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भारतीय प्रतिभूति
और विनिमय बोर्ड

**Securities and Exchange
Board of India**

CFD/DIL/SP/DM/171769/2009

July 31, 2009

The Company Secretary,
India Online Netcom Limited,
Raheja Centre, Nariman Point,
Mumbai - 400021.

Dear Sir,

Subject : Request for interpretative letter under SEBI (Informal Guidance) Scheme, 2003 - SEBI (DIP) Guidelines regarding Qualified Institutions' Placement(QIP)

- 1.0 Please refer to the correspondence resting with your letter no. IOL/OTHER/SECL/2009-10/005, dated June 1, 2009, seeking informal guidance under the SEBI (Informal Guidance) Scheme, 2003.
- 2.0 Vide your abovementioned letter, it is *inter alia* submitted by you that :
- 2.1 IOL Netcom Limited, a Public Limited Company listed on BSE and NSE had proposed to have Qualified Institutions Placement (QIP) pursuant to chapter XIII-A of SEBI (DIP) Guidelines, 2000 (DIP Guidelines).
- 2.2 A Board Resolution was passed on 12th November, 2008 for approving the Issue. A Special Resolution pursuant to Section 81(1A) of the Companies Act, 1956 in accordance with the provisions of Section 192A of the Companies Act, 1956 was passed on 16th December, 2008. The Company had also obtained the in principle approvals of BSE and NSE.
- 2.3 The proposed QIP was for placement of upto 90,00,000 equity shares to Qualified Institutional Buyers (QIBs). M/s Anand Rathi Financial Services Limited was appointed as Merchant Banker for the said QIP.
- 2.4 The issue for the QIP opened on 15th January 2009. There was 'no response' from the institutions as 'no bidding' was received from the QIBs for the said QIP. Consequently, the Company withdrew its Placement offer on 24th April 2009 and informed the stock exchanges accordingly.



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- 2.5 The Company wishes to appoint a new Merchant Banker and wants to initiate the process afresh by passing a new board resolution and a new special resolution of its shareholders. The company also proposes to determine the price on the basis of a new 'relevant date' and in accordance with clause 13A.3 of DIP Guidelines thereafter it shall file new application with BSE and NSE for their approval.
- 3.0 In this regard, you have requested for interpretation of Clause 13A.6.3 of DIP Guidelines which requires that :
"The placements made pursuant to authority of the same shareholders' resolution shall be separated by at least six months between each placement."
- 3.1 You have submitted that since the content of clause 13A.6.3 stipulates placements made pursuant to authority of same shareholders' resolution, in the present case the company is having fresh placement under the new resolution of shareholders as well as of the Board. Further, in the previous instance, there was no bid received from any of the Qualified Institutional Buyers, therefore the company had not made any placement at all.
- 3.2 You have requested us to issue interpretive letter on the issue whether the provisions of clause 13A.6.3 of DIP Guidelines which provides for separation of at least six months between each placement does not apply to the Company, w.r.t. proposed placement.
- 4.0 We have considered the submissions made by you in your letter under reference and without necessarily agreeing with your analysis, our views on the issue are as under:-
- 4.1 Chapter XIII A of the DIP Guidelines provides for the QIPs to permit the domestic listed companies to raise funds through private placement with QIBs subject to the requirements of the said Chapter. Clause 13A. 6 deals with the conditions regarding special resolution. In terms of clauses 13A.6.1 read with 13A.6.3, the placement pursuant to a special resolution should be completed within a period of 12 months and different placements can be made pursuant to the same special resolution but there shall be a gap of 6 months between two placements made pursuant to the same special resolution.
- 4.2 The intention behind clause 13A.6.3 is to curb the frequent fund raising by the companies through the QIP route, while also requiring the companies to reasonably predict their capital requirement at least for next six months. Clause 13A.6.3 read with clause 13A.6.1 does not intend to allow the company to make first placement



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pursuant to one special resolution and successive multiple placements by passing different special resolutions within 12 months from the date of first special resolution. If such interpretation is taken, it will render the requirements of clause 13A.6.3 otiose.

4.3 However, if the company has not made the first placement pursuant to a special resolution and had withdrawn the placement, it may make another placement pursuant to the said special resolution within its validity period of twelve months. Since the first placement had not been successfully made and the company has withdrawn the first resolution it may make a fresh placement by passing a fresh resolution and clause 13A.6.3 shall apply with respect to the fresh resolution.

5.0 This position is based on the representation made to the division in your aforesaid letters under reference. Different facts or condition might require different results. This letter does not express a decision of the Board on the question referred.

6.0 Please note that this position is only with respect to the applicability of the provisions of clause 13A.6.3 of SEBI (DIP) Guidelines on "Qualified Institutions' Placement". It does not affect the applicability of any Act, Rules or Regulations, Guidelines and Circulars administered by SEBI or any other authority or the provision of the rules, regulations and bye laws or Listing Agreement of the stock exchanges.

Yours faithfully,

Sanjay Purao

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