AM SPORTS LAW & MANAGEMENT CO.

NOTE ON INCREASING CORPORATE ENGAGEMENT IN SPORT

A. *Overview of Existing Corporate Engagement in Sports:*

Indian companies have increasingly seen sports as a powerful tool for brand visibility and consumer engagement. The most notable example is the sponsorship deals in cricket, where major Indian companies, including the likes of *ITC* (Wills, as far back as in the early nineties) to *Dream11* (new emerging businesses), have spent millions to sponsor teams, tournaments, and sign endorsement deals with individual players. Other sports like football (on account of popularity with over 4 billion followers in the world), kabaddi (on account of the *Pro Kabaddi League*) and badminton (on account of the individual achievements) have also attracted reasonable sponsorship monies, although not at the same scale as cricket.

With the rise of digital media and OTT platforms, corporates are investing not just in traditional broadcasting but also in securing digital rights for sports leagues. Digital broadcasting deals with platforms like *Jio* and *Hotstar,* and more recently *Fancode* (rights for Formula 1) and *GXR* (rights to La Liga, Serie A and Ligue 1), have changed how people consume sports.

Giants like *Tata* and *Mahindra* have engaged in funding grassroots initiatives and infrastructure development for sports for several years. Some of them (like *JSW*) have also partnered with IOA and national sports federations to help nurture young talent through academies and other similar initiatives.

Many companies are spending funds allocated as a part of Corporate Social Responsibility (**CSR**) to promote sports development. For illustration, Hero MotoCorp's CSR initiative *"Be A Sporting Hero*[1]*"* and Reliance Foundation's "*Sports for Development*[2]" programs highlight how CSR is used for long-term sports development. While multinational companies like Adidas have chosen to sponsor the Indian Cricket team, Puma[3] on the other hand has made great strides in Indian sports by signing a deal with the Athletics Federation of India to provide performance kits.

While there have been notable improvements in corporate engagement over the recent years, there remains considerable potential for further progress. To unlock this potential and enhance the effectiveness of corporate contributions, we are suggesting the following recommendations for improvement thereof.

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[1] https://www.heromotocorp.com/en-in/company/csr/csr-initiative.html
[2] https://www.ril.com/about/corporate-social-responsibility/reliance-foundation
[3] https://economictimes.indiatimes.com/news/sports/puma-to-sponsor-400-indian-athletes-signs-deal-with-athletics-federation-of-india/articleshow/110176406.cms?from=mdr

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B. *Ways to Increase Corporate Engagement:*

1. Corporate Social Responsibility

Under the Companies Act, 2013 (**Act**), CSR obligations apply to companies with a net worth of ₹500 crore or more, a turnover of ₹1,000 crore or more, or a net profit of ₹5 crore or more in any fiscal year. Such companies must allocate at least 2% of their average net profit over the previous three years to activities outlined in Schedule VII of the Act.

While "*training to promote rural, nationally recognized, Paralympic and Olympic sports*" qualifies as an eligible CSR activity, this sector receives less than 1% of total CSR contributions[4] i.e., only a small fraction of what is obligated. **At the outset, it is suggested that this definition in itself needs to be broadened.** Further, where companies opt to support sports, they often do so with a non-strategic approach. In this context, we suggest as follows:

i. **Mandating companies that are deemed as those '*offering products / services that cause health-hazards*' to compulsorily allocate a larger chunk of CSR Funds towards development of sport:** Companies that manufacture or sell products that are deemed hazardous to health and/or the environment (such as tobacco, alcohol, chemicals, firecrackers and certain pharmaceuticals), and especially those that are prohibited from advertising on account of similar reasons (alcohol, tobacco, gambling (surrogates thereof), as the major chunk of the revenue comes from activities that seemingly cause health hazards) be mandated to compulsorily contribute CSR funds towards sporting activities - if not the entire sum of what is obligated, a reasonably large (25-50%) portion of it. Given the social and public health impacts and the benefit such entities draw from surrogate advertising (often used for marketing), these companies are in a unique position to be mandated towards making significant contributions towards promoting healthy lifestyles (sport) i.e., upliftment of sports as a means to foster better public health. If and when rules around this are put into effect, the same may be welcomed as a positive change (without any backlash) as the same would be a mandate without increasing any form of financial burden on such companies but simply ensuring that the requisite funds are directed towards a particular activity under CSR.

[4]https://www.hindustantimes.com/ht-insight/knowledge/csrdriven-initiatives-in-sports-education-programme

ii. **Unspent CSR Funds, Compliance Gaps and Regulatory Pathways for Indian Corporates:**

a) In 2023, not all listed companies on the National Stock Exchange and those exclusively on the Bombay Stock Exchange, with a market capitalization exceeding Rs 1,000 crore, met their CSR spending requirements. According to the data, an aggregate of Rs 1,475 crores remained unspent by companies that failed to fulfill their mandated CSR obligations[5]. As per the Companies (Amendment) Act, 2019, if the CSR amount remains unspent pursuant to any ongoing CSR project undertaken by a company as per its CSR policy, the company should transfer such unspent amount to a special account (named unspent CSR account) within a period of thirty (30) days from the end of the financial year. The company should spend the amount transferred to the unspent CSR account within a period of three (3) years from date of such transfer as per its obligation towards CSR policy. In case it fails to spend the amount within the specified period, it would be required to transfer the same amount to a fund specified in Schedule VII of the Act within thirty (30) days from the date of completion of the third financial year.

b) Further, in this regard, the Ministry of Corporate Affairs (**MCA**) has issued clarifications, including FAQs, regarding CSR activities. In point 7 of the FAQs, the MCA clarifies that any unspent amounts related to "other than ongoing projects" must be transferred to a fund listed in Schedule VII of the Act within six (6) months from the end of the financial year. In Schedule VII (vide Notification No. *G.S.R. 525(E), dated 24th August 2020*[6]) the following categories were included: ***(a)*** *Contributions to incubators or research and development projects in science, technology, engineering, and medicine funded by the Central or State Government, Public Sector Undertakings, or any government agency.* ***(b)*** *Contributions to publicly funded universities, Indian Institutes of Technology (IITs), national laboratories, and autonomous bodies under various government departments (e.g., Department of Atomic Energy, Department of Biotechnology, Department of Science and Technology, AYUSH, DRDO, ICMR), focused on research in science, technology, engineering, and medicine to promote Sustainable Development Goals (SDGs).* **We suggest that MYAS' initiatives be included under Schedule VII, within these categories, for the development and promotion of sports in India.**

[5] https://www.business-standard.com/companies/news/csr-unspent-funds-at-a-five-year-high-of-rs-1-475-cr-in-fy23-shows-data-124081900673_1.html
[6] https://www.mca.gov.in/Ministry/pdf/NotificationCompAct_26082020.pdf

2. **Public Private Partnerships**

i. Increasing corporate engagement in sports development, particularly through Public-Private Partnerships (**PPPs**), is essential for accelerating infrastructure development, nurturing talent, and fostering a more vibrant sporting culture. Private sector involvement can bring in much-needed capital, expertise, and innovation. To attract more private investment, especially in sports infrastructure and grassroots development, the government can create incentive-driven policies such as:

a) Offering tax deductions for companies that invest in sports infrastructure (new or exiting), academies, or youth development programs can make such investments more attractive. For example, corporate tax rebates or exemptions on earnings derived from sports-related activities, or for CSR investments in sports beyond a threshold, could incentivize companies to partner with the government.

b) Simplifying regulations around Public-Private models will attract more private-sector participation and long-term partnerships.

c) Provide budgetary and/or infrastructure subsidies to corporations to host grassroots, community, and participative competitions and leagues.

d) Facilitating collaboration with the private sector to develop and maintain sports facilities is essential for creating world-class infrastructure. This can be achieved through PPPs, where private entities invest in the construction, renovation and upkeep of sports complexes, stadiums and training centers. These partnerships could also include shared-use agreements, allowing private entities to utilize the facilities for commercial purposes during non-sporting hours while ensuring priority access for athletes and sporting events and where such entities are permitted, the maintenance be included as a part of such mandate. By leveraging the expertise, funding and operational capabilities of the private sector, this approach can significantly enhance the availability and quality of sports infrastructure across the country.

e) Corporations are often hesitant to invest in areas like sports because of uncertain returns. Clear measurable return on investment (**ROI**) models can increase corporate confidence in engaging with sports development projects. The ROI models could include metrics such as brand visibility, audience engagement, social impact and long-term goodwill generated through association with the specific sport.

3. Introducing Competitive Bidding to Enhance Private Sector Participation

i. The Khelo India – National Programme for Development of Sports was launched by the MYAS to promote sports and nurture young athletes all over the country. One of the components of this scheme is the Creation and Upgradation of Sports Infrastructure by providing grants-in-aid to States / Union Territories and other eligible entities such as Central/State educational institutions, autonomous bodies of Central Government, defence/parliamentary organizations, etc. The Central Public Works Department (**CPWD**) and Public Works Department (**PWD**) are often the go-to agency for major public sector projects, which handle the construction, maintenance, and renovation of public infrastructure, including roads, bridges, and sports facilities. As is evident from the current guidelines, the construction of sports infrastructure is mainly done by government bodies wherein aids are being provided by the government. While this is a great initiative, we suggest privatization for infrastructure development by introducing a competitive bidding process that would allow private companies to participate in the bidding. An auction model for existing stadiums, similar to those done by New Delhi Municipal Council for land parcels wherein hotels like the Taj Mansingh are operated on long term lease, may also be explored.

4. Establishing an Accredited Unified Ranking System for Private Sector Sports Engagement

i. We suggest introducing the concept of an Accredited Unified Ranking System (**AURS**) for private sector companies involved in sports. This system would establish a standardized and transparent framework for assessing and ranking businesses based on their performance, commitment, and contributions to the sports sector. By fostering greater competition, AURS would incentivize companies to participate more in sports-related initiatives. Furthermore, companies recognized under the AURS could gain a competitive edge in bidding processes and could enjoy additional benefits, such as enhanced brand credibility, stronger partnerships, and increased visibility in the sports industry.

ii. In the event the abovementioned is implemented, tax deductions or rebates could be offered to corporations that achieve high-impact results in sports-related activities. The AURS could establish clear criteria and benchmarks to assess and rank the effectiveness of efforts, ensuring that benefits, if any, are tied to tangible, high-impact outcomes.

5. Adopt a Sport Initiative

i. We suggest introducing the concept of an "*Adopt-a-Sport*" initiative which would be a structured program that mandates and encourages entities to support the development of sports that are struggling with popularity, facilities and/or finances, creating a more balanced and sustainable sports ecosystem. It is only natural that maximum visibility and recall value for a brand comes from sponsoring sports that have high engagement, however by developing incentive schemes for adoption and granting some form of exclusivity (however at the same time promoting healthy competition and not falling afoul of the Competition Law), the corporates can be enticed to take up the challenge and the opportunity to promote a lesser-known sport and grow as the sport grow. A classic example of it would be sports like Kabaddi and Kho-Kho, both of which have established leagues that have done viewership numbers which are better than those of popular sports like badminton. Further, in addition to the point mentioned in Paragraph 3 hereinabove, world over we see stadiums (especially football) being sponsored by multi-national companies. Similarly, we should encourage entities to adopt stadiums, who can then be given naming rights in return for which they can be obligated to maintain the facility - this will particularly help in scenarios like maintaining the Balewadi stadium in Pune or for that matter the Commonwealth Games Village in New Delhi, most facilities of which are now in shambles due to lack of proper and continuous care and maintenance.

6. Introducing the 'Financial Fair Play' Concept

i. Suggest introducing the principles (concept) of ***"Financial Fair Play* (FFP)"** in some form, similar to the UEFA's Financial Fair Play Regulations[7] i.e., the main objective of FFP is to ensure that clubs/teams operate on a sustainable financial basis and do not engage in reckless spending that could jeopardize *their* financial health and impact the longevity and sustainability of football. One of the suggestions that came about in the National Sports Governance Bill was for the SRBI to make regulations for vendors, partners, sponsors, etc. While it is not advised that regulations be brought in which will deter corporates from participating, however, certain

[7] https://documents.uefa.com/

structures be put in place which will give them a certain level of comfort to invest in sport.

ii. Upon a quick search of the post IPL era, a large number of leagues have mushroomed in India (which if looked at from the top would give a rosy picture), however below is the current status of some:

Sr. No.	League	League Commencement Year	Status	Last Season
1.	I-League	2007	Active	2024
2.	Indian Super League	2014	Active	2024
3.	Ultimate Table Tennis	2017	Active	2024
4.	Super Fight League	2012	Inactive	2017
5.	International Premier Tennis League	2013	Inactive	2016
6.	Indian Badminton League	2013	Defunct	2013
7.	Premier Badminton League	2016	Inactive	2020
8.	Golf Premier League	2013	Unknown	2013
9.	World Series Hockey	2013	Inactive	2013
10.	Hockey India League	2013	Inactive for 7 years, however re-initiated	2017 Proposed 2024.
11.	Pro Kabaddi League	2014	Active (litigation)	2024
12.	World Kabaddi League	2014	Defunct	

13.	Champions Tennis League	2014	Inactive	2015
14.	Pro Wrestling League	2015	Inactive	2019
15.	Pro Basketball I-League	2015	Inactive	2017
16.	Premier Futsal	2016	Defunct	2017
17.	Indian Racing League	2019	Active	2019
18.	Indian Volleyball League	2011	Defunct	2011
19.	Pro Volleyball League	2019	Defunct	2019
20.	Prime Volleyball League	2022	Active (litigation)	2024
21.	Indian Volleyball League	2022	Announced	Yet to commence
22.	Ultimate Kho-Kho	2022	Active (announced in 2018)	2024
23.	Cue-Slam	2016	Inactive	2016
24.	Indian Chess League	2021	Inactive (litigation)	Yet to commence
25.	Global Chess League	2023	Active	2024
26.	Maharashtra Kusti Dangal	2018	Defunct	2018

iii. A bare perusal of the above demonstrates that over the last decade, only half the number of leagues initiated have survived to see a second season and only one third are continuing to operate till date. One of the ways to make this league model more sustainable is to encourage NSFs to not charge huge sanctioning fees (which is becoming a trend), instead NSFs should obligate the private companies to spend that money on grassroots development activities, which will benefit both, based on which the sanction and exclusive rights are granted. Given that sport, as a business, has a long gestation period to yield returns, it is crucial to establish a regulatory framework that ensures long-term sustainability and growth of the ecosystem. Another thing that NSFs shall ensure is to conduct due diligence before allotting such rights (to check the financial health of any entity – a central agency maybe appointed for the same) as well as begin to seek bank guarantees when allotting long term rights. Further, the framework, if any introduced based on the principles of FFP, should make provisions that encourage prudent financial management.

7. Cross-Promotion and utilization of funds

i. Another way of enhancing corporate investment would be through cross-promotion i.e., promotion of sport through other industries and vice-versa, which will then generate corporate investment. For example, Abu Dhabi tourism promotes the fact that they conduct Formula 1, Dubai tourism promotes sky-diving over the Palm, Swiss tourism promotes skiing. On the flip-side, hosting of major sports tournaments aids other industries like hotels, travel, etc. Another example of cross-over would be to use innovative concepts wherein sports can be involved / linked while advertising other products – for example, horses racing a car (since speed of the car is measured in horse-power), trophy tours funded by Indian travel companies (English Premier League does a trophy tour in India however our own I-League does not do one). In short, use marketing tools as effective marketing strategy, especially in this day and age of social media, can aid in popularizing sport to attract eye-balls as a result of which corporates may become interested.

ii. **Mandating BCCI to support Non-Competing Sports:** While the BCCI is not recognized by MYAS (an issue to be dealt with at the time of promulgation of the National Sports Governance Bill), it has often taken steps to encourage athletes (from other sports) by rewarding them for outstanding achievements at the world stage, for example - upon winning a medal at the Olympics. Most state cricket boards too are sitting on large sums of money, which have been deposited as fixed deposits in banks from which such boards earn reasonable returns and are now using that money to start state cricket leagues. We must attempt at bringing in a policy wherein BCCI, its state boards and players on contracts lead from the front to support other sports through structured funding, shared facilities, sponsorship and resource allocation that could significantly uplift less popular sports across India. If BCCI takes the initiative to ensure that every sponsor of cricket spends 10% of the sponsorship value towards another sport, those hungry to generate eye-balls through cricket will have no choice but to allocate funds towards another sport. Another example could be wherein the BCCI contracted players, both men and women (whose image rights command huge value) play friendly football matches against a team formed by the Athletics Federation of India, which will then lead to promotion of not only the XI playing against cricketers but also for the sport of football. Other initiatives could include access to cricket stadiums and fitness facilities to athletes belonging to other sports, particularly during off-seasons or for that matter asking state cricket boards to contribute 10% of the income generated from state cricket leagues towards other sports popular in the said state. BCCI-led multi-sport community events would further boost public interest in these sports. Encouraging media exposure and shared training programs for support staff (physiotherapists, analysts, psychologists) would enhance both visibility and quality, which will aid in attracting corporate interest. By strategically channeling its resources towards other less popular sports, the BCCI could lead from the front and play a pivotal role in creating a more inclusive and diversified sports ecosystem in India and act as a catalyst to enable corporate investments.

iii. Recently, there has been a lot of backlash from real money skill-based gaming operators on account of the increase in GST from 18% to 28% and that too such tax being imposed on the entire pool of money collected, instead of just the service fee. Since these real money skill-based operators, especially those who engage in fantasy sport, are largely thriving on account of sport, the money generated from in the increase in tax rate by the Government can be mandated to be used strictly towards development of sport and or explore the utilization of such funds in PPP models. This will be seen as a positive step to provide comfort to corporates who are currently creating a huge uproar.

iv. Working with industries (companies) that can aid sport to set up sports business and/or verticals. For example (i) technology (TCS & Infosys) – to develop data analytics softwares and tools to aid athletes and provide the same cheaply; (ii) mental health (psychologists) – to develop expertise in sports psychology to be able to provide better mental conditioning; which will then enhance performance leading to more laurels, which will then make sport popular for corporates to want to associate and invest.

C. *Global Corporate Engagement Initiatives:*

1. Tax Incentives and Financial Support

i. The Sponsorship Tax Relief[8], Poland's most significant tax reform in recent years, came into effect at the beginning of 2022. This new scheme offers an attractive tax incentive for sponsors, structured similarly to R&D, prototype, and expansion/growth reliefs. It provides businesses with a valuable opportunity to offset their sponsorship costs against their taxable income.

ii. The German government offers tax incentives for companies that sponsor sports events or support youth development in sports. The country's "Sports Sponsorship" tax policy allows firms to deduct expenses related to sports partnerships, which helps attract corporate investment.

iii. France spends almost €40 billion annually on sports, which is more than any other EU country. Funding for sports comes from public funds, private spending, and specific funding for major sporting events. France has a tax system that encourages sponsorship in sports through deductions on corporate income taxes for businesses involved in sports funding (Article 238 bis of the General Tax Code)[9].

iv. Brazil's Law No. 14.439, published on 24 August 2022, extends and enhances the tax incentives for sports projects under Law No. 11.438 (2006) till 2027. The new provisions allow for higher income tax deductions on sponsorships and donations to sports and parasports projects approved by the Ministry of Citizenship. Legal entities can deduct 2% (up from 1%) of their tax due, with an increased cap of 4% for projects promoting social inclusion, particularly in vulnerable communities and individuals can deduct 7% (up from 6%) of their tax due[10].

2. Public-Private Partnerships

i. Qatar has used public-private partnerships effectively, particularly in hosting major sporting events like the 2022 FIFA World Cup. The government collaborated with private investors to build state-of-the-art infrastructure, including stadiums, training centers, and hotels. Additionally, Qatar's sports investment authority has attracted private investors by offering long-term contracts and incentives for commercial ventures related to sports. MYAS can implement a regime similar to

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[8] https://www.ey.com/en_pl/insights/tax/sponsorship-popularity-of-new-tax-relief-on-the-increase
[9] https://www.ifri.org/en/legal-and-tax-framework-corporate-sponsorship and https://investinfrance.fr/sports-economy.
[10] https://orbitax.com/news/archive.php/Brazil-Extends-and-Increases-T-50869

that implement by Qatar to form guidelines for PPP programs, in India, to achieve its goal of hosting the Olympics in 2036[11].

3. Hosting Major International Events

i. UAE government policies and initiatives serve as a strategic framework for the growth of the sports industry. The Dubai Sports Council, for instance, plays a central role in organizing international sporting events, driving economic growth, and enhancing the city's global visibility. The government's proactive approach promotes public-private partnerships, and encourages investment in sports academies, training centers, and event management companies, thereby strengthening the sports ecosystem[12].

ii. UAE has made substantial efforts to attract corporate investment by hosting high-profile events, such as the Dubai World Cup (horse racing), Formula 1 Grand Prix in Abu Dhabi, and various tennis and golf tournaments. These events draw global corporate sponsorships, boost tourism, and create new opportunities for private businesses to invest in sports-related infrastructure and services. The ripple effect is felt across various sectors with hotels seeing higher occupancy rates, while restaurants, retail businesses, and transportation services experience a boost in demand during major events. This creates a growing interest among private sector entities to invest in sports.

4. Initiatives by Saudi Arabia for Privatization

i. Vision 2030 is Saudi Arabia's ambitious long-term economic and social reform plan, aimed at diversifying the kingdom's economy, reducing its dependency on oil, and positioning the country as a global hub for business, sports, tourism, and innovation. One of the key programs is the privatization program which led to the enactment of the Saudi Privatization Law and the establishment of the National Center for Privatization and Public Private Partnership (NCP). Their strategic objectives include:

a) To unlock state-owned assets for the private sector; and
b) Privatize certain selected governments.

ii. Action taken by Saudi Arabia to increase privatization in the sport sector:

[11] https://www.trade.gov/market-intelligence/qatar-introduces-public-private-partnership-law
[12] https://www.austincontrarian.com/en/dubais-sports-industry-opportunities-for-investment-and-growth/

a) Saudi Sports Clubs Investment and Privatization: Major companies and development entities can invest in sports clubs in exchange for ownership. Previously, these clubs were subject to state ownership, with the Ministry of Sport overseeing them and providing conditional support under the Sports Club Support Strategy. The Saudi Ministry of Sport has launched the latest phase of the Sports Clubs Investment and Privatization Project to privatize 14 more clubs[13].

[13] https://www.arabnews.com/node/2543276/sport and https://saudipedia.com/en/article/2189/society/sports/saudi-sports-clubs-investment-and-privatization

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