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HC/DJM/10082/ 777/2013

Dated: 30th January, 2013

To,

Special Director,
Directorate of Enforcement
Government of India, Ministry of Finance,
Department of Revenue,
Janambhoomi Chambers,
Walchand Hirachand Marg,
Mumbai – 400 001.

Dear Sir,

Re: Preliminary reply to Show Cause Notices bearing nos. T4/09-B/SDE/BK/2012(SCN-I)/ 3139 & T4/09-B/SDE/BK/2012(SCN-II)/ 3140 issued on 23.8.2012 in respect of Complaint bearing No.T3/81/B/2010/AD(DKS) dated 22.8.2012.

1. We address this communication under instructions and on behalf of our client Mr. Lalit Kumar Modi.

2. We had received the captioned Show Cause Notice dated 23rd August, 2012 alongwith annexed complaint dated 22nd August, 2012 on 2nd September, 2012.

3. We have perused the same and we intend to file a detailed reply to the same. Please treat this reply as our interim reply.

4. However, having perused the same, we find that the Show Cause Notice and the Complaint upon which it is based rely upon various documents, some of which have not been supplied to us. Without those documents, our client would be seriously prejudiced and handicapped in preparing any meaningful and effective reply. Those documents as evidenced from bare reading of compliant are:–

(a) The "reliable" information and order initiating enquiries alongwith scope thereof as relied upon in para 1.1 of the complaint.

(b) Directives dated 29.5.2008 and 14.7.2008 issued to the BCCI by ED as relied upon in para 1.1 of the complaint.

(c) Directives requisitioning documents from franchisees of the IPL and the concerned Authorised Dealers as relied upon in para 1.1 of the complaint.

(d) Replies and Documents supplied by BCCI, franchisees and the concerned Authorised Dealers in terms of above directives as relied upon in para 1.1 of the complaint.

(e) The letter dated 14.9.2011 as sent to BCCI relied upon in para 2.8 of the complaint

(f) The letter sent by ED to MSM as relied upon in para 2.11 of the complaint

5. In order to prepare a complete and effective reply to the show cause notice, our client shall require the documents relied upon in the Show Cause Notice and annexed complaint set out in para 4 above.

6. We have been instructed to request you to kindly confirm, if the statements mentioned in the Annexure- (List of Documents) at serial numbers 13 to 24 are the only statements recorded by the Enforcement Directorate of the persons mentioned therein. We also request that if there are any other or further statements of those persons recorded by the Enforcement directorate then a copy of the same may kindly be provided to us.

7. We have also been instructed to request you that you may kindly disclose to us if there is any other document, material collected and statement recorded during the investigation and if so, a copy of the same may kindly be provided to us.

8. Under instructions from our client, we further request you to grant us a reasonable opportunity to inspect the records and the file and take copies of

any other documents/materials etc., which we may find relevant for the purposes of drafting the final reply to the Show Cause Notice and also in order to compare the records.

9. We submit that the proceedings initiated by you are quasi judicial proceedings where principles of natural justice are required to be complied with.

10. That so as not to prejudice the case of our client pending before you, while reiterating our request to supply the documents sought for, we are submitting the instant communication to you putting on record our preliminary reply. This preliminary reply is being filed on a without prejudice basis and we reserve our right to file a detailed reply upon supply of all the documents by you as sought by us.

Scope of Show Cause Notice

11. The Foreign Exchange Management (Adjudication proceedings and Appeals Rules) 2000 mandate that for the purpose of adjudication whether any person has committed any contravention, the Adjudicating Authority shall issue a notice to such person requiring him to show cause as to why an inquiry should not be held against him. It is clear from a bare reading of the rule that show cause notice to be so issued is not for the purposes of making any adjudication into alleged contravention but only for the purpose of deciding whether an inquiry should be held against him or not. That after considering the cause, if any, shown by such person, the Adjudicating Authority is required to form an opinion as to whether an inquiry is required to be held into the allegations of contravention. It is only then the real and substantial inquiry into allegations of contravention begins.

12. We submit that there is no good ground of initiating any substantive inquiry against our client and the proceedings against him are required to be dropped.

No Personal Allegation against our Client

13. The Show Cause Notice indicates that there is no personal allegation against our Client of having violated any of the provisions of FEMA. Show Cause Notices dated 23rd August, 2012 in respect of performance deposits accepted

by BCCI have been issued to the BCCI in which notice has been issued to our Client with the aid of Section 42 (1) of the FEMA which provides for vicarious liability. The other noticees are Mr. Niranjan Shah, the then Honorary Secretary, BCCI and Mr N. Srinivasan the then Hon. Treasurer, BCCI.

14. Our Client through his constituted attorney voluntarily received the show cause notice from the office of the Enforcement Directorate so that he can participate in the adjudication proceedings. It is pertinent to point out here that the FEMA permits participation in such proceedings through authorized representatives. It is pertinent to point out that the said show cause notice has been issued in respect of performance deposits accepted by the BCCI. The adjudication proceedings are essentially directed against the BCCI. The alleged infringement of not obtaining prior approval of the BCCI is also technical in nature and there are various instances where ex post facto approval is given by RBI.

15. The Enforcement Directorate (ED) Show Cause Notices reveal that ED has been investigating alleged violations under FEMA in relation to BCCI contracts and in respect of the general conduct of the IPL. The allegations reflect collective responsibilities rather than personal responsibilities. It is significant to note that the Enforcement Directorate has not identified any specific contravention under FEMA committed by our Client.

16. Yet on such allegations the Enforcement Directorate moved the Regional Passport Officer Mumbai ("RPO") to impound the Passport of our Client and the RPO revoked the passport of our Client vide order dated 31.3.2011.

17. Given the allegations as set out in the Show Cause Notice under reference, the action seeking impounding our Client's passport was wholly unreasonable, arbitrary and disproportionate action on the part of ED.

18. Before making interim submissions on the Show Cause Notice, we wish to place on record certain facts in respect of BCCI and IPL, as these would have bearing upon the allegations leveled in the Show Cause Notices under reference.

BCCI/IPL

19. The Board of Cricket Control of India (BCCI) is a society registered under the Tamil Nadu Societies Registration Act, 1975. It has its own Memorandum of Association and Rules and Regulations. The President, the Secretary and the Treasurer are the office bearers of BCCI.

20. A sub-committee of BCCI was set up known as Indian Premier League (IPL) to establish and oversee the operation of a domestic Twenty20 competition in India. IPL is not a separate entity but forms part of BCCI and is managed by a Governing Council having 14 members in which the office bearers of the BCCI are ex officio members. IPL as a sub-committee does not have any independent existence. It also does not have financial drawing or disbursing powers and all bank accounts are BCCI bank accounts operated by the Treasurer, BCCI. The Governing Council submits a report of its activities and decisions as well as audited final accounts for the approval of general body of the BCCI at its AGM.

21. The IPL as a sub-committee was brought about in existence when on 13th September, 2007 the Working Committee of the BCCI approved the launch of Indian Premier League and set up a sub-committee. Vide amendment in Memorandum of Association and Rules and Regulations of BCCI on 16th December, 2007, IPL was made a standing committee of BCCI.

22. Thus IPL like any other committee of BCCI for example Finance Committee, Legal Committee or Marketing Committee is merely to assist and aid the BCCI. The members of such Committees including the Chairman thereof cannot be said to be person in-charge of or responsible to the BCCI for the conduct of business of the BCCI. This is so because IPL is merely a sub-committee of the BCCI and has no control over the affairs of BCCI rather it is controlled by BCCI. IPL also has no say upon any financial drawings, disbursements or remittances as such matters are controlled by persons who are incharge of BCCI namely the President, the Secretary and the Treasurer. IPL does not also have any separate existence.

Key Role of Mr. N. Srinivasan

23. At the time of formation of IPL, Mr. N. Srinivasan was the Treasurer of BCCI. Since IPL was not a separate entity but only a sub-committee of the BCCI, all decisions in respect of IPL which had any financial implication or required drawing or disbursing of any funds or providing any guarantees or decisions which required financial compliances including RBI approvals were taken by Mr. N. Srinivasan. Without his being at the centre of such decision making-being incharge of and responsible for all financial matters, none of these decisions could have been made. Further, compliance with obligations of BCCI including giving of funds and guarantees was the responsibility of the Treasurer in the internal working of BCCI. It has been the standard practice of BCCI that all FEMA compliances and RBI approvals are required to be taken by the Treasurer's office. Mr. N. Srinivasan was the Treasurer of BCCI at that time.

24. Another aspect of the matter is that India Cement Ltd., whose promoter is Mr. N. Srinivasan, participated in the IPL Franchisee Auction and was awarded the Chennai Franchisee of IPL namely the Chennai Super Kings. Thus, Mr. N. Srinivasan as the defacto owner of Chennai Super Kings was at all times well aware both as officer bearer of BCCI and owner of franchisee about the entire working of IPL and was at all times personally interested in its pecuniary and financial matters.

25. On 27th September, 2008 Mr. N. Srinivasan became the Secretary of BCCI and Mr. M.P. Pandove became the Treasurer of BCCI. However, even after Mr. N. Srinivasan came to occupy Secretary's chair he continued the old reporting structure by which all clearances of guarantees, individual bills, payment approvals, disbursement, approvals from regulatory bodies continued to be routed through him. In fact, all of the bills which were sent to the Treasurer's office to pay were routed through the office of the Secretary. Mr. N. Srinivasan as Secretary made the office of Treasurer almost redundant and unconstitutionally took over his work too.

Finance Department of IPL:

26. That the IPL itself had a finance department. This finance department was reporting to the office of the Treasurer, BCCI and was headed by Mr. Prasanna Kannan who was the Chief Financial Officer of the IPL. The finance department also functioned in tandem with the Secretary's office. The financial consultant of IPL was Mr. P.B. Srinivasan who was as well the internal auditor of BCCI. These two persons namely Mr. Prasanna Kannan and Mr. P.B. Srinivasan are closely connected to India Cements Ltd. Mr. Prasanna Kannan is employee of India Cements Ltd. while Mr. P.B. Srinivasan is an internal auditor of India Cements Ltd.. All contracts and other actions having the financial implication were cleared by the finance department of the IPL. This clearance was done with a priori approval of Mr. N. Srinivasan and then was processed through the Treasurer's office. The key financial persons of IPL namely Mr. Prasanna Kannan and Mr. P.B. Srinivasan directly reported to Mr. N. Srinivasan. Thus, Mr. N. Srinivasan was at the fulcrum of the entire financial dealings of IPL. Mr. N. Srinivasan conflict of interest was highlighted at various times by our client and this resulted into Mr. N. Srinivasan harboring malice against our client.

Role of our Client:

27. That our client Mr. Lalit Kumar Modi was Chairman of Governing Council of Indian Premier League. The entire functioning of the IPL was undertaken by the Governing Council. All activities of IPL are acts that have documented approval from collective Governing Council or Working Committee Meetings in accordance with BCCI/IPL process. Our client has earlier provided documentary evidence to the complainant which illustrate collective council or board approval for all activities. Thus, no action of our client can be termed as unauthorized, unilateral actions on his behalf.

28. In so far as the role of our client is concerned it is significant to point out that the Enforcement Directorate has not identified any specific contravention under FEMA committed by our client.

29. It is important to state that our client was not in any manner, ever involved in any monetary transactions concerning the BCCI or the IPL. He had no cheque signing power. He was not mandated with any authority to exercise control over BCCI accounts, either operationally or otherwise. Thus, he had no role to play in any of alleged contraventions under FEMA.

Performance Deposits under BCCI Tenders / Contracts :

30. Performance Deposits were accepted by BCCI in pursuance to tenders for IPL floated by BCCI. The tenders were drafted by BCCI Lawyers and IMG. Submission of Performance deposit was a precondition for a bid under the BCCI tenders and no entity could have submitted a bid without submission of performance deposit. The tenders for grant of Franchisee rights and Media rights were global tenders. Foreign as well as domestic bidders were treated equally in the tender document. There was no difference between these two categories.

31. It is pertinent to point out that the decision to tender and also to accept performance deposit was a BCCI institutional decision. All matters pertaining to acceptance of performance deposits were handled and cleared by the then Treasurer of the BCCI, Shri N. Srinivasan. The entire system was put in place by resolutions passed on a collective basis by BCCI. In fact in BCCI all along even before our client joined BCCI tenders and contracts have been invited on global basis and all these contracts have had similar performance deposit clauses.

Non applicability of Section 42(1) of FEMA on our client:

32. It is submitted that Section 42(1) of FEMA in which the show cause notice has been issued to our client has no application qua him. It is well settled that Section 42(1) is a highly penal Section as it makes the person who was in-charge and responsible to the company for the conduct of its business vicariously liable for an offence committed by the company. Therefore in accordance with the well-settled principles of interpretation this section should be construed strictly. The Supreme Court in Giridhari Lal Gupta V/s. D.N. Mehta, AIR 1971 SC 28 held that in the context a person in-charge must

mean the person should be in overall control of the day to day business of the company or firm.

33. It is submitted that our client at the relevant time was one of the Vice President of the BCCI as well as the Chairman of IPL which was a sub-committee of the BCCI. He was not an office bearer of BCCI. He was not the person responsible for conduct of business of BCCI nor in-charge thereof. He had no financial powers. He was not involved in any foreign exchange matters which fell within the domain of Treasurer. He was also not involved in issuing instructions or giving payment advice to AD. In these circumstances Section 42(1) has no application to him. The provisions of Section 42 of FEMA do not make any person liable for consequences. It is only that person who was in-charge and responsible for the business of the whole organization who can be made liable u/s 42(1).

Re Show Cause Notice:

34. The show cause notice alleges that BCCI has committed a contravention of Section 6(3)(f) of FEMA read with Regulation 3 of the Foreign Exchange Management (Deposit) Regulations, 2000 to the extent of Rs.20 Crores by accepting performance deposit from Emerging Media (IPL) (U.K.) Ltd. remitted by Manoj Badale (UK) in respect of Franchisee ITT and again by accepting Rs.40 Crores from MSM Satellite Pte Ltd., Singapore in respect of Media Rights ITT. Our client has been made a co-noticee with the aid of Section 42(1) of FEMA.

35. The gravamen of the complaint is that BCCI has accepted these deposits pursuant to ITT's issued in respect of Franchise and Media Rights and these performance deposits have been taken without RBI approval which is in violation of Section 6(3)(f) of FEMA. Section 6(3)(f) of FEMA is reproduced as under:

Sec. 6. ***Capital Accounts Transaction-***

(3) Without prejudice to the generality of the provisions of sub-section (2), the Reserve Bank may, by regulations prohibit,

restrict or regulate the following-

(f) deposits between persons resident in India and persons resident outside India.

It is important to note that this provision is entitled "Capital Account Transactions". Secondly, subsection 3 only seeks to enlarge upon sub section 2 which empowers Reserve Bank to regulate Capital Account transactions. Current Account Transactions are defined in Section 2(j) of FEMA as including "payments due in connection with foreign trade, other current business services and short term banking and credit facilities in the ordinary course of business".

The FEM (Deposit) Regulations 2000 do not define the word 'deposit' but state in Regulation 2(iv) as under:

'Deposit' includes deposit of money with a bank, company, proprietory concern, partnership firm, corporate body, trust or any other person"

The reading of FEM (Deposit) Regulations 2000 however shows that the acceptance of deposits under these Regulations is limited to-

(a) Deposits by Companies incorporated under the Companies Act on Repatriation basis; and

(b) Proprietorship, firm, companies including Non-Banking Financial Company registered with the RBI on non-repatriation basis.

36. The FEM (Deposit) Regulations 2000 further indicate that it is not every receipt of amount which can be treated to be a deposit. Thus, any amount received by way of performance security, earnest money or advance in the course of or for the purposes of business (which the ITTs of BCCI pertained to) or in respect tendering out of rights including media rights and franchise rights cannot be treated to be "deposit"..

37. Section 6(3)(f) of FEMA relates to deposits which are capital account transfers, whereas the performance deposit accepted by the BCCI was performance security / earnest money in terms of tender conditions and was

not in the nature of "deposit" under FEM (Deposit) Regulations, 2000. This remittance was thus clearly in the nature of permissible current account transfer and in compliance with regulatory guidelines. All remittances received under the BCCI franchisee tender and media rights tender and contracts entered pursuant thereto are all current account transactions. Thus, the complaint has no basis whatsoever in fact or in law.

38. It is submitted that the tenders themselves specify that the performance deposit would be returned to the unsuccessful bidder while for the successful bidder the performance deposit was to in case of franchise ITT act as payment or part payment of first annual installment while in the case of media rights ITT was to be retained as performance guarantee. It is submitted that giving earnest money is a mode of signifying assent to a contract that parties are in earnest or have made up their mind to execute a contract. The performance deposit is amount given towards security for due performance of the contract. Thus the amounts so received were clearly in the nature of current account transactions and not capital account transactions and were in the nature of trading receipts.

39. The meaning of the word performance deposit must be taken from the tender conditions in the ITTs and the contracts made there under and it is not merely because word "deposit" is used in the phrase "performance deposit" that it would become deposit under the FEM (Deposit) Regulations, 2000. The tender /contractual conditions as stated above required furnishing of performance deposit which was the consideration for participating in bid and entering into subsequent contract in pursuance of bid.

40. While the Regulations provide that words and expressions used in the Regulations shall have the same meanings as assigned to them in the Act, Section 2 of FEMA does not define the term "deposit". The legal /technical meaning of the word 'deposit' as per Black's Law Dictionary 8th Edition is : "the act of giving money or other property to another who promises to preserve it or to use it and return it in kind; specially an act of placing money in a Bank for safety and convenience...money or property so given."

41. In Ram Janki Devi v. Juggilal Kamlapat, (1971) 1 SCC 477, the Supreme Court pointed out that

> "The case of a deposit is something more than a mere loan of money. It will depend on the facts of each case whether the transaction is clothed with the character of a deposit of money. The surrounding circumstances, the relationship and character of the transaction and the manner in which parties treated the transaction will throw light on the true form of the transaction."

The relationship between the parties, the surrounding circumstances at the time of the transaction is therefore relevant to find out whether amount accepted was a "deposit".

42. In CIT v. Bazpur Coop. Sugar Factory Ltd., (1988) 3 SCC 553 the Supreme Court indicated that

> "The essence of a deposit is that there must be a liability to return it to the party by whom or on whose behalf it is made on the fulfillment of certain conditions."

The performance deposit under BCCI tenders therefore cannot be equated with the technical meaning of deposit as otherwise understood.

43. It is submitted that all payments under the Franchisee and Media rights ITT were current account transactions since section 2(j) of FEMA includes within the meaning of current account transactions all payments due in connection with foreign trade, other current business and services. Section 6 applies only to capital account transactions as is evident from the heading of the section as well as the specific words used in subsection (1). Further the FEM (Deposit) Regulation 2000 are issued by RBI which empowers RBI to specify what classes of capital account transactions are permissible. Therefore, section 6 can have no application to a current account transaction which is covered only by section 5 of FEMA. It is submitted that the obligations undertaken under the Agreements did not contravene section 6(3) of FEMA.

44. BCCI has thus not accepted any "deposit" within the meaning of FEM

(Deposit) Regulations 2000. The Complaint proceeds on a completely erroneous basis as indicated above.

45. The Complaint is also based on an erroneous construction of Section 6(3) (f) of FEMA, Regulation 3 of the Foreign Exchange Management (Deposit) Regulation, 2000. The expression "deposit" in section 6(3) (f) of FEMA cannot apply to a performance security or earnest money received under a tender or a contract. Further, section 6(3) (f) relates to capital account transactions, whereas the amounts received under the ITTs and contracts entered pursuant thereto were all current account transactions.

46. It is submitted that all payments were received through normal banking channels and all relevant information was provided to the Authorised Dealer. Even the Complaint does not allege that the office bearers or employees of BCCI have benefited in any way from these alleged contraventions or even that there has been any loss of foreign exchange to India as a result of these alleged contraventions. For all the above reasons, it is denied that there has been contravention of any of the provisions of FEMA.

47. The floating of franchisee and media rights ITTs, entering into contracts pursuant thereto were BCCI institutional decision as is evident from the fact that the Franchisee and Media Rights ITTs were discussed in various Governing Council Meeting of IPL. The Minutes of IPL Governing Council Meeting dated 18.10.2007 (Copy of minutes marked as **Annexure-A hereto**) and dated 17.11.2007 (Copy of minutes marked as **Annexure-B hereto**) indicate discussions on the various aspects of ITTs. Further IPL Governing Council meeting dated 14.01.2008 (Copy of minutes marked as **Annexure-C hereto**) accepted the bid of WSG – MSM. On 24.01.2008 the IPL Governing Council completed the bidding process for the eight franchises including Emerging Media which won the bid for Jaipur (Copy of minutes marked as **Annexure-D hereto**) and on 25.01.2008 the IPL Governing Council approved WSG MSM Medial Rights agreement (Copy of minutes marked as **Annexure-E hereto**).The aforesaid IPL minutes were approved and re-affirmed in Special General Meeting of BCCI held on 17.04.2008 (Copy of minutes marked as **Annexure-F hereto**).

48. That all FEMA related compliances were being taken care of by the Treasurer's office. The bank accounts were also being opened / operated by Treasurer. It is pertinent to mention that all FEMA and income tax compliances were being handled by the Treasurer's office along with internal auditor of the BCCI namely, Shri P.B. Srinivasan and all compliances were being reported to the Finance Committee of the BCCI.

49. The proceedings for adjudication under FEMA are penal in nature and it is a rule of construction in respect of penal provisions that no cases shall be held to fall within it which do not fall within the reasonable meaning of its term and within the spirit and scope of the enactment. No violence must be done to its language to bring people within it but rather care must be taken that no one is brought within it who is not within its express language. Where an equivocal word or ambiguous sentence leaves a reasonable doubt of its meaning, the benefit of the doubt must be given to the citizen. It is submitted that on a reasonable construction of the contracts, no deposits as understood in law have been accepted by BCCI. If the meaning of the term deposit in FEMA and the Regulations were to be ambiguous, the benefit of the doubt must be given to BCCI.

50. For all these reasons, it is submitted that there is no contravention of Section 6(3) (f) of FEMA read with FEM (Deposit) Regulations, 2000, as alleged.

51. It is finally submitted that even assuming, without admitting, that contraventions of FEMA had taken place, it was by inadvertence. BCCI was under the bonafide belief that approval from RBI was not required for the obligations under these Contracts. They had taken professional advice and provided full information to the Authorised Dealer. BCCI is a non-profit body with the object of promoting sport. BCCI has not gained by the alleged contravention.

52. The Hon'ble Supreme Court in Hindustan Steel Limited v. State of Orissa 1972 83 ITR 27 had observed that penalties are leviable only for contumacious conduct or when a person does not act bonafide. The Court held :

"Under the Act penalty may be imposed for failure to register as a dealer :S.9(1), read with S.25(1) (a) of the Act. But the liability to pay penalty does not arise merely upon proof of default in registering as a dealer. An order imposing penalty for failure to carry out a statutory obligation is the result of a quasi-criminal proceeding, and penalty will not ordinarily be imposed unless the party obliged, either acted deliberately in defiance of law or was guilty of conduct contumacious or dishonest, or acted in conscious disregard of its obligation. Penalty will not also be imposed merely because it is lawful to do so. Whether penalty should be imposed for failure to perform a statutory obligation is a matter of discretion of the authority to be exercised judicially and on a consideration of all the relevant circumstances. Even if a minimum penalty is prescribed, the authority competent to impose the penalty will be justified in refusing to impose penalty, when there is a technical or venial breach of the provisions of the Act or where the breach flows from a bona fide belief that the offender is not liable to act in he manner prescribed by the statute. Those in charge of the affairs of the company in failing to register the company as a dealer acted in the honest and genuine belief that the company was not a dealer. Granting that they erred, no case for imposing penalty was made out."

In the present case, there is no allegation in the Complaint that were willful contraventions of FEMA or that there was reckless disregard for law or that foreign exchange transactions were conducted outside normal banking channels. On the contrary, the transactions were between reputed parties, all relevant documents were furnished to the Authorised Dealer and full co-operation extended to the authorities. In these circumstances, it is submitted that no penalty is leviable.

53. Section 42(1) does not apply to a BCCI since it is a society of associations and not a company, firm, body corporate or association of individuals. No adjudication proceedings can be held against our client and the reference to section42(1) is wholly misplaced. Section 42(1) provides that:

"Where a person committing a contravention of any of the provisions of this Act or of any rule, direction or order, made thereunder is a company, every person who at the time the contravention was committed, was in charge of and was responsible to the company for the conduct of the business of the company shall be deemed to be guilty of the contravention and shall beliable to be proceeded against and punished accordingly:

Provided that nothing in this sub-section shall render any/such person liable to punishment if he proves that the contravention took place without his knowledge or that he exercised due diligence to prevent such contravention."

The Explanation to section 42 provides that:

"For the purposes of this section

(i) "Company" means anybody corporate and includes a firm or other association of individuals and

(ii) "Director" in relation to a firm means a partner in the firm."

The above section 42(1) read with the Explanation does not apply to BCCI for several reasons. First, BCCI is a society registered under the Tamil Nadu Societies Registration Act 1975. As such it is not a Company or a Firm. It is not an association of individuals as its members are not individuals but other associations. It is not a body corporate as it has no corporate existence apart from its members. A body corporate has an entity apart from its constituent members and can hold property in its own name. However, the property of a registered society is vested in its Committee; section 18 of the Tamil Nadu Societies Registration Act 1975 states that "All property movable and immovable, belonging to a registered society, whether required before or after its registration, if not vested in trustees, shall vest in the committee and any such property may in legal proceedings be referred to as the property of the committee." Therefore Section 42(1) has no application to a society. Secondly, as section 42(1) refers to a person in charge of the business of the company it

can apply only to entities carrying on business. It cannot be applied to a not-for-profit body whose activity is to promote a sport and whose charter prohibits it from using the funds for any purpose other than promotion of the objects.

54. BCCI is a Society and all its office bearers are in honorary position only. The Hon'ble Supreme Court of India in Giridhar Lal Gupta v D. N. Mehta AIR 1971 SC 28 has held that a person in charge must mean the overall control of the day to day business of the company or firm. The Supreme Court has also observed that section 23C (1) of Foreign Exchange Regulation Act 1973 (parimateria with section 42 of the Act) is a highly penal section since it makes a person vicariously liable for an offence committed by the person and therefore it must be construed strictly.

55. In any case, there is no reason to proceed against the Society and the office bearers for the same alleged contravention. Following the Calcutta High Court decision in Sarah North Sen v Union of India AIR 1975 Cal 337, the FERA Board has held that a separate penalty on the partners of the firm u/s 42(1) in addition to penalty on the firm is not justified. (Seek B S H Export House v Director of Enforcement (1988) 41 Taxmann 138,B L Sajdeh v DOE 92 Taxmann 290, Diamant Carbon Products v DOE 1998 96 Taxmann 571 and Sudharshan Exporters v Directorate of Enforcement 81 SCL 101). As has been pointed out BCCI is a not-for-profit society and its office bearers are not paid employees nor do they get any profits or dividends. They oversee a professional organisation to promote the sport of cricket. The office bearers take professional expert advice. Besides all relevant documents were furnished to the Authorised Dealer such as Agreements, Invoices, etc. The Authorised Dealer had not pointed out that the remittances required prior approval of RBI. All the remittances were made through normal banking channels. Income tax was withheld in accordance with law. Thus the office bearers had exercised due diligence and cannot be proceeded against as specifically provided in the proviso to section 42(1).

56. Our client is not even an office bearer of BCCI. The office bearers of the BCCI are Honorary President, Honorary Secretary and Honorary Treasurer. Our client was Chairman of IPL, which was a sub-committee of BCCI. IPL had no

separate existence or identity. Only an office bearer can be treated to "person in charge" of the society. For these reasons, we request you to drop the proceedings against our client.

57. In any case no penal action is called for. We submit that even assuming that some contravention of the Act had taken place, it was by inadvertence. BCCI had provided full information to the Authorised Dealer. BCCI is a non-profit body with the object of promoting sport. BCCI has not gained by the alleged contravention. The Hon'ble Supreme Court in Hindustan Zinc Limited case had observed that penalties are leviable only for contumacious conduct or when a person does not act bonafide. In the present case, there is no allegation in the Complaint that was wilful contravention of the provisions or that there was reckless disregard for law of that foreign exchange transactions were conducted outside normal banking channels. On the contrary, the transactions are between reputed entities, all documents were furnished to the Authorised Dealer. In these circumstances, we submit that no penalty is leviable.

Request for personal hearing

We request you to treat this as an interim reply and request you to grant us a personal hearing.

Yours truly,
For Wadia Ghandy & Co.

Partner

कार्यालय विशेष निदेशक
प्रवर्तन निदेशालय मुंबई
30 JAN 2013
OFFICE OF THE SPL. DIRECTOR OF ENFORCEMENT MUMBAI
S. N. क्र. सं.....

Encl: a.a.

K.R Shukla
30-1-13

Annexure - A

HELD AT CRICKET CENTER, MUMBAI ON 18.10.07 TIME 11.34am

Minutes of the Opening IPL Governing Council Meeting held on 18th October 2007 at the Cricket Center, Mumbai.

1. The Chairman opened the meeting at 11.34am and welcomed everyone to the first IPL Governing Council Meeting:

Present were:
Lalit Modi - Chairman/ Convenor
IS Bindra
Chirayu Amin
Arun Jaitly
Rajiv Shukla
Sunil Gavaskar
Ravi Shastri
Andrew Wildblood - IMG
John Loffhagen - IMG
Catherine Simpson - IMG
Michael Fordham - IMG
Balu Nayer - IMG
Amit Sibal - Legal Counsel BCCI
Shashank Manohar - BCCI President Elect
Sharad Pawar
MP Pandove
Niranjan Shah
Prof. Shetty

2. Leave of absence was given to :

Mansoor Ali Khan Pataudi
N Srinivasan - Treasurer BCCI

3. The President Elect, Shashank Manohar was invited to become a member of the Governing Council. The Chairman then introduced the special invitees from IMG.

4. John Loffangan from IMG gave an overview of the Governing Council Constitution and the Chairman asked for further comments from the members on the draft document. It was noted that there was one minor err in the document to be changed which was regarding the point that the document states that the appointed CEO would be in charge of the bank accounts while the BCCI Treasurer would be the person to be the same. Refer to point K 5 of the said

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document.
Amendment: It was decided at the office bearers meeting prior to the second IPL meeting on 17th November 2007 in Jaipur that all payments relating to IPL would be made by the BCCI Treasurer's office.

5. Item 5 was deferred to the IMG Presentation and the new IPL Logo presented by IMG was approved.

6. The Chairman explained that the basic contract is at a lower value which is guaranteed by the BCCI while the firm contract is one that is not dependent on the franchise and less popular with the players. It was suggested that point (f) in the contract should be clarified in detail as it could lead to legal issues in the future. Arun Jaitly also reccomended that instead of disputes being subject to the jurisdiction of the Courts of Mumbai a separate legal panel should be formed to settle the disputes in arbitration.

7. The Chairman confirmed the signing of the list of players shown in Item 7.

8. The Chairman confirmed the signing of 3 Pakistan players: Younis Khan, Mohammed Asif and Shoaib Malik. The Chairman confirmed that discussion were being held with Australian players. Unfortunately, they were unable to participate in the League in 2008 due to FTP commitments. The dilemma of them not being allowed to play for and Indian Franchise team in C2020 is still under discussion. It was also noted that if an exception was made for Cricket Australia then the other boards would expect the same.
The issue of the ECB not giving their players NOC was also raised and the Chairman asked the members to think of an adequate solution for the same. The board authorised the Treasurer to go ahead and make payment to all players signed as per the contracts signed by the chairman on behalf of the IPL.

9. The MOU signed with IMG was noted.

10. Approval was given to hire the premises for the IPL offices at Cricket Center.

11. The legal notice sent by Sheridan to BCCI, IMG and the PCB was noted and summarized.

12. The response to Sheridan from IMG was noted.

13. After noting the hiring of Adfactors, Andrew Wildblood recommended that they design an international PR strategy with the said agency which was approved by the Council.

14. It was agreed that IPL TA/DA would be the same as the BCCI TA/DA.

15. During the presentation by IMG, it was recommended that the following be

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- Merchandising program to be very strong

Sony does not want to acquire a franchise as it may make them biased.

5. Nimbus

- A 360 degree approach to make this a success.
- Global reach/distribution will be key.
- Have player ratings
- Cross promotions across media
- Joint marketing initiative with teams
- Plans for pre event, during event, weekly programs, fantasy leagues
- Big ground entertainment plan

They believe that a broadcaster may be accorded preferential option to acquire a franchise.

6. ESS

- T20 is the biggest thing that has happened to sport
- IPL is a truly international product
- They have had lots of opportunities to learn and hence are on top of the learning curve
- They offer
  - Quality promotions
  - Quality product
  - Quality talent
  - Quality presentation
  - Quality distribution

  - Plan on having Super selector where fans can select their fantasy teams
  - IPL exchange
  - Have a cheer leading championship for cheer leaders of each city based team
  - Need to protect not only the interest of IPL but also the franchise
  - Spread through various points of contact like movies, fashion, gaming SMS, internet

7. Media ITT - this Item was brought forward on the agenda. After the 3 presentations everyone except the board members were asked to leave the room. The following was discussed

- We need to have a broadcasting tender by next week.
- Close bidding process by 2nd week of December
- Need to ascertain if we are going at pure value (money power) or are we having any criterion.

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- Mr Srinivasan raised the point that the broadcaster should enhance the product and not only be valued on money
- There will also be other bidders like 9X, NDTV, Star and even reliance.
- Lalit said that IPL is a brand new product and it was a do or die situation. Hence reach of the broadcaster was very important.
- Mr Jaitly – we should also see that the criterion isn't that stringent else many bidders will not fit the bill and the value of the bid can/will come down. Hence we need to be flexible and marketing procedures should be pre determined.
- There was a question that if the bid by one party was much more than the others but the party wasn't competent enough then what would the board opt for.
- The bid should not be reduced to a few channels only.

Conditions:

- Only channels or consortiums. The bidding party must have a medium.
- If a bidder doesn't own a channel then they must disclose who it has back to back association with.
- Past association in Sports marketing to be given importance
- Quality of production
- Camera positions
- Need to decide on period of time for the bid
- Need to formulate the terms and conditions and have a meeting once more before the tender is sent out.
- Critical issue is reach and we should put reach ~~at minimum~~ adequate reach.
- When we open the bid we should allow maximum channels to bid and have flexibilities in the contract.
- LKM to send a discussion paper to the board with a draft of the tender with salient features to include
  - Period of rights
  - Qualification
  - Minimum reach
- 26th November the board to meet again in Delhi to discuss the bid for TV rights

At this point Sunil Gavaskar, Ravi Shastri, IMG and team from Adfactors rejoined the meeting.

8. **Event Implementation:** IMG presented the event plan.
   - Every match must have a consistent format whilst allowing each franchise to have their individuality as well
   - Need to discuss and confirm what will be done centrally and what the franchise can do themselves like travel, hotel stay etc.
   - The venues will have to be clean venues
   - State association will make money as well and the break down will be explained to each state association.

9. Prospective IPL Franchises List – we have a list of prospective franchise bidders and we will circulate it to them first.

CHAIRMAN'S INITIALS

Annexure B

HELD AT RAMBAGH PALACE, JAIPUR ON 17.11.07 TIME

Minutes of the IPL Meeting held at Rambagh Palace, Jaipur on 17th November 2007

The meeting was attended by:

Members:

Lalit Modi – Chairman IPL
Shashank Manohar – BCCI President Elect
N Srinivasan - BCCI Treasurer
I S Bindra
Niranjan Shah – BCCI Hon. Treasurer
Arun Jaitly
Rajiv Shukla
Ravi Shastri
Sunil Gavaskar

Special Invitees:

Andrew Wildblood
Ravi Krishnan
Mark Sybil
Balu Nayer
John Loffhagen
Catherine Simpson
Brijesh Patel
Ratnakar Shetty,
Rajesh Chaturvedi
Mr. Pattabhi
Dhiraj Malhotra
Amit Sibal

Before the meeting formally started the following was discussed

- The position with the English payers was discussed. The ECB has a problem cos their county season clashes with the IPL. However there is no clash with ICL as that happens in November and does not clash with their season and also their players weren't taking permission from the board. BCCI has requested ECB to take action against such players. ECB have said that they will have to check on the various laws and then get back.
- Brian Lara who has signed with ICL now wants to sign with IPL. In order to allow him to sign with IPL, IPL will have to go through his contract and see the clauses. Mr. Srinivasan was of the opinion that we shouldn't bother with Lara as we already have all the top players. Mr. Pawar was of the opinion that if we signed Lara then ICL will fall flat as it will not have any name at all. Everyone felt that ICL will anyway not to do well as it has no substance and no backing.

1. The Chairman formally welcomed everybody.

CHAIRMAN'S INITIALS

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HELD AT ON TIME

2. Leave of absence was given to Sharad Pawar, M P Pandove, MAK Pataudi and C Amin. The minutes from the first IPL Governing Council were approved after an amendment was made

3. The 3 Media Presentations were deferred till after the Ticket Pro Presentation was made. The first presentation was made by Serge Girmaux of Ticket Pro and his team from DNA. Serge explained the process of ticketing and the way he prints them. They use laser technology for better artistic results, colours etc. they also e mail tickets and each one has a bar code so that they can be scanned. The tickets can also be bought by SMS. They provide all the paraphernalia associated with ticketing like people/staff, tickets, turnstiles etc. The technology allows the organizers to see the exact status, how many sold, which area sold etc. once a ticket is scanned all details can be obtained. The ticket can also be programmed so that one can earmark specific areas where the ticket holder can go to. Their mode of charging is either a percentage of the tickets sold, service charge on the internet tickets or through a commercial partner. They can provide complete database from various events and promote IPL across various events. The advantage of their system is that there will not be any duplicates, people managing the tickets will also be manning the gates, it avoids scalping, easy access to a bonafide ticket buyer, money goes into the bank account instantaneously and hence there is no accounting or cash exchange. Also through their database they can increase the revenue manifold.

Before the TV presentations were made Ravi Shastri and Sunil Gavaskar left the room, as they made their affiliation to ESPN known.

4. The first TV Presentation was made by **Sony.**
   - Their emphasis was on the fact that IPL should be shown as an entertainment and not against any sport as it has the power to kill any sport and any form of cricket.
   - Their vision was to make IPL a prominent and global destination for the entire world, the biggest block buster event on TV.
   - They also propose to have an end of season IPL awards show.
   - They want to make IPL the baap of entertainment and maa of cricket.
   - Fan Vs Fan- divide the country into various factions to get local regional support
   - Have an IPL mascot
   - IPL anthem and a team anthem
   - Team colours to be clearly divided.

Key for success:
- IPL teams composition to be fair so that who wins the tournament is unpredictable – critical to keep the fans glued
- No over lapping of matches
- Individuals and not corporates should own franchises
- Strong TV rating a must
- Extend beyond the male; co-opt the kid/family
- Ensure website is launched well in advance

CHAIRMAN'S INITIALS

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HELD AT _____ ON _____ TIME _____

10. Marketing and PR of IPL is in hand and IMG will get US and Central American agencies involved as well to get global marketing of IPL.
11. Timelines – were not discussed.
12. Franchise Coaching - IMG to send a base document and give the board a deadline to revert with suggestions/changes. If IMG doesn't receive the changes by the said date then they should proceed as if there were no changes.
13. Stadium Provision – It was agreed that ICC regulations will be followed giving clean stadiums to the IPL for matches. Should an Association fail to provide a stadium, they become illegible to hold matches. Stadiums that hold IPL matches will be paid substantial amounts from the IPL in the form of a venue fee with an allowance of tickets to fulfill their requirements.
14. There were no other items brought to the attention of the Chair and the Chairman thanked everybody for attending and reconfirmed that the next meeting will be on the 26th of November in Delhi. Time and venue to be confirmed.

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Anx - C

MINUTE BOOK PAGE 1

HELD AT CRICKET CENTER, MUMBAI ON 14.01.08 TIME 1.00PM

Minutes of the Opening of the Indian Premier League Media ITT
1.00pm Monday 14th January 2008, Cricket Center, Mumbai

The submission of the final IPL Media ITT and Agreement was extended with the approval of the IPL committee from 11.00am to 1.00pm.

Present:
Lalit Modi – Chairman and Commissioner, IPL
Niranjan Shah
Rajiv Shukla
MAK Pataudi

Special Invitees:
Ratnakar Shetty
Andrew Wildblood
Balu Nayer
Dhiraj Malhotra

Leave of Absence:
Sharad Pawar, President BCCI
Shashank Manohar – President Elect, BCCI
Arun Jaitly
Chirayu Amin
IS Bindra
Ravi Shastri
Sunil Gavaskar
N. Srinivasan

1. The Chairman welcomed the bidders, World Sport Group, Sony and ESPN, and accepted the bids for the IPL Media ITT and granted leave of absence.
2. Before opening the bids, the Chairman informed the committee that NDTV had faxed this morning requesting that the submission be extended for another 48 hours. The request was denied.
3. The Chairman informed us that Sony had pulled out their individual bid to partner in a consortium with WSG.
4. The Committee proceeded to open Envelope A of the 2 bids which was the eligibility of the bidding company for the ITT. The IPL committee and both bidding parties were satisfied with the documents. It was observed that ESS had failed to comply with the eligibility criteria of the ITT by not producing a letter signed by the company complying with the eligibility.
5. ESS were questioned regards the same by the Governing Council and the letter was shown to the SONY – WSG group for their observations to which they stated that the decision was to be left to the discretion of the IPL Governing Council.
6. ESS were asked to leave the room as they had not complied with the eligibility criteria and were told that they would be able to re enter the bid should SONY – WSG fail to meet the eligibility criteria set out in the Media Rights Agreement.

CHAIRMAN'S INITIALS

HELD AT _____ ON _____ TIME _____

7. The Council went on to open the SONY – WSG bid which was compliant to the eligibility criteria.
8. The WSG Media Rights Agreement mentioned that as a part of the rights fee was reliant on the ratings delivery, it was suggested by the Chairman and IMG and agreed by the representatives of both SONY and WSG that, in the event of a shortfall between the amount paid over the 5 year term and the minimum license fee per season, then that shortfall would be made good at the end of the term to ensure compliance with the requirements of the reserve price per season by both parties.
9. It was agreed between the parties in the form of an agreement between IPL and Sony for Indian sub continent TV rights between IPL and Sony valued at 275 million ; and an agreement between WSG and IPL for ten years global media rights , all media platform neutral , with a carve out for the first 5 years of the India sub continent TV rights for USD$ 642 million
10. WSG SONY won the bid with an offer of USD1.026 billion over a period of ten years, out of which USD 108 million would be allocated solely to marketing and promotion of the IPL
11. The Chairman closed the meeting at 2.30pm

No agreement signed, in principle agreement reached it.

25/01/08

CHAIRMAN'S INITIALS

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Anx-D

HELD AT CRICKET CENTRE, MUMBAI ON 24.01.2008 TIME 2.00 PM

Minutes of the IPL Governing Council Franchise ITT opening on Thursday January 24th 2008 at 2 pm at the Cricket Centre, Wankhede Stadium

Prior to the meeting officially starting, the Chairman announced an extension for the submission of the Franchise Bids from 2.00pm to 2.30pm. By 2.20pm all bids had been submitted.

Please find attached as Annexure 1, the full list of names of the companies that bid and the date of their performance bids deposits.

1. The meeting was officially convened by the Chairman at 2.25pm where he welcomed and thanked everyone for their interest in the IPL and their submissions.

2. The Chairman explained to the house the process that would be followed which was that everyone was required to submit 2 envelopes, A and B. First envelope A would be opened and check if all the bids were in accordance with the BCCI- IPL requirements which were eligibility letter, certified true copy of the certificate of incorporation, certified true copy of the memorandum and articles of association, affidavit on Rs 100 stamp paper and duly notarized. If someone did not meet the eligibility criteria then their envelope B will not be opened and a decision on them will be taken later. Rest everyone's envelope B will be opened.

3. There were 11 bidders who submitted their Rs 20 crore guarantee by the stipulated time and their names as per annexure 1. However there were 3 groups who had submitted their bid after 3 pm on the 22nd. They were the future group, ICICI venture funds and Sahara hospitality Ltd. The Chairman then asked the house if someone had any objections to the 3 bidders who had submitted their bids late.

India Cements, Preity Zinta and UB group objected to the late bids as they were not in accordance with the terms and were not on time. After their objection John Loffhagen, said that IPL will not consider the late bids of the 3 groups on the basis that there were strong objections from the house and if any the remaining 11 groups failed in their bidding process then a decision would be taken on the 3 groups.

The 3 companies were also given a chance to explain the reasons for their late submission and to convince the house as to why they should be given a chance. However inspite of the 3 groups giving their reasons for the delay on submitting the 20 crores, the house still objected to their bids and they were asked to wait outside the room.

4. Then a representative from each company was made to sign their presence in the room before proceeding to open the bids. The following companies bids were opened and their A Envelope checked:

- GMR – Eligible
- Preity Zinta – Eligible
- DLF – Eligible

25/01/08

CHAIRMAN'S INITIALS

General P. Press, Bombay-3.

HELD AT ON TIME

- Emerging Media - Eligible
- Deccan Chronicles – Eligible
- Red Chillies Entertainments Pvt Ltd - Eligible
- Deutsche Bank - Eligible
- India Cements - Eligible
- Emerald Telecom Services Pvt Ltd. - Eligible
- The UB group - Elgible
- Rathi Priya Trading - Eligible

All 11 members qualified from round 1.

5. The Chairman explained that the process followed next would be that all financial bids would be opened and in case some bidder was H1 in more that one city then he would be called aside and would have to choose which city he wanted and then his bid for the other cities will not be considered and this process will continue till all 8 teams were won.

After all the finance documents were opened the Chiarman invited the bidders from the highest to the lowest to choose their city of choice in the following order:

- Rathi Priya Trading Company Pvt Ltd were invited to the choose the city of their choice as they had the highest bid and they chose Mumbai at USD$111.9 million.
- Then Vijay Malaya of UB group was called as he had won the bid for USD$111.6million and he chose Bangalore.
- Deccan Chronicle chose Hyderabad at a bid of USD$107.01 million.
- The India Cements won Chennai at USD$91 million.
- GMR won Delhi at USD$ 84 million.
- Red Chillies Entertainment Pvt/ Ltd. Won Kolkata at USD$75.09 million.
- Preity Zinta elected Mohali at USD$76 million.
- Emerging Media won Jaipur at USD$67 million.

6. The process was complete as all 11 bids were opened. Once again the Chairman thanked everybody and said that the bids were very good and competitive. The winners and the city were announced to the house in the order of the highest bids.
7. The Chairman closed the meeting at 4.05pm.

25/01/08

CHAIRMAN'S INITIALS

Annexure - E

HELD AT CRICKET CENTER, MUMBAI ON 25-01-2008 TIME 11-00 AM.

Minutes of the IPL Governing Council Meeting, Friday 25th January 2008, 11.00am
Cricket Center, Wankhede Stadium, Mumbai

The Meeting was opened by the Chairman at 11.00am.

In attendance were IPL Governing Council Members:
Lalit Modi – Chairman and Commissioner, IPL
Rajiv Shukla – IPL Member
Chirayu Amin – IPL Member
Niranjan Shah - IPL Member, Hon Secretary BCCI
MP Pandove Hon Joint Secretary BCCI
MAK Pataudi – IPL Member

Special Invitees:
Ratnaker Shetty CAO BCCI
Dhiraj Malhotra Director Marketing IPL

IMG Team:
Andrew Wildblood
Catherine Simpson
John Loffhagen
Michael Fordham
Ian Todd
Peter Griffiths
Balu Nayer

Leave of Absence granted to:
Sharad Pawar – President BCCI
Shashank Manohar – President Elect BCCI
N Srinivasan – Treasurer BCCI, IPL
Arun Jaitly – IPL Member
Sunil Gavaskar – IPL Member
IS Bindra – IPL Member
Ravi Shastri – IPL Member

1. Chairman's Message:
The Chairman congratulated all present and those given leave of absence for their hard work and success on the sale of the 8 Franchises on the 24th of January. He then went onto introduce Ian Todd to the members and asked him to give his perspective on yesterdays successful bid and why, when he was the head of Nike, made such a high bid for the Indian Cricket Team in December 2005. Ian explained that Nike believed that the only way to become the dominant apparel company in the sub continent was through cricket in India and he believed the price paid was only fair. He added that what IPL had achieved so far has never been achieved in any sport any where in the world.

2. Ogilvy and Mather Presentation:

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The Chairman welcomed and introduced the creative Agency Ogilvy and Mather to all the members and special invitees prior to their presentation and explained that O & M would be partnering IPL as the IPL creative agency. The Chairman explained with the help of Bharat Patel, a colleague of Chirayu Amin and Chairman of Proctor and Gamble and AAAI, a number of presentations with the top creative agencies had been arranged and post these, O & M was shortlisted for the presentation to the IPL. Prior to the start of the presentation, the Chairman explained that the aim of the creative agency was to achieve a TRP of 6 plus specially since we have on board the best players in the world.
The presentation was made, afterwhich, it was agreed that IMG – IPL would provide a specific brief to O&M as to what they need to target and how they should take the creative project forward. It was also agreed that IMG would provide a person who would act as a clearing house between the IPL, Sony and the 8 Franchisees as each would have need to be on the same creative wave length.

3. Grounds:
(Brought forward from 12. Any other items by permission of the Chair)
The Chairman approved the hiring of Daljit Singh to inspect and ensure that all the 8 grounds would be ready for the League in April. Additionally, the best ground staff in India and other cricketing countries is to be hired for each of the grounds.

4. Mindshare Media Presentation:
Mindshare made their presentations based on a brief given to them by the Chairman and Bharat Patel. Post the presentation, the Chairman suggested that a further brief would be given to them on how to proceed in line with IPL – IMG.

5. Approval of January 14th Minutes:
The Chairman recapped the meeting's proceedings for the benefit of members that were not present at the same. He went on to explain the proceedings of the meetings in London to finalise the MRA's between Sony – IPL and WSG – IPL which as of now are firm and final for the next ten years.

6. WSG/SONY Ten Year MRA Approval:
The Chairman asked for the final approval of the board which was given by the IPL Members.

7. Approval of 24th January 2008 Bids and Minutes:
Approved by the Council.

8. Approval of O&M as the IPL Creative Agency:
The Chairman reminded the Council that at the last IPL Governing Council Meeting it has been agreed that Bharat Patel would be hired by the Board as a consultant to negotiate on behalf of IPL in deciding the Creative Agency and Media partner. The Council Approved the same.

9. Approval of Mindshare as the Media Partner:
Approved by the Council.

10. Approval of Adfactors Agreement:

HELD AT _____ ON _____ TIME _____

Approved subject to negotiation of the financials.

11. Player Auction Details:
It was decided that the player auction would have to be regulated to ensure that one franchise is not stronger than the next. The ideas were as follows;

(a) A Salary Cap on the Franchisee of USD$ 5 Million;
(b) Divide the players into groups and pools to be selected from;

It was proposed that each team owner would be given a number considered the salary cap either as a whole budget for the complete team or a salary cap per player. The formula and model is to be determined by the council and IMG.
Players not chosen become an IPL liability.
Issues that required clarification were also that if an icon player already represented one company away from his icon area, then could the IPL intervene in the Icon player leaving his area and it was decided by the Council that the IPL would not intervene and that the Icon player would have to play for the designated Franchise.

12. Players Agreement:
Members were asked to go through the final players contract.

13. Any Other Items by Permission of the Chair:
Please refer to Point 3 in these minutes for the item on Grounds inspection, grounds staff hiring which was raised early on in the session.

No other items were raised and the Chairman closed the meeting at 3.00pm.

Approved

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Annexure - F

MINUTES OF THE SPECIAL GENERAL MEETING HELD
ON 17TH APRIL 2008 AT BANGALORE.

The following members attended the meeting.

Shashank Manohar	President Elect, BCCI
Lalit Modi	Vice President, BCCI
Dayanand Narvekar	Vice President, BCCI
Rajeev Shukla	Vice President, BCCI
N.Srinivasan	Hony. Treasurer, BCCI
Niranjan Shah	Hony. Secretary, BCCI
M.P. Pandove	Hony. Jt. Secretary, BCCI
Maj. Gen. S.P. Singh	S.S.C.B.
I.S. Bindra	Punjab C.A.
Ranbir Singh Mahendra	Haryana C.A.
Saleem Khan	J. & K. C.A.
Prof. Dayanand Dongaonkar	A.I.U.
Snehasish Ganguly	C.A.B.
Ranjib Biswal	Orissa C.A.
Goutam Roy	Assam C.A.
Amitabh Choudhary	J.S.C.A.
K.P. Kejaria	National C.C.
Dilip Vengsarkar	Mumbai C.A.
Raj Singh Dungarpur	C.C.I.
Ajay Shirke	Maharashtra C.A.
Sanjay Patel	Baroda C.A.
Narhari Amin	Gujarat C.A.
Bharat Shah	Saurashtra C.A.
K.S. Viswanathan	T.N.C.A.
D.S. N.R.Wadiyar	K.S.C.A.
G. Vinod	Hyderabad C.A.
V. Chamundeswarnath	Andhra C.A.
T.C. Mathew	Kerala C.A.
Sanjay Jagdale	M.P.C.A.
Subhash Joshi	Rajasthan C.A.
W.D. Chitaley	Vidarbha C.A.
Rakesh Yadav	R.S.P.B.
Vinod Phadke	Goa C.A.
Arindam Ganguly	Tripura C.A.
Anurag Thakur	H.P.C.A.
P.S. Tamang	Sikkim C.A.

Mr. Sharad Pawar could not reach as his flight got delayed and in his absence Mr. N. Srinivasan requested Mr. Shashank Manohar, President Elect to chair the meeting.

Mr. Shashank Manohar welcomed the members.

Mr. Niranjan Shah informed the members that Hyderabad Cricket Association and Cricket Association of Bengal had some problems with staging of IPL matches. He requested representatives of both the Associations to place their problems before the members. Mr. Snehasish Ganguly pointed out that Rs.50 lakhs given as match expense was not enough. Mr. Shashank Manohar was of the view that C.A.B. should not sign the agreement at this stage and do so only after seeking clarification from IPL. Mr. G. Vinod informed the house that there was court case regarding 2 hoardings of Visaka Cement in the stadium. After due deliberations, Mr. G. Vinod agreed to get the matter resolved and give a clean stadium as required by IPL.

Item No. 1 To adopt the report of the IPL

The Chairman requested Mr. Srinivasan to brief the members regarding the contents of the report which was circulated.

The Indian Premier League - IPL - was approved at an extended BCCI Working Committee meeting, which representatives of all member associations on Thursday 13th September 2007 in New Delhi attended. In the aforesaid meeting the basic structure and the overall plan for going forward was approved. The structure which was approved was as follows:

- The tournament would run for 6 weeks starting in April;
- The tournament would follow the English Premier League Format;
- There would be 8 Franchises in 8 different cities who owned a team each;
- The Franchises would be selected post a tender to bid for the same;
- The International players would be auctioned post the opening of the Franchise Bid;
- Each Franchise could have 4 foreign international cricketers, 4 Indian contracted players and 4 players under the age of 22.

- A BCCI Sub Committee known as the IPL Governing Council was formed with a term of 5 years, which was to be spearheaded by BCCI Vice President Lalit Modi as the Chairman and Commissioner. The IPL Governing Council would consist of

Annx - F

Mr. Lalit Modi - Chairman
Mr. Arun Jaitley
Mr. Chirayu Amin
Mr. IS Bindra
Mr. Rajiv Shukla
Mr. M A K Pataudi
Mr. Sunil Gavaskar
Mr. Ravi Shastri
Office Bearers of BCCI – ex-officio members

- At the meeting of the IPL Governing Council held on 14th January 2008 - Mumbai Cricket Center the following decisions were taken:

Opening of the IPL Media Rights ITT
WSG, Sony and ESS bid for the ITT with NDTV opting out at the last minute as they were unable to fulfill the same in the given time frame. Sony and WSG submitted a joint consortia bid instead of independent bids. On the opening of the ITT eligibility, ESS were eliminated from the bid for not complying with the qualification criteria of submitting a letter of eligibility signed by the company for the bid but were informed that should the SONY/WSG bid not comply they would be back in the bid. The SONY-WSG bid met all the criteria and won the bid at USD$1.026 billion out of which USD$108 million would be carved out solely for marketing and promotion of IPL.

- At the meeting of the IPL Governing Council held on 24th January 2008 – Mumbai Cricket Center the following decisions were taken:

Opening of the IPL Franchise Bid
The following companies bid for the ITT:

- ICICI Venture Capital Funds, Sahara Hospitality Ltd, DLF, India Cements, Red Chillies Entertainments Ltd Pvt., Preity Zinta, GMR, UB Group, Emerging Media, Deccan Chronicles, Deutche Bank, Emerald Telecom Services Ltd, Rathi Priya Trading Pvt. Ltd

ICICI and Sahara did not qualify for the bid for submitting their performance bids in late. All others qualified and met eligibility criteria and the following won the 8 venues:

- Rathi Priya Trading Company Pvt. Ltd. – Mumbai – USD$111.9 million
- UB Group – Bangalore – USD$ 111.8 million
- Deccan Chronicles – Hyderabad – USD$ 107.1 million

- India Cements – Chennai – USD$91 million
- GMR – Delhi – USD$ 84 million
- Red Chilies Entertainments Pvt. Ltd. – Kolkata – USD$ 75.09 million
- Preity Zinta – Mohali – USD$ 76 million
- Emerging Media – Jaipur – USD$67 million

- At the meeting of the IPL Governing Council held on 25th January 2008 – Mumbai Cricket Center the following decisions were taken:

IPL Support Staff
Bharat Patel, Chairman of Proctor and Gamble was appointed as consultant to IPL for Media and Advertising management of the Brand. Daljit Singh was appointed as head of Grounds Management for all IPL Venues.

IPL Media, Advertising and PR Contracts
Following presentations from Ogilvy & Mather (Advertising), Mindshare (Media Placement) and Adfactors (PR Management), the Governing Council approved the hiring of all 3 agencies for promotion of the IPL Brand.

IPL Media Rights Partners
The Media Rights Agreement between Sony/WSG and BCCI – IPL for a duration of 10 years was approved.

IPL Player Auction
It was decided that a maximum spending cap of USD$5 million and a minimum of USD$ 3 million would be allocated to each Franchisee for spend on their international player and Indian national team player quota. Any Franchisee not spending the minimum amount would have to pay the differential between their spend and the USD$ 3 million to the BCCI – IPL. The Players would be randomly divided into auction sets.

- At the meeting of the IPL Governing Council held on 13th February 2008 – Mumbai Cricket Center, the following decisions were taken:

IPL ICON Players
Delhi and Hyderabad wanted to have ICON players, V. Sehwag for Delhi and VVS Laxman for Hyderabad and the same was granted after getting approval from other franchisees.

IPL Ratification of Contracts
- Contracts of Ravi Shastri, MAK Pataudi and Sunil Gavaskar with the IPL were approved and ratified. It was also noted that further agreements with Sunil and Ravi would be as commentators for IPL matches.

The terms of appointment were approved.

- Contracts/ Agreements between IPL and Maxus, Adfactors and O&M were approved and ratified and terms of appointment were approved.

- Confirmation of Sundar Raman's appointment as Chief Operating Officer of IPL was approved and ratified.

- **IPL 2008 Production**
  It was decided that IMG would undertake the production of the first IPL season in 2008 to maintain international standards. The Chairman was authorized to approve the agreement.

- **IPL Venues and Up gradation**
  The Governing Council decided that each venue would have to fulfill a venue requirement for them to host the matches. Host Venues receiving money from IPL would put to use those monies for the up gradation of their facilities.

- At the IPL Governing Council Meeting held on 3rd April 2008, the following decisions were taken:

- **IPL 2008 Production Contract with IMG**
  The Production Contract with IMG amounting USD$7.98 million to at the rate of USD$125000 per match was approved.

Stadium Franchise and Host Venue Agreement
The Stadium Franchise and Host Venue Agreement was approved subject to modifications by President Elect BCCI Shashank Manohar and Joint Secretary MP Pandove. It was decided that the Venue Agreement be circulated to all venues for signatures and be returned in 5 days time. It was also resolved that for services to be provided – media communications, support staff, electricity, housekeeping, beautification, back up generators – the franchisee will pay a consolidated amount of INR 60 lakhs inclusive of 10 lakhs agreed upon in the workshop. This amount would also be inclusive of the preparation of the ground and wickets, practice areas and the maintenance staff for all services etc. All services to be clearly stated in the Venue Agreement. Mr. Pandove along with the Chairman were asked to finalize the Venue agreement.

- **IPL Match Schedule 2008**
  The match Schedule as presented was approved for Season 2008.

- **IPL Opening Ceremony 18th April 2008**
  It was unanimously decided that for the Opening Ceremony on the 18th, only the 8 captains from the 8 teams were to be present and after the ceremony was complete, arrangements would be made for them to be sent back to their respective venues on the same evening.

Finalization and Approval of the IPL Report For the BCCI Special General Meeting
The report was circulated to the members of the Governing Council and the draft report was approved subject to the incorporation of the decision of today's meeting of the GC.

Confirmation on the Hiring of Star Commentators
Mr. Lalit Modi explained the hiring of Ravi Shastri and Sunil Gavaskar after the expiry of their contract with ESS. The arrangement outlined by the Chairman was approved by the Governing Council and the Chairman was authorized to enter into contract with the commentators on the terms discussed.

IPL PR Strategy
The Adfactors PR strategy was approved subject to a decision that the PR agency would now concentrate on venue centric publicity.

South African Player Issue
The proposal outlined by the Chairman regarding the SA players was approved and the Chairman was authorized to finalize the financial arrangement as per the discussion in the meeting.

Player Related Issues – Shoaib Akhtar
The Shoaib Akhtar case was discussed and it was decided that he should not be eligible to play so long as the ban imposed on him by the Pakistan Cricket Board is stayed/suspended, repealed during the course of the appellate process.

Franchisee Related Issues & Mumbai Franchisee Request
The additional cost in respect of the Mumbai Franchisee playing at 2 venues amounting to USD$510,000 was approved. It was decided that the cost would be borne by the Mumbai franchisee.

IPL Official Photographer Policy for Syndication
The proposal outlined by Sundar Raman was approved. In short, the proposal referred to copyright regarding all photos of IPL resting in IPL and reverting back in the case of newspapers and agencies in 24 hours. It was also resolved to authorize expenditure of USD$60000 per year to official photographers of which 50% was to be paid by web portal licensee per annum.

IPL Sponsorship/ Partnership Proposals
Various sponsorship proposals relating to the sale of instadia rights, associate sponsorships had been signed. The list as follows was approved:

- IPL Title Sponsor – DLF at a total of USD$50 million over 5 years.
- Associate Sponsor – Hero Honda at USD$22.5 million over 5 years.
- Official Pouring Partner – Pepsico at USD$12.5 million over 5 years. (100% revenue to be split across the franchises)
- Official Umpires Partner – Kingfisher at USD$26.5 over 5 years.
- Official Hotel Partner – ITC at 60% discount for the first year.
- Official Airline Partner – Kingfisher at 50% discount plus customized routing and charters.
- MCC Spirit of Cricket - MCC and IPL entered into a partnership of understanding to promote the MCC spirit of cricket using DLF IPL as a plat form.

IPL Draft Match Schedule 2009
A brief draft was presented and it was decided to enter into bilateral agreements with all full members incorporating the draft schedule as part of the agreement.

Following contracts were approved and ratified by the GC:

Confirmations of Ratifications pertaining to IPL
Web Portal Agreement for BCCI IPL is at USD$ 50 million Minimum Guarantee over 10 years or 50% share of revenue, the greater of the two.
Contract with COO, Sundar Raman
Contract with Dhiraj Malhotra

Confirmation of Radhika Mooiraj as Special Assistant to The Chairman and Commissioner IPL.

The report was adopted and the President being authorized to decide in case of any modifications.

Item No.2 To co : the financial matters of the Board

Mr. Shashank Manohar apprised the members that in the last Working Committee meeting regarding the financial matters and taxation issues.

After due discussion, it was decided to authorize the President to take appropriate action in this matter.

The meeting ended with a vote of thanks to the Chair.

SHARAD PAWAR
CHAIRMAN

NIRANJAN SHAH
CONVENER

noted:

- To make use of the services provided by Robin Saunders by the various states for the stadium plans and hospitality to maximize on revenue.
- A comprehensive list of all Indian State players be compiled for the IPL database.
- That it was suggested that IPL follow the English Premier League format.
- That official partners be added to the list of Sponsorship Rights Sales.

16. The draft schedule was noted and was still up for further discussion.

17. It was suggested that all international Boards be involved in Champions 2020 and BCCI should retain a 51% shareholding while the rest would hold a 49% shareholding. It was decided that a structure needs to be designed for the same. The Chairman was authorised to attend all meetings in this regard.

18. The hiring of Dhiraj Malhotra was approved by the Council.

19. Dates and Timelines were to be further discussed.

20. The outstanding payments for IPL approved and a budget to be drawn up.

21. The BCCI legal team are yet to revert on the Long Form Agreement with IMG.

22. A few points were noted regards the players contract for further consideration:

- Medical
- Insurance
- Injury

The issue of players unions was also raised and the legal advisors to IPL were asked to take this into consideration when providing feedback on the document.

23. Long Form Players Agreement - Waiting for comments - 1 week

24. Franchises Agreement - Waiting for comments - 1 week

25. Media Rights ITT - Waiting for comments - 1 week

26. Operational Rules for the IPL were to be further discussed and confirmed for the next meeting.

27. The date for the next governing council meeting was set for Saturday November 17th 2007 in Jaipur at 4 pm. Venue to be confirmed.

28. The Chairman thanked everyone for coming and closed the meeting at 2.00pm.

CHAIRMAN'S INITIALS