



**Telecom Regulatory Authority of India**



**Pre-consultation Paper  
on  
Infrastructure sharing  
in Broadcasting TV distribution sector**

**23<sup>rd</sup> May, 2016**

Mahanagar Doorsanchar Bhawan

Jawahar Lal Nehru Marg

New Delhi-110002

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**Written comments on the Pre-consultation paper are invited from the stakeholders by 23<sup>rd</sup> June, 2016. Comments will be posted on TRAI's website [www.trai.gov.in](http://www.trai.gov.in) . The comments may be sent, preferably in electronic form to Sh. Sunil Kumar Singhal, Advisor (B&CS), Telecom Regulatory Authority of India, on the e-mail:- [sksinghal@traigov.in](mailto:sksinghal@traigov.in) or [gs.kesarwani@traigov.in](mailto:gs.kesarwani@traigov.in) . For any clarification/ information, Sh. Sunil Kumar Singhal, Advisor (B&CS) may be contacted at Tel. No.: +91-11-23221509, Fax: +91-11-23220442.**

## **CONTENTS**

<b>Sl.</b>	<b>Details</b>	<b>Page</b>
1.	Introduction	4
2.	Broadcasting TV distribution platforms	6
3.	Infrastructure sharing in Broadcasting TV distribution sector	11
4.	Issues for consultation	18
5.	List of Acronyms	19
6.	Annexure-I	20
	Annexure-II	22
	Annexure-III	36

## **CHAPTER-1**

### **Introduction**

- 1.1 The satellite broadcasting TV services are available in India through multiple distribution platforms. These services are mostly delivered through Cable TV, Direct to Home (DTH), and Head-End in The Sky (HITS) networks. There are approximately 700 Multi System Operators (MSOs) providing digital TV services, more than 60,000 Cable Operators, 7 DTH operators, and 2 HITS operators. As on 31<sup>st</sup> March 2016, a total of 869 satellite TV channels are permitted for down-linking in the country.
- 1.2 Each Distribution Platform Operator (DPO) retransmits on an average 350 satellite TV channels along with other services that may be unique for that particular operator. Most of the re-transmitted satellite TV channels are common across the operators. Presently, as per license conditions, each operator establishes and maintains its own infrastructure for distribution of satellite broadcasting TV services to subscribers. The fact that most of the satellite TV channels re-transmitted by each operator are common, there is a scope for better utilization of available infrastructure and reducing the cost of operations. For optimum utilization of available infrastructure, there is a need to examine technical and commercial issues in sharing of infrastructure such as satellite transponders, Earth Station facilities, Head-end facilities and optical fiber networks. In a competitive market, it is expected that benefits of reduction in Capital Expenditure (CAPEX) and Operating Expenditure (OPEX) of operators will ultimately be passed on to the subscribers. However, for enabling infrastructure sharing is the need of the hour which may require modifications in the existing policy guidelines for various platforms.

- 1.3 With the advancement in technology, the network and services are getting decoupled. The network providers can focus on efficient operations and maintenance of networks so as to ensure maximum uptime and optimal utilization of available capacities. The service providers can focus on meeting the need of consumers. The service provider's focus on consumers may help in more efficient delivery of services and timely redressal of consumer grievances. In fact, at broadcaster's level, these two functions are already decoupled. While a broadcaster is a service provider, a teleport operator, which uplink the TV channels of a broadcaster to the satellite, is a network provider. The existing policy framework provides separate guidelines for broadcaster and teleport operator.
- 1.4 This pre-consultation paper has been issued with an aim to solicit stakeholder's views on issues related to sharing of infrastructure on voluntary basis and separation of network and service provider functions so as to reduce cost of distribution of services and enhance competition in respect of all type of TV distribution platforms. Chapter 2 of this paper provides information on existing licensing framework for various kinds of TV distribution platforms. Chapter 3 discusses the probable scope, benefit & challenges for infrastructure sharing, and separation of network & service provider functions. Chapter 4 deals with issues for consultation.
- 1.5 Comments of various stakeholders, organizations, associations, experts, individuals etc. are solicited so that all likely issues can be identified before finalizing for exhaustive consultation with the stakeholders.

## **CHAPTER-2**

### **Broadcasting TV Distribution Platforms**

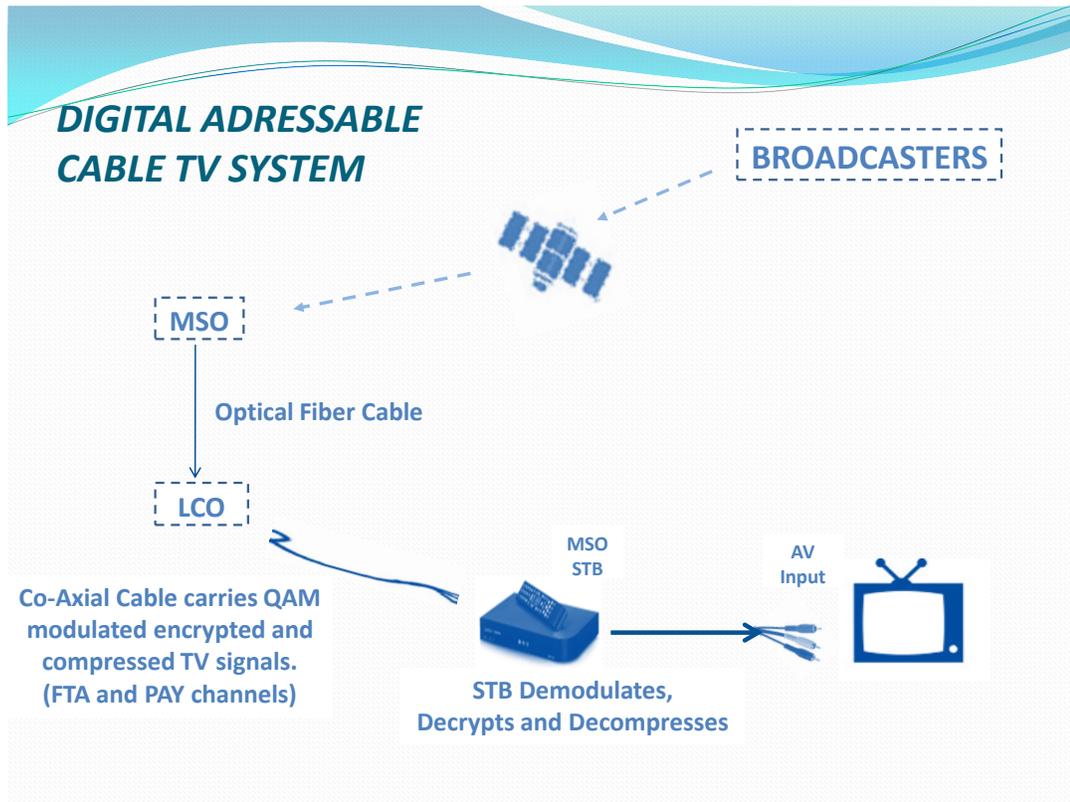
2.1 The following TV distribution platforms are present in India:

- a) Cable TV – There are more than 700 Multi System Operators (MSOs) providing cable TV services through Digital Addressable Systems (DAS) and 60,000 Cable Operators. Each MSO is required to install its own independent Headend.
- b) Direct To Home (DTH) – There are 6 pay and 1 free to view DTH operator.
- c) Headend In The Sky (HITS) - There are 2 HITS operators.
- d) Internet Protocol Television (IPTV) - Some of Telecom Service Providers (TSPs) are using IPTV technology for distribution of TV signals.

2.2 The value chain of each TV distribution platform consists of Broadcasters, DPOs, Last Mile Operator and Subscribers, except in DTH where DPOs directly sends signals to subscribers without any intermediary. For making available the broadcaster's TV channels on their network, DPOs are required to downlink signals of TV channels of broadcasters using large size C-band dish antennas. For down-linking of signals of 350 TV channels, generally 10-15 dish antennas are required at each Head-end of a DPO. These signals are further processed to convert them into base-band signals. As per requirement of the distribution network technology, these base-band signals are then again compressed, encrypted, multiplexed, and modulated for further transmission.

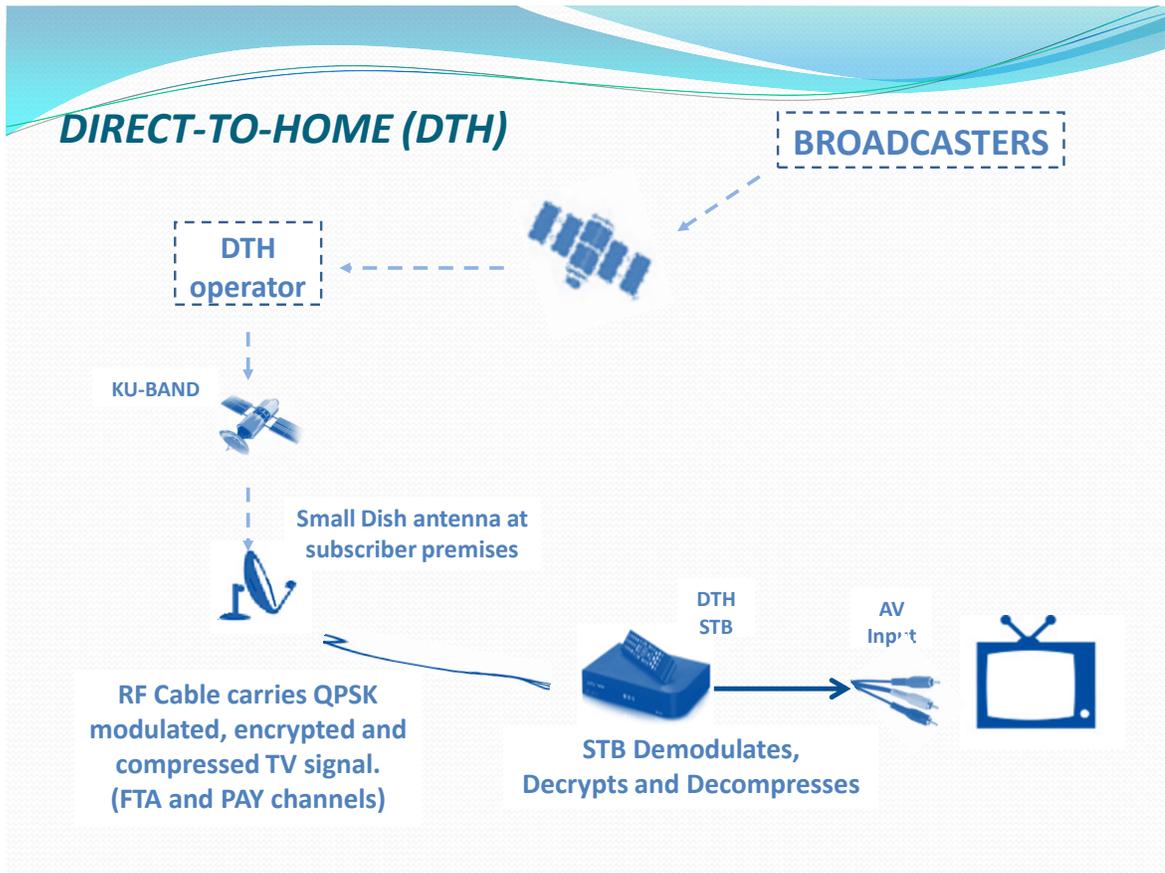
2.3 In case of Cable TV networks, these modulated signals are further transmitted using optical fiber cables. The last mile connectivity is provided through coaxial cables which are connected with the STBs

installed at the premises of the subscriber. The schematic diagram of the Digital Addressable Cable TV Systems(DAS) is given in figure-1:-



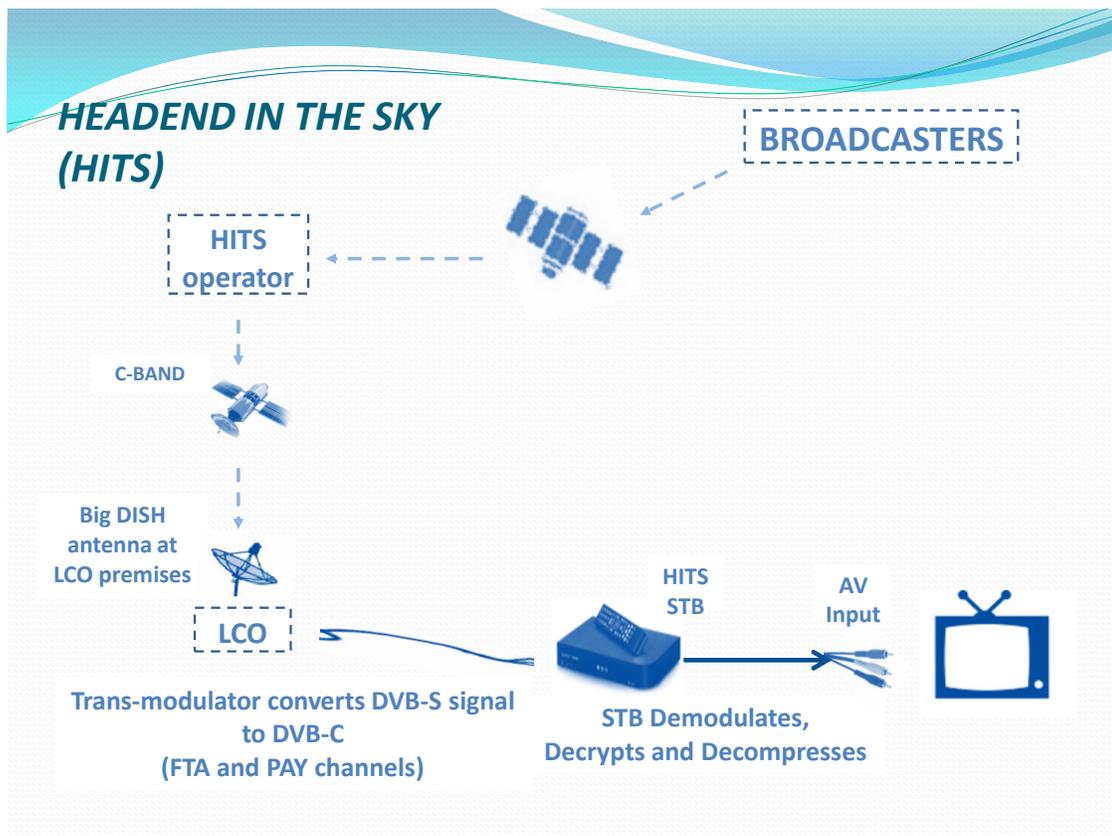
**Figure-1: Schematic diagram of Cable TV services through DAS**

2.4 In DTH, for re-transmission of signals of TV channels to the subscribers, DTH operator uplinks the set of transport streams to KU band satellites hired by them. The signals can be received by a subscriber with the help of a small size (90 cm diameter) KU band antenna installed at the subscriber's premises. The signals flows to the STB of the subscriber and then to the TV set. The schematic diagram of the DTH platform is given in figure-2:-



**Figure 2: Schematic Diagram of DTH services**

2.5 Similarly, in case of HITS, the re-transmission of TV channels is done by uplinking of modulated signals of TV channels onto the C-Band satellite [uplinking using KU band is also permitted]. The signals are down linked by a Cable Operator who trans-modulates the same and retransmits it to the subscribers using co-axial cables. The schematic diagram of the HITS platform is given in figure-3:-



**Figure-3: Schematic diagram of HITS services**

2.6 The operation of cable TV networks is governed by the Cable Television Networks (Regulation) Act, 1995 and the Cable Television Network Rules made thereunder. A Cable TV Operator is required to register itself as MSO before providing cable TV services through Digital Addressable System (DAS). As per the MSO registration conditions, every MSO is required to operationalise its services with necessary conditional Access Systems(CAS) and Digital addressable systems(DAS). This implies that as per the present registration conditions, the MSOs cannot use TV signal feed from other MSOs. **The sample copy of MSO registration conditions is attached as Annexure-I.**

2.7 The Government of India on 15.03.2001 has issued guidelines, as amended from time to time, for obtaining license for providing DTH broadcasting services in India. **[The relevant portion of the**

**Guideline issued by the Government is given in Annexure-II].** The DTH License conditions requires that the licensee shall establish and complete the installation of the uplink earth station in India including the monitoring facility etc and commission the DTH Platform within 12 months from the date of issue of SACFA clearance by WPC.

- 2.8 The guidelines for grant of permission to establish & operate HITS services in India were issued on 26.11.2009. These guidelines permit two modes of operations. In the first mode of operation, HITS operator works like a conventional MSO except that virtually the head-end is in the sky instead of being located on ground. In the second mode of operation, HITS operator can provide passive infrastructure to other MSOs for unlinking/ down linking their aggregated content. **The relevant portion of the Guideline for providing HITS broadcasting services is attached at Annexure-III.**

## **CHAPTER-3**

### **Infrastructure Sharing In Broadcasting TV Distribution Services**

- 3.1 In this chapter, the scope for sharing of infrastructure used for delivery of broadcasting TV services such as satellite transponders, Earth Station, Head-end facility etc used by DTH, HITS and MSOs have been discussed. Further, possibilities of separation of network and service provider functions at distributor level have also been explored. The benefits and probable challenges, operational, commercial or regulatory, have also been elaborated.

#### **A. SHARING OF INFRASTRUCTURE BY DISTRIBUTION PLATFORM OPERATORS**

##### ***Sharing of Transponder and Earth Station Infrastructure***

- 3.2 In DTH service, the signals of TV channels are uplinked to the satellite having KU band transponders. In India, there are 6 pay DTH operators. Each DTH operator retransmits 300 to 450 TV channels. A 36 MHz transponder is generally able to carry 17 SD TV channels using MPEG 4 compression and DVB S2 transmission methods and thus 20 to 25 transponders are required by each operator. Similarly, for retransmission, HITS operators uplink the signals of TV channels to either C band transponders or KU band transponders depending upon individual business case. Presently, in India, both the HITS operators are using C band transponders for re-transmission.
- 3.3 It may be noted that most of the satellite TV channels re-transmitted by DTH/ HITS operators are replicated which results inefficient use of satellite transponders. Therefore, there exists a possibility of sharing of transponder space by different DTH and HITS operators, who are using co-located satellites and using KU band for

retransmission. The basic premise of transponder space sharing is that popular satellite TV channels could be retransmitted using common transponder space on a satellite by multiple operators voluntarily. Since different DTH/ HITS operators may use different CAS systems, simulcrypt technology may be used for encryption of these common channels. In addition, each DTH/ HITS operator may also have a number of channels which are not common. For retransmission of these operator specific channels, additional transponder space may be hired on the same satellite or on co-located satellite by each DTH/ HITS operator separately. The sharing of transponder space may encourage sharing of Earth Station infrastructure also for processing and uplinking of signals of TV channels. The sharing of Earth Station and transponder space, on voluntary basis, by multiple DTH/ HITS operators may result in saving in the CAPEX and OPEX without compromising either on the quality of the program or flexibility to provide diverse programs. Even separate Electronic Programme Guide (EPG) can be provided.

### ***Sharing of HITS/ MSO infrastructure***

- 3.4 As per the existing guidelines for grant of permission to establish & operate HITS services, in the active mode of operation, HITS operator works like a conventional MSO except that virtually the head-end is in the sky instead of being located on ground. In passive mode of operation, the HITS operator can also decide to merely provide passive infrastructure facilities like transponder space on satellite, earth station facilities and the provision for simulcrypting /multicrypting of channels aggregated by different MSOs with different encryption systems to one or more MSOs or to a consortium of cable operators/ MSOs desirous of uplinking TV channels to his HITS satellite for down linking and further transmission to the TV homes by the cable operators across the country. The HITS operator

in this case need not contract with the broadcasters for content. He only enters into contracts with one or more MSOs or consortium of cable operators desirous of uplinking their aggregated channels from HITS earth station(s) to the HITS satellite.

- 3.5 Based on these guidelines, some of the stakeholders are of the view that HITS operator can share the same feed which has been aggregated by him for its active operations with desirous MSOs as passive infrastructure provider. As per them, it will ensure the optimum utilization of the available Earth Station and satellite infrastructure. Some other stakeholders are of the view that HITS operator can't share its own feed with MSOs. As a passive infrastructure service provider, HITS operator can uplink the feed aggregated by an MSO independently on its satellite. For this purpose separate transponder space would be required for each MSO feed. If this view is taken then, the infrastructure may not be used efficiently. The efficient utilization of HITS Infrastructure may be ensured when the common feed aggregated by HITS operator is shared with multiple MSOs. It may save the transponder space and avoid establishment of multiple head-ends. This may result in saving of CAPEX and OPEX for operators.
- 3.6 The head-end set up by MSO is akin to the Earth Station facility of the DTH or HITS operator where the signals are down linked and processed for further distribution. The only difference between an Earth Station and a Headend is that in the Earth Station the signals are downlinked, processed, and uplinked to a satellite for further transmission to the subscribers or to the last mile operators, as the case may be, whereas in case of Headend, the signals are downlinked, and processed, before further transmitting using optical fibre and co axial cable networks to the subscribers.

- 3.7 As in the case of HITS, in case of MSOs also, a head-end can be shared by multiple MSOs. The transport stream generated from one Head-end can be shared by many MSOs with the help of simulcrypting technologies where up to 8 service providers can share a common transport stream. This may not only reduce the CAPEX but also reduce the cost of re-transmission of signals. Increased use of simulcrypting technology may further facilitate set top box interoperability.
- 3.8 Indirectly it may also solve the issues relating to limited or practically 'nil' competition in the last mile access of the cable TV networks. With the help of simulcrypting technology and sharing of common transport stream, the signals of multiple MSOs can flow through a single coaxial cable TV network. Depending upon the agreements, the signal of more than one MSO may become available to each customer. The customer can exercise its choice out of available options.

### ***Sharing of Optical Fiber/ bandwidth for signal transmission***

- 3.9 At present most of the operators re-transmit signals of TV channels using either dedicated fibers or by taking bandwidth on lease from infrastructure providers. Since the optical fiber do not have bandwidth constraints, the same optical fiber can carry signals of two or more set of streams of TV channels. In such a scenario, the Last Mile Operator will be using the streams of TV channels which he has been authorized for re-transmission in its co-axial cable TV network. Alternatively sharing of common transport stream by multiple operators can also reduce the requirement of bandwidth for transmission.

### ***Benefits of Infrastructure sharing***

- 3.10 The infrastructure sharing may reduce CAPEX and OPEX for the operators. The reduction in CAPEX requirements may bring down the entry barrier to new operators. The enabling of infrastructure sharing using HITS platform may help in making the DAS operations economically viable in rural/ remote areas and faster digitalization of TV services. Similarly, in DTH, the transponder space saved due to sharing of infrastructure may be utilized for meeting requirements of other important communication needs including provision of broadband services especially in hilly and remote areas. The saving will also reduce the outgo in the foreign exchange as the most of satellite capacities are provided by foreign satellite operators. This framework may also facilitate introduction of virtual network operators (VNO) in the broadcasting TV distribution sector. VNOs can commercially use the infrastructure of existing network providers and focus on specific consumer needs to ensure better quality of service at an affordable rates.
- 3.11 In addition to the above, the infrastructure sharing will pave the way for competition in the sector. With infrastructure sharing the monitoring of the TV services provided by various DPOs can be done somewhat easily which will reduce the Government expenditures on monitoring requirements.

### ***Challenges in achieving infrastructure sharing***

- 3.12 The challenges in achieving the infrastructure sharing can be categorized into Operational, Commercial & Regulatory. In the DTH sector, in case of a DPO desires to share the satellite capacity with the other DPO, it may require alignment of existing dish antenna at the premises of the subscribers due to change in the satellite actually providing the service. There may be challenges due to the diverse

technologies used by service providers. Further, there could be issues relating to business continuity and disaster recovery planning.

3.13 Apart from operational challenge, the relationship among broadcaster, network operator and service providers, commercial terms between interconnecting entities, dispute resolution, piracy concerns, Billing & Audit of subscribers, disconnection of services of one operator are some of the concerns that is required to be addressed before the service providers can reap in full benefits from the infrastructure sharing of TV distribution sector.

## **B. SEPARATION OF NETWORK AND SERVICE PROVIDER FUNCTIONS AT DISTRIBUTION LEVEL**

3.14 The efficient distribution of broadcasting services can also be done by decoupling the network and services. The network provider may provide the active infrastructure facilities like transponder space on satellite, earth station, head-end facilities, transmission network and the provision for simulcrypting /multicrypting of channels with different encryption systems decided by service providers desirous of distributing signals of various TV broadcasters.

3.15 The network providers can focus on efficient operations and maintenance of networks so as to ensure the maximum uptime and optimal utilization of available capacities. The service providers can focus on meeting the needs of consumers. The service provider's focus on consumers may help in error free delivery of services, launch of additional value added services and speedy redressal of consumer grievances.

3.16 There may be a need to align the existing policy framework to facilitate separation of network and service provider functions at distribution level.

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

- (a) In addition to infrastructure sharing possibilities discussed in pre-consultation paper what more can be shared by the DPOs (MSOs, HITS, DTH) for better utilization of infrastructure?**
  
- (b) What could be the operational, commercial, technical and regulatory issues which require to be addressed at the time of developing policy and regulatory framework for enabling infrastructure sharing in the broadcasting TV distribution space?**
  
- (c) Do you envisage any requirement for change in the existing licensing / registration framework laid for DTH, DAS and HITS broadcasting services? If yes, please specify those changes clearly for each platform?**
  
- (d) What could be the implications of allowing separation of network and service provider functions at distribution level? How the responsibilities can be divided between the network and service providers?**
  
- (e) Any other issue which you feel will be relevant for enabling the infrastructures sharing and separation of network and service provider functions in TV distribution sector?**

## **CHAPTER-4**

### **Issues for consultation**

- 4.1 In addition to infrastructure sharing possibilities discussed in pre-consultation paper what more can be shared by the DPOs (MSOs, HITS, DTH) for better utilization of infrastructure?
- 4.2 What could be the operational, commercial, technical and regulatory issues which require to be addressed at the time of developing policy and regulatory framework for enabling infrastructure sharing in the broadcasting TV distribution space?
- 4.3 Do you envisage any requirement for change in the existing licensing / registration framework laid for DTH, DAS and HITS broadcasting services? If yes, please specify those changes clearly for each platform?
- 4.4 What could be the implications of allowing separation of network and service provider functions at distribution level? How the responsibilities can be divided between the network and service providers?
- 4.5 Any other issue which you feel will be relevant for enabling the infrastructures sharing and separation of network and service provider functions in TV distribution sector?

### List of Acronyms

<b>Abbreviations</b>	<b>Description</b>
CAPEX	Capital Expenditure
CAS	Conditional Access System
DAS	Digital Addressable Cable TV Systems
DPO	Distribution Platform Operator
DTH	Direct to Home
DVB	Digital Video Broadcasting
EPG	Electronic Programme Guide
HITS	Head-end in The Sky
IPTV	Internet Protocol Television
MPEG	Moving Picture Experts Group
MSO	Multi System Operator
OPEX	Operating Expense
SACFA	Standing Advisory Committee on Frequency Allocation
STB	Set-Top-Boxes
TRAI	Telecom Regulatory Authority of India
TSP	Telecommunications Service Provider
VNO	Virtual Network Operator
WPC	Wireless Planning and Co-ordination

## ANNEXURE – I

No. 9/573/2015-DAS  
Government of India  
Ministry of Information and Broadcasting  
Room No.116, 'A' Wing, Shastri Bhawan, New Delhi  
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Dated 28<sup>th</sup> March, 2016

To  
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Email: [shree\\_shree@gmail.com](mailto:shree_shree@gmail.com)

(अनिल कुमार / ANIL KUMAR)  
अवर सचिव / Under Secretary  
सूचना एवं प्रसारण मंत्रालय  
Min. of Information & Broadcasting  
भारत सरकार, नई दिल्ली  
Govt. of India, New Delhi

**Sub: Grant of Registration to Shree Digital for operating as MSO in DAS under Cable Television Networks (Amendment) Rules, 2012.**

Sir,

I am directed to refer to your application dated 16.08.2015 on the above cited subject and to say that this Ministry has examined your application and on your request, it has been decided to grant provisional registration to you under Rule 11E of the Cable Television Networks (Amendment) Rules, 2012 for operating as a Multi System Operator (MSO) in the Digital Addressable System (DAS) District Raigad in the State of Maharashtra as notified vide Notification No. 2534 (E) dated 11<sup>th</sup> November 2011.

2. As per rule 11E of the Cable TV Networks Rules, 1994, there is a provision to issue provisional registration on preliminary scrutiny of application provided:

- i. That such provisional registration shall not confer any right to the applicant to claim regular registration;
- ii. That where regular registration is refused to be granted by the registering authority, the provisional registration so granted shall stand cancelled.

3. Accordingly, the provisional registration is granted on your request as the security clearance is awaited from MHA. As per the affidavit submitted by you, this provisional registration shall give no claim to you in future in case the security clearance is denied by MHA. In the eventuality of MHA denying security clearance the MSO operations shall be immediately shut down without protest or demur and there shall be no claim against the Government for any investment made pursuant to the provisional registration. Any loss incurred on this account will be the sole responsibility of the applicant company alone.

4. This provisional permission is granted subject to further adherence and compliance of the following terms and conditions:

- (i) MSO shall comply with all the provisions of the Cable Television Networks (Regulation) Act, 1995 and the Rules made thereunder, as amended.
- (ii) MSO shall abide by the rules/ regulations/ orders/ directions/guidelines etc. issued by the regulatory authority or by this Ministry from time to time.
- (iii) MSO shall have the capacity to carry minimum number of Television Channels specified by the Authority.
- (iv) MSO shall not carry programming service provided on the channel generated at the level of such Multi-System Operator which is in violation of the Programme Code

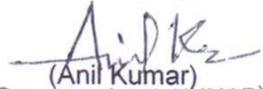
specified in Rule 6 and the Advertising Code specified in Rule 7 of the Cable Television Networks Rules, 1994.

- (v) The permission granted above is not transferable.
- (vi) The MSO shall comply with Foreign Investment Guidelines and conditions thereon for Cable TV Sector issued by the Central Government from time to time.
- (vii) The MSO shall have an independent digital head-end of his own and provide digital addressable cable services from his headend.
- (viii) In Phase I & II areas where DAS has been implemented, the MSO shall operationalize their services with necessary conditional access system (CAS) and Digital Addressable System (DAS) within six months from the date of issuance of this MSO registration, failing which the registration shall be liable to be revoked/suspended for those cities where it is not implemented.
- (ix) in phase III areas, the MSO shall operationalize their services with necessary conditional access system (CAS) and digital addressable system (DAS) in all the districts/areas for which this registration is granted within 6 months from the date of issuing of this registration and in Phase IV areas by notified cut-off date, failing which the registration so granted shall be liable to be revoked/suspended for those areas/districts where it is not implemented.
- (x) Any change in the Board of Directors, foreign direct investment and criminal cases would be intimated to the Ministry of Information and Broadcasting.
- (xi) The permission will be cancelled in the event of denial of security clearance by MHA.
- (xii) Registered MSO has to ensure that no analogue signals are transmitted on his/her cables network in any of the DAS notified areas after notified cut-off date.

5. The MSO shall display the above terms and conditions in his office premises as well as in the office premises of the affiliated cable operators.

3. The MSO shall ensure its continued eligibility as applicable throughout the period of the permission and adhere to all the terms and conditions failing which this permission is liable to be terminated/cancelled forthwith without giving any notice.

Yours faithfully,

  
(Anil Kumar)

Under Secretary to the Government of India

(अनिल कुमार/ANIL KUMAR)

अवर सचिव/Under Secretary

सूचना एवं संचार मंत्रालय

23381478

Min. of Information & Broadcasting

भारत सरकार, नई दिल्ली

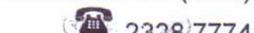
Delhi

Copy for information to:

- a) Secretary, Telecom Regulatory Authority of India, Mahanagar Doorshanchar Bhawan, Jawahar Lal Nehru Marg, (Old Minto Road), Near Dr. Zakir Husain College, New Delhi – 110002.
- b) Chief Secretary, Government of Maharashtra.
- c) The Director General of Police, Maharashtra.

(Surender Kumar)

Section Officer (DAS)

  
23387774

(SURENDER KUMAR)

अनुभाग अधिकारी/Section Officer

सूचना एवं संचार मंत्रालय

Min. of Information & Broadcasting

भारत सरकार, नई दिल्ली

Govt. of India, New Delhi

**RELEVANT PORTION OF GUIDELINES FOR OBTAINING LICENSE FOR PROVIDING DIRECT-TO-HOME (DTH) BROADCASTING SERVICE IN INDIA**

The Union Government has decided to permit Direct-to-Home (DTH) TV service in Ku Band in India. The prohibition on the reception and distribution of television signal in Ku Band has been withdrawn by the Government vide notification No. GSR 18 (E) dated 9th January, 2001 of the Department of Telecommunications.

The salient features of eligibility criteria, basic conditions/obligations and procedure for obtaining the license to set up and operate DTH service are briefly described below. For further details, reference should be made to the Ministry of Information & Broadcasting.

Following are the eligibility criteria for applicants, conditions which will apply to DTH license and procedural details:

**i) Eligibility Criteria:**

- Applicant Company to be an Indian Company registered under Indian Company's Act, 1956.
- Total foreign equity holding including FDI/NRI/OCB/FII in the applicant company not to exceed 49%.
- Within the foreign equity, the FDI component not to exceed 20%.
- The quantum represented by that proportion of the paid up equity share capital to the total issued equity capital of the Indian promoter Company, held or controlled by the foreign investors through FDI/NRI/OCB investments, shall form part of the above said FDI limit of 20%.
- The applicant company must have Indian Management Control with majority representatives on the board as well as the Chief Executive of the company being a resident Indian.
- Broadcasting companies and/or cable network companies shall not be eligible to collectively own more than 20% of the total equity of applicant company at any time during the license period. Similarly, the applicant company not to have more than 20% equity share in a broadcasting and/or cable network company.
- The Licensee shall be required to submit the equity distribution of the Company in the prescribed Proforma (Table I and II of Annexure to

Form-A) once within one month of start of every financial year.

**ii) Number of Licensees:**

- There will be no restrictions on the total number of DTH licenses and these will be issued to any person who fulfils the necessary terms and conditions and subject to the security and technical clearances by the appropriate authorities of the Govt.

**iii) Period of license:**

- License will be valid for a period of 10 years from the date of issue of wireless operational license by Wireless planning and Coordination Wing of Ministry of Communications. However, the license can be cancelled/ suspended by the Licensor at any time in the interest of Union of India.

**iv) Basic conditions/obligations:**

- The license will be subject to terms and conditions contained in the agreement and its schedule (Form-B)

**v) Procedure for application and grant of licenses:**

- To apply to the Secretary, Ministry of I&B, in triplicate, in the prescribed proforma (Form-A )
- On the basis of information furnished in the application form, if the applicant is found eligible for setting up of DTH platform in India, the application will be subjected to security clearance in consultation with the Ministry of Home Affairs and for clearance of satellite use with the Department of Space.
- After these clearances are obtained, the applicant would be required to pay an initial non-refundable entry-fee of Rs. 10 crores to the Ministry of Information and Broadcasting.
- After such payment of entry-fee, the applicant would be informed of intent of Min. of I & B to issue license and requested to approach WPC for SACFA clearance.
- After obtaining SACFA clearance, within one month of the same, the Licensee will have to submit a Bank guarantee (Form-C) from any Scheduled Bank to the Ministry of Information and Broadcasting for an amount of Rs.40 crores valid for the duration of the license.
- After submission of this Bank Guarantee, the applicant would be required to sign a licensing agreement with the Ministry of Information and Broadcasting as per prescribed proforma (Form-B).
- After signing of such licensing agreement with the Ministry of Information and Broadcasting, the applicant will have to apply to the

Wireless Planning & Coordination (WPC) Wing of the Ministry of Communications for seeking Wireless Operational License for establishment, maintenance and operation of DTH platform.

- The Licensee shall pay an annual fee equivalent to 10% of its gross revenue as reflected in the audited accounts of the Company for that particular financial year, in the manner detailed under Article -3 (License Fee) of the “Schedule to the License Agreement”
- The Licensee shall also, in addition, pay the license fee and royalty for the spectrum used as prescribed by Wireless Planning & Coordination Authority (WPC), under the Department of Telecommunications.

**vi) Arbitration Clause:**

Incase of any dispute, matter will be referred to the sole Arbitration of the Secretary, Department of Legal Affairs, Government of India or his nominee, for adjudication. The award of the Arbitrator shall be binding on the parties. The Arbitration proceedings will be governed by the law of Indian arbitration in force at the point of time. Venue of Arbitration shall be India.

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**TERMS AND CONDITIONS**

**ARTICLE-1**

**ELIGIBILITY CONDITIONS**

- 1.1 The Licensee company shall be an Indian company, registered under the Indian Companies Act, 1956.
- 1.2 The total Foreign Investment, including FDI/NRI/OCB/FII in the paid up equity of the Licensee Company, shall not be more than 49%.
- 1.3 The FDI component of the foreign equity in the total paid up equity of the Licensee company shall not exceed 20%.

Explanation : The quantum represented by that proportion of the paid up equity share capital to the total issued equity capital of the Indian promoter Company, held or controlled by foreign investors through FDI/NRI/OCB investments, shall form part of the above said FDI limit of 20%.

- 1.4 The Licensee shall not allow Broadcasting Companies and/or Cable Network Companies to collectively hold or own more than 20% of the total paid up equity in its company at any time during the License period. The Licensee shall submit the equity distribution of the Company in the prescribed proforma (Table I and II of Form-A) once within one month of start of every financial year. The Government will also be able to call for details of equity holding of Licensee company at such times as considered necessary.
- 1.5 The Licensee company not to hold or own more than 20% equity share in a broadcasting and/or Cable Network Company. The Licensee shall submit the details of investment made by the Licensee company every year once within one month of start of that financial year. The Government. will also be able to call for details of investment made by the Licensee company in the equity of other companies at such times as considered necessary.

- 1.6 The applicant company shall always have Indian management control with majority representatives on the Board, as well as the Chief Executive of the company being a resident Indian citizen.

## **ARTICLE-2**

### **TERM OF LICENSE**

- 2.1 The validity period of License shall be ten (10) years, on non-exclusive basis, and shall be reckoned from the date of issue of Wireless Operational License by the WPC, unless terminated earlier for default or for insolvency or for convenience or for transfer of the License.
- 2.2 The license shall not be transferred without prior approval of the Licensor.

## **ARTICLE 3 LICENSE FEE**

- 3.1 The Licensee shall pay an initial non-refundable entry fee of Rs. 10 crores before the issue of letter of intent to him by Licensor, and, after the issue of the Wireless Operational License by the Wireless Planning and Coordination (WPC) Wing of the Ministry of Communications, an annual fee equivalent to 10% of its gross revenue in that particular financial year within one month of the end of that year.
- 3.2 The Licensee shall also in addition pay the license fee and royalty for the spectrum used as prescribed by Wireless Planning & Coordination Authority (WPC), under the Department of Telecommunications.

## **ARTICLE-4**

### **BANK GUARANTEE**

- 4.1 The Licensee shall, within one month of issual of SACFA clearance by W.P.C., submit to the Ministry of I & B, a Bank Guarantee from any Scheduled Bank in Form-C for an amount of Rs.40 crores valid for the duration of the license.

- 4.2 The Licensor shall be at liberty to encash the Bank Guarantee in full or part in the event of non-payment of the license fee or violation of any of the license condition.

## **ARTICLE-5**

### **COMPLIANCE WITH PROGRAMME AND ADVERTISING CODES**

- 5.1 The Licensee shall ensure adherence to the Programme Code (PC) and Advertisement Code (AC), laid down by the Ministry of Information & Broadcasting from time to time.
- 5.2 The Licensee shall invariably ensure that the subscribers of the service do not have access to any pornographic channel or to secret/ anti-national messaging and the like. If the Licensee fails to do so, the License shall stand cancelled.

## **ARTICLE-6**

### **PROHIBITION OF CERTAIN ACTIVITIES**

- 6.1 The Licensee shall not carry any channels prohibited by the Ministry of Information & Broadcasting.
- 6.2 The Licensee shall ensure that its facilities are not used for transmitting any objectionable or obscene content, messages or communication inconsistent with the laws of India. The use of the facility or service for anti national activities would be construed as an offence punishable under the Indian Penal Code and applicable laws and will attract immediate termination of License.
- 6.3 The Licensor reserves the right to prohibit the transmission or reception of programmes in the interest of national security or in the event of emergency/war or similar type of situation. Notwithstanding any agreement between the Licensee and the content providers, the Licensee shall stop forthwith, transmission of TV channels or any content, as and when directed to do so by the Licensor or any other designated lawful authority.
- 6.4 Except with prior approval of Licensor, the Licensee shall not either directly or indirectly assign or transfer its right in any manner whatsoever under this Agreement to any other party or enter into any Agreement for sub-license and/ or partnership relating to any subject matter of the License to any third party either in whole or in part.

Any violation of the terms shall be construed as breach of the License Agreement and License of the Licensee shall be terminated immediately.

## **ARTICLE-7**

### **TECHNICAL STANDARDS AND OTHER OBLIGATIONS**

- 7.1 The Open Architecture (non-proprietary) Set Top Box, which will ensure technical compatibility and effective interoperability among different DTH service providers, shall have such specifications as laid down by the Government from time to time.
- 7.2 The Licensee shall ensure subscriber's interests through a Conditional Access System (CAS), which is compatible with an open Architecture (non-proprietary) Set Top Box.
- 7.3 The Licensee shall ensure subscriber's interests through a Subscriber Management System (SMS) for an efficient, responsive and accurate billing and collection system.
- 7.4 The Licensee shall not use any equipment, which is identified as unlawful.
- 7.5 All content provided by the DTH platform to the subscribers, irrespective of its source, shall pass through the encryption and conditional access system, located within the Earth Station, situated on Indian soil.
- 7.6 The Licensee shall provide access to various content providers/channels on a non-discriminatory basis.
- 7.7 The Licensee shall adhere to any guidelines/regulations which may be laid down by the Licensor in the interest of consumer such as pricing of bouquet(s) or tier(s) of channels, etc.
- 7.8 The Licensee shall carry channels of Prasar bharati on the most favourable financial terms offered to any other channel.

**ARTICLE-8**  
**MONITORING AND INSPECTION**

8.1 The Licensee shall provide the necessary facility for continuous monitoring of the DTH broadcasting service at its own cost and maintain the recordings of programmes and advertisements carried on the platform for a period of 90 days from the date of broadcast and produce the same to the Licensor or its authorised representative, as and when required.

8.2 The Licensee shall furnish any such information at periodic intervals as may be required by the Licensor concerning Channels or content being transmitted or provided under the service, technical parameters etc. in the format as may be prescribed by the Licensor from time to time.

8.3 Licensee shall provide access to the Licensing Authority or its duly authorised representative. to all its facilities including equipments, records, systems, etc.

8.4 The Licensee will, if required by the Licensor or its authorised representative, provide necessary facilities for continuous monitoring for any particular aspect of the Licensee's activities and operations.

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

**ARTICLE-9**  
**NATIONAL SECURITY AND OTHER CONDITIONS**

9.1 The Licensor reserves the right to take over the entire services and networks of the Licensee or revoke / cancel / suspend the License in the interest of national security or in the event of an emergency / war or low intensity conflict or similar type of situations. Further, the Licensor reserves the right to direct the Licensee to close down the service if implications of security so requires. Any specific order or direction from the Government issued in this regard shall be strictly complied with by the Licensee.

9.2 The Licensee shall not use any equipment, which are identified as unlawful and/or render network security vulnerable.

- 9.3 All foreign personnel likely to be deployed by way of appointment, contract, consultancy, etc. by the Licensee for installation, maintenance and operation of the Licensee's services shall be required to obtain security clearance from the Government of India prior to their deployment.

## **ARTICLE-10**

### **VALUE ADDED SERVICES**

- 10.1 The DTH facility shall not be used for other modes of communication, including voice, fax, data, communication, Internet, etc. unless specific license for these value-added services has been obtained from the competent authority.

## **ARTICLE -11**

### **PREFERENCE TO INDIAN SATELLITES AND INTERSYSTEM CO-ORDINATION**

- 11.1 Though Licensee can use the bandwidth capacity for DTH service on both Indian as well as foreign satellites, proposals envisaging use of Indian satellites will be extended preferential treatment.
- 11.2 The Licensee shall ensure that its operation will conform to the provisions of inter-system co-ordination agreement between INSAT and the satellite being used by the Licensee.

## **ARTICLE 12**

### **WPC WING'S LICENSE**

- 12.1 A separate specific operational license shall be required from the WPC Wing of Ministry of Communications for establishment, maintenance & operation of the DTH platform/facility under usual terms and conditions of that license. Grant of WPC operational license will be governed by normal rules, procedures and guidelines and will be subject to completion of all formalities. As may be prescribed by the WPC Wing, the Ministry of Communication for this purpose, an application shall be made to the "Wireless Advisor to the Government

of India, WPC Wing, Ministry of Communications, Dak Bhavan, Parliament Street, New Delhi-110001” in a prescribed application form available from WPC Wing within one month from the date of signing of this agreement.

- 12.2 The Licensee shall obtain clearances/approvals, as may be prescribed or required, from the Wireless Planning Coordination Wing or from the Department of Space.
- 12.3 The Wireless Planning & Coordination (WPC) Wing of the Department of Telecommunication, Ministry of Communication shall issue SACFA clearance to the Licensee as soon as possible after receiving the application the same and shall grant the final Wireless Operational License, after signing of this agreement, subject to fulfilment of the necessary terms and conditions including installation of equipment etc. as may be required by WPC.
- 12.4 The Wireless and Planning Coordination Wing shall have the right to inspect, from time to time, the installation with a view to ensuring conformity with the WPC’s license
- 12.5 The Licensee shall not cause harmful interference to other authorised users of radio spectrum. WPC Wing will have the sole discretion to take practicable and necessary steps for elimination of harmful interference, if any, to other licensed users.
- 12.6 The Licensee shall furnish to the WPC Wing the full technical and operational details of TV channels and other channels proposed to be uplinked through his/her Hub/Teleport in the prescribed format.

### **ARTICLE-13**

#### **COMMISSIONING OF DTH PLATFORM**

- 13.1 The Licensee shall establish and complete the installation of the uplink earth station in India including the monitoring facility etc. and commission the DTH Platform within twelve months from the date of issue of the SACFA clearance by the WPC after obtaining wireless operational license and would submit a report to the Licensor in this regard.

## **ARTICLE-14**

### **REQUIREMENT TO FURNISH INFORMATION TO THE LICENSOR**

14.1 The Licensee shall furnish to the Licensor, such information at periodic intervals or at such times as the Licensor may require, including, but, not limited to, documents, reports, accounts, estimates, returns or other information such as change in Chief Executive, Board of Directors, equity holding pattern etc.

## **ARTICLE-15**

### **TERMINATION OF LICENSE**

15.1 Notwithstanding any other recourse under the terms and conditions of the license or any other law, the Licensor shall have the power, after recording the reasons in writing, to revoke/suspend the license in the event of breach of any terms and conditions of the license. However, before taking such action the licensing authority will give the Licensee an opportunity of being heard. The decision of the licensing authority shall be final.

15.2 The Licensor may, at any time, terminate the License without compensation to the Licensee in case Licensee becomes bankrupt or otherwise insolvent or applies for being adjudicated as insolvent/ bankrupt, provided such termination shall not prejudice or affect any right of action which has accrued or will accrue thereafter to the Licensor.

## **ARTICLE-16**

### **FORCE MAJEURE**

16.1 If at any time, during the continuance of this License, the performance of any obligation either in whole or in part by any party is prevented or delayed, by reason of war, hostility, acts of enemy, civil commotion, sabotage, fire, flood, act of state or centre, explosion, epidemic, quarantine restriction, strikes materially affecting the performance of any obligations of affected party, or act of God (all or any of these hereinafter

referred to as Force Majeure Event), neither party shall, by reason of such Force Majeure Event be entitled to terminate this License, nor shall either party have any claim for damages against the other, in respect of such non-performance or delay in performance provided notice of happenings of any such Force Majeure Event is given by either party to the other, within 21 days from the date of occurrence thereof.

## **ARTICLE-17**

### **DISPUTES WITH OTHER PARTIES**

17.1 In the event of any dispute of the Licensee with any party other than Licensor due to any reason whatsoever, the dispute will be sorted out among themselves and Licensor will have no liability in any manner. The Licensee undertakes to indemnify Licensor in respect of any action against Licensor for acts of commission or omission on the part of the Licensee, its agents and servants.

## **ARTICLE-18**

### **DISPUTE RESOLUTION AND JURISDICTION**

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

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

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

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

18.5 The Courts at New Delhi shall have the jurisdiction over all disputes.

## **ARTICLE - 19**

### **CONFIDENTIALITY**

19.1 The Licensee shall keep all the secret and security related information exchanged between the Licensor and itself as confidential and shall not disclose such information to any third party or to the media.

## **ARTICLE-20**

### **PENALTY**

20.1 For violation of license conditions, in addition to any other action which may include revocation of license, a penalty upto Rs.50 crores can be imposed by the Licensor on the Licensee. However, before taking such action the licensing authority will give the Licensee an opportunity of being heard. The decision of the licensing authority shall be final.

## **ARTICLE-21**

### **MISCELLANEOUS**

21.1 Notwithstanding any clause anywhere else in the License, the License will be subject to the condition that as and when any regulatory authority to regulate and monitor the Broadcast Services in the country is constituted, the Licensee's will have

to adhere to the norms, rules and regulations prescribed by such authority.

21.2 This license is subject to requirements and provisions of any law which may be enacted in future for regulating and guiding broadcasting in India.

21.3 The Licensee shall obtain the necessary environmental clearances, wherever required. The Licensee shall also comply with Copyright Act, the Electricity Act, Factories Act and other relevant laws of the land. In case of non-compliance of any of the aforesaid requirement, the Licensor shall have the right to revoke the License of the Licensee.

**GUIDELINES FOR PROVIDING HEADEND-IN-THE-SKY (HITS) BROADCASTING SERVICE IN INDIA**

**INTRODUCTION:**

The Ministry of Information and Broadcasting, Government of India has formulated the policy guidelines for grant of Permission to establish and operate "Headend in the Sky (HITS)" broadcasting service from India.

Companies desirous of establishing and operating Headend in the Sky (HITS) Service platform shall be required to obtain Permission from the Ministry of Information and Broadcasting in accordance with the terms and conditions prescribed under these guidelines.

Headend-in-the-Sky (HITS) Broadcasting Service, refers to the multichannel downlinking and distribution of television programme in **C-Band or Ku Band**, wherein all the pay channels are downlinked at a central facility (Hub/ Teleport) and again uplinked to a satellite after encryption of channels. At the cable headend these encrypted pay channels are downlinked using a single satellite antenna, transmodulated and sent to the subscribers by using a land based transmission system comprising of infrastructure of cable/optical fibres network.

After obtaining a HITS license from the Ministry of Information & Broadcasting, the HITS operator can himself contract with different broadcasters for buying the content, aggregating the same at an earth station and then uplinking with his own encryption to a satellite hired by him. The uplinked channels can then be downlinked by the cable operators using a dish antenna for onward distribution through last mile conventional cable network to the TV homes. In this model, the HITS operator works like a conventional MSO, except that virtually the head-end is in the sky, instead of being located on ground.

The HITS operator can also decide to merely provide passive infrastructure facilities like transponder space on satellite, earth station facilities and the provision for simulcrypting/multicrypting of channels aggregated by different MSOs with different encryption systems to one or more MSOs or to a consortium of cable operators /MSOs desirous of uplinking TV channels to his HITS satellite for down linking and further transmission to the TV homes by the cable operators across the country. The HITS operator in this case need not contract with the broadcasters for content. He only enters into contracts with one or more MSOs or consortium of cable operators desirous of uplinking their aggregated channels from HITS earth station(s) to the HITS satellite.

The HITS operator has the freedom to use *his* satellite's transponder capacity both for transmitting his own aggregated content, as well as to provide passive infrastructure to other MSOs for uplinking/downlinking their aggregated content.

The permission of the existing two permission holders who have *been given* permission to provide HITS services in the year 2003 will continue for the remaining period of permission and operationalisation of HITS services may be done by them as per terms and conditions laid down in these guidelines.

## **1. ELIGIBILITY CRITERIA**

1.1 The applicant seeking permission for providing HITS services shall be a Company registered in India under the Companies Act, 1956.

1.2 The Company should have a minimum Net worth of Rs Ten crores. The Net Worth shall be calculated as per the proforma specified and shall be certified by the Statutory Auditor of the company.

1.3 The total direct and indirect foreign investment including portfolio and foreign direct investments into the company shall not exceed 74% at the time of application and during the currency of permission.. The methodology of calculation of the direct and indirect

foreign investments would be as per the extant policy of the Government. The company will be required to disclose the status of such foreign holding and certify that the foreign investment is within the ceiling of 74% on yearly basis.

1.4 FDI upto 49 per cent will be on automatic route. The approval of the Foreign Investment Promotion Board (FIPB) shall be required for FDI in the company/Indian promoters/investment companies including their holding companies if it has a bearing on the overall ceiling of 74 per cent.

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

1.6 Broadcasting Company(ies) and/or DTH licensee company(ies) will not be allowed to collectively hold or own more than 20% of the total paid up equity in the company at any time during the permission period. Simultaneously, the HITS permission holder should not hold or own more than 20% equity share in a broadcasting company and/or DTH licensee company. Further, any entity or person holding more than 20% equity in a HITS permission holder company shall not hold more than 20% equity in any other Broadcasting Company(ies) and/or DTH licensee

and *vice-versa*. This restriction, however, will not apply to financial institutional investors. However, there would not be any restriction on *equity* holdings between a HITS permission holder company and a MSO/cable operator company.

1.7 While determining the shareholding of a Company or entity or person as per para 1.6 above, both its direct and indirect shareholding will be taken into account. The principle and methodology to determine the level of indirect holding shall be the same as has been adopted in Press Note 2 of 2009 dated 13.2.09 of the Department of Industrial Policy and Promotion under the Ministry of Commerce and Industry for determination of indirect foreign investment.

## **2. NUMBER OF PERMISSIONS:**

There will be no restrictions on the total number of HITS permissions and these will be issued to any company which fulfils the eligibility criteria & necessary terms and conditions and subject to the security and technical clearances by the appropriate authorities of the Government.

## **3. PERIOD OF PERMISSION**

3.1 Permission for providing the HITS Service will be valid for a period of Ten years from the date of issue of wireless operational license (WOL) by the Wireless Planning and Coordination Wing of the Ministry of Communications and Information Technology.

3.2 The permission may be terminated earlier as provided in paras 10 and 13..

3.3 The permission granted to the company shall be non-transferable except with specific and prior approval of the Government.

## **4. NON REFUNDABLE ENTRY FEES AND OTHER FEES**

4.1 The applicant will be required to pay a non-refundable entry fee of Rs.10 crores.

4.2 No annual fee will be required to be paid.

4.3 The company/permission holder shall also in addition pay the license fee and royalty for the spectrum used as prescribed by Wireless Planning & Coordination Authority (WPC), under the Department of Telecommunications.

## **5. BANK GUARANTEE**

5.1 The applicant company shall, within one month of the issuance of SACFA clearance by WPC, submit to the Ministry of I & B, a Bank Guarantee from any Scheduled Bank in the format notified, for an amount of Rs.40 crores valid for a period of three years.

5.2 The HITS permission holder should commence uplinking/downlinking operations within a period of one year from the date of issuance of SACFA clearance by the WPC after obtaining Wireless Operational License failing which half of the bank guarantee would be forfeited.

5.3 If the operator does not start the service within two years from the date of issuance of SACFA clearance by the WPC, the full performance bank guarantee will be forfeited and action for revocation of the permission will also be considered on completion of two years from the date of issuance of SACFA clearance by the WPC.

5.4 If the HITS permission holder fulfils the roll out obligation within one year of issuance of SACFA clearance by the WPC, then full amount of performance bank guarantee will be refunded. If the HITS permission holder meets the roll out obligation after one year but within two *year of* the issuance of SACFA clearance by the WPC, then half of performance bank guarantee will be refunded.

## **6. BASIC CONDITIONS AND OBLIGATIONS**

6.1 *The* majority of Directors on the Board of the Company shall be Indian Citizens. The Company, Directors, Managing Director, Chief Executive Officer(CEO), and Chief Financial Officer (CFO) will be required to be security cleared from the Ministry of Home Affairs. The company shall give without fail intimation to Ministry of I & B regarding change in the directorship, key executives or foreign direct investment in the company, within 15 days of such a change taking place.

6.2 No permission holder shall carry or include in his HITS Service any television broadcast or channel which has not been registered by the Ministry of Information and Broadcasting for being viewed within the territory of India. Notwithstanding any agreement entered into between the permission holder and broadcaster(s) TV channel owner(s), the permission holder shall stop from carrying including in its HITS service, TV channels, whenever such registration/permission is withdrawn

6.3 The permission holder shall not carry any channels broadcast of which is prohibited by the Ministry of Information & Broadcasting.

6.4 The company shall not carry the channels of a broadcaster against whom the competent authority or any regulatory body, tribunal or court have found the following: -

- (i) It has refused access on a non-discriminatory basis to another broadcasting service provider contrary to the rules, regulations etc. governing the broadcasting services in India
- (ii) It has violated the provisions of any law relating to competition including the Competition Act.

[Explanation: It shall be the sole responsibility of the permission holder to ascertain before carrying any channels on its network whether any television channel broadcaster has been found to be in violation of the above conditions or not. In respect of TV channels already being carried on the platform, the permission holder shall ascertain from every source including the Government, TRAI, Tribunal or a Court whether concerned broadcaster or the channel is in violation of the above conditions. If any violation so comes to its notice, the permission holder shall forthwith discontinue carrying the television channels of such broadcaster. ]

6.5 The permission holder shall ensure that each of the channels carried by it follows the Programme Code and Advertisement Code as laid down under the Cable Television Networks (Regulation) Act, 1995 and the Rules framed thereunder or any other code made applicable.

6.6 The permission holder shall invariably ensure that the subscribers of the service do not have access to any pornographic channel or to secret/ anti-national messaging and the like through the HITS platform. If the permission holder fails to do so . the permission granted shall be revoked and the company shall be disqualified to hold any such Permission in future for a period of five years, apart from liability for punishment under other applicable laws.

6.7 The permission holder shall ensure that its facilities are not used for transmitting any objectionable content, messages or communication inconsistent with the laws of India. If the permission

holder fails to do so, the permission granted shall be revoked and the company shall be disqualified to hold any such Permission in future for a period of five years, apart from liability for punishment under other applicable laws.

6.8 The permission holder shall provide access to various content providers/channels on a non discriminatory basis.

6.9 The permission holder shall not enter into any exclusive contract for distribution of TV Channels.

6.10 The permission holder shall comply with the terms and conditions of Wireless Operational License to be issued by the WPC Wing, Ministry of Communications & IT.

6.11 The Company shall ensure its continued eligibility as applicable throughout the period of permission and adhere to all the terms and conditions of the permission, failing which the company shall be liable for penalty as specified in Para 14.2 below.

6.12 The government shall have the right to notify the number and names of television channel or channels of Prasar Bharati or any other television channel for compulsory carriage by the HITS provider in his *service* and the manner of reception and retransmission of such channels.

6.13 The Permission Holder shall carry other television channels of Prasar Bharati on the most favorable financial terms offered to any other channel.

## **7. MANDATORY SHARING OF CERTAIN BROADCAST SIGNALS WITH PRASAR BHARATI**

7.1 The permission holder shall ensure that channels carried by and telecasting sporting events have ensured compliance with the provisions of Sports Broadcasting Signals (Mandatory Sharing with Prasar Bharti) Act, 2007.

## **8. TECHNICAL STANDARDS AND OTHER OBLIGATIONS**

8.1 The applicant company shall furnish technical details such as Nomenclature, make, model, name and address of the manufacturers of the equipments/instruments to be used for broadcasting, distribution and reception system, the Block schematic diagram and also demonstrate the facilities for monitoring and storing record for 90 days.

8.2 The company can uplink in **`C' Band or `Ku' Band** only. Uplinking would be permitted both to Indian as well as foreign satellites. However, where the company does not have a satellite of its own or of its group company, proposals envisaging use of Indian satellites will be accorded preferential treatment. Satellite to be used should have been coordinated with ITISAT System.

8.3 The HITS operator is required to provide signals directly from his satellite only to the registered MSOs/cable operators and under no circumstances should the HITS operator provide signals directly from his satellite to the consumer. However, he will not be barred from providing signals, through his own cable network if any, to consumers also after first downlinking the signals to his terrestrial receiving station. The signals are to be provided only through QAM set top box.

8.4 The company is required to provide commercial interoperability with respect to its set top boxes so that if the subscribers decide to switch over to any other service provider or platform they should be able to do so at least cost. Commercial interoperability here would mean that in addition to offering the *receiver* set on an outright purchase basis, a subscriber should also have the option to purchase it on a hire-purchase basis or rental basis with a provision to return the set top box on such terms and conditions as may be laid down by regulations issued by TRAI.

8.5 The addressability provided to every subscriber should be capable of blocking any unwanted channel or group of channels by the Permission Holder.

8.6 The company shall ensure subscriber's interests through a Subscriber Management System (SMS) for an efficient, responsive and accurate billing and collection system.

8.7 The company shall not use any equipment, which is identified as unlawful/or render network security vulnerable.

8.8 All content provided by the HITS service provider to the subscribers, irrespective of its source, shall pass through the encryption and digital addressable system located within the earth-station situated on Indian soil.

## **9. MONITORING AND PUBLIC COMPLAINTS**

9.1 The company at its own cost shall,

(i) Preserve the recordings of broadcast material for a period of three months from the date of broadcast and produce the same to the Government or its authorized representative, as and when required and

(ii) On demand by the Government or its authorized representative, provide the necessary equipment, services and facilities at designated place(s) for continuous monitoring of the broadcasting service by or under supervision of the Government or its authorized representative.

9.2 The company shall submit such information with respect to its services as may be required by the Government or its authorized representative, in the format as may be required, from time to time.

## **10. INSPECTION**

10.1 The Government of India. Ministry of Information & Broadcasting or its authorized representative shall have the right to inspect the broadcasting facilities. No prior permission intimation shall be required to exercise the right of Government or its authorized representative to carry out the inspection. The company will, if required by the Government or its authorized representative, provide necessary facilities for continuous monitoring for any particular aspect of the company's activities and operations.

10.2 The Government of India, Ministry of Information & Broadcasting or its authorized representative will ordinarily carry out the inspection after reasonable notice except in circumstances where giving such a notice will defeat the very purpose of the inspection.

## **11. NATIONAL SECURITY AND OTHER CONDITIONS**

11.1 The Government of India, Ministry of Information & Broadcasting shall have the right to take over the entire services and networks of the permission holder or

revoke/terminate/suspend the permission of the company or to prohibit broadcasting of any or all of the channels for a specified period in the interest of national security or in the interest of emergency or war or low intensity conflict without giving prior notice to the company. The company shall immediately comply with any directives issued in this regard failing which the permission granted shall be revoked and the company disqualified to hold any such Permission in future for a period of five years.

Provided that any taking over or suspension of licence, issuance of a directive as described above shall neither be a ground for extension of licence period nor any compensation.

11.2 The company shall not use any equipment, which is identified as unlawful and/or render network security vulnerable.

11.3 Permission holder shall be required to obtain security clearance of all foreign personnel likely to be deployed for more than 60 days in a year by way of appointment, contract, and consultancy or in any other capacity for installation, maintenance, operation or any other services prior to their deployment.

11.4 The permission shall be subject to permission holder remaining security cleared throughout the currency of permission. In case the security clearance is withdrawn the permission granted is liable to be terminated forthwith.

11.5 In the event of security clearance of any of the persons associated with the permission holder or foreign personnel is denied or withdrawn for any reasons whatsoever, the permission holder will ensure that the concerned person resigns or his services terminated forthwith after receiving such directives from the Government failing which the permission granted shall be revoked and the company shall be disqualified to hold any such Permission in future for a period of five years.

## **12. VALUE ADDED SERVICES**

12.1 The permission holder shall be able to use his network for providing other value-added services which otherwise do not require any specific license or permission. Services which require a specific license or permission from the competent authority can only be provided after obtaining such permission. However the permission holder is required to give prior information of all value added services to be carried by it to the Ministry of Information and Broadcasting.

## **13. PROVISIONS WITH RESPECT TO EXISTING PERMISSION HOLDERS:**

13.1 Notwithstanding anything contained in the terms and conditions of permission issued earlier. These Guidelines will also be applicable to the existing permission holders.

13.1.1 The existing permission holders will be allowed to operationalise their services only after they give an undertaking supported by its Board resolution to Ministry of Information and Broadcasting to ensure compliance with all the provisions contained in the Guidelines within a period of three months from the issuance of these Guidelines which period may, at the discretion of the Government, be extended to a maximum of six months.

13.1.2 Existing permission holder will within a period of one month of the issuance of these Guidelines also submit a detailed plan for ensuring compliance to the provisions contained in guidelines. The existing permission holder will also have to deposit the non-refundable entry fee of Rs. 10 crores and submit proof of such deposition.

13.1.3 If compliance to provisions of 13.1 and 13.1.2 is not ensured by the existing permission holder within the stipulated time period the permission given earlier shall stand withdrawn.

13.1.4 The period of permission shall be ten years from the date of issuance of permission by Government of India as per pa 13.1.1 and 13.1.2.

## **14. TERMINATION OF PERMISSION**

### **14.1 Consequences of violation of terms and conditions of the Permission**

14.1.1 Subject to the provisions contained in paras 6.6, 6.7, 11.1, 11.4, 11.5 and 14.2 in the event of the company violating any of the terms and conditions of Permission, the Government shall have the right to impose the following penalties:

- (a) In the event of first violation, suspension of the Permission and prohibition of broadcast up to a period of 30 days.
- (b) In the event of second violation, suspension of the Permission and prohibition of broadcast up to a period of 90 days.
- (c) In the event of third violation, revocation of the Permission and prohibition of broadcast up to the remaining period of the Permission.
- (d) In the event of the failure of the Permission Holder to comply with the penalties imposed within the prescribed time, revocation of Permission and disqualification to hold any fresh Permission in future for a period of five years.

14.1.2 In the event of suspension/revocation of Permission, the Government shall not be responsible for any investment by the Permission Holder on the service or by any other party on the strength of his permission.

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

### **14.2 Termination for Non eligibility**

14.2.1 The Government may, at any time, terminate this Agreement and the Permission. without compensation to the Permission Holder

in case the company fails to meet the eligibility criteria as laid down in these Guidelines or its security clearance is withdrawn or liquidation proceedings are initiated or becomes bankrupt or otherwise insolvent or applies for being adjudicated insolvent / bankrupt, provided that such termination shall not prejudice or affect any right of action which has accrued or will accrue thereafter to the Government.

### **14.3 Termination for convenience**

14.3.1 The company may surrender the Permission, by giving an advance notice of one month to the Government as well as to all concerned/affected parties. It is clarified that the Company will not be entitled to claim any refund of the non-refundable Entry Fee already paid to the Government.

## **15. WPC WING'S PERMISSION**

15.1 As aforementioned, a separate specific license i.e. Wireless Operational License (WOL), shall be obtained by the applicant company from the WPC Wing of Ministry of Communications &IT, permitting utilization of appropriate frequencies/band for the establishment, maintenance and operation of the HITS platform/facility under usual terms and conditions of such license. The Grant of such License shall be governed by the rules, procedures and guidelines and shall be subject to compliance with all requirements of the WPC wing.

15.2 For this purpose, an application shall be made to the "Wireless Advisor to the Government of India, WPC Wing, Department of Telecommunications, Ministry of Communications &IT," in the prescribed application form.

15.3 License fee/royalty as prescribed by WPC from time to time, shall have to be paid by the company towards grant of License for usage of frequency spectrum.

15.4 The company shall not cause harmful interference to other authorized users of radio spectrum. WPC Wing will have the sole discretion to take practicable and necessary steps for elimination of harmful interference, if any, to other licensed users.

15.5 The Wireless Planning and Coordination Wing, Ministry of Communications & IT shall have the right to inspect from time to time the installation from technical angles to check conformity with Wireless Operational License conditions.

**16. PROCEDURE FOR APPLICATION AND GRANT OF PERMISSION:**

16.1 All applicant companies shall apply to the Secretary, Ministry of Information & Broadcasting, in triplicate, in the prescribed proforma alongwith a processing fee of Rupees One Lakh

16.2 On the basis of information furnished in *the* application form, if the applicant is found eligible for setting up of 1-ZITS service in India, the application will be subjected to security clearance of the company, Board of Directors, Managing Director, CEO and CFO in consultation with the Ministry of Home Affairs and for clearance of satellite use with the Department of Space.

16.3 After these clearances are obtained, the applicant would be required to pay a Non-Refundable Entry Fee of Rs.10 Crores to the Ministry of Information and Broadcasting.

16.4 After such payment of entry-fee, the applicant would be informed of intent of Min. of I & B to issue permission and requested to approach WPC for SACFA clearance.

16.5 After obtaining SACFA clearance, within one month of the same, the company will have to submit a Bank guarantee in desired format from any Scheduled Bank to the Ministry of Information and Broadcasting for an amount of Rs.40 *crores* valid *for a* period of three years.

16.6 After submission of this Bank Guarantee, the applicant would be required to sign a Grant of Permission Agreement with the Ministry of Information and Broadcasting as per prescribed proforma.

16.7 Thereafter the Ministry of Information and Broadcasting will issue permission to the applicant to provide HITS services in the country in accordance with the terms and conditions of the GOPA.

16.8 After signing of such agreement with the Ministry of Information and Broadcasting, the applicant will have to apply to the Wireless Planning & Coordination (WPC) Wing of the Ministry of Communications for seeking Wireless Operational License for establishment, maintenance and operation of HITS services.

16.9 All kinds of fees and other dues payable to the Government shall be deposited in the form of Demand Draft in favor of PAY & ACCOUNTS OFFICER, MINISTRY OF INFORMATION & BROADCASTING payable at New Delhi.

## **17. DISPUTES WITH OTHER PARTIES**

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

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

## **18. DISPUTE RESOLUTION AND JURISDICTION**

18.1 In the event of any question, dispute or differences arising between the Central Government and the company with respect to permissions issued under these Guidelines, the same shall be resolved before Telecom Disputes Settlement and Administrative

Tribunal as per the provisions of Telecom Regulatory Authority of India Act, 1997.

18.2 The courts at New Delhi shall have the jurisdiction over all disputes.

## **19. MISCELLANEOUS**

19.1 The grant of Permission/registration shall be subject to the condition that as and when any regulatory authority to regulate and monitor the Broadcast Services in the country is constituted, the company shall adhere to the norms, rules and regulations laid down by such authority.

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

19.3 The Government. Ministry of Information and Broadcasting shall have the right to modify at any time the provisions of these guidelines and/or the terms and conditions of permission, if in the opinion of the Government it is necessary or expedient to do so in public interest or in the interest of the security of the State. The decision of the Government shall be final and binding in this regard.

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