

Government of India
Ministry of Commerce & Industry
Department of Industrial Policy & Promotion

Press Note No. 7 (2012 Series)

Subject: Review of the policy on Foreign Investment (FI) in companies operating in the Broadcasting Sector

1.0 Present Position:

1.1 As per extant policy, the foreign investment (FI) limits, in companies operating in the Broadcasting Sector, are set out in paragraph 6.2.7 of '*Circular 1 of 2012 – Consolidated FDI Policy*', issued by the Department of Industrial Policy and Promotion (DIPP), on 10.04.2012.

2.0 Revised Position:

2.1 The Government of India has reviewed the position in this regard and decided to amend the foreign investment limits, in companies engaged in providing broadcasting carriage services, in the manner indicated below, subject to such terms and conditions, as may be specified by the Ministry of Information and Broadcasting from time to time:

(1) Teleports (setting up up-linking HUBs/Teleports); Direct to Home (DTH); Cable Networks (MSOs operating at National or State or District level and undertaking upgradation of networks towards digitalization and addressability):

Increase in the foreign investment (FI) limit from 49% to 74%, subject to:

- (a) Foreign investment up to 49% being permitted under the automatic route; and
- (b) Foreign investment beyond 49% and up to 74% being permitted under the Government route.

(2) Mobile TV:

Permitting foreign investment (FI) up to 74%, subject to:

- (a) Foreign investment up to 49% being permitted under the automatic route; and
- (b) Foreign investment beyond 49% and up to 74% being permitted under the Government route.

2.2 The foreign investment (FI) limit, in companies engaged in the aforesaid activities of the I&B sector, shall include, in addition to FDI, investment by Foreign Institutional Investors (FIIs), Non-Resident Indians (NRIs), Foreign Currency Convertible Bonds (FCCBs), American Depository Receipts (ADRs), Global Depository Receipts (GDRs) and convertible preference shares held by foreign entities.

2.3 The terms and conditions relating to security and other conditions, will separately be incorporated in the sectoral guidelines of each broadcasting carriage service, as specified in paragraph 3.0 below.

3.0 Accordingly, paragraph 6.2.7 under 'Circular 1 of 2012-Consolidated FDI Policy' is substituted with the following:

Sl. No.	Sector/Activity	% of FDI Cap/Equity	Entry Route
6.2.7	Broadcasting		
6.2.7.1	Broadcasting Carriage Services		
6.2.7.1.1	(1) Teleports (setting up of up-linking HUBs/Teleports); (2) Direct to Home (DTH) ; (3) Cable Networks (Multi System operators (MSOs) operating at National or State or District level and undertaking upgradation of networks towards digitalization and addressability); (4) Mobile TV ; (5) Headend-in-the Sky Broadcasting Service (HITS)	74%	Automatic up to 49% Government route beyond 49% and up to 74%
6.2.7.1.2	Cable Networks (Other MSOs not undertaking upgradation of networks towards digitalization and addressability and Local Cable Operators (LCOs))	49%	Automatic
6.2.7.2	Broadcasting Content Services		
6.2.7.2.1	Terrestrial Broadcasting FM (FM Radio) , subject to such terms and conditions, as specified from time to time, by Ministry of Information & Broadcasting, for grant of permission for setting up of FM Radio stations	26%	Government
6.2.7.2.2	Up-linking of 'News & Current Affairs' TV Channels	26%	Government
6.2.7.2.3	Up-linking of Non-'News & Current Affairs' TV Channels/ Down-linking of TV Channels	100%	Government
6.2.7.3	FDI for Up-linking/Down-linking TV Channels will be subject to compliance with the relevant Up-linking/Down-linking Policy notified by the Ministry of Information & Broadcasting from time to time.		
6.2.7.4	Foreign investment (FI) in companies engaged in all the aforesaid services will be subject to relevant regulations and such terms and conditions, as may be specified from time to time, by the Ministry of Information and Broadcasting.		
6.2.7.5	The foreign investment (FI) limit in companies engaged in the aforesaid activities shall include, in addition to FDI, investment by Foreign Institutional Investors (FIIs), Non-Resident Indians (NRIs), Foreign Currency Convertible Bonds (FCCBs),		

	American Depository Receipts (ADRs), Global Depository Receipts (GDRs) and convertible preference shares held by foreign entities.
6.2.7.6	<p>Foreign investment in the aforesaid broadcasting carriage services will be subject to the following security conditions/terms:</p> <p><u>Mandatory Requirement for Key Executives of the Company</u></p> <p>(i) The majority of Directors on the Board of the Company shall be Indian Citizens.</p> <p>(ii) The Chief Executive Officer (CEO), Chief Officer In-charge of technical network operations and Chief Security Officer should be resident Indian Citizens.</p> <p><u>Security Clearance of Personnel</u></p> <p>(iii) The Company, all Directors on the Board of Directors and such key executives like Managing Director / Chief Executive Officer, Chief Financial Officer (CFO), Chief Security Officer (CSO), Chief Technical Officer (CTO), Chief Operating Officer (COO), shareholders who individually hold 10% or more paid-up capital in the company and any other category, as may be specified by the Ministry of Information and Broadcasting from time to time, shall require to be security cleared.</p> <p>In case of the appointment of Directors on the Board of the Company and such key executives like Managing Director / Chief Executive Officer, Chief Financial Officer (CFO), Chief Security Officer (CSO), Chief Technical Officer (CTO), Chief Operating Officer (COO), etc., as may be specified by the Ministry of Information and Broadcasting from time to time, prior permission of the Ministry of Information and Broadcasting shall have to be obtained.</p> <p>It shall be obligatory on the part of the company to also take prior permission from the Ministry of Information and Broadcasting before effecting any change in the Board of Directors.</p> <p>(iv) The Company shall be required to obtain security clearance of all foreign personnel likely to be deployed for more than 60 days in a year by way of appointment, contract, and consultancy or in any other capacity for installation, maintenance, operation or any other services prior to their deployment. The security clearance shall be required to be obtained every two years.</p> <p><u>Permission vis-à-vis Security Clearance</u></p> <p>(v) The permission shall be subject to permission holder/licensee remaining security cleared throughout the currency of permission. In case the security clearance is withdrawn the permission granted is liable to be terminated forthwith.</p> <p>(vi) In the event of security clearance of any of the persons associated with the permission holder/licensee or foreign personnel is denied or withdrawn for any reasons whatsoever, the permission holder/licensee will ensure that the</p>

concerned person resigns or his services terminated forthwith after receiving such directives from the Government, failing which the permission/license granted shall be revoked and the company shall be disqualified to hold any such Permission/license in future for a period of five years.

Infrastructure/Network/Software related requirement

- (vii) The officers/officials of the licensee companies dealing with the lawful interception of Services will be resident India citizens.
- (viii) Details of infrastructure/network diagram (technical details of the network) could be provided, on a need basis only, to equipment suppliers/manufactures and the affiliate of the licensee company. Clearance from the licensor would be required if such information is to be provided to anybody else.
- (ix) The Company shall not transfer the subscribers' databases to any person/place outside India unless permitted by relevant Law.
- (x) The Company must provide traceable identity of their subscribers.

Monitoring, Inspection and Submission of Information

- (xi) The Company should ensure that necessary provision (hardware/software) is available in their equipment for doing the Lawful interception and monitoring from a centralized location as an when required by Government.
- (xii) The company, at its own costs, shall, on demand by the government or its authorized representative, provide the necessary equipment, services and facilities at designated place(s) for continuous monitoring or the broadcasting service by or under supervision of the Government or its authorized representative.
- (xiii) The Government of India, Ministry of Information & Broadcasting or its authorized representative shall have the right to inspect the broadcasting facilities. No prior permission/intimation shall be required to exercise the right of Government or its authorized representative to carry out the inspection. The company will, if required by the Government its authorized representative, provide necessary facilities for continuous monitoring for any particular aspect of the company's activities and operations. Continuous monitoring, however, will be confined only to security related aspects, including screening of objectionable content.
- (xiv) The inspection will ordinarily be carried out by the government of India, Ministry of Information & Broadcasting or its authorized representative after reasonable notice, except in circumstances where giving such a notice will defeat the very purpose of the inspection.
- (xv) The company shall submit such information with respect to its services as may be required by the Government or its authorized representative, in the format as may be required, from time to time.
- (xvi) The permission holder/licensee shall be liable to furnish the Government of India or its authorized representative or TRAI or its authorized representative, such reports, accounts, estimates, returns or such other relevant information and at such periodic intervals or such times as may be required.
- (xvii) The service providers should familiarize/train designated officials or the Government or officials of TRAI or its authorized representative(s) in respect of relevant operations/features of their systems.

National Security Conditions

- (xviii) It shall be open to the licensor to restrict the Licensee Company from operating in any sensitive area from the National Security angle. The Government of India, Ministry of Information and Broadcasting shall have the right to temporarily suspend the permission of the permission holder/Licensee in public interest or for national security for such period or periods as it may direct. The company shall immediately comply with any directives issued in this regard failing which the permission issued shall be revoked and the company disqualified to hold any such permission in further for a period of five years.
- (xix) The company shall not import or utilize any equipment, which are identified as unlawful and/or render network security vulnerable.

Other conditions

- (xx) Licensor reserves the right to modify these conditions or incorporate new conditions considered necessary in the interest of national security and public interest or for proper provision of broadcasting services.
- (xxi) Licensee will ensure that broadcasting service installation carried out by it should not become a safety hazard and is not in contravention of any statute, rule or regulation and public policy.

4.0 The above decision will take immediate effect.



(Anjali Prasad)

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D/o IPP File No.: No. 5/5/2012-FC.I dated: 20th September, 2012

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