

## Make In India To Test & Certify In India: New Rules For Telecom Equipment

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India is currently the world's second largest telecommunications market with a subscriber base of 1,206.22 million as of March 2018<sup>1</sup>. India's mobile economy is growing rapidly and currently constitutes more than 98% of all telephone subscriptions.<sup>2</sup> During 2007-2018, the telephone subscriber base grew at a CAGR<sup>3</sup> of 17.44% and the revenues from the telecom equipment sector are expected to cross US\$ 26.38 billion by 2020<sup>4</sup>. Despite the exponential increase in the subscriber base, indigenous telecom equipment manufacturing has not kept pace and the sector continues to be dependent on foreign manufactured telecom equipment. Some factors that support this include the trade policy and the liberal tariff structure on import of telecom equipment in India. Other than the apparent benefits of local manufacturing, the focus on foreign manufactured telecom equipment does give rise to concerns from a security perspective. To boost indigenous manufacturing, the Modi Government had announced Make in India initiative to support indigenous manufacturing and for the telecom has an ambitious plan that every Indian shall have a smartphone by 2019 under its Digital India initiative. Also, the Department of Telecommunications (**DoT**) has a policy for providing preference to domestically manufactured telecom products in Government procurement due to security reasons.<sup>5</sup> Clearly, these policies are intended to encourage indigenous telecom equipment manufacturing for various reasons including security.

The (Indian) National Telecom Policy, 2012 also recognises that testing and certification of all telecom products are necessary to ensure safe-to-connect and seamless functioning in the existing and future networks. Given all these factors, the Government of India has amended the (Indian) Telegraph Rules (**Rules**) on 5 September 2017 to provide for mandatory testing and certification of "telegraph"<sup>6</sup>. They come into effect on 1 October 2018. Expectedly, the move has caused some flutter in the telecom industry as it changes the rules of the game quite significantly, moving from a regime which was largely liberal to one which now imposes additional requirements of testing and certification prior to any sale of telecom equipment in India. That said, the Rules do justify some anguish for stakeholders and one anticipates that some of the concerns are addressed.

### The Rules

Briefly, the Rules provide that any telegraph, used or capable of being used with any telegraph, must undergo mandatory testing in respect of certain essential requirements (**ERs**) and certification by the Telecommunication Engineering Centre, DoT, Ministry of Communications (**TEC**) before sale of such telegraph in India. The TEC has framed a detailed procedure for mandatory testing and certification of telecom equipment (**MT&CTE**). A brief analysis of the Rules and MT&CTE are as follows.

- a. Every original equipment manufacturer (Indian and foreign) (**OEM**) and importer, who wishes to sell or import any telecom equipment in India, must get its telecom equipment

mandatorily tested and certified by TEC and mark or affix such equipment with TEC's certification label.

- b. TEC has specified ERs for various telecom equipment, which would need to be met before TEC grants the certification. On the other hand, the DoT is yet to specify the security requirements for equipment. However, concerns have been voiced that ERs specified for certain equipment may not be standard and should be either modified or deleted.
- c. Under the Rules and MT&CTE, the testing can be done either by a TEC designated Indian lab (i.e., CAB<sup>7</sup>) or any TEC recognized CAB of MRA<sup>8</sup> partner country. As at date, only 15 (fifteen) CABs are recognised<sup>9</sup> and Singapore is the only recognised MRA partner country.
- d. Clearly, given the size of the industry, the recognised CABs are not enough to support the demand of OEMs/ importers. TEC has thus clarified that it will also accept test reports from any lab accredited by an ILAC<sup>10</sup> signatory until 31 March 2019. However, there is lack of clarity on whether this date would be extended if requisite number of labs are not designated by 31 March 2019. The industry perspective has been that such test reports be accepted indefinitely as long as such reports are valid and not only till 31 March 2019. It is out of question that this would be accepted by TEC as any indefinite extension would defeat the very purpose of imposing the above requirements.
- e. In order to simplify the certification process, TEC has clarified that the test reports of any telecom equipment should not be older than 6 (six) months before applying for certification from TEC (under both GCS<sup>11</sup> and SCS<sup>12</sup>). However, there is a strong industry pushback to extend this period to a minimum of 12 (twelve) months. TEC is considering this and would perhaps be willing to extend the timeline.
- f. Basis the test reports and self-declaration of conformity, TEC may certify telecom equipment. The certification is valid for 5 (five) years from the date of issue and can be renewed for another 5 (five) years if there is no change in the ERs.
- g. TEC's certification needs to be obtained only once for 1 (one) model of telecom equipment. In this regard, TEC has also clarified that where equipment with different model numbers are not substantially different from each other in respect of communication modules/interface cards, all such models may be considered belonging to the same family and only 1 (one) of such models (with higher configuration) can be tested and certified.
- h. If there is change in model of telecom equipment due to change in size, shape, colour etc., and such change do not affect compliance with ERs, TEC's certification will require modification without any further testing. However, if there is change in model and such change affect compliance with ERs, fresh testing and certification is required.
- i. The previous regime of TAC<sup>13</sup> or IAC<sup>14</sup> still exists. In this regard, the equipment for which a valid TAC or IAC has been issued by TEC, only incremental testing will be required for issue of TEC certificate. Such certificate will be valid for remaining period of TAC or IAC.
- j. TEC's certification does not guarantee the quality and reliability of any equipment and every OEM/importer will be responsible for the same.
- k. As a deterrence, TEC has restricted any Indian telecom licensee from using any uncertified telecom equipment in its network and has advised general public to buy/use only certified equipment. TEC also has power to take custody of all the telecom equipment and destroy them in case of contravention of the Rules and/or MT&CTE.

- I. TEC is currently developing an online portal for administration and end-to-end processing of MT&CTE. OEMs/importers can register on this portal, apply for testing and certification and download certificates.

There are some news reports which suggest that the mandatory testing requirements have been extended to 31 March 2019<sup>15</sup>. However, any extension to the commencement date of the Rules would only be possible through an amendment to the Rules by the Government of India and there is no official notification published by the Government which support this. The news reports appear to treat the clarification issued by TEC that it would accept test reports from any ILAC accredited lab until 31 March 2019 (discussed above) as some sort of an extension of the commencement date, which isn't the case.

## **Conclusion**

The Government of India has also recently released a draft National Digital Policy 2018, one of the mission of which is "Secure India" i.e. to ensure sovereignty, safety and security of digital communications in India. The draft policy also states that the Government is aligning with global standards on safety and security for equipment and devices. Clearly, the Government of India has been proactive in its efforts to ensure security and transform India into a global telecommunications manufacturing hub. However, one expects that the Government will be equally proactive in addressing some of the concerns discussed above and continue to make it easier to do business in India.

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## **Footnotes**

1 IBEF Indian Telecommunications Industry Report- June 2018

2 Annual Report 2017-2018, Department of Telecommunications, Ministry of Communications, Government of India

3 Compounded Annual Growth Rate

4 IBEF Indian Telecommunications Industry Report- June 2018

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[http://www.dot.gov.in/sites/default/files/policy\\_for\\_preference\\_to\\_domestically\\_managed\\_telecom\\_products\\_in\\_government\\_procurement.PDF](http://www.dot.gov.in/sites/default/files/policy_for_preference_to_domestically_managed_telecom_products_in_government_procurement.PDF)

6 As per Section 3(1AA) of the Indian Telegraph Act, 1885, "telegraph" means any appliance, instrument, material or apparatus used or capable of use for transmission or reception of signs, signals, writing, images, and sounds or intelligence of any nature by wire, visual or other electromagnetic emissions, Radio waves or Hertzian waves, galvanic, electric or magnetic means.

7 Conformance Assessment Body

8 Mutual Recognition Agreement/ Arrangement

9 List of recognised CABs are available at <http://www.tec.gov.in/list-of-cabs-designated-by-india/>

10 International Laboratory Accreditation Cooperation

11 General Certification Scheme

12 Simplified Certification Scheme

13 Type Approval Certificate

14 Interface Approval Certificate

15 <https://economictimes.indiatimes.com/t-companies/tata-telecom/mandatory-local-telecom-equipment-testing-deadline-extended-to-march-2019/articleshow/64741295.cms>

*The content of this article is intended to provide a general guide to the subject matter. Specialist advice should be sought about your specific circumstances.*