



**COAI's PROPOSALS  
FOR  
UNION BUDGET 2007-2008**

**CELLULAR OPERATORS ASSOCIATION OF INDIA**

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## INDIRECT TAXES FOR CBEC; Customs / Service Tax / Excise

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## 1. Additional Duty of Customs (ACD)

Present Scenario	Measures recommended by COAI for consideration in the new Budget	Benefits
<p>The Indian Government has fulfilled its commitments to the WTO by bringing down the basic customs duty (BCD) on IT/ Telecom products to zero.</p> <p>BCD has been removed on mobile phones covered under the Information Technology Agreement (ITA).</p> <p>However, to compensate for the internal taxes like sales tax, proposed State VAT, central sales tax, which apply to sale, purchase or transportation of goods in India, an <b>additional duty of customs of 4% has been imposed / levied on ITA bound items</b> (including mobiles) and their inputs which attract 'nil' duty.</p>	<p>The <b>ACD paid can be availed as credit against payment of excise duty</b> on finished products and not against output service tax liability. Manufacturers are entitled to avail credit of this ACD for payment of excise duty on their finished goods. <b>However, telecom operators being service providers and not manufacturer are not eligible to avail credit of this 4% ACD. Hence, the 4% ACD paid on inputs is an added cost on the telecom service providers</b></p> <p>As a result, the cost of main equipments like MSC, BTS/ BSC, HDSL/DWDM/ Routers, ATM/Frame Relay/ Ethernet Switch/ VAS Equipment etc will be increased even up to 4.64%. Further, the additional duty cost of SIM card also will increase 4.64%.</p> <p><b>It may be appreciated that Microwave Equipment, both backbone and access, is integral to Cellular Mobile Network and therefore increase in cost of these items would translate into an increased cost of service.</b></p> <p>-----</p> <p><b>• COAI's Recommendation :</b></p> <p><b>Telecom Service providers should be made eligible to avail credit of 4% ACD.</b></p>	<p>Rate of Service tax was enhanced with an understanding that this is to take care of the loss that would occur due to CENVAT Credit to be allowed. Not allowing credit on ACD paid would be unjustified in view of the enhancement of the Service Tax rate.</p> <p>This benefit should be extended to the Telecom service providers as well as it will reduce costs <b>make the service more affordable.</b></p> <p><b>Lower capital cost will also enable faster roll-out of affordable service to rural areas.</b></p> <p>This in turn will lead to an increase in telecom sector revenue.</p> <p>Higher telecom sector revenues will mean higher tax revenues for the government.</p>



## 2. 8% CVD on Packaged or Canned Software

Present Scenario	Measures recommended by COAI for consideration in the new Budget	Benefits
<p>The Union Budget 2006-07 has imposed a 8% CVD on Packaged or Canned Software while exempting Customized Software from this levy.</p> <p>Some Custom Houses who are processing the software shipments conceive the software imported for the telecom equipment as the Canned Software and are not accepting the aforesaid classification and directing the levy of 8% with 2% surcharge applicable on it on all software imported for installation on telecom equipment.</p>	<p>Telecom Companies are purchasing telecom software which is specific user program prepared only for a particular service provider and is thus different from the normal computer software. <b>The telecom software is equipment specific and has to be configured in the equipment.</b></p> <p><b>Therefore the software used for telecom equipment fulfills all the criteria of customized software</b> and thus cannot be classified as canned or off the shelf software.</p> <p>In view of the above 8% CVD should not be levied on the telecom software.</p> <p>-----</p> <ul style="list-style-type: none"> <li>• <b>COAI's Recommendation :</b></li> </ul> <p><b><i>A notification be issued to exempt Telecom software being imported by Telecom Service providers. OR An unambiguous circular be issued clarifying that Telecom software satisfying <u>any</u> of the conditions mentioned below is Customized Software, if</i></b></p> <ul style="list-style-type: none"> <li>• <b><i>Software comes on CD-R and not on pre-printed standard CD's Or</i></b></li> <li>• <b><i>Manual for software clearly mentions the modifications/ changes done for buyer, Or</i></b></li> <li>• <b><i>Software is not being sold off the shelf. ( on the basis of declaration of importer).</i></b></li> </ul>	<p>On this account it is pertinent to mention that, this levy leads to a huge delay in clearing the equipment, as a result of which there is a delay in network roll-out.</p> <p>Further, this is an incorrect additional financial levy that is not envisaged in the Union Budget.</p> <p>This levy imposes an additional financial burden on the operators and increases the cost of service.</p>



### 3. Service Tax on Import of Services

Present Scenario	Measures recommended by COAI for consideration in the new Budget	Benefits
<p>In case of an Indian company availing any type of Services from any person/organisation based outside the country whose services are liable to charge Service Tax as per Indian Service Tax Act, and the particular organization which is providing Taxable services is not having any permanent establishment in India, then the Indian company who is availing the service needs to get itself registered in India as the particular service provider and need to deposit service tax amount with the Government.</p> <p>In case company is availing five different types of services which are covered under the Service Tax net and none of these five companies is having any permanent establishment in India, then Indian establishment first needs to get registered under five heads of Service Tax, and is required to deposit service tax.</p>	<p>This is resulting in LOT OF ADMINISTRATIVE PROBLEMS, which leads to wastage of time and money of the Nation. This levy results in administrative hassles and blockage of funds.</p> <p>As per the Service Tax credit rule, amount of Service Tax deposited on behalf of foreign company can be setoff against the output Service Tax liability. Thus the impact on the Government is neutral and there is no gain. On the other hand, the government is unnecessarily incurring lot of administrative expenses resulting in wastage of time and money.</p> <p>Moreover, the compliance of these rules requires lot of time and money as companies need to recruit specialist / consultants for such compliance.</p> <p>We would like to submit that, necessary clarification in this regard doing away with this requirement may please be issued.</p> <p>-----</p> <p><b>• COAI's Recommendation :</b>  <b>Notification should be issued allowing exemption to the Telecom Sector.</b></p>	<p>Removal of Service Tax on import of service would obviate unnecessary complicated procedures and administrative problems.</p> <p>As there are about five to six telecom service providers in every state/ circle, the amount of administrative problems and paperwork involved will be very high.</p> <p>In any case there is no loss of revenue to the government even if exemption is granted under the provision as the mobile companies are already taking input credit at the time of depositing service tax with the department.</p> <p>Removal of Service Tax on import of service will thus save time and money of the industry as well as the government.</p>



#### 4. Applicability of Service Tax on Interconnect Charges

Present Scenario	Measures recommended by COAI for consideration in the new Budget	Benefits
<p>Telecom operators are receiving demand from the Service Tax Department towards charging of Service Tax on the amount of IUC charges receivable from other operators.</p>	<p>Interconnect usage charges are different from interconnection link charges and both should not be confused as the same. Interconnect usage charges are paid on a revenue share basis.</p> <p>Interconnect usage charges are levied for allowing the call from the cellular service provider to be carried over to the other service provider.</p> <p>Thus the Interconnect charges paid to other service provider are for allowing this connectivity for calls between mobile and land line telephones.</p> <p>Thus Service Tax should not be applicable on interconnect usage charges paid by companies and necessary clarification / Notification should be issued in this matter.</p> <p>-----</p> <ul style="list-style-type: none"> <li>• <b>COAI's Recommendation :</b></li> </ul> <p><b>A Circular be issued clarifying that Interconnect Usage Charges are exempt from levy of Service Tax.</b></p>	<p>Imposition of Service Tax on IUC results in <b>no revenue gain to the government since the service providers are able to file returns and claim tax credit.</b> The payment of Service Tax amount is thus setoff against the output service tax liability.</p> <p>Because of this levy, <b>high manpower cost and time, of both the industry and the government departments gets consumed</b> - in spite of the fact that there is no revenue inflow to the government.</p> <p>There is no benefit to the department as all the present telecom service providers are already registered assessee. Thus <b>the levy of Service Tax on IUC will NOT lead to an increase in assessee base</b> or result in higher revenue to the Government.</p> <p>Manpower costs and time which is spent towards filing of tax returns and claiming credit can be more effectively used for expansion of service - especially to the rural areas.</p>



## 5. Service Tax - Roaming Services

Present Scenario	Measures recommended by COAI for consideration in the new Budget	Benefits
<p>In the case of telecom services, inbound and out bound roamers should totally be out of purview of Service Tax Act.</p> <p>(A) In the case of inbound roamers foreign nationals visit India. These visitors are NOT subscribers of service providers based in India.</p> <p>(B) In the case of outbound roamers services are rendered and used outside India should be therefore be exempt from Service Tax.</p>	<p>Service Tax is chargeable only on Telecom Service provided by the telegraph authority in India.</p> <p>It has to be kept in <b>mind that the international in-roamer continues to be a subscriber of the foreign telecom operator and in absence of privity of contract cannot be view as a subscriber of domestic telecom operator.</b> There is no contract, whatsoever, between the international in-roamer and the domestic service provider based in India.</p> <p>From the above it logically follows that in case of an international in-roamer, <b>no telephone connection is being provided by any telegraph authority based in India.</b></p> <p>-----</p> <p>• <b>COAI's Recommendation :</b></p> <p><b>A Circular be issued clarifying Service Tax is not leviable on international in-bound roamers.</b></p>	<p>The imposition of service tax on in-roaming will lead to higher tariffs for this service. These higher tariffs will have an adverse impact on usage of service which in turn will have a negative impact on foreign exchange earnings from international in-roamers.</p> <p>Therefore this is an uncalled for levy which will only stifle the growth as well as usage of service.</p> <p>On the other hand, removal of this levy will lead to higher usage and therefore higher foreign exchange earnings.</p>



## 6. Applicability of Service Tax Notifications/ Circulars

Present Scenario	Measures recommended by COAI for consideration in the new Budget	Benefits
<p>Service tax month circulars and notifications issued from time to time by the department should be applicable prospectively from the next billing cycle. That is, the change in tax rate should be <b>applicable from the 1<sup>st</sup> invoice after the notification</b> date, even if the services are rendered prior to the date of notification.</p> <p><b>For example</b>, let us take a case of the subscriber who is on a billing cycle from 18<sup>th</sup> of a particular to 17<sup>th</sup> of the subsequent month. Let us say that in course of the billing cycle from 18<sup>th</sup> June to 17<sup>th</sup> July, a service tax notification is issued on 25<sup>th</sup> June. In this case the revised tax rate should be applicable from the invoice raised from 17<sup>th</sup> July onwards – <b>that is, the first invoice after the notification date.</b></p> <p>Also, if the service providers has already sold prepaid cards to the dealers then the revised rates should not be applicable on the same.</p>	<p>It is <b>important the system be streamlined as it will mitigate disputes</b> and thus save time and money of the department as well as the service providers.</p> <p>Service providers have a huge subscriber base and some circles have 5-6 different billing cycles. It becomes very difficult and time consuming to make amendment in each billing cycle.</p> <hr/> <p>• <b>COAI's Recommendation :</b></p> <p><b><i>Service Tax circular / notifications issued from time to time, which affect the rate of applicable Service Tax should state that the changes or revisions will be effective from the 1<sup>st</sup> invoice after the notification date for post paid customs and from issuance of fresh cards for Pre-paid Customers.</i></b></p>	<p>It must be kept in mind that in India <b>there are 23 telecom circles/ states and there are five to six service providers in every telecom circle.</b> Therefore <b>the amount of time, effort, manpower, administrative problems and paperwork involved because of lack of clarity regarding the effective date of the notifications is huge.</b></p> <p>This step will <b>help in saving the manpower time and cost</b> for the service provider as well as the department.</p>



## EXCISE DUTY ISSUE

### 7. Excise Duty CENVAT rule in respect of Cable / Shelter and Towers

Present Scenario	Measures recommended by COAI for consideration in the new Budget	Benefits
<p>Telecom service providers lay cables across the country and the same is covered under chapter 85 of the Excise Tariff rules hence it is treated as capital goods under the CENVAT credit rules.</p> <p>To avail the credit, capital goods should be installed with in the premises of the company, however in case of cable laid across the country the same is not possible.</p> <p>If capital goods are taken out of the premises of the output service provider and not returned within a period of 180 days then the CENVAT credit claimed on the same has to be reversed.</p>	<p>The telecom service providers have to install assets such as BTS, cables, RSUs, boosters across their respective service area.</p> <p>Suppose the operators were to consider BTS sites as business premises then there will be a need to inform the department about the same. This will entail informing for huge number of sites on account of additions and changes in addresses.</p> <p>Magnitude of administration, record keeping, both from the operator's point of view as well as department's perspective, would be very high.</p> <hr/> <p>• <b>COAI's Recommendation :</b></p> <p><b><i>The business premises for telecom operators should be clearly defined so as to include the licensed service area in terms of the allotted telecom licenses. OR CENVAT credit rules be modified suitably to take care of needs of Telecom industry.</i></b></p>	<p>CENVAT rules have been picked up from the manufacturing sector.</p> <p>After the marriage of service tax with excise, <b>there is a urgent need to re-look at the rules from the service industries point of view also.</b></p> <p>A clarification this would <b>remove administrative problems.</b></p> <p><b>This will also enable smoother and faster roll-out of service.</b></p> <p><b>In the present scenario when TRAI on one side trying to motivate the industry to go in for expansion in rural areas and has also recommended subsidies to private operators setting up network in rural areas, such restrictions on CENVAT credits is uncalled for particularly when this industry is booming and is generating huge revenues for the Central Govt..</b></p>



## CENVAT CREDITS

### 8. CENVAT credit for Fuel

Present Scenario	Measures recommended by COAI for consideration in the new Budget	Benefits
<p><b>As per CENVAT credit rules 2004 <u>input means</u></b></p> <p>“All goods, except light diesel oil, high speed diesel oil and motor spirit commonly known as petrol, used in or in relation to the manufacture of final products, whether directly or indirectly, and wither contained in the final product or not and includes lubricating oils, greases, cutting oils, coolants, accessories of the final products, cleared along with the final product, goods used as paint, or as packing material, <u>or as fuel or for generation of electricity or steam used in or in relation to manufacture of final products or for any other purpose, within the factory of production;</u>”.</p>	<p>CENVAT rules have been picked up from the manufacturing sector. After the marriage of service tax with excise/ CVD, there is a need to look at the rules from the service industries point of view also.</p> <p>Telecom operators have to install BTS (Towers), etc across the service area and need to spend a huge amount on diesel / fuel for running and maintenance of these BTS sites. This is especially true for rural areas where there is shortage of power. Since fuel consumption is high, CENVAT credit for fuel should be allowed.</p> <hr/> <p>• <b>COAI's Recommendation :</b> <b><i>In case of telecom company, input credit should be allowed for consumption of fuel used for maintenance and running of networks.</i></b></p>	<p>This benefit will lower the burden of levies on the sector and would thus provide an incentive for greater investment for expansion of service.</p> <p>Faster expansion of telecom service will result in higher tax and licence fee revenues for the government.</p> <p><b>Most importantly, this will enable spread of service to Rural areas as, because of lack of electricity the fuel expenses are higher in the rural area.</b></p> <p>Therefore steps like these will lead to much greater benefits through economic growth.</p>



## 9. CENVAT credit; 20% limit on CENVAT Claim

Present Scenario	Measures recommended by COAI for consideration in the new Budget	Benefits
<p>In case the manufacturer or the provider of output service, <u>opting not to maintain separate accounts</u> :</p> <p>The provider of output service shall utilize credit only to the extent of an amount not exceeding twenty percent of the amount of service tax payable on taxable output service.</p> <p>Earlier this limit was 35 % and w.e.f. 10<sup>th</sup> September 2004 the same has been reduced to 20%.</p>	<p>The limit of 20% arises on account on provisioning of taxable and non-taxable output services for which the inputs cannot be segregated and hence there is the issue of 20% limit. <b>However, hardly any Service provided by Cellular industry is exempted.</b></p> <p>Deciding general percentage for all the service industries is not correct. Percentage of Taxable and non Taxable Services from Industry to industry differs substantially. Therefore, percentage of CENVAT credit on inputs should be decided for each industry separately.</p> <p>In Telecom Sector there is <b>high amount of CENVAT accumulation</b> on account of various inputs and input services. There is <b>NO Tax Exempt Service in Telecom Sector</b>. Enhancement of limit will enable service providers to avail credit.</p> <hr/> <p>• <b>COAI's Recommendation :</b></p> <p><b>For Telecom Sector, limit on utilization of credit only to the extent of 20% of the amount of service tax payable on taxable output service be removed.</b></p>	<p>Spread of <b>affordable telecom service, especially to the rural areas, is the key focus area of the Government.</b></p> <p>Enhancement of limit <b>will reduce costs of network expansion and will thus make service more affordable.</b></p> <p>Enhancement of limit <b>will therefore enable speedier expansion of coverage - especially to the rural areas.</b></p>



## 10. Problems in getting 'C Form' to avail Concessional Sales Tax

Present Scenario	Measures recommended by COAI for consideration in the new Budget	Benefits
<p>'C Form' is issued to avail concessional Sales Tax CST, in case material is being sold from one state to another state and buyer is purchasing the same as raw material or for consumption or for providing Services.</p> <p>Some of the states are not issuing 'C Form' to the Vendor saying that provision related to issue of 'C Form' is not included in their local sales tax act and in the absence of clarity ultimately cost of services is increasing.</p>	<p>Telecom operators are providing services across the country and operators need to procure lot of input items on which concessional sales tax is applicable. But in the absence of support from the Department side, they are ultimately paying higher amount of tax.</p> <p>-----</p> <ul style="list-style-type: none"> <li>• <b>COAI's Recommendation :</b></li> </ul> <p><b>Notification should be issued clarifying that the 'C Form' is not required in case of telecommunication and Information Technology sector.</b></p>	<p><b>The Telecom sector is as critical infrastructure as Power</b> and should by all means qualify for similar facilities.</p> <p>An increase in the cost of laying of Telecom infrastructure due to non-availability of 'C' Form facility shall hit the Telecom expansion plans - adversely affecting growth &amp; availability of affordable telecom services to the rural and underserved areas.</p>



## DIRECT TAXES FOR CBDT

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## 1. Deduction in respect of Section 80-IA

Present Scenario	Measures recommended by COAI for consideration in the new Budget	Benefits
<p>As per Sub section 2A of Section 80 IA, a <u>telecom operator is entitled to 100% exemption on taxable profits for 5 years and thereafter 30% exemption on profits of next 5 years during the initial 15 years from the date of commencement of commercial operation.</u></p> <p>However, for <u>other infrastructure</u> sectors as defined under section 80 IA exemption is available to the extent of <u>100% for the full term of 10 years in succession and these 10 years can be opted from the block of 20 years.</u></p>	<p>Compared to other infrastructure sectors such as power, the telecom sector has been growing at a much faster pace and has significantly contributed to economic growth.</p> <p>Therefore, telecom sector should be given equal importance and should be treated at par with other infrastructure sectors such as power. Benefits applicable to power should be extended to telecom as well.</p> <ul style="list-style-type: none"> <li>• <b>COAI's Recommendation :</b> <b><i>The period during which 80 IA can be claimed by the telecom operators should be extended to 20 years in place of existing 15 years.</i></b> <ul style="list-style-type: none"> <li>• Telecom operators have incurred heavy business losses and significant tax depreciation on account of capitalization in its initial years due to which 80IA benefits have not been triggered by many operators till now which is almost 10 years since the licenses were granted.</li> </ul> </li> <li>• <b>COAI's Recommendation :</b> <b><i>100% exemption for successive 10 years out of the 20 years.</i></b> <ul style="list-style-type: none"> <li>• As significant capital investment and proliferation in rural area is envisaged, tax depreciation is anticipated to be high in the coming years as well.</li> </ul> </li> </ul>	<p>This step will <b>result in a higher disposable surplus for reinvestment in the business.</b></p> <p>This will thus enable faster expansion of service thereby resulting in higher revenues for the service providers.</p> <p><b>These higher revenues will result in higher License Fee revenue and higher Service Tax revenue for the government.</b></p> <p><b>Therefore any measure that leads to expansion of service will also result in much higher tax revenues for the government.</b></p>



## 2. Tax Holiday under Section 80-IA

Present Scenario	Measures recommended by COAI for consideration in the new Budget	Benefits
<p>Under existing provision, to avail this exemption services should commence before 1.4.2005.</p> <p>Present clause (ii) of sub-section 4 of section 80IA states' any undertaking which has started or starts providing telecommunication services..... on or before the 31<sup>st</sup> day of March, 2005'</p>	<p>• <b>COAI's Recommendation :</b></p> <p><b><i>For the new licences issued in 2001, this period should be extended by 3 years i.e. upto 1.4.2008.</i></b></p> <p><b><i>Proposed clause (ii) of sub-section 4 of section 80IA should therefore states that any undertaking which has started or starts providing telecommunication services... on or before the 31<sup>st</sup> day of March, 2008.</i></b></p>	<p>This would greatly enhance viability of cellular projects. This would also go a long way in enabling companies to achieve financial closure.</p> <p>As the projects become viable and the cellular industry grows, the government would not only derive benefits from higher tax revenues but also from the resultant economic growth.</p>



### 3. TDS on Interconnection Charges

Present Scenario	Measures recommended by COAI for consideration in the new Budget	Benefits
<p>The income Tax department has been holding the Interconnection (IUC) charges payable by operators to each other as per their interconnection agreement amounts to charges received for provision of a technical services and therefore these should be covered by section 194J of the Income Tax Act and hence liable to TDS.</p>	<p>Interconnect charges paid are not in the nature of fees for technical service on the following grounds:</p> <p>The term fees <i>technical service</i> has been defined in section 9(1)(vii) of the Act which reads as follows:  "fees for technical services" means any consideration (including any lumpsum consideration) for the rendering of any managerial, technical or consultancy services..."</p> <p>Interconnect charges are levied for allowing the call from the cellular service provider to be carried over to the other service provider. What is used is the infrastructure of service provider and not any technical service of other service provider.</p> <p>Interconnect charges paid to other service provider are for <b>allowing this connectivity</b> for calls between mobile and land line telephones and not for any service rendered by the other operator to the Assessee.</p> <p>-----</p> <p><b>• COAI's Recommendation :</b></p> <p><b><i>Thus TDS should not be applicable on interconnect charges paid by companies and necessary clarification / Notification should be issued in this matter.</i></b></p>	<p><b>Intent of TDS is to widen the tax base.</b></p> <p><b>Telecom service providers are not small players, but are very high tax payers in the economy.</b></p> <p>This measure <b>results in inefficiencies in the economy.</b></p> <p>It is difficult to monitor the tax deducted and claim tax credit against <b>heavy load of TDS certificates</b> received for this amounts.</p> <p>This would <b>create administrative problems</b> for the Income Tax Deptt. for MTNL / BSNL as well as for other cellular mobile phone operators also. This would obviate unnecessary complicated procedures and administrative problems to claim tax credit.</p>



#### 4. Accelerated Depreciation for Telecom Industry

Present Scenario	Measures recommended by COAI for consideration in the new Budget.	Benefits
<p>Sec 32 (1) (ii) (a) provides additional depreciation to the extent of 15% of actual cost of New Plant &amp; Machinery to assessee <u>manufacturing any article or thing</u>.</p> <p>The additional depreciation is allowed to:</p> <p>(A) A new industrial undertaking during any previous year in which such undertaking begins to manufacture or produce any article or thing on or after the 1st day of April, 2002; or</p> <p>(B) Any industrial undertaking existing before the 1st day of April, 2002, during any previous year in which it achieves the substantial expansion by way of increase in installed capacity by not less than twenty-five per cent.</p>	<p>• <b>COAI's Recommendation :</b></p> <p><b><i>The provisions should be further extended to New Plant &amp; Machinery Capitalized by assessee engaged in providing Telecom Services and either setting up a new undertaking on or after 1 April 2002 or undertaking existing prior to 1 April 2002 and achieving substantial expansion during any year.</i></b></p>	<p>Since Telecom Industry is highly Capital Intensive and requires huge amount of Capitalization, providing additional depreciation would provide a boost to the Telecom sector.</p> <p>Reduction in capital costs ultimately would benefit the consumer through availability of affordable telecom service.</p> <p>Moreover, this would accelerate network rollouts to semi-urban and rural areas.</p>



## 5. Application of MAT u/s 115JA

Present Scenario	Measures recommended by COAI for consideration in the new Budget	Benefits
<p>As per clause (II) of the explanation to Sub-Section 115JB of the Income Tax Act, the book profit of a company is reduced by the amount of income to which any of the provision of Section 10, 10B, 11 or 12 apply, if any. Such income is credited to the profit and loss account.</p>	<p>In the initial 4 to 5 years all telecom service providers incur heavy losses, which is a worldwide phenomenon. Recognizing this, Sec. 80-IA was amended with effect from 1<sup>st</sup> April, 2000 extending the tax exemption period from 10 years to 15 years, thus giving an incentive to the telecom service providers.</p> <p>It is also pertinent to note that it is envisaged under the legislation that infrastructure companies should be exempted from payment of tax during the 80-IA period.</p> <p><u>However, MAT continues to be applicable to the Telecom Service providers. This means that though the taxable profits are exempted from tax, still the operators are liable for tax on book profit. This anomaly should be removed.</u></p> <p>-----</p> <p><b>• COAI's Recommendation :</b></p> <p><b><i>The explanation to section 115JB should be suitably amended to provide for exclusion of incomes, to which section 80IA applies, from the Book Profits of the Company.</i></b></p>	<p>This step will result in a higher disposable surplus for reinvestment in the business.</p> <p>This will thus enable faster expansion of service thereby resulting in higher revenues for the service providers.</p> <p>These higher revenues will result in higher License Fee revenue and higher Service Tax revenue for the government.</p> <p>Therefore any measure that leads to expansion of service will also result in much higher tax revenues for the government.</p> <p>Therefore lower levies not only mean higher revenues for the government but would also result in much greater benefits through economic growth.</p>



## 6. Utilization of MAT Credit

Present Scenario	Measures recommended by COAI for consideration in the new Budget	Benefits
<p>Presently the MAT credit which can be carried forward is restricted to the extent of the difference between MAT and normal tax for the year.</p>	<p>When MAT is applicable, the assessee is entitled for a corresponding MAT credit to be utilized over the following seven years.</p> <p>However, though telecom companies are entitled to tax holiday u/s 80IA , the MAT is an outflow , which the companies have to incur , due to the limitation put in the section ( section 115JAA(2)) .</p> <p>-----</p> <p><b>• COAI's Recommendation :</b></p> <p><b><i>The MAT credit should NOT be restricted to the extent of the difference between the MAT and the normal tax for the year and credit should be available of the full amount paid as MAT.</i></b></p>	<p>Telecom companies are expanding network at a fast pace and are making losses.</p> <p>This will enable service providers to utilize MAT credit and will thus result in higher funds available for reinvestment in the business.</p> <p>This step will act as an enabler for faster expansion of affordable service.</p>



## 7. Fringe Benefit Tax

Present Scenario	Measures recommended by COAI for consideration in the new Budget	Benefits
<p>Finance Act, 2005 imposed a Fringe Benefit Tax on Employers for benefits given to its employees whether in direct or indirect form. Clause (D) of Sub-section (2) of section 115WB covers expenses incurred by employer for Sales Promotion including publicity and clause (F) of Sub-section (2) of section 115WB covers Conveyance, tour and travel (including foreign tour).</p> <p>Section 115WC defines 20% of the expenses charged to accounts as fringe benefit to employees relating to sales promotion including publicity and also conveyance, tour and travel (including foreign travel). Section 115WC further provides certain exception in sub-section (2) to the above sub-section (1) where the rate of Fringe benefit has been provided at 5% instead of 20% to employers engaged in construction of telecom towers, etc. .</p>	<p>Under trade promotion schemes the company provide incentives in kind to its customers/ subscribers on which rate of fringe benefit is 50%.</p> <p>Further, events organized for new launch of schemes which needs extensive publicity is also covered for fringe benefit at 20%. The Service providers are spending a large amount on advertisement and publicity. With telecom tariff already being one of the lowest in the world, this additional tax on the operators varying from 7% to 15% with no allowability of this expense in Income Tax of the company would require a re-look by the Ministry of finance.</p> <p><b>The towers installed being scattered across the circle requires frequent traveling of employees for maintenance of the same to keep them in running condition to which there is no benefit going to employees.</b></p> <p>-----</p> <p><b>• COAI's Recommendation :</b></p> <p><b>&gt; The benefit of clause (b) of subsection 2 of section 115WC should be extended to telecom service provider for maintaining of towers and also expenses incurred for sales promotion including publicity.</b></p> <p><b>&gt; Since in the telecom industry, large amount of travel is required to cover the far-flung and rural areas, both Hotel and Conveyance cost should be taxed at 5% along with travel cost which was reduced to 5% last year.</b></p>	<p>This benefit will enable faster rollout of service.</p> <p>Extension of this benefit to telecom sector will ensure that there is no disincentive for the executives of the telecom companies to travel to rural and far-flung areas for network rollout and promoting the service.</p>