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EBG Response to TRAI CP on Promoting Local Equipment Manufacturing

EBG Federation (EBG) was established on 11th March, 2015 as a Section 8 company under the Companies Act 2013 in order to ensure long term stability and clarity on its purpose as a not for profit organization offering support and advocacy for European businesses in India. Founded as the European Business Group (EBG), in 1997, as a joint initiative of the European Commission and the European Business Community in India, EBG has come to be recognized by the Indian Government and the European Commission as the industry advocacy group representing the interest of European companies in India.

EBG Federation is supported by the Delegation of the European Union to India and represents the 27 Member States of the European Union, UK as well as accession countries and its partners in European Economic Area (EEA). The EU Ambassador is our Patron. Currently EBGF has Chapters in Delhi, Mumbai, Bangalore and Chennai with approximately 170 companies as Members including a number of companies from the Telecom Sector. Mr. TV Ramachandran is currently the Chairman of the Telecom Sector Committee of the EBGF.

The primary objective of EBGF is to actively support growth in India-EU trade relations, become the most relevant advocate for European business in India and ensure that the needs of European business are well presented to policy and decision makers.

EBG Response to TRAI CP on Promoting Local Equipment Manufacturing

Q.1 Large number of initiatives have been taken by the government to promote electronics manufacturing, while these initiatives have succeeded in attracting significant investments in other sectors like LED, consumer electronics, mobile handsets, automotive electronics etc, they have failed to attract investments in telecom equipment sector e.g PMA has worked very effectively in LED sector but did not work so effectively in telecom. Please enumerate the reasons with justifications for the poor performance of local telecom manufacturing industry inspite of numerous initiatives by the government/industry.

A.1 The initiatives to promote electronics manufacturing in other sectors like LED, consumer electronics, mobile handsets, automotive electronics etc, which are mentioned as successful are mainly B2C sectors. Telecom Infra manufacturing is essentially a B2B market with a limited set of consumers. Globally, consolidation of companies has taken place with a number of mergers and acquisitions limiting the Major Telecom Companies primarily to 2 in the west and 2 from China. The reasons for this are as follows:

- a. Technology is improving and changing at a very fast pace. Huge costs are involved in R&D and revamping production centres.



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- b. For many products and technologies there is a lack of local vendor base and many products the requirement in TSP's network though critical but is low volume. For such low volume cases it is not viable for a global vendor to have multiple manufacturing facilities. Forced localization policies will limit the flexibility of government agencies in procurements with the potential to increase cost, decrease choice, and impair the ability of the government to meet its legitimate security, performance, and cost objectives.
- c. Further there is a complex Value Addition criterion being introduced for local manufacturing. The component, raw material and silicone eco system is nonexistent in India and manufacturers have to rely on imports of such critical components and chipsets. Government should focus on creating a component / raw material / silicone manufacturing in India.

Q.2 what policy measures are required to be instituted to boost Innovation and productivity of local Telecom manufacturing in our country? Please provide details in terms of Short-Term, Medium-Term and Long-Term objectives.

A.2 to address this issue, the long-term objective needs to be looked at first. As on date there is virtually no component/raw material /silicone manufacturing in India. For a successful electronics manufacturing sector, this implies that importing the raw material will always create cost inflation. The handset industry is growing in India but it is largely ruled by the Chinese companies whose economies of scale are much better than Indian counterparts with access to chipsets. Indian companies are really just an assembly of SKD sets. The PCBs, i.e., printed circuit boards are populated ones. Furthermore, to stay ahead of or on par with global technology levels, considerable investments will be required in R&D which are sorely lacking at present. Short Term & medium term – local companies should be supported in setting up ancillary manufacturing for the existing telecom OEMs for providing those products which may benefit costing of the finished product through local sourcing economies.

The Consultation Paper rightfully mentions that Indian manufacturers find it difficult to meet the pace of rapidly changing technologies, expenditure on Research and Development as well as marketing strategies as compared to their foreign counterparts.

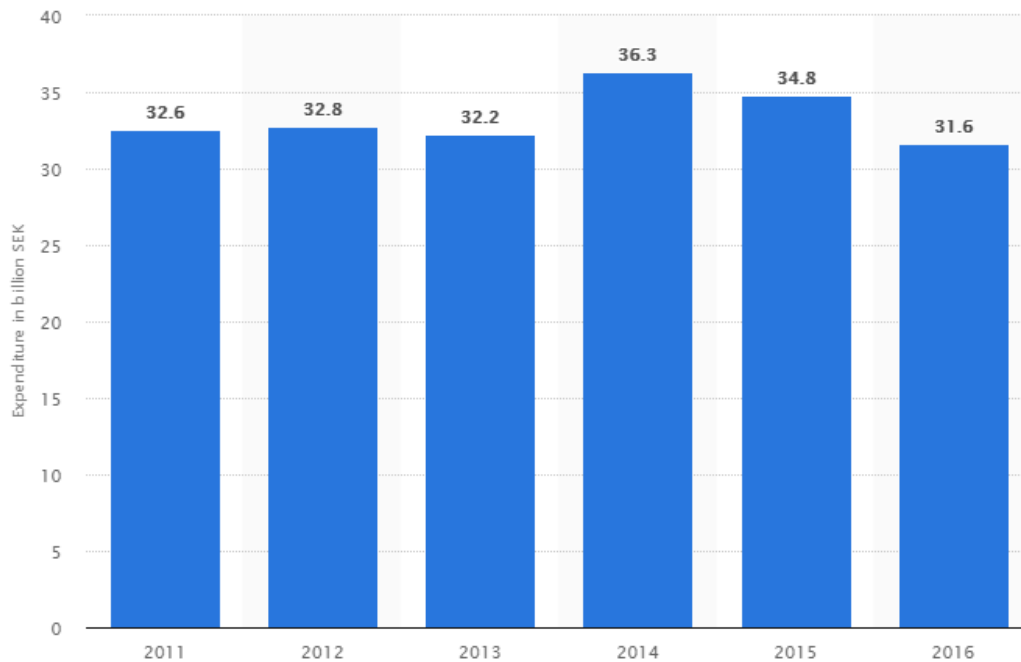
Realistically, billions of dollars per annum are spent on R&D to stay ahead of the market.

Given below is a private study estimating Ericssons global R&D expenditure. To stay competitive in the new fields on NGN/5G and future technological developments, Indian companies must look at similar R&D costs to save on paying royalty costs to OEMs.



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Ericsson's expenditure on research and development worldwide from 2011 to 2016 (in billion SEK) which is averaging USD\$4Billion or INR2.7Thousand Crores annually.



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<https://qz.com/374039/huaweis-rd-spend-is-massive-even-by-the-standards-of-american-tech-giants/> As per this link, even Chinese tech company Huawei is doubling down on research and development. In reporting its annual financial performance today (March 31), the company said it invested 40.8 billion yuan, or \$6.6 billion, in research and development in 2014, up 29% from the year prior. Overall, it's spent 190 billion yuan in innovation over the past decade. These numbers are massive even by the standards of American tech companies.

<http://www.huawei.com/en/about-huawei/research-development> Huawei has consistently invested over 10% of its revenue in R&D every year. In 2016, approximately 80,000 employees were engaged in R&D, comprising 45% of our total workforce. Huawei's R&D expenditures totaled CNY76,391 million (approx. USD\$11.5million) in 2016, accounting for 14.6% of the company's total revenue. We have spent more than CNY313,000 million (approx. USD\$43billion) on R&D over the past decade.

In a rapidly evolving technological market Telecom companies need to spend on R&D to stay ahead. Rightfully, royalty is then expected on patents received on this expensive R&D. In a



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global market, of which India is a part of, all company's having patents, would like their research valued and protected.

Q.4 Is the existing mechanism of Standardisation, Certification and Testing of Telecom Equipments adequate to support the local telecom manufacturing? If not, then please list out the short-comings and suggest a framework for Standardisation, Certification and Testing of Telecom Equipments.

A.4

With the establishment of Telecom Standards Development Institute of India (TSDSI) and its collaboration with Global Standards Development Organizations such as 3rd Generation Partnership Project (3GPP), OneM2M etc., the existing mechanism of Standardization in India is gearing up fast. However, the current scenario vis-à-vis Certification and Testing of Telecom equipment system is rather laggard and there is a need to catch with testing & certification framework, Interoperability Testing, skills and Testing Infrastructure.

The recent **Gazette Notification on Testing and Certification of Telegraph dated 5th September, 2017 issued by Department of Telecommunications** has made it mandatory that all telecom equipment shall have to undergo prior mandatory testing and certification in respect of parameters as determined by the telegraph authority from time to time and must be Certified and Tested by the telegraph authority or any other agency designated by the telegraph authority. Although this measure shall ensure India's preparedness against security testing but without having a proper testing framework, skills and Testing Infrastructure, and especially when OEMs are already carrying out rigorous testing in their lab, this step would not only be unfruitful but unnecessary. These equipment's are developed based on various international standards and do undergo rigorous testing and certification regime at international labs for necessary Safety and Security features. Hence, we strongly believe that this measure will only add one more layer of regulation to the struggling telecom industry in India, add up more cost unnecessarily, go against the spirit of Ease of Doing Business and have greater impact on the global supply chain cycle.

The National Telecom Policy 2012 aimed at encouraging R&D, Manufacturing and Standardization of Telecommunication Equipment R&D. Also to foster indigenous manufacturing and R&D, entrepreneurship and IPR creation in the field of telecom products and service under the 12th 5 year plan (Department of Telecom)



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The Policy also addresses issues with regards to standards in the telecom sector. The main policy directives for standardization of telecom in India are:

- ☐ Set up new standards to meet national requirements and participate in the standard making process carried out by international standardization organizations and also contribute in formulation of global standards.
- ☐ Implement platform neutral services in e-governance and m-governance in the sector of health, education and agriculture. The Policy objective is also to encourage development of mobile phone based on open platform standards.
- ☐ Mandate to use common platform for interconnection of various networks for non-discriminatory and non-exclusive access.
- ☐ Create a road-map for aligning technology, demand, standards and regulations for the purpose of promoting competition in the market.
- ☐ Set up a Telecommunication Standard Development Organisation (TSDO) as an autonomous body to build consensus about standards to meet national requirements including security requirements. The Organisation will also oversee participation of government, industry, R&D centres, service providers and academia in such setting of standards.

Standards are meant to offer ‘access’ to technology and patents grant the possibility to ‘exclude’ others (exclusivity rights), both aim to promote innovation. The “return on investment” (ROI) from the patented technology selected to become part of a standard is crucial for development and implementation of standards. When aiming to solve highly complex technology problems the effort of many companies sharing the technology resulting from large R&D investments is necessary and such technical solutions are protected by patents. Connecting millions of devices with each other (interoperability) and make them work properly (high performance) can only be achieved when the best technologies out of thousands contributed technical solutions are selected. Considering some of the most celebrated Government of India’s initiatives such as Internet of Things, Start Up India, Make in India, Digital India etc. calls for an effective IPR regime that incentivizes development of standardized technologies and encourage indigenous local manufacturing of innovative standardized devices. This will go a long way in reducing India’s net import reliance, enhancing value addition, creation of IP, employment generation, increased domestic patent footprint, reduced cash outflow due to Bill of Materials (BOM) etc.

India has been key beneficiary of standardization and formally showed its commitment to follow global standards by launching the Telecom Standards Development Institute of India (TSDSI) in 2013. Various companies are intensively involved in developing standardized technologies and regularly participate in working of Standard Development Organizations (SDOs) where technology is selected purely on ‘technical merit’ and ‘Consensus’. Development of such standardized technologies is highly R&D intensive. In 3GPP, a global initiative that unites seven SDOs, 262,773 technical contributions were



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submitted in order to deal with the technical problems in 3G and LTE. From those only 28,460 were approved for the standard. Such tremendous effort needs to be compensated.

Various statistical analysis studies reveal that FRAND accessible patents have promoted a healthy competition in the market as new Indian business has entered and their profits increased. Further, the goal of IPR policies to ensure that the patented technologies incorporated into a standard are available for licensing on fair, reasonable and non-discriminatory terms—is fully realized by the current Telecom Standards Development Institute of India (TSDSI) IPR Policy, as is the goal of the Make in India program to “create a globally competitive electronics design and manufacturing industry”. Mandating a different licensing schema in India (i.e. licensing at component level) than in the rest of the world (i.e. at the end user device level) could only serve to discourage technology firms from contributing to standards, negatively impacting huge R&D investments made by them, India’s economy, innovation cycle, Indian manufacturing business and consumers.

Q.3 Are the existing patent laws in India sufficient to address the issues of local manufacturers? If No, then suggest the measures to be adopted and amendments that need to be incorporated for supporting the local telecom manufacturing industry.

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Q.5 Please suggest a dispute resolution mechanism for determination of royalty distribution on FRAND (Fair Reasonable and Non Discriminatory) basis.

A.3&5 As per our submission to DIPP last year, we strongly believe that existing patent legislation and antitrust precedents are adequate to address the issues related to Standard Essential Patents (SEPs) and to ensuring their availability for implementers of the standards on Fair Reasonable and Non- Discriminatory (FRAND) terms. We thus respectfully urge the Regulator, as we had urged DIPP, not to adopt additional legislation or amendments to address this topic. Similarly, we urge the Regulator not to create or recommend an expert body to determine FRAND terms for SEPs. In the relatively rare cases of disputes over proper FRAND royalties that cannot be resolved through negotiations, Indian courts (or mutually agreed arbitral panels) applying well-established patent and contract law principles are well-equipped to make such determinations on the unique facts in each case.

The types of disputes that primarily arise with respect to FRAND-encumbered SEPs pertain to the royalty rate and the royalty base to be used in calculating an appropriate royalty to be paid by the licensee for their use of the licensor’s patented contributions to the standard. In almost all cases, FRAND rates are generally mutually determined by the parties (i.e., the licensors and licensees) through a bilateral negotiation process. The outcome depends upon the negotiation posture of the parties, the strength of



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their positions and their willingness to accommodate each other's concerns. This is true in any negotiation, although in a FRAND negotiation, the licensor negotiates from a posture that it may be prevented from refusing to grant a willing licensee access to its SEPs on FRAND rates.

To the extent that the parties to a bilateral negotiation are unable to reach an agreement on a FRAND royalty, contract law provides the legal framework for resolving such disputes. As many U.S. courts have reasoned, the FRAND commitment is a contract between the patent holder and the Standards Development Organization (SDO) that may be enforced by an implementer of the standard as a third-party beneficiary of the FRAND commitment.¹ We believe that imposing a competition law sanction for the mere breach of a contractual licensing commitment represents a misapplication of competition law, which focuses on harm to the competitive process rather than harm to competitors.²

We recognize, on the other hand, that some have expressed the concern that the breach of the FRAND licensing commitment has the potential to give rise to competition law concerns where rival technologies or implementers are excluded, primarily in the case of injunctions or exclusion orders.³ These situations are, at most, extraordinarily rare. To date, no U.S. court decision has found a breach of a FRAND commitment to constitute a competition law violation. Similarly, the EU Commission has made clear that the proper amount of royalties to be paid for SEPs is not a competition law matter and that courts and arbitrators are better positioned to resolve such disputes. Indeed, not only should antitrust agencies properly refrain from rate making and price setting activities, but courts and arbitrators are a better forum for resolving these kinds of fact-intensive, case-specific disputes.⁴

¹ [Consider MSFT case cite here].

² *Rambus Inc. v. FTC*, 522 F.3d 456, 466 (D.C. Cir. 2008) (“an otherwise lawful monopolist's end-run around price constraints, even when deceptive or fraudulent, does not alone present a harm to competition in the monopolized market”).

³ Federal Trade Commission, Statement on the Public Interest, USITC Inv. 337-752 (June 6, 2012) (“Interoperability standards can create enormous value for consumers by increasing competition, innovation, product quality and choice. However, incorporating patented technologies into standards also has the potential to distort competition by enabling SEP owners to negotiate high royalty rates and other favorable terms, after a standard is adopted, that they could not credibly demand beforehand, conduct known as “patent hold-up.”); *see also, e.g.*, Statement of the Federal Trade Commission, In the Matter of Robert Bosch GmbH, FTC File Number 121-0081 (“when ... breach [of FRAND commitment] tends to undermine the standard-setting process and risks harming American consumers, the public interest demands action rather than inaction from the Commission”); Federal Trade Commission Response to Commentators, In the Matter of Motorola Mobility LLC and Google Inc., File No. 121 0120, Docket No. C-4410 (July 23, 2013) (“the breach of a FRAND commitment risks substantial harm to the competitive process and consumers”).

⁴ James F. Rill, James G. Kress, Dina Kallay & Hugh M. Hollman, Antitrust and FRAND Bargaining: Rejecting the Invitation For Antitrust Overreach Into Royalty Disputes, 30 ANTITRUST, no. 1, Fall 2015 at 72.



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Q.6 Are the current fiscal incentives sufficient to promote the local telecom manufacturing? Please suggest the fiscal incentives required to be instituted along with the suitable mechanism for implementation of these incentives?

A.6

Most of our members are associated with the Indian telecom industry for many years, and also leveraging on their combined strength with the Manufacturing, Global Services organization and state of art Research & Development facilities. As you know, most eminent manufacturers, who have invested in India, "to develop the Telecom Manufacturing Eco- System" by transferring technologies as a part of our localization strategies by setting up a state of art manufacturing facility for manufacturing products in India.

We wish to reiterate our strong belief in the India's growth story and are fully committed to being part of the government's inclusive growth plans and are committed to the domestic manufacturing of products and the example is our investments on manufacturing facilities. We appreciate the aspirational goal of India to become the next major manufacturing hub for domestic consumption.

Our members have manufacturing hubs globally and have expanded to make India as a strategic supply base, given the focus of the government and the fact that component level ecosystem for high tech electronic manufacturing will be a reality soon.

We suggest that the government should holistically promote overall electronics manufacturing eco-- system within the country which has to be plugged into the global



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supply chain. As you are aware, the current raw material and electronic components ecosystem in the country is still developing and needs to be expedited.

Keeping the above in mind, we request Government of India to favorably consider the following parameters while formulating the Deemed Domestic Manufacturer criteria.

- Existing manufacturing unit of a global OEM who is present over number of years, with a certain turnover and employment for telecom products manufactured in India should be unconditionally recognized as Deemed Domestic Manufacturer for all the products supplied part of a solution and qualified for all the Governmental procurement.
- We request that the proposed conditions be relaxed for the companies who have already invested large capital and set up their manufacturing unit in India and are currently manufacturing hi-tech products in India. These multi-national companies with significant investments and demonstrated long term commitment to India should be recognized as Deemed Domestic Manufacturer and allowed to participate in all Government tenders without any restrictions
- Most large global OEM's operate as separate entities to be accountable not only as 'Independent Profit Centers but also based on type of services they offer in India as well as to the Globe". Hence, 'Group company turnover in India should be considered to measure the investments of an MNC including products and/or services exports, earning foreign exchange for the country' as its one global unit setting up more entities to facilitate or move its various parts of business to India (be it Manufacturing, Global Services, R&D, etc....)
- In addition, the group companies which have over a 1Bn USD turnover should be considered as Mega Companies and be given priority to address any ease of doing business challenges through a single window system whether its importing raw-material or exporting the final finished products.
- Also request to consider the fact that, the Research & Development activities for any large global OEM's are scattered across their very few global R&D Centers. It is important that Indian Government recognizes the investments made in India by these companies and it is not possible for any single R&D center to produce a full product at one R&D center but it's a combination of efforts by all the R&D units together.



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Q.7 Are there any issues under ITA which need to be addressed for making the local Telecom Manufacturing more competitive and robust

A.7 As per Ministry of Finance, Department of Revenue, Tax Research Unit notification D.O.F.No.334/8/2016-TRU New Delhi, dated 29th February, 2016 (attached) Page 15 Point 14) States "Exemption from BCD under S. No. 372 of Notification No. 12/2012-Customs on specified telecommunication equipment [Soft switches and Voice over Internet Protocol (VoIP) equipment namely VoIP phones, media gateways, gateway controllers and session border controllers, Optical Transport equipment; combination of one / more of Packet Optical Transport Product/Switch (POTP/POTS), Optical Transport Network(OTN) products, and IP Radios, Carrier Ethernet Switch, Packet Transport Node (PTN) products, Multiprotocol Label Switching-Transport Profile (MPLS-TP) products, Multiple Input / Multiple Output (MIMO) and Long Term Evolution (LTE) Products] is being withdrawn. S.No 372 of Notification No.12/2012-Customs, dated 17th March, 2012 as amended vide notification No.12/2016-Customs; dated 1st March, 2016 ".

This year BTS - 2G/3G/4G - have been brought under BCD along with phones.

We have submitted that these products under ITA may be exempted from BCD.

Q.8 Should an export oriented/promotion approach be adopted in the telecom equipment manufacturing sector? If yes, Please suggest the steps to be taken to create suitable environment to attract foreign investment players for setting up establishments which in turn can result in technology dissemination, innovation, generation of jobs, skilled labour force, etc.?

A.8 EBG Members between them constitute 60-70% of Telecom Infrastructure supplied in India. Given below are figures posted on their websites which contribute to Indias growth story in the Telecom sector. They are now facing a number of issues which have been addressed in the response to Consultation on Ease of doing business and which we have listed again in this response. These issues are being experienced by all Global company's present in India. The issues are being relayed back to parent countries and trade forums which is giving cause for hesitation in investors looking at investing in these fields in India.

ERICSSON IN INDIA:

With huge Investments in India Ericsson has Approx 700 Million USD export in telecom services from India in 2016 and export of telecom products to begin in 2018 In line with the Government's "Make in India" initiative a manufacturing facility has been set up in Pune, Maharashtra. This facility in addition to catering to the local needs will cater to markets in South-east Asia, Middle East and Sub-Saharan Africa.



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Ericsson Global Services, established in India in 2010, has been set up to manage operator networks across geographies. This strengthens our existing worldwide capabilities in Consulting & Systems Integration Services, Managed Services, IP & Broadband R&D and Revenue Management R&D supporting local, regional and global customers.

Ericsson's R&D facilities in Gurugram, Chennai and Bengaluru focus on value-added applications for the pre-paid, multimedia segments. The Bengaluru R&D Center also works on Ericsson's SmartEdge (SE) and Smart Services Router (SSR) and Software Defined Networks (SDN) product lines.

With over 23,253 resources in India as of March 31st 2017, we have been ranked the top telecom company to work for in the Indian telecom industry by Great Place to Work Institute.

NOKIA IN INDIA:

- *Similar to Ericsson, Nokia also has large Investments in India with:*
- *15000+ people (direct & indirect) ; 20 principle offices over 100 locations*
- *280 million subscribers in India via 230,000 sites are served by our equipment*
- *Global Delivery Center at Noida & Chennai managing > 200 million subscribers globally across 86 countries. Service Management Capability Center in Noida.*
- *India's largest international telecom infrastructure manufacturer with the first to manufacture 3G and LTE products locally*
- *Global R&D center in Bengaluru with 3000 people*
- *Early 4G/ LTE player, selected by Bharti Airtel for network deployment in Maharashtra*
- *Recognition – Awarded 'Top Managed Services Vendor' by Voice & Data, "Top Wireless Infrastructure company in 2013" by Amity University, Aegis Graham Bell Awards 2012 for innovative Vendor Telecom Product among others*



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These are the accomplishments listed by our members proudly on their sites and in articles of Indian newspapers.

At the same time, our members have submitted responses issues on ease of doing business against consultation. These issues are shared by all Global OEMs investing in India. These need to be sorted out to incentivize foreign investment in India.

1) Basic Custom Duty Exemption for SEZ supply to DTA:

- **10% BCD was imposed as per union budget of 2014** on certain telecom products under non ITA category. The above amendments were made to promote domestic manufacturing; however, the adverse impact of the same on the SEZ manufacturing (which is also part of domestic) has been ignored. Suitable amendments should be made in order to give BCD exemption on said goods if they are manufactured in SEZ area and cleared in DTA. The objective to introduce the 10% Basic Custom duty was to encourage local manufacturing in India, invite investment, create jobs and promote electronics export from India. This incidentally is also being fully undertaken by a manufacturer operating from an SEZ in India. With the budget ruling, 10% Basic Custom Duty is imposed on manufacturers operating out of SEZ if they are selling in DTA. This will make them noncompetitive to sell in DTA and defeat the purpose of the setting up manufacturing for Telecom and Electronics in SEZ in and for India. For setting up manufacturing for Telecom Equipment, scale is needed which can only be achieved if the vendor is able to address both local and exports, else the business viability will not be there. It should perhaps be recommended to “Not levy Basic Custom Duty on the finished product, but instead if there has been any benefit that a SEZ manufacturer would have otherwise had on input (components) vis -viz a DTA manufacturer, the government may be requested to charge the Duty foregone by it on inputs from a manufacturer operating from SEZ which otherwise would have been charged to a DTA manufacturer”. This we believe would bring both the DTA manufacturer and a SEZ manufacturer on par with each other for selling in DTA and have similar advantage to an importer of Non ITA Telecom products.
- **Further there is no basis for classifying the products mentioned as Non ITA. EU / US trade associations have verified the products category and clearly believe these products should be part of ITA list only. Representation from WTO in this respect is also attached with the mail.**



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2) TEC IR on Procedure for Certification of Telecommunications Equipment:

Introduction of further layers of testing/certification is likely to have a hugely adverse impact in the process of doing telecom business in this country.

We draw your attention to the fact that the list of products that are to be subjected to testing and certification in the proposed draft have already been meeting relevant legal and regulatory requirements in over 180 different markets including India and Global OEM's from EU ensure high environmental and social standards. The telecom products are developed based on the global standards and undergo various testing and certification process at globally reputed international labs for Health, Environment, Safety, Conformity Assessments, etc...

Since most of the equipment coming from Global OEMs already come with pre-certification from Conformance Assessment Bodies (CAB) or test labs from their country of manufacture or origin for testing of telecom equipment against specific international benchmarks (which conform to those listed in the para from the Unified License above), duplication of testing will definitely compromise ease of doing business – adding to cost and time lines. Alternatively, what may be permitted is a self-certified test-wise compliance sheet along with Self Declaration of Conformity (SDoC)

3) Re-import of used spares post repair and ease of import of used R&D equipment

Currently Ministry of Environment and Forest (MoEF) and DEITY (Department of Electronics & IT) to prevent old electronics equipment into India under the e-waste policy and the “Make in India & Digital India Campaigns” to reduce electronics import in the country have restricted import of old electronics equipment older than one years and to re-export within 3 years.

Secondly, Global companies are establishing R&D labs in India and R&D projects typically use old capital equipment. R&D activities are carried out on collaborative approach between different R&D labs of vendors at multi location, which requires during testing and project phase shifting of capital equipment's for R&D purpose between different R&D locations globally. Capital goods for R&D purposes with no further sale or commercial transaction should be free to import. Further R&D equipment has longer life cycle and there should be no need to re-import the same. Else global companies would be forced to move out the R&D operations to other suitable locations.



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As per standard global hardware repair and return practice for equipment under warranty and annual maintenance contracts, for cases where it is not possible to repair the hardware locally it is generally sent to a centralized repair hub which has relevant expertise and inventories of components to undertake specialized repairs. However, in some cases (may be 20-30%) it is not possible to repair or return hardware with same serial number, due to damage to card, product discontinuity, non-availability of components etc. hence in such cases, same card with different serial number is supplied.

4) Preferential Market Access (PMA) Applying to Government Procurement

- For many products and technologies there is a lack of local vendor base and many products the requirement in TSP's network though critical but is low volume. For such low volume cases it is not viable for a global vendor to have multiple manufacturing facilities. Forced localization policies will limit the flexibility of government agencies in procurements with the potential to increase cost, decrease choice, and impair the ability of the government to meet its legitimate security, performance, and cost objectives. Government has the goal of net zero electronics imports. **On similar lines PMA should be introduced on "Net Zero" philosophy. Global vendors who have made investments in India and have created manufacturing facilities in India should be PMA compliant based on net exports commitment of manufactured goods from India, instead of being PMA compliant for every product to be manufactured in India which is not feasible due to lack of scale.**
- Further there is a complex Value addition criterion being introduced for local manufacturing. The component, raw material and silicone eco system is nonexistent in India and manufacturers have to rely on imports of such critical components and chipsets. Government should focus on creating a component / raw material / silicone manufacturing in India and till such time all such products which are not available locally and intrinsic for manufacturing for telecom equipment in India should be considered a part of local value addition as also approved by DeitY/MeitY.

5) Anti-Dumping Duty (ADD). Given below is the brief and impact,

In year 2010 Directorate General of Anti-dumping and Allied Duties (DGAD) imposed ADD ranging from 3% to 266% in respect of import of Synchronous Digital Hierarchy (SDH) transmission equipment imported from China/Israel, in our case the rate of ADD



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is 45% on CIF value and this is making our products uncompetitive in Indian Telecom Market. DGAD initially imposed this ADD for 5 years and despite representations (by telecom operators/equipment vendors) DGAD in Dec, 2014 has initiated the Sun-set review (in progress) to further extend the period for imposition of such Anti-Dumping Duties and to examine the need and adequacy of the safeguard duty. We are of the view that fundamental basic requirement of the Anti-Dumping Laws being completely ignored to favor some local equipment vendors therefore, request Indian Government that Anti-Dumping duty not be used as a tool of protection by the domestic industry for their own inefficiencies. Even after lapse of years since the imposition of anti-dumping duty on SDH, the domestic industry has not taken steps towards capacity building.

This is also important as SDH technology will be phase out soon and will be replaced by DWDM, OTN and PTN technology. Given that development in technology has resulted in multiple products / functions being available in one single unit which hitherto were available only as independent products, likewise development in technology has resulted in SDH, OTN and DWDM being available together in one box, which earlier were available as separate products only. Tax authorities may use these developments to their benefit and may impose levy of anti-dumping duty on box as a whole even where SDH is just a part of box having multiple technologies.

Further although said notification itself is still under fundamental challenge since 2009 before the Supreme Court and the CESTAT but Department of Revenue Intelligence had, on the basis of complaints filed by the same domestic manufacturer, initiated coercive investigations against telecom service providers and equipment vendors for recovery of alleged evasion of anti-dumping duty. Most of these recoveries were passed on to the equipment vendors by the service providers, in our case these recoveries by service provider has resulted in multi millions additional cost and has also forced us to pay ADD even on import of components for SDH manufacturing in India

These are some of the issues listed above that need to be sorted out to incentivize foreign investments.

Q.9 Does the existing PMA policy require any change? If yes, then please provide complete details with justifications.

A.9 For many products and technologies there is a lack of local vendor base and many products the requirement in TSP's network though critical but is low volume. For such low volume cases it is not viable for a global vendor to have multiple manufacturing facilities. Forced localization policies will limit the flexibility of government agencies in procurements with the potential to increase cost, decrease choice, and impair the ability of the government to meet its legitimate security, performance, and cost objectives. Government has the goal of net zero electronics

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imports. **On similar lines PMA should be introduced on “Net Zero” philosophy. Global vendors who have made investments in India and have created manufacturing facilities in India should be PMA compliant based on net exports commitment of manufactured goods from India, instead of being PMA compliant for every product to be manufactured in India which is not feasible due to lack of scale.**

Further there is a complex Value addition criteria being introduced for local manufacturing. The component, raw material and chip eco system is nonexistent in India and manufacturers have to rely on imports of such critical components and chipsets. Government should focus on creating a component / raw material / chip manufacturing in India and till such time all such products which are not available locally and intrinsic for manufacturing for telecom equipment in India should be considered a part of local value addition as also approved by DeitY/MeitY.

Q.10 Any other relevant issues that needs to be addressed to encourage local telecom manufacturing in our country.

A.10 – No