

Bharti's Response: Consultation Paper on FDI in Broadcasting

1. Whether the foreign investment limits need to be revised as proposed.

Bharti's Comments:

The foreign investment limits in the Broadcasting Sector should be revised and brought in conformity with the existing limits in the Telecom Sector for the following reasons:

- a) in view of the growing convergence of technologies
- b) to stimulate growth & expansion with fresh inflow of funds
- c) to harness the auxiliary benefits that flow with foreign capital viz. technology, know how, expertise etc.
- d) to promote rapid digitization of broadcasting & cable services through expansion of DTH, IPTV and HITS. So far, all effort for migration from the pre-dominantly analog system to digital format has been largely through voluntary efforts towards digitalization and introduction of limited Conditional Access System (CAS). Promotion of IPTV, DTH and HITS will further exert competitive pressure towards digitization.
- e) In its earlier recommendations TRAI has also consistently advocated that there should be parity with respect to limit of foreign investment between various service segments of Broadcasting to ensure level playing field.

2. Whether the proposed limits are acceptable for the reasons given in the reference or there are some other reasons? Any other reasons in favour of the proposed limits may please be elaborated.

Bharti's Comments:

We recommend that the foreign investments limits in Broadcasting Sector should be brought at par with Telecom Sector.

3. If the proposed limits are not acceptable then the reasons for non-acceptance may be given. In such a case, the comments should also indicate the appropriate foreign investment limits.

Bharti's Comments:

Refer Comments to Questions (1 & 2) above.

4. **Whether the foreign investment limits could be revised to some other level with sub limits for FDI and FII within these limits.**

Bharti's Comments:

We do not think it is necessary to impose sub-limits on individual components of foreign investment viz. FDI, FII etc within the permitted foreign investment ceiling. The composite ceiling/limit of foreign investment should be prescribed by the Ministry and it may be left to the discretion of the Service Provider to decide the mode of availing or exhausting the limit.

5. **Whether the foreign investments should be permitted through the automatic route or should there be a sub limit beyond which foreign investments would need FIPB approval?**

Bharti's Comments:

We recommend that the existing policy in Telecom may be adopted for the Broadcasting Sector.

6. **Whether it will be more reasonable to classify the different segments of broadcasting sector in terms of carriage services (such as Cable Services, Headend In The Sky (HITS), DTH, Teleport etc.) and content services (such as Private FM radio, Television Broadcasting etc.) for the purposes of laying down foreign investment limits (FDI limits, FII limits and composite foreign investment limits). Such a classification would enable liberal foreign investment limits for one category and more conservative limits for the other category of services.**

Bharti's Comments:

In our opinion, classification of Broadcasting Sector into Content Services and Carriage Services for fixing different foreign investment limits is not required. There should be parity between content service and carriage service within the broadcasting sector except *News Content Service* which is a sensitive area in view of national security and thus a conservative foreign investment limit is tenable.

7. **The convergence of technologies in telecom and broadcasting sectors has made it possible to provide many broadcasting services (such as mobile television services, IPTV services) using telecom networks as well as broadcasting networks. Whether the foreign investment limits for such segments of**

broadcasting sector should be brought in line with the foreign investment limits for Telecom operators.

Bharti's Comments:

In the wake of growing convergence of technologies, many services can today be offered using different technologies & infrastructure. We therefore endorse the view that the foreign investment limits for the Broadcasting Sector should be aligned with that for Telecom Sector to maintain a level playing field.

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- 8. Whether the methodology for calculation of foreign investments in different segments of broadcasting sector should be standardized. If so, the comments may specifically suggest the appropriate method for calculations in this regard. While doing so, the methodology referred to in paras 4.10 and 4.11 may also be appropriately commented upon.**

Bharti's Comments:

It is desirable to standardize the methodology for calculation of foreign investments in the broadcasting sector. We recommend that the methodology for calculation of foreign investments in Telecom [*Press Note 5 (2005 series) read with Press Note 3 (2007 Series)*] may be adopted for Broadcasting Sector in the interests of uniformity and in view of the prior application & experience. The following issues however merit consideration:

- a. The meaning of *Investment Company* and the minimum shareholding requirement for such company for the purpose of calculation of FDI should be elaborated. It is recommended that the retail investors (*viz. the investor holding < 5% shares*) should be kept out of the preview.
- b. In case of calculation of indirect holding, the foreign holding of any entity holding less than 5 % in the investing company, should not be counted.
- c. In case the shares of a Foreign Company are held by an Indian Company or a Resident Indian Citizen and that Foreign Company invests in the licensee company, the investment of such Foreign Company in the licensee company should not be considered as FDI and should be considered to be investment by Indian Company / Resident Indian Citizen.
- d. Shareholding by banks (including private sector banks) unless the holding exceeds 5% should be considered Indian only.

- e. Any non-strategic investment by a foreign financial investor (under the portfolio investment scheme or FII investments) in the holding company should not be counted as indirect foreign investment.
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- 9. Whether the foreign investment limits should be raised to 100% so as to permit companies incorporated in India but with 100% foreign holding to provide broadcasting services in the country with appropriate monitoring mechanism in place coupled with content regulation through programme and advertising codes. Reasons in support of the comments may be given.**

Bharti's Comments:

We feel that in the long run all artificial barriers in terms of FDI restriction can be removed both for Telecom and Broadcasting sectors. However, in the short run, it may not be practical in view of the sensitivities pertaining to national security etc. Therefore presently, the foreign investment may be restricted to 74% in the Broadcasting Sector as is applicable in Telecom. It is imperative that in view of the growing convergence of technologies, the limits for foreign investment in both Telecom and Broadcasting Sector are kept at par.
