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Government of India  
Ministry of Information and Broadcasting  
Broadcasting Wing  
New Delhi.  
Dated: 11<sup>th</sup> November, 2005

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## **POLICY GUIDELINES FOR DOWNLINKING OF TELEVISION CHANNELS**

Ministry of Information and Broadcasting, Government of India, has formulated policy guidelines for downlinking all satellite television channels downlinked / received / transmitted and re-transmitted in India for public viewing. Consequently, no person/entity shall downlink a channel, which has not been registered by the Ministry of Information and Broadcasting under these guidelines. Henceforth, all persons/ entities providing Television Satellite Broadcasting Services (TV Channels) uplinked from other countries to viewers in India as well as any entity desirous of providing such a Television Satellite Broadcasting Service (TV Channel), receivable in India for public viewership, shall be required to obtain permission from Ministry of Information and Broadcasting, in accordance with the terms and conditions prescribed under these guidelines.

The guidelines are as given below:

### **1. ELIGIBILITY CRITERIA FOR APPLICANT COMPANIES**

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

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

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

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

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

<u>Item</u>	<u>Required net worth of the Co.</u>
1. For downlinking one Channel	Rs 1.50 Crores
2. Every Additional Channel	Rs.1.00 Crores

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

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

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

## **2. ELIGIBILITY CRITERIA FOR REGISTRATION OF CHANNELS FOR BEING DOWNLINKED**

**2.1** Only Companies permitted/eligible for permission to downlink, as per Clause 1 above, shall be eligible to apply for registration of channels.

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

**2.3** The channel being registered should not have been de registered under these guidelines at the time of application.

**2.4** No News and Current Affairs channel shall be permitted to be downlinked if it does not meet the following additional conditions:

**2.4.1** That it does not carry any advertisements aimed at Indian viewers;

**2.4.2** That it is not designed specifically for Indian audiences;

**2.4.3** That it is a standard international channel;

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

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

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

**2.6** Companies whose channels are being downlinked at present will be required to comply with all formalities of registration of these channels within 180 days from date of issue of these guidelines. In addition these companies will be required to obtain the necessary permission for downlinking their respective channels under these guidelines within 180 days from date of issue of these guidelines.

### **3. PERIOD OF REGISTRATION AND PERMISSION**

The Ministry of Information and Broadcasting shall grant registration to each channel for an initial period of 5 years, which shall be extendable thereafter as per extant Rules. The applicant company will be granted permission for one or more years up to a maximum of five years, co-terminus with the registration of the channel.

### **4. REGISTRATION FEE AND PERMISSION FEE**

**4.1** The Applicant Company shall pay registration fee of Rs.5 Lakhs for each channel, which will be payable for the initial registration for a period of five years. Extension beyond five years shall be again for a period of five years at the above prescribed rate.

**4.2** Every company permitted to downlink channels, uplinked from other countries, into India under these guidelines, shall pay Rs 5 Lakhs as the initial fee before the signing of the Grant of Permission Agreement. In addition, every company shall pay an amount of Rs. 1 lakh per channel per annum as the annual fee.

**4.3** The company permitted to downlink channels into India under the uplinking guidelines, shall register every channel separately.

### **5. BASIC CONDITIONS/OBLIGATIONS**

**5.1** The Company permitted to downlink registered channels shall comply with the Programme and Advertising Code prescribed under the Cable Television Networks (Regulation) Act, 1995.

**5.2.** The sports channels/sports rights management companies having TV broadcasting rights shall with immediate effect share their feed with Prasar Bharati for national and international sporting events of national importance, held in India or abroad, for terrestrial transmission and DTH broadcasting (free-to-air) under the following conditions:

**5.2.1** The events of national importance shall be determined by the Ministry of Information & Broadcasting in consultation with Ministry of Sports & Youth Affairs, Prasar Bharati and the concerned sports channels/sports rights management companies. In case of cricket events, these shall include all matches featuring India and the finals and semi-finals of international competitions.

**5.2.2** The above conditions shall apply to all future events including those covered by existing contracts of broadcasting rights. However, in the case of cricket events whose broadcasting rights have been obtained by sports channels/rights management companies prior to the issue of the notification in the matter, the rights holders will be obliged to share the feed for all matches featuring India and finals of international competitions.

**5.2.3** Prasar Bharati shall transmit the feed, free to air, on its terrestrial channel and carried through the terrestrial network and/or the satellite/DTH mode.

**5.2.4** The marketing of the events' rights (terrestrial as well as satellite/DTH) will be decided through mutual negotiations between Prasar Bharati and the rights holder. The marketing rights should go to the party, which offers to maximize the revenue.

**5.2.5** Revenue sharing formula of 75:25 in favour of rights holders without any minimum guarantee/opportunity cost should be applied.

In the event of any dispute, the matter shall be referred to an arbitrator to be appointed by Secretary, Ministry of Law & Justice out of the approved panel of arbitrators.

**5.3** The applicant company shall adhere to any other Code/Standards guidelines/restrictions prescribed by Ministry of Information & Broadcasting, Government of India for regulation of content on TV channels from time to time.

**5.4** The applicant company shall submit audited annual accounts of its commercial operations in India.

**5.5** The applicant company shall obtain prior approval of the Ministry of I & B before undertaking any upgradation, expansion or any other changes in the downlinking and distribution system/network configuration.

**5.6** The applicant company shall provide Satellite TV Channel signal reception decoders only to MSOs/Cable operators registered under the Cable Television Networks (Regulation) Act 1995 or to a DTH operator registered under the DTH guidelines issued by Government of India.

**5.7** The applicant company shall ensure that any of its channels, which is unregistered or prohibited from being telecast or transmitted or re-transmitted in India, under the Cable Television Networks (Regulation) Act 1995 or the DTH guidelines or any other law for the time being in force, cannot be received in India through encryption or any other means.

**5.8** The Union Government shall have the right to suspend the permission of the company/registration of the channel for a specified period in public interest or in the interest of National security to prevent the misuse of the

channel. The company shall immediately comply with any directives issued in this regard.

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

**5.10** The company/channel shall adhere to the norms, rules and regulations prescribed by any regulatory authority set up to regulate and monitor the Broadcast Services in the country.

**5.11** The applicant company shall give intimation to Ministry of I & B regarding change in the directorship, key executives or foreign direct investment in the company, within 15 days of such a change taking place. It shall also obtain security clearance for such changes in its directors and key executives.-

**5.12** The applicant company shall keep a record of programmes downlinked for a period of 90 days and to produce the same before any agency of the Government as and when required.

**5.13** The applicant company shall furnish such information as may be required by the Ministry of I&B from time to time.

**5.14** The applicant company shall provide the necessary monitoring facility at its own cost for monitoring of programmes or content by the representative of the Ministry of I&B or any other Government agency as and when required.

**5.15** The applicant company shall comply with the obligations and conditions prescribed in the downlinking guidelines issued by the Ministry of I&B, and the specific downlinking permission agreement and registration of each channel.

**5.16** In the event of any war, calamity/national security concerns, the Government shall have the power to prohibit for a specified period the downlinking/ reception/ transmission and re-transmission of any or all channels. The Company shall immediately comply with any such directions issued in this regard.

## **6.OFFENCES AND PENALTIES**

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

**6.2** Subject to the provisions contained in Para 6.1 of these guidelines, in the event of a permission holder and/ or channel violating any of the terms and conditions of permission, or any other provisions of the guidelines, the Ministry of Information and Broadcasting shall have the right to impose the following penalties: -

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



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

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

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

**6.2.5** In the event of suspension of permission as mentioned in Para 5.8,5.16 or 6.2, the permission holder will continue to discharge its obligations under the Grant of Permission Agreement including the payment of fee.

**6.2.6** In the event of revocation of permission and /or registration, the fees paid will be forfeited.

**6.2.7** All the penalties mentioned above shall be imposed only after giving a written notice to the permission holder.-

## **7. DISPUTE RESOLUTION**

**7.1** In the event of any question, dispute or difference arising under the Grant of Permission Agreement or in connection thereof, except as to the matter, the decision of which is specifically provided under the Grant of Permission Agreement, the same shall be referred to the sole arbitration of the Secretary, Department of Legal Affairs or his nominee.

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

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

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

## **8. PROCEDURE FOR GRANT OF PERMISSION AND REGISTRATION OF CHANNELS**

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

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

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

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

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

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

**Note:**

**No cable operator or DTH service provider shall, after the expiry of 180 days from the date of this notification, carry or include in his cable/DTH network any television channel that has not been registered under these guidelines. Amendments to this effect in the Cable Television Network Rules 1994 and DTH guidelines are being notified separately.**

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