

FDI in India's News and Media Sectors

The Government has over the past couple of months announced a series of changes in the existing regulations governing foreign investment in newspapers, periodicals and magazines. The December 2008 Ministry of Information and Broadcasting guidelines read with the Press Note 1 of 2009 go halfway in permitting the publication of foreign newspapers in India.

Prior to the date of this Press Note, foreign companies were permitted to hold up to 26 percent in Indian companies that were involved in the publication of newspapers and periodicals. This equity ownership was subject to any guidelines prescribed by the Ministry of Information and Broadcasting. However such guidelines were only issued quite recently - in December 2008 (the "Guidelines").

The Guidelines require Indian companies ("Publishers") to apply for and obtain prior permission from the MIB before publishing foreign editions of news magazines. A Publisher can publish a domestic edition of a foreign magazine so long as the foreign equity holding in such Publisher does not exceed twenty-six percent. Furthermore, for a domestic edition to be permitted, the foreign magazine should have been published continuously for a minimum period of five years and should have a minimum circulation of ten thousand paid copies in the last financial year in the country of its origin. The Guidelines also require that at least three-fourths of the Board of Directors of the Publisher, all key executives and editorial staff must be Indian residents. The Ministry has a veto on all such personnel changes and its consent is a prerequisite for the appointment of all other non-resident personnel.

In the event a Publisher wishes to engage a foreign citizen or non-resident Indian for a period of more than sixty days, the Publisher must provide the Ministry with their names and details so that they can be vetted from a security perspective.

The Guidelines require the submission of all license agreement/financial arrangements and amendments thereafter between the Publisher and the foreign publishing company, to the Ministry. The new Press Note confirms that the Guidelines are applicable to the foreign direct investment scheme and goes on to permit hundred percent foreign ownership by the owner of a foreign newspaper in an Indian company publishing a facsimile edition of that foreign newspaper. However, such investment requires prior approval of the Government.

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