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Currently, the Prasar Bharati Corporation, an autonomous body that comes under the MIB, regulates AIR. All forms of private radio broadcasting are regulated by The Telecom Regulatory Authority of India or TRAI, the broadcast regulator. Both are overseen by the MIB, Government of India, which is in charge of all media regulation.

## The History

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This part is best understood through some regulatory milestones.

1964: Indira Gandhi appointed former auditor general A.K. Chanda to look into the problems of radio and television. The Chanda Committee gave its report in 1967. Some recommendations like permitting commercial broadcasting on a limited scale, and the delinking of DD from AIR were accepted. The committee also pointed out the very high level of overstaffing in AIR. It recommended using commercials on both radio and television to generate revenues.

1966: The Vidyalkar Committee was set up to recommend ways to use radio for improving the state of rural India. It suggested extending the duration of rural programmes. This eventually led to the formation of the farm and home unit at 10 AIR stations to provide timely and relevant information on crops, weather and other technical matters to farmers.

1977: The B.G. Verghese Committee was asked to look into the issue of granting autonomy to DD and AIR. The subsequent report in 1978 suggested the formation of the Akash Bharati, a national broadcast trust to look after both AIR and DD. As a result, the Prasar Bharati Bill came into Parliament in 1979. It became an Act only in 1997 (see Chapter 2—Television). This is also the year political parties were allowed to use radio and television for electioneering.

1999: The privatisation of FM was announced and the policy unveiled.

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## FM Begins

In March 2000, the government invited the private sector into FM radio broadcasting by opening up the frequencies in the FM band (87.5-108 MHz). In this Phase One of FM radio privatisation, operators were invited to bid for a 10-year licence to set-up and operate FM radio stations. The original plan was to set-up 108 FM radio frequencies across 40 cities. 101 bids were received, aggregating to a licence fee of approximately '3.86 billion.

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### *The Phase One Policy*

When radio licences were auctioned in 2000, the following regulations were applicable:

1. The licence fee to be paid to the MIB shall be increased by 15 per cent every year (compounded).
2. Ban on news and current affairs programming.
3. Advertising had to follow the advertising code.
4. While a company could own any number of stations, each station had to be unique in content. That meant the same show could not be broadcast over, say, all of Radio City stations, at the same time.

The unusually high licence fee structure and year-on-year annual escalation of 15 per cent hampered the growth of the medium. Operators lobbied hard for a change in policy. As a result in 2003 the government set up a committee under Amit Mitra of FICCI to look into radio licencing and other issues of the radio industry. The committee was also supposed to suggest ways out of the problems that had cropped up during the first phase. The policy for expansion in phase two was formed on the basis of this committee's recommendations which were announced in July 2005.

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Following are some of the important points that the committee made that then became policy:

1. It marked a shift from the annual licence fee regime to a 4 per cent revenue share or 10 per cent of the reserve onetime entry fee limit—whichever is higher. Gross revenue for this purpose is calculated as gross revenue without deduction of taxes.
2. The licence is valid for a period of 10 years from the effective date and is non-transferable.
3. The permission is governed by the provisions of the Telecom Regulatory Authority of India Act, 1997, Indian Telegraph Act, 1885 and Indian Wireless Telegraphy Act, 1933.
4. The permission holder or radio company cannot outsource, through any long-term production or procurement arrangement, more than 50 per cent of its total content, of which not more than 25 per cent of its total content can be outsourced from a single content-provider.
5. No permission holder can hire or lease more than 50 per cent of broadcast equipment on a long term basis.
6. The permission holder has to ensure that there is no linkage between a party from whom a programme is outsourced and an advertising agency.
7. The permission holder cannot carry out networking of its channels with any other channel. What this means is that a radio company is not allowed to broadcast the same channel that it has in one city, in another one. However, networking or broadcasting of the same channel is allowed if the radio company has licences in C and D category cities (essentially smaller towns). It could then use the same channel in another C or D category city within the same region.

8. Every applicant and its related entities is allowed to bid for only one channel per city provided that the total number of channels allocated to an applicant and its related entities does not exceed 15 per cent of the total channels allocated in India.
9. Certain companies are disqualified from getting permission for FM licence. These could be companies not incorporated in India, a company which is an associate of or controlled by a Trust, Society or NPO, a company controlled by or associated with a religious body or a political body.
10. In the applicant company, total foreign investment, including FDI by OCBs/NRIs/PIOs and so on, portfolio investments by FIIs (within limits prescribed by RBI) and borrowings, if these carry conversion options, shall not exceed 20 per cent of the paid up equity in the entity. More than 50 per cent of the paid up equity excluding equity by banks/lenders must be held by Indian individuals and corporates. The majority shareholders must be vested with the management control. Only Indian residents can be directors and all executive personnel must be Indian residents.
11. The majority shareholder can only transfer shares changing ownership of the company with prior permission of the MIB. No permission was originally allowed for the first five years from the date of operation of the station. In September 2008, the Union Cabinet allowed FM radio broadcasters to set up subsidiaries, amalgamate or demerge through transfer of shares of companies less than five years in operation. The relaxations for the creation of subsidiaries and mergers within the same group are subject to the condition that the promoters must continue to remain the majority shareholders with at least 51 per cent of the total shares. The new entities, thus created, would have to maintain the FDI component as per the norms and the grant of permission agreement. In addition, not only will the new company (demerged or amalgamated) have to sign a fresh agreement with the government on identical terms for the remaining licence period but the transfer of shares would also be allowed only once during the first five years of operationalisation.
12. If during the currency of the permission period, government policy on FDI/FII is modified, the permission holder is obliged to conform to the revised guidelines within a period of six months from the date of such notification.
13. In the event of a permission-holder letting its facilities being used for transmitting any objectionable, unauthorised content, messages or communication inconsistent with public interest or national security or failing to comply with other directions mentioned in the tender document, the permission can be revoked and the permission holder shall be disqualified to hold any such permission in future, apart from liability for punishment under other applicable laws.
14. In the event of any question, dispute or difference arising under the Grant of

### Privatisation Phase Three

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Through an order dated July 25, 2011, the Ministry of Information and Broadcasting (MIB) has approved and issued the policy guidelines for Radio FM (Phase-III). Its key points are:

1. The allocation process is now in the form of an e-auction and not closed bids in response to a tender.
2. The minimum net worth for an applicant company will vary in accordance with the city of application, from ₹5 million lakhs to ₹100 million.
3. The single largest Indian shareholder (either as an individual, a Hindu Undivided Family (HUF) or as a company or group of companies with the same management) should hold at least 51 per cent equity in the applicant company.
4. All directors, key executives, CEO and head of the channel to be resident Indians.
5. The period of permission/licence is 15 years, and is nontransferable or sub-licensable.
6. In the states of the North East, in Jammu and Kashmir and the Island states, annual fee of 2 per cent of gross revenue or 1.25 per cent of the successful bid amount (whichever is higher) will be applicable. Otherwise the annual fee is 4 per cent of gross revenue or 2.5 per cent of successful bid amount (whichever is higher).
7. A single entity cannot hold more than 15 per cent of all channels allotted in the country (excluding channels located in Jammu and Kashmir, the North Eastern States and Island states) and more than 40 per cent of the total channels in a city, subject to there being a minimum of three different operators.
8. FDI limit as per the policy has been increased to 26 per cent (the Consolidated FDI policy of 2012 reflects this change).<sup>29</sup>
9. Any transfer of shares in a permission holding company or reorganisation within a group of companies is only permitted with the consent of the MIB.
10. The allotment of channels shall be by e-auction, and the coverage of issuable licences has been extended to all cities in India.
11. Radio channels are not permitted to carry any news or current affairs programs, but are permitted to carry unaltered news bulletins of All India Radio. However, information concerning sports events (excluding live coverage), live commentaries of sporting events of a local nature, information concerning traffic and weather, or cultural events and public announcement (health alerts or announcement concerning civic amenities or calamities) by local administrative authorities are specifically excluded from the purview of news and current affairs programs, and can thus be carried by licenced FM stations.
12. At least 50 per cent of programmes broadcast must be produced in India
13. The licence holder can outsource content production and lease content development, provided such activity does not impact the right of the licence holder to act as an FM broadcaster or have any effect on the control of the FM channel by the licenced company.
14. Networking of channels is permitted within a licenced organisation's own network in India, provided that at least 20 per cent of the broadcast content (which may include advertisements or content spoken by a radio jockey) in any day is in the local language and promotes local content. Networking between channels operated by two entities is not permitted.
15. Co-location of transmission equipment is not mandatory, immaterial of whether the transmission infrastructure of Prasar Bharati is available or not.
16. The licence to operate an FM channel is also subject to any other terms and conditions prescribed under the Wireless Operational License, which the licenced company must obtain from the Wireless Planning and Coordination Wing of Ministry of Communications.

## Reference Link

**The Indian Media Business accessible through google books.**

<https://books.google.co.in/books?id=tRdBDwAAQBAJ&pg=PT209&dq=Privatisation+and+FM+Radio&hl=en&sa=X&ved=0ahUKewiYmrymi7XoAhXu4jgGHRxUBeEQ6AEILzAB#v=onepage&q=Privatisation%20and%20FM%20Radio&f=false>