



# **Telecom Regulatory Authority of India**

## **Recommendations**

**on**

**Issues relating to Uplinking and Downlinking**

**of**

**Television Channels in India**

New Delhi, India

25<sup>th</sup> June, 2018

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

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# **CHAPTER 1**

## **INTRODUCTION**

- 1.1 For regulating the business of satellite TV channel broadcasting in India, guidelines for uplinking and downlinking of satellite television channels were issued by the Ministry of Information & Broadcasting (MIB) in the year 2011. Keeping in view the change in technology, market scenarios, and the lessons learnt in the last few years of their operations, MIB felt a need to review/amend some of the provisions of these guidelines to ensure healthy growth of the broadcasting sector.
  
- 1.2 MIB sent a letter dated 21<sup>st</sup> August, 2017 to Telecom Regulatory Authority of India (TRAI), wherein it was stated that the present uplinking guidelines and downlinking guidelines which came into effect from 5<sup>th</sup> December 2011 were now more than 5 years old. MIB has sought recommendations of the Authority, under section 11 of the TRAI Act, 1997, on various issues listed in the aforesaid letter. These issues primarily relate to permission for uplinking and downlinking of satellite TV channels, and setting up of teleports. The letter dated 21<sup>st</sup> August, 2017 is enclosed at **Annexure-I**.
  
- 1.3 Accordingly, TRAI issued a consultation paper on “Issues relating to Uplinking and Downlinking of Television Channels in India” on 19<sup>th</sup> December 2017 and sought suggestions from stakeholders on the issues listed in the reference of MIB. The last date for submission of the comments was 30<sup>th</sup> January 2018 and that of the counter comments was 10<sup>th</sup> February 2018. The Authority received 38 comments and 1 counter-comment. All the comments and counter-comment are available on TRAI’s website. Subsequently, an open house discussion was held on 11<sup>th</sup> April 2018, in Delhi, to seek the views of the stakeholders on various issues.

- 1.4 Based on the inputs received from stakeholders and internal analysis, the Authority finalised its recommendations. It is expected that these recommendations will ensure orderly growth of the broadcasting sector, and in-turn provide impetus to socio-cultural and economic development.
- 1.5 Chapter 2 provides recommendations on various issues involved in context with satellite TV channels. Chapter 3 provides recommendations on various issues related to Teleports. Chapter 4 provides summary of recommendations.

## **CHAPTER 2**

### **ISSUES RELATING TO SATELLITE TV CHANNELS**

- 2.1 Under the policy guidelines for uplinking of television channels from India, MIB 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.
- 2.2 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'**

2.3 As per existing guidelines, 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 uplinking guidelines provide meaning of these two categories of channels as follows:

*“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.”*

and

*“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.”*

2.4 In the consultation paper, stakeholders were requested to provide their comments on the need to redefine 'News and Current Affairs TV channels', and 'Non-News and Current Affairs TV channels'.

2.5 In response, most of the stakeholders including broadcasters, their associations and MSOs are of the view that there is no need to redefine any category of channels. Some of these stakeholders have mentioned that existing definitions of 'News and Current Affairs TV channels' and 'Non-News and Current Affairs TV channels' are self explanatory and clearly differentiate two categories from each other. Some stakeholders have also submitted that if there is a more specific definition of 'News and Current Affairs channels' then there is an inherent risk of leaving vacant space between the two definitions.

2.6 Some other stakeholders have suggested that there is a need to redefine only 'Non-News & Current Affairs TV channels'. In their opinion, a clearer and more inclusive definition should delineate news

content from entertainment content touching on current events, and allow greater levels of knowledge-based programming.

- 2.7 Few stakeholders have suggested that there is a need to redefine only 'News and Current Affairs TV channels' as the existing loose definition has seen the entry of players who would like to misuse the power of the media. One stakeholder has suggested the definition of a 'News and Current Affairs TV channel' based on the duration of news content for a given week averaged over a calendar quarter.
- 2.8 Some stakeholders are of the view that the term 'current affairs' may be deleted because even general entertainment events and live sporting events can fall within that description which is not intended.
- 2.9 One stakeholder is of the opinion that before re-defining the terms 'News and Current Affairs TV channels', and 'Non-News and Current Affairs TV channels', the term 'channel' should be defined exhaustively in order to cover all means and methods to provide the channel as well as the various variants of the channel.
- 2.10 The Authority considered the comments of stakeholders who suggested that definition of 'News and Current Affairs TV channels' should be based on the duration of news content broadcasted on a channel. The Authority is of the opinion that the content aired on the 'News and Current Affairs channels' is the most relevant from the perspective of informing and influencing public opinion. Therefore, a news content of duration of 5 minutes could be as sensitive as that of a news content of 6 hours duration. Therefore, the Authority does not think it appropriate to define a 'News and Current affairs TV channel' based on the duration of news content broadcasted on a channel. Further, Authority agrees with the views of stakeholders that 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. Accordingly, the

Authority is of the view that existing meaning of 'News and Current Affairs TV channels', and 'Non-News and Current Affairs TV channels' mentioned in the uplinking and downlinking guidelines dated 05.12.2011 are sufficient and there is no need to change these meaning. The Authority is also of the view that in order to bring in more clarity the meaning of 'News and Current Affairs TV channels', and 'Non-News and Current Affairs TV channels' mentioned as notes in the existing uplinking and downlinking guidelines dated 05.12.2011 should be converted into definitions and explicitly mentioned in the guidelines under the head definitions.

**2.11 The Authority recommends that the existing provisions of meaning of 'News and Current Affairs TV channels', and 'Non-News and Current Affairs TV channels' mentioned in the uplinking and downlinking guidelines dated 05.12.2011 should be converted into definitions. Accordingly, the Authority recommends following definitions:**

**(a) 'News and Current Affairs TV channels': A channel which has any element of 'News & Current Affairs' in its programme content.**

**(b) 'Non News and Current Affairs TV channels': A channel which does not have any element of 'News & Current Affairs' in its programme content.**

## **B. Net-worth of eligible companies**

2.12 As per the extant policy framework, an applicant company should satisfy the following net-worth requirements for obtaining uplinking and downlinking permissions:



**Table1: Existing Net-worth for permissions for uplinking and downlinking of TV channels**

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

2.13 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.

2.14 Accordingly, in the consultation paper stakeholders were asked whether net-worth requirement of the applicant company for granting uplinking permission, and/ or downlinking permission be increased. In case stakeholders felt that net-worth should be increased, they were also requested to suggest the amount and whether this amount should be different for 'News and Current Affairs TV channels', and 'Non-News and Current Affairs TV channels'.

2.15 In response, most of the stakeholders are of the view that there is no need to increase the existing net-worth requirement for granting uplinking / downlinking permission. Some stakeholders have mentioned that increase in the net-worth requirement would discourage entrepreneurs and have an adverse implication on the overall competition in the industry. They have further mentioned that increase would adversely impact the consumers, the number of players/channels available, availability of regional channels, quality of channels and competitive prices at which channels are available to the consumers.

- 2.16 A few stakeholders are of the opinion that net-worth should be reduced. These stakeholders have mentioned that capital investment for setting up uplinking / downlinking infrastructure, hiring of satellite transponders, spectrum usage charges etc. is mostly borne by the commercial teleport operators from where broadcasters avail uplinking services. According to them the broadcasters are neither required to make that much of capital investment nor even need that much of net-worth prescribed at present.
- 2.17 One stakeholder has suggested that there is no need to prescribe any net-worth as it is against the freedom of press, expression and speech.
- 2.18 On the issue of different net-worth for News and non-News channels most stakeholders have suggested that net-worth requirement for a News channel has to be much higher than a non-News channel as the responsibility of a News channel is far greater than that of a non-News channel. On the contrary one stakeholder has suggested that the net-worth of News channels be reduced as non-News channels fetch more revenue than News Channels due to more viewership. Some stakeholders are of the opinion that the regional channels should be subjected to lower net worth requirement compared to national channels as they have less capital investment, lower distribution cost and limited resources. One stakeholder has suggested that there should be lower net-worth requirement for those channels which are uplinked from India, but targeted for other countries.
- 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.

- 2.20 The Authority is aware that for sustainable growth of a sector, it is necessary that only those companies having sound financial standing are permitted to enter the business. Net-worth of the applicant company is an important parameter for gauging the financial standing of the company. Investment requirement for running of television channels is high. Although there is no cap on the number of channels that can be permitted, it is felt necessary that non-serious players should be discouraged from entering the business to ensure that the resources are available to genuine users.
- 2.21 The current limits of net-worth were prescribed more than five years back. The production costs have increased since then. In the current competing environment, one has to spend more on content as well for its distribution. Therefore, only companies with sound financial standing can withstand the highly competitive environment. However, the Authority agrees with the views of the stakeholders that very high net-worth requirement would deter new entrepreneurs from entering this sector. Reduced competition due to increase in entry barriers might also affect prices of the channels for the end consumer. Moreover, high net-worth criteria could also discourage the growth of local and regional channels, thereby affecting overall program diversity. Therefore, the Authority is of the view that net-worth criteria for seeking permission for uplinking and downlinking of TV channels need not be enhanced further and should be continued at the existing level.
- 2.22 The News and current affairs channels are considered more sensitive as their power to influence public opinion may have a bearing on maintenance of public order, security of the State and maintenance of communal harmony. Further, a News and current affairs channel require more funds than the funds required for a non-News and current affairs channel, as News channels are required to maintain additional staff and machinery in different parts of the country. Therefore, the Authority is of the view that net-worth of an applicant

company seeking permission for News and current affairs channel should continue to be higher than the company seeking permission for non-News and current affairs channel, as prescribed in the existing uplinking and downlinking guidelines.

**2.23 The Authority recommends that following existing amounts of minimum net-worth of an applicant company seeking permissions for uplinking and downlinking of TV channels, as prescribed in the existing uplinking and downlinking guidelines dated 05.12.2011, should be continued:**

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

2.24 Presently, for examination of the net-worth and ownership details of the applicant company, MIB forwards the documents submitted by the applicant company, to the empanelled Chartered Accountants (CA). The information furnished by the applicant company is already certified by the auditors of the company. The information relating to net-worth of the applicant company is already available at MCA21 website, which can be downloaded by anyone by making online payment. Moreover, the examination of already audited information by empanelled CA is not only a duplication of efforts but also adds to the delays. Therefore, the requirement of examining the eligibility of the company by empanelled CA is a redundant process. In this regard, the Authority has already sent its recommendations on "Ease of Doing Business in Broadcasting Sector" dated 26<sup>th</sup> February 2018 to the Government wherein issues related to simplifying the process of examination of net-worth of applicant companies for granting

permissions for uplinking and downlinking of TV channels have been recommended. The Authority reiterates these recommendations.

**2.25 Accordingly, the Authority recommends that:**

- a) A self declaration, in a prescribed format, stating that the applicant company meets net-worth requirements, as specified under the policy guidelines, should be taken from the applicant company at the time of submitting the application. This declaration should be supported with duly audited financial statements of the company.**
- b) The requirement of examining net worth, ownership details, shareholding pattern and its effect on net worth etc., by the empanelled CA should be done away with.**

**C. Processing fee for application**

2.26 As per existing policy guidelines for uplinking, and downlinking of TV channels, along with each application for seeking permission for a TV channel a non-refundable processing fee of Rs. 10,000/- is required to be deposited by the applicant company. In the consultation paper stakeholders were asked whether there is any need to increase the amount of non-refundable processing fee to be deposited by the applicant company and what should be the amount of non-refundable processing fee.

2.27 In response, some stakeholders are of the view that there is no need to increase the processing fee as any increase would create high barriers to entry for new channels and would be against the 'Ease of Doing Business' initiative. A few stakeholders are of the opinion that the processing fee should be reduced as the cost and time of processing applications should have reduced with the use of technology and online processing of applications. Some stakeholders have suggested the cost-based processing fee that should be related to the administrative costs of the activity. On the contrary some

stakeholders have suggested that the processing fee should be increased to Rs. 5 Lakh to deter non-serious players.

2.28 The processing fee is charged to cover the costs involved in processing the application including checking of eligibility criteria, verification of documents and basic administrative costs. The processing fee of Rs. 10,000/- was fixed in the guidelines for downlinking and uplinking of TV channels notified by MIB in the year 2005. The Authority has noted that keeping in view the increase in Wholesale Price Index (WPI) since 2005, there may be a need for a higher processing fee. However, the Authority agrees with the comments of the stakeholders that cost and time of processing of applications should have reduced with the use of technology. In this regard, the Authority in its recommendations on “Ease of Doing Business in Broadcasting Sector” dated 26<sup>th</sup> February 2018 has already recommended the MIB to setup an online portal for processing of applications for granting permissions for uplinking and downlinking of TV channels. Once the online portal for submission and approval of applications is developed and made functional, it will likely to reduce the cost of processing of applications. Therefore, the Authority is of the view that the existing amount of processing fee of Rs. 10,000/- charged from the applicant company along with each application for seeking permission under uplinking guidelines and downlinking guidelines dated 05.12.2011 is sufficient and should be continued.

2.29 **The Authority recommends that existing amount of onetime non-refundable processing fee of Rs. 10,000/-, levied from the applicant company along with each application for seeking permission under existing uplinking guidelines and downlinking guidelines dated 05.12.2011, should be continued.**

#### **D. Grant of license/ permission for Satellite TV Channels**

2.30 As per existing policy guidelines, the permissions for uplinking, and/or downlinking of satellite TV channels are issued to applicant companies by MIB administratively on the basis of applications submitted by the applicants. After receiving the permission for uplinking of satellite TV channels from MIB, the applicant company applies to the Wireless Planning and Coordination (WPC) wing of Department of Telecommunication (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. MIB in its reference dated 21<sup>st</sup> August, 2017, raised the issue 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. Accordingly, in the consultation paper stakeholders were asked to provide their comments on issues related to auction of satellite TV channels. Stakeholders were also asked to suggest the better way to grant license for TV satellite channels than what is being presently followed.

2.31 In response, all the stakeholders, who have submitted their comments, have unanimously opposed the auction of satellite TV channels. Some stakeholders have mentioned that auctioning of only scarce resources can be performed, whereas satellite spectrum is in abundance and would continue to increase over a period of time with the increase in number of satellites. Some stakeholders have mentioned that India has ratified Radio Regulations of International Telecommunication Union (ITU) and therefore, before auctioning it has to take all the necessary measures in order to prevent contravention of any provisions of these regulations. They are of the opinion that there is a coordinated use of the up-linking space spectrum, satellite transponder capacity and downlinking space spectrum, which cannot be auctioned together as these are not controlled by the same entity or

even by the Central Government. Few stakeholders are of the view that satellite TV broadcast and FM radio broadcast are miles apart from each other when it comes to their infrastructural requirements and use of spectrum. Some stakeholders are of the view that complexity of auction process would not justify the negligible revenue that may be anticipated from such auction. They further mentioned that auctioning will unduly increase the cost of permission which would be passed on to end subscribers and make content expensive. Few stakeholders are of the view that in case auctions are adopted for satellite TV channels, India may lose its status of global hub for uplinking facilities which may encourage broadcasters to move to Teleport hubs in other countries.

2.32 MIB in its reference dated 21st August, 2017, raised the issue of auctioning a TV channel as in the case of FM Radio sector. Therefore, it will be pertinent to compare the FM radio broadcasting and satellite TV broadcasting. The FM radio broadcasting is a terrestrial form of broadcasting wherein for each Radio channel, 200 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 possibility 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.

2.33 Satellite TV broadcasting also requires the radio spectrum (for uplink and downlink of signals of TV channels) along with satellite transponder capacity for transmitting signals of TV channels from broadcaster to distributors of TV channels. Broadcasters use C band spectrum for transmission of Satellite TV channels in India. The



satellite beam covers the large footprint which may cover the entire country and hence 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 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.

- 2.34 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 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 fixes the uplinking and downlinking frequencies also, and no one else will be able to use those frequencies. Therefore, any possibility of auction process for grant of permission for a TV channel is ruled out. 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 (DoS), for delivering broadcasting services in India. As stated earlier, policy guidelines for downlinking issued by MIB permits foreign channels also for downlinking in India.

- 2.35 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 is not the case for satellite TV broadcasting as space spectrum used for uplinking and downlinking of signals of TV channels is tightly coupled with the corresponding satellite transponder, already leased by the applicant company or its teleport service provider independently prior to submitting application to MIB for seeking permission for uplinking of TV channels. Therefore, the Authority is of the view that the auction process for grant of permissions for uplinking and downlinking of TV channels is not feasible.

2.36 On the issue of alternate way to grant license for TV satellite channels, stakeholders have unanimously suggested that existing system for grant of license/ permission is working well and should be continued. However, most of them also suggested that there is a need to simplify and streamline the present administrative system by introducing single window online system and reducing processing time lines for grant of permission. Some stakeholders are of the view that any deviations from present norms /policies would not only adversely affect the growth of the sector, but would also result in ambiguity. Few stakeholders suggested that in order to streamline that existing process there is a need to provide separate/standalone guidelines and separate sub-departments for both, 'News and Current Affairs TV channels' and 'Non-News and Current Affairs TV channels'.

2.37 The Authority has noted that the existing administrative system for grant of permission is in place for more than a decade and has resulted in noteworthy growth in number of TV channels. Most of the stakeholders are also in favour of continuance of existing administrative system of granting of permission for TV channels, however, they have suggested that the existing process should be streamlined and be made more efficient. In some other countries, the process of granting permissions for uplinking of TV channels is very simple and efficient. In case process of granting permission for TV channels is not streamlined in India, the business of uplinking of TV channels may shift out to other countries, which would result in the loss of revenue and employment. Therefore, the process for granting permission for TV channels needs to be streamlined. In this regard, the Authority has already sent its recommendations on "Ease of Doing Business in Broadcasting Sector" dated 26<sup>th</sup> February 2018 to the Government wherein several measures have been recommended for streamlining the existing process of granting permissions for uplinking and downlinking of TV channels. The Authority reiterates these recommendations here as well.

**2.38 Accordingly, the Authority recommends that:**

- i) The existing administrative system for grant of permissions for uplinking and downlinking of TV channels should be continued as auction process for grant of permissions for uplinking and downlinking of TV channels is not feasible.**
- ii) The process of granting permission for uplinking of satellite TV channels from India should be streamlined by removing redundant processes, re-engineer necessary processes, and making them efficient using ICT.**
- iii) The process of granting permission and registration for downlinking of satellite TV channels should be streamlined in such a way that:
  - (a) the channels having permission for uplinking from India require registration only; and**
  - (b) the channels being uplinked from outside India require permission as well as registration.****
- iv) Initially, MHA should take the decision on security clearance to an applicant company and its key personnel within a period of 60 days. Also, in case of any change in key personnel, MHA should take the decision within a period of 60 days.**
- v) Validity period of security clearance granted to a company should be equal to the permission/ license period granted to that company for broadcasting services. The Government in any case reserve the right to withdraw security clearance at any point of time.**
- vi) The security clearance granted to the key personnel of a company should remain valid for 10 years.**

- vii) In cases where an existing broadcasting company, having valid security clearance, is seeking permissions for additional satellite TV channels, the process of seeking fresh security clearance from MHA should be done away with.**
- viii) DoS should take the decision on clearance for satellite use for broadcasting services within a period of 60 days.**
- ix) In cases where a broadcasting company is seeking permissions for uplinking of new satellite TV channels to the already cleared satellites having vacant capacity, the process of seeking fresh clearance from DoS should be done away with.**
- x) WPC should allocate the spectrum for commercial satellite usage as and when there is a demand for the same from service providers in a time bound manner.**
- xi) The issue of open sky policy for Ku band frequencies may be taken up by MIB in INSAT Coordination Committee (ICC) meeting and the open sky policy should be adopted.**

#### **E. Simplification of processing of Applications**

2.39 As already discussed in TRAI's recommendations on "Ease of Doing Business in Broadcasting Sector" dated 26<sup>th</sup> February 2018, at present hard copies of applications for seeking permissions under existing uplinking and downlinking guidelines are submitted to MIB. Multiple set of Ministries/Departments are involved in the process of approval of applications. Furthermore, there is no stipulated time frame for the grant of permission/ registration. This often leads to the derailment of their business plans, capacity under-utilization, and unmerited payments to the foreign satellite operators.

2.40 Most of the stakeholders have suggested that existing process of granting permission for TV channels should be streamlined and be made more efficient. One stakeholder has mentioned that WPC is opening the 'Window' for a very short duration for the entire TV broadcasting sector, which is the one of the main reasons for delay in allocation of frequencies by WPC. As a result, several TV channels were forced to uplink from foreign countries due to non-endorsement of satellite capacities even after approval of the MIB and the Dept. of Space.

2.41 In this regard, the Authority in its recommendations on "Ease of Doing Business in Broadcasting Sector" dated 26<sup>th</sup> February 2018, inter-alia, has already recommended setting up of an online portal for submission and approval of applications. The Authority has also recommended timelines for granting approvals by Ministries/Departments involved in the process of granting permissions for uplinking and downlinking of TV channels. The Authority reiterates these recommendations here as well.

2.42 **Accordingly, the Authority recommends that:**

- i) MIB should setup an integrated online portal for broadcasters, teleport operators, and distributors of TV channels (DTH operators/HITS operators/MSOs) which should facilitate the filing of applications, processing in MIB, DoS and DoT, tracking of status of applications, payments, frequency allocations, endorsements, permissions, licenses, registrations, and renewals with common database. Preferably, this portal should be integrated with other e-Governance systems like Bharatkosh<sup>1</sup> portal, e-Office application etc. Access to the portal should be provided to the Authority also for information and analysis.**

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<sup>1</sup> *Bharatkosh* is an online payment gateway for payment of fee etc. to Government of India

- ii) **The integrated online portal should be developed as early as possible, preferably within a period of 1 year from the date of acceptance of these recommendations.**
- iii) **In cases of permissions/ licenses where security clearance of the company from MHA or satellite clearance from DoS or both are required, normally the decision to grant permission should be taken by MIB in consultation with MHA and DoS within 3 Months from the date of application.**
- iv) **In case of permissions, where security and satellite clearances are not required, normally the decision to grant permission should be taken by MIB within 45 Days from the date of application.**
- v) **WPC should take the decision on grant of WOL including allocation of frequency within a period of 60 days.**
- vi) **The decision to grant permission for operationalising the services, including time taken by MIB, WPC, DoS, MHA, and NOCC for issuing permissions, should be completed within 6 months period in case of uplinking of channel by a new company/ teleport/ DTH licenses.**

## **F. Entry Fee and Permission/License fee**

### **F.1. Entry fee**

2.43 Presently, under the extant policy framework for uplinking of a satellite TV channel from Indian soil as well as for downlinking of a satellite TV channel, uplinked from India, no entry fee is prescribed. However, for downlinking of a satellite TV channel, uplinked from foreign soil, a one-time entry fee of Rs 10 lakh is prescribed. In the consultation paper stakeholders were asked to suggest the amount of 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.

2.44 In response, most stakeholders have suggested that the Entry fee as prevailing in existing uplinking and downlinking guidelines should be continued. Some stakeholders mentioned that existing entry fee structure will drive growth of the industry and any increase in the amount of Entry fee would act as a barrier to entry. Some stakeholders are of the view that continuance of existing entry fee would encourage broadcasters to uplink channels from India and introduction of any entry fee will increase the cost of uplinking and may divert business to outside India. One stakeholder mentioned that in case a foreign channel being downlinked into India, an entry fee of Rs. 10 lakh is already stipulated, which can be retained but should not be increased, as it may deter the increase of international channels made available to Indian consumers. On the other hand, some stakeholders are of the view that Entry fee should be increased so that only serious players enter the business. They have suggested an Entry fee of Rs. 5 lakh for grant of permission for uplinking of TV channels from India as well as for downlinking TV channels uplinked from India, and Rs. 20 lakh for downlinking of foreign TV channels.

2.45 For obtaining the permission/license to uplink TV channels from India, presently, no entry fee is prescribed. The Authority agrees with the views of the stakeholders that increase in entry fee 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 revenues 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 will also encourage development of content for such channels in India.



2.46 Presently, an Entry fee of Rs. 10 lakh is prescribed for downlinking of channels in India uplinked from outside India. The probable reason for prescribing this fee could have been to encourage the uplinking of maximum number of channels from the Indian soil. This amount of Rs. 10 Lakh was also fixed in the year 2011. The Authority has noted that out of 881 TV channels, permitted by MIB for downlink in India, 797 TV channels are uplinked from India, and remaining 84 channels are uplinked from abroad. It indicates that existing entry fee of Rs 10 lakh prescribed for channels uplinked from outside India and downlinked in India has encouraged the uplinking of TV channels from India. Any increase in Entry fee on TV channels uplinked from India will discourage uplinking from India. Accordingly, keeping in view the other economic gains, the Authority is of the view that the Entry fee for grant of permissions for uplinking and downlinking of TV channels should be continued at the existing level only.

2.47 **The Authority recommends that the following existing amount of Entry fee for uplinking and downlinking of TV channels, as prescribed in the existing uplinking and downlinking guidelines dated 05.12.2011, should be continued:**

<b>S. No.</b>	<b>Item</b>	<b>Entry Fee</b>
1.	Uplinking of TV channels from India	<b>Nil</b>
2.	Downlinking of TV channels uplinked from India	<b>Nil</b>
3.	Downlinking of TV channels uplinked from foreign country	<b>Rs. 10 Lakhs</b>

## **F.2. Permission / License fee**

2.48 Presently, under the extant policy guidelines, for uplinking of a satellite TV channel from Indian soil there is a fixed permission/ license fee of Rs. two lakh per annum. For downlinking of a satellite TV channel, uplinked from India, there is a fixed license fee of Rs. five lakh per annum. However, for downlinking of a satellite TV channel, uplinked from foreign soil, there is a fixed license fee of Rs. 15 lakh

per annum. 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 of TV channels. Accordingly, in the consultation paper stakeholders were asked to provide their comments on the license fees structure, i.e. fixed, variable, or semi-variable, that can be adopted for uplinking and downlinking of satellite TV channels. Stakeholders were also asked to provide comments on the rate of license fee and definition of AGR in case of variable fee was suggested, minimum amount of license fee in case of semi-variable structure was suggested, and license fee per annum, periodicity of payment and periodicity for review of license fee in case fixed fee was suggested.

2.49 In response, almost all the stakeholders, who have submitted their comments, have suggested the continuance of existing fixed fee structure for levy of license/permission fee for uplinking and downlinking of TV channels. Some of these stakeholders are of the view that a fixed fee approach offers simplicity and predictability for both the Government and industry and would not require licensees to disclose sensitive information. They have further mentioned that fixed fee structure guarantees assured amount of revenue to the Government irrespective of growth or losses suffered by the sector. Some stakeholders are of the view that the variable fee based on revenues would reduce the profit margin resulting in cost cutting and shutting down of the small companies.

2.50 One stakeholder is in favor of variable fee structure for license fee for uplinking and downlinking of TV channels and suggested that the revenue of broadcasters should also be subjected to the same license fee as that of DTH operators. No stakeholder is in favor of semi-variable structure, whereas a couple of stakeholders mentioned that as broadcasters are not licensees under Section 4 of the Indian

Telegraph Act, 1885, no license fee whether fixed, variable or semi-variable is required to be paid by the broadcasters.

- 2.51 Some of the stakeholders, who have suggested the fixed fee structure, mentioned that existing amounts of license fee are adequate and do not warrant any changes, as any further increase in these amounts would act as a barrier and may hinder sector growth. Some stakeholders are of the view that continuance of existing structure would promote the growth of broadcasting industry and facilitate increased employment. Some stakeholders are of the opinion that license fee should be cost-based that should be reasonably related to the administrative costs of the regulatory activity.
- 2.52 A few stakeholders mentioned that in case there is a need to increase the amount of license fee, it may be increased on the basis of inflation-index and could be revised periodically. Some other stakeholders are of the opinion that license fee should be increased and suggested an amount of Rs. 5 lakh for permission for uplinking of TV channels from India, Rs. 10 lakh for downlinking TV channels uplinked from India, and Rs. 20 lakh for downlinking of TV channels uplinked from foreign soil.
- 2.53 As far as periodicity of payment of license fee is concerned, stakeholders are of the view that it should be payable on annual basis. On the issue of periodicity of review of license fee, some stakeholders suggested it should be 10 years while some other stakeholders suggested a period of 5 years. Some stakeholders are of the view that TRAI/government should hold a consultation with the stakeholders two years prior to the date of review of the fee.
- 2.54 License fee is a significant source of revenue for the Government apart from the taxes. 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. For charging revenue based permission fee, the sources of revenue of channels have to be looked into. While pay TV channels get revenue from two streams viz advertisements from advertisers and subscription revenue from the subscribers, FTA channels get revenue only from advertisements. Advertisement revenue directly depends on the eye balls linked with a given program. There may be several FTA channels which do not have sizable number of viewers to attract sufficient advertisements. Such FTA channels may get very less amount of revenue from advertisements. At present 875 TV channels have been permitted by MIB, out of which 567 are FTA channels. Even some pay channels, with few subscribers, may not be able to generate sufficient revenues. Therefore, in case revenue based fee is levied from the permission holders, the amount of permission fee collected from such channels will be much less than the amount collected based on the fixed fee. On the other hand, fixed license fee structure ensures assured amount of revenue to the Government, independent of the ups and downs of the industry. In addition, broadcasters are also making available their content, broadcasted on satellite TV channels, on their digital platforms through internet. These broadcasters also earn revenue from advertisements shown on their digital platform, which is not subjected to any permission/license fee. Therefore levy of revenue based permission fee will tantamount to discrimination between the similar content provided through satellite TV channel vis-a-vis online digital platform.

- 2.55 The Authority is aware that a very high amount of fixed fee per annum can act as entry barrier to the new entrants in the sector. Therefore, license fee structure should be simple and the amount of license fee should be moderate. The present amount of permission fees for uplinking and downlinking of satellite TV channels were fixed in the year 2011. The Authority has noted that the Wholesale Price Index (WPI) has increased by a factor of approximately 1.2 since 2011. Further, permission fees recommended now will likely to remain

effective till next review of permission fee, in case these recommendations are accepted by MIB. Therefore, the Authority is of the view that the permission fees prescribed in the uplinking and downlinking guidelines dated 05.12.2011 should be increased by a factor of 1.5. Accordingly, the Authority is of the view that – (i) the annual permission fee for uplinking of TV channel from India should be increased from Rs. 2 lakh to Rs. 3 lakh; (ii) the annual permission fee for downlinking of a TV channel, uplinked from India should be increased from Rs. 5 lakh to Rs. 7.5 lakh; and (iii) the annual permission fee for downlinking of a TV channel, uplinked from foreign soil, should be increased from Rs. 15 lakh to Rs. 22.5 lakh.

2.56 The Authority has noted the suggestions of the stakeholders that TRAI should hold a consultation with the stakeholders prior to review of the permission fee and based on the recommendations of TRAI, the Government should revise the permission fee, if required. In this regard, the Authority is of the view that permission fee is a part of the licensing conditions and as per provisions of the TRAI Act, MIB is obliged to obtain recommendations of TRAI before making any amendment to the licensing terms and conditions.

2.57 **The Authority recommends that:**

- (i) For uplinking of a satellite TV Channel from Indian soil a fixed permission fee of Rs. 3 lakh per annum should be charged.**
- (ii) For downlinking of a satellite TV channel, uplinked from India, a fixed license fee of Rs. 7.5 lakh per annum.**
- (iii) For downlinking of a satellite TV channel, uplinked from foreign soil, a fixed license fee of Rs. 22.5 lakh per annum.**

#### **G. Encryption of TV channels**

2.58 From commercial point of view, each satellite TV channel is categorised by a broadcaster either as pay channel or Free-to-Air (FTA) channel. For distribution of pay channel, a fee is to be paid and due

authorization needs to be obtained by Distribution Platform Operators (DPOs) from broadcasters. However, for distribution of FTA channel, no fee is to be paid by DPOs to broadcasters. Presently, signals of pay TV channels are broadcasted through satellite by broadcasters in encrypted form so that only authorised DPOs, who have valid interconnection agreement with such broadcaster, are able to distribute signals of such TV channels. Whereas signals of FTA TV channels are usually not encrypted while broadcasting through satellite, and accordingly any DPO can distribute such TV channels. In view of above, in the consultation paper stakeholders were asked to provide their comments whether all TV channels, pay as well as FTA, be broadcasted through satellite in encrypted mode.

- 2.59 In response, some stakeholders have suggested that all TV channels, pay as well as FTA, should be broadcasted in encrypted mode. They are of the view that it will reduce piracy and discourage distribution platforms to distribute unencrypted FTA channels uplinked from abroad which may carry content that can be perceived as threat to India's national security interests. They further added that encryption of all the channels will enable broadcasters to assess their subscriber base. Some of these stakeholders also mentioned that as digitization across India is already over, any unencrypted channels should not be allowed at all. On the other hand, some stakeholders have suggested that encryption of FTA or Pay channel, should be left to the discretion of the broadcaster. They have mentioned that encryption of TV channels involves additional expenditure and expenses which broadcasters have to incur in order to protect their content. They further submitted that providing signals of FTA channels to DPOs will necessarily require signing of Interconnection Agreement for even FTA channels, which may affect the investment in uplinking sector adversely. Some stakeholders mentioned that there are no instances in any country in the world which would force broadcasters to label their channel as FTA or Encrypted.

2.60 The Authority has noted that encryption of FTA channel would require supply of Integrated Receiver and Decoder (IRD) by a broadcaster to each DPO, who wants to distribute that channel. It will necessitate signing of interconnection agreement between broadcasters and DPOs for FTA channels also, which will result in higher cost of distribution of FTA channels for broadcasters. If encryption is mandated for FTA channels then it may also affect channels uplinked from India which are downlinked in other countries as encryption may not be required for downlinking of such channels in other countries, and thus it may affect the investment in the uplinking segment of the sector. Further in case of channels uplinked from abroad, it is not possible to ensure encryption of channels as this may not be mandated for uplinking of channels in other countries. This will affect plurality of channels available to Indian viewers. Accordingly, the Authority is of the view that there is no need to mandate the broadcast of FTA channels through satellite in encrypted mode and it should be left to the broadcasters.

2.61 **Accordingly, the Authority recommends that encryption of broadcast of FTA channels should not be mandated and it should be left to the broadcasters providing FTA channels.**

#### **H. Operationalisation of TV channel**

2.62 Existing policy guidelines for uplinking and downlinking of TV channels mandate the operationalisation of a TV channel within one year from the date of granting permission by MIB. However, the meaning or definition of operationalisation of channel is not mentioned in the guidelines. Accordingly, in the consultation paper stakeholders were asked whether there a need to define the term “operationalisation of TV channel” in the uplinking guidelines, and downlinking guidelines. In case stakeholders felt there is a need to define, they were also asked to suggest a suitable definition of

“operationalisation of TV channel” for the purpose of the uplinking guidelines, and the downlinking guidelines separately.

2.63 In response most stakeholders are of the opinion that there is a need to define the term “operationalisation of TV channel” in the uplinking guidelines, and downlinking guidelines. Stakeholders have suggested various definitions of the term “operationalisation of TV channel”. Some stakeholders suggested that the ‘Operationalisation of TV Channel’ for the purpose of uplinking may be defined to mean the date from which signals of that channel start transmitting while for the purpose of downlinking it may be defined to mean the date from which a permission holder starts broadcasting signals of channel. Some stakeholders have suggested that the term “operationalisation of TV channel” means that a satellite TV channels is available on various distribution platforms for a minimum period of six months from the date of downlinking. Some stakeholders mentioned that the testing process prior to operationalisation of a channel does take a reasonable time, and the WPC operational Licence is granted after these tests have been successfully completed. These stakeholders suggested that the operationalisation of a satellite TV channel for uplinking can be treated from the time when the channel starts uplinking from the teleport, after various technical tests, etc. are completed and the corresponding downlink operationalisation should be considered from the same time. Some stakeholders have suggested that a TV channel should be considered Operational when that channel has commenced the necessary business/operational activities such as entering into agreements with DPOs, appointing relevant officers/staff etc. One stakeholders are of the view that Operationalisation of a channel in practical terms is the commencement of commercial operations when the new channel’s viewership gets collated and reported by BARC. Another stakeholder has submitted that a TV Channel may be considered as operational when it starts regular broadcasting its content from the permitted Teleport after obtaining all the regulatory



permissions, remains continuously in operation, Electronic Media Monitoring Centre (EMMC) reports to the Ministry regarding availability and monitoring of the content of the channel; and is reported as operational in the monthly report submitted by the permitted teleport to the Ministry.

- 2.64 Some stakeholders have suggested that broadcasters should be given a time of three years from the date of grant of permission by the MIB to operationalize a channel. Whereas another stakeholder has suggested a period of 2 years from the date of grant of permission by the MIB should be considered to operationalize a channel.
- 2.65 A few stakeholders are of the view that there is a no need to define the term “operationalisation of TV channel” in the uplinking guidelines, and downlinking guidelines. They mentioned that operationalisation should not be linked with the distribution of a TV channel because distribution of a channel depends on various factors other than just commencing uplinking. They further mentioned that malpractices related to operationalisation of TV channels would stop or at least greatly reduce if the timelines associated with licensing of TV channels from MIB are reduced.
- 2.66 In the consultation paper In order to ensure that the subscribers of that channel get uninterrupted services, stakeholders were asked to suggest the maximum period that 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. Stakeholders were also asked to suggest the penal actions to ensure continuity of services after obtaining license for satellite TV channel.
- 2.67 In response stakeholders have suggested a period varying from 48 hours to 3 months as the maximum period that 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. Some stakeholders are of the view that the broadcaster should be given opportunity to place the reason of such interruption and in case not it is not convincing, MIB can take action including penalty on case to case basis. On the contrary some stakeholders have suggested that there should not be any requirement to have such restrictions and no period of interruption should be prescribed for that.

2.68 Some stakeholders have suggested that in case a channel is interrupted for more than the prescribed period, its licensed may be suspended and a re-activation of license be allowed on reasonable prescribed grounds. A few stakeholders are of the view that in case a channel is interrupted for more than the prescribed period, licence for such broadcaster should be suspended for 3 months and in case of subsequent interruption license should be suspended permanently. In contrast some stakeholders are not in favour of any penal action in case a channel is interrupted for more than the prescribed period. They have mentioned that a broadcaster would have already spent sufficient time and resources for operationalising a channel and any interruption would mean an overall huge revenue loss for the broadcaster which is greater than that any penalty.

2.69 In the existing uplinking and downlinking guidelines a TV channel has to be operationalised within one year from the date of granting permission by MIB. However, the meaning or definition of operationalisation of a TV channel is not mentioned in the guidelines. In the absence of such definition, it is difficult to monitor the roll out obligations specified in the guidelines. A clear definition of operationalisation of a TV channel will also remove any ambiguity for the permission holders while planning the launch of their channel(s).

2.70 As per the procedure prescribed in existing uplinking guidelines for obtaining permission the applicant company is required to apply to

MIB in the prescribed form along with the processing fee and requisite documents. After scrutiny of application following the due procedure, MIB issues a formal permission for uplinking of satellite TV channel to the Company. On the basis of this permission, the applicant company or its associated Teleport operator applies to WPC and Network Operation and Control Center (NOCC), Ministry of Communications for requisite license/ clearances before starting transmission of signals to satellite by uplinking its signal through a teleport. Therefore the most important activity for the purpose of uplinking of a TV channel is its uplinking to a satellite through a teleport without which it cannot be made available for downlinking to DPOs. However, the Authority is of the view that merely uplinking of signals of a TV channel cannot be considered as its date for operationalisation because such has channel has to be downlinked and made available by the DPOs to their subscribers for viewing.

- 2.71 As per existing policy guidelines for downlinking of TV channels, the companies, who have been granted permission for uplinking of TV channels from India, are automatically permitted for seeking permission for registration of channels for downlinking in India. However, a company holding the permission for uplinking of a TV channel has to make separate application to MIB for obtaining downlinking permission for that channel. For TV channels uplinked from abroad, the Indian company authorised to distribute such TV channels has to apply to MIB evaluates the suitability of the proposed channel for downlinking in India, for public viewing. In the event of the applicant company and the proposed channel being found suitable, MIB registers the channel and the applicant company is asked to enter into a "Grant of Permission Agreement" with MIB. On receipt of the permission and upon registration of the channel, the applicant company becomes entitled to approach distribution platform operators for further distribution to subscribers. In case of Pay channels, broadcasters have to enter into agreements with DPOs for

distribution of their channels. However, in case of FTA channels, no agreement is required between broadcasters and DPOs. Therefore, it will difficult to monitor operationalisation of TV channels, in case it is defined based on the availability of TV channels to DPOs for distribution.

2.72 The Authority has noted that the following clause of the uplinking guidelines regarding the monitoring of programmes or content of TV channels :

*“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.*

2.73 Electronic Media Monitoring Centre (EMMC), an agency under the MIB, has already been entrusted the task to monitor the content of TV channels for compliance of Program and Advertisement codes specified under Cable TV Rules, 1994. The Authority is of the view that a TV channel, which has been granted permission by MIB, should be considered operational when the broadcaster starts continuous broadcasting of programme on the channel; signals of that TV channel are available to EMMC for monitoring and EMMC provides reports to the MIB regarding availability and monitoring of the content of that channel.

2.74 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 period of one year. The Authority is of the view that in order to ensure that the subscribers of that channel get uninterrupted services, after the continuous interruption of one year of a TV channel, permission granted for such channel should be withdrawn after following due procedure.

2.75 **The Authority recommends that:**

- (i) A TV channel should be considered operational when the broadcaster starts continuous broadcasting of programmes on the channel; signals of that TV channel are available to Electronic Media Monitoring Centre (EMMC) and EMMC provides reports to the MIB regarding availability and monitoring of the programmes on that channel.**
- (ii) In case the signals of a permitted TV channel, already operationalised, remain discontinued for a continuous period of one year, permission granted for such channel should be withdrawn by MIB after following due procedure.**

**I. Transfer of License**

2.76 As per provisions of existing uplinking and downlinking guidelines, permission/license can be transferred in case of merger/demerger/amalgamation of companies holding permission/license. However, there are other legal ways of business transactions such as transfer of business or undertaking through slump sale. Further, there is no mention of any lock-in period in the existing guidelines prior to which any permission/license cannot be transferred. Accordingly, in the consultation paper stakeholders were asked to provide comments on adequacy of existing provisions for transfer of permission/license for a TV channel under uplinking guidelines, and downlinking guidelines; additional terms and conditions under which transfer of permission/license may also be permitted; requirement of a lock-in period for transfer of permission/license; and a suitable time period for lock-in period.

2.77 In response, most of the stakeholders are of the view that existing provisions for transfer of permission/license for a TV channel under uplinking and downlinking guidelines are not adequate. Some stakeholders have suggested that there are other possible ways of transfer, that are well recognized under the Companies Act as well as

Income Tax Act, 1961 such as slump sale, change of control pursuant to acquisition of shares of a company should be included. Some stakeholders suggested that in case of a merger/demerger/amalgamation/business transfer, the permission issued by MIB should be de-facto transferred in favour of a transferee company so long as the merger/demerger/amalgamation of the permission holder company is approved by a court of competent jurisdiction or is in accordance with applicable laws in the case of a business transfer.

2.78 A few stakeholders have suggested that the license for a TV channel should not be transferable as other licenses governing the industry like license for MSOs and Postal registration for Cable Operators are not transferable.

2.79 As far as requirement of a lock-in period for transfer of license/permission is concerned most stakeholders are of the view that there is no need to prescribe any lock-in period. Some of these stakeholders mentioned that any lock-in conditions will reduce potential business opportunity to consolidate or concentrate. Some stakeholders are of the view that in order to support Government's vision of ease of doing business and promoting a dynamic broadcasting sector there should be no lock-in period. Some stakeholders are of the opinion that an inflexible lock-in period would limit legitimate business transactions. Some stakeholders have also suggested that there should not be any lock-in period for the first as well as for the subsequent transfers after the grant of license, as in a fast moving business environment, structuring and restructuring of companies is the order of the day.

2.80 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. Existing provisions in uplinking and downlinking guidelines permit transfer of permission in case of merger/demerger/amalgamation of licensee companies. However,

there are other legal ways of business transactions such as transfer of business or undertaking through slump sale. 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. 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.

2.81 The Authority is of the view that the potential benefits of restructuring lies 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. Therefore, the Authority is of the view that the transfer of permissions for uplinking and downlinking of TV channels should be permitted, as a part of business restructuring exercise, in all the legal ways that are well recognized under the Companies Act, 2013 or any other applicable law after following the due process.

2.82 The lock-in period is 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. Such measures also discourage hawking or trading or leasing of licenses with commercial motives. Accordingly, the Authority is of the view that a lock-in period of one year from the date of operationalisation of a TV channel should be prescribed for the transfer of permission of such channel.

2.83 **The Authority recommends that:**

**(i) The transfer of permissions for uplinking and downlinking of TV channels should not be permitted between two different companies. However, in case of merger and acquisition as recognised under the Companies Act, 2013 or any other applicable law(s), transfer of permissions for**

**uplinking and downlinking of TV channels should be permitted after following the due process. Transfer of permission of TV channels to its subsidiary company or holding company or subsidiary company of the holding company should be allowed freely, provided such company has a valid uplinking and downlinking permission.**

**Explanation: For the purpose of these recommendations, the definition of “subsidiary company” and “holding company” shall be the same as assigned to them in the Companies Act, 2013(18 of 2013).**

- (ii) A lock-in period of one year from the date of operationalisation of a channel should be prescribed for the transfer of permission of such channel.**

2.84 In the consultation paper stakeholders were also requested to suggest additional checks that 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.

2.85 In response, some stakeholders suggested that ease of process in granting of license will discourage trading of licenses as a lot of entities opt to purchase/hire license since it is difficult/time consuming to get a new license. Some other stakeholders are of the view that every year the permission holder should give an undertaking that the channel permissions are not sub-licensed to any third party and the total number of channels owned and operated by it. Some stakeholders are of the opinion that there should be no need / incentive for any entity to obtain/ sub-lease such permission for channels from an existing broadcaster as there is no restriction on the number of permissions granted by MIB under the existing uplinking guidelines.



2.86 Presently, there is no restriction on the number of uplinking and downlinking permissions granted by MIB. Any eligible company can apply for the same at any point of time and obtain the necessary permission. The Authority agrees with the views of the stakeholders that in case the process of granting permissions for uplinking and downlinking of TV channels is simplified and permissions are granted in a time-bound manner, there will be no need to prescribe above mentioned provisions in the uplinking and downlinking guidelines. The Authority has already sent its recommendations on “Ease of Doing Business in Broadcasting Sector” dated 26<sup>th</sup> February 2018 to the Government wherein several measures have been recommended for streamlining the existing process along with timelines for granting permissions for uplinking and downlinking of TV channels. If these recommendations are accepted and implemented by MIB, the issues related to hawking and trading of permissions of TV channels will automatically get addressed. Accordingly, the Authority reiterates its recommendations relating to streamlining of the existing process of granting permissions for uplinking and downlinking of TV channels as mentioned in its recommendations on “Ease of Doing Business in Broadcasting Sector” dated 26<sup>th</sup> February 2018.

**J. Possibilities of using the power of media by the Companies**

2.87 MIB in its reference dated 21<sup>st</sup> 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 12<sup>th</sup> 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 pending with MIB.

2.88 **The Authority reiterates its recommendation titled “Issues Relating to Media Ownership” dated 12<sup>th</sup> August 2014.**

## CHAPTER 3

### ISSUES RELATING 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 5<sup>th</sup> 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 Existing 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. 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 recommendations of the Authority on appropriateness of this definition and whether this definition needs to be incorporated in the policy guidelines. Accordingly, in the consultation paper, stakeholders were asked to suggest whether a specific definition of a teleport was required to be incorporated in the policy guidelines and in case they agree, they were also requested to suggest an appropriate definition of teleport.

- 3.4 In response, some stakeholders are of the opinion that there is a need to incorporate a specific definition of a teleport in the policy guidelines to bring in due clarity. They have suggested that a teleport could be defined as an Earth Station having technical facility capable of uplinking a number of TV channels to one or more satellites and could have number of locations and number of dish antennas. Some other stakeholders are of the view that a teleport can be defined as an earth station facility from where multiple TV channels carrying audio, video and data content can be uplinked on a geostationary satellite on permitted frequency band and not limited to a single uplink setup. Some stakeholders mentioned that existing provisions limit teleports to serving a specific satellite which are restrictive and would only increase the burden on the Government and licensees of keeping track of and complying with licence obligations. They have suggested that it would be more efficient administratively to enable a single teleport licence to cover multiple satellites and therefore, any facility capable of uplinking a large number of TV channels on multiple satellites should be termed as “Uplinking Hub – Teleport”. It is also suggested that single teleport able to uplink on multiple co-located satellites should also fall in the definition of a teleport.
- 3.5 Some stakeholders have suggested that no specific definition of a teleport is required. They are of the view that any specific definition of a teleport, beyond those in common use, is not useful.

3.6 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. Therefore, the Authority is of the view that it may be prudent to define a teleport as an earth station facility from where multiple TV channels can be uplinked to a geostationary satellite on permitted frequency band.

3.7 **The Authority recommends following definition of teleport:**

**(i) Teleport: An earth station facility from where multiple TV channels carrying audio, video and content can be uplinked to geostationary satellite on permitted frequency band.**

3.8 A teleport operator is required to place multiple antennae for up-linking TV channels to different satellites. The Authority is of the view that the teleport facility, where multiple antennae are placed at one location for up-linking of TV channels to different satellite, should be considered as Hub. However, a separate wireless operating license should be issued for every single antenna uplinking TV channels to one satellite.

3.9 Presently, MIB seeks clearance from DoS for proposal of every teleport before grant of permission even if the use of the proposed satellite has already been cleared by DoS for some other teleport used for uplinking of TV channels from India. It appears that there is no rationale for the same. Therefore, the Authority is of the view that seeking clearance for use of a particular satellite for establishing teleport from India should be a one-time affair and it should not be repeated in respect of teleport which are proposed to use the same satellite (already cleared by DoS) subsequently. This would result in substantial savings in time and effort.

3.10 **Accordingly, the Authority also recommends that:**

- (i) A teleport should be considered as a hub where multiple antennae can be placed for up-linking to different satellites; however, a separate wireless operating license should be issued for every single antenna.**
- (ii) There should be no requirement to obtain separate clearances from Department of Space (DoS) for seeking permission to set up teleport on already cleared satellite subject to clearance by NOCC for such teleport. However, an intimation should be given to DoS for putting any additional antenna on already cleared satellite.**

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

**B 1. Processing fee**

3.11 As per the existing uplinking guidelines dated 5.12.2011 an applicant company is required to pay Rs. Ten thousand per teleport as non-refundable processing fee. In the consultation paper, stakeholders were asked to suggest whether there was 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 and in case of agreement, they were also asked to suggest the amount of non-refundable processing fee.

3.12 In response, most stakeholders are of the view that there is no need to increase the amount of non-refundable processing fee to be paid by the applicant company for teleport license. Some of these stakeholders have mentioned that the existing non-refundable processing fee is high enough to ensure entry of only serious players and at the same time it does not burden new entrants/entrepreneurs in the sector. Some other stakeholders are of the view that increase in processing fee would result in increase of compliance cost which is against government's objective of ease of doing business. A few stakeholders

are of the opinion that increase would lead to lack of diverse content and impact prices of channels which will adversely affect the consumers.

3.13 On the other hand, some stakeholders are of the view that processing fee should be reduced as costs incurred on processing of the applications can be reduced by processing the applications online. Whereas, a few stakeholders suggested that amount of process fee should be cost based, that is reasonably related to the administrative costs of the regulatory activity.

3.14 The processing fee is charged to cover the costs involved in processing the application including manually checking of eligibility criteria, verification of documents and basic administrative costs. The processing fee of Rs. 10,000/- per teleport is continuing since the year 2005. Since then the costs involved in processing the applications have increased due to increase in cost of manpower and other related infrastructure. However, as already discussed in para 2.28 regarding processing fee for granting permissions for uplinking and downlinking of TV channels, the Authority is of the view that there is no need to change the amount of processing fee of Rs. 10000/- levied from the applicant company along with each application for seeking permission for establishing a teleport as prescribed in the existing uplinking guidelines dated 05.12.2011.

**3.15 The Authority recommends that the existing amount of onetime non-refundable processing fee of Rs. 10,000/-, levied from the applicant company along with each application for seeking permission for establishing a teleport under the existing uplinking guidelines dated 05.12.2011, should be continued.**

## **B 2. Entry Fee**

3.16 In the existing uplinking guidelines dated 5.12.2011, no entry fee prescribed for establishing a teleport. In the consultation paper

stakeholders were asked to suggest whether there was any need to levy an entry fee for grant of license to set up teleport and in case of agreement, they were also asked to suggest the amount of entry fee.

3.17 Most of the stakeholders who have responded on this issue are of the view that entry fee should not be levied for grant of license to set up teleport. Some stakeholders including teleport operators have mentioned that setting up of a teleport hub is capital intensive enterprise and adding entry fee will only add to the overall cost of uplinking and downlinking of TV channels, which will go against the spirit of making India a teleport hub. Some stakeholders are of the view that non-levy of entry fee would promote the growth of broadcasting industry and facilitate increased employment, saving of foreign exchange, higher revenue / govt. taxes and economic growth of the country. A few stakeholders are of the opinion that introduction of any entry fee would hamper the growth of the broadcast industry and impact prices of channels which in turn would affect the end consumers.

3.18 An entry fee is levied to identify serious players in a regulated business. Setting up of teleport requires substantial investment in the physical infrastructure. Under the applicable policy guidelines dated 5.12.2011, any delay in compliance of rollout obligations could result into forfeiting the PBG of Rs. 25 Lakh for each teleport. 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 will 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.

**3.19 The Authority recommends that existing position of no Entry fee, as prescribed in the existing uplinking guidelines dated**

**05.12.2011, should be continued for granting permission for establishing teleports in India.**

### **B 3. License fee**

- 3.20 As per existing uplinking guidelines dated 5.12.2011, a teleports licensee is required to pay license/ permission fee of Rs. Two lakh per teleports per annum. In the consultation paper stakeholders were asked to provide their comments on the license fees structure, i.e. fixed, variable, or semi-variable, that can be adopted for teleports license. Stakeholders were also asked to suggest the rate of license, periodicity of payment and periodicity for review of license fee.
- 3.21 In response, most stakeholders are found to be in favour of fixed fee structure for teleports license. One stakeholder has suggested the variable structure. Some stakeholders are of the view that there should not be any license fee on teleports due to capital-intensive nature of the business, limited addressable market as compared to other communication systems and competition from International players.
- 3.22 On the amount of license fee, most stakeholders are of the opinion that present fee structure is adequate and do not warrant any change. Some stakeholders are of the view that present license fee regime promotes the growth in this sector and should not be altered. One stakeholder has suggested that the annual licence fee should be reduced since the margins in the commercial teleports business are very thin. Some stakeholders are of the view that amount of license fee should be cost-based, that is reasonably related to the administrative costs of the regulatory activity.
- 3.23 On the issue of periodicity for payment of license fee stakeholders are of the opinion that present norms are adequate and do not warrant any change. On the issue of periodicity of review of license fee,



stakeholders have suggested that a review may be carried out after a period of 10 years.

3.24 The operations and maintenance aspect 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. Therefore, the Authority is of the view that the license fee structure for teleports should be simple and the rate of license fee on teleport licensees should be moderate. A fixed license fee structure encourages economies of scale and optimum use of each teleport. Variable license fee structure may bring with it the uncertainties associated with business life cycle for the Government revenues. On the other hand, fixed license fee structure ensures assured amount of revenue to the Government, independent of the ebbs and flows of the industry.

3.25 The Authority is aware that the present rate of license fee prescribed for permission of teleport was fixed in the year 2011 and therefore need to be reviewed. However, as already discussed in para 2.55 regarding permission fees for granting permissions for uplinking and downlinking of TV channels, the Authority is of the view that there is a need to increase the amount of processing fee by a factor of 1.5. Accordingly, the Authority has come to a conclusion that the annual permission fee establishing each antenna should be increased from Rs. 2 lakh to Rs. 3 lakh.

3.26 **The Authority recommends that for each antenna a fixed annual license fee of Rs. 3 lakh should be charged.**

### **C. Restriction on the number of teleports**

3.27 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. Accordingly in the consultation paper stakeholders were asked to suggest whether there was a need to restrict the number of teleports in India.

3.28 In response, most stakeholders are found to be not in favour of any restriction on the number of teleports. Some stakeholders have mentioned that placing a cap on the number of teleports may restrict the new players from entering into teleport services and force broadcasters to use uplinking facilities from abroad which may thwart employment generation, and affect foreign exchange inflows. Some other stakeholders are of the view that any restriction on the number of teleports in India would be contrary to the vision of whirling India into a teleport hub and it may also drive up the uplinking charges due to monopoly/ oligopoly. A few stakeholders are of the opinion that any attempt to restrict the number of teleports will be a regressive step and will also hurt all business prospects and growth of the broadcasting industry. One stakeholder has mentioned that setting up a teleport being a very capital intensive enterprise, the number of teleport operators in India should be left to market dynamics, which will encourage the competition among teleport operators thereby reducing the cost of uplinking and downlinking of TV channels from India. A few stakeholders have mentioned that in an ever changing market like India, it would be particularly difficult to derive an “optimum” number of teleports. They have further stated that if the limit is set too high, the industry is likely to behave as if there was no limit and in case set too low, however, then prices for teleport services from already licensed providers will likely rise, and the expected

growth of the Indian television broadcasting sector would likely to be inhibited.

- 3.29 On the contrary, one stakeholder is in favour of restricting the number of teleports. According to him restricting number of captive teleports will encourage broadcasters to use available commercial teleports resulting in optimum utilization of teleport infrastructure and satellite resources with economies of scale and efficient operations.
- 3.30 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 the 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.
- 3.31 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.
- 3.32 The Authority is of the view that since there is no scarcity of C band transponders for providing satellite TV broadcasting services, there should 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, a new satellite capacity may get created.
- 3.33 The Authority is also of the view that the imposition of a cap on the number of teleports may not serve any significant purpose as it may

encourage broadcasters to uplink their channels from some other country. Though economies of scale may be achieved through policy intervention by restricting the number of teleports, it will create entry barrier for new players. In such a scenario, placing a cap on the number of teleports in the country, apart from not serving any specific objective, also goes against the economic interest of the country by encouraging the uplinking of channels from abroad. Such an outcome may thwart employment generation, and affect foreign exchange inflows, which is not desirable.

**3.34 The Authority recommends that there should not be any restriction on the number of teleports.**

**D. Location of teleports**

3.35 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. In the consultation paper, stakeholders were asked to suggest the criteria, if any, for selecting location of teleports and whether some specific areas need to be identified for Teleport Parks.

3.36 In response, most stakeholders are of the view that let the market forces decide the location of teleports. Some stakeholders have suggested that there is no need to place any more restrictions upon the location of teleports, as the SACFA process is able to earmark the best locations. Some stakeholders have mentioned that freedom to select the place for setting up teleports helps keep the costs in control. Some stakeholders are of the view that limitations on location may increase backhaul fees paid by regional broadcasters, as they may be far from the approved teleports and this would reduce the volume of State/regional language programming broadcast. On the contrary, one stakeholder suggested that the location of teleport should be close to

available talent pool and infrastructure like public transport and it should comply with SACFA requirements.

3.37 Most stakeholders are not in favour of Teleport Parks. Some stakeholders have mentioned that the location of teleport is driven by business and technical requirements which may not be in consonance with the proposed teleport parks. Some stakeholders have mentioned that development of Teleport Parks would only result in concentration of teleports at a single place thereby enhancing the risk factor in case of occurrence of disaster or any natural calamity. Few stakeholders were in favour of Teleport Parks and have suggested that such parks should come along with the benefits available to Special Economic Zones (SEZ) such as low taxation, availability of land at cheaper prices and incentives to promote services exports.

3.38 The Authority is aware that SACFA clearance is mandatory for establishing a teleport at any location, which itself acts as a restriction on the location of teleports. Further, concentration of multiple teleports at a single place may increase the risks in the event of natural calamity such as earthquake etc. Therefore, the Authority is of the view that the location of teleports should be left to the teleport operators as per its business plan subject to site clearance from WPC wing of DoT.

3.39 **The Authority recommends that the location of teleports should be left to the teleport operators subject to site clearance from WPC wing of DoT.**

#### **E. Optimum use of existing teleport infrastructure**

3.40 In the consultation paper stakeholders were asked to suggest the ways for optimal use of existing infrastructure relating to teleports.

3.41 In response, stakeholders have suggested various measures for optimal use of existing infrastructure relating to teleports. Some

stakeholders have suggested that sharing of infrastructure between operators/broadcasters should be allowed as this will enable to bring the infrastructure and satellite usage costs down. Some stakeholders have suggested that MPEG-4 with DVB-S2 (minimum) should be prescribed for all fresh permissions and a roadmap for migration of existing MPEG-2 transmissions should be put in place with adequate time provided for migration. Some stakeholders are of the view that allowing free market forces to operate in an effective manner is more than enough to ensure that infrastructural resources are used optimally. One stakeholder has suggested that teleport operators should be allowed to allocate the bandwidth of the discontinued channels to new/additional channels on immediate basis. Another stakeholder is of the opinion that restricting number of new teleport operators will encourage broadcasters to use existing commercial teleports resulting in optimum utilization of teleport infrastructure, satellite resource, economies of scale and efficient operations.

3.42 Development of technologies has paved way for efficient compression and modulations techniques. The Authority is of the view that it is in the business interests of the teleport operators to use their existing teleport infrastructure optimally and they should be free to adopt new technologies available for this purpose. Therefore, there is no need to specify any technological measures to ensure optimal use of existing teleport infrastructure and it should be left to the market forces to decide depending upon the business considerations.

3.43 **The Authority recommends that it should be left to the market forces to decide the measures to ensure optimal use of their existing teleport infrastructure depending upon the business considerations.**

## **F. Unauthorised Uplink by Teleport operator**

- 3.44 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. Accordingly, in the consultation paper, stakeholders were asked to suggest specific technological and regulatory measures that could be adopted to detect, and stop uplink of signals of non-permitted TV channels by any teleport licensee.
- 3.45 In response, stakeholders have suggested various measures to detect, and stop uplink of signals of non-permitted TV channels by any teleport licensee. Some stakeholders are of the view that a regulation to make Channel ID as essential input in the teleport processing chain would help to curb unauthorized uplinks with malicious intent. Some other stakeholders have suggested that a detailed undertaking on monthly basis along with the Teleport MIS may be taken from teleport operator giving a self-declaration that no unauthorized content or channel has been uplinked from their teleport. Few stakeholders suggested that all the teleport operators must be advised to follow the stipulated norm and any violation of law should attract not only financial penalty but also temporary suspension of all services from violator/ Teleport operator. Few stakeholders are of the opinion that existing regulatory measures and the monitoring mechanism are sufficient to detect and stop the uplink of signals of non-permitted TV channels by teleport licensee, which should be enforced through available resources of EMMC, NOCC, and WMO etc.
- 3.46 The Authority has noted that all broadcasters and teleport operators use Digital Video Broadcasting (DVB) standards for satellite TV broadcasting. There could be various methods to identify the source of uplink of a TV channel. One such method involves use of Network Information Table (NIT) of Transport Stream (TS) of DVB system. 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 have been originated. It also has provision for Network Provider ID. Teleport licensees could be mandated to insert Network Provider ID in the TS so that the details of teleport from where signals of any specific TV channel have been uplinked can be identified.

3.47 Another method of identifying the source of a TV channel could be use of DVB Carrier Identifier (DVB-CID). DVB-CID is a digital satellite transmission system developed by the DVB Project which contains information related to the source such as operator's name, phone number etc., to identify a source of a carrier to be transmitted with the uplink signals to mitigate satellite interference. European Telecommunications Standards Institute (ETSI) has published a standard on DVB-CID in May 2013 as ETSI TS 103 129: "Framing structure, channel coding and modulation of a carrier identification system (DVB-CID) for satellite transmission".

3.48 In order to explore the feasibility of various options including the above mentioned proposals to detect, and stop uplink of signals of non-permitted TV channels by any teleport licensee, MIB may form a committee consisting of representatives from Broadcast Engineering Consultants India Limited (BECIL), MIB, NOCC and WPC to carry out the trials. MIB should also enable specific penal provisions for teleport operators under the policy guidelines to deal with such unauthorised uplinking and create further deterrence.

3.49 **The Authority recommends that:**

**(i) MIB may form a committee consisting of representatives from MIB, BECIL, NOCC and WPC to explore the feasibility of various options including the insertion of Network**



**Provider ID of the broadcasters in the Transport Stream (TS) and the use of DVB-CID to detect and stop uplink of signals of non-permitted TV channels by any teleport licensee.**

**(ii) MIB should enable specific penal provisions for teleport operators under the policy guidelines to deal with unauthorised uplinking.**

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

3.50 MIB in its reference dated 21.08.2017 had raised the issue 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.

3.51 In this regard, 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.”*

3.52 The existing guidelines for possession of license<sup>2</sup> 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.”*

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

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<sup>2</sup><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.”*

3.54 From the above it appears that sufficient provisions exist in the Statute regarding purchase / disposal of wireless equipments. Therefore, there is no requirement of specific mention of terms and conditions for purchase or disposal of equipments used by teleport / DSNG operators.

3.55 **Accordingly, the Authority recommends that in view of clause 5.7 of existing uplinking guidelines dated 05.12.2011, there is no requirement of any additional clause to be inserted in the terms and conditions for purchase or disposal of equipments used by teleport / DSNG operators in the policy guidelines for Uplinking of Television channels from India.**

**CHAPTER 4**  
**SUMMARY OF RECOMMENDATIONS**

**A. Issues relating to satellite TV channels**

**Definitions of 'News and Current Affairs channels' and 'Non-News and Current Affairs Channels'**

**4.1 The Authority recommends that the existing provisions of meaning of 'News and Current Affairs TV channels', and 'Non-News and Current Affairs TV channels' mentioned in the uplinking and downlinking guidelines dated 05.12.2011 should be converted into definitions. Accordingly, the Authority recommends following definitions:**

**(a) "News and Current Affairs TV channels': A channel which has any element of 'News & Current Affairs' in its programme content.**

**(b) 'Non News and Current Affairs TV channels': A channel which does not have any element of 'News & Current Affairs' in its programme content. [Refer Para 2.11]**

**Net-worth of eligible companies**

**4.2 The Authority recommends that following existing amounts of minimum net-worth of an applicant company seeking permissions for uplinking and downlinking of TV channels, as prescribed in the existing uplinking and downlinking guidelines dated 05.12.2011, should be continued: [Refer Para 2.23]**

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

**4.3 The Authority recommends that:**

- a) A self declaration, in a prescribed format, stating that the applicant company meets net-worth requirements, as specified under the policy guidelines, should be taken from the applicant company at the time of submitting the application. This declaration should be supported with duly audited financial statements of the company.
- b) The requirement of examining net worth, ownership details, shareholding pattern and its effect on net worth etc., by the empanelled CA should be done away with.

[Refer Para 2.25]

**Processing fee for application**

- 4.4 The Authority recommends that existing amount of onetime non-refundable processing fee of Rs. 10,000/-, levied from the applicant company along with each application for seeking permission under existing uplinking guidelines and downlinking guidelines dated 05.12.2011, should be continued. [Refer Para 2.29]**

**Grant of license/ permission for Satellite TV Channels [Refer Para 2.38]**

**4.5 The Authority recommends that:**

- i) The existing administrative system for grant of permissions for uplinking and downlinking of TV channels should be continued as auction process for grant of permissions for uplinking and downlinking of TV channels is not feasible.
- ii) The process of granting permission for uplinking of satellite TV channels from India should be streamlined by

**removing redundant processes, re-engineer necessary processes, and making them efficient using ICT.**

- iii) The process of granting permission and registration for downlinking of satellite TV channels should be streamlined in such a way that:
  - (a) the channels having permission for uplinking from India require registration only; and**
  - (b) the channels being uplinked from outside India require permission as well as registration.****
- iv) Initially, MHA should take the decision on security clearance to an applicant company and its key personnel within a period of 60 days. Also, in case of any change in key personnel, MHA should take the decision within a period of 60 days.**
- v) Validity period of security clearance granted to a company should be equal to the permission/ license period granted to that company for broadcasting services. The Government in any case reserve the right to withdraw security clearance at any point of time.**
- vi) The security clearance granted to the key personnel of a company should remain valid for 10 years.**
- vii) In cases where an existing broadcasting company, having valid security clearance, is seeking permissions for additional satellite TV channels, the process of seeking fresh security clearance from MHA should be done away with.**
- viii) DoS should take the decision on clearance for satellite use for broadcasting services within a period of 60 days.**

- ix) In cases where a broadcasting company is seeking permissions for uplinking of new satellite TV channels to the already cleared satellites having vacant capacity, the process of seeking fresh clearance from DoS should be done away with.
- x) WPC should allocate the spectrum for commercial satellite usage as and when there is a demand for the same from service providers in a time bound manner.
- xi) The issue of open sky policy for Ku band frequencies may be taken up by MIB in INSAT Coordination Committee (ICC) meeting and the open sky policy should be adopted.

**Simplification of processing of applications [Refer Para 2.42]**

**4.6 The Authority recommends that:**

- i) MIB should setup an integrated online portal for broadcasters, teleport operators, and distributors of TV channels (DTH operators/HITS operators/MSOs) which should facilitate the filing of applications, processing in MIB, DoS and DoT, tracking of status of applications, payments, frequency allocations, endorsements, permissions, licenses, registrations, and renewals with common database. Preferably, this portal should be integrated with other e-Governance systems like Bharatkosh<sup>3</sup> portal, e-Office application etc. Access to the portal should be provided to the Authority also for information and analysis.
- ii) The integrated online portal should be developed as early as possible, preferably within a period of 1 year from the date of acceptance of these recommendations.

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<sup>3</sup> Bharatkosh is an online payment gateway for payment of fee etc. to Government of India

- iii) In cases of permissions/ licenses where security clearance of the company from MHA or satellite clearance from DoS or both are required, normally the decision to grant permission should be taken by MIB in consultation with MHA and DoS within 3 Months from the date of application.
- iv) In case of permissions, where security and satellite clearances are not required, normally the decision to grant permission should be taken by MIB within 45 Days from the date of application.
- v) WPC should take the decision on grant of WOL including allocation of frequency within a period of 60 days.
- vi) The decision to grant permission for operationalising the services, including time taken by MIB, WPC, DoS, MHA, and NOCC for issuing permissions, should be completed within 6 months period in case of uplinking of channel by a new company/ teleport/ DTH licenses.

**Entry Fee and License fee**

**4.7 The Authority recommends that the following existing amount of Entry fee for uplinking and downlinking of TV channels, as prescribed in the existing uplinking and downlinking guidelines dated 05.12.2011, should be continued:**

<b>S. No.</b>	<b>Item</b>	<b>Entry Fee</b>
1.	Uplinking of TV channels from India	<b>Nil</b>
2.	Downlinking of TV channels uplinked from India	<b>Nil</b>
3.	Downlinking of TV channels uplinked from foreign country	<b>Rs. 10 Lakhs</b>

**[Refer Para 2.47]**

**4.8 The Authority recommends that:**

- (i) For uplinking of a satellite TV Channel from Indian soil a fixed permission fee of Rs. 3 lakh per annum should be charged.**
- (ii) For downlinking of a satellite TV channel, uplinked from India, a fixed license fee of Rs. 7.5 lakh per annum.**
- (iii) For downlinking of a satellite TV channel, uplinked from foreign soil, a fixed license fee of Rs. 22.5 lakh per annum.**

**[Refer Para 2.57]**

**Encryption of TV channels**

**4.9 The Authority recommends that encryption of broadcast of FTA channels should not be mandated and it should be left to the broadcasters providing FTA channels. [Refer Para 2.61]**

**Operationalisation of TV channel**

**4.10 The Authority recommends that:**

- (i) A TV channel should be considered operational when the broadcaster starts continuous broadcasting of programmes on the channel; signals of that TV channel are available to Electronic Media Monitoring Centre (EMMC) and EMMC provides reports to the MIB regarding availability and monitoring of the programmes on that channel.**
- (ii) In case the signals of a permitted TV channel, already operationalised, remain discontinued for a continuous period of one year, permission granted for such channel should be withdrawn by MIB after following due procedure.**

**[Refer Para 2.75]**



## **Transfer of License**

**2.89 The Authority recommends that:**

- (i) The transfer of permissions for uplinking and downlinking of TV channels should not be permitted between two different companies. However, in case of merger and acquisition as recognised under the Companies Act, 2013 or any other applicable law(s), transfer of permissions for uplinking and downlinking of TV channels should be permitted after following the due process. Transfer of permission of TV channels to its subsidiary company or holding company or subsidiary company of the holding company should be allowed freely, provided such company has a valid uplinking and downlinking permission.**

**Explanation: For the purpose of these recommendations, the definition of “subsidiary company” and “holding company” shall be the same as assigned to them in the Companies Act, 2013(18 of 2013).**

- (ii) A lock-in period of one year from the date of operationalisation of a channel should be prescribed for the transfer of permission of such channel.**

**[Refer Para 2.83]**

## **Possibilities of using the power of media by the Companies**

**4.11 The Authority reiterates its recommendation titled “Issues Relating to Media Ownership” dated 12<sup>th</sup> August 2014. [Refer Para 2.88]**

## **B. Issues relating to Teleports**

### **Meaning of a teleport**

#### **4.12 The Authority recommends following definition of teleport:**

- (i) Teleport: An earth station facility from where multiple TV channels carrying audio, video and content can be uplinked to geostationary satellite on permitted frequency band. [Refer Para 3.7]**

#### **4.13 The Authority recommends that:**

- (i) A teleport should be considered as a hub where multiple antennae can be placed for up-linking to different satellites; however, a separate wireless operating license should be issued for every single antenna.**
- (ii) There should be no requirement to obtain separate clearances from Department of Space (DoS) for seeking permission to set up teleport on already cleared satellite subject to clearance by NOCC for such teleport. However, an intimation should be given to DoS for putting any additional antenna on already cleared satellite. [Refer Para 3.10]**

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

#### **4.14 The Authority recommends that the existing amount of onetime non-refundable processing fee of Rs. 10,000/-, levied from the applicant company along with each application for seeking permission for establishing a teleport under the existing uplinking guidelines dated 05.12.2011, should be continued. [Refer Para 3.15]**

#### **4.15 The Authority recommends that existing position of no Entry fee, as prescribed in the existing uplinking guidelines dated**

**05.12.2011, should be continued for granting permission for establishing teleport in India. [Refer Para 3.19]**

**4.16 The Authority recommends that for each antenna a fixed annual license fee of Rs. 3 lakh should be charged. [Refer Para 3.26]**

**Restriction on the number of teleports**

**4.17 The Authority recommends that there should not be any restriction on the number of teleports. [Refer Para 3.34]**

**Location of teleports**

**4.18 The Authority recommends that the location of teleports should be left to the teleport operators subject to site clearance from WPC wing of DoT. [Refer Para 3.39]**

**Optimum use of existing teleport infrastructure**

**4.19 The Authority recommends that it should be left to the market forces to decide the measures to ensure optimal use of their existing teleport infrastructure depending upon the business considerations. [Refer Para 3.43]**

**Unauthorised Uplink by Teleport operator**

**4.20 The Authority recommends that:**

- (i) MIB may form a committee consisting of representatives from MIB, BECIL, NOCC and WPC to explore the feasibility of various options including the insertion of Network Provider ID of the broadcasters in the Transport Stream (TS) and the use of DVB-CID to detect and stop uplink of signals of non-permitted TV channels by any teleport licensee.**

**(ii) MIB should enable specific penal provisions for teleport operators under the policy guidelines to deal with unauthorised uplinking.**

**[Refer Para 3.49]**

**Guidelines for the purchase or disposal of equipments used in uplinking**

**4.21 The Authority recommends that in view of clause 5.7 of existing uplinking guidelines dated 05.12.2011, there is no requirement of any additional clause to be inserted in the terms and conditions for purchase or disposal of equipments used by teleport / DSNG operators in the policy guidelines for Uplinking of Television channels from India. [Refer Para 3.55]**

## **List of Acronyms**

<b>Abbreviations</b>	<b>Description</b>
AGR	Adjusted Gross Revenue
BECIL	Broadcast Engineering Consultant India Limited
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
FM	Frequency Modulation
FTA	Free to Air
HITS	Head-end in The Sky
IRD	Integrated Receiver and Decoder
ITU	International Telecommunication Union
MHA	Ministry of Home Affairs
MIB	Ministry of Information and Broadcasting
MPEG	Moving Picture Experts Group
MSO	Multi System Operator
NIT	Network Information Table
NOCC	Network Operations Control Centre
PBG	Performance Bank Guarantee
SACFA	Standing Advisory Committee for Frequency Allocation (India)
SATCOM	Satellite Communication
SEZ	Special Economic Zone
SNG	Satellite News Gathering
TRAI	Telecom Regulatory Authority of India
TS	Transport Stream
TV	Television
WMO	Wireless Monitoring Organisation
WOL	Wireless Operating License
WPC	Wireless Planning & Coordination
WPI	Wholesale Price Index

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 5<sup>th</sup> 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,

Yours sincerely,

(Jayashree Mukherjee)

Encl: As above.

Shri R.S. Sharma,  
Chairman,  
Telecom Regulatory Authority of India,  
Mahanagar Door Sanchar Bhavan,  
Jawaharlal 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?

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