

Draft National Sports (Development) Bill 2011: Comments

FICCI Sports Committee

June 25, 2011

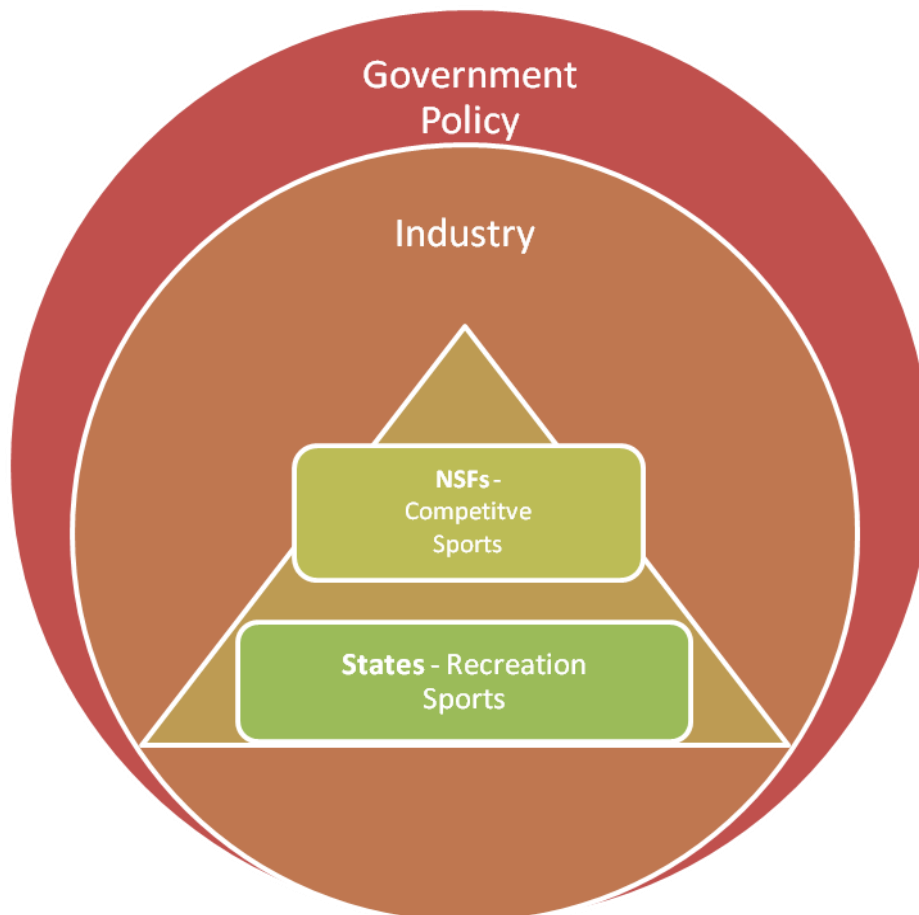
Table of Contents

Introduction	3
Industry's engagement with Indian Sports.....	5
Industry's potential role in enabling the Indian Sporting system	6
Comments and Recommendations	7
Conclusion	11

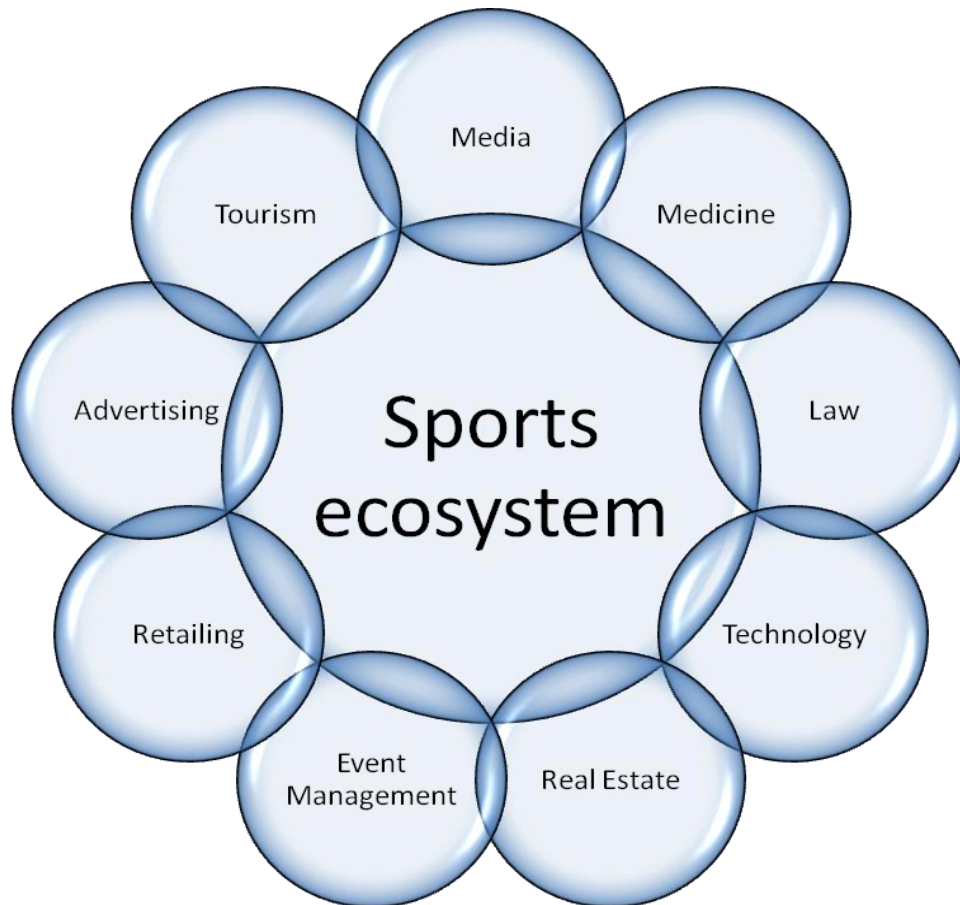
Introduction

We at FICCI believe that Industry has a large and crucial role to play in the overall development of sports in India and must be recognized, encouraged, empowered and regulated to ensure that there is positive participation by Industry and 'Fair Play' maintained.

As indicated in the diagram below, Government policy is crucial in setting the right environment to enable Industry participation to support the NSFs and the States and enable them to improve their reach and quality in the areas of Competitive and Recreational/Community sports respectively.

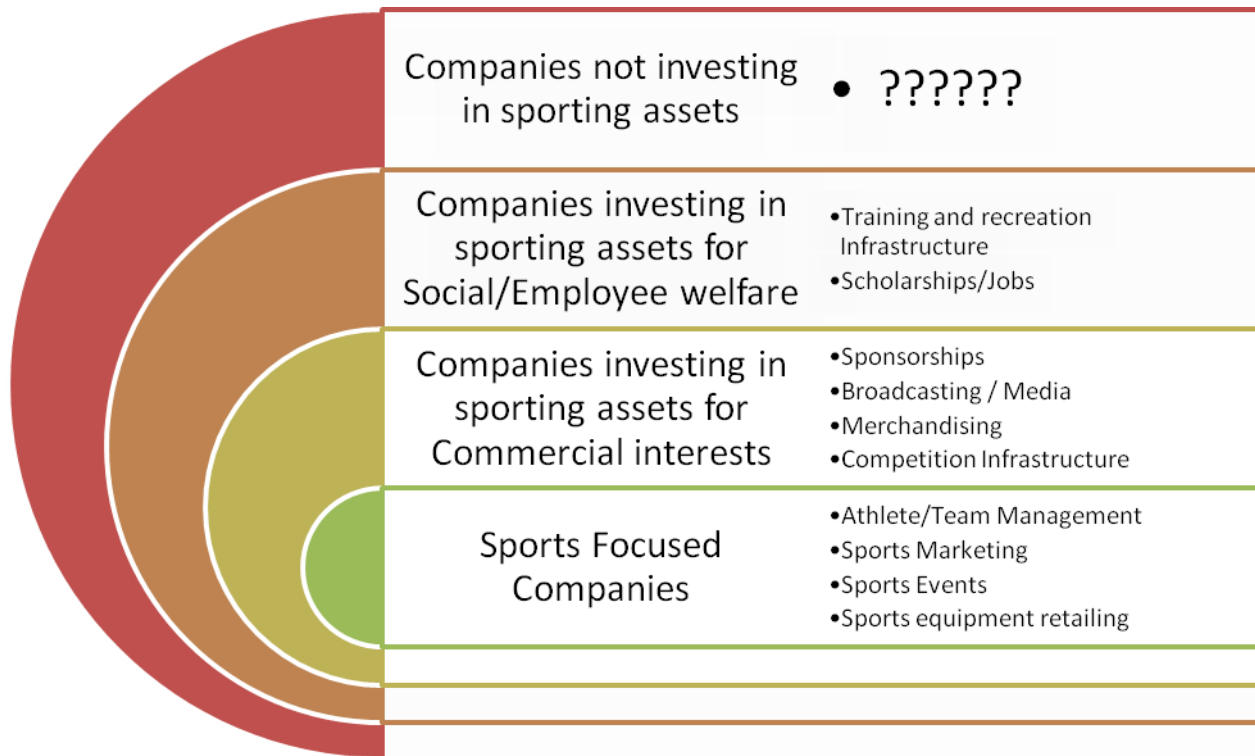


It needs to be further highlighted that the Sporting world intersects with almost all other major industry verticals as depicted in the diagram below.



Industry's engagement with Indian Sports

Industry's current engagement with Indian Sports could be broadly classified as shown in the diagram below.



- Sports Focused Companies: Very small group, but growing rapidly. The majority of these companies are focused on events and marketing around Cricket.
- Companies investing in sporting assets for Commercial interests: Small group, growing slowly. The majority of these companies are B2C companies that use sport to create awareness of their brand.
- Companies investing in sporting assets for Social/Employee welfare: Small group, growing slowly. The majority of these are Public Sector Companies that are making investments through their CSR initiatives.
- Companies not investing in sporting assets: This forms the majority of the Industry.

Industry's potential role in enabling the Indian Sporting system

Industry's role*	
* - Indicative and not exhaustive	
NSFs	States
<ul style="list-style-type: none"> • Set up processes to Identify and groom talent • Set up processes for continuous learning for Coaches and Technical officials • Set up processes for skill assessment and resource mapping • Set up systems to assess and monitor the performance at various levels • Set up of database and knowledge management systems • Sponsor competitions at various levels , i.e. district, state, regional and national , different age-groups and physical abilities • Sponsor high performance centers around the country to enable excellence • Create the right incentives for the athletes to achieve excellence at the world level • Enable the Marketing strategy of the sport • Support the right talent, across age groups, to get exposure to competitions and training abroad • Create the right incentives for people to make a career in the sport – elite athlete, coach, technical official, support staff, etc. • Enable the communication of the right sporting practices directly and indirectly to eliminate the menace of doping, age-fraud, etc. • Enable research towards improving reach and quality • During the playing years, provide a support system that gives the athlete security • Post playing career, create skill-based vocational training programs for athletes based on educational background and interest to ensure that they have a respectable future 	<ul style="list-style-type: none"> • Set up processes for skill assessment and resource mapping • Set up systems to assess and monitor the performance at various levels • Set up of database and knowledge management systems • Create and manage, through PPP, safe and accessible public sporting infrastructure, with basic coaching and technical expertise made available to the public at reasonable rates to ensure the “Right to Play” • Create Special Community Sporting Zones (SCSZs) which are easy to access and have basic training programs • Maintain an up-to-date on-line database of sporting infrastructure • Create a license system (example, as in France) to play sport. This makes it easy to track how many people are playing which sports and where • Enable research towards improving reach and quality • Create the right incentives for the athletes to achieve excellence at the world level • Enable access for employees and their family to play sports and stay active • Create incentives for employees whose children have achieved sporting excellence

Comments and Recommendations

I. Introduction

At present, there is no direct mention of the private sector (“**Industry**”) as a stakeholder in either the Draft National Sports (Development) Bill 2011 (“**Sports Bill**”) or the National Sports Development Code of India, 2011 (“**Sports Code**”).

Industry is a crucial stakeholder in the global and domestic sports domain. In particular, the main areas where Industry contributes to sports include but are not limited to:

- Sponsorships
- Broadcasting rights services
- Apparel/equipment licensing and manufacturing
- Infrastructure and related collateral expertise

Industry is an independent stakeholder, and is also an invaluable partner for many of the long term initiatives, including but not limited to the Long Term Development Programs (“**LTDPs**”), the value addition to sports events of all kinds, and also to joint infrastructure development/public private initiatives.

II. Representation of Industry

Industry’s importance and role must be stressed beyond the context of collaboration with National Sports Federations (“**NSFs**”) and should not always be subject to NSFs’ approval and/or consent. These are limiting in nature, especially where time is of the essence, or there is Industry driven initiative which aims to develop, invest in, or promote a specific aspect of a sport. There should be some safeguards installed for Industry where they may, but are not required to associate with the state federations, or the NSFs.

There is mention of introducing and implementing professional management and processes within the sports domain. Industry will be able to impart and introduce more stringent and fiscally/professionally responsible practices therefore it must be given a defined role within the Sports Bill and the Sports Code.

There is a strong case for public private partnerships (“**PPPs**”) for infrastructure related and capital intensive initiatives. Industry can also contribute to human-capital resource heavy projects, such as skill training, and professional management expertise.

- There should be measures to ensure that Industry as a stakeholder has a clearly defined role as opposed to a guideline reference. Decision-making is crucial for Industry, and it should be recognized and involved in an intricate manner in the below verticals:
 - LTDPs
 - Events
 - Broadcasting and sponsorship-driven regulations and legislation
 - PPPs
 - Representative committees

III. Introduction of Industry into the Sports Bill and Sports Code

a. ***Suggested Definition:***

Industry means a sponsor, corporate entity, broadcaster, or any other individual or entity involved in promoting, developing, and/or investing, either directly or indirectly, in sports-related activities in India. This definition will not include Gol, MYAS, SAI, NSFs, an international or domestic sports federation or governing body, or any active sportsperson.

b. ***Role of Industry within the Sports Code:***

Industry should have opportunities to be involved with the development of sport infrastructure and promotion/support of athletes via sponsorship and other measures, under sections 10.3, 10.4, 10.9, 11, 14, and 15. The intent is present, but this should be captured and listed out in both the Sports Bill and the Sports Code.

c. ***Observations and Suggestions for the Sports Bill:***

- The definition of “*Sports Organisation*” is somewhat broad. It is also unclear as to what the intent of the MYAS is when defining Sports Organisation. While it can be interpreted to include industry or other private stakeholders, its usage has been restricted to national and regional federations.
- It is important to define and include Industry as a stakeholder within the Sports Bill and Sports Code. This could be accomplished either by including industry in a more comprehensive definition of Sports Organisation, or by recognizing the private sector/industry as a distinct stakeholder, and defining it as above.

- In dispute resolution (including but not limited to the *Sports Ombudsman Scheme*), while most disputes pertain to sponsorship and broadcasting related issues, there is no clear-cut guideline or mandate granting Industry a defined role nor clearly allocated place/stake in the sports domain.

d. *Specific Insertions within the Sports Bill:*

- Once defined, Industry may be inserted in numerous relevant clauses that would also enhance industry's role and responsibilities in the Sports domain.
 - Chapter II, Clause 4(i)
 - Chapter VIII
 - Chapter XI , Clauses 23 (i), 23(ii), and 23(iii)
 - A clearly outlined role and responsibility quotient in the First Schedule [Section 5].
 - Industry must have a greater part to play and stake in the formulation of/ preparation of the four year development plan.
 - Inclusion in dispute resolution, including the Sports Ombudsman Scheme.

e. *Sports Bill Recommendations*

- Chapter VII, Section 10 (1) includes the recognition by the IOA as one of “considerations” on the basis of which an NSF will be recognised by the Government. This appears to be inconsistent with Section 6 (2) which states that the IOA is mandated and required to recognise the NSF that is recognised by the Government. Thus, the two Sections should be reconciled to clarify whether an IOA recognition:
 - should be given by the IOA as a matter of course in respect of an NSF already recognised by the Government (ref Section 6(2); or
 - should be a condition precedent to any recognition to be given by the Government (ref Section 10).
- A case can be made for Section 6(2) prevailing. The section states that IOA “shall” recognise a NSF for each Olympic sport and each non-Olympic sport listed in the First Schedule. It needs to be looked into whether IOA should accord due respect to the decision of the Government on which sports body will be recognised as the NSF. Moreover, the requirement for the IOA to recognize the Government-recognized NSF should help pave the way for a smooth working relationship between IOA and the NSF, in light of the joint responsibility of these two bodies over the “control, regulation and technical development of sport at national level in India” (refer Preamble of the Bill).

- We recommend a closer look at Chapter IV of the Sports Bill. To strengthen the mandatory requirement for the IOA to grant recognition to a government-recognized sports body (i.e. NSF), we propose that a clause be added in the draft Bill that will require the IOA to comply with the laws of India including but not limited to judgments rendered by the relevant Indian courts in respect of the recognition by the Government of a particular sports body as the NSF for India.
- In the Third Schedule - Scheme For Recognition Of National Sports Federations, the FICCI Sports Committee seeks clarification on the clauses below which state the eligibility requirements as conditions for Government recognition of an NSF:
 - a. *3.15 Where an international federation for the sports exists, the National Federation must be affiliated to the respective international federation.*
 - b. *3.16 Wherever the National Federation is affiliated to an international federation, it must provide the Government with an attestation from the international federation certifying that the National Federation is a member in good standing.*
 - The above conditions appear to be inconsistent with other clauses in the draft Bill which state that recognition of an NSF by the International Federation only serves as one of the “considerations” that will “guide” the Government in considering applications for recognition of NSFs.
 - Instead, the above conditions require affiliation of the NSF to the International Federation as a mandatory condition for recognition of such NSF by the Government.
 - In addition to seeking clarity on this, we are also of the opinion that International Federations should be required to comply with the laws of India (including judgments rendered by the Indian courts) on matters involving the recognition of NSFs.
 - This is a safety measure to encourage and promote the development and monetization of the sports industry in a reliable manner.

f. Additional Suggestions:

- There is also a case to be made for broadening the scope of the private sector by inserting an additional responsibility- "*Private Sports Promotion Organizations*". Additionally, should consider the establishment of an Industry-led advisory committee/panel.
- Organization of International events, broadcasting of events, licensing merchandise and sponsorship of sportspersons are high-cost aspects, and require Industry's expertise and support. This support by Industry can be in a supplementary or independent capacity, and must be recognized.

Conclusion

The ambiguity related to Industry's place and role in the sports domain has led to limited investment and development as opposed to other sport-driven nations. Industry should have representation as a vital stakeholder in both the Sports Bill and the Sports Code. It should have representation in the advisory committees, and should also be intricately involved with implementation and streamlining of sports governance on a nationwide basis.

As part of a two-step representation process, the FICCI Sports Committee would also like to recommend certain steps that can have a positive impact on the development of sports in India. In addition to our comments and recommendations above, the areas where the FICCI Sports Committee and the MYAS can engage in fruitful discussions include but are not limited to the following headings:

- Streamlining and activating PPP models in sports infrastructure, events, centers of excellence, educational institutions' sports capabilities, and other verticals.
- Incentivizing the recreational component of Sports development for Industry
 - Infrastructure/facilities
 - Tax exemptions/credits
 - Sports promotion zones and initiatives for manufacturing of sports goods domestically

- Role of the Public Sector companies in the promotion and development of recreational sports
 - Working towards a gradual move to collaboration between Industry and state/national sports federations beyond the ambit of mere sponsorship and funding
 - Creating a harmonious working environment and opportunities for recreational sports parallel to, and post the competitive/professional sports careers of most athletes
 - To promote self-sufficiency for federations through meaningful associations and partnerships with Industry.
 - To build on the existing skills-development framework already proposed by FICCI