

**OFFICE OF THE CONTRACTOR-GENERAL OF JAMAICA**

**ADDENDUM TO**

**Special Report of Investigation**

**Conducted into the Allegations of Irregularity Surrounding an Alleged Proposal by SportsMax Limited to Supply Satellite Services for Simulcast Racing from South Africa and the United Kingdom to Caymanas Track Limited**

**Ministry of Finance & the Public Service**

The Office of the Contractor General (OCG), in its Report of Investigation in the captioned matter, has made the following Referral which appears at paragraph numbered three (3) on pages 40, 41 and 163 of the said Report. The verbatim contents of the referenced Referral are reproduced hereunder as follows:

- (3) *“Further, pursuant to the mandatory statutory obligations which are imposed upon a Contractor-General by Section 21 of Contractor General Act, the OCG is hereby formally referring a copy of this Investigation Report to the Director of Public Prosecutions and the Commissioner of Police, for such further action that one or both of them may deem appropriate, on the basis that there is **prima facie** evidence which is contained herein and, more particularly and importantly, in the sworn statements that were furnished to the OCG by the relevant Respondents, which would suggest that Mr. Patrick Rousseau and Mr. Oliver McIntosh both failed, without lawful justification or excuse, to comply with a lawful requirement of a Contractor-General, in contravention of Section 29 (b) (ii) of the Contractor General Act. Mr. Rousseau, in his 2008 August 12 response to the OCG’s Requisition, and Mr. McIntosh in his 2008 August 14 response to the OCG’s Requisition, both failed to provide responses to **all** of the questions which were contained in the OCG’s Statutory Requisitions that were dated 2008 July 30, and which were respectively directed to them and, in particular, failed to disclose the particulars of the shareholders of IMC”.*

The Referral, insofar as it relates to Mr. Oliver McIntosh, the Chief Executive Officer and President of SportsMax Limited (SportsMax) and/or International Media Content (IMC), was purportedly but inadvertently and incorrectly made pursuant to the obligations that are imposed upon a Contractor General by Section 21 of the Contractor General Act.

Referrals that are made pursuant to Section 21 of the Contractor General Act, can only be made in respect of “*an officer or member of a public body*” .

Section 21 of the Contractor General Act provides that, “*If a Contractor General finds, during the course of his investigations or on the conclusion thereof that there is **evidence of a breach of duty or misconduct or criminal offence on the part of an officer or member of a public body**, he shall refer the matter to the person or persons competent to take such disciplinary or other proceeding as may be appropriate against that officer or member and in all such cases shall lay a special report before Parliament*”. (OCG Emphasis).

Insofar as the subject OCG Investigation and Referral is concerned, Mr. Oliver McIntosh is not “*an officer or member of a public body*” and, accordingly, cannot be properly or lawfully referred by the OCG under Section 21 of the Contractor General Act.

In the circumstances, the OCG hereby formally withdraws the referenced Referral insofar as it relates to Mr. Oliver McIntosh and, instead, hereby formally ***recommends***, pursuant to the powers that are reserved to a Contractor General under Section 20 (1) of the Contractor General Act, that the said matter, insofar as it relates to Mr. McIntosh, should be formally referred to the Director of Public Prosecution and the Commissioner of Police, for such further action that one or both of them may deem appropriate having regard to the ***prima facie*** evidence which is contained in the OCG’s Investigation Report and, more particularly and importantly, in the sworn statements that were furnished to the OCG by the Respondents in this matter.