



**COAI's PROPOSALS  
FOR  
UNION BUDGET 2002-2003**

**CELLULAR OPERATORS ASSOCIATION OF INDIA**

**November 2001.**

## **CUSTOMS DUTY ISSUES**

### **HARDWARE**

<b>Present Scenario</b>	<b>Measures that need to be adopted in the new Budget</b>	<b>Effects of the same.</b>
<p>Existing Duty on Telecom Hardware items like switching apparatus, Base Station Controllers (BSC), Base Transceiver Stations (BTS), Network Management System, Cellular Repeaters, BTS Ancillaries, Computers for billing and Customer services, VMS-Hardware, SMS Hardware, Transcoders, BSS text equipment's is at 21.8% (inclusive of countervailing duty @ 16%).</p>	<p>As none of these equipment's are manufactured in India, it is proposed that countervailing Duty of 16% be removed in the forthcoming budget.</p>	<p>This will greatly reduce capital cost, which will ultimately be passed on to consumers as lower tariff prices. (Lower capital cost would translate into lower rentals/ airtime rates.)</p>
<p>Presently all spares, expansion &amp; upgradation equipment's for MSC, BSC &amp; BTS etc. under list 29 attract duty of 38.74 %, whereas all new equipment under list 29 attracts 21.8% duty</p>	<p>This anomaly should be removed. All spares, expansion &amp; upgradation equipments should attract the same duty as that of list 29 equipments. All telecom equipment and installation material which presently attract very high duty should be included in list 29.</p>	<p>This would result in an increase in telecom usage and network rollouts / coverage of service. Government will benefit from higher receipt of revenue from Licence fees as well as revenues from non-licence fee areas.</p>
<p><b>Special duty structure for telecom hardware item is valid till 31.03.2001.</b></p>	<p><b>Notification issuing extension of validity should be issued.</b></p>	<p><b>This will keep the capital cost under control, as most of cellular operating companies have not achieved break even.</b></p>

<b>Present Scenario</b>	<b>Measures that need to be adopted in the new Budget</b>	<b>Effects of the same.</b>
<p>As per Notification benefits under 11/97, radio communication equipment including VHF, UHF and Microwave communication equipment with the following description-</p> <p>a) BTS is entitled for concessional duty.</p> <p>Existing duty on Backbone Microwave and Access Microwave equipment's is at <b>50.8%</b>, which is very high even when compared to telecom hardware.</p> <p><b>BTS Ancillaries</b> – Even though BTS Ancillaries are included in the List of items eligible for concessional rate of duty, customs not extending the benefits of any ancillaries</p>	<p>Microwave Equipment, both backbone and access, is integral to Cellular Mobile Network and therefore should be included in the list of items eligible for concessional rate of duty.</p> <p>Notification benefits under 11/97 should be amended with the following telecom equipment items also to be included under Notification benefits for concessional duty as these items also form the integral part of equipment's required for network roll-out and needs to be imported:</p> <ol style="list-style-type: none"> <li>1. Antennas</li> <li>2. Power Supply unit.</li> </ol> <p>All Ancillaries of BTS (Base Transceiver Station) should be defined itemwise.</p>	<p>Reduction in capital costs ultimately would benefit the consumer through availability of telecom service at affordable price.</p> <p>Moreover, it would accelerate network roll outs to semi-urban and rural areas.</p>

## GSM HANDSETS / MOBILE PHONES

<b>Present Scenario</b>	<b>Measures that need to be adopted in the new Budget</b>	<b>Effects of the same.</b>
<p>Custom Duty on hand set is still on higher side.</p> <p>Present Total Duty on Cellular Handset is @ 26.672% (including counter valing duty @ 16%)</p> <p>High cost of a handset is also an entry barrier for potential cellular mobile subscribers in urban, semi-urban and rural areas..</p>	<p>The total duty to be reduced to '0' % as it does not have adverse impact on Indian products. Indigenous manufacturing facilities / capacities have not yet been established in India and is neither expected in the near future.</p>	<p>This will immediately eliminate the flourishing gray market which deprives the Government of huge revenues.</p> <p>This would also lead to a rise in cellular subscribers, as at present, high cost of handset is an entry barrier to the masses.</p> <p>This would also result in availability of better quality of handsets at lower prices to the subscribers.</p> <p>The above would stimulate growth resulting in higher licence fee, service tax and interconnect revenues to the government.</p>

## TELECOM SOFTWARE

<b>Present Scenario</b>	<b>Measures that need to be adopted in the new Budget</b>	<b>Effects of the same.</b>
<p>The Custom Duty on software imported with telecom equipment is being charged at different rate other than the rate charged for Information Technology software.</p>	<p>It is very important that this anomaly be rectified in the forthcoming budget.</p> <p>Clarification to be issued that Telecom software being identical to Computer software must be treated at par with Information Technology software and should therefore attract NIL duty, and Categorical waiver of Custom Duty on all types of <b>telecom software</b></p>	<p>This will enable telecom service providers to import software at reasonable price and provide better and more efficient services and more important at more affordable prices to the public.</p>

## INCOME TAX ISSUES

### Tax Relief u/s 10(23G) to be extended to individuals

Present Scenario	Measures that need to be adopted in the new Budget	Effects of the same.
Current definition of investor u/s 10(23G) is restricted to Companies, funds registered under the Registration Act 1908, and Cooperative Banks.	Definition of eligible investors should be widened to include individuals/HUF/ other non-corporate entities by way of investments through equities, public deposits, etc.  Telecom companies should be granted permission to accept deposit / investment directly from person including companies as defined under the I.Tax act and tax benefit like ICICI, IDBI etc should be permitted.	This will increase the scope of market for raising funds for the business at competitive cost..

## Tax Holiday u/s 80-IA

Present Scenario	Measures that need to be adopted in the new Budget	Effects of the same.
<p>Finance Act, 2001 brought in Section 80 IA(4)(II) effective from 1.4.2002. the said clause provides for tax holiday if the undertaking has started or provides services after 1.4.95 but before 31.03.2003.</p>	<p><b>This should be made effective from 01/04/1996</b> that is applicable for assessment year 1995-96 from the year in which the licence has been granted to operators.</p> <p>Further the telecom service operators who have reported their commencement of services before 1999-2000, be allowed to revise their option for availing tax holiday of 10 years out of any of the 15 years.</p> <p>Further, the restriction of starting services by 31.03.2003 be extended to 31.03.2005 keeping in view the fact that now there are new operators in all the circles who have been granted licences in <b>year 2000-01.</b></p>	<p>This would bring parity among all the operators.</p>

## Application of MAT u/s 115JA

Present Scenario	Measures that need to be adopted in the new Budget	Effects of the same.
<p>The explanation to Sub- Section (4) of Sec. 80IA specifies the meaning of Infrastructure Facilities which includes Road, Bridge, Airport, Rail system etc. but does not include <b>Public</b> Telecommunication Services.</p> <p>The above explanation exempt these services from the provisions of MAT under which during the Tax holiday of the service providers insures profit then MAT would not be applicable.</p>	<p>MAT continues to remain applicable to the Telecom Service providers. This anomaly should be removed and <b>Public</b> Telecom Service Providers should be given the status of undertaking providing infrastructure facilities to be covered under the said explanation.</p>	<p>This would result in clearing the disparity being created among the Infrastructure facility providers.</p>

## Carrying Forward of Accumulate Losses.

Present Scenario	Measures that need to be adopted in the new Budget	Effects of the same.
<p>Presently <b>as per Sec. 72A</b> of the Income Tax Act, only Industrial Undertakings are covered under rule 9 C of Income Tax Rules for Conditions for carrying forward or Set-off of accumulated loss and unabsorbed depreciation allowance in case of amalgamation.</p>	<p>The Section should be amended so as to include infrastructure facility for getting this benefit like telecom services, etc. where due to unviability lots of mergers and acquisitions have taken place in the nearest past.</p>	<p>This would bring industrial undertaking and infrastructure facility on the same platform, thereby giving the effects of carrying forward of losses even to public service telecom industry. Besides the unviable companies would not be further burdened to carry on the business incurring huge accumulated losses.</p>

## Liability of TDS on import of software

<b>Present Scenario</b>	<b>Measures that need to be adopted in the new Budget</b>	<b>Effects of the same.</b>
Under section 195 of I.T.Act cellular companies are required to deduct TDS on software purchase.	Cellular Companies are purchasing telecommunication software which is specific user program prepare only for cellular industry and is different from the normal computer software, and the companies are capitalizing the same in their books. Department should bring out clarification / notification to the effect that, such software should be outside the purview of Section 195 of the I.T. Act as it is a purchase item and capitalize in the books by Cellular Operating companies.	Exemption from TDS would place operators in better position to negotiate at competitive prices resulting in bringing down outflow of foreign exchange reserves.

## SALES TAX ISSUE

Present Scenario	Measures that need to be adopted in the new Budget	Effects of the same.
<p>Grant of 'C' Form facility to Telecom and IT sector so as to avail concessional Central Sales Tax like other registered dealers and Power Sector.</p> <p>The Central Sales Tax Act was enacted as far back as in 1956, when only Government of India was authorised to enter into Telecom Sector. In accordance with the provision contained in Section 8 of the CST Act 1956, now in force, only the government of India is authorised to issue 'D' Forms for all its inter-state purchases. Some <b>other sectors, like generation &amp; distribution of power and mining</b>, were identified, at that time, as <b>infrastructure</b> sectors and were authorised to issue 'C' forms.</p>	<p>a. Notification be issued clarifying that the Information Technology Sector (IT Sector) includes the Telecom Sector.</p> <p>b. Notification should be issued advancing the schedule for progressive reduction of Central Sales Tax in <b>respect of the Telecom &amp; IT sector so as to achieve zero CST with effect from 1.4.2001 as per the announcement made during the State IT Ministers and Chief Ministers Conference on 17.7.2000.</b></p> <p>c. Alternatively, if the reduction of CST to zero is not feasible immediately, a notification may be issued by the Central Government in respect of <b>Section 8(3) (b) of the Central Sales Tax Act, 1956</b>, having the effect of <b>including IT &amp; Telecommunication Sector</b> in the said clause, so as to <b>allow the benefit of 'C' form</b> in this sector. The revised wording for Section 8 (3) (b) can read as under:-</p> <p>“(.....)are goods of the class or classes specified in the certificate of registration of the registered dealer purchasing the goods as being intended for re-sale by him or subject to any rules made by the Central Government in this behalf, for use by him in the manufacture or processing of goods for sale or in mining or in the generation or distribution of electricity or any other form of power or in the <b>Telecommunication and Information Technology sector.</b></p>	<p><b>The Telecom sector is as critical infrastructure as Power and Mining</b> and should by all means qualify for similar facilities. An 8% increase in the cost of laying of Telecom infrastructure due to non-availability of 'C' form facility shall hit the Telecom expansion plans of the country very badly – adversely affected growth &amp; availability of low priced telecom services to the rural, semi-rural areas of the country. .</p>