authorisation;

(f) Authorisation fee;
(g) Know-Your-Customer (KYC) requirements of the customers of the SIM/eSIM;
(h) Period for which a foreign SIM/ eSIM should be permitted to remain active in India for testing purposes;
(i) Penalties for non-compliance;
(j) General, commercial, and operating conditions etc. of the authorisation; and
(k) Any other aspect. Please provide a detailed response with justifications.

Comments:

a) Following shall be the eligibility conditions for authorisations

- Applicant must be a company registered under an Act or an equivalent entity permitted under law.
- The entity should demonstrate adequate financial capacity and net worth.
- The entity shall be manufacturer or exporter of M2M/IoT devices or authorised agency acting on their behalf.
- Applicants must provide documentation of legitimate commercial arrangements with recognised foreign telecom service providers for procurement and provisioning of such SIMs/eSIMs
- The applicant must comply with any instructions or regulatory provisions relating to Customs, RBI, and export control authorities as may be applicable

Rationale: The first two condtions find their root in the rasoning that only a company or equivalent entity can be eligible for such minimum conditions mandated by department of telecommunications for making an application for providing such telecom services. The next two condtions find their rationale in the fact that they are intending to conduct the business that they are applying for. And the last criteria is a mandatory provision to be followed by all export entities which these provisions are trying to regulate.

Supporting Information:

- In UK, Ofcom requires all licensees to be “legal persons” under the Communications Act 2003.
- In EU, EECC (Directive (EU) 2018/1972) allows member states to set such requirements for “integrity and financial standing”, but only as needed (Article 15) for providing licence to telecom regulators.
- EU member states also usually require a declaration of intended business to get telecom registration
- In the EU, customs audits may require proof of export, but this is not a telecom-specific mandate.

b) The application processing fee should be RS 10,000 (non-refundable per application.

Rationale: The fees amount shall be in line with the processing fees charged by department of telecommunications for application processing fees of GMPCS service.

Supporting Information: This suggestion shall also be in line with Article 12 of European Union Authorisation Directive which limits costs to cover only administrative costs which shall be incurred by the authority.

c) Validity period of such authorisation shall be 20 years which may be extended by 10 years on terms specified by the licensor. The decision of licensor shall be final and binding in this regard

Rationale: This validity period and terms keeps it in line with clause 3 and 4 of Unified Licence Agreement provided by Department of Telecommunications

Supporting Information: Counties like UK also has set the term for 20 years and then indefinitely until revoked for such licence in Ofcom licence terms.

d) Service are for authorisation shall be Pan-India.

Rationale: It shall be such as integration and export of device can occur anywhere in the country. Limiting by region is counterproductive for export-focused manufacturing

Supporting Information: In USA, the Federal Communications Commission (FCC) issues licence based on service type. For purely service based authorisations such as telecommunications and IOT connectivity, licences are nationwide or service-wide and not geographically limited.

e) Sale/supply of foreign telecom operator SIMs/eSIMs, for integration exclusively in M2M/IoT devices intended for export outside India. No domestic activation/use beyond allowed factory testing.

Rationale: This shall be followed in order to maintain national security which is also the rationale used for limiting activation of Global calling cards intended to be used outside India for test and emergency calls only (48 hours before departure and 24 hours after arrival) in India.

Supporting Information: While there are no specific foreign laws that mandate such restriction in USA, UK or EU the CII representation on IOT/M2M policy reforms states about capping on timelines for SIMs on international roaming being used for M2M cases to Maximum months in case of e-Sim and 3 months in case of pluggable SIMs.

f) Entry fee shall be approx. ₹ 30, 00,000 In order to maintain balance of compliance with ease of business for exporters.

Rationale: The fees amount shall be in line with the processing fees charged by department of telecommunications for entry fees of Machine to Machine A service (nationwide area)

Supporting Information: This suggestion shall also be in line with Article 12 and 13 of European Union Authorisation Directive which suggest fees for rights of use and rights to install facilities.

g) Full KYC of the entity purchasing SIMs/eSIMs for M2M/IoT export shall be mandatory

Rationale: In India KYC has been kept mandatory for Purchase of any SIM in order to avoid any kind of misuse of telecom facility from the point of view of both National and personal security.

Supporting Information: This suggestion draws from the UK and EU's strong emphasis on anti-fraud and end-user traceability provisions (Directive (EU) 2018/1972, Article 45). The European Union similarly requires identity documentation when provisioning telecom services in eIDAS Regulation, (EU) 910/2014.

h) Maximum allowed period for SIM/eSIM activation for testing shall be 3 months

Rationale: The reason behind this is that India allows foreign tourist to use mobile SIMs for 3 months and it also an adequate time to get testing done as per the average production cycle of such M2M/IOT devices.

Supporting Information: While there are no specific foreign laws that mandate such restriction in USA, UK or EU the CII representation on IOT/M2M policy reforms states about capping on timelines for SIMs on international roaming being used for M2M cases to Maximum months in case of e-Sim and 3 months in case of pluggable SIMs.

i) Penalties levied for Non-Compliance shall be up-to ₹5 Crore for serious breaches. Repeat violations shall lead to authorisation suspension/revocations.

Rationale: Following penalty provisions shall keep it in line with Section 56 and the Second/Third Schedules of the Telecommunications Act, 2023

Supporting Information: The Provision regarding repeat offenders take its basis from the USA Regulations provided in US (Communications Act, 47 U.S.C. § 503).

Q3 Alternatively, in case it is decided to include the activity of the sale of foreign telecom service providers' SIMs/ eSIM cards in India for the use in M2M/ IoT devices meant for export purposes within the scope of the proposed service authorisation for sale/ rent of international roaming SIM cards/ global calling cards of foreign operators in India, what amendments should be made in respect of the following terms and conditions of the said service authorisation:
(a) Scope of service;
(b) Eligibility conditions for the authorisation;
(c) Application processing fee for the authorisation;
(d) Period of validity of the authorisation and conditions for its renewal;
(e) Service area of the authorisation;
(f) Authorisation fee;
(g) General, commercial, and operating conditions etc. of the authorisation;
(h) Any other aspect? Please provide a detailed response with justifications.

Comments:

a) Add a clause about geofencing and remote activation to ensure that SIMs and eSIMs only activate outside of India after the testing phase.

Rationale: This solution solves India's regulatory and national security issues while guarding against possible security breaches and permitting lawful export-only use.

Supporting Information: In order to enable geo-fencing and allow eSIMs to activate only after devices have departed the domestic network, IoT and M2M connection providers such as Verizon and AT&T in the US use remote SIM provisioning.

b) Apply for DoT-registered M2M service providers or IoT exporters in order to implement pre-clearance for MSMEs.

Rationale: MSME pre-clearance promotes innovation and engagement in the IoT export ecosystem by facilitating business transactions for smaller exporters.

Supporting Information: Singapore provides simplified approval mechanisms and pre-clearance pathways for MSMEs through its Go Business portal and regulatory sandboxes, enabling faster market entry while maintaining regulatory oversight."

c) The application processing fee should be RS 10,000 (non-refundable per application.

Rationale: The fees amount shall be in line with the processing fees charged by department of telecommunications for application processing fees of GMPCS service.

Supporting Information: This suggestion shall also be in line with Article 12 of European Union Authorisation Directive which limits costs to cover only administrative costs which shall be incurred by the authority.

d) Link renewal to the results of the compliance audit and submit the export log (International Mobile Equipment Identity/SIM mapping).

Rationale: Encourages traceability, prevents diversion to domestic use, and increases the trust of security agencies

Supporting Information: At renewal or periodic audits, licensees must save and provide comprehensive exports, including IMEI and SIM/eSIM identifiers, as required by the U.S. Federal Communications Commission (FCC) framework for IoT and M2M device authorizations.

e) Establish "India – Export Only" as the service region, and carry out temporary plant testing for no more than 3 Months.

Rationale: The reason behind this is that India allows foreign tourist to use mobile SIMs for 3 months and it also an adequate time to get testing done as per the average production cycle of such M2M/IOT devices.

Supporting Information: While there are no specific foreign laws that mandate such restriction in USA, UK or EU the CII representation on IOT/M2M policy reforms states about capping on timelines for SIMs on international roaming being used for M2M cases to Maximum months in case of e-Sim and 3 months in case of pluggable SIMs.

f) Entry fee shall be approx. ₹ 30,00,000 In order to maintain balance of compliance with ease of business for exporters.

Rationale: The fees amount shall be in line with the processing fees charged by department of telecommunications for entry fees of Machine to Machine A service (nationwide area)

Supporting Information: This suggestion shall also be in line with Article 12 and 13 of European Union Authorisation Directive which suggest fees for rights of use and rights to install facilities.

Q4. Whether there are any regulatory issues including those related to the agencies such as RBI, customs etc. in respect of the import of foreign telecom service providers' SIM/ eSIM cards for the use in M2M/ IoT devices meant for export purposes? Please provide a detailed response with justifications.

Comments: Following are the regulatory issues in respect of the import of foreign telecom service providers' SIM/ eSIM cards for the use in M2M/ IoT devices meant for export purposes

- Entities need follow section 3, 5, 6, and 10 of FEMA Act, 1999. Foreign Exchange Management (Current Account Transactions) Rules, 2000 should be followed, while these specify which current account transactions are allowed, prohibited, or require RBI approval. Payments for software/intangibles or telecom equipment typically fall under general permission, but with compliance and documentation. They also have to follow RBI Guidelines for Import Payments (Master Directions) which requires declaration of end use, documentation like invoice, bill of entries etc.
- Customs requirements for export of such products include specific documentation, like a No Objection Certificate, and robust audit/audit trail mechanisms to satisfy export-only purpose.

Q5. Whether there are any regulatory issues including those related to the agencies such as RBI, customs etc. in respect of the export of Indian telecom service providers' M2M SIMs/ eSIMs for the use in M2M/ IoT devices meant for import purposes? Please provide a detailed response with justifications.

Comments: Following are the regulatory issues in respect of the export of foreign telecom service providers' SIM/ eSIM cards for the use in M2M/ IoT devices meant for export purposes

- According to Section 8 of the Foreign Exchange Management Act, 1999 (FEMA), export invoices must correctly reflect the value of SIMs and eSIMs, and export profits must be returned to India in compliance with FEMA regulations. This is further supported by the RBI's Master Direction on Export of Goods and Services and related notifications, which mandate that the entire export proceeds, including the value of all embedded components, such as SIMs and eSIMs, must arrive in India normally within nine months after export.
- List all SIM/eSIM components on shipping bills; obtain a DoT No Objection Certificate (NOC) for export.

Rationale: Customs officers require that all components be accurately and fully declared in order to prevent misreporting and to facilitate lawful export. A DoT NOC is necessary in order to export telecom components such as SIMs and eSIMs.

Supporting Information: Shipments that lack NOCs or have insufficient documentation may be detained by customs or subject to fines for noncompliance.

Q6. Whether there are any other issues related to the subject matter? Please provide a detailed response with justifications.

Comments: If IoT devices meant for export are tested in India, compliance with the Digital Personal Data Protection (DPDP) Act is required if the testing involves collection, storage, or processing of personal data of individuals located in India. In the presence of such personal data, the testing process must adhere to DPDP mandates including consent, data minimization, security, breach notification, and data subject rights. If no Indian personal data is processed during testing—such as when using simulated or synthetic data DPDP obligations may not apply, but adequate documentation proving this must be maintained.

Rationale: The DPDP Act applies to personal data of individuals within India, irrespective of whether the devices are ultimately for export. Testing that processes such data falls within the Act's regulatory scope to protect privacy and data security. Complying safeguards promote trust, legal adherence, and reduce risk of penalties. Even without personal data processing, India mandates telecom and cybersecurity testing and certification for SIM-enabled IoT devices during testing, reinforcing the importance of thorough compliance frameworks while conducting tests in India