

29 May 2020

HALT - PLAN - REFRESH

# COVID-19: Getting sports back on track

The COVID-19 pandemic has led to unprecedented disruptions in the sports industry with events across the world either cancelled or postponed. We are now seeing the return of these sporting events behind closed doors. However, it is important to take lessons from these challenging times and prepare to minimise risks during such exigencies going forward.

With the objective of getting voices from the sports industry heard, Grant Thornton India partnered with leading law firm Phalpher & Co. to conduct a survey capturing feedback from industry stakeholders on key focus areas post lockdown, as well as how to mitigate risk during such situations in the future.

## Here's how the sports industry can PLAN the following actions when sporting events resume



### Prioritise health norms and standards

With sports events set to start behind closed doors, maximum health protocols need to be ensured. Administration should develop comprehensive event and venue health and safety guidelines for all involved in such sports events. This should include facilitating sanitisation by-laws, upgrading building guidelines and incorporating social distancing norms, which could be added to venue house rules and contracts.



### Alternative athlete salary calculation mechanism

Sports federations can follow FIFA's initiative of providing guidelines such as the COVID-19 Football Regulatory Guidelines, to resolve legal and contractual issues by way of an amicable resolution mechanism, by creating SOPs for managing such force majeure situations. Alternate salary calculation mechanism could include methods, such as:

- Minimum guaranteed payment for a season in case of cancellation of event
- Pro-rata payment in case of postponement, change or altered event format and duration



### Detail force majeure and supporting clauses

- Force majeure and its express and implied ambit should be customised, keeping in mind the essence of each contract
- Mention steps to be taken to declare force majeure, e.g. notice of force majeure event
- Indicate mechanism to address altered obligations and payment terms, during suspension of contract after the declaration of force majeure
- The clause may also indicate time limit and conditions, under which a prolonged force majeure may lead to frustration of a contract & termination and its consequences
- A mediation clause may be considered for force majeure affected transactions, i.e. cancellation, postponement or non-performance of contract



**FIFA** was one of the first international sports governing bodies to issue a series of recommendations and guidelines to address some of the key practical issues arising from the pandemic, especially with regards to player contracts and transfer systems. FIFA pushed the case of discussions and amicable resolution as far as possible. Even though the guidelines suggest that individual contracts must be governed as per applicable national laws, the compilation offers a set of practices that can be followed amicably. While FIFA issued these guidelines during the onset of the Pandemic, other International and National Sports Governing Bodies may wish to incorporate a pre-emptive SOP for such future eventualities.

Source: fifa.com



### Scheduling contingency

- Create a flexible event calendar for rescheduling – helping minimise the impact for stakeholders due to postponement of a sports event
- Have a rescheduling/cancellation clause in place to capture changes related to alteration in payables, obligations, etc.

## In addition to the above, the following may also be considered



### Investment in technology upgrade

The industry can leverage this downtime to plan how technology can be best leveraged to enhance not just the sport, but its consumption and administration. From internal communication processes to upgrading fan engagement methods, sports administrators must embrace the digital era and proactively invest in technological advancements.



### Collaboration for athlete development contingency

Governing bodies, federations, leagues and franchise owners can join hands to create an athlete training reimbursement fund, which could help support athletes during crisis.



### Doping testing mechanism during future pandemics

Anti-doping agencies and federations should create guidelines to monitor and implement regular testing during future pandemics to ensure fair competition after declared force majeure is lifted



### Insurance clauses

Ensure inclusion of clauses in agreements which require parties to take on a minimum insurance cover per contract/season, as the case may be

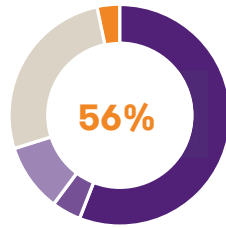


**Wimbledon**, regarded by many as the most prestigious tennis tournament in the world, bought around USD 1.9 million per year in pandemic insurance, following the SARS outbreak in 2003. A significant pay-out from the insurer has helped in covering the losses due to the disruption caused by COVID-19. Thus, other event organisers may also consider making similar pandemic insurance investments.

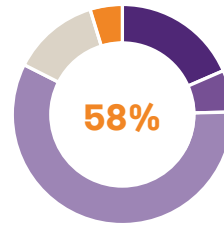
Source: [insurancejournal.com](https://www.insurancejournal.com)



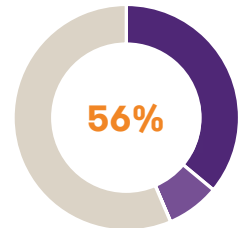
## Survey 2020: Post lockdown challenges and opportunities for the sports industry



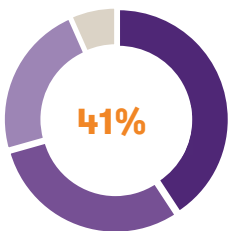
Calamity caused by global viruses should be included within the 'force majeure' definition



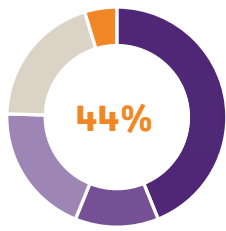
Postponement of an event is preferable than cancellation



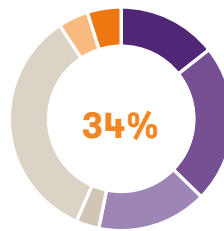
Deferred payment is preferable than salary cuts and layoffs



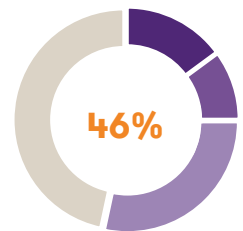
Athlete contracts should include an agreed minimum contract price to handle such situations in the future



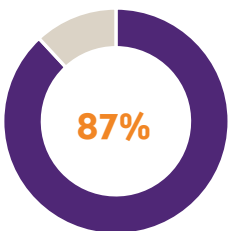
Planning and business restructuring is the recommended activity during this Halt phase



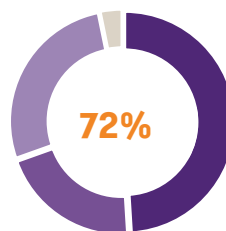
Loss of sponsorship and employment opportunities will be the biggest impacts of postponement of large scale events



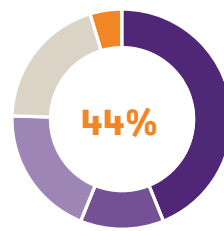
Event organisers' contracts should have mediation, mandatory insurance and rescheduling clauses



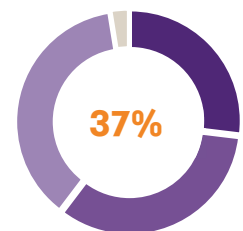
Addition of a contingency fund in organisations is highly recommended for business crisis management



Federations may consider an athlete training reimbursement fund to safeguard interests



Government and facility owners should utilise sports facilities for healthcare purposes during pandemics



Venues need to be upgraded to higher levels of health and sanitisation standards

Amidst the lockdown and suspension of all sports-related activities, most survey respondents believe that this is the best time to plan and restructure their business. As evident in the survey results, a people-centric approach towards sports will make the industry more sustainable and help prepare better for overcoming future pandemics. Learnings from COVID-19 will truly shape the sports industry in the post-lockdown era.

Grant Thornton in India has a dedicated Sports Advisory practice which works with stakeholders across the sports industry. The firm has been recognised as India's 'Best Sports Services Consulting Firm' by ASSOCHAM during its Sports Excellence Awards in 2019.

Our Sports Advisory team can help you navigate administrative and operational challenges by drawing on years of experience of working with industry leaders.

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## About Phalpher & Co. Advocates & Legal Consultants

The Law offices of Phalpher & Co., set up in 2012, have experience in various fields such as business, commercial, banking, criminal, sports laws, corporate-litigation and advisory. Phalpher & Co. offers complete and holistic legal solutions to its clients, ranging from legal advisory, litigation, transaction support, i.e. drafting, review, negotiation, closing of definitive agreements. The firm has been a specialist in sports law for over a decade. It has a dedicated Sports Law team, which offers legal expertise around the grassroots development of sports, sports administration, anti-doping laws, league matters, sports infrastructure and PPP documentation.

**Click here to download the recently released Grant Thornton Halt-Plan-Refresh Guide on revisiting business priorities and plans**



For more insights on the COVID-19 crisis, scan this barcode to see continuous updates on our website

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