

PRIVATE FM RADIO- FREQUENTY ASKED QUESTIONS

Q.1 What is the necessity to launch Phase-III of private FM radio broadcast?

Ans. In the private FM Policy the focus shifted from Medium Wave (MW) to Frequency Modulated (FM) wave. It was planned to improve programme content, provide wider choice of programmes, improve broadcast quality, enhance technical features, renewal of old and obsolete equipment and addition of new facilities at radio stations.

FM Phase-I Policy was approved by the Government in July, 1999. The FM Phase-I Policy provided for selection of successful bidders through open option. The Phase-I policy met with the limited success. A total number of 21 channels are operational in 12 cities under this scheme.

The improved FM Phase-II Policy was notified in July, 2005 after considering the recommendations of Dr.Amit Mitra Committee and TRAI. FM Policy Phase-II has been well received by all stake holders. It has resulted in huge growth in FM radio industry. However, many cities still remained uncovered by the private FM radio broadcasting.

The grounds for further expansion of private FM radio broadcasting by bringing in the Phase-III Policy are as under:-

- (i) FM Phase-II Policy has been well accepted and has resulted in huge growth in FM radio industry, opening up new areas for creating employment.
- (ii) A huge unmet demand exists for FM radio in many cities which still remain uncovered by the private FM radio broadcasting, as only a limited number of cities with a population of three lakh and above besides State Capitals were taken up for bidding during the first two phases of FM radio broadcasting.
- (iii) Border areas, particularly in J&K, NE States and Island territories, are largely missing from the FM map. Even those places that were put up for auction could not find takers due to poor viability. A need is felt for promoting private FM radio in border areas with incentives to draw people to listen to Indian radio channels and to check cross border propaganda. Similar incentives are required for island territories.

- (iv) There are 97 vacant channels from Phase-II which could not be auctioned due to various reasons.
- (v) There is scope for further utilization of the frequency spectrum earmarked for FM broadcasting and generate additional revenue for the government.

Q.2 How many channels are available for e-auction in Phase-III FM Policy?

Ans. FM Phase-III Policy extends FM radio services to about 227 new cities, in addition to the present 86 cities, with a total of 839 new FM radio channels in 294 cities, Phase-III policy will result in coverage of all cities with a population of one lakh and above with private FM radio channels.

Q.3 What are the salient features of the approved policy for Phase-III?

Ans. Salient features of the approved policy for Phase-III are as under:-

- (i) Radio operators have been permitted carriage of news bulletins of All India Radio only in an unaltered form.
- (ii) Broadcast pertaining to the certain categories like information pertaining to sporting events, traffic and weather, coverage of cultural events, festivals, coverage of topics pertaining to examinations, results, admissions, career counseling, availability of employment opportunities, public announcements pertaining to civic amenities like electricity, water supply, natural calamities, health alerts etc. as provided by the local administration will be treated as non-news and current affairs broadcast and will therefore be permissible.
- (iii) Private operators have been allowed to own more than one channels but not more than 40% of the total channels in a city subject to a minimum of three different operators in the city.
- (iv) License fee will be determined as 4% of Gross Revenue (GR) or 2.5% of bid price for a city whichever is higher.
- (v) FDI+FIJ limit in a private FM radio broadcasting company has been increased from 20% to 26%.
- (vi) Networking of channels will be permissible within a private FM broadcaster's own network across the country instead of in 'C' and 'D' category cities only of a region allowed at present.
- (vii) A choice is proposed to be given to the private FM broadcasters to choose any agency other than BECIL for construction of CTI within a period of 3 months of issuance of LOI failing which BECIL will automatically become the system integrator and set up co-location facilities and CTI.

Q.4 What is the eligibility criteria for getting permission of FM radio channel?

Ans. Only companies registered under the Company's Act, 1956 are eligible for bidding and obtaining permission for FM radio channels. However, following types of companies are not eligible to apply:-

- (a) Companies not incorporated in India.
- (b) Any company controlled by a person convicted of an offence involving moral turpitude or money laundering/drug trafficking, terrorist activities or declared as insolvent or applied for being declared insolvent;
- (c) A company which is an associate of or controlled by a Trust, Society or Non Profit Organization;
- (d) A company controlled by or associated with a religious body;
- (e) A company controlled by or associated with a political body;
- (f) Any company which is functioning as an advertising agency or is an associate of an advertising agency or is controlled by an advertising agency or person associated with an advertising agency;
- (g) Subsidiary company of any applicant in the same City;
- (h) Holding company of any applicant in the same City;
- (i) Companies with the Same Management as that of an applicant in the same City;
- (j) More than one Inter-Connected Undertaking in the same City;
- (k) A company that has been debarred from taking part in the bidding process or its holding company or subsidiary or a company with the same management or an interconnected undertaking ;
- (l) The defaulters of conditions under Phase-I & Phase-II, who have contested the revocation of their Letters of Intent/License Agreements/ Bank Guarantees, thereby continue to be debarred from participating in any future bidding process.

Q.5 What are the financial competency to apply for grant of FM radio channels?

Ans. The financial eligibility of each applicant company shall be assessed on the basis of the following criteria:-

Minimum Net Worth required as per City Category in each region:

D category Cities and cities with population upto 1 lakh	:	Rs. 50 Lakhs.
C category Cities	:	Rs. 1 Crore.
B category Cities	:	Rs. 2 Crore.

A category Cities : Rs. 3 Crore.
A+ category Cities : Rs. 3 Crore.
All categories of Cities in all regions : Rs. 10 Crore.

Q.6 What is the period of permission under Phase-III guidelines of private FM radio?

Ans. Subject to certain conditions, the permission shall be valid for a period of fifteen (15) years from the date of operationalisation of the Channel or the expiry of the time limit for operationalisation, whichever is earlier, unless the time limit for operationalisation has been extended by the Secretary, Ministry of Information & Broadcasting in which case the effective date of the Permission Period shall be the last date so fixed.

The permission shall be for free to air broadcasts on main carrier and data on sub-carriers.

There shall be no extension and the Permission, unless cancelled or revoked earlier, shall automatically lapse and expire at the end of the aforesaid fifteen 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. Government at the appropriate time shall determine procedure for issue of fresh permissions

Q.7 What is the procedure to obtain permission for setting up of FM radio station?

Ans. Permission for the channels shall be granted on the basis of Non-Refundable One-Time Entry Fees (NOTEF) i.e **Successful Bid Amount** arrived at through an ascending e-auction process, on the lines followed by Department of Telecommunications in the auction of 3G and BWA spectrum, *mutatis-mutandis*, as per the details to be notified separately. The e-auction for the channels to be taken up in Phase-III will be held in batches. Auction shall be conducted by an independent expert agency to be appointed by the Government of India. The Ministry of I&B would separately issue a detailed Information Memorandum, in due course, enabling the prospective bidders to participate, and also indicating the cities to be taken up in each batch and their respective reserve prices. The Ministry of I&B will also issue a Notice Inviting Applications (NIA) for participation in the Auction(s) (Notice). The provisions set out in the Notice (or any other applicable laws, regulations or other statutory provisions) are definitive and take precedence.

The ascending e-auction process for granting permission for channels in each batch under Phase III shall consist of four Stages. The Stage-I shall be

invitation stage wherein prospective bidders submit their applications. Screening of applications, publication of ownership details and pre-qualification test will be done in Stage-II, called pre-qualification stage. Only applicants qualifying in accordance with prescribed eligibility criteria given in para 2 will be invited to the auction stage (Stage-III) for bidding for specific channels in different cities. The Stage-IV will be grant stage wherein payment of winning bid amount and issuance of Letter of Intent (LOI) subject to fulfillment of relevant conditions. It is clarified that the existing permission holders will also have to satisfy the prescribed eligibility criteria to become eligible for participating in the auction.

The auction shall be undertaken city-wise and the reserve price per channel for each city to be taken up in each batch will be set out upfront. Every pre-qualified bidder may bid for channel(s) in each city within the prescribed limit on ownership of channels for that city for each channel.

Q.8 How much will be the earnest money deposit and application processing fee?

Ans. Prospective bidders for a channel shall be required to deposit Earnest Money , along with the application for pre-qualification, in the form of a Bank Guarantee from a Scheduled Bank (as per the format specified by the Ministry) which shall be 25% of the reserve price of that city per channel. The requirement of EMD may vary depending on progress of bids. Final details with regard to requirement of EMD and the determination of eligibility of a bidder on its basis shall be specified in the Information Memorandum and NIA to be issued separately.

The applicant shall pay a non-refundable application processing fee of Rs. 25,000/- payable to Pay and Accounts, Ministry of Information and Broadcasting, New Delhi, through a demand draft.

Q.9 How will be the reserve price fixed under Phase-III Policy?

Ans. The Reserve Price for new channels in existing FM Phase-II cities shall be the Highest bid price received for that city in Phase-II. In cities which are being taken up afresh, the reserve price shall be the Highest Bid price received during FM Phase-II for that category of cities in that region. In case the benchmark from Phase-II for a particular region is not available, then the lowest of the Highest bid received in other regions for that category of cities may be taken as the reserve price. For new cities in border areas with a population less than One lakh the reserve price shall be Rs five lakh.

Q.10 What are the payment methodology for the purpose of FM Phase-III Policy?

Ans. Successful Bidders shall deposit 25% of the Successful Bid Amount as Bid Deposit within 5 calendar days of the close of the Auction, failing which the Earnest Money Deposit shall stand forfeited.

Successful Bidders shall deposit the balance amount (Successful Bid Amount less Bid Deposit) within 15 calendar days of the close of the Auction, failing which its Earnest Money Deposit and its Bid Deposit shall stand forfeited.

Q.11 What is SACFA clearance and frequency allocation?

Ans. “**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.

“**Frequency Allocation**” 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 Wireless Planning & Co-ordination wing of Department of Telecommunication, Ministry of Communications &IT, Government of India.

Q.12 What is the penalty for not compliance with the eligibility conditions?

Ans. 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, 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.

Q.13 What is the time frame fixed for various activities?

S.No.	Activity	Period of completion from issue of LOI				Remarks
		For cities where vacant channel of Ph-II or additional channel in city of Ph-II, where CTI had been created (Ref.Para 5.1.1)	For cities (other than those covered under Para 5.1.1) where P.B.LTI is available (Ref.Para 5.1.2)	For cities other than those covered under Para 5.1.1 & 5.1.2) where suitable LTI other than P.B. is	For cities where no suitable LTI is readily available [Ref. Para 5.1.3(ii)]	

				available [Ref.Para 5.1.3(i)]		
1.	Signing of agreement and making payment to LTI provider	60 days	90 days	120 days	150 days	
2.	Appointment of mutually agreed CTI creator, signing of agreement and making payment	90 days	90 days (x) (120 days) (+)	90 days (x) (120 days) (+)	90 days (x) (120 days) (+)	(x) & (+) Please refer to N.B. below
3.	Signing of GOPA with M/o I&B	6 months	6 months	9 months	10 months	
4.	Creation of CTI	12 months	12 months	18 months	24 months	
5.	Operationalisation of FM Channel	12 months	18 months	18 months	24 months	
(x)N.B. In case the LOI holders of a city do not mutually agree upon appointment of a CTI integrator, enter into agreement and make payment of their share of CTI to the integrator within a period of 90 days of issue of LOI, then BECIL will automatically be mandated to be their CTI integrator and periods as indicated vide (+) will be applicable for entering into agreement with BECIL and making necessary payments of the share of each LOI holder for creations of CTI to BECIL.						

Q.14 What is the annual fee for permission holders?

Ans. The Permission Holder shall be liable to pay an Annual Fee to the Government of India every year charged @ 4% of Gross Revenue of its FM radio channel for the financial year or @ 2.5% of NOTEF for the concerned city, whichever is higher.

The permission holders in the States of North East (i.e. Arunachal Pradesh, Assam, Meghalaya, Manipur, Mizoram, Nagaland, Sikkim and Tripura,) and Jammu & Kashmir (J&K) and island territories (i.e Andaman and Nicobar islands and Lakshadweep) will be required to pay an Annual Fee to the Government of India charged @ 2% of Gross Revenue for each year or 1.25% of NOTEF for the concerned city, whichever is higher, for an initial period of three years from the date from which the annual license fee becomes payable and the permission period of 15 years begins. The revised fee structure will also be applicable to existing operators in these States/UTs to enable them to effectively compete with the new operators. The three year period for the existing operators shall be reckoned from the first day of the commencement of the next quarter (refer para 6.3) subsequent to the date of issuance of these guidelines.

Annual Fee shall be paid in advance on quarterly basis in four equal instalments within the first fortnight of each quarter of a financial year. For this purpose, four quarters shall be trimonthly periods beginning 1st April, 1st July, 1st October and 1st January respectively.

Q.15 What are the restrictions on multiple permissions in a city?

Ans. Every applicant shall be allowed to run not more than 40% of the total channels in a city subject to a minimum of three different operators in the city and further subject to the provisions contained in para 8 of the policy guidelines of Phase-III. However in case the 40% figure is a decimal, it will be rounded off to the nearest whole number.

Q.16 What are the total number of frequencies and entity may hold?

Ans. No entity shall hold permission for more than 15% of all channels allotted in the country excluding channels located in Jammu and Kashmir, North Eastern States and island territories. Only citywise limits as mentioned in para 7 will apply to channels located in Jammu and Kashmir, North Eastern States and island territories.

Note (1) : The channels allotted to the following categories of companies would be reckoned together for the purpose of calculating the total channels allocated to an entity:

- (a) Subsidiary company of any applicant/ allottee;
- (b) Holding company of any applicant / allottee;
- (c) Companies with the Same Management as that of applicant/ allottee;
- (d) More than one Inter-Connected Undertaking with regard to the applicant/ allottee.

Note (2) : In respect of existing license/permission/LOI holders, the license(s)/permission(s)/ LOI(s) already held by them shall also be taken into consideration for calculating the 15% limit.

Q.17 What is the foreign investment limit?

Ans. The total direct and indirect foreign investment including portfolio and foreign direct investment into the company shall not exceed 26% at the time of application and during the currency of the license.

Q.18 Are the news and current affair programmes are allowed under FM Phase-III Policy?

Ans. The permission Holder will be permitted to carry the news bulletins of All India Radio in exactly same format (unaltered) on such terms and conditions as may be mutually agreed with Prasar Bharati, No other news and current affairs programs are permitted under the Policy (Phase-III).

The broadcast pertaining to the following categories will be treated as non-news and current affairs broadcast and will therefore be permissible:

- (a) Information pertaining to sporting events excluding live coverage. However live commentaries of sporting events of local nature may be permissible;
- (b) Information pertaining to Traffic and Weather;
- (c) Information pertaining to and coverage of cultural events, festivals;
- (d) Coverage of topics pertaining to examinations, results, admissions, career counseling;
- (e) Availability of employment opportunities;
- (f) Public announcements pertaining to civic amenities like electricity, water supply, natural calamities, health alerts etc. as provided by the local administration;
- (g) Such other categories not permitted at present, that may subsequently be specifically permitted by Ministry of Information and Broadcasting from time to time.

Q.19 What is the penalty for non-operationalisation of awarded channels?

Ans. Each permission holder shall operationalize the channel and ensure completion of the activities preceding thereto within the time limits prescribed in para 5 and para 18 of Phase-III guidelines, 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 may be allotted to the next highest bidder from the waiting list if available and valid or through subsequent bidding. The permission holder shall be liable to pay one year's annual fee. The government shall be well within its right to recover the same from the Performance Bank Guarantee already submitted. No claim will be admissible against the Non-refundable OTEF paid to the Government.

The Ministry of Information & Broadcasting may also revoke the permission if the channel is closed down either continuously or intermittently for more than 180 days in any continuous period of 365 days for whatever reason.

Q.20 Is networking allowed under Phase-III Policy?

Ans. An entity will be permitted to network its channels in its own network within the country. However it is also to be ensured that at least 20% of the total broadcast in a day (reckoned from 0000 Hrs to 2400 Hrs), is in the local language of that city and promotes local content. This may include the Radio Jockey speaking in local language(s)/dialect(s) or programmes focused on local culture/tradition/folk music etc. or other permissible programmes/advertisements in the local language(s)/dialect(s).

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

Q.21 Is surrender of permission allowed under the FM Phase-III Policy?

Ans. The Permission Holder may surrender the Permission by giving an advance notice of one month to the Government as well as to all concerned/affected parties including the listeners of the service to this effect. No claim will be admissible against the Non-refundable OTEF paid to the Government. The Permission Holder shall however, continue to observe all obligations, terms and conditions of permission 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.

In case of surrender of Permission, the Government 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 Government, and of all assets as are essential and necessary for continuity of the service on payment of such compensation as may be mutually agreed.

Q.22 When is Grant of Permission Agreement (GOPA) to be signed?

Ans. On complying with all the requisite conditions of eligibility, and furnishing a Performance Bank Guarantee (PBG), on the format specified by the Ministry for an amount equal to the annual fee as per para 6.1 (a) or (b) of the Phase-III policy guidelines as the case may be, for complying with all the terms and conditions contained in GOPA including the timely payment of due annual fee, 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 operationalize the channel within the prescribed period as mentioned in para 5.

Q.23 What are the main instructions about co-location transmission facilities?

Ans. It will be mandatory for all Phase-III operators to co-locate transmission facilities in all the cities, irrespective of the fact as to whether the infrastructure of Prasar Bharati is available or not.

In cities where it is a vacant channel of Phase-II or an additional channel is proposed and CTI has been created by BECIL, Co-location at the site already chosen and utilization of CTI already created by BECIL will be mandatory.

In other cities where Prasar Bharati Infrastructure is available , co-location shall be on such existing facilities of Prasar Bharati on terms and conditions to be prescribed separately, on the existing PB towers . The successful bidders will have a choice to form a consortium and set up required CTI for that city. They will mutually decide infrastructure sharing methodology, commercial revenue sharing mode, service level agreement and methodology for upkeep of such infrastructure.

If suitable infrastructure of Prasar Bharati is not available, successful bidders will have a choice to form a consortium and set up required land & tower infrastructure (LTI) and (CTI) for co-location of all transmitters identified for that city. They will mutually decide infrastructure sharing methodology, commercial revenue sharing mode, service level agreement and methodology for upkeep of such infrastructure.

Q.24 What are the special incentives for North-East Region, Jammu & Kashmir and Island Territories?

Ans.

- Private FM Radio broadcasters in North East (NE) Region and Jammu & Kashmir (J&K) and Island territories will be required to pay half the rate of annual license fee for an initial period of three years from the date from which the annual license fee becomes payable and the permission period of fifteen (15) years begins.
- The revised fee structure has also been made applicable for a period of three years, from the date of issuance of Guidelines, to the existing

operators in these States to enable them to effectively compete with the new operators.

- Prasar Bharati infrastructure would be made available at half the lease rentals for similar category cities in such areas.
- The limit on the ownership of Channels, at the national level, allocated to an entity has been retained at 15%. However, channels allotted in Jammu & Kashmir, North Eastern States and Island territories will be allowed over and above the 15% national limit to incentivize the bidding for channels in such areas.