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IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

ORDINARY ORIGINAL JURISDICTION

COMPANY PETITION NO. 168 OF 2009

CONNECTED WITH

COMPANY APPLICATION NO. 172 OF 2009

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In the matter of the Companies Act,
1956;

And

In the matter of Section 391 of the
Companies Act, 1956;

And

In the matter of Idea Cellular Limited;

And

In the matter of Scheme of
Arrangement between Idea Cellular
Limited and its Equity Shareholders;



Idea Cellular Limited,
company incorporated under the
provisions of the Companies Act,
1956 and having its Registered
Office at Suman Towers, Plot No.18,
Sector No.11, Gandhinagar-382 011,
Gujarat, India.

..... **Petitioner Company**

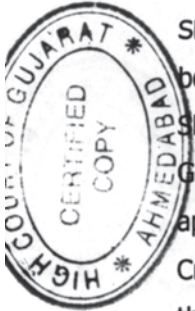
BEFORE THE HON'BLE MR. JUSTICE JAYANT PATEL, J

DATE: 31/08/2009

ORDER ON PETITION

The above Petition coming for hearing on 31st day of August, 2009, **UPON READING** the said Petition, the order dated 18th day of April 2009 and order dated 28th day of April 2009 below Speaking to Minutes in Company Application

No. 172 of 2009, whereby meeting of the Equity Shareholders of Idea Cellular Limited, the Petitioner abovenamed (hereinafter referred to as "the said Company") was ordered to be convened and held for the purpose of considering, and if thought fit, approving, with or without modification(s), the arrangement embodied in Scheme of Arrangement between Idea Cellular Limited and its Equity Shareholders which includes the reduction of Securities/ Share Premium Account of the said Company ("the said Scheme") and meetings of Secured Creditors and of the Unsecured Creditors having value of outstanding above Rs.10 lacs as per the books of the said Company, for the purpose of considering the arrangement embodied in the Scheme were ordered to be convened and **UPON** reading the Affidavit of Shri Sanjeev Aga dated 9th day of June 2009, annexing the newspaper cuttings of English daily, Indian Express, all the editions in the State of Gujarat and Gujarati daily Gujarat Samachar, all the editions in the State of Gujarat, both dated the 29th day of May 2009 and also showing the dispatch of the notices convening the said meetings to the Equity Shareholders on 22nd day of May 2009, 23rd day of May 2009, 25th day of May 2009 and 26th day of May 2009 and to the Secured Creditors and to the Unsecured Creditors having value of outstanding above Rs.10 lacs as per the books of the said Company on 30th day of May 2009 and **UPON** reading the Chairman's Report of Shri Sanjeev Aga dated 6th day of July 2009 stating that the said Scheme has been approved with requisite statutory majority in the meeting of the Equity Shareholders and **UPON** reading the Chairman's Report of Shri Gian Prakash Gupta dated 6th day of July 2009 stating that the said Scheme has been approved with requisite statutory majority in the meeting of the Secured Creditors and the said Scheme has been approved unanimously in the meeting of the Unsecured Creditors and **UPON** reading the Affidavit of Shri Vineet Choraria, Authorised Signatory of the said Company, dated the 10th day of July 2009, verifying the Petition and **UPON** reading the Affidavit of Shri Vineet Choraria, dated 28th day of July 2009 showing publication of the notice of hearing of this Petition in English daily, The Times of India and Gujarati daily Gujarat Samachar, both in Ahmedabad Edition dated the 17th day of July 2009, (advertisement in the Gujarat Government Gazette having been dispensed with) and also showing the service of notice on the Regional Director, Department of Company Affairs and **UPON** hearing Shri Mihir Joshi, Senior Advocate along with Shri Sandeep Singhi, for Singhi & Co., Advocates for the said Company and



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hearing the submissions of the Assistant Solicitor General, Mr. P. S. Champaneri instructed by the Regional Director, Company Law Board, Western Region, Mumbai.

1. **THIS COURT** doth hereby sanction the Scheme of Arrangement at **Annexure 'C'** to the Petition and annexed as Schedule hereto, and doth hereby declare the same be binding on the said Company and all the Equity Shareholders, Secured Creditors and Unsecured Creditors of the said Company and all persons concerned under the Scheme.
2. That the said Company do within 30 days of the sealing of this order, cause a certified copy of this order to be delivered to the Registrar of Companies, Gujarat, Ahmedabad for registration.
3. That the parties to the said Scheme or other persons interested shall be at liberty to apply to this Court for any directions that may be necessary in regard to the working of the arrangement embodied in the Scheme, as sanctioned hereunder and annexed as Schedule hereto.
4. That the fees of the Assistant Solicitor General of India, appearing for the Regional Director, Company Law Board, Mumbai, shall be paid by the said Company.



SCHEDULE

2

SCHEME OF ARRANGEMENT

BETWEEN

IDEA CELLULAR LIMITED

AND

ITS SHAREHOLDERS

Part I - PREAMBLE

Background

Idea Cellular Limited ("Idea" or "the Company") is a leading GSM mobile services operator in India, now operating in 13 service areas of India covering Delhi, Mumbai, Himachal Pradesh, Rajasthan, Haryana, Uttar Pradesh (East), Uttar Pradesh (West) (including Uttaranchal), Madhya Pradesh (including Chhatisgarh), Gujarat, Maharashtra (including Goa), Andhra Pradesh, Kerala and Orissa. The mobile telephone service in Orissa service area started with effect from 9th April 2009. In addition, Idea directly holds new Unified Access Services Licences ("UASLs") issued by the Department of Telecommunications ("DoT") with respect to 8 (eight) service areas/circles including Punjab and Karnataka service areas. Idea, through its wholly owned subsidiary Aditya Birla Telecom Limited, also holds UASL for Bihar including Jharkhand service area.



Spice Communications Limited ("Spice") is a GSM mobile services operator currently operating in the service areas of Punjab and Karnataka in India. Spice also has new UASLs issued by DoT, but without operations, with respect to 4 (four) service areas, namely, Delhi, Haryana, Maharashtra and Andhra Pradesh.

Pursuant to Share Purchase Agreement dated 25th June 2008 entered into between Idea and MCorpGlobal Communications Private Limited ("MCPL"), Idea acquired 40.8% of the issued and paid-up share capital of Spice from MCPL. Thereafter, a public offer was made, inter alios, by Idea to the equity shareholders of Spice in accordance with the provisions of Securities and Exchange Board of India (Substantial Acquisition of Shares and Takeovers) Regulations,

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1997. As on date, Idea has acquired 41.09% of the issued and paid-up share capital of Spice.

The respective Boards of Directors of Idea and Spice gave in-principle approval to the merger of Spice with Idea in their respective board meetings held on 25th June 2008 and in this regard a Merger Co-operation Agreement dated 25th June 2008 was executed, inter alia, between Spice and Idea.

In addition to the aforesaid acquisition of shares by Idea from MCPL, Idea has entered into Non-Compete Agreement dated 25th June 2008 with MCPL where under MCPL, its promoters and affiliates have, inter alia, undertaken that for a specific period they shall not compete and have given up all their rights to undertake or carry on, either directly or indirectly, the business of providing 2G and 2.5G cellular mobile services under the terms of UASLs or the right to acquire an interest of 10% or more in a company whose business activities encompass the provision of 2G or 2.5G cellular mobile services. Under the Non-Compete Agreement, Idea has paid a consideration of Rs.54,397.50 lacs to MCPL ("Non-Compete Consideration").

The said acquisition and subsequent merger would help Idea's medium to long term vision of becoming a pan India operator. In its endeavor to grow, such costs incurred by Idea are inevitable. Idea, therefore, is proposing to undertake a financial restructuring exercise whereby the Non-Compete Consideration paid and appearing in the books of Idea shall be transferred and debited to the Profit & Loss Account under the nomenclature "Non-Compete Fee". Correspondingly, an amount equal to the Non-Compete Consideration paid shall be withdrawn from the balance lying to the credit of Securities/Share Premium Account to the credit of the Profit & Loss Account under the nomenclature "Amount Withdrawn from Securities/Share Premium Account"



Part II - DEFINITIONS AND SHARE CAPITAL

1. DEFINITIONS

In this Scheme unless inconsistent with the subject or context, the following expressions shall have the following meanings:

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- 1.1 **"Act"** means the Companies Act, 1956 and includes any statutory re-enactment or amendment(s) thereto, from time to time.
- 1.2 **"Appointed Date"** means 1st July 2008.
- 1.3 **"Board"** means the Board of Directors of Idea or any Committee thereof duly constituted or appointed by the Board for this purpose.
- 1.4 **"Effective Date"** means the date on which the certified copy of the order of the High Court, sanctioning the Scheme, is filed with the Registrar of Companies, Gujarat at Ahmedabad.

References in this Scheme to the date of **"coming into effect of this Scheme"** or **"upon the Scheme being effective"** shall mean the Effective Date.

- 1.5 **"High Court"** means the High Court of Gujarat at Ahmedabad having jurisdiction in respect of Idea and shall, if applicable, include the National Company Law Tribunal.
- 1.6 **"Idea" or "the Company"** means Idea Cellular Limited, a company incorporated under the Act and having its registered office at Suman Towers, Plot No. 18, Sector No.11, Gandhinagar-382 011, Gujarat, India.
- 1.7 **"Non-Compete Consideration"** means the amount of Rs.54,397.50 lacs paid by Idea to MCorpGlobal Communications Private Limited (MCPL) pursuant to Non-Compete Agreement dated 25th June 2008 entered into between Idea and MCPL.
- 1.8 **"Scheme" or "the Scheme" or "this Scheme"** means this Scheme of Arrangement in its present form filed with the High Court or with any modification(s) approved or imposed or directed by the High Court or modifications made under clause 6 of this Scheme.



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2. SHARE CAPITAL

The share capital structure of Idea as on 31st January 2009 was as follows:

Particulars	Amount in Rupees
Authorised:	
677,50,00,000 Equity Shares of Rs. 10/- each	67,75,00,00,000
1,500 Redeemable Cumulative Non-Convertible Preference Shares of Rs. 1,00,00,000/- each	15,00,00,00,000
Total	82,75,00,00,000
Issued, Subscribed and Paid-up:	
310,00,95,209 Equity Shares of Rs. 10/- each, fully paid-up	31,00,09,52,090
Total	31,00,09,52,090



3. DATE WHEN THE SCHEME COMES INTO OPERATION

The Scheme shall come into operation from the Appointed Date, but the same shall become effective on and from the Effective Date.

Part III- ARRANGEMENT

4. FINANCIAL RESTRUCTURING OF IDEA AND ACCOUNTING TREATMENT

- 4.1 Upon the Scheme being effective and with effect from the Appointed Date, the Non-Compete Consideration paid and appearing in the books of Idea, without any further act, instrument or deed shall stand transferred and debited to the

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Profit & Loss Account under the nomenclature "Non-Compete Fee".

- 4.2 Correspondingly, upon the Scheme being effective and with effect from the Appointed Date, an amount equal to Non-Compete Consideration without any further act, instrument or deed shall stand withdrawn from the balance lying to the credit of Securities/Share Premium Account and the same shall stand transferred and credited to the Profit & Loss Account and shown under the nomenclature "Amount Withdrawn from Securities/Share Premium".
- 4.3 The amount withdrawn from the Securities/Share premium Account and credited to the Profit & Loss Account as per clause 4.2 above shall be set off against the Non-Compete Fee debited to the Profit & Loss Account as per clause 4.1 above.
- 4.4 To the extent the amount is transferred to the Profit & Loss Account as mentioned in clause 4.2 above, there shall be reduction of Securities/Share Premium Account which shall be effected as an integral part of this Scheme itself in accordance with the provisions of Section 78 and Sections 100-103 of the Act and as the same does not involve either diminution of liability in respect of unpaid share capital or payment to any shareholder of paid up share capital the provisions of Section 101 of the Act are not applicable and the order of the High Court sanctioning the Scheme shall also be deemed to be an order under Section 102 of the Act confirming reduction of Securities/Share Premium Account.
- 4.5 Notwithstanding the reduction as mentioned above, Idea shall not be required to add "and reduced" as a suffix to its name and Idea shall continue in its existing name.



5. CONDUCT OF BUSINESS

- 5.1 Nothing contained in this Scheme shall affect the conduct of business of Idea and/or any deeds, bonds, contracts, agreements and any other instruments to which Idea is a party and/or all legal or other proceedings by or against Idea.
- 5.2 Further, nothing contained in this Scheme shall affect the existing rights of the employees of Idea.

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Part IV - GENERAL TERMS AND CONDITIONS

6. MODIFICATION OR AMENDMENTS TO THE SCHEME

- 6.1 Idea shall by its Board, may assent to any modifications/amendments to the Scheme or agree to any terms and/or conditions that the High Court or any other authority may deem fit to direct or impose or which may otherwise be considered necessary, desirable or appropriate by them.
- 6.2 Idea shall by its Board, may give such directions as they may consider necessary to settle any question or difficulty arising under the Scheme or in regard to any of the meaning or interpretation of the Scheme or implementation hereof or in any matter whatsoever connected therewith.
- 6.3 If any part of this Scheme is found to be unworkable for any reason whatsoever, the same shall not, subject to the decision of the Board, affect the adoption or validity or interpretation of the other parts and/or provisions of this Scheme.
- 6.4 In the event of any of the conditions that may be imposed by the High Court or other authority which Idea may find unacceptable for any reason, then Idea is at liberty to withdraw the Scheme.



7. APPLICATION TO HIGH COURT

- 7.1 Idea shall, with all reasonable dispatch, make necessary application/ petition to the High Court under Section 391 of the Act and other applicable provisions of the Act for seeking sanction of this Scheme.

8. CONDITIONALITY OF THE SCHEME

This Scheme is and shall be conditional upon and subject to:

- 8.1 the approval by requisite majority of the members of Idea as required under the Act and the requisite orders of the High Court referred to in clause 7.1 hereof being obtained; and

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8.2 the certified copy of the order of the High Court, sanctioning the Scheme, being filed with the Registrar of Companies, Gujarat at Ahmedabad.

9. BINDING EFFECT


9.1 Upon the Scheme being effective and with effect from the Appointed Date, the Scheme shall be binding on Idea and all concerned parties without any further act, deed, matter or thing.

10. COST, CHARGES & EXPENSES

10.1 All costs, charges and expenses, in relation to or in connection with this Scheme and matters incidental thereto (including but not limited to legal fees and other costs, charges and expenses incurred in the preparation, execution and implementation of this Scheme) shall be paid and borne by Idea.



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WITNESS K. S. RADHAKRISHNAN, ESQUIRE, THE CHIEF JUSTICE at Ahmedabad
aforesaid this 31st day of August, Two Thousand and Nine.

BY THE ORDER OF THE COURT
sd/- (B.S. Dhandha)

ILC REGISTRAR (JUDICIAL)
This 8th day of September 2009

SEALER
sd/- (N.P. Trakmi)

DEPUTY REGISTRAR
This 8th day of September 2009



ORDER SANCTIONING THE SCHEME OF
ARRANGEMENT DRAWN ON THE
APPLICATION OF M/S. SINGHI & CO.,
ADVOCATES FOR THE PETITIONER
HAVING THEIR OFFICE AT 7-8TH FLOOR,
PREMCHAND HOUSE ANNEXE, ASHRAM
ROAD, AHMEDABAD- 380 009



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ASSISTANT REGISTRAR
THIS 9-9-09 DAY OF