



July 2010 issue

FDI will remain a magnet for many years - high growth and high returns being the lure

FDI limit may be hiked for DTH, FM Radio

The Telecom Regulatory Authority of India (Trai) recommended higher foreign direct investment (FDI) for carriage services in broadcasting.

It suggested capping overseas investment at 74%, up from 49%, for direct-to-home television operators, Internet protocol TV (IPTV), HITS (headend-in-the-sky) firms, mobile TV, teleports and large cable TV distribution firms.

For private FM radio and news channels, the limit has been capped at 26%, up from 20%. However, it has reduced limit for local cable operators from 49% to 26%.

INVESTMENT CAP

Recommendations made by the telecom regulator:

S. No.	Segment	Existing limit	Recommendations
1.	Teleport	49%	74%
2.	Direct-to-home	49%	74%
3.	Cable networks (multiple system operator at national or state level)	49%	74%
4.	Other MSOs	49%	Status quo
5.	Cable networks (local cable operators)	49%	26%
6.	FM radio	20%	26%
7.	Downlinking of TV channels	100%	Status quo
8.	Uplinking of TV news and current affairs channels	26%	Status quo
9.	Uplinking of TV non-news and current affairs channels	100%	Status quo
10.	Mobile TV	No policy	74%

Source: Trai

Highlights

- The Telecom Regulatory Authority of India (Trai) recommended higher foreign direct investment (FDI) for carriage services in broadcasting.
- Indian government has agreed to allow FDI in retail and defense sectors. Commerce and Industry ministry has announced that there would be calibrated FDI liberalization in defense and retail.
- The Prime Minister's Office (PMO) has pushed for allowing foreign airlines to pick up stakes in Indian carriers along with a significant say in their management.
- India and Canada could start negotiations on a free trade agreement for opening up markets in goods, investments and services by the end of this year
- Introduction of Controlled Foreign Corporation (CFC) regime in India. The intent is to prevent the avoidance or deferment of tax on income, by levying taxes in the hands of the parent company on the consolidated world income.
- The government is planning to remove the ban on foreign mining companies having several joint ventures to mine the same mineral in the country. This key policy revision — along with proposed changes in the law for time-bound approvals — is expected to spur investments.



Defense and Retail Sectors of India Going for FDI Liberalization

The Indian government announced that it would allow calibrated FDI openings in retail and defense. In its assurances to the US Inc over its concerns on infrastructure, investments restrictions and other FDI impediments, the government said the challenges would be addressed promptly, with a blueprint to be made ready for talks ahead of US President, Barrack Obama's visit to India in November. India's bid to bring in US investments is targeted at achieving double digit economic growth by 2012, an increase from an approximated over 8.5% in the current financial year.

Additionally, concerns over taxes and liberalization would be met by replicating the model in the mega power project infrastructure and others. Currently, 26 per cent FDI is allowed in the defense sector. India's initiatives like simplification and consolidation of the FDI policy would go a long way in improving business environment in India.

Groundwork done, FTA talks with Canada soon

India and Canada could start negotiations on a free trade agreement for opening up markets in goods, investments and services by the end of this year. The feasibility study by the joint study group appointed by the two governments is almost ready, and the two sides are expected to announce their intention to wrap up work and launch negotiations soon. Bilateral trade at present is so less, that once India and Canada look at each other seriously, there is potential to gain in most sectors. Following the duty reduction by Canada, opportunities for increased exports from India would be in apparels & textiles, carpets, articles of iron & steel, gems and jewellery and select electrical machinery, among others.. While India would directly gain in these sectors with elimination of duties if an FTA is launched, it could make in-roads in new areas too. Apart from goods, India is also expected to gain in the area of services. India is confident that an FTA with Canada is feasible as well as beneficial. "Since US is a large partner, there is no reason why Canada too can't become a major player.

JV hurdle for MNC miners to go

In a move that could increase foreign investment in India's mining sector from trickles to streams, the government is planning to remove the ban on foreign mining companies having several joint ventures to mine the same mineral in the country. This key policy revision — along with proposed changes in the law for time-bound approvals — is expected to spur investments by the likes of Rio Tinto, De Beers, BHP Billiton, Anglo American and Vale in minerals ranging from iron ore and bauxite to diamond and gold.

India's regulations allow 100% foreign direct investment (FDI) in mining through the automatic route, but foreign firms interested in joint ventures with domestic firms are required to give a declaration to the government that they do not have another JV in the country.

According to the Union mines ministry, "FDI in mining comes through the automatic route and there is no reason for holding back proposals for such declarations." Since smaller mining companies are located in different mineral-rich areas of the country, foreign miners face hurdles when it comes to expanding operations in India. To achieve a critical mass of mineral production, the mining firms need to simultaneously conduct prospecting and reconnaissance operations in different localities, and current policy impedes such initiatives.





Introduction of Controlled Foreign Corporation (CFC) regime in India

The intent is to prevent the avoidance or deferment of tax on income, by levying taxes in the hands of the parent company on the consolidated world income.

CFC legislation as prevailing in most countries, has a number of components. The rules generally have an ownership/control test, so that an entity will be treated as a Controlled Foreign Corporation only if a certain percentage of ownership/control is in the hands of the parent company or other residents of the parent country.

Once a CFC is identified, the rules set out the consequences of being treated as a CFC. Generally speaking, the consequence is to tax certain income of the CFC 'currently' in the hands of the parent company, as if the said income had been remitted to the parent company or was the income of the parent company, even though there is no actual remittance. In fact the income clearly remains in the legal ownership of the CFC abroad.

The revised discussion paper on The Direct Taxes Code released on 15th June, 2010 also contains discussion on CFC as under:

“As an anti-avoidance measure, in line with internationally accepted practices, it is also proposed to introduce Controlled Foreign Corporation provisions so as to provide that passive income earned by a foreign company which is controlled directly or indirectly by a resident in India, and where such income is not distributed to shareholders resulting in deferral of taxes, shall be deemed to have been distributed. Consequently, it would be taxable in India in the hands of resident shareholders as dividend received from the foreign company.”

PMO pushes for higher FDI in Airlines

The Prime Minister's Office (PMO) has pushed for allowing foreign airlines to pick up stakes in Indian carriers along with a significant say in their management. It has asked the civil aviation ministry to support Indian airline companies' plans for rapid fleet and route expansion with such a policy action. The PMO has specifically told the ministry in a recent letter to promptly include the proposal on the agenda of the group of ministers (GoM) on aviation. The move is expected to lead domestic airlines to adopt global best practices, besides opening new funding vistas at a time when air traffic growth has peaked. The PMO initiative also coincides with the improved liquidity position of many foreign airlines which went through a bad patch during the economic downturn of the last two years. Currently, FDI up to 49% is allowed in domestic aviation, but foreign airlines are barred from investing on the grounds of national pride and security. The proposal is to allow at least 26% FDI by foreign airlines, which would entail their presence on the airlines' boards. Sections of the government including the department of industrial policy and promotion, the nodal agency for FDI policy, have pitched for an even higher stake of 49%.

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