 

**Telecom Equipment Manufacturers Association** **The Science, Indigenous Technology & Advanced**

**Research Accelerator**

**To**

**Shri P.K. Mishra**

**Principal Secretary to PM**

**PMO, South Block, New Delhi, 110011** Tuesday, 15 June 2021

**Subject: Bidder can have ToT with entity from country sharing land borders with India**

Dear Sir,

We draw your kind attention yet again to *yet* more attempts to subvert the goal of self-reliance enunciated by Hon’ble Prime Minister. India faces many adversaries. We have suffered several unsolicited attacks - the Galwan valley outrage, Doklam, etc. Today, the world is coming around to the view that the Coronavirus, which has taken away the lives of lakhs of our country-people, *may have been engineered in a Chinese biolab*. The world is mobilising to face the Chinese threat, as the recent **G7 Summit** in which PM participated, demonstrates.

**India too took steps to signal GOI’s firm intention that these attacks on India’s sovereignty and health would have consequences. Working on the principle of safeguarding the security of and removing the dangerous foreign presence in India’s ICT networks**: i) a fresh BSNL tender removing clauses openly favouring Chinese/ foreign suppliers and the Trusted Sources Directive were issued under PM’s direction; (ii) Clause 10 (d) of Public Procurement (Preference to Make in India) Order 2017 was introduced, mirroring the lack of reciprocal opportunities for Indian players in China (iii) having an indigenous core for 4G was made mandatory; (iv) Govt made it compulsory that **suppliers from countries that share a land border with India register with the competent authority before bidding for government tenders** by inserting GFR Rule 144 (xi) vide DOE, MOF Notification F. No. 6/18/2019-PPD dated 23rd July 2020.

**We are highly appreciative of these moves which have the added benefit of incentivising domestic players to invest in R&D and build up capabilities.** **Ultimately, as we never tire of pointing out, Economic Security is National Security** (enclosed are references to statements by dignitaries and in National Security documents about this). And technology is the ultimate foundation of economic security.

**But the Government’s well-intentioned moves have not been given the time to have an impact on the ground. There has been a concerted move to neutralise them/ roll them back. Tender after tender violates PPP-MII, with the only answer offered being cancellation followed by the invention of new & innovative ways to exclude domestic participation.**

We are currently referring to an amendment in Notification dated 8th June, 2021 by DOE, MOF (attached) - “Participation of Bidder having ToT arrangement with an entity from a **country sharing land borders** with India” - ***which threatens to undo all this good work***. **Allowing the Transfer of Technology (TOT) from Chinese companies is a huge set-back, as any Chinese company can now forge a fake Transfer of Technology agreement with an Indian counterpart, thus allowing imports of products from China in CKD and SKD form. Chinese products will ultimately end up in the nation’s ICT networks, which need to be secured after decades of being compromised**. We would like to submit for your kind consideration:

1. This Order goes against the basic purpose and intent of GFR Rule 144 (xi), which mentions “**on the grounds of defence of India, or matters directly or indirectly related thereto including National Security**”.
2. **The main purpose of the Order dated 23.7.2020, was to regulate/ensure National Security concerns due to unchecked imports of high-end technologies from China like Telecom, 4G, 5G and Surveillance equipment (including but not limited to CCTV, and allied equipment, software) etc.**
3. **The scope of TOT** - sharing/ transfer of Intellectual Property Rights/ Source Codes, Royalties & TOT fees payable, rights to modify/ upgrade, security guarantees such as safeguards against remote maintenance - **has not been described and no mechanism for approval or requirement of manufacturing, domestic procurement & local skill development - has been specified in the current Order, leaving it wide open for misuse.** So any Indian foreign subsidiary of foreign company or an Indian company can take TOT even for trading and bypass GFR Rule 144 (xi) and DPIIT registration.

In addition, another notification by DOR, MOF - Circular No.10/2021-Customs, dated 17th May 2021 (attached), even allows imports with nil BCD, thus opening up another route for Chinese imports via fake ToT arrangements **at nil BCD**. Under this Circular - 100% of “job work” – a creative albeit inelegant term invented to facilitate unrestricted imports - is allowed. The 2017 IGCR (Import of Goods at Concessional Rate of Duty) had laid down procedures for availing concessional customs duties on imports for the domestic production of goods, with the “actual” manufacturing to be done in-house. Now imported goods can be outsourced for ‘job work’ to placate the “traders”. In other words, importers with no manufacturing facility can avail IGCR for imports at concessional customs duty rates and “outsource” manufacturing. And as if that's not enough, the latest PLI schemes across sectors may even give them 5-7 percent incentive for fake assembly work done in India!

**In stark contrast, domestic Indian firms are fiscally disadvantaged to the tune of 25% vis-à-vis global giants from neighbouring and other countries and pay higher component costs. Indian companies also do not have the benefit of a DARPA, or the Chinese model of funding R&D.**

**The Amendment and Circular thus render all the earlier Government policies to bar Chinese players from the Indian market null and void. They also discourage Indian companies that have committed significant R&D investments to make India self-reliant, and thus leave India even more vulnerable to intimidation from our not-so-friendly neighbours. This is especially unacceptable when the moves are meant clearly to help China. Lobbies that seek to favour the re-entry of Chinese equipment and components through the back-door are betraying the country and National Security. We request PMO to take strict action as these lobbies and their agents will not stop their scheming. It is also time now for PMO to identify their enablers and remove them from positions of responsibility and trust - if PM’s directives are to be fulfilled and time given for them to have an impact on the ground.**

**In the interest of National Security and for establishing an Atmanirbhar Bharat with a thriving domestic industry, we request you to have the notice dated 8th of June, 2021 withdrawn or it will expose the country to negative consequences on all fronts. Similarly, the Circular dated May 17th must be amended to ensure that traders do not get the facility for unrestricted imports.**

With best regards and best wishes for your safety,

(Prof. N.K. Goyal) (Smita Purushottam)

**President Telecom Equipment Manufacturers Association** **Chairperson SITARA**