Ref.: ICEA/TRAI/2022/018
January 19, 2022

Shri Anil Kumar Bhardwaj,
Advisor (B&CS)
Telecom Regulatory Authority of India
Government of India
New Delhi

Subject: ICEA comments on the captioned consultation paper.

Reference: TRAI Consultation Paper on Ease of Doing Business in Telecom and
Broadcasting Sector (Consultation Paper No. 9/2021) dated 08.12.2021.

Dear Shri Anil Kumar Bhardwaj,

Greetings from the India Cellular & Electronics Association ["**ICEA**"]

ICEA is the apex industry body representing the electronics ecosystem. The vision of ICEA is to establish India as the global electronics manufacturing hub. Some of the prominent verticals which ICEA strives to serve and help create deep manufacturing competencies are mobile handset and its components eco-system, IT hardware, consumer electronics, smart agriculture, defence electronics, medical electronics, LEDs, automotive electronics, IT Hardware, emerging technologies, IoTs, and telecom & IT equipment. ICEA's consistent focus has been to make India the premier hub for mobile manufacturing in the world. All prominent members of the trade, industry and manufacturing ecosystem related to the electronics sector are part of the membership fold of ICEA.

At the outset, let me congratulate TRAI on this important and complex exercise of identifying key roadblocks in ease of doing business ["**EoDB**"] in the telecom and broadcasting sector, which remains a sunrise sector in India, through the release of the TRAI Consultation Paper on Ease of Doing Business in Telecom and Broadcasting Sector (Consultation Paper No. 9/2021) dated 08.12.2021 ["**the consultation paper**"]. We emphasise that reducing roadblocks to EoDB is the only way for India to establish itself as a credible and viable investment destination, and a manufacturing superpower.

Our comments are included in the document annexed herewith. ICEA looks forward to engaging more intently with TRAI on EoDB.

With my best regards,

Pankaj Mohindroo

Enclosure: Annexure **-** *ICEA's comments on the TRAI Consultation Paper on Ease of Doing Business in Telecom and Broadcasting Sector (Consultation Paper No. 9/2021) dated 08.12.2021*

ICEA's comments on the TRAI Consultation Paper on Ease of Doing Business in Telecom and Broadcasting Sector (Consultation Paper No. 9/2021) dated 08.12.2021

A. Introduction

Ensuring ease of doing business ["**EoDB**"] is one of the key initiatives that the government has embarked upon, and is pursuing aggressively. EoDB is directly linked to bringing efficiencies, predictability, competitiveness, ensuring speed of approvals, and innovation. A business environment which is built on ensuring EoDB, if implemented in letter and spirit, will result in GDP growth, more jobs, investments, and ultimately, a transformed economy. Policies should be carved out keeping this in mind.

The approval process should not be seen in isolation. Instead, this should be viewed from the perspective of the larger benefits that will accrue to the economy.

While numerous compliance obligations have been removed, and few introduced, one thing which has not changed is the unpredictability of timelines. There is no certainty as to when an application will be approved, or even rejected.

There is an urgent need for prescribing a predictable and definitive time frame for approvals / clearances like BIS, WPC etc

The delay in grant of approvals has become a critical issue impacting EoDB, and adversely affects a stable and predictable policy compliance environment. The current process of obtaining prior approval has proven to be extensively time consuming. There have been continued and inordinate delays in obtaining approvals. This delay is a barrier in efficiently operating the business and creating certainty. The existing process must be made more transparent and responsive from timelines perspective.

There are no prescribed timelines, and approvals which were earlier granted in a week now take more than a month. There is a need to define specific timelines in the approval process. Delay in grant of approvals severely impact ability of companies to roll out products in a timely manner. The delay impedes an enterprise's ability to operate efficiently in the market.

Specific responses to TRAI's questions are below. It is pertinent to note that the TRAI questions are in blue font.

Q9. Whether the present system of licenses/clearances/certificates mentioned in para no. 3.94 or any other permissions granted by WPC, requires improvement in any respect from the point of view of Ease of Doing Business (EoDB)?

<u>WPC ETA approval delays from DoT for BIS CRS products</u>

There are certain products which are exempted from import licensing requirements as per EXIM policy of DGFT, and operate in de-licensed frequency bands such as Bluetooth, Wi-Fi, NFC etc. These require Wireless and Planning Co-ordination Cell ["**WPC**"] approval called Equipment Type Approval ["**ETA**"] through self-certification under a process instituted in 2018. This is for speedy faceless approvals through an online portal which was very efficient. Since February 2020, WPC approval timelines changed from one week to several weeks and with no expected Turn Around Time ["**TAT**"]. This has started impacting entities' business significantly.

A. The approval / certification process needs to clearly define timelines for processing of applications, including grant of certification.

B. The process should introduce a concept of "deemed approval" wherein the application will be considered deemed approved and certification granted, if the application is not processed within a clearly defined time frame.

C. The competent authority may determine the timelines. However, in case of delay beyond the stipulated timelines, deemed approval should be granted to the application and BIS number granted / WPC ETA.

D. Applications will be filed as per the existing process and requirements including responding to clarifications.

<u>Reference for Specific Timelines and Deemed Approval</u>
Please find extracted the TS-iPASS-Rules-Telangana State Industrial project approval and self-certification system (TS-iPass) Rules, 2015 – Amendment dated 28.07.2017, wherein time bound clearances are mandated. If no clearance is given in the stipulated manner, then it is deemed approved. The relevant para from the TS-iPass rule is given below:

"…...The government may notify the clearances in respect of which the failure of the competent authority to pass final orders on the application within the stipulated time shall result in deemed approval. Certificate so issued to the units shall be binding on all concerned departments."

This example is for reference purposes only, to emphasise that similar certainty needs to be instituted by way of defining specific timelines and deemed approval in the approval / certification process. Processes may differ basis specific requirements, however certainty needs to be instituted from a timelines perspective. This will go a long way in supporting EoDB.

…if yes, what steps are required to be taken in terms of:
a. Simple, online and well-defined processes
b. Simple application format with a need to review of archaic fields, information, and online submission of documents if any
c. Precise and well-documented timelines along with the possibility of deemed approval

d. Well-defined and time bound query system in place

  A. Well defined timelines for approval of application at each stage should be made available to the applicant at the time of submission, and subsequent updates.

  B. WPC ETA approvals were made online in 2019 with the objective of faster turnaround time. On the basis of self-declaration, currently, lead time for granting certificates sometimes exceeds 4 weeks. Approval timelines in any case should not exceed one week after submission of application.

  C. On expiry of the defined timeline, deemed approval may be activated and certificate issued to the applicant.

e. Seamless integration and approvals across various ministries/departments with the end-to-end online system

f. Procedure, timelines and online system of notice/appeal for rejection/cancellation of license/clearance/certificate

Give your suggestions with justification for each license/ clearance/certificate separately with detailed reasons along with examples of best practices if any.

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Q11. Whether the present system of permissions/approvals mentioned in para no. 3.107 or any other permissions granted by TEC, requires improvement in any respect from the point of view of Ease of Doing Business (EoDB)? If yes, what steps are required to be taken in terms of:

a. Simple, online and well-defined processes

A. Processes need to be well defined and transparent. Within the Telecommunication Engineering Centre ["**TEC**"], the various departments or sections involved, and the stages at which the application is being currently processed need to be made transparent to applicants.

B. The current process of getting stakeholder inputs for the Mandatory Testing and Certification of Telecommunication Equipment ["**MTCTE**"] scheme and technical inputs for ERs is archaic and currently not fruitful. A formal process of involving stakeholders is required to enable the industry and TEC to collaborate. We emphasise that views of the industry must be taken on board for any scheme to succeed. Any ill-thought and ill-timed certification scheme will cause a severe adverse impact to the industry.

C. The entire process application should be online without any requirement of printed hard copies.

D. Option of digital signatures should be available, in the spirit of Digital India.

E. Any new phase of MTCTE scheme should have a minimum one-year timeline for implementation after the phase is notified. This will help original equipment manufacturers ["**OEMs**"] to gear up for certification in multiple areas—arrange required samples which in many cases need to be imported, do trial testing in the accredited labs to prepare for the requirements, address shortcomings, seek clarity and give adequate window for supply chain and sales functions.

F. Maintenance of confidentiality of a product before it is launched needs to be built into the application system. Applicants should be allowed to choose the date of publication of the certificate after the due process of scrutiny and grant of the application has been completed. This will prevent leakage of product details to the competition before the official launch of the product / model.

G. Inclusion of high-volume products in any phase of MTCTE scheme needs to be done keeping in view the following:

- Readiness of TEC (manpower, portal, etc.)
- Readiness of labs (competence, number of labs having facility to cover full scope of MTCTE ERs)
- Coverage under any existing certification scheme: any product that falls in some other scheme needs to be left out.

H. Acceptance of international standards and reports-

Acceptance of MRA ILAC reports—The International Telecommunications Union ["**ITU**"], the International Accreditation Forum ["**IAF**"] and the International Laboratory Accreditation Cooperation ["**ILAC**"] have signed a Memorandum of Understanding ["**MoU**"]. Accreditation bodies independently evaluate the compliance of conformity assessment bodies against recognized international standards, verifying their competence and impartiality. TEC can continue to accept ILAC reports as long as it is meeting required standards. This will help OEMs comply with the requirements in a flexible manner leveraging local labs and international labs, as suitable, for one requirement.

b. Simple application format with a need to review of archaic fields, information, and online submission of documents if any.

A. Format for any scheme needs to be discussed with wider industry stakeholders, and inputs for improvements considered and explained. Many times, OEMs have to struggle to understand the fields that have been asked for and the information to be provided.

B. Adequate file size for test reports and other documents needs to be enabled. File may contain drawings and pictures which require larger file sizes.

c. Precise and well-documented timelines along with the possibility of deemed approval

A. Timelines should be published and known to the applicant for each stage of the application with well-marked SLAs and reasonable timelines. On completion of each stage, the actual date of completion should also be highlighted.

B. Time taken for certificate grant should not exceed two weeks, after applying at the portal.

C. Timelines may be shown as follows for scrutiny and review at each stage, and each department (if more than one department is involved):

Department	Expected date	(Actual) Completion date	Remarks
A			
B			

D. Timelines should be visible on the portal for an applicant at each stage. This will avoid ambiguous statements like "application under process". Applicants need to be aware of which department or section is handling the application or query at each stage. This will enable transparency in the entire process of the grant of certificate.

E. If the processing of an application crosses the defined timeline threshold, there needs to be a provision of deemed approval. This will ensure that the OEM is not penalised for delay at the TEC end.

d. Well-defined and time bound query system in place

   A. The query resolution details may be made available in the following format at the portal.

Query raised on (x)
Query details (x)
Query response submitted on (x), as shown in the following format:

Department	Expected date	(Actual) Completion date	Remarks
A			
B			

   B. There needs to be an adequate space for submitting the response, and each stage should be visible online.

   C. If any response to a query is found inadequate, sufficient reason and explanation should be given to enable the respondent to understand and modify the response.

e. Seamless integration and approvals across various ministries/ departments with the end-to-end online system

f. Procedure, timelines and online system of notice/appeal for rejection/cancellation of permission/approval

   A. If more information is required, adequate reason for query should be clear. If at any stage, the applicant is not satisfied, an escalation matrix should be provided with clear SLA and timelines.

Give your suggestions with justification for each permission/approval separately with detailed reasons along with examples of best practices if any.

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Q12. What measures should be taken to ensure that there is no duplicity (sic) in standards or in testing at BIS, WPC, NCCS, and TEC? Which agency is more appropriate for carrying out various testing approvals? Provide your reply with justification.

Measures to be taken to ensure that there is no duplicity in standards or in testing at BIS, WPC, NCCS and TEC:

A. Inter-ministerial / departmental dialogue is necessary to ensure that no more than one ministry / department / authority is working on standards or certification on any specific area.

B. Even if standards have been framed, before issuing/publishing the standard document to the industry and public, the departments should discuss and finalise which standard is to be issued instead of publishing conflicting standards and thereby increasing the burden on OEMs.

C. One glaring example is the Certification of ICT / IT products, like smart cameras. MeitY/BIS had included Smart Watch as part the existing CRO process through Gazette Notification No S.O. 2742(E) dated 17.08.2017. As a result of the notification, testing and certification started and many brands and models have been certified successfully. The CRO Scheme is now running for the last four years for smartwatch, and the industry, including labs and OEMs, are fully aware of the process and the requirements. The end consumer is also now fully aware of the BIS registration number for smart watch. Surprisingly, and to the dismay of the industry, smart watch is being included in the TEC notification for MTCTE Phase-3 dated 22.09.2021. This has created a scenario wherein a single product is now going to be tested and certified by two separate government agencies.

The TEC notification comes at a time when there are several lacunae in the MTCTE certification process itself—adequate and competent labs are not available to test all the functionalities asked in the TEC MTCTE ER requirements. As on date, to the best of our knowledge, not a single lab exists which can test all the functionalities under one roof. The end result is that an OEM has to approach multiple labs for carrying out mandatory testing—increasing the time, resources, and money for testing and submission of application. This brings undue pressure and complexity on an OEM which has so far been meeting all the certification needs of the government. The Time to Market, number of samples to be arranged, number of resources to be allocated for the project, and the uncertainty of meeting the requirements of a new regulator puts unnecessary and undue pressure on the industry leading to severe EoDB challenges.

D. Another pertinent example is the security testing of mobile devices. BIS LITD-17 has published mobile security testing requirements, while at the same time DoT-NCCS wing has also published another set of documents for the same product.

E. Authorities may consider letting existing certification scheme continue for those products which are already under a government scheme. New products and product categories not already undergoing certification within an existing scheme may be put under a new scheme such as the TEC MTCTE scheme. This will avoid EoDB challenges to the industry and help prevent confusion to the end consumer for redressal if required.

Which agency is more appropriate for carrying out various testing approvals-

A. In a world of convergence where telecom, IT, and media are merging rapidly, all end user consumer products like smart watch, phones should be under MeitY / BIS certification scheme as these products have a heavy dependency on applications, software, safety and security much beyond the hardware and connectivity of the device. All the core telecom nodes and equipment like the mobile switching elements, gateways, radio and access products which talk directly to the core switching nodes like radio base stations etc can be tested and certified by TEC which has got adequate experience and know-how of the intricacies of such telecom and wireless core and radio products and solutions, knowledge which has been built up over decades. The expertise and knowledge of a department needs to be factored in while deciding the certification ownership of a Product.
    i. Consumer ICT end products- MeitY/BiS
    ii. Telecom Core nodes and equipment- DoT/TE
B. The need is to ensure that fragmentation, duplicity, and overlap is avoided for the certification of a single product to ensure EoDB.

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Q15. Whether the present system of permissions/registrations mentioned in para no. 5.10 or any other permissions granted by MeitY along with BIS, requires improvement in any respect from the point of view of Ease of Doing Business (EoDB)? If yes, what steps are required to be taken in terms of:

The existing certification process under the Compulsory Registration Scheme ["**CRS**"] has been operational since 2013.The certification lead time got reduced to one to five days, which was 4 to 6 weeks till the end of 2019. The remarkable reduction in the certification time was achieved through the concerted efforts of BIS over the past several years. However, for the last few months there has been a drastic increase in the BIS certification time leading to delays with no clear Turn Around Time ["**TAT**"].

When a product under CRS requires certification from BIS, the following steps must be undertaken:

1. Testing of a product in BIS accredited Indian Lab
2. Report submitted to BIS with all documentation
3. BIS reviewer scrutinizes the technical test report
4. BIS reviewer raises query, if any
5. BIS reviewer approves the technical report, if response to the query is accepted
6. BIS reviewer changes status of the application to "Decision awaited from Granting Officer"
7. Granting Officer grants the registration
8. BIS certificate of product is available online for download.

Manufacturers undertake Steps 1 and 2. BIS have control on steps 3 to 8 of which Steps 3 – 6, as described above, have been working smoothly. However, all applications that move into Step 6 do not seem to go beyond that stage and get the BIS certification.

The above delays have also impacted the certification of products covered under the CRO. BIS approval delays have started impacting new launches of product, leading to business losses. The delays in granting BIS certification is affecting the Indian consumers' access to products and is significantly impacting the businesses of our member companies.

We emphasise that if no clearance is given in the stipulated manner, then it is a case for deemed approval. As an example, relevant para from the TS-iPass rule (from Telangana) is given below:

"…...The government may notify the clearances in respect of which the failure of the competent authority to pass final orders on the application within the stipulated time shall result in deemed approval. Certificate so issued to the units shall be binding on all concerned departments."

The same is for reference purposes only, to emphasise that similar certainty needs to be instituted by way of defining specific timelines and deemed approval in the approval / certification process. Processes may differ basis specific requirements, however certainty needs to be instituted from a timelines perspective, by bringing certainty, and predictability to a business environment dependent on approvals.

a. Simple, online and well-defined processes

A. Any change in the online process and tool needs to be informed well in advance to the stakeholders and applicants.

B. Example: LIMS process / tool was introduced by BIS in August, 2021 for labs and OEMs without any prior intimation to the stakeholders and impacted parties. This created issues both to the labs as well as applicant OEMs. Labs did not have experience in using the new tool, and were unaware of the data to be uploaded in the portal. The result was delay in generating test requests and uploading the test reports. The overall impact was delay in issuing certificates to applicant OEMs.

C. Any maintenance or upgrade in the online portal or existing process should be informed to stakeholders well in advance in the portal.

D. New phases should be announced only after ensuring that lab infrastructure and accreditation is in place. On the day of notification- FAQs and TRF both should be published. Delay in releasing the TRF means that OEMs cannot start the certification / changeover process.

E. Considering the advancements and to reduce timelines, digital signature may be accepted as an option in addition to physical signatures.

F. For change in management information for an applicant, the process needs to incorporate acceptance of soft copies and online payment instead of the current requirement of submitting demand drafts.

b. Simple application format with a need to review of archaic fields, information, and online submission of documents if any

A. The BIS portal <crsbis.in> has one login for each factory. In the current manufacturing ecosystem, one factory is producing models for different brands. Within the master login, one more level of login should be made available for each brand. Persons who are working on one brand then cannot access the information pertaining to some other brand preventing league of confidential information.

c. Precise and well-documented timelines along with the possibility of deemed approval

A. Currently there is no timeline defined for the scrutiny and approval stages. A well-defined timeline for each stage needs to be made available to the applicant in the portal to show the lifecycle of the application from submission to approval including all intermediate steps.

	Department	Expected date	(Actual) Completion date	Remarks
A				
B				

B. Certificate grant should not be more than 1 week, after applying at the portal.

C. If the processing of an application crosses the defined timeline threshold, there needs to be a provision of Deemed Approval. This will ensure that the OEM is not penalised for delay at the MeitY / BIS end.

D. Other applications viz. Change of Authorised Indian Representative, management details need also have well defined timelines. Sometimes it is observed that such changes take 30-45 days. This needs to be reduced to 1 week at the maximum.

d. Well-defined and time bound query system in place

The query system needs to have more clarity and information to the applicant. It is observed that similar queries are asked for different products / factory when the response had already been submitted and accepted. The queries and responses for a particular product / model / factory needs to be synced.

A. The query resolution details may be made available in the following format at the portal.

Query raised on (x),
Query details (x)
Query response submitted on (x)
Query resolution handled by Department A, Expected date of completion. Y days, Actual completion date (x)

B. There needs to be an adequate space for submitting the response, and each stage should be visible online.

C. If response to a query is found inadequate, sufficient reason and explanation should be given to enable the respondent to understand and modify the response.

e. Seamless integration and approvals across various ministries/ departments with the end-to-end online system

A. Status of an application across departments/ministries should be available to the applicant in the portal with well-defined timelines for each stage.

B. Surveillance Challenges:

a. Lead-time for sample collection is less
b. Lab competency to test the complex products
c. No predictability of overall process timelines for final completion of MS Order

C. For Ease of Doing Business, the current process of targeting compliant OEMs with the additional burden of repeat testing, which is as good as testing the entire product once again, needs to be modified. If MeitY grants compliant companies relaxation in market

surveillance, it will encourage other OEMs also to seek getting added to the list of compliant companies.

f. Procedure, timelines and online system of notice/appeal for rejection/cancellation of permission/registration

Give your suggestions with justification for each permission/ registration separately with detailed reasons along with examples of best practices if any.

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