

iCe Hotline

May 04, 2006

ULTIMATUM ISSUED TO TV CHANNELS DOWNLINKING INTO INDIA

Pursuant to the Guidelines for Downlinking of TV Channels dated November 11, 2005 ("Guideline") and the 180 days time line provided therein, the Indian government has issued an ultimatum to all current TV channel broadcasters that they have to become compliant with the Guidelines by May 10, 2006, failing which they will not be allowed to continue downlinking their TV Channels in India. As per a statement issued by the government on May 3, 2006 the minimum that is expected of current broadcasters is that they should submit completed applications, with processing fee on or before May 10, 2006 for continued permission to downlink in India.

Any future broadcaster who intends to downlink TV Channels in India (uplinked from abroad) may do so only after obtaining the permission of the Ministry of Information and Broadcasting (MIB) and other relevant Ministries, further to these Guidelines.

INDIAN COMPANY REQUIRED TO DOWNLINK

A company registered under the Indian Companies Act, 1956 alone can apply for this permission to downlink under the Guidelines. The MIB has further clarified that there are no restrictions on the foreign investment limits permissible in the Indian Company applying for this downlink permission. However, such foreign investment shall be subject to the prior permission of the Foreign Investment Promotion Board (FIPB).

As per the Guidelines, the Indian Company is also to be vested with ownership of the TV Channel that is being downlinked or enjoy for the territory of India exclusive marketing/distribution rights, inclusive of the right to advertising and subscription revenues and the right to conclude contracts on behalf of the broadcaster for advertisements, subscription and programme content.

CHANNEL REGISTRATION

The Indian Company will also have to secure registration of the TV Channel in India. This was introduced in the Guidelines so as to facilitate the government's control over the content beamed by the TV Channels.

CONCERNS OF BROADCASTERS

Over the past 6 months broadcasters have raised certain concerns with respect to these Guidelines, especially with regard to the forceful change of the business model required to downlink in India. This however has not yielded any significant result. The government has on the other hand reiterated its commitment to ensuring compliance with the obligations laid down in the Guidelines, more specifically: -

- Satisfaction of Net Worth of the Indian Company at the time of application for permission to downlink, which should be Rs. 1.5 crore (approx. USD 3,33,33) for the first channel, downlinked in India and an additional Rs. 1 crore (approx. USD 2,22,22) for each additional channel downlinked in India. Thereafter, this Net Worth requirement is to be continuously maintained by the Indian Company.
- Provision of a facility (through MSO's or head end operators of the TV Channel) by the Indian Company, whereby online monitoring of content being beamed into India is possible.
- The aforesaid facility is required to have capacity to store data for 90 days, which should be available to the government at any point of time in India and at a pre-designated place.
- Obligation for sharing of feed of "events of national importance" with Prasar Bharti by sports channels/sports rights management companies having TV broadcasting rights in national and international sporting events.

This approach of the government is evidence enough of the fact that the introduction of these guidelines is aimed at securing more control over content and ease of enforcement over errant broadcasters.

- Sushma George & Vivek Kathpalia

Source: From the website of Indiatelevision.com dated May 4, 2006

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