Consultation Paper No. 1/2008

Telecom Regulatory Authority of India

(TRAI)

Consultation paper

on

Issues Relating to 3rd Phase of Private FM Radio Broadcasting

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PREFACE

The first phase of private sector involvement in FM radio broadcasting was launched by Ministry of Information and Broadcasting, Government of India vide its notification in year 1999. The objective behind the scheme was to attract private agencies to supplement the efforts of All India Radio by operationalising FM radio stations that provide programs of relevance with special emphasis on local content, increase content generation and improve quality of fidelity in reception. During phase-I, total 108 channels were offered to private agencies in 40 cities. One channel in each of these cities was also earmarked for educational content. However, only 21 private channels could get operationalised during this phase. These 21 FM radio channels have large acceptability from the listeners.

Based on the experience of phase I, Government introduced phase II scheme with certain modifications on 13th July 2005. In this phase 337 channels were put on bid encompassing 91 cities. Letters of Indent (LOI) were issued to 245 channels and 136 channels have become operational till now. Recently government vide its notification dated 8th June 2007 invited bids for 93 vacant slots and four new channels in Dehradun. It is expected that private FM radio broadcasting will soon be extended covering 92 cities in total.

FM radio broadcasting due to its versatility is considered as main medium to provide entertainment, information and education. The issue is being raised that benefit of such advancements should also be extended to other smaller areas not covered so far. Moreover, demand of the local content is increasing. India is a vast country with mixed population. Demand for additional FM radio channels is picking up. In addition to country wide spread of FM, the subjects relating to FDI, permitting News and current affairs, networking in FM broadcasting, and reduction of license fee in certain identified areas also need to be addressed. **Ministry of Information and broadcasting vide their letter DO no. 104/2/2007-FM/622 dated 13.11.2007 have sought the recommendations of the Authority under section 11 (1) (a) of Telecom regulatory Authority of India Act 1997 on issue of modifications to be incorporated in policy for FM radio broadcast Phase III.** To address these issues, a consultation paper has been prepared and is available on TRAI web site www.trai.gov.in.

All the stakeholders are requested to send their response to Mr. S. K. Gupta, Advisor (CN) TRAI by 18.1.2008 on e-mail skgupta@trai.gov.in or guptask61@gmail.com or fax +91-11-23211998. We encourage response in electronic form to serve you better. For any clarification, Mr. Gupta can be contacted on telephone number +91-11-23217914.

(Nripendra Misra)
Chairman, TRAI

Chapter 1
Introduction

1.1 Radio is still the most popular and affordable means for mass communication, education & entertainment largely owing to its wide coverage, terminal portability and affordability. In India Radio coverage is available in amplitude modulation (AM) mode (Short Wave /Medium Wave) and Frequency Modulation (FM) mode. In terms of reach, MW broadcasts cover almost 99% of Indian population and about 90% of geographical area, while FM broadcasts cover about 40% of the population and around 25% of the geographical area. Private agencies have played important role in FM radio broadcasting. The success of phase-II of private broadcasting and its popularity among masses itself speaks of its success. There is a pressing need for expanding the FM broadcasting keeping in view the size of the country and the overwhelming response it has received from the masses.

1.2 FM Broadcasting roll-out by private operators

1.2.1 FM radio broadcasting has picked up with the announcement of FM Radio Policy in July 2005. Presently 136 channels are operational and Government has already floated a tender for allotment of additional 97 vacant channels in 48 cities on existing terms and conditions. The FM channels have shown wider acceptability.

1.2.2 The genesis of FM radio broadcast dated back to 9th Five Year Plan (1997-2002) when All India Radio was the only radio broadcaster. The focus in the Ninth Plan was on improving the variety of content and quality of received programme. On the technology front focus shifted from MW to FM, largely due to superior quality of FM transmission.

1.2.3 During the plan period, the Government allowed fully owned Indian companies to set up private FM radio stations on a license fee basis.

1.2.4 In the Tenth Five Year Plan (2002-2007) the objective was to expand coverage of television and radio services to the unserved areas, particularly north eastern states, border regions, hilly terrain and enhance population coverage of FM radio broadcast from 30% to 60%. The plan also stipulated that private operators will be encouraged to provide FM radio services in metros and smaller cities. For the FM licenses, an element of revenue sharing was introduced.

1.2.5 The Sub-Group on Information and Broadcasting while formulating 11th five year plan (2007-2012) noted that FM coverage remains at a level of 40% by population as against the 10th Plan target of 60%. Emphasis is given to cover border areas through FM radio. Border area coverage has to be given by Prasar Bharti although in the urban areas, private sector would take a lead role.

1.2.6 The Sub-Group has recommended that All India Radio should go in for digital broadcasting in a big way commencing with the 11th Plan using the Digital Radio modulation (DRM) technology for Short Wave and Medium Wave as well as FM transmitters compatible with DRM+ technology. They have also recommended simulcast of analogue and digital transmissions for easy switch over to digital as and when the cut-off date is fixed. The proposal is to increase the coverage from 40% to 75% by population using DRM+ compatible transmitters for FM. This also provides an option of leasing out transmitters to private broadcasters. A fairly ambitious programme of strengthening AIR's External Services is also proposed in 11th Plan.

1.2.7 The Ministry of Information and Broadcasting, Government of India has sought recommendations of the Authority **(Refer annexure II)** on issues of allowing news & current affairs, multiple ownership, tradability of licenses, increase in FDI in FM radio, networking and multiple channel ownership in a city etc so as to incorporate modifications, if any, in the new framework for FM radio broadcast Phase-III as broadcasting is a telecommunication service under Section 2 (i) (k) of TRAI Act. They have also forwarded report of the Broadcasting Engineering Consultants India Limited (BECIL) and a representation from Federation of Indian Chambers of Commerce and Industry (FICCI) regarding augmentation of private FM broadcasting to TRAI along with reference.

1.2.8 In line with the consultative approach of TRAI, this consultation paper has been prepared to seek the views of all the stakeholders on various terms and conditions on policy guidelines for provision of FM radio broadcasting for phase III.

The paper is divided into six chapters. The second chapter deals with the history of FM radio broadcasting. Third chapter deals with various regulatory and policy issues. Fourth chapter deals with technical issues like allocation of frequencies for FM radio broadcasting, channel co-location spacing, tower sharing etc. Fifth chapter deals other miscellaneous issues related to policy guidelines and grant of permission agreement (GOPA). Sixth chapter summarizes all the issues for consultation.

Chapter 2
Background

2.1 In year 1999, it was decided by Government of India to allow private sector participation in FM radio broadcasting. In May 2000, Government started first phase and identified 108 frequencies in the FM spectrum (87 – 108 MHz) for auction across 40 cities in the country (Refer Table 1):

Table 1: Cities along with number of channels auctioned in first phase

Name of Cities	Total No. of cities	Category of cities	Population Criteria for classification of cities
Delhi , Mumbai	2	A+	Metros
Kolkata , Chennai , Bangalore	3	A	> 20 lakhs
Ahmedabad, Hyderabad	2	B	> 10 lakhs and upto 20 lakhs
Indore, Lucknow, Patna, Pune, Jaipur, Vishakapatnam, Chandigarh, Cochin, Coimbatore, Jalandhar, Kanpur, Ludhiana, Madurai, Nagpur, Panaji, Srinagar, Tiruchy, Trivandrum	18	C	> 3 lakhs and upto 10 lakhs
Agra, Allahabad, Aurangabad, Bhopal, Bhubaneshwar, Cuttack, Guwahati, Jabalpur, Jamnagar, Mysore, Raipur, Rajkot, Shillong, Tirunaelveli, Varnasi	15	D	upto 3 lakhs

2.2 Main highlights of the phase – I bidding were:

a. Reserve price of the license fee was kept as per the class of the city. The different reserve prices were:

Table2: Reserve price of license fee city class wise

A+ city	Rs. 125 lakhs
A city	Rs. 100 lakhs
B city	Rs. 75 lakhs
C city	Rs. 50 lakhs
D city	Rs. 20 lakhs

b. The **validity period** of license was 10 years.

c. The **license fee** was proposed to be increased every year @ 15%.

d. Only **one license per city** could be applied for by one bidder.

e. The license was issued on a **non exclusive basis** for free to air broadcasts (excluding News and Current affairs).

f. The Metro operators were **required to form a consortium and co-locate** their transmitters and transmit with same power (between 10 kW and 20 kW). This would reduce the inter frequency separation requirements from 800 kHz to 400 kHz, thereby increasing the number of available frequencies.

g. The licensees were **not permitted to carry out networking** of FM broadcasting stations provided, however, on special occasions networking may be done on prior written approval of the licensor.

h. 50% of the program broadcast was required to be produced in India.

i. The licensees were required to follow certain content guidelines and the AIR code.

2.3 Outcome of FM radio broadcasting Phase – I:

2.3.1 In phase–I, the government received bids for 101 frequencies spanning over 40 cities. Out of these 101 frequencies applied for, money was actually paid for 37 channels only. Finally only 21 channels spanning over 12 cities (**Annexure – III)** were made operational. Although some private FM broadcasting channels did start the operations, they complained about heavy license fees and unviable business model.

2.3.2 To analyze the outcome of phase – I and to suggest further improvements, a committee named *Radio Broadcast Policy Committee*, was set up under the Chairmanship of Dr. Amit Mitra on 24th July 2003 by Ministry of Information & Broadcasting. Some of the major issues discussed by the committee were:

a. Litigations over clarifications in the tender Documents, Letter Of Intent and License Agreement
b. Restrictions having impact on investment & the extent of listenership in the Radio industry,
    - Restriction on News and Current Affairs
    - Restriction on networking of various FM licenses
    - Requirement to co-locate facilities
    - Restriction on Foreign Investment
    - Restriction on Multiple Licenses

2.3.3 In February, 2004 , TRAI was asked by Ministry of Information & Broadcasting to give guidelines for phase –II of private FM Radio licensing. Subsequently, TRAI submitted its recommendations on dated 11th August , 2004 titled as " Licensing Issues Relating to 2nd Phase of Private FM Radio Broadcasting".

2.3.4 Phase – II of FM radio Broadcasting:

2.3.4.1 Based on the TRAI recommendations, Radio Broadcast Policy Committee report, experiences of phase – I and wide range consultations, the Government introduced Phase – II of the scheme vide its policy notification dated 13th July, 2005 **(Annexure –IV)**. Consequently 337 channels were put on bid encompassing 91 cities. Out of these 337 channels, 284 were successfully bid and after scrutiny , permission was given for operationalisation of 245 channels spanning over 87 cities **(Annexure – V).**

2.3.4.2 Main highlights of the phase –II were:

a. All the cities considered were having population equal to or more than 3 lakhs.
b. Two stage bidding process was followed. Eligibility and financial bidding were the two parts of this phase.
c. Every applicant and its related entities was allowed to bid for only one Channel per city provided that the total number of Channels allocated to an applicant and its related entities would not exceed the overall limit of 15% of the total Channels allocated in India.
d. The Permission Holder shall be liable to pay an Annual Fee to the Government of India charged @ 4% of Gross Revenue

for each year or 10% of the reserve one time entry fee (OTEF), whichever is higher.

e. The validity period of license was 10 years.
f. The Permission shall be for free to air broadcasts of audio on main carrier and data on sub-carriers, both excluding News and Current Affairs.
g. The Permission is non-transferable. The Permission Holder shall not grant a sub-permission.
h. The Permission Holder shall comply with the audio and transmission standards for FM sound broadcasting at each Center conforming to the ITU-R (International Telecommunication Union) Recommendations.
i. A Permission Holder was permitted to network its Channels in C & D category cities within a region only. No two Permission Holders shall be permitted to network any of their Channels in any category of cities.
j. It has been made mandatory for all Phase II operators to co-locate transmission facilities in all the cities except where new towers shall be got constructed by the Ministry. Pending creation of co-location facility, the successful bidders in these cities were permitted to operationalise their Channels on individual basis for a period of two years or till the co-location facility is commissioned, whichever is later, at the end of which they shall shift their operations to the new facilities.

2.3.5 Outcome of FM radio Phase – II:

2.3.5.1 After the completion of phase –II bidding process , 136 channels (including phase – I) have become operational.

2.3.5.2 On 8th June, 2007, the government has invited bids for 97 vacant channels spanning over 48 cities **(Annexure – VI).** The bids are under examination and letters of intent are expected to be issued.

2.3.5.3 At the end of full phase – II , 92 cities of the country would get benefit of private FM radio broadcasting.

2.3.5.4 As the cities covered in phase – II were having population above three lakhs, the need is being felt to cover the cities with lesser population considering popularity of FM radio broadcasting. Therefore, there is a considerable scope for expansion of FM broadcasting through private agencies, in the smaller cities.

Chapter 3

Regulatory and licensing issues

3.1 Ministry of Information and broadcasting vide their letter DO no. 104/2/2007-FM/622 dated 13.11.2007 have sought the recommendations of the Authority under section 11 (1) (a) of Telecom regulatory Authority of India Act 1997 on issue of modifications to be incorporated in policy for FM radio broadcast Phase III.

3.2 As discussed in chapter 2, Government issued policy guidelines for provision of FM radio broadcast in cities having population more than three lakhs. There is a demand to extend F.M. radio broadcasting in other cities also. Similarly there are other regulatory issues like maximum number of channels in a city, FDI limit, permission to broadcast current affairs and news, networking of the channels across broadcasters etc.

3.3 Need for Augmentation of Private FM Broadcasting

3.3.1 Radio broadcasting due to its versatility has been the main medium for entertainment, information and education. In early sixties and till late seventies, radio was the only popular medium, which provided entertainment and information to people. The arrival of Television in early seventies provided an alternative atleast in urban areas. However FM broadcasting has restored popularity of radio once again. Private broadcasting has played important roll as it has rejuvenated radio listening. The success of Phase-II of private broadcasting and its popularity amongst the masses itself speaks of success in this direction. The scheme to rope in private broadcasters for FM radio has not only resulted in providing good quality of reception to radio listeners, but has also gone a long way in encouraging local talent and generating employment to large number of people in various cities. Employment opportunities in this sector are thus no longer confined to Metros and handful of 'A' Class cities, but are also becoming available in other cities. India is a vast country with 606 districts, 384 urban agglomerations and 5161 towns. Therefore, it is advocated that FM radio should be expanded to smaller towns not covered in Phase II through private agencies.

3.3.2 In addition to expansion of coverage of FM radio broadcast, demand is also coming up for permitting more channels in those cities where FM radio broadcast have already been started. The contrast in socio-economical background in masses, different languages and emerging importance of entertainment are some of the factors debated for seeking permission of more channels. Apart from the frequency availability which is discussed in detail in chapter 4, there are issues of economic viability and sustainability. It is directly related with the population of the city, composition, different target groups etc.

3.3.3 Market potential based on the population of any area had been the basis of selection of cities to be included in Phase-I and Phase-II for private FM broadcasting. Taking into consideration various factors including the viability of number of channels, it was decided to include all the cities with a population of 3 lakhs and above in Phase-I and II. Besides the cities with population of 3 lakhs and above, some important cities like state capitals of thinly populated states were also taken into consideration. Following considerations had prevailed for selection of 92 cities to be included in Phase-II:-

- 86 cities where Prasar Bharti towers were to be shared by private broadcasters.
- 6 cities where infrastructure of land and tower was to be created by the Government.
- Cities in close proximity to bigger proposed stations were not included in these phases

3.3.4 The list of cities where private broadcasting came up in Phase-I is at **Annexure-III** whereas the list of cities of Phase-II is at **Annexure-V**. List of FM channels that have been put on re-bid for Phase-II is at **Annexure-VI**.

3.3.5 Now, if the reach of private FM radio broadcasting has to be extended further, the issue is what should be the new datum line, the basis of such datum line and infrastructure readiness if FM radio has to be started from such newly identified cities. BECIL has proposed that all cities having population of 1 lakh and above may be selected for FM radio broadcast in Phase-III **(Refer Annexure VII).** While population of the city is prime criteria, selection of cities have to be made keeping in view various factors including technical considerations. Population/market related considerations will have to go hand in hand with technical considerations. All the remaining cities which have so far not been brought under the ambit of FM radio broadcasting have been examined by BECIL from the point of view of proximity to other existing or proposed FM radio stations. From frequency usage point of view, it may be desirable to include only those cities in phase III whose distance from existing or proposed station permit allotment of frequencies that are atleast 400 KHz apart from existing/ proposed frequencies. A thumb rule could be to take into consideration the requirements of Radio Protection and signal strength of 54 dbμ V/m. The thumb rule thus prepared gives minimum distances between various combinations of categories of cities and is indicated at **Annexure-VIII.** Cities that meet above-mentioned criteria have been proposed by BESIL for inclusion in Phase-III. Besides these cities state capitals of thinly populated states have been re-examined. It is observed that the state capitals of two U.Ts viz. Lakshadweep and Dadra & Nagar Haveli have so far not found place in any of the lists. Kavaratti, the state U.Ts of Laksha Dweep has, accordingly, been included in the list. As far as U.T Capital of Dadra & Nagar Haveli (Silvasa) is concerned, it is in close proximity of Daman and has not been included in phase III list. The categorization of cities under Phase-III is proposed to be kept same as was adopted in Phase-II: -

Table 3: Categorization of cities based on population

Category	**Basis**
A+	Metro Cities
A	Population above 20 lakhs
B	Population above 10 lakhs and up to 20 lakhs
C	Population above 3 lakhs and up to 10 lakhs
D	Population below 3 lakhs but above 1 lakhs

3.3.6 Since most of the bigger cities have already been covered during Phase-I and Phase-II, new cities in Phase-III would generally fall under categories D. It is important to mention here that classification of the city is not only on the basis of population but also taking into consideration the area of the coverage. This is determined taking into consideration the height of the antenna, the effective radiated power etc. This issue has been deliberated in chapter 4. Since requirement of the coverage of an area by FM broadcast depends on many factors other than population, Government can upgrade or downgrade the category of a city keeping in view the exigencies of situation. For example a city can be upgraded if it is required to cover some nearby equally important cities or it is downgraded, if its effective radiated power (ERP) is likely to cause interference to a nearby existing or proposed station. Therefore even in phase three, though there will primarily be cities under category 'D', the possibility of cities in other category of cities can not be ruled out and have to be considered on situational basis.

3.3.7 Few Stakeholders also feel that since coverage of FM radio broadcasting is being extended to new areas and coordination of allocated frequencies become difficult, the area of operation may now be extended from city to district. The channels may be allocated to the entities to operate across the district which will automatically reduce the number of FM radio broadcasters and many coordination problems will be reduced. They feel that since channel frequency coordination has been done for many FM radio broadcasters, such integration may not be difficult. Since the coverage of FM radio broadcast is limited to cover just 92 cities in near future, the areas can be identified now and planning can be done accordingly. Some tentative framework for the identification of the districts can be worked out and accordingly number of operational areas gets defined upfront. District level service area for FM broadcasting will have better revenue model and better long term planning for network infrastructure. If additional towers are permitted, suitable coordination will be possible to cover the district.

3.3.8 The contrary view is that since in most of the districts FM radio broadcast channels have been allocated based on the bidding which was done on the city basis, any migration at this stage will only complicate the issue mainly from the point of view of calculating One time entry fee (OTEF) for existing operators which may be difficult as auctions has been done on bid amount for every operator within certain defined parameters. However this can be resolved based on fresh bid. Covering any particular district from one collocation point (Tower) will be very difficult due to vary characteristic of FM radio broadcast. Even if frequency allocation is done on the city basis, use of more than one tower for collocation of the transmitter will require similar coordination efforts with no advantage for such district based integration.

3.3.9 Additional channels in the same city:

As far as providing additional channels in the cities already covered under Phase II is concerned, it would be worth recalling that number of channels proposed to be allotted for A+, A, B, C, and D category of cities were as follows:

Sl.No.	Category	Total number of channels to be offered	Number of channels to be earmarked for education	Number of channels to be offered to Private Broadcasters
1.	A+	10 to 12	1	9 to 11
2.	A	7	1	6

3.	B	5	1	4
4.	C	5	1	4
5.	D	5	1	4

3.3.10 The number of channels that were actually offered for allotment was reduced in some cities because of constraints of frequency availability. Situation on availability of frequency has since improved considerably because of adoption of single frequency plan and its preference by private broadcasters as far as possible for the sake of brand name and continuity of service thus releasing a number of frequencies.

3.3.11 The Government may therefore be in a position to release more channels in these cities where channels were reduced under Phase-II due to non availability of the frequencies. This has to be examined from market response point of view in various categories of cities. BECIL is of the view that sufficient scope exists to restore number of channels in category A, B and C cities subject to availability of frequencies; however under category D market response as analyzed by BECIL suggests reducing the number of channels from 4 to 3. BECIL has advocated the following scheme for allocation of additional channels:

Table 5: BECIL proposal for allocation of channels city category wise

Category	Private Broadcasters	Education/Public Services
A+	9 to 11	1
A	6	1
B	4	1
C	4	1
D	3	1

Comments of the stakeholders are invited on the issue.

3.4 Multiple-Ownership of Channels in a city:

3.4.1 The policy guidelines on expansion of FM radio broadcasting service through private operators vide clause 6 clearly restrict one channel per city to every applicant provided total number of channels allocated to the entity is within overall ceiling limit of 15% of all the allocated channels in the country. Here word entity is used to define an organization/ Group which fulfill the requirements to contest bidding for allocation of FM radio channel. The provision has been made in the guidelines to avoid the dominance of few entities to operate FM channel.

3.4.2 Many stakeholders feel that the increasing number of channels across the country also require suitable increase in overall limit of 15% imposed in phase II. FICCI is of the view that present limit of 15% on overall channels in the country is very restrictive and needs to be removed. In their view the limited increase in the FM radio listener ship (45% to 53% by increase in FM radio channels from 21 to 200) is largely due to lack of diversity in radio contents. They argue that problem is not the dominance but the abuse of the dominance. There are number of restrictions already imposed to check any abuse and therefore there is no relevance of present restriction of 15% on overall channels limit in the country as well as one channel per city. They also advocate that any entity in a city must be permitted to have upto 3 channels or 33% of total channels in the city which ever is less. The supporting arguments of FICCI are given below:

- The increase in ceiling on total number of channels which an entity can have across the country will not only result in higher quantity but also in higher quality of program.
- FICCI also feels that restriction of one channel per city should be removed. In current age, any particular company or media has limited scope of influencing a user/ listener as they have access to multiple sources for extracting information, education and entertainment.
- They feel that blanket restriction on number of channels will not generate diversity in view points. Therefore, FM radio broadcasters should be allowed to own multiple channels in the city. The diversity of the content can be assured if multiple license ownership is permitted. India being a multi-linguistic country, there is enough room in each city to have different FM channels catering to different sector of population. They advocate that if an agency has to be given more than one channel in a city, the different formats can be mandated so that variety of the program can be ensured. Here it will be important to mention that FM radio channels can be classified in different formats like Hindi Contemporary, English, Classical music, Retro (10Years old), Hindi love, Dance Music etc.

3.4.3 Other way could be to put a limit on number of districts where an entity can provide the FM radio broadcast instead of the limit on number of total channels being provided by an entity compared to total FM radio channels in the country.

3.4.4 Contrary to this view, others may feel that not removing restriction on multiple license ownership will provide option to other agencies to come in the field of FM radio broadcast and will discourage monopoly in FM radio sector. Radio broadcast is very effective and sensitive too. As per proponent of this view, it is important that FM radio is not allowed to be monopolized by few agencies in the name of variety of the content and improved program quality.

Stakeholders are requested to give their views.

3.5 FDI limit

3.5.1 The policy guidelines on FM radio broadcasting service vide clause 8 define restrictions on foreign investment. The related clause is reproduced here: -

"*Total Foreign Investment, including Foreign Direct Investment (FDI) as defined by RBI, including FDI by OCBs/NRIs/PIOs etc., Portfolio Investments by FIIs (within limits prescribed by RBI) and borrowings, if these carry conversion options, is permitted to the extent of not more than 20% of the paid up equity in the entity holding a permission for a radio channel, subject to the following conditions:*

- *One Indian individual or company owns more than 50% of the paid up equity excluding the equity held by banks and other lending institutions.*
- *The majority shareholder exercises management control over the applicant entity.*
- *Has only Resident Indians as Directors on the Board.*
- *All key executive officers of the applicant entity are resident Indians."*

3.5.2 FICCI feels that the clause 8 needs modification as foreign inflow especially in the promoter company and /or majority of shareholders which are listed entities are subjected to change on daily basis, there can be instances when the permitted limit of 20% may be exceeded resulting in breach of conditions by FM radio company. This is due to the fact that calculation of the 20% foreign investment in equity of the applicant company will include FDI/FII investments in the applicant company at the end of each quarter of the financial year. In addition to foreign direct holding component, if any, in the equity of the of the promoters and majority shareholding company of the applicant company, FII investments in them will also be reckoned on pro-rata basis so as to arrive at total foreign holding in the applicant company. FICCI feels that foreign institutional investor (FII) shareholding in the Indian promoter company need not be taken into account for the purpose of calculating compliance of FDI cap.

3.5.3 BECIL also feel that FM radio broadcasting requires heavy investment to bringing up a FM Channel and therefore they feel that present FDI limit may be enhanced to attract more investment.

3.5.4 A different and contrary view point in this regard states that FM Radio broadcasting is very powerful communication medium to common masses. This view suggests that an exclusive control on such medium is not only desirable but necessary for effective control, integrity and security of the country. The financial resource requirement is important; however it needs to be looked into in overall perspective and not in isolation. The past experience show that private FM radio broadcasters have been successful to launch FM radio services with existing cap of 20% FDI. Comments of the stakeholders on this issue are requested.

3.6 Change in ownership of the permission to broadcast FM radio

3.6.1 Policy guidelines on FM radio broadcasting in clause 8 prescribe condition regarding change of ownership. The relevant clause is reproduced below: -

"No permission holder shall be permitted to change the ownership pattern of the company through transfer of shares of the major shareholders to any new shareholders without the written permission of the Ministry of Information & Broadcasting, which shall not be granted for a period of five years from the date of operationalisation of the permission, subject to the condition that the new shareholders conform to all the prescribed eligibility criteria".

3.6.2 As per the clause, a lock-in period of five years is prescribed from the start of the FM radio broadcasting channel. Thereafter, permission holder can seek explicit permission of the Ministry of Information and Broadcasting if new shareholders conform to the prescribed eligibility criteria. During this period the equity holdings of the promoter company is locked and can not be changed. Normally operation of the channel takes 15 to 18 month from the date of issue of LOI. Total period of license is 10 years. So the equity of the promoters are locked for more than half of the license period.

3.6.3 FICCI feels that Government must consider transferability and tradability of licenses even during lock in period. In their view, it will ensure an exit route for a company. In their view interest of the listener will also be protected due to continued channel operation and Government will also be saved from the burden of auctioning channels time and again to fill up gaps created by permission holders who are no more interested to continue the operations.

3.6.4 Counter argument is that grant of permission to the agency for FM radio broadcasting comes with commitment of frequency allocation. The effective utilization of frequencies is important. The lock-in period is necessary to ensure entry of only serious players in this business and to avoid mass trading of such licenses with commercial motives.

3.6.5 Effective utilization of the allocated spectrum, and roll out obligations are important; however any business may require exit path if operations are not commercially successful. The mid way could be to consider permitting dilution of promoters share holding maximum up to 51% once FM radio broadcasting has been started. Comments of the stakeholders are solicited.

3.7 Relaxation of fee structure for North-East and J&K

3.7.1 Policy guidelines on FM radio broadcasting in clause 5 prescribe condition regarding annual fee:

"Annual Fee shall be charged @ 4% of gross revenue, for the year or @ 10% of the Reserve OTEF limit for the concerned city, whichever is higher. Gross Revenue for this purpose would be the gross revenue without deduction of taxes."

3.7.2 The experience of Phase-II has shown that there has been lack of response from the areas like North East and J&K. As would be seen from the following table, Guwahati is the only city where all the channels have been sold out in the first bidding process of Phase-II. Response in all other cities has been very poor:

Table 6: Channel bid status in NE and J&K

S.No.	State	City	No. of Channels offered	No. of Channels taken
1.	J & K	Jammu	3	1
2.	J & K	Srinagar	4	1
3.	Tripura	Agartala	4	1
4.	Mizoram	Aizawal	4	1
5.	Manipur	Imphal	4	0
6.	Arunachal Pradesh	Itanagar	4	1
7.	Nagaland	Kohima	4	0
8.	Guwahati	Assam	4	4

3.7.3 This appears to be due to firm commitment of 10% of one time entry fee (OTEF) year on year basis till 4% of AGR is more than that of 10% of OTEF. BECIL advocates that difficulties in roll out of the services and poor socio-economic conditions prevailing in these states need special consideration. It has proposed that committed yearly payment based on One Time Entry Fee (OTEF) for these states may be reduced preferably to make it a token payment.

3.7.4 It is claimed that the provision of services like FM radio broadcast is very important for the development of such states. Difficult terrain, revenue models based on only advertisements may not be easy to take off for FM radio broadcasting. Therefore it may perhaps be desirable to provide certain limited time relaxations in yearly commitments based on OTEF to facilitate breathing time to roll out FM radio broadcasting services. Comments of the stakeholders are invited.

3.8 Networking of FM radio programs across entities

3.8.1 Policy guidelines on FM radio broadcasting in clause 13 prescribe condition regarding networking of the programs:

"An entity will be permitted to network its channels in C & D category cities within a region only.
No two entities shall be permitted to network any of their channels in any category of cities."

3.8.2 Networking of the programmes relate to sharing of the programs either within same entity or across the entities on real time basis. It is important to mention here that there is no restriction on re-transmission of the program i.e same program can be re-transmitted from other cities also after gap of few minutes. Under Phase-II, an entity was permitted to network its channels in C&D category cities within a region only. Networking is neither permitted across the regions nor across the entities. The basic idea not to permit such networking in phase II was to ensure creation of more contents suitable and targeted to each region. It was apprehended that networking may be used to show same programme across the region and may badly impact generation of local contents. In order to facilitate setting up of FM Channels in small cities and make them commercially viable, BECIL has proposed that networking across the entities may be allowed within the state. In their view, this will encourage production of state specific programmes.

3.8.3 FICCI also feels that networking both across the cities and across the entities be permitted. Comments of the stakeholders are invited. They have raised the issue of level playing field. They argue that networking is permitted to All India Radio across the cities whereas private FM channel broadcasters are not permitted to do networking. Such discriminatory treatment needs to be addressed to give level playing field.

3.8.4 While creation of the value content is important, issue of level playing field also require deliberation.

3.9 Allowing News and Current affairs on FM Radio

3.9.1 Policy guidelines on FM radio broadcasting in clause 10 prescribe condition regarding transmission of new and current affairs:

"No news and current affair programs are permitted under the Policy (Phase II)."

3.9.2 Private FM radio broadcasters are not allowed to broadcast News & Current Affairs. FICCI is of the view that FM radio broadcasters must also be allowed atleast some slot to broadcast news and current affaires as it is allowed on private TV channels, Internet etc. They feel that large percentage of the rural and urban population is unable to read and write, hence it is impossible for them to read newspapers. Likewise, with most people unable to buy TV sets, they cannot be reached through TV. In addition, electrical connections are limited to either urban areas or to sections of the population that can afford to pay for electricity. Thus for the poor and under-privileged, the only available medium of news and entertainment is FM radio broadcast. Hence it should be used to disseminate news and current affairs to the under-privileged and under-served masses. FICCI strongly feels that news and current affairs must be permitted to FM radio broadcasters due to following reasons:

a. News and current affairs programs across the world are classified as part of general entertainment
b. TV & newspapers also bundle news and entertainment to provide a complete entertainment package to its customers
c. Radio is the best medium to broadcast local news
d. Radio is the best medium for general public to access news and information while on the move
e. Radio is the best medium to reach masses – it has the potential to reach 99% of the population
f. National and international news is allowed over Satellite radio

3.9.3 FICCI advocates allocation of FM radio channel exclusively for current and news affairs. They have also suggested allowing atleast 6 to 8 minute news and current affairs per hour on FM radio broadcast under 'general entertainment' license as News and current affairs helps to fulfill three main objectives of the Government,

a. FM broadcasting for entertainment, education and information
b. To make available quality programmes with a localized flavor and
c. To supplement the services of All India Radio (AIR)

FICCI believes that permission to broadcast news and current affairs will increase the listener ship. BECIL has also expressed similar views in support of allowing new and current affairs on FM radio.

3.9.4 The issue has been deliberated on different forums earlier also. Since FM radio broadcast is very powerful medium and is spreading across the country, monitoring of the news and current affairs contents is a challenge. Moreover, due to its exhaustive coverage, it has potential to create major impact. The corrective action in case of news and current affairs becomes difficult and damage control almost impossible. Therefore news and current affairs must not be permitted till effective monitoring mechanism is put in place.

3.9.5 While monitoring of news and current affairs is necessary, certain freedom to FM radio broadcasters may also be desirable to broadcast news and current affair programs for completeness. One midway could be that FM radio broadcasters may be considered to broadcast exactly same news and current affairs contents which have already been aired by AIR or Doordarshan. Stakeholders are requested to give their comments.

3.10 Level Playing field vis-à-vis Satellite Radio

3.10.1 FM radio broadcasters are raising the issue of level playing field vis a vis Satellite radio provider. They feel that present licensing frame work is tilted towards satellite radio broadcaster on number of issues like FDI, broadcast of News and Current affairs, License fee, etc. FICCI is of the view that all these issues require immediate consideration to ensure level playing field to FM radio broadcasters.

3.10.2 Foreign investment in satellite radio

3.10.2.1 At present there are no FDI limits for Satellite radio, whereas FDI limit for terrestrial radio is 20%. The Chart below shows the FDI limits for various media content and network providers:

Table 7: FDI limits in various media sectors

Media	**Current FDI limit**
TV news	26%
Newspapers	26%
Cable TV	49% (FDI + FII)
DTH	49% (FDI + FII)
Terrestrial Radio	20%
Satellite Radio	No limit

3.10.2.2 FICCI demanded that FDI norms as in case of terrestrial FM radio should be applicable to satellite radio also in order to ensure a level-playing field.

3.10.3 Level-playing policy on news and current affairs

3.10.3.1 Worldspace, the only satellite radio player in India which has a bouquet of more than 40 channels, plays a wide variety of entertainment, news and music genres. Its satellite music can be heard in more than 150 cities in India, including Mumbai, New Delhi, Bangalore, Chennai, Hyderabad, Kochi, Pune, Ahmedabad, Chandigarh and Kolkata. Its bouquet of news includes both national and international news such as NDTV, BBC Asia, CNN, Bloomberg, WRN (current affairs economics).

3.10.3.2 Satellite Radio is also a radio broadcast. The only difference from terrestrial radio is the mode of delivery. FICCI demands that there should be a level-playing field for FM Radio in India to bloom further. It strongly feels that since news and current affairs are allowed on satellite Radio it should also be allowed on FM Radio.

3.10.3.3 It will be important to mention here that monitoring of satellite programs will be easy as same program is broadcasted all across the country. In case of FM radio, the broadcast is from different stations and therefore monitoring is somewhat cumbersome. Solutions have to be worked keeping in view this important fact.

3.10.4 Entry fee/ license fee and revenue share from satellite operators

3.10.4.1 FICCI feels that since satellite radio can cover the entire country, there should be a minimum one time entry fee based on certain percentage of the aggregate entry fee of FM radio Phase II stations – Rs. 907 crore.

3.10.4.2 They also feel that satellite licensee should also be charged a revenue sharing fee at 4% for advertisement and 20% for subscription as they have two revenue streams – advertisement and subscription. Terrestrial radio, having only one revenue stream is charged with 4% revenue share.

3.10.4.3 FICCI has quoted case of Sirius and XM in the USA which paid license fee of US$83.3 million and US$89.9 million respectively. Apart from this they also pay annual fees to FCC.

3.10.4.4 FICCI also mentioned that since licenses for terrestrial FM radio are for a period of 10 years without any automatic extension. Hence satellite radio should also be treated similarly.

3.10.4 Terrestrial repeaters should not be permitted for satellite radio

3.10.4.1 FICCI strongly contends that satellite radio broadcasters should not be permitted to use terrestrial repeaters. Repeaters work to boost the signal strength either on same frequency or on different frequency. FICCI apprehend that satellite radio may be permitted FM channel frequencies at terrestrial repeaters which can be heard on normal FM radio without requiring satellite receiver. This will be non level playing field.

3.10.4.2 Repeaters can also act to network broadcasting or chain broadcasts allowing simultaneous broadcast of programs by the same licensee on different frequencies. Networking implies connectivity between radio stations – real time through satellite or telecom networks. Licensees for FM radio are not permitted to network. Therefore FICCI pleads that satellite broadcasters should also be barred from networking the programmes by using satellite repeaters.

3.10.4.3 FICCI also feel that If the satellite technology does not permit full coverage of certain terrain, then it should live with the limitation much like FM does with radio which can only cover a radius of 70-100 Km. Under the pretext of filling in gaps, current satellite broadcaster is constructing a repeater network that effectively transform its system from a direct satellite audio broadcasting service to a primarily terrestrial service fed from satellites.

3.10.4.4 It will be important here to mention that FM radio broadcast and satellite radio broadcast use different frequencies. Moreover the methodology of delivery of programme is totally different. The satellite radio broadcaster is using frequency 1.467 Ghz to 1.492 Ghz. The issue of concern is whether satellite radio broadcaster can use terrestrial repeaters using same frequency or they should not be permitted to use any terrestrial repeaters. Though there may be certain dissimilarities in provision of two services, the issue of the consideration would be whether there is a need of comparison of terms and conditions of these two services and if so, what action is proposed within the ambit of present reference.

3.11 Issues for consultation:

1. Do you agree that FM radio broadcast have to be extended to smaller cities? Please indicate basis of selection of new cities and reasons in support of your argument? Should allocation of channels be decided on city basis or it may be changed from city to district level?

2. Do you agree that number of channels for category A, B, and C be restored to Phase II proposal wherever technically feasible and not implemented so far? Do you also agree with the BECIL proposal to reduce number of channels in Category D cities from 4 to 3? Give your comments with justification.

3. Do you feel that present restriction of one channel per city and ceiling of 15% of all channel allocations in the country to an entity needs revision? Give your suggestion with justification.

4. If the FM radio broadcast is decided on district basis, what should be percentage of all channels or percentage of number of districts to be permitted or any other suggestion?

5. Do you feel that present FDI cap of 20% and methodology of calculation in FM radio broadcasting needs change? Give your comments with justification.

6. BECIL has raised the issue of giving relaxation in annual fee to North east and J&K region. Do you feel the need for relaxation in yearly commitment based on one time entry fee (OTEF)? If so, please elaborate your comments with justification and time for which such concessions may be considered?

7. Do you feel that relaxation in present networking guidelines will improve the quality of the programs produced and viewers' experience? Should there be cap on number of

programmes which can be networked on regional or All India basis? Give your suggestions with justification.

8. Whether there is a need to modify present guidelines to permit News and current affairs on FM radio broadcast? If so, the justification, duration of news and current affair programmes and method of effective monitoring may be suggested in your response.

9. Do you feel the need to compare regulatory framework of FM radio broadcast with satellite radio? If so, Please give your views on the issue of non-level playing field as raised by FICCI in reference to FM radio broadcast with satellite radio with justification.

Chapter 4
Technical issues

4.1 The demand of content both in regional languages and targeted to specific population is increasing day by day. In such situation increasing demand for FM radio channels is quite natural. Broadcast of FM radio require allocation of dedicated frequency channels and space for collocation of FM transmitters on transmitter towers. The available frequency for FM radio transmission and space on the transmitter tower is limited. Therefore while considering demand for additional FM radio channels, following issues need in-depth analysis: -

a) Frequency Allocation
b) Collocation of transmitters

4.2 Frequency Allocation:

4.2.1 As per National Frequency Allocation Plan (NFAP) 2005, frequency band of 87 to 108 MHz is assigned for FM radio broadcast on non-exclusive basis. Total bandwidth of 21 MHz is shared between various services like fixed/ mobile communication & FM Radio broadcast . The distribution of this spectrum band 87 – 108 MHz is given below in table -8:

Table – 8: Distribution of Spectrum in 87 – 108 MHz Band

Spectrum (MHZ)	Allocation
4.5 MHz slot (87-91.5)	Shared between Fixed/Mobile and FM Broadcasting Services. (Fixed/ Mobile Service have priority over FM Broadcasting)
3.5 MHz slot (91.5-95)	Exclusively for FM Broadcasting Service
5.0 MHz slot (95-100)	Shared between Fixed/Mobile and FM Broadcasting Services. (Fixed/ Mobile Service have priority over FM Broadcasting)
3.7 MHz slot (100-103.7)	Exclusively for FM Broadcasting Service by All India Radio
4.3 MHz slot (103.7-108)	Exclusively for FM Broadcasting Service

4.2.2 Thus, the total spectrum exclusively available for FM Broadcasting in India is just 11.5 MHZ out of which 3.7 MHZ is reserved for All India Radio. Remaining 7.8 MHZ is assigned among All India Radio, Private Broadcasters and Indira Gandhi National Open University (IGNOU). In the shared spectrum of 9.5 MHZ (i.e. 87-91.5 and 95-100 MHZ) only few assignments have been made for FM Broadcasting. Effective utilization of these frequency bands among various agencies have to be ensured. The criteria of frequency allocation and their present utilization have to be looked into afresh to deliberate on possibility of allocating additional frequency band for FM radio.

4.2.3 As per world wide trends, spacing between two adjacent channels in most of the cases is much less than 800 Khz.. For example, in USA the spacing between the two adjacent channels is 200 KHz. The total band of 88 – 108 MHz is divided into 100 channels with a spacing of 200 Khz. Though 100 Khz adjacent channel frequency difference commonly known as co-channel frequency spacing can be used, there are many technical factors like transmitter power, quality of multiplexers / combiners etc which impact channel spacing and compel frequency planners to increase co-channel frequency spacing more than 100 KHz. The prevailing practices in our country indicate that frequencies for FM radio broadcast have been allotted with co-channel spacing of either 700 KHz or 800 KHz. Here it will be important to deliberate on some issues like signal strength requirement, Protection ratio etc to appreciate technical limitations.

4.3 Signal Strength Requirements

4.3.1 In the presence of noise interference from industry and domestic equipment, a satisfactory service requires a minimum value of signal field strength throughout the service area. Radio communication Bureau (earlier CCIR), which has laid down the standards for FM sound broadcasting in VHF band, has recommended following minimum usable field strength (measured at 10 meters above ground level) values in Rec.ITU-R412-6 under different environmental conditions:

Table 9: Minimum usable field strength values recommended by ITU – R

Area	Monophonic Service (dbμ V/m)	Stereophonic Service (dbμ V/m)

Rural	48	54
Urban	60	66
Large Cities	70	74

4.3.2 In the third Phase, categorization of cities will have to be primarily based on the signal strength requirements as given above.

4.4 Protection Ratios

4.4.1 Radio frequency protection ratio is defined as the ratio (expressed in dB) between the values of radio frequency voltage of the wanted signal and the interfering signal, to provide a satisfactory audio signal to noise ratio (S/N) at the input of the receiver under specified conditions. The specified conditions include spacing between the wanted and interfering carriers, Modulation characteristics, type of modulation, modulation depth, pre-emphasis characteristic, frequency deviation, carrier frequency tolerance, characteristics of Audio Frequency signal (AF bandwidth, dynamic compression), receiver input and output levels, receiver selectivity etc. The RF protection ratio is determined subjectively. RF protection ratio appropriate to the planning of monophonic and stereophonic broadcast services is given in CCIR Recommendation 412-6 as reproduced below:-

Table 10: RF Protection ratio as defined by CCIR

Difference between the wanted and interfering carrier frequencies (KHz)	**RF Protection Ratio (dB)**			
	Monophonic		**Stereophonic**	
	Steady interfer	**Tropospheric interference**	**Steady interferenc**	**Tropospheric interference**

	ence		e	
0	36	28	45	37
100	12	12	33	25
150	8	8	18	14
200	6	6	7	7
300	-7	-7	-7	-7
400	-20	-20	-20	-20

4.4.2 Frequencies for FM channel broadcast are scares resource and have to be utilized most effectively. International evidences are available which suggest that FM radio broadcast is feasible with better coordination and reduced co-channel spacing as compared to present co-channel spacing of 800 KHz. The presently used high co-channel spacing of 800 KHz needs to be examined and all efforts have to be made to adopt technological advancements to reduce co-channel spacing.

4.4.3 Even if we assume co-channel spacing of 800 KHz for sake of discussion, following channels will be feasible in spectrum exclusively reserved for FM broadcasting.

Table – 11: Allocation of FM broadcast channels in exclusive FM Bands

S.No	Band	No of Channels which can be allotted	Tentative frequencies
1	91.5-95 MHz	5	91.5, 92.3, 93.1, 93.9, 94.7
2	100– 108 MHz	11	100.0, 100.8, 101.6, 102.4, 103.2, 104.0, 104.8, 105.6, 106.4, 107.2, 108

4.4.4 The above allocations have totally excluded shared frequency bands though presently used for broadcast of few private FM channels. The table – 11 indicate that frequencies for 16 FM radio channels are available in a particular city.

4.4.5 Highest channels are likely to be allocated in metro cities. Presently Delhi has 11 FM radio broadcast channels already operational and one more have been allocated. The frequency availability indicated that 4 more FM broadcast channels can be allocated if there are no other constraints which needs to be examined separately. The details of channel allocation are indicated in table – 12 below:

Table – 12: FM Radio Channel allocation in Delhi

Channel 1	91.1
Channel 2	92.7
Channel 3	93.5
Channel 4	94.3
Channel 5	95.0
Channel 6	98.3
Channel 7	102.4
Channel 8	104.0
Channel 9	104.8
Channel 10	105.6
Channel 11	106.4

4.4.6 Availability of frequency channels for FM radio in shared band depends on the other utility services using the share frequency band and likely future requirement. Ministry of Information & Broadcasting started bidding of 337 channels spanning over 91 cities and allocated 245 channels spanning over 87 cities (List attached). Total 97 channels spanning over 48 cities are put on bid in second bidding of Phase II.

4.4.7 The exclusive frequency band of 11.5 MHz (91.5 – 95 and 100 – 108) which is shared among AIR, Private Broadcasters and IGNOU may not be sufficient to meet increasing demand of FM radio channels in Metro and major districts. To maximize the number of FM radio channels possibility of allocating maximum frequency from shared band have to be examined and suitable frequencies have to be identified for allocation of additional FM radio channels out of the shared bands i.e. 87-91.5 MHz and 95-100 MHz.

4.5 Issues for Consultation:

1. Should there be a cap on maximum number of FM radio broadcast channels/ Service providers in a city? If so, what should the number be and basis thereof?

2. Do you feel that prevailing co-channel spacing of 700 to 800 KHz is most optimal and necessary for FM radio broadcast without interference? Can co-channel spacing be reduced without affecting channel transmission? Give suggestions with justifications.

4.6 Co-location of Transmitters:

4.6.1 Co-location means hosting of the transmitter antennae of different FM radio channels on same transmitter tower. This becomes important to reduce likely interference from co-channel and can be very useful to reduce co-channel spacing which is presently 800 KHz. While reducing co-channel spacing will be desirable in view of limited frequency availability and need to provide additional channels to cater for the growing demand, there are certain problems. The capacity of a tower to host number of antennae for transmission of FM radio is limited. The ownership of towers, sharing of the tower hosting charges, co-location of the equipment and allocation of space on particular tower are the important issues. Let us now discuss different type of antennae being used at present.

4.6.2 Practically two type of transmitting antennae are used for FM broadcasting. These are:

1. Dipole type
2. Panel type

4.6.3 Dipole type antennae are used for low power transmitters typically up to 40 KW transmitted power. The tower requirement is also not very stringent to host such antenna. The tower height required for such antenna is typically up to 150 meters. The bandwidth of frequency which can be transmitted from such antenna is limited and typically 6-8 MHz. This means that Dipole type antennae can be shared only between those FM radio transmitters whose transmitter frequencies are within 6-8 Mhz range. The transmitter frequencies have to be selected accordingly once antenna sharing is decided. Dipole type antennae are generally used for individual transmitting facilities or at the most co-location of 2 to 3 transmitters. Fig 1 indicates the pictorial presentation of Dipole type antenna.

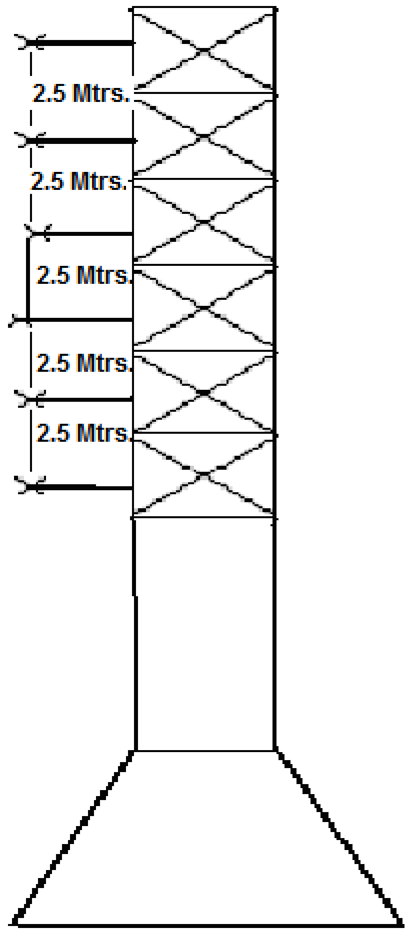

Fig1: Dipole type Antenna

4.6.4 Dipole type antenna can be erected much faster and typically requires six month time to build from scratch. The weight of 100 meter tower is approx. 50 ton and requires approx. Rs 70 lakh to build it.

4.6.5 Panel type antennae are used for high power transmission more than 40 KW and typically in the range of 200 KW. This type of antennae requires higher tower heights ranging 200 meters plus and tower specifications are stringent. Panel type antennae are typically used for collocation of FM radio transmitting facilities of 6 to 10 channels. Fig 2 gives pictorial view of mounting panel type antenna on towers.

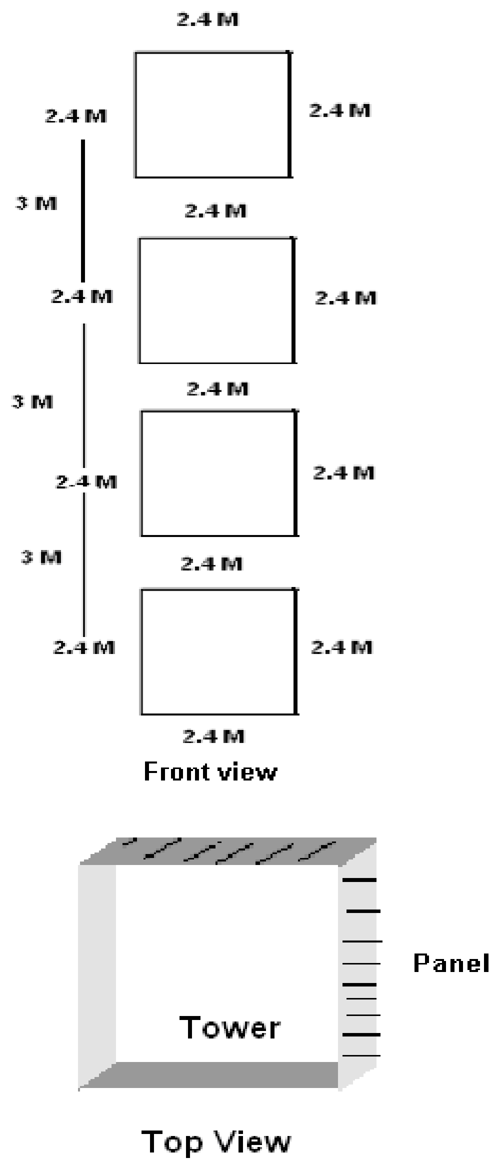

Fig 2: Panel type antenna for FM Radio broadcast

4.6.7 The tower erection to mount panel type antenna is very stringent and require approx. 18 months for its construction. A typical 150 Meter tower weighs approx. 200 ton and requires construction cost in the range of Rs 1.5 crores.

4.6.8 From the above discussions it is clear that while cost and time for construction of tower for mounting Dipole type antenna is low, the feasibility of sharing among other FM radio broadcasters is also low. Contrary to this panel type antenna tower require huge investments but sharing feasibility is high. Dipole type antennae are mounted on one site of the tower and require approx. 15 meters space on tower. The panel type antenna are mounted on all the sides of the tower (4 panels facing each side) and require typical 16 meter space on the tower. The sharing of such antennae depends on effective radiated power, antenna type, co-location facilities available etc. Ministry of Information and Broadcasting, in its tender document for phase II extension, has given certain technical parameters regarding effective radiated power (ERP) of transmitters and antenna height. ***(Effective Radiated Power*** *(ERP) is determined by subtracting system losses and adding system gains to the actual electrical power output of a transmitter. ERP is not equivalent to the power that is radiated, but is a quantity that takes into consideration transmitter power and antenna directivity. For example, an FM radio station which advertises that it has 100 KW of power actually has 100 KW ERP, and probably not an actual 100 KW transmitter. The TPO (transmitter power output) of such a station is perhaps around 10 KW to 20 KW, with a gain factor of, in this case, 5 to 10).*

4.6.9 For A+ class city maximum ERP can be up to 40 KW whereas for other cities maximum ERP can vary from 3 to 30 KW. Similarly, effective height of antenna above average terrain (EHAAT) varies between 75 and 200 meters in A+ class city whereas it varies from 20 to 150 meters in other cities. Full city wise specifications of transmitter power and related heights are given in the Table-13:

Table 13: Details of Antenna height and Effective power radiation as given in Phase II

Category	Basic (one or more of the following)	Effective Radiated Power (ERP) (kW)		Antenna Height (Meters)	
		Min	Max	Min	Max
A+	Metro cities	25	50		
	Delhi			75	200
	Mumbai			75	175
A	Population above 20 lakhs	10	30	75	150
B	Population above 10 lakhs and upto 20 lakhs	5	15	50	100
C	Population above 3 lakhs and upto 10 lakhs	3	10	30	75
D	Population above 1 lakh and upto 3 lakhs	1	3	20	40

4.6.10 As the transmitter powers are in kilowatts and the tower heights are generally more than 100 meters (except in small cities), the costs involved in construction of transmitting setup are quite high. To reduce the capital costs involved, there is an established practice of sharing the antennae on a tower . In this sharing arrangement, the powers of various transmitters are multiplexed at the ground itself and only the feeder cable and antenna are shared. This arrangement is known as Co-location. During the first phase of bidding in FM broadcasting for private operations, collocation of the transmission tower of various broadcasters in metros had been mandated. Similarly it has been made mandatory for all phase-II operators to collocate transmission facilities in all the cities. Ministry of Information and Broadcasting while issuing tender for bidding for 97 vacant channels, has also made mandatory the collocation of transmission in 45 cities leaving three cities viz Delhi, Hyderabad and Dehradun due to non availability of tower positions. The channels will be initially started by the operators on individual basis for a period of two years or till the collocation facility is commissioned, which ever is later at the end of which the broadcasters will shift their operations to new facilities.

4.6.11 The basic idea behind collocation is that the Effective Radiated Power (ERP) of all the FM channels would be nearly the same and since they are located on the same site, the signals will be attenuated in a similar fashion with a distance, hence maintaining the same protection between the channels. The advantage of collocation of transmitters is given below:

(i) In metro and large cities (category 'A' cities of Phase – 1) where number of FM channels would be large, co-location (due to sharing of infrastructure) would provide a much cheaper option. The cost savings happen in the following ways :

- The cost of tower and other associated articles like antenna and feeder cables are shared.
- Time to start the services is reduced.

- More reach is obtained because of higher tower as the shared tower will definitely be bigger and higher than the individual towers.

(ii) It avoids multi-towers marring landscape of the city.

(iii) It also reduces interference to radio receivers tuned to adjacent channels due to the presence of high field strengths.

4.6.12 The sharing of towers for FM radio transmission is not without disadvantages: -

i) Co-location in metro cities was mandatory in phase –I and Phase-II to reduce co-channel spacing which has not been achieved as yet.

(ii) The practical problems associated with co-location are:

- It is necessary for private broadcasters to form a consortium which was mandatory.
- It is very difficult to form a consortium of private broadcasters competing with each other.
- If a Private broadcaster backs out, his share of cost on common infrastructure would have to be borne by the remaining ones.
- If the collocation is relaxed , the individual broadcaster will go for smaller set up which will come faster .

4.6.13 Let us now discuss the pricing for co-location of the channels. Ministry of Information and Broadcasting have prescribed rates for tower and space sharing for co-location of the channels as per the table 14 given below:

Table 14: Rates for the tower rental and Space for co-location

Category	**Tower rentals per broadcaster (including maintenance charge) per annum (Rs. In lakhs)**	**Lease Charges for land (Rs. Per Sq. meter) per annum**	
		Open Space	**Covered Space**
A+	13.20	6400	7600
A	8.25	5200	6400
B	4.25	3000	3900
C	3.00	1680	2580
D	1.75	1260	2160

4.6.14 The charges for the tower sharing are city specific and clear. However rental charges for open and covered space are city and location specific and have to be calculated based on the space being used. Generally the space requirement is worked out considering transformer space, battery backup, transmitter room space, combiner room space etc. Very broadly speaking approximately 40% is the covered area and 60% is uncovered area depending on the location. The prices can be worked out based on the prescribed table and city. The issue is related to calculation of the area if one has to co-locate and some times may be the cause of concern. While co-location may work out faster and cheaper, stakeholders may be interested to bring in more clarity in rules of the game specially calculation of open and covered area to facilitate fast roll out.

4.6.15 FICCI has also raised the issue of charging rent of the tower when site is not ready for operation. They have pleaded that no rent should be charged unless site is made over for operation and ready to use.

4.6.16 As discussed earlier, the available tower may not be capable to support roll out of more FM radio channels in metro and big cities and such operators have to arrange or construct their own towers to roll out services immediately. The tower erection is costly and therefore especially in such situations shifting the operations to subsequently erected tower for co-location may be the concern of the operators. The issue becomes important here is whether we continue with present guidelines of mandated co-location even where tower is not available at present or leave it to the market forces on mutual agreements.

4.6.17 The FM radio broadcast is becoming popular and we have already discussed in previous chapters the need to extend it to other smaller cities. Likelihood of tower availability in smaller cities may be low. Similarly matter is also deliberated to permit more FM radio channels in metro and major districts. Here again available towers may not be sufficient to start other channels from existing tower and infrastructure by collocation. Now, if infrastructure is to be developed, who should create such towers so that it is available earliest with least cost and efficiently maintained thereafter. One option could be that Government asks DD/ AIR/ BECIL to create infrastructure facilities depending on the channels being proposed to be started and till bidding process is completed, and successful bidders are able to start operations, towers are also made available. The other option could be that private agencies are also invited to create such infrastructure. Selection is made based on the agency seeking least charges for creating infrastructure and maintenance. A composite value of facility creation charges and maintenance charges at present value for 10 years be worked out and work awarded to the agency seeking least cost. Though second option may be economical but issues such as provenness of the credential of such agencies and effective maintenance thereafter will be crucial as all the FM radio broadcasters will depend on such infrastructure and their services are likely to be badly impacted if such infrastructure does not function well. Option of sharing telecom towers in small cities where required coverage can be provided with tower height of 40 meters can also be considered. This may be important as many telecom towers are already available and sharing of such towers among telecom operators is very common. Stakeholders are requested to consider these issues and submit their comments.

4.6.18 In view of above deliberations and to increase efficiency of frequency utilization if Co-location is agreed to, the issue of system integrator will be important. System integrator facilitates FM radio broadcasters in technical integration and effectively sharing existing facilities. Non-coordination may result in serious operational problems. Therefore deliberations are necessary to identify System integrator also. The infrastructure creator will be best suited to work as system integrator as he is fully aware of the facilities and plan of infrastructure sharing; however this may not be always true. The work of setting up common transmission infrastructure in Phase-I was successfully carried out by Broadcast Engineering Consultants India (BECIL) and the work of Phase-II has also been entrusted to them. Do you feel that work of system integration in phase III shall again be entrusted to BECIL based on past experience? Comments and suggestion of stakeholders in this matter are invited.

4.7 Issues for Consultation:

1. Should we continue to mandate collocation of transmitter sites or the individual broadcaster should be left to plan as per its business model? In case individual broadcasters are permitted to setup their own towers, should the sharing of such towers be mandated to other operators also, subject to technical feasibility?

2. Is there a need to mandate reference co-location offer for better transparency and uniform treatment to all the stakeholders? Give suggestions with justifications.

3. Are tower & space sharing guidelines existing at present transparent and functioning effectively? Do you suggest any modifications to existing guidelines to improve effectiveness of sharing?

4. Do you feel that present arrangement of system integration work being done by BECIL is satisfactory and can be adopted for phase-III FM radio broadcast as well? Give suggestions with justifications.

Chapter 5
Other issues

5.1 Ministry of Information and Broadcasting, Government of India has issued detailed policy guidelines on expansion of FM radio broadcasting services through private agencies **(Refer annexure IV).** Ministry have also issued detailed agreement document "Grant of permission agreement" **(Refer annexure IX).** Though many of the issues related to license fee, Foreign direct investment limits (FDI), Broadcast of news and current affairs, networking of the programs across FM broadcasters, sharing of tower and co-location have been discussed in preceding chapters, there are other miscellaneous issues which needs consideration of stakeholders. We will discuss few issues here; however stakeholders are requested to bring out appropriate issues, if any, along with their detailed comments for consideration under this consultation paper.

5.2 Government policy guidelines on FM radio broadcasting services through private agencies in clause number 4.8 define procedure of signing "Grant of Permission Agreement". A time limit of nine month have been prescribed from the date of issue of LOI to sign "Grant of Permission Agreement", which includes activities like obtaining frequency allocation, SACFA clearance, agreement with DD/ AIR/ BECIL etc for sharing of the infrastructure etc. Infrastructure sharing has also been mandated as per present policy guidelines. Further clause number 4.10 prescribe time limit of one year from signing "Grant of Permission Agreement" to operationalisation of the channel. Hence total time of twenty one month has been permitted from the date of issue of LOI till operationalisation of the channel when infrastructure sharing is already mandated. This period seems to be too long. During this period the allocated frequency will be kept unused. This delay needs to be curtailed by appropriate actions and fixing time limits on each activities. Since successful bidders have to share license fee during this period also based on One Time Entry Fee (OTEF), it will reduce the burden of successful bidders also. Stakeholders are requested to give suggestions indicating bottleneck and procedural changes needed to reduce operationalisation time to roll out FM broadcast channels.

5.3 Government policy guidelines in clause number 14 define technical parameters. Grant of permission agreement defines certain other parameters like antenna polarization, pre-emphasis, maximum deviation in frequency etc. Some times it is felt that frequency stability and Harmonic/ spurious should also be defined in technical specifications. This will reduce likely interference between co-channels. Comments of the stakeholders are requested on this issue.

5.4 Policy guidelines on expansion of FM radio broadcast in clause 4 define process of granting permission:

"<u>SEPARATE FINANCIAL BID FOR EACH CHANNEL:</u> Every pre-qualified applicant may apply for allotment of only one channel in each city through a separate financial bid for payment of OTEF for each channel.

<u>TENDER DEPOSIT:</u> Each such financial bid shall be accompanied with a demand draft for an amount equal to 50% of the financial

bid and unconditional and irrevocable Performance Bank Guarantee (PBG) for an amount equal to 50% of the financial bid valid for one year from the date of closure of the bidding process.

STAGGERED TENDERING: *The venue, date and time for submission and opening of the sealed tenders will be staggered region-wise.*

RESERVE OTEF: ***Reserve OTEF limit for each city shall be 25% of the highest valid bid in that city. All bids below the reserve limit shall be summarily rejected.***

WAITING LIST: Channels available for Private Agencies in Phase 2 in each city shall be allocated in accordance with descending order of valid financial bids received. In the event of the number of valid bids being more than the available number of frequencies, those unsuccessful valid bidders, who are above the Reserve OTEF limit, and who are willing to continue the deposit of their PBG for the amount equal to 50% of their respective financial bids, will be placed in a waiting list in accordance with the descending order of their financial bids for a period of two years."

5.4.1 As per the clause the floor of the bid will be fixed at 25% of the highest bid in the city and all the bids lower than the floor shall be summarily rejected. The successful agencies have to pay the price quoted by them during the biding and agencies are not asked to match up the highest bid. Since the floor is fixed at 25% there is a huge difference in highest bidder bid price and other successful bidders bid price. All the successful bidders get the channel and practically there is not much of the difference in operation for highest bidder and other successful bidders. Such high difference in bid value of successful bidders may be looked as non level playing field and need to reduce disparity among successful bidders will be very logical. Comments of stakeholders are invited on this issue. While considering this issue, we must keep in mind that fixing higher floor may give opportunity to some of the agencies to quote so high so that floor is fixed at exorbitantly high price and crossing the floor becomes unviable to other agencies resulting in monopoly of few agencies. All aspects have to be considered by stakeholders while giving their comments.

5.5 Policy guidelines on expansion of FM radio broadcast in clause 6 puts certain conditions on outsourcing both for content and broadcast equipment:

"No permission holder shall outsource, through any long-term production or procurement arrangement, more than 50% of its total content, of which not more than 25% of its total content shall be outsourced to a single content-provider.

No permission holder shall hire or lease more than 50% of broadcast equipment on long-term basis."

5.5.1 This restriction would have been imposed to encourage creation of content production facilities and generation of more content. The FM radio broadcasting is in operation since 2001. As such there are sufficient content development facilities available within country. Moreover, removal of such restrictions will reduce the operational cost of FM radio broadcast which will be necessary if smaller towns having population up to one lakh have to be covered. Stakeholders are requested to give their comments on this issue as well.

5.6 Policy guidelines on expansion of FM radio broadcast in clause 5 puts conditions on relating to renewal of permission which is reproduced below:

"Every permission under Phase 2 shall be valid for a period of ten years from the date of operationalisation of the channel. There shall be no provision for its extension and it shall automatically lapse at the end of the period and the permission holder shall have no rights whatsoever to continue to operate the channel after the date of expiry. Government at the appropriate time shall determine procedure for issue of fresh permissions and no concessional treatment shall be afforded to the permission holders in the allotment of channels thereafter."

5.6.1 Issue is being raised that blanket denial of renewal permission for broadcasting of FM radio and giving no preference to operate the services is too harsh and needs consideration. FICCI expressed the view that clause must have certain in-built procedure for extension of the permission so that the entity holding permission can continue the operations once they have setup their network and already operating the FM radio broadcast.

5.6.2 Contrary view can be relating to fixing of OTEF. It is expected that OTEF and bidding price will be much higher in case of re-bidding; therefore automatic extension of permission may not be desirable. The restriction on blanket renewal of permission will also give more power to government to take appropriate decision after considering all related aspects and have flexibility. Incidentally there is no bar on the existing FM radio broadcasters for re-biding after completion of first term i.e permission of 10 years.

5.6.3 The bid price is directly related to business model and period of operation. Shorter period of operation is considered less remunerative as lot of time is lapsed to setup the network and initial cost to setup the network is high. Government can always have certain provisions while granting the permission to deny renewal of permission for operation of FM radio broadcast if it feels so; however blanket denial need to be re-examined. One may suggest that existing FM radio broadcasters may be permitted automatic renewal of permission for another 10 years if not denied by the Government. A detailed procedure may be worked out. FM radio broadcasters interested to seek extension may inform to I&B ministry in writing 4 month in advance for renewal of their permission before completion of the agreement period. Government may intimate to the entity within one month if the permission can not be extended to such an entity for reasons to be recorded in writing. If no information denying permission for extension of operation period is received by the entity from the government in specified time, the entity will pay the bid price (Same amount as paid earlier) again to I&B ministry and its permission is automatically extended for another ten years. Stakeholders are requested to give their suggestions with supporting justification.

5.7 Issue for consultation:-

1. Government policy guidelines on FM radio broadcast details policy issues. Similarly grant of permission agreement is draft format of agreement between I&B ministry and the successful bidder. Do you suggest any changes in view of discussions in chapter 5 (other than discussed in earlier

chapters) in these documents to facilitate FM broadcasters to speedy rollout services and improve service efficiency?

Chapter 6

Issues for consultation

6.1 Regulatory Issues:

1. Do you agree that FM radio broadcast have to be extended to smaller cities? Please indicate basis of selection of new cities and reasons in support of your argument? Should allocation of channels be decided on city basis or it may be changed from city to district level?

2. Do you agree that number of channels for category A, B, and C be restored to Phase II proposal wherever technically feasible and not implemented so far? Do you also agree with the BECIL proposal to reduce number of channels in Category D cities from 4 to 3? Give your comments with justification.

3. Do you feel that present restriction of one channel per city and ceiling of 15% of all channel allocations in the country to an entity needs revision? Give your suggestion with justification.

4. If the FM radio broadcast is decided on district basis, what should be percentage of all channels or percentage of number of districts to be permitted or any other suggestion?

5. Do you feel that present FDI cap of 20% and methodology of calculation in FM radio broadcasting needs change? Give your comments with justification.

6. BECIL has raised the issue of giving relaxation in annual fee to North east and J&K region. Do you feel the need for relaxation

in yearly commitment based on one time entry fee (OTEF)? If so, please elaborate your comments with justification and time for which such concessions may be considered?

7. Do you feel that relaxation in present networking guidelines will improve the quality of the programs produced and viewers' experience? Should there be cap on number of programmes which can be networked on regional or All India basis? Give your suggestions with justification.

8. Whether there is a need to modify present guidelines to permit News and current affairs on FM radio broadcast? If so, the justification, duration of news and current affair programmes and method of effective monitoring may be suggested in your response.

9. Do you feel the need to compare regulatory framework of FM radio broadcast with satellite radio? If so, Please give your views on the issue of non-level playing field as raised by FICCI in reference to FM radio broadcast with satellite radio with justification.

6.2 Technical Issues

1. Should there be a cap on maximum number of FM radio broadcast channels/ Service providers in a city? If so, what should the number be and basis thereof ?

2. Do you feel that prevailing co-channel spacing of 700 to 800 KHz is most optimal and necessary for FM radio broadcast without interference? Can co-channel spacing be reduced

without affecting channel transmission? Give suggestions with justifications.

3. Should we continue to mandate co-location of transmitter sites or the individual broadcaster should be left to plan as per its business model? In case individual broadcasters are permitted to setup their own towers, should the sharing of such towers be mandated to other operators also, subject to technical feasibility?
4. Is there a need to mandate reference co-location offer for better transparency and uniform treatment to all the stakeholders? Give suggestions with justifications.
5. Are tower & space sharing guidelines existing at present transparent and functioning effectively? Do you suggest any modifications to existing guidelines to improve effectiveness of sharing?
6. Do you feel that present arrangement of system integration work being done by BECIL is satisfactory and can be adopted for phase III FM radio broadcast as well? Give suggestions with justifications.

6.3 Other Issues

1. Government policy guidelines on FM radio broadcast details policy issues. Similarly grant of permission agreement is draft format of agreement between I&B ministry and the successful bidder. Do you suggest any changes in view of discussions in chapter 5 (other than discussed in earlier chapters) in these documents to facilitate FM broadcasters to speedy rollout services and improve service efficiency?

Annexure I

International Experiences

1. <u>United State of America</u>:

The total band of 88-108 Mhz is divided into 100 Channels with a spacing of 200 KHz. To specify various transmitter powers and antenna heights, eight different classes viz. A, B1, B, C3, C2, C1, C0 and C have been made. The minimum ERP varies from 6 KW to 100 KW. The permissible height varies between 100 to 600 Meters. Rule 73.211 of FCC Code of Federal Regulation mentions about minimum and maximum ERP for each class of FM station. For example class C1 can have ERP in range of 50-100 KW.

Table 1- FM Station Classes as defined by FCC

FM Station Class	Reference (Maximum) Facilities for Station Class ERP (in kW) / HAAT (in meters)
Class A	6.0 kW / 100 meters
Class B1	25.0 kW / 100 meters
Class B	50.0 kW / 150 meters
Class C3	25.0 kW / 100 meters
Class C2	50.0 kW / 150 meters
Class C1	100.0 kW / 299 meters
Class C0 (C-zero)	100.0 kW / 450 meters
Class C	100.0 kW / 600 meters

FCC rule 73.239 also deliberates on the collocation. It says that, " No FM broadcast station license or renewal of FM broadcast station license will be granted to any person who owns, lease, or controls a particular site which is peculiarly suitable for FM broadcasting in a particular area and (a) which is not available for use by other FM broadcast station licensees;

and (b) no other comparable site is available in the area; and (c) where the exclusive use of such site by the applicant or licensee would unduly limit the number of FM broadcast stations that can be authorized in a particular area or would unduly restrict competition among FM broadcast stations.” From this rule, we can guess that collocation is very well there in USA.

2. <u>Canada:</u>

In Canada too, as per Spectrum Management and telecommunications Broadcasting Procedures and Rules, August 2005, the FM channel classes are defined by the maximum permissible ERP and the associated EHAAT.

FM classes

- Class A1: a maximum ERP or 250 W with an EHAAT of 100 metres.
- Class A: a maximum ERP of 6 kW with an EHAAT of 100 metres.
- Class B1: a maximum ERP of 25 kW with an EHAAT of 100 metres.
- Class B: a maximum ERP of 50 kW with an EHAAT of 150 metres.
- Class C1: a maximum ERP of 100 kW with an EHAAT of 300 metres.
- Class C: a maximum ERP of 100 kW with an EHAAT of 600 metres.

Table -2 below specifies the minimum Domestic separation distances in kilometres for all classes of channel assignments, using the protected contour levels. The appropriate contours for Class C channels are based on an ERP of 100 kW and an EHAAT of 450 metres.

	Relationship	Class A1	Class A	Class B1	Class B	Class C1	Class C
Class A1	Co-channel	78					
	200 kHz	45					
	400 kHz	22					
	10.6/10.8 MHz	4					
Class A	Co-channel	131	151				
	200 kHz	78	97				
	400 kHz	42	47				
	10.6/10.8 MHz	7	10				
Class B1	Co-channel	164	184	197			
	200 kHz	98	118	131			
	400 kHz	55	60	63			
	10.6/10.8 MHz	9	12	24			
Class B	Co-channel	189	209	222	236		
	200 kHz	117	137	150	164		
	400 kHz	68	73	77	84		
	10.6/10.8 MHz	12	15	24	24		
Class C1	Co-channel	223	243	256	270	291	
	200 kHz	148	168	181	195	216	
	400 kHz	90	95	99	106	119	
	10.6/10.8 MHz	19	22	40	40	48	
Class C	Co-channel	238	258	271	285	306	317
	200 kHz	166	186	199	213	234	245
	400 kHz	101	106	110	117	131	139
	10.6/10.8 MHz	26	32	40	40	48	48

Transmitter Locations

FM station transmitters shall be located to serve the principal centre to which the channel is assigned. Transmitter sites shall be located so that the separations are not less than those set forth.

3. **New Zealand**

VHF-FM broadcasting usage in New Zealand is based on a minimum frequency separation of 800 kHz between licenses at the same transmitting site. This is known as an "800 kHz raster" and is consistent with ITU-R technical standards. It recognizes the typical quality of receivers in use, and the efficient practice of multiplexing transmitters to a common antenna. In some circumstances, particularly where several sites might be used to cover the same general area, or when infill coverage licenses might reduce licence availability at a main site, frequency separations as narrow as 600 kHz have been trialled and generally found to be satisfactory for long-term use in that situation. However during the trials it was observed that in some of the areas the use of licenses separated by 400 kHz might be limited by "co-channel" use of the same frequency in nearby areas. Further, presently available sub-carrier technologies, such as SCA and RDS, may be difficult to apply with narrower separation of frequencies, and future technologies such as digital IBOC may be impractical. Considering these wider implications, the full extent of new licenses that might be available with rasters of less than 800 kHz has not yet been quantified.

Under revised FM Licensing criteria for VHF-FM broadcasting stations in New Zealand government will:

- Resolve licensing issues arising from the two identified trials with the parties concerned;
- Not create further licenses at an established site if the resultant frequency separations do not comply with the established 800 kHz raster at that site;
- Not create further licenses at an established site which has overlapping coverage with another site if the new licence

would have a narrower frequency separation from a licence at the other site, than exists at present between the two sites;

- Only consider further trials of co-sited licenses at separations of less than 800 kHz where the trial will, in the Ministry's opinion, provide new technical information that will assist further policy development;
- Consider applications for temporary new licenses at new sites (i.e. locations without existing FM licenses) intended to cover portions of the coverage area from an existing site, provided that
  - the new licence covers a minor part (less than 25% of the population) of the main coverage site;
  - the new licence does not directly preclude a "on raster" licence at the main site;
  - ITU-R protection ratios in Rec 412-9 are met;
  - the licence is agreed as temporary until issues related to narrower (less than 800 kHz) separation are resolved;
  - there is no expectation of the licence being made available on long term basis.

4. <u>South Africa</u>:

In the VHF FM sound-broadcasting band between 87,5 MHz and 108 MHz there are 204 channels, each of 100 KHz bandwidth. These are grouped into 31 groups of 6 channels, plus additional 18 channels. The groups distributed in a uniform lattice where each node point relates to a transmitting area. This means that at any one transmitting site in an area the ITU plan provides for 6 channels or frequencies to be available for assignment. In areas of greatest demand, 12 channels were assigned to one area by combining 2 lattice node points. In order to provide national FM coverage it was necessary to locate high power transmitting stations approximately 110 Km apart. Although such a transmitting station may only have a coverage radius of 30 -50 Km, interference from such a station can occur over hundreds of kilometres. In order to avoid mutual interference between stations operating on the same frequency, it is necessary for the signal from the wanted station to be between 37 dB and 45 dB higher (i.e. 5 000 and 30 000 times stronger) than the interfering signal. Hence a high power FM frequency can only be reused at a distance of close to 500 Km. On the other hand, low power (for e.g. 1 watt) FM transmitters using the same frequency can be situated some 10 km apart (depending on the terrain and broadcasting antenna characteristics and site height) due to its limited area of coverage and interference impact.

USO: As per frequency plan envisaged in Notice of Publication of Terrestrial Broadcast Frequency Plan, 2002 by Independent Communication Authority of South Africa (ICASA), a balance between universal access to PBS services and diversity within the categories of services are to be maintained

5. Australia

Frequency Modulation (FM) broadcasting services in Australia have a nominal bandwidth of 200 kHz and operate in the very high frequency Band II (VHF Band II). There are approximately 1600 licensed FM broadcasting services with transmissions ranging from very low power to 250 kW effective radiated power (ERP).

Co-location

Many higher power national and commercial FM services are currently co-located with television services and, if these services have complementary VHF or UHF wideband digital radio services, would be best suited using the same site. Conversely, most community and low–power FM services have their own transmission sites, which are often not co- located with television transmission facilities. If the digital radio system is to operate in a TV frequency band, co-siting with TV services will give the best spectrum productivity.

Program multiplexing and distribution

In some cases, particularly for high power commercial and national FM services, a common multiplex and transmission facility may be practicable. In the case of low power community services, a common multiplex and transmission infrastructure does not appear to be practicable without a major rearrangement of licence areas (eg. aggregation of smaller licence areas into larger licence areas).

Maximum antenna height :

As stipulated in Broadcasting Services (Technical Planning) Guidelines 2007

- If a transmitter is sited at the nominal location, the licensee shall ensure that the height of the electrical centre of the transmitting antenna above ground does not exceed the maximum height specified in the LAP.
- If there is no technical specification specified in a LAP for a transmitter, the height of the electrical centre of the transmitting antenna above ground shall not exceed that specified in the technical conditions of the transmitter licence.

6. **Malaysia**

Existing terrestrial audio broadcast services in Malaysia comprise of MF/AM, HF/AM and VHF/FM services, of which only the VHF/FM services provide basic two-channel stereophonic broadcasts of good sound quality. The existing analogue VHF/FM services operate in the frequency band 87.5 - 108 MHz.

Annexure II

Zohra Chatterji
Tele: 23382597

सत्यमेव जयते

संयुक्त सचिव
JOINT SECRETARY

भारत सरकार
GOVERNMENT OF INDIA
सूचना एवं प्रसारण मंत्रालय
MINISTRY OF
INFORMATION & BROADCASTING
NEW DELHI - 110001

D.O.No.104/2/2007-FM/622

08.11.2007
13

Dear ,

As you are aware, a new policy of expansion of FM Radio broadcasting through private agencies was notified in July 2005. Consequently, a total of 337 channels in 91 cities were put on bid under closed bidding system. Out of this, 284 channels were successfully bid and after scrutiny permission was given for operationalization of 245 channels. Presently 136 channels have become operational including 21 channels operationalised in Phase I. Government has also published a notice inviting tenders for allotment of 97 vacant channels in 48 cities recently under the same terms and conditions of Phase-II.

2 FM Policy Phase-II has been well accepted by all stake holders which resulted in huge growth not only in FM Radio Industry but also in employment opportunity and has also created a demand for FM Radio in other cities. Keeping this in mind and to accelerate further growth of FM Industry, the Government is thinking to expand FM radio through private agencies under Phase-III to other cities.

3 There are certain issues the private broadcasters have been raising for consideration such as allowing news and current affairs, allowing multiple ownership, allow tradability of licenses, increase in FDI in FM Radio, networking and multiple channel ownership in a city etc. At present, no permission holder, whether with or without foreign investment, is permitted to change the ownership pattern of the company through transfer of shares of the majority shareholders/promoters to any new shareholders for a period of five years. Even though some broadcasters had requested for a change in the ownership pattern by way of creating 100% subsidiaries or de-merging the radio business, the Ministry did not agree to the same in view of the existing provision in the policy as mentioned above. In this connection, a copy of letter dated 15.6.07 received from FICCI is also enclosed.

4 BECIL has also submitted a proposal for FM Phase-III which incorporates suggestions for selection of cities and relaxation of fee in the case of North-East & Jammu & Kashmir amongst others. A copy of the proposal received from the Broadcasters Engineering Consultancy Ltd. is also forwarded herewith.

5. Since broadcasting has been notified to be a Telecommunication Service under Section 2 (1) (k) of TRAI Act recommendations of TRAI are sought as per provisions of Section 11(1)(a) on the modifications to be incorporated in plicy for FM Phase III. Suggestions & issues highlighted by FICCI & BECIL may also be considered while formulating recommendations. We would be happy to receive recommendations on various issues involved therein especially on the issues mentioned above.

5. As Government is keen to bring the policy by the year end so as to give a fillip to the FM radio sector, I would request you to kindly have the recommendations of the Authority expedited on priority.

With regards,

Yours sincerely

(Zohra Chatterji)

Shri R.K. Arnold
Secretary,
Telecom Regulatory Authority of India,
Mahanagar Doorsanchar Bhawan,
Jawaharlal Nehru Marg, (Old Minto Road),
New Delhi – 110002.

Annexure III

List of cities with number of channels which came up in Phase- I

Sr No	Name of City	No of Channels occupied
1	Delhi	3
2	Mumbai	5
3	Kolkata*	4
4	Chennai	2
5	Bangalore	1
6	Ahmedabad	1
7	Pune	1
8	Indore	1
9	Lucknow	1
10	Coimbtore	1
11	Tirunvelveli	1
12	Vishakhapatnam	1
Total		**22**

* One channel hasn't become operational

Annexure IV

POLICY ON EXPANSION OF FM RADIO BROADCASTING SERVICES THROUGH PRIVATE AGENCIES (PHASE-II)

New Delhi.

Dated : 13th July, 2005.

The Government of India, Ministry of Information & Broadcasting has formulated a policy on expansion of FM radio broadcasting services through private agencies (Phase-II). As in the Phase-I policy, the objectives of Phase-II shall be to attract private agencies to supplement and complement the efforts of All India Radio by operationalizing radio stations that provide programmes with local content and relevance, improve the quality of fidelity in reception and generation, encouraging participation by local talent and generating employment.

The salient features of the Policy are given below:

1. Process of granting permission:

1.1 Permission shall be granted on the basis of One-Time Entry Fees (OTEF) quoted by the bidders (Closed Tender System). The Ministry of I&B would separately issue detailed tender notice in due course enabling the interested parties to participate.

2. Eligibility Process:

2.1 The process of granting permission for new participants under Phase 2 shall consist of two rounds. The first round shall be for pre-qualification and only applicants qualifying in accordance with prescribed eligibility criteria given at item no. 3 below will proceed to the next round for making financial bids for specific channels in different cities.

2.2 Participants of Phase 1, who exercise their option to be considered for Phase 2, including those licensees who are eligible for automatic migration for channels already operationalised by them, shall be eligible to be considered for the pre-qualification round for fresh tendering under Phase 2, subject to their fulfilling the prescribed eligibility criteria.

3. <u>Eligibility Criteria:</u>

3.1 Only Companies registered under the Indian Companies Act, 1956 shall be eligible for bidding and obtaining permission for FM Radio channels. The following disqualifications shall apply to these companies:

- Not registered in India.
- Controlled by persons convicted of certain offences.
- Subsidiary of the applicant company.
- Companies with same management.
- Companies of the same group or inter-connected companies.
- Religious bodies or their controlled/associated companies.
- Political bodies or their controlled/associated companies.
- Advertising agencies or their controlled/associated companies.
- Trusts, Societies, Non-Profit Organizations controlled/associated companies.

3.2 <u>Financial Competence:</u>

3.2.1 Bidding will be conducted at Delhi, Mumbai, Kolkata and Chennai for the respective four regions of the country with dates fixed at weekly intervals. Since companies will be eligible to participate in bidding for channels in all the four regions, their financial competence shall be assessed on the basis of the following indicative criteria:

- o Minimum Net Worth required for one channel per center in all regions:
    - D category Centers: Rs. 50 Lakhs.
    - C category Centers: Rs. 1 Crore.
    - B category Centers: Rs. 2 Crore.
    - A or A+ category Centers: Rs. 3 Crore.
    - All Centers: Rs. 10 Crore.
- o However, each company may intimate in writing the maximum number of channels in different categories of cities it desires to bid for and its eligibility will be determined accordingly. In case the applicant does not wish to intimate these details, the applicant company should have the minimum net worth of Rs. 10 Crore.

3.2.2 The applicant company would be required to furnish Annual Reports and Audited Accounts for the last three years, or in the case of a newly incorporated company, Balance Sheets from the date of incorporation till 31st March, 2005, certified by a Chartered Accountant, to support its claim of financial competence.

3.3 Managerial Competence:

The applicant company shall be required to furnish the following information:

- Names of Directors with evidence of their commercial or managerial competence.
- Directorship or other executive positions held by the Directors in other companies/organizations with details of such

companies/organizations with documentary evidence to support their claim

- Names of the key executives, i.e. Chief Executive Officer, and Heads of Finance, Marketing and Creative Departments, if any in position, with evidence of their professional qualifications and managerial competence.

3.4 The applicant company will have to conform to foreign investment and other related stipulations as prescribed in Para 8.1 below.

4. Process of granting permission:

4.1 SEPARATE FINANCIAL BID FOR EACH CHANNEL: Every pre-qualified applicant may apply for allotment of only one channel in each city through a separate financial bid for payment of OTEF for each channel.

4.2 TENDER DEPOSIT: Each such financial bid shall be accompanied with a demand draft for an amount equal to 50% of the financial bid and unconditional and irrevocable Performance Bank Guarantee (PBG) for an amount equal to 50% of the financial bid valid for one year from the date of closure of the bidding process.

4.3 STAGGERED TENDERING: The venue, date and time for submission and opening of the sealed tenders will be staggered region-wise.

4.4 RESERVE OTEF: Reserve OTEF limit for each city shall be 25% of the highest valid bid in that city. All bids below the reserve limit shall be summarily rejected.

4.5 WAITING LIST: Channels available for Private Agencies in Phase 2 in each city shall be allocated in accordance with descending order of valid financial bids received. In the event of the number of valid bids being more than the available number of frequencies, those unsuccessful valid bidders, who are above the Reserve OTEF limit, and who are willing to continue the deposit of their PBG for the amount equal to 50% of their respective financial bids, will be placed in a waiting list in accordance with the descending order of their financial bids for a period of two years.

4.6 BALANCE BID PAYMENT: Every successful bidder shall be asked to deposit the balance 50% of his financial bid through a demand draft within a period of seven days of being declared a successful bidder.

4.7 BLACKLISTING AND FORFEITURE: Any successful bidder, who fails to deposit the balance 50% of the bid amount within the prescribed period, shall be immediately disqualified to take part in any fresh bidding anywhere in the country for a period of five years. Further, the original payment made through demand draft for 50% of the bid amount shall be forfeited immediately.

4.8 LETTER OF INTENT: On deposit of the balance 50% of the bid amount within the stipulated time, and fulfillment of other eligibility conditions, the successful bidder will be issued a Letter of Intent (LOI) to enable the company to obtain frequency allocation, SACFA clearance, achieve financial closure and appoint all key executives, enter into agreements with DD/AIR/BECIL and deposit the requisite amounts towards land/tower lease rent, common transmission infrastructure etc. and comply with requisite conditions of eligibility for signing the "Grant of Permission Agreement" within a period of nine months from the date of issue of LOI.

4.9 In the event of the failure of any LOI holder to comply with the eligibility conditions for the Grant of Permission Agreement or failing to sign the Grant of Permission Agreement within the prescribed period of nine months from the date of issue of LOI, the full deposit of the bid amount shall be forfeited without further notice, and Letter of Intent and the allocation of frequency, if any, shall stand cancelled. The frequency so released may be allotted to the next highest bidder from the waiting list.

4.10 GRANT OF PERMISSION AGREEMENT: On complying with all the requisite conditions of eligibility, and furnishing a PBG for an amount equal to the **annual fee (10% of Reserve OTEF)**, the LOI holder and the Ministry of Information & Broadcasting will sign the Grant of Permission Agreement in the prescribed format. Besides the Ministry of Information & Broadcasting would issue a permission after signing the agreement to enable the permission holder to install the radio station, obtain Wireless Operating License (WOL) and operationalise the channel within a period of one year from the date of signing the Grant of Permission Agreement. The period of permission shall be reckoned from the date of operationalisation or one year from the date of signing of the Grant of Permission Agreement, whichever is earlier.

4.11 In the event of the failure of the permission holder to operationalise the channel within the stipulated period, the permission holder shall become liable to pay the annual fee, which shall be recovered in one lump sum from the PBG furnished by the permission holder and the permission holder asked to furnish a fresh PBG to cover next year's fee. In the event of the permission holder failing to operationalise the channel within a period of eighteen months from the date of signing the Grant of Permission Agreement, or failing to furnish PBG for the next year's annual fee within a period of three months from the date of invoking the PBG, whichever is earlier, the Grant of Permission Agreement shall be revoked and the permission holder debarred from bidding for the same city for a period of five years from the date of revocation of permission.

5. **Fee and duration:**

5.1 Annual Fee shall be charged @ 4% of gross revenue, for the year or @ 10% of the Reserve OTEF limit for the concerned city, whichever is higher. Gross Revenue for this purpose would be the gross revenue without deduction of taxes.

5.2 The first year from the date of signing the Grant of Permission Agreement shall be reckoned as the commissioning period. The first year's fee shall become payable with effect from the date of operationalisation of the channel or expiry of one year from the date of signing the Grant of Permission Agreement, whichever is earlier. The permission holder shall initially pay advance quarterly installments on the basis of the Reserve OTEF formula till the end of the financial year. Once the final fee for the financial year is determined on the basis of gross revenue share formula, the permission holder shall pay the balance in one lump sum within a period of one month from the date of such determination, in any case not later than 30th September of the following year.

5.3 From the second year onwards, the permission holder shall pay advance license fee on the basis of 4% gross revenue share of the first year or 10% of reserve OTEF, whichever is higher, within the first fortnight of each quarter, and balance due of final annual fee by 30th September each year.

5.4 Gross revenue shall be calculated on the basis of billing rates, which shall include discounts, if any, given to the advertisers and any commissions paid to the advertising agencies. Barter advertising contracts shall also be included in gross revenues of either licensee on the basis of their respective relevant billing rates.

5.5 Every permission holder shall furnish a bank guarantee for the amount of annual fee calculated on the basis of Reserve OTEF formula, and maintain its validity throughout the currency of the permission. Any default in payment of determined annual fee shall be recovered from the bank guarantee and if the amounts due are more, the permission holder shall be asked to furnish additional bank guarantees to cover the balance.

5.6 Every permission holder shall maintain separate financial accounts for each channel, which shall be audited by chartered accountants. In the case of a permission holder providing or receiving goods and services from other companies that owned or controlled by the owners of the permission holder, all such transactions shall be valued at normal commercial rates and included in the profit and loss account of the permission holder to calculate its gross revenue.

5.7 Government shall have the right to get the accounts of any permission holder audited by CAG or any other professional auditors at their discretion. In case of difference between the financial results determined by the chartered accountant and the government appointed auditors, the views of the government appointed auditor shall prevail to the extent of determining gross revenues of the permission holder.

5.8 Every permission under Phase 2 shall be valid for a period of ten years from the date of operationalisation of the channel. There shall be no provision for its extension and it shall automatically lapse at the end of the period and the permission holder shall have no rights whatsoever to continue to operate the channel after the date of expiry. Government at the appropriate time shall determine procedure for issue of fresh permissions and no concessional treatment shall be afforded to the permission holders in the allotment of channels thereafter.

6. No Multiple permissions in a city:

6.1 Every applicant shall be allowed to run only one channel per city provided the total number of channels allocated to the entity is within the overall ceiling of 15% of all allocated channels in the country.

6.2 No permission holder shall outsource, through any long-term production or procurement arrangement, more than 50% of its total content, of which not more than 25% of its total content shall be outsourced to a single content-provider.

6.3 No permission holder shall hire or lease more than 50% of broadcast equipment on long-term basis.

6.4 No permission holder shall enter into any borrowing or lending arrangement with other permission holder or entities other than recognized financial institutions, which may restrict its management or creative discretion to procure or broadcast content.

7. Total number of frequencies that an entity may hold:

7.1 No entity shall hold permission for more than 15% of all channels allotted in the country. In the event of allotment of more channels than prescribed, the entity will have the discretion to decide which channels it would like to surrender and the government shall refund its OTEF for these channels in full.

8. Foreign Investment:

8.1 Total Foreign Investment, including Foreign Direct Investment (FDI) as defined by RBI, including FDI by OCBs/NRIs/PIOs etc., Portfolio Investments by FIIs (within limits prescribed by RBI) and borrowings, if these carry conversion options, is permitted to the extent of not more than 20% of the paid up equity in the entity holding a permission for a radio channel, subject to the following conditions:

- One Indian individual or company owns more than 50% of the paid up equity excluding the equity held by banks and other lending institutions.
- The majority shareholder exercises management control over the applicant entity.
- Has only Resident Indians as Directors on the Board.
- All key executive officers of the applicant entity are resident Indians.

8.2 If during the currency of the permission period, government policy on FDI/FII is modified, the permission holders shall be obliged to conform to the revised guidelines within a period of six months from the date of such notification, failing which it shall be treated as non-compliant of Grant of Permission Agreement, and liable for punitive action.

8.3 No permission holder shall be permitted to change the ownership pattern of the company through transfer of shares of the major shareholders to any new shareholders without the written permission of the Ministry of Information & Broadcasting, which shall not be granted for a period of five years from the date of operationalisation of the permission, subject to the condition that the new shareholders conform to all the prescribed eligibility criteria.

9. Cross Media Ownership:

9.1 If during the currency of the permission period, government policy on cross-media ownership is announced, the permission holder shall be obliged to conform to the revised guidelines within a period of six months from the date of such notification, failing which it shall be treated as non-compliant of Grant of Permission Agreement, and liable for punitive action. Provided however, in case the permission holder is not in a position to comply with cross media restrictions for bonafide reasons to the satisfaction of the Ministry of Information & Broadcasting, the Permission Holder would be given an option of furnishing one month's exit notice and the entry fee for the remaining period, to be calculated on pro rata basis, shall be refunded to the permission holder.

10. News and Current Affairs Programs:

10.1 No news and current affairs programs are permitted under the Policy (Phase-II).

11. Code of Conduct:

11.1 Every permission holder shall follow the AIR Program and Advertising Code as amended from time to time.

11.2 In the event of the government announcing the setting up of a Broadcast Regulatory Authority, by whatever name called, and the content regulations are modified, the permission holder shall be obliged to conform to the revised guidelines.

11.3 No permission holder shall use brand names or owners' names or corporate-group names to identify its channel to gain commercial advantage over other permission holders.

11.4 The Ministry of Information & Broadcasting shall have the right to suspend the permission of one or more permission holders in public interest or national security to prevent the misuse of their respective channels and the permission holders shall be obliged to immediately comply with the directives of the Government.

12. Penalty for Non operationalisation of Awarded Licenses:

12.1 Each permission holder shall operationalise the channel within 18 months of the date of signing of the Grant of Permission Agreement, failing which the permission will be revoked, and permission holder shall be debarred from allotment of another channel in the same city for a period of five years from the date of such revocation. The frequency so released will be allotted to a fresh successful bidder.

12.2 The Ministry of Information & Broadcasting may also revoke the permission if the channel is closed down for more than six months for whatever reason.

13. <u>Networking:</u>

13.1 An entity will be permitted to network its channels in C & D category cities within a region only.

13.2 No two entities shall be permitted to network any of their channels in any category of cities.

14. <u>Technical Parameters:</u>

The details of technical parameters for each category of city is at **<u>Annexure-A</u>**.

15. <u>Number of Frequencies:</u>

15.1 A total of 336 channels in 90 cities across the country would be made available for bidding by Indian private companies, details of which are at **<u>Annexure-B</u>**.

16. <u>Co-location:</u>

16.1 It has been made mandatory for all Phase-II operators to co-locate transmission facilities in all the 90 cities, on terms and conditions to be prescribed separately. In 81 cities, the facilities would be co-located on existing AIR/DD towers, while in remaining 9 cities, new towers shall be got constructed by the Ministry, through Broadcast Engineering Consultants India Limited (BECIL), for the purpose. The details of cities where AIR/DD towers would be utilized for co-location as well as where new towers will be constructed are available at **Annexure-II**.

16.2 Pending creation of co-location facilities by BECIL in due course, the successful bidders in these 9 cities will be permitted to operationalise their channels on individual basis for a period of two years, at the end of which they shall shift their operations to the new facilities. Permission to run its individual channel will be granted to each successful bidder only after it has entered into an agreement with BECIL and made full payments towards its share in the common infrastructure. In the case of Mumbai, even the existing operators shall be permitted to migrate to Phase 2 only after they have entered into agreements with BECIL and made the required payments towards their share in the common infrastructure for co-location.

16.3 BECIL shall act as the system integrator for providing the common transmission infrastructure and will help the LOI holder/ permission holders to obtain SACFA clearance and frequency allocation on prescribed terms and conditions. After grant of permission, each permission holder shall obtain wireless operational license, for which WPC, DOT, M/o C&IT will be requested to grant priority clearance.

17. Penalties:

17.1 In the event of a permission holder letting its facilities 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 11.4 above, the permission granted shall be revoked and the permission holder shall be disqualified to hold any such permission in future, apart from liability for punishment under other applicable laws.

17.2 Subject to the provisions contained in Para 17.1 above, in the event of a permission holder violating any of the terms and conditions of permission, or any other provisions of the FM Radio policy, the Ministry of Information and Broadcasting shall have the right to impose the following penalties:

17.2.1 In the event of first violation, suspension of the permission and prohibition of broadcast up to a period of 30 days.

17.2.2 In the event of second violation, suspension of the permission and prohibition of broadcast up to a period of 90 days.

17.2.3 In the event of third violation, revocation of the permission and prohibition of broadcast up to the remaining period of the permission.

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

17.3 In the event of suspension of permission as mentioned in Para 11.4 or 17.2, the permission holder will continue to discharge its obligations under the Grant of Permission Agreement including the payment of fee.

17.4 In the event of revocation of permission, the permission holder will lose the One Time Non-Refundable Entry Fee. The Government shall not be responsible for any investment towards the operationalisation of the channel, not limited to capital and operating expenditure, in case of imposition of any penalty referred above.

17.5 All the penalties mentioned above shall be imposed only after giving a written notice to the permission holder to rectify the violation within a period of 15 days, failing which he shall be liable for the proposed penalty.

18. Dispute Resolution Mechanism.

18.1 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 this Grant of Permission Agreement, the same shall be referred to the sole arbitration of the Secretary, Department of Legal Affairs or his nominee.

18.2 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.

18.3 The Arbitration and Conciliation Act, 1996, the rules made thereunder 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.

18.4 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.

MIGRATION TO PHASE 2.

1. Licensees of Phase-I, who have actually operationalized their channels would be given the option to Migrate to Phase 2 Policy Regime. They will have to exercise their initial option by the prescribed date to automatically migrate to Phase 2 Policy regime in accordance with the terms and conditions of migration or continue under Phase 1 or surrender their licenses with one month's notice.

2. In the event of surrender of channels, Government may include the surrendered channels for allotment under the Phase-II policy regime.

3. Automatic migration shall be considered for only those license holders of Phase 1 who have actually operationalised their channels, provided they have paid all their dues from the due date (after allowing for certain condonation of delay in the case of Delhi, Kolkata and Chennai due to problems of co-location) up to the cut-off date, and are not in default of any other license conditions till the date of migration to Phase 2.

4. The cut-off date for automatic migration to Phase 2 shall be taken as April 1, 2005. All payments made by operationalised license holders of Phase 1 in excess of amounts due till the cut-off date, shall be given credit and adjusted against their One-Time Entry Fee (OTEF) for Phase 2.

5. Each operationalised license holder of Phase 1, who is eligible for automatic migration, shall pay OTEF amount equal to the average of all successful bids received under Phase 2 in that city. In the event of no successful bid in the city, such OTEF amount shall be equal to the average of all successful bids received in that category of cities in that region. In the event of no successful bid in any metro city, such OTEF amount shall be equal to the average of all successful bids received in all the four metro cities.

6. On exercising its option to automatically migrate to Phase 2, and payment of the OTEF within the prescribed period, each eligible operationalised license holder of Phase 1 shall be issued a fresh permission with the same terms and conditions as for successful bidders of Phase 2.

7. If any of the operationalised license holders of Phase 1, who is eligible and opting for automatic migration to Phase 2, fails to deposit the OTEF or sign the Grant of Permission Agreement within prescribed period, its automatic migration to Phase 2 shall stand cancelled and it shall be governed by the terms and conditions of its original license under Phase 1 Policy regime, as modified from time to time.

8. In the event of any operationalised license holder of Phase 1 declining to opt for automatic migration, it shall continue to be governed by the terms and conditions of its original license under Phase 1 Policy regime, as modified from time to time.

9. In the event of opting to close down its radio station, an operationalised license holder of Phase 1 shall give a notice of termination with a minimum period of one month at the end of which the Ministry of Information & Broadcasting may cancel its license and permit it to close down the station, and may allocate the frequency so released to the next highest eligible bidder under Phase 2.

CHANGES IN PHASE 1 POLICY REGIME:

1. Keeping in view the litigation generated in Phase 1, and the need to encourage maximum number of bidders to take part in Phase 2, Government have decided to revoke the LOIs/LAs of the defaulting participants of Phase 1 who failed to operationalize their channels while granting them certain concessions in the Phase 1 policy regime.

2. Revoke LOIs: In the case of those LOI holders, who defaulted in furnishing requisite bank guarantees and fulfilling other conditions of eligibility for signing of license agreements, Government will initiate action to revoke their LOIs after giving appropriate notices with the permission of the concerned courts of law where their respective cases are pending.

3. Revoke LAs of non-operationalised Channels: In the case of those License Agreement holders who failed to operationalize their channels within the prescribed time, Government will initiate action to revoke their License Agreements after giving due notice with the permission of the concerned courts of law where their respective cases are pending.

4. Without prejudice to the legal stands of either party: The revocation of LOIs/LAs shall be without prejudice to the respective stands of either party in respect of pending litigation in various courts and arbitration proceedings. Similarly, it is hereby assured that acceptance of concessions enumerated in paragraphs 5 to 8 below and exercise of options by the LOI/LA holders will also be without prejudice to their respective stands before the courts of law, whose decisions shall be binding on either party.

5. Limited Removal of 'Blacklisting': Government have decided to waive the condition of 'Blacklisting' for defaulting LOI/License holders of Phase 1 for the limited purpose of taking part in the tendering process for Phase 2, provided they exercise their options to do so and are eligible as per the prescribed eligibility criteria of Phase 2. In the event of any participant declining to exercise this option and losing its case before the competent court, the blacklisting condition would continue to be enforced.

6. Condone Delays in Operationalisation in Three Metros: In Delhi, Chennai and Kolkata, where Government insisted on co-location, the Government extended the time limit for operationalizing the channels from December 2001 to August 2002. However, in these three metros co-location could not be achieved even by the end of the extended period in August 2002. Finally Government intervened in July 2002 and appointed BECIL as a system integrator to provide co-location facilities and common transmission infrastructure in Delhi, Chennai and Kolkata. With BECIL setting up the common infrastructure, 9 channels got operationalised within nine months i.e. by the end of May 2003. Since the delay in operationalization occurred on account of bona fide reasons, Government has decided to condone delays in operationalization in the case of the nine channels in the three metros of Delhi, Chennai and Kolkata and reckon the dates of actual operationalization as due dates for liability to pay annual license fees.

7. BECIL to provide co-location facilities in Mumbai: In Mumbai, Government reviewed its policy on co-location in December 2001 and decided to grant a period of two years to achieve co-location. In the interim period, co-location was not insisted upon as a pre-condition and Government permitted the licensees to set up stations individually within a grace period of four months. Since the stations have already been operationalised without co-location within the original grace period, Government have decided not to insist on co-location after the expiry of the prescribed two year time limit. However, Government has appointed BECIL as the system integrator to provide the land and tower as well as the common transmitting infrastructure to enable co-location for Phase 1 operators along with Phase 2 applicants.

8. Reduce Surrender Notice Period to One Month: In order to facilitate unwilling participants of Phase 1 to surrender their licenses quickly and reduce their liability to pay license fees during the notice period, Government have decided to reduce the notice period of one year to only one month to enable easier exit for those who wish to opt out of running their channels.

Annexure-A.

TECHNICAL PARAMETERS.

Category	Basis (one or more of the following)	Effective Radiated Power (ERP) (kW)		Antenna Height (Mtr.)	
		Min.	Max.	Min.	Max.
A^+	Metro cities	25	50		
	Delhi			75	200
	Mumbai, Kolkata, Chennai			75	175
A	- Population above 20 lakhs	10	30	75	150
B	- Population above 10 lakhs and upto 20 Lakhs	5	15	50	100
C	- Population above 3 lakhs and upto 10 lakhs	3	10	30	75
D	- Population above 1 lakh and upto 3 lakhs	1	3	20	40

Annexure-B.

FM Channels to be put on bid for Phase II of private FM Radio Broadcasting.

A. FM Channels in cities where common infrastructure will be created by the Government.

S.No.	City	State/UT	no. of Channels available for bidding
	Category – A+		
1	Chennai	T.N.	6
2	Delhi	Delhi	6
3	Kolkata	W.B.	5
4	Mumbai	Maharashtra	5
	Category – A		
5	Bangalore	Karnataka	7
6	Hyderabad	A.P.	7
7	Jaipur	Rajasthan	5
8	Pune	Maharashtra	3
9	Surat	Gujarat	4
	Total		**48**

B. FM Channels in cities where Broadcasters will share common infrastructures on Prasar Bharati towers.

S.No.	**City**	**State/UT**	**No. of Channels available for bidding**

	Category – A		
10	Ahmedabad	Gujarat	5
11	Lucknow	U.P	2
12	Nagpur	Maharashtra	6
13	Kanpur	U.P.	3
	Category – B		
14	Agra	U.P.	3
15	Allahabad	U.P.	4
16	Amritsar	Punjab	4
17	Asansol	W.B	2
18	Bhopal	M.P.	4
S.No.	City	State/UT	No. of Channels available for bidding
19	Cochin	Kerala	3
20	Coimbatore	Tamil Nadu	3
21	Indore	M.P.	3
22	Jabalpur	M.P.	4
23	Jamshedpur	Jharkhand	4
24	Patna	Bihar	4
25	Rajkot	Gujarat	3
26	Vadodra	Gujarat	4
27	Varanasi	U.P.	4
28	Vijayawada	A.P.	2
29	Vishakapatnam	A.P.	3
30	Madurai	Tamil Nadu	3
	Category – C		
31	Ahmednagar	Maharashtra	3
32	Ajmer	Rajasthan	4

33	Akola	Maharashtra	4
34	Aligarh	U.P.	2
35	Aurangabad	Maharashtra	3
36	Bareily	U.P.	4
37	Bhubneshwar/ Cuttack	Orissa	4
38	Bilaspur	Chatisgarh	4
39	Dhule	Maharashtra	2
40	Gorakhpur	U.P.	4
41	Gulbarga	Karnataka	4
42	Guwhati	Assam	4
43	Gwalior	M.P.	4
44	Jalandhar	Punjab	4
45	Jalgaon	Maharashtra	4
46	Jammu	J&K	3
47	Jhansi	U.P.	4
48	Jodhpur	Rajasthan	4
49	Kannur	Kerela	4
50	Kolhapur	Maharashtra	2
51	Mangalore	Karnataka	4
52	Muzzafarpur	Bihar	4
53	Mysore	Karnataka	4
54	Nanded	Maharashtra	4
55	Nasik	Maharashtra	2
56	Patiala	Punjab	4
S.No.	City	State/UT	No. of Channels available for bidding
57	Pondicherry	Pondicherry	3
58	Raipur	Chattisgarh	4

59	Rajamundri	A.P.	4
60	Ranchi	Jharkhand	4
61	Sagar	M.P.	4
62	Sholapur	Maharashtra	3
63	Siliguri	W.B.	4
64	Srinagar	J&K	4
65	Tiruchy	Tamil Nadu	4
66	Tirunelveli	Tamil nadu	3
67	Tirupati	A.P.	2
68	Thiruvanantha-puram	Kerala	4
69	Warangal	A.P.	4
70	Bikaner	Rajasthan	4
71	Kota	Rajasthan	4
72	Kozhikod	Kerala	2
73	Rourkela	Orissa	4
74	Sangali	Maharashtra	2
75	Trissur	Kerala	4
76	Tuticorin	Tamil Nadu	4
77	Udaipur	Rajasthan	4
	Category – D		
78	Agartala	Tripura	4
79	Aizwal	Mizoram	4
80	Gangtok	Sikkim	4
81	Hissar	Haryana	4
82	Imphal	Manipur	4
83	Itanagar	Arunachal	4
84	Kohima	Nagaland	4
85	Panaji	Goa	3

86	Shillong	Meghalaya	4
87	Shimla	H.P.	4
88	Daman	Daman & Diu	2
89	Karnal	Haryana	2
90	Port Blair	A&Nicobar	4
	TOTAL		**288**
	Grand Total		**336**

Annexure V

List of cities where LOI was issued for FM radio Broadcast in Phase- II

Sr No	Name of City	No of Channels for which LOI were issued
1	Agartala	1
2	Agra	3
3	Ahmedabad	4
4	Ahmednagar	3
5	Aizwal	1
6	Ajmer	3
7	Akola	2
8	Aligarh	1
9	Allahabad	3
10	Amritsar	4
11	Asansol	2
12	Aurangabad	2
13	Banglore	6
14	Barelilly	2
15	Bhopal	4
16	Bhubneshwar	3
17	Bikaner	1
18	Bilaspur	2
19	Chandigarh	2
20	Chennai	6
21	Cochin	3
22	Coimbatore	3
23	Daman	1
24	Delhi	5
25	Dule	1
26	Gangtok *	3
27	Gorakhpur	1
28	Gulbarga	2
29	Guwahati	4
30	Gwalior	4
31	Hissar	4
32	Hyderabad	4
33	Indore	3
34	Itanagar	1

35	Jabalpur	4
36	Jaipur	5
37	Jalandhar	4
38	Jalgaon	3
39	Jammu	1
40	Jamshedpur	3
41	Jhansi	1
42	Jodhpur	4
43	Kannur	4
44	Kanpur	3
45	Karnal	2
46	Kolhapur	2
47	Kolkatta	5
48	Kota	3
49	Kozhikode	2
50	Lucknow	2
51	Madurai	3
52	Mangalore	4
53	Mumbai	3
54	Muzzafarpur	1
55	Mysore	2
56	Nagpur	4
57	Nanded	2
58	Nasik	2
59	Panaji	3
60	Patiala	4
61	Patna	1
62	Pondicherry	3
63	Pune	3
64	Raipur	4
65	Rajamundry	2
66	Rajkot	3
67	Ranchi	4
68	Rourkela	2
69	Sangli	2
70	Shilling	2
71	Shimla	3
72	Sholapur	2
73	Siliguri *	4
74	Srinagar	1
75	Surat	4

76	Thirunelveli	2
77	Thiruvanathapuram	4
78	Tirupathy	2
79	Trichy	2
80	Trissur	4
81	Tuticorin	3
82	Udapur	3
83	Varanasi	4
84	Vijayawada	2
85	Visakkapatnam	3
86	Vododara	4
87	Warangal	2
Total		245

*** One LOI was cancelled later on.**

Annexure VI

List of cities with number of channels put for re-bid under phase - II

Sr No	Name of City	State	Class of City	No of Channels
1	Delhi	Delhi	A+	1
2	Mumbai	Maharashtra	A+	2
3	Hyderabad	A.P.	A	3
4	Dehradun	Uttaranchal	A	4
5	Ahmedabad	Gujarat	A	1
6	Bangalore	Karnataka	A	1
7	Nagpur	Maharashtra	A	2
8	Allahabad	U.P.	B	1
9	Jamshedpur	Jharkhand	B	1
10	Patna*	Bihar	B	3
11	Ajmer	Rajasthan	C	1
12	Akola	Maharashtra	C	2
13	Aligarh	U.P.	C	1
14	Aurangabad	Maharashtra	C	1
15	Bareily	U.P.	C	2
16	Bhubaneshwar/ Cuttack	Orissa	C	1
17	Bikaner	Rajasthan	C	3

18	Bilaspur	Chattisgarh	C	2
19	Dhule	Maharashtra	C	1
20	Gorakhpur	U.P.	C	3
21	Gulbarga	Karnataka	C	2
22	Jalgaon	Maharashtra	C	1
23	Jammu	J&K	C	2
24	Jhansi	U.P.	C	3
25	Kota	Rajasthan	C	1
26	Muzzafarpur	Bihar	C	3
27	Mysore	Karnataka	C	2
28	Nanded	Maharashtra	C	2
29	Rajamundri	A.P.	C	2
30	Rourkela	Orissa	C	2
31	Sagar	M.P.	C	4
32	Sholapur	Maharashtra	C	1
33	Srinagar	J&K	C	3
34	Tiruchy	Tamil Nadu	C	2
35	Tirunelveli	Tamil Nadu	C	1
36	Tuticorin	Tamil Nadu	C	1
37	Udaipur	Rajasthan	C	1
38	Warangal	A P	C	2

39	Agartala	Tripura	D	3
40	Aizawl	Mizoram	D	3
41	Daman	Daman & Diu	D	1
42	Gangtok	Sikkim	D	1
43	Imphal	Manipur	D	4
44	Itanagar	Arunachal Pradesh	D	3
45	Kohima	Nagaland	D	4
46	Port Blair	A&Nicobar	D	4
47	Shillong	Meghalaya	D	2
48	Shimla	H.P.	D	1
Total				**97**

Annexure VII

List of suggested cities along with number of channels for FM radio phase III by BECIL

Category “A”			
1	Hyderabad	Andhra Pradesh	1
2	Jaipur	Rajasthan	1
3	Kanpur	Uttar Pradesh	3
4	Lucknow	Uttar Pradesh	3
5	Pune	Maharashtra	2
6	Surat	Gujarat	2
Category “B”			
7	Agra	Uttar Pradesh	1
8	Asansol	West Bengal	2
9	Cochin	Kerala	1
10	Dhanbad	Jharkhand	4
11	Ludhiana	Punjab	4
12	Madurai	Tamil Nadu	1
13	Moradabad	Uttar Pradesh	4
14	Rajkot	Gujarat	1
15	Vijayawada	Andhra Pradesh	2
Category “C”			
16	Alappuzha (Alleppey)	Kerala	4
17	Amravati	Maharashtra	4
18	Ahmednagar	Maharashtra	1
19	Aligarh	Uttar Pradesh	2
20	Aurangabad	Maharashtra	1
21	Bhagalpur	Biha	4
22	Bhavnagar	Gujarat	4
23	Belgaum	Karnataka	4
24	Bellary	Karnataka	4

25	Chandigarh	Chandigarh/UT	2
26	Devengeri	Karnataka	4
27	Dhule	Maharashtra	2
28.	Erode	Tamil Nadu	4
29.	Gaya	Biha	4
30	Hubli-Dharwad	Karnataka	4
31	Jamnagar	Gujarat	4
32	Jammu	J&K	1
33	Kakinada	Andhra Pradesh	4
34	Kurnool	Andhra Pradesh	4
35	Kolhapur	Maharashtra	2
36	Kozhikod	Kerala	2
37	Malegaon	Maharashtra	4
38	Muzaffarnagar	Uttar Pradesh	4
39	Nellore	Andhra Pradesh	4
40	Nasik	Maharashtra	2
41	Pondicherry	Pondicherry	1
42	Salem	Tamil Nadu	4
43	Saharanpur	Uttar Pradesh	4
44	Shahjahanpur	Uttar Pradesh	4
45	Sholapur	Maharashtra	1
46	Sangli	Maharashtra	2
47	Tirupati	Andhra Pradesh	2
48	Ujjain	Madhya Pradesh	4
49	Vellore	Tamil nadu	4
Category "D"			
50	Anantpur	Andhra Pradesh	
51	Adoni	Andhra Pradesh	3
52	Adilabad	Andhra Pradesh	3

53	Alwal	Andhra Pradesh	3
54	Arrah	Biha	3
55	Ambala	Haryana	3
56	Achalpur	Maharashtra	3
57	Abohar	Punjab	3
58	Alwar	Rajasthan	3
59	Azamgarh	Uttar Pradesh	3
60	Alipurduar	West Bengal	3
61	Bheemavaram	Andhra Pradesh	3
62	Bettiah	Biha	3
63	Bihar Shareef	Biha	3
64	Begusarai	Biha	3
65	Bharuch	Gujarat	3
66	Botad	Gujarat	3
67	Bhiwani	Haryana	3
68	Bhadurgarh	Haryana	3
69	Bokaro Steel City	Jharkhand	3
70	Bijapur	Karnataka	3
71	Bidar	Karnataka	3
72	Burhanapur	Maehya Pradesh	3
73	Barshi	Maharashtra	3
74	Brahmapur	Orissa	3
75	Baleshwar	Orissa	3
76	Baripada	Orissa	33
77	Bhatinda	Punjab	3
78	Bhilwara	Rajasthan	3
79	Bharatpur	Rajasthan	3
80	Beawar	Rajasthan	3

81	Bahraich	Uttar Pradesh	3
82	Budaun	Uttar Pradesh	3
83	Bands	Uttar Pradesh	3
84	Basti	Uttar Pradesh	3
85	Ballia	Uttar Pradesh	3
86	Barddhaman	West Bengal	3
87	Baharampur	West Bengal	3
88	Balurghat	West Bengal	3
89	Bankura	West Bengal	3
90	Bangaon	West Bengal	3
91	Cuddapah	Andhra Pradesh	3
92	Chittoor	Andhra Pradesh	3
93	Chirala	Andhra Pradesh	3
94	Chapra	Biha	3
95	Chitradurga	Karnataka	3
96	Chikmagalur	Karnataka	3
97	Chhindwara	Madhya Pradesh	3
98	Chhattarpur	Madhya Pradesh	3
99	Churu	Rajasthan	3
100	Coonoor	Tamil Nadu	3
101	Dharamavaram	Andhra Pradesh	3
102	Dibrugarh	Assam	3
103	Darbhanga	Biha	3
104	Durg-Bhillainagar	Chattisgarh	3
105	Dohad	Gujarat	3
106	Deoghar	Jharkhand	3
107	Damoh	Madhya Pradesh	3

108	Dimapur	Nagaland	3
109	Dingdigul	Tamil Nadu	3
110	Deoria	Uttar Pradesh	3
111	Darjiling	West Bengal	3
112	Daman	Daman & Diu	3
113	Eluru	Andhra Pradesh	3
114	English Bazar (Maldah)	West Bengal	3
115	Etawah	Uttar Pradesh	3
116	Etah	Uttar Pradesh	3
117	Farrukhabad cum Fatehgarh	Uttar Pradesh	3
118	Faizabad/Ayodhya	Uttar Pradesh	3
119	Fatehpur	Uttar Pradesh	3
120	Guntakal	Andhra Pradesh	3
121	Godhra	Gujarat	3
122	Giridih	Jharkhand	3
123	Gadag Betigeri	Karnataka	3
124	Guna	Madhya Pradesh	3
125	Gondiya	Maharashtra	3
126	Ganganagar	Rajasthan	3
127	Gonda	Uttar Pradesh	3
128	Ghazipur	Uttar Pradesh	3
129	Hindupur	Andhra Pradesh	3
130	Hazaribag	Jharkhand	3
131	Hospet	Karnataka	3

132	Hassan	Karnataka	3
133	Hoshiarpur	Punjab	3
134	Hanumangarh	Rajasthan	3
135	Hardwar	Uttaranchal	3
136	Haldwani-cum Kathgodam	Uttaranchal	
137	Hardoi	Uttar Pradesh	
138	Itarsi	Madhya Pradesh	3
139	Jorhat	Assam	3
140	Jagdalpur	Chattisgarh	3
141	Junagadh	Gujarat	3
142	Jetpur Navagadh	Gujarat	3
143	Jind	Haryana	3
144	Jhunjhunun	Rajasthan	3
145	Jaunpur	Uttar Pradesh	3
146	Karimnagar	Andhra Pradesh	3
147	Khammam	Andhra Pradesh	3
148	Kothagudem	Andhra Pradesh	3
149	Korba	Chattisgarh	3
150	Kaithai	Haryana	3
151	Kolar	Karnataka	3
152	Kanhangad (Kasargod)	Kerala	3
153	Kavaralli	Lakshadweep	3
154	Khandwa	Madhya Pradesh	3
155	Khargone	Madhya Pradesh	3
156	Karur	Tamil Nadu	3

157	Karaikkudi	Tamil Nadu	3
158	Kharagpur	West Bengal	3
159	Krishnanagar	West Bengal	3
160	Karnal	Haryana	1
161	Latur	Maharashtra	3
162	Lakhimpur	Uttar Pradesh	3
163	Lalitpur	Uttar Pradesh	3
164	Machillpatnam	Andhra Pradesh	3
165	Mahbubnagar	Andhra Pradesh	3
166	Mancherial	Andhra Pradesh	3
167	Madanapalle	Anhra Pradesh	3
168	Munger	Biha	3
169	Motihari	Biha	3
170	Mahesana	Gujarat	3
171	Murwara (Katni)	Madhya Pradesh	3
172	Mandsaur	Madhya Pradesh	3
173	Moga	Punjab	3
174	Mathura	Uttar Pradesh	3
175	Maunath Bhajan (Distt. Mau)	Uttar Pradesh	3
176	Mirzapur cum Vindhyachal	Uttar Pradesh	3
177	Mainpuri	Uttar Pradesh	3
178	Nizamabad	Andhra Pradesh	3
179	Nandyal	Andhra Pradesh	3
180	Nalgonda	Andhra Pradesh	3

181	Nagaon (Nowgang)	Assam	3
182	Neemuch	Madhya Pradesh	3
183	Nagarcoil/Kanyakumari	Tamil Nadu	3
184	Neyveli	Tamil Nadu	3
185	Ongole	Andhra Pradesh	3
186	Orai	Uttar Pradesh	3
187	Proddatur	Andhra Pradesh	3
188	Porbandar	Gujarat	3
189	Purnia	Biha	3
190	Palanpur	Gujarat	3
191	Patan	Gujarat	3
192	Panipat	Haryana	3
193	Palakkad	Kerala	3
194	Puri	Orissa	3
195	Pathankot	Punjab	3
196	Pali	Rajasthan	3
197	Pudukkottai	Tamil Nadu	3
198	Puruliya	West Bengal	3
199	Ramagundan	Andhra Pradesh	3
200	Rajgarh	Chattisgarh	3
201	Rohtak	Haryana	3
202	Rewari	Haryana	3
203	Raichur	Karnataka	3
204	Ratlam	Madhya Pradesh	3
205	Rewa	Madhya Pradesh	3
206	Rajapalayam	Tamil Nadu	3

207	Rae Barelli	Uttar Pradesh	3
208	Raoganj	West Bengal	3
209	Silchar	Assam	3
210	Sasaram	Biha	3
211	Saharsa	Biha	3
212	Siwan	Biha	3
213	Surendranagar Dudhrej	Gujarat	3
214	Sirsa	Haryana	3
215	Shimoga	Karnataka	3
216	Satna	Madhya Pradesh	3
217	Singrauli	Madhya Pradesh	3
218	Shivpuri	Madhya Pradesh	3
219	Sambalpur	Orissa	3
220	Sikar	Rajasthan	3
221	Sawai Madhopur	Rajasthan	3
222	Sitapur	Uttar Pradesh	3
223	Sultanpur	Uttar Pradesh	3
224	Tinsukia	Assam	3
225	Thanesar	Haryana	3
226	Tumkur	Karnataka	3
227	Tonk	Rajasthan	3
228	Thanjavar	Tamil Nadu	3
229	Tiruvannamlai	Tamil Nadu	3
230	Udupi	Krnataka	3
231	Vizianagaram	Andhra Pradesh	3

232	Veraval	Gujarat	3
233	Vidisha	Madhya Pradesh	3
234	Vaniyambadi	Tamil Nadu	3
235	Wadhwan (Surendernagar)	Gujarat	3
236	Wardha	Maharashtra	3
237	Yavatmal	Maharashtra	3

Annexure VIII

Proposed selection criteria by Broadcast Engineering Consultants India Limited for cities in phase-III

S.No.	Category to Category	Minimum Distance in Km within two category cities to qualify for selection (400 KHz apart)
1.	C to C	43
2.	D to D	31
3.	D to C	36
4.	B to C	51
5.	B to D	41
6.	A to D	51
7.	A to C	61
8.	A to B	66
9.	A+ to B	77
10.	A+ to C	72
11.	A+ to D	59

Annexure IX

GRANT OF PERMISSION AGREEMENT

BETWEEN

MINISTRY OF INFORMATION & BROADCASTING

GOVT. OF INDIA

AND

FOR

OPERATING FM RADIO BROADCASTING SERVICE
(PHASE II)

AT

--

GRANT OF PERMISSION AGREEMENT

This Agreement is made on this _____ day of ______, 2006 between the **President of India** acting through____________, Ministry of Information and Broadcasting, Government of India, Shastri Bhawan, New Delhi (hereinafter called the **Grantor**) of the One Part and M/s ________, a company registered under the Companies Act, 1956 and having its registered office at _________(hereinafter called the **Permission Holder** which expression shall unless repugnant to the context include, its successors in business, administrators, liquidators and assigns or legal representatives) of the Other Part.

WHEREAS pursuant to the fulfillment of the obligations by the **Permission Holder**, as per the Letter of Intent issued on ...., **the Grantor** has agreed to grant permission to the Permission Holder, on the terms and conditions appearing hereinafter to establish, maintain and operate FM radio broadcasting channel at _______ ("**Channel**") falling in category ...... and the Permission Holder has agreed to accept the same.

NOW THIS AGREEMENT WITNESSETH AS UNDER:

1. Unless otherwise mentioned in the subject or context appearing hereinafter, in this Agreement, words and expressions shall, unless the context otherwise requires, have the same meaning as is respectively assigned to them herein under:

1.1 "**Applicable Systems**" shall mean all the necessary equipments/systems engineered to provide Broadcast Services as per operational/technical and quality requirements and other terms and conditions of the Grant of Permission Agreement.

1.2 "**Broadcast Channel**" shall mean the isolated program path of the Permission Holder including VHF FM Band (87-108 MHz) Broadcast frequency, as assigned by the Wireless Operational Licence distributed geographically to minimize channel interference.

1.3 **"Broadcast Equipment"** shall mean any equipment used for production, storage and transmission of programmes, by the Permission Holder.

1.4 "**Broadcast Service**" shall mean the audio broadcast by FM radio channels including entertainment, education and information dissemination on the main carrier excluding news and current affairs. .

1.5 "**Channel Identity**" shall mean the brand name of the FM channel as approved by the Grantor.

1.6 **"Height of Antenna above Average Terrain (HAAT)"** is the height of the center of radiation of the antenna above average elevation of the terrain between 3 and 15 Km from the antenna for each radial.

1.7 **"Effective Height of Antenna above Average Terrain (EHAAT)"** is the average of HAATs for 8 radials spaced every 45 degree of azimuth starting with true north.

1.8 **"Effective Radiated Power (ERP)"** is the product of the transmitter output power and Antenna Gain relative to half wave dipole.

1.9 “**Frequency Assignment**” shall mean the specific Radio Frequency (RF) carrier with associated technical parameters such as RF power, bandwidth etc to the particular FM channel as assigned by the Department of Telecommunication, Ministry of Communications &IT, Government of India.

1.10 “**Permission**” shall mean the permission for setting up the FM Radio Channel , as granted by the Grantor to the Permission Holder in pursuance of this agreement.

1.11 “**Grant of Permission Agreement**” or **“The Agreement”** shall mean this Agreement with all amendments/modifications thereto.

1.12 **“Outsourcing”** will mean any agreement or arrangement by the Permission Holder, by which production work in respect of programme content and/or advertisements related to that programme are allocated to any other company or agency or any other entity.

1.13 “**Programme Content**” shall mean the broadcast presentations made in the FM Channel of the Permission Holder.

1.14 “**Public Interest Announcement**” shall mean any announcement in public interest or for public safety as provided by the Central Government or the concerned State Government.

1.15 “**SACFA”** shall mean the “Standing Advisory Committee on Radio Frequency Allocation” of the Wireless & Planning Co-ordination wing of Ministry of Communications &IT, Government of India.

1.16 All words and expressions not defined here and defined in the Tender Document shall mean accordingly.

2. In consideration of the observance of the covenants as well as payment of the One Time Entry Fee and the Annual Fee as payable in terms of this Agreement and subject to due performance of and compliance with all terms and conditions of this agreement hereto on the part of the Permission Holder, the Grantor hereby grants on non-exclusive basis for a period of Ten (10) years, the permission to establish, maintain and operate the FM Radio Broadcasting Channel for the City of ______ with effect from the date as defined in clause 4..2 hereof.

3. **One Time Entry Fee, Annual Fee and Schedule of Payments**

3.1 The Permission Holder shall pay an Annual Fee to the Grantor every year, charged @ 4% of Gross Revenue of its FM radio channel or Rs. _____ i.e. 10% of the Reserve OTEF for the city, whichever is higher. Annual Fee shall be paid on a quarterly basis in four equal installments. For this purpose, four quarters shall be tri-monthly periods ending 30th June, 30th September, 31st December and 31st March respectively.

3.2 Gross Revenue for this purpose would be the gross inflow of cash, receivables or other consideration arising in the course of ordinary activities of the FM radio broadcasting enterprise from rendering of services and from use by others of the enterprise resources yielding rent, interest, dividend, royalties, commissions etc. Gross Revenue shall, therefore, be calculated, without deduction of taxes and agency commission, on the basis of billing rates, net of discounts to advertisers. Barter advertising contracts shall also be included in the gross revenues on the basis of relevant billing rates. In the case of a permission holder providing or receiving goods and services from other companies that are owned or controlled by the owners of the permission holder, all such transactions shall be valued at normal commercial rates and included in the profit and loss account of the permission holder to calculate its gross revenue.

3.3 The first year from the date of signing this Agreement shall be reckoned as the commissioning period. The first year's fee shall become payable with effect from the date of operationalisation of the Channel or expiry of one year from the date of signing this Agreement, whichever is earlier. Provided that in the event of default in operationalisation of channel being attributable to delay beyond reasonable period by BECIL/Prasar Bharati/Wireless Planning & Coordination Wing, Ministry of Communications & IT, the time limit for operationalisation may, at the request of the Permission Holder, be extended by such period of delay as fixed by the Secretary, Ministry of Information & Broadcasting, whose decision shall be final and binding on both the parties. *In that event, the first year's fee shall become payable with effect from the last date so prescribed for operationalisation of the channel.* The Permission Holder shall be required to initially pay within 15 days of the end of the commissioning period the first advance quarterly installment on the basis of the Reserve OTEF formula and thereafter within 15 days of each subsequent quarter till the end of the financial year and even beyond till the determination of the first year's gross revenues. After the determination of first year's gross revenue, the quarterly installments will be determined on the basis of reserve OTEF or the gross revenue of the last year, for which gross revenue has been determined, whichever is higher.

3.4 Once the final fee for the financial year is determined on the basis of Gross Revenue share formula, and is found to be higher than 10% of the Reserve OTEF for the city, the Permission Holder shall pay the balance in one lump sum within a period of one month from the date of such determination and in any case not later than 30th September of the following year.

3.5 From the second year onwards, the Permission Holder shall pay advance Annual Fee @4% of gross revenue of the previous year or the last year for which the gross revenue has been determined or 10% of reserve OTEF, whichever is higher, within the first fortnight of each quarter, and balance due of final annual fee by 30th September each year.

3.6 The Permission Holder shall have, prior to execution hereof, furnished a **Performance Bank Guarantee (in the format titled PBG-II)** in favour of the Grantor, for Rs. ____, i.e., for an amount equivalent to 10% of the Reserve OTEF for the city, and shall maintain its validity throughout the currency of the Permission. Any default in payment of determined annual fee shall be recoverable from the bank guarantee and if the amounts due are more, the Permission holder shall be asked to furnish additional bank guarantees to cover the balance, within 15 days of being called upon to do so.

3.7 In the event of Permission Holder's failure/ inability to operationalise the Channel as required within the prescribed time period, the Grantor shall have the right to recover the Annual Fee for the first year and all the years of such failure/inability as a lump-sum payment, and in the event of default by the Permission Holder, by invocation of the Performance Bank Guarantee furnished by it. As aforesaid, in the event of invocation of the

Performance Bank Guarantee by the Grantor, the Permission Holder shall furnish a fresh bank guarantee of the same amount within a period of three months from date of invocation of the Performance Bank Guarantee, in favour of the Grantor, for the succeeding year's Annual Fee.

3.8 The Permission Holder shall be liable to pay the Annual Fees to the Grantor within the prescribed time period, failing which the Grantor reserves the right to invoke the Bank Guarantee furnished by the Permission Holder without any prior notice. Such right of the Grantor shall be without prejudice to any other action that may be taken by the Grantor under the terms and conditions of the Permission.

4. Term of Permission

4.1. The Permission shall be valid for a period of ten (10) years from the effective date as defined below. There shall be no extension and the Permission, unless cancelled or revoked earlier, shall automatically lapse and expire at the end of the aforesaid ten years' period and the Permission Holder shall thereafter have no rights whatsoever to continue to operate the Channel after the date of expiry of the Permission.

4.2 The effective date of the Permission Period shall be reckoned from the date of operationalisation of the Channel or one year from the date hereof, whichever is earlier, unless the time limit for operationalisation has been extended by the Secretary, Ministry of Information & Broadcasting Article 3.3 hereinabove, *in which case the effective date of the Permission Period shall be the last date so fixed.*

5. Requirement to Provide the FM Broadcasting

5.1. The Permission Holder shall be liable to operationalise the channel, after installation of the Common Transmission Infrastructure through M/s Broadcast Engineers Consultants India Limited (BECIL), and other broadcast facilities including studio, transmitter, program link etc., obtaining of Wireless Operational License and commissioning of the Applicable Systems, within a period of one year from the date of execution hereof.

5.2. The Permission Holder shall be solely responsible for the installation and operation of necessary equipment and systems as well as attending to claims and damages arising out of his operation. The Permission Holder shall own the transmitter including program links.

5.3. The Permission Holder having permission to establish & operate a FM radio channel in a city, where new tower is to be erected through BECIL, can operationalise its channel on individual basis for a period of two years or till the co-location facility is commissioned, whichever is later, at the end of which it shall shift its operations to the new facility.

6. Application of the Indian Telegraph Act and other Laws

6.1. The Permission shall be governed by the provisions of the Telecom Regulatory Authority of India Act, 1997, Indian Telegraph Act, 1885 and Indian Wireless Telegraphy Act, 1933 as amended from time to time and any other law as applicable to broadcasting which has or may come into force.

7. Prohibition of Certain Activities

7.1. The Permission is non-transferable. The Permission Holder shall not be competent to grant a sub-Permission directly or indirectly.

7.2. No Permission Holder shall hire or lease more than 50% of broadcast equipment on long term basis (Long Term means any period exceeding eleven months by the end of the period the permission holder becomes the owner of the assests and shall include repeated renewals/extensions of lease from the same party or its associates).

7.3. The Permission Holder shall not outsource, through any long-term production or procurement arrangement, more than 50% of its total content, of which not more than 25% of its total content shall be outsourced from a single content-provider ('Long term' means any period exceeding continuous 11 months, including repeated renewals). The quantum of outsourced content would be calculated on quarterly basis.

Note: "Total Content" for the purpose of outsourcing shall not include advertisements unless package of outsourced programme is inclusive of advertisements as in the case of sponsored programmes. The advertisement time sold directly through normal agency business shall not be included in outsourcing.]

7.4. The Permission Holder shall not enter into any borrowing or lending arrangement with other Permission holders or entities except recognized financial institutions and its related entities (to say, its subsidiary or holding company, a company with the same management and an inter-connected undertaking), which may restrict its management or creative discretion to procure or broadcast content or its marketing rights.

7.5. The Permission Holder shall ensure that there is no linkage between a party from whom a programme is outsourced and an advertising agency.

7.6. The Permission Holder shall ensure that no content, messages, advertisement or communication, transmitted in its Broadcast Channel is objectionable, obscene, unauthorized or inconsistent with the laws of India .

7.7. Except as specifically provided in this agreement, the Permission Holder shall not either directly or indirectly assign or transfer its right in any manner whatsoever under this Agreement to any other party or enter into any Agreement for sub-Permission and/or partnership relating to any subject matter of the Permission to any third party either in whole or in part. Any violation of the terms shall be construed as breach of this Agreement.

8. Cross Media Ownership

8.1 If during the currency of the Permission period, government policy on cross-media ownership is announced, the Permission holder shall be obliged to conform to such guidelines as may be prescribed in the said policy, within a period of six months from the date of such notification, failing which it shall be treated as non-compliant of Grant of Permission Agreement, and liable for punitive action. Provided however, that in case the Permission Holder is not in a position to comply with cross media restrictions for bonafide reasons to the satisfaction of the Grantor, the Permission Holder would be given an option of furnishing one month's exit notice and the entry fee for the remaining period, to be calculated on pro rata basis, shall be refunded to the Permission Holder.

9. National Security and Other Conditions

9.1 The Grantor shall have the right to temporarily suspend the Permission of the Permission holder in public interest or for national security for such period or periods as it may direct and the Permission holder shall be obliged to immediately comply with the directives of the Grantor.

9.2 The Grantor reserves the right to modify at any time the terms and conditions of the Permission, if in its opinion it is necessary or expedient to do so in the interest of national security or public interest. The decision of the Grantor shall be final in this regard.

9.3 All foreign personnel likely to be deployed by way of appointment, contract, consultancy, etc. by the Permission Holder for installation, maintenance and operation of the its services shall be required to obtain security clearance from the Government of India prior to their deployment.

10. No Change in Shareholding

10.1 The permission holder, whether with or without foreign investment, shall not be permitted to change the ownership pattern of the company through transfer of shares of the majority shareholders/promoters to any other or new shareholders without the written permission of the Grantor, which shall not be granted unless the Grantor is satisfied that the new shareholders conform to all the prescribed eligibility criteria. Such Permission shall not be granted for a period of five years from the date of operationalisation of the permission,

10.2 If during the currency of the permission period, government policy on FDI/FII is modified, the permission holder shall be obliged to conform to the revised policy within a period of six months from the date of such notification, failing which it shall be treated as non-compliant of Grant of Permission Agreement, and liable for punitive action.

11. Programme Content and Quality of Broadcast

11.1. The Permission Holder shall also broadcast Public Interest Announcements as may be required by the Central Government/concerned State Government for maximum of one hour per day suitable/proportional time slots interspersed during that day shall be earmarked for this purpose. In case the total demand of Central Government and the State Government exceeds one hour per day, the concerned State Government shall be eligible for announcements covering only the period remaining after meeting the demand of the Central Government.

11.2. The Permission Holder shall follow the same Programme and Advertisement codes as followed by All India Radio as amended from time to time or any other applicable code, which may come into force.

11.3. The Permission Holder shall ensure that at least fifty percent (50%) of the programmes broadcast by it are produced in India.

11.4. The Permission Holder shall be exclusively liable for the content broadcasted and shall indemnify and keep the Grantor indemnified for any damage, loss or claim occasioned by the broadcast of any content by the Permission Holder.

11.5. The Permission Holder shall be generally guided by the objective of generating local and variegated or heterogeneous content and make available quality programmes with a localized flavour in terms of content and relevance.

12. Technical Parameters

12.1. The Permission Holder shall comply with the following technical parameters and standards both for transmission and audio quality of the service.

12.2. The transmission equipment including antenna are to conform to the following technical parameters:

Category	Basis (one or more of the following)	Effective Radiated Power (ERP) (kW)		Antenna Height (Metres)	
		Min.	Max.	Min.	Max.
A+	**Metro cities** **Delhi** **Mumbai,** **Kolkata, Chennai**	25	50	 75 75	 200 175
A	**Population above**	10	30	75	150

Category	Basis (one or more of the following)	Effective Radiated Power (ERP) (kW)		Antenna Height (Metres)	
		Min.	Max.	Min.	Max.
	20 lakhs -				
B	**Population above 10 lakhs and up to 20 Lakhs**	5	15	50	100
C	**Population above 3 lakhs and up to 10 lakhs** -	3	10	30	75
D	**Population above 1 lakh and up to 3 lakhs** -	1	3	20	40

Antenna Polarization – Circular

Stereophonic Transmission System – Pilot-tone

Pre-emphasis – 50 microseconds

Maximum Deviation - +/- 75 KHz

[**Note:** In cases where it may not be possible to remain within the prescribed limits of EHAAT due to topographical constraints or non-availability of a suitable Prasar Bharati tower meeting the prescribed values of EHAAT, the Permission Holder shall have to adjust the ERP of their transmitters so as to lay RF signal not exceeding that due to combination of maximum ERP and maximum EHAAT, as may be prescribed.]

12.3. The Permission Holder shall comply with the audio and transmission standards for FM sound broadcasting at each city conforming to the ITU-R (International Telecommunication Union) Recommendations viz: 450-1, 467, 646 and 644-1.

12.4. The Permission Holder shall also comply with the technical standards on data broadcasting on FM sub-carriers, whenever introduced, conforming to ITU-R Recommendations viz. 643-1 and BS-1194.

13. Monitoring and Public Complaints

13.1. The Permission Holder at its own cost shall provide an automatic logger for storage of the programmes broadcast for at least three months, whose access shall remain under the control of BECIL or its representative. In addition, the Permission Holder shall pay his share of monitoring charges, arrived at by equally apportioning Rs. 25,000 per month amongst all the permission holders for the city. This amount shall be paid to M/s BECIL in advance on quarterly basis, within one week of the beginning of each quarter.

13.2. The Permission Holder at its own cost shall preserve the recordings of broadcast material for a period of three months from the date of broadcast and produce the same to the Grantor or its authorized representative, as and when required, with reasonable expedition.

13.3. The Permission Holder shall submit all such information as may be required by the Grantor to dispose of complaints by public with respect to its broadcast.

13.4. The Permission Holder shall furnish any such information at periodic intervals as may be required by the Grantor concerning Programme Content and quality, Technical Parameters etc. relating to the broadcast in the format as may be prescribed by the Grantor from time to time.

14. <u>Inspection</u>

14.1. The Grantor or its authorized representative shall have the right to inspect the broadcasting facilities. The Grantor shall, in particular but not limited to, have the right to access to broadcast infrastructure namely studios, link equipment and system and transmitter complexes. No prior permission/ intimation shall be required to exercise the right of Grantor to carry out the inspection. The Permission Holder shall, if required by the Grantor or its authorized representative, provide necessary facilities for continuous monitoring for any particular aspect of the Permission Holder's activities and operations.

14.2. The Grantor will ordinarily carry out the inspection after reasonable notice except in circumstances where giving such a notice will defeat the very purpose of the inspection.

15. <u>Furnishing Information to the Grantor</u>

15.1 The Permission Holder shall furnish the operationalisation report duly authenticated by BECIL in the format given at **Annexure-9.1** to this agreement within a period of one month from the date of operationalisation.

15.2 The Permission Holder shall furnish to the Grantor, such documents, reports, accounts, estimates, returns or such other information and at such periodic intervals or at such times as the Grantor may require, in addition to an annual report of the Permission Holder that includes audited accounts, Profit & Loss Account, balance sheet, shareholding, Board of Directors and key executives of the company and the quarterly report to be furnished by the Permission Holder in the format given in **Annexure-9.2** to this Agreement for quarters ending 31st March, 30th June, 30th September and 31st December.

15.3 At the end of each financial year, the Permission Holder shall provide the statement of gross revenue forming part of the final accounts for the channel as per the format at **Annexure – 9.3**, duly certified by the Statutory Auditors. It may be noted that the income heads specified at **Annexure – 9.3** are only indicative and illustrative and the Auditor would include all the relevant heads qualifying for gross revenue whether or not specifically included in the said format. In addition, the income from the Related Parties shall have to tally with the Related Parties schedule as per Accounting Standards no. 18. Besides, the Permission Holder shall disclose the following information at the end of each financial year, duly certified by the Statutory Auditor:

1. Total trade and other discounts.
2. Total agency commission.
3. Total Related Party Transactions.

15.4 The Permission Holder shall annually submit a certificate of the Statutory Auditors for compliance of Clauses 7.2 to 7.4 above along with the audited accounts as per format at **Annexure – 9.4**.

16. Disputes with Other Parties

16.1 In the event of any dispute between the Permission Holder and any party other than the Grantor (including in relation to the Permission and/or Broadcasting services, etc) due to any reason whatsoever, it shall be the sole liability of the Permission Holder to resolve such dispute amicably or otherwise with the other party and the Grantor shall have no liability whatsoever in this regard. Further, the Permission Holder hereby undertakes to indemnify and keep the Grantor harmless in respect of any action, claim, suit, proceeding, damage or notice to/against the Grantor for any act of omission or commission on the part of the Permission Holder, its agents, employees, representatives or servants.

Provided that if any such third party dispute arises on account of non-observance or breach of any rules or regulations or any other terms and conditions by the Permission Holder as provided in this Permission Agreement, the Grantor shall have the right to take any action against the Permission Holder as provided herein.

17. Preparation Of Accounts

17.1 The Permission Holder shall furnish to the Grantor the accounting statements prepared in respect of every financial year or part thereof, an audited report stating therein the Auditor's report on the financial statements along with the annual report of the Permission Holder.

In this context, the "Auditor" shall refer to the Permission Holder's auditor for the time being appointed in accordance with the requirements of the Companies Act, 1956.

17.2 The Permission Holder shall maintain separate financial accounts for each Channel, which shall be audited by the Auditor.

17.3 So as to verify that the Gross Revenue is correctly disclosed to it, the Grantor shall have the right to get the accounts of the channel audited by CAG or any other professional auditors at their discretion. In case of difference between the financial results determined by the Auditor and the government appointed auditors, the views of the government appointed auditors, subject to opportunity of hearing to the Permission Holder, shall prevail to the extent of determining Gross Revenues of the channel and the expenses of such audit shall be borne by the Permission Holder.

18. Confidentiality

18.1. Subject to applicable laws, the Permission Holder hereby agrees that for the term of this Agreement (except with the prior written consent of the other Party):

(a) It shall not disclose details of this Agreement to any third party other than its employees, agents and/or advisers (only to the extent necessary in the usual course of business and/or as required by Applicable Law);

(b) It shall maintain confidentiality of all information exchanged between the Parties, including pricing information and other proprietary knowledge, and not to use such for the benefit of any third party.

19. Adherence to Eligibility Conditions

19.1. The Permission Holder shall continue to meet and satisfy the Eligibility Conditions as prescribed in the Tender Document during the whole term of this Agreement.

20. Prohibition on Networking

20.1. The Permission Holder shall not carry out networking of its Channels with any other channel.

20.2. Networking may be done by a Permission Holder in a C & D category city with its channel in another C or D category city within the same region.

21. Location of Studio:

21.1 Subject to provisions of Clause 20.2, the Permission Holder shall locate the studio within the city and there shall be an exclusive studio for the FM channel. However, the studio can be located outside Municipal/Corporation/City Development Authority area in case of Permissions for A+ and A Category cities. In case of Delhi, it would also include the National Capital Region. In case of other Metros and A category cities, it would include Metropolitan area as notified by the respective State Governments for the particular city.

22. Waiver:

22.1 Waiver by the Granter on default by the Permission Holder in the observance and performance of any provision of or obligations under this Agreement:

(a) shall not be deemed by mere inaction or delay in action on the part of the Grantor and shall not be effective unless it is in writing and executed by a competent officer of the Grantor;

(b) shall not operate or be construed as a waiver of any other or subsequent default hereof or of other provisions of or obligations under this Agreement; and

(c) shall not affect the validity or enforceability of this Agreement in any manner.

23. Miscellaneous

23.1 The Permission holder shall not use brand names or owners' names or corporate-group names to identify its Channel to gain commercial advantage over other Permission holders. The Permission Holder shall not use any existing names of companies, product or service, brand names as FM Station/ Channel identity.

23.2 The Tender Document, Letter of Intent and the orders/guidelines issued or to be issued from time to time by the **Grantor** or any Regulatory Authority for Broadcasting Services, and the Wireless Operational Licence to be issued by the Wireless Planning & Coordination Wing in the Department of Telecommunications, Ministry of Communication &IT, Government of India under

Section 4 of the Indian Telegraphs Act, 1885 as amended from time to time, shall form part and parcel of this Agreement.

23.3 Notwithstanding anything contained anywhere in this Agreement, the grant of Permission shall be subject to the condition that as and when any regulatory authority to regulate and monitor the Broadcast Services in the country is constituted, the Permission Holder shall also adhere to the norms, rules and regulations laid down by such authority or any Applicable Law to regulate and monitor the Broadcast Service in India. The Permission Holder shall also obtain and keep effective all environmental clearances, if any, and shall comply with requirements of the Electricity Act, Factories Act and other applicable Acts.

23.4 The Permission is for free to air broadcasts of audio on main carrier and data on sub carrier both excluding news and current affairs. However, in the event of the Permission Holder obtaining a license from the Department of Telecommunications for data broadcast, the Permission Holder shall seek, giving full details of the services proposed to be offered, prior permission of the Grantor, which may be granted subject to such conditions as in the opinion of the Grantor would not prejudice the broadcast service.

23.5 The Permission Holder shall take prior permission of the Grantor, before effecting any change in the Board of Directors.

23.6 The Permission Holder shall intimate the Grantor, the changes in Foreign Direct Investment in its company, within 15 days of such change, while ensuring its continued compliance with the eligibility conditions. Besides, the Permission Holder shall intimate the quantum of FDI/FII investments in the equity of Promoters and Majority shareholding companies of the Permission Holder company, as on 31st March every year, so as to arrive at the total foreign holding on pro-rata basis.

24. Force Majeure

24.1 If at any time, during the continuance of this Permission, the performance of any obligation either in whole or in part by any party is prevented or delayed, by reason of war, hostility, acts of enemy, civil commotion, sabotage, fire, flood, act of State, explosion, epidemic, quarantine restriction, strikes materially affecting the performance of any obligations of affected party, or act of God (all or any of these hereinafter referred to as "**Force Majeure Event**"), neither party shall, by reason of such Force Majeure Event be entitled to terminate this Permission, nor shall either party have any claim for damages against the other, in respect of such non-performance or delay in performance provided a notice of such happenings of any such Force Majeure Event is given by the affected party to the un-affected party within 21 days from the date of occurrence thereof. Provided further that services under this Permission shall be resumed as soon as practicable, after such Force Majeure Event comes to an end or ceases to exist. The decision of the Grantor as to whether the services may be so resumed or not, shall be final and conclusive.

24.2 If the broadcast of the Permission Holder remains discontinued due to such Force Majeure Event for more than two months, the parties shall meet together to discuss the future course of action.

24.3 The Grantor shall not be obliged to grant any rebate in the Annual Fee payable, on account of any Force Majeure Event referred to above, if the Grantor has decided to continue the broadcast and communicated the same in writing to the Permission Holder. Provided, however, the Grantor may in its sole discretion allow rebate in an appropriate case where the broadcast cannot be resumed, even after two months due to continuance of the Force Majeure Event.

25. Suspension, Revocation or Termination of permission for default:

25.1 For non-operationalisation of the awarded channel and discontinuance of broadcast

25.1.1. The Permission Holder shall operationalise the Channel within 18 months of the date of signing of this Agreement, excluding any extension under clause 3.3 above, failure to do so, the Permission will be revoked, and Permission Holder shall be debarred from allotment of another Channel in the same city for a period of five years from the date of such revocation. The frequency so released may be allotted to a fresh Successful Bidder.

25.1.2. The Grantor may also revoke the Permission if transmission from the Channel is discontinued for more than six months for whatever reason.

25.2 **For misuse of the channel and non-compliance with directives**

25.2.1 In the event of a Permission Holder letting its facilities 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 clause 9.1 above, the permission granted shall be revoked and the Permission Holder shall be disqualified to hold any such Permission in future, apart from liability for punishment under other applicable laws.

25.3 F**or violation of eligibility conditions or terms and conditions of the Permission**

25.3.1 Without prejudice to clause 23.2.1, in the event of the Permission Holder violating any of the terms and conditions of Permission or any other provisions of the FM Radio policy, the Grantor shall have the right to impose the following sanctions:

(a) For first violation, suspension of the Permission and prohibition of broadcast up to a period of 30 days.

(b) For second violation, suspension of the Permission and prohibition of broadcast up to a period of 90 days.

(c) For third violation, revocation of the Permission and prohibition of broadcast up to the remaining period of the Permission.

25.3.2. Failure/omission of the Permission Holder to comply with the sanctions imposed within the prescribed time, shall result in the revocation of Permission and prohibition to broadcast for the remaining period of the Permission and disqualification to hold any fresh Permission in future for a period of five years.

25.3.3. In the event of suspension of Permission as mentioned in Clause 9.1 or Clause 23.3.1 above, the Permission Holder will continue to discharge its obligations under this Agreement including the payment of annual fee.

25.3.4. In the event of failure of the Permission Holder to rectify the violation of the eligibility conditions within a reasonable period, the permission to the Permission Holder shall be revoked and the Permission holder will lose the One Time Non-Refundable Entry Fee.

25.3.5. In the event of revocation of Permission, the Permission holder will lose the One Time Non-Refundable Entry Fee. The Grantor shall not be responsible for any investment towards the operationalisation of the Channel, not limited to capital and operating expenditure, in case of imposition of any sanction referred above.

25.3.6. Any sanction or revocation mentioned above shall be imposed only after giving a written notice to the Permission holder identifying the violation, providing opportunity to rectify it, if its nature so permits or otherwise show cause, within a period of 15 days and non-satisfaction from such rectification and/or cause so shown shall render the Permission Holder liable for the proposed action.

25.4 **Termination for convenience**

25.4.1 The Permission Holder may surrender the Permission and terminate this Agreement, by giving an advance notice of one month to the Grantor as well as to all concerned/affected parties including the listeners of the service to this effect. The Permission Holder shall however, continue to observe all obligations, terms and conditions herein including the criteria for the quality of broadcast during the notice period and any failure to do so shall be regarded as breach of Permission conditions.

25.4.2 In case of surrender of Permission, the Grantor may (at its own discretion), in order to ensure the continuity of the Broadcast, take over the FM Radio Broadcast Channel of the Permission Holder or issue Permission to another eligible company for running the service. The Permission Holder shall be obligated to facilitate the transfer of Permission to the new Permission Holder or the Grantor, and of all assets as are essential and necessary for continuity of the service on payment of such compensation as may be mutually agreed.

26. Dispute Resolution and Jurisdiction

26.1 In the event of any question, dispute or differences arising under this Agreement or in connection thereof, except as to the matter, the decision of which is specifically provided hereunder, shall, subject to the Telecom Regulatory authority of India Act, 1997, be referred to sole arbitration by the Secretary, Department of Legal Affairs, Government of India or his nominee ("**Arbitrator**").

26.2 There shall 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 the Arbitrator, to whom the matter is originally referred to, being transferred or vacating his office, or being unable to act for any reason whatsoever, the Secretary, Department of Legal Affairs, Government of India shall appoint another person to act as the Arbitrator.

26.3 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 aforesaid. 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.

26.4 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.

IN WITNESS WHEREOF the parties hereto have executed this Agreement, the day, month and year as hereinabove mentioned.

Signed Executed and Delivered on behalf
of President of India
by ________

Signed Executed & Delivered on behalf
of ______________________________
holder of General Power of Attorney
dated _____ executed in accordance
with Board Resolution dated ______
by _____________________________.

ANNEXURE – 9.1

PROFORMA FOR THE OPERATIONALISATION REPORT TO BE SUBMITTED BY THE PERMISSION HOLDER

1. Name of the City :

2. Name and address of the Permission Holder :

3. Details on the status of the Permission Holder's FM Radio Broadcast facility:

Activity	Date (dd/mm/yy)
(i) Date of receipt of Letter of Intent from the Grantor	
(ii) Date of application filed with WPC for frequency allocation.	
(iii) Date of Application filed with WPC for SACFA clearance	
(iv) Date of receipt of frequency allocation	
(v) Date of receipt of SACFA clearance	
(vi) Date of signing agreement with Prasar Bharati.	
(vii) Date of signing agreement with BECIL	
(viii) Date of signing GOPA	
(ix) Date of issue of permission	

(x)	Date of completion of FM Radio Channel installation	
(xi)	Date of issue of Wireless Operational License by the WPC	
(xii)	Date of commissioning of broadcast by the Permission Holder	

4. Give the following particulars about the site of studio

(a) Area

(b) Coordinates

(c) Postal Address

(d) Whether free hold or lease

(e) In case of lease, give the period to lease

(f) Whether the site is within Municipal/Corporation/City Development Authority Limits?

5. Give the following details about the transmission equipment installed.

(a) Effective Radiated Power (ERP) of the transmitter:

(b) Effective Height of the Antenna above Average Terrain (EHAAT):

(c) Antenna Polarization

(d) Gain of the antenna.

(e) Type of Stereophonic Transmission System

(f) Pre-emphasis to be employed.

(g) Max deviation

6. Give the following details about the Studio Setup.

(a) Number and types of studios/booths.

(b) Brief Particulars of Mixing and Switching Systems.

(c) Brief Particulars about Recording/Playback equipment.

(d) Details of ST Link if used

7. Has the field strength/reception survey been carried out? Enclose a copy of the report.

8. Give the following details about the power supply connection obtained.

(a) Load

(b) Supply Voltage

(c) Whether 3 phase or single phase

9. Have the recommendations for Fire Fighting arrangements been obtained and adequate Fire Fighting equipment installed?

10. Are regulations concerning tower lighting being followed and necessary facilities for the same provided?

11. Whether necessary infra-structure for continuous recording and monitoring of broadcast material made by the Permission Holder as required by the Government to enable it to dispose off complaints by the public with respect to the broadcasts made by the Permission Holder?

12. Is the Permission Holder complying with the audio and transmission standards for FM sound broadcasting as stipulated in license conditions?

Name, Designation & Signatures
of the Authorized Signatory of the
Permission Holder.
Dated:……………

Authenticated by:

Name, Designation & Signatures
Of the Authorized Signatory of BECIL.
DatedL:……………..

ANNEXURE – 9.2

PROFORMA FOR THE QUARTERLY REPORT TO THE SUBMITTED BY THE PERMISSION HOLDER

(Report for the quarter ending ....)

PART – A (PROGRAMME CONTENT)

1. Name of the City.

2. Name and address of Permission Holder.

3. Hours and timings of broadcast.

4. Give the following details about the programmes that are to be/being broadcast.

   (a) Percentage of canned programme
   (b) Percentage of locally produced programme
   (c) In the case of locally produced programmes, indicate the types such as cultural, sports, etc.
   (d) Percentage of programmes made in India.
   (e) Percentage of programmes made outside India.
   (f) Public interest announcements broadcast, if any. Indicate their duration.

5. Is the Permission Holder carrying out any Data broadcasts? If so give its details.

6. Is the Permission Holder adhering to the conditions specified in the Grant of Permission Agreement in respect of programme content and quality of broadcast?

7. Indicate the percentage of time devoted to advertisements.

PART – B (PUBLIC COMPLAINTS)

1. Has the Permission Holder provided necessary infrastructure for continuous monitoring recording & preserving of all the broadcasts made by it?

2. Is the Permission Holder preserving the recordings of broadcast material for a period of 3 months from the date of broadcast as per the terms and conditions of permission?

3. Give the following details about the number and nature of complaints received during the period. (Specify the period).

   (a) Number of Complaints.
   (b) Nature of Complaints.
   (c) Number of Complaints disposed.
   (d) Number of Complaints pending.

4. Has there been any occasion where the Grantor has to come in the picture (during the period specified in 3) in disposing off the complaints? If so give the details.

PART – C (DETAILS OF EQUITY)

Amount (Rs. in lakhs) % age

(A)	**Authorized Capital:**			

(B)	**Issued and paid up Capital**		**Amount (Rs. In Lakhs)**	**As % of Authorised Capital**

(C)	**Classification of equity holding**		**Amount (Rs. In Lakhs)**	**As % of Paid Up Capital (B)**
(i)	**Total equity held by Indian Promoters / Majority Shareholders**			
(ii)	**Pro rata share of FDI in the promoters/ majority shareholding companies.**			
(iii)	**Indian Financial Institutions and Banks.**			

(iv)	**Other Indian Shareholders.**			

(v)	**Percentage of Majority Shareholders' equity to Total Paid Up Equity net of Banks and Financial Institutions Equity**			

(vi)	**Direct FDI holding (including OCB, PIO, NRI, etc.)Total Indian equity holding**			

(vii)	**Indirect FDI/FII (Pro rata share of FDI in Indian Promoters and or majority shareholders)**			

(viii)	**Foreign Institutional Investors/ Portfolio Investments.**			

(ix)	**Total Foreign Equity Holding** **[(viii) + (ix) + (x)]Annual Turnover (Data shall be attached – Tick for years attached).**			

Name, Designation & Signatures
of the Authorized Signatory of the
Permission Holder.
Dated:……………

ANNEXURE – 9.3

Statement of Gross Revenue forming part of the Final Accounts of M/s____

Sl. No.	INCOME HEADS	Tariff rate/ Rate card	Discounts		Agency commission	Taxes	Net as per P& L account
			Trade	Others			
		(Amount Rupees in lacs)					
1	Advertisement						
2	Promotional Events						
2.1	Musical/Star Events						
2.2	*Sponsored Programmes*						
3	Marketing Rights						
4	Commission						
5	Royalties						
6	Sale of recorded cassettes, cd etc						
7	Rent –Premises						
8	Rent-Equipment						
9	Interest/Dividend						

10	Related Party Transactions						
10.1	Goods Sold						
10.2	Services rendered						
10.3	Production						
10.4	Marketing						
10.5							
10.6							

Notes.

1. **The income heads are only indicative and illustrative and the Auditor would include all the relevant Heads of the FM Permission Holder.**

2. The income from the Related Parties shall tally with the Related Parties schedule as per accounting standards no 18.

[Auditors]

ANNEXURE – 9.4

Certificate of the Auditors of the FM Permission Holder

We have audited the Books of Accounts of --------------------- for the financial year ended March 31, 200- and certify that the

(1) M/s ………………, permission holder for operating FM radio services maintains separate financial accounts for each channel.

(2) All the transactions of providing or receiving goods and services from other companies owned or controlled by the owners of the permission holder, are valued at normal commercial rates and included in the books of accounts to arrive at the Gross Revenue.

(3) Permission holder have not outsourced through any long-term production or procurement, arrangements, more than fifty percent of its total content of which not more than twenty five percent of its total content was outsourced to a single content provider.

(4) Permission holder have not hired or leased more than fifty percent of the broadcast equipment on long term basis

(5) Permission holder have not entered into any borrowings or lending or other commercial arrangements with other permission holders or entities other than recognized Financial Institutions restricting its management or creative discretion to procure or broadcast content or exercise marketing rights.

[Auditors]