

**Government of India**  
**Ministry of Communications & IT**  
**Department of Telecommunications**  
**(Access Services Division)**  
**1203, Sanchar Bhavan, Ashok Road, New Delhi-110001.**

No.20-271/2010-AS-I (Pt-1)

Dec-03, 2013

To  
**All the CMTS Licensees Company.**


**Subject: Amendment of CMTS Licence Agreement issued prior to 2001 in Telecom Service Areas, regarding Foreign Direct Investment (FDI) – Caps and routes in Telecom sector.**

In pursuance of Condition 5.1, The LICENSOR hereby amends the following in the **CMTS Licence Agreement** issued prior to 2001 in Telecom Service Areas. This amendment is effective with immediate effect.


Existing affected clauses of CMTS	After Amendment
<p>2(viii). OWNERSHIP OF THE LICENCEE COMPANY  A The total composite foreign holding including but not limited to investments by Foreign Institutional Investors (FIIs), Non-resident Indians (NRIs), Foreign Currency Convertible Bonds (FCCBs), American Depository Receipts (ADRs), Global Depository Receipts (GDRs), convertible preference shares, proportionate foreign investment in Indian promoters/investment companies including their holding companies, etc., herein after referred as FDI, will not exceed 74 per cent. The 74 per cent foreign investment can be made directly or indirectly in the operating company or through a holding company and the remaining 26 per cent will be owned by resident Indian citizens or an Indian Company (i.e. foreign direct investment does not exceed 49 percent and the management is with the Indian owners). It is clarified that proportionate foreign component of such an Indian Company will also be counted towards the ceiling of 74%. However, foreign component in the total holding of Indian public sector banks and Indian public sector financial institutions will be treated as 'Indian' holding. The licensee will be required to disclose the status of such foreign holding and certify that the foreign investment is within the ceiling of 74% on a half yearly basis.</p>	<p>2(viii). OWNERSHIP OF THE LICENCEE COMPANY  A. FDI upto 100% with 49% under automatic route and beyond 49% through FIPB route subject to observance of licensing and security conditions by licensee as well as investors as notified by the DoT from time to time.  Both direct and indirect foreign investment in the Licensee Company shall be counted for the purpose of calculating total FDI.</p>
<p>C The Share Holder Agreements (SHA) shall specifically incorporate the condition that majority directors on the Board including Chairman, Managing Director and Chief Executive Officer (CEO) shall be resident Indian citizens and shall also envisage the conditions of adherence to Licence Agreement.</p>	<p>C. deleted</p>
<p>D 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.</p>	<p>D The licensee Company/ Indian Promoters/ Investment Companies including their holding companies shall comply relevant provisions of extant FDI policy of the Government. While approving the investment proposals, FIPB may take into accounts security concerns.</p>

OM  
3/12/13

<p><del>G (i) In order to ensure that at least one serious resident Indian promoter subscribes reasonable amount of the resident Indian shareholding, such resident Indian promoter shall hold at least 10 per cent equity of the licensee company.</del></p>	<p>G (i) deleted</p>
<p><del>G (ii) The Company shall acknowledge compliance with the licence agreement as a part of Memorandum of Association of the Company. Any violation of the licence agreement shall automatically lead to the company being unable to carry on its business in this regard. The duty to comply with the licence agreement shall also be made a part of Articles of Association.</del></p>	<p>G (ii) deleted</p>
<p><del>2(ix)(a) The conditions at para 1.A to 1.G above shall also be applicable to the existing companies operating telecom service(s), which had the FDI cap of 49%. The Indian &amp; Foreign equity holdings in the LICENSEE company as disclosed by the LICENSEE company on the date of signing of the LICENCE AGREEMENT, are as follows: INDIAN EQUITY..... FOREIGN EQUITY..... The LICENSEE shall declare the above information as on 1<sup>st</sup> January and 1<sup>st</sup> July by 7<sup>th</sup> January and 7<sup>th</sup> July respectively to LICENSOR. This is to be certified by the LICENSEE company's company secretary or statutory auditor.</del></p>	<p><b>2(ix)(a).</b> The LICENSEE shall declare compliance to licence and security condition and Indian equity and Foreign equity as on 1<sup>st</sup> January and 1<sup>st</sup> July by 7<sup>th</sup> January and 7<sup>th</sup> July respectively to LICENSOR. This is to be certified by the LICENSEE company's Company Secretary or statutory auditor.</p>
	<p><b>General Conditions:</b> <b>2(ix)(a).</b> <b>A. Foreign Direct Investment (FDI):</b> (ii) FDI shall be subject to laws of India and not the laws of the foreign country/countries.</p>
	<p><b>2(ix)(a).</b> <b>B. Security Conditions:</b> (i) The Chief Officer Incharge of technical network operations and the Chief Security Officer should be a resident Indian citizen.</p>
	<p>(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.</p>
	<p>(iii) For security reasons, domestic traffic of such entities as may be identified /specified by the licensor shall not be hauled/routed to any place outside India.</p>
	<p>(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.</p>
	<p>(v) The officers/officials of the licensee companies dealing with the lawful interception of messages will be resident Indian citizens.</p>
	<p>(vi) The majority Directors on the Board of the company shall be Indian citizens.</p>
	<p>(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</p>

  
 3/14/13


	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 (except for international roaming/billing) (Note: it does not restrict a statutorily required disclosure of financial nature); and
	(b) User information (except pertaining to foreign subscribers using Indian Operator's network while roaming).
	(ix) The Company must provide traceable identity of their subscribers. However, in case of providing service to roaming subscriber of foreign Companies, the Indian Company shall endeavour to obtain traceable identity of roaming subscribers from the foreign company as a part of its roaming agreement.
	(x) On request of the licensor or any other agency authorised by the licensor, the telecom service provider should be able to provide the geographical location of any subscriber (BTS location) 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) after satisfying itself about the appropriateness..
	(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 telecom service providers 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 telecom service providers should familiarize/train Telecom Enforcement, Resource and Monitoring (TERM)/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.

  
 3/14/13

	(xix) In order to maintain the privacy of voice and data, monitoring shall only be upon authorisation 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.

2. All other terms and conditions of the CMTS Licence Agreement issued in 2001 in Telecom Service Areas issued in 2001 or thereafter, including amendments and instructions issued from time to time shall remain unchanged.

3. Please acknowledge receipt.

  
511413  
**(R. K. Soni)**  
**Director (AS-I)**  
**For and on behalf of the President of India**  
**Ph.No.2303 6284**

Copy To:

1. Secretary, TRAI
2. Director (IT) may kindly arrange to upload this letter on the website of DoT.