



In the

RESERVE BANK OF INDIA
Foreign Exchange Department
11th floor, Central Office Building
Shahid Bhagat Singh Road
Mumbai - 400 001

Present

Shekhar Bhatnagar
Chief General Manager

Date: March 03, 2017
C.A. 4149/2016

In the matter of

TV Today Network Limited
F-26, First floor, Connaught Circus
New Delhi – 110 001

(Applicant)

In exercise of the powers conferred under section 15 (1) of Foreign Exchange Management Act, 1999 and the Regulations/Rules/Notifications/Orders made there under, I pass the following

Order

The applicant has filed the compounding application dated September 14, 2016 (received in Reserve Bank of India on the same day) for compounding of contravention of the provisions of the Foreign Exchange Management Act, 1999 (the FEMA) and the regulations issued there under. The contravention sought to be compounded relates to not obtaining specific prior approval from the Ministry of Information and Broadcasting (MIB), Government of India before making remittances in foreign exchange towards transponder hiring charges in contravention of Rule 4 read with item 6(a) of Schedule II to Foreign Exchange Management (Current Account Transactions) Rules, 2000.



2. The facts of the case are as follows: The applicant was incorporated as T.V. Today Network Limited on December 28, 1999 under the Companies Act, 1956 (CIN: L92200DL1999PLC103001). The applicant is engaged in the business of broadcasting of news television channels in India and abroad. At the time of launch of its first news channel, the applicant received permission of Ministry of Information and Broadcasting (MIB) on December 04, 2000 to uplink using the infrastructure facilities of Videsh Sanchar Nigam Limited (VSNL), which was a Government of India owned entity at the time. On December 23, 2002, the applicant entered into an agreement with Intelsat Global Sales and Marketing Ltd., UK (Intelsat), for a period ranging from March 2003 to December 2005. The applicant received approval from Ministry of Information and Broadcasting (MIB) for the arrangement. The applicant also sought approval from RBI for making payment to the overseas service provider, which was granted vide our letter dated April 17, 2003.

Foreign Exchange Management (Current Account Transactions) Rules, 2000, were amended with effect from September 13, 2004, whereby it was notified that remittances towards hiring of transponders by TV channels would require specific prior approval of Ministry of Information and Broadcasting.

Thereafter, due to technical issues, the applicant shifted its uplinking to a new satellite where the service provider was PanAmSat Corporation. The applicant obtained approvals from MIB for uplinking, but specific approval for remittances towards hiring of transponders was not taken. Subsequently, PanAmSat merged with Intelsat and Intelsat Corporation came into existence. Therefore, the applicant made remittances to Intelsat Corporation from July, 2006 onwards.

In July, 2014, MIB issued an advisory wherein the requirement of specific approval of MIB before making remittances in foreign exchange towards hiring charges of transponders was mentioned. The applicant, thus, applied for post-facto approval and MIB granted it vide their letters Nos. 1402/07/2015-TV (I) Pt. (II) dated May 18 and 1402/07/2015-TV (I) Pt. I dated May 19, 2016, subject to compounding by RBI.



Details of remittances made towards transponder hire charges without specific prior approval of MIB are as below:

Payments made for teleport from January, 2006 to April, 2015:

S.No.	Month of payment	Amount remitted (USD)	Amount remitted (INR)
1	January, 2006	74983	3318730
2	February, 2006	74983	3318730
3	March, 2006	74983	3344991.84
4	April, 2006	74982	3393712
5	May, 2006	74982	3456698
6	June, 2006	74983	3445468.38
7	July, 2006	70400	3280640.09
8	August, 2006	70400	3213760.09
9	September, 2006	70400	3213760.09
10	October, 2006	70400	3213760.09
11	November, 2006	70400	3118722.09
12	December, 2006	70400	3118722
13	January, 2007	70400	3141248
14	February, 2007	70400	3111680
15	March, 2007	70400	3106752
16	April, 2007	70400	2909632
17	May, 2007	70400	2879360
18	June, 2007	70400	2877951.91
19	July, 2007	72600	2967888.12
20	August, 2007	72600	3194400
21	September, 2007	72600	2904000
22	October, 2007	72600	2892384
23	November, 2007	72600	2884686.07
24	December, 2007	72600	2903166.62
25	January, 2008	72600	2864795.69
26	February, 2008	72600	2871077.90
27	March, 2008	72600	2891658.29
28	April, 2008	72600	2921299.88



29	May, 2008	72600	2919246.17
30	June, 2008	72600	3118896.04
31	July, 2008	74800	3133707.66
32	August, 2008	74800	2992000.18
33	September, 2008	74800	3269755.07
34	October, 2008	74800	3519457.89
35	November, 2008	74800	3955283.04
36	December, 2008	74800	3769650.75
37	January, 2009	74800	3667853.53
38	February, 2009	74800	3685970.72
39	March, 2009	74800	3872396.70
40	April, 2009	74800	3870900.05
41	May, 2009	74800	3767700.38
42	June, 2009	74800	3575240.88
43	July, 2009	77000	3745280.24
44	August, 2009	77000	3742970.54
45	September, 2009	77000	3767700.59
46	October, 2009	77000	3707550.24
47	November, 2009	77000	3643438.35
48	December, 2009	77000	3568180.39
49	January, 2010	76520.88	3563576.82
50	February, 2010	77000	3635945.14
51	March, 2010	77000	3635945.14
52	April, 2010	77000	3635939.76
53	May, 2010	77000	3635939.76
54	June, 2010	77000	3635939.58
55	July, 2010	79200	3698639.75
56	August, 2010	79200	3750119.74
57	September, 2010	79200	3722399.74
58	October, 2010	79200	3556079.76
59	November, 2010	79200	3571919.75
60	December, 2010	79200	3640824.09
61	January, 2011	79200	3663000.80
62	February, 2011	79200	3623400.80
63	March, 2011	79200	3310661.95



64	April, 2011	79200	3678840
65	May, 2011	79200	3587760
66	June, 2011	79200	3604392
67	July, 2011	88000	4002240
68	August, 2011	88000	3999600
69	September, 2011	88000	4136000
70	October, 2011	88000	4402640
71	November, 2011	88000	4444000
72	December, 2011	88000	4620000
73	January, 2012	88000	4787200
74	February, 2012	88000	4395600
75	March, 2012	88000	4435200
76	April, 2012	88000	4598000
77	May, 2012	88000	4986304.41
78	June, 2012	88000	4986304.41
79	July, 2012	88000	4986304.41
80	August, 2012	88000	4897420.40
81	September, 2012	88000	4886859.93
82	October, 2012	88000	4556405.06
83	November, 2012	88000	4850998.32
84	December, 2012	88000	4805896.29
85	January, 2013	88000	4811616.54
86	February, 2013	88000	4692371.18
87	March, 2013	88000	4786320
88	April, 2013	88000	4803920
89	May, 2013	88000	4734400
90	June and July, 2013	176000	10702560
91	August, 2013	88000	5382080
92	September, 2013	88000	5663680
93	October, 2013	88000	5425200
94	November, 2013	88000	5511440
95	December, 2013	88000	5385600
96	January, 2014	88000	5473600
97	February, 2014	88000	5504180



98	March, 2014	88000	5288800
99	April, 2014	88000	5308160
100	May, 2014	88000	5300240
101	June, 2014	88000	5210480
102	July, 2014	88000	5369760
103	August, 2014	88000	5400560
104	September, 2014	88000	5358320
105	October, 2014	88000	5400560
106	November, 2014	88000	5438840
107	December, 2014	88000	5449840
108	January, 2015	352000	21957760
109	February, 2015		
110	March, 2015		
111	April, 2015		
Total		8,985,418.08	45,43,41,440.09

Payments made for DSNG from October, 2007 to April, 2015:

S.No.	Month of payment	Amount remitted (USD)	Amount remitted (INR)
1	October, 2007	12500	496674.60
2	November, 2007		
3	December, 2007	6250	249928.26
4	January, 2008	6250	246624.97
5	February, 2008	6250	247165.80
6	March, 2008	6250	248937.52
7	April, 2008	12500	502625.03
8	May, 2008		
9	June, 2008	6250	268500
10	July, 2008	6250	261840.55
11	August, 2008	6250	250000.02
12	September, 2008	6250	273208.14



13	October, 2008	6250	294072.35
14	November, 2008	6250	330488.22
15	December, 2008	6250	314977.50
16	January, 2009	6250	306471.72
17	February, 2009	6250	307985.52
18	March, 2009	6250	323562.56
19	April, 2009	12500	629629.07
20	May, 2009		
21	June, 2009	6250	298733.36
22	July, 2009	12500	607625.09
23	August, 2009		
24	September, 2009	6250	305819.85
25	October, 2009	12500	591467.26
26	November, 2009		
27	December, 2009	6250	289625.03
28	January, 2010	12500	590250.83
29	February, 2010		
30	March, 2010	6250	295125.42
31	April, 2010	0	0
32	May, 2010	0	0
33	June, 2010	6250	295124.97
34	July, 2010	0	0
35	August, 2010	0	0
36	September, 2010	0	0
37	October, 2010	17388.70	797060.06
38	November, 2010		
39	December, 2010		
40	January, 2011	6250	289062.56
41	February, 2011	6250	285937.56
42	March, 2011	6250	261258.05
43	April-June, 2011	24500	1122100
44	July, 2011	12000	545760
45	August, 2011	12000	545400
46	September, 2011	12000	564000
47	October, 2011	12000	600360



48	November, 2011	12000	606000
49	December, 2011	12000	630000
50	January, 2012	12000	652800
51	February, 2012	12000	599400
52	March, 2012	12000	604800
53	April, 2012	12000	627000
54	May, 2012	12000	679950.60
55	June, 2012	12000	679950.60
56	July, 2012	12000	679950.60
57	August, 2012	12000	667830.06
58	September, 2012	12000	666389.99
59	October, 2012	12000	621327.96
60	November, 2012	12000	661499.77
61	December, 2012	12000	655349.49
62	January, 2013	12000	656129.53
63	February, 2013	12000	639868.80
64	March, 2013	12000	652680
65	April, 2013	12000	655080
66	May, 2013	12000	645600
67	June and July, 2013	24000	1459440
68	August, 2013	12000	733920
69	September, 2013	12000	772320
70	October, 2013	12000	739800
71	November, 2013	12000	751560
72	December, 2013	12000	734400
73	January, 2014	12000	746400
74	February, 2014	12000	750570
75	March, 2014	12000	721200
76	April, 2014	12000	723840
77	May, 2014	12000	722760
78	June, 2014	12000	710520
79	July, 2014	12000	732240
80	August, 2014	12000	736440
81	September, 2014	12000	730680
82	October, 2014	12000	736440



83	November, 2014	12000	741660
84	December, 2014	12000	743160
85	January, 2015	48000	2994240
86	February, 2015		
87	March, 2015		
88	April, 2015		
Total		806,338.70	4,31,00,599.28

All the above remittances were in contravention of Rule 4 read with item 6(a) of Schedule II to Foreign Exchange Management (Current Account Transactions) Rules, 2000.

3. In terms of Rule 4 of Foreign Exchange Management (Current Account Transactions) Rules, 2000, "No person shall draw foreign exchange for a transaction included in the Schedule II without prior approval of the Government of India..."

Further, with item 6(a) of Schedule II to Foreign Exchange Management (Current Account Transactions) Rules, 2000, states that remittance of hiring charges of transponders by TV channels requires the prior approval of Ministry of Information and Broadcasting.

4. The applicant was given an opportunity for personal hearing vide our letter No. FE.CO.CEFA/7882/15.20.67/2016-17 dated February 02, 2017 for further submission in person and/or producing documents, if any, in support of the application. The personal hearing was held on February 17, 2017, during which Shri Piyush Gupta, Group CTO and Yatender Kumar Tyagi, Vice President – Finance and Accounts, represented the applicant. The representatives of the applicant submitted that the company had inadvertently failed to comply with the FEMA regulations due to ignorance, and therefore requested that a lenient view may be taken in the matter. The application is, therefore, being considered on the basis of the averments made in the application, the documents produced and submissions made during the personal hearing.



5. I have given my careful consideration to the documents on record and submission made by the applicant during the personal hearing and thereafter. Accordingly, I hold that the applicant has contravened Rule 4 read with item 6(a) of Schedule II to FEM (Current Account Transactions) Rules, 2000 by remitting overseas a total amount of USD 9,791,756.78 (Rs.49,74,42,039.37/-) towards transponder hiring charges during the period January, 2006 to April, 2015 without prior permission of Ministry of Information and Broadcasting (MIB), Government of India.

6. In terms of section 13 of the FEMA, any person contravening any provision of the Act shall be liable to a penalty up to thrice the sum involved in such contravention. However, after considering the submissions made by the applicant and the entire facts and circumstances of the case, I am persuaded to take a lenient view on the amount for which the contravention is to be compounded and I consider that payment of an amount of Rs. 34,28,586/- (Rupees thirty four lakhs twenty eight thousand five hundred and eighty six only) will meet the ends of justice in the circumstances of this case.

7. Accordingly, I compound the admitted contravention namely, the contravention for not obtaining specific prior approval of Ministry of Information and Broadcasting (MIB), Government of India in contravention of Rule 4 read with Item 6(a) of Schedule II to FEM (CAT) Rules, 2000 by the applicant on the facts discussed above in terms of the Foreign Exchange (Compounding Proceedings) Rules, 2000 on payment of an amount of Rs. 34,28,586/- (Rupees thirty four lakhs twenty eight thousand five hundred and eighty six only) which shall be deposited by the applicant with the Reserve Bank of India, Foreign Exchange Department, 5th Floor, Amar Building, Fort, Mumbai - 400001 by a demand draft drawn in favour of the "Reserve Bank of India" and payable at "Mumbai" within a period of 15 days from the date of this order. In case of failure to deposit the compounded amount within the above mentioned period, Rule 10 of the Foreign Exchange (Compounding Proceedings) Rules, 2000 dated May 3, 2000 shall apply.



The application is disposed of accordingly.

Dated this the third day of March, 2017

Sd/-

(Shekhar Bhatnagar)
Chief General Manager