

March 20, 2019

To:  
The High Level Committee on Corporate Social Responsibility  
[hlc.csr-2018@gov.in](mailto:hlc.csr-2018@gov.in)

**Subject:** Submission to the High Level Committee on Corporate Social Responsibility (“Committee”).

Dear Ma’ams and Sirs,

We make this submission to the Committee on behalf of The Sports Law and Policy Centre, Bengaluru (“SLPC”) in response to your request for comments on the existing Corporate Social Responsibility (“CSR”) law and policy framework, and suggestions for change that may be presented to the Committee. It is heartening that the Committee is evaluating our CSR laws and policies for relevance and impact, and that feedback is being sought from relevant stakeholders in this regard.

Our submission contained herein relates to and is limited to matters relating to Sports and CSR.

### **About Us**

SLPC ([www.sportslaw.in](http://www.sportslaw.in)) is an independent think-tank focused on interdisciplinary research, scholarship, education and institutional support for public and private enterprises in areas relating to the legal, policy and ethical issues affecting professional and amateur sports in India. SLPC was formed as a collaboration between non-profit GoSports Foundation ([www.gosports.in](http://www.gosports.in)) and the law firm LawNK ([www.lawnk.com](http://www.lawnk.com)), and comprises a group of professionals with extensive knowledge of and experience working in the sports ecosystem in India.

While sport in India is developing at a rapid pace, there exists room for legal debate and inquiry into the laws and policies that surround organised sport. SLPC aims to provide thought leadership, to encourage public debate and to bring knowledge-backed decision making into the national sports ecosystem by creating a forum for study, analysis and sharing of expertise.

We play host to the annual Sports Law & Policy Symposium, an event which brings to leaders and professionals working on Indian and global sports law and policy matters. We also undertake research on a variety of issues impacting Indian sport and a few of our reports are available for download at <http://sportslaw.in/home/engagements-2/>

## Current CSR in Sports Landscape

In the context of sports, the list of activities currently included under the ambit of permitted CSR activities as per the Companies Act, 2013 (“**Companies Act**”) is limited to –

1. *training to promote rural sports, nationally recognized sports, Paralympic sports and Olympic sports;*<sup>1</sup> and
2. *creation and maintenance of sports infrastructure; upgradation and renovation of existing sports facilities; and sports science support including setting up gymnasiums and rehabilitation centers.*<sup>2</sup>

Over the past few years, one of the drivers of change in sports development in India has been increased financial support from companies further to the enactment of Section 135 of the Companies Act.

To illustrate, such increase in funding from the corporate sector enables GoSports Foundation (one of our founding institutions) to now annually support (financially and through other strategic interventions) over 130 able-bodied and para-athletes, many of whom have gone on to win medals for India at the international sporting stage. The programmes supporting these athletes are exclusively funded through CSR. Operating these programmes has given us deep insight into the opportunities, processes and challenges and the current legal and policy regime with respect to CSR in Sports.

It is evident that there remain multiple unexplored opportunities to apply CSR funds to sports and that certain roadblocks are limiting funding to available and deserving avenues.

While the increased funding for sport from the corporate sector is encouraging, a recent report prepared by CRISIL analysing CSR spends across four financial years (2015-2018), found that though the year-on-year CSR spend has increased since the new CSR provisions came into force under the Companies Act, the manner in which projects are being funded was skewed towards a few sectors. Education and health attracted in excess of 60% of all available CSR funds during this period, sport received only about Rs. 520 crore or approximately 1% of available CSR funds.<sup>3</sup>

Unlocking the potential of CSR for sports development in India clearly remains a significant opportunity and more can be done to actively enable this.

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<sup>1</sup> Item (vii) of Schedule VII of the Companies Act, 2013.

<sup>2</sup> Letter No 07/21/2015-CSR-51 issued by Union Minister of Finance & Corporate Affairs, Government of India.

<sup>3</sup> Report available at <https://www.crisil.com/en/home/crisil-foundation/publications.html>

## Issues, Challenges and Opportunities

We would like to take this opportunity to submit for your consideration the following issues and comments that are oriented towards establishing and enabling a holistic, long-term vision for CSR in Sports.

Issue	Comments
<b>Definition of Sports</b>	<p>While Schedule VII makes reference to “rural sports, nationally recognized sports, Paralympic sports and Olympic sports, there exists some ambiguity about the remit of which activities constitute “sports” and which do not. Although a notification has been issued that the entries in Schedule VII are to be given the “widest possible meaning” and Lok Sabha response of Hon’ble Minister of Corporate Affairs to Starred Question No 286 of December 18, 2015 stated that “All categories of sports are covered under this item”, there remains lack of clarity on what activities are within and outside the remit. For example, would cricket or any other sport without a national federation recognized as a “National Sports Federation” by the Ministry of Youth Affairs &amp; Sports qualify as a “nationally recognized sport” for the purposes of Schedule VII? Some further clarity in this regard will be helpful, especially at a time when more activities regularly claim to be sports and others that are actively played and followed might not qualify as “nationally recognized”. This is important to prevent misuse and, equally, to remain comprehensive and adequate in coverage.</p>
<b>Wider Perspective of Covered Sports Programmes</b>	<p>In the current formulation of CSR in Sports there appears to be a certain view of what is worth supporting through CSR, i.e., sports excellence (when requiring a ‘training’ element to programmes) to the exclusion of sports as a community building and human development tool. In this approach, only formal activities that ‘coach or train’ athletes will apparently be included within CSR. Moreover, clarifications have been provided that one-off events and sponsorship of events would not constitute CSR. While this is appropriate and understandable in urban contexts and with respect to sports events such as marathons and cricket tournaments, there are a whole host of community-level events that could effectively utilize CSR support for sports events and disciplines that are not oriented towards training and improvement.</p> <p>We have the opportunity to recognize that multiple aspects of the sporting eco-system and all platforms for sport require attention, and may benefit from increased</p>

	<p>CSR based support. Sports has the potential to complement and promote healthcare, education and community development objectives and to strengthen values that form the core of our society, deliver inclusive growth, knowledge creation, management systems, equal opportunity access and enhanced participation.</p> <p>A limited view of sports ‘training’ has meant that little CSR has been invested in rural sports and grassroots sports where participation and inclusion are key objectives rather than improvement and progression that ‘training’ implies.</p> <p>CSR can potentially unlock tremendous value in rural, amateur, semi-professional, community and school-level sporting events. Similarly, children and youth (within school and outside school), economically weaker and marginalised segments, diverse genders, senior citizens and the differently abled can be deserving beneficiaries of sports programmes. Projects and programmes targeting these activities and groups through sports may be considered for inclusion within the mandate without diluting the essence and spirit of CSR.</p>
<p><b>Skill Development and Personnel Costs</b></p>	<p>Sports development is an essentially human-driven activity and other than certain scientific and nutritional inputs and equipment the primary input is knowledge, management and effort. In that regard, the limitation of 5% on operational/overhead costs places a significant limitation on the quality and number of people who may participate in sports development projects. There is a lack of clarity on what aspects are and are not included within ‘administrative costs and overheads’ and whether salaries and staff expenses are also included.</p> <p>Artificial limitations such as a 5% ceiling on such costs within both the donor and recipient organization severely curb the potential impact of CSR projects. While it is important to audit and prevent companies from diverting CSR funds to overhead costs in an inappropriate manner, there must also be a recognition that human development is an essentially human pursuit. The development sector must be able to attract, train, retain and incentivize world class talent given the challenges it encounters (that the private sector is often loathe to take on) and the nationally relevant nature of the various programmes non-profit organisations often undertake.</p>

	<p>Revisiting this 5% threshold and clarifying the scope of 'administrative costs and overheads' to exclude salaries of staff whose work is intrinsic to and essential to the programme delivery will ensure that value can be delivered with accountability and transparency and human capabilities and skills developed alongside.</p>
<p><b>Eligibility to Receive CSR Funds</b></p>	<p>With respect to categories of CSR in Sports existing within the mandate, we find that the requirement that either the company itself implements a programme or works through a non-profit with at least 3 years of track record has resulted in a number of deserving projects not enjoying the eligibility to receive CSR funds.</p> <p>In particular, coaching centres and academies that are invested in training talent (clearly covered within the existing mandate) are often not incorporated or not incorporated as non-profits. This means that CSR funds cannot be transferred to them directly to run a training programme and such constraints limit the flow of funds to sports coaching and training. This has been a significant obstacle in CSR funds reaching deserving beneficiaries. With there being little advice and awareness in the sports community on how to become CSR-eligible, there has been little movement over the 5+ years of the CSR in sports regime with very few new organisations gaining eligibility to receive these funds.</p> <p>Greater awareness drives, professional support services and a reconsideration of eligibility criteria for recipients of CSR in Sports could be considered so as to match donors with deserving beneficiaries without administrative and technical hurdles coming in the way and yet preserving and protecting the CSR mandate.</p>
<p><b>Scope of Publicity on CSR Projects</b></p>	<p>Currently, there is no known guidance on what and how much publicity and awareness can be undertaken for CSR in Sports projects. Given that dissemination of the values of sports and sports achievement is an essential part of the value of sports within the community and in nation building, it is important to be able to broadcast and broadbase information regarding sport. It may be pertinent to permit information dissemination about projects and costs thereof within the CSR mandate. At the same time, CSR must be protected from becoming a quasi-marketing activity where CSR budgets are used solely for brand building and marketing purposes. Finding the right balance is not easy but some guidance will assist with delivering value as well as ensuring that</p>

	CSR is not misused for company promotion alone.
<b>Skilling and Livelihoods</b>	<p>One of the primary needs in sports in India is skilling of sports personnel including coaches, managers, administrators, sports scientists and the like.</p> <p>CSR in sports must focus on establishment of sports-related educational programmes, knowledge management of sports and associated support systems.</p> <p>Further, the livelihoods of athletes will be a key element going forward and salaries paid to athletes employed to play sports (through employment contracts, and not professional player/league contracts) could be offset against the 2% CSR funding requirement with both public sector and private companies.</p>
<b>Sports Legacy Projects</b>	<p>Sports legacy programmes and structures (such as museums, non-commercial films, etc.) can play significant roles in cementing the role of sports in a society and helping tell the stories of sport and spread important cultural messages.</p> <p>Establishment and maintenance of such projects could also be considered within the realm of CSR in sports.</p>
<b>CSR in Sports Information Exchange</b>	<p>Currently there is a significant information divide between those who wish to give CSR funding to sports projects and those eligible and able to deliver these projects. At the same time as increasing the eligible CSR recipients as mentioned above, it would be valuable if perhaps the Ministry of Corporate Affairs could consider creating, potentially in partnership with FICCI/CII a database of organisations, foundations and institutions that work directly with sports and are eligible to receive CSR contributions. This could be shared with corporate leaders and organisations and displayed publicly. This would create potential for more matches to occur between donors and high impact organisations and reduce the existing informational barriers to entry in CSR in Sports.</p>
<b>Leaderboards and Awards</b>	<p>While recognition and awards are not the primary purpose of CSR, an element of gamification in CSR in Sports could help spur more funding into the domain. This would include maintenance of a Sports CSR register and leader board, perhaps by the Ministry of Youth Affairs &amp; Sports, potentially in partnership with FICCI/CII, where all recognised CSR initiatives in sport</p>

	<p>are published and recognized with credit to funders and implementing organisations.</p> <p>Awards and rewards may also be considered for innovative projects and significant contributions and impact in the sphere of sport through CSR over sustained periods.</p>
<p><b>Awareness and Capabilities</b></p>	<p>There is still an air of mystique around CSR in general and CSR in Sports in particular. This relates to the technical and legal aspects as well as more practical operational aspects. In the backdrop of novelty and ambiguity, many organisations are facing severe inertia and have not been able to even scratch the surface of what is possible through CSR.</p> <p>There is an urgent need for greater discussion and clarity as well as general awareness on what constitutes permissible CSR activities in sport, how organisations can become eligible to receive CSR funds, what procedures are required within companies before CSR programmes commence, and a host of other related issues.</p> <p>Workshops and training sessions involving the government, industry bodies, corporates and implementing agencies to are required in order to build more awareness and capabilities within the CSR sector.</p> <p>Through a concerted campaign, the involvement of Corporate India in sports development can move beyond issuing cheques to meet a compliance requirement, towards an environment of systematic support for and participation in projects with proper goal setting, objectives, transparency and monitoring mechanisms. This will only be possible with greater capability building all around within the sector and more information flow and transparency.</p>

## Conclusion

It is critical for the CSR law and policy framework in India to provide adequate support and incentive structures for private participation in CSR in Sports activities. In carefully crafting sports related CSR laws and policies, there exists a tremendous opportunity to capture the true and inclusive value of sport as a tool for excellence as well as a vehicle for social cohesion and change. These are national priorities that have historically suffered from scarcity of resources.



We strongly believe in the ability of CSR to fundamentally change the sporting culture of India and for sports, in turn, to change India positively on many dimensions. This is a goal worth fighting for and we are delighted that your Committee is duly considering how to further unlock the potential of CSR in our country.

Thank you once again for providing us the opportunity to present our views. Do contact us at the details provided below should you have any questions or require any clarifications in relation to our submission or if we can be of any other assistance in this matter.

Yours sincerely,

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(On behalf of The Sports Law & Policy Centre, Bengaluru)

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