



Telecom Regulatory Authority of India

Policy Issues relating to Uplinking/Downlinking of  
Television channels in India

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## Preface

Guidelines for up-linking and down-linking of channels were issued by the Ministry of Information & Broadcasting in the year 2005. There has been since a rapid growth of TV channels. As on date, the Ministry has given permission to around 550 TV channels and a number of applications are pending consideration. In view of the rapid increase in the number of channels, the Ministry wished to re-visit the conditions of the present policy including the eligibility criteria and other terms and conditions of permission.

Accordingly, the Ministry sought the recommendations of the Authority on various issues concerned to the grant of permission. The key issues include the need of putting cap on the number of channels, eligibility criteria like networth, experience and the terms of permission like permission fee, renewal, revocation etc. The aspect of developing India into a teleport hub was also a part of the reference.

The Authority after pre-consultations with the stakeholders issued a consultation paper in March 2010. These recommendations have been formulated taking into account the comments of the stakeholders and the subsequent discussions with them. While the Authority does not favour capping of the number of channels, it favours measures to ensure that only serious players are encouraged. The Authority also favours the development of India as a Teleport hub.

It is hoped that these recommendations will further facilitate the structured growth of the sector.

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## Introduction

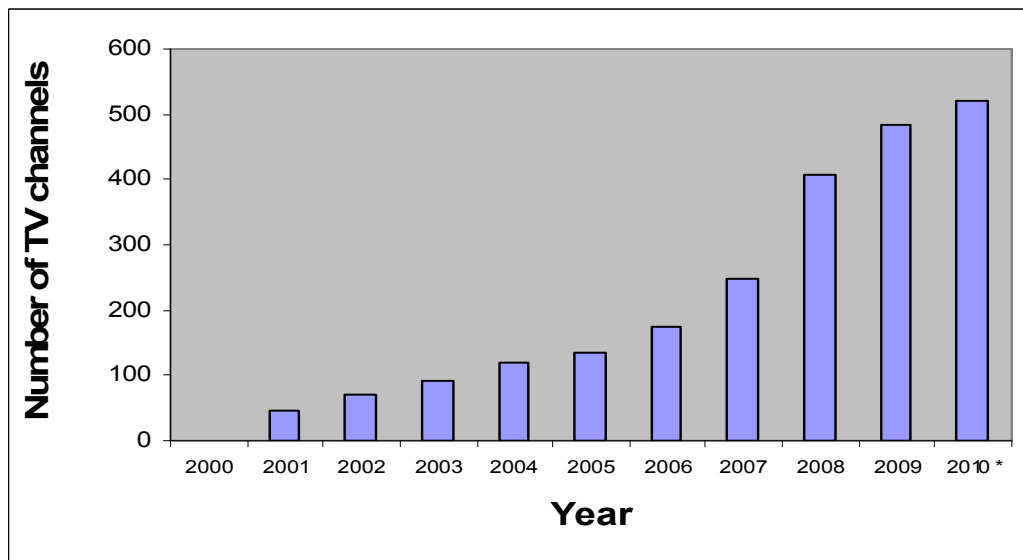
- i) The Ministry of Information and Broadcasting (M/o I&B) formulated the policy guidelines, for downlinking of satellite television channels downlinked/received/transmitted and re-transmitted in India for public viewing, on 11<sup>th</sup> November 2005. Similarly, the guidelines for Uplinking of Television from India were notified on 2<sup>nd</sup> December 2005. These guidelines contained a liberal approach towards granting permissions. Pursuant to the Guidelines, there was an exponential growth of television channels, especially during the last few years. Till date, permissions for more than 550 TV channels have been granted by M/o I&B and there are pending applications for fresh approvals.
- ii) Vide its letter No. D.O. No. 1501/34/2009-TV(I) dated October 08, 2009 the Ministry of Information & Broadcasting sought the recommendations of the Telecom Regulatory Authority of India (TRAI) regarding modifications in the uplinking and downlinking guidelines. The Ministry of Information and Broadcasting has broadly raised the following issues: (1) Maximum number of satellite TV channels possible, (2) Cap on Number of Channels, (3) Eligibility criteria & process of granting Permission, (4) Minimum period of operation, (5) Revocation of permission of TV channels, (6) Renewal of permission, (7) Policy for transfer of permission; and (8) Proposed changes in the guidelines to develop the country into a teleport/hub for uplinking/turnaround of TV channels which are not meant for viewing in India. A copy of the letter is at Annexure I.
- iii) TRAI accordingly initiated a process of consultation to arrive at an appropriate decision. The reference dated October 08, 2009 received from

the Ministry of Information and Broadcasting was placed on TRAI website [www.traigov.in](http://www.traigov.in) to solicit preliminary views of the stakeholders on the subject. Taking into account the preliminary views of the stakeholders on the subject, a consultation paper on “Policy Issues relating to Uplinking/Downlinking Television Channels in India” was issued on March 15, 2010. The issues posed in the consultation paper are at Annexure II .

- iv) All the comments and counter-comments were placed on the Authority’s web site [www.traigov.in](http://www.traigov.in) . Open House Discussions were held on 3<sup>rd</sup> May 2010 at New Delhi.
  
- v) The recommendations have been formulated taking into consideration the comments and views of the stakeholders. The issues have been broadly discussed in three chapters. Chapter 1 deals with the issue of regulating the number of TV channels wherein the matter has been examined from legal, technological and socio-economic angles besides looking at the international experience. Chapter 2 examines the issue of introduction/modification of certain eligibility conditions pertaining to the applicant companies seeking permission for uplinking/ downlinking of TV channels. It also deals with the issues of permission fee and revocation, renewal, transfer of license etc. Chapter 3 deals with the issue of developing India as a teleport/hub centre. The recommendations of the Authority are summarised in Chapter 4.

## Chapter 1. Number of TV Channels & Technologies

1.1 India has witnessed a significant growth in Cable and Satellite television services in the recent past. As a result, the number of TV channels which have been permitted to be downlinked in India has increased exponentially (Ref. Fig. 1). Today, there are around 550 TV channels which have been approved by M/o I&B for uplinking/downlinking in India. Several applications for new TV channels are pending consideration.



**Fig. 1 Number of TV channels permitted for Downlinking in India**

**Source :** Ministry of Information and Broadcasting

(\*) Number of channels permitted till July' 2010

### **A. Number of Channels**

The M/o I&B requested TRAI to examine the issue of capping the number of channels. The various issues which are examined in this connection are:

- Determination of maximum number of satellite TV channels possible in the current scenario.

- Capping the number of channels.
- Capping the number of satellite based distribution networks

1.2 The above issues were posed for consultation in the consultation paper and a number of stakeholders have given their views on these issues.

### *Stakeholder Comments*

1.3 Several stakeholders have stated that a large number of transponders, both Indian and foreign, are available for TV Broadcasting and that there is enormous scope to accommodate a very large number of channels with the use of efficient coding, modulation and compression technologies. Even Ka band is being explored for the broadcasting and related services which will further enhance the scope to have more channels. It has been suggested by some stakeholders that ISRO should negotiate with the ITU for getting more orbital slots allocated to India. This would enable more satellites to be put to use to meet the growing demand for spectrum in the space segment.

1.4 One of the stakeholders has pointed out that the impression, that there is sufficient spectrum available in the satellite sector, is actually a skewed one. On the one hand, there is ample space available in the C band while it is not so in the Ku Band. With rapid expansion in the DTH sector there is acute shortage of spectrum in Ku Band for want of which all the DTH operations are being run without the backup which is a great business risk. This argument is in support of the demand that the government should encourage an open sky policy in the satellite sector.

1.5 One of the views expressed is that India's population is both -increasingly affluent and pluralistic- linguistically, ethnically and culturally. India

with its given demography, ethnography and dynamism is vastly underserved in terms of the number of TV channels in operation today. To support the argument, an analysis of the study of the Asian market regarding number of channels per thousand TV service subscribers in various countries like Singapore, Taiwan, Philippines, Malaysia, Hongkong and India has been referred to. This figure ranges from a maximum of 0.2841 for Singapore to a minimum of 0.0055 for India which further substantiates the claim that there is ample scope for more TV channels in the Indian market (Ref. Fig. 2 below) As observed by another stakeholder, the market is clearly continuing to attract investment through creation of new channels which is in the interest of the consumers, as it enhances consumer experience, promotes competition and enriches the options available to the consumers.

	<b>Number of channels</b>	<b>Number of widely-used languages</b>	<b>Number of subscriber connections (000)</b>	<b>Channels per 1000 subscriptions</b>
<b>Singapore</b>	175	4	616	0.284090909
<b>Taiwan</b>	201	2	6537	0.03074805
<b>Philippines</b>	163	8	1219	0.133716161
<b>Malaysia</b>	117	4	2924	0.04001368
<b>Hong Kong</b>	293	3	1866	0.157020364
<b>India</b>	580	11	105040	0.005521706

**Fig. 2 Number of Channels per thousand TV subscribers**

- 1.6 Some stakeholders have said that a cap on number of channels would be irrational and violative of not only freedom of speech and expression but



also of the rights under Article 19(1)(g) of the Indian Constitution. In support of this argument, stakeholders have cited the case of *Sakal Papers Ltd. Vs. Union of India*, wherein the Hon'ble Supreme Court struck down the provision of Daily Newspapers (Price & Page) Order, 1966 which fixed the number of pages and size which a newspaper could publish at a price, since it was found to be violative of freedom of press and not a reasonable restriction under Article 19(2). Also, the *Bennett Coleman & Co. vs. Union of India* case, in which the validity of the Newsprint Control Order, which fixed the maximum number of pages was struck down by the court holding it to be a violative of provision of Article 19(1)(a) and not to be a reasonable restriction under Article 19(2).

### *Analysis*

- 1.7 The issue of capping the number of TV channels has been examined from four angles, viz. Legal; Technical; Socio-economic; and international experience.

#### Legal Angle

- 1.8 A number of stakeholders have, both during the pre-consultation process and in response to the consultation paper, expressed a view that a cap on the number of TV channels would violate the right to freedom of speech and expression guaranteed under Article 19(1)(a) of the Constitution of India. They have drawn attention, *inter alia*, to the judicial pronouncements of the Hon'ble Supreme Court of India in some cases, particularly, in *Sakal papers Ltd vs. Union of India* and in *Bennett Coleman & Co. vs. Union of India*. According to these stakeholders, capping the number of TV channels would be similar to "fixing the number of pages and size of a newspaper" and would be violative of the freedom of press guaranteed under Article 19 (1) (a) of the Constitution of India. According

to them, the prescription of a cap on the number of satellite channels would be irrational and would not only violate the freedom guaranteed by Art. 19 (1)(a) but would also violate the right under Art. 19 (1) (g) of the Constitution, to carry on any occupation, trade or business which is not illegal, dangerous or immoral. The main contention of these stakeholders is that TV channels are a manifestation of the freedom of expression guaranteed under the constitution. In their view, any imposition of a cap on the number of TV channels which can be licensed in the country, on considerations of availability of satellite transponders capacity, availability of spectral frequencies etc., would be similar in nature to a restriction of licenses for newspapers based on a premise that sufficient newsprint is not produced / available in the country. Since the issue raised by these stake-holders is of seminal importance, it becomes necessary to discuss the legal position in this regard briefly, before the views offered by the stakeholders on the question of desirability of such a cap are analysed.

1.9 In this context, it is necessary to refer to the relevant provisions of the Constitution of India and to several judicial pronouncements on the scope of the freedoms guaranteed by Art. 19(1)(a) and Art. 19(1)(g), respectively, and the relative extents to which these respective freedoms can be abridged/restricted.

1.10 The relevant provisions of Art. 19 read as follows:

*“19. (1) All citizens shall have the right –*

*(a) to freedom of speech and expression;*

*.....*

*(g) to practise any profession, or to carry on any occupation, trade or business.*

*(2) Nothing in sub-clause (a) of clause (1) shall affect the operation of any existing law, or prevent the State from making any law, in so far as such law imposes reasonable restrictions on the exercise of the right conferred by the said sub-clause in the interests of the sovereignty and integrity of India, the security of the State, friendly relations with foreign States, public order, decency or morality, or in relation to contempt of court, defamation or incitement to an offence.*

.....

*(6) Nothing in sub-clause (g) of the said clause shall affect the operation of any existing law in so far as it imposes, or prevent the State from making any law imposing, in the interests of the general public, reasonable restrictions on the exercise of the rights conferred by the said sub-clause, and, in particular, nothing in the said sub-clause shall affect the operation of any existing law in so far as it relates to, or prevent the State from making any law relating to, –*

*(i) the professional or technical qualifications necessary for practising any profession or carrying on any occupation, trade or business, or*

*(ii) the carrying on by the State, or by a corporation owned or controlled by the State, of any trade, business, industry or service, whether to the exclusion, complete or partial, of citizens or otherwise.”.*

1.11 The freedom guaranteed under the sub-clause (a) of clause (1) encompasses the right to express one’s convictions and opinions freely, by word of mouth, writing, printing, picture or any other manner addressed to the eyes or the ears, and thus includes the freedom of press, as well as

expression of one's ideas by any visible representation. "Expression" presupposes a party or parties to whom the ideas or opinions are expressed or communicated. In other words, 'expression' includes the concept of publication and the right to acquire and import ideas and information about matters of common interest. [ *Hamdard Dawakhana vs. Union of India* (1960) 2 SCR 671].

1.12 The scheme of the Article further shows that clause (2) thereof enables the Legislature to impose reasonable restrictions on the freedom of speech and expression guaranteed by Art. 19 (1)(a) on grounds of -

- (i) Security of the State;
- (ii) friendly relations with foreign States;
- (iii) public order;
- (iv) decency or morality;
- (v) contempt of court;
- (vi) defamation;
- (vii) incitement to an offence;
- (viii) sovereignty and integrity of India.

Similarly, clause (6) of Article 19 enables the Legislature to impose reasonable restrictions on the freedom to practise any profession or to carry on any occupation trade or business, guaranteed under Art. 19(1)(g).

1.13 It has to be noted that the grounds on which reasonable restrictions can be imposed in respect of the freedom guaranteed under Art. 19 (1) (g) are much wider than those enumerated in respect of the freedom of speech

and expression guaranteed under Article 19(1)(a), in that such reasonable restrictions in respect of the right under Article 19(1)(g) are only required to be “in the interest of the general public”.

1.14 The expression “in the interest of general public” has been held to be of wide import and would comprise within its ambit all facets of general public interest such as the interest of public health and morals, economic stability of the country, equitable distribution of the essential commodities or fair prices, maintenance of purity in public life, prevention of fraud, amelioration of the conditions of farmers or workmen, implementation of the Directive Principles of State Policy contained in Part IV of the Constitution, etc. Thus, Government policy in the public interest would override the business interest of any individual.

1.15 The stake holders who have raised legal objection to the prescription of a cap on the number of broadcasting channels in the country have mainly relied upon the judgment of the Hon’ble Supreme Court in the case of *Sakal Papers Vs. Union of India* (AIR 1962 SC 305). The following extracts from the said judgment appear to be relevant in this context :-

*“The right to propagate one’s ideas is inherent in the conception of freedom of speech and expression. For the purpose of propagating his ideas every citizen has a right to publish them, to disseminate them and to circulate them. He is entitled to do so either by word of mouth or by writing. The right guaranteed thus extends, subject to any law competent under Art. 19(2), not merely to the matter which he is entitled to circulate, but also to the volume of circulation. In other words, the citizen is entitled to propagate his views and reach any class and number of readers as he chooses subject of course to the limitations permissible under a law competent under Art. 19 (2).”*

.....

“...the right to freedom of speech and expression carries with it the right to publish and circulate one's ideas, opinions and views with complete freedom and by resorting to any available means of publication subject again to such restrictions as could be legitimately imposed under clause (2) of Art. 19.”

1.16 However, the question whether the right to publish and circulate one's ideas, opinions and views by resorting to any available means of publication would extend to the right of ownership over the television channels i.e., the right to be granted a license for owning such a broadcasting channel appears to be debatable. It is worthwhile to re-call in this context the observations of the Hon'ble Supreme Court in *Bennett Coleman Vs. UOI (AIR 1973 SC 106)* wherein it held that the press is not immune from the regulation of its commercial activities, without interfering with its freedom of expression. Thus, reasonable restrictions can be imposed on the commercial activities of a media enterprise.

1.17 It has been held by the Hon'ble Supreme Court that the right to freedom of speech and expression cannot rise above the national interest and the interest of society which is, but, another name for the interest of the general public. It has also been held that airwaves, being public property, must be utilized for advancing public good and that no individual has a right to utilize them at his choice and pleasure ( *Secretary, Ministry of Information and Broadcasting Vs. Cricket Association of Bengal AIR 1995 SC 1236* ). The Supreme Court has also observed that the right to have access to telecasting has limitations as the airwaves are public property and can be controlled and regulated by the public authority which is in addition to the restrictions under this Article [i.e., Art. 19 (1) (a)]. Thus, the legal

position is clear as to whether reasonable restrictions can be imposed on the use of airwaves for broadcasting purposes.

1.18 As regards the contention that the capping of number of channels in the country would be violative of the freedom guaranteed under Art. 19(1)(g) of the Constitution, the legal position is very clear. As already noticed *supra*, the considerations for interfering with the right to free speech and expression which are stated in Article 19 (2) are different from those for interfering with the right to trade and do business or to practice a profession. Under Article 19(6) of the Constitution, reasonable restrictions can be imposed on the exercise of a right to practice a profession, and technical and professional qualifications may be prescribed for exercising such profession. There are several instances where the Hon'ble Supreme Court of India and the High Courts have upheld reasonable restrictions on the right to carry on trade, business, etc. contained in Art. 19 (1)(g) of the Constitution. The State can, under Art. 19(6) of the Constitution, make laws prescribing the professional or technical qualifications necessary for practising any profession or carrying on any occupation, trade or business as well as for the carrying on, by the State, or by a corporation owned or controlled by the State, of any trade, business, industry or service, whether to the exclusion, complete or partial, of citizens or otherwise.

1.19 Where an activity involves questions of freedom of speech as well as questions of freedom to carry on a business, profession or vocation, then it is legitimate for the State to regulate the business aspect in terms of article 19(1)(g) of the Constitution (*A. Suresh Vs. State of Tamil Nadu AIR 1997 SC 1889*). Where the freedom of speech gets intertwined with business it undergoes a fundamental change and its exercise has to be balanced against societal interests. In *Secretary, Ministry of Information and Broadcasting, Government of India and Ors. vs. Cricket Association of Bengal*

and Ors. [(1995) 1 SCR 1036 :: AIR 1995 SC 1236], B.P. Jeevan Reddy, J. stated the proposition in the following words :

*"Providing entertainment is implied in freedom of speech and expression guaranteed by Article 19(1)(a) of the Constitution subject to this rider that where speech and conduct are joined in a single course of action, the free speech values must be balanced against competing societal interests."*

1.20 It is thus a settled position of law that the economic and business aspects of the media are relatable to the freedom under Article 19(1)(g) of the Constitution, i.e., the freedom of profession, occupation, trade or business, and, thus, these can be subjected to reasonable restrictions under Article 19(6). There can be no doubt, therefore, that it would be constitutionally permissible to cap the number of television channels in the country on considerations of public interest and also to prescribe, inter alia, conditions as regards eligibility for grant of permission to uplink and downlink television channels in India., i.e., to prescribe conditions as to financial viability, prior experience in a related sector, etc. for grant of such permission.

1.21 However, the question whether it is necessary or desirable to put a cap on the number of television channels in the country is one of considerable importance and thus needs careful consideration. Any decision on this question has to carefully weigh the pros and cons of such a cap and has to take into account the public interest which is likely to be served by such capping on the one hand and the effect/impact such a restriction may have on the right of freedom of speech and expression guaranteed by Article 19(1)(a) of the constitution, on the other. The freedom of expression and the freedom of the press are not only valuable freedoms in themselves, but are basic to a democratic form of Government. As



observed by the Hon'ble Supreme Court in the case of Cricket Association of Bengal (supra) :

*“True democracy cannot exist unless all citizens have a right to participate in the affairs of the polity of the country. The right to participate in the affairs of the country is meaningless unless the citizens are well informed on all sides of the issues, in respect of which they are called upon to express their views. One-sided information, disinformation, misinformation and non-information all equally create an uninformed citizenry which makes democracy a farce when medium of information is monopolized either by a partisan central authority or by private individuals or oligarchic organizations. This is particularly so in a country like ours where about 65 per cent of the population is illiterate and hardly 1-1/2 per cent of the population has an access to the print media which is not subject to pre-censorship. When, therefore, the electronic media is controlled by one central agency or few private agencies of the rich, there is a need to have a central agency, as stated earlier, representing all sections of the society. Hence to have a representative central agency to ensure the viewers' right to be informed adequately and truthfully is a part of the right of the viewers under Article 19 (1) (a).....”*

1.22 The Supreme Court has further observed in para 194 of the said judgment that from the stand point of Article 19 (1) (a) what is paramount is the right of the listeners and viewers and not the right of the broadcaster – whether the broadcaster is the State corporation or a private individual or body. A monopoly over broadcasting, whether by Government or by anybody else, is inconsistent with the right of free speech of the citizens.

1.23 Therefore, the Authority is of the considered view that while it is constitutionally permissible to impose reasonable restrictions on the ownership of the broadcasting channels in the country, including the limiting of the number of broadcasting channels in the country, if the same is warranted on account of considerations of any of the factors enumerated in Article 19 (2) and in the “national interest” as held by the Supreme Court in Cricket Association case, nevertheless, the “desirability” or the “reasonableness” of such restriction has to be measured on the touch stone of the “national interest” such a restriction is likely to serve. The desirability of imposing a cap on the number of broadcasting channels in the country is, thus, to be seen from the perspective of the public interest such a restriction is likely to serve.

#### Technical Angle

1.24 Now, turning to the technical angle, the factors include, technological developments in production and transmission technologies, new transponder bands and transponder availability.

1.25 The satellite caters to the multifarious requirements of various users in the fields of broadcasting, telecom, meteorology, remote sensing, distant education, disaster management, telemedicine, navigation, and rural area applications as per government policies etc.

1.26 In India, the uplinking of TV channels have been permitted in C band and Ku band under uplinking guidelines. However, majority of TV channels are being uplinked in C band through geostationary satellite because of better transmission characteristic in this band. The DTH service is currently permitted in Ku band. The HITS policy announced by the Government recently allows the use of C band or Ku band for its operation. Apart from the broadcasting services, the satellites in this band

are also used for telecommunication services such as VSAT and long distance voice communication.

- 1.27 The uplinking Guidelines permit the setting up of uplinking hub/teleports; and provides permission for uplinking News and current affair channels, and for non-News & current affair channels by a company from Indian soil. The uplinking can be done either in C or Ku Band. Uplinking in C Band is permitted both to Indian as well as foreign satellites. Satellite to be used should have been coordinated with INSAT System. On the other hand, uplinking in Ku Band is permitted to transponders made available by Department of Space (DoS) only.
- 1.28 The planning, of upcoming satellites by DoS, is normally done on the basis of five year plans. For putting up satellites in specific orbital locations, ISRO (DoS) undertakes coordination with ITU. It is a continuous and ongoing process wherein DoS seeks spectrum and other related approvals from the ITU based upon contracted demand of users and anticipated user requirements. This also includes requirement of spectrum for other applications. ISRO normally takes into consideration the existing satellite capacity as well as the requirement in the near future. The capacity of the satellite, planned to be launched, is sum of the requirement of the replacement capacity plus planned requirement of the users of satellite.
- 1.29 Coordination with ITU is an elaborate and lengthy exercise involving detailed negotiations both with ITU and other stakeholders (satellite operators). Once spectrum, matching the envisaged satellite, is approved by ITU, the satellite building process is initiated. However, replacement of a satellite on completion of its life (or its premature failure) does not require any approval so long as the replacement satellite's parameters are

same as those of the satellite being replaced. Satellite building process and its launching typically take two and half years to three years.

- 1.30 Resources of a satellite in orbit are national resources and are required to be utilised optimally. Whenever a requirement is generated by a prospective user, ISRO makes it available to it on an Indian satellite. If the requisite capacity is not available on an Indian satellite, then only it negotiates with a foreign satellite operator for providing the requisite transponder space to the user. This may be done either by way of taking the satellite on lease by ISRO and then giving it to the user or allowing the user to negotiate directly with the foreign satellite operator. Before allowing a user to use transponder space on any foreign satellite, ISRO ensures that this satellite is coordinated with the INSAT satellite system, verifies that it has sufficient remaining life time etc. so that the interests of the Indian service provider and consequently the end consumers are protected.
- 1.31 As per Department of Space (DoS), transponder capacity of about 194 transponders ( 93-C, 44-Extended C, 53-Ku and 4-S Band) is in operation on 10 INSAT satellites. Besides, some of the foreign satellites like AsiaSat, Thaicom, IS, Intelsat, NSS and Miasat are being used in broadcasting in India. A demand for 15 transponders in C band and 22 transponders in Ku band is pending with DoS.
- 1.32 As far as planned capacity for next 3 year period is concerned, DoS intimated that 155 transponders (50-C, 50-Extended, 50-Ku and 5-S Band) are being planned. This capacity includes the replacement capacity plus the envisaged requirement in the near future.
- 1.33 India has been allocated seven orbital slots viz 48°E, 55°E, 74°E, 82°E, 83°E, 93.5°E and 111.5°E. Out of these, the three popular slots for broadcasting

- use are 74°E, 83°E and 93.5°E, while rest of the slots are being used for other satellite applications. It has emerged in discussions with DoS that continual efforts are being made to have more orbital slots for future use.
- 1.34 As per DoS, efforts are being made to enable Ka band satellites in near future to the Indian sky. In the first stage of Ka band application, the uplinking will be done in Ka band with downlinking in Ku band as intermediate stage of transition. This will be followed by, both uplinking and downlinking in Ka band. Internationally, about 10 satellites are already working in Ka Band in USA, Japan and European countries.
- 1.35 In the C-Band, the broadcasters can directly lease capacity from DoS or foreign operators, subject to the DoS not objecting to the lease of such capacity. The DoS's consent is primarily based on the satellite being coordinated for use over India and the potential use not affecting other satellite users adversely.
- 1.36 Due to the wide footprint of C-Band satellites, a number of satellites are available for providing services over India or in other countries such as for TV broadcast. Based on demand, any satellite coordinated and having footprint over India can choose to offer its capacity to Indian users in preference to other countries. Further, the spot beams of existing foreign satellites which do not have footprints over India can, in many cases, be changed to deliver airwaves over India, if the market situation so demands. This would, however, be subject to co-ordination with DoS and WPC.
- 1.37 Further, if Ka band happens to be used for broadcasting, then a larger frequency chunk spanning Ka band becomes available for use. Besides, spectrum may be utilised more efficiently using frequency- reuse through the use of spot beams.

- 1.38 Many of the broadcasters are migrating from MPEG 2 to MPEG 4 compression system with the objective of reducing the production as well as carriage cost without compromising the technical quality of the content. As far as the spectrum is concerned, this migration has improved the spectral efficiency and eased the demand for spectral requirement. At the same time, another form of migration is taking place wherein the broadcasters are now increasingly producing their content in High Definition format (HDTV) instead of Standard Definition (SDTV). This particular migration is highly spectrum intensive as HDTV requires upto five times the bandwidth compared to the SDTV bandwidth requirement. These migrations are taking place simultaneously, but at dynamically varying pace. Apart from compression, the spectrum efficiency also depends upon the modulation and coding techniques employed in DVB-S and DVB-S2. DVB-S2 claims to be 30% more spectral efficient than DVB-S system.
- 1.39 As and when the collective demand for satellite transponder space in respect of services increases, the demand supply equilibrium would lead to new capacity being created and more efficient usage of available capacity by adoption of technological improvements. Both the above processes will go hand in hand.
- 1.40 The interplay of several factors, such as number of carriage platforms, content dynamics, technology dynamics, market dynamics and the consumer choice dynamics, makes it difficult to arrive at a definite figure for the maximum number of channels.
- 1.41 The question of imposing a cap on the number of channels is more relevant with reference to the number of channels which are permitted to be downlinked into the country. The imposition of a cap on the number of

channels uplinked from India may not serve any significant purpose as any broadcaster who does not get accommodated may uplink his /her channel from some other country. Any channel which satisfies the conditions prescribed in the Downlinking guidelines will find its way into the country, whether such channel has been uplinked from India or abroad. In such a scenario, placing a cap on the number of channels uplinked from the country, apart from not serving any specific objective, also goes against the economic interest of the country by encouraging the uplinking of channels from abroad.

#### Socio-Economic Angle

- 1.42 From a socio-economic point of view, India is a country with a multiplicity of cultures, languages and socio-economic strata. This would necessitate a large variety of content, and therefore a multiplicity of TV channels in different languages and genre, to match consumer choice. The potential for growth in number of broadcasting channels particularly in regional languages and in specified genres is very high. It is observed that the Indian broadcasting scenario today presents a complex matrix of a large number of genres, languages and regions making different permutations and combinations possible. With increasing access to television, the demand for channels in the regional languages and channels with increased focus on regional, cultural, educational and other aspirations of the people is on the increase. There is a need to keep innovating new content in order to satisfy the consumer and sustain his interest. The Indian broadcasting sector is likely to continue on its growth path during the next few years. The Indian television broadcasting sector has not yet reached its saturation point nor is it likely to reach it in the near future, with the increasing availability of satellite transponders and also with technological improvements facilitating increasing number of

channels through the available satellite transponders. Viewed from this perspective, any move to cap the number of television channels does not appear desirable.

#### International experience

- 1.43 In Canada, delivery of TV channel signals via satellite, either directly to end-viewers or to other distributors of such services e.g. cable companies, is done by direct-to-home distribution undertakings (DTHDUs) or satellite relay distribution undertakings (SRDUs). There is no limit on the number of TV channels that DTH distribution undertakings (DTHDUs) and satellite relay distribution undertakings (SRDUs) can deliver. In general, DTH undertakings and cable companies can offer their viewers any Canadian programming services, plus any non-Canadian satellite services in the list of approved satellite services subject to the condition that the majority of television services offered must be Canadian. Larger distributors (e.g. DTH undertakings, cable companies with more than 20,000 subscribers) are required to offer certain specified Canadian services. These larger distributors commonly distribute up to about 350 channels.
- 1.44 In Malaysia, there is no notable uplink/downlink policy, except that earth stations must not be used to provide a DTH satellite broadcasting service. There is no requirement that channels obtain “landing rights”, although the distribution platform must inform the regulator of all relevant details pertaining to the new channels prior to launch.
- 1.45 In USA, there are no restrictions on program retransmission. Satellite operators are required to obtain an FCC license for uplink/downlink facilities located in the US. In practice, these licenses are easy to obtain. There are more than 550 TV channels available in the USA. In Japan, there



is no limitation on the license holder in distribution of foreign channels. More than 180 TV channels are available.

- 1.46 Internationally, most of the countries are very sensitive to the content of the channels that are broadcast. Korea has a restriction on the number of the foreign satellite channels allowed for retransmission, at 20% of the total number of channels offered by pay TV operators. In China, foreign TV channels require approval of the regulator to be carried on the cable system. Thus, from the international trend, it can be seen that in most countries, there is no cap on the total number of satellite television channels.
- 1.47 Keeping all the above factors, the Authority is of the view that it is not necessary or desirable to place a cap on the number of channels for uplinking or downlinking.
- 1.48 **The Authority accordingly recommends that no cap be placed on the number of satellite broadcasting channels to be permitted to be downlinked for viewing in India or to be uplinked from India.**

## **B. Technologies**

- 1.49 The issue posed for consultation is whether the broadcasters should be mandated to switchover from MPEG-2 to MPEG-4 w.e.f. a particular date.

### *Stakeholder comments*

- 1.50 One view expressed was that specific technological devices should not be stipulated by the government and rather should be determined by the market; mandating MPEG-4 over MPEG-2 will only subserve to hinder invention/innovation. Instead, govt. should incentivise the transition. While a generic technology may be preferred for better efficiency (for

example digital over analogue), introduction of specific new technological devices be it hardware or software is best “regulated” by the market, a mandate from the regulator in these respects is uncalled for.

1.51 On the other hand, there was another view that new technology be encouraged so that the resources can be optimally utilised and the cost of carriage reduced. Some stakeholders suggested that all new entrants should be asked to compulsorily employ MPEG-4 technology, and a suitable time frame should be provided to the existing players to migrate to the new technology as this exercise is quite capital intensive. However, most of the stakeholders are of the view that to mandate it, as a mechanism to implement the switch-over, is unnecessary and would be counter-productive.

### *Analysis*

1.52 MPEG-4 as a standard for video compression not only requires less transmission bandwidth as compared to MPEG 2 standard but also allows various types of interactivity. There are two other factors associated with this aspect. First, deployment of any new technology would require availability of compliant devices such as set top boxes (STB) and, second, any technology under operations is surely to be replaced by another productive technology whenever available. In order to assimilate the benefits of a new technology, there could be, in principle, two strategies:-

- (a) Mandating the most appropriate technology available; or,
- (b) Allowing service providers to choose and deploy the most appropriate technology.

Consideration of first option may be taken up in two possible ways:-

- i) to allow all new entrants to initiate with the new technology leading to co-existence of different technologies at a time; or,
- ii) migration plan with target dates for technological switch-over in a phased manner.

1.53 In the context of TV broadcasting services such as DTH, Digital Cable TV and IPTV requiring STB at customer's premises, the new service providers could provide STB with latest technology such as MPEG-4 without any burden towards older set of subscribers. However, for other service providers who use MPEG 2 based network, migrating to MPEG 4 would be capital intensive, as it would require synchronised upgradation at both the ends - network as well as consumers. The mandatory change-over from one technology to another even with proper planning may not be able to satisfy every concerned service provider who needs to migrate to the mandated technology. Since many competing technologies may co-exist at any point of time, expressing a choice of a particular technology would be against the technology-neutral approach followed by the Authority.

1.54 The rate of change of technology in this area is very fast. So even if the adoption of network level technological standard may be justified, the issue is, for how much period that particular standard would remain relevant. The best available technology today may not remain so tomorrow. The technologies continuously evolve and strive for optimal results. Therefore, choice of a technology is more of a periodic decision making rather than a one time decision.

1.55 The second method to achieve the upgradation to new technological standards is to allow or facilitate market forces to determine adoption of and migration to a new and promising technology at a self determined

pace. It may prove to be more efficient at the level of a service provider.  
The Authority favours this approach.

- 1.56 **The Authority recommends that, since the technology is continuously evolving, mandating a particular digital technology is not desirable.**

## Chapter 2: Eligibility Criteria, Permission Fee and Renewal of Permission

### A. Eligibility Criteria

- 2.1 The activity of uplinking/downlinking of TV channels is a capital intensive business. The cost would include production cost of the contents, cost of infrastructure for uplinking/downlinking, transponder charges, spectrum usage charges, marketing and distribution cost and other establishment charges. It also calls for continuous technology upgradation and capability to face other business challenges associated with content. So, it is important that this is undertaken by companies who have the necessary financial strength.
- 2.2 One of important parameters to ensure that serious players enter the business is the net-worth of the applicant company. M/o I&B, in the reference cited, has requested TRAI to review the networth requirement.

The current networth requirement is as follows:

	Activity	Unit	Networth (Rs. in crore)
1	Teleport	single channel	1.0
		6 channel	1.5
		10 channel	2.5
		15 channel	3.0
2	Uplink- Non News & CA	Ist channel	1.5
3	Uplink- Non News & CA	Each Additional channel	1.0

4	Uplink- News & CA	Ist channel	3.0
5	Uplink- News & CA	Each Additional channel	2.0
6	Down link	Ist channel	1.5
7	Down link	Each Additional channel	1.0

2.3 Stakeholders were requested to comment on enhancing the networth requirement of the applicant company for permission of TV channels under uplinking and downlinking guidelines.

*Stakeholder Comments*

2.4 While majority of the broadcasters have supported the idea to raise the minimum net-worth criterion, other stakeholders believe that the present net-worth criterion is adequate.

2.5 The stakeholders group which favour an increase in the net-worth feel that a new channel needs at least few years to break even and during this period, considerable investment has to be made towards acquisition of content, programming, marketing, uplinking and distribution. Therefore, it is necessary that net-worth limit is increased to a reasonably high level so that only serious players with a minimum financial stability will enter the broadcasting business. One stakeholder has suggested that the net-worth limit should be increased to at least Rs. 10 crore. Another stakeholder has suggested a minimum net-worth of Rs. 5 crore for first channel and Rs.2.5 crore for additional channel. One of the stakeholders has also suggested that there should not be any increase in the net-worth for FTA channels. However, for the pay channel broadcasters, there

- should be a higher net-worth requirement of Rs.10 crore so as to survive as an independent operator.
- 2.6 Some sports broadcasters pointed out that the current method of net-worth may not give the true assessment of a company. For example, the telecast rights of sporting events, though very high in value, being classified as intangible assets, do not get reflected in the actual financial position of a company. They have suggested alternate criteria, such as minimum capital investment (which may be equivalent amount of net-worth requirement) or minimum turn-over of overall business activities may be taken. Another view is to replace the net-worth criterion with a minimum turn-over limit, say Rs. 25 crore.
- 2.7 The contrary view, which does not favour any increase in the net-worth requirement of the applicant company, is that the present net-worth requirement is adequate and does not require any increase. In this view, high capital cost and operating cost in the business ensure that only serious players enter the business. One of the stakeholders pointed out that production as well as transmission cost of those channels which are targeting a local segment of population may be very low and therefore such channels should not be denied the uplinking/downlinking permission on the net-worth requirement.

### *Analysis*

- 2.8 The current limits of networth were prescribed more than five years back. The number of channels have more than doubled during the period. The production costs have also increased substantially. In the current competing environment, one has to spend more on content as well for its distribution. Therefore, only companies with sound financial standing can sustain the highly competitive environment.

- 2.9 For sustainable growth of a sector, it is necessary that only those companies having sound financial standing are permitted to enter the business. Net-worth of the applicant company is an important parameter for gauging the financial standing of the company. Investment requirement for running of television channels is high. Even the group of stakeholders who does not favour for increase in the net-worth requirement, accept that the cost involved in setting up and running a television channel business is high.
- 2.10 Although no cap on the number of channels has been proposed at this stage due to the reasons explained earlier, it is felt necessary that non-serious players should be discouraged from entering the business to ensure that the resources are available to genuine users. The capital cost and operating cost of non-News channels vary significantly. On a very rough average estimate the capital cost is in the range of Rs. 10 - 15 crore per channel. The operating cost varies as the contents are bought/ valued on hourly basis and is estimated to be in the range of Rs. 15- 20 crore per annum. Keeping all the above factors, the Authority is of the view that the networth requirement needs suitable upward review.
- 2.11 **The Authority recommends that total Networth requirement should be Rs.25 crore for first channel, and enhanced by Rs.10 crore for each additional channel for uplinking of non-News and Current Affairs Channel and downlinking of channels.**
- 2.12 The News and current affairs services are considered more sensitive as the power of news content to influence public opinion may have a bearing on maintenance of public order, security of the State and maintenance of communal harmony. Further, funds required for News and current affairs channel are more than the funds required for a non-News and current



affairs channel, as News channels require to maintain additional staff and machinery in different parts of the country. Roughly, the capital cost of a News channel at National level with multiple bureaux is more than Rs. 50 crore and the operating cost is in the range of Rs.100-150 crore per annum. So, the Authority is of the view that networth of a company handling News and current affairs channels should be much higher than companies handling other channels.

**2.13 The Authority recommends that total Networth requirement should be Rs.100 crore for first channel, and enhanced by Rs.25 crore for each additional channel for uplinking of News and Current Affairs Channel.**

2.14 Teleport facilities are used for uplinking of TV channels to satellites. For setting up and running of a teleport, substantial investment is required. The networth requirement of a company to operate teleport was fixed five years back. It is a graded networth requirement depending upon the capacity, from 1 to 15 channels or more. The channels available then were much less when compared to today. Today, there are around 550 channels and the number is steadily increasing. India is to be developed as a teleport hub (details discussed in Chapter 3). So, the conditions for setting up teleports should encourage the same. A graded networth requirement would mean that as and when the number of channels for uplinking from the teleport increases the company has to satisfy a higher networth requirement. Practically, the teleport may be able to accommodate the additional channels with the existing setup itself. So, having a graded networth requirement may only create procedural problems for the teleports. It is better to have a single networth requirement which gets assessed at the time of grant of permission. The

- Authority is of the view that new companies which are setting up teleports should have networth equivalent to Rs.5 crore.
- 2.15 **The Authority recommends that Networth requirement for operating a Teleport should be Rs.5 crore.**
- 2.16 In spite of the fact that there are around 550 TV channels today, the presence of education and science based channels which could inculcate scientific temperament amongst the viewers is very limited. Similarly, the channels which cater to the kids/ children and the programmes related to them are limited. Authority feels that there is a need to promote such channels and so the networth criteria of such channels should be much less than other channels.
- 2.17 **The Authority recommends that for Kids/Scientific/Educational channels, the networth requirement should be Rs. 5 crore.**
- 2.18 Further, India has a large number of universities which are rich knowledge banks in various streams of Science & Technology, Medicines and Humanities. The Authority feels that if they wish to start TV channels and share their knowledge/ disseminate information, it would be a welcome step. To encourage them, application of such channels should not be subjected to any networth requirement condition.
- 2.19 **The Authority recommends that for recognised Universities who may come up with Educational channels, there should not be any networth requirement.**

**B. Experience of Applicant company or Promoter**

- 2.20 The eligibility conditions in the Uplinking and Downlinking guidelines, issued by the M/o I&B, do not include any criteria on experience for the

applicant company or promoter. M/o I&B has requested TRAI to examine the need to introduce experience as one of the eligibility criteria for the applicant company and/or its promoters. The issue posed for consultation related to the introduction of experience of applicant company or expertise of promoters as eligibility criteria.

### *Stakeholder Comments*

- 2.21 The opinion of the stakeholders during consultation on this issue is divided. Some stakeholders have expressed that the existing conditions listed in the guidelines for uplinking TV channel are adequate. Inclusion of any experience criteria, according to them, will create a closed shop and will result in a denial of opportunity for talented entrepreneurs to enter the broadcasting field. Also, with restrictions in eligibility criteria, the new regional broadcasters from smaller states will not be able to enter the sector, resulting in a non-level playing field.
- 2.22 One stakeholder was of the view that prescribing experience criteria for the applicant company or its promoters may not be legally tenable. While having such skills is no doubt a definite advantage, such skills or consultancy can always be hired from the market. It further opined that many successful enterprises were created by first time promoters who bring forth new ideas which are in tune with customer needs, while there are also numerous instances where old and experienced promoters with outdated concepts continuously fold up their companies. It has also been said that an atmosphere of free entrepreneurship should be the guiding factor for the industry rather than any preconceived notions of experience and expertise.

- 2.23 Some stakeholders expressed the view that experience of the applicant company should not be a criterion for eligibility but prior media experience and expertise of promoters of the applicant company should be introduced in the eligibility criteria to ensure that only serious and committed players enter the field.
- 2.24 Generally, stakeholders are of the opinion that an organisation with valuable experience in related sectors of this industry will be in a better position to carry on the TV broadcasting business in a viable and sustainable manner. Also, an organisation which is run by promoters having relevant experience and expertise in related sectors is more likely to be able to manage and operate a viable broadcasting company. Such promoters not only bring valuable business knowledge but also go a long way in influencing the quality of content that is made available to the viewers through such channels.
- 2.25 One of the stakeholders has expressed a view that applicants must have a partner with minimum 26% holding who is already in the TV business or related media business (satellite and cable TV, films, publishing). For News channels, it may be advisable to enhance this to 49% to ensure that quality of programmes is enhanced.
- 2.26 Another stakeholder suggested that the applicant company should have either promoters who have a minimum of 10 years experience in the TV broadcasting industry or have appointed a Managing Director or Chief Executive Officer or Head of a channel or similar other position with a minimum experience of 10 years in the television broadcasting industry to manage the functions of the proposed channel. However, there should not be restriction on the capacity at which the concerned officer (MD, CEO or the Head) has acquired previous experience. The logic behind this

suggestion is that a company's experience is only as good as the people managing the company.

- 2.27 Yet another view among the stakeholders is to consider the business track record (or lack thereof) of the applicant company, and any questionable history of the promoters (including undischarged insolvency, crimes of moral turpitude etc). The track record for international broadcasters should include evidence such as sworn statements attesting to successful operations outside India either of the channel proposed for downlinking or of the corporate entity backing the specific channel.

### *Analysis*

- 2.28 The view that prescribing experience as an eligibility criterion is not legally tenable, has been analysed in detail in previous chapter at paragraph 1.20 . The inference drawn from the settled position of law is that it would be permissible to prescribe conditions, such as prior experience in a related sector, for grant of such permission.
- 2.29 An important requirement for sustainable growth of the business is the experience of the people running the business. The relevant experience not only results in optimal utilisation of the resources but also enables the company to gauge and respond to the market dynamics to the benefit of the company as well as to its customers. Also, an experienced player in the media business is better equipped to handle higher business risk while implementing new ideas to bring in innovations. This is the key in encouraging the creativity and enhancing the quality of the content. For sustained development of the channel, it is necessary that the experienced man power should be continuously associated with the business and not only at the start of the business.

- 2.30 Although the opinion of the stakeholders on this issue has been divided, generally the stakeholders feel that experience is a necessary and desirable requirement. India is known for the availability of professionally skilled manpower in large numbers. Getting suitably skilled and experienced manpower to run the business of TV channels should not be a problem.
- 2.31 As in the other fields, Broadcasting sector is also moving to the era of corporate governance. If the person holding top management position in the applicant company has an exposure of a media company, having a corporate structure, he would be an asset for the applicant company as well as to its stakeholders.
- 2.32 **The Authority recommends that, in the Applicant company, one of the persons occupying a *top management position*\* should have had minimum 10 years of prior experience in a top management position in a reputed media company for News and Current Affairs Channels. In so far as other channels are concerned, the Authority recommends 5 years of prior experience in top management position .**

**[Note: *\*The term "top management position" in a company, in this context, means Chairperson or MD or CEO or COO or CTO or CFO.*]**

### **C. Permission fee and Permission Period**

- 2.33 The issue is regarding review of permission fee and permission period of the uplinking/downlinking permissions. Presently, the prescribed permission fee and period of permission for teleport, uplinking and downlinking are as under:

Sr. No.	Activity	Permission fee/ Registration fee (per channel)	Period of Permission
1	Teleport	5 Lakh per teleport	10 Years
2	Uplinking of Channel	5 Lakh	10 Years
3	Downlinking of Channel	5 Lakh with an additional fee of Rs.1 Lakh per channel per annum for those channels which are being uplinked from outside India	5 Years

2.34 Stakeholders were invited to offer their comments on enhancing the permission fee and converting the same into an annual permission fee.

***Stakeholder Comments***

2.35 Most of the stakeholders have recommended for continuation of the permission fee at the current level as it is considered adequate. In their view, permission fee is not a true measure to gauge the seriousness of the player, rather it acts as entry barrier (specially to the new entrants and small entrepreneurial players), affecting the interplay of market forces.

2.36 One of the stakeholders suggested the discontinuance of the levy of additional annual registration fee for downlinking of a channel being uplinked from abroad. Practice of levying of annual license fee lends itself to regulatory uncertainty and is contrary to a stable investor friendly dispensation. So, even if it is to be charged, it should not come up for renewal on annual basis.

2.37 Some stakeholders expressed the view that the permission fee for the FTA channels should remain unchanged. However for pay channels, it should be increased substantially, to the tune of Rs. 5 crore annually for uplinking and Rs. 10 Cr annually for downlinking.

- 2.38 As far as the permission period is concerned some stakeholders have suggested that it should be uniform and that there should not be any distinction between uplinking and downlinking permissions. It was suggested that in both cases, the permission should have a validity of 10 years and should be renewed for 5/10 years. Given the fluctuations in the business cycle, permissions with longer validity period help the channels to plan for longer gestation periods.
- 2.39 On the issue of converting the one time permission fee into an annual fee, majority of the responses have favoured streamlining the whole process and prescribing a time limit for the grant of permission to operate/ uplink a channel. As per existing procedure, the operators have to first sign-up for the transponder or uplinking before submitting the application for the grant of permission. But they can actually start using the transponder only after getting permission from M/o I&B and license from WPC. Any delay in grant of permission could result in blocking the expensive resource without using it. Several stakeholders have advocated a single window clearance system.

### *Analysis*

- 2.40 The uplinking policy for TV channels has evolved since the year 2000 when private agencies were allowed to uplink from India for the first time. The updated consolidated guidelines for uplinking from India were issued in Dec 2, 2005. The downlinking guidelines were also introduced in Nov 2005 mainly with a view to regulate the channels uplinked from abroad, though they are also applicable to the channels uplinked from India.
- 2.41 The present permission period for uplinking and downlinking is 10 years and 5 years respectively. Many of the stakeholders have suggested to



make it uniform to 10 years for both the permissions, as permissions with longer validity period helps the channels to plan for longer gestation periods. A broadcaster, whose channels are downlinked in India for viewing, has to have both uplinking and downlinking permission. There is no point in having two different periods for these permissions. So the Authority is of the view that both uplinking and downlinking permissions be given for 10 years.

**2.42 The Authority recommends that the period of permission for uplinking/downlinking of channels be made uniform at 10 years.**

2.43 As per the extant policy, permission process comprises of a number of stages like- payment of prescribed processing fee, checking of eligibility of the applicant company by M/o I&B, security clearance from MHA and satellite use clearance from DOS (wherever required), signing of Grant of Permission Agreement (GOPA) with M/o I&B, WPC clearance, issue of operation license from WPC, payment of spectrum and royalty fee by the applicant company. This involves multiple stages of approval from various agencies mentioned above and takes a lot of time.

2.44 Ministry of I&B has approved around 550 channels for uplinking/downlinking out of which 76 channels are for downlinking which are being uplinked from foreign soil. Apart from these channels, many applications, seeking permission for uplinking/downlinking, are under different stages of approval.

2.45 As per the extant guidelines, the applicant has to arrange the transponder space prior to getting the approval of the Ministry and clearance from DOS and WPC. The process of approval, as explained earlier, is a lengthy one and usually takes more than 6 months period. The Authority is of

view that the process for clearance of the applications should be simplified, given in a time bound manner not exceeding 3 months.

2.46 **The Authority recommends that the applications seeking permission for uplinking/downlinking of TV channels should be processed quickly and the decision on the application should be finalised within three (3) months from the date of submission of fully compliant and eligible application. For this purpose, Min. of I&B may explore the feasibility of setting up a single-window clearance mechanism.**

2.47 In the uplinking guidelines, it has been envisaged that the use of Indian satellites be accorded preferential treatment. To further encourage the broadcasters to use Indian resources (both the transponders and the uplinking facilities) and Indian soil, the Authority is of the view that the permission fee for uplinking and teleport be kept at lower level as compared to the downlinking permission. The current permission fees has been fixed more than 5 years back. The Authority is of view that the permission fees needs to be suitably increased.

2.48 **The Authority recommends that the permission fee should be as follows:**

<b>Operation</b>	<b>Permission Fee (Rs. in lakh)</b>
<b>1. Teleport</b>	<b>2 (per teleport/annum)</b>
<b>2. Uplinking of TV channels</b>	<b>2 (per channel/annum)</b>
<b>3. Downlinking of TV channels (uplinked from India)</b>	<b>5 (per channel/annum)</b>
<b>4. Downlinking of TV channels (uplinked from abroad)</b>	<b>15 (per channel/annum)</b>

2.49 Presently the permission fees are charged in one lumpsum at the time of grant of permission. Authority is of view that the fee be charged on annual basis due to the following reasons. Annual permission fee will enable broadcaster to review the channel viability before paying the permission fee for the next year. This will also help the Ministry to have a more accurate record of the operational channels.

2.50 **The Authority recommends that Permission fee be charged annually.**

#### **D. Condition of minimum commitment period**

2.51 One of the issues on which Ministry of I&B has sought TRAI's recommendation is whether a commitment should be taken from the applicant company to stay in business for a minimum period, of say 5 years, which may avoid premature closure of the channel, prevent overcrowding of the sector and also provide sustainable employment. As on date, there is no stipulation regarding minimum period of operation for the channel in terms of number of years. The issue raised by the M/o I&B was posed for consultation.

#### ***Stakeholder Comments***

2.52 Most stakeholders were against prescribing a commitment period. As per their view, any business entity cannot be expected to function for a minimum specified period if it does not make commercial sense for such business. In a dynamic and ever changing business environment, all channels must compete to survive, else have no choice but to shut down. Market forces would ensure that only the fittest survive.

2.53 According to the stakeholders, a player entering the market would already have invested substantially for necessary permissions, transponders, distribution and manpower etc. to set up the business and further investment for content creation/acquisition. Thus, such an applicant company should not be penalised further in case it fails to carry on business due to external factors. It is in the consumer interest that the channel's stay in business be determined by consumer demand based on the content offered by the channel rather than through regulation. Exit route should be eased to create an opportunity for new players to enter the market, which is a natural business cycle.

#### *Analysis*

2.54 The purpose behind specifying a commitment to stay in business for a minimum period is to ensure entry of only serious players in the business and to prevent overcrowding of the sector and also provide sustainable employment. However, the instrument of commitment period (Lock-in period) puts additional burden upon the applicant company to stay in business despite making loss.

2.55 As the resource of transponder and spectrum are valuable resources, the exit route, for the company which opts to come out from the business due to any reason, should be made simple so that this resource can be utilized by other eligible users.

2.56 **The Authority recommends that no minimum commitment period be prescribed as part of the eligibility criteria.**

#### **E. Revocation of permission**

2.57 The issue is regarding revocation of permission by M/o I&B, of channels which are non-compliant or are not transmitting for certain period. This is

considered with a view to optimally utilise the spectrum by eliminating non-compliant players/defaulters from holding the permission.

- 2.58 The issue posed for consultation was whether permission of channels which are closed down for certain period should be revoked.

### *Stakeholder Comments*

- 2.59 Some stakeholders suggested the revocation of permission if the channel is closed down, voluntarily, for a continuous period, excluding the situations such as force majeure, legal, satellite failure etc. while some stakeholders suggested that this continuous non-transmission period could be 3 months, others felt it should be 6 months and some even suggested 1 year.

- 2.60 Another stakeholder view is that M/o I&B should not interfere with channel operations. It is solely the operator's discretion as to how it wishes to disseminate information, at what expense and whether there is a profit or loss. There may not be any provision to run a particular channel all the time i.e. 24x7 operation, as some channels may need to be on air only for 4 hours a day. Channels have high operating cost and depend primarily on advertisement revenue to sustain their business as subscription revenue is inadequate. It is argued that no channel will voluntarily shut down its operations. Also, there is an apprehension that such a provision will penalise broadcasters for reasons beyond their control, such as satellite failure, business exigencies and other force-majure events, and so should not be resorted to. Rather, Govt may allow market forces to operate to make exit conditions more conducive.

- 2.61 A contrary view expressed by some stakeholders is that uplinking/downlinking permission is not an entitlement but an

acknowledgement that applicant entity has met regulatory requirements to begin channel operations it has claimed as its purpose. Thus, it is reasonable to require an entity to start continuous operations within the stipulated time. Once operational, if it ceases its operations for a continuous period of 3 or more months because of its own actions, it may be considered as not fulfilling fitness requirements and the license may be revoked.

- 2.62 Another view is to allow voluntary surrender of the channel permission by the permission holder after all the payments of the teleport/ DSNG/Satellite service providers are cleared and requisite NOC from the service provider is submitted to the ministry.

### *Analysis*

- 2.63 The idea of revocation is considered with a view that the unutilised resource of transponder and spectrum is made available to others who genuinely need it. But at the same time it should not be unfair to the permission holder.

- 2.64 There could be two possible situations where revocation of permission can be considered for :

- Non-compliance of the terms and conditions of the permission
- A channel which is out of operations for a specified period or operating intermittently,

- 2.65 The Authority is of view that the channel permission should be revoked for non-compliance of terms and conditions of the permission. In cases of intermittent operations or cessation of operations for a specified period, first the period of non-transmission would have to be defined and

whether it would involve continuous non-transmission or whether it will include intermittent interruptions too. At times, the interruption could be due to some reason beyond the control of the broadcaster i.e. satellite failure etc. With around 550 channels it may be very difficult to closely monitor such large number of channels. Since annual permission fee has been recommended, it is expected that the non-operational channels would not be renewing their permissions in the following year.

- 2.66 **The Authority accordingly recommends that the revocation of permission should be resorted to only for non compliance of terms and conditions of the uplinking/downlinking guidelines by the permission holder.**

#### **F. Renewal of Permission**

- 2.67 The issue is regarding terms and conditions for renewal of uplinking/downlinking permission. The validity of permission, as per extant policy, for teleports and uplinking is 10 years whereas for downlinking it is 5 years. The issue posed for consultation is regarding the policy for renewal of permission of channels under the uplinking/downlinking guidelines.

#### ***Stakeholder Comments***

- 2.68 Most stakeholders have suggested renewal through automatic route. To support their argument, they have stated that a channel, running for 10 years, builds for itself a brand, goodwill and other assets and it needs to continue the operations so as to continue building value. The licensor should not exercise any other discretion so long as the organisation/promoter continues to comply with content guidelines and ownership regulations amended from time to time.

### *Analysis*

- 2.69 The period of permission, for both uplinking and downlinking, has been recommended to be uniform 10 years for rationalising the same. The period of 10 years is considered to be adequate for a viable business proposition in this industry.
- 2.70 It is true that a channel that has been in operation for 10 years would have built up a brand value and the company would very much like to continue with it. So, there should not be any uncertainty on the renewal of permission of such a channel for those companies who have complied with the terms and conditions of the permission. However, with the change in time, the Government should have the flexibility to introduce/modify such conditions as it considers necessary at the time of renewal of permission.
- 2.71 **The Authority recommends that the renewal of permission shall not be denied to the compliant companies. Permission may be renewed for 10 years at a time, at Government's discretion, on terms and conditions to be mutually agreed upon between the Government and the permission holder.**

### **G. Transfer of permission**

- 2.72 M/o I&B, through their reference, have sought TRAI's recommendations regarding provision for transfer of uplinking/downlinking permission from one company to another. Presently, the permission issued under the uplinking or Downlinking guidelines do not have any provision for transfer of ownership. The issue posed for consultation is whether transfer of permission under the uplinking/donlinking guidelines should be permitted or not.



### *Stakeholder Comments*

- 2.73 Some of the stakeholders are of the view that transfer of permission should be permitted as in case of Industries (Development and Regulations) Act in terms of which Government of India issues licenses to industrial units which are freely transferable and if a licensed industrial unit is sold to a different entity, the underlined license also gets transferred. This is the case where the transferee company operates in the same segment and complies with all the requirements under the permission. In other cases where the transferee operates in a separate business segment, specific conditions may be imposed.
- 2.74 On the contrary, some stakeholder pointed out that provision for transfer of permission may result in licenses being traded and may consequently encourage black marketing.

### *Analysis*

- 2.75 The issue of transfer of permission would be more relevant in a scenario where there is cap on number of channels. Since it has been recommended in the previous chapter, that there may not be any cap on the number of channels, the issue of transfer loses significance. Moreover, transfer of permissions can result in a situation where ineligible persons/organizations obtain the permissions.
- 2.76 **The Authority recommends that the transfer of permission should not be allowed.**

## H. Applicability to Existing Permission Holders

2.77 As on date, there are about 550 TV channels and 60 teleports for which permission has been granted by the Ministry of Information & Broadcasting under the uplinking and downlinking guidelines. The permission period for uplinking and teleports is 10 years whereas the permission for downlinking is 5 years. With these recommendations of TRAI, the eligibility conditions and other terms and conditions of the permission are getting modified. The question arises whether these modified conditions will be applicable to the existing permission holders and if so from when.

2.78 The existing permission holders have certain terms and conditions, in their permission, including the period of permission. At the same time, once a permission period is over, the renewal can be on modified terms and conditions. The Authority is of the view that the eligibility conditions like networth of the company and experience of the top management, may not be applied for these Channels which have already obtained the permission. However, the modified terms and conditions of permission like period of permission, annual permission fee, and revocation of permission, renewal of permission and transfer of permission may be made applicable to the existing permission holders also while considering the renewal of the permission.

2.79 **The Authority recommends that**

**i) The existing permission holders will continue to be governed by the existing terms and conditions of the permission, during the current permission period.**

**ii) At the time of considering the renewal of permission of the existing permission holders, the eligibility criteria of networth of the**

company and experience of the top management will not apply. However, other terms and conditions like period of permission, annual permission fee, revocation of permission, renewal of permission and transfer of permission would be applicable, as per modified terms and conditions of the permission.

## Chapter 3: Making India a Teleport Hub for Uplinking of TV channels

- 3.1 The reference from the Ministry of Information and Broadcasting seeks TRAI's recommendation on whether to develop India as a teleport hub to allow turnaround or uplinking of channels from India, which are not meant for viewing in India, as is being done in some other countries. A teleport hub generally consists of a collection of satellite earth stations linked to different satellites which enables broadcasters to broadcast their channels to different destinations.
  
- 3.2 At present, there are 29 channels which are permitted to be uplinked from India, but not permitted for downlinking in India. These channels are produced and uplinked by Indian companies for the audience in other countries. If India is a teleport hub for uplinking of those channels which are not meant for Indian audience, then not only those channels which are produced by Indian companies but also the channels which are produced by foreign companies will be uplinked from Indian soil.
  
- 3.3 During the consultation process the stakeholders were asked to offer their comments on whether India should be developed as a Teleport/hub centre for uplinking of channels not meant for viewing in India. They were also asked to comment on the facilities to be provided to the companies to make India a Teleport/hub centre for uplinking of channels. Further, stakeholders were also asked to comment on whether making India a

teleport hub will in any way adversely affect the transponder availability for uplinking of TV channels to be viewed in India.

### *Stakeholder Comments*

- 3.4 All the stakeholders who have offered their comments are in favour of making India a teleport hub for uplinking of those channels which are not meant for viewing in India. In their view, making India a teleport hub makes good sense keeping in view the geographical location of India and cheaper manpower available in this part of the world. This initiative will bring in foreign investment, better technology and sustainable employment opportunities in India. This will also provide export opportunities; bring in revenue and foreign exchange for the country. Some stakeholders have indicated that this should not adversely affect uplinking of the domestic channels which are for Indian audience.
- 3.5 On the issue of facilities to be provided to the companies for making India a teleport hub, stakeholders were of the view that providing tax relief, creating liberal rules and regulations and making import of content easier are required for making India a teleport hub. Some of the stakeholders are of the view that such channels which are not meant for viewing in India should be kept out of the purview of uplinking/downlinking guidelines.
- 3.6 However, some stakeholders have a different view on this issue. In their view, if there is a permission/registration process, the government will be able to screen the channels to ensure that the content of the channel does not contain anything which is against the country or any other country. A similar process is followed in Singapore also which is a teleport hub. These stakeholders have also indicated that the process of granting permission/registration should be smooth and swift like in other countries, which at present are teleport hubs, for uplinking of channels.

### *Analysis*

- 3.7 According to the World Teleport Association (WTA), the Teleport business is US \$ 13 billion a year segment of the global satellite industry or roughly 15% of the industry revenues. Globally, teleports have evolved as provider of complex solutions ranging from TV programme production and post-production to content hosting and distribution, systems integration to network management. With the liberal up-linking guidelines in India, there has been a major shift of channels getting up-linked from abroad to India in view of lower operating costs and availability of skilled manpower. If India is developed as a "Teleport hub" then even those channels which are not for down-linking in India will be shifted to India. This will lead to generation of employment and earning of revenue as well as foreign exchange. In view of its technical capabilities and geographical location, India can provide up-linking facilities for TV channels to be viewed in other parts of the world.
- 3.8 If India is developed as a teleport hub, then the channels uplinked from Indian soil will broadly fall in four categories. First category of channels will be those which are produced in India for being viewed in India only. The second category will be of those channels which are produced in India and for being viewed in India as well as in other countries. Third category will be of those channels which are produced in India but for viewing in other countries only. Fourth category will be of those channels which are produced outside India but are uplinked from Indian soil for viewing in other countries only. Presently, the first three categories of channels exist in India. The fourth category of channels will come into existence when the option for uplinking from India is made attractive and foreign broadcasters start uplinking from India.

3.9 Infrastructure is recognised as a critical resource for development of various sectors, i.e. power, transport, communication and media. After IT and BPO, media is being talked as the next major development area for global dominance of India. India is the third largest television network in the World with more than 80 million C&S homes, 21 million DTH homes and with a growth rate of over 30% in DTH segment. India has the potential to be a place where media companies from all over the world can setup their production/processing bases for delivering content seamlessly around the globe. In order to promote India as a 'Teleport hub', policies similar to those applicable in export processing zones can be adopted so as to pave way for setting up of required hardware and entry of foreign channels which do not require a broadcast over India, but would merely like to use India for processing and up-linking content onward for viewing in other countries.

#### *International experience*

3.10 Hong Kong is a broadcasting hub in the Asia Pacific Region with 16 non-domestic television programme service licensees operating and broadcasting from Hong Kong. The Government has set aside plots of land at Chung Hom Kok (in the south of Hong Kong Island) for the development of a teleport. These plots are suitable for operators of external telecommunications facilities to set up their cable landing stations and/or satellite earth stations to provide external telecommunications capacity to and from Hong Kong. Incorporated companies which are in possession of a licence for operation of external telecommunications facilities may apply for land.

3.11 Singapore is another teleport hub in Asia. Broadcasters who provide satellite broadcasting services uplinking from Singapore require a satellite

broadcasting licence from the Media Development Authority (MDA). This Licence is valid for 5 years and is renewable on a 5-yearly basis thereafter. The annual licence fee payable is S\$5,000 per annum. There are no foreign ownership restrictions. Companies which are not based in Singapore or have no registered offices in Singapore will be required to appoint a local agent and lodge a performance bond of S\$50,000 with MDA. MDA takes into consideration applicants' intended nature of service, programming and advertising codes in deciding whether to grant a satellite broadcast licence. The main objective in licensing satellite broadcasters is to prevent the broadcast from Singapore of programmes containing objectionable programming such as pornography.

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

3.13 In brief, encouraging teleport hub, many countries have taken a liberal and a proactive approach towards developing teleport hubs in terms of permissions for uplinking. Speedy grant of requisite permissions and convenient procedures also facilitates this endeavour.

3.14 Keeping in view the immense potential of India as a teleport hub the Authority is of view that India should be developed as a teleport hub. Every channel which is to be uplinked from India is required to take permission from Ministry of Information and Broadcasting under uplinking guidelines. The process of granting permission is time consuming. For



attracting foreign broadcasters to uplink their channels from India it is necessary that the process is made simple and fast.

**3.15 The Authority recommends that India should be developed as a teleport hub. The applications seeking permission under uplinking guidelines for those channels, which are not for viewing in India, should be processed and decided within a period of 3 months.**

3.16 Another issue that has arisen in the consultation is the difficulty in importing of contents. It was pointed out that, at present, import of content is a tedious and cumbersome task. It also attracts duties. The Authority is of view that for making the uplinking from India an attractive alternative, it is necessary that import of content is made easy, trouble free and inexpensive. The approach followed should be similar to that being followed in the Export processing zones.

**3.17 The Authority recommends that the content for the channels which are brought to India to be uplinked from India and not being viewed in India should not be counted as import because it is not being used in India and should not attract any duty.**

3.18 If the content for the channels which is meant for viewing only outside India is produced in India, then a liberal approach is required to be taken towards scrutinizing the contents of the channel. It should be mostly left to the broadcasters because they have to take care of the rules and regulations of the target country for which content is being produced and uplinked. However, there should be reasonable restrictions on such channels for uplinking from India to ensure acceptability of their service and compliance with local laws in recipient countries including concerns relating to the political, religious, cultural and racial sensitivities of the recipient countries.

- 3.19 Further, it should be ensured that the uplinked content does not contain anything which is against the sovereignty, integrity and national security of India as well as its friendly countries.
- 3.20 In view of the above, for monitoring purpose these channels should be required to preserve the recordings of the proceeding for six months instead of three months which is required for channels for viewing in India. The additional time is required because any complaint or request from the other countries may take more time.
- 3.21 **The Authority recommends that the channels, being uplinked from India but not downlinked in India, should not attract the programme code and the advertisement code of India. Responsibility of content should be left to the broadcasters who have to take care of the rules and regulations of the target country for which content is being produced and uplinked. However, the uplinked content should not contain anything which is against the sovereignty, integrity and national security of India as well as its friendly countries. For the monitoring purpose, these channels should be required to preserve the recordings of the proceedings for at least six months.**

## Chapter 4: Summary of Recommendations

- 4.1 The Authority recommends that no cap be placed on the number of satellite broadcasting channels to be permitted to be downlinked for viewing in India or to be uplinked from India. (Paragraph 1.48).
- 4.2 The Authority recommends that, since the technology is continuously evolving, mandating a particular digital technology is not desirable. (Paragraph 1.56).
- 4.3 The Authority recommends that total Networth requirement should be Rs.25 crore for first channel, and enhanced by Rs.10 crore for each additional channel for uplinking of Non-News and Current Affairs Channel and downlinking of channels. (Paragraph 2.11).
- 4.4 The Authority recommends that total Networth requirement should be Rs.100 crore for first channel, and enhanced by Rs.25 crore for each additional channel for uplinking of News and Current Affairs Channel. (Paragraph 2.13)
- 4.5 The Authority recommends that Networth requirement for operating a Teleport should be Rs.5 crore. (Paragraph 2.15)
- 4.6 The Authority recommends that for Kids/Scientific/Educational channels, the networth requirement should be Rs. 5 crore. (Paragraph 2.17).
- 4.7 The Authority recommends that for recognised Universities who may come up with Educational channels, there should not be any networth requirement. (Paragraph 2.19).
- 4.8 The Authority recommends that, in the Applicant company, one of the persons occupying a *top management position*\* should have had

minimum 10 years of prior experience in a top management positions in a reputed media company for News and Current Affairs Channels. In so far as other channels are concerned, the Authority recommends 5 years of prior experience in the top management position .

[Note: \*The term “top management position” in a company, in this context, means Chairperson or MD or CEO or COO or CTO or CFO.].

(Paragraph 2.32).

4.9 The Authority recommends that the period of permission for uplinking/downlinking of channels be made uniform at 10 years.

(Paragraph 2.42).

4.10 The Authority recommends that the applications seeking permission for uplinking/downlinking of TV channels should be processed quickly and the decision on the application should be finalised within three (3) months from the date of submission of fully compliant and eligible application. For this purpose, Min. of I&B may explore the feasibility of setting up a single-window clearance mechanism.

(Paragraph 2.46).

4.11 The Authority recommends that the permission fee should be as follows:

Operation	Permission Fee (Rs. in lakh)
1. Teleport	2 (per teleport/annum)
2. Uplinking of TV channels	2 (per channel/annum)
3. Downlinking of TV channels (uplinked from India)	5 (per channel/annum)
4. Downlinking of TV channels (uplinked from abroad)	15 (per channel/annum)

(Paragraph 2.48)

4.12 The Authority recommends that Permission fee be charged annually (Paragraph 2.50).

4.13 The Authority recommends that no minimum commitment period be prescribed as part of the eligibility criteria. (Paragraph 2.56).

4.14 The Authority recommends that the revocation of permission should be resorted to only for non compliance of terms and conditions of the uplinking/downlinking guidelines by the permission holder.

(Paragraph 2.66).

4.15 The Authority recommends that the renewal of permission shall not be denied to the compliant companies. Permission may be renewed for 10 years at a time, at Government's discretion, on terms and conditions to be mutually agreed upon between the Government and the permission holder.

(Paragraph 2.71).

4.16 The Authority recommends that the transfer of permission should not be allowed. (Paragraph 2.76).

4.17 The Authority recommends that

i) The existing permission holders will continue to be governed by the existing terms and conditions of the permission during the current permission period.

ii) At the time of considering the renewal of permission of the existing permission holders, the eligibility criteria of networth of the company and experience of the top management will not apply. However, other terms and conditions like period of permission, annual permission fee, revocation of permission, renewal of permission and

transfer of permission would be applicable, as per modified terms and conditions of the permission. (Paragraph 2.79)

4.18 The Authority recommends that India should be developed as a teleport hub. The applications seeking permission under uplinking guidelines for those channels, which are not for viewing in India, should be processed and decided within a period of 3 months.

(Paragraph 3.15).

4.19 The Authority recommends that the content for the channels which are brought to India to be uplinked from India and not being viewed in India should not be counted as import because it is not being used in India and should not attract any duty. (Paragraph 3.17).


4.20 The Authority recommends that the channels, being uplinked from India but not downlinked in India, should not attract the programme code and the advertisement code of India. Responsibility of content should be left to the broadcasters who have to take care of the rules and regulations of the target country for which content is being produced and uplinked. However, the uplinked content should not contain anything which is against the sovereignty, integrity and national security of India as well as its friendly countries. For the monitoring purpose, these channels should be required to preserve the recordings of the proceedings for at least six months. (Paragraph 3.21).

## Reference from Ministry of Information and Broadcasting

OCT 05 2009 10:26 From

To: 23236005 P. 1

रघु मेनन  
सचिव  
RAGHU MENON  
SECRETARY  
Tel. : 211-2302000  
Fax : 211-2302013



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

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

8<sup>th</sup> October, 2009

Dear Shri. Jarna,

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

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

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

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-2-

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

*best kind regards,*

Yours sincerely,



(Raghu Menon)

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

Encl: As above

*(Fax No. 23236926)*



List of issues for consideration

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

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Issues Posed in the Consultation Paper

on

“Policy Issues relating to Uplinking/Downlinking Television Channels in India”

dated March 15, 2010

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

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

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