

Telecom Regulatory Authority of India

**Recommendations On
Licensing Issues Relating to
Community Radio Stations**

New Delhi

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Table of Contents

Sections		Page No.
Section 1	Background	1 - 7
Section 2	Eligibility	8 – 19
Section 3	Licensing Process	20 – 34
Section 4	Funding	35 – 43
Section 5	Regulation & Monitoring	44 - 53
Section 6	Other Alternatives	54 – 57
Section 7	Summary of Recommendations	58 - 63

Section - 1: Background

1.1 History

In India, the history of sound broadcasting dates back to 1923, when a number of private radio clubs proliferated. Some form of community radio also appeared during the same time in decentralized and experimental forms. However, these experiments did not survive and were edged out by the Indian State Broadcasting Service in 1930 (rechristened as All India Radio in 1936).

1.2 Advantages and Rationale of Radio

Radio as a means of mass communication has the advantages of wide coverage, affordability, portability, operation on batteries and low set up cost. Thus Radio provides access to information in remote and inaccessible regions. Print media is not effective in marginal communities with prevalence of large scale illiteracy, whereas radio has no such handicap.

Radio frequencies have been internationally recognized as the common heritage of humanity by the Torremolinos Treaty of the International Telecommunication Union and by Article 33 of the International Telecommunication Convention. The administration of this limited resource is the responsibility of states, which have a duty to treat the various sections of the society equitably.

- 1.2.1 *Freedom of Expression:* The basic rationale of Community Radio is freedom of expression. Article 19 of the Universal Declaration of Human Rights guarantees freedom of opinion and expression and the freedom to receive and impart information and ideas through any media and regardless of frontiers.

Radio broadcasting, as a means of public expression, is an exercise of freedom of expression. Freedom of airwaves is a natural corollary of the freedom of expression. Nevertheless for this freedom to be effective, a certain amount of regulation is required because of the limited availability of spectrum.

The Milan Declaration on Communication and Human Rights of 24th August, 1998 calls for international recognition of the community broadcasting sector as an essential public service and an important contributor to media pluralism and freedom of expression and information.

1.2.2 *Exchange of Information:* A Community Radio Station is a radio service by the people, close to the people and for the people. The Community Radio serves the interest of the community by dissemination and exchange of the most relevant information-including educational and developmental. The members of the community get an opportunity to express themselves socially, politically and culturally.

1.2.3 *Participation:* Community Radio gives voice to people from marginalized sections of society to express their views on Community Development. It promotes participatory decision making through healthy discussion on local issues.

1.2.4 *Community Development:* Community Radio encourages participatory community development, harnessing locally available resources and innovation in Community Development.

1.2.5 *Local Issues:* Community Radio takes up local issues affecting the community members. Community Radio improves people's access to information in local languages/dialects. While public Service Broadcasters cater to the needs of majority of audience, it is not possible for them to take up issues affecting small communities. The mainstream Radio has centralized program production which is unable to cater to the specific requirements of small communities in terms of language, program content and concerns of masses. Community Radio can very well fill this vacuum.

1.2.6 *Culture:* Community Radio provides a forum for local culture expression. It enhances artistic and intellectual culture and showcases local talent. It gives opportunity to local artists to get wider exposure, training & experience.

1.2.7 *Catalyst of Change:* Community Radio speeds up the process of informing the community and therefore acts as a catalyst of change. It serves as a watchdog on civic authorities/ power holders, providing a forum for active relationship between leaders and citizens.

Community Radio can change the behavior of its communities for the good. Research in South Africa has shown that effective educational radio programs can change listeners' behavior and lead to the growth of knowledge in the community especially in areas such as HIV / AIDS.

1.2.8 *Education:* Community Radio can have very high educational success rate. The educational programs based on characters with which members of the community can identify are the most effective. The audience is willing to trust the presenters they know. The station is accessible and people can either phone or just walk in if they need

more information about any program. Community Radio stations adapt programs to local needs and language requirements.

- 1.2.9 *Low Cost:* Lack of access to information in remote and inaccessible regions can be tackled with the Community Radio. Print media cannot be used due to prevalence of large scale illiteracy and remoteness of such regions. Television and video are ruled out due to absence/unstable supply of electricity coupled with high cost of receiver sets and distribution costs. Radio receiver sets are inexpensive and rugged and can operate on batteries.

World Summit on the Information Society (WSIS)

The UN General Assembly Resolution 56/183 (21 December 2001) endorsed the holding of the World Summit on the Information Society (WSIS) in two phases. The first phase took place in Geneva from 10 to 12 December 2003 and the second phase will take place in Tunis in November 2005.

The objective of the first phase was to develop and foster a clear statement of political will and take concrete steps to establish the foundations for an Information Society for all, reflecting all the different interests at stake. At the Geneva Phase of WSIS nearly 50 Heads of state/government and Vice-Presidents, 82 Ministers, and 26 Vice-Ministers and Heads of delegation as well as high-level representatives from international organizations, private sector, and civil society provided political support to the WSIS Declaration of Principles and Plan of Action that were adopted on 12 December 2003.

The relevant extracts from the Plan of Action relating to media are reproduced below: -

The media—in their various forms and with a diversity of ownership—as an actor, have an essential role in the development of the Information Society and are recognized as an important contributor to freedom of expression and plurality of information.

- a) Encourage the media—print and broadcast as well as new media—to continue to play an important role in the Information Society.
- b) Encourage the development of domestic legislation that guarantees the independence and plurality of the media.

- c) Take appropriate measures—consistent with freedom of expression—to combat illegal and harmful content in media content.
- d) Encourage media professionals in developed countries to establish partnerships and networks with the media in developing ones, especially in the field of training.
- e) Promote balanced and diverse portrayals of women and men by the media.
- f) Reduce international imbalances affecting the media, particularly as regards infrastructure, technical resources and the development of human skills, taking full advantage of ICT tools in this regard.
- g) Encourage traditional media to bridge the knowledge divide and to facilitate the flow of cultural content, particularly in rural areas.

1.3 **Recent Community Radio Initiative**

In December 2002, the Government decided to open up the Community Radio Broadcasting sector by announcing a new policy. Under this policy, Community Radio Licenses can be granted to educational institutions/ organizations which are recognized by the Central Government or the State Government. These also include the Universities and institutes of technology/ management and residential schools. The scheme was introduced with the following broad objectives:

- (i) Enhancing participation of the people in the development process.
- (ii) Capacity building in rural areas, through education.
- (iii) Providing opportunities to the people to upgrade their skills and enhance their creative talents.
- (iv) Preserving and promoting the traditional wisdom, knowledge and skills, thereby helping to promote and project the local language, arts, craft, culture and traditions.
- (v) Bring within easy reach of the rural population, topical information in areas of agriculture, social welfare, education, health and environment.
- (vi) Help in creating rural networks for the rural cottage and village industry.

1.4 **Status**

As on date, only one Community Radio Station is functioning in the Country. ANNA FM is the first campus based community radio in the country. This is broadcast from the campus of Anna University, Chennai on 90.4 MHz FM. However, there are other initiatives in the field, wherein some organizations are helping certain communities prepare and share audio programs through various means. These are: -

- The DDS Audio Initiative at Pastapur - Audio tapes are prepared and sent to each of the 75 villages where DDS works. In each of these villages, members of the DDS sanghams sit and listen to the programmes.
- Kunjal Panchchi Kutchji' (Saras crane of our Kutch) was produced by The Kutch Mahila Vikas Sangathan (KMVS) and it started its broadcast from AIR, Bhuj station in the sponsored programme category as a 30-minute weekly serial.
- 'Chala Ho Gaon Mein' was started by an NGO as a community participatory programme. It reaches a population of over seven million covering Palamau, Garwah and Latehar districts in Jharkhand. It is broadcast through FM band of AIR, Daltonganj on commercial terms. The frequency of the programme is two 30 minute episodes a week.
- In the Namma Dhvani initiative a cable audio station has been set up and the local community produces and cablecasts its own radio programs. These reach a cluster of 35 villages in the area.

1.5 **Scope**

While the initiatives (apart from ANNA FM) mentioned in para 1.4 do not exactly fall in the definition of Community Radio Stations, these

do indicate the need felt by many communities for programs designed and produced by them specifically for their own developmental needs. Therefore, a need to expand the scope of Community Radio beyond educational institutions and as a medium for meeting the needs of local communities was recognized by the TRAI.

1.6 **Consultation Paper**

In line with its consultative approach, TRAI issued a Consultation Paper on August 25, 2004 for giving its recommendations to the Government on the licensing issues relating to Community Radio Stations. The consultation paper was based on extensive analysis of practices being followed by various countries across the world regarding eligibility criteria, licensing process, funding/ advertising, regulation & monitoring and technical parameters of Community Radio. Comments were received on the consultation paper from a number of stakeholders. TRAI also received valuable inputs from a workshop organized on a new framework for Community Radio in India by the Ministry of Information & Broadcasting and supported by UNDP and UNESCO in New Delhi in May 2004.

The objective of the Consultation Paper was to examine the various licensing, regulatory and funding issues for Community Radio and to focus discussion on the various issues related to Community Radio including expanding the ownership of Community Radio beyond educational institutions. The larger objective is to provide a cost effective means of empowering local communities and enabling them to play a more meaningful role in the course of economic and social development.

1.7 **Open House**

TRAI also held Open House Discussions with various stakeholders on 18th and 20th October in Delhi and Mumbai respectively.

Section - 2: Eligibility

2.1 The Issues

The present guidelines permit grant of licenses for setting up Community Radio Stations only to educational institutions. Hence, community radio licenses are not available to Community Cooperatives, Local self help groups, NGOs, Social Organizations, Trade Unions, Associations and other non Commercial Groups. The primary issue for consideration in an exercise to expand the scope of community radio is the definition of Community Radio and the eligibility criteria or non-eligibility criteria for grant of a community radio license. Other related issues are the question of eligibility of Panchayats/ other local bodies/ Co-operatives engaged in commercial activities, nationality of persons controlling the applicant organization, financial condition of the applicant organization and the legal status of applicant organization.

2.2 Comments of the stakeholders

The general view of the stakeholders is that it is better to lay down non-eligibility criteria rather than laying down eligibility criteria. Non eligibility criteria suggested by different respondents are as under:

- Religious charities and political party organizations may be excluded in Phase I, but may be considered in second round of licensing.
- Locally elected bodies, cooperatives should be considered ineligible as they will be under the influence of politics.
- NGOs should be ineligible as it is difficult to pin responsibility on NGOs and also because many NGOs receive direct foreign funding.
- Religious bodies should be disqualified.

- Banned organizations should be ineligible.

Suggestions regarding eligibility criteria are as under:

- Applicant must be an entity that is already regulated as a not-for-profit institution in the regulatory system.
- A registered organization where no money is returned to investors from the excess of inflows over expenses.
- Any entity representing the community should be eligible.
- Groups with shared interest/ concerns – for example, disability groups- should be eligible.
- No need to lay down any conditions for eligibility other than what is already defined for publishing in the print media. Article 19 of the constitution provides for the right to the freedom to expression, and this is only meaningful if all have access to the means of disseminating such expression.
- Only reputed education institutions should be allowed to commence community radio operations at present. This rule can be reviewed after 5 years.

The general opinion is that Gram Panchayats and other local bodies should be eligible. Some of the stakeholders have stated that there is no constitutional ground under which local bodes and Panchayats can be denied a radio license. However, various safeguards have been suggested. These include

- Political statements should not be broadcast through these stations.
- The license should be given to the executive authority and not to the elected council.
- Program code for such stations may need to be evolved.
- Equal restrictions may be placed on use of airtime on such stations for political activities of all legislators.

- Not any individual panchayat but a group with specific objective of cooperative activity of farming, animal husbandry, dairy or health education may be given a license.

One stakeholder has opined that Gram Panchayats and other local bodies should be considered ineligible because such stations will be misused by the political party controlling the local elected body.

The general opinion is that Community radio should be open to Indians only. However, a stakeholder has stated that such matters may be taken up by a local regulator on a case to case basis, with the possibility of appeal to a tribunal. Another stakeholder has expressed an opinion that even if there is foreign funding, the funding should not influence operations of such stations.

There are divergent opinions on the issue of financial condition of the applicant organization, its ability to raise resources and overall financial sustainability being an eligibility criterion, with some stakeholders supporting it and others opposing such a criterion.

All the stakeholders agreed that the applicant should be a legal entity. However, there was no agreement on the issue whether individuals should also be treated as legal entity.

Most of the stakeholders are of the view that Co-operatives engaged in commercial activities should not be eligible. Some of the stakeholders have stated that they can be eligible provided:

- If it has adopted a village or a set of them with specific purpose of development.
- The facility must not be utilized for any commercial broadcast.
- Their radio operation should be not for profit. The station should not promote the cooperative's commercial activities.

During the course of open house discussions some stakeholders suggested that no restrictions regarding eligibility may be put and short term licenses may be issued. The restrictions, if any, may be imposed only after spectrum becomes crowded. It was also contended that even if a radio station is established by anti social elements, then listeners would simply not tune into such a station.

2.3 **Analysis of Comments**

There is a very basic difference between the broadcasting media and print media. Broadcasting uses spectrum which is not the case with print media. Accordingly, the model of regulation of print media can not be an example or a model for regulation of broadcasting media.

The issue of freedom of expression granted by Article 19(1) of the Constitution of India vis a vis use of airwaves by citizens of the country was examined in detail in the Supreme Court judgment delivered by Justice P.B. Sawant and Justice S. Mohan on 9.2.1995 in the case between the Union of India & Cricket Association of Bengal. It was held that “...The right of free speech guaranteed by Article 19 (1) (a) does not include the right to use airwaves, which are public property. The airwaves can be used by a citizen for the purpose of broadcasting only when allowed to do so by a statute and in accordance with such statute. The free speech right guaranteed to every citizen of this country does not encompass the right to use these airwaves at his choosing.” and that “...Broadcasting media is inherently different from Press or other means of communication/information. The analogy of Press is misleading and inappropriate. This is also the view expressed by several Constitutional Codes including that of the United States of America.”

Thus, we find that the Supreme Court has also upheld the distinction between broadcasting and press or other media by affirming that airwaves constitute public property and no individual has a right to utilise them at his choice and pleasure and for purposes of his choice including profit.

In Metropolitan cities there is likely to be acute scarcity of spectrum for FM broadcasting after 2nd phase of Licensing of Private FM radio stations. It may therefore not be possible to have too many community radio stations. At the same time, restrictions on ownership/ control of multiple broadcasting licenses (for private FM radio) in one centre will ensure that diversity of opinions, views, ideas and ideologies, which is essential to enable the citizens to arrive at informed judgment on all issues touching them, is indeed available to them through private FM radio also.

While considering the issue of eligibility/ ineligibility criteria for Community Radio stations it is important to keep the main characteristics of Community radio in mind. These are:

- (a) not for profit operation
- (b) community ownership and management, and
- (c) community participation.

The eligibility/ ineligibility criteria adopted for Phase-I of Private FM radio licensing and as proposed in the Broadcast Bill, 1997 are also relevant to the issue under consideration.

Phase-I of Private FM Radio

Here it would be pertinent to have a look at the eligibility/ ineligibility conditions for Phase-I of private FM radio licensing. Only Companies registered under the Indian Companies Act with all shareholding by Indians (except limited holding by FIIs, NRIs, PIOs and OCBs subject to ceiling put by Ministry of Finance) were eligible to apply. The following entities were disqualified from holding of License: -

General Disqualifications

- Companies not incorporated in India;
- Any company controlled by a person convicted of an offence involving moral turpitude or declared as insolvent or applied for being declared insolvent;
- Subsidiary company of any applicant in the same centre;
- Companies with the same management within a centre;
- More than one Inter-Connected Undertaking at the same centre.

Disqualification of religious bodies

- A body whose objectives are wholly or mainly of a religious nature;
- A body which is controlled by a religious body or an associate of religious body

Disqualification of political bodies

- A body whose objectives are wholly or mainly of a political nature;
- A body affiliated to a political body;
- A body corporate, which is an associate of a body corporate controlled, held by, operating in association or controlling a body of political nature as referred above.

Disqualification of advertising agencies

- An advertising agency;
- An associate of an advertising agency;
- Any body which is controlled by or a person associated with the above.

The eligibility/ ineligibility criteria adopted for Phase-I of Private FM radio licensing and as proposed in the Broadcast Bill, 1997 are reproduced in the text boxes for reference.

Broadcast Bill, 1997

Section 12 of the Broadcast Bill, 1997 lays down that no person specified in part-I of the Schedule shall be eligible for grant of a broadcasting license. These disqualifications are listed as under:-

1. General disqualification:

- (a) An individual who is not an Indian national.
- (b) A partnership firm all of whose partners are not citizens of India.
- (c) Companies not incorporated in India.
- (d) Companies incorporated in India but with foreign equity in case of terrestrial broadcasting services
- (e) Governments and local authorities.
- (f) Any person convicted of an offence under this act or convicted under the Representation of the Peoples Act or declared as insolvent.
- (g) A body, which is controlled by a person, referred to in any of clause (a) to (e) above.
- (h) A body corporate, in which a body referred to in clause (g) above, is a participant with more than five per cent interest.

2. Disqualification of religious bodies

3. Disqualification of political bodies

4. Disqualification of publicly funded bodies

5. Disqualification of advertising agencies

2.4 International Practices

There are different eligibility criteria for grant of Community Radio License in different countries. These criteria are summarized in Table 2.1.

Table 2.1

Country	The entities that are eligible for License	The entities that are not eligible for License
Australia	Duly incorporated associations or companies that represent a community interest.	
Canada	A registered non-profit community group.	1. A business, or 2. An individual

Colombia	<ol style="list-style-type: none"> 1. An organized community having legal personality. 2. Their social objective must be the promotion of mass communication as an instrument of development & community participation. 3. They must be domiciled in the municipality in which the station is set up. 	
Ghana	<ol style="list-style-type: none"> 1. Corporations of Ghanaian citizens 2. Associations registered in Ghana. 	<ol style="list-style-type: none"> 1. Political parties. 2. Religious organizations.
Poland	<ol style="list-style-type: none"> 1. Persons of Polish nationality who reside permanently in Poland. 2. Legal persons permanently domiciled in Poland. (Shares held by foreign investors in the capital of Broadcasting Companies is limited to 33%.) 	
South Africa		Any party, movement, organization or alliance of a political nature.
Spain	<ol style="list-style-type: none"> 1. Legal entities. 2. Individuals who are nationals of a member state of European Union or nationals of other states if so provided in international agreement. 	
UK	Only bodies corporate (i.e. not individuals) can apply for Community radio licenses.	Holders of other broadcasting licenses.

2.5 Recommendations by the Authority

The Authority recommends the following:

Eligibility Criteria

As discussed in Section 1, a need to expand the scope of Community Radio beyond educational institutions and as a medium for meeting the needs of local communities has been recognized. With this perspective the Authority recommends that any legal entity should be eligible for grant of a Community Radio License. Being a legal entity is important for the simple reason that only a legal entity can enter into a license agreement with the Government. Moreover, any person/ entity desirous of running a Community Radio station should own up the responsibility of complying with the terms and conditions of license and programming code. Such a responsibility cannot be fixed on anyone in case licensee is not a legal entity. An individual should also be eligible for grant of a Community Radio License.

A Community Radio Station allows participation in all areas of the station as decision-makers and executives within the station. Paid staff is there to guide and facilitate the station rather than make strategic decisions. Participation can take place in a number of different ways; the traditional roles such as presenters, journalists and producers. Then there are the off-air roles such as marketing, technical, administration and management. Participation, however, also comes from people who are contributors to the output, and include experts, people who call a phone-in, those who take part in a competition, and someone who phones in about a traffic jam.

Thus, a Community Radio Station serves a particular community. The applicant must be a part and parcel of the community it intends to serve and the applicant must be in a position to establish that it represents the community.

Financial condition of the applicant organization and overall financial sustainability of the station need not be an eligibility criterion. However, in case a Community Radio station is not able to sustain its operations and shuts down the broadcast for a period of three months or more, its license should be revoked and the frequency allocation to such a station should be cancelled. The Community Radio stations should be under Indian ownership and control. The conditions spelt out in part-I of the Schedule to the Broadcast Bill, 1997 regarding Indian Ownership should be adopted to ensure that control over Community Radio stations remains in the hands of Indians.

Ineligibility Criteria

Part-I of the Schedule to the Broadcast Bill, 1997 lays down disqualifications for holding of Licenses, which essentially means a list of ineligibility criteria. The Authority recommends adoption of the ineligibility criteria listed in Part-I of the Schedule to the Broadcast Bill, 1997, except those relating to religious bodies and publicly funded bodies, which may be accepted subject to the qualifications discussed below.

Religious Bodies

It is recommended that a religious body engaged in socio-economic developmental activities may be allowed to hold a Community Radio license provided that the Community Radio station would be used to promote socio-economic development of the Community. As long as Community Radio stations run by such religious bodies comply with the programme code as well as this condition, there is no need for placing any extra restrictions on these bodies. It is believed that any

infringement of programme code would be brought to the notice of licensing authority by the audience.

Publicly Funded Bodies

Publicly funded bodies were to be disqualified as per the Broadcast Bill, 1997. But, the Authority is of the opinion that an organization/ body should not be disqualified merely because it receives public funds. As long as the management/ control over the affairs of the organization/ body is not in the hands of the Central/ State Government giving funds to the organization/ body, it should not be disqualified from holding Community Radio license.

Here it is pertinent to mention that the Authority's recommendations on the issue of Government Funding of Community Radio stations are given in para 4.5. While the Authority has not recommended Government funding of Community Radio stations, at the same time it has been clarified that any organization engaged in social, cultural developmental work in any community and getting Government funding/ grants for the same will not be disqualified from receiving the Government funding/ grants if it sets up a community radio station. The only restriction is regarding Government funding/ grants for Community Radio stations.

Banned Organizations

Apart from other disqualifications for holding of Licenses, the Authority recommends that banned organizations and their members should also be disqualified from holding Community Radio license.

In some of the countries businesses, individuals and holders of other broadcasting licenses have been debarred from holding Community Radio licenses. These ineligibility criteria have not been recommended

as it is felt that as long as the Community Radio licensees are in a position to establish that they represent the community and abide by the programme code, license conditions and guidelines, there is no need to impose any further restrictions.

Section - 3: Licensing Process

3.1 The Issues

The present scheme was launched in December 2002. Yet after almost two years only one Community Radio station has become operational in the country. One of the reasons for slow growth of Community Radio stations in the country is that the present procedure for issue of a Community Radio license is very cumbersome.

The applications have to be forwarded through Ministry of Human Resources Development/ State Government. The availability of Radio frequency at the place requested by the applicant is determined by a reference to wireless Advisor in WPC wing of Ministry of Communications and also Prasar Bharati. Clearances are required from the Ministries of Home Affairs, Defence, Human Resource Development and External Affairs (Clearance from MEA & MOD has been dispensed with recently). The allocation of frequency by WPC wing of Ministry of Communications is done in multiple stages, namely – earmarking, SACFA clearance, allocation and Wireless operating license.

The need for review of the procedure was recognized in a workshop organized by the Ministry of Information & Broadcasting and supported by UNDP and UNESCO in New Delhi on May 5-6, 2004.

The main issues for consultation were possibility of issue of temporary permits to operate till regular license is granted, desirability of having an Independent Licensing Body, the requirement of furnishing a Bank Guarantee, relevance/ utility of various clearances required, time limits/ deemed clearances, the period of license, maximum permitted transmitter power and antenna height, earmarking of separate

frequencies for Low Power Commercial Radio and the licensing framework for Low Power Commercial Radio.

3.2 **Comments of the stakeholders**

There is no consensus on the issue of giving temporary permits to operate for the time taken to grant a regular license. While some stakeholders are in favour of the idea of temporary permits provided other considerations like security, technical, financial and nationality are met, other stakeholders have stated that if the license issuing time is speeded up to a single window process of 6 months, this provision itself may become unnecessary. One of the stakeholders is of the opinion that the applicants should indicate their acceptance of liability in case of non acceptance of application by the license granting authority. Another stakeholder has opposed the temporary permits for the reason that there are no remedial measures if a station with temporary permit interferes with other stations/ users of contiguous spectrum.

The stakeholders were not in agreement about having another Licensing Body. While some wanted licensing to be totally done away with, some others wanted simplification of the procedure and single window clearance. Another suggestion was to have a Community Radio licensing committee. The committee may be constituted by the current broadcast regulator and the Committee may hold meeting every 3 months or so. Evaluation and decision on applications for Community Radio licenses at public hearings was also suggested.

Some stakeholders are of the opinion that Bank Guarantee should continue whereas others are of the opinion that it should be done away with since it will discourage many genuine applicants who are poor.

Some are of the view that it should not be an amount that acts as a deterrent.

Opinions of various stakeholders on the issue of clearances from different Ministries are as under: -

- Seeking clearance from different Ministries can be dispensed with if an independent licensing authority is created.
- Single window procedure should be created.
- Home Ministry clearance should be done away with except for sensitive areas.
- SACFA can be dispensed with as Community Radio is operated on low power transmitter.
- The existing clearances cannot be and should not be dispensed with.

General opinion of the stakeholders is that there should be a time limit for issue of clearances. Some of the stakeholders have even suggested a time limit of three months/ six months for individual clearances should be laid down, beyond which the Department may be deemed to have given consent. Some other stakeholders have viewed that deemed consent may not be the best way to cover for process deadlock or slackness. It is suggested that in cases where time limits are exceeded, a specific set of remedial rules need to be put in place to call a hearing and resolve the matter.

There were various suggestions regarding the period of license. These are as under: -

- Three years -to be renewed for a maximum of one more term of three more years provided the licensor is satisfied with the performance of the licensee.
- The license may be terminated only in case of any complaint

- 10 years and license may be reviewed at the end of five years.
- Three years.
- Not less than one and not more than three years initially.
- One year initially to be extended to 5 years
- Only temporary license should be granted for the first year, extended twice on a yearly basis and only if found acceptable, granted permanent license for 5 years.
- There should be a trial period, then a longer period
- Minimum of 7 years.

Regarding the maximum permitted transmitter power and antenna height different suggestions ranging from 50 watts to 1 KW and 30m to 100m were received. However, other suggestions about need based limits based on the ERP and computer simulated field strength study as per geographical boundaries and terrain defining the community were also received.

Most of the stakeholders are of the opinion that there should be separate frequencies earmarked for Low Power Commercial Radio. One stakeholder has stated that Low Power Commercial radio should be treated on par with commercial FM radio and the same rules should be applied. Another has said that if ERP is less than 1 KW, then there is no need for separate frequencies and it can be a part of licensing process of Community Radio.

One stakeholder has stated that there is no need to earmark frequencies for Community FM. Some other stakeholders have agreed that the licensing framework should follow the parameters of larger commercial services of phase-II. Another stakeholder has stated that frequency allotment should be based on technical parameters such as ERP and Antenna Height and not on broadcast content or purpose.

The issue of laying down a power limit below which the use of transmitter may be delicensed with secondary status was also raised by a stakeholder with reference to widespread use of cordless microphones and remote car door openers without any license.

3.3 **Analysis of Comments**

The comments received on the issues of temporary permits and Independent licensing body indicate that the stakeholders want the licensing process to be short and simple, irrespective of the fact as to whether the license is granted by the Ministry or an Independent Licensing Body. The dissatisfaction is not with the decisions of the licensor but with the current cumbersome and time consuming procedure.

The opinions of various stakeholders on the issue of clearances/ deemed clearances also indicate their yearning for a shorter licensing process. However, while recommending a time limit for issue of clearances by Ministries, deemed clearance has not been recommended by all the stakeholders.

The suggestions on the period of license differ in terms of time period, but most of the stakeholders have recommended that there should be a trial period, then a longer period. However, having a trial period and thereafter a longer (regular) period presupposes evaluation of the performance of the station during the trial period. This gives rise to the questions like who will evaluate the performance, who will decide whether extension is to be given and what can be done in case of violation of license conditions during the trial period? Having evaluation and extension of term of license on a case-by-case basis has its own associated disadvantages like litigation/ charges of favoritism and no remedy for violation of license conditions during trial period.

3.4 International Practices

The Licensing Process for the setting up Radio Stations in different countries is tabulated below:-

Table 3.1

Country	Licensing Process
Australia	<ol style="list-style-type: none"> 1. The Australian Broadcasting Authority advertises for applications for Broadcasting Service Band (BSB) Community Broadcasting licenses giving the last date, applicable conditions, license area and priorities to be observed as per directions of the Minister under law. 2. For deciding on whether to allocate a BSB community broadcasting license the ABA considers extent of fulfillment of existing/ future needs of community, nature and diversity of interests of the community, nature and diversity of other broadcasting services available, capacity of applicant to provide service, one person having control of more than one community BSB license in same area and a state/ territory/ political party having control over a community broadcasting license. 3. ABA is not required to allocate a license to any applicant. 4. ABA may allocate a community broadcasting license that is not a BSB license to a person on application.
Ghana	<ol style="list-style-type: none"> 1. The National Communications Authority (NCA) regulates wire, cable, radio, television, satellite and related technological communications. The NCA is composed of a seven member Board appointed by the President. 2. A license application is granted unless there are grounds preventing it. These grounds must be based on technical considerations, public security or some other reasonable justification, which must be communicated to the applicant.
Lebanon	<ol style="list-style-type: none"> 1. License applicants are granted a temporary permit to operate for one year, after which they are given a license for 16 years if they meet all the conditions. 2. The Cabinet is the only body authorized to grant radio and television licenses, without oversight by an independent authority. 3. A 10 member National Audio-Visual Council (NAC) examines license applications (within a maximum of 45 days) and advises the Cabinet. Of the 10 members of NAC, half are elected and half designated.

Poland	<ol style="list-style-type: none"> 1. The National Broadcasting Council, a nine member independent body grants the licenses. Four of its members are appointed by the Chambers of Deputies, two by the Senate and three by the President of Poland. 2. The process begins with an announcement in the printed press specifying the requirements for filing license applications, the number of licenses available, the deadline for applications etc. 3. The Chairman of the National Broadcasting Council is required to publish the list of applicants participating in licensing procedure. 4. Licenses are granted to persons of Polish nationality who reside permanently in Poland to local persons permanently domiciled in Poland.
South Africa	<p>The licensing procedure begins with the publication in the official gazette of an invitation to participate, is followed by public hearings and ends with the announcement of the Independent Broadcasting Authority (IBA). The IBA is governed by a Council of seven members appointed by the President of the Republic. They have expertise in broadcasting policy, media law, journalism, entertainment, education and other fields.</p>
UK	<p>Applications for licenses are invited annually with a twelve week period between the invitation to apply and the closing date. There are eight criteria for deciding whether, or to whom, to award a community license. These are – sustainability, relevance to community, distinctiveness from existing services, local demand, social gain, accountability to community, provision for access by members of community to the facilities/training and effect on economic viability of existing commercial radio service. The decision is taken by Ofcom, the independent regulator for the UK communications industries. The licenses are for a maximum period of five years.</p>
Uruguay	<p>The executive decides, without recourse to tenders or competitions, on the time and expediency of inviting interested parties to apply for the allocation of “vacant” frequencies. The applicants have to pay non-refundable US \$ 4500 for the right to apply along with a considerable deposit. The applicants are also requested to declare their commitment to democracy and demonstrate their good character. On this basis the National Executive Authority evaluates the applications and takes a decision.</p>

Different selection procedures are adopted by different countries. Frequencies are allocated on demand to Radio Stations with a power less than 1 KW in Argentina and more powerful radio stations are subject to a competitive bidding regime. El Salvador's Telecommunications Law establishes bidding process as the only procedure for settling disputes about grant of licenses. In Ghana, a license application is granted unless there are grounds preventing it. These grounds must be based on technical considerations, public security or some other reasonable justification, which must be communicated to the applicant.

3.5 **Recommendations by the Authority**

There is an urgent need to revamp the licensing process for Community Radio Stations in the country. The present procedure is cumbersome and is prone to delays at various stages. Moreover, since most of the applicants are likely to be from communities which are remotely located, follow up of the application with various Ministries in Delhi will be a problem for the applicants.

Issue of temporary permits is only a temporary solution of the problem of delays in licensing process. The emphasis should be on setting right the root cause rather than suppressing the symptoms. Accordingly, issue of temporary permits is not being recommended by the Authority. Moreover, no stakeholder has raised any objections relating to partisanship or favouritism about the current licensing process. The recommendations from stakeholders regarding an Independent Licensing authority are primarily based on the need of single window clearance. No specific purpose will be served by having another Licensing Authority. In fact the process of setting up of such an

Authority may for the time being delay/ hold up licensing of Community radio stations in the country.

The requirement of furnishing a Bank Guarantee should not be done away with to prevent frivolous/ non-serious applicants from applying. Any applicant desirous of setting up a Community Radio station has to arrange finances for setting up/ hiring a studio and a transmitter apart from recurring expenditure. Such an applicant can arrange funds for Bank Guarantee also. However, it should not be an amount that acts as a deterrent for genuine applicants also.

The Bank Guarantee under the current scheme is Rs. 50,000/-. However, keeping in mind the need for having a bank guarantee as well as the need to ensure that this does not act as a deterrent for genuine applicants, the amount of Bank Guarantee should be reduced. Accordingly, it is recommended that the Bank Guarantee should be of Rs. 25,000/-.

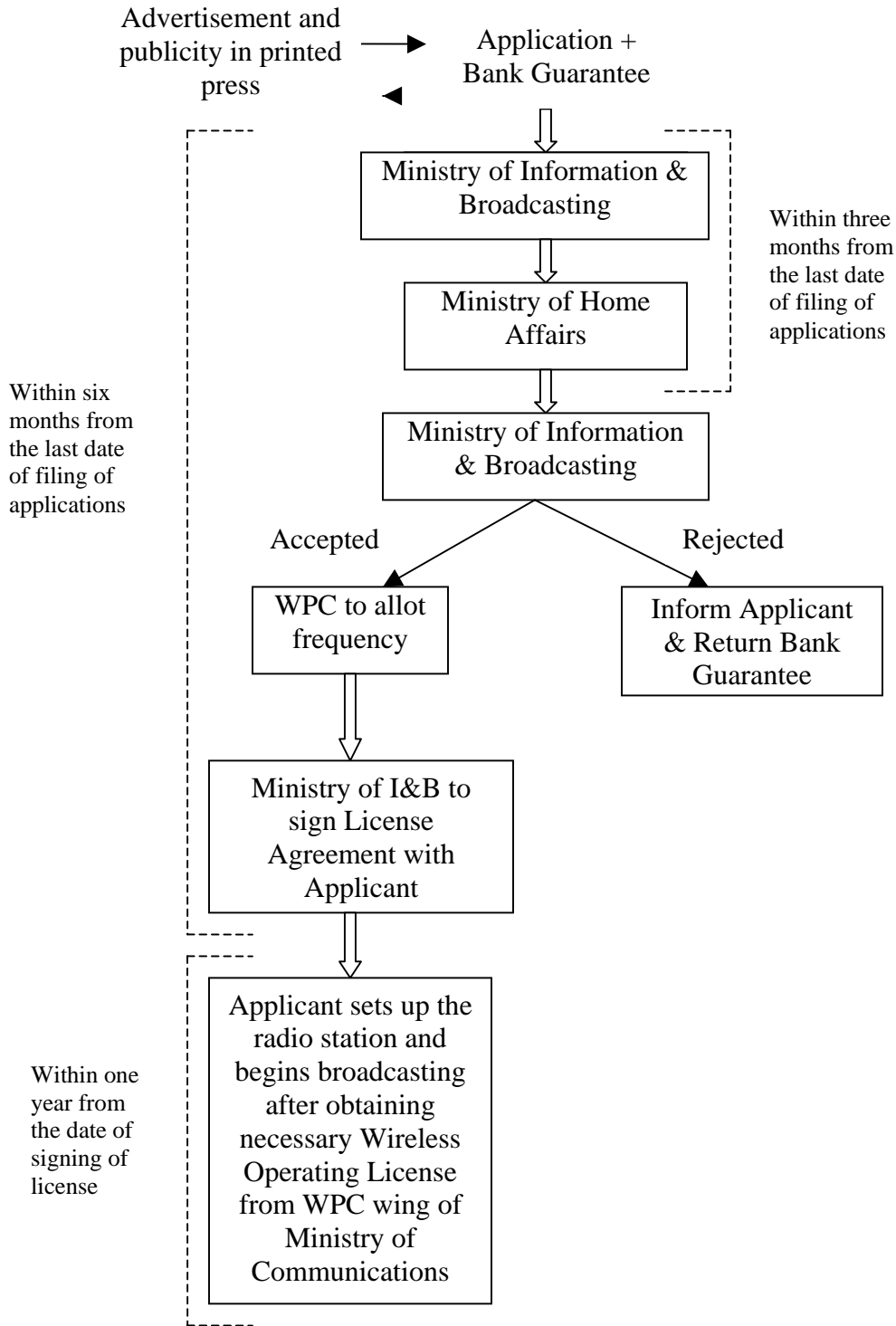
The Authority recommends that the process for issue of Community Radio station licenses should begin with an invitation to apply. Applications for licenses may be invited annually with due publicity in the printed press specifying the requirements for filing license applications and the deadline for applications. The applications should be filed directly with the Ministry of Information & Broadcasting. The Ministry of Information and Broadcasting should refer the applications received by it to the Ministry of Home Affairs. The Ministry of Home Affairs should examine the applications from the point of view of internal security and give its recommendations/ clearance within three months from the last date of filing of applications. The Ministry of Information & Broadcasting should issue licenses after consultation with the WPC wing of the Ministry of Communications. A time limit

of six months from the last date of filing of applications may be laid down for this purpose.

In the event of more than one claimant for a single frequency at a given place, the licensee may be selected by a Selection Committee which may be constituted by the Ministry of Information & Broadcasting on the basis of standing, commitment, objectives and resources of applicant organization.

With the scope of Community Radio stations going beyond the educational institutions, the clearance from Ministry of Human Resources Development will no longer be relevant. The requirement of clearance from Ministries of External Affairs and Defence has already been discontinued in the present scheme.

Flow Chart depicting various stages of Licensing Process



As discussed in paragraph 3.3, the suggestion made by various stakeholders regarding a trial period, followed by a longer period is not practicable. It is better to have a fixed license period with the license revocation clause in case of violation of license conditions. In the present scheme also the Government may revoke the license at any time in public interest or for breach of any terms and conditions of the license by giving a notice of 15 days. In such a scenario there is no need to wait till evaluation at the end of the trial period in case of any violation of license conditions and immediate action can be taken. Therefore a license period of Five Years is recommended with a provision for revocation of the license by the Government at any time in public interest or for breach of any terms and conditions of the license by giving a notice of 15 days. The license should be non-transferable.

Regarding the maximum permitted transmitter power and antenna height, it is more desirable to follow case to case based criteria such that the community is served effectively. However, considering that undertaking such studies before issue of licenses may lead to delays, the recommendation is being made in terms of Effective Radiated Power and antenna height above ground.

The existing guidelines on the maximum power of the transmitter and the height of the antenna prescribe a 50 Watts transmitter power and 30 meter antenna height. A 50 Watts FM transmitter with 3 dBd antenna gain and 30 meter antenna height roughly provides coverage of about 6 Km over a flat terrain. Since the objective of the Community Radio is to serve the local community, a service area having a radius of about 6 Km is considered adequate in most of the cases. Thus, the existing guidelines on the maximum power of the transmitter and the height of the antenna are more or less adequate.

However, the international standard is to define the Effective Radiated Power (ERP) of the transmitter instead of defining power and antenna gain separately. In order to provide flexibility to the Community Radio licensees, the following range of ERP and Height of Antenna above ground is recommended: -

Parameter	Maximum	Minimum
ERP	100 Watt	10 Watt
Antenna Height above ground	30 meter	15 meter

Considering the possibility of biological hazards of RF radiation, a minimum height of antenna above ground as 15 meter has been recommended.

Unlike TRAI's Recommendation on 2nd phase of Private FM Radio Broadcasting, where the EHAAT (Effective Height of Antenna above Average Terrain) is to be specified, in the case of applicants for Community Radio license, mere height of the antenna above ground is sufficient while submitting applications. This is because estimation of EHAAT requires expertise which may not be available for applicants of Community Radio licensees. However, it is recommended that the Government while issuing licenses may estimate the coverage area based on the ERP and antenna height above ground submitted by the applicant and if necessary restrict the ERP and height of the antenna above ground so that the coverage radius of the Community Radio does not extend beyond about 6 Km.

As per the existing guidelines for setting up Community Radio station there is no restriction on the antenna gain and its polarization.

Similarly, there are no guidelines on the transmission standards such as maximum frequency deviation permitted, value of pre-emphasis, type of stereo transmission system to be adopted.

During the phase-I of Private FM broadcasting, circular polarization of the transmitting antenna had been adopted. TRAI in its recommendations on 2nd phase of Private FM radio broadcasting also maintained the status quo. Since the circularly polarized antennas are comparatively complex and costly as compared to vertically or horizontally polarized antennas, it is recommended that no such restriction may be placed on Community Radio licensees and the choice may be left to the applicants to apply for vertically, horizontally or circularly polarized antenna.

The transmitter should be located within the geographical area of the community to be served. For this purpose, the applicant would be required to submit the geographical details of the area to be served on a map along with the location of the transmitter.

With regard to the remaining transmission standards, it is recommended to adopt the same technical parameters as given in Article 7.1(e), 7.1(f), 7.1(g), 7.2 and 7.3 of Schedule – C to the phase-I license Agreement with Private FM Radio broadcasters.

Depending on the geographical conditions and spread of community (for example Kutch region of Gujarat/ North Eastern States), the applicant may make a request to the Licensing Authority for higher transmitter power and antenna height and such a decision may be taken on a case to case basis and the Government may assign higher power in such special cases upto a maximum ERP of 500 Watts.

In the recommendations on Licensing Issues Relating to 2nd Phase of

Private FM Radio broadcasting it was mentioned that the suggestion of using very low power transmitters for commercial purposes would be examined along with recommendations on Community Radio. The matter has been examined and the Authority is not in favour of earmarking of separate frequencies for Low Power Commercial Radio, for the present, due to the following reasons:-

- i) From the spectrum management as well as coverage point of view, it is prudent to initially roll out high power FM radio stations in the country. Consequently, Authority in its recommendation to the Government on Licensing issues relating to the 2nd phase of Private FM Broadcasting restricted the minimum Effective Radiated Power (ERP) as 1 KW. Private FM Broadcasting is now at a nascent stage in the country. From only 21 high power FM stations at present, it may expand into hundreds of such stations after the implementation of 2nd phase of licensing by the Government.
- ii) In the case of Broadcasting, low transmitter power and low antenna height lead to inefficient utilization of spectrum.

Therefore, the issue will be examined after 2nd phase of licensing of Private FM Radio stations and some expansion of Community Radio stations, in the light of availability of frequencies at that point of time.

Section - 4: Funding

4.1 The Issues

Not for profit operation is one of the basic features of a Community Radio station. Hence, to prevent overlap with private FM radio stations, the present guidelines require the community radio stations to be non-commercial ventures and advertisements or sponsored programmes are prohibited. As long as the Community radio stations are limited to Educational Institutions, funding is not really a problem even without any advertisements or sponsored programmes. However, expanding the scope of Community Radio stations beyond educational institutions requires a serious look at the possible fund raising and income generating mechanisms for Community Radio.

The issues that require consideration include the desirability of having Government funding/ grants for Community Radio, other modes of funding, possibility of allowing commercial advertising and its impact on private FM Radio, acceptance of funds from foreign donors, levy of license fee and spectrum use charges and possible relaxation in customs duty for import of equipment.

4.2 Comments of the stakeholders

There was no consensus on the issue of Government grants for Community radio. Some stakeholders have suggested that the possibility of funding may be explored but need not be a part of initial policy. There was a suggestion recommending sustenance grants to be given by the Government of India through the Ministry of Human Resource Development for campus radio and by the Ministry for Rural Development, the Ministry for Social Welfare and the Ministry for

Culture for agencies other than educational institutions. Another stakeholder recommended that Community Radio could be given grants from the Central or State Governments. The other view was that there should be no funding by the government or it will become another source for defrauding money. The Government help must be confined to technical guidance, relaxation in custom/excise duties and waiver of spectrum fees.

Issue of permitting Commercial advertising on Community Radio is a contentious one. All stakeholders except for private FM broadcasters have recommended that commercial advertisements may be permitted on Community Radio with some restrictions. The various restrictions suggested are as under: -

- Must be restricted to 15 words and maximum of 5 minutes in an hour.
- Commercial advertising can be permitted without any precondition by sponsors on programme content
- Advertisements up to 5-20% of time may be permitted.
- Advertisements should be permitted to the extent needed to fund the operations. Government Advertisements should be only through Community Radio wherever such a station exists.
- Underwriting instead of advertising may be permitted. In underwriting the sponsors are not allowed to own the slot of airtime but the broadcaster states the name of the organization underwriting the program/station and what services,/goods the underwriter offers. A specific limit of number of minutes per hour can be prescribed.

One stakeholder has recommended advertising in case of a revenue share model in Community radio. This allows Community Radio

licensees to raise funds for their station by advertising and incurring revenue share implications.

A private FM broadcaster has opposed commercial advertising on Community Radio since it will affect the viability of commercial FM Radio Stations.

Some of the stakeholders are of the view that there should not be any foreign funding. Others have agreed to foreign funds as per FCRA guidelines. One of the stakeholders has also suggested that the FDI limit principle for equity in private-FM may be loosely applied to restrict the proportion of foreign funds in the annual outlay of a CR station.

General view regarding levy of license fee and spectrum use charges is that no such fee or charge should be levied. One of the stakeholders has suggested a nominal fee at a level that non-profit organizations with an operating budget of say, Rs.10 lakhs per year might be able to afford. Another view is that a processing fee to cover regulatory costs should be levied.

Relaxation/ waiver of customs duty for import of equipment was recommended by some of the stakeholders. While some other stakeholders opposed it on the ground that International quality equipment for community radio is already available in our country. Some stakeholders suggested levy of duties as per the existing norms for educational institutions or as applicable to other electronics items brought in for socially important purposes, in order to provide some incentive for local manufacture of the equipment.

4.3 **Analysis of Comments**

The comments received on the issue of Commercial advertising indicate that all stakeholders except for private FM broadcasters want commercial advertising to be permitted. Thus, Commercial advertising is seen by the stakeholders as the main sustainable source of funding for Community radio. Apprehensions of private FM broadcasters on this issue are quite natural. However, other stakeholders have also recommended restrictions on the commercial advertising.

Comments on foreign funding also reflect a cautious approach of the stakeholders. All the stakeholders have suggested either a total ban or some sort of control/ regulation on foreign funds.

Relaxation/ waiver of customs duty for import of equipment raises two conflicting issues. These are availability of good quality inexpensive broadcast equipment for Community Radio and promotion of local manufacture of such equipment.

4.4 **International Practices**

The British Government announced a £500,000 grant in March 2004 for community radio for the Year 2004-05 and a similar amount has been allocated for 2005-06. The allocation of grants is to be administered by Ofcom. The Communications Act 2003 states that Ofcom can give grants only to licensed providers of community radio services.

The British Government has also set some limits on funding, and introduced the following rules into The Community Radio Order 2004:

- Where advertising and programme sponsorship is permitted there will be an upper limit of 50% of income that may be generated from these sources (Ofcom has the power to vary this limit downwards only).
- A community radio license holder should not receive more than 50% of its funding each year from any one source (i.e. from a company, organization or person).

The Australian Government provides funding to community broadcasters through the Community Broadcasting Foundation Ltd, an industry-based company established to allocate the funds. The sector is represented by various associations, including the Community Broadcasting Association of Australia.

4.5 **Recommendations by the Authority**

The viability of any community based project is dependent on its internal fund raising mechanisms rather than external funding. This is true for Community radio stations also. Dependence of Community Radio stations on Government grants is not likely to yield desired results. Government funds would entail strict and formal accounting and audit requirements. Emphasis of stations will shift from programming to getting grants and managing accounts. Possibility of unscrupulous elements trying to corner Community Radio licenses in the hope of getting Government grants will also increase. Hence, Government funding/ grants for Community Radio stations is not being recommended. However, at the same time it is clarified that any organization engaged in social, cultural developmental work in any community and getting Government funding/ grants for the same will not be disqualified from receiving the Government funding/ grants if it

sets up a community radio station. The only restriction is regarding Government funding/ grants for Community Radio stations.

The need for raising funds internally by Community Radio stations can be addressed by permitting commercial advertising on Community Radio. However it is also important to place adequate safeguards to ensure that the impact on private FM radio stations is minimal. This is necessary because the private FM radio stations are paying license fees to the Government for their broadcasting activities as against the community radio stations which are proposed to be free from this obligation. When the private FM radio stations had bid for licenses, there were no community radio stations and any adverse change in market conditions for private FM broadcasters at this stage will be unfair to them. Accordingly, the Authority recommends that commercial advertising may be permitted on Community Radio with a prescribed maximum duration of advertisements per hour. Although there is no limitation on the advertising time that can be sold by private FM radio stations but the need to attract and retain listeners to their programmes imposes a restriction on the extent of advertising that a private FM radio station can have in its programmes. The general trend is to have about 10 minutes of advertisements per hour in the programmes broadcast by private FM radio stations. Keeping in mind the distinction between the nature of private FM radio stations and Community Radio stations and the fact that private FM radio stations have to pay license fees for their broadcasting operations, it will be reasonable to ensure that the duration of advertisements that can be carried by Community Radio stations is much less than what can be carried by private FM radio stations. Thus, the duration of advertisements that can be carried by Community Radio stations may be restricted to 5 minutes per hour of broadcast. No sponsored programmes may be permitted.

However, this restriction on advertising time should not apply to advertisements generated within the Community and where the advertising revenue comes from one of the Community members.

In case of a complaint regarding any Community Radio station exceeding the prescribed limit of advertising time the Licensing Authority may call for and examine the recordings of the broadcast for the relevant period to determine if there is any violation of license conditions. (It is being separately recommended in para 5.5 that Community radio stations should be required to keep recordings of their transmission for at least 6 months from the date of broadcast)

A diversity of funding sources is desirable to ensure continued independence of Community Radio Stations. Thus, funding from foreign agencies may not be prohibited altogether. But it may not be advisable to permit acceptance of funds from unknown sources/ organizations with doubtful objectives. The provisions of the Foreign Contribution (Regulation) Act, 1976 regulate the receipt of foreign contribution in the country. Accordingly, the Community radio stations should be permitted to accept grants/ funds as per the provisions of FCRA.

Provisions of Foreign Contribution (Regulation) Act

RECEIPT OF FOREIGN CONTRIBUTION

The provisions of the Foreign Contribution (Regulation) Act, 1976 regulate the receipt of foreign contribution in the country. The Foreign Contribution (Regulation) Rules 1976 contain the various forms prescribed for this purpose.

What is foreign contribution?

Foreign contribution means the donation, delivery or transfer, made by any

foreign source of any,

- a) article, not given to a person as a gift, for personal use, if the market value, in India, of such article exceeds one thousand rupees;
- b) currency, whether Indian or foreign; or,
- c) foreign security as defined in clause 2(i) of the Foreign Exchange Regulation Act, 1973.

NOTE: Contributions made by a citizen of India living in another country, from his personal savings, through the normal banking channels, is not treated as foreign contribution.

What is a foreign source?

Foreign source means the government of any foreign country or territory or its agency; international agency; a foreign company; citizen of a foreign country. For more details see section 2(1)(e) of the Foreign Contribution (Regulation) Act, 1976.

Who cannot receive foreign contribution?

Foreign contribution cannot be accepted by a candidate for election; correspondent, columnist, cartoonist, editor, owner, printer or publisher of a registered newspaper; judge, government servant or employee of any corporation; member of any legislature; political party or office bearer thereof.

Who can receive foreign contribution?

An association having a definite cultural, economic, educational, religious or social programme can receive foreign contribution after it obtains the prior permission of the Central Government, or gets itself registered with the Central Government.

Filing of returns

An association permitted to accept foreign contribution is required to submit an annual return, duly certified by a Chartered Accountant, giving details of the receipt and purpose-wise utilisation of the foreign contribution. The return is to be filed for every year (1st April to 31st March) within a period of four months from the closure of the year i.e. by 31st July of each year.

The return is to be accompanied with the balance sheet and statement of receipt and payment, duly certified by a Chartered Accountant, also in duplicate.

Penalties for violation

Whoever accepts, or assists any person, political party or organisation in accepting any foreign contribution or any currency from a foreign source, in contravention of the provisions of the Foreign Contribution (Regulation) Act, 1976, or the rules made thereunder, shall be punished with imprisonment for a term which may extend to five years, or with fine or with both.

There is no license fee for Community Radio stations as per the existing policy. Expansion of scope of Community Radio does not essentially change the character of Community Radio and there is no need to introduce any license fee. However, presently Spectrum fee of Rs. 19,200/- is being charged. It is recommended that there should be no Spectrum fee for the first two years of license to lighten the financial burden on a Community Radio station in its initial years. This may be reviewed after one year of the issue of license and a decision taken on whether to charge Spectrum Fee and of what amount after the first two years of license.

There is no need to give any relaxation of customs duty for import of equipment to Community radio stations. The customs duties have been gradually coming down over the years. Moreover, it has been recommended by the task force on tax reforms in its final report that the tax structure should be simplified and optimal tax policy should be pursued in the general interest of the economy rather than for catering to sectional interests. Every exemption has a constituency and democratic systems tend to respond to constituencies. A tax break to one constituency inevitably spawns similar demand by others. Accordingly, no special exemption in customs duty for import of equipment to Community radio stations is being recommended.

Section - 5: Regulation & Monitoring

5.1 The Issues

The right of free speech and expression includes the right to receive and impart information. However, the right to impart information is not absolute and all broadcast stations are required to abide by certain guidelines in respect of programme content. This is so because Radio is a very powerful medium of mass communication and it can influence and mould public opinion to a large extent. It is necessary to ensure that Radio is not used by mischievous/ irresponsible elements by manipulating the news, views and information and by indulging in misinformation and disinformation. Accordingly, the present guidelines for Community radio lay down exhaustive terms and conditions on the contents of programmes.

The issues that require consideration include the desirability of having separate programme code for community radio, relevance of existing ban on broadcast of news and current affairs programmes, whether Community radio stations should be required to keep recordings of their transmission for some specified period of time and the need for revision of the existing guidelines, especially with regard to religious programmes.

Terms and Conditions in present guidelines

- The programmes on the community radio service will focus on issues relating to education, health, environment, agriculture rural and community development. The content must be confined to social, cultural and local issues and the format, subject, presentation and language must reflect and exude the local flavour and fragrance.

- The licensee shall not be permitted to broadcast any news and current affairs programmes and shall not air election and political broadcasts.
- The licensee shall not air any advertisement or sponsored programmes.
- The licensee shall ensure that nothing is included in the programme of the licensee which:-
 - a. Offends against good taste or decency;
 - b. Contains criticism of friendly countries;
 - c. Contains attack on religions or communities or visuals or words contemptuous of religious groups or which promote communal attitudes;
 - d. Contains anything obscene, defamatory, deliberate, false and suggestive innuendos and half truths;
 - e. Is likely to encourage or incite violence or contains anything against maintenance of law and order or which promote-anti-national attitudes;
 - f. Contains anything amounting to contempt of court;
 - g. Contains anything affecting the integrity of the President and Judiciary;
 - h. Contains anything affecting the integrity of the Nation;
 - i. Criticizes, maligns or slanders any individual in person or certain groups, segments of social, public and moral life of the country;
 - j. Encourages superstition or blind belief;
 - k. Denigrates women;
 - l. May present/depict/suggest as desirable the misuse of drugs including alcohol, narcotics and tobacco or which may stereotype, incite, vilify or perpetuate hatred against or attempt to demean any person or group on the basis of ethnicity, nationality, race, gender, sexual preference, religion, age or physical or mental disability.
- The licensee shall ensure that due care is taken with respect to religious programmes with a view to avoiding:-
 - a. improper exploitation of religious susceptibilities; and
 - b. offence to the religious views and beliefs of those belonging to a particular religion or religious denominations.
- That the licensee shall ensure that due emphasis is given in the programmes to promote values of national integration,

religious harmony, scientific temper and Indian culture.

- The licensee shall follow the Programme Code of All India Radio.
- Though the licensees will operate the service under the Ministry of Information and Broadcasting, Govt. of India, the licensing will be subject to the condition that as and when any regulatory authority to regulate and monitor the broadcast services in the country is constituted, the licensees will have to adhere to the norms, rules and regulations prescribed by such authority.
- Government may revoke the license at any time in public interest or for breach of any terms and conditions of the license by giving a notice of 15 days.

5.2 Comments of the stakeholders

There was no consensus on the issue of separate programme code for Community Radio Stations. The various comments received in this regard are as under: -

- Since the content and objective of Community Radio is entirely different from the other broadcasting stations, these should have a separate programme code.
- At present there is no need for a special code. The policy may be reviewed after two or three years of operation of at least a dozen community radio stations in the country.
- No need for a separate program code but there should be a forum to address disputes/ objections relating to programs.
- Community radio stations should be required to come together and formulate a programme code for self-regulation.
- A separate code of programming should be laid down for Community Radio, based on the code of Conduct of AIR and

private commercial FM Broadcasters. They have suggested that at least 50% of the content should be generated by the community for which the station has been set up. All Radio Announcers should be from the community.

Some of the stakeholders are of the view that ban on broadcast of news and current affairs programmes should not be there as it is a violation of Article 19(2) of the Constitution. Some stakeholders have suggested that local news about weather, tornado or other warnings must be allowed. Another was that as long as broadcast of news and current affairs programmes is banned in respect of commercial radio, it should be banned for Community Radio also.

There was near unanimity on the issue of Community radio stations being required to keep recordings of their transmission for certain period of time. Different time periods were suggested by different stakeholders ranging from 1 month to 6 months. It was emphasized by a stakeholder that the time period must be at least the maximum it will take for the grievance redressal system to initiate a response to a citizen's complaint on a program. It was also suggested that the Government should scrutinize the recordings at random. Another suggestion was to have a Central Repository which should act as a platform for content exchange between community radio stations and the Community Radio stations should be required to send CD containing the recording of the programme on a regular basis to the central repository. This would foster sharing of programmes and local knowledge.

There were divergent views on the desirability of revising the existing guidelines with regard to religious programmes. Some stakeholders felt that culture, religion and heritage are part of the community

programmes and local festivals of both majority and minority communities may be allowed. Another stakeholder cautioned that religious programmes should not be allowed on community radio as religion is often the root cause of conflict.

5.3 **Analysis of Comments**

The comments recommending a separate programme code for Community Radio do not include any specific suggestions regarding how the programme code for Community radio should be different from programme code of All India Radio and private commercial broadcasters nor do these indicate any specific shortcomings of programme code of All India Radio and private commercial broadcasters.

The unanimity on the issue of Community radio stations being required to keep recordings of their transmission for certain period of time indicates that stakeholders want the Community Radio stations to be responsible about their programme content. However, the suggestion about having a Central Repository for exchange of content between community radio stations shifts the onus of retaining the recordings on the Government by requiring it to establish such a repository.

5.4 **International Practices**

Community radio stations are also regulated like other broadcast media in different countries. Either specific code of conduct is laid down for community radio stations or they are required to follow the common code of conduct for radio broadcasters.

Ofcom, the independent regulator for the UK communication industries has decided the following strategy, for regulation of Community Radio Services, after a detailed consultation process:

- Each licence will include details of the station's commitments to provide social gain, opportunities for participation in the operation and management of the service and accountability to the relevant community. It will also include a description of the programme output, as well as specifying a limit on income from advertising and sponsorship.
- An annual report will be required on progress in achieving the promises made, plus a financial report so that Ofcom may check that funding rules have been adhered to.
- Licensees will be required to keep a file of relevant information relating to the delivery of their key commitments. If necessary Ofcom may check this to ensure licensees are complying with their licence conditions and the claims made in the annual report.
- Ofcom may impose a statutory sanction if it believes a licensee has repeatedly, deliberately or seriously breached the terms of its licence conditions or our Codes. The penalty must be appropriate and proportionate to the breach for which it is imposed.

The Community Broadcasting Code of Practice of Australia was registered by the Australian Broadcasting Authority on October 24, 2002. The Code covers:-

- The responsibilities associated with broadcasting to the community;
- Complaint handling;
- General programming guidelines;
- Guidelines for news and current affairs; and
- Australian music content.

Recognizing the particular requirements of community broadcasting the codes also cover:-

- Sponsorship
- Volunteers; and
- Conflict resolution

Philippines follows the system of self-regulation of the broadcast industry. The Association of Broadcasters of the Philippines (KBP) was organized in 1973. It provides the framework for self-regulation through its radio and television codes. The Government recognizes the self regulatory principle of the KBP “to police its members on matters relating to the enforcement of broadcast media rules and regulations.”

The rules are imposed through a system of warnings and sanctions. KBP continually updates and strengthens the code of conduct. The radio code gives detailed guidelines regarding Program Standards. Penalties imposable for violation of the rules are laid down in the code.

5.5 Recommendations by the Authority

It is said that every right implies a responsibility, every opportunity an obligation and every possession a duty. Freedom of expression available to electronic media carries a lot of responsibility along with it. The reach and influence of electronic media including the Community Radio stations necessitate some sort of regulatory framework to ensure that there is no abuse of the freedom of expression. The Supreme Court has held that Airwaves constitute public property and must be utilised for advancing public good. Spectrum is a limited resource and grant of broadcast license to any

applicant rules out the use of allotted spectrum by other applicants. Moreover, since the licenses for Community Radio stations are proposed to be given without any payment of license fee, it is all the more important to ensure that the Community Radio stations fulfill the social obligation cast upon them.

However, there is no need to have a separate programme code for community radio. The programme code of All India Radio and private commercial broadcasters should be applicable to the Community Radio stations. At the same time some additional restrictions are required to be placed on the community radio stations in view of their inherently local nature. Accordingly it is recommended that the programmes should be in local language/ dialect only and at least 50% of the content should be generated by the community for which the station has been set up.

The rationale for community radio is to promote exchange of information, promote involvement of community members in community development programmes, to discuss local issues and to inform and educate the community members in their language. The content that can be broadcast over a radio station is primarily music & entertainment programmes and spoken words. Broadcast of music & entertainment programmes is not the reason for promoting Community Radio stations in the country. If the community radio stations are barred from broadcasting news and current affairs programmes, then the very purpose of community radio of informing and educating the community members is defeated. Accordingly, the Authority recommends that current restriction on coverage of News and Current Affairs should be lifted and the security implications of this step are adequately addressed. This is being recommended as it is felt that one of the main objectives of Community Radio is to improve people's

access to information in local languages/ dialects. Restriction on coverage of News and Current Affairs in Community Radio may throttle the only source of information on News and Current Affairs for certain communities.

The Authority has made a similar recommendation in the case of Phase-II of private FM radio licensing. The primary difference between private FM radio stations and Community radio stations is that the private FM radio stations can cater to the entertainment needs of its listeners as it is primarily a commercial enterprise. Even if these stations are not allowed to cover news & current affairs, there is no dearth of content for these stations. However, if the community radio stations are not allowed to cover news & current affairs, then there is very little relevant content that can be broadcast by the Community Radio stations.

The Authority feels that continuous monitoring of programme content of various broadcasters is not possible/ feasible. Therefore, it is recommended that Community radio stations should be required to keep recordings of their transmission for at least 6 months from the date of broadcast. The recordings may be examined by the licensing authority in case of any complaints regarding violation of programme code by any Community Radio station.

There is no need to revise the existing guidelines with regard to religious programmes. Programmes on culture and heritage are already permitted. Coverage of local festivals of any community forms part of programmes on culture and heritage. However, religious instruction/ preaching/ proselytizing should not be permitted.

The existing provision in the License agreement specifying that the Government may revoke the license at any time in public interest or for breach of any terms and conditions of the license, by giving a notice of 15 days, should be sufficient to ensure compliance with the guidelines.

Section - 6: Other Alternatives

6.1 The Bottlenecks

The Community Radio movement needs Governmental support in the form of a simple and supportive policy framework. However, growth of Community Radio stations in the country is also dependent upon other factors. The main bottlenecks likely to be faced by Community radio stations are :-

- Funding;
- Technical Expertise; and
- Content Generation.

6.2 Other Alternatives

As discussed in para 1.4, the objectives of Community Radio broadcasting can be achieved even without having a Radio Station (i.e. Radio Transmitter). This can be done by sharing of existing resources. Broadcasts of Community Radio programmes namely 'Kunjali Panchchi Kutchji' (Saras crane of our Kutch) produced by The Kutch Mahila Vikas Sangathan (KMVS) from AIR, Bhuj and 'Chala Ho Gaon Mein' produced by an NGO AID through FM band of AIR, Daltonganj successfully for long periods of time indicate that sharing of resources can solve some of these problems.

In both these initiatives the Community did not have to establish a Radio station so the problems of funding were limited to arranging funds for hiring of time slot on All India Radio and problems of technical expertise were limited to recording of programmes. Moreover, in both these initiatives, the content that could be generated by the Community was limited to about 60 minutes in a week. Thus, having a dedicated radio station for broadcast of such limited content may not be a very prudent thing to do.

Therefore, sharing of infrastructure could be the solution to these problems. The sharing could be done in two ways. The first possibility is that of sharing of existing infrastructure of All India Radio by various Community Radio channels (as in the case of 'Kunjla Panchchi Kutchji' and 'Chala Ho Gaon Mein'). The second possibility is that of a Community Radio station allowing other organizations to use its infrastructure on cost sharing basis.

Public Service Broadcasting Trust (PSBT)

The Prasar Bharati has entered into an MOU with the Public Service Broadcasting Trust for providing Doordarshan with 26 hours of public service programmes/ documentary films every year in 52 episodes. The Prasar Bharati Corporation will contribute Rs. 1.25 Crores a year to PSBT as its contribution towards the cost of production of the Television programmes. PSBT will raise and contribute a similar amount through its own resources. The MOU is for a period of three years. The programmes are to be telecast at a 30 minute prime time slot each week.

A similar MOU is being negotiated between PSBT and All India Radio for providing 26 hours of public service programmes to All India Radio each year.

1. All India Radio: - Sharing of infrastructure of All India Radio would result in zero lead time as the infrastructure is already in place and Communities wishing to avail it can start broadcasting at a short notice. The broadcast could be on commercial terms or on concessional terms. As in the case of MOU with PSBT where Doordarshan is bearing half the production cost and telecasting the programmes on its network,

the All India Radio could offer partial financial support for production of public service programmes by Community Radio channels and broadcast such programmes.

2. Community Radio Stations: - Sharing of infrastructure of Community Radio stations on cost sharing basis would lead to reduction in fixed costs on account of sharing of infrastructure for both the lending as well as the hiring party. This would also increase the availability of programme content for the Community Radio station.

6.3 Recommendations by the Authority

The foregoing discussion makes it clear that permitting the Community Radio stations to share infrastructure and content would bring down costs and result in more effective utilization of available resources. However, this would also give rise to the issue of responsibility regarding compliance with the terms and conditions of the license agreement.

The Authority recommends that the Community Radio stations should be permitted to share the broadcast infrastructure subject to the condition that at least 50% of the total broadcast time shall be utilized by the licensee to broadcast its own programmes. The licensees would require prior approval of the Licensing Authority for permitting other persons/ agencies/ organizations to utilize their broadcast infrastructure. The Community radio station should apply to the Licensing Authority at least one month before the date from which the other persons/ agencies/ organizations would start sharing the broadcast infrastructure (transmitter, antenna etc.) for broadcast purposes. The Licensing Authority would examine such an application

to ensure that the other persons/ agencies/ organizations who would be sharing the broadcast infrastructure are not prima facie ineligible for holding a Community Radio license and that the Programmes proposed to be broadcast meet the applicable Broadcast Code. However, the responsibility regarding compliance with the terms and conditions of the license agreement should remain with the licensee.

Section - 7: Summary of Recommendations

7.1 Eligibility

The Authority has made recommendations on issues relating to Eligibility in para 2.5 of the report. These are briefly summarized as under: -

Eligibility Criteria

- Any legal entity should be eligible for grant of a Community Radio License.
- An individual should also be eligible for grant of a Community Radio License.
- Financial condition of the applicant organization need not be an eligibility criterion.
- In case a Community Radio station shuts down the broadcast for a period of three months or more, its license should be revoked and the frequency allocation to such a station should be cancelled.
- The Community Radio stations should be under Indian ownership and control.

Ineligibility Criteria

- The ineligibility criteria listed in part-I of the Schedule to the Broadcast Bill, 1997 should be adopted with following qualifications.
 - Religious bodies engaged in socio-economic developmental activities may be allowed to hold Community Radio license provided the station would be used to promote socio-economic development of the Community.
 - An organization/ body should not be disqualified merely because it receives public funds. As long as the management/ control over its affairs is not in the hands of the Central/ State Government, such organization/ body should not be disqualified from holding Community Radio license.

- Banned organizations and their members should also be disqualified from holding Community Radio license.

7.2 **Licensing Process**

The Authority has made recommendations on issues relating to Licensing Process in para 3.5 of the report. These are briefly summarized as under: -

- Issue of temporary permits is not being recommended by the Authority.
- The requirement of furnishing a Bank Guarantee should not be done away with to prevent frivolous/ non-serious applicants from applying. The Bank Guarantee should be of Rs. 25,000/-.
- The process for issue of Community Radio station licenses should begin with an invitation to apply. Applications for licenses may be invited annually with due publicity in the printed press specifying the requirements for filing license applications and the deadline for applications.
- The applications should be filed directly with the Ministry of Information & Broadcasting. The Ministry of Information and Broadcasting should refer the applications received by it to the Ministry of Home Affairs. The Ministry of Home Affairs should examine the applications from the point of view of internal security and give its recommendations/ clearance within three months from the last date of filing of applications.
- The Ministry of Information & Broadcasting to issue licenses after consultation with the WPC wing of the Ministry of Communications. A time limit of six months from the last date of filing of applications may be laid down for this purpose.
- A license period of Five Years is recommended with a provision for revocation of the license by the Government at any time in

public interest or for breach of any terms and conditions of the license by giving a notice of 15 days.

- The license should be non-transferable.

Technical Specifications

- The following range of ERP and Height of Antenna above ground is recommended: -

Parameter	Maximum	Minimum
ERP	100 Watt	10 Watt
Antenna Height above ground	30 meter	15 meter

- The Government while issuing licenses may restrict the ERP and height of the antenna above ground so that the coverage radius of the Community Radio does not extend beyond about 6 Km.
- No restriction regarding polarization of the transmitting antenna may be placed on Community Radio licensees and the choice may be left to the applicants to apply for vertically, horizontally or circularly polarized antenna.
- The transmitter should be located within the geographical area of the community to be served.
- It is recommended to adopt the same technical parameters as given in Article 7.1(e), 7.1(f), 7.1(g), 7.2 and 7.3 of Schedule – C to the phase-I license Agreement with Private FM Radio broadcasters.
- Depending on the geographical conditions and spread of community, the applicant may request for higher transmitter power and antenna height and such a decision may be taken on a case to case basis and the Government may assign higher power in such special cases upto a maximum ERP of 500 Watts.

Low Power Commercial Radio

- Earmarking separate frequencies for Low Power Commercial Radio should be considered after completing the exercise for Phase-II of Private FM Radio. For the present, Authority is not in favour of recommending low power commercial radio.

7.3 **Funding**

The Authority has made recommendations on issues relating to Funding in para 4.5 of the report. These are briefly summarized as under: -

- Government funding/ grants for Community Radio stations is not being recommended.
- Any organization engaged in social, cultural developmental work in any community and getting Government funding/ grants for the same will not be disqualified from receiving the Government funding/ grants if it sets up a community radio station.
- Commercial advertising may be permitted on Community Radio.
- The duration of advertisements that can be carried by Community Radio stations may be restricted to 5 minutes per hour of broadcast.
- However, this restriction on advertising time should not apply to advertisements generated within the Community and where the advertising revenue comes from one of the Community members.
- No sponsored programmes may be permitted.
- In case of a complaint regarding any Community Radio station exceeding the prescribed limit of advertising time the Licensing Authority may call for and examine the recordings of the broadcast for the relevant period to determine if there is any violation of license conditions.
- The Community radio stations should be permitted to accept grants/ funds as per the provisions of FCRA.

- There is no need to introduce any license fee.
- There should be no Spectrum fee for the first two years of license to lighten the financial burden on a Community Radio station in its initial years.
- No special exemption in customs duty for import of equipment to Community radio stations is being recommended.

7.4 **Regulation & Monitoring**

The Authority has made recommendations on issues relating to Regulation and Monitoring in para 5.5 of the report. These are briefly summarized as under: -

- There is no need to have a separate programme code for community radio.
- The programme code of All India Radio and private commercial broadcasters should be applicable to the Community Radio stations.
- The programmes should be in local language/ dialect only and at least 50% of the content should be generated by the community for which the station has been set up.
- The Authority recommends that current restriction on coverage of News and Current Affairs should be lifted and the security implications of this step are adequately addressed.
- It is recommended that Community radio stations should be required to keep recordings of their transmission for at least 6 months from the date of broadcast.
- There is no need to revise the existing guidelines with regard to religious programmes.
- Religious instruction/ preaching/ proselytizing should not be permitted.

- The existing provision in the License agreement specifying that the Government may revoke the license at any time in public interest or for breach of any terms and conditions of the license, by giving a notice of 15 days, should be sufficient to ensure compliance with the guidelines.

7.5 **Other Alternatives**

The Authority has made recommendations on issues relating to Funding in para 6.3 of the report. These are briefly summarized as under: -

- The Community Radio stations should be permitted to share the broadcast infrastructure subject to the condition that at least 50% of the total broadcast time shall be utilized by the licensee to broadcast its own programmes.
- The licensees would require prior approval of the Licensing Authority for permitting other persons/ agencies/ organizations to utilize their broadcast infrastructure.
- The Licensing Authority would ensure that the other persons/ agencies/ organizations who would be sharing the broadcast infrastructure are not prima facie ineligible for holding a Community Radio license and that the Programmes proposed to be broadcast meet the applicable Broadcast Code.
- The responsibility regarding compliance with the terms and conditions of the license agreement should remain with the licensee.