AMERICAN CHAMBER OF COMMERCE IN INDIA
PHD House, 4th Floor, 4/2, Siri Institutional Area, August Kranti Marg
New Delhi - 110016 Tel : 91-11-26525201/02, Fax : 91-11-26525203
Email : amcham@amchamindia.com Website : www.amchamindia.com

ANNEXURE

AMCHAM's RECOMMENDATIONS

1. **Progressive approach in government policies and economic reforms**

(i) The Industry expects a greater focus on policies that foster industry development- based on improving competitiveness in skills, innovation, R&D, capacity building etc., through fiscal benefits and global collaboration. These progressive measures will encourage investment in technology by IT vendors and will go a long way in empowering development projects of Government of India.

(ii) Detailed deliberation on protectionist measures like mandatory conditions of value addition, as prescribed under preferential market access need to be held as it limits access to global technologies at competitive prices. Policies like the National Offset Policy limit participation by global technology majors and prove disadvantageous to government customers.

(iii) Policies mandating data localization and restricting data flows across borders, should be discouraged. Trans-border data flows contribute immensely to the GDP and growth of economies (especially of developing ones). Industry urges GoI to look at ways and means to incentivize organizations that invest in data centers in India, rather than penalize ones who uphold cross border flows. (ECIPE studies indicate that restrictive practices like these, on data flow, may adversely impact the country's GDP upto 0.8%).

(iv) **Guidelines for CRI (Computer Related Inventions)** were released in June, 2017. MeitY's critical intervention and advice to IPO and DIPP, for the necessary removal of the 'novel hardware' requirement is laudable. This is a progressive measure and will augur well for innovation and entrepreneurship in India. AMCHAM's members will continue to engage with DIPP for further guidelines and clarity on various dimensions of this CRI Guidelines 2017.

(v) **Need to enhance 'Ease of doing Business Index' –** Outward **-** looking market access measures, global harmonization, progressive regulatory requirements, rational compliance needs are needed to ensure that ease of doing business index improves for the IT industry in the country.

(vi) **E-waste -** The IT industry truly appreciates GoI's efforts to improve e-waste management practices in the country. While regulation is important and necessary for preserving the environment and advancing public interests, it is equally important not to make the regulatory environment overly burdensome.

All AMCHAM members have taken the Extended Producer Responsibility (EPR) Authorization and are putting their best effort to meet the obligations mandated under the E-waste (Management) Rules 2016. However, the Rules in its current form, may fall short of meeting its objective of driving sound management of e-waste. The biggest lacunae in the Rules is that the entire accountability of e-waste management is on one stakeholder – namely the producers. Producers of electrical and electronic equipment (EEE) though, undoubtedly, are an important element in the entire value chain, but they can't by themselves manage e-waste. The principle of shared responsibility has to be applied to ensure effectiveness of the Rules.

(vii) Another crucial aspect of effective management of e-waste is the setting of measurable goals. Currently the Rule imposes an ambitious collection target of 30% in the first year which eventually increases to 70% in 7 years. As per some estimates, barely 5% of the total e-waste generated is currently handled in the formal system. The e-waste collection trends witnessed over last few years has indicated that Producer have access to not more than 2-3% of its end of life products. In such a circumstance, Producers alone cannot achieve the set collection targets. The principle of shared responsibility has to be applied to the collection target as well. The collection target of 30% may be viewed as a collective target that we, as a nation, wishes to achieve, therein each relevant stakeholder can have respective commitments.

(viii) The Industry is thankful to MeitY for its support and for providing inputs to the MoEF&CC on improving the current e-waste management scenario in the country. MeitY should continue the engagement with the MoEF&CC to help in developing a regulation in best interest of the Nation, environment and to the IT industry.

2. Need for a formal Encryption Policy

(i) During the discussions, it was submitted that the current encryption standards as applicable in the Indian ICT Sector are coming in the way of building a robust & secure communication network and data. There is a need to review the current framework and facilitate use of encryption in the ICT sector while keeping in view the legitimate interest of Government and Industry.

(ii) The matter has been in public consultation at many occasions in the past. AMCHAM members have submitted their inputs in the attempt to review the current encryption rules. It was requested that the current limit under the licenses of 40 bits is archaic and needs to be further enhanced to meet the needs of current technology and network security.

(iii) India's success story in the ICT space has been fueled & further strengthened by an enabling regulatory framework driven by Indian and Global MNCs, IT / ITES and BPO companies, Banks etc. The need for having encryption at the right level is driven by the need to secure the networks against any cyber-attack or virus etc. There are currently, sector specific regulations mandating compulsory use of certain encryption standard which at times does not align with what has been permitted under the license terms and conditions as applicable to Telecom sector. For example, in the Banking sector, the Reserve Bank of India guidelines on Internet Banking mandates minimum encryption bit standards of SSL/128.

(iv) AMCHAM understands that a review process in this regard is currently underway at MeitY. A draft of the policy was released in September 2015 which was subsequently withdrawn. Industry is awaiting the revised version of the draft to be able to provide inputs.

(v) AMCHAM would like to propose that let there be no limit prescribed for using Encryption. The entities should be free to deploy/ use any limit subject to the condition that as and when there is a request to provide information to the LEAs or any other designated agency of the Government, decryption assistance / readable data as appropriate will be provided within a time bound manner.

(vi) This mechanism in place will work on self-certification basis that will help Government to work in an enforcement mode and help foster governance rather than working on case by case approval. Given the fast changing technology trends today, there may not be a need to prescribe any encryption limit.

(vii) Looking at international level, many countries have adopted the encryption policy based on the guidelines recommended by Organization for Economic Co-operation and Development (OECD).

3. **Internet of Things (IoT) Policy**

(i) MeitY released a draft of IoT policy in October 2014 for industry comments. Based on the comments received a revised draft was issued in April 2015. However, since then the Industry has been awaiting the release of a formal IoT policy. M2M/IOT are emerging technology service formats which will transform the sector in a positive way. This requires a formal policy framework. While Department of Telecommunications has already released the National Telecom M2M Roadmap in 2015, a release of IoT policy will immensely benefit the industry.

4. **Streamline Compulsory Registration Scheme**

(i) The IT Industry has been facing a number of challenges related to testing and certification of ICT products in India. The Compulsory Registration (CRO) Scheme in effect since 2012 and continuing to expand, has been particularly complex and onerous, resulting in significant costs for the companies.

(ii) Mr. Sanjay Kumar Rakesh, Joint Secretary, MeitY, has organized a number of stakeholder meetings to work closely on improving the market surveillance procedures, series guidelines, etc. Regular engagement with all stakeholders should be an ongoing and continuous process. Just like with E waste a strengthened joint working with BIS would help in improving the ease of business and reduce the complexity under the scheme which is otherwise having an impact in an industry which is part of a global supply chain model.

(iii) Currently, AMCHAM members face prohibitive compliance costs and multiple operational hurdles with respect to unrealistic timelines, tedious processes, unique labeling requirements, and certificate / test validity periods and per factory testing requirements.

(iv) Industry's requests: Exclusion of power supplies of Highly Specialized equipment from scope; harmonization of labeling requirements with global practices; harmonization of validity period of test reports and certification; doing away with repetitive and unnecessary retesting of same products from different factories etc.

(v) AMCHAM members engaged actively with MeitY for developing a reformed Market Surveillance framework, and are awaiting the release of the final guidelines / framework.

5. Reduce adverse impact of regressive Telecom Security Testing requirements

(i) Under the 'Safe to Connect' project-with lack of India-specific certification requirements and no labs on ground, it was essential for Govt to postpone the initiative till clarity and guidelines are in place. Dept of Telecom has now set the deadline for compliance as April

1, 2018. Industry proposes larger consultation with the Govt departments, towards consideration of self or mutual certifications.

6. **Streamline Public Procurement**

(i) **Model RFP -** The industry thanks MeitY for the final release of Model RFP 2.0. While AMCHAM's members talk to MeitY about further necessary changes, the RFP's have some definite positive dimensions related to Payment delays, Scope creep, Exchange rate variation, SLA clauses, vendor selection through Swiss Challenge method, procurement of proprietary solutions etc. some clauses like Limitation of Liability, fall Clauses, cash flow maintenance clauses etc., need urgent changes and AMCHAM requests further reforms. What is also essential is that MeitY works closely with AMCHAM's members for promoting the positive clauses of these RFP's (and mitigating potential risks from negative clauses), with various Central and State level procurement agencies.

Involvement of MoF and PMO for mandating them (Model RFP's) will go a step further, in ensuring that transparent, level-playing field is created for various participants of the industry.

(ii) **Mitigate risks from Protectionism -** On the whole, the IT industry is worried due to increased protectionism. As directed by the PM - Ministry of Finance, DIPP and MeitY are collectively moving in a direction towards strengthening ' Make in India' in the Electronics & IT Sectors. One of the 'perceived' routes that GoI is following is by restricting markets, to favour local suppliers.

Multiple recent policy documents that GoI has released- provide preference to ' Make in India' in Government Procurements. These practices (like PMA and Offset) are highly restrictive and inhibit multi-national technology providers from offering world-class products and solutions to various Central and State level procurement agencies. The 2013 policy for Preferential Market Access covers selected IT and Telecom products under its scope. IT industry requests for exclusion of high-end Servers for MeitY's draft on PMA policy for Servers, as their numbers are very low and thus, it is economically and technologically unviable to do any value addition on them, in any new geography.

(iii) **Procurement for GeM (Govt e Marketplace)** – the GeM procurement manual clearly articulates adherence to the requirement of procurement of providing preference to products and services that have domestic value addition- for Electronic and networking products. This, to a very large extent, defeats the very route of multinational organizations trying to bring cutting-edge technologies to GeM customers. Challenges exist with respect to lack of clarity on selling non-COTS software and other solutions through GeM. Industry is in talks with GeM (and NeGD) leadership and requests MeitY to advise GeM to expedite effective classification on the marketplace.

(iv) Some additional issues on GeM for clarification are:

- **Grouping Orders across Categories:** Many customers would like to place an integrated order across categories but for the time being the portal does not facilitate this. The portal needs to be modified to facilitate this.

- **Market Share Details Category wise:** OEM market share category-wise should be defined. This information is presently not available but in our view this should be readily available on a monthly basis as OEMs will calibrate their pricing accordingly to be more competitive and the end customer stands to gain from this.

- **MAF**: In the interest of quality and preventing relatively inexperienced customers being misguided by resellers a robust MAF functionality is essential. The price discovery is already taking place by virtue of L1 bidding process and there will be in our view very marginal benefits, if any, from a pricing point of view for an original product by not having the MAF functionality. There is, however, a significant risk of product misrepresentation and the corresponding decline of customer experience without this essential functionality.

- **3rd party Consumables:** Using third party consumables (like cartridges) whose quality can be very variable, in sharp contrast to the usually consistent high quality of an OEM cartridge, may adversely impact printer performance. Perhaps, a new category for third party cartridges and other consumables could be considered.

- **Parameters available for uploading products:** There are several parameters on contemporary products which are not available on the products upload page which denies the buyer the ability to make a more informed decision. Examples would be new chipsets etc. which are not visible on the dropdown menu when uploading newer models of laptops, servers etc. Industry is in the process of compiling a category wise list.

- **Better search functionality:** A functional search functionality to view bids and orders is needed instead of tediously searching through dozens of pages manually.

- **Manual Approval of products should be restricted to Non Tier 1 OEMs**: Industry is facing delays in uploading products because the approval is now being done manually at GeM. This was introduced recently to prevent grossly inaccurate uploads like uploading a Notebook with a price of 5000 rupees instead of 50,000 or uploading a toner in the printer category, however these mistakes were almost never done by tier 1 OEMs and so Industry should not be unnecessarily penalized and effectively be made to follow up for approval for each new product on almost a daily basis since there is at present no formal SLA on how soon an uploaded product will be manually approved.

- **Total Cost of Ownership:** TCO based bidding planned in the near future should be made in a transparent objective manner. For example: In the case of printers what constitutes a typical print page should be clearly defined.

- **Multiple User IDs for large organizations:** There is only one single user ID for a large MNC's. This creates a large number of complications and potentially has the risk of a single point of failure. A system with a master user and sub users whose rights would be defined based on their functions is required and the modification needs to be done as soon as possible.

- **State Payment Gateway Integration:** It is envisaged that there should be an escrow account for each state and funds for purchases > INR 50,000 should be deposited into these accounts before the opportunity is floated on GeM. The present state of play is that this stands approved in principle but the relevant memorandums with the states have yet to be signed, after which the system would be operationalized. This initiative needs to be expedited to avail of the opportunities originating from the states on the GeM portal in the near future.

- **Removal of remarks field during bid submission:** The decision to remove the ability of sellers to write remarks just before submitting the bid needs to be revisited as effectively OEMs would have to upload a new product for most new opportunities to be 100% compliant as opposed to earlier where small deviations would be stated in the remarks field. This will be detrimental for participation in opportunities with comparatively small requirements. Also, there is no way of communicating the offering newer/better versions of the components asked for at the same price due to discontinuation by the OEM which the buyer may not be privy to.

(v) The swift resolution of the above issues would allow the Government e Marketplace platform to reach its full potential to radically transform government procurement and usher in a new era of transparency, efficiency and customer satisfaction.

5. Increasing export incentives to make India a feasible export hub for IT products

(i) India currently contributes less than 3% to the global IT electronics industry. Even within India, smartphones and tablets constitute 71% of IT electronics, despite the average selling price of a smartphone in India being less than half of that of the global market (US$135 vs US$297).

(ii) As a striking contrast to the dream of making India a manufacturing hub, we produce less than a third of our domestic demand. In the current parlance, China is the single biggest manufacturer of electronics goods globally. With duty fillips and favorable support, we have been successful in achieving ~200 per cent growth in mobile handset manufacturing activity between 2014 and 2016, but China still produces over 91% personal computers and notebooks and 70% of smartphones, globally. Therefore, focusing on exports to drive economies of scale will put India in direct competition with China. If we were to make India a manufacturing (and, exporting) hub, we already have a few pertinent competitive advantages: 1) low labor costs, 2) burgeoning domestic demand, and 3) proximity to other fast growing economies of South Asia, Middle East and Africa countries. India is better situated than China to service fast growing South Asia, Middle East and Africa market.

(iii) However to achieve this, the following challenges need to be addressed:

- A significantly high supply chain cost compared to China, due to supplier capability, scale and low maturity of high-tech eco-system (Comparative assessment of structural component providers between India and China indicates a 28% higher cost in India)

- Poor infrastructure (electricity and transportation) that raises business cost and impacts continuity

- Absence of supporting eco-system to promote local assembly of IT Products

(iv) Incentives to manufacturing and exporting will lead to the following:

- Make-in-India will provide a significant cycle time advantage and potential logistic savings vs. China due to geographic proximity to fast growing South Asia, Middle East and Africa markets

- India could improve its trade position in this sector drastically over the next 5 years i.e. from net imports of ~USD 12 Billion to net export of ~USD 50 Billion

- CAPEX and OPEX investments will increase, because of favourable demand generation scenario. This will also lead to global giants set up manufacturing facilities in India, thus promoting infrastructural capabilities, innovation quotient, and employment

- Producing more devices of content creation are important as we become a skilled global economy. With thrust on education and entrepreneurship, and India is expected to see a sustained demand driven by the IT industry

(v) However, instead of extending support under MEIS, the incentives offered to IT electronics industry decreased from 5% to 2%. In line with India's pact with WTO with regards to ITA-1 obligations, the country has suffered a severe blow to its export potential due to creation of cheaper electronics and IT hardware produced in China and Korea. When compared against China, this reduction in incentives from 5% to 2% reduces savings of exporting to the Middle East by 81% and to South East Asia by over 93%. With the implementation of GST, duty credit scrips issued under MEIS and SEIS cannot be used for payment of Integrated Goods and Services Tax (IGST) and GST compensation cess in imports, thus making it financially unviable to compete in the international market.

(vi) The case for reinstating the original 5% incentive offered to the industry is strong and objective. It will not only foster a manufacturing ecosystem for India, but will also propel trade benefits and boost employment in the country.
