

## 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

### DISCLAIMER

The contents of this hotline should not be construed as legal opinion. View detailed disclaimer.

This Hotline provides general information existing at the time of preparation. The Hotline is intended as a news update and Nishith Desai Associates neither assumes nor accepts any responsibility for any loss arising to any person acting or refraining from acting as a result of any material contained in this Hotline. It is recommended that professional advice be taken based on the specific facts and circumstances. This Hotline does not substitute the need to refer to the original pronouncements.

This is not a Spam mail. You have received this mail because you have either requested for it or someone must have suggested your name. Since India has no anti-spamming law, we refer to the US directive, which states that a mail cannot be considered Spam if it contains the sender's contact information, which this mail does. In case this mail doesn't concern you, please unsubscribe from mailing list.

## Research Papers

### From Capital to Impact: Role of Blended Finance

June 15, 2024

### Opportunities in GIFT City

June 14, 2024

### Start-up Governance Essentials

May 30, 2024

## Research Articles

### Private Client Insights - Sustainable Success: How Family Constitutions can Shape Corporate Governance, Business Succession and Familial Legacy

January 25, 2024

### Private Equity and M&A in India: What to Expect in 2024?

January 23, 2024

### Emerging Legal Issues with use of Generative AI

October 27, 2023

## Audio

### Why is the ad industry unhappy with MIB's self-declaration mandate?

June 18, 2024

### Incorporation of arbitral clause by reference: Position in India and other Asian Jurisdictions

June 12, 2024

### Third-Party Funding: India & the World

April 27, 2024

## NDA Connect

Connect with us at events, conferences and seminars.

## NDA Hotline

Click here to view Hotline archives.

## Video

### Future of India-Mauritius tax treaty – Impact of new Protocol on M&A deals and Private Equity structures

April 23, 2024

**Q&A 2024 Protocol to the Mauritius  
India Tax Treaty**

April 22, 2024

**Boost to India's Space Potential:  
India Liberalizes Foreign Direct  
Investment**

April 03, 2024