

Media Hotline

March 30, 2009

"ALL OUT" FOR NO LOSS!

The Indian Premier League ("IPL") has created ripples in the nation in more than one way. Security concerns and venue changes had already created enough mayhem, but the row over the media rights of the IPL ("Media Rights") between MSM Satellite (Singapore) Pte Ltd., formerly known as Sony Entertainment Television ("MSM/Sony") and Board of Control for Cricket in India ("BCCI") contributed further to the burgeoning chaos. BCCI terminated its agreement with MSM under which MSM had Media Rights license for the Indian subcontinent on March 14, 2009 and the latter approached the Bombay High Court ("Court") on March 15, 2009 seeking an interim relief to prevent BCCI from negotiating with other broadcasters for the telecast of the forthcoming seasons of the IPL. Subsequently, on March 23, 2009 the Court lifted the injunction on BCCI and held that the balance of convenience cannot be determined in the absence of a "necessary party", World Sports Group (Mauritius) Ltd. ("WSG")¹.

However, after a two-week-long legal battle the parties settled the dispute with BCCI signing a new deal again with MSM and WSG for Rs 8,200,00,00,000/- (Rupees Eighty Two Billion Only) for Media Rights— 80% of this is expected to come from MSM.

BACKGROUND

On January 21, 2008, Sony and BCCI entered into an *Indian Premier League Media Rights Licence Agreement* ("MRLA") under which MSM acquired the license to exploit the Media Rights for the Indian subcontinent. These rights were granted for a period of five years. After the first season of the IPL, Sony received an email on behalf of BCCI citing certain operational issue with regard to live coverage of IPL matches.

Later, on February 3, 2009 MSM was served a legal notice by BCCI alleging that MSM had breached the terms of the contract and had sold broadcast sponsorship in the DTH product category to Airtel inspite of Sony being intimated that Reliance would be the IPL official sponsors in the Digital TV provider/ Direct to Home ("DTH") category. MSM denied such allegations and entered into negotiations with BCCI following which an amended MRLA agreement incorporating the negotiation terms was circulated on March 14, 2009. However, the same day MSM was served a notice terminating the MRLA citing operational issues namely, virtual advertising and quality and integrity of the broadcast of IPL-2008 season matches and sale of broadcast sponsorship to Airtel instead of Reliance for the DTH category. Immediately, MSM filed an arbitration petition with the Court on March 15, 2009 pleading that the MRLA is valid and that the termination of the same is illegal and malafide. The Court passed an ad-interim order restraining BCCI from entering into any media rights license agreement with any third party. On March 16, 2009 the BCCI had filed an affidavit before the High Court for placing on record the fact that BCCI had, prior to passing of March 15 order entered into an agreement with WSG for the grant of Media Rights. Following this, MSM filed an amended petition seeking an order and injunction against BCCI, pending the hearing and final disposal of the arbitration petition from acting in furtherance of or implementing the agreement with WSG. ("Ad-Interim Relief").

THE ORDER:

The Court remarked, "*The Court cannot do indirectly which in law cannot be done directly*". The Court refused to grant the Ad-Interim Relief prayed by Sony on the grounds that passing of such an order would directly and/or substantially affect and interfere with the enjoyment and exploitation by WSG of their vested legal rights and present interest in the subject matter of the contract created in their favor. Therefore, balance of convenience cannot be determined between the two parties in the absence of WSG which is a necessary party. Thus, the Court refused to grant an Ad-Interim Relief in favour of Sony.

CONCLUSION:

With recent news reports blaring out the compromise terms between the two parties, it seems more likely that the parties may opt for an out of court settlement withdrawing its application before the Court. An "all out for no loss" situation you may say! But we have witnessed enough furore with this event and intend on keeping a close watch on how things turn out. Look out for more updates on this from the court room!

- Ranjana Adhikari, Ajay Singh Solanki & Vyapak Desai

1. MSM Satellite (Singapore) Pte.Ltd. v.Board of Control for Cricket in India Arbitration Petition (Ld) No.284 of 2009

Source:<http://bombayhighcourt.nic.in/data/original/2009/ARBP28409230309.pdf>

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