



Telecom Regulatory Authority of India

Recommendations

On

Ease of Doing Business in Broadcasting Sector

New Delhi, India

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CHAPTER 1

BACKGROUND

- 1.1 The Government of India has launched an ambitious program of reforms, aimed at making it easier to do business in India. The program aims to identify the bottlenecks in business registration and compliance process. Once such impediments are identified, the new approach enjoins the policymakers to revise the processes and make them more business friendly. The efforts have yielded positive results and India is now ranked at 100th position, as per the World Bank's Doing Business Report 2018¹. However, there is still huge scope for further improvement.
- 1.2 The Broadcasting sector in India has seen an impressive growth over the last decade. Both the Government and the Authority have strived to provide a conducive policy and regulatory environment. This has helped in establishing a level playing field for the stakeholders of the Broadcasting industry, enabling the industry to prosper and flourish. Now, the Indian broadcasting landscape presents a vibrant picture with presence of a large number of TV and Radio channels with multiple distribution platforms. Subscribers of TV broadcasting services are receiving a large number of TV channels with better 'Quality of Service' (QoS). While the Broadcasting sector has been replete with success in recent years, the Authority is of the view that the sector has immense potential to move on a higher trajectory of growth. This can be achieved by removing procedural bottlenecks further, and by making business proposition more attractive. It would increase the diversity of content at better quality thereby enhancing the choices to consumers.
- 1.3 To facilitate ease of doing business in the Broadcasting sector, it is imperative that the procedural framework for grant of permission/ registration/ licenses is simplified. It entails review of the existing

¹<http://www.doingbusiness.org/~media/WBG/DoingBusiness/Documents/Annual-Reports/English/DB2018-Full-Report.pdf>

processes and compliance requirements, introduced over a period of time. The processes, which do not lead to value addition or which do not help in meeting the stated objectives of the policy, need to be identified and done away with. Further, the processes which are inefficient and can be made efficient with use of ICT (Information and Communication Technologies), should be re-engineered. The objectives of this exercise are in alignment with the Government policy to transform G2B (Government to Business) transactions using ICT. The Authority is of the view that the objectives of the policy framework can be better achieved using simpler and efficient but robust processes. The Government has enabled the citizens by promoting use of self-attestation and self-certification and doing away with hassle of submitting affidavits. In a similar approach, the companies while submitting the registration/ permission request can be allowed to self-certify the information. And, to prescribe strict action including severe penalties in case of detection of any malfeasance.

1.4 In view of the above, the Authority *suo motu* issued a pre-consultation paper² on 19th April 2017 to identify relevant issues which need to be addressed for ease of doing business in the Broadcasting sector, with the following objectives:-

(a) To review various policy issues related to the Broadcasting sector with a view to create a conducive and business friendly environment in the sector.

(b) To identify procedural bottlenecks that affect ease of doing business in Broadcasting sector and recommend measures for simplifying the rules, regulations and bring more transparency and clarity in the policy and framework of the Broadcasting sector.

(c) To remove entry barriers by putting in place a well defined and transparent procedures and processes thereby creating level playing field and competition in the sector.

² The Pre-Consultation paper is available on TRAI website www.trai.gov.in

(d) To facilitate innovation and technology adoption in the sector for providing better quality of services to the consumers.

(e) To steer further growth of the sector by attracting investment through investor friendly policies.

(f) To promote indigenous manufacturing of broadcasting equipments.

1.5 In response to the pre-consultation paper, eighteen (18) comments were received from stakeholders. Pursuant to analyses of the comments/suggestions, a detailed Consultation Paper on '[Ease of Doing Business in Broadcasting Sector](#)³ was issued on 31st July 2017. The paper sought suggestions for possible improvements in various processes that establish a more business friendly environment in the sector. The last date for submission of the comments was 11th September 2017 and that of the counter comments was 18th September 2017. The Authority received 32 comments and 1 counter-comment. All the comments and counter-comments are available on TRAI website⁴. Subsequently, an open house discussion was held on 1st November 2017, in Delhi, to seek the views of the stakeholders on various issues.

1.6 Based on the inputs received from stakeholders and internal analysis, these recommendations have been framed. Chapter 2 deals with evolution of policy framework in the Broadcasting sector. Chapter 3 deals with various issues raised in the Consultation Paper and recommendations by the Authority. All recommendations have been summarized in Chapter-4.

³http://traigov.in/sites/default/files/CP_ease_of_doing_31072017l.pdf

⁴<http://traigov.in/consultation-paper-issues-related-digital-radio-broadcasting-india>

CHAPTER 2

EVOLUTION OF POLICY IN BROADCASTING SECTOR

- 2.1 Radio and TV Broadcasting sector in India has had an eventful journey. Radio broadcasting in the country was consolidated in 1936 when the erstwhile Indian State Broadcasting Service, was renamed as All India Radio (AIR). AIR has come long way since then and it has a network of 140 Medium Wave (MW), 48 Short Wave (SW), 474 Frequency Modulation (FM) transmitters and about 37 digital transmitters⁵. In addition to AIR, 322 private FM channels are operational in the country spread over 86 cities by 34 private FM radio broadcasters⁶. Also, 214 community FM radio stations⁷ operated by community based organizations including NGOs and Universities are catering to the local needs of communities.
- 2.2 TV broadcasting in India commenced on 15 September 1959 with experimental transmission of terrestrial TV signal. Subsequently regular TV broadcasts started in 1965. Major expansion of terrestrial TV services took place around 1982 when National Telecast and color TV transmission were introduced. Terrestrial TV broadcasting continues to be in exclusive domain of Doordarshan, part of the public Broadcaster, Prasar Bharati. It has 67 TV production centers, 1411 terrestrial TV transmitters, operating 30 TV channels and a free to view DTH platform⁸.
- 2.3 The cable TV market in India emerged in the early 1990s. The Government promulgated the Cable Television Networks (Regulation) Ordinance 1994 in order to regulate operations of cable TV networks. Subsequently the Cable Television Networks (Regulation) Act, 1995 was brought into force with effect from 25th March, 1995 by replacing

⁵ Source: <http://allindiaradio.gov.in/Profile/Facts%20at%20Glance/Pages/default.aspx> as on 24.01.2018

⁶ As on 30th Sept 2017

⁷ As on December 2017

⁸ As per DD website www.ddindia.gov.in as on 24.01.2018

the Ordinance. This paved the way for the regulatory framework in the cable TV sector and digitization of cable TV distribution networks.

- 2.4 Digitization of cable TV networks was mandated by the Government to address various constraints of analog cable TV networks. The Cable Television Networks (Regulation) Act, 1995 was amended in 2011 to facilitate this process. The cable TV digitization has been completed in March 2017 ushering a new era in cable TV broadcasting.
- 2.5 Ministry of Information and Broadcasting (MIB) issued the policy framework for satellite TV broadcasting vide the 'Guidelines for Uplinking from India', notified in July, 2000. This was followed by 'Guidelines for Uplinking of News and Current Affairs TV Channels from India', issued in March, 2003. Subsequently 'Guidelines for use of Satellite News Gathering (SNG)/Digital Satellite News Gathering (DSNG)' were issued in May 2003. The Government further amended these guidelines on October 20, 2005. All the guidelines were consolidated and one set of 'Uplinking Guidelines' (both 'News & Current Affairs' and 'Non-News & Current Affairs' categories) were notified on December 2, 2005. The consolidated guidelines were further amended and notified in 2011. The consolidated guidelines also include the permission process for setting up of Uplinking Hub/Teleports in India.
- 2.6 The policy guidelines for downlinking of satellite TV channels for public viewing were issued in November 2005. The Government amended these guidelines in December 5, 2011. Consequently, no person/entity shall downlink a channel, which has not been registered by MIB under these guidelines.
- 2.7 The Government issued policy guidelines for Direct-To-Home (DTH) broadcasting services in India on 15.3.2001, which marked the beginning of private DTH services in India. At present there are 7 DTH operators including one free to view DTH service offered by Prasar Bharati.

- 2.8 Internet Protocol Television (IPTV) Services in India are regulated as per the 'Guidelines for provisioning of IPTV services' issued by MIB on 8.9.2008. These guidelines enable distribution of TV channels using managed IP networks.
- 2.9 Policy guidelines for Headed-in-the-sky (HITS), issued in 2009, is another milestone in the policy evolution in Broadcasting sector. As of now, one service provider distributes TV channels using HITS technology.

CHAPTER 3

ISSUE WISE ANALYSIS

- 3.1 As mentioned in Chapter 1, the Authority, *suo motu*, issued a pre-consultation paper to indentify relevant issues which need to be addressed for ease of doing business in the Broadcasting sector. Subsequently, on 31st July 2017, a detailed Consultation Paper was issued, seeking suggestions of the stakeholders, for possible improvement in various processes, to create business friendly environment in the sector. In response to the consultation papers, many stakeholders have commented that the existing processes for grant of permission/ license/ registration are manual and require a re-design. The comments/ suggestions received from various stakeholders have been examined in subsequent paragraphs.
- 3.2 In order to decide, whether a process being followed for implementation of a policy is efficient enough or requires re-consideration and re-engineering, it can be evaluated from three perspectives:- a) whether each step in the process has relevance with the stated objectives?; b) whether each step in the process leads to value addition?; and c) whether the process is efficient enough to ensure timely decision making? Cumbersome processes and multi-layered decision making do not always result in effective evaluation and monitoring. Accordingly, if certain steps in the process do not have any relevance with the stated objectives or there is no stated objective corresponding to a particular step being followed, then such step can either be removed or redesigned to achieve the desired policy objective. Similarly, if a process does not significantly contribute towards the objectives, but puts onerous responsibility of reporting, compliance and monitoring, then such process can be done away with or optimized. ICT can be leveraged to optimize the processes making it easier to report/ monitor, thereby improving overall efficiency. Effecting such procedural changes would enhance the productivity,

and in-turn result in a win-win situation, both for the Government as-well-as the stakeholders. The Authority is of the view that such procedural changes should be adopted swiftly. If the existing procedure meets all three criteria mentioned above, there is no necessity to change the same. A summary assessment of processes followed for grant of permission/license/registration for broadcasting services is provided in the table at the end of this document **(Annexure-I)**.

3.3 From summary of processes listed in the table, it can be seen that the procedure to grant permissions and licenses for satellite TV channels, teleport services, and DTH services involves multiple agencies i.e. Ministry of Information and Broadcasting (MIB), Ministry of Home Affairs (MHA), Department of Space (DoS), Department of Revenue (DoR) and Wireless Planning & Coordination (WPC) and Network Operating and Control Center (NOCC) wings of Department of Telecommunication (DoT). In all these cases, it is essentially a two stage process, where in the first stage, MIB, after considering the inputs of MHA, DoS, and DoR, takes decision to issue permission/ Letter of Intent (LOI) for broadcasting services, as applicable. In the second stage, on the basis of permission/ LOI granted by MIB, respective applicants approach WPC and NOCC for frequency allocation, grant of WOL, and operationalization of services. As the procedure for different broadcasting services differ slightly, the issues have been analyzed separately in the following sequence:

- A. Grant of permission for uplinking and downlinking of satellite TV channels by MIB
- B. Grant of permission for teleport services by MIB
- C. Grant of license for DTH services by MIB
- D. Frequency allocation and grants of WOL by WPC, and permission to operationalize of broadcast services by NOCC
- E. Time frame to grant permissions and licenses by MIB and WPC

3.4 Thereafter, remaining issues have been discussed in the following sequence:

- F. Change in Name, Logo, Language and Format of satellite TV Channel
- G. Temporary uplinking of live coverage of events/ sporting event
- H. Renewal of permission for satellite TV channel
- I. Open sky policy for Ku band
- J. Registration / renewal to provide cable TV services
- K. Private FM Radio/ Community Radio
- L. Indigenous manufacturing
- M. Trials for new technologies
- N. Miscellaneous issues

A: Grant of permission for uplinking and downlinking of satellite TV channels by MIB

3.5 TV channels beamed on earth using satellites are referred to as satellite TV channels. As mentioned in the previous chapter, for regulating the business of satellite TV channel broadcasting in India, the Central Government has laid down “Policy Guidelines for Uplinking of Television Channels from India”⁹ (hereinafter referred to as **uplinking policy guidelines**) and “Policy Guidelines for Downlinking of Television Channels” (hereinafter referred as **downlinking policy guidelines**) both dated 5th December 2011¹⁰. These guidelines are attached as **Annexure II and III**.

3.6 Under the uplinking policy guidelines, MIB issues permission to Indian companies for uplinking of TV Channels (For both 'News & Current Affairs' and 'Non-News & Current Affairs' categories). A company, having uplinking permission for a TV channel from India, is

⁹ These guidelines are available on www.broadcastseva.com

¹⁰ <http://broadcastseva.gov.in/Landing%20Page%20Documents/Satellite%20TV%20Channels-2017-5-19/FinalUplinkingGuidelines05.12.2011.pdf> and http://broadcastseva.gov.in/Landing%20Page%20Documents/Satellite%20TV%20Channels-2017-5-19/Downlinking_Guidelines05.12.11.pdf

also required to seek permission and registration for downlinking of that channel, if the same is required to be downlinked in India for public viewing. However, a channel, which is permitted to uplink from India and caters to only foreign viewers (not available for viewing in Indian territory), is not required to be registered under the downlinking policy guidelines.

3.7 As per the downlinking policy guidelines, no person/ entity shall downlink a channel, which has not been permitted by MIB. These guidelines envisage two kinds of permissions. The first kind of permission is required for downlinking a satellite TV channel, uplinked from outside India. The second kind of permission is for allowing downlinking of a satellite TV channel, uplinked from India.

3.8 Thus, as per the policy guidelines, the Central Government issues the following types of permissions for a satellite TV channel :

- i. Uplinking only permission,
- ii. Downlink only permission/registration, and
- iii. Both uplinking and downlinking permission/ registration.

3.9 To analyze the issues, it may be worthwhile to understand the procedure which is followed by MIB for grant of permissions to the broadcasters for uplinking and/or downlinking of satellite TV channels.

Procedure for granting uplinking permission to satellite TV channel

3.10 As per the uplinking policy guidelines (Annexure-II), the applicant seeking permission to uplink a satellite TV channel from India, should be a company registered in India, under the Companies Act. The applicant company should have a minimum net worth as prescribed in clause 2.1.2 and 3.1.13 of the uplinking policy guidelines. As per the procedure for obtaining permission, specified under these guidelines, the applicant company is required to apply to MIB in the prescribed form (Form 1) along with the processing fee and requisite

documents. At the time of submitting application, the applicant company should have valid agreements with a licensed Teleport operator and a satellite provider for transmission of signal of TV channels to the satellite and these agreements are required to be attached with the application form.

- 3.11 Clause 9, of the uplinking policy guidelines, specifies the procedure for obtaining permission under these guidelines. As per the specified procedure, the application is sent to MHA for security clearance and to DoS for clearance of satellite use (wherever required). After receipt of these clearances, and on submission of requisite fee and Performance Bank Guarantee, as applicable, the company is required to sign an agreement titled as “Grant of Permission Agreement”. Thereafter, MIB issues a formal permission for uplinking of satellite TV channel to the Company. On the basis of this permission, the applicant company or its associated Teleport operator applies to WPC and NOCC, Ministry of Communications for requisite license/clearances before starting transmission of signals to satellite.
- 3.12 However, as per the comments received from stakeholders and discussions with MIB officials, presently the procedure followed by MIB for granting the permission for uplinking of a satellite TV channel is as follows:
- i. On receipt of an application, MIB refers the same to the MHA for security clearance of the applicant company and its key executives/Directors. There is no time-frame set for this activity.
 - ii. MIB also refers the application to DoS for clearance of satellite use. Again, there is no time-frame set for this activity.
 - iii. For the examination of the net worth of the company, MIB forwards the documents submitted by the applicant company to the empanelled Chartered Accountant (CA). The empanelled CA after due examination of the documents furnished by the applicant

company and the details filed by the company with the Ministry of Corporate Affairs (MCA21), furnishes its comments on the following-

- i) Net worth of the company,
- ii) The ownership details, board of directors and activities carried out by the company,
- iii) The shareholding pattern and its effect on net worth of the applicant company, if any,
- iv) Any other information with regards to the company proposal under consideration.

3.13 After receiving clearance/ comments from all agencies mentioned above, MIB take decision for issuing LOI to the applicant company. In compliance of the LOI, the applicant company is required to submit Performance Bank Guarantee and permission fee as applicable, and thereafter MIB issues a formal permission to the applicant company (broadcaster). The broadcaster is required to operationalize the channel within one year from the date the permission granted by MIB.

3.14 As per the permission conditions, the broadcaster then approaches the Teleport operator, with whom agreement has already been signed by the broadcaster, for endorsement of the channel on WOL already issued to that Teleport operator. The Teleport operator applies to WPC for endorsement of the channel on its WOL. In cases, where the Teleport operator has spare satellite bandwidth to transmit the new TV channel using existing equipment, WPC endorses the new TV channel on the existing WOL of the Teleport operator.

3.15 In other cases, where, the Teleport operator requires additional satellite bandwidth for uplinking of the new TV channel, the Teleport operator applies to NOCC for approval of the frequency plan and WPC for allocation of spectrum. Once the frequency plan is approved by NOCC and the required spectrum is allocated by WPC, the Teleport operator can start uplinking of signals of the TV channel using existing equipment. Wherever, the uplink of a new channel requires the provisioning of new equipment, there are additional requirements

relating to import license, Mandatory Performance Verification Testing (MPVT), and Standing Advisory Committee on Frequency Allocation (SACFA) Clearance for the new equipment.

3.16 India has technological capabilities, skilled manpower, and favorable geographical location using which it can provide the facility, for uplinking of TV channels, from Indian soil. Thus, there exists huge potential in the business of uplinking of TV channels in India. It is noted that only few TV channels have uplinking permission from India which caters to foreign audience only. Besides, a large numbers of TV channels downlinked in India are being uplinked from outside India. The Authority is of the view that India has a potential to become an uplinking hub if the processes of granting permission for uplinking are eased out by removing unnecessary bottlenecks. The Authority believes that if the process is smoothened and the permissions are granted in a time bound manner, then this potential can be realized to the fullest. It would also promote the development of content processing industry in India. Export of such satellite communication services would not only help in earning foreign exchange but also in generating employment.

3.17 **Accordingly, the Authority recommends that the process of granting permission for uplinking of satellite TV channels from India should be streamlined by removing redundant processes, re-engineer necessary processes, and making them efficient using ICT.**

Procedure for granting downlinking permission to satellite TV channel

3.18 As per the downlinking policy guidelines (Annexure-III), the applicant seeking, permission to downlink a satellite TV channel should be a company registered in India, under the Companies Act. The applicant company should have a minimum net worth as prescribed in clause 1.5 of the downlinking policy guidelines. As per the procedure for obtaining permission, specified under these guidelines, the applicant

company is required to apply to MIB in the prescribed form (Form 1) along with the processing fee and requisite documents. As per the clause 1.3 and 1.4 of the policy, for downlink only channels, at the time of submitting application, the applicant company should have exclusive marketing and distribution rights. The clause 1.3 and 1.4 reads as under:-

“1.3. The applicant company must either own the channel it wants downlinked for public viewing, or must enjoy, for the territory of India, exclusive marketing/ distribution rights for the same, inclusive of the rights to the advertising and subscription revenues for the channel and must submit adequate proof at the time of application.

1.4. In case the applicant company has exclusive marketing / distribution rights, it should also have the authority to conclude contracts on behalf of the channel for advertisements, subscription and programme content.”

3.19 Clause 8 of the downlinking policy guidelines specifies the procedure for obtaining permission under these guidelines. As per the policy, the application is sent to MHA for security clearance. In the mean time, MIB evaluates the suitability of the proposed channel for downlinking in India, for public viewing. In the event of the applicant company and the proposed channel being found suitable, MIB registers the channel and the applicant company is asked to enter into a "Grant of Permission Agreement" with MIB. On receipt of the permission and upon registration of the channel, the applicant company becomes entitled to approach distribution platform operators for further distribution to subscribers.

3.20 However, as per the comments received from stakeholders and discussions with MIB officials, presently the procedure followed by MIB for granting the permission for downlinking of a satellite TV channel is as follows:

- (a) MIB refers the applications to MHA for security clearance of the applicant company and its key executives/Directors. However, there is no timeline set for this activity.
- (b) For the examination of the net worth of the company, similar to uplinking permission procedure, MIB forwards the documents submitted by the applicant company to the empanelled Chartered Accountant (CA).
- (c) For downlink only channels, MIB refers the application to DoR, Ministry of Finance for examining the compliance of the applicant company with respect to clause 1.3 and 1.4 of the guidelines. DoR, on the basis of documents available with the application, examines whether the applicant company (who does not own the channel) has exclusive marketing/ distribution rights for the channel and whether it also has the authority to conclude contracts on behalf of the channel for advertisements, subscription, and programme content. There is no time frame prescribed for such clearance.

3.21 After receiving clearance/ comments, from all agencies mentioned above, MIB takes decision for issuing of LOI to the applicant company for granting permission for downlinking of satellite TV channels and registration in the list of satellite TV channels which can be distributed for public viewing. The broadcaster is required to submit permission fee and registration fee as applicable and thereafter MIB issues a formal permission/ registration to the applicant company (broadcaster) for downlinking.

3.22 As per the downlinking policy guidelines, the companies, who have been granted permission for uplinking of TV channels from India, are automatically permitted for seeking permission for registration of channels for downlinking in India. From the discussion above, it is noted that the processes of granting downlinking permission is a subset of the processes involved in granting of uplinking permission for the channel. Therefore, the requirement for companies to seek

separate downlinking permission for a channel, when the company has already received uplinking permission for that channel, is redundant and can be done away with. However, it is necessary to ensure that the channel is suitable for public viewing in India and the content of the channel complies with the programme code and advertisement code prescribed under the Cable Television Networks (Regulation) Act, 1995. Therefore the Authority is of the view that the requirement of obtaining registration of the channel, by the company with MIB, is sufficient before distribution of that TV channel in India.

3.23 Accordingly, the Authority recommends that the process of granting permission and registration for downlinking of satellite TV channels should be streamlined in such a way that:

(a) the channels having permission for uplinking from India require registration only; and

(b) the channels being uplinked from outside India require permission as well as registration.

Security clearance by MHA

3.24 In response to the Consultation Paper, some stakeholders have raised the issue of delays in the grant of security clearances at the time of issuing permissions to broadcasting companies. The stakeholders have commented that there had been instances where MHA took considerable time, sometimes stretching up to 9-12 months, in granting security clearance, thereby creating a lot of uncertainty about their business plans. They have stated that the situation is graver in cases, where foreign nationals are proposed as directors of the company. Stakeholders advocated that there is a need to put in place a mechanism whereby security clearances are granted within specified time frame so as to avoid any uncertainties in the business plans of broadcasting companies.

- 3.25 Some other stakeholders have suggested that a time limit of 6 to 8 weeks should be stipulated for MHA clearance, within which MHA should provide security clearance for further necessary action by MIB. Few stakeholders have stated that delay in security clearances in respect of new appointee sometimes forces a company to be non-compliant with respect to the regulations laid by other authority like SEBI or laws like the Companies Act relating to the appointment of directors/independent directors. Other stakeholders have suggested that the existing broadcasters applying for additional channel licenses, within the validity period of 10 years, should not be referred to MHA.
- 3.26 In context with the above mentioned points, one stakeholder has suggested to replace the existing set of guidelines through a system, wherein MIB should prescribe a comprehensive list of guidelines from a security perspective which are to be strictly adhered to by company's directors and key executives. Any approval requirements for categories of persons, listed in the guidelines, should be done away with.
- 3.27 The Authority recognizes the importance of security clearance considering the sensitivity of the media and its repercussions on the national security. However, it is also necessary to ensure an optimal balance between the requirements of national security and the imperatives of economic growth.
- 3.28 The Authority has noted that the application for granting permission to broadcasting companies is examined by MHA from security perspective. However, there is no time frame prescribed within which these activities are to be carried out by MHA. This leads to business uncertainties and service providers cannot take informed decisions, due to absence of definite time frame. The Authority is of the view that there should be a definite time frame for grant of security clearance by MHA. While the prescribed time frame should be adequate enough for

examining the proposal, it should not be too long as it leads to inefficiencies and additional cost to businesses. Ultimately, such costs are passed on to the consumers. The Authority is of the view that the process for grant of security clearance needs to be streamlined so that the decision can be taken in a time bound manner. The decision on security clearance by MHA to a broadcasting company and its key personnel's should be taken in a maximum period of 60 days.

3.29 The purported objective of seeking the security clearance for broadcasting companies is to ensure national security, territorial integrity, and protection of life and liberty of the citizens. As such, the requirement for seeking security clearance from MHA in case of a new applicant company, i.e. when a company applies first time for the uplinking or downlinking permission seems perfectly justified since such a process has relevance with the objectives. Further, MHA only can assess and grant security clearance to the broadcasting company and its executives. Once security clearance is granted to a company, the same should remain valid for the permission period i.e. 10 years, subject to no change in directors or key personnel of the company. The Government has every right to revoke the security clearance granted to a company and its key executives whenever there is any adverse observation by MHA. Further, the requirement of seeking security clearance upon change in directors or key personnel of a broadcaster is also justified and therefore should be continued.

3.30 It is also noted that whenever a broadcaster, already having permission for uplinking and/or downlinking of some TV channels, apply for additional channel permission then MIB repeat the same process of security clearance for new channel. Since the broadcaster and its directors/key personnel are already security cleared, such a procedure of seeking repeated security clearance appears to be redundant. Therefore, the procedure of seeking security clearance for additional channels of an existing broadcaster having same set of directors/key personnel should be done away with.

3.31 **Accordingly, the Authority recommends that:-**

- a) **Initially, MHA should take the decision on security clearance to an applicant company and its key personnel within a period of 60 days. Also, in case of any change in key personnel, MHA should take the decision within a period of 60 days. The Government in any case deserve the right to withdraw security clearance at any point of time.**
- b) **Validity period of security clearance granted to a company should be equal to the permission/ license period granted to that company for broadcasting services.**
- c) **The security clearance granted to the key personnel of a company should remain valid for 10 years.**
- d) **In cases where an existing broadcasting company, having valid security clearance, is seeking permissions for additional satellite TV channels, the process of seeking fresh security clearance from MHA should be done away with.**

Clearance of Satellite use by DoS

3.32 As per the uplinking policy guidelines, the application for grant of permission for uplinking of a TV channel is sent to DoS for clearance of satellite use.

3.33 On the issue, some stakeholders raised the issue of delay in clearance from DoS. Few stakeholders stated that foreign satellites are currently permitted to provide services only after the same have been coordinated with ISRO. They suggested that list of such foreign satellites could be made available on MIB's website so that the broadcasters are aware about list of permitted satellites and avail services only from such permitted satellites for uplinking of signals. As per them, this could facilitate MIB's process for approving new channels or change of satellites (in case of permitted channels),

wherein MIB could refer to such list of permitted foreign satellites rather than sending proposal to DoS on each occasion.

3.34 The Authority has noted that as in case of MHA, there is no time frame prescribed for satellite clearances by DOS. This leads to business uncertainties and service providers cannot take informed decisions due to absence of a definite time frame. The Authority is of the view that there should be a definite time frame for satellite clearances by DOS. To avoid loss of time, the security clearance from MHA and clearance for satellite use from DoS should be processed in parallel. Accordingly, the decision on clearance for satellite use by DoS should also be taken in a maximum period of 60 days from the date of application.

3.35 On the suggestion regarding publishing of list of satellites, on the website of MIB, it is pertinent to mention here that merely the name of satellite may not be sufficient parameter to decide whether a particular satellite for uplinking of TV channels from India can be permitted or not, by DoS. However, it is also not appropriate to send the proposal of every channel to DoS before grant of uplinking permission, particularly when the use of the proposed satellite has already been cleared by DoS for some other channel being uplinked from India. It appears that there is no rationale for the same. Therefore, the Authority is of the view that seeking clearance for use of a particular satellite for uplinking of TV channels from India should be one time affair and it should not be repeated in respect of additional TV channels which are proposed to be uplinked to the same satellite (already cleared by DoS) subsequently. This would result in substantial savings in time and effort.

3.36 **Accordingly, the Authority recommends that:-**

- a) **DoS should take the decision on clearance for satellite use for broadcasting services within a period of 60 days.**

- b) In cases where a broadcasting company is seeking permissions for uplinking of new satellite TV channels to the already cleared satellites, the process of seeking fresh clearance from DoS should be done away with.**

Examination of application by empanelled CA and DoR

- 3.37 In pursuance with uplinking and downlinking policy guidelines, the applicant company is required to meet net worth criterion. While submitting the application, the company is required to submit, along with the application, the information/documents about shareholding pattern, ownership pattern, audited balance sheet, profit & loss accounts and auditor's report for 3 years. For examination of the net worth and ownership details of the company, MIB forwards the above mentioned details, submitted by the applicant company, to the empanelled CA.
- 3.38 In response to the Consultation Paper, some stakeholders have suggested that net worth eligibility, balance sheets, and audited account statements are certified by the statutory auditors of the concerned broadcasting companies. As per them, the process of verifying applicant's net worth through MIB's empanelled CA creates unnecessary impeding elements in the entire process. They have suggested that the concerned finance wing of MIB should be entrusted with the task of carrying out verification in a time bound manner.
- 3.39 It is necessary to examine whether the process of examining the net worth and other details by empanelled CA leads to any value addition in the process of examining the eligibility of the applicant company? While doing the same, it is noted that the empanelled CA examines the eligibility of the applicant company on the basis of the reports submitted by the company and the information available on MCA21 website. This information is accessible to MIB also. Further, it is pertinent to mention here that the information furnished by the applicant company is already certified by the auditors (CA) of the

company. Moreover, the examination of already audited information by empanelled CA is not only a duplication of efforts but also add to the delays. Therefore, the requirement of examining the eligibility of the company by empanelled CA is a redundant process.

- 3.40 The same requirement can be fulfilled by an efficient process wherein self-declaration can be taken from the company at the time of application about the compliance to the net worth requirement. It is important to note here that, the prescribed minimum net worth requirement is to be adhered by service providers for the entire permission period and MIB examines the compliance relating to net-worth by service providers on periodic basis. In such situation, MIB should be able to examine the compliance relating to net worth of the applicant company on the basis of information made available by the applicant company and the information available at MCA21 website at the application stage also.
- 3.41 In case of downlinking only permission, the applicant company is required to submit the document of having exclusive marketing and distribution rights with the owner of TV channels, inclusive of the rights of advertising and subscription revenue. The application is forwarded by MIB to DoR for examination of compliance of clause 1.3 and 1.4 of the downlinking policy guidelines.
- 3.42 Some stakeholders, in their response, have stated that the requirement of sending proposal to DoR is avoidable. One stakeholder has stated that every time an application for new channel permission is submitted by a company, MIB refers application to DoR to examine compliance with the clause 1.3 and 1.4 of downlinking policy guidelines, in each case, which results in delay in the process.
- 3.43 As per the existing procedure, DoR examine the documents submitted by the applicant Company and checks whether the applicant company is meeting the requirement of clause 1.3 and 1.4 of downlinking policy guidelines. DoR does not have any additional source of information,

apart from the documents submitted by the company along with the application, to check the compliance of the clause 1.3 and 1.4. Moreover, this process adds to delays. Whether the applicant company has exclusive rights or not, as per the requirements specified under the clause 1.3 and 1.4, can be deduced from the available documents by MIB also, as it does not require any specialised knowledge of finance or taxation. To further strengthen the checks, the applicant company should self declare about having exclusive marketing and distribution rights for the channel, in the documents filed with the application. This would result in substantial time saving in granting permission to the applicant company.

3.44 Further, in order to deter the service providers from hiding or misrepresenting the facts, MIB should take stringent actions against such service providers who fraudulently obtain the permission on the basis of inaccurate information furnished at the application stage. Further, a condition could be added that if the information provided by the company is found to be inaccurate at any stage during the permission period, the permission would become *void ab initio*.

3.45 **Accordingly, the Authority recommends that:-**

- a) **A self declaration, in a prescribed format, stating that the applicant company meets net-worth requirements, as specified under the policy guidelines, should be taken from the applicant company at the time of submitting the application. This declaration should be supported with duly audited financial statements of the company.**
- b) **The requirement of examining net worth, ownership details, shareholding pattern and its effect on net worth etc., by the empanelled CA should be done away with.**
- c) **A self declaration, in a prescribed format, stating that the applicant company complies with clause 1.3 and 1.4 of the**

downlinking policy guidelines should be taken from the applicant company at the time of submitting the application.

- d) The requirement of examining the compliance of clause 1.3 and 1.4 of the downlinking policy guidelines by Department of Revenue (DoR) should be done away with.**
- e) A condition should be added in the procedure of granting permissions that if the information provided by a company is found incorrect or incomplete at any stage during the entire permission period, the permission would become *void ab initio*.**

B: Grant of permission for teleport services by MIB

3.46 In the Consultation Paper comments were solicited from the stakeholders on the need to simplify policy framework for granting permission for teleport services and also about the operational issues and bottlenecks in the current policy framework for these services.

3.47 The procedure to grant permission for teleport operations is similar to the procedure followed to grant permission for uplinking of TV channels. The comments of the stakeholders in respect of teleport operations permissions are also on similar lines as in the case of uplinking of TV channels permissions. Accordingly, the recommended changes in the procedure for grant of uplinking permissions should also be *mutatis-mutandis* applicable to grant permission for teleport operations.

3.48 **Accordingly, the Authority recommends that procedure recommended for granting permission for uplinking of satellite TV channels should be *mutatis-mutandis* made applicable to grant permission for teleport services also.**

C: Grant of license for DTH services by MIB

- 3.49 In the consultation paper comments were solicited from the stakeholders on the need to simplify policy framework for granting license for DTH services and also about the operational issues and bottlenecks in the current policy framework for these services.
- 3.50 The license for DTH Broadcasting Services is issued under the policy guidelines for DTH Broadcasting Services¹¹ (referred to as DTH policy). The procedure for application and grant of licenses for DTH services has been mentioned in the DTH policy. As per clause (v) of the DTH policy, the application is subjected to security clearance of Board of Directors as well as key executives of the company such as CEO etc. in consultation with MHA. The application is also referred to DoS for clearance of satellite use. After these clearances are obtained, MIB takes decision on issue of LOI to the applicant company. Then the applicant company is required to approach WPC for SACFA clearance.
- 3.51 After obtaining SACFA clearance, within one month of the same, the applicant company is required to submit a Bank guarantee and signs a licensing agreement with MIB. Then the applicant company applies to WPC for seeking WOL for establishment, maintenance and operation of DTH platform. It is noted that there is no specific timeline prescribed for the above mentioned processes.
- 3.52 Some stakeholders have commented that in order to effect any change in the composition of the Board of Directors and appointment/changes of Key executives, they need to obtain prior permission from MIB which often gets delayed due to non receipt of security clearances from MHA in time.
- 3.53 Other stakeholders have suggested for changes in the policy with respect to quantum of license fee, calculation of license fee,

¹¹ DTH Policy is available on http://broadcastseva.gov.in/DTH_loading_page/dth_guidelines.pdf

provisioning of broadband services through DTH platforms, and regulation of OTT services etc.

- 3.54 The Authority is of the view that stakeholder's suggestions regarding license fee, regulation of OTT services, provisioning of broadband services through DTH platforms, subscription fee sharing etc. have no direct relation with the required changes in the procedural framework to improve the ease of doing business. Accordingly, these issues are not being considered here.
- 3.55 On the issue of prescribing a particular time frame for grant of security clearance for any change in the composition of the Board of Directors and appointment/changes of Key executives, the Authority agrees with views of the stakeholders. As the security clearance requires only examination by MHA and communication of the decision by MIB, a period of 60 days appears to be sufficient to grant security clearance for any change in the composition of the Board of Directors and appointment/changes of Key executives in the licensee companies.
- 3.56 Further, for new applicant of DTH service license, MIB should take decision on the application in a time bound manner. Seeing that the proposal for seeking license for DTH services requires security clearances and satellite clearances similar to the new broadcasters, the Authority is of the view that the decision on clearance should be taken within 60 days from the date of application. Parallel, the clearance for satellite use by DoS should also be granted within 60 days from the date of application. While examination of the application for security clearance and satellite use clearance are in progress in respective Ministries, in parallel the application should be processed within MIB also.

3.57 **Accordingly, the Authority recommends that:-**

- a) **Initially, MHA should take the decision on security clearance to an applicant company seeking license for DTH services and its key personnel within a maximum period of 60 days. Also, in case of any change in key personnel, MHA should take the decision within a period of 60 days.**
- b) **DoS should take the decision on clearance for satellite use for DTH services within a period of 60 days.**

D: Frequency allocation and grants of WOL by WPC, and permission to operationalize of broadcast services by NOCC

3.58 In the Consultation Paper, comments were solicited on the need to streamline the process of assignment of frequency by WPC and clearances from NOCC to enhance ease of doing business.

3.59 In their comments, most of the stakeholders aver that the existing procedures followed by multiple departments/ agencies lack inter-departmental coordination. The procedures followed by these departments do not have any prescribed time frame. The situation often leads to inordinate delays in grant of licenses thrusting uncertainties and undue costs on the applicants. Further, there is a high probability of applicant forfeiting his Performance Bank Guarantee due to the delay in frequency endorsements/ approval by WPC. The permission/ license by MIB, stipulates that if the service is not operationalized in one year then the Performance Bank Guarantee will be forfeited.

3.60 The stakeholders have suggested that there should be a single window time bound mechanism for these processes. One stakeholder has suggested that from submission of application to the grant of permission for frequency assignment, the process should be completed within a maximum period of three weeks.

- 3.61 On the question, as to what are the reasons for delay for allocation of frequencies by WPC, one stakeholder has mentioned that WPC has been adopting a six months window system for assignment of broadcast frequencies after the 2G judgment pronounced by Hon'ble Supreme Court in 2012. As per one stakeholder, DoT should seek clarification from the Hon'ble Supreme Court as regards the assignment of broadcast frequencies. In the six months window systems, if due to some reason a decision is not finalized in window period, the service provider has to wait till the window is opened again. This entails unnecessary business risk, escalates costs and undue delay.
- 3.62 Further, the Wireless Operating License (WOL) is valid only for 1 year and requires to be renewed on annual basis. Some stakeholders are of the view that the WOL should be valid for the whole permission period i.e. 10 years. Delay in renewal of WOL, sometimes results in non-compliance of their contractual obligations with satellite companies.
- 3.63 Once WPC and NOCC issue permission for a transponder, any additional channel(s) application on the same transponder necessitates a fresh request for WPC and NOCC permission. One of the stakeholders has suggested that such application for additional channel(s) on the same transponder should not be necessary. Further, the stakeholders have suggested that the requirement of getting approval from WPC and NOCC for any change in transmission parameters for existing transponders should be done away with, as long as these parameters comply with Digital Video Broadcasting (DVB) standards.
- 3.64 It is noted that the window for allocation of spectrum for commercial satellite usage is opened, from time to time, for a limited period (6 or 3 months). Presently, for commercial satellite usage, WPC allocates spectrum on provisional basis at administrative price. Therefore, there seems to be no rationale in limiting the window of allocation by WPC.

The Office Memorandums issued by WPC, for this purpose, do not mention any logical reason for adopting window based approach.

3.65 This system of limited period window to allocate spectrum for commercial satellite usage is not only inefficient but also adds to business uncertainties. The window system also results in underutilisation of invaluable satellite capacity and space spectrum, as such spectrum is already earmarked for satellite usage but lying idle for want of service providers. The process of three/ six months window period causes potential revenue loss to the Government also. In addition, the delay in allocation of spectrum incurs additional costs on service providers. This includes unmerited payment to the satellite company as the service provider has to enter into an agreement for satellite transponder before making any application for license/ permission. Therefore any delay in allocation of spectrum, results in loss to the Government as well as the service provider. On the basis of foregoing discussion, the Authority is of the view that the allocation of spectrum for commercial satellite usage should be open throughout the year.

3.66 It is noted that normally the WOL issued by WPC is valid only for 1 year. However, the companies have the option to obtain WOL valid up to 5 years on payment of royalty and license fee for complete period in advance. As this entails very high upfront payment, service providers prefer to renew WOL on annual basis. The annual renewal of WPC licenses does not have any stated objective. It does not lead to any value addition, rather it puts additional work-load on WPC as well as the service providers. Therefore, the Authority is of the view that the WOL should be valid for period equivalent to service license/ permission period subject to the regular payment of requisite fees, to be paid at least 60 days before the due date, on annual basis. A condition should be prescribed in the WOL that any delay in payment of requisite fees shall lead to penalties and cancellation of the applicable license.

3.67 On the issue of requiring a fresh WPC and NOCC permission for any additional channel on the already permitted frequency, the Authority does not fully agree with the view of the stakeholders. It is necessary that the new channel should reflect in the database of WPC and NOCC. This can be achieved by a process where-by a service provider submits the information to both WPC and NOCC. Such information may be taken on record, without necessitating any permission/ approval. Further, any change in the transmission parameter for the existing channel may also require examination by WPC/ NOCC to avoid interference with the other services. Therefore, the Authority recommends that the present procedure of seeking WPC/ NOCC permission in case of changes in transmission parameters should continue.

3.68 **Accordingly, the Authority recommends that:-**

- a) **WPC should allocate the spectrum for commercial satellite usage as and when there is a demand for the same from service providers in a time bound manner.**
- b) **The WOL should be valid for a period equivalent to service license/ permission period.**
- c) **The service providers should continue to pay requisite fees to WPC on annual basis; and the same should be paid at least 60 days before the due date to ensure continuity of the license.**
- d) **A condition should be prescribed in the WOL that any delay in payment of requisite fees shall lead to penalties and cancellation of the applicable license.**

E: Time frame to grant permissions by MIB and WPC

3.69 On the issue of grant of permission/ license for broadcasting services most of the stakeholders have commented that presently multiple set of Ministries/Departments are involved in the approval process.

Furthermore, there is no stipulated time frame for the grant of permission/ registration. This often leads to the derailment of their business plans, capacity under-utilization, and unmerited payments to the foreign satellite operators.

- 3.70 Some stakeholders have suggested that prescribing a particular time frame for grant for permissions of TV channels would address the issue of undue delay to a great extent. Few stakeholders have suggested that a time period of 90 days should be stipulated for final approval of a new channel. One stakeholder has opined that the permission should be granted within 21 working days.
- 3.71 On the issue of prescribing a particular time frame for grant of permissions for TV channels, the Authority agrees with views of the stakeholders. Absence of any time bound procedures is one of the major issues that lead to uncertainties in the business plan of service providers.
- 3.72 The Authority is of the view that with respect to the applications that neither requires MHA clearance nor DoS clearance, normally MIB should be able to take decision within 45 days from the date of application. In the preceding paras, the Authority has recommended that the security clearance and clearance of satellite use should be issued within 60 days. The parallel processing of applications in MIB and MHA/DoS can save a time period of at least 15 days. Accordingly, in cases where the applicant requires security clearance from MHA or satellite clearance from DoS or in cases where both MHA and DoS clearance is necessary, the decision to grant permission should be taken by MIB (in consultation with MHA and DoS) should be taken within 3 months from the date of application.
- 3.73 In response to the consultation paper, most of the stakeholders have advocated for a single window facility for granting of permission/ license/registration in TV Broadcasting sector.

- 3.74 One broadcaster has suggested that a media and entertainment committee may be set-up by MIB to examine applications and grant permission/ license. The committee should comprise of members drawn from officials of the respective Ministries/ Department involved in the decision making process. The committee can discuss, deliberate and approve application under a single window system.
- 3.75 In another viewpoint, one stakeholder has commented that the need of ensuring sustainability in the sector is more important than the simplification of procedures related to licensing and operation. As per the submission, number of applications for fresh licenses is reducing year by year, as TV channels find it more difficult to sustain their operations. Therefore, simplification of licensing procedure is not the most important concern.
- 3.76 From the preceding paragraphs, it can be averred that the process of grant of permission/ license in TV Broadcasting sector (Satellite TV channel/ Teleport/ DTH) is a multistage process. The process mainly involves MIB, MHA, DoS and various wings/ agencies of the Ministry of Communications. The Authority also observes that the process of granting permission/license/registration by MIB is manual. There is no provision of status check or the possibility of seeking quick clarifications from the applicant by the officers dealing with the case at MIB. The present process results in delays in granting of permission/license/registration to the applicant. The delay in grant of permissions and licensing process can be considered as one of the prime hindrances in the ease of doing business in TV Broadcasting sector.
- 3.77 The Authority is aware that to streamline the Government to Business (G2B) processes, MIB has launched a portal called 'Broadcastseva.gov.in' which provides a single window facility to applicants of various permissions, registrations, licenses, etc. to be granted by MIB for broadcast services. However, as per existing

requirement, after filing the online application through the portal, the applicant has to submit a hard copy of the application to MIB for further processing in the physical file. This portal does not have the workflow provisions for the entire process of granting licenses/permissions. The portal is also not integrated with the Ministries/Departments involved in the decision making process.

3.78 The Authority is of the view that there should be no need/requirement of submitting applications in hard copies. ICT based workflow should be developed in a time-bound manner to deal with the end to end processes. The ICT application should include online mechanism for filing and processing the applications for grant of permission and seeking clarifications, if any. The online system should include the processing stages by different ministries/departments like MHA, DoS, WPC and NOCC. Once implemented, the online system would be much more efficient, reducing inter-ministerial delays, enabling time bound decision making and bringing in transparency. The integrated online portal should have the workflow provisions for the entire process of granting licenses/permissions. While the backend and data base would be common, each front-end module may facilitate the filing of applications and processing in respective ministry/department (MIB/MHA/DoS/WPC/NOCC). The integrated online portal should also have the facility for online payments, frequency assignments, endorsements, registrations, permissions, licenses and renewals. To achieve these objectives this portal may be integrated with the other e-governance systems of the Government. Being the nodal ministry for the Broadcasting sector, MIB should develop the integrated online portal.

3.79 The integrated online portal would also help the applicants in knowing the status of their application. The portal would also enable the Government in retrieval and analysis of the information. The access to the portal should also be provided to the Authority.

3.80 The integrated online portal would ease out the process of granting permission to a large extent. Development of such portal generally requires a time of 9 to 12 months. The Authority is of the view that such integrated online portal should be developed by MIB as early as possible, preferably within 1 year from now.

3.81 Once the integrated online portal is developed, the grant of WOL should also be given in a time bound manner. All the approvals for issue of WOL should be completed by WPC within 60 days. All processes involved in grant of permission/ licenses should be completed within 6 months period from the date of application for grant of permission/ license. This includes the time taken by MIB, WPC, DoS, MHA, and NOCC for issuing permissions/ license in case of uplinking of channel by a new company/ teleport/ DTH licenses.

3.82 **Accordingly, the Authority recommends that:-**

- a) **MIB should setup an integrated online portal for broadcasters, teleport operators, and distributors of TV channels (DTH operators/HITS operators/MSOs) which should facilitate the filing of applications, processing in MIB, DoS and DoT, tracking of status of applications, payments, frequency allocations, endorsements, permissions, licenses, registrations, and renewals with common database. Preferably, this portal should be integrated with other e-Governance systems like *Bahartkosh*¹² portal, e-Office application etc. Access to the portal should be provided to the Authority also for information and analysis.**
- b) **The integrated online portal should be developed as early as possible, within a period of 1 year from the date of acceptance of these recommendations.**

¹² *Bharatkosh* is an online payment gateway for payment of fee etc. to Government of India

- c) **In cases of permissions/ licenses where security clearance of the company from MHA or clearance of satellite use from DoS or both are required, normally the decision to grant permission should be taken by MIB in consultation with MHA and DoS within 3 Months from the date of application.**
- d) **In case of permissions, where security and satellite clearances are not required, normally the decision to grant permission should be taken by MIB within 45 Days from the date of application.**
- e) **WPC should take the decision on grant of WOL including allocation of frequency within a period of 60 days.**
- f) **The decision to grant permission for operationalising the services, including time taken by MIB, WPC, DoS, MHA, and NOCC for issuing permissions, should be completed within 6 months period in case of uplinking of channel by a new company/ teleport/ DTH licenses.**

F: Change in Name, Logo, Language and Format of Satellite TV Channel

3.83 In the Consultation Paper, views/ comments were solicited on the procedure prescribed for change in name, logo, language and format of a permitted satellite TV Channel.

3.84 Most of the stakeholders have stated that getting approvals for change in name and logo of a channel is a time consuming and elaborate process involving several Ministries. Many of them have commented that since the need to change name and logo is driven by business or creative needs of the channel, a system can be devised where the requirement of endorsement by WPC/NOCC should be removed. A mere intimation by the broadcaster regarding the change in name and logo to MIB would suffice. On the same lines, one stakeholder suggested that the Authority should recommend a self-certification

and compliance mechanism and to prevent misuse, a 15 days window should be given. If no issue is raised in window period, the application should be deemed as approved.

- 3.85 One stakeholder has mentioned that there is no criterion in the policy framework for granting change in name/ logo/ language. As per him, quite often, MIB is of the view that any change in name and logo/language is required whenever there is trading of a channel, a practice that needs to be discouraged. Therefore an elaborate criterion should be designed in order to carry out such changes. These should include levying a fee of Rs. 50,000/- for effecting these changes, provided that there are no changes in shareholding patterns in the company.
- 3.86 The present policy framework is silent on the issues of change of name, logo, language and format of an operational TV channel. As per the process followed presently, the company desirous of changing name, logo, language or format of an operational TV channel is required to submit an application along with requisite fee to MIB with an undertaking that there is no change in directorship, ownership & shareholding pattern of company. Once approval is granted by the Ministry, the applicant, through the Teleport operator approaches to WPC and NOCC for amendment in WOL of the Teleport Operator regarding change in the name, logo, language or format of the channel. The Company is required to pay processing fee for effecting change. However there is no prescribed time limit for granting approval for the same.
- 3.87 Updating the common database is a necessary requirement to avoid inconsistencies in the database of the regulating and the monitoring agencies (MIB, MHA, DoS, WPC & NOCC, TRAI). However, the Authority notes that changes in name, language and logo do not create any additional parameter that entail frequency clearances. Therefore, for change in name, logo, or language of a channel, seeking

additional permission of WPC and NOCC is not justified and should not be necessary.

3.88 Accordingly, the Authority is of the view that seeking permission from WPC and NOCC for change of the name, logo and language of a TV channel should be done away with. Further, process of application and issue of permission for this purpose should be made available through integrated online portal. The approval through online portal will create a common database that is accessible to all the concerned agencies.

3.89 The Authority noted that the requirement of change in the name, logo, language or format of a channel could be a business or creative need of the channel. However frequent changes in the name and logo could also be driven by some extraneous reasons and such practices need to be discouraged. The Authority is of the view that if the request for any change in name, logo, or language of a channel is made frequently within a year, then the MIB may carry out a detailed check and the time-line for such approval may extend up to 30 days. The time period of 30 days would be sufficient to examine such repeat proposals. Normally, if the request for any change in name, logo, or language of a channel is made after more than one year from the last such change, the updated information may be taken on record. All such applications and approvals may be dealt through online portal.

3.90 The Authority is not in agreement with the views of the stakeholders that prior permission is not necessary before making changes in format of a channel. Change in format of a channel refers to conversion of SD channel to HD and Vice Versa. Whenever a channel is converted from SD to HD, the parameters of the transmission change substantially. This may require change in frequency plan of the uplink earth station and other parameters of uplink/downlink. Therefore, it is important that such changes are appropriately captured in WOL and frequency plan. In case of change in format of a

channel, re-allocation of bandwidth is also required. Accordingly, prior permission for change in format of a channel should be mandatory. Such approval may be considered by MIB in coordination with WPC and NOCC acting together after the payment of due charges, if any, within 60 days through the said integrated online portal.

3.91 Accordingly, the Authority recommends that:-

- a) The application for change in the logo, name, language and format of a channel should be processed through the proposed integrated online portal to take the decision on the same.**
- b) MIB should maintain an updated database of all channels in the proposed integrated online portal and the same should be accessible to all the regulating and monitoring agencies namely MIB, TRAI, DoS, MHA, WPC, and NOCC.**
- c) With the accessibility of an online updated database of channels, the permission of WPC and NOCC, for change in name, logo, or language of a channel, would become superfluous. Accordingly, the procedure for seeking such permission should be discontinued.**
- d) If a request for change in name, logo, or language of a channel is made within one year from the last such change, then MIB may carryout detailed examination. In such cases, MIB should take decision on request for change in name, logo, or language of a channel within a period of 30 days from the date of receipt of application along-with the prescribed charges (if any).**
- e) In all other cases, the proposed changes in the logo, name, or language of a channel should be taken on record online after payment of the prescribed charges (if any).**

- f) The necessary permissions for effecting the change in format of a channel should be granted within 60 days after receipt of the application and payment of the prescribed charges (if any). It includes the time taken by MIB, WPC and NOCC.**

G: Temporary uplinking of live coverage of events

3.92 In the Consultation Paper, views of the stakeholders were solicited on the framework for seeking permissions for temporary uplinking of live coverage of events. As per the present guidelines, for live telecast of an event on a non-news and current affairs channel, temporary uplinking permission is required to be obtained from MIB.

3.93 The stakeholders contend that the approval for temporary uplinking is a cumbersome process. It involves bandwidth arrangement, teleport permission as well as additional permissions from WPC and NOCC. The rights to live sporting events at times are granted by the authorities only a few days before the scheduled telecast of the event and in many situations a broadcaster is unable to get uplinking permission in due time. This leads to monetary and reputation losses. The stakeholders have desired that the requirement for obtaining license to temporary uplink for the live events of national importance, including sports events, should be done away with. As per them, it is merely a procedural bottleneck. The applicants should only be required to intimate the Ministry and get approval of MIB within a prescribed time limit. The details to be filled-in in such intimation may include macro details of the event such as name of the tournament, Name of the authority/ association that has granted the rights, participating teams, detailed schedule of the proposed coverage including date and timings, details of the venue etc. One stakeholder suggested that MIB should issue temporary uplink permission with 72 hours from the time of application.

3.94 Further, stakeholders believe that since the teleport/DSNG vans are anyways cleared from MIB; MIB should permit broadcasters to uplink

live events using cleared teleport/DSNG vans subject to compliance of the program and advertisement code.

- 3.95 However, one of the stakeholders has mentioned that temporary permissions for uplink of live events are essential to keep a check on the telecast of objectionable material. Such content may disturb the harmony and peace or cause social unrest in the society given the wide reach of television media. As such administrative delays can be curtailed by prioritizing such application. As per them, the WPC and NOCC clearances are not necessary and may be dispensed with.
- 3.96 The permission for temporary uplink of event coverage is governed by the uplinking policy guidelines. As per the extant guidelines, “News and current affair channels” are already permitted to uplink live events using pre-approved DSNG vans. Accordingly, they are not required to take temporary uplink permission. Only “Non-News and current affair” channels are required to take separate permission for temporary uplinking of live events.
- 3.97 As per the uplinking policy guidelines, only permitted teleport operators and Doordarshan may offer/ hire out SNG/ DSNG equipments/infrastructures to other broadcasters who are permitted to uplink from India. These DSNGs can uplink signals of TV channels to satellite using space spectrum assigned by WPC.
- 3.98 The procedure of granting of permission for temporary uplinking of events can be simplified. Temporary uplinking of live events through pr-approved DSNG and space spectrum can be permitted on the basis of registration only as service providers as well as resources required for temporary uplink are already approved. In such cases, only registration of the details of event along with the requisite fee and details of the agreement with DSNG/ Teleport operator may be necessary. In order to ensure that the content is suitable for Indian viewership, the telecast should adhere to the programme code and advertisement code. However, if the broadcast is not meant for Indian

viewers then the requirement to comply with content code does not arise. Accordingly, the Authority is of the view that for the events to be shown in India, if the applicant company has an agreement with the broadcaster and teleport operator and the applicant company propose to use the pre-approved DSNG and space spectrum for temporary uplinking of live event; and the broadcaster undertakes to comply with the program and advertisement code; then the registration by the applicant company on online portal and payment of requisite fee should be sufficient for issuing temporary uplinking permission.

3.99 Similarly, for the events to be shown outside India, if the applicant company has the agreement with teleport operator; and it proposes to use the pre-approved DSNG and space spectrum for temporary uplinking of live event; then the registration by the applicant company on online portal and payment of requisite fee should be sufficient for issuing temporary uplinking permission.

3.100 In other cases, where the allotment of space spectrum for temporary uplinking of live event is required, the process needs to be automated using proposed integrated online portal to improve efficiency.

3.101 **Accordingly, the Authority recommends that:-**

- a) For the events to be uplinked for viewing in India, if:**
 - i) the applicant company has agreement with the existing broadcaster(s) and teleport operator; and**
 - ii) the applicant company propose to use the pre-approved DSNG and space spectrum for temporary uplinking of live event; and**
 - iii) the broadcaster(s) undertake to comply with the Program and Advertisement Code;**

then the registration of the necessary details by the applicant company along with the requisite documents and payment of requisite fee through the proposed integrated online portal should be sufficient.

- b) For the events to be uplinked for viewing outside India, if:**
- i) the applicant company has the agreement with the existing teleport operator; and**
 - ii) it propose to use the pre-approved DSNG and space spectrum for temporary uplinking of live event;**

then the registration of the necessary details by the applicant company along with the requisite documents and payment of requisite fee through the proposed integrated online portal should be sufficient.

- c) In other cases, the existing process needs to be automated using proposed integrated online portal to improve efficiency.**

H: Renewal of permission for satellite TV channel

3.102 Every satellite TV channel is required to get the permission renewed by paying an annual fee prescribed under the policy guidelines. The issue is, whether the annual renewal process of TV channels needs simplification for improving the ease of doing business.

3.103 On this issue, most of the stakeholders opined that the annual renewal process needs to be simplified in order to improve ease of doing business in this sector. Some of them believe that instead of charging the license fee annually, MIB should charge a onetime license fee for a period of 10 years. They have stated that such policy would attract only serious players and would also help MIB to recover full permission fee at one go.

3.104 Other stakeholders believe that the system of payment of annual fee is already simplified, since the option of payment of this fee, 60 days before the due date, through *Bharatkosh*¹³, is now available. .

3.105 In context of the need of simplification of the annual renewal process, it is worth mentioning that MIB has mandated that the payment of the annual license fee 60 days prior to the due date is deemed as a sufficient condition for the purpose of renewal of license. Therefore the process of annual license renewal is already simplified.

3.106 Accordingly, the Authority recommends that payment of annual permission fee as per the extant policy guidelines should be done through proposed integrated online portal. The periodicity of the renewal of licenses should continue to be on annual basis.

I: Open sky policy for Ku band

3.107 In the consultation paper, suggestions were solicited from the stakeholders about the measures for hiring of Ku band transponders for DTH services.

3.108 The stakeholders stated that the extant SATCOM policy of DoS doesn't permit DTH operators to acquire Ku band transponders directly from the satellite owners as in the case of C-band capacity. At present, Antrix¹⁴, acquires and allocates necessary Ku band transponder capacity from foreign satellites to meet the requirements of DTH operators. Antrix, in turn, enters into back to back agreements with the foreign satellite owners for shorter periods.

3.109 In context with the preceding point, some stakeholders stated that DTH operators are not allowed to participate in such negotiations with the satellite operators and they are forced to pay such amount as may be negotiated and finalized by Antrix. Few other stakeholders have pointed out that under such circumstances; the DTH operators do not

¹³ *Bharatkosh* is an online payment gateway for payment of fee etc. to Government of India

¹⁴ Antrix Corporation Limited (Antrix), incorporated on 28 September 1992 (under the Companies Act, 1956), is a wholly owned Government of India Company under the administrative control of Department of Space (DOS)

have the opportunity to use their commercial expertise to negotiate a lower rate for the satellite capacity.

3.110 It is important to mention here that the methodology and procedures prescribed for allocation of satellite transponder capacity are decided by DoS in accordance with the SATCOM policy. Therefore, the Authority is of the view that the issue may be taken up with DoS in the INSAT Coordination Committee (ICC) meeting by MIB.

3.111 In view of the above, the Authority recommends that the issue of open sky policy for Ku band frequencies may be taken up by MIB in INSAT Coordination Committee (ICC) meeting and the same should be adopted.

J: Registration / renewal to provide cable TV services

3.112 In the consultation paper, views / comments were solicited from stakeholders on issues effecting ease of doing business in cable TV sector.

3.113 In response, most of the stakeholders suggested that the validity of LCO registration should be extended from one year to five years. They argued that such a provision would allow both MSO and LCO to make long term business plan. This will also avoid legal hassles faced by LCOs in regards to annual execution and/or renewal of interconnect agreements.

3.114 Some stakeholders have opined that at present multiple permissions are required to be sought from different authorities in obtaining permission for Right of Way (RoW). There is no uniform fee structure for the grant of RoW permissions. Therefore, a single window clearance mechanism should be set up by the State Governments for the permission granting and that a uniform fee should be levied for the grant of these permissions.

3.115 As per extant Cable TV Rules, a cable operator, desirous of providing cable TV services has to apply for registration/renewal of registration to the Head Post Master of the Head Post Office of the area concerned. At present the process of registration as well as renewal of registration are manual. The Cable operator is required to fill-up a physical application form and to submit it to the concerned Head Post Office along with the requisite documents and requisite fee as provided in the Cable TV Rules for registration/ renewal of registration. The process of issue of duplicate registration, wherever required, is also done manually.

3.116 The cable TV sector has grown tremendously since the Cable TV Rules were notified in 1994. Today, there are more than 60,000 cable operators, providing Cable TV services to more than 93 million cable TV households. The manual process of registration and renewal of registration is quite cumbersome. It has inherent inefficiency and it causes delays in issuance of registration and renewal of registration to the cable operators. This has led to situations where cable operators run their network without valid registrations. The Interconnection Regulations made by TRAI prescribes that multi system operator shall enter into interconnection agreement only with those cable operators who have valid registration.

3.117 Better usage of ICT can enable smooth and hassle free registration. Registration/renewal of registration process can be automated by hoisting of online application software wherein application for new registration/renewal of registration along with fees can be submitted by a cable operator to the concerned post office through online mode. This will ensure timely registration of cable operators & thus enhance the ease of doing business. At the same time, it will also be helpful in maintaining a data base related to the cable operators.

3.118 After analyzing the viewpoints of the stakeholders, it seems that most of them are unanimous in their view that the duration of registration

of cable TV operator should be increased. The Authority is in agreement with the suggestion of the stakeholders that since the MSO and the LCO together deliver end to end service to the consumers and therefore ideally the validity of registration of LCO should also be for longer duration. The Authority has already sent its recommendations to the Government in this regard. The Authority is of the view that once the registration is carried out through online portal then the renewal process would be very easy and would facilitate ease of doing business for cable operators.

3.119 Accordingly, the Authority recommends that the registration of LCO and its renewal should be carried out through online portal. Further, the period of registration for LCO should be increased to 5 years.

3.120 The operation of the Cable TV networks in India is governed by the Cable Television Networks (Regulation) Act 1995 (the Cable TV Act) and the Cable TV Rules made there under. The Cable TV Act contains provisions regarding the right of way to the cable operator and the provision reads as under:-

“The Central Government may lay down appropriate guidelines to enable the State Governments to put in place an appropriate mechanism for speedy clearance of requests from cable operators for laying cables or erecting posts on any property vested in, or under the control or management of, any public authority and for settlement of disputes, including refusal of permission by the public authority.”

3.121 The Authority noted that MIB has issued guidelines to enable the state Government to put in place an appropriate mechanism for speedy clearance of requests from cable Operators for grant of RoW. However, it is understood that no mechanism has been developed by State Governments so far. As a result, cable operators are required to spend excessive time and means for obtaining clearances from the local authorities. Also, uncoordinated development activities such as

road expansion, laying of electrical cables etc. that are undertaken by multiple agencies and private operators results in frequent cuts in cable, leading to disruption in services and increase in the cost of operating cable TV networks.

3.122 The Authority has also noted that under the Indian Telegraph Act, the Central Government has notified Rules to regulate underground infrastructure (optical fiber) and over ground infrastructure (mobile towers). The Authority is of the view that MIB should take necessary steps to frame RoW Rules under the Cable TV Act for easy provisioning of RoW access to cable operators. If it require amendment to the Cable TV Act, the Government may consider the same. This will facilitate in getting RoW by cable operators in a rational manner.

3.123 **Accordingly, the Authority recommends that MIB should take necessary steps to frame Right of Way Rules under the Cable TV Act.**

K: Private FM Radio/ Community Radio

3.124 FM radio sector has witnessed an impressive growth due to the enabling environment provided by the Government through the Policy guidelines for private participation. There has been a marked increase of the radio broadcasting both in terms of the coverage area and the number of operating FM radio channels. In the consultation paper comments were solicited from the stakeholders on the issues affecting the ease of doing business in FM sector.

3.125 One of the stakeholders has suggested for the change in the methodology of the calculation of the annual license renewal fee for FM broadcasting asserting that the current methodology for the calculation puts the broadcasters to financial disadvantage. According to stakeholder, the annual license fee should be based on 2.5% of the migration fee paid by all broadcasters who migrated from Phase-2 to Phase-3.

- 3.126 Other issue pointed out by the stakeholders was that the Phase-III FM policy disallows private broadcasters from airing news and current affairs programs, unless they are sourced from Prasar Bharati. FM radio channels should also be allowed to air news and current affairs program like any other media.
- 3.127 One of the stakeholders has mentioned that the capital cost for creating the radio broadcasting infrastructure is very high. Suitable regulations for sharing of available infrastructure by various market players can help the FM operators in better business proposition thereby increasing economic efficiency. Further, the stakeholder has also highlighted the need for the regulation of spectrum on space and time sharing basis. Spectrum is a limited natural resource which is presently underutilized by the FM broadcasters.
- 3.128 The Authority has noted that the stakeholders have raised the issues relating to license fee, renewal fee, carrying of news on private FM channels and infrastructure sharing. These being policy issues, do not have direct bearing on the ease of doing business in FM sector. Therefore the same has not been considered here.

L: Indigenous Manufacturing

- 3.129 At present, most of the equipment for production, transmission and reception of broadcasting services is sourced from abroad. The Broadcasting sector is growing at a very high pace. The sector offers enormous opportunity to equipment manufacturers and system designers to develop and produce various broadcasting equipments locally.
- 3.130 Many stakeholders have stressed upon the need to develop and broaden the indigenous manufacturing capacity related to broadcasting equipments and set top boxes. The stakeholders have also suggested several policy reforms and incentives that should be initiated by the Government to boost overall manufacturing in this

sector. Almost all stakeholders believe that non-availability of easy access to financial assistance and proper R&D facilities in the sector are few of the biggest impediments for indigenous manufacturing.

3.131 On the issue of promoting indigenous manufacturing of the STBs, some stakeholders have advocated that the Government should provide tax incentives. Subsidized funding for setting up of manufacturing as well as research and development units in order to boost the growth of indigenous manufacturing.

3.132 The Authority recognizes the fact that demand for broadcasting equipments and STBs and for electronics goods in general has been growing in domestic as well as foreign markets. It is noted that the Government of India has initiated several policy schemes to complement the existing schemes aimed at the enhancement of manufacturing in the electronics sector. These include Modified Special Incentive Package Scheme, Electronic Manufacturing Clusters (EMCs) and other schemes which give Tax and Tariff Concessions on Inputs and Tariff Protection against Imports, investment allowances and deductions. Also various initiatives have been taken to promote innovation in India. Electronics Development Fund (EDF) has been created to help generate an ecosystem of R&D in electronics in India to promote IP generation and large-scale manufacturing. Some centers of excellence have been established from the viewpoint of carrying out research relating to specialized branches of electronics.

3.133 The Authority is of the view that IP generation in a specific sector depends upon the efficient channelization of the funds towards a platform which combines both the academia and the industry. This is particularly important with the view of carrying out applied research aimed towards device development and technology standards.

3.134 Promotion of indigenous manufacturing of broadcasting equipments will bring down the prices, thereby improving the business paradigm. Therefore, Authority is of the view that a comprehensive policy may be

designed to promote research in the areas of manufacturing of broadcasting equipment.

3.135 In view of the above, the Authority recommends that:-

- a) The Government should contemplate for creating a Centre of Excellence exclusively for broadcasting services. This centre should study technical, economic, and social aspects of broadcasting ecosystem.**
- b) The Government should consider issuing a comprehensive policy guideline to promote research and manufacturing of hardware and software for broadcasting services.**

M: Trials for New Technologies

3.136 In the question regarding issues in conducting trial projects to assess suitability of a new technology in Broadcasting sector, many stakeholders stated that the current policy does not promote technology trials. They have suggested for a separate provision in the policy framework that encourages innovation and adoption of new technologies and overall development of the ecosystem.

3.137 One stakeholder has suggested that special cell for granting permission should be created in MIB to accord approval in a time bound manner. The equipments for conducting trials are sometimes imported and are available only for a limited time period. Therefore uplinking and downlinking permissions should be granted expeditiously for trials.

3.138 One stakeholder opined that the spectrum for any trial project should be separately provided and should not be allocated out of the resources in use or allocated to the incumbents for their existing as well as planned services. Besides, while granting such approvals other factors like promotion of indigenous manufacturing, green technologies etc. should also be taken into account.

- 3.139 With respect to trial of RF equipments in Broadcasting sector, there appears to be a lack of policy for facilitating technology trials with an objective to understand new technologies for assessing their potential and suitability for adoption in Indian context. As a result, for such experimental projects same eligibility criteria are to be met and same procedures are to be followed which are applicable in the case of launching of regular services. This means only the established service providers can carry out trials related to new technologies. This discourages technology evolution and the technology assimilation, thereby impeding the development of the sector.
- 3.140 The Authority is of the view that a separate policy framework has to be designed by MIB wherein permissions could be granted for the conduct of such trials or experiments by the existing as well as for the new service providers. WPC should earmark some specific frequency slots for trail/ testing purpose.
- 3.141 Depending on the nature of the experiments/trials and the time required for their completion, two types of licenses may be issued, one for the short term and the other for the long term. This would also be along the lines of the procedure followed in the telecom sector wherein Experimental License, meant for the purpose of experiment for Software Development and RF functionality test, are granted under two categories, i.e. 'radiating' and 'non-radiating'. The experiment licenses under non-radiating conditions and indoor environment remain valid for 2 years from the date of issue while for the Experimental (radiating) License; the validity period is 3 months, extendable by another 3 months. In US, Special Temporary Authorizations are given for experiments that last no longer than six months while for experiments requiring longer duration of time for completion, regular experimental license is issued.

3.142 Generally, the process of issuance of such licenses may involve other Ministries or Departments in certain cases such as WPC¹⁵ or the Ministry of Finance¹⁶. The Authority is of the view that the applicant should file an application for seeking permission for conducting trials along the necessary documents to MIB. Thereafter MIB should coordinate with the concerned Ministries to seek the requisite clearances so that the process of grant of the permission is executed within a specified time frame. The process of grant of such licenses should be made online with a time-bound single window clearance system.

3.143 **In view of the above, the Authority recommends that:-**

- a) The Government should design a separate policy framework for grant of permission to conduct trials/ testing by existing as well as new service providers.**
- b) WPC should allocate specific frequency slots for trials/ experimental purposes.**
- c) Depending on the nature of the trials and the time required for their completion, two types of licenses should be issued, one for the short term for a period for 3 months extendable up to 6 months and the other for the long term issued for 2 years extendable up to 3 years, on case to case basis.**

N: Miscellaneous Issues

3.144 The stakeholders also raised other issues which were not dealt in the Consultation Paper. One stakeholder has suggested that value added services, such as red button services on satellite TV channels, should be permitted without the need for taking separate license/permission. Another stakeholder has advocated for permission of use of

¹⁵ WPC issues allocation of Spectrum for the purpose.

¹⁶ Import approval is required to be obtained by stakeholder in case such equipment is sourced from a foreign country.

technologies, where satellite bandwidth capacity, used for forward channel, can also be used for return channel, simultaneously.

3.145 One stakeholder has raised concerns citing the instances of “rouge carrier” uplinks. As per him, due to such uplinks, broadcasters authorized frequency uplink is seriously affected which leads to blackout of broadcaster’s signals. The stakeholder has suggested that the WPC should device means to track such rouge carrier sources and take corrective actions.

3.146 One stakeholder has raised the issue relating to use of Disaster Recovery/ backup head-end. It stated that, under the current policy guidelines, the DTH operators are not allowed to operate more than one earth station at one given point in time, which results into a situation where one of the earth stations (mainly the Disaster Recovery (DR) sites) lie unused, most of the time. It argued that since establishment and maintenance of such DR sites requires huge capital it is required that such sites do not remain non-operational. Therefore, DTH operators should be allowed to use the DR sites simultaneously, thus reducing burden on primary head-end.

3.147 One DTH operator has mentioned that the provision of toll free number by DTH operators puts excessive financial burden and therefore the requirement of having a toll free number should be done away with.

3.148 On the issue of ‘rogue career’, the Authority has taken up separately with WPC/ DoT to strengthen Wireless Monitoring Organization and to regulate the sale of Radio device of any frequency that is covered under regulated spectrum. Other issues like red button services, provisioning of return channel, DR sites and toll free number are policy and regulatory issues. These issues do not have direct bearing on the procedural framework. Therefore, these issues have not been considered here.

CHAPTER 4

SUMMARY OF RECOMMENDATIONS

A: Grant of permission for uplinking and downlinking of satellite TV channels by MIB

4.1 The Authority recommends that the process of granting permission for uplinking of satellite TV channels from India should be streamlined by removing redundant processes, re-engineer necessary processes, and making them efficient using ICT. [Refer Para 3.17]

4.2 The Authority recommends that the process of granting permission and registration for downlinking of satellite TV channels should be streamlined in such a way that:

(a) the channels having permission for uplinking from India require registration only; and

(b) the channels being uplinked from outside India require permission as well as registration. [Refer Para 3.23]

4.3 The Authority recommends that:-

a) Initially, MHA should take the decision on security clearance to an applicant company and its key personnel within a period of 60 days. Also, in case of any change in key personnel, MHA should take the decision within a period of 60 days.

b) Validity period of security clearance granted to a company should be equal to the permission/ license period granted to that company for broadcasting services. The Government in

any case reserve the right to withdraw security clearance at any point of time.

- c) The security clearance granted to the key personnel of a company should remain valid for 10 years.
- d) In cases where an existing broadcasting company, having valid security clearance, is seeking permissions for additional satellite TV channels, the process of seeking fresh security clearance from MHA should be done away with. [Refer Para 3.31]

4.4 The Authority recommends that:-

- (a) DoS should take the decision on clearance for satellite use for broadcasting services within a period of 60 days.
- (b) In cases where a broadcasting company is seeking permissions for uplinking of new satellite TV channels to the already cleared satellites, the process of seeking fresh clearance from DoS should be done away with. [Refer Para 3.36]

4.5 The Authority recommends that:-

- a) A self declaration, in a prescribed format, stating that the applicant company meets net-worth requirements, as specified under the policy guidelines, should be taken from the applicant company at the time of submitting the application. This declaration should be supported with duly audited financial statements of the company.
- b) The requirement of examining net worth, ownership details, shareholding pattern and its effect on net worth etc., by the empanelled CA should be done away with.
- c) A self declaration, in a prescribed format, stating that the applicant company complies with clause 1.3 and 1.4 of the

downlinking policy guidelines should be taken from the applicant company at the time of submitting the application.

- d) The requirement of examining the compliance of clause 1.3 and 1.4 of the downlinking policy guidelines by Department of Revenue (DoR) should be done away with.**
- e) A condition should be added in the procedure of granting permissions that if the information provided by a company is found incorrect or incomplete at any stage during the entire permission period, the permission would become *void ab initio*. [Refer Para 3.45]**

B: Grant of permission for teleport services by MIB

4.6 The Authority recommends that procedure recommended for granting permission for uplinking of satellite TV channels should be *mutatis-mutandis* made applicable to grant permission for teleport services also. [Refer Para 3.48]

C: Grant of license for DTH services by MIB

4.7 The Authority recommends that:-

- a) Initially, MHA should take the decision on security clearance to an applicant company seeking license for DTH services and its key personnel within a period of 60 days. Also, in case of any change in key personnel, MHA should take the decision within a period of 60 days.**
- b) DoS should take the decision on clearance for satellite use for DTH services within a period of 60 days. [Refer Para 3.57]**

D: Frequency allocation and grant of WOL by WPC, and permission to operationalize broadcast services by NOCC

4.8 The Authority recommends that:-

- a) **WPC should allocate the spectrum for commercial satellite usage as and when there is a demand for the same from service providers in a time bound manner.**
- b) **The WOL should be valid for a period equivalent to service license/ permission period.**
- c) **The service providers should continue to pay requisite fees to WPC on annual basis; and the same should be paid at least 60 days before the due date to ensure continuity of the license.**
- d) **A condition should be prescribed in the WOL that any delay in payment of requisite fees shall lead to penalties and cancellation of the applicable license. [Refer Para 3.68]**

E: Time frame to grant permissions by MIB and WPC

4.9 The Authority recommends that:-

- a) **MIB should setup an integrated online portal for broadcasters, teleport operators, and distributors of TV channels (DTH operators/HITS operators/MSOs) which should facilitate the filing of applications, processing in MIB, DoS and DoT, tracking of status of applications, payments, frequency allocations, endorsements, permissions, licenses, registrations, and renewals with common database. Preferably, this portal should be integrated with other e-Governance systems like *Bharatkosh*¹⁷ portal, e-Office application etc. Access to the portal should be provided to the Authority also for information and analysis.**
- b) **The integrated online portal should be developed as early as possible, within a period of 1 year from the date of acceptance of these recommendations.**

¹⁷ *Bharatkosh* is an online payment gateway for payment of fee etc. to Government of India

- c) **In cases of permissions/ licenses where security clearance of the company from MHA or satellite clearance from DoS or both are required, normally the decision to grant permission should be taken by MIB in consultation with MHA and DoS within 3 Months from the date of application.**
- d) **In case of permissions, where security and satellite clearances are not required, normally the decision to grant permission should be taken by MIB within 45 Days from the date of application.**
- e) **WPC should take the decision on grant of WOL including allocation of frequency within a period of 60 days.**
- f) **The decision to grant permission for operationalising the services, including time taken by MIB, WPC, DoS, MHA, and NOCC for issuing permissions, should be completed within 6 months period in case of uplinking of channel by a new company/ teleport/ DTH licenses. [Refer Para 3.82]**

F: Change in Name, Logo, Language and Format of Satellite TV Channel

4.10 The Authority recommends that:-

- a) **The application for change in the logo, name, language and format of a channel should be processed through the proposed integrated online portal to take the decision on the same.**
- b) **MIB should maintain an updated database of all channels in the proposed integrated online portal and the same should be accessible to all the regulating and monitoring agencies namely MIB, TRAI, DoS, MHA, WPC, and NOCC.**
- c) **With the accessibility of an online updated database of channels, the permission of WPC and NOCC, for change in**

name, logo, or language of a channel, would become superfluous. Accordingly, the procedure for seeking such permission should be discontinued.

- d) If a request for change in name, logo, or language of a channel is made within one year from the last such change, then MIB may carryout detailed examination. In such cases, MIB should take decision on request for change in name, logo, or language of a channel within a period of 30 days from the date of receipt of application along-with the prescribed charges (if any).
- e) In all other cases, the proposed changes in the logo, name, or language of a channel should be taken on record online after payment of the prescribed charges (if any).
- f) The necessary permissions for effecting the change in format of a channel should be granted within 60 days after receipt of the application and payment of the prescribed charges (if any). It includes the time taken by MIB, WPC and NOCC. [Refer Para 3.91]

G: Temporary uplinking of live coverage of events

4.11 The Authority recommends that:-

- a) For the events to be uplinked for viewing in India, if:
 - i) the applicant company has agreement with the existing broadcaster(s) and teleport operator; and
 - ii) the applicant company propose to use the pre-approved DSNG and space spectrum for temporary uplinking of live event; and
 - iii) the broadcaster(s) undertake to comply with the Program and Advertisement Code;

then the registration of the necessary details by the applicant company along with the requisite documents and payment of requisite fee through the proposed integrated online portal should be sufficient.

- b) For the events to be uplinked for viewing outside India, if:
- i) the applicant company has the agreement with the existing teleport operator; and
 - ii) it propose to use the pre-approved DSNG and space spectrum for temporary uplinking of live event;

then the registration of the necessary details by the applicant company along with the requisite documents and payment of requisite fee through the proposed integrated online portal should be sufficient.

- c) In other cases, the existing process needs to be automated using proposed integrated online portal to improve efficiency. [Refer Para 3.101]

H: Renewal of permission for satellite TV channel

4.12 The Authority recommends that payment of annual permission fee as per the extant policy guidelines should be done through proposed integrated online portal. The periodicity of the renewal of licenses should continue to be on annual basis. [Refer Para 3.107]

I: Open sky policy for Ku band

4.13 The Authority recommends that the issue of open sky policy for Ku band frequencies may be taken up by MIB in INSAT Coordination Committee (ICC) meeting and the same should be adopted. [Refer Para 3.112]

J: Registration / renewal to provide cable TV services

4.14 The Authority recommends that:-

- a) **The registration of LCO and its renewal should be carried out through online portal. Further, the period of registration for LCO should be increased to 5 years. [Refer Para 3.120]**
- b) **MIB should take necessary steps to frame Right of Way Rules under the Cable TV Act. [Refer Para 3.124]**

K: Indigenous Manufacturing

4.15 The Authority recommends that:-

- a) **The Government should contemplate creating a Centre of Excellence exclusively for broadcasting services. This centre should study technical, economic, and social aspects of broadcasting ecosystem.**
- b) **The Government should consider issuing a comprehensive policy guideline to promote research and manufacturing of hardware and software for broadcasting services. [Refer Para 3.136]**

L: Trials for New Technologies

4.16 The Authority recommends that:-

- a) **The Government should design a separate policy framework for grant of permission to conduct trials/ testing by existing as well as new service providers.**
- b) **WPC should allocate specific frequency slots for trials/ experimental purpose.**
- c) **Depending on the nature of the trials and the time required for their completion, two types of licenses should be issued, one for the short term for a period for 3 months extendable**

up to 6 months and the other for the long term issued for 2 years extendable up to 3 years, on case to case basis. [Refer Para 3.144]

Annexure-I

Table

Summary of assessment of processes followed for grant of permission/license/registration

Type of permission	Name of the process	Purported objective of the process	Relevance with the objective	Value addition	Is the process efficient	TRAI View
Uplink only TV Channels, not meant for public viewing in India	Security clearance from MHA	National Security	✓	✓	×	After security clearance of the company and its senior executives, security clearance for individual channels is not relevant. Further to ensure timely decision on any application, the decision on security clearance should be taken in a time bound manner.
	Satellite clearance from DoS	Coordination of proposed Satellite with INSAT	✓	✓	×	After clearance of a particular Satellite, clearance for individual channels proposed to be uplinked to the same satellite is not relevant. Further to ensure timely decision on any application, the decision on Satellite clearance should be taken in time bound manner.
	Net worth examination by CA	Net worth requirement compliance	✓	×	×	Examination of the company's net worth by empanelled CA does not add any value to the process as the required information is furnished by the applicant company with signatures of the company's auditors. Further, the same can also be verified by MIB from MCA21 website. Therefore, it is a redundant process.
	Frequency allocation	Regulation of wireless	✓	✓	×	Some of the existing processes like endorsement of channels on teleport license, allocation of

	and grant of Wireless Operating License (WOL) by WPC	operations				satellite spectrum, renewal of WOL etc. should be re-engineered to make them efficient. WPC should allocate the required satellite spectrum for commercial usage through out the year as and when there is a demand for the same by the service providers.
	Clearance from NOCC	Interference and operations management	✓	✓	✓	Existing processes are necessary and efficient. However, the same should be integrated in the proposed online portal to ensure consistency.
Downlink only channels, uplinked from outside India	Security clearance from MHA	National Security	✓	✓	x	Same as mentioned above.
	Net worth examination by CA	Net worth requirement compliance	✓	x	x	Same as mentioned above.
	Examination by Department of Revenue (DoR)	Exclusive marketing/ distribution rights, and the authority to conclude contracts	✓	x	x	Details relating to exclusive marketing/ distribution rights, and the authority to conclude contracts on behalf of the channel for advertisements, subscription and program content are part of the agreement submitted by the company along with the application. The same can be examined by the MIB itself as it does not require use of expertise available with DoR only.
Permission for uplinking and downlinking of TV	Security clearance from MHA, Satellite clearance from DoS,	Same as mentioned above.	Same as mentioned above.			Same as mentioned above.

channel, Teleport, DTH, and HITS	Net worth examination by CA, and WPC/ NOCC clearances					
Change in Name, Logo, or language of a channel	WPC and NOCC clearance	Not clear from the policy	x	x	x	Since the change in Name, Logo, or language of a channel would not change any transmission parameters, the process is irrelevant. MIB should update the common data base of permitted channels, accessible online to all regulating and monitoring agencies (MIB, DoS, WPC, and NOCC).
Change in format of a channel SD to HD or <i>vice-versa</i>	WPC and NOCC clearance	Regulation of wireless operations and interference management	✓	✓	x	Since the change in format of a channel would require change in transmission parameters, the process is relevant. However, the process requires re-engineering to improve efficiency.
Temporary uplinking of live coverage	WPC and NOCC clearance	Regulation of wireless operations and interference management	✓	✓	x	If the applicant company has the agreement with the teleport operator and broadcaster, propose to use pre-approved DSNG van for uplinking of signals of the program, and the broadcaster undertakes to comply with the program and advertisement code; then the registration by the applicant company on the integrated online portal and payment of requisite fee should be sufficient for issuing temporary uplinking permission instantaneously.

File No: 1501/34/2009-TV(I)
 Government of India
 Ministry of Information and Broadcasting
 Broadcasting Wing

New Delhi.
 Dated: 5th December, 2011

POLICY GUIDELINES FOR UPLINKING OF TELEVISION CHANNELS FROM INDIA

PREAMBLE

Ministry of Information and Broadcasting, Government of India notified the "Guidelines for Uplinking from India" in July 2000. This was followed by "Guidelines for Uplinking of News and Current Affairs TV Channels from India" in March 2003, which were amended in August 2003. Further followed by "Guidelines for use of SNG/DSNGs" in May 2003 and addendum dated 1.4.2005 to the Uplinking guidelines. The Government has, on 20th October 2005, further amended these Guidelines, which came into effect from 2nd December 2005. Some amendments to these Guidelines have also come into operation as a result of enactment of the Sports Broadcasting Signals (Mandatory Sharing with Prasar Bharati) Act, 2007 and the rules and notifications thereunder. Some amendments were also needed in the provisions relating to the determination of the foreign investment in the applicant/permission holder company to bring them in line with the extant FDI Policy of the Government. The Government has, on 7th October 2011 further amended these guidelines. Accordingly, in supersession of all previous guidelines, the Government hereby notifies the following consolidated Uplinking Guidelines. These shall come into effect from today the 05th December, 2011 and would be applicable to existing channels as well.

GENERAL

The applicant seeking permission to set up an Uplinking Hub/ Teleport or Uplink a TV Channel or Uplink facility by a News Agency should be a company registered in India under the Companies Act, 1956.

1. PERMISSION FOR SETTING UP OF UPLINKING HUB/ TELEPORTS

1.1. Eligibility Criteria

- 1.1.1. In the applicant company, the foreign equity holding including NRI/OCB/PIO should not exceed 49%.
- 1.1.2. The Company should have a minimum Net Worth as prescribed below:[

<i>[Item</i>	<i>Required Net Worth</i>
<i>For the first Teleport</i>	<i>Rs. 3.00 Crore</i>
<i>For each additional Teleport</i>	<i>Rs. 1.00 Crore]</i>

1.1.3. *Notwithstanding the provisions contained in Para 1.1.2, the minimum networth requirement for additional Teleport of a Company, which held permission(s) for a Teleport(s) as on the date of issuance of the amended Guidelines on 05.12.2011, would be calculated by applying the networth norms as they existed prior to the issuance of amended guidelines for the permissions already held on that date, and the revised norms as per Para 1.1.2 for the additional Teleport(s).]*¹

1.2. Period of Permission

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

1.3. Fee

1.3.1. The applicant will pay an amount of Rs. Ten Thousands per teleport as non-refundable processing fee.

1.3.2. *[The applicant company shall pay a permission fee at the rate of Rs. Two lakh per Teleport per annum.*

1.3.3. *After being held eligible, the applicant Company shall pay the permission fee for the first year before the issuance of permission. The succeeding year's permission fee will have to be deposited 60 days before such fee becomes due.]*¹

1.4. Special Conditions/ Obligations

1.4.1. The company shall Uplink only those TV Channels which are specifically approved or permitted by the Ministry of Information and Broadcasting for Uplinking from India.

1.4.2. The company shall stop Uplinking TV channels whenever permission/approval to such a channel is withdrawn by the Ministry of Information & Broadcasting.

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

[1.5. Roll Out Obligations for operationalisation of permitted Teleports:-

1.5.1. *The applicant company shall operationalise the teleport within one year from the date the permission is granted by the Ministry of Information and Broadcasting.*

1.5.2. *After being held eligible, the applicant company shall also furnish a Performance Bank Guarantee (PBG) for Rs 25 lakhs for each teleport before the issuance of permission on the format so specified by the Ministry for fulfilling the rollout obligation stipulated in Para 1.5.1, from any scheduled bank in favour of the Ministry of Information and Broadcasting. If the teleport is not operationalised even after one year, the permission shall be cancelled and the Performance Bank Guarantee (PBG) shall be forfeited.*

1.5.3. *The requirement of Performance Bank Guarantee (PBG) shall also be applicable to a Company which held permission(s) for a Teleport(s) as on the date of issuance of the amended Guidelines on 05.12.2011 and wishes to seek further extension for operationalisation beyond the period already permitted as on that date, for granting extension up to a further period of one year.]¹*

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

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

2.1. Eligibility Criteria

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

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

Item	Required Net Worth
First TV Channel	Rs. 5.00 crore
For each additional TV Channel	Rs. 2.50 crore

2.1.3. *Notwithstanding the provisions contained in Para 2.1.2, the minimum networth requirement for additional Non-News and Current Affairs TV channels of a Company which held permission(s) for TV channels as on the date of issuance of the amended Guidelines as on 05.12.2011, would be calculated by applying the networth norms as they existed prior to the issuance of amended guidelines for the permissions already held on that date, and the revised norms as per Para 2.1.2 for the additional TV channels.*

2.1.4. *At least one of the persons occupying a top management position in the applicant company should have a minimum 3 years of prior experience in a top management position in a media company (or media companies) operating Non-News and Current Affairs TV channels. The term “top management position” in this context shall mean the Chairperson or Managing Director or Chief Executive Officer or Chief Operating Officer or Chief Technical Officer or Chief Financial Officer of the Company. The channels which were permitted but could not become operational by the date of issuance of the amended guidelines on 05.12.2011 will also be required to fulfill this criteria.]¹*

2.2. Period of Permission

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

2.3. Fee

2.3.1. The applicant will pay an amount of Rs.Ten thousands per TV Channel as non-refundable processing fee.

2.3.2. *[The applicant company shall pay a permission fee at the rate of Rs. Two lakh per Non-News and Current Affairs channel per annum*

2.3.3. *After being held eligible, the applicant Company shall pay the permission fee for the first year before the issuance of permission. The succeeding year's permission fee will have to be deposited 60 days before such fee becomes due.]¹*

2.4. Special Conditions/ Obligations

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

2.4.2. The applicant company permitted to uplink shall operationalise the channel within a period of one year from the date the permission is granted by the Ministry of Information and Broadcasting, and will abide the Section 2.5 and its sub sections thereof, as given below.

2.4.3. *[The company shall ensure compliance of the provisions of Sports Broadcasting Signals (Mandatory sharing with Prasar Bharati) Act 11 of 2007 and the Rules, Guidelines, Notifications issued there under.]²*

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

[2.5 Roll out Obligations for Operationalising permitted Non News and Current Affairs TV Channels

2.5.1 *The applicant company shall operationalise the permitted non-News and Current Affairs Television channel within one year from the date the permission is granted by the Ministry of Information and Broadcasting.*

2.5.2 *After being held eligible, the applicant company shall also furnish a Performance Bank Guarantee (PBG) for Rs 1 crore for each non-News and Current Affairs TV channel before the issuance of permission on the format so specified by the Ministry for fulfilling the rollout obligation stipulated in Para 2.5.1, from any scheduled bank in favour of the Ministry of Information and Broadcasting. If the channel is not operationalised even after one year, the permission shall be cancelled and the Performance Bank Guarantee (PBG) shall be forfeited.*

2.5.3. *The requirement of Performance Bank Guarantee (PBG) shall also be applicable to a Company which held permission(s) for a non-News and Current Affairs TV channel as on the date of issuance of the amended Guidelines on 05.12.2011 and wishes to seek further extension for*

operationalisation beyond the period already permitted as on that date, for granting extension up to a further period of one year.]¹

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

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

3.1. Eligibility Criteria

3.1.1. *[The total direct and indirect foreign investment including portfolio and foreign direct investments into the company shall not exceed 26% at the time of application and during the currency of the permission. The methodology of calculation of the direct and indirect foreign investments would be as per the extant policy of the Government. The Company, permitted to uplink the channel shall certify the continued compliance of this requirement through its Company Secretary, at the end of each financial year. Approval of Foreign Investment Promotion Board (FIPB) shall be required for any existing or proposed foreign investment in the company.]³*

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

4. In the case of an individual shareholder,
5. The individual shareholder.
6. A relative of the shareholder within the meaning of Section 6 of the Companies Act, 1956.
7. A company/ group of companies in which the individual shareholder/HUF to which he belongs has management and controlling interest.
6. In the case of an Indian company,
7. The Indian company
8. A group of Indian companies under the same management and ownership control.

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

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

3.1.3. [...deleted...]³

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

Item	Required Network
<i>First News and Current Affairs TV channel</i>	<i>Rs. 20.00 crore</i>
<i>For each additional TV channel</i>	<i>Rs. 5.00 crore</i>

3.1.14 *Notwithstanding the provisions contained in Para 3.1.13, the minimum network requirement for additional News and Current Affairs TV channels of a Company which held permission(s) for TV channels as on the date of issuance of the amended Guidelines as on 05.12.2011, would be calculated by applying the network norms as they existed prior to the issuance of amended guidelines for the permissions already held on that date, and the revised norms as per Para 3.1.13 for the additional TV channels.*

3.1.15 *At least one of the persons occupying a top management position in the applicant company should have a minimum 3 years of prior experience in a top management position in a media company (or media companies) operating News and Current Affairs TV channels. The term "top management position" in this context shall mean the Chairperson or Managing Director or Chief Executive Officer or Chief Operating Officer or Chief Technical Officer or Chief Financial Officer of the Company. The channels which were permitted but could not become operational by the date of issuance of the amended guidelines on 05.12.2011 will also be required to fulfill this criteria.]¹*

3.2. Period of Permission

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

3.3. Fee

3.3.1. The applicant will pay an amount of Rs. Ten thousands per TV Channel as non-refundable processing fee.

3.3.2. *[The applicant company shall pay a permission fee at the rate of Rs. Two lakh per News and Current Affairs TV Channel per annum.*

3.3.3. *After being held eligible, the applicant Company shall pay the permission fee for the first year before the issuance of permission. The succeeding year's permission fee will have to be deposited 60 days before such fee becomes due.]¹*

3.4. Special Conditions/ Obligations

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

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

- 3.4.3. The company/channel should ensure that it uses equipment, which is duly authorized and permitted by the competent authority, or its content provider(s), if any, use equipment duly authorized by the competent authority.
- 3.4.4. It will be obligatory on the part of the company to intimate the Ministry of Information & Broadcasting, the changes in Foreign Direct Investment in the company, within 15 days of such change. While effecting changes in the shareholding patterns, it shall ensure its continued compliance to Clause 3.1.1 and 3.1.2 above.
- 3.4.5. The company/channel will be liable to intimate to the Ministry of Information & Broadcasting the details of any foreigners/NRIs employed/engaged by it for a period exceeding 60(sixty) days.
- 3.4.6. The applicant company shall abide by the general terms and conditions laid down in Para 5 below as well as Paras 2.4.1 to 2.4.3 above.

[3.5 Roll out Obligations for Operationalising permitted News and Current Affairs TV Channels

- 3.5.1 *The applicant company shall operationalise the permitted News and Current Affairs Television channel within one year from the date the permission is granted by the Ministry of Information and Broadcasting.*
- 3.5.2 *After being held eligible, the applicant company shall also furnish a Performance Bank Guarantee (PBG) for Rs 2 crore for each News and Current Affairs TV channel before the issuance of permission on the format so specified by the Ministry for fulfilling the rollout obligation stipulated in Para 3.5.1, from any scheduled bank in favour of the Ministry of Information and Broadcasting. If the channel is not operationalised even after one year, the permission shall be cancelled and the Performance Bank Guarantee (PBG) shall be forfeited.*
- 3.5.3. *The requirement of Performance Bank Guarantee (PBG) shall also be applicable to a Company which held permission(s) for a News and Current Affairs TV channel as on the date of issuance of the amended Guidelines on 05.12.2011 and wishes to seek further extension for operationalisation beyond the period already permitted as on that date, for granting extension up to a further period of one year.]¹*

8. PERMISSION FOR UPLINKING BY INDIAN NEWS AGENCY

4.1. Eligibility Criteria

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

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

4.2. Period of Permission

4.2.1. Period of permission shall be as per WPC license.

4.3. Special Conditions/ Obligations

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

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

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

5. GENERAL TERMS & CONDITIONS

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

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

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

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

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

5.6. The company shall permit the Government agencies to inspect the facilities as and when required.

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

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

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

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

6.20. SNG/DSNG in Ku Band will not be used for DTH operation, directly or indirectly. Any such use would lead to the termination of license/permission.

6.21. Uplinking Dish used for SNG/DSNG operation in Ku Band shall not exceed 2 meters.

7. PERMISSION FOR TEMPORARY UPLINKING

7.1. The use of all equipment/platforms for collection of footage/news by channels uplinked from outside for specific programme(s)/event(s) of temporary duration will be entertained on recommendation from the PIB and permitted on a case to case basis, in consultation with the Ministry of Home Affairs and other Ministries/Departments concerned.

7.2. Foreign news channels/ agencies may be granted permission up to one year at a time for temporary uplinking from time to time through a pre-designated teleport, subject to the following conditions:

- a) The applicant is accredited with the Press Information Bureau, Government of India.
- b) The applicant undertakes to conform to the Programme and Advertisement Codes.
- c) The applicant has a binding agreement with the relevant teleport for the period of permission.
- d) The applicant pays a processing fee of Rs. 10,000/- and temporary permission fee of Rs. 50,000/- per year.

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

8. OFFENCES AND PENALTIES

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

8.2. Subject to the provisions contained in para 8.1 of these guidelines, in the event of a permission holder violating any of the terms and conditions of permission, or any other provisions of the guidelines, the Ministry of Information and Broadcasting shall have the right to impose the following penalties:

8.2.1. In the event of first violation, suspension of the permission of the company and prohibition of broadcast/ transmission up to a period of 30 days.

- 8.2.2. In the event of second violation, suspension of the permission of the company and prohibition of broadcast up to a period of 90 days.
- 8.2.3. In the event of third violation, revocation of the permission of the company and prohibition of broadcast up to the remaining period of permission.
- 8.2.4. In the event of failure of the permission holder to comply with the penalties imposed within the prescribed time, revocation of permission and prohibition of broadcast for the remaining period of the permission and disqualification to hold any fresh permission in future for a period of five years.
- 8.3. In the event of suspension of permission as mention in Para 5.9 or 8.2 above, the permission holder shall continue to discharge its obligations under the Grant of Permission Agreement including the payment of fee.
- 8.4. In the event of revocation of permission, the fees shall be forfeited.
- 8.5. All the penalties mentioned above shall be imposed only after giving a written notice to the permission holder.

9. PROCEDURE FOR OBTAINING PERMISSION

- 9.1. The applicant company can apply to the Secretary, Ministry of Information & Broadcasting, in triplicate, in the prescribed format "**Form 1**" along with all requisite documents including a demand draft for an amount equal to processing fee wherever prescribed, payable at par at New Delhi, in favour of the Pay & Accounts Officer, Ministry of Information & Broadcasting, Shastri Bhawan, New Delhi.
- 9.2. On the basis of information furnished in the application form, if the applicant is found eligible, its application will be sent for security clearance to the Ministry of Home Affairs and for clearance of satellite use to the Department of Space (wherever required).
- 9.3. As soon as these clearances are received, the applicant would be asked to furnish a demand draft for an amount equal to the permission fee and Performance Bank Guarantee as applicable, payable at New Delhi, in favour of Pay & Accounts Officer, Ministry of Information & Broadcasting, Shastri Bhawan, New Delhi. Further, the applicant company in respect of Para 1, 2 or 3 above would be required to sign an agreement titled as "Grant of Permission Agreement", in the format "**Form 2**", which is being prescribed separately.
- 9.4. Thereafter, the Company would be issued a formal permission to enable it to obtain requisite license/ clearances from the WPC Wing, Ministry of Communications & IT or approach a teleport service provider in case of TV channels/ uplinking by a Indian news agency.
- 9.5. The applicant will pay the licence fee and royalty, as prescribed by WPC Wing from time to time, annually, for the total amount of spectrum assigned to Hub/Teleport station, as per norms & rules of the WPC Wing. Besides, the

Hub/Teleport station owner will inform WPC Wing the full technical and operations details of TV channels proposed to be uplinked through his/her Hub/Teleport in prescribed format. (This clause is applicable for teleports/uplinking by a Indian News Agency.)

[10. RENEWAL OF EXISTING PERMISSIONS

- 10.1. *The existing permission holders as on the date of issuance of the amended Guidelines on 05.12.2011 will continue to be governed by the terms and conditions of permission as they existed prior to the issuance of amendments on 05.12.2011 till the expiry of such permission.*
- 10.2. *Renewal of permission will be considered for a period of 10 years at a time, subject to the condition that the channel should not have been found guilty of violating the terms and conditions of permission including violations of the programme and advertisement code on five occasions or more. What would constitute a violation would be determined in consultation with the established self-regulating mechanisms.*
- 10.3. *The renewal will also be subject to the permission holder's acceptance of all of the terms and conditions of permission as the Government may prescribe by way of policy pronouncements from time to time.*
- 10.4. *At the time of considering the renewal of permission of the existing permission holders, the eligibility criteria of net worth of the company and experience of the top management will not apply. However, other terms and conditions would be applicable as per modified terms and conditions of the permission.*

11. Transfer of Permission of Television Channels

- 11.1. *The permission holder shall not transfer the permission without prior approval of the Ministry of Information and Broadcasting. On a written request from the permission holder, the Ministry shall allow transfer of permission in case of merger/demerger/ amalgamation, or from one Group Company to another provided that such transfer is in accordance with the provisions of the Companies Act, and further subject to the fulfillment of following conditions:*
 - (i) *The new entities should be eligible as per the eligibility criteria including the net worth and should be security cleared.*
 - (ii) *The new entities should undertake to comply with all the terms and conditions of permission granted.*

12. UPLINKING OF TELEVISION CHANNELS FOR VIEWING ONLY IN FOREIGN COUNTRIES

- 12.1 *TV channels operating in India and uplinked from India but meant only for foreign viewership are not required to comply with the programme and advertisement code of India. The concerned broadcasters will be required to ensure compliance of the rules and regulations of the target country for which content is being produced and uplinked. However, the uplinked content should not contain anything which is against the sovereignty, integrity and national security of India*

as well as its relations with friendly countries. For monitoring purposes, these channels will be required to preserve the recordings of the proceedings for at least six months instead of the present stipulation of 3 months.]¹

Note (Superscripts):

- 1- Amended vide Order No. 1501/34/2009-TV(I), Dated 05.12.2011 of the Ministry of I&B
- 2- Amended in accordance with the provisions of the Sports Broadcasting Signals (Mandatory Sharing with Prasar Bharati) Act, 2007 and the rules and notifications hereunder.
- 3- Amended as per extant FDI Policy notified by DIPP.

Annexure-III

File No: 1501/34/2009-TV(I)
Government of India
Ministry of Information and Broadcasting
Broadcasting Wing

New Delhi.
Dated: 5th December, 2011

POLICY GUIDELINES FOR DOWNLINKING OF TELEVISION CHANNELS

Ministry of Information and Broadcasting, Government of India, has formulated policy guidelines for downlinking all satellite television channels downlinked / received / transmitted and re-transmitted in India for public viewing. Consequently, no person/entity shall downlink a channel, which has not been registered by the Ministry of Information and Broadcasting under these guidelines. These Guidelines envisage two kinds of permissions. The first kind of permission is required to be obtained by an Indian Company which wants to enter into the business of downlinking one or more foreign satellite Television Channels. The second kind of permission is for allowing the downlinking of the satellite Television Channel and registering it in the list of channels permitted for downlinking in India. A foreign Television Channel can thus seek permission for registration under Downlinking Guidelines for being viewed in India by entering into agreement with an Indian Company fulfilling the eligibility criteria prescribed hereunder. Companies which have been granted permission under the Uplinking Guidelines for uplinking Television Channels from India will automatically stand permitted for seeking permission for registration of channels for Downlinking in India. A channel which is permitted to uplink from India and caters to foreign audience only is not required to seek registration under the Downlinking Guidelines. Henceforth, all persons/entities providing Television Satellite Broadcasting Services (Television Channels) uplinked from other countries to viewers in India as well as any entity desirous of providing such a Television Satellite Broadcasting Service (Television Channel), receivable in India for public viewership, shall be required to obtain permission from Ministry of Information and Broadcasting, in accordance with the terms and conditions prescribed under these guidelines.

The revised guidelines are as given below:

2. ELIGIBILITY CRITERIA FOR APPLICANT COMPANIES

1.1. The entity applying for permission for downlinking a channel, uplinked from abroad, (i.e. Applicant Company), must be a company registered in India under the Indian Companies Act, 1956, irrespective of its equity structure, foreign ownership or management control.

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

1.3. The applicant company must either own the channel it wants downlinked for public viewing, or must enjoy, for the territory of India, exclusive marketing/ distribution rights for the same, inclusive of the rights to the advertising and subscription revenues for the channel and must submit adequate proof at the time of application.

1.4. In case the applicant company has exclusive marketing / distribution rights, it should also have the authority to conclude contracts on behalf of the channel for advertisements, subscription and programme content.

1.5. [The applicant company should have a minimum net worth as prescribed below:

Sl.No.	Item	Required Net Worth
1.	For Downlinking of First (Non-News or News & Current Affairs) Television Channel	Rs. 5.0 crore
2.	For Downlinking Each Additional Television Channel	Rs. 2.50 crore

1.6. The applicant company must provide names and details of all the Directors of the Company and key executives such as Chairperson, MD, COO, CEO, CTO, CFO and Head of Marketing, etc. to get their national security clearance.

1.7. The applicant company shall furnish, technical details such as Nomenclature, Make, Model, Name and Address of the Manufacturers of the equipments/ instruments to be used for downlinking and distribution, the Block schematic diagram of the downlinking and distribution system and also demonstrate the facilities for monitoring and storing record for 90 days.

1.8. The Applicant Company should not have been disqualified from holding such permission under these guidelines.

1.9. *[Notwithstanding the provisions contained in Para 1.5, the minimum net worth requirement for downlinking of additional Television Channels by a Company which held permission(s) for downlinking of a Television Channel*

as on the date of issuance of the amended Guidelines as on 05.12.2011, would be calculated by applying the net worth norms as they existed prior to the issuance of amended guidelines for the permissions already held on that date, and the revised norms as per Para 1.5 for the additional Television Channel(s).

1.10. At least one of the persons occupying a top management position in the applicant company should have a minimum 3 years of prior experience in a top management position in a media company (or media companies) operating News and Current Affairs / Non-News and Current Affairs Television Channels as the case may be. The term “top management position” in this context shall mean the Chairperson or Managing Director or Chief Executive Officer or Chief Operating Officer or Chief Technical Officer or Chief Financial Officer of the Company. The channels which were permitted but could not become operational by the date of issuance of the amended guidelines on 05.12.2011 will also be required to fulfill this criteria.]¹

3. ELIGIBILITY CRITERIA FOR PERMISSION AND REGISTRATION AND OF CHANNELS FOR BEING DOWNLINKED

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

2.4.4. That it has been permitted to be telecast in the country of its uplinking by the regulatory authority of that country;

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

2.5. For the purposes of these guidelines any channel, which has any element of news or current affairs in its programme content, will be deemed to be a news and current affairs channel.

2.6. [...Deleted...]³

4. PERIOD OF REGISTRATION AND PERMISSION

3.1. The Permission granted to a company to downlink channels, uplinked from other countries, into India under these guidelines shall be valid for a period of 10 years from the date of issuance of permission. The Registration granted to such channels under these Guidelines shall also be valid for a period of ten years.

3.2. The Registration granted under these Guidelines to channels uplinked from India shall also be valid for a period of 10 years and shall be co-terminus with the uplinking permission of the channel.

5. PERMISSION FEE

4.1. The Company seeking permission to downlink channels, uplinked from other countries, into India under these guidelines shall pay a permission fee of Rs 10 lakhs at the time of grant of permission.

4.2. The Company shall pay a Permission fee for Registration of channels under these guidelines as follows:-

4.2.1. Rs. 5 lakhs per channel per annum for Downlinking of Television Channel uplinked from India.

4.2.2. Rs. 15 lakhs per channel per annum for Downlinking of Television Channel uplinked from abroad.

4.2.3. After being held eligible, the applicant Company shall pay the permission fee for the first year before the issuance of permission. The succeeding year's permission fee will have to be deposited 60 days before such fee becomes due.]¹

4.3. [...Deleted....]³

8. BASIC CONDITIONS/OBLIGATIONS

- 5.1. The Company permitted to downlink registered channels shall comply with the Programme and Advertising Code prescribed under the Cable Television Networks (Regulation) Act, 1995.
- 5.2. [The company shall ensure compliance of the provisions of Sports Broadcasting Signals (Mandatory sharing with Prasar Bharati) Act 11 of 2007 and the Rules, Guidelines, Notifications issued there under.]²
- 5.3. The applicant company shall adhere to any other Code/Standards guidelines/restrictions prescribed by Ministry of Information & Broadcasting, Government of India for regulation of content on TV channels from time to time.
- 5.4. The applicant company shall submit audited annual accounts of its commercial operations in India.
- 5.5. The applicant company shall obtain prior approval of the Ministry of Information and Broadcasting before undertaking any upgradation, expansion or any other changes in the downlinking and distribution system/network configuration.
- 5.6. The applicant company shall provide Satellite TV Channel signal reception decoders only to MSOs/Cable Operators registered under the Cable Television Networks (Regulation) Act 1995 or to a DTH operator registered under the DTH guidelines issued by Government of India or to an Internet Protocol Television (IPTV) Service Provider duly permitted under their existing Telecom License or authorized by Department of Telecommunications or to a HITS operator duly permitted under the policy guidelines for HITS operators issued by Ministry of Information and Broadcasting, Government of India to provide such service."
- 5.7. The applicant company shall ensure that any of its channels, which is unregistered or prohibited from being telecast or transmitted or re- transmitted in India, under the Cable Television Networks (Regulation) Act 1995 or the DTH guidelines or any other law for the time being in force, cannot be received in India through encryption or any other means.
- 5.8. The Union Government shall have the right to suspend the permission of the company/registration of the channel for a specified period in public interest or in the

interest of National security to prevent the misuse of the channel. The company shall immediately comply with any directives issued in this regard.

- 5.9. The applicant company seeking permission to downlink a channel shall operationalise the channels within one year from the date of the permission being granted by the Ministry of Information and Broadcasting failing which the permission will liable to be withdrawn without any notice in this regard. However, the company shall be afforded a reasonable opportunity of being heard before such a withdrawal.
- 5.10. The company/channel shall adhere to the norms, rules and regulations prescribed by any regulatory authority set up to regulate and monitor the Broadcast Services in the country.
- 5.11. The applicant company shall give intimation to Ministry of Information and Broadcasting regarding change in the directorship, key executives or foreign direct investment in the company, within 15 days of such a change taking place. It shall also obtain security clearance for such changes in its directors and key executives.
- 5.12. The applicant company shall keep a record of programmes downlinked for a period of 90 days and to produce the same before any agency of the Government as and when required.
- 5.13. The applicant company shall furnish such information as may be required by the Ministry of Information and Broadcasting from time to time.
- 5.14. The applicant company shall provide the necessary monitoring facility at its own cost for **monitoring** of programmes or content by the representative of the Ministry of Information and Broadcasting or any other Government agency as and when required.
- 5.15. The applicant company shall comply with the obligations and conditions prescribed in the downlinking guidelines issued by the Ministry of Information and Broadcasting, and the specific downlinking permission agreement and registration of each channel.
- 5.16. In the event of any war, calamity/national security concerns, the Government shall have the power to prohibit for a specified period the downlinking/ reception/ transmission and re-transmission of any or all channels. The Company shall immediately comply with any such directions issued in this regard.

7. OFFENCES AND PENALTIES

- 6.1. In the event of a channel found to have been/being used for transmitting any objectionable unauthorized content, messages, or communication inconsistent with public interest or national security or failing to comply with the directions as per Para 5.8 or Para 5.16, the permission granted shall be revoked and the company shall be disqualified to hold any such permission for a period of five years, apart from liability for punishment under other applicable laws. Further, the registration of the channel shall be revoked and the channel shall be disqualified from being considered for fresh registration for a period of five years.
- 6.2. Subject to the provisions contained in Para 6.1 of these guidelines, in the event of a permission holder and/ or channel violating any of the terms and conditions of

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

- 6.2.1.** In the event of first violation, suspension of the permission of the company and/or registration of the channel and prohibition of broadcast up to a period of 30 days.
- 6.2.2.** In the event of second violation, suspension of the permission of the company and/or registration of the channel and prohibition of broadcast up to a period of 90 days.
- 6.2.3.** In the event of third violation, revocation of the permission of the company and/or registration of the channel and prohibition of broadcast up to the remaining period of permission.
- 6.2.4.** In the event of failure of the permission holder to comply with the penalties imposed within the prescribed time, revocation of permission and /or registration and prohibition to broadcast for the remaining period of the permission and disqualification to hold any fresh permission and /or registration in future for a period of five years.
- 6.2.5.** In the event of suspension of permission as mentioned in Para 5.8, 5.16 or 6.2, the permission holder will continue to discharge its obligations under the Grant of Permission Agreement including the payment of fee.
- 6.2.6.** In the event of revocation of permission and /or registration the fees paid will be forfeited.
- 6.2.7.** All the penalties mentioned above shall be imposed only after giving a written notice to the permission holder.

9. DISPUTE RESOLUTION

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

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

9. PROCEDURE FOR GRANT OF PERMISSION OF CHANNELS

8.1. The applicant company shall apply to the Secretary, Ministry of Information and Broadcasting in the prescribed Performa along with full details and documentation relevant for evaluating its eligibility for grant of permission to downlink Television Channels in India. Each application form shall be accompanied by a demand draft of Rs. Ten Thousand towards non-refundable processing fee.

8.2. The applicant company shall also submit full details of each channel being/proposed to be downlinked along with all other documents as prescribed in the guidelines.

8.3. After scrutiny of the application if the applicant company is found eligible, the same will be sent for security clearance to the Ministry of Home Affairs. In the meanwhile, the Ministry of Information and Broadcasting will evaluate the suitability of the proposed channel for downlinking into India for public viewing.

8.4. In the event of the applicant company and the proposed channel being found suitable, the Ministry of Information and Broadcasting will register the channel and the applicant company to enter into a grant of permission agreement with the Ministry of Information and Broadcasting, Government of India.

8.5. On receipt of the signed agreement, the Ministry of Information and Broadcasting will issue a registration certificate for the concerned channels and grant permission to the applicant company to downlink the relevant channels in India for the prescribed period.

8.6. On receipt of the permission and upon registration of the channel, the applicant company will be entitled to approach the MSOs/Cable head end operators/DTH Operators for receiving/ downlinking its channel's signal, for further transmission/ retransmission/ distribution.

10. [RENEWAL OF EXISTING PERMISSIONS / REGISTRATION

9.1. The existing permission holders as on the date of issuance of the amended Guidelines on 05.12.2011 will continue to be governed by the terms and conditions of permission as they existed prior to the issuance of amendments on 05.12.2011 till the expiry of such permission.

9.2. Renewal of permission/ registration will be considered for a period of 10 years at a time, subject to the condition that the company/ channel should not have been found guilty of violating the terms and conditions of permission including violations of the programme and advertisement code on five occasions or more. What would constitute a violation would be determined in consultation with the established self-regulating mechanisms.

9.3. The renewal will also be subject to the permission/ registration holder's acceptance of all of the terms and conditions of permission as the Government may prescribe by way of policy pronouncements from time to time.

9.4. At the time of considering the renewal of permission/ registration of the existing permission holders, the eligibility criteria of net worth of the company and experience of the top management will not apply. However, other terms and conditions would be applicable as per modified terms and conditions of the permission.

14. TRANSFER OF PERMISSION OF TELEVISION CHANNELS

10.1. The permission holder shall not transfer the permission without prior approval of the Ministry of Information and Broadcasting.

10.2. In case of transfer of permission of a Satellite Television Channel uplinked from India from one company to another as per the provisions of Uplinking Guidelines, the registration of the channel under the downlinking Guidelines shall also stand transferred to the new company.

10.3. In case of companies permitted to downlink channels from other countries, on a written request from the permission holder, the Ministry shall allow transfer of permission in case of merger/demerger/ amalgamation, or from one Group Company to another provided that such transfer is in accordance with the provisions of the Companies Act, and further subject to the fulfillment of following conditions:

- (i) The new entities should be eligible as per the eligibility criteria including the net worth and should be security cleared.
- (ii) The new entities should undertake to comply with all the terms and conditions of permission granted.]¹

Note (Superscripts) :

1- Amended vide Order No. 1501/34/2009-TV(I), Dated 05.12.2011 of the Ministry of Information and Broadcasting

2- Amended in accordance with the provisions of the Sports Broadcasting Signals (Mandatory Sharing with Prasar Bharati) Act, 2007 and the rules and notifications there under

3- Deleted as not relevant as per current Approved Cabinet Note.

Abbreviations

AIR	All India Radio
DoR	Department of Revenue
DoS	Department of Space
DoT	Department of Telecommunication
DR	Disaster Recovery
DSNG	Digital Satellite News Gathering
DTH	Direct-To-Home
DVB	Digital Video Broadcasting
EDF	Electronics Development Fund
EMCs	Electronic Manufacturing Clusters
FM	Frequency Modulation
HD	High Definition
HITS	Headed-In-The-Sky
ICC	INSAT Coordination Committee
ICT	Information & Communication Technology
IISc	Indian Institute of Science
IIT	Indian Institute of Technology
INSAT	Indian National Satellite System
IPTV	Internet Protocol TV
ISRO	Indian Space Research Organization
IP	Internet Protocol
LCOs	Local Cable Operators
LOI	Letter of Intent
MHA	Ministry of Home Affairs
MEA	Ministry of External affairs
MIB	Ministry of Information and Broadcasting
MPVT	Mandatory Performance Verification Testing
MSOs	Multi System Operators
MW	Medium-Wave
NOCC	Network Operations and Control Centre
OTT	Over-The-Top
SACFA	Standing Advisory Committee on Frequency Allocation
SATCOM	Satellite Communication (Policy)
SD	Standard Definition
SEBI	Securities and Exchange Board of India
SNG	Satellite News Gathering
STB	Set Top Box
SW	Short-Wave
TRAI	Telecom Regulatory Authority of India
WOL	Wireless Operating License
WPC	Wireless Planning & Coordination

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