

## iCe Hotline

May 11, 2006

### PRESS RELEASE BY MIB ON UPLINKING AND DOWNLINKING GUIDELINES

The Ministry of Information and Broadcasting (**MIB**) has issued a Press Release on May 9, 2006 in respect of compliance with the Uplinking and Downlinking Guidelines, respectively. This Press Release has been issued amidst growing confusion with respect to the Downlinking Guidelines and the impending May 10, 2006 deadline for filing applications.

The Press Release allows continuation of telecast of channels being downlinked in India from abroad, which have applied for channel registration on or before May 11, 2006.

### DOWNLINKING GUIDELINES

The Downlinking Guidelines are applicable when the channel is uplinking from outside India. The Downlinking Guidelines prohibit any cable operator or DTH service provider, after the expiry of 180 days from the date of the Guidelines, to carry or include in his cable/DTH network any television channel that has not been registered under the guidelines. This 180-day period expired on May 10, 2006. In the absence of the abovementioned Press Release, those channels being uplinked from outside India, who have failed to complete all formalities of registration, under downlinking guidelines prior to expiry of the deadline, would have had to stop the downlinking until such downlinking permission and registration is obtained.

So as to expedite and support compliance with the Downlinking Guidelines, the MIB has through this Press Release granted relief to those channels, who have made an application for registration on or before May 11, 2006. Broadcast of such channels can continue for a period of six months beginning from May 11, 2006 or till such registration has been granted or refused, whichever is earlier. The benefit of this provision can also be taken by a TV channel, which has not started its broadcast into India but have filed their application before May 11, 2006.

The TV channels, which file the application for registration after May 11, 2006, can continue with their broadcast only after obtaining channel registration.

The Downlinking Guidelines are intended to control the TV channels being uplinked from outside India, by requirement of obtaining downlinking permission through their own entity in India or an exclusive marketing and distribution agent and also requiring channel registration. There are certain other controls imposed by the downlinking Guidelines, which appear to be reasonable. However, many companies are finding the requirement of 1.5 net worth too onerous.

### UPLINKING GUIDELINES

The Press Release also clarifies that the channels that were granted permission to uplink from India prior to December 2, 2005, (***ie the date of issuance of the revised Uplinking Guidelines***), ***shall be treated as "registered" television channels and they can be carried or included in the cable service.*** That means they need not again apply to MIB for channel registration as per the procedure prescribed under Downlinking Guidelines. The MIB will also provide on its website ([www.mib.nic.in](http://www.mib.nic.in)), the names of the 173 channels that are permitted to uplink as per the earlier Uplinking Guidelines. In the absence of this clarification, undue burden would have been put these TV channels of payment of Rs. 5, 10,000 (USD 11,333 approx) as registration fee. However, the MIB has not clarified the term for which those licenses would be deemed to have been registered as the earlier Uplinking Guidelines provided for registration for 10 years, while the present provides for 5 years.

Further, earlier Uplinking Guideline was silent as to requirement of Applicant company for channel registration to be an Indian company. However, under the present Guidelines the applicant company has to be an Indian company. The rationale for this distinction is not clear. The entire intention of controlling the companies that provide channels would get defeated in case of companies which have obtained channel registration prior to December 2, 2006.

The MIB is also in the process of providing on its website the complete list of broadcasters in India and the applications that are pending for approval so that it remain a comprehensive control of the payers in the broadcasting sector.

Please find a comparative chart of some brief issues of comparison between earlier Uplinking Guidelines and the revised Uplinking Guidelines.

Apart from the above issues, instances are coming up where the validity of certain provisions of the Downlinking Guidelines is being challenged. Ten Sports has filed a case in the Supreme Court wherein they have taken objection to the requirement under the Downlinking Guidelines that feed for sporting events of national importance should be compulsorily shared with Prasar Bharati (the owner of the Government channels). Ten sports argues that the requirement of sharing feed is arbitrary and without authority of law. Thus constitutional validity of such provision itself is being challenged. The outcome of this Special Leave Petition requires to be closely followed as this will have a significant impact on some of clauses of the Downlinking Guidelines which has caused the greatest concern to

## Research Papers

### M&A In The Indian Technology Sector

February 19, 2025

### Unlocking Capital

February 11, 2025

### Fintech

January 28, 2025

## Research Articles

### Re-Evaluating Press Note 3 Of 2020: Should India's Land Borders Still Define Foreign Investment Boundaries?

February 04, 2025

### INDIA 2025: The Emerging Powerhouse for Private Equity and M&A Deals

January 15, 2025

### Key changes to Model Concession Agreements in the Road Sector

January 03, 2025

## Audio

### Securities Market Regulator's Continued Quest Against "Unfiltered" Financial Advice

December 18, 2024

### Digital Lending - Part 1 - What's New with NBFC P2Ps

November 19, 2024

### Renewable Roadmap: Budget 2024 and Beyond - Part I

August 26, 2024

## NDA Connect

Connect with us at events, conferences and seminars.

## NDA Hotline

Click here to view Hotline archives.

## Video

### Arbitration Amendment Bill 2024: A Few Suggestions | Legally Speaking With Tarun Nangia | NewsX

February 12, 2025

broadcasters.

- **Sushma George & Gowree Gokhale**

Source: *From the website [www.mib.nic.in](http://www.mib.nic.in) dated May 09, 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.

**What India's Transition to New Data Protection Law Means for Global Businesses**  
January 23, 2025

**India 2025: The Emerging Powerhouse for Private Equity and M&A Deals**  
January 16, 2025