

POLICY GUIDELINES FOR UPLINKING OF TELEVISION CHANNELS FROM INDIA

PREAMBLE

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

GENERAL

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

1. PERMISSION FOR SETTING UP OF UPLINKING HUB/ TELEPORTS

1.1. Eligibility Criteria

1.1.1. In the applicant company, the foreign equity holding including NRI/OCB/PIO should not exceed 49%.

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

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

1.1.3. *Notwithstanding the provisions contained in Para 1.1.2, the minimum network worth requirement for additional Teleport of a Company, which held permission(s) for a Teleport(s)*

*as on the date of issuance of the amended Guidelines on 05.12.2011, would be calculated by applying the networth norms as they existed prior to the issuance of amended guidelines for the permissions already held on that date, and the revised norms as per Para 1.1.2 for the additional Teleport(s).]*¹

1.2. Period of Permission

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

1.3. Fee

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

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

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

1.4. Special Conditions/ Obligations

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

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

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

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

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

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

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

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

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

2.1. Eligibility Criteria

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

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

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

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

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

2.2. Period of Permission

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

2.3. Fee

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

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

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

2.4. Special Conditions/ Obligations

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

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

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

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

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

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

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

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

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

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

3.1. Eligibility Criteria

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

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

- (1) In the case of an individual shareholder,
 - (a) The individual shareholder.
 - (b) A relative of the shareholder within the meaning of Section 6 of the Companies Act, 1956.
 - (c) A company/ group of companies in which the individual shareholder/HUF to which he belongs has management and controlling interest.
- (2) In the case of an Indian company,
 - (a) The Indian company
 - (b) A group of Indian companies under the same management and ownership control.

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

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

3.1.3. [..deleted..]³

3.1.4. The company shall make full disclosure, at the time of application, of Shareholders Agreements, Loan Agreements and such other Agreements that are finalized or are proposed to be entered into. Any subsequent changes in these would be disclosed to the Ministry of Information and Broadcasting, within 15 days of any changes, having a bearing on the foregoing Agreements.

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

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

- 3.1.14 *Notwithstanding the provisions contained in Para 3.1.13, the minimum network requirement for additional News and Current Affairs TV channels of a Company which held permission(s) for TV channels as on the date of issuance of the amended Guidelines as on 05.12.2011, would be calculated by applying the network norms as they existed prior to the issuance of amended guidelines for the permissions already held on that date, and the revised norms as per Para 3.1.13 for the additional TV channels.*
- 3.1.15 *At least one of the persons occupying a top management position in the applicant company should have a minimum 3 years of prior experience in a top management*

position in a media company (or media companies) operating News and Current Affairs TV channels. The term “top management position” in this context shall mean the Chairperson or Managing Director or Chief Executive Officer or Chief Operating Officer or Chief Technical Officer or Chief Financial Officer of the Company. The channels which were permitted but could not become operational by the date of issuance of the amended guidelines on 05.12.2011 will also be required to fulfill this criteria.]¹

3.2. Period of Permission

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

3.3. Fee

- 3.3.1. The applicant will pay an amount of Rs. Ten thousands per TV Channel as non-refundable processing fee.
- 3.3.2. *[The applicant company shall pay a permission fee at the rate of Rs. Two lakh per News and Current Affairs TV Channel per annum.*
- 3.3.3. *After being held eligible, the applicant Company shall pay the permission fee for the first year before the issuance of permission. The succeeding year’s permission fee will have to be deposited 60 days before such fee becomes due.]¹*

3.4. Special Conditions/ Obligations

- 3.4.1. Permission for usage of facilities/infrastructure for live news/footage collection and transmission, irrespective of the technology used, will be given to only those channels which are uplinked from India. To ensure immediate compliance of this policy in respect of permissions/licences given/to be given for utilization of VSAT/RTTS/Satellite Video Phone and similar other infrastructure, which lends itself for use in uplinking/ point to point transfer of content for broadcast purposes, separate guidelines will be issued by the Ministry of Communications & Information Technology.
- 3.4.2. The channel/company will ensure that its news and current affairs content provider(s), if any, are accredited with the Press Information Bureau. Such accredited content provider(s) only can use equipment/platform for collection/transmission of news/footage.
- 3.4.3. The company/channel should ensure that it uses equipment, which is duly authorized and permitted by the competent authority, or its content provider(s), if any, use equipment duly authorized by the competent authority.
- 3.4.4. It will be obligatory on the part of the company to intimate the Ministry of Information & Broadcasting, the changes in Foreign Direct Investment in the company, within 15 days of such change. While effecting changes in the shareholding patterns, it shall ensure its continued compliance to Clause 3.1.1 and 3.1.2 above.
- 3.4.5. The company/channel will be liable to intimate to the Ministry of Information & Broadcasting the details of any foreigners/NRIs employed/engaged by it for a period exceeding 60(sixty) days.

3.4.6. The applicant company shall abide by the general terms and conditions laid down in Para 5 below as well as Paras 2.4.1 to 2.4.3 above.

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

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

3.5.2 After being held eligible, the applicant company shall also furnish a Performance Bank Guarantee (PBG) for Rs 2 crore for each News and Current Affairs TV channel before the issuance of permission on the format so specified by the Ministry for fulfilling the rollout obligation stipulated in Para 3.5.1, from any scheduled bank in favour of the Ministry of Information and Broadcasting. If the channel is not operationalised even after one year, the permission shall be cancelled and the Performance Bank Guarantee (PBG) shall be forfeited.

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

4. PERMISSION FOR UPLINKING BY INDIAN NEWS AGENCY

4.1. Eligibility Criteria

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

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

4.2. Period of Permission

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

4.3. Special Conditions/ Obligations

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

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

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

5. GENERAL TERMS & CONDITIONS

- 5.1. The company can uplink either in C or Ku Band. Uplinking in C Band would be permitted both to Indian as well as foreign satellites. However, proposals envisaging use of Indian satellites will be accorded preferential treatment. On the other hand, uplinking in Ku Band would be permitted through Indian satellite only, subject to the condition that this permission is not used to run/ operate DTH service without proper license, to which separate guidelines apply. Satellite to be used should have been coordinated with INSAT System.
- 5.2. The company shall comply with the Programme & Advertising Codes, as laid down in the Cable Television Networks (Regulation) Act, 1995 and the Rules framed there under.
- 5.3. The company shall keep record of the content uplinked for a period of 90 days and produce the same before any agency of the Government, as and when required.
- 5.4. The company shall furnish such information, as may be required by the Ministry of Information & Broadcasting, from time to time.
- 5.5. The company/channel shall provide for the necessary monitoring facility, at its own cost, for monitoring of programmes or content by the representatives of the Ministry of Information & Broadcasting or any other Government agency as and when so required.
- 5.6. The company shall permit the Government agencies to inspect the facilities as and when required.
- 5.7. The company shall comply with the terms and conditions of Wireless Operational License to be issued by the WPC Wing, Ministry of Communications & IT.
- 5.8. The Company shall ensure its continued eligibility as applicable through out the period of permission and adhere to all the terms and conditions of the permission, failing which the company shall be liable for penalty as specified in Para 8 below.
- 5.9. The Government of India, Ministry of Information & Broadcasting shall have the right to suspend the permission of the company for a specified period in public interest or in the interest of national security to prevent its misuse. The company shall immediately comply with any directives issued in this regard.
- 5.10. It will be obligatory on the part of the company to take prior permission from the Ministry of Information & Broadcasting before effecting any change in the CEO/ Board of Directors.

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

- 6.1. The use of SNG/DSNG would be permitted to News and Current Affairs channels uplinked from India for live news/footage collection and point-to-point transmission.
- 6.2. PIB accredited content provider(s) if any, to the permitted News and Current Affairs channel(s) can use SNG/DSNG for collection/transmission of news/footage.

- 6.3. Entertainment channels who are uplinking from their own teleport, can use SNG/DSNG for their approved channels, for transfer of video feeds to the permitted teleport.
- 6.4. All Foreign channels, permitted entertainment channels uplinked from India and companies/individuals not covered in 6.1, 6.2 and 6.3 as above will be required to seek temporary uplinking permission for using SNG/DSNG for any live coverage/footage collection and transmission on case to case basis.
- 6.5. Only permitted teleport operators and Doordarshan may offer/hire out SNG/DSNG equipments/infrastructures to other broadcasters who are permitted to uplink from India.
- 6.6. The uplinking should be carried in encrypted mode, so as to be receivable only in closed user group. The signal should only be down linked at the permitted teleport of the licensee and uplinked for broadcasting through permitted satellite through that teleport only.
- 6.7. Each company/channel desiring to use SNG/DSNG would have to apply to Ministry of Information and Broadcasting and get permission before doing the same.
- 6.8. Uplinking from SNG/DSNG should be in SCPC mode only (only single feed can be uplinked from the SNG/DSNG at a time).
- 6.9. The channel would also give an undertaking that the feed collected through SNG/DSNG shall conform to Programme and Advertisement Codes.
- 6.10. The use of SNG/DSNG would be permitted only in those areas/regions/states which are not specifically prohibited by MHA.
- 6.11. The company would submit the purchase documents of SNG/DSNG terminals and inform Ministry of Information and Broadcasting about placement of these terminals at the various locations.
- 6.12. Period of Permission:
 - a) For teleport owners – co-terminus with teleport license.
 - b) For permitted News and Current Affairs channels – for the period of the Channel permission.
 - c) For content providers to permitted channels - for the period of the channel permission.
 - d) For other broadcasters having temporary uplinking permission – for periods as specified in the temporary uplinking permission.
- 6.13. The company permitted to use SNG/DSNG shall apply to WPC for frequency authorization of WPC. It should be renewed yearly in time and a copy should be submitted to this Ministry by the company every year.

- 6.14. The permitted company shall maintain a daily record of the location and the events which have been covered and uplinked by SNG/DSNG terminals and down linked at their main satellite earth station and produce the same before the licensing authority or its authorized representative, which will include officers of Ministry of Home Affairs and Ministry of Information and Broadcasting, as and when required.
- 6.15. The permitted company shall not enter defence installations.
- 6.16. The equipment should not be taken in the areas cordoned off from security point of view.
- 6.17. The company/channel desiring to use SNG/DSNG would give an undertaking that it would be used for live newsgathering and footage collection for captive use only.
- 6.18. Violations of any of the aforementioned terms and conditions would lead to revocation/cancellation of the permission to use the SNG/DSNG.
- 6.19. The permitting authority may modify the conditions laid down or incorporate new conditions, as and when considered necessary.
- 6.20. SNG/DSNG in Ku Band will not be used for DTH operation, directly or indirectly. Any such use would lead to the termination of license/permission.
- 6.21. Uplinking Dish used for SNG/DSNG operation in Ku Band shall not exceed 2 meters.

7. PERMISSION FOR TEMPORARY UPLINKING

- 7.1. The use of all equipment/platforms for collection of footage/news by channels uplinked from outside for specific programme(s)/event(s) of temporary duration will be entertained on recommendation from the PIB and permitted on a case to case basis, in consultation with the Ministry of Home Affairs and other Ministries/Departments concerned.
- 7.2. Foreign news channels/ agencies may be granted permission up to one year at a time for temporary uplinking from time to time through a pre-designated teleport, subject to the following conditions:
 - a) The applicant is accredited with the Press Information Bureau, Government of India.
 - b) The applicant undertakes to conform to the Programme and Advertisement Codes.
 - c) The applicant has a binding agreement with the relevant teleport for the period of permission.
 - d) The applicant pays a processing fee of Rs. 10,000/- and temporary permission fee of Rs. 50,000/- per year.

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

8. OFFENCES AND PENALTIES

- 8.1. In the event of a channel/teleport/SNG/DSNG found to have been/ being used for transmitting/ uplinking any objectionable unauthorized content, messages, or communication inconsistent with public interest or national security or failing to comply with the directions as per para 5.9 above, the permission granted shall be revoked and the company shall be disqualified to hold any such permission for a period of five years, apart from liability for punishment under other applicable laws.
- 8.2. Subject to the provisions contained in para 8.1 of these guidelines, in the event of a permission holder violating any of the terms and conditions of permission, or any other provisions of the guidelines, the Ministry of Information and Broadcasting shall have the right to impose the following penalties:
 - 8.2.1. In the event of first violation, suspension of the permission of the company and prohibition of broadcast/ transmission up to a period of 30 days.
 - 8.2.2. In the event of second violation, suspension of the permission of the company and prohibition of broadcast up to a period of 90 days.
 - 8.2.3. In the event of third violation, revocation of the permission of the company and prohibition of broadcast up to the remaining period of permission.
 - 8.2.4. In the event of failure of the permission holder to comply with the penalties imposed within the prescribed time, revocation of permission and prohibition of broadcast for the remaining period of the permission and disqualification to hold any fresh permission in future for a period of five years.
- 8.3. In the event of suspension of permission as mention in Para 5.9 or 8.2 above, the permission holder shall continue to discharge its obligations under the Grant of Permission Agreement including the payment of fee.
- 8.4. In the event of revocation of permission, the fees shall be forfeited.
- 8.5. All the penalties mentioned above shall be imposed only after giving a written notice to the permission holder.

9. PROCEDURE FOR OBTAINING PERMISSION

- 9.1. The applicant company can apply to the Secretary, Ministry of Information & Broadcasting, in triplicate, in the prescribed format "**Form 1**" along with all requisite documents including a demand draft for an amount equal to processing fee wherever prescribed, payable at par at New Delhi, in favour of the Pay & Accounts Officer, Ministry of Information & Broadcasting, Shastri Bhawan, New Delhi.
- 9.2. On the basis of information furnished in the application form, if the applicant is found eligible, its application will be sent for security clearance to the Ministry of Home Affairs and for clearance of satellite use to the Department of Space (wherever required).

- 9.3. As soon as these clearances are received, the applicant would be asked to furnish a demand draft for an amount equal to the permission fee and Performance Bank Guarantee as applicable, payable at New Delhi, in favour of Pay & Accounts Officer, Ministry of Information & Broadcasting, Shastri Bhawan, New Delhi. Further, the applicant company in respect of Para 1, 2 or 3 above would be required to sign an agreement titled as "Grant of Permission Agreement", in the format "**Form 2**", which is being prescribed separately.
- 9.4. Thereafter, the Company would be issued a formal permission to enable it to obtain requisite license/ clearances from the WPC Wing, Ministry of Communications & IT or approach a teleport service provider in case of TV channels/ uplinking by a Indian news agency.
- 9.5. The applicant will pay the licence fee and royalty, as prescribed by WPC Wing from time to time, annually, for the total amount of spectrum assigned to Hub/Teleport station, as per norms & rules of the WPC Wing. Besides, the Hub/Teleport station owner will inform WPC Wing the full technical and operations details of TV channels proposed to be uplinked through his/her Hub/Teleport in prescribed format. (This clause is applicable for teleports/ uplinking by a Indian News Agency.)

[10. RENEWAL OF EXISTING PERMISSIONS

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

11. Transfer of Permission of Television Channels

- 11.1. *The permission holder shall not transfer the permission without prior approval of the Ministry of Information and Broadcasting. On a written request from the permission holder, the Ministry shall allow transfer of permission in case of merger/demerger/ amalgamation, or from one Group Company to another provided that such transfer is in*

accordance with the provisions of the Companies Act, and further subject to the fulfillment of following conditions:

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

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

- 12.1 TV channels operating in India and uplinked from India but meant only for foreign viewership are not required to comply with the programme and advertisement code of India. The concerned broadcasters will be required to ensure compliance of the rules and regulations of the target country for which content is being produced and uplinked. However, the uplinked content should not contain anything which is against the sovereignty, integrity and national security of India as well as its relations with friendly countries. For monitoring purposes, these channels will be required to preserve the recordings of the proceedings for at least six months instead of the present stipulation of 3 months.]¹*

Note (Superscripts):

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

POLICY GUIDELINES FOR DOWNLINKING OF TELEVISION CHANNELS

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

The revised guidelines are as given below:

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:

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

1

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

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

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

1.9. *[Notwithstanding the provisions contained in Para 1.5, the minimum net worth requirement for downlinking of additional Television Channels by a Company which held permission(s) for downlinking of a Television Channel as on the date of issuance of the amended Guidelines as on 05.12.2011, would be calculated by applying the net worth norms as they existed prior to the issuance of amended guidelines for the permissions already held on that date, and the revised norms as per Para 1.5 for the additional Television Channel(s).*

1.10. *At least one of the persons occupying a top management position in the applicant company should have a minimum 3 years of prior experience in a top management position in a media company (or media companies) operating News and Current Affairs / Non-News and Current Affairs Television Channels as the case may be. The term "top management position" in this context shall mean the Chairperson or Managing Director or Chief Executive Officer or Chief Operating Officer or Chief Technical Officer or Chief Financial Officer of the Company. The channels which were*

permitted but could not become operational by the date of issuance of the amended guidelines on 05.12.2011_will also be required to fulfill this criteria.]¹

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

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

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

- 2.5. For the purposes of these guidelines any channel, which has any element of news or current affairs in its programme content, will be deemed to be a news and current affairs channel.
- 2.6. [...Deleted...]³

3. [PERIOD OF REGISTRATION AND PERMISSION

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

4. PERMISSION FEE

- 4.1. The Company seeking permission to downlink channels, uplinked from other countries, into India under these guidelines shall pay a permission fee of Rs 10 lakhs at the time of grant of permission.
- 4.2. The Company shall pay a Permission fee for Registration of channels under these guidelines as follows:-
 - 4.2.1. Rs. 5 lakhs per channel per annum for Downlinking of Television Channel uplinked from India.
 - 4.2.2. Rs. 15 lakhs per channel per annum for Downlinking of Television Channel uplinked from abroad.
 - 4.2.3. After being held eligible, the applicant Company shall pay the permission fee for the first year before the issuance of permission. The succeeding year's permission fee will have to be deposited 60 days before such fee becomes due.]¹
- 4.3. [...Deleted....]³

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 company shall ensure compliance of the provisions of Sports Broadcasting Signals (Mandatory sharing with Prasar Bharati) Act 11 of 2007 and the Rules, Guidelines, Notifications issued there under.]²
- 5.3. The applicant company shall adhere to any other Code/Standards guidelines/restrictions prescribed by Ministry of Information & Broadcasting, Government of India for regulation of content on TV channels from time to time.
- 5.4. The applicant company shall submit audited annual accounts of its commercial operations in India.
- 5.5. The applicant company shall obtain prior approval of the Ministry of Information and Broadcasting before undertaking any upgradation, expansion or any other changes in the downlinking and distribution system/network configuration.
- 5.6. The applicant company shall provide Satellite TV Channel signal reception decoders only to MSOs/Cable Operators registered under the Cable Television Networks (Regulation) Act 1995 or to a DTH operator registered under the DTH guidelines issued by Government of India or to an Internet Protocol Television (IPTV) Service Provider duly permitted under their existing Telecom License or authorized by Department of Telecommunications or to a HITS operator duly permitted under the policy guidelines for HITS operators issued by Ministry of Information and Broadcasting, Government of India to provide such service."

- 5.7. The applicant company shall ensure that any of its channels, which is unregistered or prohibited from being telecast or transmitted or re-transmitted in India, under the Cable Television Networks (Regulation) Act 1995 or the DTH guidelines or any other law for the time being in force, cannot be received in India through encryption or any other means.
- 5.8. The Union Government shall have the right to suspend the permission of the company/registration of the channel for a specified period in public interest or in the interest of National security to prevent the misuse of the channel. The company shall immediately comply with any directives issued in this regard.
- 5.9. The applicant company seeking permission to downlink a channel shall operationalise the channels within one year from the date of the permission being granted by the Ministry of Information and Broadcasting failing which the permission will liable to be withdrawn without any notice in this regard. However, the company shall be afforded a reasonable opportunity of being heard before such a withdrawal.
- 5.10. The company/channel shall adhere to the norms, rules and regulations prescribed by any regulatory authority set up to regulate and monitor the Broadcast Services in the country.
- 5.11. The applicant company shall give intimation to Ministry of Information and Broadcasting regarding change in the directorship, key executives or foreign direct investment in the company, within 15 days of such a change taking place. It shall also obtain security clearance for such changes in its directors and key executives.
- 5.12. The applicant company shall keep a record of programmes downlinked for a period of 90 days and to produce the same before any agency of the Government as and when required.
- 5.13. The applicant company shall furnish such information as may be required by the Ministry of Information and Broadcasting from time to time.
- 5.14. The applicant company shall provide the necessary monitoring facility at its own cost for monitoring of programmes or content by the representative of the Ministry of Information and Broadcasting or any other Government agency as and when required.
- 5.15. The applicant company shall comply with the obligations and conditions prescribed in the downlinking guidelines issued by the Ministry of Information and Broadcasting, and the specific downlinking permission agreement and registration of each channel.
- 5.16. In the event of any war, calamity/national security concerns, the Government shall have the power to prohibit for a specified period the downlinking/ reception/ transmission and re-transmission of any or all channels. The Company shall immediately comply with any such directions issued in this regard.

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 OF CHANNELS

- 8.1. The applicant company shall apply to the Secretary, Ministry of Information and Broadcasting in the prescribed Performa along with full details and documentation relevant for evaluating its eligibility for grant of permission to downlink Television Channels in India. Each application form shall be accompanied by a demand draft of Rs. Ten Thousand towards non-refundable processing fee.
- 8.2. The applicant company shall also submit full details of each channel being/proposed to be downlinked along with all other documents as prescribed in the guidelines.
- 8.3. After scrutiny of the application if the applicant company is found eligible, the same will be sent for security clearance to the Ministry of Home Affairs. In the meanwhile, the Ministry of Information and Broadcasting will evaluate the suitability of the proposed channel for downlinking into India for public viewing.
- 8.4. In the event of the applicant company and the proposed channel being found suitable, the Ministry of Information and Broadcasting will register the channel and the applicant company to enter into a grant of permission agreement with the Ministry of Information and Broadcasting, Government of India.
- 8.5. On receipt of the signed agreement, the Ministry of Information and Broadcasting will issue a registration certificate for the concerned channels and grant permission to the applicant company to downlink the relevant channels in India for the prescribed period.
- 8.6. On receipt of the permission and upon registration of the channel, the applicant company will be entitled to approach the MSOs/Cable head end operators/DTH Operators for receiving/downlinking its channel's signal, for further transmission/ retransmission/ distribution.

9. RENEWAL OF EXISTING PERMISSIONS / REGISTRATION

- 9.1. The existing permission holders as on the date of issuance of the amended Guidelines on 05.12.2011_will continue to be governed by the terms and conditions of permission as they existed prior to the issuance of amendments on 05.12.2011_till the expiry of such permission.
- 9.2. Renewal of permission/ registration will be considered for a period of 10 years at a time, subject to the condition that the company/ channel should not have been found guilty of violating the terms and conditions of permission including violations of the programme and advertisement code on five occasions or more. What would constitute a violation would be determined in consultation with the established self-regulating mechanisms.

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

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

10. TRANSFER OF PERMISSION OF TELEVISION CHANNELS

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

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

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

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

Note (Superscripts) :

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

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

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