



October 22, 2013

Mr. Douglas Bell  
Chair, Trade Policy Staff Committee  
Office of the U.S. Trade Representative  
600 17th Street, N.W.  
Washington, DC 20508

RE: TIA Public Comments Regarding the 2014 National Trade Estimate Report on Foreign Barriers to Trade (Docket Number: USTR-2013-0027)

Dear Mr. Bell:

In response to the Federal Register notice issued on August 19, 2013, the Telecommunications Industry Association (TIA) and its member companies would like to thank you for the opportunity to comment on the 2014 National Trade Estimate (NTE) on Foreign Trade Barriers report. TIA represents the global information and communications technology (ICT) industry through standards development, advocacy, tradeshow, business opportunities, and market intelligence. TIA continues to facilitate the convergence of new communications networks while working for a competitive and innovative market environment. Obstacles still remain for U.S. exports of goods and services around the world, and we would like to highlight the following trade barriers faced by TIA members:

### **Argentina**

#### ***Pre-Approval Requirements for Imports***

TIA welcomed the United States request for consultations with Argentina regarding certain measures imposed by Argentina on the importation of goods and the progress thus far to resolve these issues through the establishment of a WTO dispute settlement panel. Argentina restricts imports in a way that is not compliant with WTO measures. The Government of Argentina uses pre-approval requirements, which mandate that companies seek advance approval prior to importing any goods into Argentina. The Government of Argentina's use of pre-approval requirements is inconsistent with WTO law and practice by unnecessarily distorting trade.

The WTO Agreement on Import Licensing Articles 1.2 & 3.2 has been interpreted by the Dispute Settlement Body of the WTO to mean that the requirement to prevent trade distortion "refers to any trade distortion that may be caused by the introduction or operation of licensing procedures, and is not necessarily limited to that part of trade to which the licensing procedures themselves apply." *Resoluciones Generales* Nos. 3252 and 3255 require all importers to provide a sworn affidavit, the *Declaración Jurada Anticipada de Importación* (DJAI), to the Government of Argentina's tax agency (AFIP). Additionally, the Secretary of Domestic Commerce announced a requirement that importers provide a separate Petition Form directly to the Secretariat. This additional requirement has been mandated without formal publication in the

Argentine Government's Official Bulletin. Additionally, *Resolucion Generale* No. 3276 obligated companies in the service industry to file a sworn declaration to both the AFIP as well as directly to the Secretariat, including information on services delivered between parties in Argentina and abroad. These requirements lack transparency and have added significant delays to the release of imported goods by creating a multiple track application process.

### ***Market Surveillance Controls***

Argentina has adopted measures requiring all importers of a certain product to provide market surveillance reports before products can clear customs. These market surveillance requirements go beyond the goal of market surveillance controls to ensure that dangerous and noncompliant goods are removed from the market and the workplace. The controls require repetitive testing of the same product and delay time to market for importers, giving select domestically manufactured goods a competitive advantage over imported products. Article 2.2 of the Agreement on Technical Barriers to Trade states that, "Members shall ensure that technical regulations are not prepared, adopted or applied with a view to or with the effect of creating unnecessary obstacles to international trade. For this purpose, technical regulations shall not be more trade-restrictive than necessary to fulfill a legitimate objective, taking account of the risks non-fulfillment would create." In addition to market surveillance requirements, Argentina also requires initial product safety certification, factory audits, and periodic verification of essential safety requirements as well as price-control policies. The product families for which market surveillance requirements exist have not been adequately defined, making a broad range of products potentially liable to meet the requirement. Additionally, local testing labs lack the capacity to conduct product examinations in a timely manner exacerbating the negative impact of these policies on importers. The market surveillance requirements mandated by the Government of Argentina are more trade-restrictive than necessary to achieve their stated purpose.

### ***Financial Services Requirements***

*Resolucion Generales* No. 36.615/2011 prohibits most cross-border reinsurance operations. The result of the new regulation is that local cedants are only allowed to cede reinsurance risks to local-based Argentine reinsurers, Argentina subsidiaries or branches of foreign companies. Prior to the regulation, reinsurers were allowed to engage in business from their home country, either upon registration with the regulator or through a broker authorized to operate in Argentina. The new regulation would require foreign reinsurance companies to set up local operations, or they will be restricted from conducting business absence local capacity and subject to case-by-case approval from the regulator. Additionally, the Government of Argentina has blocked payment of dividends and royalties to parent companies and shareholders abroad, restricting Argentina subsidiary companies from paying dividends and royalties outside the country.

## **Brazil**

### ***WTO Information Technology Agreement***

TIA strongly encourages Brazil to join the WTO's Information Technology Agreement (ITA). This agreement removes tariffs on a broad range of ITA-covered products, including

telecommunications equipment, which reduces costs and stimulates demand. The ITA would lower the costs of telecommunications equipment to Brazilian enterprise purchasers and the end consumer, thus freeing up resources to increase connectivity and enable the Brazilian economy to more quickly realize the economic and social benefits of expanded use of ICT in Brazil. This is especially important as Brazil implements its National Broadband Plan and promotes the expansion of broadband connectivity throughout the country as well as other digital inclusion initiatives.

### ***Complexity of Tax System***

The inherent complexities of the Brazilian tax system pose numerous challenges to foreign companies that seek to increase their business with Brazil. The current taxation system discourages investment and development of the ICT industry through its complexity and by imposing one of the world's highest tax rates on telecommunications services. Special attention should be given to tax disputes among the various states (including unconstitutional discriminatory taxes imposed by state governments), the transfer pricing guidelines, the multiple cascading taxes, the constant changes in the interpretation of tax laws and many other tax-related difficulties. As a concrete example of these difficulties, TIA notes the series of restrictions imposed on the export and re-importation of imported equipment that is being sent abroad for repair. The requirements are so laborious and complex that they create significant challenges for the ability of companies to provide quality services to customers in Brazil due to significant delays in the export and re-importation process.

With respect to the high tax burden on the telecommunications sector, we understand that Brazil, through the Telecommunications Fiscalization Fund (FISTEL - *Fundo de Fiscalização das Telecomunicações*), is considering a reduction in taxes applied to “base transceiver stations” (BTS) that are rated under 4 watts of signal emission propagation. We would urge the Brazilian government to implement this tax reduction and further reductions in tax rates applied to all BTSs, regardless of power output as this equipment is critical to the operation and performance of mobile networks. As the host of the 2014 World Cup and 2016 Summer Olympics, Brazil's telecommunications infrastructure will face an unprecedented level of demand. Addressing the problems created by the overly complex tax system and one of the highest tax burdens worldwide on the telecommunications sector will contribute to attracting the investment for the continued enhancement of Brazil's telecommunications network for these major events, as well as helping to achieve the goals of its National Broadband Plan and digital inclusion.

### ***Protectionist Measures Favoring Domestic ICT Industry***

There is a continuing trend in Brazil to protect domestic manufacturing and technology development at the expense of foreign goods and services through localization barriers to trade. One example of this protectionist trend is the bidding for spectrum bands promoted by the Brazil National Telecommunications Agency (*Anatel*) in June 2012. Companies who were given the right to explore the 2.5 GHz and 450 MHz spectrum bands were required to prove investments that include a high percentage of products, equipment, and telecommunication systems with local content – this includes goods manufactured in Brazil according to the “basic manufacturing process” rules (*processo produtivo básico – PPB*) and locally developed technology. These

eligibility requirements appear to be inconsistent with the WTO Agreement on Trade Related Investment Measures (TRIMS), Article 2. Similar requirements are expected to be included as part of the bidding rules for the 700 MHz spectrum auction that is expected to take place in 2014. In addition, Brazil recently implemented a methodology that allows locally developed software to receive government procurement preference.

### ***Local Data Storage***

A proposal to require data of Brazilians citizens be stored in Brazil is currently being discussed by the Brazilian government and has gained momentum. Global data flows which rely on data centers dispersed all over the world are paramount to economic development. Data storage localization requirements would detrimentally impact a large array of industries from multiple countries. Not only would the proposals being contemplated by the Brazilian government hurt global companies doing business in Brazil which rely on global data flows to operate, but they would also negatively impact Brazilian consumers that rely on global data flows to improve their lives by conducting e-commerce, accessing online content, and building small businesses. TIA and its member companies appreciate and share Brazil's commitment to promoting strong data security and privacy, but we believe the approach being contemplated would not achieve its purposes and would have unintended negative repercussions. TIA supports the U.S. government's initiatives to reach out to the Brazilian government to establish a dialogue aimed at addressing the concerns, including privacy and jurisdiction, that are prompting the creation of this highly detrimental policy. In addition, TIA is concerned with the potential cascading effects around the world if this policy is implemented, which would lead to the further balkanization of the internet.

### **People's Republic of China**

U.S. exporters and investors still see China as a key destination. While U.S. exports of ICT products to China are increasing, TIA remains concerned about lack of progress in several key areas:

#### ***The Catalogue of Telecommunication Service Categories and the Draft Measures Administrative Measures for the Trial Operation of New Types of Telecommunications Businesses***

In 2013, the Ministry of Industry and Information Technology (MIIT) released the draft revisions to the *Catalogue of Telecommunication Service Categories* (Telecom Services Catalogue) and the draft *Administrative Measures for the Trial Operation of New Types of Telecommunications Businesses* (Trial Operations Measure). Taken together the revisions to the Telecom Services Catalogue and the Trial Operations Measure will create new market access barriers that will have major negative effects on the ability of ICT companies to effectively compete in China's ICT and services sector.

These two measures would broaden China's licensing regime for telecommunications services to new categories of ICT and related services and subject some existing services that require a license to more stringent licensing requirements. The Trial Operations Measure would create a

“catch all” regulation that would create a *de facto* approval process through registration requirements for new types of services that use the public network.

Equally troubling is that the revised draft of the Telecom Services Catalogue and draft Trial Operations Measure would improperly classify a wide range of ICT technologies and services as telecommunications services. The end result, if these two measures are implemented, would be the imposition of an assortment of market access barriers, which include equity caps, joint venture requirements, and unreasonably high capitalization requirements. Examples of ICT technologies and services that would be improperly reclassified under draft revisions to the Telecom Services Catalogue include cloud-based computing services; electronic commerce; and audio, video, and application software.

The end result would be a greatly expanded level of regulatory oversight by MIIT that is inconsistent with China’s WTO commitments, which would include:

- *Licensing Procedures As Barriers to Market Access*: China committed to not use its licensing procedures and conditions as a barrier to market access or in a manner more trade restrictive than necessary, but the draft revisions to the Catalogue and the draft Measure would subject a broad set of services to cumbersome, unreasonable, and unnecessary licensing restrictions.
- *Not Respecting “Acquired Rights”*: China committed to ensure that foreign service suppliers that enjoyed certain rights prior to China’s accession to the WTO would have these rights preserved after China’s accession, but the draft revisions to the Catalogue and the draft Measure alter such rights insofar as the draft revisions to the Catalogue and the related licensing regulations impose new conditions on telecommunications service suppliers with longstanding business in China.
- *Discrimination*: China has committed to afford foreign telecommunications service suppliers treatment not less favorable than “like” domestic service suppliers, but the draft revisions to the Catalogue and draft Measure effectively prohibit or, at the very least, restrict the availability of telecommunications services licenses to foreign-invested telecommunication enterprise suppliers.
- *Denial of Market Access*: China has committed to refrain from impeding market access to foreign suppliers of computer and related services, but China’s domestic classification notwithstanding, certain computer and related services such as cloud computing are arguably so impeded.

### ***Voice over Internet Protocol (VoIP) Restrictions***

TIA believes technology neutrality is important for promoting competition and ensuring that consumers are empowered to choose technologies that best suit their needs. China’s policies restrict the use of VoIP to closed user groups that do not allow for origination or termination of IP phone calls on the Public Switched Telephone Network (PSTN). TIA encourages China to allow all VoIP providers to offer services that connect to the PSTN on an unlicensed basis, and

eliminate joint venture requirements that apply to non-Chinese companies who wish to offer VoIP services in China.

### ***Imports and Import Discrimination***

China continues to struggle with economic inefficiencies, exacerbated by preferences for domestic industries and pricing procurement practices that discriminate against imports. Specifically, it appears that in some telecom procurements, companies are ignoring published criteria for bid evaluation, resulting in the selection of “national” champions, which are state-invested enterprises. As a result of these practices, foreign companies are at a disadvantage when bidding against Chinese suppliers.

TIA is pleased that China has taken steps to join the WTO Government Procurement Agreement (GPA). The GPA principles of openness, transparency and non-discrimination will benefit China and the United States, as suppliers of goods and services in both countries seek business opportunities in each other’s markets. We would note that China’s progress to accede to the GPA has been slow, and that China’s December 2012 accession offer still excluded state-owned enterprises (SOEs) and lower level government departments, which are critical shortcomings. TIA underscores the importance of China swiftly presenting a revised offer that is comprehensive and addresses the shortcomings mentioned. We would also urge China’s offer to be made in accordance with its domestic procurement law and ensures that its accession package is in agreement with international norms as negotiations progress.

## **Ecuador**

### ***Import Restrictions***

In June 2012, the Government of Ecuador passed COMEX Resolución No. 67 which imposes quotas on mobile phone imports and justifies this measure by classifying mobile phones as dangerous to the environment. These import quotas are retroactive to January 2012 and effectively cut imports by 50 percent. Industry believes the real motivation for implementing this resolution is to restrict imports into Ecuador to help manage Balance of Payments rather than to protect the environment. TIA recommends that the Government of Ecuador rescind COMEX Resolución No. 67 and refrain from imposing any import quotas on mobile phones as these quotas are unnecessarily trade restrictive to the stated goals of COMEX 67 to protect the environment.

## **European Union**

### ***WTO Information Technology Agreement***

TIA and its members welcome the WTO dispute resolution panel’s July 2010 ruling that upheld the U.S. claim that the European Union’s (EU) imposition of duties on a variety of products is a violation of its tariff commitments and that the products should remain free from tariffs, as they are covered by the Information Technology Agreement (ITA). While the WTO’s decision is favorable to the U.S., TIA is concerned about reports of the EU still applying tariffs, although

lower, on multifunction machines. Furthermore, while the EU has taken some steps to come into compliance and provide duty-free import of products such as set-top boxes and flat-panel displays, it is still unclear whether these products will actually entry duty free because the EU has not provided explicit guidelines to customs officials for this allowance.

## **India**

India continues to be one of the world's fastest growing ICT markets. Since 2006, India's total wireline and wireless telephone subscribers have increased from approximately 164 million to over 903 million, representing almost 451 percent growth over seven years. Broadband (> 256 kbps<sup>1</sup>) has grown from 10 million subscribers in August 2010 to over 15.2 million subscribers as of June 2013, yet numbers of connections remain low relative to the population. A welcomed development in 2013 was the announcement by the Government of India to raise foreign direct investment caps from 74 percent to 100 percent for telecom services and internet service providers. We see this as a positive signal that India is willing to take actions to further liberalize the telecom market. While India has undertaken a number of policy initiatives to open the market, areas of concern remain.

### ***Government Procurement***

TIA urges India to join the WTO GPA as an important step towards enhancing transparency and non-discrimination in its government procurement system. In addition, as India's exports of ICT goods and services grow, membership in the GPA will further enhance India's exports for the significant government procurement sector. As an "observer" of the GPA since February 2010, India is well-positioned to commence the process to accede to the GPA.

### ***Department of Telecom License Amendments-Tech Transfer***

Beginning in December 2009, India imposed a series of increasingly onerous license amendments on telecommunications operators governing the procurement of telecommunications equipment and software. These successive regulations instituted transfer of technology requirements on commercial procurements with criminal penalties for non-compliance, India nationality requirements for network maintenance engineers, and a mandatory security agreement required between telecommunications operators and vendors that included escrowing of source code, among other troubling provisions.

In June 2011, the Indian government reversed course and issued an improved set of regulations. The removal of technology transfer requirements, the mandatory 3rd party source code escrow, and the mandatory contractual terms represent a much-needed step forward in improving the regulatory approach to improving the security of India's telecommunications networks in line with global best practices and standards. As a result, our member companies are now able to compete on a more equitable footing in this growing market, supporting job creation, economic growth and innovation here in the United States.

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<sup>1</sup> The Ministry of Communications and Information Technology, Department of Telecommunications has recently revised its definition to a minimum download speed of 512 kbps, *See* Notification S.O. No. 4-4/2009-Policy-I, 18 July 2013.

While the revised license amendment represents important improvement, certain elements of the revised regulations are concerning due to their deviation from global practice whilst others require clarification to understand how they will be implemented to ensure that these do not become stumbling blocks or have unintended consequences. TIA looks forward to engaging with the Indian government and the U.S. government as India works through the implementation of these regulations to find practical and effective solutions to the issues raised below:

- 1) In country security assurance testing beginning October 1, 2013:** The new regulations require that all network equipment procured by telecommunications service providers (TSPs) licensed in India be tested in Indian laboratories starting April 1, 2013, which was subsequently delayed to October 1, 2013. While we understand that the Indian government may feel products tested locally may provide greater security assurance – rather the focus of any product security concerns should be focused on whether product is secure. Furthermore this requirement is broadly impractical and inconsistent with the mutual recognition provision of the Common Criteria Agreement of which India recently became a Certificate Authorizing Member. There are longstanding internationally accredited/recognized laboratories conducting testing in this area and the location where the test is performed, in accordance with global best practice, should and does have no bearing on the accuracy of the test in question as long as the laboratory has achieved the appropriate certification.

An immediate concern with regard to the implementation of the require security assurance testing in India is the lack of existing lab testing capacity in India. While TIA recognizes the objective in India’s 2012 National Telecom Policy to build national capacity in security testing, the current lack of testing lab capacity in India risks major supply chain disruptions and increased costs for TSPs and their vendors. In order to avoid this situation, TIA recommends, as an interim action, a delay in the implementation of the requirement to test network equipment in India.

We understand that the concept of “network elements’ under clause iii of the license amendment refers only to “core” network equipment, which is helpful to focusing implementation on protection of the most important network elements or those most susceptible to security breaches. However, even mandatory testing in laboratories in India for only “core” equipment runs counter to Common Criteria and will likely fail to provide greater product assurance.

Private sector entities, such as TSPs, should have the ability to determine which of their vendors’ products require formal testing and certification and how to most effectively procure certified products. We recommend India allow the TSPs this flexibility under the revised license amendments. While in some cases, it may be desirable for a vendor to test their product in a laboratory located in India, it may be impractical in some cases where the same product is already being tested and a security certificate is obtained from an internationally accredited laboratory. Providing flexibility in terms of where products are tested is critical for maintaining a trusted global market and distributed supply chain models, which are critical for ICT products.

- 2) Facility Inspection:** The new regulations require that the vendor, through its agreement with the TSP, allow the TSP, licensor/Department of Telecommunications (DoT), and or its designated



agencies to inspect the hardware, software, design, development, manufacturing facility and supply chain, and subject all software to a security/threat check any time during the supply of equipment. Given the proprietary and sensitive issues surrounding the design of products, this provision creates concerns as to the intrusive nature of such a request into the intellectual property rights, legal obligations and business operations of vendors. In addition, such inspections will be time consuming, costly, and overly burdensome, and will likely negatively impact a vendor's ability to effectively and efficiently get products into the marketplace. Also, equipment and software suppliers in many jurisdictions must also satisfy national-level legal and regulatory obligations with respect to any customer inspections or visits, which could create another obstacle to fulfilling this obligation. Finally, if a product has achieved the necessary testing certifications by an accredited lab, it is unclear what an intrusive, overly burdensome and unprecedented requirement such as this would achieve in practical terms. We recommend DoT replace the mandatory facility inspection requirement with a provision that allows the equipment/software supplier and the TSP to negotiate mutually acceptable customer assurance arrangements consistent with industry best practices and the relevant national laws governing the equipment/software supplier.

- 3) **Security Breach/Blacklisting of Products:** The new regulations establish penalties for “inadvertent inadequacy/inadequacies in precaution” and “inadequate measures, act of intentional omissions, deliberate vulnerability left into the equipment or in case of deliberate attempt for a security breach.” The amendment provides for the imposition of a strict liability penalty in addition to possible “blacklisting” of a vendor from the Indian market. These provisions have a potentially significant adverse impact on TSPs and vendors. First, the concept of what would constitute adequacy remains undefined in the amendment. We assume this determination would be left to the discretion of a five member committee constituted by the licensor/DoT to identify and define. This system presents several concerns: 1) the ability to achieve a consistent and predictable definition of “adequate;” 2) the composition and expertise of the five-member panel, how they are appointed and whose interest they represent; 3) the process for conducting an investigation into the breach and determining adequacy; and 4) the ability for a service provider or vendor to effectively respond to an allegation of an intentional omission or deliberate vulnerability and there is no appeal mechanism. Unfortunately, there is very little information provided on the legal due process that would be involved in making a determination in these instances. The lack of clear judicial procedures and rights of appeal, create regulatory uncertainty that could create unforeseen complications for DoT, vendors, and TSPs in the future.

We recommend that the procedures for making a determination of penalty under these provisions be revisited and opened to a public comment procedure. Determining fault in security breaches can be highly complex and require clear legal procedures based on the rule of law. The stakes for companies in such a scenario are too high to not be grounded in the law. We also recommend the adoption of due process protections and the establishment of an appeal process which should be extended to include all TSPs and vendors subject to the regulations. Furthermore, given the highly technical and complicated nature of the network security, we recommend that the liability provision not be strictly applied in terms of penalties. Rather, the committee, once properly constituted under clear framework of due process, should be given the discretion to determine the appropriate penalty in all cases.

TIA encourages the U.S. government to continue engaging with the Indian government as it works through the implementation of these regulations to find practical and effective solutions to issues of 1) in-country security assurance testing beginning October 1, 2013; 2) facility inspections; and 3) the black-listing of products due to a security breach.

### ***Encouraging Domestic Manufacturing/Government Procurement Preferences***

TIA is very encouraged by the July 2013 announcement by the Indian Prime Minister's Office (PMO) that halted the implementation of the Government of India's Preferential Market Access (PMA) Policy with a view to revising the Policy. In particular, we noted that the PMO announcement emphasized that the "revised proposal on PMA in the private sector for security related products will not have domestic manufacturing requirements, percentage based or otherwise". However, we remain concerned that the revised proposal for a PMA policy will continue to affect the government procurement market. Although India is currently not a member of the WTO GPA, we would urge caution in implementing a policy of forced localization for India's procurement market in that it will invariably lead to limitations on the availability of the most cost effective and advanced ICT products available. Indeed, this would likely hold true even for ICT products manufactured in India.

Like all countries that manufacture ICT products, India's ICT manufacturing base is dependent upon a globally flexible supply chain that is characterized by intense competition and fluctuations in price and supply of different inputs. Products – and their components – may be designed, manufactured, and assembled in different locations. Market demands are such that it would be impractical for the commercial sector to eliminate the use of global resources or a distributed supply chain model. And while we recognize that there are some situations that may require additional procurement requirements to enhance security, we would underscore that the focus of any product security concerns must always be on whether the product is secure.

As the Indian government continues the process of reviewing and revising the proposed PMA policy, we would recommend that a robust stakeholder process be implemented that will ensure the meaningful participation of both domestic and foreign industry.

### ***Internet Protocol (IP) –Enabled Services***

Although the Telecommunications Regulatory Authority of India (TRAI) has recommended (August 2008) to the Department of Telecommunications (DoT) to allow VoIP to connect to the PSTN, the Indian government continues to only permit VoIP to be used in closed user groups (CUGs), or just among sites. For example, if a company has two offices, they are allowed to link using an IP trunk and VoIP, but not out to the PSTN. This causes companies to maintain separate systems for internal and external communications, increasing establishment costs. If India permits VoIP to connect to the PSTN, the requirement of users to have a dual-investment in infrastructure would be eliminated. Additionally, enterprise users would realize enormous savings in the cost of moving telephones or adding telephones, and company investment in Internet communications would realize a higher return because more applications could be managed on a single infrastructure. TIA recommends that the Indian government follow TRAI's recommendations on Internet telephony and resolve this issue immediately.

### ***Compulsory Registration Order for Electronics and IT Products***

In October 2012, the Department of Electronics and Information Technology (DietY) announced the implementation of the “Electronics and IT Goods (Requirements for Compulsory Registration)”, which requires the registration and safety testing of a broad range of electronics and IT products. We appreciate the announcement on September 30, 2013, which provided an extension to January 4, 2014 for companies to comply with the requirements of the Compulsory Registration Order. However we remained concerned with the challenges in developing the capacity to test and certify the broad range of equipment that falls under the scope of the Order exclusively in India. We also remain concerned about the Bureau of Indian Standards Compulsory Registration Scheme, despite India being a member of the IECCE. This additional requirement is burdensome to the approval process.

We would note that the September 2013 extension for compliance includes the option to obtain an extension to the Compulsory Registration Order by providing a self-declaration by the manufacturer that “must be accompanied as before, by test reports issued by any National / International Test House to equivalent standards”. We would recommend the flexibility to utilize accredited testing labs in other locations besides India be incorporated into the Compulsory Registration Order on a permanent basis, which allow for the continued development of India’s lab testing ecosystem, while providing manufacturers with the needed flexibility that is reflective of the realities of global supply chains.

### ***Licensing and Regulatory Efficiency***

TIA urges India to reevaluate the basis for license application fees, capitalization requirements, and bank guarantees as it applies to telecommunications service provider licenses. As a general matter, application fees should reflect the cost of processing an application. While bank guarantees are appropriate in limited cases, such requirements should reflect the scope of business intended to be offered, and should be a temporary, not permanent requirement. India should seek to reduce high licensing fees and capitalization requirements as they reduce the amount of resources available to service providers to invest in building out their networks and connecting India’s vast population.

### ***Spectrum Licensing***

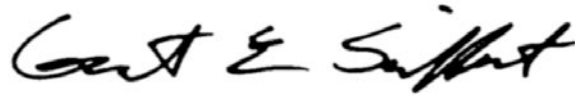
After the 2G spectrum scandals that occurred in 2008, a series of court decisions were made regarding the distribution of spectrum. The Indian Supreme Court initially ruled that spectrum should be licensed via an auction process. An additional court ruling clarified that auctions were one of many legitimate methods to distribute a natural resource like spectrum. Subsequent to this ruling, the Department of Telecommunications (DoT) established a process for assigning spectrum without the use of auctions for public sector users (*e.g.* police, fire, emergency medical services, public sector undertakings, metro rail, *etc.*). Further, recently the DoT has established a similar interim process for private users such as airports, manufacturing plants, chemical refineries, hospitals, hotels, and ports, *etc.* for a period of six months.

We would urge the DoT to move forward with implementation of a formal process to make the administrative procedures permanent as expeditiously as possible – thus giving suppliers and radio users the necessary transparency and predictability to promote growth and business development.

**Conclusion**

TIA wishes to express its appreciation to USTR for its efforts on behalf of the U.S. ICT industry. It is important that the United States continue its efforts, both bilaterally and multilaterally, to bring about a fully competitive world market for ICT equipment. In addition to addressing the issues cited above, this can be accomplished through the enforcement and expansion of existing trade agreements, as well as the negotiation of new trade agreements. If you have any questions, please contact Eric Holloway, Director for International and Government Affairs at [eholloway@tiaonline.org](mailto:eholloway@tiaonline.org).

Sincerely,

A handwritten signature in black ink, appearing to read "Grant E. Seiffert". The signature is written in a cursive, flowing style.

Grant Seiffert  
President