Ownership of any media has its own glamour and ideas of ‘power’ associated with it. But is it the same as or as easy as starting a new business? Sudeep Malhotra, a veteran of the satellite & cable television industry with over 25 years of industry experience under his belt, demystifies the process and takes a look at how to go about doing this!

Last month we looked at the important aspects of some of the choices you have to contend with while deciding on your channel plans; this month we take a look at what the Government demand of you to provide you permission to launch your channel.

Having taken the decisions outlined in the previous sections of this series of articles, you are now ready to sit down and fill in the forms of the actual application to the Information & Broadcasting Ministry. This will permit you to get a license to uplink your channel from India.

Of course you could decide that you do not want to uplink from India.

This could be due to one of several reasons such as:

a) You do not have funds in India but do have money in a foreign account which you would not want to bring into the country!

b) You have foreign investors who would not like to invest in a media company in India!
c) You or your investors do not want to subject the company to the tax laws in India!

d) You or your investors do not want to follow the laws of India governing ownership of television channels or of the media sector!

e) You wish to launch an adult channel which may be objected to by the Indian Government!!!

In that case of course you would still have to apply for a Downlink License from the same Ministry, and launch your channel from any other country of your choice.

Do note that a downlink license is necessary ONLY if you which the cable networks and DTH platforms to carry your channel to subscriber homes. In case you don’t seek carriage by these distribution platforms, but are happy to allow anyone to tune in and receive the channel, then the Indian license laws do not apply to you. Also of course you will not be able to get carriage in Hotels or public places; or be able to collect any subscription amounts from subscribers in India. You will also not be permitted to solicit for advertisements within the country unless the advertisers are paying you in foreign exchange; the collection and agency commissions of which will be subjected to the RBI rules on this issue, as well as to the tax laws of India.

So lets assume you wish to uplink from India. Lets now take a look at the steps in filling up the application forms for the I&B Ministry.

Keep in mind that the I&B Ministry is just the nodal ministry for the processing of these forms. the actual processing of the application, which is the most time consuming part is actually carried out by the Home Ministry. This is primarily for security clearance.

Copies of your application are sent to the Various Ministries and Agencies of the government obtaining the several clearances that are required for the clearance of the license.

(१) आप या आपके निवेदक भारत में कर कानून की विधि बनना नहीं चाहते हैं।
(२) आप या आपके निवेदक भारत के कानून का पाना नहीं करना चाहते, जो कि टेलीविजन चैनलों की या मीडिया क्षेत्र के व्यापक होने के निर्धारण का चाहते हैं।
(३) आपकी आप व्यक्तिगत चैनल नाम बनाना नहीं हैं जिससे हो सकता है कि भारत सरकार को आपसे होता है।

निचले स्तर यें उस परिषद में भी आपको उसी गतिविधि के दाउनलिक नामसेंस के लिए आवेदन करना होगा और अपने पत्रों के किसी अन्य देश में आप अपने चैनल को नाम देकर कर सकते हैं।

यह नोट करें कि दाउनलिक नामसेंस उसी हाल में ही किये जाएगे हैं। विशेष रूप से आर्थिक मामलों में अपने चैनलों का केंद्रीय नेटवर्क और टैलेंटिंग प्लाटफॉर्म को सहायता प्रदान करना चाहते हैं। यदि आप इस वित्त नेटवर्कों द्वारा क्रिएशन करना नहीं करते हैं और उन्हीं को भी अपने चैनल को टूर्न व विश्ववाणिज्य करने देते हैं,

भारतीय कानून आप मानता है। हां किसी बात के लिए आप निश्चित फॉर्म देखने के लिए देखने के लिए हर कर पर ध्यान देते हैं।

इस तरह मान लें कि आप भारत में आपकी बात करना चाहते हैं। आईपी आई एंड वी मांगले के लिए आवेदन करने के लिए हर कर पर ध्यान दें।

इस बात को ध्यान में रख लें कि उन पत्रों की प्रबंधन के लिए आईएन एवं वी एक मंत्रालय है, आवेदन की वातावरण प्रबंधन बनाए। यह मंत्रालय छाए जाता है जिसमें सबसे अधिक समय लगता है। यह मंत्रालय में सरकारी मामले के लिए है।

कई सरकारी अनुमतियों को पाने के लिए आपको आवेदन की कार्रवाई की विच्छेद मंत्रालय व ओपरेशन्स को भेजा जाएगा जिसकी जमानत नामसेंस की अनुमति के लिए होता है।
Some of these are:

1) The Finance Ministry - for Tax clearance, to ensure that the company applying for the licence is liquid, has no bad debts or disputes on payment of taxes etc., to check if they have been filing their Tax returns every year; as well as to ensure and verify that the nett worth of the company as mentioned in the application is as mentioned by them in their tax returns also. The Ministry will also verify the financial antecedents of each of the Directors on the Board of the company for the same reasons.

2) The Registrar of Companies or the Stock Exchange where the company is listed: to verify that the Company has been filing returns regularly for the past years and that the details mentioned in terms of its Board, activities etc are as per the records of the RoC.

3) The Home Ministry - to verify and check that none of the members of the Board of Directors of the Company, or any of its key employees listed in the Application have any criminal cases pending against them or have in the past been indicted in any criminal case; or even had cases filed against them with criminal or financial implications. The Ministry will also send a copy to the National Security Agency, who will check the details provided by you, including office addresses & ownership, home address & ownership, employment details etc. They may or may not directly contact you for this.

You are required to provide copies of the following documents / Agreements, along with your application:

1. Your Memorandum & Articles of Association. Remember that only a Registered Company can apply for a licence.
2. The Shareholding pattern of the company. In
case a substantial number of shares in the company are held by another company/companies, then the shareholding pattern and major shareholders of these other companies is also required to be provided – and so on until the ultimate beneficiaries of the shares is identified.

3. Foreign Equity holdings in the company is any and the approvals from FIPB for the same.

4. Your agreement with the Satellite Operator allocating bandwidth for your channel along with a copy of the footprint of the Satellite.

5. Your agreement for playout / teleport services for uplinking of the channel. In some cases the teleport operator may also be the same as the company providing satellite capacity. Teleports in India are known to book transponders on Indian satellites and sub-hire or rent them on an annual fee basis to their clients for a profit. This does make the task of a new entrant to the industry that much easier, though one has to watch out for the fine print in some of the agreements.

6. Audited Balance Sheet and P&L for the immediately preceding year of the company and Assessment orders if any.

7. A Certificate from your Chartered Accountant confirming the Net Worth of the company. Do note that this also has to be provided in a format as provided in the Application, else is likely to be rejected.

8. Your Project Report to enable them to evaluate the financials of the Project.

9. An Affidavit / Undertaking on a Rs.20/- stamp paper, promising that in case you are
granted the licence, you will agree to abide by the Programme and Advertising Codes as per the Cable Television Regulation Act of India.

10. If you are launching a News Channel, then an additional Affidavit is required confirming that you would abide by all the rules as applicable to News channels in India.

11. An Affidavit that if you are an Entertainment channel, you will not carry any news or current affairs based programmes.

Having done these affidavits and declarations, you are now ready to fill out the form and submit 5 copies of the same. Though we would advise that you submit 7 (seven) copies of the same.

In addition, take printouts and keep an additional 5 copies of the forms and attachments with you. In the course of the process after submission of the application, you may get a letter asking you to submit additional copies. In fact, each time that you would contact the department and ask for progress of your case, the department in the past has been notorious in asking you for additional details on any of the items mentioned in the application; or worse, asking for additional sets of the application made.

The forms themselves are fairly simple and straightforward to fill out. The only drawback is that these are provided as pdf files on their website, which need to be printed out and hand-filled. Unless of course you have the required software which enables you to fill in the forms directly into an existing pdf file.

Alternately you could re-create the forms in word format for easy filling.

Then, submit the set of forms and attachments .... And sit back and wait for the I&B and the other Ministries involved, to take their time and judge whether you are eligible to receive a licence. This could take anywhere from 6 months to two years depending on the political situation and the policies of the current government.... And how much influence you can wield in the corridors of New Delhi.

In the next article we shall look at what to do after you have received the Licence....