



News Update  
Technology, Media & Telecommunications

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## 100% Foreign Direct Investment in Telecommunications with increase in foreign investment caps in several other sectors

The Government of India has decided to further liberalise and increase foreign investment cap in some of the sectors including Telecommunications.

In terms of the extant regulations foreign direct investment in telecommunication services (namely basic and cellular, national and international long distance, internet services among others) is capped at 74% (with foreign investment up to 49% under automatic route and beyond 49% under approval process).

However, the Government of India has approved increase in foreign investment cap in telecommunication services to 100% (with foreign investment up to 49% under automatic route and beyond 49% under approval process). It is pertinent to note that foreign investment in some telecommunication services/ activities, such as Infrastructure provider providing dark fibre, right of way, duct space, tower (Category - I), is already capped at 100%. It is clarified that foreign investment beyond 49%, in telecommunication services, shall require prior approval of Foreign Investment Promotion Board.

The other sectors where foreign investment limits have been increased include Single Brand Retail trading, Petroleum and Natural Gas and Refining, Credit Information companies, defence production, asset reconstruction companies and Commodity Exchanges. The sectors with revised limits are mentioned below:

Sector	Existing	Proposed
Telecommunication services All telecom services including Telecom Infrastructure Providers Category-I, viz. Basic, Cellular, United Access Services, Unified license (Access services), Unified License, National/ International Long Distance, Commercial V-Sat, Public Mobile Radio Trunked Services (PMRTS), Global Mobile Personal Communications Services (GMPCS), All types of ISP licences, Voice Mail/Audiotex/UMS, Resale of IPLC, Mobile Number Portability services, Infrastructure Provider	74% [Up to 49% - Automatic 49% to 74% - FIPB Approval]	100% [Up to 49% - Automatic 49% to 100% - FIPB Approval]

Category-1 (providing dark fibre, right of way, duct space, tower) except Other Service Providers.		
Petroleum and Natural Gas and Refining	49% - Approval	49% - Automatic
Single Brand Retail trading	100% - Approval	100% [Upto 49% - Automatic 49% to 100% - FIPB Approval]
Commodity Exchanges	49% (26% FDI + 23% FII) Approval	49% - Automatic
Power Exchanges	49% (26% FDI + 23% FII) Approval	49% - Automatic
Stock Exchanges, Depositories, Corporation	49% (26% FDI + 23% FII) Approval	49% - Automatic
Asset Reconstruction companies	74% - Approval	100% [Up to 49% - Automatic 49% to 100% - FIPB Approval]
Credit Information companies	49% - Approval	74% - Automatic
Courier Services	100% - Approval	100% - automatic
Defence Production	26% - Approval	26% [Up to 26% Approval.  Above 26% on case to case basis]

The above revised foreign investment limits shall become applicable from the date of notification, which shall be separately issued by the Government of India.

It is also pertinent to note that India's telecom sector has received a cumulative foreign direct investment of INR 587.82 billion in the last 13 years (from April 2000 till May 2013), which comprises 7% of the total FDI inflows.

## **The Department of Telecommunication issues Unified License**

The Department of Telecommunications, Ministry of Communications & IT, Government of India (“DoT”) has issued new Unified License that will allow operators to offer telephone, Internet and related communications services under a single license. Until now, telecom operators were required to take separate licenses for provisioning of various services.

In terms of the Unified License, the foreign investment is capped as per the prevailing regulations (which as mentioned above are now capped at 100%). Further, no Licensees or its promoters can directly or indirectly have stake in another licensee having access spectrum in the same service area. The exception granted in the previous unified access service license regime will end on the expiry of service license and licensees should comply with this condition within one year of migrating to unified license. Furthermore, the licensee shall be permitted to provide IPTV services and shall not be permitted to provide broadcasting or DTH service under the Unified License.

The combined minimum net worth of the telecom licensee has been kept at INR 250 million. The entry fee has been capped at INR 150 million and the licensee fee shall be 8% of the annual gross revenue, provided that the license fee will be a minimum 10% of the entry fee of the respective service and service area from the second year of authorization. The telecom licensee shall also pay applicable spectrum related charges to the Department of Space (in case of any satellite based service).

It is pertinent to note that under the Unified License, the spectrum has been delinked from the license. The duration of the license is fixed at 20 years with one time renewal of 10 years.

The telecom licensee is permitted to enter into roaming agreements with other service providers irrespective of the spectrum band and the technology used. However, the roaming agreement will not entitle telecom licensee to acquire customers for services where they do not hold licenses in the spectrum band or they do not offer the service in its network.

Further, the telecom licensee can also enter into agreements with foreign telecom operators to provide roaming facility to its subscribers. The same will also apply for Internet telephony, Internet services and broadband services.

In terms of the Unified License, the telecom licensees shall have an option to appoint cable operators as franchisees to setup and operate rural telephone exchanges and manage last mile linkages for the same in rural areas. The telecom licensee can also provide Internet service by using the networks of authorized cable operators as a last mile link.

It is expected that the new Unified License will help in consolidation of the telecommunications sector and is in line with the National Telecom Policy, 2012. It is expected that the same will give clarity to telecom operators on various aspects inter-alia including encryption, computation of adjusted gross revenue, roaming issues among others.

## **The Department of Electronics and Information Technology announces National Cyber Security Policy 2013**

The Department of Electronics and Information Technology, Ministry of Communications & IT, Government of India has released the National Cyber Security Policy 2013 (“**Policy**”) to safeguard both physical and business assets of individuals/companies/ organisations in India. The vision of the Policy is, “to build a secure and resilient cyberspace for citizens, business and Government”.

The distinctive feature of the Policy is to create a mechanism to obtain information regarding information and communications technology infrastructure threats and to respond to it and solve it.

The Policy lays out 14 objectives, including the creation of a cyber ecosystem in India, providing fiscal benefits to businesses for adoption of standard security practices and processes, developing effective public private partnerships and collaborative engagements through technical and operational cooperation. Further, the policy plans to create a workforce of 5,00,000 professionals skilled in cyber security in the next five years through capacity building, skill development and training. The policy sets forth numerous action items for the Indian government, including:

1. Designating a national agency to coordinate all cyber security matters.
2. Encouraging all private and public organizations to designate a Chief Information Security Officer responsible for cyber security.

3. Strengthening the regulatory framework by developing a dynamic legal framework and its periodic review to address cyber security challenges arising out of technological developments in India in the areas of cloud computing, mobile computing and social media. This would ensure that the Indian Law are in line with the global developments.
4. Operating a National Critical Information Infrastructure Protection Center for the Protection and resilience of Critical Information infrastructure.
5. Promoting research and development in cyber security.
6. Enhancing global cooperation in combating cyber security threats.
7. Fostering education and training programs in cyber security.
8. Establishing public and private partnerships to determine best practices in cyber security.
9. Establishing a Centre of excellence where various studies in the realm of cryptology, cryptography, forensic and trusted systems could be undertaken and which accordingly would check the incidents like the very recent snooping case.