ASHA SWARUP
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सत्यमेव जयते

सचिव
SECRETARY
सूचना एवं प्रसारण
INFORMATION & BROADCASTING
भारत सरकार
GOVERNMENT OF INDIA

D.O. No.9/01/2005-BP&L-Vol.II

नई दिल्ली-1, तारीख 200
Dated New Delhi-1, the March 11, 2008 200

Dear Shri Mishra,

This is with reference to the recommendations of TRAI dated the 27th June, 2005 on the issues relating to Satellite Radio Service in the Country. The recommendations in the matter have been accepted by the Government with some modifications as indicated in Annexure-I. Based on these recommendations draft policy guidelines have been framed. A copy of the proposed draft guidelines is at Annexure-II.

2. It may also be noted that at present M/s World Space is providing satellite radio service in the country and the draft guidelines have provided for migration time frame for M/s World Space in order to enable them to comply with the policy guidelines. Now M/s World Space has approached, among other things, with a request that they may be granted five year time for disinvestment in favour of Indian shareholders so as to comply with satellite radio policy to be finalized. A copy of the said letter is also enclosed herewith.

3. In view of above, TRAI is requested to furnish its comments on the proposed draft Satellite Radio Policy Guidelines and request of M/s World Space to the Government at the earliest.

with regards,

Yours sincerely,

Encls: As above

(ASHA SWARUP)

Shri Nripendra Mishra
Chairman
Telecom Regulatory Authority of India
Mahanagar Doorsanchar Bhavan
Jawaharlal Nehru Marg
(Old Minto Road)
New Delhi-110002

Office of Joint Advisor (B & CS Division)
Diary No. 287
Date: 19.3.08

146/CP 18/3

Pl. examine & p/u. 18/3

SRO-I JA 19/3

Pr. Adv (B&CS
Kindly get it examined and pl put on file. 14/3

372

Annexure-I

Govt's stand on TRAI recommendations on satellite radio policy

Recommendation	Summary of recommendation	Policy provisions
5.1.1	There should be only one license for carriage and the licensee would be responsible to the licensor for content regulation.	Separate provisions have been made for permissions of Satellite Radio Service per se and permission and registration of radio channels.
5.1.2	There should be common rules for subscription as well as broadcast type services.	The policy provides for subscription based services only to take into account the apprehensions of FM radio operators.
5.1.3	AIR Programme and Advertisement codes should be made applicable to Satellite Radio also.	Provision has been made accordingly.
5.1.4	There should be no ban on News and Current Affairs for satellite radio.	News Broadcasts of AIR have been allowed to be carried by radio channels provided by Satellite Radio Service Operators. In addition provision has also been made for carriage of Prasar Bharati channels.
5.1.5	Government should encourage uplinking of Satellite Radio channels from the country. The precise policy framework should be common for both television and radio broadcasting. It is thus recommended that a common uplinking and downlinking policy should be evolved for both television and radio taking into account all aspects including security.	The draft policy is in line with TRAI recommendations and existing policy on Uplinking and Downlinking of Channels.
5.2	**Licensing**	

283

5.2.1	It would be desirable to provide a licensing framework now itself so that there is no uncertainty in the future either for the existing operator or for operators who may come in the future.	Draft Guidelines give the licensing framework in detail. Guidelines not only provide for permission of the satellite radio service but also gives a framework for registration of channels proposed to be carried on such service.
5.2.2	100% foreign ownership should be permitted.	74% Foreign investment limits have been proposed in line with that proposed for other platform services like Teleports, DTH operators, HITS to have a uniformity of approach.
5.2.3	It would not be appropriate to lay down any specific requirements for new operators at present, as and when a new application comes it should be scrutinized from the point of the technical/financial capability to execute the project.	Details as suggested have been incorporated in the Guidelines.
5.2.4	In the case of Satellite Radio the licence may be given for 10 years with a provision for an automatic extension for five years unless there are technical developments which require no such extension. In the case of the existing operator since operations have begun from 2000, it would be sufficient if the licence is given for a period of 10 years less the period of actual operations with an automatic extension of 5 years, subject to the condition indicated above.	Permissions both for satellite radio service and registration of channels have been provided for a period of 10 years. However no provision for automatic extension has been made for the satellite radio service. There is no similar provision either for DTH or for FM radio.
5.2.5	There should not be any entry fee for Satellite	A nominal fixed non-refundable entry fee of Rs 2.5 Crs

	Radio either for the existing operator or for any new operator, unless the numbers of applicants are such that there is excess demand for the available spectrum space in which case tenders may be invited on the lines recommended for FM Radio. This would be in line with the recommendations made in the case of FM Radio that where there is adequate supply of spectrum, there should be no entry fee.	has been provided. A DTH service provider is required to pay a non-refundable entry fee of Rs 10 Crs. FM radio operators are required to pay an entry fee as determine from the bidding process.
5.2.6	There should be no annual license fees as long as terrestrial repeaters are not permitted. Once these repeaters are permitted a revenue share of 4% of gross revenue generated in India should be imposed as has already been recommended for FM radio. As recommended by TRAI in the case of FM Radio a limit of 15 per cent could be imposed on agency commission for advertisements or collection of subscription.	An annual license fee to the tune of 4% of the Gross revenue is proposed .This will be on the Gross Revenue of the network services and not on the revenue earnings of the radio channels for which a fixed fee of Rs 2 lakhs is required to be paid for a period of ten years.
5.3	**Technical Considerations**	
5.3.1	The licensor need not mandate a particular transmission standard for any potential satellite radio service providers who should be free to decide their own preferred transmission standard subject to the approval by the licensor.	No specific transmission standard has been provided as of now.
5.3.2	While licensing, it should be made mandatory	Addressability has been provided

	for satellite radio operators to provide addressability to every subscriber, which is capable of blocking unwanted channel or group of channels.	
5.3.3	Initially, multi standard receivers which can be used with different transmission standards need not be mandated for potential satellite radio operators since it will only serve to increase the cost of the receiver and consequent adverse impact on the popularity of a new service.	It has been mandated that the company should provide both technical interoperability of digital addressable system based receiver sets and provide commercial interoperability so that consumer gets adequate choice to switch over to any other service provider in case he is not satisfied with its services.
5.3.4	The licenses to be granted to potential satellite radio service providers should allow for the evolution of services from the initial simple, audio/data broadcasting to include video, internet applications and other advanced services.	It has been provided that the permission holder shall be able to use the Satellite Radio network for providing other value-added services after permission for them has been specifically obtained from the competent authority.
5.3.5	A single license may be issued to provide satellite radio service and complementary terrestrial service to the potential service providers to efficiently plan the network in a seamless fashion to deliver quality of service to customers. This license should be issued to the Indian subsidiary only to ensure no legal complications in enforcing regulation and collection of license fees. The foreign ownership requirement for the terrestrial repeaters should follow the same regulatory approach as the satellite service. Another	Guidelines enable a satellite radio service provider to obtain permission for setting up of terrestrial repeaters in L band or Sband subject to terms and conditions which have been detailed in the Guidelines. The permission can be granted to a company registered in India only and not to a foreign company. It has also been provided that the permission so granted for terrestrial repeaters shall be for strictly re-transmitting channels/ programs carried by their respective satellite radio broadcast and no local programming or other type of interpolation will be permitted.

	condition to be imposed on the terrestrial repeaters is that they should be permitted only for the re-broadcast of their signal from the satellite and should not be allowed to broadcast locally inserted programmes.	

Annexure-II

No. 9/ 01/ 2005-BP&L

Government of India

Ministry of Information & Broadcasting

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New Delhi, the 2008

POLICY GUIDELINES FOR SATELLITE RADIO SERVICE

INTRODUCTION:

Satellite Radio Service refers to distribution of single or multi channel radio programmes in L or S Band by using a satellite system which provides encrypted radio signals direct to subscribers' receiver sets. The subscribers are able to receive the channels/ programmes of satellite radio service via fixed, portable or vehicular receive only radiosets equipped with small satellite antennas. For this, the Satellite Radio Service Provider may set up its own satellite radio network either by owning or leasing the teleport and the satellite transponders as well as the subscriber management system with marketing/distribution arrangement for the subscribers' receiver sets. The Satellite Radio service provider may use the network to provide its own registered radio channels and may also provide its satellite radio network to other broadcasters to broadcast their registered radio channels to its subscribers.

Ministry of Information & Broadcasting, Government of India has formulated these policy guidelines

(i) for issuing permissions to Companies to provide satellite radio service in India and setting up of network and infrastructure relating thereto,

(ii) for issuing permissions to Companies ,

a. to create their own Non-News and Current Affairs radio channels and get such channels registered for broadcast on satellite radio service network

b. to provide Non-News and Current Affairs radio channels owned by others and get such channels registered for broadcast on satellite radio service network

(iii) for providing a mechanism for registration of radio channels which companies may be permitted to own and/or provide as per (ii) above.

These Guidelines lay down the eligibility and other requirements for seeking such permission or registration and terms and conditions to be observed during the currency of such permission.

Consequently no person /entity shall provide the satellite radio service which has not been permitted by the Ministry of Information & Broadcasting under these guidelines or a satellite radio channel which has not been registered with the Central Government. Henceforth all persons /entities providing, or desirous of providing a Satellite Radio Service in India that may be uplinked from within the country or from other countries for public listening shall be required to obtain permission or registration as the case may be, from the Ministry of Information & Broadcasting in accordance with the procedure outlined and terms and conditions prescribed under these guidelines.

PART-I

SATELLITE RADIO SERVICE NETWORK PROVIDER

1. ELIGIBILITY CRITERIA:

1.1 Eligibility Criteria for Satellite Radio Service Provider :

1.1.1 The applicant seeking permission to set up a satellite radio service to uplink from India, or downlink from outside India, one or more registered satellite radio channels for broadcasting to subscribers in India must be a company incorporated in India and registered under the Companies Act 1956.

1.1.2 The applicant company must have a commercial presence in India with its principal place of business in India.

1.1.3 The following types of companies shall not be eligible to apply:

(a) A company controlled by or associated with a religious body;

(b) A company controlled by or associated with a political body;

Note 1: For the purpose of sub clause (a) above a religious body shall be:

i. A body whose objectives are wholly or mainly of a religious nature;

ii. A body, which is controlled by a religious body or an associate of religious body

Note 2: For the purpose of sub clause (b) above a political body shall be:

i. A body whose objects are wholly or mainly of a political nature;

ii. A body affiliated to a political body;

iii A body corporate, which is an associate of a body corporate controlled, held by, operating in association or controlling a body of political nature as referred above.

1.1.4 The applicant company must either own or lease the satellite radio network through which it proposes to broadcast the registered radio channels for public listening in India.

1.1.5 The applicant Company must enjoy exclusive marketing /distribution rights for the service, inclusive of the rights to the subscription revenues .

1.1.6 The applicant Company will not be eligible for seeking permission during the period of disqualification as provided in paras 10.1,10.5, 13.2.1 and 13.3.1

1.1.7 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 an yearly basis. Approval of Foreign Investment Promotion Board (FIPB) shall be required for any existing or proposed foreign investment in the company.

1.1.8 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.

1.1.9 Notwithstanding any thing contained in these guidelines, a Satellite Radio Service Provider who has already been providing such a service in India on or before the notification of these guidelines, shall be eligible to continue to provide such service and provide such channels as he was providing on the date of issuance of these guidelines for a maximum period of two years subject to the condition that such a service provider shall submit his plan to ensure compliance of the various provisions of these Guidelines to the Government within a period of two months from the date of issuance of these Guidelinesand shall come into compliance within two years of the date of issuance of these Guidelines, failing which the deemed permission shall lapse.

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

Item	Required Net Worth
For Teleport for single channel capacity	Rs.1.00 Crores
For Teleport with channel capacity from 2 to 6	Rs.1.50 Crores
For Teleport with channel capacity from7 to 10	Rs.2.50 Crores
For Teleport with channel capacity of 11 or more.	Rs.3.00 Crores
If the service provider owns or proposes to own the satellite as well, additional networth required	Rs.10 Crores per satellite

The Net Worth shall be calculated as per the proforma given in Annexure-I of these Guidelines and shall be certified by the Statutory Auditor of the company.

1.1.9 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.

2. PERIOD OF PERMISSION FOR SATELLITE RADIO SERVICE:

2.1 Permission for providing the Satellite Radio 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, subject to the condition that the WOL is obtained by the applicant company within one year from the date of issue of the permission. In the event of refusal of WOL or failure of the applicant company to obtain the WOL within the prescribed period, the permission shall automatically lapse unless otherwise extended by the competent authority for reasons to be recorded in writing.

2.2 The permission shall automatically lapse at the end of the period mentioned in para 2.1 above and the company shall have no rights whatsoever to continue to operate the service after the date of expiry.

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

2.4 The period of permission for the existing Satellite radio service provider will be 10 years from date of issuance of these Guidelines subject to the provisions of para 1.1.8.

3 PERMISSION AND REGISTRATION FEES FOR SATELLITE RADIO SERVICE

3.1 The applicant company shall pay a Non-Refundable Entry Fee of Rs.2.5 Crores before the issue of letter of intent to it. In addition, each company shall pay an annual permission fee equal to 4% of its Gross Revenue as defined in para 3.5 throughout the period of its permission.

3.2 The payment of Annual permission fee for the financial year (FY) shall be made on the basis of provisional accounts for the FY certified by the Statutory Auditors, within one month of the end of that FY.

3.3 Annual permission fee for the FY shall be finally determined on the basis of final annual accounts of the FY audited by the Statutory Auditors, which shall not be later than 30th September of the following FY. If the amount so determined is found to be higher than the amount already deposited as per para 3.2, the difference amount along with simple interest @ 1% per month on the difference for the period of delay calculated from 1st of May of the following FY upto and including the date of such payment shall be paid in one lumpsum within a period of 15 days from the date of finalization of audited accounts, or 15th October of the following FY whichever is earlier.

3.4 Where the total annual fee deposited as per para 3.2 is more than the amount determined on the basis of audited accounts of the FY, the difference may at the request of the licensee be adjustable against the annual licence fee due for the following FY.

3.5 Gross Revenue for this purpose would be the gross inflow of cash, receivables or other consideration arising in the course of ordinary activities of the Satellite Radio enterprise from rendering of services and from the use by others of the enterprise resources yielding rent, interest, dividend, royalties, commissions etc. Gross revenue shall, therefore, be calculated, without deduction of taxes and agency commission, on the basis of billing rates, net of discounts In the case of permission holder providing or receiving goods and service from other companies that are owned or controlled by the owners of the permission holder, all such transactions shall be valued at normal commercial rates and included in the profit and loss accounts of the permission holder to calculate its gross revenue.

3.6 Every permission holder shall maintain separate financial accounts for the service, which shall be audited by the Statutory Auditors. At the end of each financial year, the company shall provide the statement of gross revenue forming part of the final accounts of the permission holder as per the format in Form A (Annexure), duly certified by the Statutory Auditors. The income heads specified in Form A are only indicative and illustrative and the Auditor would include all the relevant heads qualifying for gross revenue whether or not specifically included in the said format. In addition, the income from the Related Parties shall have to tally with the Related Parties schedule as per Accounting Standards no. 18. Besides, the company shall disclose the following information at the end of each financial year, duly certified by the Statutory Auditor.

Total trade and other discounts.

Total agency commission.

Total Related party transaction.

3.7 So as to verify that the Gross Revenue is correctly disclosed to it, the Government of India shall have the right to get the accounts of any permission holder audited by CAG or any other professional auditors if so required. In case of difference between the Gross Revenue determined by the Statutory Auditors and the Government appointed auditors, the views of the government appointed auditor, subject to opportunity of hearing to the permission holder shall prevail and the expenses on such audit shall be borne by the permission holder.

3.8 In case any amount is to be deposited by the licensee as per provisions of para 3.7 it shall be deposited within 15 days of such determination along with simple interest at the rate of 1% per month for the period from 1st May following the FY for which such determination has been made, upto and including the date of payment.

3.9 Agency commissions for collection of subscription shall not be more than 15% of the subscription.

3.10 The existing operator will ensure payment of Non-Refundable entry Fee within a period of two months from the date of issuance of these guidelines and will be required to pay the annual permission fee as provided herein.

3.11 The company shall submit audited annual accounts of its commercial operations in India.

4. BANK GUARANTEE

4.1 The applicant company shall, before the signing of GOPA, submit to the Ministry of I & B, a Bank Guarantee from any Scheduled Bank in the format notified, for an amount of Rs.10 crores valid for the duration of the permission.

4.2 The Government shall be at liberty to encash the Bank Guarantee in full or in part in the event of non-payment of the annual fee or any fine in violation of any of the conditions of permission as provided .In the event of invocation of the Bank Guarantee, the company shall furnish a fresh bank guarantee of the same amount within a period of one month from date of invocation of the Bank Guarantee.

5. BASIC CONDITIONS AND OBLIGATIONS OF SATELLITE RADIO SERVICE NETWORK PROVIDER

5.1 Satellite radio service provider shall be able to carry only the following types of radio channels on its service:

(i) Non-News and Current Affairs radio channels registered with Government of India as per provisions contained in Part-II of these Guidelines.

(ii) The news broadcast of All India Radio(AIR) as mutually agreed between the service provider/radio channel and AIR.

(iii) channels of Prasar Bharati as provided in paras 5.13 and 5.14

5.2 Satellite Radio service shall be encrypted and receivable only through a digital addressable system and provided on subscription basis.

5.3 The company shall not carry any radio channels prohibited or not registered with the Ministry of Information & Broadcasting.

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

(i) Refused access on a non-discriminatory basis to another satellite radio service provider contrary to the rules , regulations etc. governing the radio broadcasting in India

(ii) Refused to carry channels made mandatory for such carriage

(iii)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 radio channel broadcaster has been found to be in violation of the above conditions or not. If any violation so comes to its notice, the permission holder shall forthwith discontinue carrying the radio channels of such broadcaster.

5.5 The company shall ensure that each of the channels carried by it follows the same Programme Code as followed by All India Radio as amended from time to time or any other applicable code, which the Central Government may prescribe from time to time.

5.6 The company shall be responsible for any violation of the Programme and advertisement Code in case of those channels that are owned or got registered by it. However, in the case of violations of the Programme and advertisement Code by other channels which are owned or got registered by other broadcasters or service providers and which are merely carried by it on its network, the responsibility will lie with such broadcasters. The Permission holder Company shall immediately discontinue carrying such channels on being so directed by the Central Government or any other competent regulatory authority.

5.7 The company shall not carry any commercial advertisements on its service except a maximum of two minutes per hour of promotional material about the satellite radio service and the channel(s) carried by it on any of the channels carried by it.

5.8 The company shall provide access to various content providers/radio channels on a non discriminatory basis.

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

5.10 The company shall ensure that its facilities are not used for transmitting any objectionable content, messages or communication inconsistent with the laws of India or widely accepted practices in this regard..

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

5.12 The Company shall ensure its continued eligibility as applicable through out the period of permission and adhere to all the terms and conditions of the permission, failing which the company shall be liable for penalty as specified in Para 14.4 below.

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

5.14 The Permission Holder shall carry other radio channels of Prasar Bharati on the most favorable financial terms offered to any other channel. No Permission Holder shall carry or retransmit either the free-to-air radio channels or the audio of any of the free-to-air TV channels of Prasar Bharati/AIR/Doordarshan without a specific authorization from Prasar Bharati /AIR/Doordarshan.

6. MANDATORY SHARING OF CERTAIN BROADCAST SIGNALS WITH PRASAR BHARATI

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

7. TECHNICAL STANDARDS AND OTHER OBLIGATIONS

7.1 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.

7.2 The company can uplink either in L or S Band. 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 INSAT System.

7.3 The service provider will be allowed to adopt any technology with the condition that the technology to be deployed for providing such service shall be based on standards issued by International Telecommunication Union (ITU), Telecom Engineering Centre of India (TEC) or any other International Standards Organization/ body such as the European Telecommunications Standards Institute (ETSI) or any other standardization organization/ body specified by the Government of India.

7.4 The company should provide technical compatibility and effective interoperability of receiver sets among different service providers using the same technology and standards. They should also provide commercial interoperability 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 receiver set on such terms and conditions as may be laid down by regulations issued by TRAI.

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

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

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

7.8 All content provided by the Satellite radio 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.

8. MONITORING AND PUBLIC COMPLAINTS

8.1 The company at its own cost shall,

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

(b) 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.

8.2 The company shall submit such information with respect to its broadcast as may be required by the Government or its authorized representative from time to time.

8.3 The company shall furnish any such information at periodic intervals as may be required by the Government or its authorized representative concerning Programme Content and Quality, Technical Parameters etc. relating to the broadcast in the format as may be required by the Government or its authorized representative from time to time.

9. INSPECTION

9.1 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 companies activities and operations.

9.2 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.

10. NATIONAL SECURITY AND OTHER CONDITIONS

10.1 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 its channels for a specified period in public interest or 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 reduction of annual fee.

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

10.3 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, consultancy or in any other capacity for installation, maintenance , operation or any other services prior to their deployment.

10.4 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.

10.5 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.

11. VALUE ADDED SERVICES

11.1 The permission holder shall be able to use the Satellite Radio network for providing other value-added services after permission for them has been specifically obtained from the competent authority.

12. USE OF TERRESTRIAL REPEATERS

12.1 Satellite radio network may be complemented by setting up of terrestrial transmitters strictly for re-transmitting channels carried by the satellite radio sservice for providing a complementary coverage in areas where satellite signals need to be augmented for technical reasons only.

12.2 The terrestrial repeaters will be permitted to operate on L or S frequency band.

12.3 The permission for installation and operation of such terrestrial repeaters will be given by the Wireless Planning and Coordination(WPC) Wing in the Department of Telecom. The company shall have to apply to WPC wing giving the number, location, height, transmitter power and other details of the proposed terrestrial repeaters as may be required by them and fulfill all conditions for such permission.

12.4 WPC may grant or refuse permission on a case to case basis.

12.5 Permission so granted for terrestrial repeaters shall be for strictly re-transmitting channels carried by the satellite radio service and no local programming or other type of interpolation will be permitted.

12.6 The company shall keep the Ministry of Information and Broadcasting informed about the number and location of terrestrial repeaters permitted to it by WPC within 15 days of recipt of such permission.

12.6 Permission for using the terrestrial network of Prasar Bharati as terrestrial repeaters may be given preferential treatment.

12.7 Use of terrestrial repeaters without prior approval of Government shall be deemed as violation of terms and conditions of permission and the Central Government in the Ministry of Information and Broadcasting may, by giving an opportunity of being heard, suspend or revoke the permission agreement and take other punitive action as per the laws of land and permission agreement.

13. TERMINATION OF PERMISSION

13.1 Consequences of non-operationalization.

13.1.1 The company shall operationalise the service as per the time limit laid down in para 2.1 of these guidelines; failing which the Permission will be liable to be revoked.

13.2 Consequences of misuse and non-compliance with directives

13.2.1 In the event of a Permission Holder using or letting its facilities being used for transmitting any unauthorized content, messages or communication, 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.

13.3 Consequences of violation of terms and conditions of the Permission

13.3.1 Subject to the provisions contained in paras 10.1 ,10.5, 13.2 above, 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.

13.3.2 In the event of suspension/revocation of Permission, the Permission holder will lose the Permission Fee for unutilized period. 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.

13.3.3 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.

13.4 Termination for Non eligibility

13.4.1 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.

13.4 Termination for convenience

13.4.1 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. However, in such a case, permission fee for the unutilized period would not be refunded.

14. WPC WING'S PERMISSION

14.1 As aforementioned, before operating the service or a terrestrial repeater a separate specific license i.e. Wireless Operational License, shall be obtained by the company from the WPC Wing of Ministry of Communications &IT, permitting utilization of appropriate frequencies/band for the establishment and operation of concerned wireless component of satellite Service under usual terms and conditions of such license. The Grant of such License shall be governed by the rules, procedures and guidelines and shall be subject to compliance with all requirements of the WPC wing.

14.2 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.

14.3 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.

14.4 The company 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.

14.5 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.

15. PROCEDURE FOR APPLICATION AND GRANT OF PERMISSION:

15.1 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

15.2 On the basis of information furnished in the application form, if the applicant is found eligible for setting up of Satellite Radio 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.

15.3 After these clearances are obtained, the applicant would be required to pay an Non-Refundable Entry Fee of Rs.2.5 Crores to the Ministry of Information and Broadcasting.

15.4 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.

15.5 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.10 crores valid for the duration of the license.

15.6 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 .

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

15.8 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 Satellite Radio Service network.

15.9 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.

PART II

(Permission to companies for creating their own and/or seeking registration of non 'news and current affairs' satellite radio channels broadcast either from India or abroad)

16 Eligibility criteria for companies :

16.1 A 'Non-News & Current Affairs Channel' means a channel that does not have any element of news and current affairs in its programme content except the news broadcast of AIR.

16.2 The entity applying for permission for registering a radio channel, must be a Company incorporated in India and registered under the Companies Act 1956, irrespective of its ownership, equity structure or management control.

16.3 The applicant company must have a commercial presence in India with its principal place of business in India.

16.4 The following types of companies shall not be eligible to apply:

(a) A company controlled by or associated with a religious body;

(b) A company controlled by or associated with a political body;

Note 1: For the purpose of sub clause (a) above a religious body shall be:

i. A body whose objectives are wholly or mainly of a religious nature;

ii. A body, which is controlled by a religious body or an associate of religious body

Note 2: For the purpose of sub clause (b) above a political body shall be:

i A body whose objects are wholly or mainly of a political nature;

ii A body affiliated to a political body;

iii A body corporate, which is an associate of a body corporate controlled, held by, operating in association or controlling a body of political nature as referred above.

16.5 The applicant company will not be eligible for seeking permission during the period of disqualification as provided in paras 10.1,10.5,21.2.1 and 21.3.1.

16.6 The applicant company must either own the registered radio channel/s it proposes to broadcast in India or must enjoy exclusive marketing/distribution rights for the same throughout the territory of India, inclusive of the rights to the subscription revenues for the service and the right to conclude contracts on behalf of the channel for subscription and program content and must submit adequate proof at the time of application.

16.7 Further, the applicant company should have a minimum Net Worth as prescribed below:

Item	**Required Net Worth**
For each Non-News and Current Affairs Channel	Rs 50 Lakhs

16.8 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 applicant company shall give intimation to Ministry of I & B regarding change in the directorship, key executives or foreign direct investment in the company, within 15 days of such a change taking place.

17. ELIGIBILITY CRITERIA FOR REGISTRATION OF CHANNELS FOR BEING CARRIED ON SATELLITE RADIO SERVICE FOR PUBLIC LISTENING IN INDIA

17.1 Only Companies permitted/eligible for permission to create their own radio channels and/or seek registration as per Para 16 above, shall be eligible to apply for registration of channels.

17.2 The foreign channel must be licensed or permitted for being broadcast by the regulatory or licensing authority of the country of transmission, proof of which would have to be submitted at the time of application.

17.3 The channel being registered should not have been de registered under para 21.3.1 of these guidelines at the time of application.

17.4 No Indian or foreign News and Current affairs channels, except as provided in paras 5.13 and 5.14, will be allowed to be registered for being carried on Satellite Radio service.

17.5 Radio channels that are being carried at present and are otherwise permissible under these guidelines to be carried on satellite radio service will be required to be registered within one year from date of issuance of these guidelines by either the satellite radio service provider or the company which seeks to provide such channels for broadcast over the satellite radio service network.

17.6 The company shall not carry any commercial advertisements on its channels except a maximum of two minutes per hour of promotional material about the channel(s) and the satellite radio service on which it is carried [illegible]

18. GRANT OF PERMISSIONS AND REGISTRATION OF CHANNELS:

18.1 There will be no restriction on the total number of satellite radio channels to be registered by any company which fulfils the necessary terms and conditions and eligibility criteria as laid herein.

18.2 A single permission for every Applicant Company shall be issued irrespective of the number of channels proposed to be provided/registered by the Company subject to other conditions laid down. However the Applicant Company shall have to get registration of each channel as per the procedure laid down by the Government of India.

18.3 The period of permission to a company for providing one or more satellite radio channels shall be ten years for which a permission fee of Rupees Two Lakhs shall be paid by the company along with the application form. Such permission may be extended for a similar period from time to time subject to payment of the prescribed fee.

18.4 The period of registration of a satellite radio channel shall also be ten years for which a registration fee of Rupees Two Lakhs shall be paid by the applicant company alongwith the application form. Such registration may be extended for a similar period from time to time subject to the payment of the prescribed fee.

19. BASIC CONDITIONS/OBLIGATIONS

19.1 The Company permitted to register radio channels shall ensure compliance with the same Programme Code as followed by All India Radio as amended from time to time or any other applicable code, which the Central Government may prescribe from time to time.

19.2 No channel shall broadcast any programme which may amount to religious or political propaganda.

19.3. The applicant company shall provide Satellite Radio Channel signal reception decoders only to Satellte Radio Service Providers permitted by Government of India under these Guidelines.

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

19.5 The applicant company seeking permission to broadcast a radio channel shall operationalise the channels within one year from the date of the permission/registration being granted by the Ministry of I&B, failing which the permission/regiatration will be liable to be withdrawn without any notice in this regard. However, the company shall be afforded a reasonable opportunity of being heard before such a withdrawal.

19.6 The Permission Holder shall also broadcast Public Interest Announcements as may be required by the Government of India, the Ministry of Information and Broadcasting for a maximum of one hour per day.

19.7 Usage of facilities/infrastructure like VSAT links, optical fibre links etc. for collection and point to point transfer of radio channel for broadcast purposes, shall be subject to approvals, if any, required from the competent authority in the Ministry of Communication and information Technology.

19.8 The company shall abide by the provisions of paras 8, 9 and 10.

20. PROCEDURE FOR APPLICATION AND GRANT OF PERMISSION/ REGISTRATION:

20.1 All applicant companies shall apply to the Secretary, Ministry of Information & Broadcasting, in triplicate, in the prescribed proforma alongwith a processing fee of Rupees ten thousand.

20.2 On the basis of information furnished in the application form, if the applicant is found eligible for providing a Satellite Radio Channel 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.

20.3 After the clearance is obtained, the applicant would be required to pay a Permission Fee of Rs.2 lakhs for permission to the company and Rs 2 lakhs each

for the channels proposed to be registered in its name, to the Ministry of Information and Broadcasting.

20.4 After such payment of entry-fee, the applicant would be informed of intent of Min. of I & B to issue permission and requested to sign a Grant of Permission Agreement with the Ministry of Information and Broadcasting as per prescribed proforma .

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

20.6 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.

21. TERMINATION OF PERMISSION

21.1 Consequences of non-operationalization.

21.1.1 The company shall operationalise the channel as within one year from the signing of GOPA failing which the Permission will be liable to be revoked.

21.2 Consequences of misuse and non-compliance with directives

21.2.1 In the event of a channel found to have been/being used for transmitting any objectionable unauthorized content, messages, the permission granted shall be revoked and the company shall be disqualified to hold any such permission for a period of five years, apart from liability for punishment under other applicable laws. Further, the registration of the channel shall be revoked and the channel shall be disqualified from being considered for fresh registration for a period of five years.

21.3 Consequences of violation of terms and conditions of the Permission

21.3.1 Subject to the provisions contained in Para 6.1 of these guidelines, in the event of a permission holder and/ or channel violating any of the terms and conditions of permission, or any

other provisions of the guidelines, the Ministry of Information and Broadcasting shall have the right to impose the following penalties: -

(a) In the event of first violation, suspension of the permission of the company and/or registration of the channel and prohibition of broadcast up to a period of 30 days.

(b) In the event of second violation, suspension of the permission of the company and/or registration of the channel and prohibition of broadcast up to a period of 90 days

(c) In the event of third violation, revocation of the permission of the company and/or registration of the channel and prohibition of broadcast up to the remaining period of permission

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

21.3.2 In the event of suspension/revocation of Permission and/or registration of the channel, the Permission holder will lose the Permission/registration Fee for the unutilized period. 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 the permission/registration.

21.3.3 Any suspension/revocation mentioned above 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.

21.4 Termination for Non eligibility

21.4.1 The Government may, at any time, terminate this Agreement and the Permission and/or Registration, 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.

21.5 Termination for convenience

21.5.1 The company may surrender the Permission and/or Registration of a channel or channels, by giving an advance notice of one month to the Government as well as to all concerned/affected parties. However, in such a case, permission/registration fee for the unutilized period would not be refunded.

PART-IV

22. DISPUTES WITH OTHER PARTIES

22.1 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.

23. DISPUTE RESOLUTION AND JURISDICTION

23.1 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.

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

24. MISCELLANEOUS

24.1 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.

24.2 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 which has or may come into force.

24.3 The Government shall have the right to modify at any time the provisions of these guidelines and/or the terms and conditions of permission/registration, 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.

Annexure-I

FORMAT FOR CERTIFICATE OF NET WORTH BY STATUTORY AUDITORS.

We have audited the Books of Accounts of _____for the financial year/period ended month-day-year 2007 and certify that the "Net Worth" of M/s_____ the Applicant Company as on _____2007 is Rupees_____lacs (rupees in words lacs). We further certify that the Net Worth of the Applicant Company is computed as follows:

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

Place/Date

Statutory Auditors

Note:

NET WORTH

The excess of the book value of assets (other than fictitious and intangible assets of an enterprise over its liabilities. This is also referred to as Net assets or shareholder's funds

Book Value of assets

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

Fictitious assets.

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

Liabilities

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

Annexure-II

FORM –A

STATEMENT OF GROSS REVENUE FORMING PART OF THE FINAL ACCOUNTS OF M/S. ----------.

SL. N.	Income Heads	Tariff rate/ rate card	Discounts		Agency commission	Taxes	Net as per P & L a/c
			trade	others			
							[Amount Rupees in lacs]
		A	B	C	D	E	F
1.	Subscription revenues						
2.	Sale of receiver sets other hardware, etc.						
3.	Rent –Premises						
4.	Rent-Equipment						
5.	Interest/Dividend						
6.	Related Party Transactions						
7	Goods sold						
8	Services tendered						
9	Others						

Note:

1. The income heads are only indicative and illustrative and the Auditor would include all additional income in the relevant Heads of the Permission holder
2. The income from the Related Parties shall tally with the Related Parties as per accounting standards no.18.
3. Additional columns may be introduced in the format if required.
4. Column F is the total revenue as per profit and loss account. To arrive at the Gross Revenue as per column the taxes,agency commissions as applicable are to be added.

Gross Revenue(A) = B+C+D+E+F

Gross Revenue for Annual Fee @ 4%=(A-(B+C))x4%