

Government of India
Ministry of Communications & I.T.
Department of Telecommunications
20, Ashoka Road, New Delhi - 110001.

No. 815-66/2007-DS(Vol-II)(C)

Dated: 05.07.2007

To
 Captive VSAT Operators

Sub : Amendment in Captive VSAT license for incorporating Foreign Direct Investment (FDI) Guidelines issued vide DIPP Press Note No. 3(2007 series).

In pursuance of clause No. 6(ii) and 10 of Section-I of the Captive VSAT license agreement, inter alia reserving the right to modify at any time the terms and conditions of the License in the interest of the general public or for the proper conduct of telegraphs or on national security consideration, the LICENSOR hereby amends the following terms and conditions of the Captive VSAT license with immediate effect:

(a) For Clause 1.7(a) of Condition 1 of Section-IV of Part-II of the Captive VSAT License agreement (inserted vide amendment letter No. 815-66/98-LR(Vol-II)(C) dated 29.05.2006), the following clauses shall be substituted, namely :

“1.7(a) Foreign Direct Investment (FDI): The Licensee must be an Indian company, registered under the Indian Companies Act’1956. The Licensee shall ensure that the total foreign equity in the LICENSEE Company does not, at any time during the entire LICENSE PERIOD, exceed 74% of the total paid up equity subject to the following FDI norms:

- (i) Both direct and indirect foreign investment in the licensee company shall be counted for the purpose of FDI ceiling. Foreign Investment shall include investment by Foreign Institutional Investors (FIIs), Non-resident Indians (NRIs), Foreign Currency Convertible Bonds (FCCBs), American Depository Receipts (ADRs), Global Depository Receipts (GDRs) and convertible preference shares held by foreign entity. Indirect foreign investment shall mean foreign investment in the company/ companies holding shares of the licensee company and their holding company/companies or legal entity (such as mutual funds, trusts) on proportionate basis. Shares of the licensee company held by Indian public sector banks and Indian public sector financial institutions will be treated as ‘Indian holding’. In any case, the ‘Indian’ shareholding will not be less than 26 percent.
- (ii) FDI up to 49 percent will continue to be on the automatic route. FDI in the licensee company/Indian promoters/investment companies including their holding companies, shall require approval of the Foreign Investment Promotion Board (FIPB) if it has a bearing on the overall ceiling of 74 percent. While approving the investment proposals, FIPB shall take note that investment is not coming from countries of concern and/or unfriendly entities.
- (iii) The investment approval by FIPB shall envisage the conditionality that Company would adhere to licence Agreement.
- (iv) FDI shall be subject to laws of India and not the laws of the foreign country/countries.

1.7 (b) (i) The details of the equity holdings in the LICENSEE Company as disclosed by the LICENSEE company, are as follows:

Sl. No.	Name of Promoter/Partner	Indian/ Foreign	Equity %	Net Worth
1.				
2.				
3.				

(ii) Details of equity holding of the Promoter/Partner Indian Companies of the LICENSEE Company, as disclosed by the LICENSEE company, are as follows:

Sl. No.	Name of Promoter/Partner	Indian/ Foreign	Equity %	Net Worth
1.				
2.				
3.				

(iii) The LICENSEE shall declare the Indian & Foreign equity holding (both direct & indirect) in the LICENSEE company and submit unconditional compliance to the FDI norms and security conditions on 1st day of January and 1st day of July on six monthly basis to the LICENSOR. The compliance report should be certified by the Company Secretary or the Statutory Auditor of the LICENSEE Company.”

(b) The present Clause 1.7(b) of Condition 1 of Section-IV of Part-II of the Captive VSAT License agreement shall be renumbered as 1.7(c).

(c) After clause 1.9 of Condition 1 of Section-IV of Part-II of the Captive VSAT License agreement, the following clause shall be inserted, namely:

“1.10 Security Conditions:

- (i) The Chief Officer Incharge of technical network operations and the Chief Security Officer should be a resident Indian citizen.
- (ii) Details of infrastructure/network diagram (technical details of the network) could be provided on a need basis only to telecom equipment suppliers/manufacturers and the affiliate/parents of the licensee company. Clearance from the licensor (Department of Telecommunications, Government of India) would be required if such information is to be provided to anybody else.
- (iii) For security reasons, domestic traffic of such entities shall not be hauled/routed to any place outside India.
- (iv) The licensee company shall take adequate and timely measures to ensure that the information transacted through a network by the subscribers is secure and protected.
- (v) The officers/officials of the licensee companies dealing with the lawful interception of messages will be resident Indian citizens.
- (vi) The majority Directors on the Board of the company shall be Indian citizens.
- (vii) The positions of the Chairman, Managing Director, Chief Executive Officer (CEO) and/or Chief Financial Officer (CFO), if held by foreign nationals, would require to be security vetted by Ministry of Home Affairs (MHA). Security vetting shall be required periodically on yearly basis. In case something adverse is found during the security vetting, the direction of MHA shall be binding on the licensee.

- (viii) The Company shall not transfer the following to any person/place outside India:-
- (a) Any accounting information relating to subscriber (Note: it does not restrict a statutorily required disclosure of financial nature) ; and
 - (b) User information .
- (ix) The Company must provide traceable identity of their subscribers.
- (x) On request of the licensor or any other agency authorized by the licensor, the licensee should be able to provide the geographical location of any subscriber at a given point of time.
- (xi) The Remote Access (RA) to Network would be provided only to approved location(s) abroad through approved location(s) in India. The approval for location(s) would be given by the Licensor (DOT) in consultation with the Security Agencies (IB).
- (xii) Under no circumstances, should any RA to the suppliers/manufacturers and affiliate(s) be enabled to access Lawful Interception System(LIS), Lawful Interception Monitoring(LIM), Call contents of the traffic and any such sensitive sector/data, which the licensor may notify from time to time.
- (xiii) The licensee company is not allowed to use remote access facility for monitoring of content.
- (xiv) Suitable technical device should be made available at Indian end to the designated security agency/licensor in which a mirror image of the remote access information is available on line for monitoring purposes.
- (xv) Complete audit trail of the remote access activities pertaining to the network operated in India should be maintained for a period of six months and provided on request to the licensor or any other agency authorised by the licensor.
- (xvi) The licensee should ensure that necessary provision (hardware/software) is available in their equipment for doing the Lawful interception and monitoring from a centralized location.
- (xvii) The licensee should familiarize/train Vigilance Technical Monitoring (VTM)/security agency officers/officials in respect of relevant operations/features of their systems.
- (xviii) It shall be open to the licensor to restrict the Licensee Company from operating in any sensitive area from the National Security angle.
- (xix) In order to maintain the privacy of voice and data, monitoring shall only be upon authorization by the Union Home Secretary or Home Secretaries of the States/Union Territories.
- (xx) For monitoring traffic, the licensee company shall provide access of their network and other facilities as well as to books of accounts to the security agencies.
- (xxi) The aforesaid Conditions shall be applicable to all the licensees irrespective of the level of FDI.”

2. All other terms and conditions of the Captive VSAT License Agreement shall remain unchanged.

3. An unconditional compliance to the aforesaid conditions shall be submitted by the Licensee latest by 18.07.2007. Thereafter, compliance report shall be submitted in accordance with Clause No. 1.7(b)(iii).

(D Ram)
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