



Telecom Regulatory Authority of India
Consultation Paper
on
**Policy Issues relating to Uplinking/Downlinking Television
Channels in India**

New Delhi: March 15, 2010

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Preface

The television and broadcasting industry has grown tremendously during the last two decades. The industry has changed the way of life of masses of the country. In the last few years, number of satellite television channels has increased many folds from 136 channels in year 2005 to close to 500 channels today. At present various satellite TV channels of different genres and languages are available to the public.

2. At present the permission for uplinking a satellite TV channel is governed by the uplinking guidelines. All the satellite TV channels downlinked/received/transmitted and re-transmitted in India for public viewing are also required to obtain permission under the downlinking guidelines issued by Government of India.

3. The demand of number of TV channels to be uplinked and downlinked has increased during the recent past. This raised the concern of the efficient utilization of the finite resources such as spectrum and limited availability of transponder space on the satellites which have foot print over India. The Ministry of Information and Broadcasting has requested TRAI to look into various issues associated with the subject.

4. This consultation paper has attempted to incorporate various issues for the purpose of discussion. As is the practice, views of the Authority will be finalized after receiving comments of the stakeholders.

5. It is hoped that stakeholders will benefit us with their detailed views before April 5, 2010. Comments will be posted on TRAI's website as and when they are received. Counter comments, if any, to the comments received may be sent to TRAI by April 15, 2010. These may please be furnished to Secretary, TRAI preferably in electronic form. [E-mail: traicable@yahoo.co.in or bcs@traigov.in]. The Fax numbers of TRAI are 011-23220442/ 011-23213294.

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Chapter 1. Introduction

- 1.1 Television broadcasting is one of the most popular means for mass communication. In India, Doordarshan's Television terrestrial transmission was started in year 1959. This had a modest beginning with an experimental telecast starting in Delhi. The regular daily transmission started in 1965 as a part of All India Radio. The television service was separated from All India Radio in 1976. Doordarshan switched over to color transmission during the Asian games in year 1982.
- 1.2 Cable television came into existence in India in 1983 when Doordarshan started its services through cable in rural areas of Rajasthan. In 1989 few entrepreneurs setup small Cable TV networks and started local video channels showing movies & music videos after obtaining rights from film & music distributors. The international satellite television was introduced in India during 1991 with the live coverage of the Gulf War by CNN. The cable and satellite broadcast business has undergone a major transformation in last two decade. The cable TV operations in India are governed by the Cable Television Networks (Regulation) Act, 1995. The cable TV segment in India, although fragmented, has shown a tremendous growth. As per the industry estimates, there are 128 million TV Homes in the country, out of which, about 87 million are served by cable TV network. There are between 40,000 to 60,000 cable operators serving these 87 million cable TV homes.
- 1.3 Government of India (Ministry of Information and Broadcasting) notified the "Guidelines for uplinking from India" in July 2000. This was followed by "Guidelines for Uplinking of News and Current Affairs TV Channels from India" in March 2003, which were amended in August 2003, "Guidelines for use of Satellite News Gathering (SNG)/Digital Satellite News Gathering (DSNG)" in May 2003 and addendum dated April 01, 2005 to the uplinking guidelines. The Government further amended these guidelines on October 20, 2005. All these were consolidated into one set of guidelines and the consolidated uplinking

guidelines were notified on December 2, 2005. No broadcaster can uplink a channel from India without uplinking permission from the Government of India under these Guidelines.

- 1.4 Ministry of Information and Broadcasting, Government of India has, on November 11, 2005, issued Policy Guidelines for Downlinking of Television Channels, applicable for downlinking satellite television channels in India for public viewing. Consequently, no person/entity shall downlink a channel, which has not been registered by the Ministry of Information and Broadcasting under the said guidelines. Henceforth, all persons/ entities providing Television Satellite Broadcasting Services (TV Channels) uplinked from other countries to viewers in India as well as any entity desirous of providing such a Television Satellite Broadcasting Service (TV Channel), receivable in India for public viewership, is required to obtain permission from Ministry of Information and Broadcasting, in accordance with the terms and conditions prescribed under the said guidelines. The said guidelines are applicable to the satellite channels uplinked from abroad as well as to the satellite channels uplinked from India.
- 1.5 Government of India permitted the reception and distribution of television signals in Ku band vide its notification no. GSR 18(E) dated January 09, 2001 issued by the Department of Telecommunications. This marked the beginning of Direct-to-Home(DTH) broadcasting services in India in Ku band. At present, apart from Doordarshan's DTH free to air service, there are 6 DTH pay services in operation. There are, at present, approximately 19 million pay DTH subscribers of private operators in India.
- 1.6 Government of India, in the year 2003, issued permission to two companies to operate Headend-In-The-Sky (HITS) service for fast implementation of CAS. Ministry of Information and Broadcasting, Government of India has, on November 26, 2009, issued policy guidelines for HITS service.

- 1.7 Ministry of Information & Broadcasting vide its letter No. D.O. No. 1501/34/2009-TV(I) dated October 08, 2009 (placed at Annexure A) has sought the recommendations of Telecom Regulatory Authority of India (TRAI) regarding necessary modification in the uplinking and downlinking guidelines in view of the issues raised in this letter and the enclosure thereof. The Ministry of Information and Broadcasting has broadly raised the following issues: (1) Maximum number of satellite TV channels possible, (2) Cap on Number of Channels, (3) Eligibility criteria & process of granting Permission, (4) Minimum period of operation, (5) Revocation of permission of TV channels, (6) Renewal of permission, (7) Policy for transfer of permission; and (8) Proposed changes in the guidelines to develop the country into a teleport/hub for uplinking/turnaround of TV channels which are not meant for viewing in India.
- 1.8 As per sub-section 1 (a) of section 11 of the TRAI Act, 1997, the Authority is required to make recommendations, either *suo motu* or on a request from the licensor on various aspects of licence to the service providers. This reference dated October 08, 2009 received from Ministry of Information and Broadcasting was placed on TRAI website www.traigov.in on October 19, 2009 to solicit preliminary views of the stakeholders on the subject. This consultation paper has taken into account the preliminary views of the stakeholders on the subject.
- 1.9 As per sub-section (4) of section 11 of the TRAI Act, 1997, the Authority is required to ensure transparency while discharging its functions. TRAI is accordingly initiating a process of consultation to arrive at an appropriate decision regarding modification in the uplinking and downlinking guidelines.
- 1.10 Chapter 2 of this consultation paper discusses the extant provisions in the uplinking and downlinking guidelines. Chapter 3 analysis various issues involved in context of the reference received from Ministry of information and Broadcasting. Chapter 4 summarises the issues for consultation, and at the end, some of the relevant materials are annexed for ready reference.

Chapter 2. Extant provisions

- 2.1 The satellite TV channels to be viewed in India through different delivery platforms are required to be registered under downlinking guidelines issued by Ministry of Information and Broadcasting. These channels are being uplinked to satellite either from India or from foreign land. The permission to uplink TV channels from India is governed by uplinking guidelines issued by Ministry of Information and Broadcasting. The uplinking guidelines and downlinking guidelines are placed at Annexure B and Annexure C respectively.
- 2.2 Before, proceeding further, it would be appropriate to discuss the extant provisions on various issues relating to permission of TV channels in uplinking and downlinking guidelines.

Eligibility Criteria

- 2.3 As per the eligibility criteria for permission of satellite TV channels under uplinking guidelines, the applicant company is required to be registered in India under the Companies Act, 1956. The eligibility criteria is primarily based on minimum networth of the company. In case of a company desirous to uplink one News and Current Affairs TV channel¹, it should have minimum networth of Rs. 3.00 Crores. For uplinking of each additional channel, the minimum networth requirement enhanced by additional Rs. 2.00 Crores. In case of non-News and Current Affairs Channels, the networth requirement reduced to half of that of News and Current Affairs Channels. For setting up of teleport, the company should have networth of Rs.1.00 crore for single channel capacity, Rs.1.50 crore for 6 channel capacity, Rs.2.50 crore for 10 channel capacity and Rs.3.00 crore for 15 channel capacity.
- 2.4 In case of News and Current Affair Channel, foreign equity should not be exceeding 26% of the paid up equity and in case of teleports foreign equity

¹ A News and Current Affair TV channel means a channel which has any element of news & current affairs in its programme content.

holding should not exceed 49%. However, in case of non-News and current Channel, there is no such stipulation. The company, irrespective of its ownership, equity structure or management control, would be eligible to seek permission.

Fee

2.5 There is a stipulation of Rs. 5 Lakhs per channel as permission fee for a channel in uplinking guidelines for a term of 10 years. As far as downlinking guidelines are concerned, there is a registration fee of Rs. 5 Lakhs per channel for a period of 5 years. Extension beyond five years for another 5 years is permitted at the registration fee of another 5 Lakhs per channel. In case of channels uplinked from abroad and downlinked in India, Rs. 1 lakh per channel as annual fee is also applicable.

Period of permission

2.6 As per uplinking guidelines, the permission to uplinking a TV channel is for 10 years. However, as per the downlinking guidelines, Ministry of Information and broadcasting grant registration to each channel under downlinking guidelines for an initial period of 5 years, which shall be extendable as per extant rules. The applicant company will be granted permission for one or more years up to a maximum of five years, co-terminus with the registration of the channel.

Roll Out obligation

2.7 According to the uplinking guidelines the applicant company permitted to uplink shall operationalise the channel within a period of one year from the date of permission granted by Ministry of I&B; failing which the permission is liable to be withdrawn, after affording an opportunity of being heard.

2.8 According to the downlinking guidelines, the applicant company seeking permission to downlink a channel shall operationalise the channels within one year from the date of the permission being granted by the Ministry of I&B, failing which the permission will liable to be withdrawn without any notice in

this regard. However, the company shall be afforded a reasonable opportunity of being heard before such a withdrawal.

- 2.9 As such there is no minimum period of operation for the channel neither in terms of number of years nor in terms of number of hours in a day.

Procedure for obtaining Permission

- 2.10 For obtaining permission to uplink a TV channel from India, the applicant company is required to apply to Ministry of Information and Broadcasting in prescribed form alongwith the necessary documents such as Memorandum & Article of Association, shareholding pattern, Audited Balance sheet and Profit & Loss Account, certificate of networth, satellite lease agreement and details of footprint, copy of the agreement with the Teleport Service Provider (in case of a third party teleport) etc.
- 2.11 After getting necessary security clearance from Ministry of Home Affairs and also clearance of satellite use from Department of Space, the company is required to sign Grant of Permission Agreement (GOPA) with the Ministry of Information and Broadcasting.
- 2.12 Thereafter, the Company would be issued a formal permission by Ministry of Information and Broadcasting to enable it to obtain requisite license/ clearances from the WPC Wing, Ministry of Communications & IT or approach a teleport service provider in case of TV channels/ uplinking by a Indian news agency.
- 2.13 The applicant will pay the licence fee and royalty, as prescribed by WPC Wing from time to time, annually, for the total amount of spectrum assigned to Hub/Teleport station, as per norms & rules of the WPC Wing.
- 2.14 As far as the procedure for grant of permission and registration of channels under downlinking guidelines is concerned, the company is required to apply to Ministry of Information and Broadcasting in the prescribed Performa along with

full details and documentation relevant for evaluating its eligibility for grant of permission to downlink TV channels in India.

- 2.15 In case company is found eligible, necessary security clearance from the Ministry of Home Affairs will be sought. Simultaneously, the Ministry of Information and Broadcasting also evaluate the suitability of the proposed channel for downlinking into India for public viewing.
- 2.16 In the event of the applicant company and the proposed channel being found suitable, the Ministry of Information and Broadcasting will register the channel and the applicant company to enter into a Grant of Permission Agreement (GOPA) with the Ministry of Information and Broadcasting. Thereafter, Ministry will issue a registration certificate for the concerned channels and grant permission to the applicant company to downlink the relevant channels in India.

Revocation of the permission

- 2.17 In the event of a channel/teleport/SNG/DSNG found to have been/ being used for transmitting/ uplinking any objectionable unauthorized content, messages, or communication inconsistent with public interest or national security or failing to comply with the directions, the permission granted shall be revoked and the company shall be disqualified to hold any such permission for a period of five years, apart from liability for punishment under other applicable laws.
- 2.18 In the event of a permission holder violating any of the terms and conditions of permission, or any other provisions of the guidelines, the Ministry of Information and Broadcasting shall have the right to impose the following penalties:
- In the event of first violation, suspension of the permission of the company and prohibition of broadcast/ transmission up to a period of 30 days.

- In the event of second violation, suspension of the permission of the company and prohibition of broadcast up to a period of 90 days.
- In the event of third violation, revocation of the permission of the company and prohibition of broadcast up to the remaining period of permission
- In the event of failure of the permission holder to comply with the penalties imposed within the prescribed time, revocation of permission and prohibition of broadcast for the remaining period of the permission and disqualification to hold any fresh permission in future for a period of five years.

2.19 As regards, downlinking guidelines are concerned, the relevant provisions are as under:

- In the event of a channel found to have been/being used for transmitting any objectionable unauthorized content, messages, or communication inconsistent with public interest or national security or failing to comply with the directions, the permission granted shall be revoked and the company shall be disqualified to hold any such permission for a period of five years, apart from liability for punishment under other applicable laws. Further, the registration of the channel shall be revoked and the channel shall be disqualified from being considered for fresh registration for a period of five years.
- In the event of a permission holder and/ or channel violating any of the terms and conditions of permission, or any other provisions of the guidelines, the Ministry of Information and Broadcasting shall have the right to impose the following penalties: -
 - In the event of first violation, suspension of the permission of the company and/or registration of the channel and prohibition of broadcast up to a period of 30 days.
 - In the event of second violation, suspension of the permission of the company and/or registration of the channel and prohibition of broadcast up to a period of 90 days

- In the event of third violation, revocation of the permission of the company and/or registration of the channel and prohibition of broadcast up to the remaining period of permission
- In the event of failure of the permission holder to comply with the penalties imposed within the prescribed time, revocation of permission and /or registration and prohibition to broadcast for the remaining period of the permission and disqualification to hold any fresh permission and /or registration in future for a period of five years.

Chapter 3. Relevant Issues

- 3.1 There are various satellite channels available in major Indian languages apart from Hindi and English. These channels are available in different genre to cater different target audience. Ministry of Information and Broadcasting has granted permission to 423 TV channels under the uplinking guidelines of which about 230 are in news and current affairs category and 193 are under the non-News and Current Affairs category. A news and current affairs TV channel means a channel which has any element of news and current affairs in its programme content. There are 76 satellite TV channels (15-News and Current Affairs, 61 non-news and current Affairs) uplinked from abroad which have also been permitted under the downlinking guidelines.
- 3.2 The satellite television channels are permitted to be carried by different distribution modes such as cable TV, DTH, HITS etc. by adhering to the uplinking/downlinking guidelines in this regard.

Satellite Broadcasting

- 3.3 Satellite is an important medium used for broadcasting. The characteristic of the satellite to retransmit and provide the signal to a large area makes it the most ideally suited medium for broadcasting. There are three primary types of satellite television usage - direct reception by the viewer (DTH), reception by local television affiliates, and reception by headends (MSOs) for distribution across local cable systems. The broadcasting services are provided in India through the geostationary satellites that have footprint over India. The geostationary orbit is around 36,000 km from equator of the earth.
- 3.4 The satellite broadcasting services are currently operational in C band [6 GHz (Uplinking) and 4 GHz bands (Downlinking)] and Ku band [14 GHz uplinking and 11-12 GHz band (Downlinking)]. Typical transponders each have a bandwidth between 27 - 50 MHz, generally 40 MHz (usable 36 MHz.). A channel requires 1.5-2.00 MHz bandwidth with MPEG 4 compression format and 2.00-4.00 MHz with MPEG-2 compression format. The bandwidth

requirement of a channel also depends on the type of content it carries. Channels having fast moving picture like sports, movie, infotainment etc needs more bandwidth as compared to those channels which have slow moving picture like news, shopping, religious, educational etc. Typically a transponder can carry 18-24 channels with MPEG-4 and 10-15 channels with MPEG-2 compression technology. C band is susceptible to terrestrial interference while Ku band transmission is affected by rain. The coordination of these geostationary satellites from the point of view of orbit and spectrum, in India, are done by Department of Space, and Wireless Planning and Coordination (WPC) wing of Ministry of Communications and IT.

- 3.5 Till 31st December 2009, Ministry of Information and Broadcasting has permitted 61 Teleports in the country. A list of these teleports permitted by Ministry of Information and Broadcasting is at Annexure D.
- 3.6 In India, the uplinking of TV channels have been permitted in C band and Ku band under uplinking guidelines. However, majority of TV channels are being uplinked in C band through geostationary satellite because of better transmission characteristic in this band. The DTH service is currently permitted in Ku band. The HITS policy announced by the Government recently allows the use of C band or Ku band for its operation. Apart from the broadcasting services, the satellites in this band are also used for telecommunication services such as VSAT and long distance voice communication.
- 3.7 As stated above, there are various users of satellite broadcasting resources in India. Currently, apart from DTH service of Doordarshan, 6 DTH operators are using Ku band transponders on various Indian and foreign satellites that have footprint over India. The uplinking Guidelines permits the setting up of uplinking hub/teleports; and provides permission for uplinking news and current affair channels, and for non-news & current affair channels by a company from Indian soil. The company can uplink either in C or Ku Band. Uplinking in C Band are permitted both to Indian as well as foreign satellites

under these guidelines. On the other hand, uplinking in Ku Band is permitted to transponders made available by Department of Space only. Satellite to be used should have been coordinated with INSAT System. In addition Satellite News Gathering (SNG)/Digital Satellite News Gathering (DSNG) and flyaway units are also permitted to use satellite resources to link up the content with the respective TV channels. The Government of India recently announced head-end-in-the-sky (HITS) policy allowing use of C band or Ku band for its operation.

3.8 In short, the satellite resources including spectrum for uplinking and downlinking in these bands are much in demand for TV channels as well as by the delivery platforms. The need of the hour is that these limited resources should be used judiciously by broadcasting sector as a whole for the benefit of the society and for the economic growth of the country.

3.9 Having discussed about the limited resource of spectrum and transponder capacities and its users, we shall now take up the various issues associated with the efficient utilisation of spectrum particularly with the reference received from Ministry of Information and Broadcasting.

(A) Maximum number of satellite TV channels possible and desirability for a Cap on Number of satellite TV Channels

(B) Eligibility criteria for granting Permission and terms & conditions of permission

(C) Making India a Teleport/hub for uplinking/ turnaround of TV channels

(A) Maximum number of Satellite TV channels Possible and desirability for a Cap on Number of satellite TV Channels

3.10 The number of satellite TV channels depends upon the available transponder capacity and the technology used in transmission of these channels through satellite. Let us first look at the transponder capacity available for use in India.

3.11 According to Department of Space (DOS), at present on INSAT fleet there are 10 satellites in space. These satellites have a total of 182 transponders in C band, extended C band, Ku band and S band. In addition to this 53 transponders from foreign satellites have been hired by Department of Space. C and extended C band covers Indian main land, SAARC countries and A& N, Lakshadweep Islands whereas Ku band covers only Indian main land. All the transponders are already being utilized for various services like TV broadcasting, VSAT, DTH and DSNG. According to DOS, at present no bulk capacity is available in any band. At present DOS has a demand of around 200 transponders in Ku band and around 25 transponders in C Band. In order to meet this demand, they have planned satellites which will be launched over a period of next four years. Foreign satellites like Asiasat 5, Thaicom-2, Asiasat-3S & IS-10 etc. are already being used for TV broadcasting in C-band by the users over India. The details of the 10 INSAT satellites which are presently in space are as under:-

S. No	Name of Satellite	Location	Launch Date with expected life upto	Capacity	Major users
1	INSAT-2E	83 E	03/04/1999 2011	12 C 7 Low Ext C	TV broadcasters
2	INSAT-3A	93.5 E	10/04.2003 2015	12 C 6Upper ext C 6 Ku	Prasar Bharti (PB), Government & Pvt-Vsat

3	INSAT-3B	83 E	20/03/2000 2010	12 Ext C 6 Ku	Pvt VSAT and DSNG
4	INSAT-3C	74E	24/01/2002 2016	12 C 6 Extended C 3 S	BSNL Pvt VSAT AIR
5	INSAT-3E	55E	20/09/2003 2015	24 C 12 Ext C	BSNL Pvt VSAT
6	GSAT-2			C Ku	
7	EDUSAT	74 E	20/09/2004 2011	12 C 6 Upp ext C 5 Lower Ku with regional beam 1 Lower Ku with national beam	Societal Governance, Education etc) (E-Tele)
8	INSAT-4A	83 E	22/12/2005 2017	12 C 12 Ku	Pvt TV Broadcasters DTH (TATA Sky)
9	INSAT-4B	93.5 E	12/03/2007 2019	12 C 12 Ku	Pvt TV Broadcasters, PB DTH (Sun and PB)
10	INSAT-4CR	74 E	02/09/2007 2019	12 Ku	DTH (Bharti), Pvt DSNG and Pvt VSAT

3.12 The following major satellites are available over India for providing satellite TV broadcasting:-

SATELLITE	LOCATION (degrees)
New Skies NSS 12	57

Intelsat 704	66
Panamsat/Intelsat-7/10	68.5
INSAT 3C	74
Apstar II	76.5
Thaicom - 5	78.5
INSAT 2E,3B, 4A	83
INSAT 3A, 4B	93.5
Asiasat 2	100.5
Asiasat 3	105.5
Asiasat 4	115.5
Asiasat 5	100.5
ST - 1	88
Measat - 3	91.5
PAS - 12	45
ABS - 1	75
NSS 6	95

3.13 In case of DTH which uses the Ku band, there are six private service providers besides Doordarshan. The details of the satellite, modulation and encoding used are as follows:

Service Provider	Satellite	Location (degrees)	Modulation	Encoding
Sun	INSAT 4B	93.5	DVB-S	MPEG-4
DD Direct	INSAT 4B	93.5	DVB-S	MPEG-2

Reliance Big TV	Measat 3	91.5	DVB-S	MPEG-4
Tata Sky	INSAT 4A	83	DVB-S	MPEG-2
Bharti	INSAT4CR	74	DVB-S2	MPEG-4
Videocon	ST - 1	88	DVB-S2	MPEG-4
Dish TV	NSS 6	95	DVB-S	MPEG-2

3.14 Although, the spectral efficiency for these satellite broadcasting services has increased many fold with the adoption of digital and compression technologies in satellite transmission, this natural finite resource cannot be used for providing unlimited number of satellite TV channels, and other broadcasting services. Low bit rate encoding/compression techniques have further potential to enhance the channel handling capacities of the transponders over the satellites, but again there is a limitation of orbit/spectrum resources. For example, MPEG-4 encoding techniques, instead of MPEG-2, have enhanced the number of channel handling capacities of transponders by around one and half times. With one C band transponder using MPEG-2 encoding one can broadcast 10-15 channels. Use of MPEG-4 encoding with DVB-S2 modulation can enhance the channel capacity to 18-24 channels per transponder.

3.15 On one hand the available transponder space will be better utilized by usage of better technology, while on the other hand more transponder space will be required by emerging HDTV channels and conversion of SDTV channels into HDTV channels. In addition to this, transponder space will also be required for new delivery platform in the form of HITS. Therefore, theoretically speaking the exact number of possible satellite channels depends not only on the future technology but also on the number of HITS operators who want to provide services in "C" band and the conversion of SDTV channels into HDTV channels.

3.16 There are a number of users for 'C' band transponders. These include telecom services, VSAT, TV transmission and HITS. There are no specific guidelines

earmarking transponders capacities between these services. Moreover, in the C-Band, the broadcasters can directly lease capacity from ISRO or foreign operators under the "Open Skies Policy" subject to the Dept. of Space not having objection to lease of such capacity. The DoS consent is primarily based on the satellite being coordinated for use over India and the potential use not affecting other satellite users adversely.

- 3.17 Due to the wide footprint of C-Band satellites, a number of satellites are available for providing services over India or in other countries such as for TV broadcast. Based on demand, any satellite coordinated and having footprint over India can choose to offer its capacity to Indian users in preference to other countries. Further the spot beams of existing foreign satellites which do not have footprints over India can in many cases be changed to deliver airwaves over India, if the market situation so demands. Of course this would be subject to coordination with Department of Space and WPC. Similarly, channels which are uplinked from foreign soil can be downlinked in India. All these add multiple dimensions to the calculation of the possible number of satellite TV channels.
- 3.18 During pre-consultation a service provider has indicated that there is no shortage presently for C band transponders whereas there is acute shortage of Ku band transponders. The situation in C band could change if a large number of new channels come up and also a number of HITS operators start using C band. It has also been indicated that some of the foreign satellites, having footprints over India have free transponders in "C" band.
- 3.19 Another stakeholder view is that the theoretical limit, taking into account possible satellite locations visible from India and current C-band and extended C-band frequency allocations for content distribution, is probably in many thousand to low ten thousands of channels, though ongoing technology advances mean that this is not a hard and fast limit.

3.20 The issue, therefore, for consideration is:

3.20.1 In the present scenario how to determine the maximum number of satellite TV channels possible? Please elaborate with appropriate reasoning.

3.21 The other issue referred by Ministry of Information and Broadcasting is that whether there should be a cap on the number of satellite TV channels to be permitted under uplinking and downlinking guidelines with a view to ensure effective use of the limited orbit/spectrum resource. These channels are finally to be carried by the various distribution platforms which have capacity constraints. The capacity of analog cable systems is about 80 channels and the capacity of DTH depends on the number of transponders and the technology used.

3.22 As per the uplinking guidelines, the applicant company is required to submit a satellite lease agreement and details of footprints of the satellite to the Ministry of Information and Broadcasting. In other words, the applicant company needs to sign an agreement with the satellite owner/provider before applying for permission. During the pre consultation it has been indicated by stakeholders that the permission from Ministry of I&B takes a long time and during that time the company has to pay for the transponder without using it.

3.23 After signing Grant of permission agreement (GOPA), the applicant company would be issued a formal permission to enable it to obtain requisite license/clearances from the WPC Wing, Ministry of Communications & IT or approach a teleport service provider in case of TV channels/ uplinking by an Indian news agency.

3.24 However, as far as channels uplinked from abroad and registered under downlinking guidelines are concerned, they do not require any further clearance from WPC wing as the satellite would be already coordinated for such transmission.

- 3.25 India is currently having a situation where there are a large number of channels applying for operating permission. One of the stakeholders during pre consultation has indicated that given the intense market competition that exists, it is possible that some of these channels may not survive in the long run. According to them, the market is clearly continuing to attract investment through creation of new channels, which is in the interest of consumers. This will enrich the options available to consumers, enhance the consumer experience and promote competition. Indian market, by virtue of size and diversity, may be having a greater number of channels offering different types of content in different languages, than in more homogenous markets.
- 3.26 Another stakeholder view against regulatory intervention is that a cap will limit the competition to current entrants and deny new competitors the opportunity to compete. Moreover, by setting a finite limit on the number of licensees, market for existing licenses would have value, whether or not the content of a channel attract a viable audience. It would be far better to let market forces prevail, and let channels that are unsuccessful cease operations while allowing new entrants into the market to try to create demand niches, rather than limiting the market to an arbitrary number of channels and potentially creating economic rents for existing permission holders.
- 3.27 Presently the number of channels with individual broadcaster varies from a few to more than double digits. A point of concern expressed by stakeholders during pre consultation is that cap or ceiling on new channels may create an unequal playing field with large players having a distinct advantage over smaller ones. It may also make the 'channel permission', a tradable commodity, thereby will fostering an unhealthy practice in a parallel market.
- 3.28 It has also been opined during pre-consultation by stakeholders that if Ministry of I&B restricts channels from uplinking, the uplinking will be done from foreign countries. Once a channel satisfies the criteria for downlinking, it cannot be stopped from being downlinked.

- 3.29 India being a large country with multiplicity of culture and languages across geographies, there are a large number of satellite TV channels available across genre, language and regions to suite the different taste of target audience. Though 22 Indian languages are officially recognized as per Indian Constitution, an equally large number of regional/local languages are prevalent in India. Moreover, at present there are more than a dozen genre of channels to meet the requirement of viewers in the country. This complex matrix of a large number of genre, language and regions resulting into a large number of different permutations and combinations may have to be taken into account if an upper limit on the number of channels to be permitted for uplinking/downlinking in India is to be fixed.
- 3.30 In Canada delivery of TV channels signals via satellite, either directly to end-viewers or to other distributors of such services e.g. cable companies is done by direct-to-home distribution undertakings (DTHDUs) or satellite relay distribution undertakings (SRDUs). There is no limit on the number of TV channels that DTH distribution undertakings (DTHDUs) and satellite relay distribution undertakings (SRDUs) can deliver. In general, DTH undertakings and cable companies can offer their viewers any Canadian programming services, plus any non-Canadian satellite services in the list of approved satellite services subject to the condition that that majority of television services offered must be Canadian. Larger distributors (e.g., DTH undertakings, cable companies with more than 20,000 subscribers) are required to offer certain specified Canadian services. These larger distributors commonly distribute up to about 350 channels.
- 3.31 In Malaysia, there are no notable uplink/downlink policies, except that earth stations must not be used to provide a DTH satellite broadcasting service, which is exclusively granted to Astro. There is no requirement that channels obtain “landing rights”, although the distribution platform must inform the regulator of all relevant details pertaining to the new channels prior to launch.

- 3.32 In USA there are no restrictions on program retransmission. Satellite operators are required to obtain an FCC license for uplink/downlink facilities located in the US. In practice, these licenses are easy to obtain. There are more than 550 TV channels available in the USA.
- 3.33 In Japan there is no limitation on the license holder in distribution of foreign channels. More than 180 channels available.
- 3.34 Internationally most of the countries are very sensitive to the content of the channels that are broadcasted. Korea has a restriction on the number of the foreign satellite channels allowed for retransmission, at 20% of the total number of channels offered by pay TV operators. In China foreign TV channels require approval of the regulator to be carried on the cable system. There is no absolute cap put on the total number of channels.
- 3.35 The issues, therefore, for consideration are as follows:**
- 3.35.1 Is it desirable to cap the number of channels? Please justify your response with detailed rationale.**
- 3.35.2 If it is desirable to cap the number, what according to you should be the number in each category?**
- 3.36 As discussed earlier the satellite transponders are used for various services- telecom, VSAT, TV transmission, DTH and HITS. So, while discussing the issue of efficient usage of transponder one needs to take a holistic view.
- 3.37 For example there are 6 private DTH service providers each having separate uplinking facility in Ku band. The channels broadcasted by these DTH operators are more or less the same and each one of them is using 6-12 transponders. For optimum utilization of transponder space one option could be to have common satellite uplinking/distribution platform instead of multiple uplinking/distribution platforms. Once Ku band become available, some of the

services using C band can also be shifted to Ku band. Similarly in the recently announced HITS policy also, which can use C or Ku band, there is no restriction on the setting up of uplinking facilities separately by each operator.

- 3.38 Transponder space can also be saved by using better technology. For example, MPEG-4 encoding techniques, instead of MPEG-2, have enhanced the number of channel handling capacities of transponders by around one and half times. With one C band transponder using MPEG-2 encoding one can broadcast 10-15 channels. Use of MPEG-4 encoding with DVB-S2 modulation can enhance the channel capacity to 18-24 channels per transponder. At present, most of the channels in India are carried in MPEG-2. Therefore, by simply switching to MPEG-4 the capacity can be enhanced by around one and half times. Broadcasters on their own are also switching to MPEG-4 encoding.
- 3.39 In Canada there are three licensed service providers -Bell TV, Shaw Direct and newly authorized service provider named as FreeHD Canada. All three are licensed to provide both types of services i.e. direct to home distribution and satellite relay distribution. All three companies use the same satellite platform to deliver both type of service.
- 3.40 In Malaysia earth stations cannot be used to provide a DTH satellite broadcasting service, which is exclusively granted to Astro.
- 3.41 Hong Kong ² adopts the “open sky” policy in regulating the provision of satellite services. Satellite-based telecommunications and television broadcasting services are provided via a multitude of satellites in the region with more than 60 satellite earth station antennas operated by Reach Networks Hong Kong Limited, Reach Cable Network Limited and Reach Global Services Limited, Asia Satellite Telecommunications Company Limited, APT Satellite Company Limited, and a number of fixed carriers and broadcasters. Broadcasters who wish to uplink TV

² Source : <http://www.gov.hk/en/about/abouthk/factsheets/docs/telecommunications.pdf>

programme via satellite from Hong Kong may commission the external fixed carrier licence holder to do so or obtain such a licence by itself.

3.42 The issues, therefore, for consideration are as follows:

3.42.1 Whether there is a case for putting a cap on the number of teleports/DSNG and uplinking facilities of other satellite based distribution networks such as DTH and HITS. If yes, please specify the number alongwith justification.

3.42.2 Should it be mandated for the broadcasters to switch from MPEG-2 to MPEG-4 encoding w.e.f. a particular date? If, so then what should be that date and if, not then why?

(B) Eligibility criteria for granting Permission and terms & conditions of permission

- 3.43 As per reference of Ministry of Information and Broadcasting the issues in eligibility criteria being put forth for consultation are (i) to increase the net worth requirement to ensure serious players (ii) to add more conditions to the current eligibility criteria by including some of the requirements, for instance, the experience of the applicant organization in the broadcast and media sector which can help in creation of viable contents (iii) experience and expertise of the promoters in related fields.
- 3.44 The present eligibility criteria/procedure for granting permission for applicant company and satellite TV channels for both uplinking and downlinking have been discussed in detail in chapter 2 on extant provisions.
- 3.45 The eligibility criteria is primarily based on the minimum networth of a company. However, some of the additional criteria are specifically applicable to news and current affair channels.
- 3.46 For uplinking of Non-news channel, the company should have a networth of Rs. 1.50 crore for single TV channel and Rs. 1.00 crore for each additional TV channel. For News & current affairs TV channel, the networth requirement is Rs.3.00 crore for single TV channel and Rs. 2.00 crore for each additional TV channel. For setting up of teleport, the company should have networth of Rs.1.00 crore for single channel capacity, Rs.1.50 crore for 6 channel capacity, Rs.2.50 crore for 10 channel capacity and Rs.3.00 crore for 15 channel capacity. While there is no restriction on FDI in case of non-news channel, FDI/FII/NRI holding cannot exceed 26% for news & current affairs channels and 49% for teleports. For downlinking the networth requirement of the company is Rs. 1.50 crores for one channel and Rs. 1.00 crore for every additional channel.

- 3.47 As far as procedure of grant of permission is concerned, the company is required to submit various relevant information such as Satellite lease agreement and details of footprint, copy of the agreement with the Teleport Service Provider (in case of a third party teleport) etc. alongwith the application.
- 3.48 One of the stakeholders view during pre consultation is that in the media business, fresh and innovative companies are also to be given a chance to bring variety. There is no doubt that an organization with valuable experience in related sectors of the industry will be in a better position to carry on the television broadcasting business in a viable and sustainable manner. However, such a criteria should not be a deterrent to serious new applicant with innovative ideas. Moreover, skilled manpower can always be hired from the market.
- 3.49 Another stakeholders view is that, the transponder contract are typically for five years and upwards. Thus the satellite transponder contracts by their nature require a level of financial capability and thus act as a barrier to frivolous market entry and exit. This is all the more so where the currently available satellite capacity is limited by various factors.
- 3.50 In Singapore, broadcasters who provide satellite broadcasting services uplinking from Singapore require a satellite broadcasting licence from the Media Development Authority (MDA)³. If a satellite broadcaster operates his own satellite uplink facilities, these facilities will need to be separately licensed by the Infocomm Development Authority of Singapore (IDA).
- 3.51 There is no foreign ownership restriction for public and private licences. The Licensee shall be a company incorporated or a foreign company registered under the Singapore Companies Act, Chapter 50.

³ Source: http://www.mda.gov.sg/wms.file/mobj/mobj.682.guidelines_satellite_uplinking.pdf

- 3.52 In China, foreign satellite TV channels are not allowed for carriage on local cable systems unless approved by SARFT, the Chinese regulator. Only a handful of foreign satellite channels have received official approval for retransmission on local cable systems; for the most part the reception is limited to the southern Guangdong Province. Apart from this, the reception of a limited bundle of other foreign channels is restricted to 3-star and above hotels, foreign institutions and compounds, and government buildings, which also require approval from SARFT (and reciprocal distribution). All foreign satellite channels beaming into China are required to uplink through and downlink from the SinoSat platform, which is operated by CITVC, the commercial arm of CCTV.
- 3.53 Television services do not require any specific authorization in order to uplink or downlink their services in Canada. Canadian television services are permitted to uplink their services to satellite for distribution in Canada or anywhere in the world, at their discretion. While making their signals available to other countries, they have to take into consideration regulations in those countries and whether they hold sufficient rights to offer their programming in other countries. However, the Canadian Regulator does not place any restrictions on them in this regard.
- 3.54 The issues therefore, for consideration are as follows:**
- 3.54.1 Should networth requirement of Applicant Company for permission of TV channels under uplinking and downlinking guidelines be enhanced? If yes, how much it should be? Please elaborate with appropriate reasoning.**
- 3.54.2 Should experience of the applicant company be introduced in eligibility criteria? If yes, what do you suggest?**
- 3.54.3 Should experience and expertise of the promoters of Applicant Company be introduced in eligibility criteria? If yes, what do you suggest?**

- 3.55 Presently a company is required to pay a permission fee at a rate of Rs. 5 Lacs per channel for a term of 10 years under uplinking guidelines. Under downlinking guidelines, the channels are required to pay Rs. 5 Lacs per channel for a period of 5 years. Additionally for downlinking channels which are uplinked from other countries Rs. 1 lac per channel per annum is to be paid. One alternative may be to increase the permission fee for both uplinking and downlinking to such a level that non serious players are discouraged.
- 3.56 The uplinking permission and fees is for 10 years and downlinking fee for 5 years, except for downlinking of channels which are uplinked from abroad and are required to pay an annual fee also. One of the options can be that the fees are to be paid annually instead of one time, so that better account of the active channels would be available.
- 3.57 In Singapore, IDA⁴ issues following two type uplinking/downlinking licences for broadcasting purpose.
- (i) Private licence - broadcaster wishing to operate an uplink/downlink facilities for carriage of his own broadcasting signals (own use)-; or
 - (ii) Public licence - a common carrier to provide satellite uplink/downlink services for broadcasters (third party use).

This Licence is valid for 5 years and is renewable on a 5-yearly basis thereafter. The annual licence fee payable is S\$5,000 per annum. If a satellite broadcaster operates his own satellite uplink facilities, these facilities will need to be separately licensed by the Infocomm Development Authority of Singapore (IDA).

⁴Source:http://www.ida.gov.sg/doc/Policies%20and%20Regulation/Policies_and_Regulation_Level2/Guidelines%20on%20Licensing%20Scheme/GuidelinesApplicationSatelliteUplinkDownlink.pdf

3.58 A licence fee consisting of a flat recurrent fee of S\$5,000 per annum is applicable to all categories of licence. The duration of the licence granted shall be an initial term of 10 years and subject to review and renewal on a 5-yearly basis thereafter. There is no foreign ownership restriction for public and private licences. The Licensee shall be a company incorporated or a foreign company registered under the Singapore Companies Act, Chapter 50.

3.59 In UK the regulator Ofcom issues Television Licensable Content Service (TLCS)⁵ and Digital Television Programme Services (DTPS)⁶ and Digital Television Additional Services (DTAS) licences. The application for TLCS and DTPS must be accompanied by the application fee. Application fees are reviewed by Ofcom annually. The application fee for 2009/2010 is £2,500 per application (separate for TLCS and DTPS). The application fee is non-refundable. The annual fee is based on a percentage of Relevant Turnover subject to a minimum fee (for all services licensed as TLCS or DTPS except teleshopping services, which are charged a fixed annual fee).

3.60 **The issues therefore, for consideration are as follows:**

3.60.1 Should the permission fee be enhanced to ensure participation of serious players?

3.60.2 Should one time permission fee be converted into annual permission fee? If yes, what should be the quantum?

3.61 As on date there is no stipulation regarding minimum period of operation for the channel in terms of number of years. One of the issue on which Ministry of I&B has sought recommendation is that whether there should be a commitment to be taken from the applicant company to stay in business for a minimum

⁵ http://www.ofcom.org.uk/tv/ifi/tvlicensing/guidance_notes_and_apps/tlcs/

⁶ http://www.ofcom.org.uk/tv/ifi/tvlicensing/guidance_notes_and_apps/notes/

period of say 5 years which may avoid pre-mature closure of the channel, prevent overcrowding of the sector and also provide sustainable employment.

3.62 One view on this issue may be that if a commitment is taken from the applicant company desirous of taking uplinking/downlinking permission to stay in business for a minimum period of 5 years then it may be useful in blocking the entry of non serious players.

3.63 The counter argument on the issue could be that such an arrangement may also act as an avoidable hurdle in case of those serious players who have entered into the business with a positive intension but are unable to sustain the highly competitive environment and want to exit. With minimal exit barrier, the firms that cannot compete can make way for newer firms.

3.64 One of the stakeholders view during pre consultation is that running a channel business is like running any other business and continuity depends on many external factors.

3.65 Issues therefore for considerations are:

3.65.1 Should a commitment from the applicant company to stay in business for certain period be prescribed?

3.65.2 If yes, what should be the period? Please elaborate with appropriate reasoning.

3.66 The next issue that Ministry of Information and Broadcasting has referred is whether there should be provisions in the guidelines to revoke the permission in case the channel is closed down either continuously or intermittently for more than a fixed period say 90 days in any continuous period of 365 days for whatever reasons, in view of making available the spectrum to other users.

3.67 One of the stakeholders at pre consultation stage has pointed out that non operation of a channel may be due to several reasons like technical, financial or

legal. Another stakeholder has suggested that permission may be revoked after a minimum period of 6 months.

3.68 Another view during pre consultation stage was that introducing provisions in guidelines where channels are closed down intermittently, if provided, needs to comprehensively exclude situations where the temporary suspensions or shut downs are due to technical or legal reasons, for instance failure of satellite. The guidelines need to ensure that the content or channel provider is not penalised for the wrong reasons at the wrong times.

3.69 **The issue therefore for consideration is:**

3.69.1 Whether permission of a channel should be revoked in case the channel is closed down for certain fixed period. If so, what should be the period? Should this period be same or different if the non operation is continuous or intermittent?

3.70 Currently the period of permission for uplinking a channel is 10 years under uplinking guidelines. However as per downlinking guidelines, each channel is registered for an initial period of 5 years, which shall be extendable thereafter as per extant Rules. The applicant company will be granted permission for one or more years up to a maximum of five years, co-terminus with the registration of the channel.

3.71 One of the stakeholders view during the pre consultation is that renewal of permission for uplinking or downlinking should be a matter of routine except the change in the applicable fee. For renewal of permission, a simple test of compliance with license conditions could be considered to renew applications. For any channel that is operational and continuously running during the permission period, renewal could be a routine, subject to renewal fees if any. There may be exceptions perhaps where the channel(s) has / have established a track record of serious violation of norms. Such regulatory framework is not only industry friendly, but it also gives a confidence to the industry to have a

long term plan for the business. Such environment is also useful for the audience who become addicted to some popular channels.

3.72 The other possible view is that renewal of permission for uplinking or downlinking should not be a matter of routine but should allow the Government to intervene as appropriate and change the conditions, at the time of renewal like changing over to MPEG-4 from MPEG-2, if deemed necessary. The Government after examination may also deny renewal to such channels whose track record has not been smooth in compliance of the different rules, regulations and guidelines framed by the Government and Regulator from time to time.

3.73 The issues, therefore, for consideration are:

3.73.1 What should be the policy for renewal of permission of channels under uplinking/downlinking guidelines? Please elaborate with appropriate reasoning.

3.74 Presently the licenses issued under the uplinking or Downlinking guidelines do not have any provision for transfer of ownership. This is primarily because of the fact that at present neither there is an entry fee nor any limit on the number of channels that can be permitted for uplinking or downlinking. However, in case the number of channels for uplinking and downlinking is capped, then this question will become significant. Further the permission is primarily to use the spectrum, which is the sovereign property of the Government. Therefore, one possible view could be that if the permission holder does not want to operate, it should return back the spectrum to the Government.

3.75 One of the stakeholders view during the pre consultation in favour of transfer of ownership from broadcast company having captive teleport license to teleport operator is that, it will help the broadcaster utilize the resources of the Teleport Service Provider better in case he chooses to do so. The transfer criteria could be industry friendly so that the end consumer receives interrupt free information and entertainment. Another similar stakeholder view is that transfer of

permissions may be allowed provided the transferees meet the eligibility criteria and all things remaining equal in terms of the affected channel. Transfer of permission may enable dynamic competition and preserve sustainable employment in the sector. It has been suggested that guidelines for transfer of permission may be framed as is the case with licences issued under the Industries (Development and Regulation) Act. Where the transferee already has the requisite FIPB permission for broadcasting and the transferee is in compliance with any sector specific FDI requirements, such transfers should be permitted without prior approvals and only intimation to the Government ought to be sufficient. In other cases where the transferred operates in a different sector (e.g. a news channel being acquired by a GEC channel owning company) or where cross holding is not permitted, specific approval conditions may be imposed.

3.76 A contrary stakeholder view is that the clause for transferability may result in the license being traded and such provisions may end up in an undesirable situation. In their view, if a permission holder does not start service within a specified period, then the provision of lapsing of the permission should be there.

3.77 The issue, therefore, for consideration is:

3.77.1 Whether transfer of permission to a TV channel under uplinking/downlinking guidelines should be permitted. If so, under what terms and conditions.

(C) Making India a Teleport/ hub for uplinking/ turnaround of TV channels

- 3.78 The issue under reference from Ministry of Information and Broadcasting is whether to develop India as a teleport hub to allow turnaround or uplinking of channels from India, which are not meant for viewing in India as is being done in some other countries. A teleport hub generally consists of a collection of satellite earth stations linked to different satellites which enables broadcasters to broadcast their channels to different destinations.
- 3.79 At present there are 27 channels which are permitted to be uplinked from India, but not permitted for downlinking in India. These channels are produced and uplinked by Indian companies for the audience in other countries. These channels can also be uplinked using a foreign satellite which does not have foot print over India.
- 3.80 In the past when there were no uplinking guidelines in India, all the channels which were for Indian audience, used to be uplinked from abroad. However, with the liberal uplinking guidelines in India in place, there was a major shift of channels getting uplinked from abroad to India as India has a lower operating cost in view of easier availability of technical manpower. If India is developed as a teleport hub then even those channels which are not for downlinking in India will also be shifted to India. It will lead to generation of employment and revenue in terms of foreign exchange. However, while developing India as a teleport hub one has to keep in view that the interests of the Indian audience are not adversely affected because of the limited natural spectrum resources.
- 3.81 One of the stakeholders view during pre consultation is that by developing India as a teleport hub for uplinking/turnaround of TV channels the Indian broadcasting as well as telecom industry can be benefited. Because of its geographical location, India can provide uplinking facilities for TV channels to be viewed in other parts of the world. The uplinking or turnaround of channels

not meant for viewing in India may be permitted as India is uniquely positioned to provide services into Middle East, Africa, Asia and Australia via Satellite. India has excellent submarine cable capacities and several telecom operators are further strengthening this infrastructure. With cost effective Submarine Cable infrastructure, Datacenters and business friendly regulation for Teleport, India is also in a position to provide cost effective teleport services worldwide. There could be opportunities for a huge export of telecom services. These channels may not be required to be registered in India.

3.82 One of the stakeholders has suggested that appropriate incentives, for instance, tax incentives as practiced by certain other jurisdictions, could also be considered to be granted to companies contemplating to uplink channels from India for viewing outside India. In case of allowing turnaround channels, permission for each such channel could be based on the type of content and the target country/territory. Today any foreign content brought to India for broadcasting has to be custom cleared. It has been pointed out by stakeholders that the procedures for the clearances are not clearly defined and it is time consuming. In view of this, there are broadcasters in India who prefer to uplink the foreign contents from outside India. So these issues may have to be addressed in a holistic manner.

3.83 The contrary view expressed by some of the stakeholders during the pre consultation stage was that there is huge demand of channels in India because of its geographical size, population and diversity. Other countries and territories which allow teleport for turnaround or for channels meant for other countries, have far less domestic choice of channels and thus far less need for satellite capacity targeting them than India does. Some of the channels uplinked from these countries are ultimately destined for India. Thus, developing India as a teleport hub may restrict the uplinking of TV channels for Indian audience because of limited natural spectrum resources. Also designating specific capacity for "transit" business might reduce the available capacity for Indian domestic use, restricting domestic choice and push up transponder prices.

- 3.84 Hong Kong is a broadcasting hub⁷ in the Asia Pacific Region with 16 non-domestic television programme service licensees operating and broadcasting from Hong Kong. Altogether they broadcast a total of 194 satellite television channels serving over 300 millions viewers in the Asia-Pacific region, Europe and Africa, of which 47 channels are receivable in Hong Kong.
- 3.85 The Government has set aside plots of land at Chung Hom Kok (in the south of Hong Kong Island) for the development of a teleport. These plots are suitable for operators of external telecommunications facilities to set up their cable landing stations and/or satellite earth stations to provide external telecommunications capacity to and from Hong Kong. Incorporated companies which are in possession of a licence for operation of external telecommunications facilities may apply for the land. The Government will impose a premium upon the successful applicant for the use of the land.
- 3.86 Singapore is another teleport hub in Asia. Broadcasters who provide satellite broadcasting services uplinking from Singapore require a satellite broadcasting licence from the Media Development Authority (MDA)⁸. This Licence is valid for 5 years and is renewable on a 5-yearly basis thereafter. The annual licence fee payable is S\$5,000 per annum. There are no foreign ownership restrictions. For companies which are not based in Singapore or have no registered offices in Singapore, they will be required to appoint a local agent and lodge a performance bond of S\$50,000 with MDA.
- 3.87 In Singapore, Media Development Authority (MDA) takes into consideration applicants' intended nature of service, programming and advertising codes in deciding whether to grant a satellite broadcast licence. The main objective in licensing satellite broadcasters is to prevent the broadcast from Singapore of programmes containing objectionable programming such as pornography. These broadcasters are required to take reasonable steps to ensure the acceptability of

⁷ Source: <http://www.hkba.hk/annual2008/eng/HKBscene-11.html>

⁸ Source: http://www.mda.gov.sg/wms.file/mobj/mobj.682.guidelines_satellite_uplinking.pdf

their service and compliance with local laws in recipient countries. They should also give due consideration to the political, religious, cultural and racial sensitivities of the recipient countries.

3.88 Canadian television services are permitted to uplink their services to satellite for distribution in Canada or anywhere in the world, at their discretion. While making their signals available to other countries, they have to take into consideration regulations in those countries and whether they hold sufficient rights to offer their programming in other countries. However, the Canadian Regulator does not place any restrictions on them in this regard.

3.89 **The issues, for consideration, are:**

3.89.1 Whether India should be developed as a Teleport/hub centre for channels uplinking, which are not meant for viewing in India. In such case, should the channels be covered under uplinking guidelines?

3.89.2 If India is to be developed as a Teleport/hub centre for channels uplinking, then what facilities should be provided to the companies to make India a Teleport/hub centre for uplinking of channels? Whether this will in any way adversely affect the transponder availability for uplinking of TV channels to be viewed in India.

Chapter 4. Issues for Consultation

The issues for consideration are as follows:

- 4.1 In the present scenario how to determine the maximum number of satellite TV channels possible? Please elaborate with appropriate reasoning.**
- 4.2 Is it desirable to cap the number of channels? Please justify your response with detailed rationale.**
- 4.3 If it is desirable to cap the number, what according to you should be the number in each category?**
- 4.4 Whether there is a case for putting a cap on the number of teleports/DSNG and uplinking facility in other satellite based distribution networks such as DTH and HITS. If yes, please specify the number alongwith justification.**
- 4.5 Should it be mandated for the broadcasters to switch from MPEG-2 to MPEG-4 encoding w.e.f. a particular date? If, so then what should be that date and if, not then why?**
- 4.6 Should networth requirement of Applicant Company for permission of TV channels under uplinking and downlinking guidelines be enhanced? If yes, how much it should be? Please elaborate with appropriate reasoning.**
- 4.7 Should experience of the applicant company be introduced in eligibility criteria? If yes, what do you suggest?**
- 4.8 Should experience and expertise of the promoters of Applicant Company be introduced in eligibility criteria? If yes, what do you suggest?**
- 4.9 Should the permission fee be enhanced to ensure participation of serious players?**
- 4.10 Should one time permission fee be converted into annual permission fee? If yes, what should be the quantum?**

- 4.11 Should a commitment from the applicant company to stay in business for certain period be prescribed?
- 4.12 If yes, what should be that period? Please elaborate with appropriate reasoning.
- 4.13 Whether permission of a channel should be revoked in case the channel is closed down for certain fixed period. If so, what should be the period? Should this period be same or different if the non operation is continuous or intermittent?
- 4.14 What should be the policy for renewal of permission of channels under uplinking/downlinking guidelines? Please elaborate with appropriate reasoning.
- 4.15 Whether transfer of permission to a TV channel under uplinking/downlinking guidelines should be permitted. If so, under what terms and conditions.
- 4.16 Whether India should be developed as a Teleport/hub centre for channels uplinking, which are not meant for viewing in India. In such case, should the channels be covered under uplinking and downlinking guidelines?
- 4.17 If India is to be developed as a Teleport/hub centre for channels uplinking, then what facilities should be provided to the companies to make India a Teleport/hub centre for uplinking of channels? Whether this will in any way adversely affect the transponder availability for uplinking of TV channels to be viewed in India.
- 4.18 Any other related issue, you would like to comment upon or suggest.

Annexure A: Reference from Ministry of Information and Broadcasting

OCT 09 2009 10:28 From:

To: 23236026

P.1

रघु मेनन
सचिव
RAGHU MENON
SECRETARY
Tel. : 011-23382639
Fax : 011-23303513



भारत सरकार
सूचना और प्रसारण मंत्रालय
नई दिल्ली-110115
GOVERNMENT OF INDIA
MINISTRY OF INFORMATION & BROADCASTING
NEW DELHI-110115

D.O. No.1501/34/2009-TV(I)

8th October, 2009

Jear Shm Jamma,

The Uplinking Policy for TV channels has evolved since the year 2000 when private agencies were allowed to uplink from India for the first time. The updated consolidated guidelines for uplinking from India were issued on December 2, 2005. These guidelines prescribe the eligibility criteria, procedure for obtaining permission and the terms and conditions of such permission. Downlinking guidelines were also introduced on November 11, 2005 mainly with a view to regulate the channels uplinked abroad though they are also applicable to the channels uplinked from India.

These guidelines provide quite a liberal approach towards granting permissions. Applicant who meets the requisite eligibility criteria and completes the formality is granted permission on a nominal fee. Wireless Planning and Coordination Wing has been allocating spectrum once the permission is granted by this Ministry. The number of channels has grown very rapidly over the past 9 years. At present, apart from Hindi and English, there are channels in major Indian languages and also channels specifically dedicated towards sports, women issues, children programming, home shopping, religious programming, youth affairs, life style, & living, environment and wild life, history and culture, apart from a number of entertainment channels. At present, permissions have been granted to 423 TV channels under the uplinking guidelines of which about 230 are in the News and Current Affairs category and 193 are under the non-News and Current Affairs category. Out of these, 76 channels uplinked from abroad, of which 15 are under the news and Current Affairs category and 61 are under the non-News and Current Affairs category, have been permitted under the downlinking guidelines. In addition about 170 fresh applications are pending for giving fresh approvals.

Although improved technologies have resulted in better utilization of the available spectrum and transponder capacities, the spectrum and transponder capacities for TV channels are not unlimited. Accordingly, we need to revisit the present approach towards grant of permission for uplinking and downlinking with respect to the approach towards grant of permission including the eligibility criteria and the terms and conditions of the permission. With the passage of time, a number of other issues have also come up for consideration. A list of such issues is being enclosed for the consideration and the sanction of the Authority.

Contd Page-2/-

2956
9/10

-2-

4. It is requested that the Authority may kindly consider the issues raised in the letter and its enclosure and furnish their recommendations suggesting necessary modifications in the uplinking and downlinking guidelines.

With kind regards,

Yours sincerely,



(Raghu Menon)

Shri J. S. Sarma
Chairman,
Telecom Regulatory Authority of India (TRAI)
Mahanagar Doorsanchar Bhawan,
Jawaharlal Nehru Marg (Old Minto Road)
New Delhi-110 002.

Encl: As above *(Fax No. 23236026)*

List of issues for consideration

- (1) What is the maximum possible number of satellite TV channels which can be permitted in the country keeping in view the available spectrum and transponder capacities as well as technological developments and general practice Internationally?
- (2) Whether there is a case for putting a cap on the total number of permissions for channels? If so how should the eligibility and process for grant of permission be modified? Whether, and if so how, the following issues be looked into and incorporated in the eligibility criteria:
 - i) Financial viability of the organization seeking permission, Is the present Networth criteria adequate or whether it needs to be revisited?
 - ii) Experience of the organization in related sector, which will indicate its capacity to take up the business of content creation in a viable way.
 - iii) Experience and expertise of the promoters of the organization in related fields
- (3) Should a commitment be taken from the applicant Company to stay in the business for a minimum period of 5 years which may avoid premature closure of the channel and prevent overcrowding of the sector and also provide sustainable employment?
- (4) Should there be a provision in the Guidelines to revoke the permission in case the channel is closed down either continuously or intermittently for more than a fixed period say 90 days in any continuous period of 365 days for whatever reason. This will enable freeing the spectrum for use by others.
- (5) To develop India into a Teleport hub, should we allow turnaround or uplinking of TV channels from India, which are not meant for viewing in India, as is being done in other countries like Singapore, Hong Kong, Thailand etc., and such channels may not be required to be permitted/registered under the uplinking/ Downlinking Guidelines?
- (6) The channel permissions for uplinking from India are being issued for a period of 10 years. What should be the policy of Government to renew their license after the prescribed period of 10 years?
- (7) At present there is no clear policy for transfer of permission from one Company to another. Should transfer of permission be permitted? If so what should be the criteria adopted?

Annexure B: Guidelines for Uplinking from India

F. No: 1501/2/2002-TV(I)(Pt.)

New Delhi, Dated: December 2, 2005.

PREAMBLE

Ministry of Information and Broadcasting, Government of India notified the "Guidelines for uplinking from India" in July 2000. This was followed by "Guidelines for Uplinking of News and Current Affairs TV Channels from India" in March 2003, which were amended in August 2003, "Guidelines for use of SNG/DSNGs" in May 2003 and addendum dated 1.4.2005 to the uplinking guidelines. The Government has, on 20th October 2005 further amended these guidelines. It has now been decided that all these guidelines should be consolidated into one set of guidelines and notified. Accordingly, in supercession of all previous guidelines, the Government hereby notifies the following consolidated uplinking guidelines. These shall come into effect from today the 2nd December 2005 and would be applicable to existing channels as well.

GENERAL

The applicant seeking permission to set up an uplinking hub/ teleport or uplink a TV Channel or uplink facility by a News Agency should be a company registered in India under the Companies Act, 1956.

1. PERMISSION FOR SETTING UP OF UPLINKING HUB/ TELEPORTS

1.1 Eligibility Criteria

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

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

Item	Required Net Worth
Teleport for single channel capacity	Rs. 1.00 Crore
Teleport for 6 channel capacity	Rs. 1.50 Crore
Teleport for 10 channel capacity	Rs. 2.50 Crore
Teleport for 15 channel capacity	Rs. 3.00 Crore

1.2 Period of Permission

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

1.3 Fee

1.3.1 The applicant will pay an amount of Rs. Ten thousands as processing fee.

1.3.2 After being held eligible, the applicant company shall pay a permission fee at the rate of Rs. Five Lakhs per teleport.

1.4 Special Conditions/ Obligations

1.4.1 The company shall uplink only those TV channels which are specifically approved or permitted by the Ministry of I&B for uplinking from India.

1.4.2 The company shall stop uplinking TV channels whenever permission/approval to such a channel is withdrawn by the Ministry of I&B.

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

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

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

2.1 Eligibility Criteria

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

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

Item	Required Net Worth
Single TV channel	Rs. 1.50 Crore
For each additional TV channel	Rs. 1.00 Crore

2.2 Period of Permission

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

2.3 Fee

2.3.1 The applicant will pay an amount of Rs. Ten thousands as processing fee.

2.3.2 After being held eligible, the applicant company shall pay a permission fee at the rate of Rs. Five Lakhs per channel.

2.4.1 Special Conditions/ Obligations.

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

2.4.2 The applicant company permitted to uplink shall operationalize the channel within a period of one year from the date the permission is granted by the Ministry of I&B; failing which the permission is liable to be withdrawn, after affording an opportunity of being heard.

2.4.3 The sports channels/sports rights management companies having TV broadcasting rights shall with immediate effect share their feed with Prasar Bharati for national and international sporting events of national importance, held in India or aboard, for terrestrial transmission and DTH broadcasting (free-to-air) under the following conditions:

- i) The events of national importance shall be determined by the Ministry of Information & Broadcasting in consultation with Ministry of Sports & Youth Affairs, Prasar Bharati and the concerned sports channels/sports rights management companies. In case of cricket events, these shall include all matches featuring India and the semi-finals and finals of international competitions.
- ii) The above conditions shall apply to all future events including those covered by existing contracts of broadcasting rights. However, in the case of cricket events whose broadcasting rights have been obtained by sports channels/right management companies prior to the issue of the notification in the matter the rights holders will be obliged to share the feed for all matches featuring India and finals of international competitions.
- iii) Prasar Bharati shall transmit the feed, free to air, on its terrestrial channel and carried through the terrestrial network and/or the satellite/DTH mode.
- iv) The marketing of the events' rights (terrestrial as well as satellite/DTH) will be decided through mutual negotiations between Prasar Bharati and the rights holder. The marketing rights should go to the party which offers to maximize the revenue.
- v) Revenue sharing formula of 75:25 in favour of rights holders without any minimum guarantee/opportunity cost, should be applied.

In the event of any dispute, the matter shall be referred to an arbitrator to be appointed by Secretary, Ministry of Law and Justice out of the approved panel of arbitrators.

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

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

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

3.1 Eligibility Criteria

3.1.1 Foreign Equity holding including FDI/FII/NRI investments should not exceed 26% of the Paid Up equity of the applicant company. However, the entity making portfolio investment in the form of FII/NRIs deposits shall not be “**persons acting in concert**” with FDI investors, as defined in Securities and Exchange Board of India (Substantial Acquisition of Shares and Takeovers) Regulations, 1997. The Company, permitted to uplink the channel shall certify the continued compliance of this requirement through its Company Secretary, at the end of each financial year.

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

(1) In the case of an individual shareholder,

(a) The individual shareholder.

(b) A relative of the shareholder within the meaning of Section 6 of the Companies Act, 1956.

(c) A company/ group of companies in which the individual shareholder/HUF to which he belongs has management and controlling interest.

(2) In the case of an Indian company,

(a) The Indian company

(b) A group of Indian companies under the same management and ownership control.

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

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

- 3.1.3 While calculating foreign equity of the applicant company, the foreign holding component, if any, in the equity of the Indian shareholder companies of the applicant company will be duly reckoned on pro-rata basis, so as to arrive at the total foreign holding in the applicant company. However, the indirect FII equity in a company as on 31st March of the year would be taken for the purposes of pro-rata reckoning of foreign holdings.
- 3.1.4 The company shall make full disclosure, at the time of application, of Shareholders Agreements, Loan Agreements and such other Agreements that are finalized or are proposed to be entered into. Any subsequent changes in these would be disclosed to the Ministry of Information and Broadcasting, within 15 days of any changes, having a bearing on the foregoing Agreements.
- 3.1.5 It will be obligatory on the part of the company to intimate the Ministry of Information & Broadcasting, the changes in Foreign Direct Investment in the company, within 15 days of such change. While effecting changes in the shareholding patterns, it shall ensure its continued compliance to Clause 3.1.1 and 3.1.2 above.
- 3.1.6 The applicant shall be required to intimate the names and details of all persons, not being resident Indians, who are proposed to be inducted in the Board of Directors of the company.
- 3.1.7 The company shall be liable to intimate the names and details of any foreigners/ NRIs to be employed/ engaged in the company either as Consultants (or in any other capacity) for more than 60 days in a year, or, as regular employees.
- 3.1.8 At least 3/4th of the Directors on the Board of Directors of the company and all key Executives and Editorial staff shall be resident Indians.
- 3.1.9 The representation on the Board of Directors of the company shall as far as possible be proportionate to the shareholding.
- 3.1.10 All appointments of key personnel (executive and editorial) shall be made by the applicant company without any reference on from any other company, Indian or foreign.
- 3.1.11 The applicant company must have complete management control, operational independence and control over its resources and assets and must have adequate financial strength for running a news and current affairs TV channel.
- 3.1.12 CEO of the applicant company, known by any designation, and/ or Head of the channel, shall be a resident Indian.
- 3.1.13 The Company should have a minimum Net Worth as prescribed below:

Item	Required Net Worth
Single TV channel	Rs. 3.00 Crore
For each additional TV channel	Rs. 2.00 Crore

3.2 Period of Permission

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

3.3 Fee

3.3.1 The applicant will pay an amount of Rs. Ten thousands as processing fee.

3.3.2 After being held eligible, the applicant company shall pay a permission fee at the rate of Rs. Five Lakhs per channel.

3.4 Special Conditions/ Obligations

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

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

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

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

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

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

4. PERMISSION FOR UPLINKING BY INDIAN NEWS AGENCY

4.1 Eligibility criteria

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

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

4.2.1. Period of Permission

4.2.1 Period of permission shall be as per WPC license.

4.3 Special Conditions/ Obligations

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

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

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

5. GENERAL TERMS & CONDITIONS.

5.1 The company can uplink either in C or Ku Band. Uplinking in C Band would be permitted both to Indian as well as foreign satellites. However, proposals envisaging use of Indian satellites will be accorded preferential treatment. On the other hand, uplinking in Ku Band would be permitted through Indian satellite only, subject to the condition that this permission is not used to run/operate DTH service without proper license, to which separate guidelines apply. Satellite to be used should have been coordinated with Insat System.

5.2 The company shall comply with the Programme & Advertising Codes, as laid down in the Cable Television Networks (Regulation) Act, 1995 and the Rules framed there under.

5.3 The company shall keep record of the content uplinked for a period of 90 days and produce the same before any agency of the Government, as and when required.

5.4 The company shall furnish such information, as may be required by the Ministry of Information & Broadcasting, from time to time.

5.5 The company/channel shall provide for the necessary monitoring facility, at its own cost, for monitoring of programmes or content by the representatives of the Ministry of Information & Broadcasting or any other Government agency as and when so required.

- 5.6 The company shall permit the Government agencies to inspect the facilities as and when required.
- 5.7 The company shall comply with the terms and conditions of Wireless Operational Licence to be issued by the WPC Wing, Ministry of Communications & IT.
- 5.8 The Company shall ensure its continued eligibility as applicable through out the period of permission and adhere to all the terms and conditions of the permission, failing which the company shall be liable for penalty as specified in Para 8 below.
- 5.9 The Government of India, Ministry of Information & Broadcasting shall have the right to suspend the permission of the company for a specified period in public interest or in the interest of national security to prevent its misuse. The company shall immediately comply with any directives issued in this regard.
- 5.10 It will be obligatory on the part of the company to take prior permission from the Ministry of Information & Broadcasting before effecting any change in the CEO/ Board of Directors.

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

- 6.1 The use of SNG/DSNG would be permitted to News and Current Affairs channels uplinked from India for live news/footage collection and point-to-point transmission.
- 6.2 PIB accredited content provider(s) if any, to the permitted News and Current Affairs channel(s) can use SNG/DSNG for collection/transmission of news/footage.
- 6.3 Entertainment channels who are uplinking from their own teleport, can use SNG/DSNG for their approved channels, for transfer of video feeds to the permitted teleport.
- 6.4 All Foreign channels, permitted entertainment channels uplinked from India and companies/individuals not covered in 6.1, 6.2 and 6.3 as above will be required to seek temporary uplinking permission for using SNG/DSNG for any live coverage/footage collection and transmission on case to case basis.
- 6.5 Only permitted teleport operators and Doordarshan may offer/hire out SNG/DSNG equipments/infrastructures to other broadcasters who are permitted to uplink from India.
- 6.6 The uplinking should be carried in encrypted mode, so as to be receivable only in closed user group. The signal should only be down linked at the permitted teleport of the licensee and uplinked for broadcasting through permitted satellite through that teleport only.

- 6.7 Each company/channel desiring to use SNG/DSNG would have to apply to Ministry of I&B and get permission before doing the same.
- 6.8 Uplinking from SNG/DSNG should be in SCPC mode only (only single feed can be uplinked from the SNG/DSNG at a time).
- 6.9 The channel would also give an undertaking that the feed collected through SNG/DSNG shall conform to Programme and Advertisement Codes.
- 6.10 The use of SNG/DSNG would be permitted only in those areas/regions/states which are not specifically prohibited by MHA.
- 6.11 The company would submit the purchase documents of SNG/DSNG terminals and inform Ministry of I&B about placement of these terminals at the various locations.
- 6.12 Period of Permission:
- (a) For teleport owners - co-terminus with teleport licence.
 - (b) For permitted News and Current Affairs channels - for the period of the Channel permission.
 - (c) For content providers to permitted channels - for the period of the channel permission.
 - (d) For other broadcasters having temporary uplinking permission - for periods as specified in the temporary uplinking permission.
- 6.13 The company permitted to use SNG/DSNG shall apply to WPC for frequency authorization of WPC. It should be renewed yearly in time and a copy should be submitted to this Ministry by the company every year.
- 6.14 The permitted company shall maintain a daily record of the location and the events which have been covered and uplinked by SNG/DSNG terminals and down linked at their main satellite earth station and produce the same before the licensing authority or its authorized representative, which will include officers of Ministry of Home Affairs and Ministry of I&B, as and when required.
- 6.15 The permitted company shall not enter defence installations.
- 6.16 The equipment should not be taken in the areas cordoned off from security point of view.
- 6.17 The company/channel desiring to use SNG/DSNG would give an undertaking that it would be used for live newsgathering and footage collection for captive use only.

- 6.18 Violations of any of the aforementioned terms and conditions would lead to revocation/cancellation of the permission to use the SNG/DSNG.
- 6.19 The permitting authority may modify the conditions laid down or incorporate new conditions, as and when considered necessary.
- 6.20 SNG/DSNG in Ku Band will not be used for DTH operation, directly or indirectly. Any such use would lead to the termination of licence/permission.
- 6.21 Uplinking Dish used for SNG/DSNG operation in Ku Band shall not exceed 2 meters.

7. PERMISSION FOR TEMPORARY UPLINKING

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

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

8. OFFENCES AND PENALTIES

- 8.1 In the event of a channel/teleport/SNG/DSNG found to have been/ being used for transmitting/ uplinking any objectionable unauthorized content, messages, or communication inconsistent with public interest or national security or failing to comply with the directions as per para 5.9 above, the permission granted shall be revoked and the company shall be disqualified to hold any such permission for a period of five years, apart from liability for punishment under other applicable laws.

- 8.2 Subject to the provisions contained in para 8.1 of these guidelines, in the event of a permission holder violating any of the terms and conditions of permission, or any other provisions of the guidelines, the Ministry of Information and Broadcasting shall have the right to impose the following penalties:
- 8.2.1 In the event of first violation, suspension of the permission of the company and prohibition of broadcast/ transmission up to a period of 30 days.
- 8.2.2 In the event of second violation, suspension of the permission of the company and prohibition of broadcast up to a period of 90 days.
- 8.2.3 In the event of third violation, revocation of the permission of the company and prohibition of broadcast up to the remaining period of permission.
- 8.2.4 In the event of failure of the permission holder to comply with the penalties imposed within the prescribed time, revocation of permission and prohibition of broadcast for the remaining period of the permission and disqualification to hold any fresh permission in future for a period of five years.
- 8.3 In the event of suspension of permission as mention in Para 5.9 or 8.2 above, the permission holder shall continue to discharge its obligations under the Grant of Permission Agreement including the payment of fee.
- 8.4 In the event of revocation of permission, the fees shall be forfeited.
- 8.5 All the penalties mentioned above shall be imposed only after giving a written notice to the permission holder.

9. PROCEDURE FOR OBTAINING PERMISSION

- 9.1 The applicant company can apply to the Secretary, Ministry of Information & Broadcasting, in triplicate, in the prescribed format "**Form 1**" along with all requisite documents including a demand draft for an amount equal to processing fee wherever prescribed, payable at par at New Delhi, in favour of the Pay & Accounts Officer, Ministry of Information & Broadcasting, Shastri Bhawan, New Delhi.
- 9.2 On the basis of information furnished in the application form, if the applicant is found eligible, its application will be sent for security clearance to the Ministry of Home Affairs and for clearance of satellite use to the Department of Space (wherever required).
- 9.3 As soon as these clearances are received, the applicant would be asked to furnish a demand draft for an amount equal to the processing fee, wherever prescribed, payable at New Delhi, in favour of Pay & Accounts Officer, Ministry of Information & Broadcasting, Shastri Bhawan, New Delhi. Further, the applicant company in respect of Para 1, 2 or 3 above would be required to sign an

agreement titled as “Grant of Permission Agreement”, in the format “**Form 2**”, which is being prescribed separately.

- 9.4 Thereafter, the Company would be issued a formal permission to enable it to obtain requisite license/ clearances from the WPC Wing, Ministry of Communications & IT or approach a teleport service provider in case of TV channels/ uplinking by a Indian news agency.
- 9.5 The applicant will pay the licence fee and royalty, as prescribed by WPC Wing from time to time, annually, for the total amount of spectrum assigned to Hub/Teleport station, as per norms & rules of the WPC Wing. Besides, the Hub/Teleport station owner will inform WPC Wing the full technical and operations details of TV channels proposed to be uplinked through his/her Hub/Teleport in prescribed format. (This clause is applicable for teleports/ uplinking by an Indian News Agency.)

FORM 1

**Application form for permission to
(i) set up uplinking hub/ teleports, (ii) uplink TV Channels (both News & Current
Affairs and Non-News & Current Affairs) and (iii) uplink to news agencies.**

(One original and four identical copies to be submitted).

The Secretary,
Ministry of Information & Broadcasting,
Shastri Bhawan, 'A' Wing,
New Delhi-110 001.

Subject: Application for permission to

(Please mention the purpose of application).

Sir,

I hereby submit the following details in support of the eligibility as prescribed in the guidelines for uplinking, in addition to other particulars:

1. i) Name of Applicant Company: _____

ii) Particulars of the Directors (starting with CEO/MD):

Sl no	Name/ Parentage	Date of Birth	Nationality	Passport Details, If Any	Position held	Address

(Any change in Board of Directors prior to issue of permission to be informed immediately to the Ministry. The company would have to obtain prior permission from the Ministry in case of change of Directors, after issue of permission.)

2. i) Address (Office)

(a) Head Office

(b) Regional Office

ii) Telephone Number (s)

FAX:

e-mail:

iii) Registration details (enclose Memorandum & Articles of Association)

3. Structure of Equity Capital

i) Authorised share capital: Rs. _____

ii) Paid up share capital: Rs. _____

4. Share-Holding pattern: (Enclose details as per Annexure)

- i) Direct investment
 - (a) Indian _____%
 - (b) Foreign _____%

Break-up of Foreign Direct Investment

- Individual.....%
- Company.....%
- NRI.....%
- OCB.....%
- PIO.....%

- ii) Portfolio Investments
 - (a) Indian.....%
 - (b) Foreign.....%

Break-up of Foreign portfolio Investment

- FII's
- NRI's
- OCB's
- PIO's

- iii) Total foreign equity in the company (Direct & Indirect)
(Indicate the detailed calculation, including indirect foreign equity as per clause 3.1.3 and enclose SHP of all investing companies.)

5. (i) Net worth:

(Enclose a copy of the audited balance sheet and Profit & Loss Account for the immediate preceding year and certificate of Net Worth on the basis of these documents by a Chartered Accountant as per format enclosed, in case the net worth certificate is on a date different from end of the financial year, it should be supported by certified balance sheet from the statutory auditor on the date of such certification.)

- (ii) Source of funding:

(Enclose a copy of the project report with all technical details, flow of funds and source of funding.)

6. Field of activity:

7. (i) Details of transponder(s) for uplinking and downlinking:

Name of satellite(s)	Orbital location	Type and No. of	Signal strength in	Name of the Company from	Uplink & downlink
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proposed to be hired		transponder(s) with band-width	primary zone over India	which the satellite/transponder is to be leased	frequencies.

(Enclose lease Agreement & footprint of each satellite proposed to be hired)

- (ii) In case of foreign satellite, the **detailed** reasons for not using the capacity on Indian satellite **may be enclosed**.

Additional details in case of application for a teleport

8. Details of teleport

- i) Location of teleport
- ii) Capacity of teleport (Proposed)
 - (a) No. of channels:
 - (b) No. of satellites:
 - (c) No. of proposed earth stations constituting teleport
 - (d) Approximate date for commissioning the teleport
 - (e) Antenna size of the teleport, EIRP

Additional details in case of application for uplinking a TV channel. (For both Non-News & Current Affairs and News & Current Affairs)

9. Details of uplinking hub (Teleport)

- a) Name and address of the company providing the Teleport for uplinking.
- b) Location of teleport
- c) Antenna size of teleport, EIRP
- d) Permission details of the teleport, status of its operationalisation and period of agreement with the Teleport Service Provider.

(Enclose a copy of the agreement with the Teleport Service Provider, in case of a Third Party Teleport.)

10. Number & name of channel (s) to be uplinked indicating the proposed date of commencement of uplinking from proposed hub/teleports.

Sl. No.	Name of the Channel	Language	Digital or Analog	Free to Air or Encrypted	Proposed date of commencement of uplinking

11. Whether declaration in Form 1A and 1B or 1C enclosed. (Yes/No) and also mention the details.

[Please note that declaration in Form 1A& 1B are required in the case of a News & Current affairs TV channel, whereas declaration in Form 1A & 1C are to be furnished for a Non-news & current affairs TV channel.]

Additional details in case of application for a News & Current Affairs TV Channel.

12. Particulars of the News Editor(s), authority(ies)/body(ies) exercising editorial control over news & current affairs

Sl no	Name/ Parentage	Date of Birth	Nationality	Passport Details, If Any	Position held	Address

(Any change in the news editor prior to the issue of permission will have to be informed immediately to the Ministry. The company would seek prior clearance from the Ministry in case of such change, after issue of permission.)

13. Whether the representation on the Board of Directors are proportionate to the shareholding in the company ----- (Yes/ No)
If not, the reasons thereof:

14. PIB accreditation details (enclose certificate)

15. Whether company conforms to Clause (C) of the eligibility criteria (Yes/ No)

(Enclose documents in support of compliance and a certificate to this effect by a Chartered Accountant.)

16. Disclosures about shareholders agreements, loan agreements and such other agreements that are finalized or are proposed to be entered into. (Enclose all the documents):

Additional details in case of application for uplinking to news agencies.

17. PIB accreditation details (enclose certificate)

18. Is the news agency 100% owned by Indians, if so, enclose shareholding pattern with details as per Annexure.

19. Give details of equipment for distribution of news material

- (i) SNG,
- (ii) DSNG,
- (iii) Permanent Earth Station

20. Give details of the equipment to be used for collecting news material

- (i) SNG,

(ii) DSNG

21. Location(s) at which news gathering/ distribution equipment to be installed.

I/We, _____ the applicant(s) do hereby declare that the above facts are correct in all respects.

Place:

(Signature of Applicant)

[Authorized Signatory of the Company]

Date:

Name

Office Address:

Seal

List of Enclosures attached with the Application

Please tick against the following documents enclosed with the application (as applicable):

- (1) Memorandum & Article of Association [point 2(iii)].
- (2) Shareholding Pattern as per Table 1 for Applicant Company & Table 2 for investing companies [point 4].
- (3) Calculation Sheet for Foreign Equity in the company (Direct & Indirect) [point 4(iii)] with copy of FIPB approval.
- (4) Audited Balance sheet and Profit & Loss Account for the immediate preceding financial year and Certificate of Net Worth (as per enclosed format with notes) by a Chartered Accountant on the basis of these documents [point 5(i)].
- (4.1) In case the networth certificate is on a date different from end of the financial year, it should be supported by certified balance sheet from the statutory auditor on the date of such certification.
- (4.2) In case shares have been allotted on basis of valuation of a property /equipment, then valuation certificate from an approved valuer should also be enclosed.
- (5) Satellite lease agreement and details of footprint [point 7].
- (6) Project Report [point 5(ii)].
- (7) Copy of the agreement with the Teleport Service Provider, in case of a third party teleport [point 9].
- (8) PIB Accreditation Certificate [point 14].
- (9) Certificate by a Chartered Account with all the supporting document in compliance to Clause (C) [point 15].
- (10) Shareholding and Loan Agreements, if any [point 16].
- (11) Affidavits in Form 1A & 1B or 1C point 11].
- (12) Any other:

Place : (Signature of Applicant)

Date : Name

Office Address:

[All pages of the application to be page numbered in reverse order (last page to be numbered 1 and certified by authorised signatory of the company with seal)]

[Note: In case of non furnishing of complete information, the application is liable to be rejected and returned to the company forthwith.]

**FORMAT FOR SHAREHOLDING PATTERN TO BE FURNISHED ALONG
WITH APPLICATION**

TABLE-1

SHAREHOLDING PATTERN OF APPLICANT COMPANY

M/s _____ AS ON _____

FACE VALUE OF THE SHARE RS. _____

S. No.	Category of Shareholders.	Share Holding			
		Direct Investment		Portfolio Investment	
		No. of Shares	% of total paid up shares	No. of Shares	% of total paid up shares
1.	Indian individual				
2.	Indian company				
3.	Foreign individual				
4.	Foreign company				
5.	NRI				
6.	OCB				
7.	FII				
8.	PIO				
9.	Any other				

- (i) For Indian company (ies), information as per proforma in Table-2 also to be supplied for each company.
- (ii) Complete break-up of number of shares of the applicant company held by each Indian company should also be provided.
- (iii) In case of FDI enclose copy of FIPB approval.

TABLE-2

DETAILS OF SHAREHOLDING PATTERN OF EACH INDIAN COMPANY HOLDING SHARE IN THE APPLICANT COMPANY AS IN SERIAL NO.2 IN COLUMN (1) OF TABLE-1

i) **SHAREHOLDING PATTERN OF COMPANY**

M/s _____ AS ON _____

FACE VALUE OF THE SHARE RS. _____

S. No.	Category of Shareholders.	Share Holding			
		Direct Investment		Portfolio Investment	
		No. of Shares	% of total paid up shares	No. of Shares	% of total paid up shares
1.	Indian individual				
2.	Indian company				
3.	Foreign individual				
4.	Foreign company				
5.	NRI				
6.	OCB				
7.	FII				
8.	PIO				
9.	Any other				

ii) - Do -

iii) - Do -

Note: Repeat same information about each Indian company holding share in the applicant company.

FORM-1A

AFFIDAVIT/UNDERTAKING
(on Rs 20 Stamp Paper & Notarized)

WHEREAS I, Shri S/o Shri _____ in the capacity of(designation) have applied to the Ministry of Information & Broadcasting on behalf of M/s.....for approval/permission for uplinking of TV channel From (place).

WHEREAS as a condition precedent to above approval/permission, I am required to abide by the Programme & Advertising Codes prescribed under the cable Television Network (Regulation) Act, 1995 and the rules passed thereunder.

WHEREAS I have read the abovementioned Programme & Advertising Codes.

WHEREAS I have read the abovementioned Programme & Advertising Codes.

WHEREAS I understand that the permission/ approval so granted can be withdrawn, if I fail to abide by the said Programme & Advertising Codes.

Now, therefore, I hereby undertake as follows:

- i) I undertake to abide by the Programme & Advertising Codes laid down by the Ministry of Information & Broadcasting, Government of India from time to time.
- ii) I undertake to furnish periodic information relating to public complaints, programme contents and any other information in respect of above-mentioned TV channels as may be laid down/asked for by the Ministry of Information & Broadcasting from time to time.
- iii) I undertake to provide the necessary equipment and facility for continuous monitoring of the broadcaster service at my own cost and preserve the recordings of broadcasting materials for a period of 3 months from the date of broadcast and produce the same to Ministry of Information & Broadcasting or to its authorized representative as and when required.

Signature

Name
Designation

Seal of Company

Place :

Date :

FORM-1B [for news & current affairs TV channels]

AFFIDAVIT/UNDERTAKING
(on Rs 100 Stamp Paper & Notarized)

WHEREAS M/s _____ have applied to the Ministry of Information & Broadcasting for approval/permission for uplinking of a TV channel _____.

WHEREAS information have been provided in Form 1 supported by affidavit in Form 1A and declarations in Table I and Table II.

WHEREAS I understand that the information given in the application and in Form 1A, 1B and Table I and Table II form a composite part of this permission.

I do hereby undertake that I will abide by all the terms and conditions applicable to uplinking of News & Currents Affairs TV Channels at all times.

For and on behalf of
M/s _____

Company Secretary.
Seal of the Company

Date:
Place:

FORM- 1C

AFFIDAVIT/UNDERTAKING

[For Non-News & Current Affairs TV Channel]

(on Rs 100 Stamp Paper & Notarized)

WHEREAS M/s.-----have applied to the Ministry of Information & Broadcasting for approval/permission for uplinking of a TV channel -----.

WHEREAS information have been provided in Form 1 supported by affidavit in Form 1A and declarations in Table I and Table II along with other related documents (i.e. Memorandum and Articles of Association, project report, satellite lease agreement, etc.)

WHEREAS we understand that the information given in the application and in Form 1A 1C and Table I & II and other related documents form a composite part of this permission.

We submit that the channel is purely an entertainment channel and does not have any news or current affairs based programme.

We hereby undertake that in accordance with the guidelines for uplinking of TV channels, we will seek fresh permission from the Govt., should there be a change in the Programme content of the channel to include news/current affairs along with a change in the ownership pattern to include any element of foreign equity/management control and that prior information of any such proposed change shall be given to the Government.

We also undertake to supply information, in the format as prescribed by the Govt. from time to time.

For and on behalf of
M/s.-----

Authorized Signatory
Seal of the Company

Date :
Place:

Format for the Certificate of Net Worth by the Statutory Auditors

We have audited the Books of Accounts of M/s. _____ for the financial year ended March 31,20__/ period ended dd/mm/year and certify that the Net Worth of M/s. _____ as on March 31,20__/as at dd/mm/year is Rs. _____ (Rupees in words _____)

We further certify that the Networth of M/s. _____ (Name of the company) is computed as follows.

Sl. No.	Particulars	Amount in Rs. lacs
1.	Book Value of assets	
2.	Book value of fictitious and intangible assets	
3.	Liabilities other than owner's funds	
4.	Net Worth {1-(2+3)}	

Notes

1. "Net Worth" has been defined in the Companies Act under section 2(29A) as follows. 'net worth means the sum total of the paid-up capital and free reserves after deducting the provisions or expenses as may be prescribed.

Explanation for the purpose of this clause, "free reserves" means all reserves created out of the profits and share premium account but does not include reserve created out of revaluation of assets, write back of depreciation, provisions and amalgamations.

2. **Networth**

The excess of the book value of assets (other than fictitious assets) of an enterprise over its liabilities.

"Book value of assets"

The amount at which an item appears in the books of account or financial statements. It does not refer to any particular basis on which the amount is determined. Eg. Cost, replacement value etc.

"Fictitious Assets"

Items grouped under the assets in a balance sheet which has no real value (eg. The debit balance of the profit and loss account)

"Liabilities"

The financial obligation of an enterprise other than owner's funds.

Owner's funds means paid-up capital and free reserves

Explanation for the purpose of this clause, "free reserves" means all reserves created out of the profits and share premium account but does not include reserve created out of revaluation of assets, write back of depreciation provisions and amalgamations.

(This note should not be deleted from the certificate submitted)

FORM 2

(Teleports)

GRANT OF PERMISSION AGREEMENT

BETWEEN

MINISTRY OF INFORMATION & BROADCASTING

GOVT. OF INDIA

AND

TO

Establish, maintain and operate uplinking hub (Teleport)

GRANT OF PERMISSION AGREEMENT FOR TELEPORT

This Agreement is made on this ____ day of _____, 2009 between the **President of India** acting through _____, Ministry of Information and Broadcasting, Government of India, Shastri Bhawan, New Delhi (hereinafter called the Grantor) of the One Part and M/s _____, a company registered under the Companies Act, 1956 and having its registered office at _____ (hereinafter called the **Permission Holder** which expression shall unless repugnant to the context include, its successors in business, administrators, liquidators and assigns or legal representatives) of the Other Part.

WHEREAS pursuant to the fulfillment of the eligibility conditions, assurances and payment of requisite permission fee by the **Permission Holder**, as per the "Guidelines for uplinking from India" notified on 2.12.2005, the **Grantor** is agreeable to grant permission to the Permission Holder, to **establish, maintain and operate uplinking hub (Teleport) at** _____ on the terms and conditions appearing hereinafter and the Permission Holder has agreed to accept the same.

And whereas this permission agreement is in addition to and not in derogation with the Guidelines for Uplinking from India notified on 2.12.2005 and the orders/guidelines issued or to be issued from time to time by the **Grantor** or any Regulatory Authority for Broadcasting Services.

In this Agreement, words and expressions shall, unless the context otherwise requires, have the same meaning as is respectively assigned to them herein under:

- 1.1. "**Grant of Permission Agreement**" shall mean this Agreement with all amendment/modification thereto.
- 1.2. "**Permission**" shall mean the permission to be granted by the Grantor to the Permission Holder in pursuance of this agreement.
- 1.3. "**Permission Fee**" shall mean the fee as prescribed in Para 1.3.2 of the Guidelines for Uplinking referred above.
- 1.4. "**WPC**" shall mean Wireless Planning and Coordination Wing, Ministry of Communication & IT.

NOW THIS AGREEMENT WITNESSETH AS UNDER:

2. In consideration of the observance of the covenants in terms of this Agreement and subject to due performance of and/ or compliance with all terms and conditions of this agreement hereto on the part of the Permission Holder, the Grantor hereby grants, on non-exclusive basis for a period of Ten (10) years, the permission to establish, maintain and operate uplinking hub (Teleport) at _____ subject to terms and conditions hereunder.
3. **Term of Permission**

- 3.1. The Permission shall be valid for a period of ten (10) years from the date of operationalization of the teleport, unless terminated earlier for default or for insolvency or for convenience.

4. Requirement to Provide the Teleport Station

- 4.1 The Permission Holder shall be solely responsible for the installation, upkeep and operation of necessary equipment and systems of the teleport including monitoring facilities required under it hereinafter.
- 4.2 The Permission Holder shall apply to the WPC for Wireless Operational Licence within one month from the date of signing of this agreement and shall comply with necessary requirements thereof.
- 4.3 The Permission Holder shall complete the installation of the uplinking facility including monitoring facilities etc. and commission the applicable systems within twelve months from the date necessary license is given by the WPC and would submit a report to the Grantor in this regard.
- 4.4 The Permission Holder shall not use any equipment, which to the knowledge or belief of the Permission Holder or in the opinion of Grantor are unlawful and / or render network security vulnerable. The Permission Holder shall make available on demand to the agencies authorised by the Government of India or the Grantor full access to all the equipment being used by them for technical scrutiny and detailed inspection.

5. Application of the Indian Telegraph Act and other Laws

- 5.1 The Permission shall be governed by the provisions of the Telecom Regulatory Authority of India Act, 1997, Indian Telegraph Act, 1885 and Indian Wireless Telegraphy Act, 1933 as amended from time to time and any other law as applicable to broadcasting which has or may come into force.

6. Prohibition of Certain Activities

- 6.1 The Permission is non-transferable. The Permission Holder shall not either directly or indirectly assign or transfer its right in any manner whatsoever under this Agreement to any other party or enter into any Agreement for sub-permission and/or partnership relating to any subject matter of the permission to any third party either in whole or in part. Any violation of the terms shall be construed as breach of this Agreement, likely to result in termination of this agreement.
- 6.2 The Permission Holder shall not carry out the uplinking in any other band except C-Band or Ku Band as permitted. In case of uplinking in Ku Band, the Permission Holder shall not use the teleport to run/ operate DTH service without proper and prior license, to which separate guidelines apply.
- 6.3 The Permission Holder shall not uplink TV channels, which have not been approved or permitted by the Grantor for uplinking by the Permission Holder.
- 6.4 Notwithstanding any agreement entered into between the Permission Holder and TV channel, the Permission Holder shall stop forthwith uplinking of the channel as and

when the approval/permission granted for the uplinking of that channel is withdrawn/suspended.

7. National Security and Other Conditions

7.1 The Grantor shall have the right to suspend the permission of the company for a specified period in public interest or in the interest of national security to prevent its misuse. The Permission Holder shall immediately comply with any directives issued in this regard.

7.2 In the event of a teleport/SNG/DSNG found to have been/ being used for transmitting/ uplinking any objectionable unauthorized content, messages, or communication inconsistent with public interest or national security or failing to comply with the directions as per para 7.1 above, the permission granted shall be revoked and the Permission Holder shall be disqualified to hold any such permission for a period of five years, apart from liability for punishment under other applicable laws.

7.3 All foreign personnel likely to be deployed by way of appointment, contract, consultancy, etc. by the Permission Holder for installation, maintenance and operation of its services shall be required to obtain security clearance from the Grantor prior to their deployment.

7.4 Any change in the Board of Directors would be subject to the prior approval of the Grantor.

8. Programme Content and Quality of Broadcast

8.1 The Permission Holder shall be exclusively liable for the consequences of the programme broadcasted and shall indemnify and keep the Grantor indemnified for any damage, loss or claim occasioned by use of the teleport for broadcast of any programme by the Permission Holder.

9. Monitoring and Public Complaints

9.1 The Permission Holder at its own cost shall, (a) preserve the recordings of broadcast material for a period of three months from the date of broadcast and produce the same to the Grantor or its authorized representative, as and when required and (b) on demand by the Grantor, provide the necessary equipment, services and facilities at designated place(s) for continuous monitoring of the broadcasting service by or under supervision of the Grantor.

9.2 The Permission Holder shall submit such information with respect to its broadcast as may be required by the Grantor from time to time.

9.3 The Permission Holder shall furnish any such information at periodic intervals as may be required by the Grantor concerning Programme Content and Quality, Technical Parameters etc. relating to the broadcast in the format as may be prescribed by the Grantor from time to time.

10. Inspection

10.1 The Grantor or its authorized representative shall have the right to inspect the broadcasting facilities. The Grantor shall, in particular but not limited to, have the right to access to the uplinking infrastructure namely teleport & monitoring facilities and records. No prior permission/ intimation shall be required to exercise the right of Grantor to carry out the inspection. The Permission Holder will, if required by the Grantor or its authorized representative, provide necessary facilities for continuous monitoring for any particular aspect of the Permission Holder's activities and operations.

10.2 The Grantor will ordinarily carry out the inspection after reasonable notice except in circumstances where giving such a notice will defeat the very purpose of the inspection.

11. **Force Majeure**

11.1 If at any time, during the continuance of this Permission, the performance of any obligation either in whole or in part by any party is prevented or delayed, by reason of war, hostility, acts of enemy, civil commotion, sabotage, fire, flood, act of State, explosion, epidemic, quarantine restriction, general strikes materially affecting the performance of any obligations of affected party, or act of God (all or any of these hereinafter referred to as "**Force Majeure Event**"), neither party shall, by reason of such Force Majeure Event be entitled to terminate this Permission, nor shall either party have any claim for damages against the other, in respect of such non-performance or delay in performance; provided a notice of such happenings of any such Force Majeure Event is given by the affected party to the un-affected party within 21 days from the date of occurrence thereof.

12. **Requirement to Furnish Information to the Grantor**

12.1 The Permission Holder shall furnish to the Grantor, such documents, reports, accounts, estimates, returns, equity holding patterns or any such other information and at such periodic intervals or at such times as the Grantor may require.

13. **Value Added Services**

13.1 The uplinking hub (teleport) to be set up by the Permission Holder will be used for uplinking TV channels only and it will not be used for other modes of communication including voice, fax and data communication unless necessary permission for such value added services have been obtained from the competent Authority.

14. **Conformity to provisions of intersystem co-ordination agreement**

14.1 The Permission Holder shall ensure that the uplinking hub (teleports) operation will conform to the provisions of inter-system co-ordination agreement between INSAT and the satellite being used by the Permission Holder.

15. **Termination of permission**

15.1 Consequences of non-operationalization.

15.1.1 The Permission Holder shall operationalise the teleport as per the time limit laid down in clause 4.3 of this Agreement; failing which the Permission is liable to be withdrawn, after affording an opportunity of being heard.

15.2 **Consequences of misuse and non-compliance with directives**

15.2.1 In the event of a Permission Holder using or letting its facilities being used for transmitting any unauthorized content, messages or communication or failing to comply with the directions as per clause 7.1 & 7.2 above, the permission granted shall be revoked and the Permission Holder shall be disqualified to hold any such Permission in future for a period of five years, apart from liability for punishment under other applicable laws.

15.3 **Consequences of violation of terms and conditions of the Permission**

15.3.1 Subject to the provisions contained in clauses 15.1 and 15.2 above, in the event of the Permission Holder violating any of the terms and conditions of Permission, the Grantor shall have the right to impose the following penalties:

(a) In the event of first violation, suspension of the Permission and prohibition of broadcast up to a period of 30 days.

(b) In the event of second violation, suspension of the Permission and prohibition of broadcast up to a period of 90 days.

(c) In the event of third violation, revocation of the Permission and prohibition of broadcast up to the remaining period of the Permission.

(d) In the event of the failure of the Permission Holder to comply with the penalties imposed within the prescribed time, revocation of Permission and disqualification to hold any fresh Permission in future for a period of five years.

15.3.2 In the event of suspension/revocation of Permission, the Permission holder will lose the Permission Fee for unutilized period. The Grantor shall not be responsible for any investment by the Permission Holder on the Teleport or by any other party on the strength of this permission.

15.3.3 Any suspension/revocation mentioned above shall be imposed only after giving a written notice to the Permission holder identifying the violation, providing opportunity to rectify it, if its nature so permits or otherwise show cause, within a period of 15 days and non-satisfaction from such rectification and/or cause so shown shall render the Permission Holder liable for the proposed suspension/revocation.

15.4 **Termination for Non eligibility**

The Grantor may, at any time, terminate this Agreement and the Permission, without compensation to the Permission Holder in case the Permission Holder fails to meet the eligibility criteria as laid down in the Guidelines for Uplinking from India or in case of company liquidation proceedings are initiated or becomes bankrupt or otherwise insolvent or applies for being adjudicated insolvent / bankrupt, provided that such termination shall not prejudice or affect any right of action which has accrued or will accrue thereafter to the Grantor.

15.5 **Termination for convenience**

- 15.5.1 The Permission Holder may surrender the Permission and terminate this Agreement, by giving an advance notice of one month to the Grantor as well as to all concerned/affected parties. However, in such a case, permission fee for the unutilized period would not be refunded.

16. **Disputes with Other Parties**

- 16.1 In the event of any dispute between the Permission Holder and any party other than the Grantor (including in relation to the Permission and/or Broadcasting services, etc) due to any reason whatsoever, it shall be the sole liability of the Permission Holder to resolve such dispute amicably or otherwise with the other party and the Grantor shall have no liability whatsoever in this regard. Further, the Permission Holder hereby undertakes to fully indemnify and keep the Grantor harmless in respect of any action, claim, suit, proceeding, damage or notice to/against the Grantor for any act of omission or commission on the part of the Permission Holder, its agents, employees, representatives or servants.

Provided that if any such third party dispute arises on account of non-observance or breach of any rules or regulations or any other terms and conditions by the Permission Holder as provided in this Permission Agreement, the Grantor shall also have the right to take any action against the Permission Holder as provided herein.

17. **Dispute Resolution and Jurisdiction**

- 17.1 In the event of any question, dispute or differences arising under this Agreement or in connection thereof, except as to the matter, the decision of which is specifically provided hereunder, shall be referred to sole arbitration by the Secretary, Department of Legal Affairs, Ministry of Law & Justice, Government of India or person nominated by him ("Arbitrator").
- 17.2 If the Arbitrator is a Government Servant, there shall be no objection to any such appointment on this ground. The award of the Arbitrator shall be final and binding on the parties. In the event of the Arbitrator, to whom the matter is originally referred to, being unable to act for any reason whatsoever, the Secretary, Department of Legal Affairs, Government of India shall appoint another person to act as the Arbitrator.
- 17.3 The Arbitration and Conciliation Act, 1996, the rules made thereunder and any modification thereof, for the time being in force, shall be deemed to apply to the arbitration proceedings as aforesaid. The venue of arbitration shall be New Delhi or such other place as the Arbitrator may decide. The arbitration proceedings shall be conducted in English language.
- 17.4 Upon any and every reference as aforesaid, the assessment of costs, interest and incidental expenses in the proceedings for the award shall be at the discretion of the Arbitrator.
- 17.5 The courts at New Delhi shall have the jurisdiction over all disputes.

18. **Miscellaneous**

- 18.1 Notwithstanding anything contained anywhere in this Agreement, the grant of Permission shall be subject to the condition that as and when any regulatory authority to regulate and monitor the Broadcast Services in the country is constituted, the Permission Holder shall adhere to the norms, rules and regulations laid down by such authority or any Applicable Law to regulate and monitor the Broadcast Service in India.
- 18.2 The Permission Holder shall abide by all the conditions required for the issuance of the Wireless Operational License by the WPC and shall also conform to the Technical Parameters as laid down in this Agreement. The Permission Holder shall also have obtained all environmental clearances as per Applicable Law. The Permission Holder shall comply with Applicable Law and specifically comply with the requirements of the Electricity Act, Factories Act and other allied Acts.
- 18.3 Some of the Clauses of this GOPA are under consideration of the grantor for amendment. The permission holder agrees that he will replace this GOPA with the GOPA as amended, as soon as it is finalised.

19. **WPC Wing's Permission**

- 19.1 As aforementioned, before operating the Teleport a separate specific license i.e. Wireless Operational License, shall be obtained by the Permission Holder from the WPC Wing of Ministry of Communications &IT, permitting utilisation of appropriate frequencies/band for the establishment and operation of concerned wireless component of teleport Service under usual terms and conditions of such license. The Grant of such License shall be governed by the rules, procedures and guidelines and shall be subject to compliance with all requirements of the WPC wing.
- 19.2 For this purpose, an application shall be made to the "Wireless Advisor to the Government of India, WPC Wing, Department of Telecommunications, Ministry of Communications &IT," in the prescribed application form.
- 19.3 License fee / royalty as prescribed by WPC from time to time, shall have to be paid by the Permission Holder towards grant of License for usage of frequency spectrum.
- 19.4 The Permission Holder shall not cause harmful interference to other authorised users of radio spectrum. WPC Wing will have the sole discretion to take practicable and necessary steps for elimination of harmful interference, if any, to other licensed users.
- 19.5 The Wireless Planning and Coordination Wing, Ministry of Communications & IT shall have the right to inspect from time to time the installation from technical angles to check conformity with Wireless Operational License conditions.

IN WITNESS WHEREOF the parties hereto have set their hands on this Agreement on the day, month and year first mentioned above in presence of the following witnesses.

Signed for and on behalf
of President of India
by _____

Signed for and on behalf
of _____
holder of General Power of Attorney
dated _____ executed in accordance
with Board Resolution dated _____
by _____.

Witness:

Annexure C: Downlinking Guidelines

**F.No.13/2/2002-BP&L/BC-IV
Government of India
Ministry of Information and Broadcasting
Broadcasting Wing
New Delhi.**

Dated: 11th November, 2005

POLICY GUIDELINES FOR DOWNLINKING OF TELEVISION CHANNELS

Ministry of Information and Broadcasting, Government of India, has formulated policy guidelines for downlinking all satellite television channels downlinked/received/transmitted and re-transmitted in India for public viewing. Consequently, no person/entity shall downlink a channel, which has not been registered by the Ministry of Information and Broadcasting under these guidelines. Henceforth, all persons/ entities providing Television Satellite Broadcasting Services (TV Channels) uplinked from other countries to viewers in India as well as any entity desirous of providing such a Television Satellite Broadcasting Service (TV Channel), receivable in India for public viewership, shall be required to obtain permission from Ministry of Information and Broadcasting, in accordance with the terms and conditions prescribed under these guidelines.

The guidelines are as given below:

1. ELIGIBILITY CRITERIA FOR APPLICANT COMPANIES

- 1.1** The entity applying for permission for downlinking a channel, uplinked from abroad, (i.e. Applicant Company), must be a company registered in India under the Indian Companies Act, 1956, irrespective of its equity structure, foreign ownership or management control.
- 1.2** The applicant company must have a commercial presence in India with its principal place of business in India.
- 1.3** The applicant company must either own the channel it wants downlinked for public viewing, or must enjoy, for the territory of India, exclusive marketing/ distribution rights for the same, inclusive of the rights to the advertising and subscription revenues for the channel and must submit adequate proof at the time of application.
- 1.4** In case the applicant company has exclusive marketing/ distribution rights, it should also have the authority to conclude contracts on behalf of the channel for advertisements, subscription and programme content.
- 1.5** The applicant company should have a minimum net worth as prescribed below:

<u>Item</u>	<u>Required net worth of the Co.</u>
1. For downlinking one Channel	Rs 1.50 Crores
2. Every Additional Channel	Rs. 1.00 Crores

- 1.6 The applicant company must provide names and details of all the Directors of the Company and key executives such as CEO, CFO and Head of Marketing etc to get their national security clearance.
- 1.7 The applicant company shall furnish, technical details such as Nomenclature, make, model, name and address of the manufacturers of the equipments/instruments to be used for downlinking and distribution, the Block schematic diagram of the downlinking and distribution system and also demonstrate the facilities for monitoring and storing record for 90 days.
- 1.8 The Applicant Company should not have been disqualified from holding such permission under these guidelines.

2. ELIGIBILITY CRITERIA FOR REGISTRATION OF CHANNELS FOR BEING DOWNLINKED

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

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

- 2.5 For the purposes of these guidelines any channel, which has any element of news or current affairs in its programme content, will be deemed to be a news and current affairs channel.
- 2.6 Companies whose channels are being downlinked at present will be required to comply with all formalities of registration of these channels within 180 days from date of issue of these guidelines. In addition these companies will be required to obtain the necessary permission for downlinking their respective channels under these guidelines within 180 days from date of issue of these guidelines.

3. PERIOD OF REGISTRATION AND PERMISSION

The Ministry of Information and Broadcasting shall grant registration to each channel for an initial period of 5 years, which shall be extendable thereafter as per extant Rules. The applicant company will be granted permission for one or more years up to a maximum of five years, co-terminus with the registration of the channel.

4. REGISTRATION FEE AND PERMISSION FEE

- 4.1 The Applicant Company shall pay registration fee of Rs. 5 Lakhs for each channel, which will be payable for the initial registration for a period of five years. Extension beyond five years shall be again for a period of five years at the above prescribed rate.
- 4.2 Every company permitted to downlink channels, uplinked from other countries, into India under these guidelines, shall pay Rs 5 Lakhs as the initial fee before the signing of the Grant of Permission Agreement. In addition, every company shall pay an amount of Rs. 1 lakh per channel per annum as the annual fee.
- 4.3 The company permitted to downlink channels into India under the uplinking guidelines, shall register every channel separately.

5. BASIC CONDITIONS/OBLIGATIONS

- 5.1 The Company permitted to downlink registered channels shall comply with the Programme and Advertising Code prescribed under the Cable Television Networks (Regulation) Act, 1995.
- 5.2. The sports channels/sports rights management companies having TV broadcasting rights shall with immediate effect share their feed with Prasar Bharati for national and international sporting events of national importance, held in India or abroad, for terrestrial transmission and DTH broadcasting (free-to-air) under the following conditions:
 - 5.2.1 The events of national importance shall be determined by the Ministry of Information & Broadcasting in consultation with Ministry of Sports & Youth Affairs, Prasar Bharati and the concerned sports channels/sports rights

management companies. In case of cricket events, these shall include all matches featuring India and the finals and semi-finals of international competitions.

- 5.2.2** The above conditions shall apply to all future events including those covered by existing contracts of broadcasting rights. However, in the case of cricket events whose broadcasting rights have been obtained by sports channels/rights management companies prior to the issue of the notification in the matter, the rights holders will be obliged to share the feed for all matches featuring India and finals of international competitions.
- 5.2.3** Prasar Bharati shall transmit the feed, free to air, on its terrestrial channel and carried through the terrestrial network and/or the satellite/DTH mode.
- 5.2.4** The marketing of the events' rights (terrestrial as well as satellite/DTH) will be decided through mutual negotiations between Prasar Bharati and the rights holder. The marketing rights should go to the party, which offers to maximize the revenue.
- 5.2.5** Revenue sharing formula of 75:25 in favour of rights holders without any minimum guarantee/opportunity cost should be applied.

In the event of any dispute, the matter shall be referred to an arbitrator to be appointed by Secretary, Ministry of Law & Justice out of the approved panel of arbitrators.

- 5.3** The applicant company shall adhere to any other Code/Standards guidelines/restrictions prescribed by Ministry of Information & Broadcasting, Government of India for regulation of content on TV channels from time to time.
- 5.4** The applicant company shall submit audited annual accounts of its commercial operations in India.
- 5.5** The applicant company shall obtain prior approval of the Ministry of I&B before undertaking any upgradation, expansion or any other changes in the downlinking and distribution system/network configuration.
- 5.6⁹** The applicant company shall provide Satellite TV Channel signal reception decoders only to MSOs/Cable operators registered under the Cable Television Networks (Regulation) Act 1995 or to a DTH operator registered under the DTH guidelines issued by Government of India or to an Internet Protocol Television (IPTV) Service Provider duly permitted under their existing Telecom License or authorized by Department of Telecommunications or to a HITS operator duly permitted under the policy guidelines for HITS operators issued by Ministry of Information and Broadcasting, Government of India to provide such service.
-

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

The Company shall immediately comply with any such directions issued in this regard.

6. OFFENCES AND PENALTIES

- 6.1** In the event of a channel found to have been/being used for transmitting any objectionable unauthorized content, messages, or communication inconsistent with public interest or national security or failing to comply with the directions as per Para 5.8 or Para 5.16, the permission granted shall be revoked and the company shall be disqualified to hold any such permission for a period of five years, apart from liability for punishment under other applicable laws. Further, the registration of the channel shall be revoked and the channel shall be disqualified from being considered for fresh registration for a period of five years.
- 6.2** Subject to the provisions contained in Para 6.1 of these guidelines, in the event of a permission holder and/ or channel violating any of the terms and conditions of permission, or any other provisions of the guidelines, the Ministry of Information and Broadcasting shall have the right to impose the following penalties: -
- 6.2.1** In the event of first violation, suspension of the permission of the company and/or registration of the channel and prohibition of broadcast up to a period of 30 days.
- 6.2.2** In the event of second violation, suspension of the permission of the company and/or registration of the channel and prohibition of broadcast up to a period of 90 days
- 6.2.3** In the event of third violation, revocation of the permission of the company and/or registration of the channel and prohibition of broadcast up to the remaining period of permission
- 6.2.4** In the event of failure of the permission holder to comply with the penalties imposed within the prescribed time, revocation of permission and /or registration and prohibition to broadcast for the remaining period of the permission and disqualification to hold any fresh permission and /or registration in future for a period of five years.
- 6.2.5** In the event of suspension of permission as mentioned in Para 5.8, 5.16 or 6.2, the permission holder will continue to discharge its obligations under the Grant of Permission Agreement including the payment of fee.
- 6.2.6** In the event of revocation of permission and /or registration, the fees paid will be forfeited.
- 6.2.7** All the penalties mentioned above shall be imposed only after giving a written notice to the permission holder.-

7. DISPUTE RESOLUTION

- 7.1 In the event of any question, dispute or difference arising under the Grant of Permission Agreement or in connection thereof, except as to the matter, the decision of which is specifically provided under the Grant of Permission Agreement, the same shall be referred to the sole arbitration of the Secretary, Department of Legal Affairs or his nominee.
- 7.2 There will be no objection to any such appointment that the Arbitrator is a Government servant. The award of the arbitrator shall be final and binding on the parties. In the event of such Arbitrator, to whom the matter is originally referred to, being transferred or vacating his office, or being unable to act for any reason whatsoever, Secretary, Department of Legal Affairs shall appoint another person to act as Arbitrator.
- 7.3 The Arbitration and Conciliation Act, 1996, the rules made there under and any modification thereof, for the time being in force, shall be deemed to apply to the arbitration proceedings as above. The venue of arbitration shall be New Delhi or such other place as the Arbitrator may decide. The arbitration proceedings shall be conducted in English language.
- 7.4 Upon any and every reference as aforesaid, the assessment of costs, interest and incidental expenses in the proceedings for the award shall be at the discretion of the Arbitrator.

8. PROCEDURE FOR GRANT OF PERMISSION AND REGISTRATION OF CHANNELS

- 8.1 The applicant company shall apply to the Secretary, Ministry of Information and Broadcasting in the prescribed Performa along with full details and documentation relevant for evaluating its eligibility for grant of permission to downlink TV channels in India. Each application form shall be accompanied by a **demand draft of Rs. Ten Thousand towards non-refundable processing fee.**
- 8.2 The applicant company shall also submit full details of each channel being/proposed to be downlinked along with all other documents as prescribed in the guidelines.
- 8.3 After scrutiny of the application if the applicant company is found eligible, the same will be sent for security clearance to the Ministry of Home Affairs. In the meanwhile, the Ministry of Information and Broadcasting will evaluate the suitability of the proposed channel for downlinking into India for public viewing.
- 8.4 In the event of the applicant company and the proposed channel being found suitable, the Ministry of Information and Broadcasting will register the channel and the applicant company to enter into a grant of permission agreement with the Ministry of Information and Broadcasting, Government of India.

- 8.5 On receipt of the signed agreement, the Ministry of Information and Broadcasting will issue a registration certificate for the concerned channels and grant permission to the applicant company to downlink the relevant channels in India for the prescribed period.
- 8.6 On receipt of the permission and upon registration of the channel, the applicant company will be entitled to approach the MSOs/Cable head end operators/DTH Operators for receiving/downlinking its channel's signal, for further transmission/retransmission/ distribution.

Note:

No cable operator or DTH service provider shall, after the expiry of 180 days from the date of this notification, carry or include in his cable/DTH network any television channel that has not been registered under these guidelines. Amendments to this effect in the Cable Television Network Rules 1994 and DTH guidelines are being notified separately.

FORM 1

Application form for permission to downlink TV Channels in India (both News & Current Affairs and Non-News & Current Affairs) (To be submitted in triplicate).

To,

The Secretary,
Ministry of Information & Broadcasting,
Shastri Bhawan, 'A' Wing,
New Delhi-110 001.

Subject: Application for permission to
(Please mention the purpose of application).

Sir,

I hereby submit the following details in support of the eligibility as prescribed in the guidelines for downlinking, in addition to other particulars:

PART - A: REQUEST FOR PERMISSION TO DOWNLNK TV CHANNELS
(DETAILS OF APPLICANT COMPANY)

1.	Name of the Applicant Company and Status (Pvt. Ltd./Pub. Ltd.)	:	
2.	Complete Postal Address with Telephone/Fax Nos. E-mail ID	:	
	(i) Corporate Office/Head Office	:	
	ii) Registered Office	:	
	ii) Regional Offices/ Country/ nature of activity	:	
3.	Address for Correspondence with Telephone/Fax/E-mail	:	
4.	Name of Authorised Contact Person, His designation and Telephone/Fax Nos/E-mail ID.	:	
5.	Processing fee paid and details of	:	

	payment.		
--	----------	--	--

6.	Registration details under Company's Act 1956: Incorporation No. and Date (attach a copy of Certificate of incorporation and Memorandum & Articles of Association).	:	
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7. Details of Promoters & Majority Shareholders

(Attach a separate sheet giving Name, Address, contact Telephone and equity held in terms of amount and percentage of paid up equity).

8.	Details of the Company	:	
----	------------------------	---	--

8.1	Board of Directors (Attach list of Directors along with bio-data of each Director giving date of birth, place of birth, parentage, nationality, permanent address, residential address, official address, passport number (if any), qualification, experience, parentage etc).	:	
-----	--	---	--

8.2	Key Executives: Starting with CEO/MD, Head of Marketing, Head of Programming etc. (Attach list of Key Executives along with bio-data giving date of birth, place of birth, parentage, nationality, permanent address, residential address, official address, passport number (if any), qualification, experience, parentage etc.)	:	
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(Any change in Board of Directors prior to issue of this permission to be informed immediately to the Ministry. The company shall intimate to the Ministry in case of change of Directors, after issue of permission to obtain their security clearance).(Clause 5.11 of guidelines).

8.3	Equity	:	
-----	--------	---	--

Amount (Rs. in lakhs)

(A)	Authorised Capital:	:	
-----	---------------------	---	--

(B)	Issued paid up capital	:	Amount (Rs. in lakhs)	As % of Authorised Capital
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--	--	--	--	--

(C)	Classification of equity holding	:	Amount (Rs. in lakhs)	As % of Paid up Capital (B)

(i)	Total equity held by Promoters/Majority Shareholders	:		
-----	--	---	--	--

(ii)	Pro rata share of FDI in the Promoters/Majority Shareholders	:		
------	--	---	--	--

(iii)	Indian Financial Institutions and Banks.	:		
-------	--	---	--	--

(iv)	Other Indian Shareholders.	:		
------	----------------------------	---	--	--

(v)	Percentage of Majority Shareholders' equity to Total Paid up Equity net of Banks and Financial Institutions Equity.	:		
-----	---	---	--	--

(vi)	Direct FDI holding (<i>including FIIs PIOs, NRsI, etc- give break-up</i>)	:		
------	---	---	--	--

(vii)	Indirect FDI/FII (<i>Pro rata share of FDI in Indian Promoters and majority shareholders</i>)	:		
-------	---	---	--	--

(viii)	Foreign Institutional Investors/ Portfolio Investments.	:		
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(ix)	Total foreign Equity Holdings. [(vi)+ (vii)+ (viii)]	:		
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(9)	<p>Net Worth of Applicant Company as on 30.10.2005.</p> <p>Net Worth to be calculated in accordance with number of channels being downlinked.</p> <p><i>[Please enclose a copy of the audited balance sheet and Profit & Loss Account for the immediate preceding</i></p>	:		
-----	---	---	--	--

	<i>year and certificate of Net Worth on the basis of these documents by Statutory Auditor or for a newly incorporated Company by a Chartered Accountant in the prescribed proforma for the latest quarter ending before application given in Annexure]</i>		
--	--	--	--

10.	Annual reports and Audited Accounts for the last three years or in the case of a newly incorporated company, balance sheets from the date of incorporation till 31st March 2006 certified by the statutory Auditor to support its claim of financial eligibility.]	:	
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11.	Major area of activity/ business	:	
-----	---	---	--

12. The number and names of channels being downlinked or proposed to be downlinked. (For each channel details in Part B & C to be provided separately):

13.	Does the Applicant Company hold any other licence from Department of Telecommunications (DOT) /Department of Information Technology (DOIT)/ Wireless planning and Coordination (WPC) or Ministry of Information and Broadcasting (MIB)? If so, please give details.	:	
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14.	Has the Applicant Company made any other application to Ministry of Information and Broadcasting (MIB)? If so, please give details.	:	
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15.	Has the Applicant Company been denied permission for uplink or downlink of a TV permission for uplink or downlink of a TV channel at any point of time? If so, please give details.	:	
-----	--	---	--

16.	Has the Applicant Company ever been disqualified from permission	:	
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	to uplink or downlink of a TV channel at any point of time? If so, please give de tails.		
--	--	--	--

Place:

(Signature of Applicant)
[Authorized Signatory of the Comp]

Date:

Name

Office Address:
Tel./fax No. & e-mail ID:

Company's Seal

PART - B: COMMERCIAL & TECHNICAL DETAILS FOR DOWNLINKING

A TV CHANNEL

(1)	Name of the Channel being/ proposed to be, downlinked.	:	
2.(i)	Does the Applicant Company own the channel being or proposed to be downlinked or do they have marketing and/ or distribution rights for territory of India? (Please enclose relevant documents in support): Please enclose the Memorandum/ Articles of Association, Marketing/ Distribution Agreement as applicable.	:	
(ii)	In case the Applicant Company has marketing and/ or distribution rights, do they have the authority to conclude contracts on behalf of the channel for advertisements, subscription and programme content? If yes, please enclose copy of the Agreements.]	:	
(iii)	Whether the channel will be marketed in a particular area or locality other than in India or whole of India? Please give details.	:	
3.	Details of transmission of the channel:	:	
(i)	Name of satellite hired/ proposed to be hired for uplinking and downlinked the TV channel	:	
(ii)	Orbital location	:	
(iii)	Type and No. of transponder(s) with bandwidth	:	
(iv)	Signal strength in primary zone	:	

	over India		
(v)	Name of the Company from which the satellite/ transponder is to be leased.	:	
(vi)	Uplink & downlink frequencies. (Enclose map of footprint of the satellite proposed to be hired for downlinking)	:	
4.	Name of the country/ location of uplinking:	:	
(i)	If it is a channel from India, please enclose a copy of the permission for uplinking. Please indicate the name of the teleport approved for providing uplinking facilities and the date of grant of permission for uplinking and period of permission for uplinking.		
(ii)	If the channel is uplinked from another country, please enclose a copy of the license/ approval granted by the licensing or regulatory authority of that country and indicate the exact place and country of uplinking. Please also indicate the date of issue of license/ permission and validity.	:	
(iii)	Are there any intermediate hops of the uplinked signal before being downlinked in India, if so do you possess the broadcasting license of the concerned regulatory or licensing authorities of those countries. If yes, please enclose copies of the relevant licenses.	:	
5.	Proposed date of commencement of downlinking. If the channel is already being downlinked, please indicate date and time since when it is being	:	

	downlinked in India for public viewership.		
6.	Please furnish, technical details such as Nomenclature, make, module, name and address of the manufacturers of the equipment/instruments to be used for downlinking distribution, the Block schematic diagram of the downlinking and distribution system.	:	
7	Please indicate the name and address of the company or its associate where the applicant company shall provide to the Govt. the necessary equipment and facilities for continuous monitoring of the broadcast in India and presentation of the recordings of such broadcast for a period of three months from the date of each broadcast.	:	
8.	The Applicant Company's year-wise collection for the last three years of: _____	:	
(i)	Advertising revenue from Indian market for the TV channel		
(ii)	Subscription revenue from Indian market for the TV channel	:	
(iii)	Revenue from sale of programme content for other use such as DVD's/CD's/ mobile telephone etc.	:	
(iv)	Please furnish audited copies of profit & loss account and The balance sheet of the applicant Company for the last three years or if incorporated later from the date of incorporation.	:	

9. (i)	Please furnish names and addresses of the following: Distributors of the channel in India and their areas of operations.	:	
(ii)	MSOs in India who are authorized downlink and transmit the channel in India and their areas of operation.	:	
(iii)	Local cable operators who are authorized to directly downlink and transmit the channel in India and their areas of operation.	:	
(iv)	DTH networks that are authorized to carry the channel and their areas of operation.	:	
(v)	Out of the preceding categories, please indicate the names of those distributors/ DTH operators/ MSOs/ LCOs with whom formal agreements have not been signed and copies filed with TRAI and the reasons thereof.	:	

PART C: For Registration of the TV Channel

1.	Name of the Channel	:	
2.	Logo of the channel (Please annex pictorial depiction)	:	
3.	Is the name and/ or logo registered under the Trade Marks Act, 1999?	:	
(a)	Is the name and/ or logo or a part thereof being used by any other TV channel in India or abroad?	:	
(b)	If so, is the name and/ or logo or a part thereof registered as a trade mark or a brand under the Trade Marks Act, 1999 of India or the corresponding law of the country of origin? And if so, in whose name? (Name attach relevant documents)	:	
(c)	If the answer to 4(b) above is yes, is there an agreement between the name and/ or logo owner and the applicant company for its use in India? Please furnish full details of the agreement.	:	
5.	What percentage of the proposed 1channel time will be utilized for telecasting programme content of the channel owning the registered trade mark (name and/ or logo) to justify its use by the applicant company? Please give full detail of the content sharing arrangements with relevant documents.	:	
6	<u>Category of Channel:</u> Please tick mark the category to which the proposed channel belongs:	:	
(a)	General News & Current Affairs		

	Channel.		
(b)	General Entertainment Channel : <i>(with serials, interactive programmes, music, movies, lifestyle, travel & tourism and cultural activities etc.)</i>		
(c)	Special or Niche Channel e.g. : Sports, Environment, Science, Technology, Religion.		
7.	In case of (c) please specify the special subject for the channel :		
8.	The language in which the proposed channel will be telecast in India. :		
9.	In the case of general News & Current Affairs Channel, please furnish the following information: :		
(i)	Where is the content of this News & Current Affairs channel collated and uplinked from, alongwith advertisements?		
ii)	Does the same content, including advertisements get beamed into other countries? It so, please name those countries. :		
(iii)	If answer to (ii) is no, please clarify whether there is a customized signal for India. :		
(iv)	What is the proportion of advertisements carried as compared to the total programming time in 24 hrs.? :		
(v)	What is the proportion of Indian advertisements? Note: Indian advertisements means advertisements made in India, intended only for Indian viewers and of either an Indian or Foreign :		

	Product.		
(vi)	What proportion of the channel's programming in 24 hours, is carrying Indian/ India specific content i.e. content intended for India, based on Indian events?	:	
(vii)	Whether the channel can be called a standard international channel? If yes, please provide an indicative schedule in support	:	
(viii)	Are you seeking a waiver/ modification of Clause 2.4.1?	:	
(ix)	If yes, please indicate your arguments in support with full data on proportion of international and Indian programme content and advertisements and subscription and advertisement revenues derived therefrom.	:	
10.	Is the channel Free to Air or pay channel?	:	
(i)	channel?		
(ii)	If the channel is a pay channel, please confirm that the decoders are being supplied or shall be supplied only to registered cable operators/ MSOs and DTH operators.	:	
(iii)	Is the channel signal digital or analogue?	:	
11.	Who makes or will make the final editorial decisions about programming and where are they made or going to be made? Indicate the name, address, and contact number etc. of the individual so responsible.	:	
(i)			

(ii)	<p>Is there any internal mechanism to regulate content telecast on the channel? If so, please explain in detail. How will the channel ensure the adherence to the Programme and Advertising Code?</p>	:	
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(iii)	<p>Is there any mechanism to receive complaints and redress grievances of the public regarding content of the channel? Please explain in detail.</p>	:	
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12.	<p>Contact person: Give the name of the person who will be the applicant's primary point of contact with Ministry of Information & Broadcasting for compliance purposes. His address, email, phone number, fax number etc. should be given. The authority letter issued by the Company be annexed.</p>	:	
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13.	<p>Period for which registration of the channel is applied for. (<i>The period shall not be more than the period for which the applicant company has the marketing/distribution rights of the channel for India</i>).</p>	:	
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GENERAL

Whether declaration in Form 1A and 1B enclosed. (Yes/No) and also mention the details.

Declaration:

1. We hereby apply for the grant of a registration for the TV channel (as given in Part B & C) to be downlinked and distributed in India as described above and declare that the information given in this application form, to the best of my knowledge and belief, is correct.

2. We hereby apply for grant of permission to downlink the TV channel as mentioned in our application above and declare that the information given in this application form, to the best of my knowledge and belief is correct. We also undertake to enter into an Agreement for Grant of Permission (GOPA) with Ministry of I&B for each and every channel being downlinked by us.
3. We hereby affirm that we will abide by all terms and conditions of registration and rules and regulations prescribed by the Government of India under Downlinking Guidelines the laws of the land and any other broadcasting law to be enacted in the future.

Place:

(Signature of Applicant)
[Authorized Signatory of the Company]

Date:

Name
Office Address:
Tel./fax No. & e-mail ID:

Company's Seal

List of Enclosures attached with the Application

Please tick against the following documents enclosed with the application (as applicable):

- (1) An attested copy of Applicant Company's Registration Certificate under Company's Act 1956.
- (2) A copy of Certificate of incorporation; Memorandum & Articles of Association and Marketing/ Distribution Agreement.
- (3) Shareholding Pattern as per Table 1.
- (4) A separate sheet giving Name, Address, contact Telephone of Promoters & Majority Shareholders and equity held in terms of amount and percentage of paid up equity.
- (5) A list of Key Executives along with bio-data of each Director giving date of birth, place of birth, parentage, nationality, permanent address, residential address, official address, passport number (if any), qualification, experience, parentage etc.
- (6) Audited Balance sheet and Profit & Loss Account for the last 3 financial years and Certificate of Net Worth by a Chartered Accountant on the basis of these documents.
- (7) Details of map of footprint of the satellite proposed to be hired/ being used for downlinking (channel wise).
- (8) Copy of the permission for uplinking the channel. Copy of the license/ approval granted by the licensing or regulatory authority of that country (channel wise).
- (9) Copy of relevant documents of Applicant Company evidencing ownership of channel/s being or proposed to be downlinked or marketing and/or distribution rights for territory of India for each channel.
- (10) Copy of documents in support of a News and Current Affairs Channel fulfilling the eligibility criteria prescribed in the guidelines.
- (11) An indicative programme schedule.
- (12) Affidavits in Form 1A & 1B.
- (13) Any other:

Place: (Signature of Applicant)

Date: Name

Office Address:

[Note: In case of non - furnishing of complete information, the application is liable to be rejected and returned to the company forthwith.]

**FORMAT FOR SHAREHOLDING PATTERN TO BE FURNISHED
ALONG WITH APPLICATION**

TABLE-1

SHAREHOLDING PATTERN OF APPLICANT COMPANY

M/s _____ AS ON _____

FACE VALUE OF THE SHARE RS. _____

S. No.	Category of Shareholders	Share Holding			
		Direct Investment		Portfolio Investment	
		No. of Shares	% of total paid up shares	No. of Shares	% of total paid up shares
1.	Indian individual				
2.	Indian company				
3.	Foreign individual				
4.	Foreign company				
5.	NRI				
6.	FII				
7.	PIO				
8.	Any other				

FORM-1A

**AFFIDAVIT/UNDERTAKING
(on Rs 20 Stamp Paper & Notarized)**

WHEREAS I, Shri S/o Shri _____ in the capacity of(designation) have applied to the Ministry of Information & Broadcasting on behalf of M/s.....for approval/permission for downlinking of TV channel in (place).

WHEREAS as a condition precedent to above approval/permission, I am required to abide by the Programme Code and Advertising Code prescribed under the cable Television Network (Regulation) Act, 1995 and the Rules passed thereunder.

HEREAS I have read the abovementioned Programme Code and Advertising Code.

WHEREAS I understand that the permission/approval so granted can be withdrawn, if I fail to abide by the said Programme & Advertising Codes. Now, therefore, I hereby undertake as follows:

- i) I undertake to abide by the Programme Code and Advertising Code laid down by the Ministry of Information & Broadcasting, Government of India from time to time.
- ii) I undertake to furnish periodic information relating to public complaints, programme contents and any other information in respect of above-mentioned TV channels as may be laid down/asked for by the Ministry of Information & Broadcasting from time to time.
- iii) I undertake to provide the necessary equipment and facility for continuous monitoring of the broadcaster service at my own cost and preserve the recordings of broadcasting materials for a period of 3 months from the date of broadcast and produce the same to Ministry of Information & Broadcasting or to its authorized representative as and when required.

Signature

Name

Designation

Seal of Company

Place:

Date:

FORM- 1B

AFFIDAVIT/UNDERTAKING

[For Entertainment TV Channel/News & Current Affairs TV Channel]
(on Rs 100 Stamp Paper & Notarized)

WHEREAS Ms.-----have applied to the Ministry of Information & Broadcasting for approval/permission for downlinking of a TV channel -----.

WHEREAS information have been provided in Form 1 supported by affidavit in Form 1A and declarations in Table I along with other related documents (i.e. Memorandum and Articles of Association, project report, satellite lease agreement, etc.)

WHEREAS we understand that the information given in the application and in Form 1A 1C and Table I and other related documents form a composite part of this permission.

We submit that our channel is purely an Entertainment TV Channel/News & Current Affairs TV Channel and have/does not have any news or current affairs based programme. We hereby undertake that in accordance with the guidelines for downlinking of TV channels, we will seek fresh permission from the Govt., should there be a change in the Programme content of the channel to include news/current affairs along with a change in the ownership pattern to include any element of foreign equity/management control and that prior information of any such proposed change shall be given to the Government. We also undertake to supply information, in the format as prescribed by the Govt. from time to time.

For and on behalf of
M/s_____

Authorized Signatory
Seal of the Company

Date:
Place:

Annexure D

List of companies permitted by Ministry of I&B to set up teleports at various locations in India as on 31.12.2009		
S. No	City	Name of the Company
1	New Delhi	M/s TV Today Network Limited
2	Greater Noida	M/s Jain Studios Limited
3	Chennai	M/s Sun TV Network Limited
4	Mumbai	M/s Entertainment Television Network Limited
5	Hyderabad	M/s Ushodaya Enterprises Limited
6	NOIDA, Mumbai, Aroor (Kerala)	M/s Essel Shyam Communications Limited
7	Thiruvananthapuram (Kerala)	M/s Asianet Communications Limited
8	NOIDA	M/s Sahara Sanchar Limited
9	New Delhi, Mumbai, NOIDA	M/s Television Eighteen India Limited
10	New Delhi	M/s New Delhi Television Limited
11	Kochi (Kerala)	M/s Indiavision Satellite Communications Ltd
12	Greater Noida	M/s Noida Software Technology Park Ltd
13	NOIDA	M/s DISH TV

14	Guwahati, Noida	M/s Positiv Television Private Ltd
15	Mumbai	M/s Channel Guide India Ltd
16	Chennai	M/s Coxswain Technologies Limited
17	NOIDA	M/s Independent News Service Pvt Limited
18	Gurgaon, Kolkata, Chennai, Hyderabad, Noida	M/s Indiasign Private Limited
19	Hyderabad	M/s Associated Broadcasting Co Private Limited
20	Bhopal	M/s A V Entertainment Private Limited
21	Thiruvananthapuram	M/s Amrita Enterprises Private Limited
22	Chennai	M/s Mavis Satcom Limited
23	New Delhi, Mumbai, Chennai, Kolkata, Cochin, Chennai	M/s Videsh Sanchar Nigam Ltd
24	Mumbai	M/s Lamhas Satellite Services Limited
25	Thiruvananthapuram	M/s Malayalam Communications Limited
26	Mumbai	M/s Sanskar Info TV Private Limited
27	Mumbai	M/s Bennett, Coleman & Co Limited
28	New Delhi	M/s Senior Media Limited
29	Ahmedabad	M/s Lok Prakashan Limited
30	Kolkata	M/s Calcutta Television Network Pvt Ltd
31	Rajpura (Punjab)	M/s Kohinoor Broadcasting Corpn Ltd

32	Bhubaneshwar	M/s Kamyab TV Private Limited
33	Bangalore	M/s Kasthuri Media's Private Limited
34	Kolkata	M/s SST Media Private Limited
35	Alapuzza	M/s MM TV Limited
36	Hyderabad	M/s IN Cablenet (Andhra) Limited
37	Hyderabad	M/s Indira Television Limited
38	New Delhi	M/s Tata Sky Limited
39	NOIDA	M/s Media Content & Communications Services (India) Private Limited
40	Bangalore	M/s Satish Sugars Limited
41	Delhi	M/s MH One TV Network Limited
42	New Delhi	M/s S TV Enterprises Limited
43	Surat	M/s AIRR X Media Limited
44	New Delhi	M/s Broadcast Equipment (India) Private Ltd
45	Hyderabad	M/s Winning Edge Communications Limited
46	Hyderabad	M/s Rachna Television Private Limited
47	Bhubneshwar	M/s Ortel Communications Limited
48	Hyderabad	M/s Sowbhagya Exports Limited
49	NOIDA	M/s Pragya Vision Private Limited
50	Guwahati	M/s Brahmaputra Tele-Productions Pvt

		Limited
51	New Delhi	M/s G-Next Media Private Limited
52	Bhubaneshwar	M/s Eastern Media Limited
53	Jaipur	M/s Rajasthan Patrika Private Limited
54	Guwahati	M/s Pride East Entertainment Private Limited
55	New Delhi	M/s Vintage Studio Private Limited
56	NOIDA	M/s Skyline TeleMedia Private Limited
57	NOIDA	M/s Information TV Private Limited
58	Mumbai	M/s Unilazer Export & Management Consultants Limited
59	Hyderabad	M/s Comsat Systems Private Limited
60	Trupati	Sri Venkateswara Bhakti Channel Pvt Limited
61	NOIDA	Bharati Teleport Limited

Source: Ministry of Information & Broadcasting