

# Media & Entertainment

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STATEMENT OF CAPABILITY

2011

## **Nishith Desai Associates**

*Legal & Tax Counseling Worldwide*

Mumbai • Silicon Valley • Bangalore • Singapore • Basel • New Delhi

Nishith Desai Associates (NDA) is a research based international law firm with offices in Mumbai, Bangalore, Silicon Valley, Singapore, Basel and New Delhi. We specialize in strategic legal, regulatory and tax advice coupled with industry expertise in an integrated manner. We focus on niche areas in which we provide significant value and are invariably involved in select highly complex, innovative transactions. Our key clients include marquee repeat Fortune 500 clientele, of which over 60 per cent are US corporations.

Core practice areas include International Tax, International Tax Litigation, Litigation & Dispute Resolution, Fund Formation, Fund Investments, Capital Markets, Employment and HR, Intellectual Property, Corporate & Securities Law, Competition Law, Mergers & Acquisitions, JVs & Restructuring, General Commercial Law and Succession and Estate Planning. Our specialized industry niches include financial services, IT and telecom, education, pharma and life sciences, media and entertainment, real estate and infrastructure.

Our Tax, Investment Funds and Technology-Media-Telecom (TMT) practices have been consistently ranked in tier 1 by Legal 500, while Chambers & Partners have ranked us # 1 for Tax, TMT and Real Estate - FDI. We've received honorable mentions in Asian - Counsel Magazine for Alternative Investment Funds, International Arbitration, Real Estate and Taxation for the year 2010. We have been adjudged the winner of the Indian Law Firm of the Year 2010 for TMT by IFLR. We have won the prestigious "Asian-Counsel's Social Responsible Deals of the Year 2009" by Pacific Business Press, in addition to being Asian-Counsel Firm of the Year 2009 for the practice areas of Private Equity and Taxation in India. Indian Business Law Journal listed our Tax, PE & VC and Technology-Media-Telecom (TMT) practices in the India Law Firm Awards 2009 as also Legal 500 (Asia-Pacific) that has ranked us #1 in these practices for 2009-2010. We have been ranked the highest for 'Quality' in the Financial Times – RSG Consulting ranking of Indian law firms in 2009. The Tax Directors Handbook, 2009 lauded us for our constant and innovative out-of-the-box ideas. Other past recognitions include being named the Indian Law Firm of the Year 2000 and Asian Law Firm of the Year (Pro Bono) 2001 by the International Financial Law Review, a Euromoney publication. In an Asia survey by International Tax Review (September 2003), we were voted as a top-ranking law firm and recognized for our cross-border structuring work.

Our research oriented approach has also led to the team members being recognized and felicitated for thought leadership. Consecutively for the fifth year in 2010, NDAites have won the global competition for dissertations at the International Bar Association. Nishith Desai, Founder of Nishith Desai Associates, has been voted 'External Counsel of the Year 2009' by Asian-Counsel and Pacific Business Press and the 'Most in Demand Practitioners' by Chambers Asia 2009. He has also been ranked No. 28 in a global Top 50 "Gold List" by Tax Business, a UK-based journal for the international tax community. Nishith Desai is listed in the Lex Witness 'Hall of fame: Top 50' individuals who have helped shape the legal landscape of modern India.

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### **Our Media & Entertainment Expertise**

The Media & Entertainment ("M&E") sector in India has experienced robust growth over the last decade. By opening up and relaxing the entry barriers for foreign investments (foreign direct investments/FDI as well as indirect investments) in certain key areas of this sector, the Government of India has provided the sector the much needed impetus to growth. The movie, television, sports and gaming industries have especially undergone unprecedented advancements on multiple dimensions: use of latest technology in all phases of production, content globalization, financial transparency, corporatization, and managerial professionalism.

We are a leading Indian law firm recognized internationally for its specialization in issues arising out of regulatory, technological, legal and tax changes in the media, entertainment & sports industries. Recently, we were adjudged the Indian Law Firm of the Year 2010 for Technology-Media-Telecom (TMT) by IFLR. Moreover, we have won more accolades as:

- Chambers & Partners has ranked us # 1 for TMT.
- Awarded by Indian Business Law Journal - India Law Firm Award 2009 for Telecom -Media-Technology practices
- Ranked highest on 'Quality' in a recent Financial Times -RSG Consulting survey of Indian law firms
- Ranked No. 1 by Asia Pacific Legal 500 in Technology Law, Media Law and Telecom Law

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### Scope of Services

**Strategy:** The team has assisted with strategies and policies for our clients' operations both within India and internationally, taking into account broadcasting, publication, intellectual property, taxation and ancillary laws and regulations in India.

**Structuring:** The team has *inter alia* advised Viacom, Turner Broadcasting, MGM, CBS, MTV, Sahara, Osians, World Space, Reliance Entertainment ADAG, Times Group and several gaming companies on the structuring of their investments and transactions taking into account the tax, legal and regulatory regime. The firm also provides advice on the structuring of investments in the media industry for overseas and domestic clients as well as the setting up of media-related funds, fund investments, joint ventures, co-production for films and acquisition of publishing and broadcast media, in Print, Internet, TV, Radio, sports and gaming sectors. The firm has advised several new-media clients on their India-related activities, including structuring of online gaming business models, drafting of content licenses, webcasting, and co-branding agreements. It has counseled Nickelodeon Global Network Ventures on its India-related business and the Eenadu Group of Companies, one of the largest entertainment and media companies in Southern India.

**Regulatory:** Broadcasting sector in India is regulated. Hence, for structuring any operations in India relevant guidelines issued by the government of India have to be taken into account. We have assisted Worldspace and Astro All Asia Networks with their India businesses. The firm has also advised Space Systems/Loral, MEASAT Broadcast Network Systems, SDN BHD Malaysia, Zee TV, and Asia Satellite Communications Holdings Limited on their space communication ventures. We have advised several television and radio channel companies in the launch of their channels in India. We advise MGM on their regulatory filings and compliances in India. We have also advised casino and gaming clients on the regulatory issues under the myriad gaming laws of India.

**Documentation and advisory:** We have represented clients such as Reliance Entertainment ADAG, Warner Bros., Time Warner, Times Global, Times Group, MGM, Sahara, Music Choice, BullDog Media, Food Food channel and many film makers and producers in their documentation for all types of media contracts. The firm has also advised top entertainment companies on drafting and negotiating various commercial contracts including deal memos, option and purchase agreements, distribution agreements, exhibition agreements, production and finance agreements, licensing and assignment agreements, marketing assistance and alliance agreements, music agreements, actor-director-producer agreements, and merchandising, sponsorship & endorsement agreements, consultancy

agreements as well as television format licensing. The firm has advised iDream Productions which has distributed films such as "Monsoon Wedding," "Bend It like Beckham," "Bollywood Hollywood," "Samay", "16 December", and "Agnivarsha" amongst others and several of their ongoing projects. We work with not only some of the biggest names in the industry but also advise a number of start up production companies on various film and TV productions.

We have also advised Sugal Damani and other gaming companies in their documentation and negotiations for their prospective businesses including software gaming contracts. Further, we have also advised Apalya Technologies Private Ltd in procuring the mobile television platform rights of the Indian Premier League and its distribution.

**IP Advisory:** The firm has advised the Really Useful Group (an Andrew Lloyd Webber Company) on IP ownership issues for its musical "Bombay Dreams". We have advised and assisted with strategy in relation to IP issues for the films, Gandhi My Father and Black. We have also advised Warner Bros. and NBC Universal in relation to IP infringement issues in India.

**Due Diligence:** We specialize in conducting due diligence of media companies including issues relating to ownership of rights, regulatory compliances and tax. We have especially conducted due diligences of many companies which have rights to significant amount of sports content, both national and international.

**Production Counsel:** We have acted as production counsel for the mainstream Bollywood films like "Kaante" and cross over films like "Bollywood Bride". We acted as production counsel to the critically acclaimed Indian film "Black". As production counsels for "Black", we advised the client on a host of intellectual property issues arising out of the production of the film. We also acted as production counsel for "Gandhi my Father". We are counsel for Warner Bros. for their Indian productions and currently are acting as the production counsels for Shekhar Kapur's next film "Paani". We have also assisted clients in content distribution over various platforms.

**Talent arrangements:** NDA has also advised top Indian artists and sports persons on drafting and negotiating their agreements with production houses, talent management agencies, etc. Some of our clients include Anil Kapoor, Sushmita Sen, Kabir Bedi, Shekhar Kapur, Feroz Khan (theatre producer-director), Vishal Bhardwaj, Vijender Singh and Sanjay Leela Bhansali. The team has assisted celebrity and talent management companies such as 9Yards, and Globosports in drafting and negotiating several endorsement and celebrity management deals with sports personalities and actors. We have also advised Shekhar Kapur, of the Oscar winning Elizabeth's fame, on all legal issues arising out of film direction/production and related activities.

**Sports:** We have advised various clients from the sports industry on their legal and tax issues. We have advised on purchase of football clubs and entry strategy and regulatory issues for Premier League Clubs from UK wanting to develop its fan base in India including merchandise and broadcast rights. We have also advised overseas sports ticketing companies with regard to their contracts with BCCI for ticketing of matches in India, the Commonwealth Games Committee and other associations and organizations on all IP and broadcast related issues.

We have assisted clients in their proposed bids for the Indian Premier League for the broadcasting rights and their proposed bids for acquiring India Premier Leagues' franchise teams.

We have also drafted and negotiated celebrity & talent management contracts and endorsement contracts for both, sports personalities (including India's leading football player, Baichung Bhutia) and talent management companies

like 9Yards and Globosports. We have also provided advise to International Cricket Council in relation to certain international taxation matters .

**Online Gaming & Casino laws:** Recently the foreign players have been showing keen interest in the Indian gaming and casino business and we represent some of the top domestic and international client like Thunderbird Resorts and Sugal & Damani and several European gaming companies for structuring and documentation for several cross border ventures and technology collaborations. Due to our intricate understanding of the mosaic of gaming enactments, the exchange control regulations, FDI policy, IP laws, tax and regulatory issues , we have been able to structure innovative yet tax efficient and legally compliant deals . We continue to advise our clients on regulatory and statutory licensing requirements for conducting online gaming and casino business in India.

**Print Media:** We are actively involved with developments in the print media sector and continue to advise international publishing houses, including Dubai based ITP Publishing Group on the launch of their printed magazines in India, primarily through IP licensing arrangements.

**Joint Ventures and M & A** The firm has been involved in structuring and executing several joint ventures and mergers and acquisitions in the M&E space. The firm has assisted Reliance Broadcasting in their joint ventures with CBS and RTL groups for launch of television channels in India.

**Capital Markets and Funds & investments:** Our knowledge and expertise in new media has helped grow our funds and private equity practice as we advise more companies from overseas on investments in the media and entertainment industries. We have recently assisted Nimbus Communications Limited, one of India's leading sports channel companies (Neo Sports), on its strategy and documentation for going public in India (IPO).

**Litigation:** The team has successfully represented Bennett and Coleman Limited in one of the first online domain name disputes in India and has also represented Cox & Kings and Wipro on similar matters. The firm has also successfully represented several international and Indian clients in negotiations, litigation, arbitration and drawing up settlements, including advising and taking action on behalf of a leading film production company with respect to their copyright disputes, a leading international event management company with respect to infringement of their intellectual property rights and passing off. NDA has also represented several clients in respect of disputes arising out of endorsement contracts. We have assisted Toonz Animation in their mediation proceedings. NDA has been advising its client in relation to litigation surrounding IPL mobile rights.

**Reports:** As a research-based law firm, we have authored two media specific reports encompassing the film and the television industries, titled "Bollywood v. Hollywood: Legal and Business Practices A Comparative Analysis," and "Globalising the Indian Television Industry: Implications and Opportunities". We also continue to contribute widely on media related issues to various publications within India and abroad such as the World Media Law Report and have also made presentations on media and entertainment law around the world. We have also carried out extensive research on co-production treaties and the availability of tax breaks and subsidies worldwide for film productions. The team also contributed an article to India's leading business newspaper, The Economic Times, on the sponsorship controversy surrounding the ICC Cricket World Cup 2003.

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**Representative Clients**

- MGM Networks Inc. - USA, India
- Reliance Big Broadcasting Pvt Ltd
- Turmeric Vision (Food Food Channel)
- The Indian Film Company (Cyprus) Limited
- Warner Brothers Entertainment Inc. – USA, India
- Music Choice
- Shekhar Kapur (International Film Maker)
- Midday Multimedia Ltd
- Qatar Foundation for Education Science and Community Development (Qatar Foundation)
- Sugal & Damani Enterprises Pvt Ltd
- Bet365 Group Limited
- bwin Interactive Entertainment AG

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