Telecom Regulatory Authority of India

Recommendations

On

Licensing Issues Relating to 2nd Phase of Private FM Radio Broadcasting

New Delhi

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Section 1: Background

1.1 Objectives

The Policy objective of the Government for Radio in the 9th Five Year Plan was improving the variety of content and technical quality of Radio. On the technological front the focus shifted from Medium Wave (MW) to Frequency Modulated (FM). During the Plan Period the thrust areas for Radio was on Improvement of Programme content; Providing wider choice of programs; Improving broadcast quality; Enhancing technical features; Renewal of old and obsolete equipment; Addition of new facilities at radio stations.

Keeping in line with the policy of liberalization and reforms followed by the Government since 1991, the Government during the Ninth Plan period allowed fully owned Indian companies to set up private FM radio stations on a license fee basis. In May 2000, the Government auctioned 108 frequencies in the FM spectrum across 40 cities in the country through an Open Auction Bidding process. The decision to open up the frequencies to private participation was taken by the Government with the following objectives:

(a) To open up FM broadcasting for entertainment, education and information dissemination by commercial broadcasters;

(b) To make available quality programmes with a localized flavour in terms of content and relevance; to encourage new talent and generate employment opportunities directly and indirectly; and

(c) To supplement the services of All India Radio (AIR) and promote rapid expansion of the broadcast network in the country for the benefit of the Indian populace.

1.2 Tenth Plan

In the case of radio, MW transmission has reached 99 per cent of the population. However, FM broadcasting is the preferred mode of radio transmission all over the world due to its high quality stereophonic sound. Therefore, the emphasis in the Tenth Plan is on substantially enhancing FM coverage from 30 per cent (all of which was AIR's capacity) of the population to cover 60 per cent of the population along with efforts to consolidate the MW transmission network. The following are the major thrust areas of the Tenth Five Year Plan:

a) No further expansion of MW transmission except in sparsely populated, hilly terrain and strategic border areas where it will still be more cost effective.

b) Expanding the reach of FM radio to cover 60 per cent of the population by the end of the Tenth Plan. Private operators are to be encouraged to provide FM radio services in metros and small cities.

c) Encouraging private participation in providing quality services and replacing the existing system of bidding for licenses with a revenue sharing mechanism.

d) Automating all FM transmitters and all MW transmitters of 20 kilowatt (KW) and below capacity.

e) Creation of high quality content with long shelf life to enable AIR to fulfill its role of public service broadcaster.

f) Strengthening and expanding the reach of radio in the northeastern states (including Sikkim) and island territories.

g) Use FM radio to spread literacy, because of better transmission and reception

The Tenth Plan stipulates that private operators are to be encouraged to provide FM Radio services in metros and small cities. For the FM licenses, it also envisages replacement of the existing system of bidding for licenses with a revenue sharing mechanism.

1.3 First Phase of FM Licensing

In May 2000, 108 frequencies in the FM spectrum (VHF 87 – 108Mhz) were auctioned across 40 cities in the country. Multiple round auction mechanism was followed to award these licenses. The license was awarded for a period of 10 years and the annual license fees was escalated at 15% per annum on the base of the first year fees .The licenses for private FM Radio Broadcast were granted on the basis of cities. These cities were divided into five categories on the basis of the amount of reserve license fees.

The start-up has been slow. Out of 40 cities and 108 frequencies, Government received 101 bids for an aggregate of Rs 425 crores as against the estimated amount of Rs.79.65crores. However, the actual collection was only Rs.158.8crores from bids for 37 frequencies as bidders in respect of 64 frequencies defaulted. The statement at Annexure I gives the details of the status of these 101 bids.

A total of 37 licenses were issued out of which 22 licenses had become operational of which one has closed down and two licensees are paying license fees though they have not operationalised the license. The Government has accepted such payments by describing the licenses as deemed operationalised.

The deadline for operationalising the licenses was one year from signing the License Agreements, i.e. December 29, 2001. However, even after furnishing the bank guarantees and signing the License Agreement, 13 successful bidders did not operationalise their licenses within the required time frame and ultimately surrendered their licenses.

Thus, it is evident that the results of the first phase are not very encouraging as only about 25% of the expected licenses could become operational. Also, even the existing licensees have reported their operation as unviable. The private FM Radio industry reported heavy losses and sought relief by way of migration to a revenue share regime.

1.4 The Radio Broadcast Policy Committee Report

In July 2003, the Government appointed a Radio Broadcast Policy Committee (hereinafter called the Committee) under the Chairmanship of Dr. Amit Mitra to provide recommendations on the second phase of Private FM Broadcast liberalization. The committee after delving through the lessons from the first phase, the relevant experience from the Telecom Sector as well as global experiences made a series of recommendations. These primarily relate to the

a) Entry & exit mechanism,
b) License fees structure,
c) Enhancing the scope of services,
d) Improving roll out and
e) Migration of existing licensees to Phase II

1.5 TRAI Act, Amendment & Reference by the Government of India

The Government notified broadcasting to be a telecommunication service under Section 2 (i) (k) of TRAI Act on 9th January, 2004. On February 12, 2004, the Ministry of Information and Broadcasting, Government of India sent the report of the Radio Broadcast Policy Committee to TRAI for making appropriate recommendations.

On February 24, 2004, the Government referred the representation made by five private FM broadcasters for deferment of the Annual FM License fee, till the Government takes a decision on the Report of the Radio Broadcast Policy Committee's recommendations. Since this issue was linked to the recommendation on phase II licensing and TRAI was in the process of preparing a consultation paper on the same, which was likely to take time, TRAI provided its interim recommendation to the Government, on the representation of the FM broadcasters, on 5th April 2004. In its interim recommendation, TRAI mentioned

> *" that the licensees may be given the option of deferring the payments which may fall due till a final decision is taken. This would be subject to the condition that the dues as finally decided by the Government, after taking into account the recommendation of TRAI would be collected from the licensees with interest from the due date, on the quantum of license fees found to be payable. The final recommendations*

of TRAI would address the issue of license fee payable as well as the relevant interest rate.

10. Accordingly all licensees could be given the option of deferring their next installment of dues subject to the condition that they would pay this amount, after the issue is decided by Government, with interest as may be decided finally."

The Government had written to all the licensees to pay their next instalment by the due date. Some of the licensees had gone to court against this demand of the Government in view of TRAI's interim recommendation. In some cases the courts have given stay orders while in others while giving stay orders the Court has directed the licensees to approach the TDSAT. The Tribunal has granted stay in favour of Service Providers with the condition that they will pay 1/3rd of the license fee due.

1.6 Consultation Paper

In line with its consultative approach, TRAI issued a Consultation Paper on April 14, 2004 for giving its recommendations to the Government on the 2nd phase of licensing. The consultation paper was based on extensive analysis and comprehensive inputs received from various stakeholders in meetings held with them. TRAI also received inputs from the Ministry of Information and Broadcasting. Dr. Amit Mitra, Chairman, Radio Broadcast Policy Committee, gave a presentation on its Report to the Authority. The accounts of the Phase I licensees were also called for and scrutinized.

The objective of the Consultation Paper was to examine the various licensing, regulatory and level playing field issues for enabling the issue of 2nd phase of Private FM Radio Licenses. The paper was prepared to seek the views of the stakeholders on the licensing terms and conditions for the 2nd phase of FM licensing. This consultation provided the necessary platform for discussing the important issues relating to issue of licenses for the 2nd phase of Private FM Radio Broadcasting. The paper called for the comments of various stakeholders on different issues including the issue of migration for existing licensees. The Comments on the Consultation Paper were called for up to 7th May 2004 and a large number of responses were received.

1.7 Open House

TRAI also held Open House Discussions with various stakeholders on 7th, 11th and 15th May in Chennai, Delhi and Mumbai respectively.

1.8 Phases of Private FM Radio Development

In the following sections the development of private FM Radio is divided into three Phases which are described below:

- Phase –I is what has already happened. In this Phase 108 frequencies had been put on bid, 22 frequencies were operationalised and 2 were “deemed” operationalised. One has closed down this year.
- Phase -II would consist of two parts. One part would consist of those frequencies offered in Phase I which are not operational and additional frequencies in towns already covered in Phase –I. The second part would consist of frequencies in new towns not already covered. These frequencies are being finalized by a committee set up by the government and later in these recommendations some suggestions have been given in this regard
- Phase III would consist of those frequencies which would be put on bid after Phase –II bidding is over and some experience has been gathered about the performance of Phase II. Recommendations for Phase III would naturally follow such experience and would be made at a later date.

The overall objective would be to achieve the target of 60% coverage of population by FM radio stations. Of this, 30% had already been achieved by AIR at the start of the Tenth Plan. During the remaining period of the Tenth Plan it is expected that private FM will complement in an increasing manner the efforts of AIR in achieving the objective of 60% of the population. What this underscores is the need for a massive expansion of private FM radio services.

Section 2: Approach of the Authority

2.1 The overarching objective that the Authority has kept before it is the task of implementing the goals set out in the Tenth Plan. Specifically, this means providing access to FM radio to 60% of the population and encouraging private sector players. The Tenth Plan also has an explicit statement about the need to move to a revenue sharing mechanism.

2.2 Given the limited reach of private FM radio at present, it would be difficult for this part of the industry to contribute significantly to the task of achieving the 60% coverage target. We are now about midway through the Tenth Plan and little time is left to achieve these objectives. It is therefore important that in future we need to make use of private resources to supplement AIR's efforts in this direction. This can only be done by keeping entry costs low and making it easy for the private sector to spread across the country. At present AIR has 140 stations with a coverage of about 33% of the population. It is estimated that with another 100 we could reach 50%. As against this the population of all the 40 towns that had been put on bid for the private sector in Phase I was only 10.20% (this coverage was within the 30% coverage of AIR's FM radio stations; the actual coverage would be more since some rural areas surrounding the urban areas would also be covered; studies are needed to determine the exact coverage) of the total population. Thus a much larger effort would be required if the private sector is to play a significant role in this aspect. Once Phase II is over the Authority would review the results and make changes wherever necessary to enable the full potential of the private sector to be realized in Phase III of this initiative.

2.3 At present AIR does not pay any entry fees or license fees. Private FM radio will have to compete with AIR for the pool of advertising revenues. At present AIR has to perform activities that are not purely commercial. Therefore no entry fees or license fees needs to be charged to them. However at some stage in the future this will need to be done, in the interest of level playing field conditions, along with a mechanism to promote the spread of radio to non-commercial areas. This aspect should lead to a low entry fee and license fees.

2.4 At Annexure II are the profit and loss figures of the private FM Radio stations for 2002-03 and 2003-04. The important thing that these figures reveal is that the present model is not sustainable. This is also revealed in the figures of stations that are operational. Finally the appointment of the Mitra Committee last year also indicates that Government recognised that the need for change requires to be studied.

2.5 International experience shows that the license fees for FM radio has been kept very low and that many countries have used the revenue share model. Details of some of the countries are at Annexure III. In India the experience of the telecom sector itself shows that as license fees dropped, the market expanded and the government ultimately got more than it would have had the earlier high fees structure remained. This is brought out clearly in Annexure IV. Service tax is paid by the advertising companies and therefore government stands to gain two fold by a growth in FM radio: increase in license fees as well as increase in service tax from advertisers, the sole revenue providers for FM radio.

2.6 In keeping with these objectives and factors the Authority considers the following to be the key elements of any strategy to achieve the objectives of the Tenth Plan

- Maximizing the number of players so as to afford the widest possible competition
- Keeping the revenue angle as secondary in importance and the entry fees as low as possible to facilitate this
- Making the tendering process as simple as possible
- Making the primary objective of the tendering process identification of the largest number of serious players
- Making best use of the scarce spectrum in large cities

2.7 In accordance with the strategy outlined above the Authority has proceeded to make various recommendations on the issues concerning FM radio. The Authority has had the benefit of the report of the Committee headed by Dr. Amit Mitra. The Committee has put together an excellent set of recommendations. The Authority has concurred with most of these but has differed in some respects in the case of a few recommendations. The detailed recommendations are set out in the following sections.

2.8 In each section the issues are first spelt out. Then the recommendations of the Committee are given briefly. The views of the stakeholders are then summarized – given the large number of responses it has not been possible to include them in full although each one of them has been carefully considered. Finally the recommendations of the Authority are given.

Section 3: Method of Licensing, License Fee Structure and Period of License

3.1 The Issues

In phase-I licenses had been sought to be given in 40 cities. The names of the cities and the number of channels in each city are at Annexure V. This also gives the license fee that had been fixed for each city after bidding had been completed. The procedure for award of license is briefly indicated below:

a) On receipt of application, together with an Earnest Money Deposit (EMD), the application was scrutinized by the licensor and the eligible applicants were invited to the auction;
b) These applicants had to deposit 50% of the reserve fees for the first year;
c) In places where the number of applicants were less than the number of frequencies, all the applicants were eligible for LOI;
d) A multiple round bid with an escalation of 10% in each round was carried till the number of frequencies equalled the number of applicants. All bidders paid the same amount.
e) An LOI was awarded at this stage

After receipt of LOI,

f) Each successful bidder had to furnish a Bank Guarantee equal to the licence fees for first year of license;
g) In case of metro operators, the licensees were required to form a consortium, to fulfill the co-location condition, (within 75 days in accordance with the Model Consortium Agreement supplied with LOI) before the execution of the License Agreement;
h) The applicant had to apply for WPC frequency and SACFA clearance within 3 months of the date of issues of LOI;
i) Effective date of license meant the date of issue of operational license by the WPC;

The installation of broadcast facility was to be completed within 12 months from the date of earmarking of frequency by WPC.

It has been considered that the license fees that emerged out of the bidding process in phase –I were excessively high and that this was due to the nature of the bidding as well as the structure of the licensing fees. A related issue is the period of license. It has been felt that the period of license was too short for the industry to be viable. If the objective of introducing the private sector into FM radio was to increase the number of players and provide greater choice to the listeners, quite clearly the objective had not been achieved. Therefore, it is necessary to examine these issues and suggest necessary modifications in the policy with respect to -

(a) procedure for licensing
(b) license fee structure, and
(c) period of license

3.2 Recommendations of the Committee

The Committee has recommended the following:

<u>Licensing Process</u>

The Committee is of the view that the open auction bid process was not suitable for auctioning of the frequencies and it did not yield the desired results. Various legal challenges were raised in connection with the open auction bid process followed in case of Phase I of the liberalization of FM broadcasting. The Committee recommends that adoption of tender process for radio licenses is more suitable for the following reasons:

i. It is a standard and simple process followed by the Government in numerous sectors whereby sufficient experience has been garnered. The process is also judicially well recognized.
ii. It is an internationally well-accepted process.
iii. It is the preferred process, specifically for broadcast licenses. It is one of the prescribed processes in case of auction of spectrum licenses in Australia and is also followed in the United Kingdom. The European Community recommendation on Independent Broadcast Regulator also envisages a tender process for broadcast licenses.

The License process shall consist of the following rounds:

a. The first round should be the prequalification round and only bidders complying with the financial and technical eligibility criteria specified in the tender documents and as certified through a viability/ sensitivity study by an Eligible Financial Institution/Bank should qualify for the next round. The security for participating in this stage should be the earnest money deposit as specified in the tender document. The security amount should be in line with phase I tender document.

b. After the pre-qualification stage, the financial bids of the qualified applicants should be opened at a notified time and place to determine the Entry Fees.

The bid license amount must be based on the business plan and the security for the same should be in the form of an irrevocable, unconditional and confirmed bank guarantee for the full amount of the quoted license fees. The bank guarantee shall be the security for the period from the date of application till the date of payment in full of the entry fees (i.e. the date of allocation of frequency).

In the tender process the entry fees could naturally be different for each bidder. The number of highest bidders that equal the number of frequencies available, would automatically win the frequencies at each center (e.g. if there are seven frequencies available at a center, the seven highest bidders would be allotted the frequencies).

Immediately upon award of the bid, 25% of the entry fees should be payable and the frequency should be allocated only upon payment of the balance amount of the entry fees.

<u>License Fees</u>

The fixed annual license fee (that escalates annually at the rate of 15%) determined by the auction procedure in Phase-I of FM Licenses for Private Broadcasters has proved to be unviable. In such a scenario, migration to a one-time entry fees plus revenue sharing model, as in the case of cellular licenses (Telecom) in India, is the most suitable option.

Entry fees: The Committee recommends that the entry fees should be determined by a competitive bid process that will reflect the true market value of the frequency.

Revenue Share: In light of the fact that:

- The Tenth Plan has also envisaged a revenue share mechanism in radio.
- The revenue sharing arrangement has been tried in a number of instances in India (like Telephones/Major ports etc.) and in the media sector as well (in case of DTH). Revenue understatement may be a cause of concern in the case of large public utilities. But radio is comparatively a small local industry with much smaller capital investment and revenue flows. The only form of revenue in the radio industry is in the nature of advertising and opportunities of revenue understatement are therefore much less in comparison to an infrastructure industry like electricity or oil.
- Detailed guidelines have been formulated in relation to related party transactions in Accounting Standard 18 of the Institute of Chartered Accountants of India.
- Internationally the revenue share model is used in spectrum allocation (As in Australia) and broadcast licenses.

The Committee recommends a revenue share of 4% of gross revenue. This revenue share shall be subject to review by a committee every five years and may be increased/decreased, depending on the then prevailing market conditions. Such revision, covered under the agreement, will not be considered as a change in law.

In respect of Reserve price the Committee has recommended that the historical reserve price of Phase I be followed.

<u>Duration of License</u>

The duration of the licenses in Phase-I of the award of FM broadcast licenses was fixed at ten (10) years and no extensions were permissible on any grounds whatsoever. Internationally, the initial period of license is lower (e.g. in Canada the period is seven (7) years, U.K it is eight (8) years). However, in most countries, renewal of the licenses is permitted, which taken together with the original license period, would mean that the term of the license extends more than 10 years (e.g. in Canada renewals of license for terms not exceeding seven years (7) is permitted while in U.K licenses are renewable for one term not exceeding eight (8) years, after the completion of the first eight (8) years of license).

The Committee recommends that the license would be valid for a period of 10 years from the date of grant of operational license by

WPC, as in the case of Phase-I. The Committee also recommends that the renewal of license be permitted, for a further period of five years, subject to satisfactory performance by the licensee and provided that no default has occurred during the license period. This assessment and recommendation for renewal of license will be made by the independent regulator to the Government, once the regulator is in place.

3.3 Comments of the Stakeholders

Licensing Process

In areas where there is no scarcity of spectrum, license should be offered on a first-come-first-served basis, subject to the licensee meeting pre-specified criteria. Alternatively this can be awarded at the reserved price.

In areas where there is scarcity of spectrum, a Comparative Evaluation Process could be adopted, with pre-published criteria.

In case frequencies are auctioned, a one time entry fee + revenue share seems preferable. While some have suggested that entry fee should be based on lowest bid, others have proposed this to be on the highest bid or the average or different bids made by individual bidders.

On the tender versus auction method also, there are different views-some have suggested the auction method while others have agreed with the Committee Report of using the tender process. A suggestion has also been made to have an ascending auction process.

License Fee Structure

The general view is for a one time entry fee + revenue share, with a revenue share ranging between 2.5% to 4. However, there are differences of opinion with regard to the uniform applicability of the revenue share across various licenses. Some have suggested lower revenue share for rural and unserved areas while some have suggested a high licensee fee for mass market channels and medium/low for language/niche channel based on market potential in each category. An alternative view is that there should be no revenue sharing at all.

Licensing period

Most of the stake holders are in agreement with the Mitra Committee Report of a licensing period of 10 years with a renewal clause of 5 years, provided that the license terms and conditions are observed. However, some of the existing Service Providers have even suggested 15-20 years with a renewal clause of 10 years. One of the Service Providers has suggested 15 years period with a renewal clause on first right of refusal basis.

Some have suggested a lower licensing period of 5-7 years with a renewal clause of 2-5 years. One of the suggestions is that for stations with less investment the license period and renewal intervals can be less.

3.4 Recommendations by the Authority

The Authority recommends the following:

Licensing procedure

At the outset it must be emphasized that the licensing procedure is only a methodology for selecting a licensee. It clearly is not a normal tender process in which the effort is to minimize cost (where Government is the buyer) or to maximize revenue (where Government is the seller). Accordingly the licensing procedure should be such that the entry fee is kept low and the maximum numbers of players are encouraged to participate. With this perspective the Authority is in broad agreement with the recommendations of the Committee. It would in addition recommend the following for phase – II bidding:

(a) Since the bidding process in phase – I has been found not to be delivering the desired result and since migration of phase – I licensees to phase – II is being separately recommended all the bidders who were found eligible to bid in phase – I should be eligible for phase – II also (apart from the new bidders in Phase II). The eligibility conditions could be the same as in Phase I and all bidders, both new and those of Phase I, would be evaluated to check if they satisfy the minimum conditions laid down. Those found eligible would be invited to submit their financial bids. This would be subject to the condition that the Phase I bidders should withdraw pending litigation and clear all dues. It is, however, not necessary for the bidders to submit a business plan for viability study by an eligible financial institutions/bank willing to finance the project in principle. This is not considered necessary because the viability should be assessed by the bidder only and any non serious bidder should be penalised. Further, by providing for such studies the bidding process will get complicated and also long drawn out.

(b) In order to ensure that only serious bidders are in the fray the following steps are proposed:

(i) All bidders should be asked to provide an EMD as in Phase I. (The EMD in Phase I varied from Rs.50,000 to Rs. 2 lakhs; details are at Annexure VI)

(ii) All pre qualified bidders should be asked to provide a deposit equal to 50% of the Reserve price of Phase I along with the financial bids. (The reserve price in Phase I varied from Rs. 20 lakhs to Rs.1.25 crores; details are at Annexure VI)

(iii) Successful bidders will have to :

(A) pay the difference between this amount and the entry fee amount as determined by the bidding process (this has been discussed and described in sub section [c] below) within a week of being informed that they are successful and

(B) provide a Performance Bank Guarantee (PBG) equal to 50% of the entry fee amount as determined by the bidding process (this has been discussed and described in sub section [c] below) within a week of being informed that they are successful.

(iv) The PBG along with the entry fees would be forfeited if the bidder is provided an LOI but does not go ahead, execute the license and operationalise the station as per the schedule laid out in the tender documents. The period permitted for making the stations operational should be 12 months from the date of WPC earmarking the frequency but this can be extended by the government on a case to case basis if it is found that there are genuine reasons for providing such extension.

(v) The PBG should be valid till the time that the station is operationalised and the first instalment of license fees is paid.

This PBG would be encashed in addition to the forfeiture of the entry fee in case of default at any stage. Accordingly the process above should serve as a deterrent for non serious bidders.

(c) The structure of the license fees should be as recommended by the Committee – a one time entry fee and a revenue share. The quantum of revenue share is discussed separately below. To emphasise again : the one time entry fee is only a means of selection of the licensee amongst the various bidders .The one time entry fee should be quoted by all the bidders and the highest bidders that match the available frequencies would be selected. Thus if there are three frequencies in a particular town, the three highest bidders would be selected. These bidders could be asked to pay

(i) the amounts quoted by each one of them or
(ii) the lowest amount bid or
(iii) the highest amount bid

The problem in all paying the highest is that there could be some bidders who would opt out. This is therefore not considered a feasible option and may be ruled out. If each is asked to pay what he/she has bid then it would mean that different amounts would be paid by different persons for the same kind of license. In the first round of bidding also the bidders were required to pay the same amounts for a license in the same city. Thus different persons would pay different amounts for the same service which is a disadvantage of this option. The other disadvantage is that some parties could collude and put in multiple bids – the higher bidders could then withdraw and take advantage of the lower bids- but this possibility would be low with the safe guards set out in sub section (b) above. The advantage of the option of each paying according to the amount bid is that the bidding would be restrained and that each would be responsible for the amount bid. The advantage of all paying the lowest is that this would ensure that all bidders pay the same amount. This would also be equal to the marginal cost associated with the license for that city as identified by the bidding process. Finally it would keep entry costs low and promote competition. The disadvantage is that the bidding could be unrestrained since those bidding high would expect to take advantage of the lower bids.

Thus both alternatives (i) and (ii) have their advantages and disadvantages. On balance option (i) should be preferred as this would make each bidder responsible for his/her own bid and discourage speculative bidding. However if this is not considered feasible option (ii) can be chosen. Similarly there should be no reserve price as the entry fee will only be a part of the license fees with the introduction of the revenue share mechanism. Also since the entry fee is only looked upon as a means of selection there is no need to specify any minimum amount.

(d) The implication of option (ii) above would be that for cities where the number of bidders is less than the number of frequencies there would be no entry fees and the only revenue that would come to the government is through the revenue share mechanism. This follows the parallel of the telecom sector where after unified access licensing, a basic operator did not have to pay any additional amount for migrating to the new regime in a circle where there was no fourth operator. However, if different entry fee are accepted as per bid, the question of considering 'zero' entry fee would not arise.

(e) Where the number of bids exceed the number of frequencies, the unsuccessful bidders should be kept on a waiting list and allowed to step in sequentially in order of bid ranking, in case of default by one or more successful bidders.

(f) The licenses would continue to be put on bid on a city basis as was done in Phase I. Although the issue of regional and national licenses had been raised in the consultation paper there does not seem to be enough demand for this kind of a license and accordingly this idea has not been pursued further.

(g) Once these bids have been received, they would be opened at a pre specified time and date in front of all the bidders and the successful bidders will be selected on the basis of the highest bids – the number of selected bidders will be equal to the number of frequencies put on bid.

License fee structure

As already indicated above the license fee structure should be as recommended by the Committee – a one time entry fee and an annual share of revenue. Such an approach has also been recommended by the Tenth Plan. Apart from the reasons given by the Committee the point to be emphasized is that if private FM radio is not to remain a boutique operation restricted to a few major cities entry costs have to come down. Even from the pure revenue angle it must be appreciated that the present arrangements are not sustainable. Government would stand to gain much more by lowering the license fees to more sustainable levels. As has been indicated in the consultation paper according to the accounts for 2002-03 furnished by the licensees the license fee as a percentage of expenditure varied from 44% to 73% and as a percentage of revenue was generally more than 100%. Such a high ratio is not sustainable given the fact that in telephony which is a far more established industry license fees varies from 5-10%. The one time entry fee would be determined by the bidding procedure discussed above.

The license fee structure of a few countries is at Annexure III. Canada and South Africa have revenue share based license fees, but there is no entry fee as such. In the USA, AM & FM radio licensees paid a total of approx. $ 5 million in application fees and approx. $ 20 million in regulatory fees in FY 2003. The number of such stations is 11,119 and the cost per station comes to $ 1760.65. In the case of New Zealand the Initial Fee includes the annual fee payable for the first year; thus the component of one time application fee is very small. The Annexure brings out the fact that entry fees are low, while annual fees are either fixed at a low level or fixed as a percentage of the annual revenues.

The Committee had recommended a 4% revenue share applied on the gross revenue of the company. One problem with the revenue share mechanism is that the accounts of the licensees will have to be verified annually and there could be disputes on the amount of license fees to be paid. An alternate system could be to fix the annual fees as an absolute amount or an amount that is linked to the entry fee bid. The difficulty with both these is that it is difficult to predict what should be the ideal level of the fees. In fixing a flat amount either it will have to be kept very low or we could run the risk of the amount being high and repeating the experience of the Phase I. Again if it is fixed as a percentage of the bid amount it would be difficult to fix the percentage as we do not know in what range the bids would be. Thus once again the risk would be of either fixing it too high or too low. Another problem with fixing the annual fee as a percentage of the entry fees is that this could provoke the formation of cartels where the number of bidders is few. To overcome this it would be necessary to insist on bids being accompanied with Bank Guarantees for the amounts being bid (which would be forfeited if the bidders do not come forward to execute the license agreement) and asking everyone to pay according to the bid amount. This would make the entry process more difficult for smaller players.

The Revenue share mechanism has the advantage that it corrects automatically for the size of the market. As the market develops and more revenues come in there would be an automatic adjustment in the amount of fees to be paid. This is also a good model in that the licensees have to pay a lower amount initially when costs are high and revenues are low and progressively pay more as the market develops and margins increase. To sum up there are three possible ways of fixing the annual fees:

(i) A fixed amount
(ii) An amount fixed as a percentage of the entry fee bid and
(iii) An amount fixed as a percentage of the annual revenue

Administratively options (i) and (ii) above are simple and avoid a lot of regulatory effort. Of these option (ii) would be better since it correlates the size of the annual fees to the value of the particular market. However option (iii) appears to be the best for the reasons already indicated above. Thus the Authority agrees with the recommendations of the Committee that the annual fees should be fixed as a percentage of the annual revenues and that this percentage should be 4%. The next option would be to fix it as a percentage of the entry fees – in such case there should be a reserve price which can be fixed at the same levels as Phase I and to safeguard against cartelisation bids should be accompanied by Bank Guarantees for the bid amounts which would be forfeited if the license agreement is not executed. Also with this option each bidder should pay according to the amount bid by him (option (i) of sub section [c]).

Since license fees would vary from year to year and would depend on the revenue of the licensee there is a need for certain safeguards to ensure correct reporting. Firstly there should be accounting separation between different licenses if these are operated by a single corporate entity. Secondly government should have the right to get the accounts audited annually by the Comptroller and Auditor General (CAG) – this could be directly done by the CAG or through an auditor chosen by the CAG.

Licensing period

The period of license in phase – I was kept at 10 years with no provision for automatic extension. As already noted above the Committee had recommended that the license should be valid for a period of 10 years with a renewal of 5 years subject to satisfactory performance and provided that no default has taken place. The Authority agrees that the license period can be extended so as to make the industry more viable and encourage more players. However, it is not necessary for any recommendation to be made on a case-by-case basis. If there is any violation of the license which calls for termination of the license, such action can be initiated even during the term of the original license. Therefore, if a license continues to be valid at the end of 10 years it should be presumed that all license conditions have been satisfied and the extension should be automatic.

There is only one condition under which this extension may not be given. This would arise in case there are changes in technology e.g developments in Digital Radio Broadcasting or any advanced technology which would warrant a complete overhaul of the licensing system to make way for the new and better technology. In such circumstances Government should reserve with itself the right not to renew the licenses beyond the initial period of 10 years. Such non-renewal should be a generic one applicable to all licensees and not on a case-by-case basis.

It may be noted that in case digital technology were to be introduced earlier then as has been recommended in the section on Additional Frequencies some frequencies can be reserved for digital broadcast.

To sum up the recommendations being made in this section are as follows:

- Licenses should be allocated based on the entry fee quoted by bidders.
- All bidders in phase-I should be eligible to bid for phase – II also, subject to them withdrawing pending litigation. Eligibility conditions would be the same as in Phase I. All bidders, both new and those of Phase I, would be evaluated to check if they satisfy the minimum conditions laid down.
- To prevent gaming by non serious players all pre qualified bidders would have to deposit an amount equal to 50% of the reserve price of Phase I along with the financial bids. In addition each successful bidder would have to pay within a

week of being so informed the difference between this amount and the entry fee amount as determined by the bidding process and also provide a Performance Bank Guarantee (PBG) equal to 50% of the entry fee amount as determined by the bidding process. The entry fee along with the PBG would be forfeited if there is any default at any stage – the PBG would be returned after the station is operational and the first instalment of license fees has been paid.

- The highest bidders (the number of such bidders being equal to the number of frequencies offered) for any location would be selected and each would pay the amount bid by him/her.
- The existing license fee structure would be changed to one with a one time entry fee and a revenue share of 4% of gross revenue.
- There should be separate accounts for each license and the Government should have the right to get the accounts audited by CAG annually.
- The existing license period of 10 years could be extended by another 5 years on an automatic basis unless there are grounds for complete reorganization of the industry due to changes in technology (for example developments in the field of Digital Radio Broadcasting) in which case no extension should be given to any licensee.
- Licenses would continue to be put on bid on a city basis and not on a regional or national basis.

Section 4 : Ownership Issues

4.1 The Issues

At present there are no restrictions on the number of licenses that an entity may hold at the national level; but for each centre there is a restriction that an entity can hold only one license at one centre. In case this restriction is also to be removed then should the content plan be scrutinized for each to afford wider choice or should this be left to the operator. The other issue that comes is the need for accounting separation in case of multiple licenses either at one centre or nationally.

The other class of issues that is related to ownership is the restriction on foreign ownership. At present no Foreign Direct Investment is permitted although portfolio investment is permitted. The point for consideration is whether FDI should be permitted or not.

Finally there is the issue of monopoly control and cross ownership of media. The issue for consideration here is the extent of regulation required to check any possible abuse of market power.

4.2 Recommendations of the Committee

The Committee has recommended the following:

<u>Multiple Licenses in a City</u>

In Phase-I the licensees were not permitted to own multiple frequencies in the same city. The recent trend internationally is towards abolition of such restrictions, as evident in (say) the Canadian Commercial Radio Policy, 1998. Due to non-viability of market in the Indian context, the restriction on multiple licenses in the same center needs to be reviewed, without loosing sight of the potential for monopolies / oligopolies.
Therefore, the Committee recommends that:

a. The number of frequencies that an entity, directly or indirectly, may hold in a particular center be restricted to 3 or 33% of the total licenses available in the center, whichever is less.

b. No entity shall hold more than one frequency (license) for news and current affairs in any one center.

c. Further, such additional licenses should be permitted only if the total number of frequencies available in a center to establish a broadcast station (including frequencies in Phase-I) is equal to or more than six (6).

Total Number Of Frequencies That An Entity May Hold : Containing Monopoly

The total number of frequencies that an entity may hold, directly or indirectly, nationally in each phase should not be more than 25% of the total number of frequencies being tendered during the phase. The bidder should at the time of submitting a bid furnish a declaration to the effect that it shall not accept bids for more than 25% of the frequencies offered in any phase.

An undertaking should be said to be in a dominant position, if it holds more than 25% of the total operationalised licenses in the country and in the event of abuse of dominance by such dominant undertakings, the Government or the regulator, as the case may be, should have the power to order the sale of the licenses, through a tender process, to other undertakings that are not connected in any manner whatsoever, with any dominant undertaking. This condition of reserving the right of the Government or the regulator (as the case may be) to break up a monopoly, should be part of the tender documents so as to minimize the chances of litigation.

The content plan for each separate frequency at the same center being bid for, by the same bidder must be different to ensure wider availability of choices to the listeners.

The licensees would neither be permitted to network among the multiple channels in one center, nor would they be allowed to network with another licensee in the same center.

Each license should constitute a separate undertaking and licensees should maintain separate accounts for each frequency allocated to them. It should be the endeavour of each licensee to properly segment the expenditure with reference to each license in accordance with the applicable accounting standards or guidelines issued by Institute of Chartered Accountants of India.

Foreign Investment

The Committee is in favour of a simplified foreign investment regime for radio. We recommend that the following safeguards be introduced in the license agreement:

a. FDI up to 26% should be permitted in FM broadcasting (news as well as entertainment).

b. While calculating the 26% limit on FDI, the foreign holding component, if any, in the equity of the Indian shareholder companies of the licensee should be duly factored in on a pro rata basis to determine the total foreign holding in the licensee. The equity held by the largest Indian shareholder group should be at least 51% of the equity excluding equity held by public sector banks and public financial institutions.

c. 75% of the directors of the licensee, the Chief Executive Officer of the licensee and/or head of the channel and all key executives and editorial staff of the channel must be resident Indians appointed by the licensee without any reference on or from any other company for all news channels. For all entertainment channels exception to the above could be made for 'People of Indian Origin' cardholders/NRIs for the position of key executives and editorial staff. This facility will not be available to channels providing any kind of news. It should be obligatory on the part of the licensee to inform the Ministry in writing before effecting any alteration in the foreign share holding pattern or in the shareholding of the largest Indian shareholder and/or in the CEO/Board of Directors. Further, the licensee should be liable to intimate the Ministry the details of any foreigners/NRIs employed/engaged by it for a period exceeding 60 (sixty) days. Further, there should be a bar on direct/indirect outsourcing of content to foreign parties.

d. The licensee should be required to make disclosures of any shareholders, agreements, loan agreements and such other agreements that are finalized or proposed to be entered into. Subsequent changes to the said agreements should be permitted only with the prior approval of the Ministry. Further, the licensee should not be permitted to raise loans from foreign entities for all news channels beyond the proportion of foreign equity allowed. (In other words, for Licensees putting out news, upto 26% of their total equity can be taken as loans from foreign sources and no more).

e. In the light of the aforementioned changes to the FDI policy, in respect of FM broadcasting, the existing licensees should be required to effect the necessary amendments to their

Memorandum of Association and Articles of Association and relevant agreements no later than two months from the date of migration of their licenses from Phase I to Phase II.

4.3 Comments of the Stakeholders

An existing player has suggested that no broadcaster should be allowed to own more than 50% of the licenses available in a city. In case of cities where the number of licenses available are more than 6 then it is suggested that the upper limit can be 33%. One view is that there should be a restriction of only one frequency per entity per centre another has suggested restriction of two or 20% of total license. Consumers have suggested not to allow more than 15% in a particular centre.

One view is that having multiple licenses will improve content as different stations can have different types of programmes.

With regard to number of frequencies held nationally the views are varying between 20-33% of total license.

On News and Current Affairs the general view is not to have any restriction on the number of frequencies though consumers have suggested a restriction of 20%.

On content plan the existing operators are of the view that no content plan is possible. Consumers are of the view that content plan for each entity should be different.

Some of the suggestions are for having separate accounts for each frequency and some are against maintenance of separate accounts.

<u>FDI</u>

Different views on FDI expressed by stakeholders. This varies between 26% to 49% While some existing players have suggested FDI consistent with the entertainment Media, one of the existing operators is of the view that the present system need not be touched and may be reviewed after 10 years.

One of the Service Providers has suggested that the news channel should be governed by 26% FDI limit.

4.4 Recommendations by the Authority

The Authority recommends the following:

Multiple licenses and Monopoly Control

The issue of multiple licenses has to be seen in the light of the objectives of the policy. The objective of securing variety in programmes can be achieved both by dispersing ownership and by allowing multiple licenses. If there are a large number of owners it is possible that each will bring to the market their own distinctive brand of news, current affairs and entertainment. On the other hand it can be argued that with dispersed ownership there would be a tendency for each to maximise their market share and focus on those type of programmes that have the maximum appeal. This would lead to a sameness of the programmes and offer little variety. Multiple licenses with the same owner would provide the platform to offer variety since each license would have to provide a different type of programme – to maximise the market reach for the common owner. After considering both arguments the Authority is of the view that there should be some limited restriction on ownership and has therefore agreed with the recommendations of the Committee that the number of licenses that one entity can hold in one city will not be more than 3 or one third of the licenses of that city whichever is less. Such multiple licenses can be given only in cities where there are at least 6 licenses including the Phase I licenses. However the Committee's recommendation that there should not be more than one license for news and current affairs is not being proposed as it is felt that there need not be dedicated licenses for news and Current Affairs. Each license should be capable of being used in whatever manner the licensee feels appropriate subject to the AIR code being observed. Similarly the Authority is in agreement with the recommendation that there should be a cap at 25% on the extent to which one entity can hold licenses nationally. This recommendation flows from the need to prevent concentration of ownership. This is perhaps not the best way of achieving this objective. The preferred way of doing this would be to have a conscious policy on cross media ownership. This 25% cap could thus be later merged as part of the exercise on cross media ownership that is being discussed later in this section. There are also issues of content and account separation which have been examined in their respective sections i.e. Section 5 & Section 3.

In this connection it is important to note that there should be a greater number of frequencies provided in smaller towns. This would provide competition and greater variety. Thus an important step in removing local monopolies is to provide at least two frequencies in smaller towns and encourage competition after the licensing is over rather than have competition for a few licenses whose number is artificially kept low.

Foreign Direct Investment

The rules regarding FDI vary from segment to segment in the media sector. Thus while it is not allowed for FM Radio it is allowed upto 20% in DTH, 49% in the cable industry. This leads to anomalies in media policy – whereas foreign news channels can be seen even for news FDI is not permitted even for pure entertainment FM radio. It is therefore necessary for the Government to review the policy in a holistic manner and bring about a greater degree of consistency in the rules for various segments. For FM radio as such it would be necessary to place some restriction on FDI – this is also the practice in most countries. However the exact number should be determined so that it is consistent with the other segments of the media sector. A similar approach is required for dealing with portfolio investment. In this context it may be noted that later in these recommendations the Authority is also suggesting a review of the existing ban on coverage of News and Current affairs, provided some safeguards can be put in place.

Cross media ownership

On this aspect the Committee has not made any recommendation. The Broadcast Bill of 1997 had such provisions. As has been seen in the Consultation Paper there are a number of countries that have such restrictions – the cases of Australia and UK have been quoted in the Consultation Paper. The essential feature of these is that they seek to avoid domination of the media business taken as a whole. A comparative chart giving cross media ownership restrictions in Australia, South Africa, UK and USA is given in Annexure VII

A conscious view needs to be taken in India also on the need for such restrictions. At present there are a number of licensees who have interests in other media segments. Keeping these factors in mind it is recommended that as in the case of FDI there should be a consistent across the board policy laid down by government for all media segments. A suitable time frame should be laid down for licensees to dilute control, wherever necessary, and comply with whatever policy guidelines are laid down. Specific provision for this should be made in the license conditions. For the present there should be no restrictions and formulation of this policy should not delay Phase II.

In case Government so desires TRAI can give recommendations on such controls and these can be enforced at the time of Phase III.

To sum up the following is being recommended in terms of ownership issues

- The existing ban on multiple licenses in one centre should be given up –the maximum number of licenses that one entity can hold should not be more than 3 or one third of the licenses in one city whichever is less. Such multiple licenses should be given only in cities with at least 6 licenses. There should be no restriction on the number of licenses that can do news and current affairs. There should also be a restriction on the number of licenses that can be owned nationally – at 25%.
- The FDI policy should be reviewed along with the policies in other segments of the media sector to make the whole policy consistent. Similarly there should be a conscious policy decision on cross media ownership as part of the comprehensive media policy. Pending a decision on these issues by the Government there should be no change in the policy for Phase II and formulation of these policies should not delay Phase II. A suitable time frame should be laid down for licensees to comply with the new guidelines, wherever dilution is found necessary.
- Specific provision should be made in the license conditions for complying with whatever policies may be laid down in the future for restrictions on foreign ownership and cross media ownership.

Section 5: Content, News and Current Affairs and Programme code

5.1 The Issues

The essential issue here is the extent to which there is need for regulating the content of the FM radio stations. A specific issue is the existing restriction on coverage of news and current affairs which is barred for the private licensees.

5.2 Recommendations of the Committee

The Committee has recommended the following:

News and Current Affairs

Phase-I licensees were not permitted to broadcast news and current affairs. The Committee recommends that the restriction on news and current affairs should be lifted and the committee strongly recommends that the AIR Code of Conduct and the applicable industry codes should be strictly followed. The violation of any aspects of these codes would result in the immediate revocation of the license.

Code of Conduct

The Committee suggests that broadcast by private broadcasters must not, inter alia contain the following (as per the AIR code):

- Criticism of friendly countries.
- Attack on religion or communities.
- Anything obscene or defamatory.
- Incitement to violence or anything against maintenance of law and order.
- Anything amounting to contempt of court.
- Aspersions against the integrity of the President, Governors and Judiciary.
- Attack on political party by name.
- Hostile criticism of any State or the Centre.
- Anything showing disrespect to the Constitution or advocating change in the constitution by violent means, but advocating changes in the constitutional way should not be debarred.

AIR code and the advertising code to be looked at as per current scenario and appropriate changes can be made, if required.

5.3 Comments of the Stakeholders

In respect of News and Current Affairs almost all have suggested that it should be permitted though some have reservations with regard to news of political nature. A consumer has suggested that a combination of 80% local news and 20% national and international news should be stipulated. An alternate view is that this should not be permitted at all.

The stakeholders are in agreement that AIR Code is sufficient. Some have suggested that in addition to the AIR Code any code applicable to TV news channel may be included.

5.4 Recommendations by the Authority

There could be two reasons for the restriction placed in Phase –I on Private FM Radio covering News and Current Affairs. First there are the security implications of allowing News and Current Affairs through this medium. Radio having a localised content has its own problems of monitoring and timely enforcement. The other is the possibility of monopolies emerging on dissemination of News and Current Affairs.

The case for removing the restriction on coverage of News and Current affairs rests on the fact that it would give the listeners greater variety. Variety apart, coverage of News and Current affairs would boost the viability of the channels and lead to greater proliferation of such channels. This would ensure that the objectives of the Radio policy are furthered.

It could be argued that apprehensions about law and order complications arising from coverage of News and Current affairs by Radio channels can be met through the existing criminal laws. In addition the AIR code can be imposed on the channels as recommended by the Committee. Violations of this code would result in suspension or revocation of the license. District Magistrates can be authorised to recommend suspension/ revocation of a license if it is found that a radio station is violating the code of conduct and is proving to be a threat to maintenance of law and order. This would give an added level of protection against the possibility of misuse of the license to provide coverage of news and current affairs. Further, there is no such restriction in the case of newspapers and television channels. It could be argued that these media segments have different policy regimes, historical background and means of control apart from the differences in terms of reach. It is necessary to examine these in greater detail and see if there is a case for lifting the restriction in the case of radio keeping in mind the practice in other media segments. In view of the particular characteristics of FM radio, which gives news at the local level and cannot be easily monitored, there could also be a case for retaining the present restriction. There is, therefore, a need to review this restriction, in conjunction with the policies in other media segments, and take a decision on the need for this restriction. These restrictions should be lifted once the security implications of this step are adequately addressed. In any case the AIR code should be imposed on all licensees as recommended by the Committee. In addition it is necessary that cross-media ownership restrictions are imposed. This is to prevent operators who have a large presence in some media segments, from acquiring a monopoly position in the dissemination of news and current affairs. Hence overall restrictions must be placed as explained in section 4 of these recommendations, so that monopolies do not emerge in the dissemination of news and current affairs.

To sum up the Authority recommends the following:

- The current restriction on coverage of News and Current Affairs should be reviewed keeping the policies in other media segments in view. These restrictions should be lifted once the security implications of this step are adequately addressed.

- The cross-media ownership issues should be reviewed so that monopolies do not emerge in news dissemination.

- The AIR code should be imposed on all licensees as recommended by the Committee

Section 6: License Conditions and Default Obligations

6.1 The Issues

In Phase I a problem that had arisen was that the tender conditions and the conditions imposed in the license did not agree. This is obviously not correct and could lead to avoidable litigation. On the other hand there should be clear penalties for those who indulge in speculative bidding with clear default conditions.

6.2 Recommendations of the Committee

The Committee has recommended the following in respect of default conditions

<u>Penalty for Non- Operationalisation of Awarded Licenses</u>

The Committee strongly recommends that after being awarded the license, it is mandatory for Licensee to operationalise the license within a maximum period of one year. If the licensee does not operationalise the license within one year from the date of the award, the Government, as a condition of the license, will forfeit the license and re-tender it in public interest.

6.3 Comments of the Stakeholders

Different suggestions have come from Service Providers like forfeiture of entry fee/earnest money, forfeiture of the amount paid at the time of bidding, forfeiture of license fee to be taken in advance etc.

With regard to Bank Guarantee the following suggestions have been received from existing licensees:

- *BG should be a proportion of entry fee or the license fee on a revenue share for the year completed, whichever is more*
- *BG should be decided as was done in Telecom Sector*
- *No need for BG. Instead a procedure similar to payment of advance tax should be adopted*
- *BG in a revenue share mechanism may be a rough estimation of market share divided by number of players in the market.*
- *5% of one time entry fee be kept as BG.*

6.4 Recommendations by the Authority

It is necessary to have the tender conditions spelt out clearly. To ensure that there is no contradiction between these and the license conditions the tender itself should have a license agreement drafted by a committee that should finalize the tender conditions and modalities.

The details of the PBG requirement have already been discussed earlier in section 3.4.

Once the license is operational the only payment to be made in the new arrangement would be the revenue share. This revenue share should be paid every quarter in advance except for the first quarter when the payment would be made at the end of the quarter along with the advance amount for the next quarter (based on first quarter actuals). Subsequent payments can be adjusted for any pluses or minuses that may arise on account of actuals deviating each quarter. The PBG can be returned after the first payment is made.

Government should cancel the license, if the Broadcast Service provided by the licensee remains closed down for more than six months for various reasons.

To sum up the Authority recommends the following:

- The tender conditions should be spelt out clearly. The tender itself should have a license agreement.
- A Performance Bank Guarantee should be provided as already discussed earlier
- Once the license is operational the only payment to be made in the new arrangement would be the revenue share to be paid every quarter in advance. The PBG can be returned once the first payment is made comprising of the first quarter actuals and second quarter advance payment based on first quarter actuals.
- Government should cancel the license if the Broadcast service is closed down for more than six months for any reason.

Section 7 : Networking

7.1 The Issues

Networking means the simultaneous broadcast of the same content by a number of radio stations. This had not been allowed in Phase I except on important occasions with the prior permission of the Government. This was done on the ground that there would be no local flavour in content if this was to be permitted. The issue is whether this restriction should remain or it should be left to the market to decide as has been recommended by the Committee.

7.2 Recommendations of the Committee

The Committee has recommended the following:

<u>Networking</u>

Networking or chain broadcasts means simultaneous transmission of programmes by various broadcast stations (transmitters).

In light of the fact that networking can significantly reduce the Capital Expenditure and Operating Expenditure of a broadcast station (especially in small cities), we recommend that networking be permitted. We believe that the market mechanism will ensure differentiation of content reflecting listener's choice.

Please note that Networking be permitted only amongst the broadcast stations of the same entity and not across the licensees. Furthermore, networking should not be permitted in the same city.

7.3 Comments of the Stakeholders

With regard to networking there is difference of opinion among the existing FM Radio licensees. While some have suggested full networking with no safeguards others have objected to networking of any kind. One of the operators has suggested networking may be allowed but not between broadcasters in the same city.

The views of consumers are that there should not be any networking between broadcasters in the same city and between broadcasters in different cities. However, networking between same entity in different cities may be allowed. It is also suggested that only networking of news and development programmes should be allowed and not entertainment programmes.

7.4 Recommendations by the Authority

Networking provides a powerful tool to expand the reach of FM radio, cut down costs and provide quality content. The major cost of running a station is the cost of providing content and sharing it with many listeners simultaneously will greatly encourage new investment to come in. For all these reasons the Authority agrees with the views of the Committee on networking that it be permitted. There are three possible ways of looking at networking.

(i) Within a city

(ii) Within a State

(iii) Across the country

Primarily FM radio is expected to give localized content, ensure competition and provide variety of programming and therefore allowing it within a city would run counter to the basic objectives of the policy. Allowing networking across the country could mean dilution of the concept of localized content and programming. Allowing it within a state is a via media: however in many regions where there is a common language across states this does not provide a logical, natural boundary.

After considering all three alternatives the Authority agrees with the Committee that networking should not be permitted in the same city either across or within the same licensee group. This is because the objective of FM is to provide variety and competition should be local. Thus within the same city there should be the maximum variety and the basic principle should be not to allow networking in the same city. Similarly there should be no networking permitted across licensees as this could provide a means of transfer of ownership and effective control. Moreover this could also be used to circumvent the restrictions on ownership. States do not provide a logical area for restricting networking and once it is being restricted to the same licensee there is no harm in allowing this nationally.

Networking is permitted on special and important occasions with prior written approval of Licensor as per Phase-I license agreements. It is recommended that to simplify matters, the Licensor should make available a list of special and important occasions annually on which the licensees would not require prior permission for networking. However, prior written permission would be required if networking is to be done on any other occasion.

To sum up

- Networking should be permitted but only between stations located in different cities.

- No networking should be permitted within the same city.
- Similarly no networking should be permitted across licensees, except on special occasions.
- To simplify matters, the Licensor should make available a list of special and important occasions annually on which the licensees would not require prior permission for networking. However, prior written permission would be required if networking is to be done on any other occasion.

Section 8 : Increase in Number of Frequencies for FM Broadcasting

8.1 The Issues

The following spectrum is available for FM Broadcasting in India:

Spectrum (MHZ)	Allocation
3.7 (100-103.7)	Exclusively for FM Broadcasting Service by All India Radio
4.3 (103.7-108)	Exclusively for FM Broadcasting Service
3.5 (91.5-95)	Exclusively for FM Broadcasting Service
4.5 (87-91.5)	Shared between Fixed/Mobile and FM Broadcasting Services. (Fixed/ Mobile Service have priority over FM Broadcasting)
5.0 (95-100)	Shared between Fixed/Mobile and FM Bradcasting Services. (Fixed/ Mobile Service have priority over FM Broadcasting)

Thus, the total spectrum exclusively available for FM Broadcasting in India is 11.5 MHZ out of which 3.7 MHZ is reserved for All India Radio. Remaining 7.8 MHZ is assigned among All India Radio, Private Broadcasters and Indira Gandhi National Open University (IGNOU). In the shared spectrum of 9.5 MHZ (i.e. 87-91.5/95-100 MHZ) only few assignments have been made for FM Broadcasting.

In Europe and North America, 22 and 22.5 MHZ of spectrum respectively have been reserved exclusively for FM broadcasting.

The question is whether the existing spectrum allocated to FM Broadcasting is sufficient to increase the availability of number of FM Channels in each city.

In Phase I, Government offered a total of 108 frequencies in 40 cities for private FM broadcasting through open auction bidding process. As on today, only 23 Private FM stations are operational (including 2 deemed operational) in 14 cities. One station has closed down. The question is whether in the 2nd round of FM privatisation, Government should restrict the bidding process to the unutilised channels /cities of Phase-I.

In Phase I, Government offered one FM frequency in each of 40 cities to IGNOU for education broadcasting. However, so far IGNOU has been able to operationalise FM stations only in 10 cities. There is a view that the requirement of education broadcasting which consists of mainly spoken words programmes can be met by using medium wave transmitters. On the other hand it is a fact that FM transmissions are more suitable for Hi-Fi music programmes as compared to medium wave transmission. The question is whether IGNOU should be disallowed further utilisation of FM spectrum in order to increase the availability of frequencies for private FM broadcasting.

8.2 Recommendations of the Committee

Committee is of the view that the release of a higher number of frequencies for tendering in Phase-II may adversely affect the valuation of the frequencies. Also the market may not be able to sustain a higher number of frequencies.

In the light of the above the Committee is of the view that release of additional frequencies for Phase-II of liberalisation of FM broadcasting should, inter alia, be through the migration of existing players to the Phase-II regime and consequent release of unutilised spectrum from Phase-I. The Committee strongly recommends that as the market develops and gathers the required momentum Government should endeavour to release, if available, additional frequencies in subsequent phases of liberalisation so as to provide a boost for further growth of the market.

On account of paucity of spectrum it is not advisable to allocate FM frequencies for educational broadcasts. The Committee is of the opinion that some other available frequencies may be more effectively utilized for the purposes of educational broadcasts by IGNOU. It has been brought to the notice of the Committee that during the last few years AIR is in the process of migrating high quality music programmes like Vividh Barati from MW to FM. The possibility of availing these MW transmitters from AIR by IGNOU requires serious consideration. This would address the issue of costs as IGNOU will not have to incur heavy expenditure on building broadcast infrastructure because AIR facilities could be used by IGNOU at reasonable cost. This arrangement would lead to the best possible use of spectrum.

8.3 Comments of the Stakeholders

With regard to release of additional frequency some existing operators are of the view that Government should release more frequencies whereas some are of the view that no additional frequencies should be released. On making available the IGNOU frequency for commercial use in Phase II, almost all the stakeholders have agreed except for a few.

One of the suggestions that have been made is that low power transmitters can also be licensed on a commercial basis.

8.4 Recommendations by the Authority

The unrestrained bidding that characterized almost all the centres in Phase I has several causes. One of these is the shortage of the number of channels relative to the demand for them. Thus there is a need for adding more frequencies to the bidding process in metros as well as in smaller cities. The Government had constituted a committee in March 2004 to undertake frequency planning with the objective of optimizing the usage of radio frequency spectrum for Phase II private FM and Community Radio Broadcasting. Details of the number of frequencies and locations to be offered in Phase II would be determined by this Committee. Apart from including the unutilised channels under Phase I, Government should consider all remaining towns having a population of more than one lakh in the list of towns where FM licensees are to be issued in Phase-II. Even in the smallest town, a minimum of two frequencies should be offered to ensure competition and variety of programming. The existing exclusive spectrum of 7.8 MHZ which is shared among AIR, Private Broadcasters and IGNOU is inadequate in some locations. To maximise the number of players so as to afford widest possible competition and variety of programmes to the listeners in these locations, Government has to consider releasing additional exclusive spectrum for FM broadcasting out of the shared bands i.e. 87-91.5 MHZ and 95-100 MHZ in these locations. This could be considered in Phase III when the results of Phase II will be known .The important point to be stressed is that unless the supply of frequencies is vastly increased demand would remain constrained and there would be very little growth. There is thus an acute need to increase the number of frequencies offered at all locations coupled with fewer restrictions to enable an explosion in the growth of FM Radio in the private sector. Only with such an ambitious programme can the full potential of FM Radio be achieved. Further this process will give a great boost to local talent and create jobs in this relatively neglected sector.

IGNOU has objected to the recommendation of the Committee to shift from FM to MW Band. IGNOU has clearly indicated that it prefers to use the FM band because of superior quality. After considering IGNOU's point of view, the Authority is of the view that IGNOU may be allowed to use FM spectrum in those cities only where neither the Medium Wave frequencies are available to establish IGNOU's own radio stations nor does IGNOU find it feasible to share Medium Wave infrastructure of AIR.

The suggestion of using very low power transmitters for commercial purposes would be examined along with recommendations on Community Radio.

In case digital radio broadcasting were to be introduced before the Licensing period is over, the Government should release additional spectrum either from the shared spectrum of VHF Band II (87-91.5/95-100 MHZ) or VHF Band III (174-230 MHZ) or fresh bands. This could also be considered in Phase III.

Thus, in brief, the following is being recommended:

- Allow the maximum number of frequencies possible in metros, Hyderabad & Bangalore. WPC to release additional exclusive spectrum for FM Broadcasting out of the shared bands i.e. 87-91.5 MHZ and 95-100 MHZ in such selected locations where spectrum is a problem in Phase III.
- Unlike Phase-I, a minimum of two frequencies are to be offered for licenses even at the smallest town in order to ensure competition and variety of programming.
- Consider all remaining towns having population of more than one lakh in the Phase II of the Licensing process.
- IGNOU may be allowed to use FM spectrum in those cities only where neither the Medium Wave frequencies are available to establish IGNOU's own radio stations nor does IGNOU find it feasible to share Medium Wave infrastructure of AIR.
- Due to rapid developments in the field of digital techonology, in case digital radio broadcasting were to be introduced

before the Licensing period is over, the Government should release additional spectrum either from the shared spectrum of VHF Band II (87-91.5/95-100 MHZ) or VHF Band III (174-230 MHZ) or fresh bands. This could also be considered in Phase III.

Section 9 : Non Commercial/ Non Advertisement Driven Channels and Exclusive Niche Channels

9.1 The Issues

One of the terms of reference of the Radio Broadcast Policy Committee was to examine the possibility of having non commercial, non advertisement driven channels to be operated/licensed by the same commercial broadcasters. The idea was that these channels could possibly include the contents such as heritage and culture of India etc. The question is whether it should be made compulsory for the licensees to carry such channels. Another possibility could be that such channels are auctioned separately with low entry fees and revenue sharing percentage. Another possibility could be that out of the revenue collected by the Government from license fees, certain percentage is reserved for the development of such programmes and All India Radio is asked to carry such programmes for few hours on their FM channels.

It has been noticed that presently all the private channels in metro cities sound alike without much diversity of content. Therefore, the question is whether separate licenses should be issued for Niche Channels (like classical music etc) with low reserve fee and low revenue sharing percentage.

9.2 Recommendations of the Committee

The Committee has recommended the following:

<u>Non-Commercial, Non-Advertisement Driven Channels</u>

The committee has noted that forcing commercial broadcasters to take up additional non-commercial, non-advertisement driven channels is not a practical and workable policy. This may defeat the very purpose of boosting the radio broadcast market through a Phase II licensing process.

One option could be the requirement of a 10% of the broadcast time dedicated to niche programmes related to culture or heritage of India, public health and education. However, such a compulsion introduces the problem of definition of content, as well as monitoring the 10% requirement. It also involves issues of timing within the 24 hours cycle for such programming. All of this will also require major Government intervention, monitoring and inspection for which there is no current structure or manpower within the Government.

The PBS (Public Broadcast Service in the USA) model and the BBC model for non-commercial channels is widely followed abroad, where the programmes are funded by various organisations.

The Committee proposes a similar model wherein, out of the 4% revenue share that the Government would receive from the FM broadcasters, 1% of the revenue share should be set apart as a separate fund dedicated for the purpose of developing the non-commercial channels (related to a wide range of areas such as culture and heritage of India, public health etc.). The resources which will accumulate in this fund, will be sought by private broadcasters to develop non-commercial channels and programmes, in accordance with the directions of a Committee of eminent personalities of the nation formed by the Government. The funds should be disbursed through transparent rules and regulations framed for this purpose by the esteemed Committee. There would be a yearly audit of the broadcaster and the audit report would be presented to the Committee.

Such non-commercial channels will be initially required in all A+, A and B category towns, followed by its expansion in other cities in the future.

Considering the fact that the number of commercial channels are already limited, it is suggested that additional frequencies be released at the earliest for the above non-commercial channels.

Niche Channels

The Committee is of the view that it is possible to help the market process in the direction of development of niche channels. In this respect the Committee recommends the following:

In every city, certain frequencies should be reserved for niche channels to be tendered separately with a low reserve fee and low revenue share percentage. Detailed terms and conditions may be prescribed to ensure that such channels are exclusively developed for niche programming and no partial niche programming be allowed.

The Committee feels that such niche channels will be initially required in A+, A and B category towns, followed by its expansion in other cities in future. The Committee also strongly urges the Government to consider releasing additional frequencies to encourage such niche channels

9.3 Comments of the Stakeholders

The general view of the existing licensees is that no frequency should be reserved for non commercial non advertisement driven channels and Niche channel as this will further constrain the availability of limited FM spectrum. Such programming is already being carried out on AIR channels. However, some of the stakeholders have suggested that frequency for Niche Channel should be reserved and tendered separately with low reserve fees and low revenue sharing.

9.4 Recommendations by the Authority

The case for promoting these channels is very sound. Markets may not be able to provide all the content that may be desirable. For such content there has to be a way of providing and promoting such content. It is not necessary to provide a separate channel or station for such content and these can very well be grafted on to the existing channels. It is also possible that AIR can do this work. However this issue can be delinked from the current process which is aimed at promoting the growth of private FM radio and more specifically the licensing conditions for Phase II. Thus on this aspect it is recommended that the suggestion of the Committee should not be accepted for the present. The recommendation can be considered after some time when the industry has stabilised.

Section 10: Co- location

10.1 The Issues

Co-location of transmitters in four metro cities was mandatory in Phase I so that frequency separation could be minimized, number of licenses maximized without compromising on the extent of interference between different stations. Given the fact that in Phase – I, private broadcasters faced problems in co-locating their transmitters in Delhi, Chennai and Kolkata (in Mumbai, they could not co-locate), the question is whether this policy should be given up or needs to be modified for better implementation.

10.2 Recommendations of the Committee

Co-location, in this particular context, is the term used to mean locating the transmitting setups of various broadcasters of a particular city in the same premises and sharing the common tower. This term gathers more significance in the situations of lesser frequency separation between the channels allotted for the same city. The basic idea behind co-location is that the Effective Radiated Power (ERP) of all the channels would be nearly the same and since they are located at the same site, they will be attenuated similarly with the distance thus maintaining the same protection between the channels.

In this context, following observations are made:

(i) Co-location in metro cities was mandatory in Phase-I. The objective was to increase the availability of frequencies by spacing them 400 kHz instead of 800 kHz.

(ii) Most of the representations received by the Committee have opposed co-location due to the following reasons:

(a) For co-location purpose, it is necessary for private broadcasters to form a consortium.

(b) It is very difficult to form a consortium of private broadcasters competing with each other.

(c) If a Private broadcaster backs out, his share of cost on common infrastructure would have to be borne by the remaining ones.

(d) Private broadcasters have to bear substantial cost on studio-transmitter link as in co-location case, the studio setup would mostly be at a different location.

(e) There are number of other operational difficulties.

In view of the above difficulties expressed by the private broadcasters, it is recommended that co-location may not be made mandatory in Phase-II.

10.3 Comments of the Stakeholders

The need for co-location has been questioned by some whereas others have pointed out that co-location should be done to maximize the number of frequencies that can be operationalised. Others have indicated that for shared infrastructure there should be an appropriate organization along with choice to the broadcaster. It has also been pointed out that co-location will not be viable if there are only 2-3 broadcasters at a location. The use of AIR towers is not viable. It has been suggested that tower and infrastructure support entrepreneurs should be given support by government to do this task.

10.4 Recommendations by the Authority

Co-location of FM broadcast transmitters in a city has the following advantages:

(i) It results in the efficient utilization of spectrum.

(ii) in metro and large cities (category ‘A’ cities of phase –I) demand of large number of channels can be met by reducing the carrier separation (say from 800 KHz to 400 KHz).

(iii) In metro and large cities (category ‘A’ cities of Phase – 1) where number of FM channels would be large, co-location (due to sharing of infrastructure) would provide a much cheaper option.

(iv) It avoids the problems which transmitting sites distributed all over the city create in their vicinity such as :

  (a) interference in radio receivers tuned to adjacent channels due to the presence of high field strengths (overloading)
  (b) Other radio frequency devices can be adversely affected due to signal overload.
  (c) high signal strengths may also cause equipment malfunction in non-radio frequency devices etc.

(v) Due to co-location, skyline of the city is not disturbed.

In section 8 the need to provide more frequencies has already been brought out. It is necessary to also make use of the spectrum more efficiently in other sectors so that more space is available for FM Radio. It has been noted that in some applications although the separation is as low as 25 khz there is unutilised spectrum in the band reserved for Fixed and Mobile Services that can be utilised for FM Radio. Within FM radio spectrum utilization can be made more effective if the existing frequencies are re- assigned, clubbed together and the new frequencies are co-located on a new tower with an adequate level of separation between the two clusters – this is because in the existing locations in Delhi, Chennai and Kolkata additional towers may not be possible at the same location. Therefore with these measures co-location can help in better utilization of the spectrum and in turn this would help in more frequencies being available and in increasing the level of competition. It is also found that in some countries like France and Canada co-location as a policy is being followed.

Therefore rather than jettison the policy of co-location on account of the difficulties faced in Phase I we should find ways of achieving this objective so that we make best use of the available resources. In view of the difficulties of Phase I Government should make available a default option of co-location in case the private parties cannot come to an agreement. It would therefore be better if the Ministry of I&B locates a suitable agency to construct new towers and indicate what the cost would be per licensee. If it is not feasible to co-locate all transmitters on a single tower in metro cities due to various technical reasons, Government may allow one or more towers to co-locate the transmitters. This would be indicated in the tender documents (wherever necessary) so that bidders are aware of what they would be liable to pay. As the cost per licensee would depend on the number of licensees the selected agency can calculate this on the number of licenses being bid for. If the number of licensees falls short due to lack of demand Government should make up the deficit. Once a bidder is successful he should deposit the capital cost of his share along with the entry fees before he is issued a license. For the operating cost also the selected agency should indicate the arrangements in the tender document itself along with a rental agreement. This policy should extend not only to the metros but also the cities of Bangalore and Hyderabad in case there are at least 5 licensees in these cities. Depending on the number of licensees co-location could also be considered in Phase III in other cities. The tender conditions should also stipulate that if co-location is found necessary the licensee would have to bear the additional cost involved in the co-location exercise.

Successful bidders can also be given the option that within one month of getting the new LOI they should either accept the selected agency's offer or say that they will do co-location on their own. In the latter eventuality all the bidders must agree to this option and in this case they will be responsible for any delay in erecting the tower and operationalising the station.

To sum up what is being recommended is the following:

- Co-location of all FM transmitters should be mandated in metros as well as Bangalore and Hyderabad with an agency selected by Ministry of I&B doing the job of integrator and providing along with the tender documents the approximate capital cost. Depending on the number of licensees co-location could also be considered in Phase III in other cities.

- If it is not feasible to co-locate all transmitters on a single tower in metro cities due to various technical reasons, Government may allow one or more towers to co-locate the transmitters.

- After bidding all successful bidders can agree to do co-location on their own rather than through the selected agency of the Ministry – this option must be exercised within one month of getting the LOI.

Section 11 : Technical Parameters

11.1 The Issues

In phase I, power of the FM transmitters was kept between 10 and 20 KW in metro cities and uniform power of 10 KW in all remaining cities. Similarly height of the antenna was specified between 75 and 150 meters in all places except four metros where it could be up to 300 meters. Also the transmitter was required to be installed within the Municipal/Corporation/City Development Authority limit of the centre. Many of the Phase I FM Broadcasters have suggested that most of the centres have smaller municipal units and specification of 10 KW transmitter power and antenna height between 75 and 100 meter is an overestimation. They have sought revision of these norms as the reduction would considerably decrease their capital as well as operational expenditure. The question is whether the existing technical parameters are satisfactory or needs revision.

11.2 Recommendations of the Committee

The Committee has not touched the issue.

11.3 Comments of the Stakeholders

It has been pointed out that transmitter power and height are not the only factors that determine coverage area and coverage population. There are *many other variables like antenna gain, the terrain, natural and man-made obstructions, population dispersal etc. It may be more realistic to prescribe the coverage area and/or coverage population and work backwards to determine the required ERP, transmitter height, power, etc.*

It has been suggested that:

(a) At best a minimum and maximum limit may be given within which the private broadcasters have their own choice of the transmitting power.

(b) The License Area Plan (LAP) should take into account the market potential, based on the Designated Market Area (DMA).

(c) *In order to cover the rural areas, AM spectrum may be thrown open to the private broadcasters. It has also been proposed that the Government should specify a clear LAP for each license, based on the Telecom norms. Based on the LAP, the Government could specify different options of Power and Height for the Service Provider to choose from, for the service that he is to provide.*

(d) *The present stipulation of locating antenna within municipal limits also burdens the Service Provider economically. It is common knowledge, that the real estate prices are high within a city. As one goes away from the city, the real estate cost also come down, and it becomes affordable for a private broadcaster to set up a station.*

11.4 Recommendations by the Authority

In phase – I, technical parameters namely Power of transmitters and Antenna gain were specified separately. However, the international practice is to specify Effective Radiated Power (ERP) which is the product of the transmitter output power and Antenna Gain relative to half wave dipole. This practice provides flexibility to the broadcaster to use a suitable combination of power of transmitter and antenna gain to arrive at a specified value of ERP. Again in phase I, a parameter Height of antenna above ground was specified. Here again the international practice is to specify Effected Height of the Antenna above Average Terrain (EHAAT) which is defined as the average of the antenna Height Above the Average Terrain (HAATs) for 8 radials spaced every 45 degree of azimuth starting with the true north. The Height of the Antenna Above Average Terrain (HAAT) is the height of the centre of radiation of the antenna above the average elevation of the terrain between 3 and 15 Km from the antenna for each radial.

It is worthwhile to specify a range of maximum and minimum values of ERP and EHAAT for a centre instead of specifying a fixed value of transmitter power as was mandatory in phase –I. This approach would provide flexibility to an applicant to choose the appropriate values of ERP and EHAAT which are suitable to his business and coverage plan. In the case of cities, where co-location is being recommended, there would be some limitation on this freedom.

In this approach licensee has to be careful while selecting these parameters (i.e ERP, EHAAT, Geographical coordinates of the transmitting antenna,) as normally he will not be allowed to change their values later on. This condition is essential to optimize the network and to facilitate sharing of frequencies to new licensees later on in other cities more efficiently.

The licensee through a letter to the Government will inform the ERP, Carrier power of transmitter, antenna gain, copies of the vertical and horizontal radiation patterns as certified by the antenna manufacturer, geographical coordinates of the antenna tower , EHAAT and antenna height from the ground level to the Government before operationalisation of the station. This letter of the licensee to the Government will form part of the License Agreement.

Considering the difficulties faced by the existing FM broadcasters with regard to locating antenna within the municipality limits, the Authority is in favour of removing this condition. This may help licensees to select a transmitter site away from the municipal limits where normally the land rates are much lower.

In a nutshell, the following technical parameters are recommended which are different from those fixed in Phase I:

(i) Effective Radiated Power (ERP)	
(A) Metro Cities Hyderabad & Bangalore	
(a) Maximum	50 KW
(b) Minimum	25 KW
(B) Remaining Cities:	
(a) Maximum	50 KW
(b) Minimum	1 KW
(ii) Effective Height of Antenna Above Average Terrain (EHAAT)	
(A) Metro Cities Hyderabad & Bangalore	
(a) Maximum	300 Metres
(b) Minimum	75 Metres
(B) Remaining Cities:	
(a) Maximum	150 Metres
(b) Minimum	40 Metres

(iii) Antenna location	(i) No permission is required from the Licensor to locate the antenna within the Municipal/ Corporation/ City/ Development Authority limit. (ii) Prior permission is required from the licensor if the Licensee proposes to locate the antenna outside the Municipal/ Corporation/ City Development Authority limits. This is necessary because the licensee may choose a location which may be far away from the city and which may upset the network planning.
iv) Requirement of co-sited Transmitters	In Delhi, Kolkatta Mumbai, Chennai, Hyderabad and Bangalore due to technical restrictions, Licensees shall have to use same ERP and co-site their transmitters utilising common transmission tower. Licensees would have to indicate common ERP within one month of the LOI being issued to them failing which licensor would fix this

In respect of the other parameters, no change is being suggested from what was laid down in Phase I.

Section 12 : Data Broadcasting through FM Transmission

12.1 The Issues

In phase I, licensees were allowed data broadcasting with the condition that services which are under the jurisdiction of Department of Telecommunication will not be permitted. Since, removal of this condition will enable the licensee in fully harnessing the potential of FM transmission technology and in generating revenues, the question is whether the licensee under phase II should be allowed data broadcasting including services which are under the jurisdiction of Department of Telecommunications.

12.2 Recommendations of the Committee

The Committee has not touched the issue.

12.3 Comments of the Stakeholders

Some of the stakeholders informed during the open house discussions that none of the licensee under Phase I could carry out data broadcasting due to conditions imposed along with the provision. Consequently, they have suggested removal of the condition which excludes provision of services which are under the jurisdiction of Department of Telecommunications.

12.4 Recommendations by the Authority

It is recommended that clause 7 of the license under Phase II should be amended to allow data broadcasting including services which are under the jurisdiction of Department of Telecommunications. This will enable the licensee to fully harness the potential of FM infrastructure. So long as these services come under the category of other services as defined in NTP99 there would be no need for any license and mere registration would be sufficient. If the activity is of a type that requires a license (e.g. ISP) then the appropriate license would have to be taken.

Section 13: Migration of Phase- I Licenses to the Revised Phase-II Regime

13.1 The Issues

As may be seen from the preceding sections the terms & conditions recommended for the second phase of licensees is quite different from the first phase. This gives rise to the question whether there should be only one system or whether the two systems can co-exist. If the answer is the former then the question arises as to what should be the terms and conditions of migration.

The main issues in migration include:

<u>Criteria for eligibility of a service provider to migrate from phase I to phase II</u>

One of the issues in migration is the eligibility criteria amongst different categories of Phase I players and conditions to be fulfilled for the purpose of migration to Phase II.

<u>Cut off date for migration</u>

Another issue is what should be date of migration. In other words up to what date should the licensees and other players be bound by the conditions of the existing regime and from when would the new regime apply and under what conditions.

<u>Entry fees & License fees</u>

The Phase 1 licensees pay an annual amount, based on the outcome of the bidding process. In the event that a revenue share model with a combination of entry fees and annual revenue share is adopted, what would be the entry fees for these licensees to the new regime?

<u>Other conditions of license</u>

Another issue is the difference in terms and conditions between new licensees and the old licensees who may opt for migration.

13.2 Recommendations of the Committee

For the purposes of migration to the new regime, 24th July 2003 (the day of appointment of this Radio Broadcast Policy Committee) shall be taken as the "Cut-off Date" from which the rights and obligations under the new regime will be applicable to the players. Rights accrued and Liabilities incurred till the Cut-off Date shall be governed by the old regime.

The Committee is of the opinion that operationalisation of license or at least a serious attempt at operationalisation should be the criterion for distinguishing between serious licensees and not so serious ones. Therefore, the following should be entitled to migrate to the new regime:

a. Successful bidders that have operationalised the license and have paid the license fees till date. From the cut off date all fees paid shall be adjusted (but not refunded) against the new system of revenue share.

b. Successful bidders that operationalised the license but later due to non-viability of business defaulted in payment of license fees.

    i. They will have to pay the original license fees due till the Cut Off Date.

    ii. Defaults in the original license fee that was to be due, after the cut off date, are to be ignored.

    iii. Payment will be treated as one time entry fee.

c. In case of delay in operationalisation due to co-location, those who are operating under "deemed operationalisation", should be granted a revised deadline, either to co-locate by say December 31, 2003 or set up independent facilities by say March 31, 2004. On completing either of the above, they shall be entitled to migrate to the Phase II licensing system. Till the point of operationalisation, they will be governed by the old regime.

The Committee strongly recommends that there should not be any blacklisting of bidders for new licenses on the basis of their default in Phase-I, as the Phase-I was characterized by acute market and regulatory imperfections that rendered the market unviable. Also, the Committee appeals to all bidders who have gone to court to withdraw their litigations and take advantage of the new Phase-II regime.

13.3 Comments of the Stakeholders

The general view of the existing licensees is that Migration to revenue share regime for existing licensees should be permitted.

With regard to eligibility criteria, different suggestions have come up from existing licensees. Some are of the view that only fully operational licensees should be allowed to migrate while some have stated that bidders who do not have operational license but have applied for WPC frequency should also be eligible for migration. For operators with deemed operationalisation status, one of the suggestions is, a revised deadline to operationalise must be granted and till such time they should remain in old regime. It has also been suggested that only successful bidders who have operationalised the license and have paid the license fees till the cut off date should be allowed to migrate.

Another view is to allow the following categories:

- *There should not be any blacklisting of bidders for new licenses on the basis of their default in Phase I.*
- *Bidders who have executed the license agreement*
- *Service providers who have paid the advance license fee and provided bank guarantee*
- *Those bidders who have been allotted WPC frequency*
- *Bidders who have paid AIR/BECIL for co location*
- *Signed license, allotted frequency, given bank guarantee and applied for SACFA clearance*

On cut-off- date there is a general consensus that it should be on the date of Constitution of the Radio broadcast Policy Committee Report i.e. July 24, 2003

Existing service providers are also of the opinion that payment of license fee till cut off date should be treated as one time entry fee for existing radio companies. From the cut off date all fees paid shall be adjusted against the new system of revenue share.

On Terms and conditions the general view is that there should not be any pre-requisite conditions for migration. Eligibility should only be the terms and conditions. Some are of the view that it should be as per the recommendations of the Committee. One stakeholder *has suggested that only mutual withdrawal of court cases should be the condition.*

Existing licensees are of the view that no National or Provincial license should be provided. It has also been viewed that there should not be any difference between those accepting the migration option and new entrants, except for the calculation of one time entry fee.

13.4 Recommendations by the Authority

Should migration be permitted ?

The arguments in favour of migration are the following

- Two systems should not co-exist. This would create problems of competition as the conditions of Phase II are more favourable.
- In retrospect the outcome of Phase I has not been one that would lead to a sustainable model of development of the sector. The high license fees would inhibit growth and many may not even survive – this would mean a waste of all the efforts of the past few years

The main argument against any migration is that the rules of game should not be changed midway. Bidders had consciously made commitments and they should abide by them. Such a change of license conditions could also invite legal challenge.

After considering both it is considered that as recommended by the Committee migration should be permitted. Essentially this is because the Phase I conditions are inherently not sustainable and also because it would not be correct to allow two systems to co-exist. Mistakes have been made in Phase I but the more important issue is to spur growth in this area and to learn from these mistakes. Such changes in policy are quite common in the early stages of promoting private sector participation in any sector. In India itself in the telecom sector mid course corrections have been made twice in the telecom sector licensing rules and existing players have been allowed to migrate. Similarly in the power sector the rules for private sector participation have been periodically changed. Internationally also a World Bank study has found that the majority of contracts in sectors like transport and water supply have been reopened before the contracts ended. This is natural since in each sector there is insufficient knowledge at the start of the process of bringing in the private sector. Similarly in the FM radio, there has been a process of learning and the operators should be provided with a route to continue their business after imposing some penalty for the extremely high bids that they put in, so that the sanctity of the bidding process is not lost sight of.

Finally so far as the legal aspect is concerned the Authority agrees with the findings of the Committee that the Government has the inherent right to change the license conditions.

Eligibility for migration

There are several categories of players who could be considered for migration.

- Firstly there are those who obtained licenses, operationalised stations and have also paid their dues. These can clearly be allowed to migrate
- Second there are those who have paid all dues except the last instalment which is involved in litigation. These can be allowed to migrate if they pay all their dues upto the cut off date
- Third would be those who have operationalised their stations but have defaulted in payments. They can similarly be allowed to migrate on clearance of all dues upto the cut off date
- Finally those who have made all payments but have not operationalised their stations. They can be allowed to migrate provided they operationalise their stations within six months of the Government decision on Phase II and the migration package.
- Finally there are those who have been successful bidders but have not taken the license. It would be difficult to consider these for migration as they have not taken a license. For this category it would not be possible to also calculate their dues since there is no license and so there is no initial date. For these categories it would be best if they are simply allowed to bid for Phase II.

For all the categories above the general condition would be that they should clear all dues upto the cut off date, withdraw all cases as has been recommended by the Committee and also not be in default of any license condition.

Cut off date

The various options available for migration to new license structure were analysed by the Authority.

The first option is to have 24th July 2003 as the cut-off date, as recommended by the Radio Broadcast Policy Committee. This was the date when it was publicly recognised for the first time by the Government that there was a problem in phase I of licensing and a more sustainable license fee structure was required. This is thus the earliest date from which relief can be given to existing operators. However, this date falls in the middle of the financial year and would complicate computation of revenue share for the first year. Adoption of this cut off date would entail considerable refunds of license fees already paid by the existing operators.

The second option is to adopt 31st March 2004 as the cut-off date. This is the earliest possible date keeping in mind the need to start the new system with a new financial year. This would start the new system early and allow a large number of existing operators to survive as all the operators with one exception have paid all their dues till 31.03.2004.

The third option is to take 31st March 2005 as the cut-off date. This would result in minimisation of refunds. However, some of the existing operators may withdraw from the sector. One operator has already given notice and one has closed down.

The fourth option is not to specify the cut off date now and allow the existing contracts to run their course. When the bids for phase II are called then those operators who have given their option for migration can also bid. If successful, they can migrate to the Phase II conditions from the start of the financial year in which the LOI is given. If unsuccessful they could be given the option of terminating with one months notice (instead of 12) or continuing with Phase I conditions. If an operator chooses to terminate then that particular service would be interrupted and would not be available till the Phase II bidder makes his station operational. If a Phase I bidder chooses to continue with Phase I (being unsuccessful in the Phase II bidding) then the number of frequencies coming under Phase II would get correspondingly reduced. Thus the Phase I operators would have an option at two points of time – at the start of Phase II and at the time when the bids are opened.

The fifth option is to allow migration only after exercise of exit option in the phase I license. This means giving them an option only once as per the existing contract. This means that all the operators will have to give 12 months notice. As a result many existing players may not survive. At this stage it is not known when the new bids would be called and when would they be finalised. There is need to give a definite package to the operators so that they can take a decision to continue or exit. Thus it would be impossible to enforce this provision without risking interruption of service for a long period of time and therefore this is not a good option. Accordingly there is very good reason to waive this requirement.

A comparison of these options shows that the first and the fifth options are extremes and therefore are not very suitable. The only real choice is between the second, third and fourth options. In the second and third options apart from paying all the dues it would also be necessary to collect the entry fees of Phase II from the operators. A variation of this option would be to collect only the difference between the Phase I entry fees paid up to cut off date and the Phase II entry fees, in case the latter is higher. However, this variation is not being proposed by the Authority as it is considered that the operators taking advantage of migration should pay what the new bidders are paying since they would also get a license for another ten years. In options II and III the Phase II bids are not known at present and the operators would have to take a call on the likely value of the bids. In contrast in option IV the operator would participate in the bids and can determine what amount he wishes to pay. In case this operator is not successful in the bidding process and decides not to continue under Phase I conditions, then till the new operator is functional one ongoing radio station will close down. Thus the risk in this option would be that there is a possibility of an ongoing station closing down. There could thus be a gap in service specially in small towns that have only one operator.

Considering all factors it would appear that Option II would be the best option from the point of view of retaining investments of Phase I. Option II would also give relief to the industry. On the other hand Option IV minimises concessions and refunds. As a basic rule it would be prudent to minimize departures from past contracts. If this is not done then the sanctity of contracts will be lost. For these reasons it is best to accept a package that minimises the deviation from the past contracts and gives the least amount of concessions to existing operators. Thus Option IV is recommended on grounds of maintaining integrity of past contracts. However, if this option is not found desirable by government on account of losing the gains already made in Phase I, then Options II and III can also be considered.

This would imply that the only concession being given to the existing operators would be to waive the 12 month period for termination of license and to permit migration from the cut off date as specified above in case of Option IV. This is eminently justified in view of the fact that the license conditions are being changed and we cannot have two systems simultaneously in operation. Again it is reasonable to provide this concession in view of the fact that these operators have made investments and suffered losses while keeping up their side of the contract.

To sum up the following is being recommended:

- Migration to Phase II conditions should be permitted for Phase I licensees provided that they pay all dues, withdraw all pending litigation and also not be in default of any license condition.
- Other categories of Phase I participants should be permitted to bid in Phase II provided they clear all dues and withdraw all pending litigation.
- The operators who wish to migrate to Phase II should be allowed to bid for Phase II and allowed to migrate to the Phase II conditions from the start of the financial year in which the LOI is given. If unsuccessful they could be given the option of terminating with one month's notice (instead of 12) or continuing with Phase-I.

Section 14 : Other Issues

14.1 Import duty

The Committee has suggested that import duty for broadcast equipment should be brought in line with that of the telecom sector. The Authority agrees with this recommendation.

14.2 Foreign Satellite Broadcast

The Committee has suggested that Government should come out with a policy on up-linking of satellite radio channels and down-linking process. The Authority agrees with this recommendation.

Status of Companies who bid for 101 stations in phase I FM Radio Licensing **Annexure I**

Sl. No.	Name of the Company	Operationalised Stations	deemed operation-alised stations	License Revoked Stations	Initially Operational and now non-operational	Stations for which license issued but did not apply for WPC frequency	Stations for which LOI issued but LA not executed	Stations for which LOI was not issued due to withdrawal or non-clearance from MHA	Total Fre-quency Bid in phase I
1	M/s. Entertainment Network	Delhi, Calcutta, Chennai, Mumbai, Ahmedabad, Indore, Pune **(7)**	Bhubneswar, Jabalpur **(2)**	Cuttack **(1)**		Hyderabad, Lucknow **(2)**			
2	India FM Radio	Calcutta **(1)**							
3	M/s.Radio Today	Calcutta, Delhi, Mumbai **(3)**							
4	Music B'cast	Delhi, Bangalore Lucknow, Mumbai **(4)**				Nagpur Patna **(2)**			
5	M/s.Sun TV	Chennai, Coimbatore Tirunelveli **(3)**							
6	Millenium B'cast Mumbai				Mumbai **(1)**				
7	Millenium B'cast Delhi					Delhi **(1)**			
8	Millenium B'cast,Chennai					Chennai **(1)**			
9	M/s.Udaya TV	Vishaka-patnam **(1)**							
10	Hitz FM Radio	Calcutta **(1)**							
11	Radio-Mid day West	Mumbai **(1)**							
12	M/s. Vertex Broadcasting Co. Ltd.					Indore, Bhopal, Vishakapatnam, Kolkata **(4)**		Chennai, Hyderabad **(2)**	

Sl. No.	Name of the Company	Operationalised Stations	deemed operation-alised stations	License Revoked Stations	Initially Operational and now non-operational	Stations for which license issued but did not apply for WPC frequency	Stations for which LOI issued but LA not executed	Stations for which LOI was not issued due to withdrawal or non-clearance from MHA	Total Fre-quency Bid in phase I
13	M/s.Mid-day Radio North India					Delhi **(1)**			
14	M/s.Mid-day Radio South India					Chennai **(1)**			
15	Bollywood B'casting Pvt. Ltd						Jallandhar **(1)**		
16	Indigo Radio Pvt. Ltd.						Bangalore, Cochin **(2)**		
17	Hind B'cast Pvt. Ltd						Bangalore, Calcutta, Delhi, Chennai **(4)**		
18	Magic Radio India Pvt. Ltd.						Calcutta **(1)**		
19	Dream (Radio) India Pvt.Ltd.						Delhi,Mumbai **(2)**		
20	Kismat Radio (India Pvt.Ltd.)						Bangalore **(1)**		
21	Dhun Radio Pvt. Ltd.						Pune **(1)**		
22	Observer Communications Ltd.						Calcutta,Chennai, Delhi, Indore, Jamnagar, Lucknow, Mumbai, Pune, Panaji **(9)**		
23	Modi Entertainment Network						Pune **(1)**		

Sl.No.	Name of the Company	Operationalised Stations	deemed operation-alised stations	License Revoked Stations	Initially Operational and now non-operational	Stations for which license issued but did not apply for WPC frequency	Stations for which LOI issued but LA not executed	Stations for which LOI was not issued due to withdrawal or non-clearance from MHA	Total Fre-quency Bid in phase I
24	Nimbus Communications Ltd.						Chennai,Delhi, Mumbai **(3)**		
25	New Media B'casting Pvt. Ltd						Agra, Allahabad, Aurangabad, Ahmedabad, Bhopal, Calcutta, Chandigarh, Chennai, Delhi, Guwahati, Hyderabad, Indore, Kanpur, Ludhiana, Madurai, Mumbai, Mysore, Panaji, Patna, Pune, Raipur, Rajkot, Shillong, Srinagar, Tiruchi, Trivandrum, Varanasi, Vishakapatnam **(28)**		
26	Neffs (India)Pvt. Ltd.						Guwahati **(1)**		
27	Raj Telefilms Ltd.						Chennai **(1)**		
28	Hindustan B'casting							Bangalore, Calcutta, Chennai,Delhi, Mumbai, Pune **(6)**	
29	Suraj B'Casting Pvt. Ltd.							Jaipur **(1)**	
	Total Frequencies	**21**	**2**	**1**	**1**	**12**	**55**	**9**	**101**

Annexure II

Statement Showing Revenue, Expenditure, License Fees and Losses of FM Radio Service providers

*(all figures in Rs. crores)

Year	Total revenue	Total expenditure**	Total License fees	Total Losses
2002-03	47.88	166.27	84.07	-118.39
2003-04	115.82	237.76	108.08	-121.94

* all figures based on information provided by 20 licensees: 2002-03 is based on audited accounts and 2003-04 is based on unaudited figures

** Including Total License fees

Annexure III

LICENSE FEE FOR FM RADIO STATIONS

Country	Initial Fee	Annual Fee	Remarks
Australia[1]	Determined by price based auction process	The annual license fee varies from 0.25% to 3.25% of gross earnings per annum as per a detailed formula based on gross earnings.	Relevant percentage for a given Gross Earning is 1.75% for AU$ 5 million, 2.2% for AU$ 6 million, 2.65% for AU$ 7 million, 3.1% for AU$ 10 million, 3.25% for AU$ 11.5 million or more
Canada[2]	-	a) Nil, if the revenue is $ 2 million or less. b) 1.365% of annual revenue in excess of $500,000 if the revenue exceeds $ 2 million	Another component of license fee, based on total regulatory costs of the Canadian Radio-television and Telecommunication Commission is also payable annually. The total cost is distributed amongst all licensees in proportion of their revenues above exemption level.
New Zealand[3]	$4500	$4000	Fee for Radio Licence for VHF-FM station operating with e.i.r.p. of 40 dBW or more.
	$4500	$4000	Fee for Spectrum License for VHF-FM sound broadcasting with e.i.r.p. of 40 dBW or more
S. Africa[4]	R. 30,000 R. 2,500	1% of turnover less agency fee and other deductions (up to a maximum of 20%)	The two components of Initial Fee correspond to License Application Fee and fees for Issue of License respectively.
USA[5]	$1850	$8125	Initial fee is the regulatory fee payable for New Construction Permit. Annual Fee is the regulatory fee for FM stations of classes B, C, C1, C2 with a served population of more than 3 million. Commercial broadcasters pay two types of spectrum fees to FCC – one for license applications and one for regulatory costs.

1 Section-II of Annexure-III to the Report of the Radio Broadcast Policy Committee
2 International Case Studies in the Radio Industry by Ms. Noreen Naqvi and Mr. Dilip Chenoy
3 Complete table available at www.med.govt.nz/rsm/formsfees/s6feespt1.html
4 International Case Studies in the Radio Industry by Ms. Noreen Naqvi and Mr. Dilip Chenoy
5 Regulatory Fees Fact Sheet issued by FCC in July 2003.

Annexure IV

Statement of Telecom License Fees and Service tax to be received by Central Government

	All circles and Metro License					(Rs.in Crore)	
		1	2	3	4	5	6
	YEAR	**License fee under old regime**	**License Fee under new regime (post NTP 99)**	**License Fee as per 2001 Regime**	**License Fee as per 2003 Regime**	**Service Tax (Estimated)***	**License Fee + Service Tax**
1	1999-00	1603	275	209		110	319
2	2000-01	2270	619	468		248	716
3	2001-02	2734	793	602		317	919
4	2002-03	2455	872	657		349	1006
5	2003-04	2470	1727	1296		1105	2402
6	2004-05	2511	2698		1666	1727	3392
7	2005-06	2591	4586		2831	2935	5766
8	2006-07	2680	7796		4813	4989	9802
		19314	**19366**	**3234**	**9309**	**11780**	**24323**
				12543			

Annexure V

License Fees as Bid in Phase I

S. No.	Centre	No. of frequencies	License fee in Rs Lakhs (rounded off to nearest hundred)									
			Year 1	Year 2	Year 3	Year 4	Year 5	Year 6	Year 7	Year 8	Year 9	Year 10
1	Agra	1	80.000	92.000	105.800	121.670	139.921	160.909	185.045	212.802	244.722	281.430
2	Ahmedabad	1	56.000	64.400	74.060	85.169	97.944	112.636	129.531	148.961	171.305	197.001
3	Allahabad	2	255.000	293.250	337.238	387.823	445.997	512.896	589.830	678.305	780.051	897.058
4	Aurangabad	1	66.000	75.900	87.285	100.378	115.434	132.750	152.662	175.561	201.896	232.180
5	Bangalore	5	680.000	782.000	899.300	1034.195	1189.324	1367.723	1572.881	1808.814	2080.136	2392.156
6	Bhopal	2	50.000	57.500	66.125	76.044	87.450	100.568	115.653	133.001	152.951	175.894
7	Bhubaneshwar	1	24.000	27.600	31.740	36.501	41.976	48.273	55.513	63.840	73.417	84.429
8	Calcutta	10	100.000	115.000	132.250	152.088	174.901	201.136	231.306	266.002	305.902	351.788
9	Chandigarh	1	665.000	764.750	879.463	1011.382	1163.089	1337.553	1538.185	1768.913	2034.250	2339.388
10	Chennai	11	330.000	379.500	436.425	501.889	577.172	663.748	763.310	877.807	1009.478	1160.899
11	Cochin	1	225.000	258.750	297.563	342.197	393.526	452.555	520.439	598.504	688.280	791.522
12	Coimbatore	1	335.000	385.250	443.038	509.493	585.917	673.805	774.875	891.107	1024.773	1178.489
13	Cuttack	1	22.000	25.300	29.095	33.459	38.478	44.250	50.887	58.520	67.299	77.393
14	Delhi	11	712.500	819.375	942.281	1083.623	1246.167	1433.092	1648.056	1895.264	2179.554	2506.487
15	Guwahati	2	126.000	144.900	166.635	191.630	220.375	253.431	291.446	335.163	385.437	443.252
16	Hyderabad	3	772.500	888.375	1021.631	1174.876	1351.107	1553.773	1786.839	2054.865	2363.095	2717.559
17	Indore	4	90.000	103.500	119.025	136.879	157.411	181.022	208.175	239.402	275.312	316.609
18	Jabalpur	1	22.000	25.300	29.095	33.459	38.478	44.250	50.887	58.520	67.299	77.393
19	Jaipur	1	365.000	419.750	482.713	555.119	638.387	734.145	844.267	970.907	1116.543	1284.025
20	Jalandhar	1	325.000	373.750	429.813	494.284	568.427	653.691	751.745	864.506	994.182	1143.310
21	Jamnagar	1	160.000	184.000	211.600	243.340	279.841	321.817	370.090	425.603	489.444	562.860
22	Kanpur	1	330.000	379.500	436.425	501.889	577.172	663.748	763.310	877.807	1009.478	1160.899
23	Lucknow	3	555.000	638.250	733.988	844.086	970.698	1116.303	1283.749	1476.311	1697.758	1952.421
24	Ludhiana	1	500.000	575.000	661.250	760.438	874.503	1005.679	1156.530	1330.010	1529.511	1758.938
25	Madurai	1	555.000	638.250	733.988	844.086	970.698	1116.303	1283.749	1476.311	1697.758	1952.421
26	Mumbai	10	975.000	1121.250	1289.438	1482.853	1705.281	1961.073	2255.234	2593.519	2982.547	3429.929
27	Mysore	1	152.000	174.800	201.020	231.173	265.849	305.726	351.585	404.323	464.971	534.717
28	Nagpur	1	740.000	851.000	978.650	1125.448	1294.265	1488.404	1711.665	1968.415	2263.677	2603.228
29	Panaji	2	415.000	477.250	548.838	631.163	725.838	834.713	959.920	1103.908	1269.494	1459.919
30	Patna	2	475.000	546.250	628.188	722.416	830.778	955.395	1098.704	1263.509	1453.036	1670.991
31	Pune	6	530.000	609.500	700.925	806.064	926.973	1066.019	1225.922	1409.811	1621.282	1864.474
32	Raipur	1	22.0000	25.3000	29.0950	33.4593	38.4781	44.2499	50.8873	58.5204	67.2985	77.3933
33	Rajkot	1	400.000	460.000	529.000	608.350	699.603	804.543	925.224	1064.008	1223.609	1407.151
34	Shillong	1	22.000	25.300	29.095	33.459	38.478	44.250	50.887	58.520	67.299	77.393
35	Srinagar	1	50.000	57.500	66.125	76.044	87.450	100.568	115.653	133.001	152.951	175.894
36	Tinunelveli	1	510.000	586.500	674.475	775.646	891.993	1025.792	1179.661	1356.610	1560.102	1794.117
37	Tiruchy	1	322.000	370.300	425.845	489.722	563.180	647.657	744.806	856.526	985.005	1132.756
38	Trivandrum	1	305.000	350.750	403.363	463.867	533.447	613.464	705.484	811.306	933.002	1072.952
39	Varanasi	1	318.000	365.700	420.555	483.638	556.184	639.612	735.553	845.886	972.769	1118.685
40	Vishakhapatnam	3	50.000	57.500	66.125	76.044	87.450	100.568	115.653	133.001	152.951	175.894

Annexure VI

EARNEST MONEY DEPOSIT AND RESERVE LICENSE FEE IN PHASE-I

(All figures in Rs. Lakhs)

Category of Centre	EMD	Reserve License Fee per channel for the first year
A+	2.00	125
A	1.00	100
B	0.75	75
C	0.50	50
D	0.50	20

Annexure VII

CROSS MEDIA OWNERSHIP RESTRICTIONS

Country	Regulations
Australia[1]	A person must not be in a position either directly or by virtue of being a director of a company to exercise control of : a) A commercial radio broadcasting license and a commercial television broadcasting license that have the same license area. b) A commercial radio broadcasting license and a newspaper which has at least 50% circulation in the license area and its circulation in the license area is at least 2% of the license area population. c) A Commercial television broadcasting license and a newspaper which has at least 50% circulation in the license area.
S. Africa[2]	a) No person who controls a newspaper may acquire or retain a financial control in both a radio and a television license. b) No person who is in a position to control a newspaper may be in a position to control a radio or a television license in an area where the newspaper has an average circulation of 20% or more of the total newspaper readership.
UK[3]	a) No person may hold both a UK-wide Channel 3 television Service license or Channel 5 television Service license and a national radio service license. However, the national TV licensees may own local radio licenses. b) No person may hold a local radio service license and a regional Channel 3 television service whose coverage area is to a significant extent same. c) A person who runs a national newspaper or newspaper group with a national market share of 20% or more may not provide a national or local radio service. d) A person who runs a local newspaper or newspaper group with a local market share of more than 50% may not own a local radio service if that service is the only local radio service.
USA[4]	a) In Nielsen Media Research Designated Market Areas(DMAs) to which three or fewer full-power commercial and non-commercial educational television stations are assigned, no newspaper/broadcast or radio/television cross-ownership is permitted. b) In DMAs to which 4-8 full power commercial and non-commercial educational television stations are assigned, an entity that controls a daily newspaper may have interest in either. 1) One commercial television station in combination with radio stations up to 50% of local radio limit for the market; or 2) Radio stations up to 100% of local Radio limit. c) The limits do not apply to any new daily newspaper inaugurated by a broadcaster.

1 Part 5 Division 5 of Broadcasting Services Act, 1992
2 International Case Studies in the Radio Industry by Ms. Noreen Naqvi and Mr. Dilip Chenoy
3 Part III & IV of Schedule 2 to the Broadcasting Act, 1990
4 Part 73.3555 of Electronic Code of Federal Regulations.