



Telecom Regulatory Authority of India

Consultation Paper

on

Issues relating to Uplinking and Downlinking

of

Television Channels in India

New Delhi, India

19th December, 2017

Mahanagar Doorsanchar Bhawan
Jawahar Lal Nehru Marg
New Delhi- 110 002

Written comments on the consultation paper are invited from the stakeholders by 18th January 2018.

Counter comments, if any, may be submitted by 31st January 2018.

Comments and counter comments will be posted on TRAI's website www.trai.gov.in.

The comments and counter comments may be sent, preferably in electronic form to, Shri S. K. Singhal, Advisor (B&CS), Telecom Regulatory Authority of India, on the e-mail sksinghal@traigov.in or vk.agarwal@traigov.in.

For any clarification/ information, Shri S. K. Singhal, Advisor (B&CS) may be contacted at Tel. No.: +91-11-23221509, Fax: +91-11-23220442.

INDEX

Chapter	Topic	Page no.
1	INTRODUCTION	1
2	ISSUES RELATING TO SATELLITE TV CHANNELS	4
3	ISSUES RELATING TO TELEPORTS	35
4	ISSUES FOR CONSULTATION	47
	LIST OF ACRONYMS	53

Tables

Table 1	Net-worth for permission for uplinking and downlinking of TV channels	11
----------------	--	-----------

Annexure

I	Reference dated 21st August 2017 from MIB	54
II	Policy Guidelines for Uplinking of Television channels from India	58
III	Policy Guidelines for Downlinking of Television channels	72

CHAPTER 1

INTRODUCTION

- 1.1 Television channels beamed using satellites are referred to as satellite TV Channels. For regulating the business of satellite TV channel broadcasting in India, the Central Government has laid down policy guidelines for uplinking of television channels from India, and policy guidelines for downlinking of television channels in India. Under the policy guidelines for uplinking of television channels from India, Ministry of Information and Broadcasting (MIB), Government of India issues permission to companies registered in India for (i) setting up of uplinking hub/ teleports, (ii) uplinking of TV Channels (both 'News & Current Affairs' and 'Non-News & Current Affairs' categories), (iii) use of Satellite News Gathering (SNG)/ Digital Satellite News Gathering (DSNG) systems, (iii) uplinking by Indian News agencies, and (iv) temporary uplinking for any live event. Similarly, under the policy guidelines for downlinking of television channels in India, MIB issues permission for downlinking of signals of TV channels from satellite on earth for further distribution to subscribers through various types of distribution platforms.
- 1.2 The Television Broadcasting sector presents a vibrant picture with more than 880 permitted satellite TV channels, around 80 Teleports, 7 DTH operators, 1500 Multi-system operators and large number of Cable TV operators. The total revenue of TV Industry is INR 58,800 Crore¹ as per the industry estimates with CAGR of more than 15%. There are approximately 183 million TV households.
- 1.3 MIB vide its letter dated 21st August, 2017, has stated that the present uplinking guidelines, and downlinking guidelines which came into effect from 5th December 2011 are now more than 5 years old. Further,

¹ As per FICCI KPMG IME Report 2017

MIB has also stated that keeping in view the change in technology, market scenarios, and the lesson learnt in the last few years of their operations, there is a need to review/ amend some of the provisions of these guidelines to ensure healthy growth of the broadcasting sector. MIB has sought recommendations of the Authority on various issues listed in the aforesaid letter. These issues primarily relates to permission for uplinking and downlinking of satellite TV channels, and setting up of teleports. The letter dated 21st August, 2017 is enclosed at **Annexure-I**.

- 1.4 As per sub-section 1(a) of section 11 of the TRAI Act, 1997, the Authority is required to make recommendations, either *suo motu* or on a request from the licensor on various aspects of license issued to service providers. Further, as per sub-section (4) of section 11 of the TRAI Act, 1997, the Authority is required to ensure transparency while discharging its functions. TRAI is accordingly initiating a process of consultation with stakeholders to arrive at an appropriate decision on issues listed in the reference.
- 1.5 MIB in its reference dated 21st August 2017, has also mentioned about the increase in possibilities of using the power of media by the Companies for their commercial interests and has sought the comments of the Authority. In this regard, the Authority, in its recommendation dated 12th August 2014 titled “Issues Relating to Media Ownership”, has examined the issue of power of media in detail and has given its recommendations to the Government. These recommendations are available on TRAI’s website.
- 1.6 It is pertinent to mention here that earlier, on *suo motu* basis, on 31st July 2017, TRAI issued a consultation paper on “Ease of doing Business in Broadcasting Sector”, wherein some issues relating to policy framework for seeking permissions for teleports and TV channels have also been discussed. The comments of the stakeholders

on this consultation paper have been received, and the same are available on TRAI's website. This consultation paper has taken into account those issues, and the views of the stakeholders on those issues.

- 1.7 The objective of this consultation process is to review the provisions of the existing uplinking guidelines, and downlinking guidelines so as to ensure orderly growth of the broadcasting sector, and in-turn provide impetus to socio-cultural and economic development. It is important to mention here that the methodology and procedures prescribed for allocation of satellite transponder capacity, as decided by the Department of Space in accordance with the SATCOM policy, are not being reviewed through this consultation process. On completion of this consultation process, the Authority shall send its recommendations to the Government on issues mentioned in the reference dated 21st August, 2017.

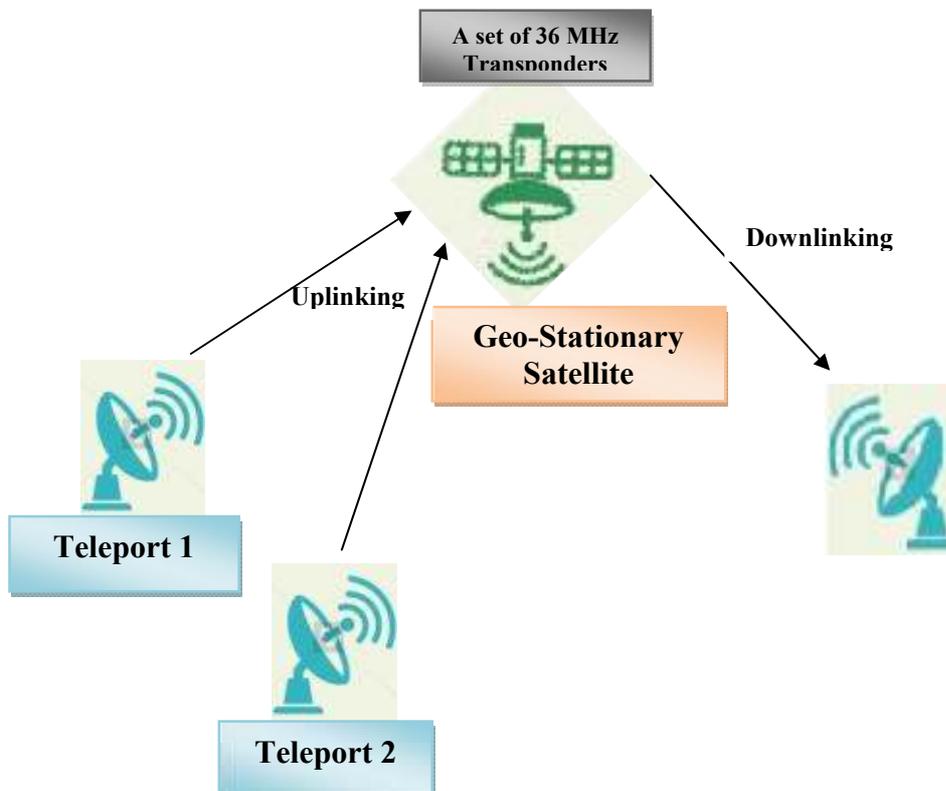
- 1.8 Chapter 2 of this consultation paper discusses the extant provisions in the uplinking and downlinking guidelines and analyses various issues involved in context with satellite TV channels. Chapter 3 analyses various issues involved in context with Teleports. Chapter 4 summarises the issues for consultation.

CHAPTER 2

ISSUES RELATING TO SATELLITE TV CHANNELS

2.1 In satellite TV broadcasting, signals of TV channels are transmitted from an earth station to the geostationary satellite (uplinking) located in the space. A geostationary satellite has a very wide coverage (footprint) on earth, which usually spans many countries. The signals of TV channels transmitted from an earth station to satellite, after necessary amplification, are reflected back on very wide area of earth by transponders of the satellite. Transponders are electronic systems mounted on satellite which receive, amplify, and reflect signals. The signals are collected on earth by receiver using a dish antenna (downlinking). Such signals of satellite TV channels can be either encrypted or unencrypted. A schematic diagram is given in Figure-1.

Figure-1: Schematic diagram depicting Uplinking and Downlinking of TV Channels



Uplinking of Signals of TV channels

2.2 The uplinking of TV channels to satellite from Indian Territory has always been under the control of the Government. Initially, only those Indian companies which had a minimum of 80% Indian equity coupled with effective Indian management control were allowed to uplink TV channels from Indian soil. Further, they could uplink only through Videsh Sanchar Nigam Limited (VSNL) (a state owned enterprise at that time). This restriction was relaxed in the year 1999 when the Government allowed Indian companies to uplink without mandatory use of VSNL facilities. In July 2000, the Government of India notified the “Guidelines for Uplinking from India” wherein the policy framework was further liberalised, as all Indian companies irrespective of their ownership and management control were allowed to uplink from India. It may also be pertinent to mention here that at that point of time there was no categorisation of a TV channel. This was followed by “Guidelines for uplinking of News and Current Affairs TV Channels from India” in March 2003, which categorised TV channels into two categories namely “News and current affairs” and “Non-News and current affairs”. An addendum was added, on 01.4.2005, to these guidelines for bringing up a policy framework for granting permission for use of SNG/DSNG systems by Indian companies. Some amendments were made in uplinking guidelines, from time to time, to make them consistent with the Sports Broadcasting Signals (Mandatory Sharing with Prasar Bharati) Act, 2007 and to bring them in line with the extant FDI Policy of the Government.

2.3 The Government, in supersession of all previous guidelines, laid down a consolidated uplinking guidelines. These came into effect from 5th December, 2011. The consolidated uplinking guidelines dated 5th December, 2011 are available at **Annexure-II**. These guidelines envisage five types of activities which require prior permission from the Government. These are detailed below:-

(i) Uplinking of TV channels:

2.4 This permission is required when a company wants to uplink signals of a TV channel to the satellite from the territory of India. This permission is further categorised based upon the nature of programmes to be broadcasted by a TV Channel. Presently, the TV channels have been categorised in two categories namely, “News & Current Affairs” and “Non-News & Current Affairs”. The separate eligibility conditions have been prescribed for uplinking of signals of each of the category of TV channels. For uplinking of a TV channel, the applicant Company is required to enclose with the application, among other things, a copy of the agreement with a teleport operator (in case of a third party teleport) and a satellite company for transmission of TV channel to be permitted.

(ii) Setting up of uplinking hub/teleports:

2.5 For uplinking of signals of TV channels to the satellite, broadcaster can setup its own uplinking hub/teleport or use the services of hub/teleport infrastructure service providers. In both the cases, a separate permission is required for setting up of the uplinking hub/teleport. Such permission is granted purely for providing infrastructure service to permission holders for uplinking of signals of TV channels.

(iii) Uplinking by News Agency:

2.6 This type of permission is required when a company engaged in the activity of gathering news wants to uplink events for further distribution to other news agencies/broadcasters only.

(iv) Use for SNG/DSNG Systems:

2.7 This type of permission is required when a company wants to use SNG/DSNG systems for any live coverage/footage collection and transmission to satellite.

(v) Temporary uplinking for any live event:

2.8 MIB also issues permission for temporary uplinking for live events to non-news category channels on case to case basis. Further, such permission is required to be obtained by foreign entities which want to cover and uplink any live event/specific programme of temporary duration occurring within the territory of India. The footage so uplinked is primarily for the usage abroad by the foreign entity and cannot be downlinked in India without downlinking permission and registration of the channel.

Downlinking of Signals of Television Channels

2.9 Likewise the uplinking, the downlinking of satellite TV channels is also regulated by the Central Government. The first policy guidelines applicable for downlinking of satellite television channels in India for public viewing were notified by MIB on 11th November, 2005. Consequently, no person/entity was allowed to downlink a satellite TV channel in India, which has not been registered by MIB under the said guidelines. The Government, in supersession of the previous guidelines, notified the revised set of policy guidelines for downlinking of television channels dated 5th December, 2011. These guidelines envisage prior permission/registration of a TV channel with the Central Government when a company intends to downlink signals of TV channel for public viewership in India, irrespective of whether such signals of the TV channel have been uplinked to the satellite from within the territory of India or from outside the territory of India. There is no separate eligibility condition prescribed for downlinking of “News & Current Affairs” and “Non-News & Current Affairs” category channels. The policy guidelines for downlinking of satellite TV channels dated 5th December, 2011 is available at **Annexure-III**.

Relevant Statutory Provisions

2.10 The broadcasting of a TV channel through satellite involves transmission and reception of electromagnetic signals conveying images, sounds and data. The facilities set up for broadcasting of satellite TV channels requires wireless operating license under the India Telegraph Act 1885, before its setup and made operational. Further, as per uplinking permission granted by MIB for a TV channel, uplinking of signals of satellite TV channels having valid permission from MIB, requires separate permission/ endorsement from WPC. The section 4 of Indian Telegraph Act states that the Central Government has the exclusive privilege of establishing, maintaining, and working telegraphs within India. It also provides that the Central Government may grant a license, on such conditions and in consideration of such payments as it thinks fit, to any person to establish, maintain or work a telegraph within any part of India. The word “Telegraph”, in the Indian Telegraph Act 1885 has been defined as:

“telegraph’ means any appliance, instrument, material or apparatus used or capable of use for transmission or reception of signs, signals, writing, images and sounds or intelligence of any nature by wire, visual or other electro-magnetic emissions, radio waves or Hertzian waves, galvanic, electric or magnetic means.”

2.11 It is evident that the Indian Telegraph Act 1885 and its subsequent amendments define “telegraph” very broadly to include most modern communication systems irrespective of their underlying technology. Accordingly, the statutory basis of uplinking and downlinking policy can be traced to the India Telegraph Act 1885. Further the permissions issued under policy guidelines for uplinking and downlinking of TV channels comes under the ambit of Section 4 of the Indian Telegraph Act, 1885.

2.12 The issues relating to satellite TV channels listed by MIB in its reference letter dated August 21st, 2017 can be broadly classified into following categories:

- (i) Definition of 'News and Current Affairs channels', and 'Non-News and Current Affairs Channels';
- (ii) Net-worth of eligible companies;
- (iii) Processing fee for application;
- (iv) Grant of license/ permission for Satellite TV Channels;
- (v) Entry Fee and License Fee;
- (vi) Encryption of TV channels;
- (vii) Operationalization of TV channel;
- (viii) Transfer of License;

A. Definition of 'News and Current Affairs channels' and 'Non-News and Current Affairs Channels'

2.13 As per existing guidelines, the permission for satellite TV channels are granted under two categories viz. "News and Current Affairs TV channels" and "Non-News and Current Affairs TV channels". The guidelines provides following definitions of these two categories of channels respectively:

"A News & Current Affairs TV channel means a channel which has any element of news & current Affairs in its programme content."

and

"A Non-News & Current Affairs TV channel means a channel which does not have any element of News & Current Affairs in its programme content."

2.14 The above mentioned definitions indicate that a 'Non-News & Current Affairs TV channel' cannot contain any element of news & current affairs in its programme content, whereas there are no restrictions on

programme mix of 'News & Current Affairs TV channel'. This may result in complete freedom to channel as to what percentage of its content will actually contribute to news & current affairs. Further, though the term 'News & Current Affairs' has not been defined explicitly in the uplinking and downlinking guidelines; however this term is self explanatory. In this regard, no specific issue has come to the notice of the Authority. Any specific definition for each category of channel, beyond what is already mentioned in the policy guidelines, may also have the risk of leaving vacant space in between these two definitions.

2.15 Apropos the above, the issue for consultation is:

(a) Is there any need to redefine 'News and Current Affairs TV channels', and 'Non-News and Current Affairs TV channel' more specifically? If yes, kindly suggest suitable definitions of 'News and Current Affairs TV channels' and 'Non-News and Current Affairs TV channels' with justification.

B. Net-worth of eligible companies

2.16 MIB in its reference has mentioned that, may be due to low entry barriers, such as net-worth requirement for Rs. 5.00 Crore only for obtaining permission/ license for uplinking or downlinking of TV channels, non serious players are able to obtain the same. As per MIB's letter, later on such licenses are either traded or leased to different entity.

2.17 As per the extant policy framework, an applicant entity seeking permission for uplinking or downlinking of TV channel must be a company registered in India under the Indian Companies Act, 1956. Further, the applicant company should also satisfy the following net-worth requirements for obtaining uplinking and downlinking permissions:

Table1: Net-worth for permission for uplinking and downlinking of TV channels

S. No.	Permission	Net-worth
1.	For uplinking of non-'news & current affairs TV channel'	For 1 st TV channel: Rs. 5 Crore For each additional TV channel : Rs. 2.5 Crore
2.	For uplinking of 'news & current affairs TV channel'	For 1 st TV channel: Rs. 20 Crore For each additional TV channel : Rs. 5 Crore
3.	For downlinking of TV channel	For 1 st TV channel: Rs. 5 Crore For each additional TV channel: Rs. 2.5 Crore

2.18 To ensure that only serious players, who are interested in the business of satellite TV channels and operating the channels on their own, apply for obtaining permission/ license for uplinking or downlinking of TV channels, one way could be to increase the entry barriers. The other way could be to eliminate the incentives which encourage trading and/ or sub-leasing of licenses. Further, sub-leasing or trading of channels can also be controlled by putting in place certain checks which discourages such practices.

2.19 Television broadcasting services is a capital intensive business. The investment is required in production of programs, uplinking/downlinking of TV channels, transponder charges, spectrum usage charges, network establishment, marketing and distribution cost, and other establishment charges. Further the cost structure of news, and non-news channels vary significantly. It also requires continuous technology up-gradation, and capability to face competition from within and outside India. So, one view could be that the companies, who have the necessary financial strength, enter this business. Net-worth of the applicant company is an important parameter for gauging the financial standing of the company and therefore it must be substantially increased.

2.20 However, other view could be that very high net-worth requirement would deter first generation/new entrepreneurs from entering into this sector. Moreover, the high net-worth criteria could also discourage the growth of local and regional channels, thereby affecting overall program diversity. Reduced competition due to very high entry barriers may also affect prices of the channels for end consumer. Increase in entry barriers may also create incentives for trading or sub-leasing of existing licenses. Therefore, to stop such practices, the entry should be easy for new licensees. There should be enough checks in the license conditions to stop such practices of sub-leasing or trading of licenses.

2.21 Someone can also argue that increase in entry barriers for uplinking of TV channel from India, may encourage diversion of such business opportunities to outside India. Any shift in processing and editing of content outside India would not only affect the growth of the TV broadcasting sector, but also it may affect the direct and indirect employment opportunities created by this sector.

2.22 Apropos the above the issues for consultation are:

- (a) Should net-worth requirement of the applicant company for granting uplinking permission, and/ or downlinking permission be increased? If yes, how much should it be? Please elaborate with appropriate justification.**
- (b) Should there be different net-worth requirements for uplinking of News and non-News channels? Give your suggestions with justification.**

C. Processing fee for application

2.23 As per existing policy guidelines for uplinking, and downlinking of TV channels, along with each application for seeking permission a non-refundable processing fee of Rs. 10,000/- is required to be deposited

by the applicant company. The processing fee is charged to cover the costs involved in processing the application. The processing fee of Rs. 10,000/- per application is continuing since the year 2011. One view could be that the processing fee should be increased to say Rs. X to recover the increased costs of administration. However, the other view could be that instead of increasing the processing fee, with the use of technology, the costs involved in processing of application could be reduced. Online processing of applications may reduce both cost and the time for grant of license.

2.24 Apropos the above the issue for consultation is:

(a) Is there any need to increase the amount of non-refundable processing fee to be deposited by the applicant company along with each application for seeking permission under uplinking guidelines, and downlinking guidelines?, What should be the amount of non-refundable processing fee? Please elaborate with justification.

D. Grant of license/ permission for Satellite TV Channels

2.25 As per existing policy guidelines, the permissions for uplinking, and/or downlinking of satellite TV channels are issued to applicant companies by MIB on the basis of their applications. After receiving the permission for uplinking of satellite TV channels from MIB, the applicant company applies to the WPC wing of DoT for grant of wireless operating license to operationalise the channel. Accordingly, a satellite TV channel uses the uplink spectrum, satellite transponder, and the downlink spectrum for transmitting the signals of TV channels from broadcaster to distributors of TV channels. One of the issues raised in the MIB reference dated 21st August, 2017, is whether auctioning a channel as in the case of FM Radio sector, can be adopted as a way to increase the revenue to the Government.

- 2.26 In the radio broadcasting sector, in Phase-I of FM Radio, there was no entry fee. The license fee for the first year was decided through bidding. For subsequent years, the annual license fee was increased @ 15% per annum on the basis of the first year license fee paid for award of the license. In Phase-II of FM radio, the entry fees were decided through bidding of FM Radio channels and annual license fees were levied as a percentage of revenue earned by the FM Radio broadcasters. In Phase-III of FM Radio, the entry fees are being decided through auction of FM Radio channels and annual license fees are being levied as a percentage of revenue earned by the FM Radio broadcasters.
- 2.27 Before discussing the issues relating to auction of satellite TV channel, it is pertinent here to understand the similarities and differences between the FM Radio broadcasting and satellite TV broadcasting.
- 2.28 As stated earlier, under the Indian Telegraph Act 1885, the Central Government has exclusive privilege and power to grant a license on such conditions and in consideration of such payments as it thinks fit, to any person to establish, maintain or work a telegraph within any part of India. FM radio broadcasting as well as the satellite TV broadcasting requires the establishment, maintenance, and working of a telegraph. So, in a way both are governed under the same statute.
- 2.29 The FM radio broadcasting is a terrestrial form of broadcasting wherein for each Radio channel, 800 KHz bandwidth spectrum in the frequency band starting from 88 MHz to 108 MHz is allocated by WPC. So theoretically there can be maximum 25 radio channels in a given area. However, the risk of interference from the adjoining area transmitters further limits the maximum number of FM Radio channels in a given area. Further, the reach of FM radio transmission is limited, and it depends upon the transmitted power and height of the transmitter antenna. Thus in a given geographical area, the

maximum number of FM Radio channels are limited by design, and auction for FM Radio channels is carried out geographical area wise.

2.30 As stated earlier, satellite TV broadcasting also requires the radio spectrum (for uplink and downlink of signals) along with satellite transponder capacity for transmitting signals of TV channels from broadcaster to distributors of TV channels. Broadcasters use C band of spectrum for transmission of Satellite TV channels in India. The satellite beam covers the large footprint, say entire India, so it is normally not planned for repeat use in very small geographical areas. However, in case of satellite communication the same set of frequencies are reused to communicate with different satellites placed at different positions in the geosynchronous orbit and therefore, allocation of one set of frequencies for one satellite does not restrict the repeat allocation of same set of frequencies to another satellite positioned after certain minimum angular distance in the orbit. Further, as per existing policy guidelines, the spectrum used for uplinking of TV channel signals to a satellite, having footprint over India, can be of India or foreign country. Similarly, the satellite having footprint over India can be an Indian satellite or foreign satellite. However, for downlinking of signals of TV channels from a satellite in India, space spectrum will always be required. As per extant policy guidelines, presently for downlinking of signals of TV channels no specific frequency allocation is required from WPC. Further, it is also important to note here that use of a particular uplinking satellite spectrum and the corresponding satellite transponder capacity are tightly coupled with each other i.e. the satellite transponder capacity allocated to a company cannot be used without corresponding uplinking satellite spectrum, and similarly, a particular uplinking satellite spectrum, beamed towards a particular satellite, is of no use if the corresponding right to use of that satellite transponder capacity is not available with the same entity. Therefore, for success of satellite TV broadcasting, it is important to ensure that right to use for a

satellite transponder capacity and corresponding uplinking, downlinking satellite spectrum are allocated to the same entity.

2.31 Satellite used for beaming of signals of TV channels is placed at pre-identified position in space called orbital position. The orbital positions are allocated to various nations, seeking to place satellite in space. The allocation process is regulated by International Telecommunication Union (ITU) in coordination with member countries. The slot allocated to member countries may be used by private or public entities within jurisdiction of the member country. Once the required coordination has been completed and a satellite network is in operation, the satellite will be entered in the ITU Master Register. Such registration means that the satellite is internationally recognized and has a right to use the orbital slot and frequency assigned to it for the whole operational life of the satellite. Broadcasters of satellite TV channel hire transponder on a satellite for contractual period from the owner of that satellite. Leasing of a transponder capacity on a satellite simultaneously may fix the uplinking and downlinking frequencies also, and no one else may be able to use those frequencies. The allocation and use of satellite transponder capacity for delivering broadcasting services in India is regulated as per SATCOM policy notified in the year 1997 in conjunction with policy guidelines issued by MIB for uplinking/downlinking of satellite TV channels. Applicable policy guidelines permit use of Indian as well as foreign satellites, as per norms, guidelines and procedures for use of satellites notified by the Department of Space, for delivering broadcasting services in India. As stated earlier, policy guidelines for downlinking issued by MIB permits foreign channels also for downlinking in India.

2.32 Broadcast media is a powerful purveyor of ideas and values, and plays a pivotal role in not only providing entertainment but also disseminating information, nurturing and cultivating diverse opinions, and educating and empowering the people, which are must in a

democratic society. Therefore, one argument could be that the government should adopt a framework that would, besides maximizing the revenue from the license activity, foster an environment which would induce plurality of views, promote local content and culture, bridge the rural urban information gap, and optimize the number of licenses granted in a given market.

2.33 Another argument could be, the grant of license for satellite TV channels through auction process may affect plurality of channels, and create entry barriers for new broadcasters. It may also lead to increase in market concentration and have adverse consequences in terms of price of final product, market behaviour etc.

2.34 In case of FM Radio broadcasting, the Central Government have the exclusive control over terrestrial spectrum, and accordingly it auctions the FM Radio channel permission bundled with 800 KHz of spectrum bandwidth to eligible bidders. FM Radio uses different technology and no satellite is required for such transmission and reception. However, in case of satellite TV broadcasting, broadcasters have to bear cost of leasing transponder capacity. Further, as discussed in Para 2.30, on case to case basis, the resources used i.e. uplinking and downlinking spectrum, and satellite transponder are fully or partially in the control of the Central Government. The Central Government can auction only those resources which are fully in its control.

2.35 Auction of the individual leg of satellite TV broadcasting i.e. uplinking space spectrum, satellite transponder capacity, and downlinking space spectrum may not be technically feasible as these require coordinated use for successful broadcasting of TV channels. Further, the options of uplinking from outside India, and use of satellite transponder capacity on foreign satellites may restrict the plausible gains from auction of these resources. Therefore, alternate could be to auction a complete package for a satellite TV channels i.e. uplink from Indian soil to Indian satellite, and downlink in India. However, this

will require restrictions on use of foreign satellites for satellite TV Broadcasting. Further, requirement of mandatory uplinking from India's soil to Indian satellite may cause scarcity of satellite transponders and restrict the growth of the broadcasting sector. Further, it is also pertinent to mention here that in a globalised economic world, dissemination of information across the borders, and plurality of views play an important role in socio-economic development.

2.36 Further, the dictionary meaning of auction usually implies public sale of goods or property, where people make higher and higher bids (= offers of money) for each thing, until the thing is sold to the person who will pay most. Therefore, for auctioning a public resource like space spectrum used for uplinking and downlinking of signals of TV channels, it is essential that more than one bidder is there for the same spectrum. This may not be the case for satellite TV broadcasting as space spectrum used for uplinking and downlinking of signals of TV channels may be tightly coupled with the corresponding satellite transponder, already leased by the applicant company or its teleport service provider independently.

2.37 Apropos the above, the issues for consultation are:

- (a) Whether auction of satellite TV channels as a complete package similar to FM Radio channels is feasible? If yes, then kindly suggest the approach.**
- (b) Is it technically feasible to auction individual legs of satellite TV broadcasting i.e. uplinking space spectrum, satellite transponder capacity, and downlinking space spectrum? Kindly explain in detail.**
- (c) Is it feasible to auction satellite TV channels without restricting the use of foreign satellites, and uplinking of signals of TV channels from foreign soil? Kindly suggest detailed methodology.**

- (d) Is it advisable to restrict use of foreign satellites for satellite TV broadcasting or uplinking of satellite TV channels, to be downlinked in India, from foreign soil?**
- (e) Can there be better way to grant license for TV satellite channel then what is presently followed? Give your comments with justification.**

E. Entry Fee and License fee

2.38 As stated earlier, grant of license for satellite TV channels at a fee, to be paid by the licensee, is a prerogative of the Central Government. Such fee usually has two components, the first is one-time fee commonly referred as entry fee, and the second is recurring fee commonly referred as license fee. Further, the license fee can be a fixed fee or variable fee, or semi-variable to be paid over regular intervals.

2.39 Presently, under the extant policy framework, for uplinking of a satellite TV Channel from Indian soil there is a 'Nil' entry fee while there is a fixed permission/ license fee of Rupees two lakhs per annum. For downlinking of a satellite TV channel, uplinked from India, there is 'Nil' entry fee while there is a fixed license fee of Rupees five lakhs per annum. However for downlinking of a satellite TV channel, uplinked from foreign soil, there is an entry fee of Rs 10 lakhs while there is a fixed license fee of Rs. 15 lakhs per annum.

2.40 MIB in its reference dated 21st August 2017 has sought recommendation of the Authority about the rates of annual permission fee and feasibility of adopting revenue sharing model as applicable in the DTH sector for uplinking/downlinking and teleports.

2.41 As per existing DTH guidelines issued by MIB, for obtaining DTH license the applicant is required to pay an initial non-refundable entry-fee of Rs.10 Crores. In addition, the licensee is also required to

pay an annual license fee equivalent to 10% of its gross revenue as reflected in the audited accounts of the company for that particular financial year. TRAI vide its recommendations on 'Issues related to New DTH Licenses' dated July 23, 2014 recommended to the Government that the license fee in the new DTH licensing regime should be charged @ 8% of Adjusted Gross Revenue (AGR) where AGR is calculated by excluding, Service Tax, Entertainment Tax and Sales Tax/VAT actually paid to the Government, from the Gross Revenue (GR).

- 2.42 As stated earlier, in FM Radio broadcasting sector also, annual license fee @ 4% of Gross Revenue (GR) of FM radio channel in a city of the licensee company for the financial year or 2.5% of the Non-Refundable One Time Entry Fee (NOTEF) for that city, whichever is higher, is charged.
- 2.43 While entry fee is levied to identify serious players, and to recover the cost of administering the license from service providers, license fee is a significant source of revenue for the Government apart from the taxes. As already discussed, license fee can be a fixed fee, or variable fee as a fraction of gross revenue of licensee company, to be paid at regular intervals.
- 2.44 In case of auction of satellite TV channels, the entry fee would be decided on the basis of competitive bidding. However, if it is decided to continue the grant of satellite TV channel licenses as per existing procedure, the amount of entry fee need to be decided. As stated earlier, presently while there is 'Nil' amount of entry fee for TV channels uplinked from India, for downlinking of TV channels uplinked from foreign soil, Rs. ten Lakhs entry fee is prescribed. These amounts of entry fee were decided in the year 2011.
- 2.45 'Nil' amount of entry fee for downlinking of domestic channels, i.e. the channels uplinked from India and downlinked in India, may be

encouraging non-serious players to obtain license, and as stated by MIB in its reference, later on either sub-lease and/ or trade them. Further, the Government is also required to recover the cost of administering such licenses from service providers. These licenses remain valid for 10 years. On these grounds alone, one can argue that the entry fee for granting license for satellite TV channels should be charged. The amount of entry fee to be charged from domestic channels for downlinking in India may be fixed, say Rs. X initially. It can be reviewed on periodic basis, say every Y years.

2.46 Presently, differential amount of entry fee is prescribed for downlinking of foreign channels, i.e. the channels uplinked from outside India, and downlinked in India. It may be to encourage the uplinking of maximum number channels from Indian soil. This amount of Rs. 10 Lakhs was also fixed in the year 2011. To continue that incentive for domestic channels, should this entry fee also be increased? What could be that amount? One can argue that to maintain the similar level of incentives for uplinking from India, entry fee for foreign channels may be upwardly revised to, say Rs. Z.

2.47 For obtaining the license to uplink TV channels from India, presently, 'NIL' amount of entry fee is prescribed. One can argue that the entry fee for such licenses should also be equal to the domestic channels downlinked in India. The other side of the argument could be that it will increase the cost of uplinking TV channels from India, and accordingly it may divert some business of uplinking of TV channels to outside India, especially for those channels which are uplinked from India and downlinked outside India. This may adversely affect the revenue of the teleport operators and in turn in the form of license fee of the Government also. Incentives for uplinking of TV channels from India may also encourage development of content for such channels in India. Accordingly, keeping in view the other economic gains, it may be continued at 'Nil' level only.

- 2.48 While, fixed license fee structure ensures assured amount of revenue to the Government, independent of the ebbs and flows of the industry, very high amount of fixed fee per annum can also act as entry barrier to the new entrants in the sector. Further, it may also lead to inequitable redistribution of the resources from the firms to the Government. Complete abolition of the fixed license fee structure may also encourage hoarding of natural resources.
- 2.49 On the other hand, while, variable licensee fee ensures that the revenue to the Government grows commensurate to the growth of the sector, it may not insulate the Government from the ebbs & flow of the industry. Further it may also enhance the transparency in the sector as the licensee company will be required to submit its audited accounts for each financial year to the Government.
- 2.50 Yet another method to devise the license fee structure could be in the form of semi-variable i.e. to levy fee as a fraction of the licensee company revenue subject to a minimum limit. This would be equitable on part of the firms while at the same time ensuring minimum revenue flows to the Government.
- 2.51 In addition to deciding the license fee structure, the quantum of license fee for fixed or variable or semi-variable structure is also required to be decided. The present rates of permission/ license fee prescribed for uplinking and downlinking of satellite TV channels were fixed in the year 2011. One can argue that on satellite TV channels downlinked in India also the license fee should be levied @ 8% of Adjusted Gross Revenue (AGR) where AGR is calculated by excluding, Goods and Service Tax (GST) actually paid to the Government, from the Gross Revenue (GR) of the licensee company. As is the case presently, there could be an argument that license fee for foreign channels may be fixed at slightly higher rate, say @ 8+ % of Adjusted Gross Revenue (AGR) of the licensee company. However, this may require maintenance of separate accounts for domestic and foreign

channels. In case of semi-variable fee structure, the minimum fee can be fixed at, say, Rs. P per annum for domestic channels, which would include the minimum license fee for both uplinking and downlinking license, Rs. Q for uplink only channels, and Rs. R per annum for downlinking of foreign channels. In case of fixed fee structure also, the license fee may be revised to say, Rs. P per annum for domestic channels, which would include the minimum license fee for both uplinking and downlinking license, Rs. Q for uplink only channels, and Rs. R per annum for downlinking of foreign channels. Another alternate could be in case of semi-variable or fixed license fee structure, the fixed component could be rounded off to approximately 8% of the average AGR per TV channel of previous five years, to be revised say every five years.

2.52 At present the license fee is required to be paid on annual basis. One view could be that if variable or semi-variable license fee structure is finalised then it could be paid to the Government on quarterly basis as is the norm in the DTH sector.

2.53 Apropos the above issues for consultation are-

- (a) If it is decided to continue granting of licenses for satellite TV channels on administrative basis, as is the case presently, what should be the entry fee for grant of license for uplinking of TV channels from India, downlinking of TV channels uplinked from India, and downlinking of foreign TV channels? Please suggest the fee amount for each case separately with appropriate justification.**
- (b) What should be the license fees structure, i.e. fixed, variable, or semi-variable, for uplinking and downlinking of satellite TV channels? Please elaborate if any other license fee structure is proposed, with appropriate justification.**
- (c) If the variable license fee structure is proposed, then what should be rate of license fee for TV channels uplinked from**

India and TV channels uplinked from abroad, and what should be the definition of AGR?

- (d) If the semi-variable license fee structure is proposed, then what should be the minimum amount of license fee per annum for domestic channels (uplinked and downlinked in India), uplink only channels, and downlinking of foreign channels (uplinked from abroad)?**
- (e) If the fixed license fee structure is proposed, then what should be the license fee per annum for domestic channels, uplink only channels, and downlinking of foreign channels?**
- (f) What should be the periodicity for payment of the license fee to the Government? Please support your answer with justification.**
- (g) What should be the periodicity for review of the entry fee and license fee rates?**

F. Encryption of TV channels

2.54 Another issue raised in the MIB reference dated 21st August, 2017 is - should all channels including FTA channels, local platform services and ground based channels be encrypted?

2.55 Presently, signals of all satellite TV channels having permission for downlinking from MIB can be distributed by registered Distribution Platform Operators (DPOs) – MSOs, DTH, IPTV and HITS operators - to subscribers. From commercial point of view, each satellite TV channel is categorised by broadcaster either as pay channel or Free-to-Air (FTA) channel. While for distribution of pay channel, a fee is be paid and due authorization needs to be obtained by DPOs, for distribution of FTA channel, no fee is to be paid by DPOs to broadcasters. Accordingly, each broadcaster encrypts signals of its pay TV channels while broadcasting through satellite, so that only authorised DPOs, who have valid interconnection agreement with such broadcaster, are able to distribute signals of such TV channels.

For distribution of FTA channel usually no specific authorisation is required by DPO from the broadcaster, as no fee is to be paid by DPO to broadcaster. Further, as per existing practice, signals of FTA TV channels are usually not encrypted while broadcasting through satellite, and accordingly any DPO can distribute such channels. However, some broadcasters encrypt signals of their FTA channels also. Usually, such channels are either recently converted from pay to FTA category or intended to be converted from FTA to pay channel category. For distribution of encrypted signals of a satellite TV channel, DPO is required to obtain Integrated Receiver and Decoder (IRD) from the concerned broadcaster. The IRD is used to decrypts signals of the encrypted satellite TV channel.

2.56 In addition, DPOs provide certain programming services which are specific to each platform, and are not obtained from satellite-based broadcasters. These programming services are either produced by the DPO itself or are sourced from certain ground-based broadcasters. The DPOs own programming services are referred to as Platform Services, which also includes 'local-channels'. While it is already mandatory for encryption of platform services, the policy framework for ground based broadcasters is still to be decided by MIB.

2.57 TRAI in its recommendations on "Regulatory Framework for Platform Services" dated 19th November 2014, recommended the following definition of Platform Services:

"Platform services (PS) are programs transmitted by Distribution Platform Operators (DPOs) exclusively to their own subscribers and does not include Doordarshan channels and registered TV channels. PS shall not include foreign TV channels that are not registered in India."

2.58 In addition to the above mentioned definition, TRAI also recommended that:

“Regarding the insertion of PS channels by LCOs in DAS area, the Authority recommends that LCOs and MSOs operating in that area may work out any appropriate and technologically feasible arrangement to ensure that locally relevant content is available on PS channels in a digitally addressable encrypted format.”

These recommendations are still under the consideration of the MIB.

2.59 Clause 5.6 of the policy guidelines for downlinking of TV channels dated 05.12.2011 provide that a broadcaster shall provide satellite TV channel signal reception decoders only to registered MSOs/Cable Operators, DTH operator, Internet Protocol Television (IPTV) Service Provider, and HITS operator. The probable intent behind this clause is to ensure that only the registered DPOs are able to distribute the signals of the registered satellite TV channels to the subscribers. However, due to ongoing practice of transmitting FTA TV channels in un-encrypted mode through satellite, some unregistered DPOs are also able to distribute signals of such TV channels. It appears to be in direct conflict with the policy framework.

2.60 To address such concerns, one view could be that as required under the policy guidelines for downlinking of TV channels dated 05.12.2011, all satellite TV channels, irrespective of their category, i.e. Pay or FTA, should uplinked in encrypted mode by broadcasters. In such case, encryption would also be required to make mandatory for foreign satellite TV channels, seeking permission for downlinking in India. Such measures may have following additional pros and cons:

Pros

(a) Encryption of all FTA channels would enable such broadcasters to assess their subscriber base. Such subscription base details can be used by those broadcasters to optimise their rates for advertisements, and improve their revenue.

- (b) Encryption of FTA channel will ensure the security of the underlying information transmitted by a broadcaster. It means that signals of broadcasters will not be pirated by unauthorized operators.

Cons

- (a) Encryption of FTA channel would require supply of IRDs to each such distributor, who wants to distribute that channel. It may also necessitate signing of interconnection agreement between broadcaster and DPO for FTA channel also. In summary, it may increase the cost of distribution of FTA channels for broadcasters.
- (b) If encryption is mandated for FTA channels then it may also affect uplink only channels, and thus it may affect the investment in the uplinking segment of the sector.

2.61 Apropos above the issue for consultation is:-

- (a) Should all TV channels, i.e. pay as well as FTA satellite TV channels, be broadcasted through satellite in encrypted mode? Please elaborate your responses with justification.**

G. Operationalisation of TV channel

2.62 As per clauses 2.5.1 and 3.5.1 of the existing policy guidelines for uplinking of TV channels from India dated 05.12.2011, the applicant company has to operationalise the permitted channel within a period of one year from the date of permission granted by MIB. In order to ensure compliance to this rollout obligation, the applicant company is required to furnish a Performance Bank Guarantee (PBG) of Rs. 1 Crore for each 'non-News and Current Affairs TV channel' and Rs. 2 Crore for each 'News and Current Affairs TV channel', as the case may be, before the issuance of permission by MIB. As per the guidelines, if the corresponding TV channel is not operationalised even after one

year from the date of permission granted by MIB, the permission shall be cancelled and the PBG shall be forfeited.

- 2.63 As per clause 5.9 of the policy guidelines for downlinking of TV channels dated 05.12.2011, the applicant company seeking permission to downlink a TV channel shall operationalize the channel within one year from the date of the permission being granted by the MIB, failing which the permission is liable to be withdrawn without any notice in this regard. However, the company shall be afforded a reasonable opportunity of being heard before such withdrawal of permission. No PBG is prescribed in case of downlinking of a TV channel.
- 2.64 Though the guidelines, referred above, mandate the operationalisation of a TV channel within one year from the date of granting permission by MIB, the meaning or definition of operationalisation of channel is not mentioned in the guidelines. In the absence of such definition, it may be difficult to monitor the roll out obligations specified in the guidelines.
- 2.65 Simple meaning of operationalisation of channel for the purpose of uplinking could be the date from which a licensee company starts transmission of signals of the permitted TV channel. However, it may also be possible that after the licensee company start transmission of signals of the permitted TV channel within the rollout period prescribed in the guidelines, it stops such transmission after some time due to any reason, other than the force-majeure conditions. Such actions may defeat the purpose of rollout obligations and grant of license for satellite TV channel. Once a company makes its TV channel operational, it should remain operational on continuous basis. Interruption, if any, due to some unforeseen circumstances, should not continue beyond a certain predefined period, say 7 days. In order to ensure that the subscribers of that channel get uninterrupted

services, after the lapse of such predefined time period, permission granted for such channel may require being withdrawn.

2.66 Similarly, the meaning of operationalisation of channel for the purpose of downlinking could be the date from which a licensee company starts distribution of signals of the permitted TV channel through registered DPOs. However, it may also be possible that after the licensee company start distribution of signals of the permitted TV channel within the rollout period prescribed in the guidelines, the distribution of such channel stops after some time due to any reason, other than the force-majeure conditions. Such actions may defeat the purpose of rollout obligations. Once a company makes its TV channel operational, it should remain operational on continuous basis. Interruption, if any, due to some unforeseen circumstances, should not continue beyond a certain predefined period, say 7 days. In order to ensure that the subscribers of that channel get uninterrupted services, after the lapse of such predefined time period, permission granted for such channel may require being withdrawn.

2.67 In order to ensure the compliance of provisions relating to operationalisation of permitted TV channel by the licensee company during the complete license period, one view could be that PBG, of say Rs. 1.00 Crore, may be prescribed for downlinking permissions also. Further such PBG may remain valid during the complete license period. In case of any delay in compliance of rollout obligations, as already prescribed, the PBG may be forfeited and the license may be withdrawn. Further, in case of any violation of this provision, after the initial rollout in time, in the first stance, some financial penalty, say of Rs. 10.00 Lakhs, may be imposed. If the violation of this provision for same permission is established second time, then PBG may be forfeited. In such case, the licensee company may require to refurnish the fresh PBG of same amount to continue its license. If the similar situation reoccurs third time then in addition to forfeiting of PBG, license may be withdrawn.

2.68 Accordingly, for the purpose of uplinking guidelines, date for operationalisation of a permitted TV channel could be considered as the date from which signals of that channel starts transmitting and such TV channel remain continuously in operation after start of such transmission. Similarly, for the purpose of downlinking guidelines, date for operationalisation of a permitted TV channel could be considered as the date from which signals of that channel start distributing by a registered DPO and which is continuously distributed to subscribers thereafter.

2.69 Apropos the above, the issues for consultation are:

- (a) Is there a need to define the term “operationalisation of TV channel” in the uplinking guidelines, and downlinking guidelines? If yes, please suggest a suitable definition of “operationalisation of TV channel” for the purpose of the uplinking guidelines, and the downlinking guidelines separately.**
- (b) Maximum how many days period may be permitted for interruption in transmission or distribution of a TV channel due to any reason, other than the force-majeure conditions, after which, such interruption may invite penal action? What could be suggested penal actions to ensure continuity of services after obtaining license for satellite TV channel?**

H. Transfer of License

2.70 The legitimate business transactions in the nature of Mergers and Acquisitions (M&A) of the companies or part thereof, and 'slump sale' play a significant role in free market economy and for orderly growth of the sector. In simple words, 'slump sale' is nothing but transfer of a whole or part of business concern as a going concern; lock, stock and barrel. As per section 2(42C) of Income -tax Act 1961, 'slump sale' means the transfer of one or more undertakings as a result of the sale

for a lump sum consideration without values being assigned to the individual assets and liabilities in such sales. While well defined conditions for transfer of associated licenses during such business transactions provide certainty for such transactions, it also in a way restricts the unauthorised hawking or trading or leasing of licenses.

2.71 Presently the uplinking guidelines stipulate following provisions regarding transfer of permission for TV channels:

“11.1. The permission holder shall not transfer the permission without prior approval of the Ministry of Information and Broadcasting. On a written request from the permission holder, the Ministry shall allow transfer of permission in case of merger/demerger/ amalgamation, or from one Group Company to another provided that such transfer is in accordance with the provisions of the Companies Act, and further subject to the fulfillment of following conditions:

(i) The new entities should be eligible as per the eligibility criteria including the net worth and should be security cleared.

(ii) The new entities should undertake to comply with all the terms and conditions of permission granted.”

2.72 Similarly, the downlinking guidelines stipulate following provisions regarding transfer of permission for TV channels:

“10.1. The permission holder shall not transfer the permission without prior approval of the Ministry of Information and Broadcasting.

10.2. In case of transfer of permission of a Satellite Television Channel uplinked from India from one company to another as per the provisions of Uplinking Guidelines, the registration of the channel under the downlinking Guidelines shall also stand transferred to the new company.

10.3. In case of companies permitted to downlink channels from other countries, on a written request from the permission holder, the Ministry shall allow transfer of permission in case of merger/demerger/ amalgamation, or from one Group Company to another provided that such transfer is in accordance with the

provisions of the Companies Act, and further subject to the fulfillment of following conditions:

(i) The new entities should be eligible as per the eligibility criteria including the net worth and should be security cleared.

(ii) The new entities should undertake to comply with all the terms and conditions of permission granted.”

2.73 MIB in its reference dated 21.08.2017 has requested TRAI to review the present policy on transfer of permissions in view of changing market scenario.

2.74 It may be noted that the potential benefits of restructuring, i.e. merger, demerger or amalgamation, of companies may lie in enhancement of operational efficiency by exploiting economies of scale, possible tax advantages to the reorganized firm, and the possibility of elimination of weaker firms from the industry. However, it may also lead to oligopoly/ monopoly market conditions and affect plurality of views. While the issues relating to market conditions can be dealt as per the provisions of the Companies Act in general, for News category of channels concerns relating to plurality of views become important. To address such concerns, the Authority has already given its recommendations on Media ownership dated 12th August 2014 to the Government.

2.75 From the above provisions it can be seen that license/ permission can be transferred in case of merger/demerger/amalgamation of licensee companies. However, there could be other legal ways of business transactions such as transfer of business or undertaking through slump sale. Since, ‘slump sale’ involves transfer of a whole or part of business concern as a going concern; it would require transfer of license also. The existing provisions do not recognize such methods of transfer of license.

- 2.76 Further there is no mention of any lock in period prior to which any license/ permission cannot be transferred. The lock-in period could be a measure to ensure that only serious player, who is interested in, and capable of operating a TV channel, obtain the license for satellite TV channel. In case of FM Radio licenses, the policy guidelines on expansion of FM Radio broadcasting services through private agencies (Phase-III) dated 25.07.2011 prescribe a lock in period of 3 years from the date on which the radio channel allotted to the company holding permission stand operationalised. Such measure may also discourage hawking or trading or leasing of licenses with commercial motives. It is pertinent to mention here that while transfer of license as a part of business restructuring exercise after following the due process as per the Companies Act, 2013 may be considered a legitimate requirement, hawking or trading or leasing of licenses through private agreements may result into multiple issues including security, compliance of license conditions and regulatory framework.
- 2.77 Normally hawking or trading or leasing of licenses happens in the name of outsourcing of associated business activities like selling of air time, scheduling of programs, marketing of advertising slots etc. It may also involve change of logo or name of channel, or change of teleport, as for practical purposes the ownership of that channel get transfer to new entity without following the due procedure of law. Accordingly, in order to completely stop such practices of hawking or trading or leasing of licenses, one view could be that the functions of the licensees, which can't be outsourced to any other entity, be clearly identified and prescribed as part of the license conditions. Some of the functions which could be integral part of the licensee obligations may be trade mark registration of the name of channel and logo in the name of licensee company, editorial responsibility of the programs being telecasted, teleport/ satellite agreement in the name of licensee company, disclosure of licensee company name on website of the

channel as well as on channel transmission, scheduling of programs etc.

2.78 Apropos the above, the issues for consultation are:

- (a) Whether the existing provisions for transfer of license/ permission for a TV channel under uplinking guidelines, and downlinking guidelines are adequate? If no, please suggest additional terms and conditions under which transfer of license/permission for a TV channel under uplinking guidelines, and downlinking guidelines may also be permitted? Please elaborate your responses with justification.**
- (b) Should there be a lock in period for transfer of license/ permission for uplinking, or downlinking of a TV channel? If yes, please suggest a suitable time period for lock in period. Please elaborate your responses with justification.**
- (c) Should the lock in period be applicable for first transfer after the grant of license/ permission or should it be applicable for subsequent transfers of license/ permission also?**
- (d) What additional checks should be introduced in the uplinking, and downlinking permission/ license conditions to ensure that licensees are not able to sub-lease or trade the license? Please suggest the list of activities which are required to be performed by Licensee Company of a satellite TV channel and can't be outsourced to any other entity to prevent hawking, trading or subleasing of licenses.**

CHAPTER 3

ISSUES RELATED TO TELEPORTS

- 3.1 The signals of TV channels are uplinked to satellite through a teleport. A teleport is a satellite earth station which is used to uplink signals of large number of TV channels to a satellite. The policy guidelines for uplinking of television channels from India dated 5th December 2011 contain provisions relating to grant of permission/ license for setting up of uplinking hub/ teleport in India. Till September 2017, MIB has issued 74 permissions for setting up of teleports in the country. Also, as per available information, till September 2017, MIB has granted permission to downlink 881 private satellite TV channels. Out of these 881 TV channels, 797 TV channels are uplinked from India, and remaining 84 channels are uplinked from abroad.
- 3.2 MIB in its reference dated 21.08.2017 has requested the Authority to provide its recommendations on number of issues relating to setting up of teleport in India. These includes the following:
- (a) Meaning of a teleport;
 - (b) Entry Fee, Processing fee, and License fee for teleport license;
 - (c) Restriction on the number of teleports;
 - (d) Location of Teleports;
 - (e) Optimum use of existing infrastructure;
 - (f) Unauthorized uplink by teleport operator; and
 - (g) Guideline for purchase/ disposal of teleport equipment in the license.

A. Meaning of a teleport

- 3.3 MIB in its reference has stated that presently, the permission to setup a teleport implies permission to uplink from one particular location and to a particular satellite. The MIB has sought views of the

Authority on appropriateness of this definition. MIB has also sought the views of the Authority whether this definition needs to be incorporated in the policy guidelines.

- 3.4 It is also noted that the policy guidelines for uplinking of TV channels contain provisions relating to setting up of uplinking hub/ teleports. However, the policy document does not contain specific definition of teleport. Due to absence of definition of teleport there remains possibility of confusion regarding the operation of teleport.
- 3.5 One can argue that since the teleport is capable of uplinking a large number of satellites TV channels therefore, any facility capable of uplinking a large number of TV channels could be termed as hub/ teleport. The other argument could be that teleport permission should be for specific satellite and if two different satellites are used for uplinking then it should be considered as two different setups. Further, the number of channels a teleport can uplink depends on the number of transponders on a given satellite in the given frequency band of operation, bandwidth of the transponder of the satellite and the equipment chain used in the earth station. Therefore it may be prudent to define a teleport using one satellite. Accordingly, there is a need to define the meaning of the teleport in the policy guidelines
- 3.6 Apropos the above the issue for consultation is:

(a) Whether specific definition of a teleport is required to be incorporated in the policy guidelines? If yes, then what should be the appropriate definition? Please elaborate responses with justification.

B. Entry fee, Processing fee, and License fee for teleport license

- 3.7 As per the applicable policy guidelines dated 5.12.2011 while an applicant company is required to pay Rs. Ten thousand per teleport as non-refundable processing fee, there is no entry fee prescribed for

establishing a teleport. Further, a teleport licensee company is required to pay license/ permission fee @ Rs. Two lakhs per teleport per annum. In addition to these charges, a teleport licensee company is also required to pay license fee and royalty for use of satellite transponder spectrum to WPC wing of DoT, as prescribed by them from time to time.

- 3.8 As far as the issue of review of processing fee is concerned, the processing fee of Rs. 10,000/- per teleport is continuing since the year 2005. Duplicating the argument as provided in the case of satellite TV channels, one view could be that the processing fee should be increased to say Rs. X to recover the increased costs of administration. However, the other view could be that instead of increasing the processing fee, with the use of technology, the costs involved in processing of application should be reduced. Further, online processing of applications may reduce the time for grant of license.
- 3.9 As discussed in the previous chapter, an entry fee is levied to identify serious players in a regulated business. From this viewpoint, one can argue that it may be advisable to fix entry fee, of say Rs. Y, for setting up of teleport in India. The counter view could be that setting up of teleport requires substantial investment in the physical infrastructure. Any delay in compliance of rollout obligations, as prescribed under the applicable policy guidelines dated 5.12.2011, could result in forfeiting the PBG of Rs. 25 Lakhs for each teleport, and therefore this requirement in itself is sufficient to ensure that only serious players obtain the license for setting up of teleport. Further, prescribing an entry fee for new teleport licenses may go against the objective of making India a teleport hub for international channels. Export of such satellite communication services would not only help in earning foreign exchange but also generating employment.

- 3.10 As discussed in the case of satellite TV channels, the license/ permission fee can be levied on the basis of lump sum rates as in the case of existing policy, or it can be a certain percentage of annual gross revenue, or it can be in a semi-variable form i.e. a certain percentage of annual gross revenue subject to a minimum limit.
- 3.11 For deciding license fee structure for teleport licensees, it is important to discuss the nature of teleport business. The operations and maintenance of teleport is capital intensive with long gestation period. As such a teleport operating firm may require longer periods to break even. Further, it is the foundation for growth of satellite TV broadcasting sector in India, and export of broadcast satellite communication services from India. On this basis alone, one can argue that license fee structure should be simple and the rate of license fee on teleport licensees should be moderate. A lump sum license fee structure encourages economies of scale and optimum use of each teleport. However, with lump sum license fee structure, the revenues to the Government do not grow with the growth of the sector. This point of view could suggest that the license fee be levied as a certain percentage of annual gross revenue, as in the case of DTH and FM Radio operators. Variable license fee structure may bring with it the uncertainties associated with business life cycle for the Central Government revenues. Such concerns get addressed in a semi-variable method of levying license fee.
- 3.12 In addition to deciding the license fee structure, the rate of license fee is also to be decided. One could argue that being a basic infrastructure for satellite TV broadcasting services, the rate of license fee on companies should be low. However, the other argument could be that it is also similar to other communication services, and therefore, to ensure level playing field, a license fee @ of 8% of AGR be levied. In case of semi-variable or fixed license fee structure, the fixed component could be rounded off to approximately 8% of the average

AGR per teleport of previous five years, to be revised say every five years.

3.13 Apropos to the above, the issues for consultation are:-

- (a) Is there any need to increase the amount of non-refundable processing fee to be paid by the applicant company along with each application for teleport license? If yes, what should be the amount of non-refundable processing fee? Please elaborate with justification.**
- (b) Should entry fee be levied for grant of license to set up teleport? If yes, what should be the entry fee amount? Please give appropriate justification for your response.**
- (c) What should be the license fee structure for teleport licensees? Should it be fixed, variable or semi-variable? Please elaborate if any other license fee methodology is proposed, with appropriate justification.**
- (d) What should be the rate of such license fee? Please give appropriate justification for your response.**
- (e) What should be the periodicity for payment of the license fee to the Government? Please support your answer with justification.**
- (f) What should be the periodicity for revision of the entry fee, and license fees rate for teleport licensees?**

C. Restriction on the number of teleports

3.14 At present there is no restriction on grant of license for setting up the teleports for uplink of signals of satellite TV channels. Further, maximum number of channels which can be uplinked from a teleport depends upon the quantum of transponder capacity available for uplinking on a particular satellite. Therefore, the uplinking of satellite TV channels can grow without corresponding increase in number of teleports. MIB in its reference has sought recommendation as to

whether there is a need for restriction on number of teleports in India, and how to make optimum use of existing teleports.

- 3.15 As per the extant policy guidelines, teleport operators are permitted to use C band and Ku band frequencies for uplink of signals of satellite TV channels. However, most of teleports use C band frequencies for uplinking of satellite TV channel due to better transmission characteristics. Uplinking in C Band is permitted both to Indian as well as foreign satellites. However, proposals envisaging use of Indian satellites are accorded preferential treatment.
- 3.16 The service providers can directly enter into agreements with the foreign satellite owners for acquiring C-band transponder capacity, subject to clearance from Department of Space. Due to the wide footprint of C-Band satellites, a number of satellites are available for providing satellite TV broadcasting services in India. India, because of its geographical location, can provide uplinking facilities for TV channels to be viewed in India as well as the other parts of the world.
- 3.17 In view of above, one could argue that since there is no scarcity of C band transponders for providing satellite TV broadcasting services, there may not be any restriction on number of teleports. As and when the demand for satellite transponder capacity to provide TV broadcasting services would outpace supply, the new satellite capacity may get created. Yet another view against placing a cap on the number of teleports for uplinking of TV channels could be that such restriction on number of teleports may force broadcasters to use uplinking facilities from abroad. Such an outcome may thwart employment generation, and affect foreign exchange inflows, which is not desirable.
- 3.18 The counter view, in favour of putting restrictions on the number of teleports, could be that disproportionate growth of number of teleports may compromise economies of scale, and in turn increase the cost of uplinking per TV channel. However, in a free market economy,

sustainability of individual licensees and price of services in market place should be decided by competitive forces instead of by putting restriction on number of licensees.

3.19 Apropos the above, the issues for consultation are :-

- (a) Whether there is a need to restrict the number of teleports in India? If yes, then how the optimum number of teleports can be decided? Please elaborate your responses with justification.**
- (b) Whether any restriction on the number of teleports will adversely affect the availability or rates of uplinking facilities for TV channels in India?**

D. Location of teleports

3.20 Presently there is no restriction on location for setting up a teleport subject to site clearance by SACFA. Teleports can be set up in any part of the country after obtaining license/ permission and security clearance. As stated earlier, a teleport operates in the C-Band of spectrum and it use 5925 - 6425 MHz range of frequencies for uplink of signals of TV channels to the satellite. As per National Frequency Allocation Plan, 2011 (NFAP 2011), 6 GHz band is also earmarked for microwave backbone connectivity. In such a scenario, at locations nearby to teleports, 6 GHz band spectrum may not be available for microwave backbone connectivity due to interference concerns. To ensure optimum use of this frequency band of spectrum, one view could be that some specific areas in various parts of the country may be identified for setting up of teleports. Such areas can be earmarked as teleport parks.

3.21 Another view could be that it may be left to the teleport operator to decide the location as per its business plan, and obtain the site clearance on case to case basis from WPC wing of DoT. Further,

concentration of multiple teleports at a single place may increase the risks in the event of natural calamity such as earthquake etc.

3.22 Apropos the above the issues for consultation are:

(a) What should be the criteria, if any, for selecting location of teleports? Should some specific areas be identified for Teleport Parks? Please elaborate your responses with justification.

E. Optimum use of existing teleport infrastructure

3.23 Geo-stationary satellite orbits are limited natural resource therefore satellite transponder capacity is a precious resource, and it can be used to meet competing demand for satellite communication systems and services. The optimal utilisation of such precious resources is in the interest of the country. Teleports use both of these resources for their operations. In a way, we can say that teleports are in optimal use when satellite transponders are used optimally. The question arises is whether optimum use of satellite transponders can be ensured through policy intervention?

3.24 Development of technologies has paved way for efficient compression and modulations techniques. MPEG 4 compression standard is much more efficient than MPEG 2 standard, and MPEG 4 compression standard reduces the carriage cost for TV channels broadcasting without compromising the technical quality of the content. Similarly, DVB-S2 is claimed to be 30% more spectral efficient than DVB-S standard. Another way of ensuring the optimum use of transponder infrastructure could be by achieving economies of scale as it may reduce the requirements for guard bands.

3.25 In regard to the above mentioned points, one view could be that the Government should encourage the use of efficient technologies by mandating the use of minimum technology standards for compression,

and transmission of signals of satellite TV channels. Similarly through policy intervention, economies of scale may be achieved by restricting the number of teleports. The counter view could be that such decisions should be left to the market forces to decide depending upon the business considerations.

3.26 Apropos the above, the issue for consultation is:

(a) Please suggest the ways for the optimal use of existing infrastructure relating to teleports.

F. Unauthorised Uplink by Teleport operator

3.27 MIB in its reference has raised the concern relating to unauthorised uplink by any teleport operator and has sought the recommendation of the Authority for use of technical and regulatory measures for prevention of such activities.

3.28 In this regard, the policy guidelines for setting up of uplinking hub/ teleport has the following provisions regarding uplinking of TV channels:

“1.4.1. The company shall Uplink only those TV Channels which are specifically approved or permitted by the Ministry of Information and Broadcasting for Uplinking from India.

1.4.2. The company shall stop Uplinking TV channels whenever permission/approval to such a channel is withdrawn by the Ministry of Information & Broadcasting.”

3.29 Also, the policy guidelines has following penal provisions in case any unauthorized content is transmitted/ uplinked by a teleport permission holder:

“8.1 In the event of a channel/teleport/SNG/DSNG found to have been/ being used for transmitting/ uplinking any objectionable unauthorized content, messages, or communication inconsistent with public interest or national security or failing to comply with the directions as per para 5.9 above, the permission granted shall be revoked and the company shall be disqualified to hold any such

permission for a period of five years, apart from liability for punishment under other applicable laws.”

3.30 In India, all broadcasters and teleport operators use Digital Video Broadcasting (DVB) standards for satellite TV broadcasting. DVB standards have specified the specific structure for Transport Stream (TS) which carries signals of multiple TV channels in a multiplexed mode. TS have, in addition to much more other information, provision for Network Information Table (NIT) which contains information about physical network from which those TS has been originated. It also has provision for Network Provider ID. If it is mandated for teleport licensee to insert Network Provider ID in the TS then the details of teleport from where signals of any specific TV channel has been uplinked can be identified. Electronic Media Monitoring Centre (EMMC) already monitors the content of TV channels for compliance of Program and Advertisement codes specified under Cable TV Rules, 1994. Simultaneously, EMMC can also record the Network Provider ID associated with a channel. In case, where any non-permitted channel is spotted by EMMC, it can find out the details of teleport uplinking that channel.

3.31 To improve the monitoring capabilities and compliance to the provisions of the policy guidelines, provisions can be made under the policy guidelines where the information relating to permitted TV channels, teleports, satellites, date of starting the operations etc. be updated by respective stakeholder on a centralised portal, like broadcastseva.gov.in. As mentioned on website of DoT, Network Operations Control Centre (NOCC), created to control the transmissions from ground segment (satellite earth stations), beside many other functions, already has responsibility to monitor Broadcasters Teleports/DSNG vans, and verification & compliance of the terms & conditions of licenses issued by different authorities namely DoT, Ministry of I&B, WPC etc. On availability of complete

information relating to satellite TV broadcasting at centralised portal, monitoring capability of NOCC can further improve. In addition to technical checks, specific penal provisions to deal with the violations under the policy guidelines can be made to create further deterrence.

3.32 Apropos the above, the issue for consultation is:

(a) What specific technological and regulatory measures should be adopted to detect, and stop uplink of signals of non-permitted TV channels by any teleport licensee? Please elaborate your responses with details of solution suggested.

G. Guidelines for the purchase or disposal of equipments used in uplinking

3.33 The uplinking guidelines has the following provision regarding the license issued by WPC:

“5.7. The company shall comply with the terms and conditions of Wireless Operational License to be issued by the WPC Wing, Ministry of Communications & IT.”

3.34 The existing guidelines for possession of license² issued by WPC has the following provisions regarding selling, hiring and transfer of complete wireless apparatus:

“2. No person shall sell, hire, or otherwise transfer a complete wireless set to any person, who is not in possession of a valid license, issued in his name either under IWT (Possession) Rules, 1965 or under the Indian Telegraph Act, 1885.”

3.35 Further, the Indian Wireless Telegraphy (Possession) Rules, 1965 has following provision regarding the apparatus which cannot be serviced or repaired:

²<http://www.wpc.dot.gov.in/DocFiles/checklist/GUIDELINES%20ON%20%20POSSESSION%20OF%20LICENCE.doc>

*“20. **Unserviceable Apparatus.** - (i) When a wireless set in the possession of a licensee becomes permanently incapable of being used for transmitting or receiving wireless communications, the licensee shall inform the Licensing Authority accordingly and that authority or any officer authorised by him shall, if necessary, inquire and certify whether or not the set is permanently incapable of being so used.*

(ii) No licence under these rules shall be necessary in respect of a wireless set, which the Licensing Authority or the officer authorised by him for this purpose has certified to have become permanently incapable of being used for transmitting or receiving wireless communication.”

3.36 From the above it appears that sufficient provisions exist in the Statute regarding purchase / disposal of wireless equipments. Therefore, there may not be a requirement of specific mention of terms and conditions for purchase or disposal of equipments used by teleport / DSNG operators.

H. Any other issue:

3.37 **Stakeholders may also provide their comments on any other issue relevant to the present consultation.**

CHAPTER 4

ISSUES FOR CONSULTATION

Definition of 'News and Current Affairs channels' and Non-'News and Current Affairs Channels'

- 4.1 Is there any need to redefine “News and Current Affairs TV channels”, and Non-News and Current Affairs TV channels” more specifically? If yes, kindly suggest suitable definitions of “News and Current Affairs TV channels” and Non-News and Current Affairs TV channels” with justification.**

Net-worth of eligible companies

- 4.2 Should net-worth requirement of the applicant company for granting uplinking permission, and/ or downlinking permission be increased? If yes, how much should it be? Please elaborate with appropriate justification.**
- 4.3 Should there be different net-worth requirements for uplinking of News and non-News channels? Give your suggestions with justification?**

Processing fee for application

- 4.4 Is there any need to increase the amount of non-refundable processing fee to be deposited by the applicant company along with each application for seeking permission under uplinking guidelines, and downlinking guidelines?, What should be the amount of non-refundable processing fee? Please elaborate with justification.**

Grant of license/ permission for Satellite TV Channels

- 4.5 Whether auction of satellite TV channels as a complete package similar to FM Radio channels is feasible? If yes, then kindly suggest the approach.
- 4.6 Is it technically feasible to auction individual legs of satellite TV broadcasting i.e. uplinking space spectrum, satellite transponder capacity, and downlinking space spectrum? Kindly explain in detail.
- 4.7 Is it feasible to auction satellite TV channels without restricting the use of foreign satellites, and uplinking of signals of TV channels from foreign soil? Kindly suggest detailed methodology.
- 4.8 Is it advisable to restrict use of foreign satellites for satellite TV broadcasting or uplinking of satellite TV channels, to be downlinked in India, from foreign soil?
- 4.9 Can there be better way to grant license for TV satellite channel then what is presently followed? Give your comments with justification?

Entry Fee and License fee

- 4.10 If it is decided to continue granting of licenses for satellite TV channels on administrative basis, as is the case presently, what should be the entry fee for grant of license for uplinking of TV channels from India, downlinking of TV channels uplinked from India, and downlinking of foreign TV channels? Please suggest the fee amount for each case separately with appropriate justification.
- 4.11 What should be the license fees structure, i.e. fixed, variable, or semi-variable, for uplinking and downlinking of satellite TV

channels? Please elaborate if any other license fee structure is proposed, with appropriate justification.

4.12 If the variable license fee structure is proposed, then what should be rate of license fee for TV channels uplinked from India and TV channels uplinked from abroad, and what should be the definition of AGR?

4.13 If the semi-variable license fee structure is proposed, then what should be the minimum amount of license fee per annum for domestic channels (uplinked and downlinked in India), uplink only channels, and downlinking of foreign channels (uplinked from abroad)?

4.14 If the fixed license fee structure is proposed, then what should be the license fee per annum for domestic channels, uplink only channels, and downlinking of foreign channels?

4.15 What should be the periodicity for payment of the license fee to the Government? Please support your answer with justification.

4.16 What should be the periodicity for review of the entry fee and license fee rates?

Encryption of TV channels

4.17 Should all TV channels, i.e. pay as well as FTA satellite TV channels, be broadcasted through satellite in encrypted mode? Please elaborate your responses with justification.

Operationalisation of TV channel

4.18 Is there a need to define the term “operationalisation of TV channel” in the uplinking guidelines, and downlinking guidelines? If yes, please suggest a suitable definition of “operationalisation

of TV channel" for the purpose of the uplinking guidelines, and the downlinking guidelines separately.

4.19 Maximum how many days period may be permitted for interruption in transmission or distribution of a TV channel due to any reason, other than the force-majeure conditions, after which, such interruption may invite penal action? What could be suggested penal actions to ensure continuity of services after obtaining license for satellite TV channel?

Transfer of License

4.20 Whether the existing provisions for transfer of license/ permission for a TV channel under uplinking guidelines, and downlinking guidelines are adequate? If no, please suggest additional terms and conditions under which transfer of license/permission for a TV channel under uplinking guidelines, and downlinking guidelines may also be permitted? Please elaborate your responses with justification.

4.21 Should there be a lock in period for transfer of license/ permission for uplinking, or downlinking of a TV channel? If yes, please suggest a suitable time period for lock in period. Please elaborate your responses with justification.

4.22 Should the lock in period be applicable for first transfer after the grant of license/ permission or should it be applicable for subsequent transfers of license/ permission also?

4.23 What additional checks should be introduced in the uplinking, and downlinking permission/ license conditions to ensure that licensees are not able to sub-lease or trade the license? Please suggest the list of activities which are required to be performed by Licensee Company of a satellite TV channel and can't be

outsourced to any other entity to prevent hawking, trading or subleasing of licenses.

Meaning of a teleport

4.24 Whether specific definition of a teleport is required to be incorporated in the policy guidelines? If yes, then what should be the appropriate definition? Please elaborate responses with justification.

Entry fee, Processing fee, and License fee for teleport license

4.25 Is there any need to increase the amount of non-refundable processing fee to be paid by the applicant company along with each application for teleport license? If yes, what should be the amount of non-refundable processing fee? Please elaborate with justification.

4.26 Should entry fee be levied for grant of license to set up teleport? If yes, what should be the entry fee amount? Please give appropriate justification for your response.

4.27 What should be the license fee structure for teleport licensees? Should it be fixed, variable or semi-variable? Please elaborate if any other license fee methodology is proposed, with appropriate justification.

4.28 What should be the rate of such license fee? Please give appropriate justification for your response.

4.29 What should be the periodicity for payment of the license fee to the Government? Please support your answer with justification.

4.30 What should be the periodicity for revision of the entry fee, and license fees rate for teleport licensees?

Restriction on the number of teleports

- 4.31 Whether there is a need to restrict the number of teleports in India? If yes, then how the optimum number of teleports can be decided? Please elaborate your responses with justification.
- 4.32 Whether any restriction on the number of teleports will adversely affect the availability or rates of uplinking facilities for TV channels in India?

Location of teleports

- 4.33 What should be the criteria, if any, for selecting location of teleports? Should some specific areas be identified for Teleport Parks? Please elaborate your responses with justification.

Optimum use of existing teleport infrastructure

- 4.34 Please suggest the ways for the optimal use of existing infrastructure relating to teleports.

Unauthorised Uplink by Teleport operator

- 4.35 What specific technological and regulatory measures should be adopted to detect, and stop uplink of signals of non-permitted TV channels by any teleport licensee? Please elaborate your responses with details of solution suggested.

Any other issue

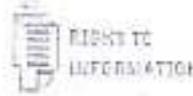
- 4.36 Stakeholders may also provide their comments on any other issue relevant to the present consultation.

List of Acronyms

Abbreviations	Description
AGR	Adjusted Gross Revenue
CAGR	Digital Video Broadcasting
DoS	Department of Space
DoT	Department of Telecommunication
DPO	Distribution Platform Operator
DSNG	Digital Satellite News Gathering
DTH	Direct to Home
DVB	Digital Video Broadcasting
EMMC	Electronic Media Monitoring Centre
FDI	Foreign Direct Investment
FM	Frequency Modulation
FTA	Free to Air
GOPA	Grant of Permission Access Agreement
GR	Gross Revenue
GST	Goods and Service Tax
HITS	Head-end in The Sky
IPTV	Internet Protocol Television
IRD	Integrated Receiver and Decoder
ITU	International Telecommunication Union
LCOs	Local Cable Operators
MIB	Ministry of Information and Broadcasting
MPEG	Moving Picture Experts Group
MSO	Multi System Operator
NFAP 2011	National Frequency Allocation Plan, 2011
NIT	Network Information Table
NOCC	Network Operations Control Centre
PBG	Performance Bank Guarantee
PS	Platform services
SACFA	Standing Advisory Committee for Frequency Allocation (India)
SATCOM	Satellite Communication
SNG	Satellite News Gathering
TRAI	Telecom Regulatory Authority of India
TS	Transport Stream
VAT	Value Added Tax
VSNL	Videsh Sanchar Nigam Ltd
WOL	Wireless Operating License
WPC	Wireless Planning & Coordination

Reference dated 21st August 2017 from MIB

जयश्री मुखर्जी, आई.ए.एस.
JAYASHREE MUKHERJEE, IAS
अपर सचिव
ADDITIONAL SECRETARY
T.No. : 23387558
FAX : 23387617



भारत सरकार
सूचना एवं प्रसारण मंत्रालय,
शास्त्री भवन, नई दिल्ली-110001
GOVERNMENT OF INDIA
MINISTRY OF
INFORMATION & BROADCASTING
SHASTRI BHAWAN, NEW DELHI - 110001
No. 1403/36/2017-TV(I)
August 21, 2017

Dear Sir,

I am writing to you in connection with a recent review of the existing provisions of the Policy Guidelines for Uplinking/Downlinking of TV Channels in India, 2011 conducted in the Ministry of Information & Broadcasting.

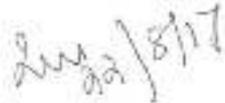
2. The present policy guidelines which came into effect from 5th December, 2011 are now more than 5 years old. Keeping in view the change in the technology, market scenarios and the lessons learnt in the last few years of their operation, it appears that there is need to review/amend some of the provisions of these Guidelines to ensure healthy growth of the broadcasting sector along with a sound regulatory framework.

3. Accordingly, a list of issues prepared by the Ministry is enclosed herewith. It is requested that TRAI may furnish its recommendations under Section 11 of TRAI Act at the earliest.

With regards,

Encl. As above.

Yours sincerely,


(Jayashree Mukherjee)

Shri R.S. Sharma,
Chairman,
Telecom Regulatory Authority of India,
Mahanagar Door Sanchar Bhavan,
Jawaharal Nehru Marg,
New Delhi-11002

Issues relating to Policy guidelines for TV/Teleport/DSNG permissions

1. Whether there is a need to enhance the rates of annual permission fee being charged from the broadcasters/teleport operators in respect of permission issued by Ministry of I&B for Uplinking and/or downlinking of TV channels/teleports in the country? What should be the detailed criteria for such enhancement? Periodicity in which the annual permission fee is required to be enhanced and at what rates? Whether there is need to enhance the processing fee presently being charged @ Rs. 10,000/- per application, from the applicant companies?
2. Whether it would be feasible to adopt the revenue-sharing model as applicable in the DTH sector, for uplinking/downlinking channels/teleports?
3. Whether auctioning a channel, as in the case of FM Sector, can be adopted as a way to increase the revenue of the Government?
4. Can non-operational status of the channel be made a ground for cancellation of permissions? The definition of "Operationalization of TV a Channel" also needs to be clearly laid down. How long should it be non-operational before it can be cancelled after following due procedure?
5. Whether there is need to define the News and Non-News channels in the Policy Guidelines? If so, the appropriate definitions may be suggested.
6. Whether there is need to change the present policy on transfer of permissions in view of the changing market scenario? Should the policy include provisions for a minimum lock-in period? Special measures which can be taken in case of News channels, which are more sensitive in nature, may be suggested.
7. Suitable conditions to avoid instances of sub-leasing and/or trading of channel permissions in the market may be suggested.

6. Should all channels, including the Free-to-Air and local platform services and ground based channels be encrypted?
7. Possibilities of broadcasters using the power of media to further their commercial concerns may be increasing. TRAI's comments on the same may be furnished.
8. Entry barriers to TV channel business are very low. Net worth requirement is only Rs. 5 cr. Some front people register a company with small paid up capital and then a big chunk is pumped in so as to just cross the threshold. Apparently, such are not serious players as they keep giving applications for changing teleports, logo, name, etc. it is an open secret in the industry that our licenses are hawked/traded. So what should be reasonable entry barriers?
9. When can a channel be transferred as a legitimate business transaction. After all, non-news channels are commodities-indistinguishable from one another. The present limitation of transfer is only merger/demerger/amalgamation. But there could be other legal ways in which a business or part of it can be divested. TRAI may suggested these.

Teleport specific

1. Whether there is a need to restrict the number of teleports in India?
2. What should be the criteria, if any, for selecting location of teleports?
3. How to make optimum use of existing infrastructure relating to teleports?
4. Presently the permission to set up a teleport implies the permission to uplink from one particular location and to a particular satellite. Whether this definition is appropriate? If yes, whether the same needs to be incorporated specifically in the Policy Guidelines?

5. What methods can be adopted to stop unauthorized uplink by any teleport operator? Can watermarking of signal be one of the solutions to ensure uplink of only authorized channels through authorized platforms? Other similar technological solutions may be suggested.
6. Whether the condition that the equipment used by Teleport/DSNG deployed for uplink of signals needs to be purchased/disposed off strictly as per WPC guidelines, should categorically be stated in the policy guidelines?

File No: 1501/34/2009-TV(I)
Government of India
Ministry of Information and Broadcasting
Broadcasting Wing

New Delhi.
Dated: 5th December, 2011

POLICY GUIDELINES FOR UPLINKING OF TELEVISION CHANNELS FROM INDIA

PREAMBLE

Ministry of Information and Broadcasting, Government of India notified the “Guidelines for Uplinking from India” in July 2000. This was followed by “Guidelines for Uplinking of News and Current Affairs TV Channels from India” in March 2003, which were amended in August 2003. Further followed by “Guidelines for use of SNG/DSNGs” in May 2003 and addendum dated 1.4.2005 to the Uplinking guidelines. The Government has, on 20th October 2005, further amended these Guidelines, which came into effect from 2nd December 2005. Some amendments to these Guidelines have also come into operation as a result of enactment of the Sports Broadcasting Signals (Mandatory Sharing with Prasar Bharati) Act, 2007 and the rules and notifications thereunder. Some amendments were also needed in the provisions relating to the determination of the foreign investment in the applicant/permission holder company to bring them in line with the extant FDI Policy of the Government. The Government has, on 7th October 2011 further amended these guidelines. Accordingly, in supersession of all previous guidelines, the Government hereby notifies the following consolidated Uplinking Guidelines. These shall come into effect from today the 05th December, 2011 and would be applicable to existing channels as well.

GENERAL

The applicant seeking permission to set up an Uplinking Hub/ Teleport or Uplink a TV Channel or Uplink facility by a News Agency should be a company registered in India under the Companies Act, 1956.

1. PERMISSION FOR SETTING UP OF UPLINKING HUB/ TELEPORTS

1.1. Eligibility Criteria

1.1.1. In the applicant company, the foreign equity holding including NRI/OCB/PIO should not exceed 49%.

1.1.2. The Company should have a minimum Net Worth as prescribed below:[

[Item	Required Net Worth
<i>For the first Teleport</i>	<i>Rs. 3.00 Crore</i>
<i>For each additional Teleport</i>	<i>Rs. 1.00 Crore]</i>

1.1.3. *Notwithstanding the provisions contained in Para 1.1.2, the minimum network requirement for additional Teleport of a Company, which held permission(s) for a Teleport(s)*

*as on the date of issuance of the amended Guidelines on 05.12.2011, would be calculated by applying the networth norms as they existed prior to the issuance of amended guidelines for the permissions already held on that date, and the revised norms as per Para 1.1.2 for the additional Teleport(s).]*¹

1.2. Period of Permission

1.2.1. Permission shall be granted for a period of 10 years.

1.3. Fee

1.3.1. The applicant will pay an amount of Rs. Ten Thousands per teleport as non-refundable processing fee.

1.3.2. *[The applicant company shall pay a permission fee at the rate of Rs. Two lakh per Teleport per annum.*

1.3.3. *After being held eligible, the applicant Company shall pay the permission fee for the first year before the issuance of permission. The succeeding year's permission fee will have to be deposited 60 days before such fee becomes due.]*¹

1.4. Special Conditions/ Obligations

1.4.1. The company shall Uplink only those TV Channels which are specifically approved or permitted by the Ministry of Information and Broadcasting for Uplinking from India.

1.4.2. The company shall stop Uplinking TV channels whenever permission/approval to such a channel is withdrawn by the Ministry of Information & Broadcasting.

1.4.3. The applicant company shall abide by the general terms and conditions laid down in Para 5 below.

[1.5. Roll Out Obligations for operationalisation of permitted Teleports:-

1.5.1. *The applicant company shall operationalise the teleport within one year from the date the permission is granted by the Ministry of Information and Broadcasting.*

1.5.2. *After being held eligible, the applicant company shall also furnish a Performance Bank Guarantee (PBG) for Rs 25 lakhs for each teleport before the issuance of permission on the format so specified by the Ministry for fulfilling the rollout obligation stipulated in Para 1.5.1, from any scheduled bank in favour of the Ministry of Information and Broadcasting. If the teleport is not operationalised even after one year, the permission shall be cancelled and the Performance Bank Guarantee (PBG) shall be forfeited.*

1.5.3. *The requirement of Performance Bank Guarantee (PBG) shall also be applicable to a Company which held permission(s) for a Teleport(s) as on the date of issuance of the amended Guidelines on 05.12.2011 and wishes to seek further extension for operationalisation beyond the period already permitted as on that date, for granting extension up to a further period of one year.]*¹

2. PERMISSION FOR UPLINKING A NON-NEWS & CURRENT AFFAIRS TV CHANNEL

[Note: For the purpose of these guidelines, a Non-News & Current Affairs TV channel means a channel which does not have any element of News & Current Affairs in its programme content.]

2.1. Eligibility Criteria

2.1.1. The applicant company, irrespective of its ownership, equity structure or management control, would be eligible to seek permission.

2.1.2. The Company should have a minimum Net Worth as prescribed below: [

Item	Required Net Worth
First TV Channel	Rs. 5.00 crore
For each additional TV Channel	Rs. 2.50 crore

2.1.3. *Notwithstanding the provisions contained in Para 2.1.2, the minimum networth requirement for additional Non-News and Current Affairs TV channels of a Company which held permission(s) for TV channels as on the date of issuance of the amended Guidelines as on 05.12.2011, would be calculated by applying the networth norms as they existed prior to the issuance of amended guidelines for the permissions already held on that date, and the revised norms as per Para 2.1.2 for the additional TV channels.*

2.1.4. *At least one of the persons occupying a top management position in the applicant company should have a minimum 3 years of prior experience in a top management position in a media company (or media companies) operating Non-News and Current Affairs TV channels. The term "top management position" in this context shall mean the Chairperson or Managing Director or Chief Executive Officer or Chief Operating Officer or Chief Technical Officer or Chief Financial Officer of the Company. The channels which were permitted but could not become operational by the date of issuance of the amended guidelines on 05.12.2011 will also be required to fulfill this criteria.]'*

2.2. Period of Permission

2.2.1. Permission shall be granted for a period of 10 years.

2.3. Fee

2.3.1. The applicant will pay an amount of Rs.Ten thousands per TV Channel as non-refundable processing fee.

2.3.2. *[The applicant company shall pay a permission fee at the rate of Rs. Two lakh per Non-News and Current Affairs channel per annum*

2.3.3. *After being held eligible, the applicant Company shall pay the permission fee for the first year before the issuance of permission. The succeeding year's permission fee will have to be deposited 60 days before such fee becomes due.]¹*

2.4. Special Conditions/ Obligations

2.4.1. The applicant company shall obtain registration for each channel, in accordance with the procedure laid down under the Downlinking Guidelines notified by the Ministry of Information & Broadcasting separately.

2.4.2. The applicant company permitted to uplink shall operationalise the channel within a period of one year from the date the permission is granted by the Ministry of Information and Broadcasting, and will abide the Section 2.5 and its sub sections thereof, as given below.

2.4.3. *[The company shall ensure compliance of the provisions of Sports Broadcasting Signals (Mandatory sharing with Prasar Bharati) Act 11 of 2007 and the Rules, Guidelines, Notifications issued there under.]²*

2.4.4. The applicant company shall abide by the general terms and conditions laid down in Para 5 below.

[2.5 Roll out Obligations for Operationalising permitted Non News and Current Affairs TV Channels

2.5.1 *The applicant company shall operationalise the permitted non-News and Current Affairs Television channel within one year from the date the permission is granted by the Ministry of Information and Broadcasting.*

2.5.2 *After being held eligible, the applicant company shall also furnish a Performance Bank Guarantee (PBG) for Rs 1 crore for each non-News and Current Affairs TV channel before the issuance of permission on the format so specified by the Ministry for fulfilling the rollout obligation stipulated in Para 2.5.1, from any scheduled bank in favour of the Ministry of Information and Broadcasting. If the channel is not operationalised even after one year, the permission shall be cancelled and the Performance Bank Guarantee (PBG) shall be forfeited.*

2.5.3. *The requirement of Performance Bank Guarantee (PBG) shall also be applicable to a Company which held permission(s) for a non-News and Current Affairs TV channel as on the date of issuance of the amended Guidelines on 05.12.2011 and wishes to seek further extension for operationalisation beyond the period already permitted as on that date, for granting extension up to a further period of one year.]¹*

3. PERMISSION FOR UPLINKING A NEWS & CURRENT AFFAIRS TV CHANNEL

[Note: For the purpose of these guidelines, a News & Current Affairs TV channel means a channel which has any element of news & current Affairs in its programme content.]

3.1. Eligibility Criteria

3.1.1. *[The total direct and indirect foreign investment including portfolio and foreign direct investments into the company shall not exceed 26% at the time of application and during the currency of the permission. The methodology of calculation of the direct and indirect foreign investments would be as per the extant policy of the Government. The Company, permitted to uplink the channel shall certify the continued compliance of this requirement through its Company Secretary, at the end of each financial year. Approval of Foreign Investment Promotion Board (FIPB) shall be required for any existing or proposed foreign investment in the company.]³*

3.1.2. Permission will be granted only in cases where equity held by the largest Indian shareholder is at least 51% of the total equity, excluding the equity held by Public Sector Banks and Public Financial Institutions as defined in Section 4A of the Companies Act, 1956, in the New Entity. The term largest Indian shareholder, used in this clause, will include any or a combination of the following:

- (1) In the case of an individual shareholder,
 - (a) The individual shareholder.
 - (b) A relative of the shareholder within the meaning of Section 6 of the Companies Act, 1956.
 - (c) A company/ group of companies in which the individual shareholder/HUF to which he belongs has management and controlling interest.
- (2) In the case of an Indian company,
 - (a) The Indian company
 - (b) A group of Indian companies under the same management and ownership control.

For the purpose of this Clause, "Indian company" shall be a company, which must have a resident Indian or a relative as defined under Section 6 of the Companies Act, 1956/ HUF, either singly or in combination holding at least 51% of the shares.

Provided that in case of a combination of all or any of the entities mentioned in Sub-Clause (1) and (2) above, each of the parties shall have entered into a legally binding agreement to act as a single unit in managing

3.1.3. [~~..deleted..~~]³

3.1.4. The company shall make full disclosure, at the time of application, of Shareholders Agreements, Loan Agreements and such other Agreements that are finalized or are proposed to be entered into. Any subsequent changes in these would be disclosed to the Ministry of Information and Broadcasting, within 15 days of any changes, having a bearing on the foregoing Agreements.

- 3.1.5. It will be obligatory on the part of the company to intimate the Ministry of Information & Broadcasting, the changes in Foreign Direct Investment in the company, within 15 days of such change. While effecting changes in the shareholding patterns, it shall ensure its continued compliance to Clause 3.1.1 and 3.1.2 above.
- 3.1.6. The applicant shall be required to intimate the names and details of all persons, not being resident Indians, who are proposed to be inducted in the Board of Directors of the company.
- 3.1.7. The company shall be liable to intimate the names and details of any foreigners/ NRIs to be employed/ engaged in the company either as Consultants (or in any other capacity) for more than 60 days in a year, or, as regular employees.
- 3.1.8. At least 3/4th of the Directors on the Board of Directors of the company and all key Executives and Editorial staff shall be resident Indians.
- 3.1.9. The representation on the Board of Directors of the company shall as far as possible be proportionate to the shareholding.
- 3.1.10. All appointments of key personnel (executive and editorial) shall be made by the applicant company without any reference on from any other company, Indian or foreign.
- 3.1.11. The applicant company must have complete management control, operational independence and control over its resources and assets and must have adequate financial strength for running a news and current affairs TV channel.
- 3.1.12. CEO of the applicant company, known by any designation, and/ or Head of the channel, shall be a resident India
- 3.1.13 The Company should have a minimum network as prescribed below: [

Item	Required Network
<i>First News and Current Affairs TV channel</i>	<i>Rs. 20.00 crore</i>
<i>For each additional TV channel</i>	<i>Rs. 5.00 crore</i>

- 3.1.14 *Notwithstanding the provisions contained in Para 3.1.13, the minimum network requirement for additional News and Current Affairs TV channels of a Company which held permission(s) for TV channels as on the date of issuance of the amended Guidelines as on 05.12.2011, would be calculated by applying the network norms as they existed prior to the issuance of amended guidelines for the permissions already held on that date, and the revised norms as per Para 3.1.13 for the additional TV channels.*
- 3.1.15 *At least one of the persons occupying a top management position in the applicant company should have a minimum 3 years of prior experience in a top management*

position in a media company (or media companies) operating News and Current Affairs TV channels. The term “top management position” in this context shall mean the Chairperson or Managing Director or Chief Executive Officer or Chief Operating Officer or Chief Technical Officer or Chief Financial Officer of the Company. The channels which were permitted but could not become operational by the date of issuance of the amended guidelines on 05.12.2011 will also be required to fulfill this criteria.]¹

3.2. Period of Permission

3.2.1. Permission shall be granted for a period of 10 years.

3.3. Fee

3.3.1. The applicant will pay an amount of Rs. Ten thousands per TV Channel as non-refundable processing fee.

3.3.2. *[The applicant company shall pay a permission fee at the rate of Rs. Two lakh per News and Current Affairs TV Channel per annum.*

3.3.3. *After being held eligible, the applicant Company shall pay the permission fee for the first year before the issuance of permission. The succeeding year’s permission fee will have to be deposited 60 days before such fee becomes due.]¹*

3.4. Special Conditions/ Obligations

3.4.1. Permission for usage of facilities/infrastructure for live news/footage collection and transmission, irrespective of the technology used, will be given to only those channels which are uplinked from India. To ensure immediate compliance of this policy in respect of permissions/licences given/to be given for utilization of VSAT/RTTS/Satellite Video Phone and similar other infrastructure, which lends itself for use in uplinking/ point to point transfer of content for broadcast purposes, separate guidelines will be issued by the Ministry of Communications & Information Technology.

3.4.2. The channel/company will ensure that its news and current affairs content provider(s), if any, are accredited with the Press Information Bureau. Such accredited content provider(s) only can use equipment/platform for collection/transmission of news/footage.

3.4.3. The company/channel should ensure that it uses equipment, which is duly authorized and permitted by the competent authority, or its content provider(s), if any, use equipment duly authorized by the competent authority.

3.4.4. It will be obligatory on the part of the company to intimate the Ministry of Information & Broadcasting, the changes in Foreign Direct Investment in the company, within 15 days of such change. While effecting changes in the shareholding patterns, it shall ensure its continued compliance to Clause 3.1.1 and 3.1.2 above.

3.4.5. The company/channel will be liable to intimate to the Ministry of Information & Broadcasting the details of any foreigners/NRIs employed/engaged by it for a period exceeding 60(sixty) days.

3.4.6. The applicant company shall abide by the general terms and conditions laid down in Para 5 below as well as Paras 2.4.1 to 2.4.3 above.

[3.5 Roll out Obligations for Operationalising permitted News and Current Affairs TV Channels

3.5.1 *The applicant company shall operationalise the permitted News and Current Affairs Television channel within one year from the date the permission is granted by the Ministry of Information and Broadcasting.*

3.5.2 *After being held eligible, the applicant company shall also furnish a Performance Bank Guarantee (PBG) for Rs 2 crore for each News and Current Affairs TV channel before the issuance of permission on the format so specified by the Ministry for fulfilling the rollout obligation stipulated in Para 3.5.1, from any scheduled bank in favour of the Ministry of Information and Broadcasting. If the channel is not operationalised even after one year, the permission shall be cancelled and the Performance Bank Guarantee (PBG) shall be forfeited.*

3.5.3. *The requirement of Performance Bank Guarantee (PBG) shall also be applicable to a Company which held permission(s) for a News and Current Affairs TV channel as on the date of issuance of the amended Guidelines on 05.12.2011 and wishes to seek further extension for operationalisation beyond the period already permitted as on that date, for granting extension up to a further period of one year.]¹*

4. PERMISSION FOR UPLINKING BY INDIAN NEWS AGENCY

4.1. Eligibility Criteria

4.1.1. The applicant company should be accredited by Press Information Bureau (PIB).

4.1.2. The applicant company should be 100% owned by Indian, with Indian Management Control.

4.2. Period of Permission

4.2.1. Period of permission shall be as per WPC license.

4.3. Special Conditions/ Obligations

4.3.1. The company shall use uplinking for news-gathering and its further distribution to other news agencies/broadcasters only.

4.3.2. The company shall not uplink TV programmes/channels for direct reception by public.

4.3.3. The applicant company shall abide by the general terms and conditions laid down in Para 5 below.

5. GENERAL TERMS & CONDITIONS

- 5.1. The company can uplink either in C or Ku Band. Uplinking in C Band would be permitted both to Indian as well as foreign satellites. However, proposals envisaging use of Indian satellites will be accorded preferential treatment. On the other hand, uplinking in Ku Band would be permitted through Indian satellite only, subject to the condition that this permission is not used to run/ operate DTH service without proper license, to which separate guidelines apply. Satellite to be used should have been coordinated with INSAT System.
- 5.2. The company shall comply with the Programme & Advertising Codes, as laid down in the Cable Television Networks (Regulation) Act, 1995 and the Rules framed there under.
- 5.3. The company shall keep record of the content uplinked for a period of 90 days and produce the same before any agency of the Government, as and when required.
- 5.4. The company shall furnish such information, as may be required by the Ministry of Information & Broadcasting, from time to time.
- 5.5. The company/channel shall provide for the necessary monitoring facility, at its own cost, for monitoring of programmes or content by the representatives of the Ministry of Information & Broadcasting or any other Government agency as and when so required.
- 5.6. The company shall permit the Government agencies to inspect the facilities as and when required.
- 5.7. The company shall comply with the terms and conditions of Wireless Operational License to be issued by the WPC Wing, Ministry of Communications & IT.
- 5.8. The Company shall ensure its continued eligibility as applicable through out the period of permission and adhere to all the terms and conditions of the permission, failing which the company shall be liable for penalty as specified in Para 8 below.
- 5.9. The Government of India, Ministry of Information & Broadcasting shall have the right to suspend the permission of the company for a specified period in public interest or in the interest of national security to prevent its misuse. The company shall immediately comply with any directives issued in this regard.
- 5.10. It will be obligatory on the part of the company to take prior permission from the Ministry of Information & Broadcasting before effecting any change in the CEO/ Board of Directors.

6. PERMISSION FOR USE OF SNG/DSNG EQUIPMENTS IN C BAND AND KU BAND

- 6.1. The use of SNG/DSNG would be permitted to News and Current Affairs channels uplinked from India for live news/footage collection and point-to-point transmission.
- 6.2. PIB accredited content provider(s) if any, to the permitted News and Current Affairs channel(s) can use SNG/DSNG for collection/transmission of news/footage.

- 6.3. Entertainment channels who are uplinking from their own teleport, can use SNG/DSNG for their approved channels, for transfer of video feeds to the permitted teleport.
- 6.4. All Foreign channels, permitted entertainment channels uplinked from India and companies/individuals not covered in 6.1, 6.2 and 6.3 as above will be required to seek temporary uplinking permission for using SNG/DSNG for any live coverage/footage collection and transmission on case to case basis.
- 6.5. Only permitted teleport operators and Doordarshan may offer/hire out SNG/DSNG equipments/infrastructures to other broadcasters who are permitted to uplink from India.
- 6.6. The uplinking should be carried in encrypted mode, so as to be receivable only in closed user group. The signal should only be down linked at the permitted teleport of the licensee and uplinked for broadcasting through permitted satellite through that teleport only.
- 6.7. Each company/channel desiring to use SNG/DSNG would have to apply to Ministry of Information and Broadcasting and get permission before doing the same.
- 6.8. Uplinking from SNG/DSNG should be in SCPC mode only (only single feed can be uplinked from the SNG/DSNG at a time).
- 6.9. The channel would also give an undertaking that the feed collected through SNG/DSNG shall conform to Programme and Advertisement Codes.
- 6.10. The use of SNG/DSNG would be permitted only in those areas/regions/states which are not specifically prohibited by MHA.
- 6.11. The company would submit the purchase documents of SNG/DSNG terminals and inform Ministry of Information and Broadcasting about placement of these terminals at the various locations.
- 6.12. Period of Permission:
 - a) For teleport owners – co-terminus with teleport license.
 - b) For permitted News and Current Affairs channels – for the period of the Channel permission.
 - c) For content providers to permitted channels - for the period of the channel permission.
 - d) For other broadcasters having temporary uplinking permission – for periods as specified in the temporary uplinking permission.
- 6.13. The company permitted to use SNG/DSNG shall apply to WPC for frequency authorization of WPC. It should be renewed yearly in time and a copy should be submitted to this Ministry by the company every year.

- 6.14. The permitted company shall maintain a daily record of the location and the events which have been covered and uplinked by SNG/DSNG terminals and down linked at their main satellite earth station and produce the same before the licensing authority or its authorized representative, which will include officers of Ministry of Home Affairs and Ministry of Information and Broadcasting, as and when required.
- 6.15. The permitted company shall not enter defence installations.
- 6.16. The equipment should not be taken in the areas cordoned off from security point of view.
- 6.17. The company/channel desiring to use SNG/DSNG would give an undertaking that it would be used for live newsgathering and footage collection for captive use only.
- 6.18. Violations of any of the aforementioned terms and conditions would lead to revocation/cancellation of the permission to use the SNG/DSNG.
- 6.19. The permitting authority may modify the conditions laid down or incorporate new conditions, as and when considered necessary.
- 6.20. SNG/DSNG in Ku Band will not be used for DTH operation, directly or indirectly. Any such use would lead to the termination of license/permission.
- 6.21. Uplinking Dish used for SNG/DSNG operation in Ku Band shall not exceed 2 meters.

7. PERMISSION FOR TEMPORARY UPLINKING

- 7.1. The use of all equipment/platforms for collection of footage/news by channels uplinked from outside for specific programme(s)/event(s) of temporary duration will be entertained on recommendation from the PIB and permitted on a case to case basis, in consultation with the Ministry of Home Affairs and other Ministries/Departments concerned.
- 7.2. Foreign news channels/ agencies may be granted permission up to one year at a time for temporary uplinking from time to time through a pre-designated teleport, subject to the following conditions:
 - a) The applicant is accredited with the Press Information Bureau, Government of India.
 - b) The applicant undertakes to conform to the Programme and Advertisement Codes.
 - c) The applicant has a binding agreement with the relevant teleport for the period of permission.
 - d) The applicant pays a processing fee of Rs. 10,000/- and temporary permission fee of Rs. 50,000/- per year.

The news/footage so uplinked shall be primarily for the usage abroad by the foreign news agency/ channel and shall not be broadcast in India without downlinking permission and registration of the channel.

8. OFFENCES AND PENALTIES

- 8.1. In the event of a channel/teleport/SNG/DSNG found to have been/ being used for transmitting/ uplinking any objectionable unauthorized content, messages, or communication inconsistent with public interest or national security or failing to comply with the directions as per para 5.9 above, the permission granted shall be revoked and the company shall be disqualified to hold any such permission for a period of five years, apart from liability for punishment under other applicable laws.
- 8.2. Subject to the provisions contained in para 8.1 of these guidelines, in the event of a permission holder violating any of the terms and conditions of permission, or any other provisions of the guidelines, the Ministry of Information and Broadcasting shall have the right to impose the following penalties:
 - 8.2.1. In the event of first violation, suspension of the permission of the company and prohibition of broadcast/ transmission up to a period of 30 days.
 - 8.2.2. In the event of second violation, suspension of the permission of the company and prohibition of broadcast up to a period of 90 days.
 - 8.2.3. In the event of third violation, revocation of the permission of the company and prohibition of broadcast up to the remaining period of permission.
 - 8.2.4. In the event of failure of the permission holder to comply with the penalties imposed within the prescribed time, revocation of permission and prohibition of broadcast for the remaining period of the permission and disqualification to hold any fresh permission in future for a period of five years.
- 8.3. In the event of suspension of permission as mention in Para 5.9 or 8.2 above, the permission holder shall continue to discharge its obligations under the Grant of Permission Agreement including the payment of fee.
- 8.4. In the event of revocation of permission, the fees shall be forfeited.
- 8.5. All the penalties mentioned above shall be imposed only after giving a written notice to the permission holder.

9. PROCEDURE FOR OBTAINING PERMISSION

- 9.1. The applicant company can apply to the Secretary, Ministry of Information & Broadcasting, in triplicate, in the prescribed format "**Form 1**" along with all requisite documents including a demand draft for an amount equal to processing fee wherever prescribed, payable at par at New Delhi, in favour of the Pay & Accounts Officer, Ministry of Information & Broadcasting, Shastri Bhawan, New Delhi.
- 9.2. On the basis of information furnished in the application form, if the applicant is found eligible, its application will be sent for security clearance to the Ministry of Home Affairs and for clearance of satellite use to the Department of Space (wherever required).

- 9.3. As soon as these clearances are received, the applicant would be asked to furnish a demand draft for an amount equal to the permission fee and Performance Bank Guarantee as applicable, payable at New Delhi, in favour of Pay & Accounts Officer, Ministry of Information & Broadcasting, Shastri Bhawan, New Delhi. Further, the applicant company in respect of Para 1, 2 or 3 above would be required to sign an agreement titled as "Grant of Permission Agreement", in the format "**Form 2**", which is being prescribed separately.
- 9.4. Thereafter, the Company would be issued a formal permission to enable it to obtain requisite license/ clearances from the WPC Wing, Ministry of Communications & IT or approach a teleport service provider in case of TV channels/ uplinking by a Indian news agency.
- 9.5. The applicant will pay the licence fee and royalty, as prescribed by WPC Wing from time to time, annually, for the total amount of spectrum assigned to Hub/Teleport station, as per norms & rules of the WPC Wing. Besides, the Hub/Teleport station owner will inform WPC Wing the full technical and operations details of TV channels proposed to be uplinked through his/her Hub/Teleport in prescribed format. (This clause is applicable for teleports/ uplinking by a Indian News Agency.)

[10. RENEWAL OF EXISTING PERMISSIONS

- 10.1. *The existing permission holders as on the date of issuance of the amended Guidelines on 05.12.2011 will continue to be governed by the terms and conditions of permission as they existed prior to the issuance of amendments on 05.12.2011 till the expiry of such permission.*
- 10.2. *Renewal of permission will be considered for a period of 10 years at a time, subject to the condition that the channel should not have been found guilty of violating the terms and conditions of permission including violations of the programme and advertisement code on five occasions or more. What would constitute a violation would be determined in consultation with the established self-regulating mechanisms.*
- 10.3. *The renewal will also be subject to the permission holder's acceptance of all of the terms and conditions of permission as the Government may prescribe by way of policy pronouncements from time to time.*
- 10.4. *At the time of considering the renewal of permission of the existing permission holders, the eligibility criteria of net worth of the company and experience of the top management will not apply. However, other terms and conditions would be applicable as per modified terms and conditions of the permission.*

11. Transfer of Permission of Television Channels

- 11.1. *The permission holder shall not transfer the permission without prior approval of the Ministry of Information and Broadcasting. On a written request from the permission holder, the Ministry shall allow transfer of permission in case of merger/demerger/ amalgamation, or from one Group Company to another provided that such transfer is in*

accordance with the provisions of the Companies Act, and further subject to the fulfillment of following conditions:

- (i) The new entities should be eligible as per the eligibility criteria including the net worth and should be security cleared.*
- (ii) The new entities should undertake to comply with all the terms and conditions of permission granted.*

12. UPLINKING OF TELEVISION CHANNELS FOR VIEWING ONLY IN FOREIGN COUNTRIES

12.1 TV channels operating in India and uplinked from India but meant only for foreign viewership are not required to comply with the programme and advertisement code of India. The concerned broadcasters will be required to ensure compliance of the rules and regulations of the target country for which content is being produced and uplinked. However, the uplinked content should not contain anything which is against the sovereignty, integrity and national security of India as well as its relations with friendly countries. For monitoring purposes, these channels will be required to preserve the recordings of the proceedings for at least six months instead of the present stipulation of 3 months.]¹

Note (Superscripts):

- 1- Amended vide Order No. 1501/34/2009-TV(I), Dated 05.12.2011 of the Ministry of I&B
- 2- Amended in accordance with the provisions of the Sports Broadcasting Signals (Mandatory Sharing with Prasar Bharati) Act, 2007 and the rules and notifications hereunder.
- 3- Amended as per extant FDI Policy notified by DIPP.

File No: 1501/34/2009-TV(I)
Government of India
Ministry of Information and Broadcasting
Broadcasting Wing

New Delhi.
Dated: 5th December, 2011

POLICY GUIDELINES FOR DOWNLINKING OF TELEVISION CHANNELS

Ministry of Information and Broadcasting, Government of India, has formulated policy guidelines for downlinking all satellite television channels downlinked / received / transmitted and re-transmitted in India for public viewing. Consequently, no person/entity shall downlink a channel, which has not been registered by the Ministry of Information and Broadcasting under these guidelines. These Guidelines envisage two kinds of permissions. The first kind of permission is required to be obtained by an Indian Company which wants to enter into the business of downlinking one or more foreign satellite Television Channels. The second kind of permission is for allowing the downlinking of the satellite Television Channel and registering it in the list of channels permitted for downlinking in India. A foreign Television Channel can thus seek permission for registration under Downlinking Guidelines for being viewed in India by entering into agreement with an Indian Company fulfilling the eligibility criteria prescribed hereunder. Companies which have been granted permission under the Uplinking Guidelines for uplinking Television Channels from India will automatically stand permitted for seeking permission for registration of channels for Downlinking in India. A channel which is permitted to uplink from India and caters to foreign audience only is not required to seek registration under the Downlinking Guidelines. Henceforth, all persons/ entities providing Television Satellite Broadcasting Services (Television Channels) uplinked from other countries to viewers in India as well as any entity desirous of providing such a Television Satellite Broadcasting Service (Television Channel), receivable in India for public viewership, shall be required to obtain permission from Ministry of Information and Broadcasting, in accordance with the terms and conditions prescribed under these guidelines.

The revised guidelines are as given below:

1. ELIGIBILITY CRITERIA FOR APPLICANT COMPANIES

- 1.1.** The entity applying for permission for downlinking a channel, uplinked from abroad, (i.e. Applicant Company), must be a company registered in India under the Indian Companies Act, 1956, irrespective of its equity structure, foreign ownership or management control.
- 1.2.** The applicant company must have a commercial presence in India with its principal place of business in India.

1.3. The applicant company must either own the channel it wants downlinked for public viewing, or must enjoy, for the territory of India, exclusive marketing/ distribution rights for the same, inclusive of the rights to the advertising and subscription revenues for the channel and must submit adequate proof at the time of application.

1.4. In case the applicant company has exclusive marketing / distribution rights, it should also have the authority to conclude contracts on behalf of the channel for advertisements, subscription and programme content.

1.5. [The applicant company should have a minimum net worth as prescribed below:

Sl.No.	Item	Required Net Worth
1.	For Downlinking of First (Non-News or News & Current Affairs) Television Channel	Rs. 5.0 crore
2.	For Downlinking Each Additional Television Channel	Rs. 2.50 crore

1¹

1.6. The applicant company must provide names and details of all the Directors of the Company and key executives such as Chairperson, MD, COO, CEO, CTO, CFO and Head of Marketing, etc. to get their national security clearance.

1.7. The applicant company shall furnish, technical details such as Nomenclature, Make, Model, Name and Address of the Manufacturers of the equipments/ instruments to be used for downlinking and distribution, the Block schematic diagram of the downlinking and distribution system and also demonstrate the facilities for monitoring and storing record for 90 days.

1.8. The Applicant Company should not have been disqualified from holding such permission under these guidelines.

1.9. *[Notwithstanding the provisions contained in Para 1.5, the minimum net worth requirement for downlinking of additional Television Channels by a Company which held permission(s) for downlinking of a Television Channel as on the date of issuance of the amended Guidelines as on 05.12.2011, would be calculated by applying the net worth norms as they existed prior to the issuance of amended guidelines for the permissions already held on that date, and the revised norms as per Para 1.5 for the additional Television Channel(s).*

1.10. *At least one of the persons occupying a top management position in the applicant company should have a minimum 3 years of prior experience in a top management position in a media company (or media companies) operating News and Current Affairs / Non-News and Current Affairs Television Channels as the case may be. The term "top management position" in this context shall mean the Chairperson or Managing Director or Chief Executive Officer or Chief Operating Officer or Chief Technical Officer or Chief Financial Officer of the Company. The channels which were*

permitted but could not become operational by the date of issuance of the amended guidelines on 05.12.2011_will also be required to fulfill this criteria.]¹

2. ELIGIBILITY CRITERIA FOR PERMISSION AND REGISTRATION AND OF CHANNELS FOR BEING DOWNLINKED

- 2.1. Only Companies permitted/eligible for permission to downlink, as per Clause 1 above, shall be eligible to apply for permission of channels.
- 2.2. The downlinked channel must be licensed or permitted for being broadcast by the regulatory or licensing authority of the country of transmission, proof of which would have to be submitted at the time of application.
- 2.3. The channel being registered should not have been de registered under these guidelines at the time of application.
- 2.4. No News and Current Affairs channel shall be permitted to be downlinked if it does not meet the following additional conditions:
 - 2.4.1. That it does not carry any advertisements aimed at Indian viewers;
 - 2.4.2. That it is not designed specifically for Indian audiences;
 - 2.4.3. That it is a standard international channel;
 - 2.4.4. That it has been permitted to be telecast in the country of its uplinking by the regulatory authority of that country;

Provided that the Government may waive/modify the condition under clause 2.4.1 on a case-by-case basis.

- 2.5. For the purposes of these guidelines any channel, which has any element of news or current affairs in its programme content, will be deemed to be a news and current affairs channel.
- 2.6. [...Deleted...]³

3. [PERIOD OF REGISTRATION AND PERMISSION

- 3.1. The Permission granted to a company to downlink channels, uplinked from other countries, into India under these guidelines shall be valid for a period of 10 years from the date of issuance of permission. The Registration granted to such channels under these Guidelines shall also be valid for a period of ten years.
- 3.2. The Registration granted under these Guidelines to channels uplinked from India shall also be valid for a period of 10 years and shall be co-terminus with the uplinking permission of the channel.

4. PERMISSION FEE

- 4.1. The Company seeking permission to downlink channels, uplinked from other countries, into India under these guidelines shall pay a permission fee of Rs 10 lakhs at the time of grant of permission.
- 4.2. The Company shall pay a Permission fee for Registration of channels under these guidelines as follows:-
 - 4.2.1. Rs. 5 lakhs per channel per annum for Downlinking of Television Channel uplinked from India.
 - 4.2.2. Rs. 15 lakhs per channel per annum for Downlinking of Television Channel uplinked from abroad.
 - 4.2.3. After being held eligible, the applicant Company shall pay the permission fee for the first year before the issuance of permission. The succeeding year's permission fee will have to be deposited 60 days before such fee becomes due.]¹
- 4.3. [...Deleted....]³

5. BASIC CONDITIONS/OBLIGATIONS

- 5.1. The Company permitted to downlink registered channels shall comply with the Programme and Advertising Code prescribed under the Cable Television Networks (Regulation) Act, 1995.
- 5.2. [The company shall ensure compliance of the provisions of Sports Broadcasting Signals (Mandatory sharing with Prasar Bharati) Act 11 of 2007 and the Rules, Guidelines, Notifications issued there under.]²
- 5.3. The applicant company shall adhere to any other Code/Standards guidelines/restrictions prescribed by Ministry of Information & Broadcasting, Government of India for regulation of content on TV channels from time to time.
- 5.4. The applicant company shall submit audited annual accounts of its commercial operations in India.
- 5.5. The applicant company shall obtain prior approval of the Ministry of Information and Broadcasting before undertaking any upgradation, expansion or any other changes in the downlinking and distribution system/network configuration.
- 5.6. The applicant company shall provide Satellite TV Channel signal reception decoders only to MSOs/Cable Operators registered under the Cable Television Networks (Regulation) Act 1995 or to a DTH operator registered under the DTH guidelines issued by Government of India or to an Internet Protocol Television (IPTV) Service Provider duly permitted under their existing Telecom License or authorized by Department of Telecommunications or to a HITS operator duly permitted under the policy guidelines for HITS operators issued by Ministry of Information and Broadcasting, Government of India to provide such service."

- 5.7.** The applicant company shall ensure that any of its channels, which is unregistered or prohibited from being telecast or transmitted or re-transmitted in India, under the Cable Television Networks (Regulation) Act 1995 or the DTH guidelines or any other law for the time being in force, cannot be received in India through encryption or any other means.
- 5.8.** The Union Government shall have the right to suspend the permission of the company/registration of the channel for a specified period in public interest or in the interest of National security to prevent the misuse of the channel. The company shall immediately comply with any directives issued in this regard.
- 5.9.** The applicant company seeking permission to downlink a channel shall operationalise the channels within one year from the date of the permission being granted by the Ministry of Information and Broadcasting failing which the permission will liable to be withdrawn without any notice in this regard. However, the company shall be afforded a reasonable opportunity of being heard before such a withdrawal.
- 5.10.** The company/channel shall adhere to the norms, rules and regulations prescribed by any regulatory authority set up to regulate and monitor the Broadcast Services in the country.
- 5.11.** The applicant company shall give intimation to Ministry of Information and Broadcasting regarding change in the directorship, key executives or foreign direct investment in the company, within 15 days of such a change taking place. It shall also obtain security clearance for such changes in its directors and key executives.
- 5.12.** The applicant company shall keep a record of programmes downlinked for a period of 90 days and to produce the same before any agency of the Government as and when required.
- 5.13.** The applicant company shall furnish such information as may be required by the Ministry of Information and Broadcasting from time to time.
- 5.14.** The applicant company shall provide the necessary monitoring facility at its own cost for monitoring of programmes or content by the representative of the Ministry of Information and Broadcasting or any other Government agency as and when required.
- 5.15.** The applicant company shall comply with the obligations and conditions prescribed in the downlinking guidelines issued by the Ministry of Information and Broadcasting, and the specific downlinking permission agreement and registration of each channel.
- 5.16.** In the event of any war, calamity/national security concerns, the Government shall have the power to prohibit for a specified period the downlinking/ reception/ transmission and re-transmission of any or all channels. The Company shall immediately comply with any such directions issued in this regard.

6. OFFENCES AND PENALTIES

- 6.1.** In the event of a channel found to have been/being used for transmitting any objectionable unauthorized content, messages, or communication inconsistent with public interest or national security or failing to comply with the directions as per Para 5.8 or Para 5.16, the permission granted shall be revoked and the company shall be disqualified to hold any such permission for a period of five years, apart from liability for punishment under other applicable laws. Further,

the registration of the channel shall be revoked and the channel shall be disqualified from being considered for fresh registration for a period of five years.

6.2. Subject to the provisions contained in Para 6.1 of these guidelines, in the event of a permission holder and/ or channel violating any of the terms and conditions of permission, or any other provisions of the guidelines, the Ministry of Information and Broadcasting shall have the right to impose the following penalties: -

- 6.2.1.** In the event of first violation, suspension of the permission of the company and/or registration of the channel and prohibition of broadcast up to a period of 30 days.
- 6.2.2.** In the event of second violation, suspension of the permission of the company and/or registration of the channel and prohibition of broadcast up to a period of 90 days.
- 6.2.3.** In the event of third violation, revocation of the permission of the company and/or registration of the channel and prohibition of broadcast up to the remaining period of permission.
- 6.2.4.** In the event of failure of the permission holder to comply with the penalties imposed within the prescribed time, revocation of permission and /or registration-and prohibition to broadcast for the remaining period of the permission and disqualification to hold any fresh permission and /or registration in future for a period of five years.
- 6.2.5.** In the event of suspension of permission as mentioned in Para 5.8, 5.16 or 6.2, the permission holder will continue to discharge its obligations under the Grant of Permission Agreement including the payment of fee.
- 6.2.6.** In the event of revocation of permission and /or registration the fees paid will be forfeited.
- 6.2.7.** All the penalties mentioned above shall be imposed only after giving a written notice to the permission holder.

7. DISPUTE RESOLUTION

7.1. In the event of any question, dispute or difference arising under the Grant of Permission Agreement or in connection thereof, except as to the matter, the decision of which is specifically provided under the Grant of Permission Agreement, the same shall be referred to the sole arbitration of the Secretary, Department of Legal Affairs or his nominee.

7.2. There will be no objection to any such appointment that the Arbitrator is a Government servant. The award of the arbitrator shall be final and binding on the parties. In the event of such Arbitrator, to whom the matter is originally referred to, being transferred or vacating his office, or being unable to act for any reason whatsoever, Secretary, Department of Legal Affairs shall appoint another person to act as Arbitrator.

7.3. The Arbitration and Conciliation Act, 1996, the rules made there under and any modification thereof, for the time being in force, shall be deemed to apply to the arbitration proceedings as above. The venue of arbitration shall be New Delhi or such other place as the Arbitrator may

decide. The arbitration proceedings shall be conducted in English language.

- 7.4. Upon any and every reference as aforesaid, the assessment of costs, interest and incidental expenses in the proceedings for the award shall be at the discretion of the Arbitrator.

8. PROCEDURE FOR GRANT OF PERMISSION OF CHANNELS

- 8.1. The applicant company shall apply to the Secretary, Ministry of Information and Broadcasting in the prescribed Performa along with full details and documentation relevant for evaluating its eligibility for grant of permission to downlink Television Channels in India. Each application form shall be accompanied by a demand draft of Rs. Ten Thousand towards non-refundable processing fee.
- 8.2. The applicant company shall also submit full details of each channel being/proposed to be downlinked along with all other documents as prescribed in the guidelines.
- 8.3. After scrutiny of the application if the applicant company is found eligible, the same will be sent for security clearance to the Ministry of Home Affairs. In the meanwhile, the Ministry of Information and Broadcasting will evaluate the suitability of the proposed channel for downlinking into India for public viewing.
- 8.4. In the event of the applicant company and the proposed channel being found suitable, the Ministry of Information and Broadcasting will register the channel and the applicant company to enter into a grant of permission agreement with the Ministry of Information and Broadcasting, Government of India.
- 8.5. On receipt of the signed agreement, the Ministry of Information and Broadcasting will issue a registration certificate for the concerned channels and grant permission to the applicant company to downlink the relevant channels in India for the prescribed period.
- 8.6. On receipt of the permission and upon registration of the channel, the applicant company will be entitled to approach the MSOs/Cable head end operators/DTH Operators for receiving/downlinking its channel's signal, for further transmission/ retransmission/ distribution.

9. [RENEWAL OF EXISTING PERMISSIONS / REGISTRATION

- 9.1. The existing permission holders as on the date of issuance of the amended Guidelines on 05.12.2011_will continue to be governed by the terms and conditions of permission as they existed prior to the issuance of amendments on 05.12.2011_till the expiry of such permission.
- 9.2. Renewal of permission/ registration will be considered for a period of 10 years at a time, subject to the condition that the company/ channel should not have been found guilty of violating the terms and conditions of permission including violations of the programme and advertisement code on five occasions or more. What would constitute a violation would be determined in consultation with the established self-regulating mechanisms.

9.3. The renewal will also be subject to the permission/ registration holder's acceptance of all of the terms and conditions of permission as the Government may prescribe by way of policy pronouncements from time to time.

9.4. At the time of considering the renewal of permission/ registration of the existing permission holders, the eligibility criteria of net worth of the company and experience of the top management will not apply. However, other terms and conditions would be applicable as per modified terms and conditions of the permission.

10. TRANSFER OF PERMISSION OF TELEVISION CHANNELS

10.1. The permission holder shall not transfer the permission without prior approval of the Ministry of Information and Broadcasting.

10.2. In case of transfer of permission of a Satellite Television Channel uplinked from India from one company to another as per the provisions of Uplinking Guidelines, the registration of the channel under the downlinking Guidelines shall also stand transferred to the new company.

10.3. In case of companies permitted to downlink channels from other countries, on a written request from the permission holder, the Ministry shall allow transfer of permission in case of merger/demerger/ amalgamation, or from one Group Company to another provided that such transfer is in accordance with the provisions of the Companies Act, and further subject to the fulfillment of following conditions:

- (i) The new entities should be eligible as per the eligibility criteria including the net worth and should be security cleared.
- (ii) The new entities should undertake to comply with all the terms and conditions of permission granted.]¹

Note (Superscripts) :

1- Amended vide Order No. 1501/34/2009-TV(I), Dated 05.12.2011 of the Ministry of Information and Broadcasting

2- Amended in accordance with the provisions of the Sports Broadcasting Signals (Mandatory Sharing with Prasar Bharati) Act, 2007 and the rules and notifications there under

3- Deleted as not relevant as per current Approved Cabinet Note.