

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>

Research Papers

Compendium of Research Papers

January 11, 2025

FAQs on Setting Up of Offices in India

December 13, 2024

FAQs on Downstream Investment

December 13, 2024

Research Articles

INDIA 2025: The Emerging Powerhouse for Private Equity and M&A Deals

January 15, 2025

Key changes to Model Concession Agreements in the Road Sector

January 03, 2025

The Revolution Realized: Bitcoin's Triumph

December 05, 2024

Audio

Securities Market Regulator's Continued Quest Against "Unfiltered" Financial Advice

December 18, 2024

Digital Lending - Part 1 - What's New with NBFC P2Ps

November 19, 2024

Renewable Roadmap: Budget 2024 and Beyond - Part I

August 26, 2024

NDA Connect

Connect with us at events, conferences and seminars.

NDA Hotline

Click here to view Hotline archives.

Video

"Investment return is not enough" Nishith Desai with Nikunj Dalmia (ET Now) at FIH event in Riyadh

October 31, 2024

Analysing SEBI's Consultation Paper

DISCLAIMER

The contents of this hotline should not be construed as legal opinion. View detailed disclaimer.

This Hotline provides general information existing at the time of preparation. The Hotline is intended as a news update and Nishith Desai Associates neither assumes nor accepts any responsibility for any loss arising to any person acting or refraining from acting as a result of any material contained in this Hotline. It is recommended that professional advice be taken based on the specific facts and circumstances. This Hotline does not substitute the need to refer to the original pronouncements.

This is not a Spam mail. You have received this mail because you have either requested for it or someone must have suggested your name. Since India has no anti-spamming law, we refer to the US directive, which states that a mail cannot be considered Spam if it contains the sender's contact information, which this mail does. In case this mail doesn't concern you, please unsubscribe from mailing list.

on Simplification of registration for
FPIs

September 26, 2024

Scope of judicial interference and
inquiry in an application for
appointment of arbitrator under the
(Indian) Arbitration and Conciliation
Act, 1996

September 22, 2024