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To,

Shri Arvind Kumar,

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Dear Sir,

Sub : Comments on TRAI Consultation Paper – Promoting local Telecom Equipment Manufacturing

Nokia wants first to thank you for the opportunity provided to comment on this important topic of how to promote local telecom equipment manufacturing in India. Nokia has been constantly increasing its presence and investments in India, and with successful acquisition of Alcatel Lucent which was concluded in 2016 Nokia currently employs 15,000 people in India. We supply Telecom Network Equipment to all the operators in India and are proud to state that we are the 1st to manufacture 4G / LTE Radio Equipment in India. The state of art facility has enhanced its capacity recently this year to place 9.2 billion SMD components, with extraordinary quality performance and is now well set to **"Make in India for the World"**. This facility caters to the latest telecom needs across different continents. Nokia's largest **R&D** based out of Bangalore and Chennai with 7,000 Engineers developing cutting edge technology supporting IOT & 5G. Global Delivery Center (GDC) based out of Noida & Chennai with 4000 engineers supporting 200 operators in 86 Countries.

Nokia hopes that if and when any steps are taken to further this goal, TRAI would consider and promote fair competition between local and international industry. Fair competition will provide a sustainable basis for the Indian industry to not only grow domestically, but also to succeed outside of India and reduce the risk for development of any international disputes related to unfair government favouring of local industry. Nokia's detailed comments herein on the TRAI proposal assumes that these high-level principles will be followed and Nokia's Indian legal entity will be eligible for equal treatment compared with

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any purely domestic Indian legal entity, as both are creating employment in India and contributing to Indian economic and industrial development.

Before turning to the specific questions presented in the consultation document, Nokia also wishes to make some observations and comments on TRAI statements and information contained in the document.

1) On page 4, there are some figures purporting to show the telecom industry contribution to the Indian economy. One should note that foreign-owned telecom firms and domestic ones have all contributed to the Indian economy, and these figures reflect that truth.
2) Regarding a supposed lack of progress made in developing a domestic telecom equipment manufacturing industry in India, consider that globally there are only a handful of major telecom infrastructure companies left capable of developing and deploying end-to-end networks for operator customers. Telecommunications equipment is a tremendously competitive market, where rapid consolidation has occurred in the last decade. Formerly independent businesses of Siemens, Alcatel, Lucent, Motorola, and Panasonic all are now integrated under Nokia. A top equipment manufacturer, Nortel Networks, went bankrupt and no longer exists, and another well-capitalized competitor with abundant resources, Samsung, struggles to keep its infrastructure business viable as network operators all around the world continually reduce their capital expenditures. Therefore, it is not surprising that an indigenous Indian company has failed to emerge to compete with existing telecom equipment providers in what is currently a shrinking market.
3) The aim that India should be self-sufficient in telecom equipment manufacturing (page 6) is something at which no other country has succeeded, except perhaps Finland and Sweden, which are of course dramatically different than India in numerous relevant aspects (size of population, geography, domestic policy priorities, etc.). A better and realistically achievable goal might be to cooperate with existing technology providers from politically neutral countries, and to utilize Indian talent and technology prowess in subcontracting work for key technologies needed for use globally. This would not likely be achieved by using an import tax (negative incentive), but rather by creating efficient and preferable subcontracting opportunities (positive incentives). This model could accumulate capital resources and know-how in India.

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rations so all Indian manufacturers are able to enjoy these global FRAND commitments. With regard to licenses, the nature of patent licensing results in parties typically resolving numerous business issues at the same time. The nature of such business is almost always confidential and this is unlikely to change.

7) The statement that the FRAND rate differs from one licensee to another is not accurate. FRAND rates are by definition non-discriminatory. A superficial examination of agreements may incorrectly lead some inexperienced readers to believe that rates may be different between two parties, when in reality there is generally an exchange of compensation by other means that may impact royalties to be paid. For example, there may be transfers of assets, purchases of equipment, licenses to other desired technologies, or other additional contractual consideration that serves to provide value to the licensor and thus reduces the royalty rate paid, even though the true royalty being assessed is a standard licensor rate applicable to all. Furthermore, in order to avoid the administrative difficulties of royalty reporting and auditing, licenses often may be paid in lump sums basedon estimated volumes for future years. Another reason for structuring agreements in this fashion is that a licensor may be willing to take on a risk of potential underpayment if future sales exceed expectations in return for the surety of cash in hand. Without awareness of all the circumstances like these that can impact the compensation terms of a license agreement, a reader could easily (but incorrectly) assume that the ultimate royalty rate being paid in one license is different from that being paid in another.

Our comments on the said paper attached.

Thanking you

Yours sincerely

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TRAI Consultation Paper

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.**

   The telecom equipment industry requires huge R & D further Telecom equipment has a very niche market and caters only to TSPs therefore can not be compared with that of Hand sets market.

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.**

Sectors which has less Government Control has done well, IT sector is one of the example. Government should work on easy and simple policies/regulations. In general speaking, the telecommunication technology is a long-term cooperation with various companies occurring at the global standardization forums. In order to master telecommunication technology one has to participate to the global standardization activities. This is only the first step. The next step is to investment in the chipset development, or decide that this technology is acquired from somewhere else. If not investing in the chip-set development, one should consider what is the area an Indian company may become competent and seek cooperation with the existing companies. It is pertinent to note that no country is self-dependent in all aspects of manufacturing value chain, and thus takes time to develop the value chain that can act as a smart enabler to the nation's need.

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.**

If India wishes to promote the ability of local telecom equipment manufacturers to grow and flourish, India should encourage the development of laws and judicial and patent-issuance systems that enable effective enforcement of intellectual property rights by all market participants. In such circumstances, Indian companies will benefit just as much as those from outside India who supply equipment used in local Indian networks.

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

   Evaluation criteria for Standardization, Certification and Testing of Telecom Equipment shall be made in compliance with other international standards such as ISO 27000 and 3GPP,

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furthermore this implies certification criteria must be fully aligned with available 3GPP specifications including for security compliance as they develop.

Vendor like us has a dedicated security labs and prior to release of any critical core HW/SW nodes are tested thoroughly before going commercial worldwide. We shall be allowed to continue with Self Certification. Further lack of existing testing facilities in India may risk major supply chain disruptions and increase cost for TSPs and vendors, therefore Government should first focus on eco system

Developing something domestic variations will place Indian industry in disadvantageous position. This has been tried in Japan/ China but only being later overtaken by the global standards.

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

India already has a sophisticated legal system capable of fairly resolving disputes between parties over appropriate FRAND royalty rates. Moreover, contracting parties commonly avail themselves of non-court alternatives to efficiently and cost-effectively resolve such dispute, such as mediation and arbitration, and these alternatives are always available as well in pre-contractual situations. There is no need to build additional and/or mandatory ADR systems in India. There is no one-size-fits-all dispute resolution method that will work well in all cases, and market participants appreciate rather the flexibility of being able to find a mechanism that works best for their particular situation rather than a mandated one that may not make sense in their circumstances. Rather than seeking a way to force parties into a certain resolution procedure, it would be better to more effectively promote FRAND licensing principles, educations and guidelines. For example in Europe there is a CEN-CENELEC/AFRON/DIN project ongoing where these topics are discussed and this hopefully will result in more transparency in FRAND licensing that will enable parties to better resolve disagreements on their own. In another example, Japan had considered introducing a new ADR system, but now its focus has shifted to creating a guideline document formulating a general negotiation procedure for FRAND licensing to assist new market entrants.

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?**

No Comments

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

Under the Information Technology Agreement (ITA-1) a wide range of products falling under 8517 were covered. India being a signatory to the ITA-1 also accorded this benefit to import off. However, with recent amendments, most of the goods have been made exigible to Basic Customs duty @10% ('BCD'). This has posed a unique challenge to telecom manufacturing units based in a Special Economic Zone ('SEZ'). While the import of inputs required for manufacturing such products do not attract Customs duties (since imports by an SEZ unit are exempt), the sale of such goods by an SEZ unit to a unit in the Domestic tariff area ('DTA') now attracts BCD @10%. This charge of BCD results in increase in cost to the purchaser.

Earlier, with the goods being exempt from Basic Customs duties, telecom manufacturers had a level playing field whether it was manufacturing by a unit in DTA or SEZ. It is pertinent to bear in mind that

production by both, SEZ units and DTA units, should be considered as 'domestic production'. With the introduction of BCD, DTA units have an unfair advantage over SEZ units.

This issue may be addressed by maintaining nil BCD on DTA sales from SEZ units.

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.?**

Currently the only export incentive available was 2% incentive under the Merchandise Exports from India Scheme (MEIS) introduced in the Foreign Trade policy 2015-20. The same should be increased to 5% to promote more domestic manufacturing and exports

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

The concept of a *"subsidy" or a "reservation"* in the provision of telecom services is not recommended by us. We believe that the current market has grown commendably as it was based on market forces and competition. Any intervention with the pure play of market forces will only act as a deterrent to the growth of service

While we agree that domestic manufacturing should be promoted and encouraged; we strongly believe that there should not be policy of preferential access or any mandatory requirements or penalties on the service providers.

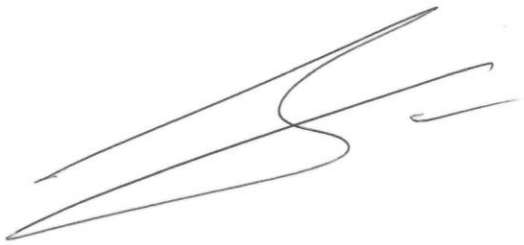
The Indian mobile market, being the second largest market in the world, has greatly evolved over the years and has done well. To enable long term sustainable growth of Indian/domestic manufacturing, the focus should be on improving competitiveness of the domestic industry. 'Protection' or 'Preferential Access' is not the suitable policy tools to enhance long term competitiveness of manufacturing.

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

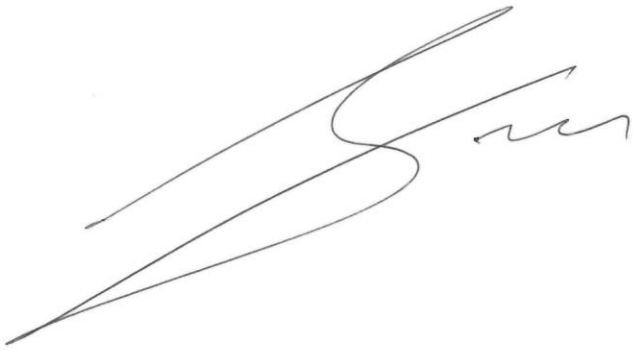
To boost the high tech telecom manufacturing sector, we should promulgate a policy that creates a level playing field for all telecom manufacturing units in India – whether in DTA or in SEZ. With the present Customs duty structure on finished goods, high tech telecom manufacturing units in the SEZ are adversely affected. Accordingly, the new policy should treat removals from DTA and SEZ units as the same – while retaining the benefits for SEZ units considering they are also engaged in export of goods, out of India.

Further, for units located in DTA, following the cumbersome Customs. (Import of Goods at Concessional Rate of Duty) Rules, 2017, also should be withdrawn, and instead a yearly audit or self-certification from the manufacturer should be introduced. This shall remove the procedural tax bottleneck for the manufacturers, who in both the scenario are either hit by additional duty or by additional compliances.

Government should also consider extending this benefit basis the value addition done in India, e.g. more for manufacturers who perform high value addition like the PCB mounting and less to manufacturers who only do assembly.



This should be considered as a step towards the 'Make in India' initiative for the telecom sector. To bring about such changes, a policy may be drafted and changes in SEZ Rules and Customs Rules would be required. Key amendments in the Customs Rules regarding non applicability of IGCR Rules, Customs exemptions for DTA clearances and in SEZ Rules regarding NFE computation, terms and conditions for availing exemptions should be suitably amended.



S/P