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Leena Jaisani
Sr. Director & Head – Media & Entertainment Division

August 12, 2013

Mr. Wasi Ahmad
Advisor (B&CS)
Telecom Regulatory Authority of India

Re: TRAI's consultation paper dated 30th July 2013 ("**CP"**)
Subject: FICCI's considered position on the CP

Dear Mr. Ahmad,

We would like to personally take this opportunity to thank you for working with the industry on such critical issues having wide ramifications for the sector. We understand that under your able leadership the TRAI is working with the Ministry of Information and Broadcasting in reviewing the extant FDI regime for the information and broadcasting sector and we would like to present FICCI's point of view on the subject;

A. FDI In Carriage services:

We believe that the TRAI has taken a diligent and rational stand in its draft proposal where it calls for parity on FDI rules between broadcasting carriage services and telecommunication services. We agree with the Authority's views on the subject. However we believe that increasing FDI caps alone shall not resolve the issue of investments in carriage services. In order to attract serious players to invest in to carriage and to ensure that such players have a serious stake in content as well, it is imperative that vertical integration restrictions be done away with forthwith. FICCI has already submitted an exemplary analysis on why Vertical Restrictions ought to be removed at the earliest to facilitate investments and how such restrictions do not impact competition or plurality discourses in this country that is characterized by numerous distributors and content providers which is unprecedented in the world.[1]

[1] FICCI's submissions dated 25th April 2013 on TRAI's Consultation Paper dated Feb 15, 2013, on Issues relating to Media Ownership

B. FDI In Content Services:

FICCI has been conducting internal meetings amongst various stakeholders in the Indian Media & Entertainment space. These recent industry deliberations have clearly revealed that the overwhelming majority of the media Industry is in support of FDI in News and current affairs channels to be raised to at least 49 percent. It is the considered view of the industry that the present cap of 26 percent dis-incentivises prospective investors from infusing funds or from imbibing international expertise or from inculcating best practices in the investing entity - as such investors do not find it economically and financially beneficial. It is for this reason that hardly any Electronic News Company has been able to fully utilize its existing FDI quota of 26 percent as it just does not make good business sense for an investor whose cost of capital has been ever escalating**.**

Further, it is in this context that the Telecom Regulatory of Authority of India's recommendation of 2008, found that there was no reason why FDI cap for the electronic news sector should not be increased from 26 per cent to 49 per cent:

> *"The Uplinking guidelines also prescribe a number of terms and conditions for news & current affairs channels regarding employment of resident Indians in key positions (CEO of the applicant company, 3/4th of the Directors on the Board of Directors, all key Executives and Editorial staff), prescribing that the largest Indian shareholder should hold at least 51% of the total equity, reporting requirements when any persons who is not a resident Indian is employed/ engaged etc. News & current affairs channels uplinked from abroad are not subjected to any foreign investment limits. An increase in foreign investment limit for news & current affairs channels will enable access to more resources for these channels. Moreover, an increase in the foreign investment limits to 49% will not result in management or editorial control getting transferred to foreign entities. The better way to ensure that subversive content is not broadcast through TV channels is by having proper content monitoring and regulation through content code, instead of using foreign investment limits as the tool for this purpose. However, in the first instance, the Authority recommends that the foreign investment limit for news & current affairs channels in the Uplinking guidelines may be increased from 26% to 49%.* [2]

The Sectoral Innovation Council of the Ministry of Information and Broadcasting under the aegis of Mr. Sam Pitroda and the chairmanship of Smt Asha Swaroop has also reiterated these recommendations and has urged an upward revision of FDI in Electronic News to at least 49 percent.

FICCI as India's leading industry voice shares common aspirations with the Government and the Authority namely - balanced and orderly development, inclusive growth and effective competition. We would like to

[2] *Para.3.10 of* **TRAI Recommendations of April 26th 2008**

take this opportunity to voice our whole hearted support in the latest review being undertaken by the Government for the following reasons;

1. The survival of Indian news channels in the long run has become a matter of serious concern. Today the Indian E News sector does not have the necessary wherewithal to even compete nationally and no Indian News channel has been able to set up an international bureau abroad.
2. Further News channel are starved of funds that is adversely affecting their abilities to gather quality news material and honestly report, grow and develop quality journalistic best practices, attract quality talent, all of which are leading to evils like paid news and private treaties etc for which civil society and the citizens of this country are becoming increasingly alarmed and restive.
3. The sector today needs serious players to consider investing in E News in such a challenging environment. TRAI has repeatedly expressed its concern and cautioned against the entry of undesirable elements in the News Media sector.
4. Needless to say this will also ensure greater employment and increased income generation culminating in inclusive growth for the entire country.

Given the present situation that the Indian economy finds itself in, raising FDI limits to 49 percent in the E News sector would help inject the necessary growth enablers. However it is necessary that an "**automatic route"** be prescribed for the cap of 49 percent as otherwise there will be much avoided delays in investments in the E News space. Given the plethora of news channels already in place and the sheer variety of avenues available to Indians today to consume both Indian and International news, restrictions on investments in the E News space is uncalled for and anachronistic in today's times. Further, E News channels does not use scarce spectrum for delivery to the end consumers as it uses cable and satellite for this purpose.

FICCI recommends that the relaxation in FDI limits in E News sector should be along with the safe guards mentioned in the unlinking and down linking guidelines which was referred in *Para.3.10* of TRAI Recommendations of April 26th 2008 (*quoted in the page 2 of this document*) and also in para 17 of the consultation paper such as key management positions like Editor-in-Chief, MD-CEO, 3/4th Board positions, etc. to be held by resident Indians.

Concerns with regard to National Security are adequately addressed through existing approval mechanisms that have been put in place via the Ministry of Home Affairs and any fears of editorial control being ceded to foreign companies could be adequately addressed through appropriate guidelines that would ensure Indian citizens meeting requisite eligibility criteria (as may be provided for), being put at the helm of affairs. A list may also be drawn up in consultation with security agencies that would bar or prevent specific countries/investors from investing in the E News sector from the point of view of national security.

C. FDI In FM Radio:

FICCI strongly endorses the suggestion of TRAI with respect to 49% FDI in FM broadcast radio, whether news or general entertainment. Considering the high investment requirement of the FM category in the years ahead, we feel increasing the FDI limit to 49% is a key requirement of the industry. We also feel that since there really are no national security implications, the FDI can be routed via the **"automatic route"**.

In conclusion we trust that these views shall be found useful by your kindself. Once again allow us to express our heartfelt appreciation on this timely interaction between the Industry and the Authority. We are fully convinced, that under your able leadership the M&E sector shall be able to steer itself through this paradigm shift and earn its rightful place in the socio economic narrative of this country.

We wish to put on record that the entire industry is supportive of all your endeavours of taking the sector through its next stage of natural progression in this country's pursuit of becoming a 'soft superpower'.

Thanking you.

With Best Regards,

Leena Jaisani

(Leena Jaisani)