

No.14/3/2004-Press
MINISTRY OF INFORMATION & BROADCASTING

GUIDELINES FOR

- (i) PUBLICATION OF NEWSPAPERS AND PERIODICALS DEALING WITH NEWS AND CURRENT AFFAIRS.**
- (ii) PUBLICATION OF FACSIMILE EDITIONS OF FOREIGN NEWSPAPERS.**

New Delhi,
Dated 31st March, 2006.

PREAMBLE

In supersession of the previous guidelines issued by this Ministry dated 13th July 2005, the Union Government have decided to allow, with immediate effect:

- (i) Foreign Direct Investment (which includes foreign direct investments by NRIs, PIOs) and portfolio investments by recognized FIIs, together up to a ceiling of 26% of paid up equity capital, in Indian entities publishing newspapers and periodicals dealing with news and current affairs. Such investment would be permissible by foreign entities having sound credentials and international standing, subject to certain conditions.
- (ii) Facsimile editions, in whole or in part(s), of foreign newspapers, by Indian entities, with or without foreign investment, and also by foreign companies owning the original newspaper, provided they get incorporated and registered in India under the Companies Act, 1956.

The following guidelines are hereby prescribed:

1. Application

- (i) Nine copies of the prescribed application form, duly filled in, along with the requisite documents shall be submitted to the Ministry of I&B.
- (ii) Application fee of Rs.5000/- will have to be submitted through demand draft made in favour of Pay & Accounts Officer, Ministry of Information and Broadcasting, payable at New Delhi.

2. Title of the Publication

Title verification shall continue to be done by the Press Registrar as per existing procedure, including for facsimile editions.

3. Eligibility Criteria

A. Foreign Investment in Indian entities publishing newspapers and periodicals dealing with news and current affairs:

- (i) Foreign Investment will be allowed only where the resultant entity (hereinafter called “New Entity”) is a company registered with the Registrar of Companies under the provisions of the Companies Act, 1956.
- (ii) Foreign Investment including FDI by foreign entities, NRIs, PIOs etc and portfolio investments by recognized FIIs, will be allowed up to a maximum of 26% of paid-up equity of the New Entity.
- (iii) Permission will be granted only in cases where equity held by the largest Indian shareholder is at least 51% of the paid up equity, excluding the equity held by Public Sector Banks and Public Financial Institutions as defined in Section 4A of the Companies Act, 1956, in the New Entity. The term largest Indian shareholder used in this clause will include any or a combination of the following:
 - (1) In the case of an individual shareholder,
 - a) The individual shareholder
 - b) A relative of the shareholder within the meaning of section 6 of the Companies Act, 1956
 - c) A company/group of companies in which the individual shareholder / HUF to which he belongs, has management and controlling interest
 - (2) In the case of an Indian company,
 - a) The Indian company
 - b) A group of Indian companies under the same management and ownership control.

Provided that in case of a combination of all or any of the entities mentioned in sub-clause (1) and (2) above, each of the parties shall have entered into a legally binding agreement to act as a single unit in managing the matters of the New Entity.

- (iv) While calculating the 26% foreign investment in the equity of the New Entity, the foreign holding component, if any, in the equity of the Indian shareholder companies of the New Entity will be duly reckoned on pro rata basis so as to arrive at the total foreign holding in the New Entity.
- (v) At least 50% of the foreign direct investment will have to be inducted by issue of fresh equity. The balance, viz. upto 50% of the foreign direct investment, may be inducted through transfer of existing equity.
- (vi) Permission would be conditional on at least 3/4th of the Directors on the Board of Directors of the New Entity and all key executives and editorial staff being resident Indians.

B. Facsimile Editions of foreign newspapers:

- (i) Any Indian entity, with or without foreign investment, desirous of publishing a facsimile edition of a foreign newspaper, or any foreign company owning the original foreign newspaper will be permitted to publish the facsimile edition of its newspaper, in whole or in part(s), provided
 - (a) It is incorporated and registered as a company with the Registrar of Companies under the provisions of the Companies Act, 1956.
 - (b) It has a commercial presence in India with its principal place of business in India.
 - (c) That at least 3/4th of the Directors on the Board of Directors of the New Entity and all key executives and editorial staff are resident Indians.
- (ii) Any entity publishing a facsimile edition of a foreign newspaper in India shall be subject to all the relevant laws and guidelines applicable to Indian newspapers and their publishers.

4. Basic Conditions/Obligations:

- (i) Subject to the ceiling prescribed, it will be obligatory on the part of the all Entities to inform Ministry of Information & Broadcasting about any alteration in the foreign shareholding pattern as on 31st March of every year and within 15 days of the end of the financial year.
- (ii) It will be obligatory on the part of the all entities to take prior permission from the Ministry of Information & Broadcasting before effecting any changes in the shareholding of the largest Indian shareholder indicated in clause 3A (iii) above.
- (iii) All entities shall inform Ministry of Information & Broadcasting within 15 days of effecting any change in the composition of its Board of Directors or key executives and editorial staff. Such a change would be subject to post-facto approval of the Ministry of Information & Broadcasting.
- (iv) All entities shall obtain prior clearance of the Ministry of Information & Broadcasting of any foreigners/NRIs proposed to be employed/engaged in the New Entity either as consultants (or in any other capacity) for more than 60 days in a year, or, as regular employees.
- (v) Facsimile editions shall be permitted subject to the following conditions:
 - a) The original foreign newspaper, whose facsimile edition is proposed to be brought out in India, is being published with the approval of the regulatory authority of the country of origin and is a standard publication in that country and is not specially designed for Indian readers.
 - b) The facsimile edition shall not carry any advertisements aimed at Indian readers in any form.
 - c) The facsimile edition shall not carry any locally generated content/India specific content, which is not simultaneously published in the original edition of foreign newspaper.

- d) Prior permission from Ministry of I&B is obtained for publication of facsimile editions and the title got registered with the Registrar of Newspapers for India (RNI).
- e) The publication shall clearly indicate that it is a facsimile edition, in whole or in part(s), and shall prominently carry the masthead, the editorial page and the place of publication of the original foreign newspaper.

5. Processing of Applications

- (i) All new applications for foreign investments in Indian entities publishing newspapers and periodicals dealing with news and current affairs and proposals for publishing of facsimile editions of foreign newspapers, shall be processed and decided upon in the Ministry of Information & Broadcasting on the basis of inter-ministerial consultation with the Ministry of Home Affairs and other ministries, as may be required.
- (ii) The applicant entity shall make full disclosure, at the time of application, of Shareholders' Agreements and Loan Agreements that are finalized or proposed to be entered into. Any subsequent change in these shall be disclosed to the Ministry of Information & Broadcasting within fifteen days of such a change.
- (iii) The applicant entity shall frame its Articles/Memorandum of Association to ensure compliance with the prescribed eligibility criteria.
- (iv) All entities shall obtain prior clearance from the Ministry of Information & Broadcasting of all persons not being resident Indians who are proposed to be inducted in the Board of Directors of the New Entity.
- (v) If the applicant company, which has obtained permission for limited foreign investment, proposes to raise the limit within the caps, from investors other than those for whom permission for foreign investment has been granted, it will have to apply in the prescribed Application Form.
- (vi) Applicant companies, which have been granted permission for limited foreign investment and which seek further foreign investment from the same investor within overall ceiling need not re-apply in the prescribed Application Form, provided they seek enhancement of their foreign investment within 5 (five) years of grant of initial permission and provided there is no change in the Board of Directors or terms of Agreement.
- (vii) Applicant Companies seeking further funding from the same investors after 5 (five) years from grant of previous permission would also need to apply in the prescribed Application Form.
- (viii) All applications for publishing facsimile editions shall clearly indicate whether the facsimile edition is to be published in whole or in part. In case only a part of the original foreign newspaper is proposed to be published, each page shall be treated as one part, and the exact page numbers of the original foreign newspaper to be published, shall be clearly indicated.

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