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Sports Law 2025

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Global Practice Guides

Sports Law

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2025

Chambers Global Practice Guides

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INTRODUCTION

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Onside Law has been at the forefront of sports law for two decades, and has offices in Lausanne and Sydney in addition to its London HQ. Specialist advisers to clients across sport, media and entertainment, the firm provides practical and effective legal and commercial advice. Its team in London – supported by Lausanne and Sydney – is able to provide the most informed advice needed in this increasingly complex and sophisticated sector. Onside Law prides itself on being seen as trusted advisers and problem-solvers by all its clients. It acts for many of the major governing bodies and international federations, counts six FA Premier League clubs as clients and acts for some of the most high-profile sports people on the planet. Onside Law's specialist areas include disciplinary, integrity and anti-doping; major sport events; broadcasting and media rights; sponsorship, licensing and merchandising; investment in sport; acquisition of sports clubs and properties; and esports. The firm would like to thank James Tobias for his contribution to this introduction.

Contributing Editor

Jamie Singer is a founding partner of Onside Law. He qualified at Clifford Chance and joined IMG in 2000, working as principal legal adviser to IMG's tennis, sponsorship and models divisions. Jamie advises on a wide range of commercial, intellectual property, governance and regulatory matters across the sports and entertainment industries. His advice on commercial rights spans sponsorship, media rights, licensing, image rights and talent management. His regulatory practice focuses on integrity and match-fixing cases, often appearing before the Court of Arbitration for Sport in Lausanne. He is recommended as a leading expert in all of the legal directories.

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The Growth of Sports Law

Not so long ago, judges and academics scoffed at the suggestion that there was such a thing as "sports law". There may have been a burgeoning sports industry, but it did not generate its own substantive body of law. Perhaps the idea that something as frivolous as sport could generate its own jurisprudence did not seem possible or even appropriate to a rather conservative judiciary.

With those commentators now clearly part of ancient history, Chambers publishes its fifth Sports Law Global Practice Guide. Sports law is now not only an internationally recognised legal discipline in its own right, but has also generated a significant body of legal precedent. In particular, it provides a crucial framework for the operation and regulation of an industry that has grown at an astonishing pace.

Dispute Resolution

As sport as a business has developed, the contracts underpinning its commercialisation have become ever more sophisticated and the rules which governing bodies impose to control and regulate their sports have had to continually adapt. With higher value contracts and more detailed regulation, as with any industry, disputes have become both more common and more complex.

The first specialist court to hear sports-related disputes was created in Lausanne, Switzerland in 1983. Since then, the Court of Arbitration for Sport (CAS) has heard nearly 10,700 cases and expanded with further outposts in the USA and Australia. It has also created ad hoc divisions to provide quick resolution to "on-field" disputes at many of the world's most significant sporting events. This demand for specialist dispute resolution for sport has in turn led to the creation of national bodies which exclusively serve the sports community, ranging from Sport Resolution in the UK to the National Sports Tribunal in Australia.

With the extraordinary growth in the financial value of football and, in particular, football transfer deals, not only has FIFA (*Fédération Internationale de Football Association*) created its own dispute resolution chamber, but this has spawned domestic equivalents with many national football dispute resolution chambers. Some standard transfer agreements now even refer to the "laws of FIFA".

All of these tribunals and courts have contributed to a rich source of jurisprudence whose

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foundations remain the many decisions that have been published by CAS. This body of case law, taken alongside the rules and regulations underpinning international sport, has created the Lex Sportiva, a distinct international body of law specific to sport.

This guide summarises the key principles of sports law in 14 jurisdictions. Each jurisdiction is reviewed following the same 12-section format with sub-sections, allowing for easy comparisons on specific issues and concerns. It is designed to provide an easy-to-understand guide specific to each jurisdiction, whilst also demonstrating how certain areas of practice have reached a near homogenous position internationally.

Anti-Doping Rules

By way of example, as a result of the International Olympic Committee's (IOC) support for the World Anti-Doping Agency (WADA) and its requirements, anti-doping is regulated and enforced in much the same way across the globe through the WADA Code. The Code was revised in 2009, 2015, 2021 and 2022, providing a robust and uniform set of anti-doping rules applied by all 206 nations comprising the Olympic movement. In September 2023, WADA launched the first phase of the 2027 WADA Code & International Standards Update. This will involve the simultaneous review and update of the Code that is still ongoing.

Betting

Conversely, the regulation and exploitation of sports betting differs significantly in different jurisdictions. In the USA, prior to the Supreme Court decision in Murphy v NCAA (2018), sports betting was generally prohibited. That decision marked a sea change in American sports and now in 2025, 38 states have now legalised sports betting. This, in turn, led to a flood of data and licensing deals between sports leagues and betting companies looking to offer accurate real-time betting services. Last year, a total of USD120 billion was spent on sports wagering, up 27.5% from 2022.

France took a similar position, reserving sports betting to *Francaise des Jeux*, a heavily regulated state monopoly throughout the 20th century and beyond. It is only in the last decade that, following pressure from the EU, France set up the National Gambling Authority with a remit to grant sports betting licences to carefully selected commercial operators.

At the other end of the spectrum, sports betting in the UK has been an integral part of the commercial landscape for decades, with betting sponsors now accounting for more than half of the front-of-shirt sponsors in the English Premier League and a total investment of around GBP60 million. However, as the USA and France liberalise sports betting, in the UK a review of the Gambling Act 2005 has begun to restrict betting sponsorship of sport, with a ban of these industry deals coming into force in the 2026–27 season. Meanwhile, jurisdictions such as India continue to treat sports betting as, principally, an illegal activity.

Commercial Rights

The exploitation of sport's commercial rights has been one of the biggest growth industries of all in the past 25 years or so. The latest report according to the Best Howard Model estimates the global sports industry to be valued at USD2.65 trillion – a staggering figure demonstrating just how powerful the world of sport is.

As this guide demonstrates, different countries take different approaches to the creation

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and ownership of the sports rights creating this extraordinary value. In the UK and the USA, there is no standalone right in a sporting event or spectacle. Hence, the rights are exploited by a combination of commercial contracts, rights of access and a variety of intellectual property rights. Conversely, in France, event organisers enjoy automatic rights in the sporting spectacle itself, owning and controlling the commercial rights flowing from the events they organise.

However, regardless of how sporting rights accrue, their exploitation is very much an international business. The contracts granting broadcasting, sponsorship, merchandising and licensing rights are now carefully tailored industry-specific documents ensuring the vagaries of national regulatory systems do not devalue the international nature of their exploitation.

Termination of commercial agreements continues to be the subject of significant debate. The war in Ukraine has led many right-holders to consider whether contracts can be terminated where brands are simply based in or linked to Russia. There are also a few examples of sponsors attempting termination of contracts with clubs due to player behaviour. For example, Kurt Zouma's mistreatment of a cat led to sponsors arguing they were entitled to terminate contracts with Zouma's employer, West Ham. Anti-doping offences often lead to similar contract terminations, such as Maria Sharapova's relationship with Nike following a positive drug test and ban.

Disputes will invariably follow as the interpretation of "reputation-based" termination rights is scrutinised.

Broadcast Rights

Traditionally, broadcast rights have been the most valuable of these commercial rights. The IOC generates over USD4 billion in its four-year cycles capturing summer and winter versions of the Olympics. FIFA has a similar aggregation model, with one men's World Cup every four years generating nearly USD3 billion, and the women's World Cup now generating more than USD570 million, for example. In these cases, such figures constitute well over half of their income. The contractual framework and legal system underpinning their exploitation have had to withstand the constant evolution of the means of production and distribution as well as, latterly, the viewing platforms available for consumption. Broadcasting now encompasses multiple techniques for delivering a feed to a consumer and requires a suite of specific contracts to paper those transactions.

Due to the hardships suffered in the primary COVID-19 years as well as the uncertainty caused by global wars and disputes, the industry continues to adapt to ensure any future uncertainties come at a smaller cost. Commercial contracts and particularly force majeure clauses have been scrutinised, with the future of some of these organisations resting on how a "boilerplate" clause was drafted. The force majeure clause will now be a key element of commercial negotiation rather than an afterthought, as was often the case before. The consequences of COVID-19 and global unrest, and the interpretation of affected contracts, will fuel litigation and disputes for years to come.

The Question of Insurance

Insurance is another area coming under scrutiny and development as a result of the pandemic. The All England Lawn Tennis Club (AELTC), owners of the Wimbledon Championships, were praised for their foresight as one of the very few organisations to have taken out event cancellation insurance which specifically included

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cancellation due to a pandemic. Their acumen ensured the protection of their financial position, despite cancellation (and in turn protected the share of profits which England's tennis association, the Lawn Tennis Association (LTA), relies upon). Going forward, insurance will be a key consideration for legal and finance directors, although the increased premiums will reduce the pool of event organisers who can even consider it.

Freedom of Goods and Services

In Europe, COVID-19 is not the only major event that sport has had to navigate in the last few years. In December 2020, the European Union Withdrawal Act was passed by the UK Parliament and the UK left the EU on 1 January 2021. An immediate impact has been felt with regard to the transfer of professional athlete contracts, particularly in football. The fundamental principle of the free movement of goods and services within EU countries was critical to the operation of the football transfer system, as well as to many other sports. Those systems are having to adapt to the new reality and it will be interesting to see how they fare.

Since early 2022, we have been seeing the devastating consequences of the war in Ukraine also affecting sport. Initially, this led to many federations banning Russian and Belarusian teams from competition and withdrawing hosting rights – also affecting individual athletes across the world in all disciplines of sport. Already, Russia has launched numerous appeals at the CAS, which will have the difficult task of putting emotion aside to consider the legality of actions taken under the relevant constitutions and rules of participation.

The Future Awaits...

The events of the last few years have seen and will continue to see significant additions to the Lex Sportiva. It appears that 2025 will see sport continue to grow at rapid speeds, with fans keener than ever to experience the passion, atmosphere and excitement that sport has to offer. As lawyers supporting this industry, we hope this guide assists in navigating the challenges ahead.

AUSTRALIA

Law and Practice

Contributed by:
Sven Burchartz and Jessica Bell
Kalus Kenny Intelex

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Kalus Kenny Intelex is a progressive, commercially oriented firm, specialising in sport, property, commercial and dispute resolution. The firm shares its clients' successes by becoming a true strategic partner in their pursuits, and always seeks to deliver more value by offering business outcomes in addition to legal advice. Kalus Kenny Intelex's personal and proactive approach, combined with a straightforward nature, makes it a different kind of law firm. The sports law team understands that, like sport itself, the business of sport is dynamic, emotionally charged and highly competitive. With local and global experience in the sports and leisure sector, its sports law team supports professional and amateur sporting organisations, clubs/teams, athletes, sponsors and other key stakeholders in their pursuit of sporting and commercial success. Kalus Kenny Intelex is the sole Australian member of the International Lawyers Network, a global alliance of 5,000 lawyers in 66 countries.

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1. Regulatory

1.1 Anti-Doping

Criminal Offences Relating to Doping in Australia

Australia, unlike many other countries, does not have any legislation that specifically criminalises doping in sport. Instead, the Australian Commonwealth and each of the states and territories have enacted legislation that criminalises certain conduct constituting a violation of the World Anti-Doping Agency's (WADA's) anti-doping rules. By way of example:

- Australia's Commonwealth Criminal Code Act 1995 criminalises the trafficking of certain substances that also appear on the WADA's list of substances and methods as being prohibited both in and out of competition, and in particular sports (World Anti-Doping Code Prohibited List); and
- Australia's Customs Act 1901 and Customs (Prohibited Imports) Regulations 1956 criminalises the importation of certain substances that also appear on the World Anti-Doping Code Prohibited List – this type of offence is punishable by up to five years' imprisonment and/or up to 1,000 penalty units.

Commonwealth and state and territory legislation in Australia also prohibits the use or administration of a substance on the World Anti-Doping Code Prohibited List without an appropriate medical or therapeutic justification.

Implementation of the World Anti-Doping Code in Australia

Australia is a signatory to the UNESCO International Convention against Doping in Sport, and is therefore required to implement an anti-doping scheme that is in accordance with the principles of the World Anti-Doping Code.

Sport Integrity Australia – an executive agency of the Australian government that brings together the Australian Sports Anti-Doping Authority (ASADA), the National Integrity of Sport Unit (NISU) and the national integrity programmes of the Australian Sports Commission as one entity – implements the World Anti-Doping Code by way of a legislative framework that includes the Sport Integrity Australia Act 2020 and the Sport Integrity Australia Regulations 2020 (in particular, Schedule 2 – the National Anti-Doping Scheme).

Sport Integrity Australia collaborates with the World Anti-Doping Agency (WADA), international

anti-doping organisations and other stakeholders on an ongoing basis, to ensure (by way of regular amendments) that Australia's National Anti-Doping legislation remains consistent with the World Anti-Doping Code. The Sports Integrity Australia Act 2020 was most recently amended in December 2020 to implement revisions to the World Anti-Doping Code.

Recent Anti-Doping Case Example

A recent case example in Australian sport is that of footballer Joel Smith, who was provisionally suspended in October 2023 by the Australian Football League (AFL) for testing positive for cocaine following an in-competition doping control test in August 2023.

Following a lengthy investigation by Sport Integrity Australia, in November 2024 Smith was suspended for four years and three months for five Anti-Doping Rule Violations:

- a positive match-day test for cocaine following a game in August 2023;
- trafficking or attempted trafficking of cocaine between April and September 2020;
- trafficking or attempted trafficking of cocaine during July 2022;
- trafficking or attempted trafficking of cocaine during September 2022; and
- possession of cocaine in September 2022.

The suspension means that Smith cannot play in any WADA-compliant competition until January 2028, but can return to training for the AFL in November 2027.

1.2 Integrity

Match-Fixing – Legislative Measures

In 2011, the Australian Commonwealth, and State and Territory Governments agreed to a National Policy on Match-Fixing in Sport (the National Policy), in an effort to *"pursue (...) a consistent approach to criminal offences, including legislation by relevant jurisdictions, in relation to match-fixing that provides an effective deterrent and sufficient penalties to reflect the seriousness of offences, as provided for in Part 4.3 of the National Policy."* number of Australia's states and territories have since enacted legislative arrangements covering certain match-fixing behaviours, with penalties including a maximum of seven to ten years' imprisonment.

By way of example, Part 4ACA of the Crimes Act 1900 (NSW) criminalises conduct that is likely to affect the outcome of any type of betting on any event (that is lawful to bet on in any state, territory or the Commonwealth), and which does not meet the standard of integrity that a reasonable person would expect of those in the positions that affect this outcome (ie, *"corrupt conduct"*).

Role of Governing Bodies

Athlete misconduct, including match-fixing and/or cheating in sport, is also dealt with and regulated by the relevant sporting code's governing body, in accordance with the specific rules and the guidelines of participation in that particular sport.

Often, regardless of the code or league, athlete misconduct can trigger suspension, or in more serious cases, an athlete or athletes may have their contract terminated as a result of their misconduct.

The actions of former Australian Test Cricket captain, Tim Paine, in 2017 (which came to light in 2020) serve as a stark reminder of the consequences of misconduct in Australian sport. Paine was accused of sending sexually explicit and unsolicited text messages to a former Cricket Tasmania employee. As a result, he lost the

support of the Cricket Australia board and was reportedly forced to stand down from his captaincy. He has not played in the Australian side since, retiring from first-class cricket in March 2023.

Notably, where athletes are engaged in a team sport where *"team orders"* may impact the final result of a competition, these team orders may not be a breach of the rules and regulations of that specific sport. For example, in Glenn Allerton v Mike Jones & Cru Halliday (with Motorcycling Australia), the National Sports Tribunal found that although the respondents acted together to alter the result of a race during the Australian Superbike Championship in 2023, they did so upon team orders which is not in breach of Motorcycling Australia's policies.

1.3 Betting

No National Authority Regulating Sports Betting in Australia

Sports betting is not illegal in Australia, and there is no single overarching statute or authority regulating gambling activities, including betting, in the country.

Sports betting is, however, separately regulated by way of a series of federal statutes and by separate legislative frameworks in each of Australia's eight mainland states and territories. By way of example, the Victorian Gambling and Casino Control Commission Act 2011 provides for the creation of the Victorian Gambling and Casino Control Commission (VGCCC, formerly known as the Victorian Commission for Gambling and Liquor Regulation), which is empowered to regulate the gambling and liquor industries in Victoria.

Regulation of the Betting Activities of Professional Athletes

The betting activities of professional athletes are often regulated to a greater extent than those of non-athletes by the regulating body of their particular sport. The AFL, for example, prohibits its players from betting on AFL matches, and in 2022 fined a player AUD5,000 and banned him from playing for two matches after he placed bets on 10 games during the 2021 AFL season.

The AFL also saw a betting scandal involving match umpires in 2022 where votes for the Brownlow Medal (which is awarded to the AFL's best and fairest player in a season) were leaked by an umpire. The umpire in question subsequently lost his job with the AFL and was arrested by Victoria Police.

In response, the AFL introduced new regulations relating to betting activities from 2023, including setting an AUD250 payout limit for round-by-round betting, prohibiting any AFL staff from placing bets and allowing for on-the-spot audits at any time.

Similarly, in early 2024, a group of A-League (soccer) players from a Sydney-based club were charged over an alleged betting corruption scandal. Police allege that an organised crime figure from South America instructed club captain, Ulises Davila, to deliberately earn yellow cards during multiple matches between November 2023 and May 2024, with Davila paying two of his teammates up to AUD10,000 each for their involvement. The players have all been suspended by Football Australia pending resolution of the matters in court.

Protecting the Integrity of Sport – Information Sharing

In some Australian states, approval by regulators (such as the Victorian Gambling and Casino Control Commission) as a Sports Controlling Body (SCB) enables an organisation to enter into agreements with sports betting providers for the provision of particular sports betting services, and to receive a financial benefit in return.

This also allows those SCBs to share information with betting operators – for example, in order to protect and support integrity in their sport. The intention of such a framework is to promote confidence in Australian sports and any associated betting activities.

1.4 Disciplinary Proceedings

Each of the major sporting codes in Australia has developed and implemented its own integrity unit, tribunal or similar body, to manage disciplinary proceedings against athletes. The steps taken by each of those bodies in respect of investigating and penalising doping, integrity, betting and other offences differ among the codes.

By way of example, Rugby Australia has implemented a mandatory reporting scheme whereby *"participants"* in rugby (including players, coaches, managers and agents) are required to immediately report any breaches of their Anti-Corruption and Betting Policy to an appointed Integrity Officer. That Integrity Officer is then empowered to investigate the breach, issue the relevant participant with a written breach notice and, if requested, establish an integrity tribunal to conduct a hearing in relation to the alleged breach.

2. Commercial Rights

2.1 Available Sports-Related Rights

Ticketing Rights

One of the most notable sports-related commercial rights to be exploited in Australia are those relating to ticketing. The market for tickets in Australia is significant and comprises both primary and secondary ticketing markets.

The term *"primary ticket sales"* refers to a situation where tickets are first sold by an official ticket seller, whereas the term *"secondary market"* refers to a situation where those primary tickets are resold.

The Secondary Ticketing Market

The secondary market for tickets in Australia comprises two main components, as follows:

- authorised on-selling, whereby sporting bodies, such as Tennis Australia or the AFL, authorise other entities, such as travel companies, to purchase tickets to a sporting event and on-sell them to their customers; and
- ticket scalping, whereby ticket scalpers resell tickets at an elevated price.

Scalping

There is no federal legislation making scalping illegal in Australia. In 2017, the Australian Senate passed an amended motion for the Australian federal government to introduce new legislation to combat the issue. However, to date no specific federal legislation has been enacted. Instead, ticket resale to sporting and entertainment events is regulated through various consumer protections under the Australian Consumer Law and state/territory-specific legislation which sets out the manner and terms on which tickets can

be resold, and provides for restrictions, or even prohibitions on scalping in that jurisdiction.

By way of example, in Victoria in 2022, amendments to the Major Events Act 2009 made it an offence to advertise or sell a ticket package to a declared event without the written authorisation of the seller. The amendments also require that resellers of all tickets to declared major events now state the face value, the asking price and the seat details of tickets in sale advertisements.

2.2 Sponsorship

In Australia, many sports sponsors use their sponsorship rights as a marketing tool. Sponsors generally leverage the platform that a sports rights-holder can offer in order to increase public awareness of their brand and, in turn, the value of their business. The affiliation with a sports rights-holder can, in certain circumstances, improve the corporate image of the sponsor as they leverage the strong reputation and brand of a sporting team or athlete.

Attracting Sponsors to Sport

Sports rights-holders use sponsors to generate revenue for their business by way of payment of sponsorship fees.

Sports rights-holders attract sponsor investment by offering a range of sponsor rights, which traditionally can include the right to use the sports rights-holder's brand and athlete imagery, and to have the sponsor's brand displayed on athlete kits and at certain sporting events. Sponsorship agreements may offer customised content, featuring athletes and team members, the right to feature on the sports rights-holder's social media channels and, in some circumstances, allow the use of the sports rights-holder's fan database for the sponsor's marketing purposes.

Key Provisions of Sponsorship Agreements in Australia

The key provisions in any sponsorship agreement include clauses relating to:

- exclusivity, which may relate solely to a particular market or market segment;
- payment terms;
- sponsor benefits, including provisions dealing with the suspension of any sponsor benefits;
- intellectual property rights, including where and how a sports rights-holder's brand can be used, and any required approvals;
- termination conditions; and
- the duration of the agreement.

2.3 Broadcasting

Exploiting Broadcasting Rights

Traditionally, broadcasters in Australia exploit available broadcasting rights by selling advertising space on their channels (especially in the case of free-to-air channels) and otherwise by offering paid subscription services to the public.

Broadcasting rights are one of the most valuable rights available for sports rights-holders in Australia to sell in order to generate revenue. Broadcasters will often seek exclusivity in the broadcasting rights to certain sports events because they can exploit those rights to encourage businesses to purchase advertising space on their channels during times of high viewership.

By way of example, 2025 marks the beginning of the biggest broadcast rights deal in Australian sporting history with the AFL extending its partnership with both Seven Network, which is a commercial free-to-air television channel in Australia, and Foxtel and Kayo as a subsidiary of Foxtel, which are both subscription-style pay-TV services, for a further seven years in an AUD4.5 billion deal.

Similarly, Cricket Australia currently has broadcasting rights agreements in place with both Seven Network, and Foxtel and Kayo. Interestingly, not all cricket shown in Australia will be broadcast on either Seven Network, Foxtel or Kayo, with the International Cricket Council (ICC) striking a deal with Amazon Prime for exclusive rights to show all ICC cricket matches shown in Australia until the end of 2027. This includes the Men's and Women's Cricket World Cups, T20 World Cups and World Test Championship Final.

Exclusivity of Broadcasting Rights

Broadcasting rights in Australia are often obtained on an exclusive basis, meaning that the sale of particular broadcasting rights to a certain television channel or provider often precludes the sale of those same rights to another television company.

There are a number of *"anti-siphoning"* laws in Australia that require certain events (such as the AFL premiership competition) to be made available free of charge to the general public. This means that subscription-based television providers are not able to acquire the exclusive rights to broadcast these sporting events without a free-to-air television channel also holding those broadcasting rights. Interestingly, in the case of the AFL Grand Final, the match is only broadcast live on a free-to-air television channel, and available on pay-TV at a later time.

3. Sports Events

3.1 Relationships

The High Court of Australia in the matter of Victoria Park Racing & Recreation Grounds Co Ltd v Taylor [1937] HCA 45 found that, while event organisers may make a profit by charging entrance to a private area in which a spectacle (ie, a sporting event) is being held, no proprietary rights exist in the spectacle itself.

Organisers of sporting events must then find different ways to control rights at a particular sporting event. As sporting events are generally held on private property, event organisers have the right to issue admission requirements for attendees. Further, each state and territory in Australia has varying statutory regimes that prohibit unauthorised broadcasting of sporting events. For example, in Victoria, Sections 43 and 44 of the Major Events Act 2009 (Vic) make it a crime to broadcast, telecast, videotape or record a sporting event without prior authorisation from the organisers.

Management of Sporting Events

Each state and territory in Australia has legislated independently on the issue of event organisation, management and supervision. In recent years, a number of legislative repeals have been enacted to better protect the interests of event organisers, including in the area of ticket sales and resales, particularly in relation to ticket scalping, as outlined in **2.1 Available Sports-Related Rights**.

3.2 Liability

Duty of Care

In Australia, a legal person may be held liable for their failure to take reasonable care to avoid causing injury or loss to another person (negligence). One of the key requirements in proving that a person has been negligent is to show that the *"negligent"* person owed a duty of care to the person who was ultimately harmed, or who suffered a loss.

Although the tort of negligence and the principle of a duty of care traditionally developed in Australia by way of the common law, each of the

states and territories has now legislated (to varying degrees) in relation to the general concept. For example, in Victoria negligence is governed by the Wrongs Act 1958 (Vic).

Generally, sports event organisers owe a duty of care to participants in the event, people working at the event and spectators who buy a ticket to and attend the event.

Limiting Liability

Liability in negligence can be limited or excluded by way of agreement between the relevant parties. However, the agreement should explicitly identify the limitation or exclusion of certain liability, as general wording such as *"all liability is excluded"* will not ordinarily be construed by Australian courts to apply liability limitations or exclusions to liability for negligence.

4. Corporate

4.1 Legal Sporting Structures

There is no blanket legal requirement in Australia for a sporting club (whether that club is professional, amateur, commercial or non-profit) to become incorporated. However, in order to limit the liability of its members and officers, many sporting clubs do choose to incorporate, either as:

- incorporated associations under the applicable state or territory legislation (the Associations Incorporations Acts); or
- corporations under the Corporations Act 2001 (Cth) (the Corporations Act).

There are some circumstances where governing bodies have imposed a requirement that small local clubs be incorporated. For example, the AFL NSW/ACT, the state body responsible for the growth of the AFL in New South Wales and the Australian Capital Territory, requires local football clubs to be incorporated to ensure that the legal rights and obligations of the clubs are not borne by their members.

4.2 Corporate Governance

Sports Governance Principles

In March 2020, the Australian Sports Commission released a revised version of its Sport Governance Principles (the *"Principles"*), which it has developed for the purpose of guiding Australian sporting organisations to deliver good governance. The Principles apply to all organisations throughout the Australian sporting sector, whether they are small local clubs or large national organisations.

Directors' Duties

The Principles (outlined above) are not mandatory, but directors of sporting organisations are required to comply with the same behavioural requirements as any other company director in Australia, as outlined in the Corporations Act. This includes complying with a number of directors' duties such as the duty of care, skill and diligence, the requirement to avoid conflicts of interest and the duty to act in good faith.

Insolvent Trading

The Corporations Act also prohibits insolvent trading by directors of all corporations, which includes the directors of sporting organisations. Pursuant to Section 95A of the Corporations Act, *"a person is solvent if, and only if, the person is able to pay all the person's debts as and when they become due and payable."*

4.3 Funding of Sport

The Australian Sports Commission (ASC) is the Australian government agency responsible for

supporting and investing in sport in Australia and is funded by the Australian government.

The ASC distributes the funds it receives from the Australian government amongst sport at all levels, and is accountable to the Australian Federal Minister for Sport. Some sporting organisations in Australia are also funded by way of private investment.

In the wake of the COVID-19 pandemic, government financial support was introduced for small businesses and community sporting organisations. Although the amount of funding grants has decreased, a small number of grants remain available for community sporting organisations, such as the Emergency Sporting Equipment Grant Program and Sporting Clubs Grants Program (both in Victoria).

4.4 Recent Deals/Trends

Private equity continues to be a trend in the Australian sporting sector, although not without hesitation. Private equity investment refers to a situation where a private equity investor raises a pool of capital to form a fund which, once the particular funding goal has been met, will be invested into a company that the investor believes will offer a return.

In 2021, the Australian Professional Leagues (APL) sold 33% of the A-League to American private equity firm Silver Lake for AUD140 million with the intention of expanding the A-League Women's season, providing more support to youth football and a greater investment in digital, marketing and community programmes for the A-League.

Rugby Australia (rugby union's national governing body) also explored multiple capital-raising options throughout 2023. In November 2023, the governing body announced an agreement with a private equity firm, Pacific Equity Partners, to provide a flexible AUD80 million credit facility to help accelerate growth initiatives, particularly in women's rugby, community and pathways.

Private equity funding has recently been considered in both netball and cricket in Australia. No such deals have proceeded, with an AUD6.5 million deal to privatise Super Netball falling through in August 2022 following Netball Australia's rejection of the proposal.

More recently, in 2023, Football Australia considered the sale of its rights to the Matildas and Socceroos for a 99-year period. While the proposal advanced significantly, the high commercial and privacy risk ultimately led Football Australia to shelve the privatisation plans.

5. Intellectual Property, Data and Data Protection

5.1 Trade Marks

Registering a Trade Mark

In Australia, any individual, company, or incorporated association may apply to register a trade mark in respect of certain goods or services by filing an application with IP Australia.

Subject to certain requirements, a letter, word, name, signature, numeral, device, brand, heading, label, ticket, aspect of packaging, shape, colour, sound or scent (provided it is capable of graphical representation) may be registered.

What Cannot Be Registered?

Certain marks cannot be registered in Australia, including:

- marks that are purely descriptive;

- some geographical names;
- marks containing common surnames;
- certain words related to banking and financial services; and
- certain prohibited signs and marks which are scandalous by nature or contrary to law.

The Benefits of Registration

The benefits of having a registered trade mark include that:

- the registered owner will have the exclusive right to use the mark in respect of the goods and services covered by the registration; and
- the registered owner will have the right to bring an action against anyone using a mark that is substantially identical or deceptively similar mark to the registered owner's registered mark, in respect of the same or similar goods or services and where customers are likely to be deceived or confused.

5.2 Copyright/Database Rights

Australian Copyright Law

In Australia, copyright law is contained in the Copyright Act 1968 (Copyright Act). There is no system of copyright registration in Australia. Instead, subject to certain requirements, particular forms of expression (including text, images and music), are automatically protected by copyright under the Copyright Act.

For example, Section 101 of the Copyright Act provides that the copyright in a literary, dramatic, musical or artistic work *"is infringed by a person who, not being the owner of the copyright, and without the licence of the owner of the copyright, does in Australia, or authorises the doing in Australia of, any act comprised in the copyright."* This includes using or reproducing the copyright works and offering articles for sale which contain infringing copyright material.

Defences for Copyright Infringement

Common exceptions and defences to copyright infringement include:

- fair dealings with the copyright works (which includes use in reporting, for research, review or criticism);
- certain private or incidental dealings with copyright works and other subject matter; and
- educational copying and archiving of works.

No Specific Database Right

There is no specific law in Australia providing for database rights, which means that databases may only be protected in Australia if they fall within the scope of protection offered by the Copyright Act. The Copyright Act will likely only cover a database in respect of the compilation of the data, and provided that the creators used intellectual effort in creating the database, and that the database itself is sufficiently original.

Copyright and Australian Sport

In 2019, the AFL issued a cease-and-desist notice for copyright infringement to a company called League Tees. The AFL alleged that a line of t-shirts and badges marketed and sold by League Tees featured an iconic photograph of an AFL Women's League player that was taken by AFL Media's chief photographer, infringed the copyright of the AFL. Whilst League Tees maintained a position that their designs were substantially different from the photograph, they ultimately withdrew the products from the market.

5.3 Image Rights and Other IP

No Image Rights in Australia

In Australia, there is no legally recognised image right. This means that the protection of an athlete's image is not a specific cause of action. Instead, a number of other more traditional

causes of action need to be relied upon in order to protect a celebrity's image. These causes of action include:

- the tort of passing off;
- breach of Australian Consumer Law;
- defamation; or
- trade mark and copyright infringement.

The Australian Consumer Law and the Tort of Passing Off

Passing off is a common law tort in Australia, and refers to a situation where one party misrepresents that their goods or services are associated with the goods or services of another.

Similarly, the Australian Consumer Law prohibits a party from engaging in conduct that could mislead or deceive consumers. In relation to the image of an athlete, this means that any use of an athlete's image is prohibited if that use could lead consumers to believe that there is a relationship in place between the business and the relevant athlete.

5.4 Licensing

Licensing

Sports bodies and athletes can exploit their intellectual property (IP) rights in order to leverage the value of their brand and to generate revenue by licensing those IP rights to third parties. These licensing rights might include the right to apply a registered or unregistered trade mark to goods, services or other advertising materials.

Restrictions on Assignment

In Australia, there are very few restrictions on assignment of intellectual property. For an assignment of copyright to be valid and enforceable, that assignment must be in writing by way of a deed or agreement. However, where a trade mark is not registered, the ownership and intellectual property rights in the unregistered mark can only be assigned with the goodwill of a business.

Further, where a trade mark is a collective mark – ie, a trade mark that is owned by an association that allows members to use the mark on their goods or services, it cannot be assigned or transmitted under Australian law.

5.5 Sports Data

In Australia, sports data, including both athlete and spectator data, is predominantly used by stakeholders to track athlete performance, increase fan engagement and encourage and expand partnerships.

Athlete Performance

Many of Australia's elite sports teams collect and analyse athlete data to identify strengths and weaknesses in any given athlete or a team's performance. Analytics can help athletes and teams understand the key factors that contributed to their winning or losing a game or season.

In the AFL, for example, football clubs have developed their own data management systems and have recruited their own teams of data analysts to enable them to determine where they can improve and even how they can win.

Fan Engagement

Data and analytics are also used in Australian sport to improve the fan experience and to increase fan engagement with a particular sport or team.

Clubs and sports event organisers use data to create a better experience for fans within an event location (eg, a stadium) by collecting data in relation to ticket sales, spectator movement around the stadium and the purchases made at

the stadium, including purchases of merchandise and food and beverage. Not only does this help clubs and sporting event organisers to increase sales of products and merchandise, it also assists in the delivery of a better spectator experience.

Partnerships

Historically, sports rights-holders did not have a substantial amount of information or data. However, the value of data that can be used by sports rights-holders and offered to potential partners is only increasing as AI and technology develop. This data includes information in respect of sponsorships, broadcasting rights and advertising.

Sports rights-holders can also leverage data and analytics to not just encourage partners to get on board, but also to increase the value of their offering.

5.6 Data Protection

In Australia, the primary piece of legislation regulating the collection and use of personal information is the Privacy Act 1988 (Cth) (Privacy Act). The Privacy Act only applies to certain organisations and government agencies.

"Personal information" is defined by the Privacy Act as *"information or an opinion about an identified individual, or an individual who is reasonably identifiable, whether the information or opinion is true or not and whether the information or opinion is recorded in a material form or not."*

Sports data that is personal information will be subject to the requirements of the Privacy Act, which restricts the way in which that data can be collected, used and disclosed, transferred to and used by other entities.

The Australian government conducted a review of the Privacy Act in 2023. On the back of this review, the Australian government introduced harsher penalties for privacy breaches. Throughout 2024, further legislation was introduced into Parliament aimed at strengthening privacy protections to better align the laws in our jurisdiction with the EU's General Data Protection Regulation.

Notably, the Office of the Australian Information Commissioner (Australia's privacy regulator) stated that the introduction was only *"first step"* and that more was needed to be done to better strengthen Australia's privacy framework. We expect to see further privacy updates in this respect over the next 12 months.

6. Dispute Resolution

6.1 National Court System

Sporting associations in Australia ordinarily set their own dispute resolution procedures, which are provided for in their governing documents and in their agreements with partners. These procedures are often set out in a dispute resolution clause or policies which provide that the association's internal tribunals (or another form of alternative dispute resolution) must be utilised before parties may take a dispute to court.

By way of example, Motorsport Australia, Australia's motor racing governing body, delegates its power of review and dispute resolution relating to infringements and steward decisions to specialist tribunals and the Australian Motor Sport Appeal Court (AMSAC). Motorsport Australia provides specific rules and regulations as to how a protest or appeal must be lodged in order to be heard by AMSAC.

Generally, Australian courts will only get involved in sporting disputes if there has been an allegation that natural justice has been denied, or if there is a contractual dispute to be determined – for example, if an athlete alleges that a club has breached its own rules, as set out in the club's governing documents.

6.2 ADR (Including Arbitration)

Australia's Civil Dispute Resolution Act (2011) (Civil Dispute Resolution Act), aims to ensure that, as far as possible, people take genuine steps to resolve disputes before certain civil proceedings are instituted. The Civil Dispute Resolution Act provides that an applicant who institutes civil proceedings in an eligible Australian court must file *"genuine steps statement"* (a statement outlining the steps taken by the applicant to resolve the dispute prior to litigation or the reasons why no such steps were taken) at the time of filing the application.

For the purposes of the Civil Dispute Resolution Act, *"genuine steps"* include considering whether the dispute could be resolved by a process facilitated by another person, including an alternative dispute resolution process such as mediation.

Alternative dispute resolution processes, including mediation and arbitration, are often utilised in the sports industry in Australia. For example, early in 2020, one of Australia's largest free-to-air television channels, Channel 7, was in dispute with Cricket Australia in relation to its cricket broadcasting rights. In an effort to resolve the dispute, Channel 7 made an application to the leading Australian arbitration body, the Australian Chamber for International and Commercial Arbitration (ACICA) seeking a ruling on the dispute.

6.3 Challenging Sports Governing Bodies

Sports governing bodies are able to provide for sporting and financial sanctions (including suspensions and monetary penalties) in their own rules, and regularly impose financial and other sanctions on athletes or clubs who fail to comply with the rules and associated codes of conduct.

Parties may challenge decisions made by a sports governing body in certain circumstances, including where the parties did not act unreasonably or acted in such a way that would offend natural justice. Australian courts may intervene in a dispute of this kind where a party contends that the governing body has breached or failed to follow one of its own rules.

7. Employment

7.1 Sports-Related Employment Contracts

Employment

The particular arrangements in place between an athlete and a sporting club or team will determine whether that athlete is, in fact, an employee and therefore covered by Australia's strict framework of employment law.

Given that the express terms of athlete contracts often include promises to play the sport whenever and wherever directed by the club, wear the club uniform, attend training, and follow the instructions of the coach and team managers – an employer-employee relationship exists in most circumstances.

Salary Caps

Many of the major sporting codes in Australia have implemented salary caps, such as the AFL, National Rugby League (NRL) and the Men's

A-League. This means that each club is subject to a limit in respect of the amount they are allowed to spend on athlete contracts.

7.2 Employer/Employee Rights

Most jurisdictions in Australia have implemented a single set of work health and safety laws that are known as the model Work Health and Safety (WHS) laws. The main object of the WHS laws is to provide a framework to secure the health and safety of workers and workplaces which is consistent across the states and territories of Australia.

Within those states and territories which have implemented the model WHS laws (currently all jurisdictions in Australia other than Victoria and Western Australia), any *"person conducting a business or undertaking"* must, so far as is reasonably practicable, ensure the health and safety of:

- workers engaged, or caused to be engaged, by the person; and
- workers whose activities in carrying out work are influenced or directed by the person, while the workers are at work in the business or undertaking.

The duty to ensure the health and safety of workers captures both the relationship between sporting clubs and the athletes that they employ, as well as between the governing bodies and the athletes that play in the competitions that they manage and oversee.

7.3 Free Movement of Athletes

Relevant Visas

The Department of Home Affairs in Australia offers a Temporary Activity Visa, which allows foreign persons to play, coach, instruct or adjudicate for an Australian sports team, or to undertake high-level sports training within a sporting organisation in Australia, for a period of up to two years.

In order to be eligible for a Temporary Activity Visa, applicants must:

- have a sponsor or supporter;
- have a contract and letter of support from a peak sporting body; and
- not work outside of the specified sporting activities.

8. Women's Sport

8.1 Women's Sport Overview

The popularity of esports within Australia has started to grow over the last few years, with sporting organisations, such as Motorsport Australia, creating esports platforms where users can engage in competition, learning and development. However, the esports market in Australia remains relatively small compared to the global market.

Whilst the Australian esports market continues to take shape, Australians are utilising the international market. Notably, Anathan *"ana"* Pham won the International Dota 2 Championships in both 2018 and 2019. Within a mere five years of competition, he won over USD6 million in prize money before his retirement in 2021.

Australia also had success in the Apex Legends Global Series, with Australian team DarkZero, made up of Rhys *"Zer0"* Perry, Noyan *"Genburten"* Ozkose and Rick *"Sharky"* Wirth ultimately winning the 2021-22 competition and taking home AUD500,000 for their efforts.

9. Esports

9.1 Esports Overview

Australia has made significant progress and investment in developing its women's sporting industry in recent years, which is expected to continue for the foreseeable future.

Notable examples include an AUD5 million investment in 2022 into Basketball Australia to support the delivery of the FIBA Women's Basketball World Cup and associated legacy programmes. In 2023, on the back of the FIFA Women's World Cup, the Australian government committed AUD200 million to the women's sports infrastructure in Australia to fund gear and facilities for female athletes.

While the FIBA Women's Basketball World Cup and, in particular, the FIFA Women's World Cup, have significantly boosted the visibility and popularity of women's sport in Australia, it is fair to say that there remains a considerable gap to bridge in achieving parity with men's sport.

As part of its *"Play our Way"* programme, the Australian government announced in late 2024 an investment of AUD136 million in sporting grants that it will provide across Australia with a view to helping more than 100,000 women and girls enjoy better facilities at their local clubs. It is intended that projects such as this will help remove barriers to participation in sport for girls and women and, in turn, begin to bridge the gap between men's and women's sport.

Notable Statistics

In 2023 the *"Value of You Can Be What You Can See"* report, commissioned by the Office for Women in Sport and Recreation, reported that women's elite and grassroots sport in Victoria has seen significant growth in recent years, with corporate supporters of women's sport benefiting from more than AUD650 million annually in customer value. The report found that the sponsorship of women outperformed men across brand awareness, brand consideration and customer conversion. However, despite these impressive figures, industry benchmarks show that the value of women's elite sport properties is, as at September 2024, at only 12% of the level of men's elite sport properties.

In March 2023, it was reported that only 10% of broadcast coverage was allocated to women's sport, a slight increase from 7.6% in May 2020. However, a study by Foxtel Media in 2023 revealed that viewing engagement of women's sport on the pay-TV platform has increased, with 36% of Australians consuming an hour or more of women's sport per week (up from 32% in 2022). The study also found that the positive impact of sponsorship of women's sport increased in 2023, with 68% of viewers feeling more positive towards brands that sponsor women's sport in comparison to 53% surveyed in 2022.

Competition Growth

The AFL is one of the most (if not the most) popular spectator sports in Australia, and now the Women's AFL (AFLW) is one of the fastest-growing competitions in women's sport in Australia. The first time that women were represented in AFL was in 2013, with the official AFLW professional competition beginning in 2017. At that time, the AFLW had only eight participating teams. The number of teams grew quickly, with all 18 AFL clubs having AFLW teams by 2023.

Developing Women's Sport Further in Australia

There are a number of organisations in Australia whose purpose is to develop women's sport, including one notable organisation called

Women Sport Australia. Since its incorporation in 2005, Women Sport Australia has worked with industry stakeholders to provide women and girls with greater opportunities in sport and physical activity. Women Sport Australia has conducted numerous initiatives in recent years, including *"Women in Leadership"* workshop to provide further access to women seeking coaching and other leadership roles in the sporting industry, and *"Women in Sport Mentoring Program"*.

Soccer is one example of a female sport that is continuing to grow in Australia. According to Football Australia's National Participation Report for 2021, there were 174,380 women and girls participating in outdoor soccer, social and registered futsal that year. This represents a growth of over 21% or 30,507 players since 2020. Following the success of Australia's national football (soccer) team, the Matildas, at the 2023 FIFA World Cup, female participation in soccer and other sports is expected to continue to grow significantly.

Women's cricket has also seen significant growth. The Women's Big Bash League (Australia's women's domestic Twenty20 cricket competition) was recognised as the fourth most-watched domestic sports competition in Australia in 2021, amongst both men's and women's sport. In 2023, Cricket Australia also reported significant growth in female participation, with registered participation among women and girls in cricket clubs reaching over 50,000. Cricket Australia's official census numbers for the 2022-23 season boasted a 26% increase in women's participation from the previous year.

Notably, in mid-2024, Cricket Australia announced a ten-year plan to bolster women's cricket in Australia, including increasing financial investment significantly, placing a greater emphasis on grassroots participation, improving infrastructure and introducing a new state-based Twenty20 competition.

Moving from the field to the race track, motorsport has seen significant investment over recent years to boost female participation. Through the FIA Girls on Track initiative, Motorsport Australia (Australia's motor racing governing body), together with other motorsport organisations and local car clubs, have been providing girls aged 8-22 with more tools and support to get more involved in motorsport, whether that be as drivers, engineers, mechanics, volunteers or in one of the many other roles in the motorsport industry.

10. NFTs, AI and the Metaverse

10.1 Non-Fungible Tokens (NFTs)

Notable Usage of NFTs in Australia's Sports Industry

In 2022, following the success of the US National Basketball Association in the NFT market, selling basketball's greatest *"moments"* as NFTs called *"NBA Top Shots"*, Cricket Australia in conjunction with the Australian Cricketers Association signed a multi-year official licensing deal with Rario and BlockTrust regarding the creation of an online platform for the trading and sales of NFTs, in particular *"digital memorabilia."*

2022 also saw the launch of the *"AO Artball"* NFT collection by Tennis Australia. Tennis Australia continued with the NFTs before dropping them prior to the 2025 Australian Open, following a significant decrease in the value of its NFTs of up to 90%.

The Australian Football League also launched the AFL Mint in 2022, which sells exclusive AFL

NFTs showcasing iconic *"moments, highlights and champion players"* in AFL history. The AFL Mint continues to sell NFTs, including incorporating an online marketplace on its platform where fans can sell or trade their own NFTs.

Risks in NFTs in the Sports Industry in Australia

The NFT market in the Australian sports industry has cooled off in recent years. During what is arguably the peak years of NFT popularity, in 2021 and 2022, sports fans often scrambled to secure an NFT of their favourite sports team's memorabilia in the hope that the NFT would increase in value. However, in the last two years the sports industry has gone relatively quiet on the NFT front, perhaps given the uncertainty around the value of NFTs, which is not as strong as other digital assets or currencies. The uncertainty and potential risks associated with investment in NFTs are certainly not unique to the sports industry.

10.2 AI

The regulatory framework for artificial intelligence (AI) in Australian sports is still in a developmental stage, with some state governments conducting inquiries into the use of AI. For example, the New South Wales government conducted an inquiry between June 2023 and October 2024.

In Australian sport, organisations are utilising AI to optimise performance. By way of example, many AFL clubs are utilising AI technology to provide statistical analysis for their team's performance. They are also using it to provide summaries of opposition teams' vulnerabilities, strengths and weaknesses in order to prepare for games.

AI is also revolutionising the approach to managing Anterior Cruciate Ligament (ACL) injuries. ACL injuries have become increasingly prominent and impact athletes across all sports and levels and AI mechanisms have been a key technological innovation component of orthopaedic surgery. AI-based technologies are being used in a wide variety of applications, including image interpretation, automated chart review, assistance in the physical examination via optical tracking using infrared cameras or electromagnetic sensors, generation of predictive models, and optimisation of postoperative care and rehabilitation.

As AI progresses, its integration into various facets of the sports industry is anticipated to expand, potentially influencing job roles in areas where AI proves to be more efficient. This trend of AI impacting employment is not confined solely to the sports sector.

10.3 The Metaverse

The Metaverse is revolutionising the sports experience for fans, taking them beyond watching sports on a screen or in a stadium, to immersing them as active participants in their own games.

The concept of the Metaverse is still very new to the Australian sports landscape. In 2023, the Australian Open introduced the Metaverse concept to tennis fans, expanding that offering in 2024 to feature the ability for Roblox users to compete in virtual tennis-themed games to win prizes.

As the use of AI and technology grows within the Australian sports industry, there is no doubt that more sporting organisations will follow in the Australian Open's footsteps by offering more opportunities for engagement with fans through the Metaverse.

However, challenges will continue to arise for sports attempting to enter the Metaverse. The lack of a regulatory framework in this space will pose a significant risk to users and organisations that engage with the Metaverse. It is thought that the risk of cyberattacks, the impacts on mental health, the risk to child safety online and of fraudulent activity will increase if appropriate protections are not put in place.

Trends and Developments

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Kalus Kenny Intelex is a progressive, commercially oriented firm, specialising in sport, property, commercial and dispute resolution. The firm shares its clients' successes by becoming a true strategic partner in their pursuits, and always seeks to deliver more value by offering business outcomes in addition to legal advice. Kalus Kenny Intelex's personal and proactive approach, combined with a straightforward nature, makes it a different kind of law firm. The sports law team understands that, like sport itself, the business of sport is dynamic, emotionally charged and highly competitive. With local and global experience in the sports and leisure sector, its sports law team supports professional and amateur sporting organisations, clubs/teams, athletes, sponsors and other key stakeholders in their pursuit of sporting and commercial success. Kalus Kenny Intelex is the sole Australian member of the International Lawyers Network, a global alliance of 5,000 lawyers in 66 countries.

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Introduction

Over the past year, existing trends have persisted, alongside the emergence of several noteworthy developments within the Australian sports industry.

Attention was quickly drawn to the Paris Olympics and Paralympics, where a record number of Australian women participated. The 2024 Paralympics also marked the first games where Australian para-athletes received the same medal incentive payments as Australia's able-bodied athletes, with the Australian government also committing a record amount of funding to parasport as part of Australia's High Performance 2032+ Sport Strategy.

Concussion remained a trending discussion throughout 2024, with more cases being brought against the Australian Football League (AFL) by players. The concussion topic also expanded off the field into non-contact sports such as motorsport, leading to Motorsport Australia releasing new concussion guidelines in January 2025.

The conversations around the participation of women and transgender athletes in sport also continued to take shape in 2024, with female participation again increasing and trans athletes being further restricted from playing for Australia's national netball team.

Although not without concern from government bodies, the use of artificial intelligence (AI) in sport continues to evolve in Australia, with more teams and organisations making use of AI for the betterment of athlete performance and fan engagement opportunities.

Finally, after making a commitment to better protecting the public from the dangers associated with gambling advertisements during sport events, in 2024 the Australian government opted to delay its gambling advertising reform legislation due to the complexity of its proposals.

Olympic and Paralympic Athlete Compensation in the Spotlight

The summer Olympics and Paralympics only come around every four years, and with that comes an enormous amount of public support and excitement for athletes who have dedicated their lives to competing at the top level of their sport. For many, however, it also is a stark reminder of the sacrifices that athletes and their families must make to afford to compete. For

the most part, Olympic and Paralympic athletes are not paid and only receive money if they win a medal, have personal sponsorships, receive government grants or receive money through fundraising.

In 2024, the topic of Olympic athlete compensation returned, again highlighting the global disparity between Olympic athletes and the compensation they receive. Each country has a different rewards structure for athletes who compete. For example, in Australia, the Australian Olympic Committee (AOC) offers *"medal incentive funding"* programme, which provides medalists with financial rewards of AUD20,000 for gold, AUD15,000 for silver and AUD10,000 for bronze. However, every country is different. In contrast, a gold medal athlete in Singapore will be rewarded with over AUD1 million for their efforts, although it is heavily taxed and medalists are expected to donate a portion of their winnings back to their sport.

Notably, perhaps one of the biggest developments in Australia sport is that 2024 was the first year that Australian Paralympian medalists received equal medal incentive payments. This comes on the back of the Australian government allocating significant funding in the 2024-25 Budget, providing an additional AUD54.9 million for Paralympic sport – the biggest investment into paralympic sport made by the Australian government to date.

The investment into para-sport by the Australian government illustrates a significant shift in the recognition of para-athletes, aligning with Australia's High Performance 2032+ Sport Strategy, which is designed to focus on optimising outcomes and sustainable success for both summer and winter Olympic and Paralympic and also Commonwealth Games sports.

Concussion in Sport: AFL

Concussion in sport is no new concept. However, the attention on the impact of concussion continues to increase in relation to the rate of occurrences of sport-related concussion. The causal link between multiple and repeated head injuries over a period of time leading to long-term health issues and a brain disorder called chronic traumatic encephalopathy (CTE), which can only be fully confirmed in an autopsy after death, has been widely commented on.

In the last year we have seen a number of additional cases brought against the AFL and some teams as a result of players suffering the long-term effects of concussions sustained while playing the sport. In 2023, a class action was launched against the AFL for the impact of concussion sustained by players. More recently, a former West Coast player, Brad Sheppard, issued legal action against the AFL, the team and two former club doctors for medical negligence (the *"Defendants"*) after he was forced to retire at the age of 30 due to ongoing concussion symptoms.

Sheppard suffered two major knocks to the head in 2021. After hitting his head against that of another player early in 2021, Sheppard's return match resulted in a second hit to the head, leaving him unable to continue playing the sport. Sheppard is now claiming *"damages, interest and costs arising from personal injuries suffered by the plaintiff during his employment… from 25 November 2009 onwards"*. The court documents go on to say that the incidents, *"injuries, loss and damage resulted from the negligence and/or breach of contract and/or breach of statutory duty of the Defendants"*.

While the outcome of Sheppard's case remains to be determined, it is highly unlikely to be the

last of its kind. We anticipate that scrutiny will continue to focus heavily on leagues and teams, not just within the AFL, but across all contact sports, and how they manage, and should manage, their response to concussion in the future.

Concussion in Sport: Motorsport

The concussion conversation also made its way into non-contact sport in 2024, following a major accident at the Vailo Adelaide 500. During the Friday qualifying session, driver Ritchie, Stanaway suffered a 52G impact when he hit the wall at turn eight of the road circuit. While Stanaway was initially cleared from the medical centre to return to the track during the Saturday morning's practice session, he ultimately withdrew from the weekend due to delayed concussion symptoms.

Stanaway's incident is not the first of its kind in motorsport, however it has since led Motorsport Australia to introduce Motorsport Concussion Management Guidelines from 2025. The new guidelines require that any competitor who is suspected to be concussed following an incident:

- be excluded from competition for a minimum period of 14 days if they are over 18 years, or 21 days if they are under 18 years; and
- must receive clearance from a medical practitioner (including participating in a return-to-sport assessment) before returning to the track.

The introduction of concussion guidelines in motorsport serves as a reminder that even non-contact sport can lead to athletes suffering concussion. Regardless of the sport, careful management steps must be taken to ensure that all athletes, regardless of their discipline, return to sport at the appropriate time after suffering head trauma.

Women's Participation in Sport

The last year has continued to see an increase in female participation in sport in Australia. Notably, for the first time in the nation's history, the majority of Australian athletes at the 2024 Olympic and Paralympic Games were women, making up 55.6% of the team. Australia went on to achieve its most successful Olympic campaign to date, securing 18 gold medals in Paris, 13 of which were claimed by female athletes. Of the 53 medals won by Australians overall, 32 were won by women.

Outside of the Olympics, women's participation in sport continues to receive significant support and investment from the Australian government, with further funding of AUD160 million allocated to providing more than 100,000 women and girls with better facilities at their local clubs.

There has also been a significant investment in women's cricket from Cricket Australia, with the national governing body announcing a ten-year plan to bolster women's cricket in Australia, which includes increasing its financial commitment to the sport significantly, focusing on grassroots participation and improving infrastructure. The investment by Cricket Australia coincides with the Australian Women's Cricket Team's complete domination of the 2024-25 Ashes Series against England, winning the Series 16-0. The Series also saw record crowd attendances across the seven-match series, signalling the growing interest in the women's game.

Transgender Athletes in Sport

The inclusion of transgender athletes and their inclusion in sport continued to reach headlines in 2024.

By way of example, Australian trans pro-surfer Sasha Jane Lowerson was the first openly trans

surfer to win a longboard competition in Australia. After appearing in a Rip Curl advertisement for its *"Meet the Local Heroes of Western Australia"* campaign, controversy followed, highlighting the diverse opinions surrounding transgender participation in competitive sport.

The controversy around Lowerson continued following her rejection from competing in California's Huntington Beach Longboard Pro despite Lowerson complying with the World Surf League's recently introduced International Surfing Association's Transgender Athletes Policy, which allows trans women competitors to compete in women's events if they maintain a testosterone level below a certain limit for 21 months.

International bodies for various games, such as cricket, cycling, athletics, swimming and chess have all tightened their policies for trans participation in sport in recent years. In 2024, World Netball (the game's international governing body) announced that trans players would be banned from international competition with limited exceptions, while national governing bodies are at liberty to modify the guidelines, or not apply them at all.

Notably, shortly after the announcement, Netball Australia rejected World Netball's decision, opting not to change its policies on inclusion for the Australian competition. However, World Netball's policy will still mean that trans players will not be able to be selected for the Australian Diamonds (Australia's national netball team).

AI in Sport

The use of AI continues to grow in Australian sport, with AI being used to enhance athlete performance and improve fan engagement. For example, AI is increasingly being used by Swimming Australia, with its SPARTA2 Swimming Analysis System. This was used at the Paris Olympics and Paralympics to track a swimmer's stroke rate, stroke length and velocity to improve their performance.

AI is also being used to create realistic training environments for athletes in an attempt to minimise training injuries in sports where injuries are common, such as boxing and football. It is also being used to design individual training programmes for athletes rather than coaches or teams adopting a one-size-fits-all approach.

As the use of AI in sport increases, so too does the need to ensure that AI is being used appropriately and responsibly. The issue with AI is in the way in which it collects data – not all data AI collects is accurate. This led to the Australian Sports Commission hosting workshops in 2024 relating to the responsible use of AI in sport.

This upward trend will no doubt continue in the coming years as the capabilities of AI continue to evolve. Consequently, it is widely anticipated that regulatory measures, and potentially national legislation, will be implemented to ensure that sporting organisations (and organisations in general) are using AI appropriately and responsibly.

Gambling Advertisements and Australian Sport

After receiving significant attention in 2023 following the publication of the reports of the House of Representatives Standing Committee on Social Policy and Legal Affairs (the *"Committee"*) into the harm caused by online gambling advertising, in late 2024 the Australian government opted to delay the introduction of any reform legislation to Parliament.

Following extensive review by the Committee of Australia's gambling laws, regulations and

consumer protections, the final report made 31 recommendations to be implemented over four phases. This included banning all online gambling advertising and commentary on odds during, and one hour either side, of a sports broadcast, as well as on uniforms and in stadiums. The Australian government's decision to delay the introduction of the reform legislation cited that further consultation was required to ensure any new measures would be effective. However, the delay has reportedly frustrated many, including those in the gambling industry who have scaled back marketing to better align with the shifting public views on gambling. The delay has also reportedly led to other organisations making use of the delay and ramping up their promotional activities.

Undoubtedly, what the Australian government decides to do, and how they decide to do it, will be a development to watch over the coming year as the result will have a significant impact on the broadcasting of sport in Australia.

Conclusion

2024 was an interesting and exciting year in Australian sport, with the success of many of our women at the Olympics, Paralympics and in the 2024-25 Women's Ashes Series. The success of Australian athletes in all different disciplines will no doubt support the growth of participation of young girls in a range of sports, from athletics to cricket.

The past year also highlighted the way in which attitudes globally are shifting towards transgender athletes. In particular, the changes in netball have highlighted that the view of international sporting bodies of some sports are not necessarily aligning with local sporting bodies, which in turn has an impact on player selection at the elite levels of sport.

The way in which concussion is dealt with in various disciplines continues to evolve, even in non-contact sports, such as motorsport. Sporting bodies are being forced to consider the effects of concussion and how instances of concussion should be handled. In contact sports, the concussion conversation is likely to continue as current players become older and continue to suffer the long-term effects of concussion. We expect that the cases we have seen to date within the AFL will not be the last of their kind.

AI continues to evolve in the Australian sports industry. We expect that as AI evolves further, the Australian government and national sporting bodies may be forced to introduce legislation and regulations to ensure the safe and responsible use of AI in the future.

Finally, one development to watch with a keen eye over the coming year will be how the Australian government decides to implement the recommendations made by the Committee regarding online gambling advertising. The result will have a significant impact on the broadcasting of advertisements before, during and after sporting events on Australian television.

BELGIUM

Law and Practice

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ATFiELD

Contents

ATFiELD is a joint undertaking of the sports law and sports tax departments of the leading and independent Belgian law firms ALTIUS and TIBERGHIEN. ATFiELD advises and represents its clients with regard to all legal and tax issues in the sports sector. ATFiELD's clients range from individual athletes to clubs, agencies, federations, owners and sponsors at both the national and international level in all sports.

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1. Regulatory

1.1 Anti-Doping

Doping as a Criminal Offence Under Belgian Law

In Belgium, doping is not generally considered a criminal offence. However, certain actions related to doping, such as trafficking and the distribution of prohibited substances, could lead to criminal prosecution under general drug laws. The use of doping substances by athletes is primarily regulated through the sport regulatory framework and disciplinary measures rather than criminal law.

Prohibited Substances

While personal use of doping substances is not criminalised, the distribution or trafficking of specific substances on the World Anti-Doping Agency (WADA) Prohibited List may be subject to legal action. For example, anabolic steroids and erythropoietin (EPO) are not only banned in sports, but also classified as controlled substances under Belgian drug laws. Those involved in the illegal sale of these prohibited substances risk prosecution under national drug legislation.

National Anti-Doping Organisation in Belgium

In Belgium, doping is a competence of the communities, and so there are currently four anti-doping organisations or NADOs responsible for anti-doping policy. These NADOs each implement the WADA Code and conduct testing, investigations, and educational initiatives to prevent doping. Their primary objective is to ensure compliance with international anti-doping standards and to protect fair competition in sports.

Implementation of the WADA Code in Belgium

Belgium is a signatory to the UNESCO International Convention against Doping in Sport, meaning the country integrates the WADA Code into its national legal framework. The Flemish and Francophone communities have enacted specific anti-doping decrees that align with WADA standards, allowing for rigorous testing and sanctions against doping violations.

Recent Noteworthy Anti-Doping Cases in Belgium

In August 2023, the UCI Anti-Doping Tribunal found the Belgian cyclist, Toon Aerts, guilty of an anti-doping rule violation (with the presence of letrozole metabolite in a sample collected out-of-competition on 19 January 2022) and imposed a two-year period of ineligibility, starting from 16 February 2022. After a thorough examination of the case, including several expert reports submitted by the Belgian rider, the Tribunal considered that Toon Aerts had failed to establish how the prohibited substance entered his body and

imposed the standard sanction under the UCI Anti-Doping Rules and the WADA Code for the presence of letrozole.

In 2023, 1.9% of the 1,973 samples taken from controlled athletes in the Flemish Region involved effective doping. Among doping practices in competitive sports, six of the 15 offences retained in 2023 were related to recreational drugs (cannabis and cocaine). Among doping practices in fitness centres, the breaches were exclusively related to anabolic steroids.

1.2 Integrity

Legislation Addressing Athlete Misconduct and Match-Fixing in Belgium

Belgium has established a legal framework to combat athlete misconduct, fraud and match-fixing, primarily through the Belgian Penal Code and specific sports legislation. The Law of 10 May 2010 on the Fight against Fraud in Sports, criminalises match-fixing and related offences such as bribery and corruption in sports. Additionally, the Belgian Gaming Act regulates sports betting to prevent gambling-related fraud and conflicts of interest.

Measures Taken by Belgian Sports Governing Bodies

Belgian sports federations implement various measures to uphold sports integrity and prevent misconduct. The Royal Belgian Football Association (RBFA), for example, enforces strict ethical guidelines, conducts integrity training for players and officials, and works closely with law enforcement to detect suspicious activities.

NADO Flanders also contributes by monitoring sports ethics, promoting awareness campaigns, and enforcing sanctions against violations. Additionally, integrity officers are appointed within sports organisations to ensure compliance with regulations and report any suspicious behaviour.

The Belgian National Platform against Match-Fixing, established under the EU Council Recommendation on match-fixing, facilitates co-ordination between authorities, sports bodies and betting regulators to detect and combat match-fixing more effectively.

Recent Noteworthy Misconduct and Match-Fixing Cases in Belgium

One of the most significant cases in Belgian sports history is *"Operation Clean Hands"*, an investigation launched in 2018 targeting match-fixing and financial fraud in Belgian football. The case involved top-tier clubs, referees and agents accused of manipulating matches for betting gains and of receiving illegal commissions. This scandal led to multiple arrests, suspensions and ongoing legal proceedings.

1.3 Betting

Is Betting Illegal in Belgium?

Betting is legal in Belgium but is strictly regulated. The Belgian Gaming Commission (BGC) oversees all betting activities to ensure compliance with national laws and prevent fraud, match-fixing and other integrity issues. Only licensed operators can legally offer betting services, and individuals must meet age and eligibility requirements to participate.

Legislation Governing Betting

The primary legislation regulating betting in Belgium is the Gambling Act of 7 May 1999, which establishes rules for licensing, advertising and consumer protection. This law has been amended multiple times to address emerging issues, such as online betting and stricter measures to prevent problem gambling. The Royal Decree of 21 June 2011 further regulates online gambling,

requiring operators to hold a Belgian licence to offer services legally.

Betting-Related Offences Established by Sports Governing Bodies

Several sports governing bodies in Belgium enforce strict betting-related rules for athletes, coaches, referees and other officials. For example, the Royal Belgian Football Association (RBFA) prohibits players and officials from betting on football matches, especially those in competitions they are involved in. Violations can lead to fines, suspensions or bans. Other federations, such as the Belgian Cycling Federation, have similar prohibitions in place to safeguard sports integrity.

Information Sharing to Protect Sports Integrity

To combat match-fixing and other betting-related threats, sports governing bodies in Belgium collaborate with betting operators, law enforcement agencies and international organisations. The Belgian National Platform against Match-Fixing facilitates co-operation between stakeholders to detect suspicious betting patterns and take preventive action. Betting operators are also required to report irregular betting activities to the Belgian Gaming Commission and relevant sports federations.

Recent Noteworthy Betting Cases in Belgian Sport

A significant case occurred in 2019 when several Belgian football players were investigated for violating betting rules, leading to disciplinary sanctions. Additionally, *"Operation Clean Hands"* uncovered widespread corruption in Belgian football, with some cases linked to illicit betting activities. In another instance, in 2022, a lower-division footballer was fined and suspended for betting on matches involving his own team, highlighting the ongoing challenges in maintaining sports integrity.

1.4 Disciplinary Proceedings

Steps Taken by Sports Governing Bodies in Disciplinary Proceedings

Sports governing bodies in Belgium follow a structured process when handling disciplinary proceedings against athletes for doping, integrity and betting offences. These steps typically include the following.

Investigation and detection

The relevant governing body (eg, the Royal Belgian Football Association, the Belgian Cycling Federation or NADO Flanders) conducts an initial investigation upon receiving reports of potential violations. Evidence is gathered from multiple sources, including testing agencies, betting operators and whistle-blower reports.

Provisional suspension

If there is sufficient preliminary evidence, then the athlete may be provisionally suspended from competition pending the final decision.

Formal notification and hearing

The athlete is formally notified of the charges and provided with the opportunity to respond. A disciplinary panel or tribunal is convened to review the evidence and hear arguments from both sides.

Adjudication and sanctions

Based on the findings, the panel may impose sanctions such as suspensions, fines, disqualification of results or bans. For doping violations, the sanctions are typically aligned with the WADA Code.

Appeals process
Athletes have the right to appeal the decision to a higher authority, such as the Belgian Court of Arbitration for Sport (BAS/CBAS) or the Flemish Sports Tribunal.

Examples of Notable Cases

Doping cases
Most of the notable Belgian anti-doping cases were decided on an international level by the international federation of the Court of Arbitration for Sport, such as the recent case of Belgian cyclist Toon Aerts who was sanctioned with a two-year ban by the UCI.

Betting violations
In 2022, several lower-division players faced suspensions and fines for betting on matches that they were involved in, which demonstrates the strict enforcement of integrity rules.

Match-fixing
In 2023, several Belgian tennis players, including Arthur de Greef, were criminally convicted for acts of match-fixing. In addition, they were also suspended for two to four years by the International Tennis Integrity Agency.

2. Commercial Rights

2.1 Available Sports-Related Rights

Notable Sports-Related Commercial Rights in Belgium

Beyond sponsorship and broadcasting rights, several other key commercial rights play a crucial role in the Belgian sports industry. These include the following.

Merchandising rights
Sports teams, leagues and athletes monetise their brand by licensing their logos, names and images for use on products such as apparel, footwear and accessories. Merchandising agreements typically grant exclusive rights to manufacturers and retailers to produce and distribute official products.

Hospitality rights
Major sporting events in Belgium, such as football matches, cycling races and tennis tournaments, offer premium hospitality packages. These packages include VIP seating, catering and exclusive access to lounges, providing a significant revenue stream for event organisers and clubs.

Ticketing rights
Sports organisations control ticket sales for events, with pricing strategies aimed at maximising attendance and revenue. Partnerships with ticketing agencies allow for secure online and offline distribution.

Secondary Ticket Sales and Measures Against Illegal Ticketing

The resale of tickets, also known as secondary ticket sales, is a regulated practice in Belgium. The Belgian government has implemented several measures to combat illegal ticket sales, including the following.

Legislation and regulation
The Law of 30 July 2013 on the sale of event tickets prohibits the resale of tickets at a price higher than the original face value. Exceptions exist for officially authorised resale platforms that comply with consumer protection regulations.

Enforcement and monitoring
The Belgian Economic Inspectorate actively monitors online marketplaces and social media platforms to detect and take action against ille-

gal ticket touting/scalping. Organisers of major sporting events collaborate with law enforcement agencies to prevent counterfeit ticket sales and unauthorised reselling.

Consumer awareness campaigns

Awareness initiatives educate fans about the risks of purchasing tickets from unauthorised sellers, such as fraud, inflated prices or invalid tickets. Official event websites provide guidance on secure purchasing options and the dangers of secondary markets.

2.2 Sponsorship

How Sponsors Use Sport to Enhance Their Brand

In Belgium, sponsors leverage sports partnerships to boost brand visibility, engage with target audiences and enhance their reputation. Some key methods include the following.

Brand exposure

Sponsors gain visibility through logo placement on team jerseys, stadium signage and digital advertisements during broadcasts. Naming rights to stadiums and competitions provide long-term brand association with popular teams and events.

Access to data and fan engagement

Some sponsorship agreements allow brands to access audience data from sports rights-holders to tailor marketing strategies. Sponsors utilise exclusive content, such as behind-the-scenes footage and player interviews, to engage fans via social media and digital campaigns.

Corporate hospitality and events

Sponsors often receive premium hospitality packages, including VIP tickets and exclusive networking opportunities at sporting events. These experiences help companies strengthen relationships with clients and stakeholders.

How Sports Rights-Holders Attract Sponsor Investment

Sports rights-holders in Belgium actively seek sponsor investment through strategic marketing and partnership offerings. Key tactics include the following.

Offering exclusive sponsorship packages

Clubs, leagues and events present tiered sponsorship options (eg, title sponsor, official partner, supplier) with varying levels of exposure and benefits.

Demonstrating audience reach and market impact

Rights-holders provide data on audience demographics, TV ratings and social media engagement to attract brands seeking targeted marketing opportunities.

Creating innovative sponsorship activations

Collaborations include experiential marketing initiatives such as branded fan zones, interactive campaigns and digital content sponsorships.

Key Terms of a Standard Sponsorship Agreement in Belgium

A typical sponsorship contract between a sponsor and a sports rights-holder in Belgium includes the following key terms: (i) Sponsorship Rights and Obligations (defines the scope of the sponsorship, including branding rights, advertising placement and promotional activities, (ii) Financial Commitments (outlines the sponsor's financial contributions, including fixed payments, performance-based bonuses and in-kind support such as an equipment provision, (iii) Exclusivity Clauses (specifies whether the sponsor has category exclusivity – eg, the sole

beer brand associated with a club or event, (iv) Duration and Renewal Options (states the contract term, renewal conditions and exit clauses for both parties, (v) Intellectual Property and Data Use (governs the use of trade marks, logos and access to audience data for marketing purposes, (vi) Termination and Dispute Resolution (includes provisions for contract termination due to breach of agreement or reputational damage, along with mechanisms for resolving disputes).

2.3 Broadcasting

How Broadcasters Exploit Broadcasting Rights for Profit

In Belgium, broadcasters capitalise on sports broadcasting rights through various revenue-generating strategies, including the following.

Advertising revenue

Broadcasters sell commercial slots during live matches and sports programmes, with premium rates for high-profile events. Sponsorship deals with brands allow for product placements and integrated marketing campaigns.

Subscription services

Pay-TV providers offer exclusive sports packages, attracting subscribers who want access to premium content. Streaming platforms generate revenue through monthly or annual subscriptions, sometimes bundling sports content with other entertainment services.

Pay-per-view (PPV) and on-demand content

Some events, especially high-profile matches, are offered on a PPV basis. On-demand content, such as match highlights and interviews, provides additional monetisation opportunities.

How Sports Rights-Holders Package Broadcasting Rights

Sports rights-holders in Belgium strategically package their broadcasting rights to maximise value and attract investment from broadcasters. Common approaches include the following.

Exclusive v non-exclusive rights

High-value sports competitions, such as the Jupiler Pro League in football, are often sold on an exclusive basis to maximise broadcaster investment. Lower-tier leagues or niche sports may opt for non-exclusive deals to increase exposure and accessibility.

Bundled rights packages

Rights-holders may package live matches, highlights and digital content to offer comprehensive broadcasting deals. Different platforms (TV, streaming, radio) are often included in bundled agreements.

Long-term contracts

Multi-season agreements provide financial stability for both rights-holders and broadcasters. Rights are typically auctioned through competitive sales processes.

Notable Belgian Examples

Pro League broadcasting deal

In December 2024, the Pro League decided to award the media rights for the period 2025–2030 to DAZN. The current rights-holder is thus also the new rights-holder for the next five seasons regarding Belgian professional football's domestic media rights. It concerns the live rights for the Jupiler Pro League, the Challenger Pro League, the Lotto Super League, the Croky Cup and the Supercup, the highlights Magazine, the so-called *"delayed clips"* and the Monday evening magazine. The public broadcasters, VRT and RTBF, obtained the radio rights and will provide live

radio coverage for the next five years. With the granting of these media rights, the Pro League has secured at least EUR84 million in revenue per season from DAZN, VRT and RTBF for the next five years. On top of that, the Pro League is entitled to a share of DAZN's additional revenue. However, this is a significant drop, as the previous five-year deal was worth EUR103 million.

UEFA Champions League rights

Belgian broadcasters, such as RTL and VTM, secured exclusive and non-exclusive rights to air European club competitions, attracting large audiences.

Licensing, Venue Access and Intellectual Property Rights

Broadcasters negotiate agreements with venue owners and event organisers for access to stadiums and arenas. These agreements include logistical arrangements for camera placements, commentary booths and technical support. Sports broadcasts are protected by copyright law in Belgium, granting exclusive rights to licensed broadcasters. Unauthorised streaming and piracy are actively monitored and prosecuted by rights-holders and regulatory bodies.

3. Sports Events

3.1 Relationships

Proprietary Rights in Sports Events

In Belgium, sports event organisers do not have an automatic proprietary right over the event itself. However, they can control aspects of the event through contractual agreements, intellectual property rights, and venue regulations. Organisers typically claim rights over the following.

Broadcasting and media rights

Event organisers license broadcasting rights to TV channels and streaming platforms, ensuring exclusive coverage. Unauthorised recording and distribution of event footage can be legally challenged under copyright law.

Sponsorship and commercial rights

Organisers enter into agreements with sponsors, granting them exclusive commercial privileges related to the event.

Merchandising and ticketing

Official merchandise and ticketing rights help prevent unauthorised sales and counterfeiting.

Control of Rights at Sports Events

Sports event organisers in Belgium regulate access and control rights through several mechanisms.

Venue access regulations

Organisers impose ticketing terms and conditions to regulate entry and restrict unauthorised commercial activities within the venue.

Filming and photography restrictions

Accredited media organisations are given exclusive rights to obtain footage, while unauthorised recordings can be restricted and legally challenged.

Security and stewarding measures

Security personnel enforce event policies, ensuring compliance with access and commercial restrictions.

Applicable Belgian Legislation

Several legal frameworks apply to sports events in Belgium.

Consumer protection laws
Ticket sales and event services must comply with Belgian consumer protection laws, ensuring fair pricing, refund policies and non-discriminatory practices.

Data protection (GDPR)
Event organisers collecting personal data from attendees must adhere to the General Data Protection Regulation (GDPR).

Competition law
Agreements regarding broadcasting and sponsorship deals must comply with EU and Belgian competition regulations to prevent monopolistic practices.

Organisation and Management of Sports Events in Belgium

Sports events in Belgium are typically organised by national federations, private entities or local authorities. Key organisational aspects include the following.

Event planning and permits
Organisers secure permits from local authorities for venue usage, security and public safety compliance.

Collaboration with stakeholders
Co-ordination with government bodies, sports federations, broadcasters and sponsors is essential.

Logistics and infrastructure
Setting up venues, transportation, accommodation and medical facilities are crucial elements of event management.

Governance of Participation in Sports Events

Participation in sports events in Belgium is governed by the following.

National and international federation rules
Each sport has specific regulations set by its national governing body, often aligned with international standards.

Anti-doping regulations
Participants must comply with anti-doping rules established by the World Anti-Doping Agency (WADA) and enforced by the Belgian NADOs.

Eligibility and licensing requirements
Athletes must meet eligibility criteria, which may include licensing by relevant sports federations.

3.2 Liability

Duty of Care Owed by Sports Event Organisers

In Belgium, sports event organisers owe a duty of care to participants, spectators and staff. This duty is established through several legal frameworks.

General Civil Liability (Articles 1382–1386 of the old Belgian Civil Code – Articles 6.1–6.55 new Belgian Civil Code)
Organisers must take reasonable measures to prevent harm. Negligence resulting in injury or damage can lead to liability claims.

Consumer protection laws
Organisers must ensure that ticket holders receive the expected service, including safety measures and proper event management.

Occupational Safety Regulations (Well-being at Work Act, 1996)
These regulations protect employees and volunteers working at sports events, requiring compliance with safety standards.

Event-specific regulations
Football matches must comply with the Football Law of 21 December 1998, which governs stadium security and crowd control.

Limiting Liability in Belgium
Event organisers can take several steps to limit their liability.

Waivers and disclaimers
Liability waivers in ticketing terms can reduce responsibility for minor risks but cannot exclude all liability.

Insurance policies
Organisers (must) often obtain liability insurance covering accidents, property damage and unforeseen incidents.

Compliance with safety standards
Adhering to regulations and best practices in event management minimises exposure to liability claims.

Liability That Cannot Be Excluded
Under Belgian law, certain types of liability cannot be excluded.

- Gross negligence or intentional misconduct – organisers cannot waive liability for severe negligence or deliberate actions that cause harm.
- Personal injury and death – excluding liability for injuries or fatalities caused by organiser negligence is not legally enforceable.
- Consumer rights violations – consumer protection laws prevent unfair contractual terms that overly limit an attendee's rights.

Athlete Liability to Spectators
Athletes can be held liable for harm caused to spectators in the following ways.

- Negligent or reckless conduct – if an athlete's actions go beyond normal sporting risks (eg, throwing objects into the crowd), then they may face civil liability.
- Assault or intentional harm – deliberate violent actions that result in spectator injury can lead to criminal charges and civil claims.

Ensuring Safety at Sporting Events
Belgian authorities implement multiple measures to maintain safety and prevent disorder at sports events.

- The Football Law (1998) – requires security measures at stadiums, including CCTV surveillance, crowd control strategies and banning orders for violent fans.
- Police and stewarding – local law enforcement and private security teams ensure public order and safety within venues.
- Alcohol and pyrotechnic restrictions – strict regulations prohibit excessive alcohol sales and the use of fireworks inside stadiums.
- Fan identification and ticketing control – clubs use personalised ticketing and bans on troublemakers to prevent hooliganism.

4. Corporate

4.1 Legal Sporting Structures
Common Legal Forms of Sporting Bodies
In Belgium, sporting bodies, including professional and non-professional sports clubs as well as sports governing bodies, typically adopt the following legal structures.

Non-profit associations (VZW/ASBL – Vereniging Zonder Winstoogmerk/Association Sans But Lucratif)
Most amateur clubs and federations operate as non-profit associations. They focus on sports

development rather than generating profits and are governed by the Belgian Companies and Associations Code.

Public interest foundations (Stichting van Openbaar Nut/Fondation d'Utilité Publique)
These are used by some major sports federations and organisations promoting broader social objectives, and are required to demonstrate a clear public interest mission.

Professional sports companies (NV/SA or BV/SRL - Naamloze Vennootschap/Société Anonyme or Besloten Vennootschap/Société à Responsabilité Limitée)
This form is commonly used by professional football clubs and commercialised sports entities. It allows for shareholder investment and profit distribution and is subject to corporate taxation and financial regulations.

Reasons for Choosing a Specific Corporate Structure

Belgian sports organisations select their legal form based on several strategic and financial considerations.

Reinvestment of profits
Non-profit associations (VZW/ASBL) allow clubs to reinvest revenue into sports development, training facilities and youth programmes without distributing profits to members. Professional clubs (NV/SA or BV/SRL) can generate revenue from sponsorships, broadcasting rights and transfers while reinvesting in competitive performance.

Taxation and financial management
Non-profits benefit from tax advantages, including exemptions from corporate tax under certain conditions. Professional entities are subject to standard corporate tax but gain flexibility in financial structuring and investor participation.

Regulatory and governance requirements
National sports federations often require clubs to be structured as a VZW/ASBL to align with governance and ethical standards. Professional clubs in high-revenue sports, such as football, favour NV/SA or BV/SRL models for better financial oversight and capital raising options.

Access to funding and sponsorships
Commercial sports companies attract investors, sponsors and media deals, enabling financial growth. Non-profits rely on membership fees, subsidies and limited sponsorship opportunities.

4.2 Corporate Governance

Sport-Specific Corporate Governance Codes in Belgium

Belgium does not have a single unified sports governance code, but multiple frameworks regulate corporate governance within sports organisations. The key regulations include the following.

The Belgian Code on Corporate Governance
While it applies primarily to publicly listed companies, it serves as a guideline for professional sports clubs structured as a(n) NV/SA or BV/SRL.

Sports Federation Governance Standards
The Belgian Olympic and Interfederal Committee (BOIC/COIB) sets governance principles for national sports federations. Flemish and French-speaking sports authorities enforce governance standards for clubs and federations under their jurisdiction (eg, the Flemish Code on Sport Governance).

Football governance codes

The Royal Belgian Football Association (RBFA) enforces governance rules, including financial transparency, ethical conduct and licensing requirements.

Consequences of Non-Compliance

Failure to comply with governance requirements can result in the following.

- Loss of recognition or funding – non-compliant federations or clubs risk losing subsidies and official recognition from governing bodies.
- Licensing sanctions – in professional football, non-compliance with financial and governance rules can result in clubs being denied a professional licence.
- Legal and financial penalties – organisations violating financial and ethical standards may face fines, legal action or administrative penalties.

Other Relevant Rules: Owners and Directors' Tests

Certain sports impose fit-and-proper tests for club owners and directors, particularly in professional football.

- RBFA Licensing Rules – these rules require club owners and directors to meet ethical and legal integrity criteria.
- Financial Sustainability Regulations – clubs must demonstrate financial stability to participate in national and European competitions.

Duties of Officers in Belgian Sports Organisations

Officers and directors of Belgian sports organisations are expected to:

- act in good faith and loyalty – directors owe fiduciary duties to act in the best interests of the organisation and its stakeholders;
- ensure financial integrity – this requires responsibility for maintaining financial transparency and avoiding mismanagement; and
- comply with governance regulations – the statutory and federation-imposed rules must be adhered to.

Penalties for Insolvency in Sports Organisations

If a Belgian sports organisation, particularly a professional club, faces insolvency, then consequences may include:

- points deduction – football clubs facing bankruptcy or financial mismanagement may be penalised with a points deduction;
- relegation or expulsion – clubs failing to meet financial licensing requirements risk relegation or expulsion from competitions; and
- judicial reorganisation – clubs may enter judicial reorganisation to restructure debt while continuing operations under court supervision.

4.3 Funding of Sport

Sources of Sports Funding in Belgium

Sports in Belgium receive funding from multiple sources, including the following.

Government funding

The federal government, regional governments (Flanders, Wallonia and Brussels), and local municipalities allocate budgets to sports development. The Ministry of Sport in each region provides subsidies to sports federations, grassroots initiatives and high-performance programmes.

National Lottery contributions
The Belgian National Lottery is a key contributor, funding both elite and grassroots sports programmes.

Corporate sponsorships and partnerships, media rights and broadcasting revenue, membership fees and ticket sales, merchandising and licensing
Professional sports teams and major events secure sponsorship deals from private companies, including financial services, automotive and technology sectors. Major sports, particularly football, generate income through domestic and international broadcasting rights. Amateur clubs rely on membership fees, while professional teams generate revenue from player transfers, match-day ticket sales and hospitality services. Clubs and federations generate additional income through branded merchandise and licensing agreements.

Distribution of Funding Across Sporting Levels

Elite and high-performance sport
The Belgian Olympic and Interfederal Committee (BOIC/COIB) distributes funding to elite athletes, Olympic programmes and national teams. Federations allocate funds for athlete development, coaching and international competitions.

Grassroots and community sport
Regional governments invest in community sports infrastructure, training programmes and initiatives promoting youth participation. Local sports clubs benefit from municipal grants and lottery contributions.

Professional sports
Revenue from broadcasting rights, sponsorship and ticket sales supports the operational and financial stability of professional clubs. Football clubs receive significant funding through media rights deals and sponsorship agreements.

Disability and inclusive sport
Dedicated funds support initiatives that promote inclusion and accessibility in sports for individuals with disabilities.

4.4 Recent Deals/Trends

In recent years, Belgium's sports sector has witnessed several noteworthy and innovative developments, particularly in private equity investments, media rights agreements and technological advancements.

Private Equity Investments in Belgian Sports

Private equity firms have increasingly shown interest in Belgian sports entities, and especially in football clubs. Several foreign investors have taken a minority or a majority stake in more than 50% of Belgian professional football clubs (such as Club Brugge, Standard de Liège, Lommel SK, K. Beerschot VA, etc). Some of them have been successful, but several of them have not ended well, even leading to the bankruptcy of several clubs (eg, KV Ostend, KMSK Deinze, etc) in recent years.

Innovative Media Rights Agreements

The Belgian sports broadcasting landscape has seen significant changes.

Belgian Pro League and DAZN agreement
In December 2024, the Belgian Pro League extended its domestic media rights agreement with DAZN. The new deal, valued at EUR84.2 million per season until 2030, represents a reduction from the previous EUR103 million per season contract. This adjustment reflects the evolving dynamics of sports broadcasting rights and market conditions.

Formula 1's Belgian Grand Prix hosting deal
In a groundbreaking move, Formula 1 introduced its first rotational hosting agreement in December 2024. Under this six-year contract, the Belgian Grand Prix will take place four times, allowing for a more flexible and diverse race calendar.

Technological Advancements and Sports Innovation

Belgium continues to be a hub for sports technology and innovation.

SportsTech Belgium initiatives
Launched in June 2024, SportsTech Belgium's new innovation season features a series of keynotes, panels and the unveiling of the SportsTech Belgium Innovation Challenge 2024. This initiative aims to foster collaboration and growth within the sports technology sector.

Belgian Pro League's data innovations
Partnering with companies like Hudl and StasPerform, the Belgian Pro League has invested in advanced data and tracking solutions. Teams across men's, women's and youth football will have access to high-quality sports data and enhanced analysis capabilities.

These developments underscore Belgium's dynamic and evolving sports industry, marked by strategic investments, innovative partnerships and a commitment to technological advancement.

5. Intellectual Property, Data and Data Protection

5.1 Trade Marks

How to Register Trade Marks in Belgium

Local trade marks in Belgium are registered through the Benelux Office for Intellectual Property (BOIP), as Belgium is part of the Benelux region alongside the Netherlands and Luxembourg. The process includes the following steps.

- Conducting a trade mark search – before applying, it is advisable to check the BOIP Trade Marks Register to ensure no similar marks exist.
- Filing an application – applications can be submitted online via the BOIP website. The applicant must provide details such as the mark itself, the goods/services it will cover (classified under the Nice Classification system), and the applicant's details. A filing fee applies.
- Examination and publication – BOIP examines the application for formalities and publishes it in the Benelux Bulletin. Third parties have two months to file opposition if they believe the trade mark conflicts with their existing rights.
- Registration and protection – if no opposition is filed, or if disputes are resolved, then the trade mark is registered and granted protection for ten years, and is renewable indefinitely.

In addition, EU trade marks, registered via the European Union Intellectual Property Office (EUIPO), grant protection in all EU member states, including the Benelux region.

What Cannot Be Protected in Belgium?

Certain trade marks are ineligible for registration, or if registered, shall be liable to be declared invalid, including the following.

- Generic or descriptive terms (eg, *"Best Football Club"* for a football team).
- Misleading or deceptive marks (eg, suggesting a false origin or sponsorship).

- Contrary to public order or morality (eg, offensive words or symbols).
- Flags, emblems and official symbols (unless permission is granted by the relevant state or organisation).
- Trade marks identical or confusingly similar to existing registered marks for identical or similar goods or services (leading to potential rejection due to conflicts with prior rights).

Advantages of Trade Mark Registration

- Legal protection – registration means having the exclusive right to use the mark in Belgium, the Netherlands and Luxembourg, and to take legal action against unauthorised use of the mark by a third party, or invoke the invalidity of subsequent registrations of trade marks regarding the same or a similar sign.
- Brand value and commercialisation – this allows sports clubs, leagues and athletes to generate revenue through merchandising and sponsorships.
- Enforcement against infringement – this right enables the owner to take legal action against unauthorised use of the mark.
- International expansion – a Benelux trade mark can serve as a basis for EU-wide or international registration.

Notable Sports Trade Mark Cases in Belgium

Peloton Interactive Inc. v The Women Peloton (TWP)

In 2024, the Brussels Court of Appeal ruled that the name of a Belgian women cycling group, *"The Women Peloton"*, infringed upon the EU and Benelux *"PELOTON"* trade marks of Peloton Interactive Inc, a US company specialising in fitness equipment. The court also rejected TWP's counterclaim for invalidity, stating that the *"PELOTON"* trade marks are not purely descriptive and have distinctive character.

Royal Belgian Football Association (RBFA) and logo protection

The RBFA has enforced its trade mark rights against third parties attempting to use its official emblem and name without authorisation, particularly in commercial sponsorships and merchandise sales.

5.2 Copyright/Database Rights

Copyright Law in Belgium

Copyright law is governed by Title 5(*"Copyrights and Neighbouring Rights"*) of Book XI (*"Intellectual Property and Trade Secrets"*) of the Belgian Code of Economic Law (*"CEL"*) (Articles XI.164 et seq. CEL). This national framework transposes various EU copyright directives, including Directive 96/9/Eg, (the *"Database Directive"*), Directive 2001/29/EC (the *"Infosoc Directive"*) and Directive 2019/790/EU (the *"DSM Directive"*).

For a work to be eligible for copyright protection under Belgian law, it must meet two conditions:

- the work must be original, meaning that it must be the author's own intellectual creation; and
- the work must be expressed in a tangible form that can be communicated to others.

In the sports sector, copyright protection can apply to works such as video and audio recordings of sports broadcasts, photos captured during sporting events and graphical interfaces in sports games (e-sports). Mere ideas, concepts, genres or styles are, however, not copyright protectable. Sports games as such are also not copyright protectable (CJEU 4 October 2011, C-403/08 & C-429/08, Football Association Premier League Ltd and Others c/ QC Leisure and Others).

The author acquires both economic rights (eg, the right to reproduce, distribute and communicate the work to the public) and moral rights (for example, the right to protect the integrity of the work) in the work. Such rights arise automatically upon the creation of the work, meaning that no registration or other formalities are required. The duration of copyright protection in Belgium lasts for 70 years after the author's death.

In cases of alleged copyright infringement, the defendant often disputes the copyright's validity, emphasising that the burden of proof rests with the author (known as *"stelplicht"* or *"charge de la preuve"*). In addition, the accused party may try to invoke one of the exemptions listed in Article XI.189 et seq. CEL (such as the parody exemption), which stem from EU law. These exemptions are exhaustively listed. There is no open-ended fair use defence, such as under US law.

Database Rights in Belgium

A database may be protected under Belgian copyright law through the original selection or arrangement of data included in the database (Article XI.186 CEL). However, copyright protection does not extend to the underlying data.

In addition to copyright protection, databases may be granted sui generis protection under Title 7 of the CEL (Articles XI.305-318 CEL), which also implements EU law. To qualify for this sui generis protection, the database must involve a substantial qualitative or quantitative investment in either the obtaining, verification or presentation of the contents. The protection grants makers of databases the exclusive right to prevent the extraction and/or re-utilisation of all or a qualitatively or quantitatively substantial part of the contents of their database.

Sui generis protection of databases applies automatically upon completion of the database, and lasts 15 years from the first day of the year following the date of completion. Through substantial updates, the term of protection may be extended.

Football competition calendars may qualify as a database under the Database Directive. However, they are not protected by copyright if their creation is dictated solely by technical considerations, rules or constraints, which leaves no room for creative freedom. Nor do they benefit from sui generis protection if the substantial investment is directed only at generating the data itself (CJEU 1 March 2012, C-604/10, Football Dataco and Other c/ Yahoo! UK Ltd and Others).

5.3 Image Rights and Other IP

Legal Recognition for Image Rights in Belgium

There is no explicit statutory provision that establishes the right to one's image. Image rights are instead protected under the umbrella of privacy law, the copyright rules on portrait rights (Article XI.174 CEL – reproducing or sharing a portrait requires the consent of the depicted individual), general tort law and sometimes even criminal law (eg, Article 231 Criminal Code – public assumption of a false identity).

In essence, image rights entail that the individual must consent before their image can be captured, displayed or reproduced. The individual can assert this right on a photo or video in which they are recognisable and which is taken or used without their consent, or when an authorised image is used for unauthorised purposes (Voorz. Rb. Brussels 22 October 2009). Consent need not be express and may instead be implied (eg, Rb. Brussels 29 October 2001 AM 2002, 184 –

implied consent given by two track runners who willingly posed for a professional photoshoot). However, consent remains precarious as the athlete may withdraw it for the future (ex nunc – so prior actions are not affected) for valid reasons (for the general principles, see Antwerp 7 October 2020, No 2019/AR/656; Rb. Brussels 21 November 2006, No 05/2859/A).

Image rights are not absolute. The right to privacy of the individual must be balanced against other rights, such as freedom of expression and the public's right to information. Consequently, the image of public figures, such as popular athletes, may be used without their consent for informative purposes (eg, a photo of a famous cyclist may be used for an article on the history of cycling – Rb. Brussels 18 November 2010, No 08/10688/A; eg, an author may use the image of the national football team on their book cover – Brussels 12 November 2013, No 2013/KR/234). Informative use is possible, even if the athlete explicitly opposes such use (Rb. Brussels 18 November 2010, No 08/10688/A). Such informative use may not, however, infringe on the athlete's privacy (for example, a violation for using footage of football players showering naked – Rb. Bruges 27 June 1994). The right to inform the public also does not extend to commercial use (eg, Ghent 21 February 2008, No 2005/AR/1734 – a violation for selling posters, deemed a merchandising product, of a famous tennis player; Brussels, 4 October 1989 – a violation for using the image of a judo athlete to promote a car).

5.4 Licensing

Licensing of IP Rights

The key IP rights relevant to sports entities and athletes include copyrights and database rights (see **5.2 Copyright/Database Rights**) as well as trade mark rights (for example, athlete names or logos of sports organisations). These IP rights can be transferred or licensed to third parties for a fee. Depending on the type of IP right, their licensing or assignment must comply with certain formalities.

The economic rights linked to copyrights, database rights, and trade mark rights may be transferred or licensed by rights-holders under the following conditions.

- Copyrights – an assignment or licence of copyrights must be proved in writing. In addition, the agreement must explicitly specify – for each mode of exploitation – the author's remuneration, scope and duration of the assignment or licence.
- Trade mark rights – a written agreement is required for the assignment of trade mark rights; no such requirement applies to license a trade mark. The assignment or license agreement should be registered to be enforceable vis-à-vis third parties.
- Database rights – there are no specific requirements or restrictions to license or assign database rights.

Under Belgian copyright law, moral rights are inalienable and rights-holders cannot waive them in their entirety. However, rights-holders may grant consent for exploitation in specific cases and transfer the right to exploit or manage them (such as to a management company). The same principles apply to image rights. They are not classic IP rights but can be monetised as such.

5.5 Sports Data

Use of Sports Data by Sports Bodies and Stakeholders

In Belgium, sports data – including athlete performance metrics and spectator information – is

increasingly leveraged by sports bodies, clubs, broadcasters and sponsors. The primary ways in which this data is used include the following.

Athlete performance analysis
Professional teams and federations collect and analyse player statistics to improve training, tactics and injury prevention. For example, Pro League football clubs use GPS tracking and biometric data to monitor player workload and optimise performance.

Fan engagement and personalisation
Sports organisations utilise spectator data to enhance fan experience through personalised content, targeted promotions and interactive digital services. For example, Belgian cycling events use fan app data to deliver tailored race-day experiences.

The betting and gambling industry
Betting operators rely on real-time sports data to set odds, detect match-fixing and engage users through predictive analytics. For example, partnerships between sports leagues and betting companies allow real-time game data integration.

Broadcasting and media analytics
Broadcasters use viewership data to optimise scheduling, tailor advertisements and develop more engaging sports content. For example, DAZN utilises viewership patterns to adjust live coverage and subscription offerings.

Sponsorship and marketing strategies
Brands use audience insights from spectator data to create targeted sponsorship campaigns, ensuring maximum exposure and engagement. For example, sportswear brands collaborate with Belgian football clubs using fan data to tailor merchandise promotions.

Commercial Opportunities in Sports Data
The growing role of data in Belgian sports creates lucrative business opportunities across multiple sectors.

Data licensing and sales
Sports leagues can commercialise live game statistics by selling data rights to media companies, fantasy sports providers and betting operators. For example, the Belgian Pro League licenses match data to third-party analytics firms.

Smart stadium and digital fan experiences
Advanced data collection in stadiums enables real-time crowd management, enhanced ticketing systems and personalised in-game experiences. For example, Belgian football clubs implement digital ticketing and fan engagement apps powered by real-time data analytics.

Wearable technology and athlete performance tools
Start-ups and sports tech companies develop wearable devices that collect biometric data, providing training insights for professional and amateur athletes. For example, Belgian cycling teams integrate power meter data with AI-driven performance analysis.

Sponsorship and advertising innovation
Companies utilise audience analytics to create more efficient and measurable sponsorships, boosting return on investment (ROI). For example, digital ad boards in stadiums adjust displayed content based on real-time audience demographics.

5.6 Data Protection
Relevant Data Protection Laws in Belgium
The following are the relevant data protection laws in Belgium.

- General Data Protection Regulation (GDPR) (EU Regulation 2016/679).
- Belgian Data Protection Act (Law of 30 July 2018).
- Belgian Act on the creation of the Belgian Data Protection Authority (GBA/APD) (Law 3 December 2017) – ie, authority overseeing compliance and imposing fines for violations.

The Royal Belgian Football Association (RBFA) and other federations have adopted internal data protection policies aligned with the GDPR. Guidelines exist for handling athlete biometric data, video surveillance in stadiums and online fan engagement platforms.

Impact of the GDPR on Belgian Sport

Sports clubs, like any other organisation, should comply with the GDPR's principles. When sports clubs would like to use health data or biometric data, it can be challenging to identify the right legal basis and exemption ground. A data protection impact assessment may also need to be carried out in such cases.

In 2021, the Belgian Data Protection Authority reprimanded a fitness club for unlawfully transferring its members' data to other members.

Otherwise, the Belgian Data Protection Authority has not yet taken any specific positions on the use of personal data by sports club or athletes.

6. Dispute Resolution

6.1 National Court System

The Belgian national courts play a subsidiary role in resolving sports disputes. Most sports-related cases are first handled by internal dispute resolution mechanisms established by sports governing bodies. Belgian law recognises the principle of autonomy in sports, meaning that disputes are generally expected to be resolved within the framework of the respective sports federations before parties can seek judicial intervention. However, in cases where fundamental legal rights are at stake (such as in employment disputes, contractual breaches or competition law violations), the national courts may have jurisdiction. The Belgian Court of Arbitration for Sport (CBAS/BAS) is an independent arbitration body frequently used for resolving sports-related disputes. In some cases, decisions made by sports federations or CBAS/BAS may be challenged before the civil courts.

6.2 ADR (Including Arbitration)

In Belgium, alternative dispute resolution (ADR) mechanisms such as mediation and arbitration are commonly used in sports disputes. The Belgian Court of Arbitration for Sport (CBAS/BAS) is the primary arbitration body dealing with sports-related cases, including disciplinary matters, contractual disputes and eligibility issues. Many sports federations require their members to submit disputes to CBAS/BAS before resorting to national courts. The arbitration process is governed by Book VI of the Belgian Judicial Code, which establishes general principles of arbitration. Additionally, Belgium recognises and enforces arbitration awards under the New York Convention on the Recognition and Enforcement of Foreign Arbitral Awards, ensuring that international arbitration decisions, such as those from the Court of Arbitration for Sport (CAS) in Lausanne, are upheld in Belgium.

6.3 Challenging Sports Governing Bodies

Sports governing bodies in Belgium have significant authority to impose sanctions, including suspensions, fines and points deductions, through their internal disciplinary and regulatory

frameworks. These sanctions must comply with principles of due process, proportionality and fairness to be legally enforceable. If an athlete, club or stakeholder wishes to challenge a decision made by a sports governing body, then they typically have the following legal remedies.

- Internal appeals mechanisms – most sports federations have internal appeals committees that review decisions before external legal proceedings can be initiated.
- Arbitration before CBAS/BAS – the Belgian Court of Arbitration for Sport is the primary forum for contesting sports-related disciplinary and financial sanctions.
- Judicial review by the Council of State – if a sports body's decision affects fundamental legal rights or violates public law principles, then the decision can be challenged before the Council of State.
- Civil court actions – in cases involving contractual breaches or damages claims, the parties may seek recourse through the Belgian civil courts.

Notable cases include challenges to financial fair play regulations, disputes over player transfers, and challenges to disciplinary sanctions imposed on clubs and athletes. The Belgian courts have generally been reluctant to intervene in purely sporting matters unless there is evidence of procedural unfairness or violations of fundamental rights.

7. Employment

7.1 Sports-Related Employment Contracts

In Belgium, professional athletes are typically employed under fixed-term contracts governed by Belgian employment law and sector-specific regulations. These contracts must comply with Belgian labour laws regarding wages, benefits and termination rights. Central player contracts are rare in Belgium, as clubs generally negotiate individual agreements with players. Salary caps are not widely used in Belgian sports, except where imposed by international federations. Restraint of trade and competition laws apply to sports employment, ensuring that contractual restrictions do not unfairly limit athletes' career opportunities. Disputes over employment contracts often arise concerning transfers, terminations and unpaid wages.

7.2 Employer/Employee Rights

Sports governing bodies in Belgium must comply with national labour laws, including regulations on working conditions, social security and collective bargaining agreements. Employment disputes often relate to wrongful dismissals, contract breaches or disputes over image rights. A notable case involved a professional footballer challenging a club's decision to terminate his contract early, arguing it violated Belgian employment protections. The labour courts upheld the player's rights, reinforcing the legal protections for athletes.

7.3 Free Movement of Athletes

Belgium, as an EU member state, follows the principles of free movement of workers under EU law. This means that governing bodies cannot impose quotas on EU athletes. However, non-EU athletes may require work permits and visas to compete in Belgian leagues. Certain leagues impose nationality restrictions for competitive balance, but these must comply with EU law, as seen in cases like the Bosman ruling, which prohibited restrictions on EU players moving between clubs.

8. Women's Sport

8.1 Women's Sport Overview

Women's sports in Belgium have grown significantly in recent years, particularly in football, cycling and athletics. Increased sponsorship deals, media coverage and investment in professional leagues have contributed to this growth. For example, the Belgian Women's Super League has attracted increased funding, and the Belgian women's national football team has seen rising attendance and viewership figures. Organisations such as FIFA's Women's Football Strategy and local federations support the development of women's sports through targeted programmes and initiatives.

9. Esports

9.1 Esports Overview

Esports has become a rapidly growing industry in Belgium, with dedicated leagues, tournaments and teams emerging across various gaming titles. The Belgian Esports Federation (BESF) governs the sector, promoting regulation, integrity and professionalisation. Recent trends include increased investment from traditional sports organisations into esports teams, and partnerships between esports entities and Belgian football clubs. Notable deals include sponsorship agreements between esports teams and major Belgian brands.

10. NFTs, AI and the Metaverse

10.1 Non-Fungible Tokens (NFTs)

NFTs are increasingly used by Belgian sports organisations for digital collectibles, fan engagement and ticketing solutions. Clubs and athletes have launched NFT-based merchandise and exclusive content, though legal uncertainties remain regarding consumer rights and intellectual property protection.

10.2 AI

Artificial intelligence is used in Belgian sports for performance analysis, injury prevention and fan engagement. AI-driven scouting systems are widely adopted in football to assess player potential. However, regulatory concerns exist regarding data privacy and algorithmic bias.

10.3 The Metaverse

Belgian sports organisations are exploring metaverse applications, such as virtual fan experiences and digital stadiums. While still in the early stages, these developments present opportunities for enhanced engagement and revenue generation, though legal and regulatory challenges remain. Belgium's sports industry continues to evolve with new technologies and legal frameworks shaping the future of competition, governance and commercial opportunities.

Trends and Developments

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ATFiELD is a joint undertaking of the sports law and sports tax departments of the leading and independent Belgian law firms ALTIUS and TIBERGHIEN. ATFiELD advises and represents its clients with regard to all legal and tax issues in the sports sector. ATFiELD's clients range from individual athletes to clubs, agencies, federations, owners and sponsors at both the national and international level in all sports.

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YOUR PARTNER IN SPORTS LAW & TAX

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Introduction

Belgium's sports law landscape is evolving rapidly, influenced by legislative changes, high-profile legal cases and regulatory developments. From governance and financial sustainability to data protection and esports, sports law in Belgium is adapting to meet modern challenges. This article explores the latest trends and legal developments shaping the Belgian sports industry.

Governance and Integrity in Belgian Sport

Ensuring transparency and integrity in sports governance remains a key focus. Recent developments highlight increased scrutiny over financial misconduct, match-fixing and corruption.

Match-fixing and betting regulations

The Belgian Gaming Commission has tightened controls over sports betting, including stricter monitoring of betting patterns to detect irregularities. Sports betting is subject to very strict rules. In this regard, the legal age for all forms of gambling in Belgium, including sports betting, has recently been standardised to 21 years. To further safeguard consumers, Belgium has imposed stringent restrictions on gambling advertising: since 1 January 2025, betting companies have been seriously limited in sponsoring sports clubs, with a complete ban on such sponsorships for professional sports clubs to be enforced from 2028. The government is also reviewing legislation to impose harsher penalties on those involved in match-fixing.

Enhanced financial oversight

Since the 2023/2024 season, the Pro League has aligned its financial fair play regulations with UEFA's updated Financial Sustainability Regulations, which replaced the previous Financial Fair Play system. The new regulations, introduced in 2022 through *"Football First"* plan, aim to ensure the financial stability of football clubs and are structured around three main pillars, which become stricter every season.

- No overdue payments rule – clubs must settle all payables to other clubs, employees, social/tax authorities and UEFA by specific deadlines throughout the season.
- Football earnings rule – this rule focuses on the balance between relevant income and expenses to promote financial sustainability. Clubs can have a surplus or deficit but must demonstrate that deficits are within acceptable deviations, covered by equity contributions, over a three-year monitoring period.
- Squad spend ratio – to ensure cost control, clubs' spending on players' and coaches' wages, transfers and agents' fees is limited to a percentage of their revenues.

By adhering to these regulations, the Pro League aims to promote financial discipline and long-term sustainability within Belgian football, aligning with broader European standards.

Likewise, the licence conditions for basketball clubs in the BNXT League will be strengthened as from the 2025/2026 season to further avoid financial instability of clubs.

Good governance and integrity

More sports federations are implementing governance codes to improve accountability and ethical management within Belgian sports organisations. Since 2016, there has been a code for good governance in Flemish sports federations. The code is built around three dimensions, namely transparency, democracy and decent internal control. Sports federations that work on quality principles, including good governance, are also financially rewarded for this. This code provides an overall quality improve-

ment and professionalisation in governance, which is necessary to build a safe sports and integrity policy.

Since 2018, sports federations have been working with the International Centre for Ethics in Sport (ICES) to implement integrity policies and appoint integrity contact points (APIs). In 2021, this policy was further strengthened by a decree requiring all subsidised sports federations to draw up codes of conduct, develop an action protocol and to designate a point of contact for integrity. In addition, federations must have an advisory body that evaluates the integrity policy, have an independent disciplinary system and develop a preventive policy to support athletes and sports clubs in pursuing their own integrity policy.

Legislative Developments in Sports Law and Tax-Related Matters

Belgium has recently implemented several legislative changes affecting sports law and taxation.

Expansion of anti-money laundering (AML) regulations to professional football

In 2020, Belgium extended its AML legislation to include professional football clubs, agents and the Royal Belgian Football Association. This move aimed to address vulnerabilities in the sport due to financial crimes such as money laundering and fraud. The legislation mandates these entities to adopt internal procedures to ensure AML compliance, including risk assessments and customer due diligence. Despite initial implementation challenges, this initiative underscores Belgium's commitment to enhancing financial integrity within professional football.

Adjustments to tax incentives for sportspeople

Recent tax reforms in 2022 have modified the tax benefits available to sports professionals.

- Definition of *"young sportsman"* the maximum age to qualify as *"young sportsman"* has been uniformly set at 23 years (previously 26). A transitional period allowed sportsmen aged 23 to 25 at the time of the change to retain their status until they turn 26. This classification impacts inter alia the applicable tax rate, with young sportspeople taxed at 16.5% on the first bracket of their professional income.
- Wage withholding tax exemption – the exemption for clubs from payment of wage withholding tax has decreased from 80% to 75% in 2022. Additionally, the mandatory spending obligation for training young sportspeople has risen from 50% to 55% of the withholding tax.
- Deductibility of sports agent fees – Belgian tax law allows for the deduction of professional expenses (such as agent fees) for sportspeople (whether employed or self-employed). For clubs, the deductions for payments to sports agents is capped at 3% of the gross annual remuneration over the duration of the employment contract. This measure aims to discourage excessive remuneration to sports agents.
- Supplementary pension scheme – the option for sports professionals to access their supplementary pension from age 35 has been abolished – with a limited transitional measure for existing contracts. Sportspeople are now subject to the same tax provisions as other employees, aligning their pension schemes with general employment standards.
- Social security contributions – Belgian legislation provides for significant reductions on the social security contributions for

sportspeople. Employee contributions are a standard 13.07%, but sportspeople enjoy a 60% reduction, resulting in an effective rate of 5.23%. Employers enjoy a reduction of 65%, decreasing the employer contributions from the standard rate of on average 27% to an effective rate of approximately 8.75%. In 2025, a legislative change is expected that could further decrease the social security burden. According to the coalition agreement, employers' social contributions would be capped at around EUR280,000 gross. At present, it is still uncertain how this general cap would co-exist with the existing reductions.

Mandatory registration for sports agents in the Flemish Region

In 2019, the Flemish government introduced significant amendments to the Decree of 10 December 2010 concerning private employment mediation, specifically targeting the regulation of sports agents. Sports agents who are active in the Flemish region and who represent paid (now or in the future) athletes as employment mediators, must register with the Flemish public administration. In addition to this registration, they must pay a surety of EUR25,000 into a federal government deposit account.

Regarding supplying services for minor athletes, the Decree further provides that the sports agent must meet the following additional conditions: (i) the sports agent does not carry out activities aimed at concluding an agreement to provide services of private employment mediation for sportsmen, if the sportsman concerned has not yet reached the age of 15, and (ii) under no circumstances must the sports agent charge a fee for providing private employment mediation services for a minor sportsman.

Mandatory registrations for sport agents were already in place in relation to the Brussels-Capital and the Walloon Regions.

New CBA regarding holiday pay for paid footballers

In 2023, a new collective bargaining agreement was concluded within the National Joint Committee for Sport concerning the calculation of holiday pay for paid football players.

Data Protection and Technology in Sport

The use of technology in sports has created new legal challenges, particularly concerning data privacy and artificial intelligence (AI).

GDPR compliance and athlete data

Belgian clubs and federations must ensure compliance with the General Data Protection Regulation (GDPR) when collecting and processing athlete data, including biometric and performance analytics.

AI and performance analytics

The increasing use of AI-driven scouting and injury prevention technology has raised legal questions about data ownership and privacy rights.

Broadcasting and digital rights

Streaming services are changing the media rights landscape, prompting new legal frameworks for content distribution.

Athlete Rights and Case Law

Recent legal cases and regulatory changes have reinforced the importance of protecting athlete rights.

Collective bargaining agreements (CBAs)

Professional athletes/coaches are negotiating stronger CBAs to secure better wages and work-

ing conditions. These CBAs also include regulations on contractual stability, work incapacity, agents, club restructurings, etc. Such CBAs can be found in sports such as football and volleyball.

Legal challenges

Several high-profile cases have emerged regarding the sports federations' regulatory framework, contract terminations, player transfers and agents, with Belgian and international arbitration courts as well as Belgian and European state courts intervening in cases involving breach of contract claims. In this regard, reference can be made to the recent cases decided by or still pending before the European Court of Justice (CJEU) such as the Diarra case on FIFA's transfer regulations, the Royal Antwerp case on the RBFA's home-grown player rules and the Seraing case on the res judicata effect of CAS decisions.

Gender equality and women's sports

Belgian sports federations have been actively implementing measures to promote gender equality and enhance women's sports participation. Notable initiatives include the following.

- The Flemish Sports Governance Code – the Flemish Ministry of Sport introduced the *"Code of Good Governance"* for sports federations, which evaluates federations on principles such as the gender balance within their boards.
- Equal pay in hockey – the Royal Belgian Hockey Federation (RBHF) has made significant strides toward pay equity. Starting in 2015, the federation has progressively reduced the pay gap between men's and women's teams, achieving full equalisation in 2023. This commitment contributed to the women's team's historic advancement to the Olympic semifinals.
- Support for women in sports leadership – Belgium participates in programmes like the Global Sports Mentoring Program, which empowers women leaders in sports. For example, Caroline Lembe, a Belgian boxing advocate, utilised this platform to promote women's physical and mental health through boxing.

Conclusion

Belgian sports law is experiencing rapid changes driven by governance reforms, financial regulation, technology advancements and athlete rights' protections. As the industry continues to grow, legal practitioners and stakeholders must remain vigilant in navigating these evolving legal landscapes. With new legislative initiatives and emerging legal challenges, Belgium is positioning itself as a leader in European sports law, ensuring a fair, transparent and sustainable sporting environment.

CANADA

Trends and Developments

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Soublière Sport Law is a one-woman boutique business focusing solely on providing legal consultation to international and national clients on matters related to sport law, be it in integrity, safeguarding, anti-corruption, discipline, eligibility, contracts, employment and collective bargaining, human rights, governance, regulations and anti-doping. Over the years, SSL has provided services or advised various international clients and legal firms in Canada, the US, Europe, Australia and South America. Janie has provided dispute resolution services for over 15 years and as Chartered Arbitrator (C.Arb) continues to serve a variety of arbitration panels including the Court of Arbitration for Sport, the Tennis Integrity Agency's anti-corruption Panel, Zwift Esports, Ultimate Fighting Championships, and the Sport Dispute Resolution Centre of Canada. Lead by an experienced trained and trauma-informed investigator, Soublière Sport Law also provides investigative services in relation to all types of sport-related misconduct allegations in French, English and Spanish.

Author

Janie Soublière is an attorney-at-law and the principal of Soublière Sport Law providing consultancy in sport law since 2002. A chartered arbitrator, she sits on various sport dispute resolution panels, including the Court of Arbitration for Sport (General and Football Lists). Her sports arbitration experience is significant, having penned over 300 awards. Janie is also an experienced, trained trauma-informed investigator actively sought out to conduct investigations into sport-related misconduct allegations. She competed in NCAA Div 1 Tennis, regularly guest lectures for international sport law programmes and is an executive board member of the Canadian Ski Hall of Fame.

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SSL
SOUBLIÈRE SPORT LAW

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Introduction

The Canadian sport law sector continues to provide diverse opportunities for legal practitioners of varying expertise and specialties, be it by assisting local, amateur or professional sports teams and regional or national sports associations; by drafting rules and contracts, overseeing day-to-day legal matters and representing athletes and coaching staff at all levels; by negotiating contracts related to anything from employment and sponsorship to image rights and broadcasting rights; by assisting sporting venue and event organisation with risk management and all the legal intricacies related to event planning; or by advocating or adjudicating sport dispute resolution of all kinds, be it before the Sport Dispute Resolution Centre of Canada (SDRCC), civil or criminal courts and any professional league or club arbitration and grievance processes.

Amateur Sport – General Trends

Under the Canadian Constitution, the responsibility for amateur sport is shared between the federal government and each province and territory's government.

With regards to amateur sport, at the core of sport law in Canada are the various sports' national sporting organisations, which run their sport in accordance with the rules of the relevant international federation. Inevitably, regulations need to be drafted, including team selection and athlete funding criteria, competition rules, eligibility criteria, anti-doping rules, safeguarding policies, disciplinary rules, anti-corruption and prevention of match manipulation codes of conduct, etc. Legal experts must undertake such regulatory drafting, as well as argue any disputes that can arise out of the same.

The Canadian Olympic and Paralympic Committees govern all sports in their respective olympic programmes and similarly will require a wide range of regulations to be drafted, implemented and overseen. This will also include sponsorship and marketing, privacy and IP rights, eligibility and classification among others.

Sport organisations in Canada are generally defined as any organisation that is:

- the governing body for a specific sport or discipline at the national level or for its association of members in any provincial, territorial or regional jurisdiction, as recognised from time to time by Sport Canada or the SDRCC;
- a multisport service organisation at the national level or in any provincial, territorial or regional jurisdiction in Canada, as recognised from time to time by Sport Canada or the SDRCC; or
- a Canadian Sport Institute or Centre receiving funding from Sport Canada.

Canadian Arbitration and Dispute Resolution in Amateur Sport

Disputes necessarily arise during the administration of national level sport in Canada. While some sporting disputes inevitably still get resolved through civil courts, and sometimes criminal proceedings, the SDRCC established pursuant to Subsection 9(1) of the Federal Physical Activity and Sport Act (Bill C-12 and assented to on 19 March 2003), is responsible for providing to the Canadian sport community a national alternative dispute resolution service for sport disputes. To this end, the SDRCC establishes and maintains a list of arbitrators who possess recognised competence regarding sport and alternative dispute resolution procedures and have the requisite experience in conducting such matters.

The SDRCC operates four different Tribunals.

- Ordinary, which mostly deals with selection and carding cases – meaning athletes who dispute their non-selection to a specific team and athletes who dispute their non-funding from the Athlete Assistance Program of the Government of Canada.
- Doping, which deals with disputes between the Canadian Centre for Ethics in Sport (CCES) and athletes or other persons bound by the Canadian Anti-Doping Program (CADP).
- Safeguarding, which for the most part deals with alleged violations of the Universal Code of Conduct to Prevent and Address Maltreatment in Sport (UCCMS).
- Appeals, restricted to appeals brought under the CADP and UCCMS.

The most common disputes referred to the SDRCC involve selection cases, carding cases, discipline, anti-doping and more recently safe sport cases. Each of these cases has its unique features, and each dispute will have to be decided on a case-by-case assessment, taking account of all pertinent factual, regulatory and legal circumstances. A significant body of case law has evolved over the years in all these types of cases. All SDRCC decisions are posted on its website.

Developing Trends

In the 2024 Canada Trends & Developments chapter in this guide, three developing trends were underlined, which stood out as being most impactful. These three trends certainly continue to impact all sport law practitioners in Canada: the growth of women's professional team sports; safeguarding; and competition manipulation and sport gambling.

This year, three other trends are noted that are believed to be of significant impact to sport law in Canada:

- professional sport;
- changes to the Canadian Safe Sport mechanism; and
- increased attention to sport integrity-culture-governance.

Professional Sport – With Special Attention to the Canadian Premiere League

Canada runs its own American Football League – called the Canadian Football League (CFL), has seven teams competing in the National Hockey League (NHL); one team competing respectively in the National Basketball Association (NBA), in Major League Baseball (MLB), and Women's National Basketball Association (WNBA); three men's teams competing in Major League Soccer (MLS); three teams in the Women's MLS; three teams competing in the quickly expanding Professional Women's Hockey League (PWHL); and eight teams competing the Men's Canadian Premier Soccer League (CPL). In April 2025, play will also start for the newly established Women's soccer Northern Super League (NSL).

There are of course countless legal considerations linked to professional sport related to the administration and operations of each of these professional leagues, their athletes' careers, their coaching staff, their funding, their owners, the rules of the governing league and of course their collective bargaining agreements to name the most obvious. As stated above, there is a lot of work being done by various lawyers throughout Canada with regards to contract negotiations, sponsorship and broadcasting rights, IP, image rights and privacy issues, marketing, risk management, regulation, discipline, training

compensation and revenue redistribution, etc, in relation to each of these professional sports.

Without totally reiterating what was said last year, there is little doubt that the growth of women's professional team sports in North America, and notably of the Women's Professional Hockey and Soccer Leagues in Canada continue to have tremendous impact in Canadian sport law. The sustained growth of women's professional team sports in Canada creates new revenue streams and has escalated the need for regulation, marketing, sponsorship rights, broadcasting rights, image rights, agency rules, and the like. Whilst not currently being dealt with predominantly by Canadian lawyers, the persisting emergence of this market continues to create opportunities for sport law lawyers in Canada.

Based on recent experience, the sustained growth of Men's Professional Soccer in Canada, and the many repercussions linked to this growth, can be highlighted as a current trend and development.

The Canadian Premier League (CPL) continues to grow and attract quality football (soccer) players from all corners of the world. This inevitably brings a variety of opportunities and legal challenges for Canadian lawyers, notably from an employment-law perspective. The updates brought to the FIFA Regulations on the Status and Transfer of Players (RSTP) further to and alongside the worldwide impact and ramification of the European Court of Justice's Diarra judgement (Lassana Diarra and FIFPRO v FIFA and URBSFA Case C-650/22) which will impact player transfers worldwide, are surely to have some impact on foreign nationals playing in Canada, even if in the case of the former the impact will be indirect. Current employment laws vary by province and territory, have not been drafted with the interest of professional footballers in mind, and are not more favourable per se to players than applicable Federation Internationale de Football Association (FIFA) regulations. In addition, and more importantly, the CPL has not yet concluded a first collective bargaining agreement with the PFA: Professional Footballers Association Canada | AFP Association des footballeuses et footballeurs professionnels Canada. Due to these factors, it will be interesting to see how various contractual issues involving foreign nationals who wish to be transferred to other international clubs whilst playing for Canadian Provincial clubs will unravel and be resolved, be it by way of the CPL Commissioner, the Canada Soccer Association dispute resolution mechanism, civil courts or (most likely) that of FIFA. Will the obligation to pay compensation for breach of contract as well as the imposition of sporting sanctions remain in force in accordance with the RSTP in such cases? Will the anticipated PFA Collective Bargaining Agreement resolve some or all potential legal issues related to terminating contracts for just cause?

FIFA's proposed interim changes to the RSTP transfer rules will certainly have an impact on CPL players. The conclusion of a first Collective Bargaining Agreement will also be instrumental in reducing legal challenges within this presently murky and grey area. This is a remarkably interesting development worth following in Canada.

Upcoming Changes to Canada's SafeSport Mechanism

The UCCMS

The Universal Code of Conduct to Prevent and Address Maltreatment in Sport (UCCMS) is the core document that sets harmonised rules to be adopted by sport organisations that receive funding from the government of Canada to advance a respectful sport culture that delivers

quality, inclusive, accessible, welcoming and safe sport experiences.

The UCCMS addresses:

- common principles and a commitment to advance a respectful sport culture;
- standard definitions of various forms of maltreatment, including grooming, neglect, and physical, sexual and psychological abuse;
- a list of other prohibited behaviour such as retaliation, failure to report maltreatment, intentionally filing false allegations, misuse of power, etc; and
- a framework for determining appropriate sanctions against such prohibited behaviour.

All organisations that receive Sport Canada funding are subject to the UCCMS.

The Future of Sport in Canada Commission

Shocking revelations by victims, survivors and advocates over the last few years has brought to light systemic maltreatment that occurs at all levels and contexts of sport in Canada. These revelations have compelled an important examination of sporting life and culture in the country. To this end, on 28 November 2024, the government of Canada announced the creation of the Future of Sport in Canada Commission.

According to its own government webpage, the Commission's aim is to review the Canadian sport system and make recommendations on concrete and effective actions with respect to:

- improving safe sport in Canada, including trauma-informed approaches to support sport participants in the disclosure of and healing from maltreatment; and
- improving the sport system in Canada, including but not limited to policy, funding structures, governance, reporting, accountability, conflicts of interest, systems alignment, culture and legal considerations.

The federal government's three-person commission was appointed and has begun its work to investigate systemic abuse and human rights violations in Canadian sport.

The goal is for a preliminary and final report to be issued with recommendations on governance, funding and policy aimed at changing the culture in sport.

The Canadian Centre for Ethics in Sport (CCES) to replace the OSIC

On 2 May 2024, the Honourable Carla Qualtrough, Minister of Sport and Physical Activity, provided an update on the Office of the Sport Integrity Commissioner and the Abuse-Free Sport Program.

The Office of the Sport Integrity Commissioner (OSIC) had previously been responsible for administering the UCCMS by among others (of legal importance):

- overseeing a complaint intake process;
- conducting preliminary assessments and commissioning independent investigations, when warranted;
- maintaining a database of imposed sanctions; and
- monitoring compliance by sporting organisations, and issuing reports into its findings, as required.

As of 1 April 2025, the administration of the UCCMS will move from the SDRCC to the CCES, which will effectively take on this role.

Draft Canadian Safe Sport Program (CSSP) Rules were circulated to the Canadian sport community for comment in the fall of 2024. Following several rounds of extensive consultation with experts and the sport community, the CCES has now published the final version of the CSSP, which recognises the CCES as the organisational body mandated to independently administer and enforce the UCCMS for national level sport participants within federally funded national and multi-sport organisations. The CSSP also establishes the procedural rules by which the CCES will carry out this mandate.

All federally funded, national-level sport organisations are required to adopt the CSSP as a valid policy document that must be incorporated into the organisation's rules to ensure that this iteration of the Safe Sport Program meets the expectations and needs of all stakeholders.

Integrity, Culture and Governance

Integrity, culture and governance are catch words that are at the forefront of sport globally. National and international sporting organisations, federations, associations and bodies are, rightly, under increased scrutiny to ensure that in theory and in practice the way they govern, operate, handle their books and treat their staff, athletes and all stakeholders meets ethical, moral and integrity standards far greater than those of the past.

Soccer Canada has been under the proverbial gun for the last few years in this regard. From safe sport issues, to board, management and *"toxic workplace"* problems, culture crises and coaching scandals that reverberated at a global level (aka *"drone gate"*), Soccer Canada has experienced difficult times.

Various investigations and reports were commissioned and a general overhaul of how things used to be done has been successfully completed by way of drastic leadership, administrative and coaching shake-ups. Soccer Canada has recently stated that is has *"introduced reforms and should no longer be defined by the actions of individuals that are no longer involved with it"*.

If only it was that simple to step out of the shadows of public scrutiny! Still, Soccer Canada is neither alone nor the first organisation to deal with such scandals. Similar scandals have affected other sports in Canada (ice hockey to name the most-high profile among others). Much work has since been done by all Canadian organisations which have been subject to scrutiny to right the wrongs of the past, including new leadership and governance and an overhaul of rules, regulations and documented processes as well as oversight of their effective implementation.

As reported in the Globe and Mail (on 23 November 2024) Soccer Canada, like other beleaguered Canadian sport organisations which faced similar scandals in the past, has promised an iteration of *"commitment to excellence integrity and transparency and accountability in every area of operations and governance to continue to renew the public trust"*. It is off to a good start, and for the love of the sport and the millions of Canadian athletes who play it at all levels, one can only trust that it will continue this positive trajectory.

Canada Soccer's commitment to turn things around is a good example of how the growing, if not vital, importance attributed to integrity, accountability and good governance is better serving sport in Canada. Sport lawyers all over Canada therefore need to be aware of this developing trend. There is much work to be done to

assist sports associations, big or small, and professional or amateur with this developing (and arguably long overdue) integrity and good governance movement. It has started with a realisation of the importance of changing culture and mind-set, but it needs to be grounded in sound rules and regulations and legal processes which can be understood, implemented and respected by all.

This is an area to follow closely, not only in Canada, but globally.

Other Trends and Developments to Follow

NCAA Eligibility rule changes to men's and women's ice hockey (and skiing)

The NCAA Division I Council adopted a proposal to change rules for pre-enrolment activities in men ' s ice hockey and skiing. This will enable prospects who participate in Major Junior ice hockey or on professional teams to retain NCAA eligibility so long as they are not paid more than actual and necessary expenses as part of that participation. This rule change will be effective from 1 August 2025.

The new NCAA Eligibility Rules are already significantly impacting Canadian student athletes who wish to attend US colleges. This means that major junior hockey players in Canada are now eligible to strike scholarship deals to play for US college hockey. One can be sure that as soon as the NCAA eligibility rules change was reported, US college programmes began targeting and recruiting elite male and female 20-year-olds from Canadian major junior leagues who will graduate following the 2024-25 season.

All student athletes need to understand that there are certain academic requirements and eligibility rules that they must meet to qualify for enrolment at an NCAA institution. Players and athletes should therefore take the necessary steps to understand these requirements to evaluate potential opportunities including seeking out the services of a lawyer if necessary to assist them understand their rights and responsibilities in this regard.

North America: a soccer/football hotspot

North America, including Canada, is becoming a football (*"soccer"* to Canadians) hotspot.

The MLS, CPL and NSL have gained exponential momentum and greater fan bases, and the FIFA Legal and Compliance Division moved its corporate offices from Zurich to Miami in 2024. In 2026, the biggest football tournament in the world will take place in North America from 11 June to 19 July 2026.

The 2026 FIFA World Cup will be jointly hosted by 16 cities in Canada, Mexico and the United States. These countries are all part of the Confederation of North, Central America, and Caribbean Association Football (widely known as CONCACAF) which is one of FIFA's six continental governing bodies.

There are numerous reasons for football fans to be excited about the World Cup coming to North America. Notably, it will be the first FIFA World Cup to use a 48-team format, expanded from 32. This means more teams and more games... and more drama!

From broadcasting rights and sponsorship deals to risk management and security, there will be no shortage of legal issues arising out of Canada's co-hosting duties at the highly anticipated 2026 World Cup. Sports lawyers are sure to have their hands full.

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If that was not enough – 2025 Club World Cup in the United States is shaping up not only to be a warmup for the FIFA World Cup a year later, but also one of the most highly anticipated football events of the current four-year cycle. Changing it from a barely known and visible team tournament, FIFA has reshuffled the annual club event to a truly global competition including clubs from each of FIFA's confederations. This includes some of the world's most renowned and famous clubs (including Man City, PSG, Bayern Munich, etc) all to make the Club World Cup more visible and more competitive. The goal appears to be to make the Club World Cup trophy as coveted as the World Cup.

Stay tuned – there will surely be more to say on this in the next few years!

DENMARK

Law and Practice

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DAHL Law Firm

Contents

DAHL Law Firm is a business-oriented, full-service law firm based in Copenhagen, with four additional offices across Denmark. The firm's 190 specialists provide legal advice to clients of all sizes, ranging from large corporations and government agencies to small and mid-sized businesses – locally, nationally, and internationally. There is an increasing demand for commercial skills and legal understanding of the sport and media industry's mechanisms. DAHL offers in-depth experience in media, sports, and entertainment law. Key areas of expertise include copyright, trade marks and image rights, employment law, contract law and tax.

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Frederik Bruhn is a lawyer and partner at DAHL Law Firm with over 25 years of experience, specialising in entertainment, IT and tech, and IP-based transactions. He is a certified IT attorney and has extensive expertise in sports and entertainment law. Frederik has become known in Denmark for being the go-to lawyer for matters related to the business of football, and he acts for football clubs, players, agents, coaches and fan groups on legal matters, including in high-profile national and international cases. He also provides legal advice on investments in football and esports and engages in committee work at sports federations. Furthermore, he represents publicly known individuals/celebs on image rights and commercial exploitation, including sponsorship agreements.

Tim Krarup Nielsen is a lawyer and partner at DAHL Law Firm with almost 20 years of experience. He specialises in technology and IT law, focusing on IT acquisitions, outsourcing, GDPR compliance, licensing, and dispute resolution. He also advises on corporate law and commercial negotiations, particularly in the technology sector. With a strong interest in entrepreneurship, he frequently advises start-ups, helping them navigate legal challenges in scaling their businesses. His expertise extends to sports law and data protection, including athlete data rights and sponsorship agreements.

Robert Jønsson is a lawyer and partner at DAHL Law Firm with more than 20 years of experience, advising both Danish and international companies in media production and video games. With extensive industry experience, he provides strategic guidance on investments, publishing, licensing, and commercial agreements. He is a leading legal figure in the Danish gaming industry and a member of the Video Game Bar Association (VGBA.org). Additionally, Robert has deep expertise in AI, robotics, and blockchain, assisting companies in structuring contracts and transactions that integrate emerging technologies in sports, gaming, and entertainment.

Rasmus Theis Madsen is a lawyer at DAHL Law Firm specialising in entertainment law, sports, gaming, and betting regulation, advising on media production, video games, and commercial agreements. He provides legal guidance on investments, publishing, licensing, and regulatory compliance, including betting law. Additionally, he drafts commercial contracts and incentive schemes for employees, ensuring compliance and strategic alignment in these sectors.

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1. Regulatory

1.1 Anti-Doping

Legal Framework and Prohibited Substances

Doping can be a criminal offence in Denmark under the Danish Anti-Doping Act. The act prohibits the manufacture, import, export, distribution, and possession of specific doping substances (eg, anabolic steroids, testosterone, derivatives and growth hormones), unless they are prescribed by a doctor for medical treatment or used for scientific purposes. Violations of these provisions can result in fines or imprisonment for up to two years.

The use of substances prohibited by the World Anti-Doping Agency is strictly regulated within the governance of sports in Denmark. The Danish Anti-Doping Rules, enforced by Anti Doping Denmark in co-operation with the National Olympic Committee and Sports Confederation of Denmark (DIF), apply to all athletes competing at elite and competitive levels across various sports, including football.

Football players and clubs in Denmark must also adhere to FIFA's Anti-Doping Regulations. Additionally, national football regulations, including the Danish Football Association's (DBU) standard player contract, contain provisions mandating compliance with anti-doping rules.

National Anti-Doping Organisation

Anti-Doping Denmark is the designated national authority responsible for implementing the World Anti-Doping Code. Its primary role is to ensure compliance with international and national anti-doping regulations through testing, prevention efforts, and education.

Enforcement and Recent Cases

Disciplinary matters related to doping in Denmark are adjudicated by DIF's Doping Tribunal. Athletes or clubs may appeal tribunal decisions to DIF's Board of Appeal, which serves as the highest judicial authority within the Danish sports system. Further appeals may be brought before the Court of Arbitration for Sport (CAS).

Denmark has seen very few doping cases in professional football. One notable case occurred in 2009, when a Danish football player received a six-month ban from all football activities following a ruling by CAS due to the use of asthma medication.

1.2 Integrity

Legal Framework and Regulatory Measures

In Denmark, the regulation of match-fixing and related integrity issues falls under the jurisdiction of the National Olympic Committee and Sports Confederation of Denmark (DIF). DIF has established the *"Regulations on the Prohibition of the Manipulation of Sports Competitions and Similar Unethical Conduct"*, which aim to protect the integrity of sports by preventing, addressing, and sanctioning match-fixing and other forms of unethical conduct. These regulations apply to all sports under DIF's governance.

Athletes found guilty of match-fixing can face severe sanctions, including exclusion from all organised sports activities in Denmark.

Football-Specific Regulations

In addition to DIF's general regulations, the Danish Football Association (DBU) introduced *"Circular No. 86"* in 2014 to further regulate match-fixing in football. This circular was implemented in response to UEFA's integrity requirements and serves as a supplement to Sections 7 and 27 of DIF's regulations. It sets out specific obligations

for players, coaches, and officials regarding the prevention of match-fixing, including mandatory reporting and co-operation with investigations.

Enforcement and Recent Cases

Cases of match-fixing in Danish sports are handled by DIF's integrity bodies, which have the authority to impose sanctions ranging from fines to lifetime bans from participation in organised sports.

While Denmark has not experienced widespread match-fixing scandals in recent years, the regulatory framework ensures continuous monitoring and enforcement efforts to uphold the integrity of sports competitions.

1.3 Betting

Legal Framework and Regulation

The Danish Gambling Act has been adopted to protect individuals by ensuring that gambling is provided in a fair, responsible and transparent manner. For example, providers of gambling services require a licence to organise games where participation in the games is subject to the payment of a stake. Such licences may be granted by the Danish Gambling Authority, provided the specified conditions are met.

Betting is subject to compliance with the Gambling Act in Denmark, but sports governing bodies have adopted strict regulations to prevent conflicts of interest and protect the integrity of the sports and the competitions. DIF oversees betting restrictions under its *"Regulations on the Prohibition of the Manipulation of Sports Competitions and Similar Unethical Conduct"*. These rules, in general, prohibit individuals involved in sports from placing bets that could compromise the fairness and integrity of the competitions.

Football-Specific Betting Regulations

In football, the DBU introduced *"Circular No. 86"* in 2014 to address betting-related concerns in line with UEFA's integrity requirements. This circular supplements DIF's regulations and applies to players, coaches, referees, club employees, and player agents.

Under these rules, individuals contemplated by the regulations are prohibited from:

- betting on competitions or tournaments in which they are directly or indirectly involved, including betting on their own team to win; and
- abusing insider information by sharing details that could be exploited for betting purposes.

Football players and other individuals contemplated by the regulation are allowed to place bets on foreign leagues, such as the English Premier League or German Bundesliga, as long as they do not have a direct or indirect connection to the competition. Betting on Danish football matches is also permitted for a football player, provided the football player is not involved in the relevant tournament.

Enforcement and Notable Cases

Betting-related suspensions in Danish football are relatively rare. However, in 2013, a Danish football player was suspended for six months and fined by the DBU Disciplinary Body for betting on his own matches. An additional six-month suspension was later imposed as a supplementary sanction.

To ensure compliance, DBU and DIF collaborate with international organisations such as UEFA and FIFA, as well as betting operators, to monitor irregular betting patterns and uphold the integrity of Danish football.

1.4 Disciplinary Proceedings

Disciplinary Proceedings in Danish Sports

Sports governing bodies in Denmark enforce disciplinary regulations covering anti-doping, betting, and other integrity-related offences, as well as on-field misconduct. Athletes and other relevant individuals provide their contractual agreement to these regulations as a condition of participation in their respective sports.

Each sports federation under DIF must establish a disciplinary committee to handle breaches of its regulations. In football, this body is known as the DBU Disciplinary Body. The DBU Disciplinary Body handles cases where there is a possible violation of the football regulations issued by either the DBU, the Danish League or FIFA. The DBU Disciplinary Body also handles protests from clubs regarding cards awarded, incorrect application of the football regulations or other matters based on the football regulations.

Decisions from these committees can be appealed to DIF's Board of Appeal, which serves as the highest judicial authority within DIF-governed sports.

Additionally, DIF has established specialised tribunals for cases concerning match-fixing, doping, and exclusion from sports, which may also be appealed to the DIF's Board of Appeal.

On-Field v Off-Field Offences

A distinction is made between disciplinary proceedings for on-field and off-field offences in Denmark:

- On-Field Offences: Sports organisations generally have broad discretion to resolve these matters quickly without external intervention. Sanctions, such as suspensions or fines, are typically imposed by a federation's disciplinary committee.
- Off-Field Offences: More complex integrity issues, including doping and betting violations, require thorough investigations and longer procedural timelines. These cases are adjudicated by the relevant disciplinary bodies and may be appealed to DIF's Board of Appeal or, in some cases, the Court of Arbitration for Sport (CAS).

Interaction with Ordinary Courts

Although sports governing bodies aim to resolve disputes internally, certain cases may also be subject to review by the ordinary courts. A notable example occurred in 2019 when a Danish ice hockey player was suspended for 17 games by the Danish Ice Hockey Union's Disciplinary Committee for violent conduct during a match. Due to the severity of the incident, a criminal complaint was also submitted in this matter, and the player received a 20-day (suspended) prison sentence from the ordinary courts for violence.

International Sports Regulation

Danish football is also subject to UEFA's regulatory framework, as outlined in Article 32 of UEFA's statutes. UEFA's dispute resolution system includes a specialised tribunal, the Club Financial Control Body, which enforces financial regulations for clubs participating in European competitions. Sanctions for financial breaches can include fines, warnings, or exclusion from UEFA tournaments.

At the international level, the Court of Arbitration for Sport (CAS) serves as the ultimate arbitral tribunal for sports-related disputes. CAS handles both civil and disciplinary cases, including appeals against sanctions imposed by sports governing bodies.

2. Commercial Rights

2.1 Available Sports-Related Rights

Various commercial rights apply within the Danish sports industry. These include merchandising, ticket sales and hospitality packages (whereas the latter may not be considered a legal right).

Merchandising

Rights-holders, such as sports teams and federations, seek to capitalise on their brand equity through the sale of branded merchandise. Typically, these rights are commercialised via licensing agreements, allowing licensees or sub-licensees to design, manufacture, and sell products incorporating the rights-holder's intellectual property. In exchange, the rights-holder receives licensing fees and royalties based on sales. Trade mark law, the Danish Marketing Practices Act and contractual enforcement play a key role in preventing unauthorised use of team logos, player likenesses, and counterfeit merchandise.

The value and enforceability of merchandising rights has been confirmed through various case law in Denmark. For instance, in the so-called Leo Vegas case, the High Court found that the unauthorised commercial use of red-and-white jerseys resembling the Danish national team's kit constituted a violation of the Danish Marketing Practices Act.

Ticket Sales

Selling tickets to live events remains a key revenue stream for sports organisations in Denmark. Clubs and event organisers sell tickets directly to consumers through official platforms, and revenue from ticket sales can be particularly significant for teams that do not benefit from substantial broadcasting income. The impact of the COVID-19 pandemic demonstrated the financial importance of matchday revenue, as restrictions on fan attendance led to considerable losses for clubs and federations.

Secondary Ticketing Platforms

The resale of tickets on secondary markets in Denmark is governed by the *"Act on the Resale of Tickets for Cultural and Sports Events"*, according to which it is illegal to resell tickets for a higher price than the original purchase price unless an agreement with the event organiser is entered into. The act allows for the use of certain administrative fees in the resale price, but it explicitly prohibits profit-driven resale.

To combat illegal ticket scalping, event organisers monitor online resale platforms and enforce contractual restrictions to limit unauthorised transactions. Some sports organisations also implement personalised ticketing systems to track sales and prevent illicit resales. While the Danish act does not ban secondary ticket sales outright, it ensures transparency and protects consumers from excessive markups.

Hospitality

Hospitality packages represent a growing revenue stream for Danish sports venues, offering premium experiences such as VIP seating, exclusive lounge access, fine dining, and meet-and-greet opportunities with players. More and more stadiums and arenas have incorporated hospitality facilities to generate additional income and provide high-end experiences for corporate clients and sponsors. There have even been instances where third parties have attempted to exploit hospitality areas by charging fees for access. This may be a breach of the Danish Marketing Practices Act.

2.2 Sponsorship

Commercial Use of Sponsorship in Danish Sports

Sponsorship plays a significant role in the Danish sports industry, with brands seeking to associate with athletes, clubs, and federations to enhance visibility and market their products. Apparel and sportswear companies such as Nike, Adidas, and Puma actively engage in sponsorship deals to ensure that high-profile athletes use their products. Sponsorship agreements are also prevalent in football, where clubs enter into significant financial partnerships, including deals with betting companies, technology firms, and financial institutions.

Conversely, sports rights-holders seek to attract sponsorship investments by offering exclusivity, branding and networking opportunities, and marketing rights. Sponsorship agreements may include naming rights for stadiums, branding on team jerseys, advertising placements at events and access to player and other commercial rights. The financial growth of Danish sports is largely driven by major brands wishing to secure exclusive sponsorship rights.

Key Terms of Sponsorship Agreements

A sponsorship agreement should clearly define the rights and obligations of both the sponsor and the sponsored party (typically an athlete or club). In addition to standard contractual provisions, sponsorship agreements in Denmark must regulate the following:

- limitations on the sponsor's rights due to legal restrictions or other conditions, such as tournament participation rules;
- VAT and tax considerations, as certain aspects of sponsorship agreements may be eligible for tax deductions; and
- morality clauses.

Morality Clauses

With the rise of social media, morality clauses have become increasingly important in sponsorship agreements. Traditionally, these clauses allow sponsors to terminate agreements if the sponsored athlete or club engages in conduct that may damage the sponsor's reputation.

Conflicting Sponsorship Agreements

Sponsorship agreements must take into consideration potential conflicts at different levels:

- Federations v Clubs: Federations generally hold primary sponsorship rights for tournaments, which clubs must respect. Violations, such as conflicting jersey sponsorships in DBU competitions, can lead to sanctions.
- Clubs v Players: Athletes often have personal sponsorship deals that may conflict with their club's commercial agreements. Such conflicts are typically managed contractually, including in DBU's standard contract and the Football Collective Agreement.
- Federations v Players: National team sponsorships can conflict with individual player endorsements. A notable Danish example occurred once where top badminton players' sponsorship deals with Kjeldsens Butter Cookies conflicted with the federation's agreement with Danisa, which also produces cakes, leading to their temporary exclusion from the national team.

To mitigate such conflicts, the DBU and the Players' Association entered into an agreement regarding exploitation of commercial rights regulating personal and team sponsorship obligations. The agreement was renewed before the 2024 European Championship and sets out sponsorship revenue-sharing arrangements and limitations on the players' individual endorsements conflicting with DBU's partners.

2.3 Broadcasting

Economic Significance of Sports Broadcasting

Broadcasting rights play a crucial role in the commercial success of sports, with television networks and streaming platforms investing heavily in securing exclusive rights to major events. The rise of digital platforms and increased accessibility of live sports coverage have significantly expanded audience engagement, driving up the value of broadcasting rights.

Broadcasters generate revenue primarily through subscription fees, pay-per-view models, and advertising. The demand for premium sports content has led to fierce competition among broadcasters, particularly for high-profile events such as the Danish Superliga and international football tournaments. Sports federations and clubs benefit from this demand, as broadcasting rights revenue is often a significant part of their overall financial model.

Packaging and Commercialisation of Broadcasting Rights

Sports rights-holders in Denmark traditionally package broadcasting rights to maximise value and attract broadcaster investment. Rights are typically sold through competitive tender processes, with packages structured to offer exclusivity for premium content while maintaining accessibility through free-to-air sublicensing.

Exclusive rights remain a key driver of broadcaster competition, ensuring that subscribers are drawn to a particular service. For example, the Danish Superliga's broadcasting rights have been sold in structured agreements covering multiple seasons, ensuring stable revenue for clubs while allowing broadcasters to plan long-term content strategies.

Regulation of Sports Broadcasting

Despite its commercial nature, sports broadcasting is also considered a matter of public interest. The Audiovisual Media Services Directive (*"AVMS Directive"*) provides EU member states with the authority to ensure that major events remain accessible to the public.

In Denmark, this is reflected in the Danish Radio and Television Broadcasting Act, which empowers the Minister of Culture to prevent exclusive broadcasting rights from restricting public access to significant events. However, this provision is currently inactive following the repeal of the ministerial order that previously enforced it.

Furthermore, under the act, broadcasters holding exclusive rights to events of significant public interest must allow other European Economic Area (EEA) broadcasters to use short excerpts. This implementation of Article 15 of the AVMS Directive ensures that highlights from exclusive broadcasts remain accessible to the wider public.

Intellectual Property and Signal Rights

Broadcasting rights are separately protected by the Danish Copyright Act, which grants special protection to broadcasting signals. This ensures that unauthorised public screenings, such as those in commercial venues, require explicit permission from the broadcaster.

Beyond this separate signal protection, television broadcasts may qualify for general copyright protection under the Danish Copyright Act if they meet the required originality threshold as cinematographic works. However, broadcasting rights must also be considered in conjunction with event rights, requiring television providers to obtain consent from event organisers before distributing content to third parties.

3. Sports Events

3.1 Relationships

Proprietary Rights and Event Protection

The legal protection of sports events in Denmark is based on general legal principles rather than specific statutory provisions. The Danish Supreme Court has established that event organisers can restrict others from commercial exploitation of their events, particularly in controlled environments such as stadiums. The ruling emphasised that football matches are private events, allowing the organiser (club or club associations) to restrict and regulate access and the dissemination of match-related information, such as live scores.

The scope of the event protection has been further defined in the so-called Bold.dk case, where it is stated that once match information has been lawfully public, the event organiser cannot prevent third parties from further disseminating it.

Control Over Event Rights

Sports event organisers control rights primarily through:

- Access Regulation: Organisers control venue entry and can impose conditions on ticket holders, media, and commercial partners.
- Broadcasting and Media Rights: Exclusive broadcasting agreements allow rights-holders to commercialise event coverage while limiting unauthorised use of footage.
- Sponsorship and Advertising Restrictions: Federations impose regulations on branding, advertising, and promotional activities to protect commercial agreements.

A notable example of strict enforcement occurred in 2012 when Danish footballer Nicklas Bendtner was fined EUR100,000 and suspended for displaying unauthorised branding on his underwear during a UEFA European Championship match.

Organisation and Management of Sports Events

Sports events in Denmark are typically governed by national federations under the National Olympic Committee and DIF. Federations have regulatory authority to organise tournaments, set participation rules, and enforce commercial policies. Clubs are responsible for staging individual matches but must comply with federation-imposed regulations.

In Danish football, the Superligaen A/S-model sets out a shared ownership of commercial rights, where clubs collectively manage the commercial aspects of the Danish Superliga.

Limitations on Commercial Exploitation

Federations impose strict regulations on how clubs and athletes can monetise sports events. For example:

- The Danish Handball Federation regulates advertising on player kits through its Liga Regulations.
- The DBU enforces sponsorship rules via its sponsorship circular in Danish football.
- UEFA retains all commercial rights for tournaments such as the Champions League and the European Championship, limiting club and national team branding opportunities.

A key issue in sports event commercialisation is the redistribution of broadcasting and sponsorship revenue. While UEFA retains control over Champions League advertising rights, participating clubs receive financial compensation through participation fees and performance-based bonuses.

3.2 Liability

Duty of Care for Sports Event Organisers

Sports event organisers in Denmark are subject to a strict duty of care similar to that of property owners, as they exercise control over the venue and the safety of participants and spectators. Organisers are required to take necessary precautions to prevent injuries and provide proper instructions to ensure safety.

The general culpa principle under Danish tort law also applies to event organisers – ie, if an organiser fails to take reasonable precautions and an injury occurs, the organiser can be held liable. However, if sufficient safety measures have been implemented and communicated, organisers are typically not liable for accidents that occur during the event.

Limitation and Exclusion of Liability

Organisers often limit liability through disclaimers in ticketing terms and participation agreements. However, under Danish law, liability for gross negligence or wilful misconduct cannot be excluded. Liability waivers for participants in high-risk sports, such as extreme sports or contact sports, may be upheld if they clearly inform participants of inherent dangers. Courts may, however, assess such waivers restrictively, particularly if safety instructions were inadequate.

Additionally, the Danish Consumer Contracts Act restricts unfair liability exclusions in consumer agreements, meaning that ticket holders and spectators cannot be deprived of fundamental legal protections.

Safety Measures Against Violence and Disorder

To prevent violence and disorder at sporting events, Danish law imposes strict security regulations on event organisers, including:

- Crowd Control and Stadium Safety: Organisers must comply with the Danish Building Act, the Danish Act on Safety at Certain Sporting Events and local municipal safety permits, ensuring proper exits, crowd management, and emergency preparedness.
- Hooliganism Prevention: Authorities maintain a national database of banned spectators, preventing access for individuals involved in previous disturbances. Clubs can be sanctioned under the DBU's disciplinary rules for fan misconduct, including failure to prevent or address discriminatory or racist chants, leading to fines or other liabilities.
- Alcohol and Pyrotechnics Restrictions: The use of flares and fireworks is strictly regulated, and violations can result in criminal prosecution and stadium bans.
- Law Enforcement and Private Security: The Danish Police Act grants law enforcement the authority to intervene in stadium security, while clubs and event organisers must provide trained stewards to handle crowd control.

4. Corporate

4.1 Legal Sporting Structures

The corporate structures of sports organisations vary depending on their level of professionalism, commercial focus, and governance model. While professional sports clubs increasingly operate as public limited companies (A/S), many non-professional clubs remain structured as associations.

Professional Sports Clubs

Most top-tier professional football clubs in Denmark operate under the public limited company (A/S) structure, allowing for external investment and commercial decision-making.

The club licence, which enables the club to enter into professional player contracts, is issued by the DBU to the mother club – ie, the association. The association often owns a part of the professional football company (but it is not a legal requirement) and the association grants the club licence to the professional company, whereby the latter can operate its business. Thus, the corporate structure now generally applied makes it possible for a potential investor to achieve a controlling interest in the club making it possible to carry out the necessary decisions in the club.

Danish clubs in general are today structured as professional enterprises aiming to make profit.

Non-Professional Sports Clubs and Grassroots Organisations

Amateur and semi-professional sports clubs in Denmark are typically structured as associations, which are non-profit organisations controlled by their members. This structure ensures that profits are reinvested into the club rather than distributed to shareholders. Associations benefit from favourable tax treatment and access to public funding and grants, making this model suitable for grassroots sports and community engagement.

4.2 Corporate Governance

Corporate governance rules in sports ensure financial transparency and prevent conflicts of interest. In Danish football, specific regulations govern ownership, compliance, and multiple club control.

International Rules

Danish football clubs must adhere to corporate governance regulations set out by FIFA and UEFA, ensuring compliance with international football governance standards. One key restriction is UEFA's multiple club ownership rule (Article 5 of UEFA's competition regulations), which prohibits an owner from holding controlling interests in multiple clubs participating in the same European tournament.

Domestic Corporate Governance Rules

In Denmark, the Danish League's *"Circular No. 42"* (the *"Circular"*) regulates ownership and governance in professional football clubs competing in the Superliga and lower divisions. This regulation ensures transparency in club ownership and prevents financial misconduct or conflicts of interest.

Under the Circular, any transfer of a significant influence (defined as one-third of voting rights) in a club requires prior approval from the Danish League before the club can obtain the contract licence (ie, the licence to enter into player contracts). Until the licence is granted, the club cannot enter into new player contracts.

To secure approval clubs must submit documentation to the Danish League detailing:

- the corporate structure of the new owner;
- the new owner's other business interests and affiliations; and
- a statutory declaration confirming compliance with relevant collective agreements and football regulatory frameworks.

Suitability Criteria for Ownership Approval

According to the Circular, the Danish League will refuse to issue the contract licence if the prospective owner or ultimate beneficial owner does meet certain criteria regarding reputation and commercial requirements.

Restrictions on Multiple Club Ownership

The Circular also prohibits clubs from being owned by the same corporate group or under

common control with another club in the competition as further specified in the Circular. Violations of these ownership restrictions may, among other things, result in a revocation of the club licence, effectively barring the club from operating as a professional football business.

4.3 Funding of Sport

In Denmark, the funding of sports varies depending on the discipline, with football standing out as the most commercially driven and financially demanding sport.

Over the past six years, the financial position of Danish Superliga clubs has improved significantly, driven by major player transfers, increasing sponsorship revenue, and a substantial rise in attendance. In the financial year of 2023 the clubs, FC Copenhagen, FC Midtjylland, Silkeborg, AGF, FC Nordsjælland, Viborg, and Randers, jointly generated a profit of EUR100 million (approximately DKK747 million).

The business model for the majority of Danish football clubs is to a wide extent based on the principle of talent development and the sale of talented players before they reach the peak of their footballing ability, with the sole purpose of cashing in on the player.

4.4 Recent Deals/Trends

Within the last five years, there has been an increasingly strong interest from international investors targeting Danish football clubs. International investors have become shareholders in, for example, AC Horsens, Brøndby IF, Aalborg Boldklub and Silkeborg IF.

Simultaneously, there has been a notable trend of frequent change of ownership among Danish football clubs. Most recently, Sønderjyske and Vejle have reverted to local ownership, reflecting a broader shift in the structural and financial landscape of Danish football clubs.

Another interesting trend in Danish football is the introduction of multiple-club ownership. Some of the club owners also own shares in football clubs in other countries – eg, FC Midtjylland (CD Mafra, Portugal) and Brøndby IF (Crystal Palace, England).

5. Intellectual Property, Data and Data Protection

5.1 Trade Marks

Registration and Protection of Trade Marks

Under the Danish Trademark Act, a trade mark right can be established either through:

- registration with the Danish Patent and Trademark Office (DKPTO), the EU Trade Mark (EUTM) system, or the Madrid Protocol for international registration; or
- use in commerce, where a trade mark gains recognition through substantial use in the market; this requires that the mark has been used in Denmark to an extent that is *"more than locally limited."*

The granted protection is particularly relevant in the sports industry, where brand identity and commercial exploitation play a crucial role in financial success. Sports clubs, athletes, and federations often register their names, logos, and other branding elements to protect their commercial identity and prevent unauthorised use – eg, to protect the sale of merchandise, licensing, and sponsorship deals.

Notable Legal Cases in Sports Trade Marks

A recent case regarding trade mark enforcement occurred in March 2024, where the Euro-

pean Union Intellectual Property Office ruled in favour of Superligaen A/S against the breakaway European Super League's attempt to register *"The Super League"* as a trade mark. The ruling found that the proposed name was too similar to *"SUPERLIGA"*.

Challenges in Trade Mark Protection

The typical challenge regarding trade mark protection in sports is the requirement of distinctiveness. This is generally not an issue for club and federation names, as distinctiveness can also be acquired through use and recognition.

For example, names such as FC København or Lyngby Boldklub possess sufficient distinctiveness. Even though these names may be considered somewhat descriptive, they have, over time, become sufficiently established to warrant protection.

While club and federation names often qualify for protection due to their inherent or acquired distinctiveness, slogans and generic terms face greater hurdles in registration.

5.2 Copyright/Database Rights

Copyright Protection in Sport

The Danish Copyright Act protects literary and artistic works that meet the originality requirement. However, athletic performances are generally not eligible for copyright protection, as they do not constitute *"works"* in a legal sense.

Under Section 65(1) of the Copyright Act, performing artists can receive independent protection for their performances if they involve the execution of a work. However, sports performances typically fail to meet this requirement as they lack the necessary creative originality due to their reactive nature, as athletes' movements are largely dictated by their opponents and game situations.

The Role of Copyright in Sports

Although athletic performances themselves are not protected, copyright plays a crucial role in sports, particularly in:

- Logos and Club Branding: Club logos and symbols may be protected as works of art if they reflect sufficient creative expression.
- Support Songs and Anthems: Many sports clubs have copyrighted chants, anthems, and official music.
- Broadcasting and TV Rights: Copyright significantly protects TV sports rights, particularly against illegal streaming and unauthorised reproduction.

In Denmark, the Eastern High Court ruled in 2020 that streaming football matches without authorisation infringed copyright, leading to a court-ordered blocking of illegal streaming services. The ruling sets a precedent for stronger copyright enforcement in sports broadcasting.

Database Rights in Sport

Under Section 71 of the Danish Copyright Act, database rights protect collections of data where a substantial investment has been made in obtaining, verifying, or presenting the content. This protection grants database creators the exclusive right to control the extraction and reuse of data. In the sports industry, clubs and organisations compile extensive databases containing player statistics, fitness data, scouting reports, and match analytics. If these databases meet the substantial investment threshold, unauthorised use may constitute an infringement.

5.3 Image Rights and Other IP

Legal Recognition of Image Rights

Athletes have an exclusive right to commercially exploit their image rights – ie, to use their own name, likeness, voice, and other personally identifiable characteristics. This protection is particularly relevant for high-profile athletes whose commercial value increases with public recognition.

In Denmark, the legal basis for the protection of image rights stems from general legal principles developed through case law and Section 3 of the Danish Marketing Practices Act.

Case Law on Image Rights Protection

Danish courts have consistently upheld the commercial protection of athletes' image rights, particularly in cases where their name, image or likeness has been used for unauthorised marketing purposes.

Limits of Image Rights Protection

While athletes have strong commercial protection, image rights do not extend to objective publicity or journalistic use. Names and images may be legally used for editorial, news, or journalistic purposes, provided there is no misleading commercial association.

However, blurred distinctions between marketing and editorial content especially on social media platforms have led to increased legal scrutiny in Denmark. Therefore, companies must carefully distinguish between genuine sports news and marketing initiatives using athletes' names or images.

According to Danish case law, the awarded damages or compensation in cases concerning unauthorised commercial use of image rights, are relatively modest.

5.4 Licensing

General Transfer of Commercial Rights

Athletes can license or assign their IP rights through agreements with clubs, sponsors, or third parties. This typically occurs through:

- player contracts, where athletes grant clubs the right to use their name, image, and likeness in club context for marketing and sponsorship purposes; and
- sponsorship agreements, which allow companies to use the athlete's image in their marketing campaigns under specified conditions.

Licensing Agreements Between Clubs and Athletes

Sports clubs rely heavily on commercialising player image rights to generate revenue through merchandising, sponsorships, and promotions. The brand value of a club is often linked to its most well-known players, meaning that high-profile athletes can significantly increase a club's commercial appeal.

In Danish football and handball, all player contracts must follow the federations' standard contract templates, according to which image rights and exploitation hereof are regulated. All football player contracts must be approved by the DBU, and any deviations from the standard provisions are subject to DBU approval, which, as a rule, will not be given.

Licensing and Image Rights Under DBU's Standard Player Contract

The DBU standard player contract, which is subject to the Football Collective Agreement, contains a detailed regulation on the clubs' exploitation of the players' image rights. Thus, the club has the right to use the player's name, image, and autograph in a club context in merchandis-

ing, marketing, and sponsorship agreements, generally without separate remuneration.

The player retains the right to enter into personal sponsorship agreements with certain restrictions – eg, that the player cannot enter into sponsorship agreements with companies that compete with the club's primary sponsors.

Restrictions on Extended Licensing Agreements

Danish clubs cannot negotiate separate or extended licensing agreements where players transfer additional IP/image rights to the club in exchange for compensation. DBU's standard contract framework does not allow such deviations, and DBU will reject any provisions that go beyond the standard template.

5.5 Sports Data

Use of Sports Data in Denmark

Sports data plays an increasingly central role in performance analysis, commercial strategies, and security measures within Danish sports. The collection and utilisation of athlete and spectator data enable sports bodies, clubs, and private companies to enhance fan engagement, optimise training, and improve security protocols at stadiums and events.

Commercialisation of Sports Data

The monetisation of sports data is rapidly growing, providing revenue streams for clubs, leagues, and technology providers. Key areas where sports data is exploited include:

- Performance Analytics: Clubs and national teams use biometric and GPS-based tracking systems to optimise training and prevent injury.
- Betting and Sports Media: Betting operators rely on real-time match statistics and predictive analytics, with data providers such as Sportradar partnering with Danish sports leagues.
- Fan Engagement and Digital Marketing: Clubs use spectator data from ticketing systems, social media, and online interactions to tailor targeted marketing campaigns.
- Wearable and Biometric Technologies: Devices such as GPS vests, heart rate monitors, and motion sensors are commonly used in football, handball, and cycling to monitor physical performance.
- Sponsorship Optimisation: Brands use sports data analytics to measure the impact of sponsorship deals, ensuring maximum exposure and return on investment.

Collection and Use of Spectator Data in Football

Spectator data is utilised for security, ticketing, and fan experience improvements. One of the most notable developments in Denmark is the recent approval of facial recognition technology for stadium security.

In early 2025, the Danish Data Protection Agency granted the Danish football club F.C. Copenhagen (FCK) approval to use facial recognition technology at Parken Stadium. The system aims to enhance security and enforce stadium bans, particularly in response to violent hooliganism incidents and the use of pyrotechnics.

Key conditions of the Danish Data Protection Agency's approval include:

- Limited Scope: The technology is restricted to FCK's home and away matches, including UEFA fixtures. It does not extend to concerts or national team matches.

- Data Storage and Deletion: Images not resulting in a match with internal or police ban lists must be deleted immediately.
- Transparency Obligations: FCK must inform spectators through signage and stadium announcements.

This decision follows a similar approval granted to the football club Brøndby IF in 2023, signalling a broader trend towards AI-driven security measures in Danish club football.

5.6 Data Protection

Application of Data Protection Laws in Sports

Sports data is subject to Danish data protection laws in the same way as any other form of personal data. The General Data Protection Regulation (GDPR) and the Danish Data Protection Act thus govern the collection, processing, and sharing of sports-related personal data in Denmark.

The protected party is usually the athlete, and it usually concerns the athlete's performance data and biometric data. However, all personal data is covered – eg, spectator data and identity.

Legal Basis for Processing Sports Data

Under the GDPR and the Danish Data Protection Act, it is illegal to process personal sports data without a valid legal basis. The most common legal bases include:

- Consent: Athletes may, in some situations, be able to provide explicit consent for their personal data to be used – eg, in performance tracking or commercial activities. Consents can be withdrawn at any time.
- Contractual Necessity: If necessary to fulfil a contract with the athlete, personal data may be processed by, for example, clubs, providers of IT services, etc.
- Legitimate Interest: Where the interest of the processing entity does not outweigh the interests of the athlete in restricting access to personal data, legitimate interest may be used – eg, in processing marketing or ticketing data. This requires a balancing test against individual privacy rights and does not apply to sensitive data, such as biometric or health data.

GDPR Compliance Obligations

Provided that a lawful basis exists, the processing entity must comply with key GDPR obligations, including:

- Basic Principles for Processing Personal Data: The processing must comply with the basic principles in Article 5 of the GDPR. This requires, inter alia, that data is processed lawfully, fairly, and transparently. It should be collected and used solely for a specified purpose, with only the minimum data necessary for that purpose being processed. The data must be kept accurate and up to date, retained only for as long as is strictly necessary for the purpose, and deleted as soon as possible. Furthermore, personal data must be processed in a manner that ensures appropriate security of the personal data.
- Individual Rights: The persons having their data processed have individual rights. These include, for example, that they must be informed of certain aspects of the processing up front, they can request access to the processed data at any time and they can request rectification and erasure of the processed data.
- No Automated Decisions: The personal data may only be used for automated decisions under certain specific conditions – eg, exclusion of fans from venues or benching of players.

- Only Processing Within the EU/EEA: The personal data may only be transferred outside of the EU/EEA under very specific conditions, which may severely restrict data sharing.
- Internal Governance System: All organisations handling personal data must have an adequate governance system, including procedures and processes as well as awareness training, to be able to document compliance with the GDPR.

Challenges and Legal Considerations

While sports data offers commercial and operational advantages, it also raises legal and ethical concerns:

- Ownership of Sports Data: While clubs and leagues collect and store sports data, athletes retain certain rights under GDPR, including access and control over accuracy.
- Biometric Data and Privacy Risks: The use of facial recognition and health tracking is very restricted and may require explicit consent.
- Third-Party Data Sharing: Sports organisations must ensure GDPR-compliant agreements for international data transfers, particularly for AI-driven analytics hosted on cloud platforms. This is not always observed, leading to illegal data sharing, especially outside of the EU/EEA.
- Low Maturity and Level of Awareness: Knowledge of the GDPR and its implications is somewhat limited within the sports world, both among amateurs and professionals.
- Consent is Not Always Valid: Consent is usually used as a legal basis. However, for a consent to be valid, certain requirements must be fulfilled, which are usually not observed – eg, that it must be freely given without any consequences if denied or withdrawn.

Enforcement and Sanctions

Non-compliance with the data protection regulation is subject to sanctions, including fines of up to 4% of global revenue/EUR20,000,000, but also injunctions to stop the unlawful processing of data – eg, data sharing or collection. Further, individuals may seek compensation if their personal data is processed unlawfully.

Enforcement is handled by the Danish Data Protection Agency. However, under Danish law, fines are subject to criminal prosecution. If the Danish Data Protection Agency finds that a fine should be issued, the matter will be turned over to the police and the state prosecutor's office, which will initiate a criminal court case against the violator.

6. Dispute Resolution

6.1 National Court System

Jurisdiction of National Courts in Sports Disputes

In Denmark, the national courts primarily handle civil disputes related to property law, employment law, and contractual matters in the sports industry. This includes breach of sponsorship contracts, disputes between clubs and players, conflicts between agents, and managerial disputes, such as the Kevin Magnussen case heard before the High Court in 2021. These disputes do not fall under disciplinary sports law and are typically adjudicated through ordinary courts or arbitration.

Similarly, Danish courts have ruled on unauthorised commercial use of athletes' image rights. The Danish Eastern High Court ordered Bet365 to pay in total EUR630,000 for unlawfully using athletes' names and images in social media marketing, rejecting claims of editorial use.

However, Danish sports governance emphasises resolving disputes within sports organisations before they reach the national courts. Sports federations require athletes, clubs, and other stakeholders to exhaust internal dispute resolution mechanisms before seeking intervention from national courts or arbitration bodies.

Sports Federations and Internal Dispute Resolution

Danish sports organisations are structured under a hierarchical, association-based model, reflecting Denmark's tradition of voluntary sports associations. Each sport's governing body maintains its own internal disciplinary system, with decisions generally subject to appeal before the National Olympic Committee and Sports Confederation of Denmark.

Despite this internal structure, national courts may intervene if a dispute involves fundamental legal rights, such as employment protections, contract breaches, or competition law violations.

6.2 ADR (Including Arbitration)

Alternative Dispute Resolution in Danish Sports

Dispute resolution in Danish sports typically occurs within the internal mechanisms of sports federations, through national arbitration panels, or ultimately via the Court of Arbitration for Sport (CAS). Many sports contracts contain arbitration clauses that require disputes to be resolved outside the national courts – referring disputes to CAS or a national arbitration panel, ensuring specialised adjudication.

Football Arbitration Court

Under the *"Act of DBU"*, organisations, clubs, players, coaches, third parties, etc, must accept that certain disputes are settled by the Football Arbitration Court. It serves as the primary dispute resolution body for civil disputes between clubs and players or coaches within Danish football. It handles disputes related to:

- employment and salary issues between players and clubs;
- sponsorship and commercial disputes affecting players; and
- agent-related contractual disputes.

The Football Arbitration Court does not have jurisdiction over international disputes, which remain under FIFA or CAS jurisdiction.

Use of Arbitration in Sports Disputes

Disciplinary disputes, such as those involving match-fixing, doping, or spectator misconduct, are generally resolved within the internal disciplinary committees of the relevant sports federations.

The Role of CAS in Danish Sports

CAS plays a significant role in Denmark, particularly in international disputes and disciplinary appeals. Many Danish sport governing bodies have incorporated CAS arbitration clauses in their agreements and statutes to ensure access to specialised sports adjudication.

6.3 Challenging Sports Governing Bodies

Autonomy of Sports and the Role of Governing Bodies

Danish sports operate under the principle of sporting autonomy, meaning that federations have broad powers to regulate and enforce their own rules, including disciplinary measures and financial sanctions. However, this autonomy is subject to Danish and EU law, ensuring compliance with competition law, employment regulations, and fundamental legal principles.

Appealing Decisions of Sports Governing Bodies

Disciplinary decisions issued by Danish federations, such as the DBU or other national governing bodies, are first appealed internally within the sport's dispute resolution system. The DIF's Board of Appeal serves as the highest instance in Danish sports governance, reviewing cases related to match-fixing, doping, child protection, and general disciplinary matters.

Compliance with EU Trends in Sports Regulation

Denmark closely follows the legal trends established by the ECJ, particularly regarding competition law and the balance between sporting autonomy and legal oversight. While self-regulation remains the default approach, cases such as multiple-club ownership rules, and competition law challenges illustrate that Danish sports organisations must also comply with EU legal frameworks.

Notably, key provisions of FIFA's new Football Agent Regulations (FFAR) have been suspended worldwide by FIFA, as the latter awaits the ECJ's ruling on their compatibility with EU competition law. In Denmark, DBU implemented FFAR through Circular No. 125, whereby FFAR and the principles were implemented to also apply to national transactions in Denmark. However, in line with the recommendations from FIFA, the DBU has announced a temporary suspension of the most significant parts of the circular concerning football agents.

7. Employment

7.1 Sports-Related Employment Contracts

Employment Structure in Danish Football

Employment relationships between sports organisations and players are to a wide extent regulated by standardised contracts and collective agreements in Denmark.

In Danish football, player contracts must be entered into on the basis of the DBU's standard player contract. The standard contract is determined in the collective agreement between the Danish League and the Players Association, currently the *"Football Collective Agreement 2025 – 2030"*. It is possible to agree on additional terms which must be attached to the standard and filed with the DBU.

Danish football does not operate with salary caps. Instead, wage structures are determined through individual negotiations between clubs and players, subject to the minimum salary requirements determined depending on whether the player is full- or part-time employed.

7.2 Employer/Employee Rights

Employment Regulation for Players

The Danish Salaried Employees Act generally applies to employees having administrative jobs and responsibilities. The Salaried Employees Act provides protection for employees in many aspects, such as mandatory minimum termination periods, unfounded dismissals, etc.

However, this act is not suited to the employment of football players due to the fixed-term nature of player contracts. Nonetheless, it is set out in the current Collective Agreement between the Danish League and the Players' Association

(2025-2030) that the Salaried Employees Act applies, except for rules on termination notices.

Football players' employments are governed in detail by the DBU Standard Player Contract and the Collective Agreement, and there is not much room for interpretation.

Employees in the business of sport are also protected by other mandatory legislation, such as the Danish Holiday Act. In the so-called Holiday Pay case a dispute arose regarding whether clubs should pay holiday allowances and pension contributions on performance-related bonuses, which the Football Arbitration Court ruled was the case.

Employment Regulation for Coaches

Sports coaches in Denmark are generally considered salaried employees under the Danish Salaried Employees Act, at least if they are head coaches entrusted with de facto management powers. This means that their employment is subject to statutory protections, including:

- mandatory notice periods that cannot be contractually shortened or deviated from to the disadvantage of the coach;
- the right to continue receiving salary during notice periods, even if they are relieved of their duties; and
- entitlement to compensation if dismissed unfairly or without just cause.

The Collective Agreement between the Danish League and the Players' Association does not cover football coaches.

Fixed-Term v Open-Ended Coaching Contracts

Football coaches are often employed on fixed-term contracts, similar to players, which cannot be terminated for convenience by either party. Despite the prevalence of such contracts, the legal position remains unclear. If the Danish Salaried Employees Act applies, a coach may still terminate their fixed-term contract with one month's notice, which contradicts the intended purpose of such contracts.

Usually, the fixed term spans from one to three years whereas time open-ended coach contracts allow termination with typically three to four months' notice, depending on the coach's length of service.

If a coach is dismissed before their fixed-term contract expires, the club is still liable to pay their salary, although the club can deduct any income the coach subsequently earns from new employment.

Dismissal and Severance Payments

Coaches who are fired and placed on gardening leave cannot take up employment with competing clubs during their notice period unless an agreement is reached. To mitigate financial exposure, buyout clauses can be included, allowing the coach or another club to pay compensation for early contract termination.

7.3 Free Movement of Athletes

Restrictions on the Number of Foreign Athletes in Competitions

As in other countries in the EU, governing bodies must comply with, inter alia, the principle of free movement of workers under Article 45 of the TFEU. Reference is made to the Bosman ruling and the most recent Diarra case.

In addition, clubs and leagues must comply with the Danish Anti-Discrimination Act, which prohibits discrimination in the labour market based on, inter alia, national origin.

According to the Danish League's Tournament Rules, clubs are subject to the so-called home-grown rules, according to which clubs must include at least eight home-grown players. Four players must have been developed by the club itself and four players must have been developed by another Danish club, with player development being defined as having been registered in the club for a minimum of 36 months between the ages of 15 and 21.

While the Danish Anti-Discrimination Act does not necessarily prohibit home-grown player rules, any regulation that directly or indirectly disadvantages players based on their nationality could be subject to legal scrutiny. However, as in EU law, the Danish Anti-Discrimination Act allows such indirect discrimination if it pursues a legitimate objective and is proportionate.

Visa and Work Permit Requirements

Athletes from EU/EEA countries and Switzerland can freely live and work in Denmark without the need for a visa or work permit. However, non-EU athletes must obtain a residence and work permit to play professionally in Denmark.

8. Women's Sport

8.1 Women's Sport Overview

Development and Growth

Women's sports in Denmark have seen substantial progress, with increased investment, professionalisation, and greater media exposure. Football has been a key driver of this growth, supported by initiatives from the DBU aimed at strengthening the women's game. DBU has worked to enhance visibility and provide professional opportunities for female athletes, contributing to the sport's growing commercial appeal.

Recent Trends and Key Developments

- Equal Pay for National Teams: In 2025, the DBU and the Players' Association agreed to equal bonuses for the women's and men's teams in key areas, including Nations League and home qualification wins. The agreement reflects the rapid growth and increasing recognition of women's football in Denmark.
- F.C. Copenhagen's Women's Team: A major milestone was F.C. Copenhagen's formation of a women's team for the 2024/25 season. Unlike in some countries where major clubs are fast-tracked into top divisions, F.C. Copenhagen had to qualify through the existing league structure, sparking debate over balancing competitive integrity with the need to accelerate the development of women's football. This move followed UEFA's new regulation requiring clubs participating in its tournaments to support a women's team.
- Sponsorship and Investment Growth: Danish women's football is attracting increased commercial interest, with top clubs securing major sponsorships. F.C. Copenhagen's women's team has partnered with Carlsberg and Adidas, while FC Midtjylland's women's team has secured a headline sponsorship with international retailer NORMAL. These high-profile deals highlight the sport's rising commercial appeal and expanding corporate investment.
- Media Rights and Attendance: Women's football in Denmark has gained expanded media coverage, attracting greater investment in broadcasting and sponsorship. Broadcasters now allocate more airtime to the women's league, and sponsorship agreements are becoming increasingly lucrative. Although attendance figures remain lower than in men's football, there is steady growth in stadium attendance and television viewership, further strengthening the sport's commercial appeal.

Organisations Driving Development

The Danish Women's Division Association (KDF) plays a pivotal role in advancing women's football in Denmark. Representing elite clubs, the KDF collaborates with the DBU to improve marketing, league structures, and the overall profile of women's football.

9. Esports

9.1 Esports Overview

Development and Growth

The Danish esports market has experienced significant growth, establishing itself as one of the most developed esports markets globally. In 2023, Denmark had the highest number of elite esports players per capita, and esports is now recognised as a mainstream competitive activity. The industry saw a surge in participation during the COVID-19 pandemic, and the number of esports clubs continues to grow. Membership in Danish esports clubs grew from 2,343 in 2017 to 8,860 in 2020. However, despite this overall growth, the industry has faced a slight downturn in 2024 and 2025, experiencing economic difficulties.

So far, the National Olympic Committee and DIF have not recognised esports as an official sport. This means that no financial support can be provided by DIF and no governance under DIF applies.

Recent Trends and Notable Deals

- Investment: Danish esports organisations have attracted significant investment, particularly in team infrastructure and talent development.
- Professionalisation of Contracts: There has been a shift towards structured player contracts, resembling traditional sports agreements. While no standardised contract exists, esports organisations increasingly implement long-term contracts with revenue-sharing models.
- Expansion of Esports Events: Denmark hosts large-scale esports events, such as Blast Premier in Copenhagen and the Gamebox Festival in Herning, reinforcing the country's position as an esports hub. These events attract international audiences and corporate sponsorships.

10. NFTs, AI and the Metaverse

10.1 Non-Fungible Tokens (NFTs)

Overview of the NFT Market

The NFT market in Denmark, as in many other jurisdictions, initially experienced a rapid rise, particularly in 2021 and early 2022, as clubs, athletes, and brands sought to capitalise on digital assets. However, the market has since declined significantly, with many NFT collections losing their value.

Use of NFTs in Sports

Danish football clubs and brands have used NFTs in various ways, including licensing agreements with third-party platforms to create and sell NFTs featuring player images, match highlights, or digital collectibles. Some clubs have explored NFTs as a tool for fan engagement, offering exclusive content and VIP experiences.

However, NFT adoption has been most prevalent within esports, as the digital nature of the industry aligns naturally with blockchain-based assets.

Tax treatment of NFTs in Denmark

In terms of risk regarding use of NFTs, the Danish tax treatment should be taken into considera-

tion. The Danish tax authorities have only provided limited guidance on the taxation and VAT obligations related to the issuance and trading of NFTs. So far, they have specifically stated that the creation and sale of NFTs incur tax liability. This also applies to any royalties earned when NFTs are resold.

The Danish tax authorities have also stated that remuneration gained from NFTs should be subject to VAT under the Danish VAT Act. However, due to a specific exemption in the VAT Act, this remuneration could be exempted from VAT, provided the respective NFT can qualify as an *"artistic service"*. In this assessment it must be taken into consideration whether the NFT results from an *"intellectual effort"* and whether its artistic quality is comparable to other exempt services. The tax authorities have noted uncertainty about whether the EU Commission and other member states will share this interpretation, hence their position is taken with certain reservations.

Danish tax authorities generally consider any sale of NFTs as speculative. This means that users /customers are subject to taxation when they later sell their NFTs.

10.2 AI

AI Regulation in Denmark

Denmark follows the broader European regulatory framework for artificial intelligence (AI), particularly the EU AI Act, which establishes risk-based categories for AI applications.

AI used in sports, such as performance analytics, injury prevention, and tactical decision-making, generally falls into the lower-risk categories and is subject to compliance with data protection laws, including the GDPR. Certain use of performance analytics may be seen as high-risk (when AI Act chapter III becomes applicable from 2 August 2025), as this could affect the players' work relationships. There are currently no AI-specific Danish regulations targeting sports, but general legal principles on data privacy, intellectual property, and competition law apply.

Use of AI in Sports

AI has become a critical tool in Danish sports, particularly in:

- Performance Analytics: AI-driven tools analyse real-time data from wearables and video footage, offering insights into athlete movements, energy expenditure, and injury risks.
- Fan Engagement: AI is being used in virtual assistants, personalised content delivery, and predictive analytics to enhance fan experiences.
- Refereeing and Decision-Making: AI-assisted video review technology is increasingly used to support fair play and reduce human error in officiating.

Major Danish sports organisations are investing in AI-driven solutions to optimise player performance and game strategies, following global trends in sports technology.

Opportunities and Risks

AI presents significant opportunities:

- Enhanced Performance Optimisation: AI enables data-driven coaching and training programmes tailored to individual athletes.
- Injury Prevention: Machine learning models can predict injury risks by analysing biomechanics and physiological data.
- Commercialisation: AI-generated content and marketing insights create new revenue streams for clubs and sponsors.

However, there are also legal and ethical risks:

- Data Privacy and Compliance: The use of biometric and health data requires strict adherence to the GDPR and other privacy laws.
- Bias and Fairness Issues: AI models may produce biased results if trained on incomplete or unbalanced datasets, potentially impacting team selections and talent scouting.
- Intellectual Property Concerns: AI-generated content, including automated commentary or predictive insights, raises questions about issues such as copyright ownership, potential infringement of third-party rights, clearing image rights and licensing.

10.3 The Metaverse

In the Danish sports industry, the metaverse remains largely experimental and so far there is nothing notable to report.

Trends and Developments

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DAHL Law Firm

DAHL Law Firm is a business-oriented, full-service law firm based in Copenhagen, with four additional offices across Denmark. The firm's 190 specialists provide legal advice to clients of all sizes, ranging from large corporations and government agencies to small and mid-sized businesses – locally, nationally, and internationally. There is an increasing demand for commercial skills and legal understanding of the sport and media industry's mechanisms. DAHL offers in-depth experience in media, sports, and entertainment law. Key areas of expertise include copyright, trade marks and image rights, employment law, contract law and tax.

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Investments in Danish Football Clubs

In recent years, Danish football clubs such as AC Horsens, Aalborg Boldklub, Brøndby IF, Lyngby Boldklub, and Silkeborg IF have seen increased investment and acquisitions from international investors.

At the same time, there has been a noticeable trend of frequent changes in club ownership across Danish football. Most recently, Sønderjyske and Vejle have returned to local ownership, reflecting a broader shift in the structural and financial landscape of Danish football clubs.

Another interesting trend in Danish football is the introduction of multiple club ownership. Some club owners also own shares in football clubs in other countries – eg, FC Midtjylland (the owner of the club also owns CD Mafra in Portugal), Brøndby IF (the owner of the club also owns Crystal Palace in England) and Silkeborg IF (the owner of the club also owns Walsall F.C. in England). While multiple club ownership is common in international football, it has only recently become a feature of the Danish football scene.

Who Can Own Danish Football Clubs?

International rules

Danish football clubs must comply with the rules and regulations issued by FIFA and UEFA. Therefore, no individual or legal entity may have control or influence over more than one club participating in the same UEFA competition (see Article 5 in the regulations for UEFA competitions). However, these rules on multiple club ownership are well known and are not special for Denmark. So far, we have not had any challenges in Denmark in terms of compliance with this.

Danish rules

In response to these developments, the Danish League introduced new regulations in 2022 regarding club ownership and management. The rules were most recently amended in December 2024 by way of Circular No. 42(*"the Circular"*).

The Circular stipulates that any transfer of significant influence (defined as at least one-third of the voting rights) in professional football clubs requires prior approval from the Danish League of the new shareholder acquiring such influence before the club can be granted the club licence enabling the club to enter into professional player contracts.

Accordingly, when a new shareholder acquires significant influence in a club, the club is not entitled to enter into player contracts until the new shareholder has been approved by the Danish League.

According to the Circular, the club must submit documentation to the Danish League regarding, among other things, the corporate structure of the new shareholder and any other ownership interests it holds. Additionally, a representative of the new shareholder must submit a statutory declaration confirming its awareness of the most relevant collective agreements and regulatory frameworks governing Danish football.

Subject to having received the relevant documentation, the Danish League will grant the licence (contract permission) to the club unless the new shareholder or their ultimate beneficial owners:

- have a prior conviction for financial crimes, including but not limited to tax evasion and money laundering as per the applicable anti-money laundering legislation, or other serious offences;

- are subject to bankruptcy quarantine or have a significant and extensive history of bankruptcies;
- conduct business activities in countries with high rankings on indices related to corruption, money laundering, or terrorist financing;
- have significant influence in a betting company;
- own a football agency business or are registered as a football agent; and/or
- are ultimately controlled by nation states.

In a recent matter, a potential acquisition of Vejle Boldklub did not materialise as the potential new shareholder allegedly failed to meet the documentation requirements in the Circular, including proof of financial transparency.

Regulatory Framework for Agents

The role of football agents has evolved significantly in recent years, prompting FIFA to introduce stricter regulations aimed at increasing transparency and ensuring fair representation of players. FIFA's Football Agent Regulations (FFAR), which came into effect in January 2023, establish rules on agent licensing, commission structures, and contractual obligations. These reforms seek to address concerns about financial exploitation and conflicts of interest in player transfers.

Under the new FIFA regulations, all agents operating in international transfers must obtain a FIFA agent licence.

However, key provisions of FFAR have been suspended worldwide by FIFA, as the latter awaits the ECJ's ruling on their compatibility with EU competition law.

In Denmark, the Danish Football Association (DBU) implemented FFAR through Circular No. 125, thereby extending FFAR's provisions to national transfers in Denmark. However, in line with the recommendations from FIFA, DBU has announced a temporary suspension of the most significant parts of the circular concerning football agents. However, it is worth noting that only FIFA-licensed agents are allowed to operate in the Danish market.

Ownership of Player Rights: Agent v Agency

A key legal distinction in player representation concerns whether the football agent personally owns the rights to represent the player (ie, the representation agreement), or if the rights belong to the agency from which the agent operates or is employed. Under general Danish law, the employer or the company owns the customers and the contracts and not the individuals providing services to the customers (players/clubs), irrespective of whether the customer contracts may be signed by the employee. When it comes to the agencies and agents in the sports industry, the legal position may be different, in particular in football.

FIFA regulations do not explicitly determine whether an agency can retain representation rights over players when an agent departs from the agency. However, due to the structure and the personal element of representation agreements, it must be concluded that the contractual rights to represent a player most likely belong to the individual agent rather than the agency.

This principle can, however, be contractually deviated from. Under Danish football law, it is possible to agree that an agency retains the right to represent players even if an agent leaves, provided that the players have been informed of this arrangement in advance, and that it is expressly stipulated in the employment agreement between the agent and the agency. This

allows for a contractual structure where agents operate within an agency framework while still complying with FIFA's regulatory intent.

This issue is particularly significant for agencies to consider, especially given the growing trend of larger agencies absorbing individual agents.

Increased Commercialisation of Youth Transfers

Danish football has undergone significant changes in recent years, with clubs' financing increasingly relying on youth player transfers as a key revenue stream. Many clubs, including those outside the Superliga, have adopted a business model centred on talent development and early player sales. This approach allows clubs to generate substantial profits before young players reach their peak potential.

The trend of selling young talents at high transfer fees is particularly evident in clubs like FC Nordsjælland and FC Copenhagen, both of which have successfully transferred multiple young players for record-breaking sums. Recent examples include:

- Ernest Nuamah sold to RWD Molenbeek for approximately EUR25 million (DKK168 million);
- Conrad Harder transferred to Sporting CP for allegedly EUR19 million (DKK141 million);
- Orri Óskarsson sold to Real Sociedad for approximately EUR20 million (DKK149 million); and
- Hákon Arnar Haraldsson transferred to LOSC Lille for allegedly EUR15 million (DKK111 million).

These transfers highlight how Danish clubs can generate significant financial returns by strategically developing and selling young players.

Regulations to protect young football players in Denmark

The DBU has implemented strict national regulations to protect young football players from early exposure and ensure that they are not pressured into professional careers prematurely. In line with FIFA's Football Agent Regulations (FFAR) and FIFA's Regulations on the Status and Transfer of Players (RSTP), the DBU has adopted additional safeguards to govern the representation and transfer of minors. These measures primarily focus on minimum age requirements, agent engagement restrictions, and prohibitions on premature contract negotiations.

Under the national DBU Agent Regulations, DBU-licensed football agents who have completed the required FIFA CPD course on minors may only approach a player six months before the player turns 15 for the purpose of entering into a representation agreement. This restriction aligns with FIFA's approach but further strengthens national-level safeguards by imposing clearer and earlier limitations on when agents can contact young players.

The DBU outlines additional protective measures, including:

- a complete ban on player contracts for players under 15 years old; and
- a prohibition on clubs contacting players under 14½ years old or their legal guardians regarding potential future contracts.

Furthermore, a football agent may not receive a service fee when engaged to perform football agent services relating to a minor unless the relevant player is signing their first or subsequent professional contract in accordance with the law applicable in the country or territory of

the member association where the minor will be employed.

These measures reflect the DBU's commitment to youth player welfare and aim to curb undue pressure from clubs and agents, ensuring that young players can focus on their development without commercial influences at an early stage.

Challenges in enforcement and compliance

However, in practice, these restrictions are not always followed. Unofficial discussions often take place before the permitted timeframe, creating a grey area in compliance and enforcement. This raises concerns about undue pressure on young athletes, particularly as lucrative financial offers become more difficult to resist.

With transfer fees reaching unprecedented levels, Danish football clubs will likely continue to capitalise on their strong youth development systems. However, stricter enforcement of player protection regulations could be essential to ensure that young players receive fair and ethical treatment in the transfer market.

For clubs, agents, and investors, navigating this evolving regulatory landscape requires careful compliance with both Danish and FIFA transfer rules to maintain the integrity of the sport while benefitting from its growing commercialisation.

The New Media Agreement

The newly concluded Danish football media rights agreement for 2024–2030 marks a significant shift in the broadcasting landscape for the Danish Superliga. Under the new six-year deal, Viaplay Group and TV 2 will share live broadcasting rights equally, ensuring that all live matches will be split 50/50.

Viaplay Group, a long-standing partner of Danish club football, remains a central player in the ecosystem, reinforcing its commitment to premium sports coverage in Denmark. The Danish public-service television broadcaster, TV 2, on the other hand, re-enters the market after a prolonged absence, bringing the Superliga closer to its broader audience base.

In addition to live broadcast rights, Denmark's national public-service broadcaster, DR, retains its role as the national broadcaster for radio coverage and match highlights. This guarantees extensive accessibility for fans across multiple platforms, including traditional radio and digital streaming services.

From a legal and commercial perspective, the agreement underscores the evolving dynamics of sports broadcasting rights in Denmark. The strategic balance between exclusive and shared rights aligns with global trends, where multiple broadcasters compete for premium sports content while seeking broader audience engagement. Furthermore, the long-term nature of the deal provides the involved parties with a stable framework to optimise advertising revenues, sponsorship opportunities, and digital innovation in sports coverage.

Enforcement of Image Rights in Sports: The Bet365 Precedent

A recent ruling in 2023 from the Danish Maritime and Commercial Court against Bet365 has reinforced the legal protection of athletes' image rights in Denmark. The case involved prominent Danish sports figures, including the handball player Mikkel Hansen, the football player Christian Eriksen, the badminton player Viktor Axelsen, and members of the Danish national football team, who sued Bet365 for unauthorised use of their names and images in social media

posts. The court found that the betting company's use of these athletes' images constituted commercial marketing rather than editorial content, awarding compensation of approximately EUR6,700 (DKK50,000) per infringing post. The ruling was further upheld by the Danish Eastern High Court in the summer of 2024.

This ruling provides significant legal clarity regarding the distinction between editorial use and commercial exploitation of athletes' images. Bet365 argued that its social media posts merely facilitated sports discussions among users. However, the court determined that the posts primarily served as promotional tools, leveraging the athletes' recognition to enhance brand engagement. The ruling was based on general legal principles and the Danish Marketing Practices Act, which prohibits unauthorised commercial use of an individual's name and image.

One of the most striking aspects of the decision is the compensation model applied. The court established damages based on the standard market rate that the athletes could have demanded had they entered into an agreement with Bet365. The ruling is remarkable due to the way the damages were calculated. Instead of taking the number of images into consideration, the court determined the damages based on the number of social media posts. This shift in methodology could set a new standard in future image rights infringement cases, particularly in the digital age where social media exposure can significantly impact an individual's brand value.

Beyond financial compensation, the ruling also highlights the reputational harm caused by unauthorised commercial associations. Athletes are highly conscious of the brands they endorse, and being associated with a betting company without consent could have adverse implications, particularly given concerns about gambling addiction. While not explicitly stated in the judgment, this reputational harm may have influenced the court's damages assessment.

Significantly, the ruling has likely also expanded the scope for enforcing image rights under Danish law. The court's approach suggests a growing willingness to hold companies accountable for the unauthorised use of individuals' name and image, particularly in digital and social media contexts. This expansion of enforceability means that not only athletes, but also other public figures, may find it easier to claim damages in similar cases.

Companies operating in the sports and entertainment sectors must now exercise greater caution when using athletes' names and images in their marketing strategies. This ruling underscores the necessity of obtaining explicit consent from sports professionals before featuring them in commercial campaigns, ensuring compliance with legal standards, and protecting the value of athletes' personal brands.

INDIA

Trends and Developments

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Cyril Amarchand Mangaldas (CAM) is India's leading law firm with a global reputation of being trusted advisers to its clients. The firm advises a large and diverse set of clients, including domestic and foreign commercial enterprises, financial institutions, private equity and venture capital funds, start-ups and government and regulatory bodies. Its generalists, specialists and senior ex-regulators expertly guide clients through a spectrum of transactions, sectors and regulations. It is one of the largest full-service law firms in India with over 1,000 lawyers, including 200 partners, and has offices in key business centres at Mumbai, Delhi-NCR, Bengaluru, Ahmedabad, Hyderabad, Chennai, GIFT City, Singapore and Abu Dhabi.

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Recent Trends in Sports in India – The Ball is Finally Rolling!

The Indian sports industry is fast paced. It's no longer seasonal or driven by a single sport. The Indian market has matured to allow a variety of sports to be enjoyed and there is excitement to enjoy them (in person and online) all year round too.

The last year saw a whirlwind of sporting emotions with the launch of new sporting leagues, fulfilment of Olympic dreams, growth of e-sports and the use of technology (including AI) to enhance playing and viewing experience. There was also an uptick in the number of fans for a variety of sports, which led to increased footfalls in stadiums, high-value bets on media rights and increased fervour for investments in the sports space. The last year was also a coming-of-age year for recognition of player rights, with Vinesh Phogat, Manu Bhaker and many other athletes using legal methods to safeguard their rights.

Data suggests that the Indian sports industry is expected to grow at twice the rate of the country's GDP and reach a new high of almost USD130 billion by 2030. This is reflective of the potential sports holds for itself and the various allied industries. We discuss some trends and recent developments in this industry in this article.

Policy Initiatives

2024 saw some policy proposals at both the central and state level.

Draft National Sports Governance Bill, 2024

The Draft National Sports Governance Bill, 2024 (the *"2024 Bill"*) was released for public consultation on 10 October 2024. The 2024 Bill, pending finalisation, aims to provide clear guidelines and processes for, inter alia:

- recognising sports authorities by establishing a sports regulatory board;
- increasing the representation of athletes within these sports authorities; and
- establishing a dispute resolution commission and an appellate sports tribunal for resolving sports-related disputes, etc.

Draft National Sports Policy, 2024

The Draft National Sports Policy, 2024 was released for public consultation on 11 October 2024. Modernising the industry and addressing the various shortcomings of the National Sports Policy, 2001 were the main reasons for the introduction of the policy.

The Draft National Sports Policy, 2024 envisions sports being used for nation-building purposes. It aims to, inter alia:

- improve infrastructure;
- improve talent identification;
- promote indigenous games;
- integrate sports into curricula; and
- leverage sports for economic development by boosting sports-related tourism and manufacturing of sports goods.

State-level policies

Sports falls under the state list within the Constitution of India. Therefore, while the central government formulates policies at the national level, states can also formulate their own policies to implement the central government's policies, as well as promote and incentivise sports development within their territory.

For example, the state of Andhra Pradesh formulated its sports policy for the 2024-29 period (the *"Andhra Pradesh Policy"*). It aims to:

- increase reservations in government jobs for athletes;
- use AI, wearables and the internet of things for athlete development, performance monitoring and enhancement; and
- use augmented reality (AR) and virtual reality (VR) to revolutionise training sessions and tournaments.

The state of Rajasthan also released its draft sports policy which aims to provide athletes in the state with medical insurance and medal-winning athletes with life insurance. The draft policy also provides pensions for international athletes, para-athletes and coaches who are non-government employees.

Other states are likely to follow suit. These initiatives act as an incentive to attract talent and make sports a viable career option for young people.

Spending and Initiatives

The spending and investment initiatives by the government of India, state governments and private players align with these policy initiatives.

Government spending and initiatives

Funding allocation by the government is a key factor in propelling the growth of sports in India. The Indian government has allocated approximately USD398.4 million towards sports in its budget for the 2024-25 fiscal year, marking an increase of 10.08% in sports spending in this financial year. It has also allocated approximately USD438.55 million towards sports in its budget for the 2025-26 fiscal year.

In an attempt to transform sports into a lucrative career option, the central government extended the benefit of reservations in central government jobs to athletes who deliver exceptional performances at the Khelo India's Youth, University, Para and Winter Games as well as players of national and international chess competitions.

India's Olympic dream

2024 saw the government betting big on the Paris Olympics with funding of USD54.2 million. There was so much excitement for the Olympics that one of India's top designers, Tarun Tahiliani, designed Team India's uniform, which was inspired by the Indian tricolour flag and combined modern and traditional elements.

Many Olympic dreams were fulfilled with a silver medal and five bronze medals. India House which celebrated Indian culture, heritage and achievements was sponsored by the Reliance

Foundation and was India's first home during the Olympics.

The sponsorship data shows that many prominent groups such as Bharat Petroleum Corporation Limited, the Reliance Foundation, Adani Sportsline, JSW Inspire, Aditya Birla Group and Yes Bank, etc sponsored Team India at the Paris Olympics.

Emotions ran high with Neeraj Chopra winning the silver medal. This was followed by some nail-biting moments when Vinesh Phogat was disqualified in her final wrestling round for being merely 100 grams over the weight limit. In response to the disqualification, the Wrestling Federation of India supported Phogat and filed an appeal with the Court of Arbitration for Sport which they unfortunately lost. This was the first time India had filed an appeal in the Olympics and has opened the door to possible future litigation in the support of athlete rights.

The successful 2024 Olympics was followed by a landslide win for India at the Paralympic Games where Indian athletes broke all records and won 29 medals: seven gold, nine silver and 13 bronze. This achievement marks a new pinnacle of success for India. The Paralympic Games saw a plethora of sponsors including IndusInd Bank, SBI Life Insurance, Krafton India, Indian Oil, etc.

With Olympic success on their side, India submitted a letter of intent to the International Olympic Committee to host the Olympic Games in 2036. While results are awaited, various projects to improve sports infrastructure across the country have already begun.

Spending by private players

Private investments into sports in India continued to surge in 2024. Private players and clubs have not only invested in leagues at the professional level but have also been instrumental in developing grassroots level programmes, especially in remote towns and villages. Notably:

- the Sachin Tendulkar Foundation set up a sports facility in Satara in Maharashtra in 2024 and unveiled its plans to construct more than 50 playgrounds in Dantewada and Chhattisgarh; and
- clubs like FC Goa of the Indian Super League (the national football league) have successfully initiated competitions at the grassroots level, like the Little Gaurs League in Goa.

The investment by private players extended to sports-allied verticals as well. For example:

- Decathlon, the French sporting goods giant, has disclosed plans to invest USD111 million into the Indian market to expand its operations to add 63 new stores in 40 cities across India;
- Swiggy, one of India's largest food delivery platforms, has also recently taken steps to dip its toes into the sports industry. The new subsidiary will, in addition to owning a team, also focus on talent development, event organisation, facility management, broadcasting and securing sponsorship rights; and
- companies like Nazara Technologies increased their stake in Absolute Sports (the parent entity of Sportskeeda, a digital platform offering sports-related news and content).

The exponential growth of sports-focused business with funding and growth prospects seems to be a growing trend.

Contributed by: Aarushi Jain, Pooja Kapadia and Maya Venkiteswaran, **Cyril Amarchand Mangaldas**

Sports Leagues: The New Gold Rush in Entertainment

Sports leagues have seen a substantial increase in numbers in 2024-25. Several new leagues hosted their first editions in 2024-25, notably:

- the Kho Kho World Cup, 2025 was hosted in January 2025 in New Delhi and saw 23 nations participate;
- the World Pickleball League was also hosted in January 2025 in Mumbai and saw players from more than 14 countries take part. Celebrities like Samantha Ruth Prabhu, Atlee, Rakul Preet Singh, Riteish and Genelia Deshmukh, Rishabh Pant and Sunil Gavaskar own/co-own different franchisees in this league;
- the Rugby Premier League, one of the world's first franchise-based rugby leagues, is the product of a ten-year partnership between Rugby India and GMR Sports and is set to take place in 2025; and
- the Women's Hockey India League is set to take place in 2025 with teams being owned by companies such as JSW Sports.

Many more leagues are in the pipeline for the year ahead.

Sporting leagues aside, India is set to host its first *"continental tour javelin-only event"* in May 2025 and the first-ever World Athletics Continental Tour event in August 2025. These events are expected to provide Indian athletes with an opportunity to showcase their potential, while also establishing India's ability to host major sporting events, in the build-up to India's bid to host the 2036 Olympic Games.

The popularity of sports will likely boost sports tourism as well.

The Aces of Acquisition

Passing the torch: New leadership

The last year also saw changes in ownership dynamics in several established leagues including the following.

- Healthcare and energy conglomerate Torrent Group recently acquired a majority stake of 67% in the IPL franchise Gujarat Titans from Irelia Company Pte Ltd.
- Vedanta, a leading Indian MNC, acquired Kalinga Lancers, a Bhubaneswar-based hockey team in the Hockey India League.
- Toyam Sports Limited, a publicly listed company which is dedicated to the production, promotion and management of various sports, acquired the Hyderabad franchise in Legends League Cricket.

It is evident that the sports industry has expanded from being a small-scale ecosystem with businesses focused on a few mainstream sports to now being a massive industry in search of new opportunities to tap into. Conglomerates and celebrities are increasingly seen purchasing teams and even leagues across a variety of sports, which bodes well for sports' future.

Indians go global

Indians are taking a leap of faith and transcending boundaries to invest globally. GMR Group, in a first-of-its-kind deal, recently acquired Hampshire County Cricket Club setting a new precedent in the sport. The GMR Group also acted as the principal sponsor of the Seattle Orcas for the Major League Cricket season.

As per recent news reports, Reliance Industries Limited won a virtual auction to acquire a 49% stake in the Oval Invincibles cricket team. Similarly, the RPSG Group won a bid to purchase the majority stake in the Manchester Originals while

the Sun Group won a bid to purchase 100% shares of the Northern Superchargers.

Cross-border deals come with their own set of structuring, legal and tax nuances, vis-à-vis ownership, rights, compliance, governance, repatriation of funds and the like. We should continue to see more outbound activity as well as deal-making in the sports space.

The Disney-Viacom18 merger

Two media broadcasting giants, Viacom18 Media Private Limited (Viacom18) and Star India Private Limited (Star India), the wholly-owned subsidiary of the Walt Disney Company (Disney) merged to form India's largest media and entertainment company. The merged entity now holds a dominant position in sports broadcasting, controlling approximately 80% of the Indian sports market across both linear television and over the top (OTT) platforms.

With the fruition of this merger, the Competition Commission of India (the *"CCI"*) raised concerns about its effect on the sports broadcasting market which were addressed by Viacom18 and Star India resulting in the CCI approving the merger. It will be interesting to see the offering of the merged entity and its effect on competition and rights.

Rights

Monetisation of sports rights is no longer limited to broadcasting, digital and media rights. Recent trends suggest that sports leagues and teams have been investing in/granting rights for:

- setting up fan parks for community viewing;
- offering fans loyalty programmes with special lounge access, merchandise and tickets, social media recognition, etc at a premium;
- gamification: these rights are creatively being exploited to allow the right-holders to create a game based on the league, with the use of the league and team trade marks, player attributes, etc and offer fun activities like quizzes and polls during the match, for better brand visibility and fan engagement;
- enabling viewers to use new-age technology to view the match from different angles thereby enhancing viewership experience;
- digital technologies like NFTs, AR/VR experiences for watching matches, etc; and
- creating documentary and short-form content depicting the teams, the players, and/or the matches, etc.

Increasing awareness of rights and the value attached to them necessitates a hawk-eye review of agreements and rights to monetise them well and advantageously.

Sponsorship rights

India has seen a spike in sponsorship deals, for old and new leagues, with large as well as new businesses supporting various events of this kind. For example:

- the Indian contingent for the Paris Olympic Games secured sponsorship deals worth approximately USD5.77 million from various prominent brands like the Adani Group, the Reliance Foundation, Jindal Steel Works, Aditya Birla Capital, Yes Bank, Amul, etc;
- the Kho Kho World Cup 2025 secured sponsorships to the tune of approximately USD9 million from several brands like EaseMyTrip, GMR Aero, Zomato, Blackberrys and Tata; and
- the World Pickleball League saw sponsorships to the tune of approximately USD10 million from brands such as Barclays Private Bank, Apollo, Skullcandy and EKA.

There is a growing trend of rights fragmentation in sponsorship deals with an aim to attract multiple sponsors to brand different elements of the sporting event. While the availability of multiple sponsorship rights at different price points is encouraging businesses to secure sponsorship rights for brand visibility and enhancement, it is also adding to competitiveness for key spots such as broadcasting sponsor, jersey sponsor and other rights.

These rights are typically sold for big bucks, usually following a bid process (especially in the case of established sports). Sponsorship space will continue to be in demand as unconventional brands tap into this space.

Athlete rights

Players across sports have achieved stardom, thanks to social media and publicity management services. This has led to players becoming aware of the importance of protecting their personality and image rights.

Personalities (eg, an athlete) can restrict unauthorised usage of their identity to safeguard their right to livelihood and privacy as part of constitutional rights. Furthermore, self-regulatory bodies such as the Advertising Standards Council of India specifically prohibit using the attributes of any well-known person in such a way that it confers an unjustified advantage on the product advertised without the personality's consent.

Olympic medallist Manu Bhaker was recently caught up in an ambush marketing web. Upon winning two medals, Manu Bhaker's pictures appeared across different brand advertisements. These brands had used her attributes, without her consent, to cash in on her fame. Bhaker's team was quick to react to the unauthorised use of her personality and sent legal notices to these brands.

It was a welcome change to see athletes becoming cognizant of their rights and taking action against those who violate them. Another welcome trend is that several athletes are now represented by management agencies who help negotiate fair deals for athletes. The increase in popularity of sports as a sector, better pay scales for athletes, sponsorships and awards, fandom, and incentives, can all be reasons for athletes to take their rights seriously and appoint advisors to protect them.

While athletes venture into the world of brand endorsements, it is important for them to know the law on advertising and the dos and don'ts from a legal perspective. It is also important for them to discharge their legal obligations and execute well-balanced and fair agreements.

New Tech in Sports: From Reel to Reality

The use of technology in sports is now a reality. For instance, the use of assistive technology such as 3D printed or tailor-made customised wheelchairs, advanced prosthetics, navigation systems (for vision-impaired runners) etc, aided Indian players to compete at the Paris Paralympic Games.

Athletes and teams are also increasingly using AI and other technologies to, inter alia, develop personal coaching plans, track health and fitness data of athletes, study player patterns as well as strengths and weaknesses, etc. For example:

- the Table Tennis Federation of India collaborated with Stupa Sports Analytics to analyse player performance and provide AI-generated insights based on player health and fitness data; and

- nSure Healthy Spine collaborated with the Finland-based Nordic Health to introduce a data-driven musculoskeletal health technology platform in India. This platform helps optimise exercise therapy devices to improve player mobility and reduce injury risk.

Many Indian IT companies have also made headway in integrating AI in sports. Infosys, one of the leading Indian tech entities has, in collaboration with Tennis Australia, introduced a myriad of AI-based platforms for the Australian Open 2025.

The growing potential of sports technology was demonstrated when Indian Venture Capital firm, Centre Court Capital launched a dedicated fund of USD42 million, targeted at investing in sports technology start-ups. This fund is composed of investments made by significant investors, including the family trust of JSW Group's founders as well as Azim Premji's wealth fund. These investments in India-based companies will bolster the growth of technology development.

With the advent of new technology in sports, various licensing and collaboration agreements are being entered into between technology companies and stakeholders.

The use of new-age technology including AI in sports may also bring about its own nuances such as copyright ownership challenges in using player data and attributes, patent exploitation and protection for sportstech inventions, user harm-related concerns such as online abuse, psychological harm in interactive sporting games, consumer protection issues where sports apps indulge in misleading advertising practices such as dark patterns and greenwashing, ethical issues in use of AI and technology, etc.

Looking Ahead

The future of sports in India is being shaped by numerous trends including the popularity of new and unconventional sports, public and private investments, growth of sports-focused funds, sports franchising, etc. In addition, the growth of the sports sector will be significantly impacted by the use of technologies, particularly AI and AR/VR. This will give rise to more immersive and personalised experiences, enriching the future of sports. Sports allied industries continue to show a lot of potential as well with sports infrastructure, branded products and merchandising, training academies and sports tourism on the rise. The ball has only begun rolling for sports in India, promising a home run in return!

IRELAND

Law and Practice

Contributed by:
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Contents

The Bar of Ireland is the governing body of the independent referral Bar of Ireland, consisting of independent sole-practitioner specialist legal advocates.

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1. Regulatory

1.1 Anti-Doping

Doping is not a criminal offence in Ireland. Sport Ireland is the National Anti-Doping Organisation and applies the WADA code as such. It also provides testing facilities to other sporting bodies, such as in competitions organised by those bodies where games are in Ireland. Reports detailing the number and nature of tests, and notable cases, are published annually.

The amount of testing is not evenly distributed. Cycling and rugby tend to test the most, with the GAA having a large absolute number of tests but a lower number relative to participation numbers. Underage testing is limited, with some sports carrying out no such testing.

1.2 Integrity

There is no specifically sport-related legislation dealing with sporting integrity offences. Match-fixing or fraud would likely be dealt with as offences of dishonesty by the criminal justice system, but where the athlete engaged in such is not making personal gain, it would be usually left to the sport itself to deal with the matters under its own disciplinary systems.

An exception would be where there are integrity offences in a sporting body off-field, such as at the board level. Here, in cases where the sports body is an incorporated body, the companies regulator has dealt with issues of integrity and failings of governance as part of the regulation of corporate bodies. For example, the Football Association of Ireland has had significant issues in recent years arising out of failures to comply with companies legislation.

1.3 Betting

Betting is legal, and while regulated, problem gambling on sport is seen as being a societal problem, particularly given the manner in which online gambling has increased the ease of gambling. There is therefore a strong push to increase the extent and intensity of regulation of gambling.

As a result, the Gambling Regulation Act 2024, which has had a long and involved legislative history, has now been passed. The Gambling Regulation Authority of Ireland has been set up, which has considerable powers in relation to licensing and regulation of gambling, as well as wide-ranging restrictions on advertising and inducements to gamble, such as free offers or free hospitality. Sponsorship would also be restricted, particularly in relation to events or bodies that appeal to or include children; the effect of this on sports clubs and sports bodies would be immediately clear.

The Gambling Regulation Authority is still in the process of recruiting staff, and naturally it remains to be seen how it will operate in practice. However, this is a significant change and will be an area to be watched.

1.4 Disciplinary Proceedings

Most sporting bodies have generally similar disciplinary systems in respect of doping, betting and integrity offences. The WADA code can be taken as the de facto basis for doping offences, while betting and integrity offences will be dealt with under the individual sporting system, but in broadly similar manners. As a rule, those caught in such will be suspended. However, particularly on the gambling side, it may be treated as much as an addiction issue with help to be provided as a disciplinary matter.

Irish law in the wider context is very strong on the requirements for fair procedure, and the requirements for natural and Constitutional justice – specifically, the right to put one's own case and the right for an unbiased assessor – will be implied into any hearings in relation to integrity issues.

As an EU jurisdiction, Ireland is naturally affected by the recent developments in sports law in EU law. The possible effects on sports arbitration and especially disciplinary arbitration of Advocate General Capeta's opinion in Royal Football Club Seraing (Case C-600/23) are, at the time of writing, still very much to be seen.

2. Commercial Rights

2.1 Available Sports-Related Rights

Rights-holders generally restrict the resale of tickets above face value as part of the terms and conditions of entry into sporting events. Reselling tickets at above face value – ticket-touting – was made a criminal offence in 2021. However, there have been no prosecutions to date. Rights-holders have used Norwich Pharmacal orders to prevent the resale of tickets for above face value, and have cancelled tickets sold in this manner outside of the terms and conditions of the tickets. There is a general shift to rights-holders in major sports using ticket sales management providers like Ticketmaster to control the sale and resale of tickets for them, with the advantages in reduced load on the rights-holders.

2.2 Sponsorship

What one must note at the outset is that Ireland is a smaller market next door to, and very integrated with, the sponsorship behemoth that is the Premier League. The sports sponsorship market is distorted by the way the weight of this drags attention to itself every bit as much as the subscription sports broadcast market is.

That noted, sponsorship of sports is very prevalent in Ireland, and the range of brands seeking sponsorship opportunities is very wide, with prominent examples including banks, insurance companies, telecommunications firms, supermarket chains and agrifood industries.

Given the prominence of the GAA, and the strong links with local counties in the structure of the GAA, prominent local brands and local teams often link up together, with it being a means for local companies both to engage with their locale and to push their brand to a wider audience on the island. At the next level up, more prominent counties, and provincial or representative teams in other sports, often associate with larger brands to push a more top-down or island-wide branding. Stadium naming deals are common and increasingly popular.

There is no hard-and-fast rule about who makes the first approach, the rights-holder or the sponsor, but it would generally be done by the commercial departments of the rights-holders reaching out with proposals to potential sponsors identified by them in advance. The sharing of data as part of the pitch in these contacts would now be taken almost as read; certainly, any sports fan interacting with a team would be well aware of the data processing notices and cookie, notices that follow them as a matter of course, stating that the data can be shared with partners.

There is no direct equivalent of the *Loi Évin* in France, and sponsorship by alcohol manufacturers occurs. However, this sponsorship is also used to market new products more appropriate

for an athletic lifestyle, such as low or zero alcohol.

2.3 Broadcasting

Sports broadcasting revenue by domestic public-service broadcasters (which includes the Irish language channel) is largely based on advertising sales. There are other players in the market which are subscription channels, with rights-holders often selling rights to these channels instead.

The primary domestic rights would be the GAA's All-Ireland championships in football and hurling. The GAA had entered into mixed rights sales where games are shared between the subscription-only broadcaster Sky and domestic free-to-air broadcasters, but this was not renewed. The GAA has instead shifted to a streaming service it had set up as a joint venture with the main public service broadcaster, with a subscription element for premium games. This has, however, attracted the attention of the Competition and Consumer Protection Commission (CCPC), the Irish competition authority, over a potential lessening of competition in the broadcast market; the outcome remains to be seen.

Rugby is, at professional level, largely part of wider broadcast-rights deals, such as with the URC, European rugby or the sales of Six Nations and other test-rugby rights. These would then be resold on the Irish market. The different elements of the season are often broken up and sold to different bidders; for example, the test series usually played in November has recently been sold to TNT, while the rights to live Six Nations games are shared among domestic free-to-air channels. Notably, some of the major professional rugby teams, led by Munster, have started developing their own subscription channel as a means of increasing fan engagement and revenue.

Broadcasting is subject to the same restrictions common in the EU, that is, that certain category-A events must be live on free-to-air channels. There are perennial attempts to expand this list, often under domestic political pressure, and staunchly resisted by the rights-holders.

A noticeable development at sub-elite level is how many clubs in different sports have set up streaming services where their matches can now be watched on YouTube or other platforms. Although still in its infancy, this is an area where rapid expansion and commercialisation would seem to be likely, with the difficulties and opportunities that follow.

3. Sports Events

3.1 Relationships

The rights in a sports event are treated as rights in property in the normal manner one would expect in the common law world, and left to the rights-holder to organise on the basis of contract with those participating, those attending (as contractual licensees) and those broadcasting the events.

Consumer protection rights, competition law and general contract law apply as one would expect and in the same manner, but with some special qualifications imposed by EU law, such as in broadcasting. As always, one must note the complexity of Irish sport often operating cross-border with all that that entails.

3.2 Liability

Ireland is a common law country, and the law on the duty of care is largely the same as that in England and Wales.

There is a strong push both from the courts and the legislature to protect sport from the perceived chilling effect of personal injuries litigation. Recent case law has repeatedly stressed the need for consideration of the social utility of sport, which must be considered as a counterweight when the court is considering whether liability should be imposed. As a result, the Civil Liability (Miscellaneous Provisions) Act 2011, increased the threshold required to sue volunteers – that is, those operating for expenses only, including in sport – to that of gross negligence, unless a motor vehicle is concerned or the volunteer knew they were ignoring the directions of the governing body. For organisers, which would include governing bodies, the courts are required to consider social utility as a factor before imposing any liability.

More recently, the Civil Law (Miscellaneous Provisions) Act 2023 has amended the Occupiers Liability Act to make it more difficult for those lawfully on a premises to sue the occupier of those premises in negligence for damage caused by the state of those premises. This would include those on sports pitches or in sports clubs, and was in part driven by difficulties in insuring sports premises.

The idea is that reducing the legal exposure, whether it be of volunteers of occupiers of premises, to risk, will lead to a reduction in insurance premium prices. However, given that no such reduction followed the reduction in risk exposure in the 2011 Act, it must remain very much open to question whether expanding the areas where barriers to litigation are put up will actually work as intended.

Personal injury claims cannot be excluded, as a matter of public policy.

In the wider context, there is not a notable history of hooliganism or violent disorder at sports events, and normal policing generally suffices. There have been cases of violence against players and referees, both by other players and by supporters. It would be increasingly common that these are dealt with as criminal offences and tried as such. This has included prison sentences being given for those convicted of such offences.

4. Corporate

4.1 Legal Sporting Structures

Sporting bodies in Ireland vary in structure. As a general trend, the higher up the sporting pyramid a body is, the more likely it is to have a separate legal personality, such as a limited liability company or a company limited by guarantee. At the grassroots level, clubs are often unincorporated bodies with a trustee structure. This can lead to difficulties, with club members of unincorporated clubs unable to sue the club of which they are members. The Law Reform Commission has made proposals that all unincorporated bodies should have to shift to incorporated form, but over a year after these proposals were first made, there is neither change nor progress.

4.2 Corporate Governance

Sport Ireland has a Governance Code of Sport under the wider National Sports Policy of the Irish government, with which all bodies operating under the aegis of Sport Ireland must comply. Sport Ireland operates a compliance register where bodies certify their compliance, subject to review on renewal. Compliance is a necessary condition for funding from Sport Ireland, and is therefore, in practical terms, universal and mandatory; no sporting body can afford to miss out on this support in what is a small market where

bodies are often competing on an international scale against far bigger and better-funded entities.

For any limited liability or incorporated body, the general restrictions of companies law apply to directors and officers in the same manner that they would with any other company, and these should be checked with the companies regulator. Within this, other sports operate their own governance requirements. As many of the major players in major Irish sporting codes are closer to representative sub-units feeding into the larger national governing body, those who may find themselves in financial difficulty are more likely to find the head body intervening to stabilise financial failures than imposing points deductions on independent economic actors. The varied nature of the differing bodies means it would be prudent for anyone advising or dealing with the matter to consult the policies of the individual sport.

4.3 Funding of Sport

The Irish state remains one of the largest funders of grassroots sport; albeit at insufficient levels, most of this support goes through governing bodies, as well as support for Olympic athletes.

Funding of the largest sports is heavily dependent on broadcasting deals, although the EU's regulations on free-to-air access for major events applies. Sponsorship is also a major source of funding in these major sports, with higher-profile sports, like rugby and the GAA, dominating the funding and sponsorship markets, to the extent that less-prominent sports often operate hand-to-mouth.

4.4 Recent Deals/Trends

The most noteworthy development is the investment of CVC, the private equity fund, in rugby, acquiring stakes in the Six Nations, the URC and the EPCR. The former two, though remaining registered as Irish companies, have now moved much of their effective running out of the jurisdiction. It is unclear whether this is related to Brexit and seeking to move outside of an EU legal system.

Another strong trend is individual benefactors supporting their preferred team. This has had profound effects in the nominally-amateur GAA, with a marked resultant disparity in resources having on-field results.

However, this has been the subject of a recent and ongoing development, where the Revenue Commissioners, the Irish tax authorities, are engaged in investigation of various GAA counties (the rough equivalent in terms of level of clubs in most professional sports) in terms of expenses paid but not declared as income. Although it remains to be seen how this will fall out, it could have wider implications for other sports, with examples such as ex gratia payments to officials above and beyond vouched expenses.

The relatively successful Paris 2024 Olympics has led to calls for increased funding of sport, and this seems likely to become more of a political priority.

5. Intellectual Property, Data and Data Protection

5.1 Trade Marks

Intellectual property in Ireland is protected in the same manner as in other EU states, operating under the same general EU provisions.

5.2 Copyright/Database Rights
No response given for this section.

5.3 Image Rights and Other IP
No response given for this section.

5.4 Licensing
No response given for this section.

5.5 Sports Data
Data in sports has become mainstream as much through the activities of newer media voices as through professionals. There is now huge generation and use of sports data, not just in traditionally data-heavy sports such as cycling but also in relation to the major field sports.

Although there is an appreciation of the importance of data, there must be some doubts about whether all of the data being collected is being used in the most efficient manner; the ability properly to use data requires considerable upskilling by sporting bodies, and this could be a key point of competitive advantage if proper investment were made.

Veterinary data in terms of the huge bloodstock and racing industry is often unremarked, but is a critical feature of possibly the largest sporting industry on the island. Manipulation of and access to this data, and possible misuse in relation to betting, is obviously a key fear, and protection of this data is critical.

5.6 Data Protection
The GDPR applies fully in Ireland, and all sports must have GDPR policies in place. This is particularly acute given the manner in which domestic sporting events can leave Ireland and cross into the UK in, for example, club cycling events at the border with Northern Ireland.

6. Dispute Resolution

6.1 National Court System
The Irish courts are extremely reluctant to intervene in sporting disputes if it can be avoided, with a strong and consistent line of case law emphasising this. There is no specific requirement that internal remedies must be exhausted before approaching the courts, but the courts have made it clear in past argument that where the option of internal remedies is open, then parties will be directed to them by the courts as the preferred option. There are some exceptional cases – for example, where questions of Constitutional or EU law arise, then it is much more likely that the courts would accept it is a matter for them rather than the agreed internal mechanisms, and some commercial arrangements would be viewed in a similar light – but it would be wise always to assume that the courts will urge parties towards internal or specifically sporting dispute resolution as the first port of call.

6.2 ADR (Including Arbitration)
ADR, and especially mediation, is a fast-growing area of the law. In sports dispute resolution, it is well established, with the GAA's Dispute Resolution Authority establishing arbitration as its highest level of appeal in terms, and with Sports Dispute Solutions Ireland having been established with Sport Ireland to provide domestic arbitration and mediation to most other Irish sports.

The majority of Olympic sports would participate in the CAS system; the notable exception is rugby where, barring doping, it very much manages its own affairs. The GAA would be even more stark in this regard.

As noted above, the full effect of EU law on CAS arbitration would also affect Ireland. The major

recent development has been the effective EU onshoring of UEFA arbitrations before CAS, with Dublin now available as an option as the seat of such arbitrations. The potential effects of the Seraing case on top of ISU could push this trend even further.

6.3 Challenging Sports Governing Bodies

The powers of sports governing bodies derive from contract and the agreement to be bound by the rules of the relevant association. The courts are generally deferential to this, preferring, as noted, to leave matters to internal mechanisms and operating a supervisory jurisdiction over those internal mechanisms rather than directly dealing with matters themselves. Once there is compliance with these general restrictions, such as the requirements of natural and Constitutional justice and the rules of the sporting body itself, the courts are reluctant to intervene.

For those bodies whose rules permit access to CAS, this remains an option. However, the recent ISU decision of the Court of Justice of the European Union (CJEU) would be of obvious relevance and, as noted above, the Seraing case, and the full extent of how this will play out, remains to be seen.

It should be noted that the provisions of the European Convention on Human Rights are not directly applicable in Ireland, which has a strong dualist legal system. The provisions of the ECHR are given some domestic effect by way of the ECHR Act 2003, but apply only to the conduct of state bodies, rather than the private contractual agreements that characterise sporting structures.

Some bodies, such as Sport Ireland, would have statutory duties under the Irish Human Rights and Equality Commission Act 2014, analogous to the public sector equality duty under the Equality Act 2010. However, as always given the multi-jurisdictional nature of sport in Ireland, it would be advisable to take specialist advice if it is felt that this would be appropriate.

7. Employment

7.1 Sports-Related Employment Contracts

There is an increasing trend in the larger sporting bodies for player representative bodies, such as the Gaelic Players Association or the Irish Rugby Players Association, to have a voice. These bodies can often act as stakeholders and athlete voices in negotiations such as in those concerning standard-form player contracts. However, instances where this has become antagonistic have cropped up.

Salary caps are not a feature of Irish sport; indeed, the dominant cultural force in Irish sport, the Gaelic Athletic Association, remains nominally amateur. In terms of professional sports, football contracts are regulated by the Football Association of Ireland very much according to the normal FIFA models. Rugby, an all-island professional sport, has a more complicated structure, with all players nominally being employed by the IRFU through its provincial teams, with some players for the national team being on true central contracts. The overwhelming dominance of the IRFU in this market and the influence of its restrictions on non-Irish qualified players has not been the focus of much attention but, as with the French JIFF, some elements may come under increasing scrutiny after recent European case law.

7.2 Employer/Employee Rights

The general elements of Irish employment law (and, as one of the major sources of this, EU employment law) will apply to sports governing bodies. Very recent decisions of the Irish Supreme Court as to who is an employee, relating to gig employment of those in the fast-food delivery industry, are still washing through the system, but it would seem a reasonable baseline assumption that the number of those covered by employment law as employees will increase rather than shrink.

In the narrower context, the Irish sports market is perhaps unusual in that it is dominated above all by the Gaelic field sports, hurling and Gaelic football, where players are not permitted to be paid. The professional sports field is therefore largely left to three sports: rugby, dominated in an unusual arrangement by the national governing body discussed below; football, where the professional league is small and with consequently limited earning power for players, meaning that it has historically operated as a feeder system to the English game; and, to some extent outside of the normal loop, horse racing with its unique arrangements dealing with enormous amounts of money.

The result of this is that employer/employee disputes are less frequent than might reasonably be expected. However, analogous disputes between player associations and governing bodies are not infrequent, especially in the GAA, where increased demands on players as they move to semi-professional demands means that the allocation of income in terms of supports and resources has become more fraught.

7.3 Free Movement of Athletes

UK nationals have full rights of residence. EU nationals (and those covered by Kolpak) would have full Treaty rights. Nationals of other states may require specific work permits on their immigration permissions (often colloquially referred to in Irish immigration law as *"Stamp 4"*). Irish immigration law can be complex, and can further be complicated by the fact that, although Ireland is in the EU, it is not in the Schengen System, adding a further layer of complication for those who may need visas to enter and work in the EU if they must then enter Schengen states while working as professional sports persons.

There is free movement on the island of Ireland, and there is a Free Travel Area for UK and Irish citizens moving between Britain and Ireland. However, those athletes travelling may need to check visa restrictions if travelling to Britain rather than Northern Ireland.

As noted above, CJEU case law on the UEFA homegrown players rule, and similar restrictions are relevant to the free movement of athletes, and the full effects of this remain to be seen.

8. Women's Sport

8.1 Women's Sport Overview

Women's sport is undoubtedly the key development market in Irish sport. Women's Gaelic games, especially Gaelic football, has become a very visible feature of the sporting landscape, but other teams, such as the Irish Women's football team, have equally become much more visible, arguably in the latter case doing better than the men's team with the visibility that follows.

However, resources are a key limiting factor. For example, the previously successful Irish women's rugby team lost out in the sudden surge towards full professionalism in the international women's game, with controversy over lack of

proper resources and support equivalent to that given to the men's team, leading to considerable difficulties and loss of players, and the resignation of coaching staff.

It is fair to say that women's sport generally is not equally funded, and that there is awareness of this as an issue.

There have been developments in this regard. The Women's Six Nations rugby tournament has been decoupled from that of the men to be a standalone, and efforts to market this as outreach to new fans and players seem to be successful. The presence of the Irish women's team at the Olympics Sevens tournament was a notable step forward.

In Gaelic games, the formerly hived-off women's games are being amalgamated into one shared body where all will have an equal say, although this remains a fraught and slow process. Football, of the three main field sport associations, appears to be having the most high-profile successes with a new management team bringing positivity back to the game. Smaller, often Olympic, sports, such as rowing, sailing, hockey and athletics appear to be achieving considerable returns with little fuss, and are noticeably pushing female engagement.

However, despite some very high-profile sponsorships, such as that of Ladies Gaelic Football by one of the major supermarket chains, the commercial exploitation of this as a driver of revenue is still underdeveloped. Although streaming and YouTube broadcasts are now as commonplace as in any sport, the major sponsorship and broadcast revenue deals are still much more in the three main male field sports associations. The increased exposure of an Olympic year could, if used properly, be a catalyst to change this and build the critical mass of interest that would make commercialisation viable.

As noted above, the governance changes requiring much more equal representation on the boards of national governing bodies and other sporting bodies are recent and to some extent bedding in, but it is to be expected that cultural shifts as a result of this may accelerate processes further.

9. Esports

9.1 Esports Overview

Esports have not yet been a significant feature of the Irish domestic market, although esports firms maintain a presence in Ireland, availing of the wider tech infrastructure. The esports industry would up to now have been approached very much in the global rather than the domestic context. However, a new National E-Sports Centre was opened in March of 2025. How this new infrastructure will affect the market remains to be seen.

10. NFTs, AI and the Metaverse

10.1 Non-Fungible Tokens (NFTs)

These do not feature as a notable part of the Irish sports law market.

10.2 AI

Although AI is becoming all-pervasive, it is still in its infancy in the Irish context. Notably, many sporting bodies do seem to be availing of it for the generation of social media marketing imagery.

However, there are few specifically local developments in sport per se. It would be expected

that those developments which are seen elsewhere, particularly in the European sporting market, would be rapidly adopted given that Ireland has a large, influential, tech sector to provide the skillset and push.

The increasing EU steps towards creating a regulatory framework for AI will also be of relevance, and will apply in Ireland.

10.3 The Metaverse

No response given for this section.

Trends and Developments

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Where It Will Go

Lawyers hate making predictions, because predictions can be wrong, even when every care has been taken. It is also part and parcel of lawyering that you have to make predictions for clients even though they can be wrong. At a point in time where the Court of Justice of the European Union (CJEU) has added so much uncertainty into sports law across Europe, this is a particularly acute problem.

However, in an Irish context, we can lean towards certain reasonably based predictions.

First, that the market exists means that there is good reason for those who have been working towards this point to keep pushing to deepen and widen the market. Where investments are made, trends are reinforced; it being harder to abandon that on which money has been spent. Those firms and businesses that have set up in the Irish market in sports law have an incentive to make it work, because they have invested in the market. The increase in outreach is already noticeable and significant, and this in turn means that awareness among consumers can increase and drive the market further.

Second, if developments abroad seem to have had a key effect in crystallising the market, it seems likely they will continue to have a driving effect. Ireland's position as an Anglophone, common law and EU jurisdiction features regularly as part of the pitches for investment in all sorts of areas. Sports law is unlikely to be the outlier.

This is particularly so when the case law of the CJEU seems to be turning an increasingly cold eye towards sports law, as this can affect the operation of sport within the EU being conducted in areas entirely outside the writ of EU law. The effect of ISU on arbitration may soon fade if the CJEU follows the view of the Advocate General in the case of Royal Football Club Seraing (Case C-600/23), which proposed that sports law arbitrations must be subject to review by courts applying EU law.

If, as it seems to be, the Court of Justice is pushing for what one might almost describe as an onshoring in the EU of sports law that can effect EU law markets, then the steps taken by the Court of Arbitration for Sport (CAS) in regard to Union of European Football Associations (UEFA) arbitrations would seem to be the model for what could be done. A path that has been walked before is easier for the next person to follow. There is no question that this will not be pushed, hard, in the coming years.

Third, these together create an incentive for more international firms to open branches in Ireland to take advantage of possible changes. It would be surprising not to see more UK firms, at the least, moving into this area over the next few years, and this in turn will build the range of services on offer from a wider range of providers – again making it a more tempting option.

Conclusion

As with any exercise in trying to pick a winner, no matter how much attention you pay to the background, the form or the going, your choice can still be incorrect. The inherent risk does not go away. That said, the exercise still remains the best form guide and the best predictor of where the winner might be.

We cannot, then say for certain that the Irish sports law market may not be a guaranteed big winner; but we can now say that it is at the races.

ITALY

Law and Practice

Contributed by:
Maurizio Marullo, Giorgio Vagnoni, Francesco Amoresano and Fausto Consolo
LAWP Studio legale e tributario

Contents

Contributed by: Maurizio Marullo, Giorgio Vagnoni, Francesco Amoresano and Fausto Consolo,
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LAWP Studio legale e tributario is a law and tax firm with over 20 years of providing assistance in corporate and commercial transactions (including M&A, financing and joint venture transactions in the sports industry). LAWP is renowned for its proficiency in civil, commercial and tax law and is highly regarded for its handling of complex issues requiring diverse skills and innovative solutions. The firm assists national and international clients with cross-border matters impacting several jurisdictions. LAWP provides assistance to sports clubs, athletes and agents, assisting them in contractual, corporate and tax matters.

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1. Regulatory

1.1 Anti-Doping

Doping is a crime under Article 586-bis of the Italian Criminal Code, punishable with imprisonment of up to three years and a fine of up to EUR51,645. This applies to anyone who:

- procures, administers, takes or promotes the use of forbidden drugs or biologically or pharmacologically active substances; or
- adopts forbidden medical practices.

These sanctions are imposed if the above-mentioned acts are likely to enhance an athlete's performance without medical justification, and are specifically aimed at altering athletes' competitive performances and/or changing the results of doping tests. To commit the offence, it is only necessary to prove the ability of the substance or practice to unlawfully enhance the athlete's performance.

Trading in doping substances is punishable with imprisonment of up to six years and a fine of up to EUR77,468. Sanctions may be increased under specific circumstances (eg, if the conduct causes harm to health or is perpetrated by an agent or employee of a sports entity), and doctors and sports persons involved in the criminal conduct can also be subject to disciplinary sanctions.

Prohibited Substances and Medical Practices

Prohibited substances and medical practices are periodically updated by a Decree issued by the Ministry of Health. Prohibited substances are divided into three macro-categories:

- prohibited substances and methods both in and out of competition (eg, nandrolone, erythropoietins);
- prohibited substances and methods only in competition (eg, cocaine, ephedrine, tetrahydrocannabinol); and
- prohibited substances and methods only in certain sports.

The National Anti-Doping Organisation (NADO Italia)

NADO Italia is acknowledged by the World Anti-Doping Agency as the competent entity on anti-doping in Italian sports, and some of its main duties are:

- issuing the Sports Anti-Doping Regulations;
- planning and managing anti-doping tests and the relative results;
- investigating potential anti-doping violations (through the National Anti-Doping Prosecu-

tor's Office) and imposing sanctions in case of breach of anti-doping norms (through the National Anti-Doping Tribunal (*Tribunale Nazionale Antidoping*, or TNA));
- creating educational programmes and courses to raise awareness of anti-doping matters; and
- managing therapeutic use exemption requests.

The World Anti-Doping Code is implemented through the *"Sports Anti-Doping Code"*, which transposes the World Anti-Doping Code within the Italian sports system and applies to sports subjects – members and affiliates – under the authority of the Italian National Olympic Committee (CONI) and to non-members/non-affiliates (eg, doctors, pharmacists) whose conduct has an impact on CONI members/affiliates and competitions.

The Relationship Between Criminal Justice aTnd Sports Justice Regarding Doping Matters

An emblematic case with respect to the relationship between criminal justice and sports justice in doping matters regards former race walker Alex Schwazer. This is one of the most complex and significant anti-doping cases in Italian sports in recent history, and highlights the distinct separation between the realms of sports justice and criminal justice, which can lead to divergent outcomes in corresponding proceedings. The athlete tested positive twice (in 2012 and 2016), and in relation to the second violation the Italian Criminal Court acknowledged irregularities in the athlete's sample. However, the court dismissed the proceedings, citing the fact that he did not commit any criminal conduct. This decision was handed down despite objections from WADA. Following his acquittal, Schwazer applied to the Court of Arbitration for Sport (CAS) and the Swiss Federal Court requesting:

- the reconsideration of the ban; and
- the provisional suspension of the eight-year ban.

Both suspension requests were rejected by the courts. In 2022, Schwazer asked the European Court of Human Rights to review the CAS and Swiss Federal Court decisions.

Another notable recent case involving an Italian athlete is the one related to tennis world No 1 Jannik Sinner. Despite attracting significant media attention, the conduct of Sinner and his team – including his physician and trainer – holds no relevance under Italian criminal law. This is because the anti-doping rule violation was deemed unintentional, and under Italian criminal law, only intentional offences are punishable.

1.2 Integrity

Article 1 of Law no 401/1989(*"fraud in sport competitions"*) imposes a prison sentence ranging from two to six years and a monetary fine on individuals:

- who offer, promise, or accept money or other advantages in relation to a participant in an official sports competition; or
- who carry out any other act to manipulate fair and equitable competition.

Notably, the mere intention to *"manipulate fair and equitable competition"* is sufficient for prosecution under this law, regardless of whether the manipulative act actually occurs.

Sports fraud is also sanctioned under all the Italian Federations' Sports Justice Regulations. For example, the Italian Football Association (*Feder-*

azione Italiana Giuoco Calcio, or FIGC) Justice Code sanctions clubs, athletes and any other relevant subjects of the FIGC for any conduct aimed at:

- manipulating the course or the result of a match; or
- ensuring an unfair advantage in competition.

Sanctions may include points deductions, relegation, exclusion from the tournament and/or revocation of any sports title. Individuals found guilty of sports fraud face a minimum four-year ban and substantial monetary fines. Sanctions can be increased in case of multiple offences, or if the manipulation of a result or a tournament advantage is obtained.

The *"Calciopoli case"* in 2006 centred around these offences. In this case, presidents and managers of several prestigious Italian football clubs, FIGC officials, executives of the Italian Referee Association and referees were investigated by the criminal Public Prosecutor for criminal association and fraud in sports competitions. Concurrently, the FIGC Prosecutor initiated investigations for violation of the FIGC Justice Code. This investigation resulted in very substantial sanctions being imposed on clubs, public officials and the most eminent people working in the football industry at that time. The repercussions included the revocation of sports titles, relegation, points deduction and bans from public services and managerial roles. The liability of the defendants was also acknowledged as a crime in ordinary criminal courts; however, most defendants ultimately benefitted from the statute of limitations applicable to their offences.

1.3 Betting

Gambling Under Italian Laws and Betting-Related Offences

Gambling is legal only if operated by entities with the relevant licence issued by the Excises, Customs and Monopolies Agency (*Agenzia delle Dogane e dei Monopoli*, or ADM). Outside this regulated area, gambling is a crime and the Criminal Code sanctions both organisers of and participants in gambling (including sentences and fines imposed under Articles 718 and 720 of the Criminal Code).

Under sports law, specific betting-related offences are designed to combat illegal betting and match fixing. The FIGC Justice Code specifically forbids betting activities for individuals connected to the FIGC, managers, stakeholders and members of professional and non-professional clubs. In particular, members of professional clubs can never bet on official FIGC, UEFA or FIFA matches. Members of non-professional and youth clubs can bet through authorised betting agencies only in relation to official FIGC, UEFA and FIFA competitions not involving their own club. Sanctions include sports bans, monetary fines, points deductions, relegation, exclusion from competition and/or revocation of titles. Sanctions are also established for failing to report any potential betting-related offence to the FIGC Prosecutor. The same conduct is relevant under criminal law to the extent it constitutes fraud in sports competition (see **1.2 Integrity**).

A 2011 case involving match fixing and gambling in top-flight Italian football clubs is a striking example of the intersections between criminal and sports justice. Charges were pressed by a football club against its former goalkeeper, who was accused of adding a sedative to his teammates' water to sabotage their performance during a match in 2010. As the investigation into

this allegation expanded, it revealed a broader network of criminal association, with the primary objective being betting on fixed matches. This network was found to include numerous players and coaches. Disciplinary sanctions were imposed on several clubs (including points deductions and fines), as well as players and coaches (who, in the most serious cases, were given a five-year ban from any role within the FIGC).

Co-Operation Against Gambling in Sport

In recent years, many sports institutions have undertaken initiatives to prevent sports fraud and raise awareness of gambling and match fixing in sport. In parallel, some leagues have entered into memoranda of understanding with the Italian Customs and Monopolies Agency (ADM) and international technology providers with the purpose of monitoring sports betting flows and preventing fraud.

Under Decree Law No 87/2018, the government banned gambling and betting advertising in sports events despite criticism from clubs that have suffered economic damages due to the forced termination of numerous sponsorship agreements with international betting agencies.

1.4 Disciplinary Proceedings

Under Law Decree No 220/2003, technical and disciplinary controversies fall under the exclusive authority of sports justice. Therefore, clubs, associations, affiliates and members must address these matters through designated sports disciplinary bodies.

Anti-doping/disciplinary proceedings generally start with a preliminary investigation led by the PNA/Federation Prosecutor, which may result either in the dismissal of the case or disciplinary action against the suspected party. In the latter case, the matter is referred to the relevant tribunal (the TNA or the competent Federation Tribunal). Notably, individuals with a protected interest in the outcome may also initiate disciplinary proceedings.

Sports proceedings guarantee a fair trial and are conducted within a reasonable timeframe. This ensures the smooth operation of competitions and federation activities. Parties are entitled to have their case heard at two distinct levels. Additionally, they can request provisional measures, such as the suspension of an athlete, pending the final outcome. During hearings, both parties have the right to be present and heard equally. They can introduce various forms of evidence, including documents, witness testimonies, and technical expert opinions. The panel may also request additional evidence on their own initiative. Finally, both parties have the right to submit clear and concise written defences.

First instance decisions may be challenged before the National Anti-Doping Court of Appeal and the Federation Court of Appeal. Disciplinary decisions may be further challenged before the CONI Collegio di Garanzia dello Sport on grounds of legal violations or for insufficient or defective reasoning on a crucial aspect of the dispute (Article 54 of the CONI Justice Code).

The above proceeding does not preclude the involvement of competent public prosecutors and ordinary criminal courts, which may initiate independent investigations. There is a regulated system for sharing information between ordinary courts and sports judicial bodies.

2. Commercial Rights

2.1 Available Sports-Related Rights

Merchandising

Sports entities are increasingly focusing on exclusive merchandise in order to enlarge their fan base worldwide, attract new sponsors, gain visibility and, most importantly, increase their revenue through commercial activities. Many clubs are following this trend, frequently releasing special collections dedicated to specific markets (eg, the Chinese New Year collections), trendy lifestyle merchandise (eg, capsule collections, collaboration with designers and music artists) and digital content to be marketed via NFTs or similar instruments. This triggers the need to protect the relevant intellectual property and gain consent from the creators, developers and interested subjects.

Ticketing

For the most important sports events, event organisers enter into partnerships with specialised ticketing companies and/or agencies, through which spectators have the opportunity to purchase tickets and, if allowed, change the users' details on tickets or resell them to third parties. To combat illicit ticket resale, the resale of tickets at inflated prices and/or through illegal channels is prohibited. Furthermore, authorised retailers are now required to implement name change services and/or facilitate ticket resale at their original retail value.

Hospitality

Hospitality services are increasingly offered by sports event organisers as a reward to sponsors, investors, VIPs and loyal fans with the aim of increasing brand awareness and attracting new sponsors and investors. This pursuit of additional income is driving investments in creating more upscale experiences within stadiums and venues, favouring projects for the construction and revamping of sports facilities.

2.2 Sponsorship

Sponsors remain a major source of income for the Italian sports industry. Italian laws do not contemplate statutory provisions governing sponsorship contracts; therefore, parties are granted considerable freedom to define the relevant terms and conditions. Sponsorship agreements often contemplate additional components like licensing, advertising and merchandising. Particular care should be taken when negotiating agreements with sponsors operating in certain industries (eg, alcoholic beverages and betting, where limitations are imposed on sponsorships with visibility in the Italian territory) and when barter is provided (ie, payment in kind), where relevant tax implications must also be assessed.

It is also common for sponsors to secure licences from clubs to use images of particular athletes (in addition to images of the overall team) in their promotional campaigns; however, in such instances, while most clubs are entitled to grant rights over collective images, a specific consent should be obtained when a single athlete is involved.

Naming rights (whereby a club, a competition or a stadium/arena are renamed with the sponsor's name) may also be included, subject to certain limitations imposed by the relevant sports federations. For example, Serie, A clubs can have sponsor-named stadiums but not sponsor-named clubs, unlike basketball or volleyball teams.

Sports leagues are increasingly assisting clubs in brand development and promotion. A recent example includes Serie, A allowing additional sponsors on team jerseys. Also, sports events

are increasingly linked to sponsors (eg, match sponsors, award sponsors, etc). This focus on branding is even more crucial since the legal ban on betting sponsors has forced clubs to seek alternative revenue streams.

2.3 Broadcasting

Legislative Decree No 9/2008 (the *"Melandri Law"*) marked the transition from a system based on the ownership of sports broadcasting rights by each event organiser (like home teams in leagues), to a system based on co-ownership by competition organisers and participating clubs, with the aim of ensuring a competitive balance among clubs through a fairer distribution of revenues, to achieve a more transparent and efficient broadcasting rights market.

Competition organisers are in charge of marketing broadcasting rights of such competitions worldwide in the interests of the participating clubs.

Event organisers still maintain full rights to footage and audio of past events (shared with the visiting club), whereas the mass media maintain the right to report and cover sports events, with limitations concerning live matches. Rights to footage and audio of past events may also be exploited commercially by the respective holders, which may still retain the right to use them on their own platforms (eg, social media) for non-commercial and/or reporting purposes.

Specific guidelines govern the procedures for assigning broadcasting rights to the best bidder in a transparent tender procedure, as well as the maximum duration of licensing contracts and specific rules for the formation of so-called broadcasting bundles.

For instance, in the Italian market, broadcasting rights of professional sports competitions are assigned over five seasons through various packages (eg, matches, highlights, unencrypted broadcasting, radio, etc). Importantly, no single entity can acquire exclusive rights for all matches. On the other hand, following further amendments to the Melandri Law in 2023, more flexibility has been introduced in the commercialisation of broadcasting rights on the international market.

The Melandri Law establishes criteria for distributing broadcasting revenues among participating clubs. Notably, Serie, A has specific rules requiring a portion of these revenues to be allocated to youth development, minor leagues, and sports infrastructure improvements.

Only the assigned broadcaster can film and broadcast the event. While journalists from various companies can attend the venue, they cannot capture audio, video, or pictures for broadcasting purposes. However, they retain the right to narrate the event for news reporting purposes.

Further, after certain amendments in 2023, the Melandri Law is in the process of being overhauled in 2025 to reflect the importance of new available technologies and the ever-increasing number of sport-related content which has been developed over the years.

3. Sports Events

3.1 Relationships

Rights in a sports event (and pertaining obligations) are typically attributed to the organiser; however, said attribution may depend on multiple factors (eg, venue ownership, any delega-

tions to leagues or federations to sell the event broadcasting rights, etc).

In professional matches, the home team has the right to control spectator admission through ticketing and/or dedicated invitation. By purchasing tickets, spectators automatically accept the stadium regulations, the rules issued by the federations, leagues and public security authorities, and any additional measures regarding the event.

Sports event organisers must request all necessary authorisations from the competent authority for public entertainment and obtain from the territorially competent police force a public entertainment licence to allow the sale of tickets. Failure to comply can result in penalties for the organisers or even the venue being deemed unusable for future matches.

Taking football as an example, FIGC outlines specific minimum requirements in its National Licensing Systems Annex. These requirements vary based on competition importance and cover aspects like:

- minimum number of seats;
- pitch conditions and maintenance;
- lighting system;
- locker rooms;
- disabled facilities; and
- broadcasting areas.

Further, organisers must also comply with the relevant federation rules regarding technical equipment suitability, athlete well-being, and the safety of all event participants.

3.2 Liability

Organisers' Duty of Care

Event organisers have a responsibility to ensure a safe environment for everyone involved. This includes verifying the venue's suitability for each event and implementing appropriate safety measures to prevent harm to attendees, athletes, and third parties.

If they fail to uphold these duties, organisers may be held liable for breach of contract towards ticket holders (Article 1228 of the Italian Civil Code) and under tort provisions (Article 2043 of the Italian Civil Code) for damages suffered by the attendees and their belongings during the event, triggering indemnification obligations.

In addition, organisers may be held liable as custodians of the venue (Article 2051 of the Italian Civil Code) and, on the occasion of major sports events, they share the same liability provided for those who carry out dangerous activities (Article 2050 of the Italian Civil Code).

The burden of proving exemption from liability is particularly steep, as organisers need to:

- prove the occurrence of a force majeure event; or
- have taken all the necessary measures to avoid damages.

Athletes are rarely held liable towards spectators, unless their actions fall outside the reasonably foreseeable risk deriving from sports activities or unless they deliberately intend to cause harm to a spectator.

With reference to organisers' limitation of liability, it is common to find on tickets or regulations accepted by spectators when purchasing tickets limitation of liability clauses establishing that

organisers and their agents are not responsible under certain circumstances; however, under consumer protection provisions, said clauses are always void when limiting liability for death and injuries (Consumers' Code, Article 36.2).

Prevention of Violence and Disorder in Football

Organisers shall also ensure public order and co-operate with law enforcement agents before, during and after the event. Public authorities are also entitled to suspend or cancel an event in case of riots, disturbance or danger to public safety. In addition, organisers are required to hire an adequate number of stewards in charge of ticket control, spectator reception and support to law enforcement officials during a match.

With specific regard to football, the FIGC Justice Code establishes strict liability on football clubs for the unlawful behaviour of their supporters, even during away games. This liability extends to any violations of order and safety rules occurring before, during, and after the event, both inside the stadium and surrounding areas.

Further, since 2009, professional football clubs have adopted the so-called *Tessera del Tifoso*, a membership card which is mandatory for all visitors' supporters and even for home supporters in matches deemed by the public authority to represent a risk to public order.

4. Corporate

4.1 Legal Sporting Structures

Sports Institutions and Clubs

CONI is a public entity that maintains independence and autonomy from political and governmental bodies.

National federations are non-profit associations with legal personality under private law made up of clubs, sports associations and, in the cases indicated by their by-laws, individuals.

Also, leagues are private law entities, whose associates are the clubs that, year by year, take part in the league tournaments. Their main functions are organising competitions, defending the interests of members with respect to the federation and/or other system entities, and providing counsel and support to the associate clubs in various sectors (eg, marketing, event organisations, governance, broadcasting rights, player transfers).

Professional Clubs

Professional clubs can only adopt the form of joint stock companies or limited liability companies. Said companies have:

- the ability to distribute profits among members, but 10% of profits must be allocated to youth sports training and education centres; and
- the obligation to adopt a board of statutory auditors.

Non-Professional Clubs

Non-professional clubs may adopt the form of recognised/unrecognised associations (ASDs) or limited/co-operative companies (SSDs). These entities are primarily non-profit organisations, with a core focus on sports activities. Only SSDs have the possibility of limited profit distribution (less than 50% of annual profits).

In terms of individual liability, unrecognised ASDs do not have patrimonial autonomy, meaning individuals acting on the club's behalf hold personal liability for any debts. Conversely, recognised ASD and SSD have patrimonial auton-

omy, meaning the liability of members is limited to the capital contributed.

Due to their non-profit, sports-educational activities, both entities can benefit from tax benefits.

Since July 2023, the legislation concerning non-professional clubs was reorganised. Some aspects were modified and/or clarified (eg, both ASDs and SSDs may carry out wider commercial activities, such as sponsorship, ticketing, etc, insofar as they are still instrumental to sports activities). Non-professional clubs still benefit from tax benefits, but only if they are registered in the *"National Registry of Amateur Sports Activities"* held by CONI, since said registration certifies the amateur/non-professional nature of a club.

4.2 Corporate Governance

Corporate Criminal Liability

Under Legislative Decree No 231/2001, companies and other legal entities are subject to a particular liability for certain offences perpetrated by their management or representatives. To avoid liability, companies are required to:

- adopt and implement an *"Organisation, Management and Control Model"* (or *"231 Model"*), which sets principles and procedures to evaluate, monitor, prevent and manage the risk of offences committed within the company; and
- appoint a supervisory body, in charge of evaluating and monitoring the observation and implementation of the 231 Model.

The principles have also been applied to sports entities. CONI required national federations to adopt their own 231 Model, which must also be observed by affiliates and members. Further, federations can adopt guidelines to be observed by leagues and clubs that decide to adopt their own 231 Model. Certain leagues have expressly requested that their affiliated clubs adopt their own 231 Model as a mandatory requirement for membership.

Clubs participating in national championships have to adopt 231 Models and appoint a Supervisory Body to prevent acts aimed at violating the principles of loyalty, fairness and probity in all relationships.

Further, under Legislative Decree No 39/2021, sports clubs must, under penalty of disciplinary sanctions:

- adopt organisational and control models for sporting activities and codes of conduct in order to protect minors and prevent harassment, gender-based violence and discrimination (eg, safeguarding models); and
- appoint a Safeguarding Officer.

Eligibility Criteria

Certain sports federations (eg, FIGC) provide that any entity willing to acquire a membership interest in a professional football club must meet certain financial and integrity requirements and demonstrate and/or declare (as the case may be) that they are not involved in previous criminal proceedings or in any insolvency situations involving other clubs. Failing that, an investor will not be able to actually exercise control over the target club until approval from the federation is granted.

Insolvency in Sports

Professional clubs are subject to the provisions applicable to companies under the Italian *"Business Crisis and Insolvency Code"* and may be subject to judicial liquidation where certain legal requirements are met. The application of said

provisions to non-professional clubs is debatable, especially when they carry out commercial activities.

Insolvency is also sanctioned by sports regulations. By way of example, the latest *"National Licensing System 2025/2026"* states that clubs must prove they have fulfilled several obligations, including the payment of:

- fees, training compensations and solidarity contributions owed for international and domestic acquisitions of players;
- debts owed to the FIGC, leagues and other Italian clubs;
- emoluments, taxes, welfare, social security and end-of-career contributions due to players, coaches, members, employees, managers, medical and technical staff, etc; and
- VAT and other taxes and contributions (eg, IRAP, IRES etc).

Failing that, insolvent clubs are excluded from competitions and their affiliation is revoked.

Besides, under the FIGC NOIF, clubs that enter into debt restructuring procedures in business continuity are also subject to disciplinary consequences, and specifically a ban from registering new players for up to four transfer windows.

If a club is declared insolvent by the judicial authority during the course of a sports season, to safeguard ongoing competition the insolvent club may be allowed to temporarily continue its business and sports activities until the end of the football season. Should the club cease its activities due to insolvency, its athletes would be automatically released and the sport title (including trade marks, etc) will be subject to asset sale within the framework of a bidding procedure.

4.3 Funding of Sport

Public Funding

Italian governments are increasing sports funding with the aim of upgrading obsolete sports facilities throughout the country and promoting sports among youngsters, women and disabled people. A significant part of these public funds is allocated yearly to sports organisations through Sport e Salute S.p.A., a joint-stock company connected to CONI.

Public funding for sports has drastically increased since the introduction of the 2021 National Recovery Plan. In particular, specific funds have been allocated for the upgrade of public sports infrastructure and for the upgrade and/or construction of venues for the 2026 Winter Olympics in Milan-Cortina.

The Sports and Culture Credit Institute

The Sports and Culture Credit Institute (*Istituto per il Credito Sportivo e Culturale*) is *"social bank for the sustainable development of sports and culture"*, granting low-interest loans to public and private entities for the implementation of sports facilities, including funds to purchase real estate lots to be dedicated to the construction of sports infrastructure.

Private Investments

Italian clubs are still heavily relying on investments made by private owners, although the amount invested is still limited relative to some other countries. However, there is now a growing trend of international investors showing interest in acquiring Italian football clubs.

Funding for Federations

Federations are funded by CONI/Sport e Salute S.p.A, among others. The amounts due to each federation are calculated as follows:

- 50% of funding is based on the federation's success in elite sports competition;
- 30% is tied to the overall number of people actively participating in the sport governed by the federation; and
- 20% is based on efficiency and sustainability in sport management.

Unsurprisingly, football receives the largest share of funding. This reflects its dominant position within the Italian sports industry, generating 70% of the annual sports tax revenue.

4.4 Recent Deals/Trends

As of the 2024/2025 season, it is interesting to note that the majority of Serie, A football clubs are foreign-owned. Specifically, 11 out of 20 teams belong to foreign entities, including 8 from the United States.

This trend is in line with what is also happening in the European arena, with players from the Middle East, Asia and North America investing large sums in European football.

It is also remarkable how, in Italy, this trend also involves smaller clubs from lower categories.

5. Intellectual Property, Data and Data Protection

5.1 Trade Marks

Registration of a Trade Mark

Italian trade marks can be registered by submitting an application form containing:

- the trade mark features (type, name, descriptions, colours, etc);
- the product categories for which the request is filed;
- the applicant data; and
- if necessary, a fast-track request and further relevant documents.

The Italian Trademarks Office (UIBM) then evaluates the admissibility and correctness of the application and publishes it in the Trademarks Bulletin for a three-month opposition period. If no valid opposition arises, the trade mark is registered.

It is also possible to obtain EU trade mark protection by filing a registration request at the European Union Intellectual Property Office (EUIPO) or by requesting an EU extension of a registered Italian trade mark within six months from the national registration request. The EUIPO route is often the preferred one, given the possibility for the applicant to obtain registration valid in the entire European Union.

Registration Limits and Advantages

The Italian Intellectual Property Code establishes limitations to trade mark registrations, such as:

- well-known signs in art, literature, science, politics, sports, etc, unless the holder of said signs express their consent;
- trade marks identical or similar to another trade mark regarding similar or identical products, in case it may cause confusion among the public or the later trade mark can take advantage of the reputation of the earlier one;
- signs without distinctive character;
- signs that are unlawful or deceptive; and
- geographical indications and denominations of origin with the potential to mislead the public or involving an undue exploitation of the protected name's reputation.

Despite the above limits, Italian courts nowadays allow sports clubs to register trade marks bearing the name of the town they represent,

since they acquire independent distinctive features over the years, especially when combined with a club's colours and logos. This trend aligns with the growing focus of professional clubs on rebranding initiatives to enhance their marketing appeal.

Registering a trade mark grants its creator all the relative IP rights and protection against:

- any unlawful use of said trade mark;
- any potential registration of similar competing trade marks; and
- any attempts at counterfeiting, usurpation or alteration.

Further, clubs can also leverage criminal laws that penalise anyone trading in or introducing counterfeit goods in Italy (Article 474 of the Italian Criminal Code), and obtain prompt support from public enforcement officials. Also, sports leagues collectively negotiate with third-party agencies in the interests of their affiliates to engage private investigation services to discover and prevent counterfeiting.

Existing trademarks owned by others, even if less well-known, can limit a club's ability to expand its trademark protection to new product categories. In a notable case, AC Milan submitted a request in 2017 for EU registration of its trade mark regarding, among others, office items; however, a German firm that held the word mark MILAN relating to office items, filed an opposition to the EUIPO in order to avoid confusion among German consumers. The EUIPO and the EU Tribunal upheld the objection based on the likelihood of the two trade marks being confused.

5.2 Copyright/Database Rights

Copyright is regulated by Law No 633/1941 (the *"Copyright Law"*), which safeguards works of creativity (including databases) across various mediums, including literature, music, figurative arts, architecture, theatre and cinematography. Through copyright, authors gain the exclusive right to use and publish their work, as well as the *"moral rights"* to claim authorship and act against misrepresentation or damage to their reputation. Copyright lasts for the author's lifetime and up to seventy years after death, while moral rights are perpetual and transferable through inheritance.

Copyright holders are protected in several ways: generally, the breacher is ordered to stop using the protected work and compensate any harm caused to the copyright holder. The breacher may also be ordered to destroy any infringing materials.

Unlawful conduct under the Copyright Law is also punished through administrative and criminal sanctions (eg, imprisonment and fines).

Copyright Law is pivotal in the sports sector as it can offer protection to the image rights of athletes, including their faces, jersey numbers, likenesses and signature moves. A notable copyright case involved football team Inter Milan, whose official *"stadium anthem"* could no longer be played due to a dispute between the club and the copyright holder of the song.

5.3 Image Rights and Other IP

Image rights are protected by the Italian Civil Code and the Copyright Law (see **5.2 Copyright/Database Rights**).

The Civil Code (Article 10) safeguards the image of an individual in case of unlawful exhibition/

publication or damage to their reputation, and entitles the right-holders to apply for the termination of the abuse. Image rights are untransferable, indefeasible and inalienable.

The Copyright Law (Article 96-97) establishes that an individual's image can only be used or sold with their consent. The only exceptions occur when said reproduction is:

- justified by the notoriety or holding of public office of the person concerned;
- justified by the necessity of justice, security, scientific, educational or cultural purposes; or
- related to facts, events, ceremonies of public interest or held in public.

During the 1980s, the FIGC, the Italian Footballers' Union and leagues signed a covenant to regulate advertising activities of professional clubs and athletes, by which players were entitled *"to use in any lawful and decent form their image, even for profit, to the extent it is not associated with the names, colours, jerseys, symbols or markings of the club they belong to or other clubs"*. Similarly, clubs could allow their sponsors to use their players' image for commercial purposes only in the case of *"team pictures"* in uniform and to promote sponsorship agreements with the club.

Currently, the Italian Footballers' Union By-Laws (Article 26) grant to the Italian Footballers' Union the use of players' images and names related to professional activity, even for commercial purposes, and the possibility to grant said rights to third parties (eg, videogame producers).

Sometimes, federations put limits on the commercial exploitation of athletes' images (connected, for instance, to images in the context of a national team), especially when federations' technical sponsors are competitors of athletes' technical sponsors.

Athletes may take any necessary action to stop any abuse of their image, unless they lawfully express their consent to the commercial exploitation of their image by third parties.

A noteworthy dispute recently involved fashion brand Dolce&Gabbana and Diego Armando Maradona, with the former sentenced by the Court of Milan to pay damages to the latter for unauthorised exploitation of his image for commercial purposes.

5.4 Licensing

Licensing is a contract by which the licensor grants the exploitation of its IP to the licensee in return for a fixed fee and/or royalties. It represents one of the most common ways for sportspeople to commercially exploit their IP and image (eg, through merchandise bearing the licensor's logo).

Clubs have the widest powers to leverage their licensing agreements using the image of the team, whereas licensing to a third party the image rights of a single athlete will be subject to the latter's consent; similarly, whenever a club is willing to use and/or license the image of minor athletes, the consent of their parents/guardians is also required.

5.5 Sports Data

Athletes' Data

Athletes' biometric data is increasingly used for competitive and commercial purposes, subject to the athlete being informed and providing consent to the processing and usage of health data. In particular, professional teams usually collect athletes' data through specific analytics software in order to implement tailor-made training

methodologies for each athlete. Recently, football teams have been entitled to gather and consult live statistics during matches, so coaches now have more tools to make tactical decisions. On a commercial level, athletes' biometric data is usually collected to facilitate scouting activities and to make video games and other digital content.

Spectators' Data

Spectators' data is generally used for commercial and statistical purposes, since registering consumers' data and their preferences allows business operators to identify their preferences and offer products based on the latest trends (always subject to consent by the data owner). Additionally, spectators' data is used for security reasons to help law enforcement authorities and event organisers to identify perpetrators of any offences.

5.6 Data Protection

Italian data protection legislation consists of the *"Privacy Code"* and – most importantly – of the EU Regulation 2017/679 (GDPR), which introduced a new approach that facilitates the traffic of data and holds data controllers and processors liable for any data breach and/or improper use.

Under the GDPR, it is possible to process personal data without consent in specific circumstances (eg, to perform a contract to which the data subject is party, complying with a legal obligation to which the controller is subject). However, special protection is still established for so-called sensitive data (eg, revealing racial or ethnic origin, political opinions, religious beliefs, trade union membership, genetic data, biometric and other health data, etc); use of this data is allowed only with the specific consent of the data subject or upon the occurrence of specific circumstances.

The GDPR has also strengthened the rights of data subjects in terms of:

- transparent data treatment;
- right of access;
- data rectification, erasure and portability;
- restriction of processing;
- objection; and
- communication of personal data breaches.

Personal data of athletes and spectators must be treated in accordance with the GDPR as well. Therefore, it is necessary to provide an adequate privacy policy to data subjects and obtain specific consent for sensitive data treatment.

6. Dispute Resolution

6.1 National Court System

Decree Law No 220/2003 regulates the independence of sports law from the ordinary law, *"except for relevant cases for the State legal system related to subjective legal situations connected with the sports system"* and establishes exclusive jurisdiction of sports bodies (see **1.4 Disciplinary Proceedings**) for technical matters (eg, observance and application of sports regulations) and disciplinary matters.

For technical and disciplinary matters, sportspeople must compulsorily apply to the competent sports justice bodies, whose decisions cannot be challenged before ordinary/administrative courts unless said matters require the solution of *"relevant cases for the State legal system"* (eg, criminal offences).

For administrative disputes (eg, enrolment, affiliation and registration to competitions), the parties need to pursue remedies before sports justice courts (each federation ensures at least two levels of judgment and, in specific cases, it is possible to challenge said decisions to the CONI Collegio di Garanzia dello Sport; see also **1.4 Disciplinary Proceedings**), before they challenge sports justice decisions before the Lazio Regional Administrative Court (Article 135.1.g of the Italian Code of Administrative Proceedings).

For disputes concerning labour and/or economic relationships between sports individuals and entities, the parties, in general, may apply to ordinary courts or refer the dispute resolution to arbitration. However, note that most collective agreements provide an exclusive arbitration venue for the resolution of said disputes (see **6.2 ADR, including Arbitration**).

For criminal offences, two separate disputes – one before the ordinary court and one before the sport justice bodies – proceed in parallel, and said duplication of disputes can sometimes lead to conflicting decisions (see **1.1 Anti-Doping**).

6.2 ADR (Including Arbitration)

Arbitration courts can be used in labour and/or economic disputes in accordance with Article 806 of the Italian Code of Civil Proceedings and Article 4.3 of the CONI Sports Justice Code.

Arbitration for labour and/or economic matters is commonplace in Italian professional sports, as collective agreements stipulated by the players', coaches' and sports directors' unions with federations and leagues, as well as professional contracts, all include arbitration clauses as an exclusive remedy.

Competent panels generally issue arbitration awards that are binding between the parties. Arbitration awards can only be challenged for invalidity under the Code of Civil Proceedings, subject to certain specific grounds and limitations.

6.3 Challenging Sports Governing Bodies

Enforcement of Sports Sanctions

Federations have the power to impose sanctions on affiliates and members, since accepting sports law and justice – including sanctions – is an affiliation/membership requirement. Sports justice provides a wide range of sanctions, the extent of which depends on their recipients (eg, athletes or clubs), and the type and seriousness of the violation.

Examples of sanctions on clubs are warnings, fines, points deductions, transfer bans, relegation and exclusion from competition. Examples of sanctions on individuals are warnings, fines, temporary disqualification/ineligibility, bans from federation body activities and lifetime bans.

Also, mitigating and/or aggravating circumstances, unlawful association and recidivist conduct may be taken into account whenever they are provided by Sports Justice Regulations.

Sports justice decisions are binding on the parties and failure to observe them could lead to additional and more severe sanctions.

To verify compliance with federation rules, federations can be supported by internal supervisory bodies. For example, the FIGC and FIP are respectively supported by CoViSoC and ComTec, committees with ongoing monitoring, supervisory and control functions over profes-

sional clubs, especially in relation to the observance of economic and financial parameters.

Challenging Sports Justice Decisions

Only decisions concerning economic and administrative disputes can be challenged before ordinary/administrative courts. In particular, economic arbitration awards may be challenged before ordinary courts in accordance with the Code of Civil Proceedings. Administrative decisions may be challenged – after exhausting sports justice dispute resolution mechanisms – before the Lazio Regional Administrative Court. Decisions relevant to the Italian legal system can be challenged, and said relevance shall be assessed on a case-by-case basis. Please see **6.1 National Court System**.

7. Employment

7.1 Sports-Related Employment Contracts

Professional and Amateur Sports before the *"Sports Reform"*

The relationship between sports organisations and athletes used to be regulated in a completely different manner depending on the professional or amateur status of the athletes. According to former Law No 91/1981, only professional athletes were employees and subject to specific provisions, such as derogations from labour law (eg, the inapplicability of certain provisions of the *"Workers' Charter"* eg, the prohibition on using audio-visual equipment and control instruments over employees, the prohibition on health checks on employees, procedures related to disciplinary sanctions imposed by federations, protection against wrongful termination, etc). They were also exempt from non-competition agreements due to the unique nature of their sports activities.

Further, only professional athletes enjoyed labour protections like health and accident insurance, welfare, social security, and retirement benefits under the Civil Code or special laws.

Their employment contracts, based on standard forms compliant with relevant collective agreements, had a maximum duration of five years.

Conversely, amateur athletes were bound to their respective clubs and federations through membership (so-called sports bond, see below) and they were not employees. Consequently, they were not subject to the application of Labour law or Law No 91/1981, and did not benefit from mandatory welfare and social security contributions. Economic relations were regulated through simple economic agreements and athletes were generally paid in the form of expense reimbursements, travel expenses, bonuses, etc.

Further, the duration of amateur relationships was subject to the *"sports bond"*, the rules of which were established by each federation and during which athletes could terminate their relationships with their clubs only if the latter released them or in exceptional cases regulated by each federation.

The *"Sports Reform"*

From July 2023, the new Legislative Decree 36/2021 introduced the new figure of the *"sports worker"*, which applies to all people involved in sport (eg, athletes, coaches, sports directors, trainers, referees, etc) who, regardless of their professional/non-professional status, are paid to perform sports activities.

Professionals are presumed to be employees, while amateurs are considered self-employed in the form of co-ordinated and continuous col-

laboration, unless it is proved that the services of the person involved in sport:

- are permanent in nature and exceed 18 hours per week (excluding those for participation in sports events); and
- are partly carried out in non-technical/sports aspects.

Under the new legislation, exceptions to labour law, as well as certain aspects typical of professional employment (eg, maximum contract duration, transfers of employees from one club to another, prohibition of non-compete clauses, etc) now apply even to non-professional sportspersons. Further, all sports employees now benefit from an insurance policy against work accidents and illnesses and also from legislative protections concerning workplace safety, health protection, illness, injury, pregnancy, parenting and unemployment. In relation to social security/welfare protections, sports employees can register with the Sports Workers' Retirement Fund at the National Institute for Social Security (*Istituto Nazionale della Previdenza Sociale*) (which can also be accessed by the self-employed if specific conditions are met).

Abolition of the *"Sports Bond"*

Another major innovation of the new Sports Reform is the abolition of the *"sports bond"* for non-professional athletes, thereby granting athletes more freedom to change clubs, while providing clubs with compensation for training young athletes.

Article 31 of Legislative Decree No 36/2021 orders the elimination of the sports bond by 1 July 2023 (or 1 July 2025 for renewals of previous memberships). Nevertheless, clubs will be entitled to training compensation whenever one of their young athletes signs their first professional/amateur sports work contract with another club.

Said compensation shall be distributed proportionally to all the training clubs attended by the athlete during their youth based on the duration and the extent of said training. Compensation is calculated based on the athlete's age and the economic value of the first contract with the new club, with specific criteria set by each federation.

7.2 Employer/Employee Rights

Employer/employee relationships are generally regulated by the law and collective agreements – stipulated by athletes', coaches' and directors' unions with the relevant federations and leagues – establishing respective rights and obligations. Said rights and obligations may be general (eg, duty of loyalty) or specific (eg, limits to the performance of other sports, work or business activities during the contract term) and may vary depending on the sportsperson under consideration.

In case of breaches of the collective agreement, the sportsperson may receive sanctions (eg, warnings, fines, salary reduction and, in the most serious cases, compensation for damages and the termination of the contract); while the club may be mandated by the competent panel to stop said breach, compensate damages caused to the counterpart and, in the most serious cases, terminate the contract.

Disputes on employer/employee relationships are generally referred to dedicated arbitrations (see **6.2 ADR, Including Arbitration**).

Disputes involving players often arise from a player's exclusion from the first team training sessions, mobbing, unpaid salaries, damage to the reputation of the club and/or its man-

agement, etc. Examples of disputes involving coaches and sports directors often involve actions harming the employer's reputation during the employment term.

7.3 Free Movement of Athletes

The number of foreign athletes allowed to participate in Italian sports varies depending on the league and federation rules.

For example, Serie, A clubs could sign a maximum of three non-EU players from abroad, while Serie, B and Serie, C clubs could only sign Italian and EU athletes.

Rules and restrictions related to foreign athletes are also established by other National Federations (professional basketball, for instance, has looser restrictions on foreign athletes compared to its amateur counterpart, which prioritises Italian-trained players).

In any case, teams must observe Italian legislation on entry visas for non-EU citizens.

8. Women's Sport

8.1 Women's Sport Overview

Despite esports being a rising phenomenon in Italy, no specific legislation has been created so far.

Therefore, there is no legal definition of *"professional video gamer"* and no dedicated tax regimes. Legislation on professional sports is not applicable; therefore, professional video gamers are deemed self-employed persons. Consequently, they are subject to the general legislation applicable to self-employment, particularly concerning tax obligations.

It is also common to find underage professional video gamers in esports events; their activity is subject to limitations under general underage labour legislation.

In this non-regulated scenario, draft laws to lay the groundwork for the regulation of esports are under consideration.

Nonetheless, sports organisations are exploring the world of esports (eg, the Italian *"Lega Serie, A"* organises the *"E-Serie, A"*, a virtual Serie, A football championship).

9. Esports

9.1 Esports Overview

In recent years, Italian women's sports have seen growing interest from the public, television networks and sponsors. While some disciplines (especially volleyball) have always been highly popular among women, football is the fastest-growing discipline among Italian women's sports.

The FIGC began a path of reforms involving professional clubs, granting exceptional authorisation to buy the sporting title of women's amateur clubs. This led to the establishment of Women's Serie, A, the first professional women's competition in Italian sports.

In recent years, international football institutions have taken action to fight gender discrimination and implement rules and policies to address disadvantages faced by female footballers (eg, the FIFA RSTP – especially Article 18-quarter – has established protection for female footballers' rights to maternity leave and their right to work during and after pregnancy, with severe sanc-

tions on breaching clubs and on federations failing to guarantee these protections).

Italy's legislature advocates for gender equality in sports, and the *"Sports Reform"* takes into account gender equality as one of its purposes, establishing the *"Fund for professional women's sports"* and promoting gender equality in sports management and administration roles.

Most importantly, due to the introduction of the *"sports worker"* figure, all sportswomen are now eligible for welfare, retirement, and social security protections (including those related to pregnancy and maternity) that the law had not historically granted to any amateur or female athletes (see **7.1 Sports-Related Employment Contracts**).

Female professional athletes can take advantage of all aspects of professional sports contracts, such as engaging in collective agreements, the adoption of a standard employment contract and the right to be assisted by a sports agent in transfer operations, etc.

10. NFTs, AI and the Metaverse

10.1 Non-Fungible Tokens (NFTs)

NFT and Italian Law

NFTs are not regulated by Italian law. Awaiting specific regulations at national and European levels, law operators are trying to regulate NFTs through the analogical application of several pieces of legislation regarding similar assets (eg, in terms of copyright, money laundering, consumer protection, etc).

NFT and Italian Sports

Due to the popularity of NFTs with sports fans, sports organisations and athletes are increasingly entering into agreements with NFT companies in order to create unique collections to be placed on the market.

This is the case with the football Serie, A, which entered an agreement with Socios, the basketball Serie, A1, which issued a collection of NFTs on the occasion of the 2022 Italian Cup Final Eight, and many important football clubs.

Sponsorships

In addition to the initiatives above, crypto companies are trying to increase their brand value and widen their fan base through the subscription of sponsorship agreements with leagues and clubs: the most relevant examples involve entities like Lega Serie, A, Inter Milan, AC Milan, AS Roma and SS Lazio, and companies like Socios, Gate.io, Zytara Labs, Bitpanda and Binance.

However, the volatility of the cryptocurrency market, particularly its recent downturn, has led to crises for several crypto companies. This instability has resulted in disputes, especially in cases where sponsored football clubs have faced non-payment of fees per their sponsorship agreements.

10.2 AI

The use of AI in sports is becoming pivotal as it represents a means to improve the quality of sports performance and scouting (see **5.5 Sports Data**), offers a better match experience to fans (eg, live statistics), provides more accurate refereeing during competitions (eg, VAR/Instant Replay, Hawk-Eye, etc), enhances sponsorship, ticketing and media opportunities by better targeting audiences and tailoring marketing products.

Despite its potential, AI also poses serious risks, especially in relation to the use of people's biometric data for illegal purposes and indirectly increases the risk of personal data breaches (eg, data of fans). For these reasons, sports organisations will be required to make investments in cybersecurity and monitoring systems to prevent potential risks.

For this reason, the European Union introduced Regulation 2024/1689, designed to manage and prevent potential threats arising from the use of AI. This regulation defines four distinct risk levels, with all applications deemed to pose an unacceptable risk – such as those intended for fraudulent purposes – being strictly prohibited. For the remaining three risk levels, the regulation imposes progressively stricter obligations to ensure responsible AI use.

10.3 The Metaverse

The metaverse offers many opportunities for revenue generation and enhancing the fan experience.

For example, clubs can duplicate ticketing revenues through the creation of their own stadium in the metaverse, and fans can enjoy an immersive experience within a sporting event wherever they are.

However, the integration of the metaverse in sports also raises significant concerns, echoing issues related to AI and personal data management (see **10.2 AI**). The primary risks involve the potential for unauthorised leakage and misuse of sensitive personal data, including images and biometric information of users. Additionally, the ability to monitor user habits within the metaverse could lead to undue influence on consumer behaviour and personal choices, posing ethical and privacy challenges.

The adoption of the metaverse in Italian sports is not widespread yet, and the legal framework is yet to catch up with this technological advancement. However, Lega Serie, A in 2022 was the first professional league to show an official football match in the metaverse in selected jurisdictions. More recently, to promote the upcoming 2024 European Athletic Championships, the whole venue of the competition (Rome Olympic Stadium) was made accessible for virtual exploration through the metaverse.

Trends and Developments

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Capital Gains for Football Cubs as a Result of Player Trading

Player trading as a revenue source for football clubs

Players are one of the main assets for Italian football clubs, especially given the lack of extra revenues from infrastructure (eg, stadiums managed by clubs to host events even beyond match days) and given that sponsorship and TV rights revenues are not as high as in other markets (ie, the English and Spanish markets).

For this reason, profitable player trading is vital for football clubs, as it helps them: (i) maintain financial sustainability in line with the requirements imposed by the Italian Football Association (FIGC) and UEFA, and (ii) attract new players while keeping their squads competitive.

To this end, clubs are increasingly seeking capital gains, which are realised when the sale price of a player exceeds its net accounting value at the time of the transfer.

The net accounting value of a player is determined by the balance between:

- the historical cost of a player (ie, the purchase price), and
- the depreciation realised on the purchase price of a player from the date of acquisition to the date of transfer.

Clubs can depreciate the cost of players' sports performance rights – which is considered an intangible asset under Article 2426 of the Civil Code – on a regular basis over the entire duration of the player's contract (for example, if a player is bought for EUR30 million and signs a five-year deal, the club may depreciate the purchase price by EUR6 million for each financial year of the player's deal term).

Restriction on artificial capital gains in Italian law

Recently, several notable player transfer transactions have been scrutinised by Italian criminal and sports authorities, as they were found to be structured to artificially inflate player values and enhance the financials of football clubs.

Authorities discovered that certain clubs unlawfully increased player values disproportionately in order to generate capital gains.

These transactions typically occurred when the transfer payment was not made entirely in cash, but rather through player swaps or mixed deals in which part of the payment was made in cash and part via the transfer of another player's rights.

Engaging in such practices exposes clubs (and their management) to the risk of recording inaccurate accounting data in their financial statements, contravening Article 2423 of the Civil Code, which requires that *"the financial statements shall be realised with clarity and shall give a true and fair view of the company's financial position and results of operations for the relevant financial year."*

Furthermore, the deliberate recording of inaccurate accounting data (including so-called artificial capital gains) falls under Italian criminal law provisions such as:

- false accounting (Article 2621 of the Italian Civil Code), which can result in up to five years' imprisonment for directors, general managers, corporate accounting managers and auditors if the offence is committed to secure unlawful profit and is likely to mislead third parties; and

- issuing invoices for fictitious transactions (Article 8 of Legislative Decree 74/2000), which is punishable by up to eight years' imprisonment.

Artificial capital gains under the FIGC Justice Code

Artificial capital gains are also sanctioned under Italian sports law, especially in football – the professional sport most vulnerable to such fraudulent practices.

Article 31 of the FIGC Justice Code sanctions violations of sports provisions concerning management and economic matters with measures that may include (depending on the severity of the violations):

- fines;
- points deductions;
- relegation;
- exclusion from relevant competitions and demotion to lower-tier championships; and/or
- revocation of the title of Italian champion and/or winner of the relevant championship/competition.

Case law in Italian football: the "Juventus Case"

In recent years, the FIGC Prosecutor's Office has investigated many transactions involving major Italian football clubs accused of generating artificial capital gains. However, only a few cases have resulted in sanctions, as courts have ultimately upheld the defendants' arguments that football is a free market where player values and prices are determined by free negotiation between clubs, making it challenging to establish the fair value of a player or prove the fraudulent intent of clubs.

The most recent case involves a major proceeding in the FIGC's sports justice bodies that began in 2022, which eventually led to sanctions against Juventus FC, its directors, and certain executives.

Initially, the FIGC justice bodies discharged all clubs and managers involved, acknowledging that while capital gains in financial statements should be based on certain evaluation criteria, there are no specific laws or sports rules that define criteria for evaluating players in football market transactions.

However, the case against Juventus FC was reopened by the FIGC Prosecutor's Office following investigations by the Public Prosecutor's Office at the Court of Turin. New documents and wiretaps provided evidence of the club's fraudulent conduct – specifically, that, according to the Prosecutor's Office, Juventus FC had established a systematic scheme of exchanging players with other clubs (including foreign clubs) in order to generate artificial capital gains and improve its financial results.

On the basis of this new evidence, the FIGC justice bodies confirmed the fraud and imposed a ten-point deduction on the club in the 2022-2023 Serie, A championship. At the same time, most of the club's management received disqualifications ranging from several months to years.

Tax Residence for Sportspersons: New Identification Criteria

An athlete's decision to perform in Italy is often influenced by the tax implications of their presence in the country. Even if an athlete resides outside Italy and competes internationally, having certain business or personal interests in Italy may subject their profits to Italian taxation.

It is therefore essential to determine when an individual is deemed resident in Italy for Italian tax purposes.

Article 1 of Legislative Decree 209/2023 has significantly amended Article 2 paragraph 2 of the Italian Consolidated Tax Act (*Testo Unico delle Imposte sui Redditi*, or TUIR) regarding the tax residence of individuals.

For income tax purposes, from 1 January 2024, an individual is considered a tax resident in Italy if, for the majority of the tax period (ie, for at least 183 or 184 days, even if not consecutive), including fractions of a day:

- they have their residence in the territory of the state as defined in Article 43 co. 2 of the Italian Civil Code (ie, *"residence is in the place where the person has his habitual abode");*
- they have their domicile in the territory of the state (with domicile, for this purpose, being defined in Article 2 paragraph 2 of the TUIR as "the place where the individual's personal and family relationships are primarily developed");
- they are physically present in the territory of the state; and/or
- (unless proven otherwise) they are registered in the registers of the Italian resident population.
- These conditions are alternative – for an individual to be considered resident in the territory of the state for tax purposes, only one of these criteria needs to be met.
- The final condition (civil registration) is a formal element which can be rebutted by evidence showing that the individual does not, in fact, have residence, domicile or physical presence in Italy.
- The new rule introduces physical presence as a criterion for identifying tax residence for the first time, while removing the (formal) registry requirement which, in the previous regulatory version, was the prevailing one.
- Furthermore, the new Article 2 paragraph 2 of the TUIR materially changes the definition of domicile. Under the former rules, domicile was identified in accordance with Article 43 co. 1 of the Italian Civil Code as the place where the person"has established the principal seat of his or her business and interests"; it is now defined as "the place where the person's personal and family relationships are primarily developed" thus shifting the focus from the professional and economic sphere to the personal and familial sphere.

In view of these changes, to prevent double taxation and any ensuing tax litigation, athletes are advised to review these requirements in advance to determine whether their activities may trigger the application of Italian tax laws – not only when they have interests in Italy, but also when they move their interests abroad – ensuring that the relevant Italian tax registers are updated accordingly.

Sponsorships and Advertising Related to Gambling and Alcohol: Restrictions and Trends

Alcohol sponsorships and advertising under Italian legislation

Sponsorship and advertising of alcoholic products are subject to specific restrictions under Italian law, aimed at discouraging alcohol consumption, particularly among young people.

Specifically, Law 125/2001 imposes a complete ban on the advertising of spirits:

- from 16:00 to 19:00; and
- in the periodical and daily press aimed at minors.

Moreover, advertising of alcoholic beverages and spirits is prohibited if:

- it is directed at minors;
- it promotes the consumption of alcohol (even for enhancing performance or for unverified therapeutic purposes); and/or
- it features minors consuming alcoholic beverages or spirits.

These provisions have been further strengthened by Legislative Decree 208/2021 and certain self-regulatory codes addressing, inter alia, the protection of minors on television and ensuring fair commercial communication.

Violations of these provisions result in severe monetary penalties. However, there is greater flexibility for the sponsorship of alcoholic beverages that do not fall within the spirits category (due to their lower alcohol content).

Gambling sponsorships and advertising under Italian legislation

Gambling sponsorships and advertising are banned by Decree-Law 87/2018 (the so-called Dignity Decree), which prohibits any form of direct or indirect advertising and/or sponsorship related to betting and gambling – including during sports events.

As with alcohol advertising, breaches of these rules incur severe monetary sanctions.

Current trends concerning alcohol and betting sponsorships and advertising in sports

While advertising and sponsoring alcoholic beverages and spirits is not entirely prohibited, there has been a recent trend towards promoting low-alcohol and non-alcoholic beverages by manufacturers of alcoholic drinks within the context of sports events.

Conversely, after the Dignity Decree came into effect, companies offering betting and gambling services have continued to promote their brands by focusing on services other than betting and gambling (such as providing information, live scores, entertainment and gaming tips).

Consequently, there is ongoing debate regarding potential amendments to the Dignity Decree, with a view to reintroducing the option for state-licensed betting and gambling agencies to engage in sponsorship and advertising.

The New National Regulations on Safeguarding in Sport

The fight against abuses and discrimination in sports

In recent years, both national governments and sports institutions have become increasingly sensitive to issues of abuse and discrimination in sports.

Consequently, the Italian government and sports bodies (including the National Olympic Committee, Federations and clubs) have implemented *"safeguarding"* policies designed to combat all forms of abuse and discrimination in sports – with particular focus on protecting young people and women, who are especially vulnerable to physical, psychological and verbal abuse.

Safeguarding under the "Sports Reform"

Within the framework of the *"Sports Reform"* (Legislative Decree 39/2021), the Italian legislature has mandated:

- that all National Federations, Associated Sports Disciplines and Sports Promotion Entities (collectively *"Sports Bodies"*) adopt

guidelines enabling both professional and non–professional clubs to establish organisational and control models for sports activities and codes of conduct specifically aimed at protecting minors and preventing harassment, gender-based violence and any form of discrimination; and
- that all professional and non-professional clubs implement, by 31 December 2024 and under penalty of sanctions from their respective Sports Body, a specific organisational and control model (the *"Safeguarding MOG"*) and a code of conduct in accordance with these guidelines.

For those organisations that have already adopted an *"Organisation, Management and Control Model"* under Legislative Decree 231/2001, it is required that they integrate any relevant safeguarding measures as per the applicable guidelines above.

In addition, under Legislative Decree 29/2021, the regulations of Sports Bodies impose sanctions on members who violate anti-discrimination provisions and on those members convicted of:

- crimes against minors (eg, child prostitution);
- crimes against equality (eg, propaganda and incitement to commit racial, ethnic or religious discrimination); and
- crimes relating to sexual assault (including sexual assault against minors and group sexual assault).

Requirements of the Italian NOC, National Federations and clubs

To promote the new safeguarding legislation, the Italian National Olympic Committee issued Decision No 255 on 25 July 2023, which included, among other measures:

- the adoption of a Safeguarding MOG, serving as a standard for all other entities required to develop their own Safeguarding MOG;
- the establishment of *"CONI's Permanent Observatory for Safeguarding Policies"*, tasked with issuing guidelines and recommendations on safeguarding initiatives, co-ordinating the proper implementation of safeguarding regulations, reporting annually on safeguarding measures adopted, and conducting research to further these initiatives;
- the requirement for all Sports Bodies to develop their own Safeguarding MOG and related code of conduct, to establish a supervisory body to ensure adherence to safeguarding policies, to provide mechanisms for effective enforcement of safeguarding regulations, and to create new disciplinary sanctions for non-compliance by members; and
- the obligation for sports clubs to adopt their own Safeguarding MOG and code of conduct (in line with the guidelines issued by their respective sports entity), and to appoint *"Safeguarding Officer"* responsible for monitoring compliance with safeguarding regulations and managing any reports of potential abuse, violence or discrimination within the club.

Furthermore, all Sports Bodies must adopt a platform for managing safeguarding reports. This platform must be reliable, secure, guarantee confidentiality and ensure the timely and effective handling of each report.

Failure to comply with these requirements and safeguarding regulations will result in disciplinary sanctions against clubs and their legal representatives.

Contributed by: Maurizio Marullo, Giorgio Vagnoni, Francesco Amoresano and Fausto Consolo,
LAWP Studio legale e tributario

The Safeguarding Officer

The role of the Safeguarding Officer was introduced by Legislative Decree 36/2021 (Article 33.6) and is now mandatory for sports clubs, which must appoint a Safeguarding Officer by 31 December 2024.

Safeguarding Officers are required to meet certain eligibility and independence criteria. Clubs may appoint a single officer or establish a collegial body; they may choose individuals from within or outside the organisation, provided that the appointees meet these requirements.

The main duties of the Safeguarding Officer include:

- supervising the implementation of the club's safeguarding policies and procedures in accordance with the relevant Sports Body guidelines;
- monitoring the adequacy of the Safeguarding MOG, code of conduct and other safeguarding policies, and proposing updates or amendments to the Safeguarding MOG and code of conduct, where necessary;
- providing opinions on whether certain conduct may breach the club's safeguarding policies;
- managing the flow of safeguarding-related information and reports of potential abuse, violence or discrimination;
- initiating the sanctions process and imposing penalties for breaches of the Safeguarding MOG and code of conduct; and
- co-operating with the club, the relevant Sports Body and competent authorities on safeguarding matters.

JAPAN

Law and Practice

Contributed by:
Atsushi Igarashi, Yoichiro Kuriyama, Misa Takahashi and Kosuke Ojio
TMI Associates

Contents

TMI Associates has strived to create a law firm distinct from any other in Japan since its establishment in 1990. Over the last 30 years, the firm has experienced rapid organic growth in both headcount and geographical reach, while maintaining its progressive culture. Based in Tokyo, TMI Associates has, as of 6 January 2025, 630 lawyers and 102 patent/trade mark attorneys among a total of 1,231 personnel and it has become one of the five largest law firms in Japan. In addition to TMI Associates' domestic branch offices in Nagoya, Kyoto, Osaka, Kobe and Fukuoka, the firm has branch offices overseas in Shanghai, Beijing, Singapore, Ho Chi Minh City, Hanoi, Yangon, Phnom Penh, Bangkok, Jakarta, Kuala Lumpur, Silicon Valley, London, Paris and Brussels. The firm's sports and entertainment law practice constitutes a major aspect of its work, with the firm representing sports organising committees, sports federations, professional leagues, teams and athletes.

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1. Regulatory

1.1 Anti-Doping

There is no law in Japan imposing criminal penalties for doping. The Japan Anti-Doping Agency (the *"JADA"*), which is responsible for all anti-doping activities in Japan, was established in 2001. In addition to determining standard doping test processes for Japan and implementing doping control procedures, the JADA conducts anti-doping education and awareness campaigns. The JADA established the Japan Anti-Doping Code (the *"JADC"*), which is based on the World Anti-Doping Code established by the World Anti-Doping Agency (the *"WADA"*) and incorporated the WADA's prohibited list. The prohibited list is updated annually by the WADA and includes substances such as cannabis, cocaine and heroin, which are illegal drugs in Japan.

In October 2018, the Act on the Promotion of Anti-Doping Activities in Sport (Law No 58 of 2018) was enacted as Japan's first anti-doping law. In March 2019, the Basic Policies for the Comprehensive Promotion of Measures Related to Anti-Doping Activities in Sports, which establishes the basic policy frameworks for anti-doping activities, were enacted in line with Article 11(1) of the Act on the Promotion of Anti-Doping Activities in Sport.

In 2017, a candidate for inclusion on the Japanese national canoe team mixed a banned substance in the beverage bottle of one of his rivals causing the rival to be suspended. This disqualification was later nullified and the player who mixed the banned substance was banned by the national federation from competing for eight years. Instances of doping violations in Japan are published on the JADA website, and last year eight instances of doping violations were reported.

1.2 Integrity

There is no law in Japan that specifically deals with an athlete's misconduct/cheating and match-fixing offences. That said, if an athlete commits an act alleged to be illegal under the Penal Code or public gambling laws, the athlete will be punished. In addition, the sports organisation to which the offender belongs may punish them under its own rules.

Each sports organisation offers compliance training to its athletes in order to prevent illegal acts and misconduct from occurring.

For example, in the J.League, the top professional football league in Japan, the early warning system introduced by FIFA is used to prevent match-fixing.

In 2011, a sumo wrestling match-fixing scandal arose, causing the spring tournament to be cancelled. More than 40 sumo wrestlers and masters were asked to retire or had their dismissal recommended. In 2020, a boat racer was sentenced to imprisonment with labour for three years and a supplementary fine of approximately JPY37 million for their involvement in a match-fixing scheme whereby they intentionally delayed finishing a boat race in order to receive an illicit payment. In the same year, a director of a football club that belonged to the J.League (fourth division) unfairly requested the coach and players to fix a match. The request was rejected and the Japan Football Association banned the director from any football-related activities for two years.

1.3 Betting

Under Japanese law, gambling activities, including running a gambling establishment or organising a group of gamblers, are subject to punishment under Articles 185 and 186 of the Penal Code, except where public agencies are specifically authorised by special laws to run gambling establishments in the fields of horse racing, boat racing, bicycle racing, auto racing and sports promotion lotteries. In 2020, the Act on the Implementation of Sports Promotion Lotteries was amended, and since 2022, basketball has been subject to such a lottery, in addition to football (soccer). According to the Act, athletes, managers, coaches and referees of the games subject to the lotteries, as well as those under the age of 19, are not allowed to participate.

Persons who engage in illegal gambling may not only be punished by law, but also by the sports organisation or companies to which they belong.

1.4 Disciplinary Proceedings

The JADA implements doping control in line with the JADC. In the event a positive doping test is obtained, a hearing will be held and sanctions (such as suspension) may be decided by the Japan Anti-Doping Disciplinary Panel. Although the body for sanctions is the Japan Anti-Doping Disciplinary Panel, the sports organisation to which those who are found to be in violation belong may impose separate sanctions.

Disciplinary procedures for other acts that violate the principle of integrity will be imposed under relevant regulations if:

- the prohibited acts are subject to disciplinary procedures;
- a person is subject to disciplinary procedures;
- the details of the disciplinary action are known; and
- the procedures leading to the disciplinary action, are provided for in the regulations, although the disciplinary action will vary from one sports organisation to another.

In addition, sports organisations or companies may punish their members for unethical behaviour in their private life (eg, for acts of infidelity).

2. Commercial Rights

2.1 Available Sports-Related Rights

In addition to sponsorship and broadcasting revenues, merchandising rights as well as ticket and hospitality revenue are major sources of revenue for sporting events. For example, the Tokyo Organising Committee of the Olympic and Paralympic Games (the *"TOCOG"*) received approximately JPY14.4 billion in licensing fees and had forecasted about JPY90 billion in ticket revenue at the Tokyo 2020 Olympic and Paralympic Games (the *"Tokyo 2020 Games"*). However, due to the COVID-19 pandemic, the Tokyo 2020 Games were held without spectators and all tickets were refunded. The Rugby World Cup 2019 Organising Committee received ticket revenues (JPY38.9 billion) from the 2019 Rugby World Cup, with no sponsorship, broadcasting and licensing revenues coming in.

Official resale services were provided for the Rugby World Cup 2019. Tickets for the Rugby World Cup 2019 were allowed to be resold at regular prices via official resale sites. Resale of tickets by other methods, such as auction websites, was prohibited by the terms and conditions applicable to ticket purchase and use. However, the official resale service for the Tokyo 2020 Games was cancelled due to the COVID-19 pandemic.

The unauthorised resale of tickets, or acquisition of tickets for the purpose of unauthorised resale, is subject to criminal penalties under the Act on Securing Proper Distribution of Entertainment Admission Tickets through Prohibition of Unauthorised Resale of Specified Entertainment Admission Tickets (the *"Anti-Scalping Law"*), which came into effect on 14 June 2019.

2.2 Sponsorship

A sponsorship contract is a contract in which a company or individual becomes a sponsor of sports rights-holder(s) and/or sports competition(s) and receives a certain sponsorship benefit in return for paying a sponsorship fee and/or providing its products and services as value-in-kind. The motivation for concluding sponsorship agreements is that sponsors can increase their brand value by associating their products and services with sports competition(s) and athletes while also leveraging the data of sports rights-holder(s) and relevant stakeholders to develop their businesses.

Sports rights-holder(s), on the other hand, use sponsorship fees to stabilise and enhance their events/competitions and improve the performance and competitiveness of their athletes. In sponsorship programmes, particularly in major sporting events and international scale sporting events, it is common to differentiate tiers of sponsors while granting exclusive rights to certain products or services categories. Please see **4.4 Recent Deals/Trends** for details of a different type of sponsorship programme that was in place for the Tokyo 2020 Games.

2.3 Broadcasting

Sports rights-holder(s) grant broadcasters and media organisations broadcasting and media rights, which include:

- the right to bring recording and broadcasting equipment into venues; and
- the right to record the sports competitions and events by themselves or through a third party and then to transmit and screen the same using live or delayed broadcasts, wire broadcasts, internet distribution or other means.

Broadcasters often attempt to increase viewer revenues by broadcasting high-value-added sporting content, while also increasing advertising revenues by increasing the value of their own media.

In order to obtain greater broadcasting rights fees, several sports rights-holder(s), such as the leagues, collectively manage the broadcasting rights of their competitions and sell them on an exclusive basis to broadcasters or media organisations. While the granting of broadcasting rights and the ownership of copyrights to the audio and video of broadcast games and others are separate issues, ownership of copyrights is also agreed upon in broadcast rights agreements.

For example, in July 2016, the J.League concluded an agreement with the Perform Group, which provides the DAZN live streaming service, for the sale of the broadcasting rights of approximately JPY210 billion for a ten-year period beginning in the 2017-18 season. In 2023, the contract was extended until the 2033-34 season with broadcasting right fees of approximately JPY239.5 billion set for the contractual period starting from 2023. In this agreement, it was agreed that the copyrights in, and to, the footage of the matches belong to the J.League.

Because broadcasting rights fees for large-scale international sporting events are increasing for

certain events such as the Olympics and the FIFA World Cup, the Japan Consortium, an organisation composed of NHK, a public broadcaster, and private broadcasters, has been formed to allow for the sharing of broadcasting rights, the securing of personnel and systems for jointly creating and broadcasting programmes, and the provision of more viewing opportunities.

The broadcasting rights for the Olympics have been agreed upon through several contracts between the International Olympic Committee (the *"IOC"*) and the Japan Consortium, covering television, radio broadcasting, and all media rights, including the internet. These agreements included JPY66 billion for the 2018 and 2020 Olympic Games and JPY44 billion for the 2022 and 2024 Olympic Games. They also include JPY47.5 billion for the 2026 and 2028 Olympic Games and JPY50 billion for the 2030 and 2032 Olympic Games. However, for the 2022 FIFA World Cup, the framework of the Japan Consortium broke down as several private broadcasters withdrew due to the soaring broadcasting rights fees, and only NHK, two private broadcasters and an internet video streaming platform company ended up acquiring broadcasting rights.

In addition, there are no specific laws or regulations in Japan which guarantee free-to-air coverage of designated sports events, unlike for example in the UK.

3. Sports Events

3.1 Relationships

There is no right that protects the sporting events themselves and matches themselves are not protected by intellectual property rights under Japanese law.

Sports event organisers, including national federations, leagues and clubs, control their facilities and games by securing property rights, leasehold rights and other facility use rights through contracts with the owners of the facilities and by granting access to athletes, coaches and spectators. In granting access, sports event organisers obtain permission to include the grantees' likenesses in the footage of the games. Furthermore, to protect broadcast rights, sponsorship rights and other commercial rights, organisers will:

- enter into contracts with athletes and coaches participating in the sporting events that set the terms and conditions of the participation;
- set out various rules and regulations; and
- impose terms and conditions for tickets sold by sports event organisers to spectators.

3.2 Liability

Sports event organisers are legally obliged, when holding events, to consider the safety of participants. Although the obligation to give consideration to safety is not explicitly stated in Japanese law, judicial precedents stipulate that *"the parties who have entered into a special social contract relationship based on a certain legal relationship are obliged to protect their lives and personal safety from the dangers associated with a legal relationship by one or both of them under the doctrine of good faith and mutual trust, as supplementary duties"*.

Sports event organisers should work to prevent violence and disorder by implementing rules applicable to athletes and coaches, as well as rules applicable to spectators. They should collaborate with police and security companies. If an athlete violates the rules, they will be punished by sports event organisers.

Depending on the location and content of a sporting event, the relevant parties, including sponsors, may be subject to the Urban Park Law, the Road Traffic Law, the Outdoor Advertisement Law and related ordinances, the Anti-Nuisance Ordinance, the Fire Service Law, the Food Sanitation Law, and other relevant laws and regulations.

Event organisers may have clauses in their contracts with participants and spectators that restrict their liability, but any provisions in the terms and conditions with spectators purporting to exempt the organiser from liability to provide compensation are always void as a breach of the Consumer Contract Act.

4. Corporate

4.1 Legal Sporting Structures

Professional sports clubs generally operate as joint stock companies while sports organisations that are not professional sports clubs may operate in a variety of forms, including as joint stock companies, incorporated associations, incorporated foundations, specified non-profit organisations (NPOs), or voluntary organisations. In many cases, national sports federations in Japan operate as incorporated associations or foundations.

There are many possible reasons for opting for corporate status or a certain entity type, including tax benefits. For example, the primary reason for selecting a joint stock company is that the organisation's activities are for profit. The primary reason for choosing an incorporated association or foundation is that the organisation's activities are not for profit. Certain incorporated associations and incorporated foundations are authorised by a Public Interest Corporation Certification. Having a Public Interest Corporation Certification offers tax advantages, such as income tax exemptions.

4.2 Corporate Governance

In 2019, the Japan Sports Agency (the *"JSA"*) developed two sports governance codes: one for national federations and the other for general sports organisations. In 2020, the Japan Sport Association (the *"JSPO"*), the Japanese Olympic Committee (the *"JOC"*) and the Japanese Para-Sports Association (the *"JPSA"*) began evaluating their respective compliance with the code for national federations. As of the end of 2024, second evaluations have already started, but no major problems have occurred.

In September 2023, the JSA revised the governance code for national federations. While 13 rules contained in the governance code remained as they were the explanations were slightly amended to help ensure the effectiveness of the governance code. A national federation that is evaluated as non-conforming in the examination may be subject to a reduction in the amount of subsidies provided by the Japan Sport Council (the *"JSC"*). Furthermore, when a general sports organisation applies to the JSC for a grant, it is required to self-explain and publicise its compliance status with the governance code. The governance code does not specifically provide for matters regarding the bankruptcy of a sports organisation.

4.3 Funding of Sport

The JSC, the JOC, the JPSA and the JSPO are awarded administrative grants, subsidies, etc, by the JSA. They then provide funds to the various national federations to improve athletic performance and international competitiveness as well as enhance the competitive environment. This sports promotion fund is also provided to athletes and coaches of Japan's national teams.

These subsidies are estimated to account for over 20% of the income of the national federations.

Subsidies may also be granted to other athletic organisations by the JSA and the JSC as sports promotion lottery subsidies. Furthermore, lottery tickets for the Tokyo 2020 Games and for the Rugby World Cup 2019 were sold and a portion of the proceeds was used to support each event respectively.

4.4 Recent Deals/Trends

In Japan, the Rugby World Cup 2019 was held in 2019 and the Tokyo 2020 Games were held in 2021, with both events being extremely important to the Japanese sports industry. For the Rugby World Cup 2019, there was a total of JPY67.6 billion in revenue, including JPY38.9 billion in ticket revenue. The total revenue for the Tokyo 2020 Games was JPY640.4 billion.

In sponsorship contracts for large international sporting events and other events, the sponsor is often granted exclusivity over a particular product or service category in order to increase the value of its sponsorship. However, at the Tokyo 2020 Games, with the approval of the IOC, a scheme was adopted whereby multiple companies coexisted as sponsors in the same categories, such as banking, aviation and newspapers, which is a new and unique form of sponsorship. As a result, domestic sponsorship revenues for the Tokyo 2020 Games reached an Olympic-record of JPY376.1billion.

In Japan, major international sporting events, such as the TOKYO 2025 Deaflympics and the 20th Asian Games Aichi-Nagoya 2026/5th Asian Para Games Aichi-Nagoya 2026 are scheduled to be held.

5. Intellectual Property, Data and Data Protection

5.1 Trade Marks

A trade mark right only arises after registration with the Patent Office by identifying the trade mark to be registered and filing an application with the Patent Office specifying the scope of the designated goods or services for which the trade mark is to be used.

Trade marks which do not have a distinctive function, which are contrary to the public interest, or which are similar to another person's trade marks, cannot be registered.

Sports organisations often register trade marks in the categories of clothing (class 25), toys and sports equipment (class 28), advertising (class 35), and the organisation, arranging and conducting of sports competitions (class 41).

The duration of a trade mark right is ten years, but because it is renewable, it can be made semi-permanent by repeating the renewal, which makes it easier to use in the sports business.

For this reason, sports event organisers, such as leagues, may require their member clubs to register the trade marks for their logos and emblems.

Anticipation and Abuse of Trade Mark Rights

Anticipatory trade mark applications have been filed for famous names in the sports world. For example, this sort of anticipatory activity was disputed in the Juventus case. In that case, the plaintiff, who held a trade mark registration for Juventus despite being unrelated to the Juventus football club in Italy's Serie, A, claimed infringement of a trade mark right against a defendant who had been licensed by the club and used the

mark domestically. The court rejected the claim on the ground that the plaintiff's position constituted an abuse of rights.

5.2 Copyright/Database Rights

The Copyright Act grants copyrights and moral rights to the author of a work which is a cultural product. Databases that display creativity through the selection or systematic construction of information are protected as copyrighted work. Because a copyright accrues automatically when content is recognised as creative, sports organisations create content themselves and acquire rights to copyrights under contracts with copyright holders.

Unlike trade mark rights, copyrights have the advantage of being granted without applying for registration or involving complex procedures and are therefore widely used in sports businesses. That being said, it is necessary to bear in mind that copyrights may be unclear in terms of copyrightability or the attribution of rights, and it is therefore not easy to determine the presence of infringement. For example, the official emblem of the Tokyo 2020 Games was said to resemble the logo of an overseas theatre, and because the existence of copyright infringement was therefore at issue, the TOCOG changed to another emblem.

5.3 Image Rights and Other IP

Although not stipulated by Japanese law, the rights to the names and portraits of celebrities, such as athletes (their image rights), are recognised. They are generally recognised as:

- the right to exclusively use names and portraits to attract customers and promote the sale of goods; and
- publicity rights in the context of Supreme Court rules on tort under the Civil Code.

In the case of infringement committed by a third party for the purpose of exploiting an athlete's ability to attract customers by their own portraits, injunctions against infringing acts in tort and claims for compensatory damages are allowed. The following three types of infringement of publicity rights are common:

- the portrait being utilised as an independent product;
- placing portraits on products in order to differentiate products; and
- using the portrait as an advertisement for products.

5.4 Licensing

Under Japanese law, there are no special restrictions on the licensing of intellectual property rights, such as trade mark rights and copyrights, to third parties. In addition, the Supreme Court considers that the basis of publicity rights, such as names and portraits of athletes, as described in **5.3 Image Rights and Other IP**, is a moral right.

Publicity rights are therefore construed as personal and cannot be assigned. However, there is no restriction on the licensing of these rights to third parties. For this reason, sports organisations and athletes often licence their intellectual property rights and publicity rights to sponsors and licensors for remuneration.

5.5 Sports Data

The data of athletes is used for coaching and training as well as to improve their athletic performance. It is also used for fan engagement and to develop products and services for sponsors and other stakeholders.

On the other hand, by accumulating and analysing spectator data, such as visit history to ven-

ues, age of fans and purchase history of tickets and goods, sports organisations have refined their marketing activities and increased the number of visitors and fans and acquiring sponsors, as well as improving product development and sales promotional activities for sponsors and other stakeholders.

5.6 Data Protection

Sports data is subject to protection under the Personal Information Protection Law when it falls under the category of personal information (defined as information concerning an individual that can identify a specific individual by name, date of birth or another piece of information contained in that data). Specifically, when providing this information to a third party, it is necessary to obtain the individual consent of the person in question or clarify in advance, by way of a privacy policy, the content, purpose of use and method of provision of the information. In situations where personal data will be used jointly, the privacy policy should stipulate the categories of the jointly used personal data, the scope of the jointly using persons, the purpose of use, etc.

In addition, information regarding the results of doping control testing is strongly protected as *"special care-required personal information"* and it is essential to obtain the consent of the person in question when acquiring this information.

GDPR Issues

When handling the personal data of individuals residing in the EU, it is necessary to comply with the GDPR. The European Commission adopted a privacy adequacy decision for Japan in January 2019, whereby the transfer of personal data between Japan and the EU has been made much simpler and smoother.

6. Dispute Resolution

6.1 National Court System

Any disputes concerning the existence or non-existence of specific rights and obligations or legal relationships between the parties, which can be finally settled through the application of law, can be heard in court. However, non-legal disputes such as those involving athlete selection or those that fall completely within the jurisdiction of an organisation, cannot be settled in court.

Domestic sports-related arbitration and mediation is undertaken by the Japan Sports Arbitration Agency (the *"JSAA"*), detailed in **6.2 ADR (Including Arbitration)**, and by those sports organisations that have their own mechanisms for dispute resolution. It is not necessary to use the arbitration or mediation of the JSAA, or dispute resolution procedures by sports organisations, prior to resolving a dispute in court.

6.2 ADR (Including Arbitration)

Any dissatisfaction with a decision made by a sports organisation may result in an appeal within the sports organisation itself or to the JSAA. Sports disputes that cannot be resolved in court may also be appealed. The scope of sports arbitration conducted before the JSAA covers *"a decision made by a sports organisation or its organs in relation to a sporting competition or its operation"*.

Dispute resolution using the JSAA is conducted in line with the Rules of Sport Arbitration and other regulations. Any appeal to the JSAA must be filed within six months from the date on which a party became aware of the decision by the sports organisation concerned, and the arbitral award rendered by the JSAA will be final and binding upon both parties. The sports govern-

ance code for national federations requires that national federations establish an automatic acceptance clause regarding the jurisdiction of sports arbitration conducted by the JSAA. As of 1 October 2024, the adoption rate of the automatic acceptance clause in sports organisations is 82.7%.

6.3 Challenging Sports Governing Bodies

Sports governing bodies may dismiss or suspend persons, reduce subsidies or impose sanctions in line with their own rules. Any person who wishes to challenge the decisions made by a sports organisation may file an objection under the appeal system established within that sports organisation. The proceedings will be in line with the rules established by the organisation.

See **6.2 ADR (Including Arbitration)** for further information on the appeals system administered by the JSAA.

7. Employment

7.1 Sports-Related Employment Contracts

There are several types of relationships between sports organisations and players. These relationships depend on:

- the nature of the sport (eg, individual or team);
- the history of the sport;
- the degree of professionalisation of the sport;
- the level of popularity of the sport;
- the level of competition; and
- the policies of the governing body.

For example, players who engage in individual sports, such as tennis or golf, may conclude a contract with each sports organisation hosting each competition and receive remuneration from the organisation concerned. In contrast, players who engage in team sports, such as baseball, football or basketball, may receive remuneration from their club (or the company that owns the club).

Player Contracts

In general, a professional player contract is considered to be a consignment contract, instead of an employment contract. That being said, for certain sports, such as rugby, in addition to having professional player contracts, semi-professional contracts, having the characteristics of a consignment contract and an employment contract, are sometimes concluded depending on the degree of professionalisation of the sport and the skill and competence of the athletes. These semi-professional contracts may include provisions wherein each player of the club becomes an employee of the company owning the club and continues to work for the company after retirement.

In addition, there are some sports where professional athletes have different contracts, and some where all professional athletes enter into the same uniform player contracts. Uniform player contracts are particularly present in large-scale and established sports, such as baseball, football and basketball in Japan.

Salary Caps and Transfer Restrictions

Salary caps have been introduced in some sports. For example, in the J.League, there are certain limitations on players' salaries, which are based on contract type. A salary cap of JPY6.7 million applies to Professional A contract players in their first year, but there is no cap from their second year on. An annual salary cap of JPY4.6

million applies to Professional B and Professional C contract players.

Starting from the 2026 season, the J.League will revise its player contract system. The existing contract categories (Professional A, Professional B, Professional C, and Amateur) will be abolished and will be simplified to Professional and Amateur. The first-year salary cap for Professional players will increase to JPY12 million and a minimum salary will be introduced. This will be JPY4.8 million for J1, JPY3.6 million for J2 and JPY2.4 million for J3.

The Japan Fair Trade Commission (the *"JFTC"*) has officially announced that any rules that limit or restrict the transfer of athletes indefinitely may violate the Anti-monopoly Act. On 19 September 2024, the JFTC issued a warning to Nippon Professional Baseball (NPB), stating that its practice of prohibiting players from appointing individuals other than lawyers as agents for contract negotiations, as well as its restriction preventing players from appointing agents who are already representing other players, could potentially violate the Anti-monopoly Act. In response, NPB decided to discontinue this practice. Sports organisations having rules limiting or restricting the transfer of athletes are therefore required to verify the rationality and necessity of the rules.

7.2 Employer/Employee Rights

In general, a professional athlete does not fall under the category of *"worker"* under the Labour Standards Law. *"worker"* under the Labour Standards Law is *"a person who is employed at a business and to whom wages are paid regardless of the type of occupation"*. In addition, labour unions may be organised and collective bargaining may be sought against employers if an athlete is recognised as *"worker"* under the Labour Union Law.

Under the Labour Union Law, *"worker"* is *"person living on wages, salaries or other equivalent income regardless of the kind of occupation"*. In fact, the Japan Professional Baseball Players Association and the Japan Pro-Footballers Association are recognised as labour unions under the Labour Union Law. In these cases, relevant leagues and teams may therefore not treat an athlete in a disadvantageous manner because of the activities of the athletes' union, and they may not reject the collective bargaining sought by the athletes' union without due cause.

7.3 Free Movement of Athletes

There is no Japanese law directly restricting the participation of foreign athletes in sports tournaments/competitions. That said, all activities undertaken in Japan by foreigners seeking entrance to Japan must correspond to an authorised activity under one of the residence statuses provided in the Immigration Control and Refugee Recognition Act. In general, the activities of a professional athlete would fall under the residence status of *"entertainer"*, and the activities of amateur athletes (when the company pays the athlete a monthly remuneration of JPY250,000 or more) would fall under the residence status of *"designated activities"*.

Certain leagues have established foreign player quotas, including the leagues for baseball, football, basketball and sumo wrestling. For example, in the J.League, each J1 club is currently allowed to include five *"foreigners"* in the starting line-up, with exemptions for players from J.League partner countries. These countries are Thailand, Vietnam, Myanmar, Cambodia, Singapore, Indonesia and Malaysia.

8. Women's Sport

8.1 Women's Sport Overview

One of the most noteworthy events demonstrating the recent development and growth of women's sport in Japan was the establishment of a women's professional football league, known as the WE League in 2020. The first season of the WE League commenced in September 2021. As the name WE League comes from women's empowerment it is not only about promoting women's football but also about upholding its mission to *"promote a society which allows everyone with a diversity of dreams and ways of living to individually shine through women's football and other sports"* more generally.

Furthermore, as described in **4.2 Corporate Governance**, the JSA developed its sports governance code in 2019. This code requires each sports organisation to secure diversity in the composition of its officers and counsel. In particular, the code requires each sports organisation to set a target percentage of female officers and counsel of at least 40% and to implement specific measures to achieve that target.

Consequently, each sports organisation is now making efforts to comply with these requirements and the percentage of female officers and counsel within each sports organisation is steadily increasing. In particular, the percentage of female directors of all national federations increased from 15.6% in 2018 to over 30% in 2024.

Another noteworthy development in relation to women's sport in Japan is the 1252 Project, which is promoted by a general incorporated association Never Stop Playing Sports, led by a number of famous and successful athletes, including Olympians. The 1252 Project confronts the issue of *"female athletes and periods"* together with top athletes and experts in the fields of education and medicine. The name of the Project comes from the fact that females are affected by periods for 12 weeks out of the total of 52 weeks each year. In August 2024, the 1252 Project won an award granted by Olympism 365 Innovation Hub, which is a collaboration between the IOC, Beyond Sport and Women Win designed to support a diverse community of innovators leading new and impactful approaches to sport for sustainable development. It was the only project selected from Asia.

In addition, in order to eradicate covert filming/photography of female athletes for the purpose of sexually harassing them, and to thereby ensure a safe environment in which athletes can focus on their performance, seven sports organising bodies, including the JOC, the JSPO, the JPSA and the JSC, are working together to try to resolve this issue. From a legal perspective, covert filming/photography is currently regulated by ordinances set out by each prefectural government. It is worth noting that Kyoto Prefecture has recently revised its ordinance to add a blanket restriction on *"indecent words and actions"*. As a result, filming/photographing females' breasts and buttocks in a persistent manner will now be restricted, even if the targeted female is wearing clothes/uniform.

9. Esports

9.1 Esports Overview

In Japan, esports have been attracting increasing attention in recent years. Many large companies have entered the market, which was estimated to be worth over JPY12.5 billion in 2022, compared to approximately JPY9.8 billion in 2021. It was expected to grow to approximately

JPY16.2 billion in 2023 and is expected to grow to approximately JPY21.7 billion in 2025. Many esports competitions have been held recently with increasing numbers of professional esports teams. Guidelines and manuals have been developed by the Japan Esports Union (the *"JeSU"*) and several legal issues relating to esports competitions with prizes and/or participation fees have been clarified to a certain extent.

Esports are characterised by the ability to compete remotely and can therefore hold competitions while maintaining physical distance, which makes them uniquely suited to an online format. Even during the COVID-19 pandemic, some events were held online without a reduction in their size. In addition, esports have been embraced by traditional sports players, as these players can easily play esports titles and organise esports competitions.

Children have recently become interested in esports and the number of young esports players is increasing. As a result, it has become necessary to consider the effects of esports on children's health (eg, gaming disorders and gaming addiction) and to think of ways to improve the environment for young esports players. In March 2020, a local authority enacted Japan's first ordinance aimed at reducing internet and video game addiction among young people, which recommends that guardians ensure children under the age of 18 play computer games for a maximum of 60 minutes per day and turn their smartphones off by 9pm, in principle.

In response, certain residents filed lawsuits alleging violations of human rights such as the freedom to play games and the right to enjoy esports under the Constitution of Japan. The District Court, however, dismissed their claims, finding that the ordinance did not impose any specific restrictions on their rights and did not violate the Constitution on the grounds that the act of enjoying esports could be said to be merely a hobby or a preference.

On 11 June 2024, the JeSU was approved as a provisional member of the JOC until March 2027. Esports has been confirmed as an official event for the 20th Asian Games, scheduled to be held in Aichi-Nagoya in 2026, following its inclusion in the previous edition. The JeSU will serve as the governing body for esports.

10. NFTs, AI and the Metaverse

10.1 Non-Fungible Tokens (NFTs)

Non-fungible token (NFT) markets have emerged and been developed around the world since 2021, with NFT businesses also commencing in various industries in Japan in the spring of 2021. Several NFT markets have also launched in Japan, with an initial surge in NFT issuances, particularly in the arts, gaming and talent-related industries. In the field of sports, several professional baseball, soccer, and basketball leagues and teams and a women's professional wrestling organisation have launched licensed games and trading card services, etc, using NFTs.

Some sports teams have also begun issuing *"fan tokens"* using blockchain technology as a new source of funding. NFTs therefore have the potential to become a new revenue source for both teams and leagues.

However, as NFTs are traded on the market for an unspecified period of time by an unspecified number of people, rights clearance becomes an issue. Proper clearing and agreement must be reached among all parties involved, including players, teams, issuers and purchasers. The

handling of portrait rights and rights to team uniforms, how returns from primary and secondary distributors are distributed and how the NFTs are to be used by purchasers are issues that also need consideration.

In addition, the enthusiasm which was generated when NFTs first appeared has cooled in recent times, and we have gradually seen a number of NFT businesses being terminated due to failing to generate the revenue that was initially anticipated. In fact, a video collection service using NFTs for a professional baseball league and a game using player image NFTs for a professional soccer league stopped their services in 2024. It is now time to explore new ways to utilise NFTs in the sports industry, not only for trading cards and games but expanding into new areas. There is a Japanese ski resort using NFTs for tickets, which can be seen as a pioneering use of NFTs.

10.2 AI

At present, there are no laws or regulations that cover matters around AI in Japan. However, guidance on the development, provision and use of AI is provided through government guidelines, such as the AI Guidelines for Business Ver1.01 dated 22 November 2024. The AI Guidelines were jointly issued by the Ministry of Internal Affairs and Communications and the Ministry of Economy, Trade and Industry. The General Understanding on AI and Copyright in Japan dated 15 March 2024 was issued by the Agency for Cultural Affairs.

Examples of the use of AI within the sports industry include analysis of players' performance, development of data-driven game tactics and strategies, supporting player adjustments to various conditions, supporting referee's decision-making and scoring, improving fan engagement (eg, enrichment of the fan's viewing experience), analytical predictions of degree of congestion around the stadium, and dynamic ticket pricing.

Since the logical process underlying the results of AI is not clear, and there is no guarantee of the correctness of the results, it is necessary to sort out to what extent the results generated by AI should be accepted/utilised and not to thoughtlessly overestimate the results, as this could pose risks.

In addition, any results generated by AI may infringe upon third-party copyrights, and this issue is currently being discussed and deliberated on by the relevant authorities together with lawyers and scholars in the field.

10.3 The Metaverse

The metaverse is currently being practically applied in various areas across Japan, such as in live music concerts, e-commerce, housing exhibitions, new car release events, virtual towns and medical operations. Some examples of the metaverse being utilised within the sports industry are:

- the Fukuoka Softbank Hawks (professional baseball team)'s service, which allows users to enjoy a variety of content at the team's home stadium, the PayPay Dome, by recreating it in the metaverse;
- the AR Cheering Challenge by KDDI and Kyoto Sanga F.C. On 2 March 2024, KDDI and Kyoto Sanga F.C. held the *"AR Cheering Challenge Beta Version"* utilising AR technology at a J1 League match. Fans were able to use their smartphones inside the stadium, enjoy the AR presentation, participate in the game and support the team by giving gifts;
- a women's handball team, Omron Pindies promotes fan interaction through the use of the metaverse. The team provides a place

where players and fans can interact through fan events and virtual games in a virtual space and goods can be purchased at a store in the metaverse; and

- the Tohoku Rakuten Golden Eagles (professional baseball team) have introduced V-BALLER, which reproduces the speed and type of pitches of actual pitchers in the metaverse. This allows the team to examine methods of attacking pitchers and visualise and analyse players' swinging habits, helping them to improve their competitive performance.

Use of the metaverse may carry the risk of infringing upon another party's rights, including copyrights, trade mark rights and portrait rights, and issues relating to unfair competition may also arise. Therefore, it is important to have proper rights clearance in place.

Trends and Developments

Contributed by:
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Nagashima Ohno & Tsunematsu

Nagashima Ohno & Tsunematsu was the first integrated, full-service law firm in Japan and is one of the foremost providers of international and commercial legal services based in Tokyo. The firm's overseas network includes offices in New York, Singapore, Bangkok, Ho Chi Minh City, Hanoi and Shanghai, and it has collaborative relationships with prominent local law firms throughout Asia and other regions. The more than 500 lawyers at the firm, including about 40 experienced attorneys from various jurisdictions outside Japan, work together in customised teams to provide clients with the expertise and experience specifically required for each client matter. The firm has lawyers who are well-versed in international sports business and has successfully represented a wide variety of clients in the sports industry, including top international athletes and coaches, professional sports organisations, international and national federations, event organisers, sponsors and partners, media companies, content providers and tech service companies.

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Contracts Between Companies and Athletes

The Japanese government has placed increasing emphasis on the growth of the sports business as one of its key policies. Recently, more and more private companies that were not traditionally involved in sports have become involved in the sports business. In recent years, new leagues have been established in various sports in Japan, and some existing leagues have been restructured to make the sports ecosystem more sustainable.

Companies that are not professional sports organisations themselves have played an important role in the sports business in Japan. Many Japanese sports teams have been managed by Japanese companies that want to use these teams as their advertising vehicles.

In recent years, sports teams have moved away from this model and more of them have become professional teams but the proper support of sports teams by companies and the employment of athletes for this purpose continue to be of significant importance for the growth of the sports business. This has also provided more benefits to companies than ever before, as there are increasing opportunities for companies to leverage their relationships with athletes to achieve their business objectives. In addition to the growing value of harnessing the social influence of athletes, benefits include the development of employee pride and a sense of unity within each company that is achieved through the support of its athletes, the development of local communities and the value of supporting athletes' second careers, particularly where companies employ athletes.

When a company enters into a contract with an athlete, there are several types of contracts available. However, in Japanese practice, it is particularly important to distinguish whether the contract is an *"employment contract"*. If the contract is an *"employment contract"*, ie, the athlete is an *"employee"*, the relationship is governed by Japanese labour laws, which are generally very employee-friendly and provide strong protection for employees' rights.

Second Careers for Athletes

The increase in employment and other forms of support for athletes by companies that were not traditionally involved in the sports business is significant in terms of supporting the career transition of retired athletes, which has been a long-standing issue in the Japanese sports industry. There is widespread recognition of the

post-retirement challenges faced by athletes whose lives have been centred on high-level sporting activities. There are limited opportunities to pursue careers as coaches or managers, where athletes can directly use their sporting experience, while new careers in the outside world are not always easy due to the lack of experience outside of sport and the magnitude of the change from a sporting life. Employing more athletes also has multiple benefits for companies, such as generating good PR for companies and showcasing companies' ESG policies by highlighting the social significance of sport and career support.

In the *"Third Sports Basic Plan"* released by the Ministry of Education, Culture, Sports, Science and Technology in 2022, which sets guidelines for the development of sports in Japan for the next five years, promoting career support for athletes is one of the key objectives. The Sports Career Support Consortium has been established by sports organisations and private companies with the aim of developing a career development support system, with the support of the Japanese Sports Agency. The Japanese Olympic Committee is also working to support the careers of athletes through the operation of *"Ath-navi"*, a recruitment platform which matches active athletes with companies.

Types of Contracts With Athletes

In Japan, when companies enter into contracts with athletes to support them or to benefit from their publicity, they usually select one of the following major types of contracts. A particularly important distinction is whether the contract constitutes an *"employment contract"*.

"Employment contract"

This type of contract is used where a company employs an athlete as an *"employee"*. In principle, the athlete works exclusively for one company. The athlete's rights are well protected under Japanese labour laws.

"Service contract"

This is where a company contracts or commissions an athlete to participate in certain sports activities. The athlete is usually assigned exclusively to one company. The athlete is usually not involved in the general business of the company and only participates in sports activities.

Sponsorship (endorsement)

This is where a company is granted a licence to use the athlete's name, image and likeness and the athlete provides certain services for the promotion of the company. Athletes may sign sponsorship deals with multiple companies, but contracts with competitors are often restricted to maximise the value of the sponsorship.

Affiliation (shozoku)

This is a unique arrangement that is used in Japanese sport. In this arrangement, an athlete is *"affiliated with"* or *"belongs"* to a company but is not necessarily *"employed"* by the company in a legal sense and is typically exclusively *"affiliated with"* one company. In some cases, this *"affiliation"* takes the form of an employment relationship, while in other cases, *"affiliation"* refers to a mere *"service contract"* or sponsorship arrangement. This arrangement is used in Japan because, in sports events or media coverage, the participating athletes are often introduced with the name of the companies with which the athletes are *"affiliated"*. This creates an advertising opportunity for the companies.

Criteria for Determining Whether an Athlete is an *"Employee"*

If a company hires an athlete as an *"employee"*, the athlete is protected by labour laws as

an *"employee"* and the company must comply with those laws. Therefore, before entering into a contract with an athlete, a company must determine whether the athlete is to be hired as an *"employee"* or under some other form of contract based on, among other things:

- the purpose of the engagement;
- the role expected of the athlete;
- the nature of the services; and
- the sports activities to be performed.

It should be noted that, whether the athlete is an *"employee"* of the company does not depend on the name of the contract, but on its substance, based on specific facts regarding the relationship between the company and the athlete.

So how do you generally determine whether a person is an *"employee"*? Under Japanese labour laws, an *"employee"* is defined as a person who is employed by an employer to perform work and is paid a wage.

Based on this definition, the important factors in determining whether a person is an *"employee"* are:

- whether the person is employed by an employer, ie, whether they are working under the direction and supervision of the employer; and
- whether the person is receiving remuneration in return for work.

The first factor can be further subdivided into:

- whether the person has the freedom to accept or refuse requests for work and instructions to perform the work;
- whether the person is required to comply with the company's specific directions and supervision in the performance of the work;
- whether there is any obligation relating to the working hours and place of work; and
- whether the person is allowed to have another person perform the work in substitution.

In addition to these factors, who bears the cost of equipment used in the work, whether or not the person is restricted from working for other companies, and various other factors, such as withholding tax and social security coverage are also taken into account in determining whether a person is an *"employee"*.

Impact of Athlete Being Classified as an *"Employee"*

Regulations on dismissal

When a company unilaterally terminates a contractual relationship with an athlete who is an *"employee"*, this constitutes a dismissal and various regulations on dismissals apply under labour laws. In particular, if a dismissal lacks objectively reasonable grounds and is not considered appropriate in general societal terms, it is treated as an abuse of rights and is invalid under Article 16 of the Labour Contracts Act.

In addition, an employer cannot dismiss an *"employee"* while the *"employee"* is absent from work for medical treatment due to an injury or illness sustained in the course of employment, or within 30 days thereafter under Article 19 of the Labour Standards Act. An employer must provide at least 30 days' advance notice to dismiss an *"employee"* under Article 20 of the Labour Standards Act and, at the *"employee's"* request, must deliver a certificate stating the period of employment, type of occupation, position in the business, wages, and the reasons for the dis-

missal under Article 22 of the Labour Standards Act.

Regulations on working hours

Regulations on working hours also apply to athletes, who fall under the category of an *"employee"*. The Labour Standards Act stipulates that the legal working hours are, in principle, 40 hours per week and eight hours per day (Article 32), and employers are subject to penalties if they allow *"employees"* to work beyond these working hours unless they comply with certain requirements (Article 119). In addition, extra wages must be paid for overtime and holiday work (Article 37).

Industrial accident compensation insurance

Regular *"employees"* are covered by industrial accident compensation insurance. Under the Industrial Accident Compensation Insurance Act, any person who is subject to an injury, illness, disability or death occurring in the course of employment is eligible for insurance benefits. Therefore, if an athlete who falls under the category of an *"employee"* suffers these accidents in the course of their employment, they will be entitled to benefits under the insurance scheme.

Selecting the Type of Contract With Athletes

Even if the contract is called *"service contract"* rather than an *"employment contract"*, labour laws would apply if the person concerned falls under the category of an *"employee"*. When there is such a discrepancy between the name of the contract and the true nature of the contract from the perspective of labour laws, there is an increased risk of labour law violations and disputes between the parties, as well as the unexpected application of labour laws and burdens on the company.

Therefore, when a company enters into a contract with an athlete, it is important to consider what type of relationship is preferable for the company and to structure it accordingly, so that the name and content of the contract accurately reflects the true nature of the relationship between the company and the athlete.

If a company hires an athlete as an *"employee"*, it is also important to clarify whether sports activities are included in their duties as an *"employee"*, rather than the sports activities being mere leisure or recreation. Whether the sports activities are included in the scope of work is to be judged on the basis of whether the sports activities are carried out under the direction and supervision of the employer and whether the remuneration for the sports activities constitutes compensation for work, in line with this criteria. More specifically, with respect to the existence of the company's direction and supervision, it is important to consider, for example, whether and to what extent there is direction or involvement by the company with respect to the time, place and nature of the athlete's participation in competitions and training (including whether the athlete is free to accept or reject this direction or involvement). With regard to remuneration, it is also important to compare the athlete's remuneration with that of ordinary *"employees"*.

If sports activities are included in the duties of the athlete as an *"employee"*, the hours of sports activities will be subject to the working hour regulations. In addition, an important practical consideration is that injuries resulting from sporting activities are also covered by industrial accident compensation insurance, as these injuries occur in the course of employment.

Conclusion

In order for a company to maximise the value of its contracts with athletes, it is important to select the appropriate type of contract, taking into account the business objectives of the company, such as enhancing the company's image, raising *"employee"* awareness and addressing ESG/SDG issues. In practice, the type of sport, such as individual or team sports, and the rules and customs of each sport may also need to be considered when determining the specific terms and conditions of the contract. Companies and athletes will both benefit the most if their contracts are appropriately structured.

PHILIPPINES

Law and Practice

Contributed by:
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Contents

The Law Firm of Ingles Laurel Calderon (ILC Law) is a nine-member boutique law firm located in the business district of Makati City in the Philippines. Established in 1992, the firm specialises in corporate, labour, litigation, tax and foreign investments law. Its dedicated sports law practice focuses on athlete representation and protection, trade mark and brand protection, labour and immigration law compliance and advisory work for sports associations and federations. Its managing partner, Enrico Ingles, sits as the only Filipino arbitrator of the Court of Arbitration for Sport. The firm's sports law team has recently helped protect national and professional athletes comply with immigration and labour laws, represented professional football players in front of FIFA, and advised national athletes on anti-doping matters. It currently serves as the legal counsel of FIBA in the Philippines for trade mark registration and protection and also crafted and implemented the Rights Protection Programme for the 2023 FIBA Basketball World Cup.

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Ignatius Michael Ingles heads the sports law practice of the Law Firm of Ingles Laurel Calderon. He has represented athletes in issues ranging from non-payables, taxation, doping, immigration, eligibility, endorsements, brand protection and employment. He spearheaded the FIBA Rights Protection Programme during the 2023 FIBA Basketball World Cup in the Philippines and has advised national sports associations and sports brands. He teaches sports law in the Ateneo Law School, has written books and articles on sports law in the Philippines, the United States, and in Europe and is the President of the Sports Law Institute and Learning Centre. He is a licensed attorney in the Philippines and in New York.

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1. Regulatory

1.1 Anti-Doping

Doping is not a criminal offence in the Philippines. However, the use of World Anti-Doping Agency (the *"WADA"*) designated substances of abuse is a criminal offence. The possession, use, sale and trafficking of cocaine, heroin, methylenedioxymethamphetamine and tetrahydrocannabinol (cannabis/marijuana) are prohibited under the Comprehensive Dangerous Drugs Act of the Philippines. On a related matter, doping may be argued to be prohibited under Presidential Decree No 483, which criminalises any fraudulent, deceitful, unfair or dishonest means, method or practice employed to influence the result of any sports contest. Doping can be seen as a dishonest means or method employed to influence the result of any sports contest.

The national anti-doping organisation in the Philippines is the Philippine National Anti-Doping Organisation (the *"PHI-NADO"*). The WADA has accredited the PHI-NADO. The purpose of the PHI-NADO is to implement the WADA Code and spread awareness about anti-doping, which it does through educational programmes and coordinating with local national sports associations (NSAs). The Philippine Olympic Committee and NSAs are responsible for implementing anti-doping measures in their respective sports.

Some recent noteworthy anti-doping cases involved cyclist Ariana Dormitorio (erythropoietin) and basketball player Justin Brownlee (Carboxy-THC) during the Asian Games in 2023.

1.2 Integrity

Presidential Decree No 483(*"PD 483"*) criminalises game-fixing, match-fixing, point-shaving and game machination in the Philippines. These offences are punishable with imprisonment for a period of up to six years. The sports governing bodies or NSAs deal with integrity issues through their own internal disciplinary mechanisms and sanctions, without any prejudice to criminal prosecution by the state under PD 483. The Games and Amusements Board (the *"GAB"*) is also tasked with investigating game-fixing in professional sports and meting out sanctions against erring players and coaches.

Recent cases involve alleged game-fixing by players of a collegiate basketball team in 2019 and players in a professional basketball tournament in 2021. After investigation, the GAB revoked the professional basketball licences of the players involved in the 2021 incident.

1.3 Betting

Sports betting is legal in the Philippines, as long as the sports betting activity or operation is registered with the Philippine Amusement and Gaming Corporation (the *"PAGCOR"*). Established by Presidential Decree No 1869 (as amended by Republic Act No 9487) the PAGCOR is a government-owned and controlled corporation which regulates gambling and sports betting. Would-be sports betting operators must secure a licence from the PAGCOR before starting their activities. Those who operate without a licence face sanctions and penalties.

The sports governing bodies or NSAs typically follow the betting-related rules and guidelines of their respective international federations as regards betting-related offences of athletes. At the time of writing, there have not been any noteworthy betting cases in sports involving athletes and their sports governing body.

1.4 Disciplinary Proceedings

The sports governing bodies or NSAs have their own respective internal mechanisms and proce-

dures for disciplinary proceedings against their athletes. The rules and guidelines governing these internal procedures are often difficult to secure, even by the athletes facing disciplinary sanctions themselves. However, as a minimum requirement by law, due process must be afforded to the athlete in the form of a written notice and the chance to be heard. Unfortunately, there have been cases where an athlete has been penalised even without the benefit of a notice and a chance to be heard.

2. Commercial Rights

2.1 Available Sports-Related Rights

Notable sports-related commercial rights include the usual rights under the Intellectual Property Code (*"the Code"*) such as trade mark and copyright. On the tax side, athletes have a right to tax exemption for any prizes and awards they win in local and international sports tournaments sanctioned by their respective sports organisations. National athletes are also granted commercial benefits in the form of 20% discounts on purchases of food, sports equipment and medicine. This 20% discount extends to lodging and transportation expenses.

Rights-holders and event organisers have commercial rights over merchandising and ticketing profits as well. To protect rights-holders from the proliferation of counterfeit merchandise and the unauthorised use of marks, the Code and local ordinances provide remedies ranging from criminal conviction to immediate forfeiture of goods. While there is no national law that deals with and punishes ticket touts and scalping, cities that normally host sports events have their own local ordinances that criminalise ticket touting and scalping. These ordinances were used to great effect during the FIBA 2023 Basketball World Cup to combat the illegal sale of tickets.

2.2 Sponsorship

One major way sponsors use sports is to own a team in a professional league, such as the Philippine Basketball Association (the *"PBA"*) and the Premier Volleyball League (the *"PVL"*), which adopt a franchise system. For example, teams in the PBA include the Rain or Shine Elastopainters, named after a brand of paint, and the Barangay Ginebra San Miguel, named after a brand of gin. In the PVL, there are teams named after a chocolate snack, Choco Mucho Flying Titans, and after a media company, Cignal HD Spikers. Brands, therefore, get exposure through team names, logo exposure in arenas and logo placement on jerseys.

Companies that own teams in professional leagues and those that do not, use athletes as models for their print advert materials and as influencers. For example, former professional basketball player Chris Tiu has posed for skincare adverts and current professional player Kiefer Ravena is the brand ambassador of the Jordan brand in Asia. Professional athletes such as Alyssa Valdez and Jia Morado de Guzman and national athletes like Junna Tsukii, Maxine Esteban and Sandro Reyes are examples of influencers who use Instagram to promote brands they partner with.

Professional and collegiate athletes in the Philippines are treated as celebrities. Therefore, product launches, store openings and other launches will have athletes on their guest lists.

Sports rights-holders attract sponsor investments through airtime adverts during live events, in-arena bannering and advertising, logo placements in pre-game and game uniforms and

sponsorship of key events as well as highlights and promotions during the games.

Typical sponsorship contracts will include the terms and obligations on social media engagement (what to post, when to post, how frequently to post, etc), the schedule of photo or video shoots, the compensation and a lockdown/non-compete exclusivity clause that may last two to three years beyond the term of the contract.

2.3 Broadcasting

In the Philippines, broadcasting rights for the televised leagues are awarded through bidding. A memorandum of agreement contains how much the deal is worth, how many years or seasons the contract would be live for and whether the broadcasting rights are exclusive, among other terms. Once broadcasting rights are granted to a media company, they have the right to choose which of the TV or radio stations owned by the company will air the games. Media companies may also bundle these rights with the right to stream through YouTube or other online streaming services.

For leagues with multiple sports, such as the popular University Athletics Association of the Philippines (the *"UAAP"*), the media company also decides which sports to air. The media company must also promote the games they air.

One way in which sports organisations attract broadcaster investment is through the marketing of rivalry games. For example, demand for tickets for rivalry games in the UAAP is higher than for any other game, even if the game is not a play-off or final four match. Likewise, TV viewership is also higher when the game is between rivals Ateneo de Manila University and De La Salle University. This is the same for PBA games. The rivalry between Magnolia and Ginebra has been known as Manila Classico and games featuring these teams generate a higher viewership than other regular games.

Lastly, sports associations may also allow the filming of athletes off the court for certain promotional videos, such as clips of them saying *"only here on [insert media company name]"* or through clips of them answering short personal questions for the entertainment of fans, to be aired during commercial breaks.

According to the Code, broadcasts are protected by copyright for a period of 20 years from the date of the broadcast. Rights of broadcasting organisations can be found in Chapter XIV of the Code.

3. Sports Events

3.1 Relationships

Sports events are typically organised and managed by a professional league (such as the PBA) or a college or university athletic association (such as the University Athletics Association of the Philippines). International events in the Philippines are normally organised by a local organising committee set up for that particular event (such as the South-East Asian Games) or the sports governing body for that specific sport.

As rights-holders, these sports organisers have proprietary rights in sports events, based on both copyright and trade marks under the Code. Sports organisers control these rights through the enforcement of contracts and with the help of local law enforcement. Organisers also coordinate with social media platforms to immediately remove illegal live streaming of sports events.

Commercial participation in these events is typically governed by sponsorship, licensing and broadcasting contracts. The Civil Code of the Philippines therefore also serves as supplemental legislation because of the chain of contracts which generally characterise sports events.

3.2 Liability

Duty of care in sports is governed by the provisions of the Civil Code of the Philippines, particularly Article 2176 which obligates one who causes damage to another, either by fault or negligence, to pay for the damage done and Article 1173 which sets the general duty of care as the diligence of a good father. Sports event organisers fall under this general standard of care.

When minors are involved, the standard is stricter, as seen in a Supreme Court case where a sports organiser was held liable for the death of a teenage mini-marathon runner. Clear and unequivocal waivers may be used to limit liability, but liability arising from intentional harm, future fraud and gross negligence may not be excluded. The assumption of risk doctrine may also be invoked by sports organisers, as long as the risks are reasonably foreseeable. To keep sporting events safe, organisers often contract security agencies. For larger events, organisers co-ordinate with the local government and local police to maintain peace and order both inside and outside the venues.

The same duty of care applies to athletes' liability to spectators. However, athletes are protected if the injury to a spectator is a foreseeable event, based on the assumption of risk. An athlete may therefore be held liable for spectator injury if these were intentional (as was seen in a basketball incident where an athlete attacked a fan).

4. Corporate

4.1 Legal Sporting Structures

Professional sports clubs are commonly stock corporations registered with the Securities and Exchange Commission (the *"SEC"*). As professional sports clubs exist with a view for profit, stock corporations are adopted as these allow the owners to earn profits via dividends as stockholders. Adopting a different structure would prevent investors from receiving dividends.

Non-professional sports clubs and sports governing bodies or NSAs are commonly non-stock non-profit corporations and are also registered with the SEC. Non-stock corporations are established and operated by their members who are not allowed to receive any dividends. As amateur clubs exist more to develop camaraderie, among their members and not to earn profits, these clubs adopt a non-stock non-profit structure which has tax benefits. Sports governing bodies or NSAs are required to adopt a non-stock non-profit structure in order to apply for membership and recognition with both the Philippine Olympic Committee and the Philippine Sports Commission (the *"PSC"*).

4.2 Corporate Governance

There are no sport-specific corporate governance codes, except the provisions found in Republic Act No 6847 which created the PSC. These provisions govern the sports governing bodies or NSAs of each sport. Among these are the requirements that these NSAs are autonomous and that no team, school, club, organisation or entity will be admitted as a voting member of the NSA unless 60% of the athletes comprising the team school, club, organisation or entity are Filipino citizens.

Owner and directors' tests, such as tests on self-dealing directors, may be found in the Revised Corporation Code which apply to these sports governing bodies or NSAs.

4.3 Funding of Sport

The PSC is the main governmental funding source for Philippine sports. Congress allocates PSC's funds from the Annual General Appropriations Act. To augment the budget allocated by Congress, the PSC also receives a legally mandated portion of the gross income of the PAGCOR, the government-owned and controlled corporation in charge of regulating gambling and casinos.

After finding that PAGCOR had not been remitting the full 5% of its gross income to the PSC, the Supreme Court has recently ordered the PAGCOR to account and remit the full amount of its gross income per year from 1993 up to the present. The PSC's funds are pooled into the National Sports Development Fund (the *"NSDF"*), which finances the sports events in which the Philippines participates.

As for distributing these funds to NSAs, the PSC has discretion to decide which NSA receives a portion of the NSDF and how much. Factors that influence the distribution and allocation of funds include the prestige of the sport and also the chances of securing Olympic medals for a particular sport. Once the NSA receives the money, it is then held accountable by the PSC and is subject to an audit.

4.4 Recent Deals/Trends

Private funds being allocated for sports is a recent trend in the Philippines to help boost sports. Seeing the success of corporate sponsorships and investments in sports, both for-profit companies and non-profit foundations have funnelled funds to various sports. The range of private involvement in sports in the Philippines varies, from top companies owning sports teams for marketing purposes to multimillion-peso sponsorships of top college and professional athletes to sports foundations (organised by wealthy philanthropists and businesspeople) spending on Olympic athletes.

Private funding has been considered to be one of the reasons why the Philippines has improved in international sports, as government funding is normally unsustainable to finance prolonged training and development required by high-level international athletes.

5. Intellectual Property, Data and Data Protection

5.1 Trade Marks

Trade marks may be registered online with the Intellectual Property Office (the *"IPO"*). Trade mark owners only get the rights in a mark through registration. Only a registered trade mark is generally protected by law. Once registered therefore, third parties may not use it without the owner's consent.

The law prohibits the registration of a mark which:

- is immoral, deceptive, or scandalous;
- disparages or falsely suggests a connection with a person (whether living or dead), institutions, beliefs or national symbols;
- brings contempt or disrepute to another;
- has the flag of the Philippines (or the flag of another country) on it;
- includes the name, portrait or signature of a living person, except with their consent;

- uses the portrait of a dead president, during the life of their spouse, except with the latter's consent;
- is misleading as to nature, quality, characteristic or geographical origin;
- is generic or simply identifies the product it will be used on;
- is simply descriptive of the product; or
- is contrary to public order or morals.

Notable registered sports trade marks involve collegiate teams, where the numerous marks associated to a college or university are all registered with the IPO and the respective brands of sports teams and the companies which own them.

5.2 Copyright/Database Rights

The law on copyright is found in Part IV of the Code. Under the Code, literary and artistic works are considered original intellectual creations, and are protected from the moment of their creation. Common defences include fair use, the fact that the work is a non-copyrightable work, private reproduction in a single copy for use in study or research and personal use.

As regards the existence of a legal database right, the law on copyright protects the creation of the database, as it might be considered as a derivative work or as a compilation of data and other materials. To establish a claim, it must be proven that the process of creating the database (such as the selection, co-ordination and arrangement of the compiled information and data) is original to the maker.

5.3 Image Rights and Other IP

Image rights in the Philippines generally equate to the right of publicity (a right recognised in the United States). While the right of publicity has yet to explicitly find its way into Filipino jurisprudence or express provisions of law, aggrieved parties may use Section 169.1 of the Code for relief. This Section refers to false designations of origin or false description or representation.

World Champion Boxer Manny Pacquiao used Section 169.1 to sue a videoke product-maker for making use of his image without his consent. He won the case in the Court of Appeals in 2009, with the Court of Appeals stating that Pacquiao's image should be protected from unauthorised endorsements under Section 169.1.

5.4 Licensing

Sports bodies and athletes monetise their IP and image rights through licensing and endorsement contracts. In terms of assigning IP rights to third parties, the assignment must be in writing and filed with the IPO. If the assignment is not registered, it is void as to third parties. However, it is still binding between the parties.

5.5 Sports Data

The use of athlete and spectator data is not as extensive in the Philippines as compared to other jurisdictions. However, there has been a push to commercialise and monetise sports data in live sports events to further enhance fan experience. The recent legalisation of sports betting has opened up opportunities for monetising sports data but it still has to comply with any data-sharing regulations under the Data Privacy Act of 2012 (the *"DPA"*).

5.6 Data Protection

The DPA is the main law which governs data protection in the Philippines. It is supplemented by the Implementing Rules and Regulations (the *"IRR"*) issued by the National Privacy Commission (the *"NPC"*), which is the government agency tasked with implementing the DPA. The DPA protects any personal information, defined

as any information in which the identity of an individual is apparent or can be reasonably and directly ascertained by the entity holding the information, or when put together with other information would directly and certainly identify an individual.

The DPA protects sensitive information to a greater and stricter extent. Sensitive personal information pertains to a person's race, education, criminal record and religion, among others. Processing and sharing sensitive personal information requires prior consent at all times. This is an important consideration in collegiate sports, especially as student athletes must give their prior consent to the sharing of their transcript of records when they transfer from one school to another.

6. Dispute Resolution

6.1 National Court System

The role of national courts in dealing with sports disputes varies depending on the type of sports dispute. In terms of field-of-play calls, the Supreme Court, in a 1995 case, set a policy of refusing to resolve field-of-play call disputes. Unless there is an arbitrary and brazen violation of sports rules by the sports officials and organisers, national courts will leave things as they are.

For sports disputes involving the application of local laws within the sports context, parties may immediately seek redress in the national court system, unless there is a provision between the parties mandating recourse through alternative dispute resolution (ADR) methods or via the internal processes of a sports governing body. Examples of these sports disputes are those involving sports injuries and employment claims.

For sports disputes involving the interpretation of the rules of sports governing bodies (such as on eligibility matters and disciplinary issues), parties must generally exhaust the internal mechanisms of the sports governing body before national courts can be asked to rule on the matter. This is based on the analogous doctrine of exhaustion of administrative remedies. However, if there is a human rights element or the act of the sports governing body is oppressive or arbitrary, immediate recourse to a local court may be possible.

6.2 ADR (Including Arbitration)

The Philippines does not currently have any specific mode of dispute resolution for sports. Parties who wish to use ADR may do so under the aegis of the Republic Act No 9285, which is the ADR Act of the Philippines. Private dispute resolution providers, such as the Philippine Dispute Resolution Centre, Inc, have drafted their own sports mediation and arbitration rules, which may be used by sports governing bodies if they choose.

6.3 Challenging Sports Governing Bodies

Sports governing bodies may enforce sanctions on their players and members either through their own internal rules (as long as minimum due process requirements of prior notice and the chance to be heard are met) or through the court system (with contract law principles and remedies as a basis).

Parties who wish to challenge decisions of governing bodies will have to exhaust the internal mechanisms first. This will generally involve requesting reconsideration of an assailed decision and thereafter referring it to the international federation with jurisdiction over the local governing body. If the decision is wantonly arbitrary and

oppressive, local courts may also be an avenue of redress.

7. Employment

7.1 Sports-Related Employment Contracts

The governing law for labour and employment in the Philippines is the Labour Code. To determine whether an employer/employee relationship exists between parties, the Supreme Court has repeatedly used the fourfold test employing the four elements:

- the selection and engagement of the employee;
- the payment of wages;
- the power of dismissal over the employee; and
- the employer's power to control the employee's conduct.

Despite the presence of all four elements in the relationship between professional teams and their players, and a 2012 Supreme Court case involving the illegal dismissal of a player-employee by their professional team, professional sports teams have still treated their players as merely independent contractors in practice. This is in clear contrast to what is written in the law, the nature of the relationship and the international trend that considers players employees of their professional teams. This leads to both tax and employment law complications and removes protections that should have been afforded to a player if they were to be considered an employee in the first place.

The PBA, the longest-running professional basketball league in the Philippines, employs both a standard contract for its players and a salary cap. Other professional leagues leave it up to their teams to have their own contracts with their players.

7.2 Employer/Employee Rights

Despite the employer/employee nature of the relationship between the professional team and its players, legal precedence and international trend, the rules on employer/employee rights are rarely applied or followed in professional leagues in the Philippines. Professional athletes who are illegally removed or dismissed from their teams are therefore often left in a quandary on the proper legal course of action to take. Should they file with the Labour Arbiter as employees or with the regular courts as independent contractors?

While the answer should be with the Labour Arbiter, the practice in the Philippines of considering professional athletes as mere independent contractors has given erring employees the additional defence of lack of jurisdiction whenever a case is filed with the Labour Arbiter.

A noteworthy case is the 2012 Supreme Court Case of Negros Slasher, Inc v Alvin Teng, where the Supreme Court ruled that a player-employee was illegally dismissed by their professional basketball team after they had refused to play a championship game. The Supreme Court recognised the player as an employee and that dismissal was too harsh a penalty.

7.3 Free Movement of Athletes

There are no specific laws capping the number of foreign athletes competing in a sports tournament or competition, as these caps are normally set by the league or association conducting the competition. However, there are visa, immigration and labour law considerations that foreign athletes or coaches must consider before play-

ing or working in the Philippines. In a nutshell, foreign athletes or coaches must secure a prearranged employee commercial visa (9g visa) and an alien employment permit (AEP) before working in the Philippines.

One of the substantial conditions to secure an AEP is the prior determination of the non-availability of a person in the Philippines who is competent, able and willing to perform the same services which the foreigner will be engaged to do. This was the main issue in a 1991 Supreme Court case involving an American basketball coach employed by a professional basketball team. In that case, the Supreme Court ended up cancelling the American coach's AEP after it found that there were other local coaches who could have done the same job.

8. Women's Sport

8.1 Women's Sport Overview

The sports landscape in the Philippines has historically been male-dominated and basketball-centric. However, recent trends have swayed the pendulum towards women's sports. Collegiate and professional women's volleyball bring in crowds of nearly 25,000 to big games, which is significantly more than the attendance numbers of a typical professional basketball game. The success of women athletes on the international stage has also shone a well-deserved light on women's sports.

Olympic gold medallist Hidilyn Diaz leveraged her success by starting a weightlifting academy for children and signing lucrative endorsement deals. The Philippine National Women's Football Team made waves in its first appearance in the FIFA World Cup, with their success pushing for more grassroots development throughout the country and also earning them an enviable kit deal with Adidas. International athletes such as Maxine Esteban and Junna Tsukii have also found success in other sports such as fencing and karate.

The PSC has since created a gender and development programme to hold tournaments and share updates and news about women's sports and female athletes. Other private organisations, such as Girls Got Game, have also popped up to bolster different sports in the youth sector.

9. Esports

9.1 Esports Overview

Esports is extremely popular in the Philippines. Its rise from the early 2000s to the present has been exponential. It is predominantly mobile-based, with Mobile Legends: Bang Bang being the most popular game with more than 25 million monthly active users in 2020. Professional esports players ranked within the world's top 20 for aggregate earnings in 2023, bolstered by a popularity brought about by successes in international esports events (both held in the Philippines and abroad) and the near-celebrity status of players and gaming influencers sponsored by gaming companies.

Notable deals include the launch of a gaming platform by esports gaming company Mineski Global on apps such as GCash, LYKA and Viber. The popularity of esports has also spilled into academia, with the Lyceum of the Philippines University recently launching a four-year undergraduate course specialising in Esports Management and Game Design and Development.

10. NFTs, AI and the Metaverse

10.1 Non-Fungible Tokens (NFTs)

A few athletes ventured into the world of NFTs in late 2020 and 2021 to start various NFT projects. A well-known athlete actually started an NFT project to help fund a certain national team, but this was later scrapped after negotiations fell through and the NFT bubble popped in late 2021.

While the NFT market in the sports sector in the Philippines is currently and virtually non-existent, there are still opportunities for those who seek an alternative mode of funding and are brave enough to face the risks of such a volatile environment.

10.2 AI

There is no key AI legislation and regulations in the Philippines. At most, general laws concerning intellectual property and data protection will apply to AI in the field of sports. Both intellectual property and data protection will also be most affected by AI, as there are inherent risks of infringement and leaks of personal data with AI and sports.

10.3 The Metaverse

The Philippines has always been a country known for its internet use and social media engagement, with data showing that sponsors can reach up to 69% of the country's population through Facebook and nearly 50% through YouTube. The application and use of the metaverse in sports in the Philippines therefore holds great opportunities for sports stakeholders, despite the adoption rate of the metaverse still remaining quite low compared to traditional internet use.

Stakeholders can use the metaverse to further boost individual and corporate brands, enhance the reputation of personal coaches and athletes through more access to highlight videos and teaching seminars and give sponsors a new platform to increase brand recognition.

However, those who wish to make the jump into the metaverse must recognise the natural risks of data breaches and manipulation, intellectual property violations and the proliferation of bot and troll accounts. Enforcing the underlying laws will also be an issue, given the already ephemeral nature of the internet and the easy anonymity that comes with it.

Trends and Developments

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The Law Firm of Ingles Laurel Calderon (ILC Law) is a nine-member boutique law firm located in the business district of Makati City in the Philippines. Established in 1992, the firm specialises in corporate, labour, litigation, tax and foreign investments law. Its dedicated sports law practice focuses on athlete representation and protection, trade mark and brand protection, labour and immigration law compliance and advisory work for sports associations and federations. Its managing partner, Enrico Ingles, sits as the only Filipino arbitrator of the Court of Arbitration for Sport. The firm's sports law team has recently helped protect national and professional athletes comply with immigration and labour laws, represented professional football players in front of FIFA, and advised national athletes on anti-doping matters. It currently serves as the legal counsel of FIBA in the Philippines for trade mark registration and protection and also crafted and implemented the Rights Protection Programme for the 2023 FIBA Basketball World Cup.

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Introduction

The funding of national sports in the Philippines is a trend to look out for in 2025 and the years to come. With reports estimating the support needed to fund an Olympian with a chance of winning a gold at over tens of millions of pesos, the search for the next Carlos Yulo (two-time gold medallist) and Hidilyn Diaz (the first Filipino gold medallist) got a well-needed boost from a Supreme Court decision that promises much needed funding for national sports in the Philippines.

Background

Decided in 2024, Joseller M. Guiao v PAGCOR, PSCO, and the Office of the President is a landmark case for sports law in the Philippines. Professional basketball coach Yeng Guiao, then serving as a member of the House of Representatives, filed a petition for mandamus with the Supreme Court questioning why the Philippine Amusement and Gaming Corporation (the *"PAGCOR"*), the government corporation mandated to regulate gaming in the Philippines, had not been remitting 5% of its gross income to the Philippine Sports Commission (the *"PSC"*) for the National Sports Development Fund (the *"NSDF"*), and requiring them to do so.

As well as the petition against the PAGCOR, Coach Guiao also brought the Philippine Charity Sweepstakes Office (the *"PCSO"*) to court, questioning why the PCSO was not remitting its share to the PSC either. The PCSO is the main government agency mandated to raise funds for health programmes, which it does through sweepstakes and the national lottery.

Under Section 26 of Republic Act No 6847 of 1990 (the *"Philippine Sports Commission Act"*), the PAGCOR is mandated to remit 5% of its gross income to the PSC to improve sports funding in the Philippines. The PCSO is also supposed to remit 30% of the proceeds of six sweepstakes or lottery draws per year to the PSC as part of the NSDF. For clarity, Section 26 of the Philippine Sports Commission Act states:

"In order to provide the necessary funds required for the organizational and initial calendar year of operational expenditures of the Commission, the amount of Twenty-five million pesos (P25,000,000.00) from the National Treasury is hereby appropriated: Provided, That operating expenses for the Commission itself shall not exceed twenty percent (20%) of the annual appropriation and that at least eighty percent (80%) of said annual appropriation and all of the national sports development funds, as hereinafter provided, shall be disbursed for the national sports program, particularly in support of the identification, recruitment and training of athletes in pre-regional, regional, national and international competitions, including the implementation of the Decade of Physical Fitness and Sports: 1990-2000.

To finance the country's integrated sports development programme, including the holding of the national games and all other sports competitions at all levels throughout the country as well as the country's participation at international sports competitions, such as, but not limited to, the Olympic, Asian, and Southeast Asian Games, and all other international competitions, sanctioned by the International Olympic Committee and the International Federations, thirty percent (30%) representing the charity fund of the proceeds of six (6) sweepstakes or lottery draws per annum, taxes on horse races during special holidays, five percent (5%) of the gross income of the Philippine Amusement and Gaming Corporation, the proceeds from the sale of stamps as hereinafter provided, and three percent (3%) of all

taxes collected on imported athletic equipment shall be automatically remitted directly to the Commission and are hereby constituted as the National Sports Development Fund. Further, the Philippine Postal Service Office is hereby authorized to print paper and gold stamps which shall depict sports events and such other motif as the Philippine Postal Service Office may decide, at the expense of the Commission. Any deficiency in the financial requirements of the Commission for its sports development program shall be covered by an annual appropriation passed by Congress".

The PSC

Before moving into the arguments, a quick overview of the PSC is necessary. The PSC is the government agency tasked with formulating policies for national sports and providing funding to local sports federations or national sports associations (NSAs) in the Philippines. It was created in 1990 by the Philippine Sports Commission Act. The policy behind the creation of the PSC is contained in Section 2 of the Philippine Sports Commission Act. It states:

"It is the policy of the State to promote physical education, encourage and sustain the development of sports in the country to foster physical fitness, self-discipline, teamwork and excellence for the development of a healthy and alert citizenry through a unified national sports promotion and development program, and that the establishment and creation of a single, unified and integrated national sports policy-making body shall further this objective".

The PSC has a number of legally mandated functions. It must plan and oversee any bids to host the Olympic Games. It is also responsible for establishing, supervising, maintaining and managing publicly-funded sports complexes. Additionally, it must provide incentives, recognitions and awards to athletes, coaches, referees and other sports stakeholders.

The PSC is empowered to assist and support NSAs, which are legally recognised as being autonomous but still fall under the supervisory and visitorial powers of the PSC. The PSC allocates much-needed funding to certain NSAs, especially those NSAs whose sports have a good chance of bagging medals in the Olympics and other prestigious international sports events. Given the huge amount of money needed to support a potential Olympic medallist, this funding from the PSC is essential and is why Coach Guiao filed his petition in the first place.

Proceedings

As part of his evidence, Coach Guiao offered two PAGCOR memoranda which sought to remit just a little over 2% of its earnings to the PSC. This was well below the 5% requirement under the law. The memoranda were then approved by then President Fidel V. Ramos.

To justify its practice, the PAGCOR claimed that it was not mandated to remit the entire 5% of its gross income. It argued that any remittance to the PSC was subject to deductions for the payment of PAGCOR's 5% franchise tax owed to the national government and the 50% share of the national government.

The PAGCOR relied on an old Presidential Decree that imposed a 5% franchise tax on it before any other deduction was made. In short, the PAGCOR was under the impression that its PSC contributions were considered *"any other deduction"* that should take a backseat to its 5% franchise tax obligation.

Meanwhile, the PCSO claimed its contributions to the PSC should only be sourced from sweepstake draws and not from other PCSO lottery games. The PCSO claimed that its lottery games did not fall within the definition of *"lottery draws"* under Section 26 of the Philippine Sports Commission Act. It argued that its lottery operations were not contemplated under Section 26 for the simple reason that the PCSO was not in existence at the time Section 26 was enacted. In any case, the PCSO claimed that it showed good faith and steadfast compliance because it had been remitting what it could despite the decline of its sweepstakes sales.

Judgment

The Supreme Court sided with Coach Guiao and dispensed with the arguments of both the PAGCOR and the PCSO.

Sitting en banc, the Supreme Court found that the PAGCOR's obligation was to remit all 5% of its gross income to the PSC, as the law made no qualifications or deductions as to the amount, contrary to the PAGCOR's arguments. The Supreme Court stated that Section 2 *"does not state that the computation of the 5% is arrived at after deducting the franchise tax"*.

In finding that the remittances must be based on gross income without deductions, the Supreme Court also looked at other laws that likewise require the PAGCOR to distribute its gross income. For example, it looked at a law which required the PAGCOR to distribute its income to the National Power Corporation. In that law, the Supreme Court found that any subsidy should only be remitted after certain deductions. The lack of a similar instruction in its remittances to the PSC was proof to the Supreme Court that the PAGCOR should, in fact, remit all 5% of its gross income, without any deductions.

In finding against the PCSO, the Supreme Court went into the definition of *"lottery"*. The term *"lottery"* in this jurisdiction is defined as extending to *"all schemes for the distribution of prizes by chance, such as policy playing, gift exhibitions, prize, concerts, raffles at fairs, and various forms of gambling"*. A lottery is said to have three essential elements: consideration, prize and chance.

These three elements applied to the PCSO's *"lotto draws"* as *"the payment of the prize of the lotto ticket is the consideration for the chance to win the prize offered in the lotto draw"*.

The Supreme Court reminded the PCSO that its lotto games and any other future games that fall within the definition of *"lottery"* will be subject to contributions to the PSC for the NSDF.

The PAGCOR was ordered to account and remit all 5% of its gross income per year from 1993 up to the present.

The PCSO was ordered to account and remit the 30% representing the charity fund of the proceeds of six sweepstakes or lottery draws per year (including lotto draws) from 2006 onwards to the PSC.

The Supreme Court also had a strong reminder for the PSC, noting that it should have been the PSC that filed the petition, not Coach Guiao, stating:

"It seems that the Philippine Sports Commission has turned a blind eye to its own mandate and has instead allowed the Philippine Amusement and Gaming Corporation and the Philippine Charity Sweepstakes Office to remit however which way they desire, despite the wordings in the law. Consequently, this Court will not sit idly by as

the Philippine Sports Commission sleeps on its rights and duties. In the end, it is not the Commission which stands to be adversely affected by the lack of remittance of other governmental agencies. Instead, it is the Filipino athletes and youth that lose the most".

Civil Code

Under the Civil Code of the Philippines, judicial decisions of the Supreme Court form part of the legal system of the Philippines. These decisions are considered law of the land. It was therefore with great relief that the Supreme Court set in stone the need for proper sports funding with these parting words:

"Given both respondents' patent violations of Section 26 of Republic Act No. 6847 to the detriment of all athletes and even the youth of our country, this Court finds it proper to grant the instant Petition for Mandamus. The Philippine Sports Commission's funding directly affects the advancement of the nation's sports programs, our athletes' ability to progress in the international forum, and the development of our youth. Given the significant role of sports in nation-building, petitioner's direct resort to this Court through this instant Petition for Mandamus is justified".

Conclusion

This is an enormous win for sports funding in the Philippines. Estimates of the arrears from 2010 to 2015 alone reached up to PHP4 million, a giant boost in the arm for sports in the Philippines. The Supreme Court decision, promulgated in August 2024, also came in the afterglow of the country's best Olympic outing yet (two gold medals and two bronze medals). Hopefully, the afterglow burns longer and brighter for the country's golden dreams.

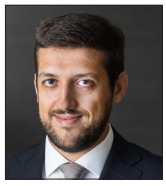
PORTUGAL

Trends and Developments

Contributed by:
Miguel Santos Almeida, Maria Novo Baptista and João Saúde
Sérvulo & Associados

Sérvulo & Associados is a leading Portuguese full-service law firm with 25 years' experience and a multidisciplinary team of over 120 lawyers. The firm's legal expertise, rooted in academic research and practical know-how, enables it to provide innovative, tailor-made solutions to major private and public entities across Portuguese-speaking markets. Based in Lisbon, Sérvulo ensures comprehensive international coverage through strategic global partnerships, the Sérvulo Latitude network, membership of international law firm alliances and dedicated foreign desks. Sérvulo plays a key role in sports law, offering a cross-disciplinary legal approach across contract, labour, commercial, administrative and tax law. The firm has extensive experience advising athletes, administrators, clubs and federations, as well as event promoters, equipment manufacturers, investors, sponsors and media outlets. Sérvulo's team remains attuned to sector developments, providing comprehensive legal support tailored to the unique dynamics of the sports industry.

Authors



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Sports Integrity

The year 2024 began with the publication of Law No 14/2024, of 19 January, which establishes the legal framework for the integrity of sports and the fight against anti-sporting conduct, which has been a growing concern worldwide, especially as the turnover of territorially based and online sports betting grows.

Regarding match-fixing and the manipulation of sports results, Law No 14/2024 establishes that the use of means aimed at artificially altering the results of sports events is a criminal offence punishable by imprisonment for up to eight years.

Match-fixing may also lead to the application of ancillary penalties, such as suspension from sports competitions for up to three years, privation of the right to receive public subventions and a prohibition on performing sporting duties for up to five years.

Mandatory reporting is also imposed whenever sports agents become aware of or suspect anti-sporting conduct contrary to the values of truth, fairness and correctness and likely to fraudulently alter a sports competition or its result. They must immediately report such conduct to the public prosecutor's office.

Law No 14/2024 also stipulates the creation of a platform to monitor the manipulation of evidence, with experts appointed by the Attorney General's Office, the judiciary police, the Portuguese Olympic Committee and the Portuguese Football Federation, among others, handing over co-ordination duties to the director of the anti-corruption unit of the judiciary police.

Career Support for Athletes

Given that 2024 was an Olympic year, it was only fitting that it began with the approval of Law No 13/2024, of 19 January, which establishes support measures for Olympic, Paralympic, Deaflympic and high-performance athletes after the end of their careers, such as:

- the creation of a public employment quota system in central, regional and local administration services and bodies;
- the creation of a temporary reintegration grant, to be awarded for a maximum period of 36 months.
- establishment of the equivalence of a definitive employment agreement concluded with a sports athlete who has been part of the high-performance system for at least eight consecutive or interpolated years with an employment agreement concluded with a young person looking for their first job (which has benefits in terms of social security contributions); and
- the creation of a special system of access to higher education for high-performance athletes within three years of the end of their career.

These measures reveal the growing concern of the Portuguese legislator with the management of the end of athletes' careers.

Women's Football

In line with its growing prominence, the Portuguese sports federation and Portuguese sports companies have been increasingly investing in women's football in Portugal.

In June 2024, recognising the physical, psychological and social differences between male and female players, the Portuguese Football Federation internally adopted, with immediate effect, the amendments to the Regulations on the Status and Transfer of Players (RSTP) made by the International Federation of Association Football

(*Fédération Internationale de Football Association* FIFA) in May 2024, which aim to extend the rights of female players in terms of maternity and well-being.

Among the measures adopted by FIFA and transposed to the Portuguese scenario is the granting of paid leave to adoptive and non-biological mothers. Under this new regulatory framework, players who are non-biological mothers of a child will be able to take eight weeks' paid leave in the six months following the birth. The length of the leave to be granted to players who adopt a child will vary depending on the age of the child, and may be eight, four or two weeks.

In addition, the rights relating to contractual stability and registration periods in the event of maternity have been amended to cover not only biological mothers, but also adoptive and non-biological mothers.

The rights of players in the event of maternity have also been clarified, reiterating that players who become pregnant during the term of their employment contract have the right to:

- continue to engage in professional activity and receive full remuneration;
- request the provision of alternative services to sporting activity; and
- take paid sick leave in the event of medical complications associated with pregnancy (including early termination of pregnancy).

At the end of maternity leave, the employing club is not only obliged to reintegrate the player into sporting activity but is also now obliged to agree a postpartum plan with the player and provide her with adequate and continuous medical support.

Regarding breastfeeding, it has been clarified that reducing a player's working hours for this purpose does not imply any reduction in salary, and that the facilities provided by clubs for breastfeeding/breastfeeding must be private and secure.

Another important development ushered in by FIFA and adopted by the Portuguese Football Federation concerns the menstrual health of female players. Around 93% of female players experience symptoms during their menstrual cycle that can affect their performance, recovery and quality of life; therefore, on presentation of a medical certificate, players are now allowed to be absent from training or matches whenever their menstrual health requires it, without their pay being affected.

Most of the special measures applicable to female players will also apply to female coaches, except for the right to request alternative services to sporting activity in the event of pregnancy, which is justified given the different nature of the services provided by coaches.

The developments in women's football will certainly not stop here, as the possibility of introducing a training compensation mechanism for female players is currently being discussed.

eSports

eSports were a trending topic in Portugal during 2024, with several political parties discussing the need to regulate eSports and to recognise it as a sport.

eSports in Portugal have undergone an exponential evolution in the last few years, with the emergence of numerous athletes, clubs, coaches, event organisers, specialised media, enthusiast communities and national and international

competitions and events. In fact, Portuguese players are in 22nd place in the earnings table.

Portugal was one of the first countries with a football federation that embraced eSports, adding a section therefor in 2017. The eSports section of the Portuguese Football Federation includes football teams licensed for online competitions but also clubs specifically created for online competitions.

In 2018, one of the first eSports Associations was created in Portugal: the Portuguese Federation of Electronic Sports.

Despite the exponential development of the economy of eSports in Portugal, it is still a severely under-regulated sector of the sports industry.

Commercialisation of Sports Events

As for other members of the EU and the World Trade Organization, Portuguese jurisdiction allows for the exploitation of patents, trade marks, merchandising, copyrights, broadcasting rights, sponsorship and image rights.

The owner of the above-mentioned rights varies depending on the sport in question. For example, in futsal and hockey, the respective sports federations are the exclusive owners of the merchandising, broadcasting, sponsorship and image rights – and the copyrights – of all matches played in the various competitions. Therefore, the commercialisation of these rights is undertaken by the sports federations, which can transfer or license the rights through written agreements.

Conversely, in football, the television and multimedia broadcasting rights for matches in the first and second national men's football leagues are owned by the sports clubs or sports companies that participate in these competitions. Although professional Portuguese sports clubs currently sell these rights individually, as of the 2028–29 sports season, such rights will have to be jointly sold in terms to be defined by the Portuguese Football Federation by the end of the 2025–26 sports season, subject to approval by the Portuguese Competition Authority, as set out in Decree-Law No 22-B/2021 of 22 March.

Following the entry into force of Decree-Law No 22-B/2021, the Portuguese League created *Liga Centralização*, an entity dedicated to studying, defining, proposing and supporting – before any public or private entity – a model for the centralised marketing of rights.

A centralised marketing model for television and multimedia rights is justified by the fact that the individualised marketing model currently adopted in Portugal allegedly promotes greater discrepancies between the various clubs in the league, insofar as it channels the majority of the revenues to larger clubs, which – due to their larger fan bases – receive larger bids for the marketing of their rights, to the disadvantage of smaller clubs.

Although it may be claimed that this model is less attractive to larger clubs, based on the example of the main European leagues, the expectation is that it will tend to generate economic advantages for all clubs in the first and second national leagues, regardless of their size. With a better and more equitable distribution of the total value of television revenues, smaller clubs will have more capacity to invest in strengthening their teams, generating greater internal competitiveness that is expected to make the competition more attractive and lead to an increase in other sources of revenue.

The comparative experience of other countries also allows us to anticipate that the transition to a centralised marketing model will generate advantages for sports channels and fans, insofar as it will make it possible to ensure that a wider range of sports content is available more regularly, in line with consumer preferences.

The Diarra Case

It would be impossible to discuss the sports developments in 2024 without referencing the Diarra case, in which the ECJ ruled that some of FIFA's players' transfer rules are incompatible with EU law. The decision was published on 4 October 2024 and has been referred to by the sports industry as the most revolutionary case since the Bosman case.

The background of the case is as follows.

- Lassana Diarra, a French football player, entered a sports employment agreement with the club FC Lokomotiv Moscow.
- After one year, the club terminated his contract due to alleged contractual breaches and filed a claim for compensation before FIFA's Dispute Resolution Chamber, claiming breach of the contract and termination without cause, as stated in Article 17 of FIFA's RSTP. The claim was upheld.
- Following the termination, the player received an offer by club Royal Charleroi, under the conditions that (i) Diarra could be registered and play in the club's first team in all FIFA-, Union of European Football Associations (UEFA)- and Belgian Football Association-organised competitions, and (ii) no compensation was due by Royal Charleroi to Lokomotiv Moscow.
- Given that the player could not assure those conditions, he missed this opportunity.
- Consequently, the player brought the matter before the Belgian courts in 2015 and argued that Article 17 of the RSTP did not comply with EU law, specifically with the principle of free movement of workers.
- The Belgian courts upheld the claim, and FIFA appealed that decision to the ECJ.

In October 2024, the ECJ deemed that Article 17(1) of the RSTP did not comply with the European principle of free movement of workers, as enshrined in Article 45 of the Treaty on the Functioning of the European Union (TFUE), foreseeing that, in case of joint and several liability of the new club for the payment of compensation for breach of contract owed by a professional player to his former club in the event of early termination of the contract without just cause, such provision is likely to discourage or dissuade clubs from signing such player for fear of exposure to a financial risk.

The ECJ also concluded that this rule unjustifiably restricted the free competition imposed by EU law (Article 101 of the TFUE), as it restricts the employment of players in this situation and puts them in an unfavourable position vis-à-vis other players.

Following the ECJ decision, FIFA opened a global dialogue on Article 17 of the RSTP and suspended all disciplinary proceedings related to the application of that provision.

In December 2024, FIFA adapted its transfer regulations on an interim basis, with immediate effect (ie, in time for the January transfer window). The key temporary changes are as follows:

- compensation payable by a player to their former club in the event of termination without just cause is to be calculated taking into

account the damage suffered, having regard for the individual circumstances of each case and with due consideration of the law of the country concerned (under the previous rule, compensation was to be calculated with due consideration of the law of the country concerned, the specificity of sport and any other objective criteria);
- in the event of termination without just cause, the new club of the player will only assume such liability if it is proven that it induced the unlawful termination (the original rule provided that the new club was automatically liable);
- the application of sporting sanctions to the new club depends on the former club proving that the new club induced the breach of contract (previously, the new club was presumed to have induced the breach of contract); and
- the former club's national association cannot reject the issuance of the International Transfer Certificate (ITC) – the original rule provided that the national association of the former club was able to withhold the ITC if there was a dispute over the termination of the playing contract.

Considering the interim measures adopted by FIFA, it is clear that the Diarra case will lead to a major overhaul of the transfer system.

The Seraing Case

In the first few days of 2025, another relevant development in the sports market involved the ECJ: the Advocate General offered the ECJ her opinion on the Seraing case, which may revolutionise sports arbitration.

The Seraing case originates in a contract entered into by a Belgian football club, Royal Football Club Seraing, with Doyen Sports for the transfer of the economic rights of several football players. FIFA's disciplinary committee found that this arrangement breached FIFA's rules on third-party ownership (TPO) prohibition and imposed certain disciplinary measures on the club, as confirmed by the Court of Arbitration for Sport (CAS) and the Swiss Federal Supreme Court.

Following CAS's decision, Doyen Sports filed a complaint presented before the Belgian courts claiming that FIFA's TPO prohibition, as implemented by UEFA and the Royal Belgian Football Association (*La Union Royale Belge des Sociétés de Football Association*), was not valid.

The Belgian courts declined jurisdiction on the basis that Belgian law attributes the force of res judicata to certain types of commercial arbitration awards, including CAS awards.

The claimant appealed the decision to the Belgium Court of Cassation, which referred the matter for a preliminary ruling of the ECJ on whether EU law precludes the application of such national provisions to an arbitral award that has been reviewed solely by a court of a state that is not a member state of the EU (ie, Switzerland).

The Advocate General considered that direct access to a full judicial review by a national court against any and all rules of EU law must be available to EU sport actors that are subject to FIFA's system of dispute settlement, and therefore concluded that a final CAS award issued by a state that is not a member state shall be subject to review by a court of a member state in compliance with EU law.

The conclusions reached by the Advocate General are sustained on two grounds: (i) FIFA's sports arbitration clauses are mandatory, which means the parties did not freely agree to be subject to an arbitral award that cannot be reviewed; and (ii) unlike in civil and commercial arbitration,

FIFA can enforce the arbitral award on its own – ie, without recourse to an enforcement proceeding, which means that it is highly unlikely that the compliance of the decision with EU law would ever be analysed by a judicial court.

For now, these are merely the conclusions of the Advocate General, which are not binding to the Court of Justice. However, if the ECJ follows these conclusions, the decision will certainly be a landmark in the sports arbitration system and will revolutionise sport's international dispute system.

SWEDEN

Law and Practice

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Nordia Law

Contents

Nordia Law is a Nordic commercial business law firm with offices in Stockholm, Gothenburg, Copenhagen, Oslo and Helsinki. It is regarded as one of the leading law firms on the Swedish market with regard to complex litigation and arbitration matters. The firm offers quality legal services within all areas of commercial law to clients in the Nordic region and abroad. It has a highly esteemed sports law department, which has handled many of the most high-profile cases in Swedish sports law for many years.

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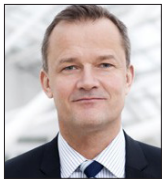

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1. Regulatory

1.1 Anti-Doping

Doping is a criminal offence under the Swedish Doping Act. However, the Act only criminalises certain specific doping substances such as anabolic steroids, testosterone and growth hormones. These substances may not be imported, transferred, manufactured, offered for sale, etc. Anyone wilfully contravening the Act may be sentenced to a maximum of six years' imprisonment.

Sweden adopted the World Anti-Doping Agency Code (the *"WADA Code"*) in 2004. The Swedish national governing bodies (NGB) regulatory framework (based on the WADA Code) generally apply to all athletes who engage in competitive sports in Sweden.

Doping within sports is monitored by the Swedish Anti-Doping Agency (the *"ADSE"*). Its primary purpose is to ensure that sports in Sweden are free from doping. The ADSE is responsible for implementing the WADA Code, conducting doping controls, investigating doping misuse, and providing education and information on anti-doping matters. The ADSE investigates all positive doping results and decides whether the matter should be reported for disciplinary action to the Doping Panel (the first instance penal body for cases involving anti-doping rule violations within sports).

The Doping Panel's decision may be appealed to the Supreme Sports Tribunal by the convicted person or by the ADSE. The Supreme Sports Tribunal is normally the final instance body. Depending on the circumstances of the case, it may also sometimes be appealed to the Court of Arbitration for Sport (the *"CAS"*). However, the CAS may dismiss the case.

1.2 Integrity

Sweden ratified the Council of Europe's Macolin Convention in December 2024. The Convention is the only legally binding international framework dedicated to combating the manipulation of sports competitions. It promotes collaboration among governments, sports organisations and betting operators to address suspicious activities. The ratification of this Convention strengthens Sweden's ability to fight match-fixing through enhanced international co-operation.

Sweden adopted a new Gambling Act in 2019, introducing specific criminal provisions related to match-fixing. Match-fixing and other manipulation of sports activities previously had no specific and separate penal provision in the Criminal Code. Under the provisions of the Gambling Act, anyone who takes inappropriate actions to manipulate the outcome of a game that is subject to licence requirements under the Act may be jailed for a maximum of six years for cheating (ie, gambling fraud).

The Gambling Act is supervised by the Swedish Gambling Authority. The Authority has created a special council concerning match-fixing and may halt and/or prohibit specific types of betting. Match-fixing continues to be a major concern in Sweden (as it is internationally) and may in the long run damage the credibility of the sports movement and cause losses to other stakeholders, such as the gambling industry.

Efforts to prevent match-fixing are complicated when operations are run in different countries. Match-fixing also often involves organised crime and the associated risk of threats and pressure against individual athletes and other officials. The betting companies must monitor the gambling market in a satisfactory manner and report

deviant gambling patterns and suspicions of match-fixing to the Swedish Gambling Authority.

In 2015, the Swedish Sports Confederation adopted a general code to fight the manipulation of sporting competitions, covering all sports in Sweden. The code was revised in 2019 and applies to all members of the federation (ie, the special NGBs for each sport, clubs and individual athletes who participate in sport activities for a club). Under the code, sanctions may be imposed on individuals (temporary ban for up to ten years), fines for NGBs and clubs as well as cancellation of results achieved in competitions, etc.

In January 2025, the Swiss company Sportradar reported a significant decrease in the number of suspected match-fixing cases in Europe and Sweden. The Swedish Professional Football League has been working for many years to continuously educate and raise awareness among elite club players and leaders on the issue, which is considered one of the contributing factors for the decline.

1.3 Betting

The new Gambling Act has created better opportunities for foreign operators to receive a gambling licence in Sweden. The Act applies to gambling of money, which is allowed in Sweden. The Act is accompanied by secondary legislation, including the Swedish Gambling Tax Act and various regulations on responsible gambling and state lotteries. The Gambling Authority has overall responsibility for licensing and supervising the enforcement of the Gambling Act. Any gambling directed at the Swedish market without a licence from the Authority is prohibited.

1.4 Disciplinary Proceedings

A regulatory or disciplinary offence by an athlete (including doping matters) will normally be determined by a disciplinary committee or similar body in line with the relevant NGB's internal rules.

2. Commercial Rights

2.1 Available Sports-Related Rights

In addition to sponsorship and broadcasting rights, there are several other notable sports-related commercial rights in Sweden, such as merchandising, hospitality and ticketing.

Merchandising involves the sale of branded products such as apparel, accessories and memorabilia. Sports clubs and organisations often partner with manufacturers and retailers to produce and sell merchandise featuring team logos, colours and player images. This not only generates revenue but also helps build and maintain fan loyalty.

Hospitality rights often include premium seating at the venue, exclusive access to lounges and special event packages for fans and corporate clients. Sports venues and clubs offer hospitality services to enhance the spectator experience, often at a higher price point. These services can include catered meals, private viewing areas and meet-and-greet opportunities with athletes.

Ticketing is a crucial commercial right, encompassing the sale of tickets for sporting events. This includes primary ticket sales through official channels and secondary ticket sales through resale platforms. The availability of secondary ticket sales allows fans to purchase tickets from other individuals, often at different prices. Sweden has implemented the EU Online Ticket

Resellers Regulation which requires online platforms to conduct due diligence on sellers and provide clear information about ticket listings. This helps prevent fraudulent practices and ensures that consumers are aware they are purchasing from third-party sellers.

2.2 Sponsorship

Sport in Sweden has a long tradition of being an independent voluntary movement (generally known as the Scandinavian or Nordic model) and has always been a popular platform for sponsorship from various business actors. The business community sees an obvious marketing advantage in being able to associate itself with well-known sports events, NGBs, leagues, local clubs or individual athletes.

The commercialisation of the sports sector has been massive and fast-growing over recent decades. The sports rights-holders (such as NGBs, leagues, event organisers, clubs and individual athletes) have become significantly more professional and business-oriented and sponsorship is usually at the core of revenues.

The key terms of a standard contract between sponsors and sport rights-holders are usually:

- the duration of the contract;
- the territory in which the sponsor can use the sponsorship rights;
- the nature and scope of the sponsor's rights (exclusive or non-exclusive rights to naming and title rights, advertising rights and official supplier rights, etc);
- the use of the parties' respective intellectual property rights;
- the financial arrangements;
- warranties from the parties (for instance, that the sport rights-holder owns and control all rights related to the sports event); and
- relevant termination rights.

In individual sponsorship agreements, sponsors tend to protect themselves against serious sporting offences on the part of an athlete, such as doping and match-fixing. The sponsors sometimes go further and require the use of a morality clause, which may give the sponsor additional protection against other moral issues on the part of an athlete (such as drug abuse, gambling and other behaviour that does not reflect the sponsor's brand values). In some cases, the morality clause can be reversed, enabling the athlete to terminate the agreement if the sponsor or the brand suffers reputational damage.

2.3 Broadcasting

Broadcasting agreements are the most valuable source of revenue for sport rights-holders. Streaming services on the internet and other new media significantly increase these revenues. The broadcaster usually has the exclusive powers to licence public screenings of a sport event. Swedish law does not recognise independent proprietary rights to an event per se (see **3.1 Relationships**). However, event organisers will be able to restrict illegal broadcasting through control of access to the event and the terms of entry. The Swedish Copyright Act provides that radio or TV broadcasts may not be transmitted to the public without the consent of the broadcaster.

Broadcasting rights in most high-profile sports are sold collectively by the governing bodies or the leagues on behalf of its member clubs. For example, Warner Bros Discovery holds the broadcasting rights for the *Allsvenskan* and *Superettan* football leagues. Another notable example is the four-year deal between Viaplay and the Swedish Football Association (the *"SvFF"*), which grants Viaplay exclusive rights

to a wide range of football content, including national team matches and various football cups.

Broadcasters and rights-holders typically negotiate venue access agreements that allow them to broadcast live events from stadiums. Broadcasters and rights-holders work together to prevent unauthorised use of their content, such as online piracy, for instance via illegal IPTV services.

3. Sports Events

3.1 Relationships

As mentioned in **2.3 Broadcasting**, Swedish law does not recognise independent proprietary rights in a sports event per se. The idea or concept for a sport event is not protectable under Swedish intellectual property laws. However, the sport event organiser generally protects the event and the commercial rights related to the event through a combination of real property law, contractual provisions, intellectual property law and tort law.

The event organiser generally holds control of access to the venue of the event. This means that the event organiser may restrict third-party access and ensure, through various agreements, that entrants are not entitled to benefit commercially from their attendance.

The event organiser may also protect the various commercial rights in the event through agreements related to the entry to the event (ticketing), sponsorship, broadcasting, merchandising, catering, hospitality, etc.

Entry to the event is based on the ticketing agreement between the organiser and the spectator (governed by the Contracts Act and the general principles of contract law). The ticket terms and conditions must be brought to the attention of the spectator at the time of ticket purchase. Access to the event may be granted on specific terms, usually described on the ticket itself, or by notices placed at the venue.

If the ticket is purchased on the internet, the specific ticket conditions will be listed on the seller's website. The event organiser may impose specific terms for entry, such as refusing access to the event for security reasons, restrictions on ticket resale and recording footage of the event, restricting access to the event to certain specified areas of the venue and specifying the ticket holder is over a certain age.

3.2 Liability

Event Organisers

An event organiser's non-contractual civil liability is partly governed by the Swedish Tort Liability Act and partly by Swedish case law. Event organisers have a pronounced duty of care for the spectators' and the athletes' safety. If a spectator is injured because of dangerous premises, a breach of duty will arise for the event organiser (for instance a sports club who own its own arena or a club which leases the premises). Non-contractual liability normally covers personal injury and loss of, or damage to property. Compensation for pure financial loss is excluded, except in the case of criminal behaviour.

Liability requires an event organiser's negligence and must be evaluated in each specific case by reviewing whether the organiser has fulfilled its obligations deriving from applicable legislation and the safety instructions of the sport governing bodies. Damages may be reduced if the plaintiff has contributed, by fault or negligence, to the injury sustained. Damages are only awarded for

injury sustained. Swedish law does not recognise the use of punitive or exemplary damages.

Athletes

An athlete's non-contractual civil liability is governed by the same sources of law as the organisers' non-contractual civil liability. Athletes may be held liable for damage or injury caused to other athletes, officials or spectators when the athlete acts intentionally or negligently. The liability is evaluated on a case-by-case basis in the light of the athlete's obligations resulting from legislation and the governing body's sport-specific rules.

The athletes' criminal liability is based on the concept of non-acceptable risk-taking. Athletes have normally accepted the risks inherent in the specific sport. However, violence between athletes may constitute a criminal offence, even in sports involving more aggressive physical contact (such as boxing or ice hockey). However, if the athlete adheres to the relevant sporting rules, their actions will most likely not incur any civil or criminal liability. Sports-related violence is subject to public prosecution. Authorities will generally have to investigate criminal matters ex officio.

Spectators

A spectator's non-contractual civil liability is governed by the same sources of law as the organisers' and athletes' non-contractual civil liability. A spectator may be held liable in respect of damage to property or personal injury caused to the event organiser, other spectators or athletes. Liability for damages only arises when the spectator acts intentionally or negligently. Spectators may also incur criminal liability for offences under the Criminal Code.

Specific legislation relating to the access to sports events was introduced in 2015 following some tragic incidents at Swedish football grounds (such as the death of a football fan after pre-match violence in 2014). An individual may be prohibited from entering a venue where a sport event is going to be held. The public prosecutor may issue a banning order against, for instance, a violent supporter, for up to three years. Anyone breaking the banning order will be sentenced to a fine or maximum of two years in jail. In 2017, new anti-hooligan legislation was introduced for a ban against covering one's face at sporting events. A spectator at the arena who intentionally covers their face in a way that prevents identification may be sentenced to a fine or a maximum of six months in jail.

4. Corporate

4.1 Legal Sporting Structures

The Sports Confederation is the unifying organisation of the sports movement in Sweden and has the task of supporting, representing, developing and leading the movement, both nationally and internationally.

The Sports Confederation consists of 72 special sports federations and 21 district sports federations, which organises more than 250 different sports and almost 20,000 local sports clubs. Almost a third of Sweden's inhabitants are members of a sports club (as athletes, officials, coaches or supporters).

Sport in Sweden is historically organised as an independent voluntary movement (known as the Scandinavian or Nordic model). A long experience of collaboration with central government and local authorities has led to the sports movement being entrusted with the task of organis-

ing sport in Sweden on its own, but with the help of financial support from the state and local authorities. For historical reasons, all sports are organised through voluntary non-profit associations. The right to participate in clubs and societies is guaranteed by the Swedish Constitution.

Only non-profit associations can be members of the Sports Confederation. All local sport clubs are organised as non-profit associations with the purpose of organising sports activities, having both professional teams and sport for all within the same organisation.

The Sports Confederation supports its members and represents the entire sports movement in contacts with the government, such as during the COVID-19 pandemic, where it negotiated several financial compensation packages for its members due to the losses caused by the pandemic.

SISU Idrottsutbildarna is the Sports Confederation's educational organisation. The Sports Confederation and *SISU Idrottsutbildarna* have different roles but complement and support each other in the daily work of developing sports in Sweden.

The clubs are organised according to two principles: one geographical and one linked to the specific sport. The geographical organisation takes the form of district sports federations while particular sports are organised in special district sports federations and special sports federations.

The Sports Confederation has its own judicial system, with the Supreme Sports Tribunal its final instance body. The Supreme Sports Tribunal deals with appeals against legal decisions handed down by the special sports federations.

A sport club must hold a specific participating (sporting) licence with its special sports federation. However, the clubs may transfer its rights under the licence to a limited liability company, on the condition that the club is the majority owner of the shares/voting rights in the limited liability company (the *"51% rule"*). The limited liability company is prohibited from transferring the sporting rights to a third party. Many sports clubs with professional teams, for instance, within football and ice hockey, have used this opportunity to attract financial investors from private business. There are currently only two football clubs that are publicly listed on the stock exchange:*Hammarby IF* and *AIK Fotboll*. The ice hockey clubs *AIK Hockey* and *Djurgården Hockey* have also raised capital through the Pepins trading platform.

All Olympics-related matters are handled by the Swedish Olympic Committee. The Committee consists of 38 member federations, the national sports federations for the Olympic sports and 18 recognised federations (ie, recognised by the International Olympic Committee, but not currently on the Olympic programme).

4.2 Corporate Governance

Swedish law does not provide for specific corporate governance codes within sports. However, sport governance is a growing concern among stakeholders, not least due to the significant commercialisation of sports over recent decades.

Professional teams organised within a limited liability company need to comply with the provisions of the Swedish Companies Act. Listed limited liability companies are subject to specific rules regarding corporate governance, such as the Swedish Corporate Governance Code. The

Code may also be applied voluntarily by non-listed companies.

However, most clubs are organised as non-profit associations. Under Swedish law, the board is responsible for the organisation and management of the organisation's business. The board has overall responsibility for assessing the financial situation of the organisation and ensuring that the accounting, management of assets and the financial situation of the organisation are monitored in a safe manner. The board represents the organisation officially and has the power to sign agreements on behalf of the organisation.

A board member (or an officer) of a non-profit association or a limited liability company may be held responsible for damages caused to the organisation (or its members or shareholders) in the performance of their duties.

Board members are primarily responsible for any acts and omissions within the scope of the board's area of responsibility. However, board members may also be liable for acts committed by an officer of the organisation within the day-to-day management if the board has neglected its duty to supervise.

Board members are required to keep themselves updated regarding the organisation's current financial situation and make decisions based upon sufficient information. A board member (or an officer) may also be liable for damage that they intentionally or negligently cause a third party by violating the statutes of the association or the provisions in the Companies Act.

Furthermore, a board member may be subject to a wide range of other provisions in specific legislation. For instance, related to book-keeping, annual accounts, tax payments or environmental matters.

Board members and officers of an organisation may also incur criminal liability under certain provisions of the Companies Act and other offences under the Swedish Criminal Code, such as credit fraud, breach of trust and bribery. Insurance policies against liability exposure for board members and officers may be obtained and are quite common.

4.3 Funding of Sport

Swedish sports are primarily funded through a combination of government support and other revenue streams, such as sponsorship agreements. The Sports Confederation and *SISU Idrottsutbildarna* are the main organisations responsible for distributing financial resources. The majority of their funding comes from the Swedish government's fiscal budget. This support is aimed at promoting public health, fostering citizen participation, and supporting organised sports. The funds are distributed to sports clubs and organisations through a structured system. This ensures that financial support reaches a wide range of sports clubs and their members. The distribution is based on the needs and performance of the clubs, with a focus on promoting sports participation and excellence at all levels.

Other traditional revenue streams derive from the transfer of players (mainly for the elite clubs), broadcasting rights, arenas (such as ticketing, hospitality and merchandising), online sales and lotteries. New opportunities for monetising fan engagement in the digital era are growing rapidly, such as exploiting image rights, the use of non-fungible tokens (NFTs) and the metaverse, etc.

4.4 Recent Deals/Trends

Investor interest in the Swedish sports sector is mainly focused on individual top athletes. Investments from private equity firms, venture capital funds and other investment institutions in professional elite teams are still rare, due to the restricted control of the club by its members. However, the growing number of sports tech start-ups is attracting investors from these groups. There are currently about 170 sports tech start-ups in Sweden.

The Scandinavian sports equipment retail market has seen significant growth, with total revenues reaching EUR4.57 billion in 2020. This growth is driven by factors such as population and economic growth, as well as an increasing number of people attending fitness clubs. A notable deal is Accent Equity's Investment in Unisport, where Accent Equity acquired the Indoor Division of Unisport-Saltex, which specialises in indoor sports facilities and equipment.

5. Intellectual Property, Data and Data Protection

5.1 Trade Marks

Many stakeholders within the Swedish sports sector (including individual top athletes) seek trade mark protection. Sweden has domestic protection through the Trademarks Act and has also implemented the EU Trademark Directives and adopted the Madrid Protocol. EU trade marks are recognised in Sweden, as well as international trade mark registrations administered by the World Intellectual Property Organisation (the *"WIPO"*), designating Sweden.

Trade marks are registered by the Swedish Patent and Registration Office and the protection applies for ten years. Renewal can be made for an unlimited number of consecutive ten-year periods. The owner of the mark can bring an action against anyone making unauthorised use of the mark. Trade marks may consist of words, signatures, symbols, patterns, etc, provided that the signs are distinctive. Descriptive terms, generic terms or confusing marks cannot be registered. A trade mark may be assigned or licensed.

One notable case in the sports industry is the trade mark dispute between the SvFF and a local sports club over the use of similar logos. The SvFF successfully defended its trade mark rights, ensuring that their brand remained distinct and protected.

5.2 Copyright/Database Rights

No particular form of copyright covers sports events specifically and an athlete's performance during the event would not be protectable in itself. However, the provisions of the Copyright Act may be applied anyway. Any recording (sound, visual and audiovisual recordings), broadcast and footage of the performance may be protectable under the Copyright Act. The Copyright Act protects the expression of an original work (for example, broadcasts and sound recordings) for a period of between 50 and 70 years. The protection will arise automatically on the expression of the work.

The Copyright Act also provides protection for the compilation and use of sports databases for commercial reasons. To receive protection, certain conditions must be fulfilled (such as a substantial investment in the obtaining, verifying or presentation of the contents of the database).

5.3 Image Rights and Other IP

Image rights are protected by Swedish law under Act 1978:800 on Names and Images in Advertising (the *"Names Act"*).

According to the Names Act, an individual's name or picture cannot be used for marketing purposes without the explicit permission of the individual. Violations of the Names Act may lead to fines. The person whose image rights has been exploited is entitled to reasonable compensation for the infringement. The infringer will also have to pay compensation for other damages suffered by the individual.

The public prosecutor may also initiate a criminal action for violation of the Names Act if the injured party has submitted a complaint over the infringement or if a prosecution is necessary in the public interest.

As mentioned in **5.1 Trade Marks**, many Swedish professional athletes choose to protect their names as trade marks in line with the Trademarks Act. The Names Act may be applied on most types of trade mark uses as well, ie, both Acts may be applicable in infringement cases.

5.4 Licensing

NGBs, clubs and athletes may exploit their intellectual property rights through licence agreements. Swedish law does not contain any provisions restricting the assignment of IP rights to third parties.

5.5 Sports Data

The use of data in sport is fast-growing, both in order to improve athletes' performance and for commercial reasons (for instance, to engage with local supporters and consumers). Clubs may also use mobile app data and machine learning to personalise marketing campaigns and analyse game data. The use of new technology in the digital era can engage new fans and drive revenue from ticket sales and sponsorships.

5.6 Data Protection

The General Data Protection Regulation (the *"GDPR"*) came into effect in 2018 and applies to all Swedish NGBs and clubs that monitor their athletes. In 2022, specific legislation was introduced for the handling of personal data in connection with the sports movement's anti-doping work.

The Act covers the ADSE's and the NGB's processing of personal data in connection with all their anti-doping activities. The Swedish Authority for Privacy Protection (the *"IMY"*) is the supervising authority. So far, NGBs and other sport stakeholders have generally been compliant with the regulations and no hefty sanctions have been imposed.

6. Dispute Resolution

6.1 National Court System

Public courts are not normally involved or likely to intervene in sports disputes. A regulatory or disciplinary offence by a participant will normally be resolved within the respective NGB's internal dispute resolution mechanisms (disciplinary committee or arbitration). The individual athlete must abide contractually to the rules of their club, the relevant NGB, the Sports Confederation and the rules from international governing bodies.

Most NGBs have their own disciplinary committee or arbitration board. In certain circumstances, the Supreme Sports Tribunal deals with appeals

against sport-related decisions and disciplinary sanctions handed down by the relevant NGB.

Public courts have jurisdiction over all disputes outside the sport governing bodies' internal dispute resolution systems (such as civil and criminal liability cases).

6.2 ADR (Including Arbitration)

As mentioned in **6.1 National Court System**, a regulatory or disciplinary offence by an athlete or other similar sports disputes (such as breach of contract claims) will usually be determined by a disciplinary committee or arbitration panel in line with the relevant NGB's rules.

6.3 Challenging Sports Governing Bodies

An arbitration award from a NGB is enforceable as a court judgment under the Enforcement Code. The award must be in writing and signed by a majority of the arbitrators.

There are no established principles in Sweden regarding when the public courts can examine and decide on lawsuits in relation to decisions of NGBs (for example, decisions on membership issues or disciplinary sanctions). The public courts are generally very restrictive when it comes to challenging decisions from NGBs and there are very few court cases on this issue. However, a public court may set aside a decision from a NGB if the decision is based on obvious unreasonable circumstances, such as discrimination because of gender, race or religion.

7. Employment

7.1 Sports-Related Employment Contracts

The relationship between clubs and professional athletes is governed by Swedish employment law. Professional athletes in commercialised team sports (eg, football and ice hockey) are regarded as employees. In most cases, standard form employment contracts set out by the relevant NGB are used. In many cases, these standard employment contracts form an integral part of the collective bargaining agreement in place for the specific sport.

Temporary or fixed-term employment is generally allowed, up to a maximum of two years. Longer fixed-term employment has been agreed in some collective bargaining agreements (such as within football).

The individuals and clubs must adhere to the transfer restrictions set out by the governing bodies and the corresponding rules from international governing bodies, such as FIFA's Regulations on the Status and Transfer of Players and FIFA's Transfer Matching System.

7.2 Employer/Employee Rights

All Swedish employers must take reasonable care of their employees' health and safety. The employers are also required by law to protect their employees from abuse, discrimination, sexual harassment, etc. The Sports Confederation and *SISU Idrottsutbildarna* are working proactively with their members to implement several regulations, guidelines and educational programmes related to, for example, doping, sports integrity, diversity, sexual harassment and violence in the workplace, safeguarding and protection of minors.

7.3 Free Movement of Athletes

Sweden is subject to the EU rules regarding the free movement of labour, cross-border competition and discrimination. Following the Bosman case of 1995, NGBs and clubs adjusted their internal regulations to comply with EU law. It is prohibited to restrict the number of foreign athletes from EU member states, but the number of non-EU athletes may be limited to some extent.

The Swedish Football Association has adopted rules where at least half of the players noted in the club's player list must be *"home-grown players"*, ie, must have been registered with a Swedish football club for at least three years between the ages of 12 and 21.

Athletes who are EU citizens have the right to live and work in Sweden without a residence permit or a work permit. Professional athletes who are non-EU nationals need to apply for a work permit to compete for a Swedish club. The requirements include having a valid contract with a club affiliated with the Sports Confederation, a salary of at least SEK14,300 per month before tax, and health and accident insurance. The Sports Confederation must also certify that the employment is vital for the positive development of the sport.

Non-EU citizens from certain countries (such as Russia, Afghanistan, Iraq, Egypt, Indonesia and most African countries) may need a visa to travel to Sweden.

8. Women's Sport

8.1 Women's Sport Overview

Women's sports are well established in Sweden in most disciplines. Indeed, in some sports, such as alpine skiing and biathlon, the Swedish women have, due to their greater international success, received far more media attention than the men.

The government is investing in sport and expects the sports movement, at all levels, to redouble its efforts to achieve gender equality in sports, and to give all those with an active interest the same opportunities to participate, regardless of their gender. The largest women's sports in Sweden are still athletics, football and gymnastics but other sports such as ice hockey, basketball and handball continue to develop.

There has been a sharp increase in audience figures during women's sports events in recent years and events from women's top sports leagues are regularly broadcast on TV and other mainstream media, which obviously attracts new sponsors, etc. In 2021, the Swedish Football Association introduced equal compensation for the national teams.

9. Esports

9.1 Esports Overview

Despite its comparatively small population, Sweden is one of the world's leading countries within esports and esports continue to grow rapidly. Some of the world's best-selling games are produced in the Nordic countries and the Nordic region is a huge gaming community.

Sweden is also home to DreamHack's esports tournaments, the biggest esports events in the world. The Swedish eSports Association is the umbrella organisation for Swedish competitive electronic gaming. The Association currently has three national esports teams; women's, men's and junior. They represent Sweden at the European and World Championships in the Dota2,

Counter-Strike: Global Offensive (CS:GO) and Rocket League disciplines.

There has been an ongoing debate on whether or not esports should be recognised as an official sport in Sweden. However, in 2023, the Sports Confederation finally recognised esports as an official sport and admitted the Swedish eSports Association as a member.

In January 2022, the Saudi Arabian Public Investment Fund's Savvy Gaming Group acquired ESL Gaming and DreamHack from Modern Times Group for USD1.5 billion.

10. NFTs, AI and the Metaverse

10.1 Non-Fungible Tokens (NFTs)

NFTs are digital assets that may lead to new revenue streams for Swedish leagues, event organisers, clubs and individual top athletes, etc. NFTs, like cryptocurrencies, are technologies that at the time of writing remain in a grey area in terms of legal recognition in Sweden.

NFTs have received huge interest globally, but the industry itself is in a very early stage, and the legal recognition of NFT transactions is still untested in Sweden. *IFK Göteborg* has become the first club in Sweden, to start selling NFTs in collaboration with their sponsor *merinfo.se* and the marketplace *Atlanten*.

However, the development of NFTs in Swedish sports has generally been slow so far. Nevertheless, NFTs may have great potential to offer new sources of revenue for the sports industry as they offer new types of engagement with the fans. Potential risks with NFTs are mainly copyright infringements and violation of the GDPR/data protection regulations.

10.2 AI

Sweden follows the EU regulations on AI, including the AI Act. The Swedish government has also developed a national AI strategy to guide the responsible development and use of AI across various sectors, including sports.

Sports organisations and sponsors in Sweden are leveraging AI in the following innovative ways:

- fan engagement: AI is used to personalise fan experiences, such as providing tailored content recommendations and enhancing stadium experiences;
- performance analysis: AI-powered tools analyse athletes' performance data to help coaches tailor training programmes and improve player performance;
- injury prevention: AI analyses biomechanical data to identify potential injury risks and suggest preventive measures; and
- sponsorship activation: AI helps generate monetisable digital content, such as augmented broadcast feeds and social media graphics, to increase sponsorship revenues.

10.3 The Metaverse

In Sweden, the metaverse is being explored across various sectors, including sports. Some practical applications include virtual events, training and simulation for athletes and fan engagement, such as using the metaverse to offer the club's fans immersive experiences (virtual meetings with players, exclusive behind-the-scenes content, etc).

SWITZERLAND

Trends and Developments

Contributed by:
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Bär & Karrer

Bär & Karrer is a renowned Swiss law firm with more than 170 lawyers in Zurich, Geneva, Lugano, Zug, Basel and St Moritz. Its core business is advising clients on innovative and complex transactions and representing them in litigation, arbitration and regulatory proceedings. The sports law team is headed by Michele Bernasconi, and is supported by a team of nine partners as well as nine associates from a broad range of adjacent practice areas. The firm's experts have an unmatched depth of knowledge in the sports industry, with a comprehensive practice that offers a wide range of services throughout Switzerland and abroad. Its sports lawyers represent many of the leading international sport organisations, sports clubs, sporting event organisers, broadcasters and individual athletes in litigation, sports arbitration and other proceedings, as well as in transactions in the sports industry. Clients include UEFA, World Aquatics, CONMEBOL, the Olympic Council of Asia, the Association of National Olympic Committees (ANOC), the European Athletics Association and World Skate.

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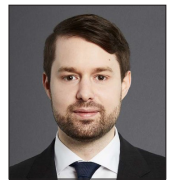

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Contributed by: Michele Bernasconi, Emanuel Cortada and Jonáš Gürtler, **Bär & Karrer**

Introduction

In the world of sports, Switzerland continues to be the country in which the International Olympic Committee (IOC), many international sports federations – including *Fédération Internationale de Football Association* (FIFA), *Union des Associations Européennes de Football* (UEFA), the International Volleyball Federation (*Fédération Internationale de Volleyball* FIVB), the International Cycling Union (*Union Cycliste Internationale* UCI), the International Ice Hockey Federation (IIHF) and many others – and the Court of Arbitration for Sport (CAS) are located.

The country's unique position continues to have a strong impact on current trends and developments. A relatively recent development, namely greater involvement of the European Court of Justice (ECJ) in sports-related matters, has also had an impact on the regulations of sport governing bodies, such as FIFA and UEFA, based in Switzerland. The decision of the ECJ in the case of Lassana Diarra, a player who challenged FIFA's legal framework related to transfers, led FIFA to amend its Regulations on the Status and Transfer of Players (RSTP). Another particularly dynamic field relates to the emergence and updating of transgender or differences of sex development (DSD) rules and policies, which are regularly subject to legal challenges. This was recently on display in the run-up to the Summer Olympic Games in Paris in the case of a transgender Swimmer Lia Thomas, and even at the Games themselves in the case of the boxers Imane Khelif and Lin Yu-ting. A further sports-law-specific challenge is still on-going, caused by the war in Ukraine (ie, the exclusion of Russian athletes and clubs from international sports competitions). Other recent developments include an emphasis on good governance, the promotion of women in sports through governing bodies and the influence of digitalisation on the sports industry. Because of its unique position in the world of sports, many legal and regulatory developments are closely observed in Switzerland.

The Importance of Swiss Law

In disputes related to the policies and regulations of associations and the war in Ukraine, among other sports-related disputes (commercial, contractual, disciplinary, etc), Swiss law continues to play an important role.

There are a number of reasons why many sports-related matters are and will continue to be governed by Swiss law.

Firstly, Swiss law ordinarily governs international commercial contracts in the world of sports. Most contractual/commercial disputes (eg, disputes related to sponsorship agreements or TV rights contracts) will thus be subject to Swiss law considerations.

However, Swiss law also plays a predominant role in disputes of a regulatory nature. The statutes and regulations of most international sports federations provide that such disputes are adjudicated primarily based on applicable regulations, but with Swiss law applying on a subsidiary basis. This mechanism is also reflected in the procedural rules of CAS, which establish that a dispute is primarily governed by sports regulations and only on a subsidiary basis by state law.

Regulatory Dynamics

A significant regulatory change pertains to the recent revision of FIFA's RSTP. The RSTP originally emerged from negotiations between FIFA, UEFA and the European Commission in 2001.

The currently ongoing revision was triggered by a highly anticipated ruling from the ECJ in the

case of FIFA v Lassana Diarra. In this case, the player contended that the RSTP had caused him severe damage by preventing him from securing employment with a new club following the early termination of his contract with his previous club. The RSTP stipulate that in case a player breaches his or her contract, a new employing club can be held severally and jointly liable for potential compensation due to the player and, under certain conditions, can face sporting sanctions.

Consequently, the player challenged the RSTP's compliance with EU law, specifically European competition law and the freedom of movement of workers. In response, the ECJ provided abstract guidance on several issues referred to it by a Belgian court, concluding that certain aspects of the FIFA RSTP exceeded what was necessary to achieve FIFA's legitimate interests, such as maintaining contractual stability.

Following the ECJ judgment, FIFA initiated a global dialogue on the amendment of the RSTP, which resulted in a revised interim legal framework in December 2024, reflecting the considerations of the ECJ.

Furthermore, in Switzerland, international sports federations are actively developing policies regarding the participation of transgender athletes, guided by the IOC's 2021 framework on fairness, inclusion and non-discrimination on the basis of gender identity and sex variations. Consequently, federations headquartered in Switzerland, such as World Athletics and World Aquatics, have been working to establish or refine their guidelines to balance inclusivity with fair competition. However, the implementation of these policies varies, with some federations having finalised their regulations while others continue to deliberate on the most appropriate measures based on new scientific developments.

By way of example, in February 2025, World Athletics initiated a new consultation process to update its eligibility conditions for the female category, focusing on athletes with DSD and transgender athletes. Proposed measures include mandatory cheek swab tests to determine biological sex, aiming to reinforce the existing regulations and address concerns about male athletic advantages that may manifest even before puberty.

Matters of Debate

The ECJ's decision in the Diarra case has prompted vigorous discussions. The precise impact of this ruling on the player transfer system is yet to be determined. An initial indication, suggesting that the current transfer system may not be imminently changed as many have predicted, is reflected in the recent transfer data released by FIFA. The number of international transfers has reached a historic high, with a significant amount again spent on international transfer fees. However, it is still too early to make any reliable predictions.

It remains clear that cases involving international transfers all have unique features, and each dispute will ultimately have to be decided on a case-by-case basis taking into account all pertinent factual, regulatory and legal circumstances.

The developments in the case of Diarra raise broader questions about the increasing involvement of the ECJ in the regulatory domain of sports associations. Diarra is neither the first nor the last case to be brought before the ECJ concerning the regulations of sports associations. However, in recent years, such challenges have become increasingly common, and this trend

indicates a growing willingness of the ECJ to entertain such challenges and to actively intervene in the regulatory frameworks established by sports associations.

With regard to policies for transgender athletes, the debate centres on striking a balance between protecting the integrity of female sports and ensuring inclusivity. Consequently, sports associations continue to refine their policies based on emerging scientific evidence, to maintain fairness and prevent discrimination. Given the inherent differences across various sports, a one-size-fits-all approach to transgender policies is neither feasible nor fair. Each sport presents unique challenges and demands. Therefore, it is imperative that policies be tailored to the specificities of each sport, taking into account factors such as competitive balance, safety and inclusion. By recognising the distinct nature of each sport, governing bodies can develop nuanced regulations that respect the integrity thereof while ensuring that all athletes are treated with dignity and fairness.

Other Recent Topics

On a commercial level, the trend of enhancing fan engagement has persisted. For instance, an increasing number of sports associations are selling collectibles to their supporters. Additionally, various sports clubs are exploring the world of esports, recognising its significant market potential, particularly among the younger generation.

Furthermore, the Swiss government has decided to introduce far-reaching policies in relation to Swiss sports law, impacting sports governing bodies. Firstly, the Swiss Olympic Association and national sports federations will have to fulfil a mandatory women's quota of 40%. The goal of this policy is to promote women in sports governing bodies.

Secondly, as a reaction to well-publicised cases of abuse of athletes, particularly in the sport of gymnastics, the Swiss government decided that sports associations must comply with an ethical code approved by the Swiss Parliament in 2021 in order to keep receiving state funding. Furthermore, an independent reporting office with investigatory powers and a disciplinary body with sanctioning powers were introduced.

In July 2024, the Disciplinary Chamber of Swiss Sports was replaced with the Swiss Sports Tribunal, a foundation of Swiss Olympic. The Swiss Sports Tribunal, as an independent judicial appellate body, is responsible for resolving disputes and imposing sanctions, particularly in cases related to doping and ethical violations within Swiss sports.

Conclusion

As a final point, the war in Ukraine is sadly still impacting the world of sports. While an interim solution was found by the IOC for the participation of Russian and Belarusian athletes at the Olympics in Paris 2024, it remains to be seen how the IOC and international federations will deal with this issue at the upcoming Olympics in 2026. Most importantly, it must be hoped that hostilities in Ukraine can finally be resolved, without unnecessary further loss of life – this is far more important than any legal considerations.

UK

Law and Practice

Contributed by:
Jamie Singer and Flora Peel
Onside Law

Contents

Onside Law has been at the forefront of sports law for nearly two decades. With offices in London (HQ), Switzerland and Australia, its team of 26 practitioners are equipped to provide the most informed advice needed in this increasingly complex and sophisticated sector. The team at Onside Law pride themselves on being seen as trusted advisers and problem-solvers by all their clients. The firm acts for many of the major governing bodies and international federations, counts six FA Premier League clubs as clients, and acts for some of the most high-profile people in sport on the planet. Onside Law specialises in disciplinary, integrity and anti-doping matters; major sport events; broadcasting and media rights; sponsorship, licensing and merchandising; investment in sport; acquisition of sports clubs and properties; and esports. Onside Law is recognised by The Times newspaper as one of the best law firms in the UK, and both the firm and its leading partners are recognised by Chambers and Partners. The firm would like to thank James Tobias for his contribution to this chapter.

Authors

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1. Regulatory

1.1 Anti-Doping

UKAD

UK Anti-Doping (UKAD) is the national anti-doping association in the UK and is responsible for producing regulations (UKAD Regulations) that comply with the World Anti-Doping Code (WADA Code) and implementing those at national level.

The UKAD Regulations often serve as a template for sports governing bodies in the UK to adopt for their particular sport. Many simply adopt them in their entirety, while higher-profile sports such as football and cricket amend them, in consultation with UKAD, for their own specific needs.

Participants in any sport will be required to comply with both UKAD Regulations and those produced by their own sport. UKAD is also responsible for carrying out testing, managing results and presenting cases regarding many of the alleged breaches within UK sport.

WADA

A new version of the WADA Code came into force on 1 January 2023, having been approved by WADA's executive committee on 23 September 2022. All sports have been required to review and update their own rules to ensure compliance. The Code is currently undergoing a Stakeholder Consultation Phase, with major changes to be implemented in 2027. Presently, one of the changes involves a change between intentional use and unintentional use, and a change in the period of ineligibility accordingly. As the Code is still in the approval stages, it is yet to be seen which updates will actually come into force.

One change that came into force in 2021 relates to recreational substances (eg, cannabis and cocaine) where significantly lower sanctions are now possible if an athlete can demonstrate the usage was recreational and outside competition. Athletes with an existing sanction for use of recreational substances may be entitled to a review. Although this was reviewed again in the latest code, it was confirmed that cannabis would remain on the list.

Often, when updates on prohibited substances that have been monitored for a while come into force, WADA will allow for sufficient time to communicate and educate on the rule change. For example, Tramadol was prohibited during competition as per the 2023 code. However, the

committee permitted an extension of this coming into effect until January 2024.

Doping is not a criminal offence in the UK. However, certain substances that appear on the prohibited lists are criminalised, such as cocaine.

The latest 2025 WADA Prohibited List included updates to permit the donation of blood and blood components, including by apheresis, if performed in an accredited collection centre. Additionally, beta blockers are no longer prohibited in any skiing or snowboarding disciplines.

1.2 Integrity

Integrity

Integrity is a broad concept within UK sport. Anti-doping and anti-corruption issues (such as match-fixing) are high-profile but the concept also captures governance (see **4.2 Corporate Governance**), safeguarding, athlete welfare, disciplinary issues and social media.

Match-Fixing

Sports governing bodies should now be proactive in dealing with their integrity issues. To take match-fixing as an example, it is expected:

- for sports to implement specific anti-corruption regulations which participants are contractually committed to abide by;
- for such regulations to deal with the investigation and prosecution of alleged match-fixing offences by a dedicated body;
- that an independent judge will ultimately decide whether an offence was committed and award the appropriate sanction (lifetime bans in serious cases);
- for there to be close collaboration between betting operators through memorandums of understanding to ensure relevant data is shared that might evidence fixing; and
- that there will be incorporation (where applicable) of global codes such as the Macolin Convention (signed by the UK in 2018 but not yet ratified) and the Olympic Movement Code on the Prevention of the Manipulation of Competitions.

Depending on the specific facts, integrity rule infringements can also constitute criminal offences, such as fraud, as was the case when a number of Pakistani cricket players were given prison sentences ranging from six to 32 months for spot-fixing during a test match played in England in 2010. In such circumstances, sports governing bodies need to liaise with the criminal authorities to ensure neither set of proceedings is prejudiced.

Applicable Law

Certain integrity offences are captured under UK law such as the Fraud Act 2006, the Bribery Act 2010, the Proceeds of Crime Act 2002, and the Criminal Law Act 1977. However, prosecution relies on law enforcement having the resources and interest to investigate and this is not always the case, particularly if there is an international element.

1.3 Betting

Sports Governing Bodies

While betting is not illegal, sports governing bodies in the UK are mindful of the potential conflicts of interest if a participant is known to be betting on their own sport. This raises suspicion that the participant has some kind of inside information regarding the outcome of the event in question or, worse, could influence a result.

Whether or not this is the case, sports governing bodies wish to avoid any suggestion of a lack of integrity in their sport. As a result, sports regulations will often prohibit participants from betting

on their own sport, usually on a very broad level, and participants will be subject to sanction in the event of betting breaches.

Gambling Act

The Gambling Act 2005 requires information sharing between sports governing bodies and betting operators and other stakeholders in the gambling industry. In addition, specific information-sharing arrangements are often put in place to allow governing bodies to be aware of, and respond swiftly to, any concerning betting. The UK government has announced, and is still undertaking, a formal review of the Gambling Act 2005. The Gambling White Paper, published in 2023, set out the previous government's plans for reforming gambling regulations. In January 2024, the Department for Culture, Media and Sport (DCMS) and the Gambling Commission (GC) commissioned the National Centre for Social Research (NatCen) to undertake the evaluation study for the Gambling Act. This update is expected soon.

Sanctions

Despite the long-standing regulation, participants are still regularly sanctioned for betting-related offences – for example, in December 2020, footballer Kieran Trippier received a ten-week playing ban and a GBP70,000 fine for passing on confidential information regarding a potential transfer. Ivan Toney was charged with 262 breaches of the FA Betting Rules between 25 February 2017 and 23 January 2021. Of these, 30 breaches were later withdrawn and he admitted to the remainder, resulting in the player receiving an eight-month ban from playing professional first-team football. In July 2023, Harry Toffolo, a Nottingham Forest defender, was charged by the FA for breaching betting rules on 375 occasions. He was handed a five-month ban and just shy of a GBP21,000 fine. Similarly, in May 2024, Lucas Paqueta was charged by the FA for allegedly getting booked deliberately *"for the improper purpose of affecting the betting market"*. At the time of publication, this case has not been resolved.

Sponsors

There is increasing scrutiny as to the appropriateness of betting operators sponsoring professional clubs or events – currently an important stream of revenue for sports in the UK (see **2. Commercial Rights**).

Concerns have been raised, particularly in relation to public health, about the potential for such sponsorships to promote gambling behaviours, link recreational activities to betting, and create the impression that gambling is socially acceptable and without risk. Further concerns focus on the impact of betting operators on younger, more vulnerable audiences. Critics argue that since many sports attract large viewerships from younger demographics, such exposure may encourage gambling habits.

Above all, governments and regulatory bodies are becoming increasingly vigilant about betting behaviours, particularly in the UK. There have been calls for reform to the Gambling Act 2005 which would see stricter regulation on the advertisement of gambling in certain settings.

1.4 Disciplinary Proceedings

Sporting Regulation

Sports governing bodies in the UK provide for disciplinary proceedings as part of their regulations where an athlete is alleged to have committed anti-doping, betting or other integrity offences as well as on-field offences.

The athlete provides their contractual agreement to any relevant regulations as a condition

of their participation in the sport. Employment contracts with clubs (see **7. Employment**) also require adherence to the regulations.

These disciplinary proceedings tend to be before tribunals or judicial bodies that are administered internally by sports governing bodies, albeit the judges should be independent of the governing body (eg, the FA's Regulatory Commission).

Smaller organisations may elect to provide for external independent tribunals such as Sport Resolutions to both administer their proceedings and provide the judges.

On-Field/Off-Field Offences

There is a distinction between disciplinary proceedings related to on-field offences and off-field offences in the UK, as follows:

- on-field offences – sports organisations usually have wider discretion and can render decisions very quickly with no external involvement; and
- off-field offences (eg, the betting offences described in **1.3 Betting**) – it will take longer for such cases to be investigated, for proceedings to run their course and for decisions to be made, and decisions will usually be appealable to an independent body, such as Sport Resolutions panels or the Court of Arbitration for Sport.

2. Commercial Rights

2.1 Available Sports-Related Rights

Aside from sponsorship and broadcasting rights (see **2.2 Sponsorship** and **2.3 Broadcasting**) and exploitation of data rights (see **5.5 Sports Data**), there are a number of other commercial rights across the sports landscape in the UK, including merchandising, ticketing and hospitality and *"official supplier"* rights (where the sponsor becomes the official supplier of a product or sponsor to the team or club).

Merchandising

Rights-holders, such as sports teams and event organisers, often seek to exploit the goodwill in their brand by selling branded merchandise. To do this, rights-holders typically enter into licensing arrangements, pursuant to which a licensee (or sub-licensee) is granted the right to design, manufacture and sell a specific range of products that incorporate the rights-holder's intellectual property in exchange for paying the rights-holder a licence fee and royalties on the licensee's sales. Rights-holders must ensure relevant intellectual property and consumer protection laws are strictly adhered to, particularly as online and digital merchandising continues to surge.

Ticketing Income

The ability to sell tickets to an event remains a cornerstone of the potential revenues for sports rights-holders in the UK. While fans were allowed back into stadiums during the summer of 2021, with live sporting venues no longer facing any restrictions on fan attendance, loss of ticket income during the COVID-19 pandemic was felt the most by teams and sports that do not benefit from significant broadcasting income. According to a Deloitte Football Money League 2025 analysis, an increase in clubs' stadium capacity, ticket prices and premium matchday offerings have helped matchday revenues grow by 11% year on year. Matchday revenue reportedly surpassed EUR2 billion, accounting for 18% of total revenue.

Secondary Ticketing Platforms

Where ticket holders are able to resell tickets to an event, the Consumer Rights Act 2015 provides that online secondary ticket platforms must provide the buyer of the resold ticket(s) with information on the seat they are purchasing.

If these tickets are resold without the consent of the relevant organiser of the event, the available information on the platform enables the event organiser to identify the original purchaser and, in turn, this assists them in bringing claims against such offenders.

Recent legislation bans the use of automated software by ticket touts to purchase a number of tickets in excess of the permitted number. In August 2021, the Competitions and Market Authority called for stronger laws to tackle illegal ticket resales, by notably increasing the liability of ticket resale websites. In January 2025, the UK government announced a consultation plan to cap the price of resold tickets in an effort to clamp down on ticket touts fleecing the public.

Hospitality

Hospitality can also provide a substantial source of income to sport venue owners in the UK. Significant hospitality offerings (including fine dining, tickets and player meet-and-greets) are now built into stadiums and on land controlled by sports rights-holders, wresting much of this income from unofficial providers. By way of example, Tottenham Hotspur FC's stadium was designed and built with tailored luxury hospitality facilities, various hospitality lounges and approximately 8,000 of the 62,850 seats in the stadium being premium hospitality seats. This trend of investment in stadium development and its associated revenue-generating opportunities continues, with Everton FC due to move into their new 52,888-capacity stadium, worth around GBP555 million, for the 2025/26 season.

2.2 Sponsorship

Brand Association with Sport

Sport has an emotional and commercial appeal that companies frequently look to leverage to promote their own brand. Rights-holders in the UK are aware of the potential value that their association brings and are increasingly sophisticated in the way they target potential sponsors, either directly or by using a specialist agency.

Depending on the nature of the rights-holder, its assets and the number of interested sponsors, it may be able to sell different sponsorship packages relating to specific competitions or events, specific territories or simply different levels of rights and access. In recent years, the use of data has become increasingly important to the valuation and activation of sports sponsorships in the UK.

Key Contractual Terms

Aside from a clear articulation of the sponsorship rights being granted, some of the key terms in a typical sponsorship contract include:

- the scope of exclusivity for the sponsor;
- the applicable sponsorship fees and any other value-in-kind consideration;
- control over the use of the rights-holder's intellectual property, including image rights (eg, approvals); and
- any post-termination rights the sponsor will be entitled to, including any matching rights and/or right of first refusal.

Given the difficulties posed by the COVID-19 pandemic, rights-holders and sponsors alike are paying more attention than ever to what contractual provisions should apply if sponsor-

ship rights are not delivered. In light of recent events in Ukraine, rights-holders are revisiting the importance of termination and suspension rights. In particular, the ability to terminate for reputational reasons.

Additionally, athletes are becoming more aware of the value of their intellectual property rights and seeking ever greater control when negotiating these sponsorship deals.

2.3 Broadcasting

Traditional Sport Broadcasters

Broadcasting rights have arguably become the most important set of commercial rights within UK sport over the last 20 years. For TV companies such as Sky, BT and ITV, live sport remains one of the few types of content that has bucked the trend of declining viewing figures in recent years. As such, sport is often the cornerstone of their lucrative subscription packages and helps to drive significant advertising revenues.

Media fragmentation has further reinforced sport as one of the very last platforms for brands to connect with mass audiences. The impact of the Euros on the UK advertising market alone saw a 9% increase in televised advertisement spend in the second quarter of 2024. With this level of reach, broadcasting investments in the sport market should continue to be resilient against economic growth and emerging media trends.

Broadcasting Rights

In return, sports rights-holders have benefitted from exponential growth in the value of their broadcasting rights. For example, the domestic broadcasting revenues earned by the FA Premier League have risen from GBP191 million during the 1992–93 to 1996–97 period, to approximately GBP5 billion due to be paid in the shorter 2019–20 to 2021–22 period. As of the end of 2024, broadcast revenues were up by a further 17% to GBP12.5 billion. In light of the potential for a further devaluation of domestic rights for the 2022–25 cycle, the FA Premier League received government authorisation (with broadcasters' approval) to bypass the tender process normally used and simply roll over the rights from the previous cycle at the same fee.

This exceptional rise in value has made it very difficult for terrestrial broadcasters to compete. However, the Broadcasting Act 1996 still requires certain *"crown jewel"* events, considered integral to British culture (eg, Wimbledon), to be shown on terrestrial TV. This legislation has a depressing effect on rights values, given that only terrestrial broadcasters can bid.

Non-traditional Sport Broadcasters

Digital companies and content platforms such as Amazon, YouTube and Facebook are also increasingly active in the sports broadcasting space, whether through live rights, highlights and/or associated entertainment content such as documentaries. They have different motivations and commercial models from the traditional pay-TV broadcasters, which impacts the type of rights they acquire and the price they pay to acquire them. Streaming services like Amazon Prime Video have recently expanded into sports broadcasting, notably following Amazon's GBP90 million acquisition of the exclusive rights to 20 Premier League matches in 2019. This growing presence of digital platforms and live streaming services has prompted traditional broadcasters such as the BBC and ITV to adapt to this new landscape. For instance, they have secured free-to-air rights for FIFA World Cup coverage until 2030.

Intellectual Property

In relation to the contractual arrangements between rights-holders and broadcasters, the relevant sporting league or event organiser typically grants a licence to the broadcaster(s) to access the relevant venue (and thereby create the broadcast).

Ownership of the copyright in the images of the broadcast itself will automatically vest in the producer/director of the footage under the Copyright, Designs and Patents Act 1988 and so the relevant contract usually assigns such copyright to the sports event organiser, which licenses it back to the broadcaster so that it may be broadcast in a specific territory.

3. Sports Events

3.1 Relationships

Hosting, Attendance and Participation

Presently, there are no proprietary rights in a sports event in the UK. Instead, sports events are primarily protected by the commercial contracts that control the various rights attached to the event and the access to the relevant venue.

For example, the organisers of sports events may enter hosting or participation agreements with venues, teams and athletes, and issue tickets to spectators that include specific restrictions (eg, to limit sharing of footage from the event and re-selling their tickets to third parties). See also **2.1 Available Sports-Related Rights**.

Structure and Organisation

The structure of sports events will depend on the governance of the specific sport. In UK sports, the national governing body of the relevant sport will often be the organiser of competitions within that sport – where this is the case, the relationship between athletes/sports clubs and the governing body will be regulated through the governing body's rulebook or participation agreement.

In instances where the competition organiser is not the governing body (eg, the Premier League in English football), a shareholder model can be used to enable the competition's participants to take decisions collectively in relation to the competition's rules, commercial arrangements and so on.

3.2 Liability

Duty of Care

In the UK, event organisers owe a duty of care to take reasonable steps to prevent injuries to people at their event and provide access to proper medical equipment and treatment should anyone be injured. Should this duty of care be breached, event organisers may be liable on the grounds of negligence. Two primary pieces of legislation that deal with the applicable civil liability of event organisers in the UK are the Occupiers' Liability Acts 1957 and 1984.

It is rare for athletes themselves to be deemed liable to spectators (since spectators are generally treated as having consented to being at risk of reasonably foreseeable events).

Safety

Legislation has been introduced to increase the safety of sporting events and reduce the risk of public disorder – for example, the Criminal Justice and Public Order Act 1994 made it illegal to stand at specific football matches.

The Safety of Sports Grounds Act 1975 also makes it a criminal offence for event organisers to admit spectators into sports grounds unless the grounds have a safety certificate from local

authorities if the ground can accommodate more than 10,000 spectators (or more than 5,000 spectators for grounds hosting Premier League and English Football League matches).

Following widespread incidents of mass violence during the Euro 2020 final held at Wembley Stadium in July 2021, an independent review by Baroness Casey made several recommendations to improve stadium safety. There have been countless other incidents at sporting events that have put the public in danger, such as Liverpool fans at the 2022 UEFA Champions League Final, and most recently, issues after the Europa League game between Manchester United and Rangers. Further reviews have been conducted in recent years, including a Culture Media and Sport Committee report with recommendations to the previous government at the end of 2023. It would come as no surprise if additional reviews under the new Labour government arise in 2025.

4. Corporate

4.1 Legal Sporting Structures

Typically, sporting entities in the UK adopt one of the following legal forms (determined on a case-by-case basis but with the following generalisations).

Company Limited by Shares

It is most common for commercial sports organisations (such as football clubs and sponsors) to operate through a company limited by shares. Such legal entities can be *"private"* or *"public"* (ie, their shares are traded on a stock exchange). Key features include the ability to fundraise in return for issuing equity to investors and paying dividends from its profits to its shareholders. The Premier League, FA Group, Rugby Football Union and Formula 1 are examples of limited companies specifically structured as a company limited by shares. Global commercial activities tend to be managed by this form of structure.

Company Limited by Guarantee

A company limited by guarantee is typically associated with *"not-for-profit"* organisations. It is the legal form normally adopted by sports bodies (such as national governing bodies) which seek to reinvest profits back into their particular sport. There is no share capital so this structure also tends to suit sports organisations with a fluctuating membership. This structure is commonly used by non-profit organisations where the companies do not have shareholders, but instead, members guarantee a nominal amount. Prominent examples of sports bodies established using this structure include the England and Wales Cricket Board, UK Rowing and UK Athletics.

Charitable/Community Vehicles

A sports organisation which undertakes charitable and/or community purposes is often set up as a company limited by guarantee but there are other specific corporate forms available, including CIOs (charitable incorporated organisations, specifically created for charities) and charitable community benefit societies (CBSs) registered with the Financial Conduct Authority.

Whatever legal structure is adopted, charity is a status that can only be achieved if the organisation fulfils certain legal requirements and is confirmed by registering with the Charity Commission.

Unincorporated Association

Many local sports clubs/organisations exist based simply on an agreement between their members/stakeholders – for example, a governing constitution and/or set of rules – avoiding the

formality and cost associated with operating as a company.

4.2 Corporate Governance

While there are no existing governance laws that apply exclusively to sports organisations in the UK, there are a number of published codes, regulatory frameworks and applicable laws that, together with public scrutiny, encourage and/or require good governance. As sport evolves into a multibillion-pound industry, there is increasing pressure on sport bodies at all levels to demonstrate good corporate governance.

Sport-Specific Governance Codes

The Code for Sports Governance (the *"Code"*), published by UK Sport and Sport England in 2017, accelerated better corporate governance of sporting bodies. The Code sets out certain governance requirements under five principles (structure, people, communication, standards and conduct, and policies and processes). Crucially, sports organisations must satisfy the relevant requirements in order to receive central public funding. A revised Code was published in December 2021, with a focus on governing bodies developing a diversity and inclusion action plan, as well as increasing welfare and safety in sport.

The Sport and Recreation Alliance (the umbrella body for sport and recreation in the UK) has also produced a Voluntary Code of Good Governance, setting out seven principles of good governance that it recommends sports bodies should implement in order to perform their role effectively.

Owners' and Directors' Tests

Several sports bodies in the UK, notably the three main English football governing bodies – the Football Association (FA), Premier League and English Football League (EFL) – have each established an Owners' and Directors' Test (ODT).

ODTs seek to protect the image and integrity of the relevant league, as well as the interests of its other stakeholders, by preventing unsuitable individuals from becoming an owner or a director of a club.

The ODTs are a prominent feature of football in England and regularly make the sporting headlines due to their controversial nature. For example, the following came to light in recent years.

- The Saudi Arabian Public Investment Fund (PIF), together with PCP Capital Partners, acquired Newcastle United FC for a reported GBP300 million. The deal had initially fallen through in July 2020, seemingly due to the acquirers' failure to comply with the Premier League's ODT. With disputes continuing in the background, it was finally announced in October 2021 that PIF, PCP Capital Partners and RB Sports & Media had completed the acquisition of the club, with PIF holding an 80% stake. Due to PIF's close ties with the Saudi Arabian government, and human rights concerns regarding that government, the takeover was only allowed after the Premier League received assurances that the club would not be under Saudi Arabian control.
- The adequacy of the EFL's ODT is also in the spotlight due to events at Reading FC, currently in League One (the third level of English professional football). The club recorded pre-tax losses of GBP146 million over five years. The EFL has a set limit of GBP13 million pre-tax losses annually, accumulating GBP65 million maximum over five years. Reading's losses were more than double this threshold,

forcing the EFL to act against the club by issuing a 12-point deduction.
- In 2024, the Premier League and its independent oversight panel (IOP) approved changes to the ODT rules, introducing Rule F35. This rule requires that any proposed change of *"control"* in a Premier League club must undergo review by the IOP before being approved. Sir Jim Ratcliffe's acquisition of a stake in Manchester United was the first case assessed under this new rule. Further changes to the ODT include the introduction of the *"Acquisition Leverage Test"*, which bans fully leveraged buyouts of football clubs.

The ODTs are not restricted to football, with other sports bodies such as the Rugby Football League administering a similar test which requires influential persons at a club under its jurisdiction to satisfy certain requirements. However, the football ODTs, in particular, tend to come under more scrutiny.

Other

Sporting organisations (and their officers) must also comply with applicable laws. For example, the Companies Act 2006 sets out a number of codified duties for directors of companies.

4.3 Funding of Sport

Traditional Revenue Streams

UK sporting organisations such as national governing bodies, leagues and clubs principally derive revenue by exploiting their commercial rights, as set out in **2. Commercial Rights**.

The COVID-19 pandemic had a significant impact on such traditional revenue streams, with the lack of live sport and the behind-closed-doors action hitting match-day revenue and providing sponsors and broadcasters with the power to renegotiate deals, particularly if rights could not be delivered.

UK Government

The UK government reacted to the short-term financial distress suffered by many UK sporting organisations due to the effect of COVID-19 by providing specific financial support to sport. While the sports industry was not as heavily impacted by the COVID-19 pandemic during the 2021–22 period (largely because live sport was not put on hold and attendance at live events was limited rather than restricted), the UK government worked closely with Sport England to make funds available, as detailed below. Additionally, it announced in October 2024 a GBP344 million investment to support athletes ahead of the Los Angeles 2028 Olympic and Paralympic Games, making it the greatest investment to date.

In October 2024, the government announced the Multi-Sport Grassroots Facilities Programme was investing GBP123 million in 2024/25 to support facilities across the whole of the UK.

Sport England

Many national governing bodies and sports bodies are eligible to obtain central funding through Sport England (established by Royal Charter in 1996). Sport England invests in the region of GBP250 million of National Lottery and public money every year, supporting over 130 long-term partners. Each organisation receives funding for up to five years, with each partner assessed against their ability to deliver on Sport England's strategy, which focuses on addressing inequalities and facilitating access to sports and physical activity.

Other

Sports organisations also secure funding from stakeholders, donors and, increasingly, private capital (see **4.4 Recent Deals/Trends**). It is up to each organisation to determine how to distribute money across its sport.

4.4 Recent Deals/Trends

Private Capital

The sports business investment landscape in the UK has experienced a notable increase in private equity, venture capital and institutional investment and interest. This upward trend in investment continued into 2024, and looks as if it will only keep building momentum, with investors confidentially backing sports properties – especially since stadiums were full and rights-holders could more easily engage with fans.

In addition, sports governing bodies and leagues are considering alternative sources of investment such as private capital (which has not traditionally been the case) as they manage revenue shortfalls and working capital needs. Rights-holders will seek longer-term partnerships where investors can bring commercial expertise, connections, ideas and further sources of funding.

Recent examples include:

- Two Circles (backed by Bruin Sports Capital) acquired the sports agency, LiveWire Sport.
- Private Equity Firm CVC Capital Partners finalised a USD150 million investment into the Women's Tennis Association (WTA) in return for a 20% stake in the tour's new commercial business, WTA Ventures.
- Elevate Sports Ventures acquired executive search firm SRI and launching Elevate Talent.
- Bright Path Sports Partners announced a GBP10 million investment in Ipswich Town, securing a 40% stake in the club.
- Baller League received a USD25 million investment from the Swedish private equity firm, EQT Ventures.
- Baller League is one of many start-up leagues entering the market at staggering values. They are becoming more attractive to investors as they seek to gain interest through the use of influencers and public figures.
- The Hundred is in the process of selling stakes in each of the Hundred teams, with GBP145 million being paid for London Spirit by the Silicon Valley Consortium. Other owners currently include Tom Brady, Lucknow Super Giants and Sanjay Govil, with IPL owners Sunrisers Hyderabad and Royal Challengers Bengaluru among the interested parties.

Mitigating Risk

Private capital investment must navigate governance regulation (in particular around ownership and control – see **4.2 Corporate Governance**), the establishment of breakaway leagues/events and reliance upon club/athlete/league performance. In addition, global crises pose significant concerns for potential investors, who may seek protective measures to withhold investment in uncertain conditions – a notable example being CVC Capital Partners' reported request for such rights as part of its Six Nations investment during the disruptive COVID-19 pandemic.

Player Influence

More athletes and players are bolstering their earnings outside their playing careers by endorsing sport brands and/or investing in sports organisations. In recent times, notable examples include:

- Simone Biles with gymnastics apparel company GK Elite, and athleisure company Athleta;

- Ilona Maher building a significant social media presence, surpassing two million followers on both Instagram and TikTok whilst endorsing brands such as Secret deodorant; a recent move by Maher to the PWR also saw a record-breaking attendance at Bristol Bears' next match, demonstrating how beneficial these players can be for clubs and sports as a whole; and
- Jude Bellingham with his image rights company Bello & Bello Ltd, benefitting from endorsement deals with super-brands such as Louis Vuitton and Adidas.

Player brands are increasingly taking centre stage in the sports world as athletes are realising how lucrative these deals can be. Additionally, especially in the women's sport sphere, an increase in following of individual brands is having profound broader impacts for the sport as a whole. It is clear this will become of great importance to athletes and brands alike as they will seek to negotiate contractual terms that benefit both parties.

5. Intellectual Property, Data and Data Protection

5.1 Trade Marks

Registering a Trade Mark

To register a UK trade mark, an application should be filed with the UK Intellectual Property Office (UK IPO), in compliance with the requirements set out in the Trade Marks Act 1994 (TMA 1994). An applicant can apply for:

- a word mark;
- a logo;
- a combination of the above;
- a trade mark series (up to six similar marks in a single application); or
- more unusual marks, such as a hologram, colour, sound or pattern.

UK trade marks can be filed in up to 34 goods classes and 11 service classes (using the internationally recognised Nice Classification system).

Athletes have been seen registering trade marks in their personal brands. An interesting example was seen recently with Cole Palmer filing a trade mark application for the words *"COLD PALMER"* and the motion of his *"shivering"* celebration.

Refusal

A trade mark application can be refused by the UK IPO on the basis of a statutory *"absolute ground"* (such as the mark exclusively designating the geographical origin of the goods/services).

The UKIPO refused to allow Liverpool FC to register *"Liverpool"* for a wide range of classes, denying it the right to have exclusive rights to the name due to its *"geographical significance"* as a city. Interestingly, this contrasts with an earlier UK IPO decision to permit the registration of the club's trade mark application for the well-recognised Liverpool city emblem – the *"liver bird"*. Here, it was found that, despite the city's widespread use of the emblem, its incorporation within the club's logo meant that the overall mark was distinctive and registrable.

A third party can oppose an application on the basis of both absolute and *"relative grounds"* (eg, where a mark is identical and/or similar to an existing registration and there exists a likelihood of public confusion).

On 1 October 2021, the Sentencing Council published a definitive guideline that sentencers

must have regard to when sentencing criminal offences under the TMA. This has been a significant development that should further deter counterfeiters and provide a degree of protection from abuse of registered trade marks. One of the most significant changes is the assessment of harm – this is now based on the equivalent retail value of the genuine goods being counterfeited.

In 2022, the UK IPO raised bad-faith objections to refuse the registration of the names of a couple of famous footballers by a third party. Although relatively rare, bad faith can be used as a reason to reject an application. The QC stated in this case that it was the duty of the registrar to raise these issues in order to protect both the consumer who might be misled, as well as the famous individuals themselves.

Registration Advantages

A registered trade mark has the following key advantages:

- the period of protection is perpetual in theory (provided it is renewed every ten years and certain other conditions are satisfied);
- the holder has a monopoly right over the registered brand in respect of the goods and services for which it is registered; and
- the process for enforcing against infringers is more efficient and cost-effective than it is for unregistered rights.

As an example, British Gymnastics successfully argued a trade mark infringement against UK Gymnastics, relying on its registered trade marks. This case was taken to the Court of Appeal and subsequently held as a breach, based on the overall impression of the trade mark. The case demonstrated the importance of being able to rely on a registered trade mark.

5.2 Copyright/Database Rights

Copyright

The UK's copyright law is laid down in the Copyright, Designs and Patents Act 1988 (CDPA), whereby copyright:

- arises automatically (it does not require registration);
- is designed to protect the results of creative output; and
- is formed as soon as that output is created and fixed in material form.

In general, ownership of the copyright is vested in the *"author"* of the work, with copyright protection lasting until:

- 70 years after the author's death for literary, dramatic, musical or artistic works (and in the case of films, 70 years after the death of the director, screenplay author and composer);
- 70 years from first publication in relation to sound recordings; and
- 50 years from first publication in respect of broadcasts.

Defences

There are various *"permitted uses"* under the CDPA which serve as a defence for alleged copyright infringement (such as non-commercial research and reporting), but in most instances the user must attribute sufficient acknowledgement to the copying.

"Fair dealing" must also be established in some cases, requiring the user to demonstrate that the copying does not exceed what an honest and fair-minded person would consider to be justified. This has no statutory definition and is assessed on a case-by-case basis, depending on the facts in hand. There is also the common law defence of *"public interest"*.

In the case of ECB & Sky v Tixdaq & Fanatix, Tixdaq – the developer of the Fanatix app – was unable to demonstrate fair dealing through their uploading of eight-second highlight clips from cricket matches (the copyright in which was owned by the ECB, and Sky).

Databases

The UK also recognises a legal database right under the Copyright and Rights in Databases Regulations 1997. This is an unregistered right that arises automatically upon the creation of the relevant database.

A database right protects the contents of the specific database, where there has been substantial investment in the acquisition, verification and/or presentation of the data comprised within it (which British Horseracing could not establish in the landmark case against William Hill).

UK citizens/businesses are now ineligible to hold database rights in the European Economic Area (EEA) for databases created on or after 1 January 2021.

5.3 Image Rights and Other IP

Image Rights

There is no standalone legal recognition for image rights (or personality rights) in the UK. Instead, individuals must rely on a myriad of IP and other rights to protect and exploit their image, including trade marks, passing off, privacy rights and robust contractual protections.

Passing Off

High-profile sportspersons may be able to rely upon the tort of passing off to prevent the unauthorised use of their image in a commercial context. To bring a claim, the individual must demonstrate:

- the goodwill attributed to their name/image;
- that the third party has misrepresented to the public a link between the sportsperson and the third party's goods and/or services, and this has, in turn, led to customer confusion; and
- that damage has been, or is likely to be, incurred as a result of this misrepresentation.

One of the leading cases in this context is Irvine v Talksport Ltd, where Eddie, Irvine, the Formula One driver, successfully claimed passing off against Talksport for manipulating a photo of him holding a phone and replacing this with a Talksport handheld radio, thereby falsely representing that he had endorsed the station.

Unlawful Exploitation

The issue of unlawful exploitation of image rights has arisen on numerous occasions, particularly in the context of football players.

Notably, in 2020, Gareth Bale tweeted (following on an original tweet from fellow footballer Zlatan Ibrahimović) in relation to the alleged unlawful use of player images in the FIFA video game. However, EA – the developer of the FIFA video game – currently licenses player image rights (as well as other club rights, such as stadium names) collectively from the Premier League. Nothing has since been said on this, although it appears to still be a prominent discussion point in the sports industry.

These types of claims are also being seen in other sports. For example, the cricket player's union, FICA, has alleged that the International Cricket Council is using player's image rights without appropriate approvals from the players by means of fantasy cricket leagues and documentaries.

5.4 Licensing

Licensing

Intellectual property possesses significant intrinsic value to both sports governing bodies and players/athletes in the UK, each of whom regularly license their IP rights.

By way of example, a UK sports governing body may own all of the IP rights in a new event format, including the trade mark to the name of that event and the copyright in its rules and regulations. These can be licensed, as individual rights or as a package, to the various different stakeholders involved in the hosting of that event (such as venues), those participating (teams or players/athletes) and to those exploiting commercial and media rights (such as broadcasters, sponsors and official suppliers).

The exploitation of IP through a licensing structure enables the rights-holder to retain control and ownership of the relevant rights, as well as generate revenue from the use thereof. The continued exploitation of these rights will also increase goodwill and brand value for the rights-holder over time.

Assignment

Broadly speaking, the only formality required to effectively assign UK IP rights is for the assignment to be in writing and to be signed by the assigning and assignee parties. In certain instances – for example, in the case of registered trade marks – the assignment must also be recorded at the UK IPO to update the official record.

5.5 Sports Data

Use of Sports Data

Sports bodies and other stakeholders in the UK are using sports data in increasingly sophisticated ways to, among other things:

- improve athletic performance;
- engage with fans;
- protect the integrity of their sport; and
- enhance sponsor/media rights packages.

Sports bodies are also increasingly licensing official data directly to third parties, particularly betting companies.

Kevin De Bruyne previously engaged an analytics company to assist his contract negotiations with Manchester City. The company (Analytics FC) used an algorithm to project De Bruyne's future performances. Based on this data, he negotiated the terms of his contract with Manchester City.

The following is a snapshot of sports data activities by sports bodies and other stakeholders in the UK in the past few years:

- In 2020, England Rugby trialled the training use of *"smart"* rugby ball which collects data on the speed and distance of passes – in 2021, this trial was extended further with the use of *"smart ball"* in the 2021 Women's Six Nations.
- Liverpool FC has signed a deal with DeepMind to explore the use of AI in football – it can be used, for example, to determine what impact a tactical change may have, or the changes a team may make in the event of injuries.
- The England and Wales Cricket Board was forced to rely on Depth App, which recorded player data, when a COVID-19 outbreak forced all of the soon-to-be participating England cricket team into isolation, with the information then being used to aid selectors in finding in-form cricketers to form a squad against Pakistan.

- Manchester City FC employed an astrophysicist and Treasury policy adviser, Laurie, Shaw, to head up a team of analysts at the club.
- Arsenal FC has a team of 15 people solely responsible for the data analysis side of the game.
- Brighton and Hove Albion FC is heavily reliant on data analytics in order to find talented young players and coaches.
- World Rugby has also implemented new technology in mouthguards that detect when a player has suffered a heavy hit. This will then flag the requirement for a head injury assessment and the player will be removed from the field. These have become a common feature across international and club fixtures.

Issues for Sports Bodies

While sports bodies may assume they have the right to collect and commercially exploit data relating to their sport (or to restrict a third party from collecting such data), the legal reality is often more complex. Sports bodies must consider the effect of data protection, contract, intellectual property and competition legal frameworks (among others), often in multiple jurisdictions.

In the wake of GDPR (as referred to in **5.6 Data Protection**), fans and athletes are also becoming more alert to the use of their personal data by third parties. In July 2020, a group of over 400 professional football players in England and Scotland announced that they were taking legal action against various betting and data processing companies (including official partners of their clubs and leagues) for the use of player personal data without consent, in breach of GDPR, in what has been dubbed *"Project Red Card"*.

Project Red Card and Lloyd v Google

A ruling in Lloyd v Google slightly reduced the uncertainty around the future of athletes' data and Project Red Card. The Supreme Court unanimously held that the claimant should not be successful in bringing a representative action against Google. The judge ruled that, to be awarded compensation, the claimant must have actually suffered damage as a result of the breach. The breach alone is not sufficient.

Notably, group action such as in Project Red Card may no longer be viable following this ruling. However, there is still a possibility for individuals to bring a claim where damage has been suffered.

As the amount of sports data being collected in the UK increases and the methods of exploitation become more complex, it is important that sports bodies and stakeholders establish and implement robust data policies which anticipate and mitigate potential legal risks. Nevertheless, as sports data becomes a more important commercial asset in the industry, the number of legal challenges between stakeholders is only expected to increase.

5.6 Data Protection

Data Protection Legislation

The Data Protection Act 2018 (DPA), the General Data Protection Regulation 2016 (GDPR) and, following Brexit, the retained UK version of the GDPR (known as the UK GDPR), may all apply to the use and exploitation of sports-related data in the UK.

Post-Brexit, the GDPR is only relevant to UK organisations that continue to offer goods or services to, or monitor the behaviour of, EEA individuals (for example, a club that sells merchandise to fans based in EEA countries).

GDPR Impact

The introduction of the GDPR has had a wide-ranging impact on the ability of organisations to use and exploit personal data, which in the sporting context impacts both fan and player/athlete data.

Alongside the tightening of the regulatory landscape, there has been a huge increase in the use of new technologies and digital innovation, whether that is in the use of wearable technology, augmented reality (AR) and virtual reality (VR) or matchday apps, to name but a few. This has necessitated bringing a sharp focus on the data protection impacts of the use of the same, from the design stage through to commercialisation.

Sensitive Personal Data

In the context of more sensitive types of personal data (termed *"special category personal data"*) such as player health and biometric data, the ability for rights-holders to collect and use this data has become more challenging, in large part due to the stricter requirements for obtaining valid consent from the individual.

By way of example, it might be difficult for a rugby club to prove that player consent is freely given (and that consent can be refused without detriment) where, for example, all players are being asked to use wearable technology during practice sessions, particularly because there is an inherent imbalance of power between an employer (club) and employee (player).

Exemptions

The DPA offers certain useful sports-specific exemptions to the requirement to obtain consent for the processing of special category personal data. These have been welcomed by governing bodies, anti-doping bodies and integrity units alike.

In reliance on Article 9(2)(g) of the GDPR and UK GDPR, where the processing of special category data is for reasons of substantial public interest, the UK introduced an anti-doping exemption and a sports integrity exemption, which have greatly facilitated the sharing of special category personal data for these legitimate purposes within sport.

6. Dispute Resolution

6.1 National Court System

Types of Dispute Resolution

In England and Wales, disputes are resolved through litigation before the national court system unless the parties agree to alternative dispute resolution (ADR).

Parties need to consider their relationship to one another and any agreement and/or rules that govern that relationship, which may require a certain type of dispute resolution over another.

However, where ADR or another internal dispute mechanism has not been agreed to by the parties or provided for in the relevant rules, then the national court system will be competent and parties will not be required to, for example, first exhaust governing bodies' respective internal dispute resolution mechanisms.

For instance, Liverpool FC's sponsorship dispute with marketing agency Winlink Marketing was resolved before the High Court, while it was an FA Regulatory Commission that ruled in the FA's betting charge against England and Brentford player Ivan Toney (see **1.3 Betting**).

ADR and the National Court System

Even where parties agree to ADR, the national court system may still have a role to play. Follow-

ing the conclusion of a sports governing body's internal dispute resolution mechanism, national courts are competent to review a decision.

However, appeals against the decisions of sports governing bodies' judicial bodies are limited in scope, and national courts effectively carry out a supervisory role to ensure that parties' rights are duly exercised (see **6.2 ADR (Including Arbitration)** and **6.3 Challenging Sports Governing Bodies**.

6.2 ADR (Including Arbitration)

Matters for Arbitration

The Arbitration Act 1996 (the *"Act"*), which is currently being reviewed by the Law Commission, provides for the possibility to resolve disputes by arbitration before an arbitral tribunal. The Act sets out certain formalities, including that the arbitration must be agreed to by all parties involved and be provided for in writing.

While much freedom is afforded to parties, certain disputes cannot be resolved through arbitration, such as criminal matters, insolvency proceedings or certain employment disputes. In such cases, the national court system will be competent by default.

In the sports sector, it is common for UK sports governing bodies to provide for dispute resolution through arbitration in their rules, which are accepted by participants before competing. For example, the FA, the Premier League and Premiership Rugby all have internal dispute resolution mechanisms.

Once the internal mechanisms are exhausted, a party may appeal the decision before the national courts if they believe the decision was reached unlawfully. The Act allows appeals in cases where:

- the arbitral tribunal was incompetent to rule on the dispute;
- there was a serious irregularity affecting the tribunal, the proceedings or the arbitral award that has or will cause injustice; or
- a question of law arises out of the award (although this may be excluded in the arbitration agreement).

If no dispute resolution rules are provided for by sports governing bodies in their rules, parties may wish to resolve a dispute through arbitration before external tribunals, such as Sport Resolutions, an independent dispute resolution service that is based in London and provides sport-specific ADR services.

Mediation

Mediation allows parties to attempt to find an amicable solution without affecting their right to resort to a more direct approach if a favourable outcome is not found.

In England, Sport Resolutions (previously the Sports Dispute Resolution Service) provides sport-specific mediation services. With lower costs, more flexible timeframes and far greater confidentiality compared to litigation before the national courts or even arbitration, mediation can be appealing to the often fast-paced and sensitive nature of high-profile sports disputes.

6.3 Challenging Sports Governing Bodies

Enforcing Sanctions

It is common for a UK sports governing body to provide in its rules how it will enforce sanctions, whether these are financial or sporting. Decisions of sports governing bodies that are considered arbitral awards can be enforced under the Act (as defined in **6.2 ADR (Including Arbitration)**.

Domestic sports governing bodies may seek to give worldwide effect to their decisions through co-operation with international federations. In the case of footballer Kieran Trippier (referred to in **1.3 Betting**), he was sanctioned under both the FA's Regulatory Commission and the FIFA Disciplinary Code.

National Court Involvement

The decision taken by the judicial body of a sports governing body can be challenged in the national court system on limited grounds. It was confirmed that the national court system has a supervisory role in Bradley v Jockey Club.

Judicial bodies of sports governing bodies are held to the following standards by the national court system:

- the relevant regulatory or contractual framework gave the judicial body the authority and power to act as it did;
- the judicial body did not abuse its power;
- the decision that was reached was rational; and
- the judicial body acted fairly with regard to the process by which a decision was taken (in accordance with the principles of natural justice).

7. Employment

7.1 Sports-Related Employment Contracts

Employment Status

In many elite team sports in the UK, athletes are employed by their club under contracts of employment. Such arrangements typically include a number of standard terms agreed on a collective basis between relevant player unions, clubs and governing bodies, with commercial terms (ie, remuneration, the contract's duration and any bespoke provisions pertaining to use of the athlete's image) usually negotiated directly between the athlete and the club.

Under English law, an employee accrues a range of legal rights. Where workers are not classified as employees, this status can be deemed dependent on circumstances designed to ensure employees cannot be cheated out of their rights simply by terminology.

The Employment Appeal Tribunal's 2020 decision regarding cyclist Jessica Varnish's failed claim that she should be deemed an employee of British Cycling, gives a helpful summary of some key considerations determining employee status:

- Ms Varnish signed an athlete agreement with British Cycling, the purpose of which was to provide her with a personalised training plan, in the hope that she would be selected to compete for Great Britain;
- although the arrangement made her eligible to receive certain funding from UK Sport, Ms Varnish did not receive any remuneration from British Cycling and the arrangement with UK Sport was more analogous to a university grant; and
- Ms Varnish did not perform a service for British Cycling (or UK Sport), but instead was performing a commitment to train in the hope of becoming a successful cyclist on the international stage.

This is by no means an exhaustive analysis of the determinative factors for employment status, which is a notoriously uncertain concept in the UK.

Salary Caps

Salary caps are becoming a feature of sport in the UK. To date, a sports governing body or league is generally free to exercise its discretion in setting salary restrictions in its rules, providing these are proportionate.

Football

In February 2021, the English Football League (EFL) set a salary cap on clubs competing in League 1 (third division) and League 2 (fourth division), and fixed a limit on how much clubs could spend on their total squad's salaries. However, the EFL removed the salary caps for League 1 and League 2 clubs, which were ruled unlawful by an arbitration panel. The challenge was brought by the Professional Footballers Association (PFA), arguing the restrictions had come in without appropriate consultation and agreement. This was said to have breached the Professional Football Negotiating and Consultative Committee's constitution. The EFL chair, Rick Parry, envisages the League could still see the implementation of salary control in the near future amid financial sustainability concerns. This continues to be under debate and will be an interesting area to watch.

Rugby

The salary cap in Premiership Rugby has caused numerous issues over the years with many disputes arising. Saracens FC were judged to have breached the salary cap three times in a row by failing to disclose player payments in the form of investment. The total investments took the total squad's salary payments over the clubs permitted GBP7 million threshold. This consequently saw them receive a 70-point penalty and the team was thus relegated to the Rugby Championship.

Since the Saracens' breach, there have been other examples of clubs potentially falling foul of the salary cap rules. Leicester Tigers were fined GBP310,000 for salary overspend, also suffering consequent damage to their reputation. Leicester Tigers had exceeded the salary cap by between GBP55,000 and GBP147,000 during four seasons from 2016/17 to 2020/21. There were arrangements in place so that a third-party company could make payments to the image rights companies of Tigers' players.

The salary cap rose in the 2024/25 season to GBP6.4 million. However, this has caused a split in opinion among the clubs, with some Premiership clubs feeling it simply *"shoots Rugby in the foot"* since there is evidence from this past season that clubs are already struggling to stay afloat. In recent years, Worcester Warriors, London Irish and Wasps have all entered administration. It is a very interesting period for Premiership Rugby in the UK and will likely be a key talking point for years to come.

There have also been numerous other examples of salary cap breaches across various different sports, as corporations and sports bodies often try to find a way to keep investments and thus search for alternative methods of paying players.

Compatibility With Competition Law

Salary cap rules can raise issues with wider competition laws and the common law doctrine of restraint of trade. Where a rule impacts upon an athlete's ability to earn a living, the body imposing the rule must demonstrate that the rule is a legitimate restriction and is proportionate in its approach. In the Saracens case, it was found that the salary cap was legitimate and proportionate and promoted the financial health of Premiership Rugby clubs, so it was considered a permissible restraint.

7.2 Employer/Employee Rights

Statutory Employment Law

Where UK athletes are employees (see **7.1 Sports-Related Contracts of Employment**), the right not to be unfairly dismissed, family rights including maternity leave, and the right not to be subjected to discrimination, will generally override any contradictory provisions in their contract.

It is fairly standard, however, for UK sporting employment contracts to require disputes to be addressed via a bespoke dispute resolution forum, such as Sport Resolutions, which can be an effective method for an athlete to enforce their statutory employment rights.

Constructive Dismissal Case Study

Under his employment contract with Newcastle United FC, former manager Kevin Keegan had the final say in recruiting players. When in practice this did not happen, he resigned, claiming that he had been constructively unfairly dismissed (ie, that the club's actions constituted a repudiatory breach of contract, entitling him to treat the contract as having been terminated by the club). In 2009, the Premier League Managers' Arbitration Tribunal found in Mr Keegan's favour and awarded him compensation for constructive unfair dismissal.

7.3 Free Movement of Athletes

Brexit and Free Movement

When the UK was a member state of the EU, citizens of the EEA enjoyed the right of free movement and, as such, UK sports governing bodies could not impose restrictions on the number of EEA citizens they allowed to compete in their competitions, or to be included within a club's squad.

Since 31 December 2020, the UK has no longer been subject to free movement rules and all foreigners (including EEA citizens) require a permit to work in the UK, except for Irish nationals. However, EEA nationals (and certain others) who were already residing in the UK could apply for *"settled status"* under the EU Settlement Scheme, which allowed these individuals to remain in the UK indefinitely.

Obtaining a Work Permit

Foreign athletes (and other sporting staff) generally need a work permit issued by the Home Office in order to be permitted to work in the UK. As such, arrangements are often made between the Home Office and the relevant sports governing bodies.

This commonly involves a sports governing body granting a Governing Body Endorsement (GBE), depending on whether the athlete meets certain criteria agreed in advance with the Home Office. Where a GBE is granted, the athlete is then usually granted a work permit by the Home Office without the need for further analysis to be undertaken.

International Sportsperson Visa

As of October 2021, international athletes coming to the UK are also able to apply for an International Sportsperson Visa. This has replaced both the T2 and T5 visas and collated both requirements together. The Sports Governing Bodies appendix, located within this new set of rules, sets out the sporting organisations that can issue an endorsement to certify an athlete as meeting the visa requirements. The sportsperson must also be issued with a valid certificate of sponsorship by the sponsoring club.

In light of Brexit, and in advance of the January 2021 transfer window, the FA agreed with the UK

government and key football stakeholders the criteria for granting a GBE, which provided for automatic approval if a player from one of the top 50-ranked FIFA nations had featured sufficiently for their national team, or if players accrued sufficient points based on sporting criteria (such as the number of club matches played and their club's progression in European club competitions). There was also an Exceptions Panel to determine whether a GBE should be granted to players falling short of the required points total.

8. Women's Sport

8.1 Women's Sport Overview

As predicted, Women's sport has skyrocketed in the last few years. 2025 appears to be following similar trends to the previous three years, with likely trends showing this is still just the start. Deloitte predicted that in 2024, revenue generated by women's elite sports would surpass USD1 billion, with USD1.28 billion in total forecast revenues. 85% of sports experts are predicting double-digit growth for women's sports revenues over the next three to five years. The major growth driver appears to be the sharp increase in commercial revenue and income from broadcast and matchday sources. This is the same as the three main revenue streams for the men's game, although the women's game sees the most impact through commercial revenues, whereas in the men's game it is the sale of broadcast rights. Global competitions such as the FIFA Women's World Cup, Ladies Professional Golf Association tour, and the WTA tour, are expected to contribute USD425 million of the forecast total. This rapid growth of women's sport and leagues has made investing more attractive, as many new investors enter the market.

The UK government recently stated its clear intention to share best practices and accelerate progress across all women's sport, through the Independent Review. The Department for Culture, Media and Sport's latest response to this review into women's football, chaired by Karen Carne, endorsed and supported each of the ten recommendations from the review, as well as identifying a number of legal and practical considerations. This response, as well as the review itself, highlight the government's desire to invest in and support women's sport. Women's sport is also seeing some very positive trends and outlooks for the coming years, including the following:

- The Lionesses' push for fan engagement, investments and support has already led to an 88% increase in interest in the Women's Super League (WSL). This figure is expected to continue to grow, with key fixtures selling out main club stadiums such as The Emirates, Stamford Bridge and Old Trafford. Arsenal Women's team have agreed to play all of their home matches at The Emirates Stadium for the 2024/25 season. A recent Deloitte report has reported that 15 of the top revenue-generating women's clubs generated a revenue of EUR116.6 million as of January 2025, a 35% growth on revenue in 2024.
- In a landmark GBP65 million deal announced at the start of 2025, the WSL has secured a new five-year broadcasting agreement with Sky Sports and the BBC. Interestingly, it is reported that in-game and post-game rights have been granted to players, allowing them to show highlights of the game on their own socials straight after the match. Previously, rights were only granted in-game (ie, the actual streaming of the matches). By permitting rights post-game, the players now have the ability to post/create video content from

the matches on their own social medial channels. As mentioned previously, athletes' use of social media and athlete-led marketing is having profound effects on brand partnerships, investments and the engagement of fans.
- World Rugby launched WXV at the start of the 2023 season, a brand-new global women's competition, supported by an investment of GBP6.4 million from World Rugby and a dedicated commercial programme. An increasing number of women's club teams are now joining forces with their respective men's club teams, thereby benefiting from greater integration and shared resources. Recent examples are Burnley FC Women, who were brought under the same ownership as the men in February 2021, and Charlton Athletic Women being acquired by Thomas Sandgaard, the owner of Charlton FC.
- Cricket's new elite competition, *"the Hundred"*, has introduced equal prize money for both the men's and women's tournaments.
- England Netball launched their new Super League in 2025, with the Super League matches due to be streamed by Sky Sports throughout the year.
- The Women's Rugby Six Nations attracted 10.4 million viewing hours last year, making it the most viewed edition so far. The Women's Rugby World Cup (RWC) is set to take place across the UK this summer. Ilona Maher has already drawn in new fans for the PWR and the ticket sales for the RWC are nearly all but sold out.
- The Women's Cricket World Cup has increased its prize money to match the men's prize money. Furthermore, the ECB has suggested that there should be equal pay on average at domestic level by 2029 and at international level by 2030.
- The ECB received a GBP400 million private equity bid for the Hundred after a very successful few years.

With continued investment from rights-holders, broadcasters, and sponsors, women's sport is expected to maintain its rapid upward trajectory. It is undoubtedly an industry to watch closely.

9. Esports

9.1 Esports Overview

Traditional Esports Market

The traditional esports market in the UK features non-sport video games (such as League of Legends and Counter-Strike) and is already relatively sophisticated: tournaments, teams and individual players have huge followings, live events fill arenas, prize money on offer is substantial and betting on game outcomes is available.

Traditional sports with an obvious video game counterpart have also been successful in the UK, including the hosting of the FIFA eWorld Cup at the O2 Arena in London since 2018. Consequently, many esports teams and game publishers are based in the UK, including Guild Esports – a global esports business backed by David Beckham – which closed an IPO in October 2020.

Activate, a technology consulting firm, estimates that more than 250 million people watch esports. The World Championships in August 2023 in Las Vegas was watched by a sell-out crowd, along with more than one million esports fans who tuned in online. However, according to Forbes, the esports sector needs to be careful to ensure financial stability throughout 2024.

COVID-19 Effect on Esports

COVID-19 undoubtedly accelerated the professionalism and commercialisation of esports and virtual sport in the UK, as it has across the world. People are continuing to spend more time at home, even after the passing of the pandemic, and an increasing number have turned to esports as entertainment. For example:

- There has been a marked increase in online events, viewership and active users according to Fnactic Insights: Esports Covid Report, 2020.
- Excel Esports secured a ground-breaking partnership with BT (a non-endemic sponsor), including naming rights and apparel branding.

Traditional Sports and Esports

Traditional sports are also embracing esports and virtual sport with real purpose and seizing the opportunity to engage with their fanbase, sponsors and, potentially, a new and untapped audience. The International Olympic Committee (IOC) appointed the first-ever head of virtual sport at the start of 2022. The aim is to continue the growth and focus of virtual sport for the Olympic body and oversee the Olympic Virtual Series. There is definitely a much greater focus internationally on esports inclusion at traditional sports tournaments.

The Olympic esports event was ready to debut this year, hosted by Saudi Arabia, which held the World Cup in Riyadh in 2024. However, the esports event has been postponed by the IOC with discussion still ongoing, citing timeline issues.

In February 2023, it was announced that Savy Games Group, a Saudi Public Investment Fund-owned esports company, had agreed to invest USD264 million in the Chinese company VSPO. This is the biggest cash investment ever in esports. Additionally, Saudi Arabia launched two venture funds in the gaming and esports sectors, worth a combined USD120million.

10. NFTs, AI and the Metaverse

10.1 Non-Fungible Tokens (NFTs)

Sports properties are increasingly exploring how to use non-fungible tokens (NFTs) to generate additional revenues and engage with fans. While the relationship between these *"one-of-a-kind"* digital assets and sport is still in its infancy, sporting rights-holders are looking closely at this new revenue-generating opportunity, which combines public interest in elite sport with the exclusive, authentic sporting content that it creates.

Neymar Jr recently paid over USD1 million for two NFTs, while Andy Murray and Kevin De Bruyne have also launched their own NFT collections. Currently, the key applications of NFTs by sports properties include the creation of digital collectibles (eg, digital trading cards featuring players or highlights) and *"fan tokens"* providing enhanced benefits to fans (eg, the right to access promotions or exclusive content).

Athletes are increasingly taking an interest in NFTs, not only for the obvious financial benefits, but also to interact with their fans. Fans can also benefit from holding official athlete NFTs, for example, through metaverse interactions and meet-and-greets, which make the fans part of the athlete community.

However, while presenting commercial opportunities to rights-holders, some NFTs may relate to assets which infringe their IP rights or facilitate such infringements. For this reason, it is impor-

tant for rights-holders to understand and engage with NFTs in order to adequately protect their commercial rights and those of their partners.

10.2 AI

The current AI boom owes much to several key factors: the advent of big data, enabling the storage and processing of vast and complex datasets; the accessibility and scalability of cloud computing resources; and the development of powerful deep learning algorithms. These algorithms, essentially sets of instructions for training models to understand data, have enabled breakthroughs in various types of AI applications.

These AI applications encompass a range of fields, including natural language processing, computer vision, speech recognition, recommender systems, expert systems, robotics, and generative AI, each with its own capabilities and potential uses. Many AI systems today are examples of *"artificial narrow intelligence"*, meaning they excel at specific tasks but lack general human-like understanding. The pursuit of *"artificial general intelligence"* or *"superintelligence"* remains a goal for the future.

However, as AI systems become more prevalent, concerns about their explainability and unintended consequences have surfaced. The *"black box"* nature of some AI decision-making processes can lead to scepticism and distrust, while biases present in data can perpetuate or exacerbate societal inequalities. Additionally, fears of deepfakes, misinformation, and privacy breaches underscore the importance of digital literacy and technological safeguards.

Moreover, the dominance of a few major companies in the AI landscape raises concerns about monopolisation and diversity in development. Efforts to address biases and power imbalances include diverse data collection, hiring practices, bias audits, and open-source initiatives, supported by regulatory measures and funding.

In the realm of sports, AI is increasingly used for athlete performance analysis, injury prevention, strategic decision-making, and enhancing the fan experience. Wearable trackers, predictive models, and AI referees are transforming how sports are played and managed. In addition, AI-driven insights are shaping sponsorship, marketing strategies, and stadium operations, while innovations like AI commentators and augmented reality enhance fan engagement.

Access to data remains a challenge, but AI tools offer cost-effective solutions and the potential to create more inclusive and supportive sporting communities. As AI continues to evolve, its impact on both sports and society at large will likely grow, necessitating ongoing efforts to address ethical and practical concerns.

Legal Implications in the UK

The UK has chosen not to implement specific legislation to regulate AI use at the moment, opting instead for an approach focused on innovation and sector-specific guidelines. However, this strategy has faced criticism, including from the European Court of Human Rights (ECHR). There are some signs of potential regulation, such as the proposed Artificial Intelligence (Regulation) Bill, which seeks to establish a central AI Authority to oversee regulation in this area. The EU is in the process of implementing the AI Bill, while the new Labour government is furthering progress with a new UK AI Bill, which is expected to be announced in the coming year.

The Trade Union Congress (TUC) has launched an AI taskforce with the goal of introducing a draft AI and Employment Bill in early 2024, aim-

ing to persuade the government to pass this legislation. This bill would include provisions to address concerns about discriminatory algorithms and privacy risks associated with AI's use in employment decisions, such as analysing job applicants' facial expressions and tone of voice.

The UK government has decided against expanding exceptions for text and data mining without permission or a license. However, it acknowledges the need to clarify how AI developers can use copyrighted works and data for training AI models. The UK Intellectual Property Office (IPO) is working on a voluntary Code of Practice on copyright and AI, which aims to facilitate commercial licences for data mining while protecting copyright holders' rights.

A report by the House of Lords Communications and Digital Committee highlights concerns the use of large language models (LLMs) and generative AI, stressing the importance of upholding copyright law and ensuring fair compensation for rightsholders. The report recommends that the government collaborate with licensing agencies to create large datasets that can be licensed for LLM training, emphasising the economic, political, and societal benefits of maintaining a respected copyright regime. It also calls on the government to take proactive steps rather than relying solely on case law to address these issues and promote innovation.

10.3 The Metaverse

The metaverse is currently a hypothetical future version of the internet within a single virtual world that can be accessed through virtual reality and augmented reality. The development of the metaverse continues to be a key area in the ever-evolving world of technology. However, how the metaverse will develop and the impact it will have on sport are yet to be fully seen, and the UK is not leading on this so far.

The metaverse initially developed within media, fashion and entertainment, but has recently drawn the attention of sports rights-holders, exemplified by collaborations such as Manchester City's virtual Etihad Stadium and the virtual hosting of the Australian Open in Decentraland. As the metaverse continues to evolve, stakeholders must address key issues to harness its full potential while navigating its complexities responsibly.

The landscape of the internet is currently centralised, with major platforms like Facebook, Google and Amazon controlling access to information on their private servers. However, as the metaverse emerges, there is a push for decentralisation and interoperability in a seamless environment where economies, avatars and technologies interact freely. Achieving true interoperability requires stakeholders to reconsider their approach to intellectual property and licensing.

Within this evolving digital realm, opportunities arise for rights-holders to engage with fans and brands, necessitating the securing of intellectual property rights for virtual products like football kits. Additionally, broadcasting sports events in the metaverse requires the restructuring of traditional broadcasting deals to align with modern trends. As brands navigate this new frontier, they need to prioritise protecting and promoting their trade marks while grappling with enforcement challenges in a realm where intellectual property rights are easily infringed.

Moreover, the integration of XR technology raises data privacy concerns, especially regarding biometric data, necessitating compliance

with stringent privacy regulations. Regulatory frameworks, such as the UK's Online Safety Bill, underscore the importance of moderation and accountability among delivery partners in safeguarding users from online harm. Furthermore, as the metaverse relies on blockchain and cryptocurrencies, concerns about sustainability emerge, potentially deterring brands that are trying to minimise their environmental impact.

Manchester City and Sony have been working together for the past few years to recreate the Etihad Stadium in a virtual world. Fans across the world could, for example, explore and watch Manchester City play and train. The concept involves fans being a part of the game in ways we can currently only imagine. They would themselves be a part of the action, no matter where they are in the world. There would also be no limits on stadium capacity.

Part of the attraction lies in the possibility for fans to interact with their heroes, as well as each other, from the best possible viewpoints in the stadium. There is further talk of a 3D format across the globe, with fans attending at different locations and wearing headsets to enjoy the experience. In the USA, Major League Basketball (MLB) games have welcomed fans into their virtual stadiums and *"stood"* in the outfield, with Hawk-Eye cameras capturing the in-arena movements of the ball and players and translating them into a real-time virtual display. Additionally, MLB sponsors, including Corona and Mastercard, were seen on branding displays inside the virtual stadiums.

Rights-holders and partners will need to quickly consider whether these types of rights are relevant in any contractual agreements, as the metaverse truly does seem to have the potential to transform the world of sport as we know it. However, at present the revenues are not significant, although it is clear it could become a multi-million industry in the near future.

USA

Law and Practice

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Herrick, Feinstein LLP

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Herrick, Feinstein LLP provides a full range of legal services to its clients worldwide from its offices in New York City, Newark, New Jersey and Pittsburgh, Pennsylvania. Herrick's Sports Law Group works in conjunction with the firm's complementary practice groups on corporate, real estate, tax, IP, restructuring, employment, government relations and litigation aspects of sports law. Its attorneys have guided stakeholders in professional sports as they have entered into transactions to access capital, invested in professional sports teams, entered into concession services agreements and invested in mixed-use developments. Herrick's work spans league and team formation and operation, arena and stadium financing and development, naming rights, sponsorships, media rights, team acquisitions and investments and more. Herrick has represented major athletic teams and affiliated entities in transactions totalling over USD135 billion. In addition to the authors referenced, the firm would like to thank partner and chair of the insurance and reinsurance group, Alan R Lyons, and attorneys Justin Blass, Daniel A Field, Tara Guarneri-Ferrara, Joshua J. Schoch, Meaghan Roe, Jermaine A. Brookshire, Jr., Silvia Stockman and Adam Unger for their valuable contributions.

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1. Regulatory

1.1 Anti-Doping

Doping is a criminal offence in the USA. The Rodchenkov Act enables US authorities to pursue criminal penalties against those involved in doping conspiracies at international events involving American athletes, sponsors or broadcasters. The Rodchenkov Act gives prosecutors the power to seek fines of up to USD1 million and prison time of up to ten years, as well as restitution to victims.

Eric Lira, *"naturopathic"* therapist, was the first person charged under the Rodchenkov Act. Lira was charged by the Department of Justice (DOJ) with obtaining and distributing various performance-enhancing drugs to athletes in advance of the 2020 Olympic Games in Tokyo – which convened in the summer of 2021. The case was investigated by the FBI's Integrity in Sports and Gaming Initiative. Lira pleaded guilty in May 2023 and was sentenced on 21 February 2024. Although the maximum term of imprisonment under the Rodchenkov Act is ten years, Lira was only sentenced to three months' imprisonment and one year of probation. Lira also forfeited the USD16,410 that he received in connection with the violation. In December 2023, two track and field coaches, O'Neil Wright and Dewayne Barrett, were charged as Lira's co-conspirators.

The US government also opened a criminal investigation into a case involving 23 Chinese swimmers who tested positive for a banned substance in 2021. The swimmers were allowed to continue competing and won medals in the Tokyo Olympics after they were cleared by a Chinese investigation that concluded they were inadvertently exposed to the drug through contamination. The World Anti-Doping Agency (WADA) had previously reviewed the case and determined that it was not in a position to challenge the contamination scenario. The decision by the US government to subsequently open a criminal investigation after WADA concluded its own review flamed tensions between WADA and the US Anti-Doping Agency (USADA).

WADA

Since 2004, WADA has published an annual list of prohibited substances and methods (the Prohibited List), which is updated at least annually, with the new list taking effect on 1 January of each year. The list identifies the substances and methods prohibited in and out of competition, and for particular sports. The list is divided into two sets of substances and methods:

- those that are prohibited at all times (including but not limited to):
  - (a) substances such as hormones, anabolics, EPO, beta-2 agonists, masking agents and diuretics, and any pharmacological substance not currently approved for human therapeutic use; and
  - (b) methods such as blood transfusion or manipulation, gene editing or intravenous injections in some situations;
- those that are prohibited only in competition, including but not limited to stimulants, marijuana, narcotics, glucocorticosteroids, and, in particular sports, beta-blockers.

A substance or method can be added to the Prohibited List if it is deemed to meet two of the following three criteria:

- it has the potential to enhance or enhances sporting performance;
- use of the substance or method represents an actual or potential health risk to the athlete; and

- use of the substance or method violates the spirit of sport.

Athletes are responsible for knowing what substances and methods are considered banned by the Prohibited List. Under World Athletics Rules, the presence of a prohibited substance in an athlete's sample, or the use of a prohibited substance or prohibited method, constitutes a doping offence. WADA's Code provides a global framework for the anti-doping policies, rules, and regulations within sports organisations and among public authorities. USADA, the national anti-doping organisation in the USA for Olympic, Paralympic, Pan American, and Parapan American sports, is a signatory to the Code. USADA is charged with managing the anti-doping programme including testing both in and out of competition.

US Professional Sports Leagues

With respect to individual sports leagues in the USA, doping matters are generally handled internally by the leagues. Each league, through collective bargaining with players' associations, implements procedures and guidelines for the administration of drug testing and the determination of banned substances. These procedures usually consist of collecting random blood or urine samples that are tested by an independent laboratory. Punishments for taking banned substances often include fines and suspensions, but they can also include lifetime bans from the sport in some extreme cases. Pursuant to its recent collective bargaining agreement, the National Basketball Association (NBA) has removed marijuana from its drug testing programme.

1.2 Integrity

In May 2018, the US Supreme Court struck down the federal Professional and Amateur Sports Protection Act (PASPA), which had effectively prohibited individual states from legalising sports betting, with a few exemptions. The ruling provided a pathway for individual states to legalise sports gambling. Currently, 38 states, as well as the District of Columbia, have legalised sports betting, with many others introducing proposed legislation.

With the legalisation of sports betting, there is an increased risk of match-fixing and in-play manipulation. The legislation that has emerged, however, generally does not include provisions criminalising match-fixing. In large part, both states and the federal government appear to be relying on existing penal code provisions to preserve the integrity of athletic competition.

The Sports Bribery Act is the federal criminal law that targets the manipulation of athletic competition. The act makes it a felony to *"... influence, in any way, by bribery any sporting contest, with knowledge that the purpose of such scheme is to influence by bribery that contest"*.

This act does not cover other non-bribery concerns such as extortion, blackmail, tipping of inside information, or betting on games by someone who can affect the outcome. Some states have adopted legislation to address these issues, such as the West Virginia statute that criminalises, inter alia, making or changing wagers after acquiring inside information relevant to an athletic contest. See W. VA. CODE § 29-22D-21(b).

Private sanctions for misconduct also exist. For example, one former NBA player was banned from the league for life in 2024 after a league probe found he disclosed confidential information to sports bettors, wagered on games and limited his own participation in one or more

games for betting purposes. The former player also faced criminal charges and pled guilty to conspiracy to commit wire fraud in a criminal case stemming from the same conduct.

1.3 Betting

Across the USA, sports betting is part of popular sports culture and many states have passed, and are continuing to pass, legislation to legalise sports betting in varying forms. Such forms include mobile sports betting with multiple sportsbooks options, one mobile betting option, in-person online betting (ie, proximity to brick-and-mortar sportsbooks) and only physical sportsbooks. Some states restrict sports betting to only in-person betting, while others allow both in-person and mobile betting options. Currently, almost 40 states allow sports betting in some form, with over half of states allowing mobile betting. While the legalisation of sports gambling is still growing in the USA, it has solidified as a new norm. The amount wagered on sports in the USA has continued to boom, consistently setting annual growth rate records year over year. 2024 was no different, with the total amount wagered in the USA surpassing the USD100 billion mark.

Sports Governing Bodies Sharing Information With Betting Operators

US sports leagues license their data to sports betting operators via exclusive or co-exclusive distributors to provide accurate, real-time data for an agreed-upon fee. Sportsbooks operate outside of the sports, but often license from the sports organisations, as opposed to a third-party organisation. Sports organisations enjoy the win-win of earning fees for the data collection already underway and protecting the integrity of the sports wagers by ensuring accurate results. Certain states (eg, Illinois and Tennessee) require that operators use official data for certain sports wagers, namely props or in-play betting.

Recent Noteworthy Betting Cases/ Disciplinary Actions

There are few examples of disciplinary action for sports betting violations. However, in 2019, for the first time since the 1980s, the National Football League (NFL) disciplined a player for wagering on NFL games. Josh Shaw, an Arizona Cardinals cornerback, was indefinitely suspended for betting on multiple NFL games. Jacksonville Jaguars wide receiver Calvin Ridley (at the time a member of the Atlanta Falcons) became the first NFL player to be suspended since Shaw. Ridley was suspended for the 2022 season after placing a legal mobile bet in Florida in 2021 that included a bet on the Falcons to win, but was reinstated for the 2023 season. Since then, the NFL has suspended a total of ten players for betting on NFL games over the last two years, a marked increase in these types of violations and corresponding punishment.

1.4 Disciplinary Proceedings

The steps taken by the different governing bodies of sports with respect to doping, integrity, and betting offences vary by sport and violation. For example, pursuant to the Major League Baseball's (MLB's) Joint Drug Prevention and Treatment Program (the JDPT Program), a player who tests positive for a performance-enhancing substance is subject to an 80-game suspension for a first violation, a 162-game suspension with 183 days of pay suspension for a second violation, and potential permanent suspension from major and minor league baseball for a third violation. This contrasts with other sporting bodies, such as the NFL which, although having a shorter season, has slightly different punishments for similar violations. For example, a player who violates the NFL's policy on performance-enhancing substances can be penalised, depending on the consumed substance, from anywhere between two and eight regular and/or postseason games

for a first violation, between five and 17 regular and/or postseason games for a second violation, and with a multiple-season suspension for a third violation.

With respect to gambling and integrity violations, MLB has – in effect – clear guidance, through MLB Rule 21, which can provide, depending on the offence, for up to permanent ineligibility based on a single offence. The MLB's clear guidance on the penalties' specific offences contrasts with other leagues' guidelines, such as the NFL's, where the league or the Commissioner may analyse violations on a case-by-case basis, with the resulting disciplinary actions including severe penalties, up to and including a fine, termination of employment and/or banishment from the NFL for life.

2. Commercial Rights

2.1 Available Sports-Related Rights

Aside from sponsorship and broadcasting rights (discussed elsewhere in **2.2 Sponsorship** and **2.3 Broadcasting**), key sports-related rights include merchandising, hospitality, events and ticketing. While these rights all involve sports teams' licensing, they primarily relate to the use of a team's stadium or third-party facilities.

Commercial rights to merchandising most commonly relate to retail sales of a wide variety of products, including team logos and player references. To make use of these rights, teams or leagues will typically enter into agreements with retail goods companies for design and production of gear. Those contracts often include intellectual property licences of team trade marks and copyrights, in exchange for a fee or percentage of sales. Teams and players may also engage in more specialised merchandising, including sales of memorabilia used in-game at pivotal or record-setting moments, often by way of auction or private sales to collectors.

Use of stadiums and sports facilities can be a significant commercial right that sports organisations monetise, which includes provision of hospitality services and concessions. To provide concessions at their facilities, sports organisations contract with suppliers. Alternatively, some teams form their own hospitality organisations to control both the quality of the concessions available at their events, and the profits to be made therefrom.

Teams also monetise unique offerings in their stadiums and facilities, including specialty seating for games or higher-end restaurants. Sports organisations may even use their facilities for special events such as concerts, either charging a fee for use of the space or including some split of ticketing profits in agreements with event organisers.

Increasingly, sports organisations are facilitating secondary ticket sales and combatting illegal sales through e-ticketing and apps dedicated to purchasing, storing and producing tickets for safer access to games.

2.2 Sponsorship

Sponsors use sport to enhance and promote their brand primarily through advertising and title rights. Sports organisations attract sponsors through the creation of advertising space and marketing title rights. The primary contract terms typically revolve around payments and intellectual property rights.

Sports organisations provide sponsors with a wide variety of opportunities for advertising, including on billboards, on the field or court,

or even on the players' uniforms. Broadcast of events provides an advertising opportunity by promoting different brands through commercial segments between periods of play. Additionally, sports organisations can provide sponsors with title rights as the *"official"* service provider of the team in the sponsor's industry, complete with in-game announcements or broadcasting tie-ins. Title rights may even extend all the way up to the large-scale sponsorship right over naming a stadium. For food and drink sponsors, stadium advertisement can be tied to exclusive sales of sponsors' products in concessions at the team's stadium or facility.

Sports organisations will often have some input on the advertising material that may be displayed by the sponsor, as well as some level of veto or control over the material displayed. Sponsors will look for strict intellectual property rights reservations and controls, to ensure ownership over all trade marks, copyrights, or other intellectual properties of the sponsor displayed by the sports organisation.

2.3 Broadcasting

Holders of sports rights package broadcasting rights for broadcasters who then monetise their broadcasts of games and other content through various methods. These arrangements encompass regional versus national broadcasting agreements, licensing for interactive media, and venue access rights.

Broadcasters primarily exploit their broadcasting rights via advertising, subscription services, and licensing previously aired games. Advertising is the main revenue source – broadcasters endeavour to sell airtime to various sponsors during live sporting events. Increasingly, broadcasters leverage their rights by providing content through streaming platforms, deriving subscription income from viewers. Subject to league copyright regulations, broadcasters can also license their recorded broadcasts for replays and future programming.

Traditionally, sports rights-holders package broadcast rights by the season. Different broadcasters bid to secure the right to broadcast a specific number of games within each season. Often, these packages are split between regional and national broadcasters, with regional broadcasters acquiring more games while national broadcasters purchase only select high-profile games. This split not only maximises revenue but also ensures a team's wider access to larger audiences. Sports rights-holders are increasingly retaining digital broadcasting rights to enhance audience reach and potential profits. Teams have utilised league-specific broadcast services for some time, like NFL Game Pass. However, teams are now extending broadcasting rights to major streaming platforms such as Hulu, Apple TV+ and Amazon Prime. Recent developments include exclusive rights deals, such as Apple TV acquiring specific MLB games as well as Amazon Prime and Paramount Plus broadcasting NFL games, and NBA games being broadcast on certain premium Hulu packages. Continuing the expansion into this territory, 2024 saw the first-ever NFL play-off game broadcast exclusively on a streaming platform through Peacock as well as Netflix's record-breaking NFL live streaming debut on Christmas Day featuring two games bolstered by an advertised Super Bowl-level halftime performance by Beyoncé that resulted in nearly 65 million US viewers according to Nielsen (ie, the most-streamed NFL games in US history).

Broadcasting arrangements provide not only for fees, but also for certain access rights and intellectual property concerns. Broadcasters need to

bargain for the rights to access venues where sports occur, to ensure that their cameras and media equipment are present, alongside their announcers and commentators in commentary booths and on the field or court. Intellectual property rights are crucial, as broadcasters retain rights over their final broadcasts while using them to showcase trade marks and other intellectual property of the sports rights-holders.

3. Sports Events

3.1 Relationships

There are multiple proprietary rights in a sports event. These include:

- copyrights in the actual broadcasts (TV, cable, streaming, download, pay-per-view, etc);
- athletes' individual rights of publicity, including sponsorships and depiction of sponsor names/logos in association with individual players; and
- trade mark rights in teams and leagues' names, logos and other marks, and trade mark rights in the names of certain sports events themselves.

In addition, any music or other third-party content that will be played at an event must be properly licensed by the team, league and/or venue.

Under US copyright law, sporting events in themselves are deemed to be performances that are not protected by copyright in the absence of such events being *"fixed"* in some media, including by digital means. Accordingly, US broadcasts of college and professional sporting events are therefore simultaneously recorded.

Physical spectator access to event venues is controlled by ticketing, which creates a contract with the ticket purchaser. Tickets typically contain printed restrictions on filming and photography. An increasing number of US sporting events are broadcast over cable TV channels and through dedicated streaming apps and web channels, where user access is controlled through service subscription and terms of use agreements.

Sporting event organisers/leagues are significantly concerned about illegal streaming/pirating of sporting events. This is addressed through copyright and trade mark enforcement proceedings, including copyright *"take down"* notices issued to internet service providers under the Digital Millennium Copyright Act.

3.2 Liability

Sports events organisers generally owe a duty of care to both participants and spectators to ensure that the stadium and playing field are reasonably safe and to avoid creating dangerous conditions.

If a person is injured at a sporting event, whether that person has a valid cause of action against the organiser will depend on whether they can prove all of the following three elements:

- the person was owed a duty of care by the organiser;
- the organiser breached this duty of care; and
- the injury resulted from that breach.

To determine whether the event organiser breached its duty of care, a court will apply a test of *"reasonableness"*. A court may consider whether the organiser implemented risk management policies and procedures to minimise risks and/or maintained its facility at reasonably expected standards.

How Can Liability Be Limited?

Courts have repeatedly emphasised that event organisers are not required to guarantee the total safety of guests.

The most common argument used in defending negligence claims involving injuries at sporting events is the *"assumption of risk"* doctrine. This doctrine can preclude recovery for injuries resulting from an activity in which the plaintiff realised the risks, and nevertheless voluntarily participated in and accepted those risks. Assumption of risk can be express (eg, a waiver signed by the plaintiff), or it can be implied from the voluntary participation in the activity.

To prevail on the assumption of risk defence in a spectator's personal injury action, the defendant is required to demonstrate that the injury-causing events were known, apparent, or reasonably foreseeable consequences of attending the game.

It is not uncommon for event organisers to include disclaimer language in small print on the reverse of the ticket. Whether these disclaimers are valid is an issue of state law, and states differ as to the enforceability of these waivers.

MLB and its clubs have largely avoided financial responsibility for foul ball accidents, since every MLB ticket contains a disclaimer that fans enter at their own risk. US courts have generally upheld the *"Baseball Rule"*, which provides that a baseball facility has met its duty of care to spectators by providing seating that is protected from projectiles that leave the field of play.

Another reason why an owner's liability may be limited is the requirement that the owner's negligence must be the cause of the injury.

What Liability Cannot Be Excluded?

While disclaimers and waivers are valid in many states, they do not necessarily protect facility owners from their own negligence. Despite the disclaimers on the reverse of ticket stubs, stadium owners still have an obligation to act reasonably to minimise the risk of injury to spectators. Waivers are also not effective if the sports organiser is found to be grossly negligent or to have intentionally harmed the claimant.

How Can Athletes Be Liable to Spectators?

Athletes who engage in typical activities associated with a sport will not usually face liability for any resulting injuries that occur during the game. However, in limited cases, an athlete may bear liability for a spectator's injury where, for example, an athlete behaves aggressively or fails to act according to the rules of the game.

How Are Sporting Events Kept Safe From Violence and Disorder?

Sports organisers have a duty to keep the sporting stadium/facility reasonably safe, which may include a duty to take precautions if it is foreseeable that a third party will commit a criminal or violent act causing injury to a player or spectator. There are certain steps that can be taken to reduce that risk and potential liability:

- adopt and enforce internal disciplinary policies for players and coaches setting forth standards of conduct and impose penalties for violations which are applied consistently;
- review and strengthen, if necessary, policies and local laws on the serving and consumption of alcoholic beverages;
- work closely with police and security to identify and deter the potential for violence and other unruly behaviour, and to implement a plan to discourage and respond to spectator

violence if it occurs, including a strong, visible police presence;
- install video equipment in the seating area to help deter misconduct and identify spectators in the event of fan violence;
- have a designated area in the stadium for visiting teams' spectators; and
- make public announcements before and during the game emphasising standards of spectator behaviour.

Each sporting institution should review and examine its culture, prior experiences and resources to prepare for sporting events and to reasonably ensure their safety.

4. Corporate

4.1 Legal Sporting Structures

Entity selection is an important concern that must be addressed early in connection with formation of any professional and non-professional sports clubs (amateur athletics) and sports governing bodies. In all instances, limiting liability against legal claims will be of paramount importance and in the USA will be provided for by resorting, basically, to use of any of the following entities:

- limited liability company;
- limited partnership; and
- corporation (publicly or privately owned).

Each of these types of entities are presently represented in all areas of professional and non-professional sports.

In the absence of ownership by persons or entities that are non-resident in the USA, the limited liability company form is likely the prevailing form of ownership and operation. These are frequently referred to as *"pass-through entities"* for purposes of taxation, providing for a single level of income taxation while affording their owners the ability to construct creative and sometimes unusual distribution *"waterfalls"*, directing how various revenue streams are distributed. The limited liability company is governed by a limited liability company operating agreement and the state laws where that entity has been formed. Essentially, the operating agreement is a contract that provides for nearly unlimited variations of rights and remedies among its owners, which may consist of traditional common equity investors, those with preferred equity investments, and those holding hybrid securities (which may be combinations of debt and equity securities). The applicable state law statutes are structured to defer to contractual rights of ownership and operation negotiated by the owners.

4.2 Corporate Governance

Governance in sports spans many participants, including players, clubs, local, national and international organisations, spectators, the media, commercial (sponsors), non-commercial interests, and educational and training bodies. Enhancing governance in sports has undoubtedly been a priority in response to the public scandals at the highest levels and bears similarities to the evolved corporate governance standards and expectations applicable to business corporations in the public capital markets. However, in the USA there is no *"one size fits all"* approach recommending or prescribing governing principles and, as a result, codes of conduct abound at all levels (eg, professional, collegiate and youth). This stands in contrast to, for example, the UK's Code for Sports Governance, with broad application to all that seek government and lottery funding.

These governance codes must be updated to address ever-changing matters, such as laws governing online gambling, the ongoing debate over compensation for college athletes, and the increasing number of substances banned for use by athletes.

In the USA, sports leagues are most often governed according to rules and internal regulatory procedures set forth in league organising documents. Most typically, these consist of league constitutions and by-laws and agreements between the sports league and member teams. The acquisition of and transfers of ownership interests in teams, with or without changes in control, are often scrutinised, requiring prior approval. This process will often involve the examination of affiliate relations. In many cases, these documents establish a board of governors comprising team owners or their representatives. These documents provide for establishing and managing league governance and regulatory policies and typically provide for appointing a league commissioner. The league commissioner serves as a chief executive officer and is typically responsible for overseeing the day-to-day league operations. League organisational documents and collective bargaining agreements (CBAs) set forth player and coach codes of conduct.

4.3 Funding of Sport

Federal agencies and state and local governments often turn to public-private partnerships to structure and execute the development of stadiums and other sports-related facilities. Often this is done in conjunction with redevelopment of real estate located in areas qualifying for tax status as a Qualified Opportunity Business Zone with special tax-advantaged attributes.

Stable revenue streams are of paramount importance to funding transactions. Sports fan consumer spending from product to experience is increasing and expected to be robust in the medium to long term.

4.4 Recent Deals/Trends

US leagues have been modifying ownership regulations to allow new investment opportunities for funds to acquire minority interests in multiple clubs. The impact of those rule changes appears to be receiving close scrutiny. As many sports properties confront long-term cash flow and capital shortfalls, new variations on investment funds are likely to continue to develop. In 2024, the National Football League owners voted to allow private equity funds to own up to 10% of a team, without voting power. In addition, private equity funds are obligated to hold their investment for at least six years before they sell. Upon sale, the NFL will share in any institutional profits derived from that sale, and the league can force a sale. The NFL had been the last major North American sports league that barred private equity investment in team ownership.

In addition, sports and entertainment venues have, in recent years, paired with and become integral components of mixed-use development projects. These projects often take the form of public-private partnerships revitalising downtown areas and have resulted in the rehabilitation or creation of entertainment spaces, hospitality ventures (including hotels, bars and restaurants), residential projects (including affordable housing), and office and innovation workplace lab spaces, tailored for changing modern workplace norms. While diminishing as a tax benefit incentive, many urban projects were subject to special federal income tax benefits if the projects were located within qualified opportunity zones, often associated with urban renewal projects. This

was particularly useful as direct taxpayer support for new stadiums and arenas was waning.

College athletes are now able to exploit their own name, image and likeness (NIL). This is the result of some new state laws, as well as a change to the National Collegiate Athletic Association (NCAA) rules providing collegiate athletes for the first time with the right to profit by licensing their NIL rights, all of which will be impacted by significant litigation and settlements that are ongoing. This monumental change for college athletes has raised burgeoning issues and opportunities. (see **5.3 Image Rights and Other IP** and **8.1 Women's Sport Overview**).

5. Intellectual Property, Data and Data Protection

5.1 Trade Marks

Trade mark rights in the US are based on the use of a mark (be it text, designs/logo, slogans, or a combination thereof) in US commerce for specific goods/services. Registration is therefore not necessary to protect and enforce trade mark rights, although registration provides certain meaningful benefits (discussed below) and enhanced litigation remedies. Unregistered but otherwise protectable marks (ie, common law use) may be enforced against junior users of the same or confusingly similar marks for the same or closely related goods/services; however, a junior user who registers its mark first may, over time, establish priority in geographic regions in which the senior use had not been operating at the time of such junior user's registration.

Registration is available at the federal level for marks that are used in US interstate commerce. All 50 states also have state trade mark registrations for marks used only within their respective states. The US is also party to the Madrid Protocol and accepts WIPO international applications designating the US.

Word marks that are generic can never be registered. Marks that are merely descriptive also cannot be registered on the Principal Register or enforced until, and if, they obtain secondary meaning (also known as acquired distinctiveness). Marks cannot be registered if they are confusingly similar to any prior filed application or issued registration for related goods/services.

While registration is not necessary to enforce valid trade mark rights, under the US Trademark Act (also known as the Lanham Act), the advantages of federal registration include:

- legal presumption of validity of the mark and its ownership;
- constructive nationwide notice of registration;
- potential for enhanced damages in infringement cases, especially for counterfeit merchandise; and
- potential senior rights in certain geographic areas as against a senior common law user of the same or confusingly similar unregistered mark in the absence of prior knowledge of the senior user's use.

Changing Controversial Team Names

Of significance is the recent trend for sports teams to change their names where the names reflect historical bias or racist content that is offensive to one or more societal groups.

5.2 Copyright/Database Rights

US copyright law is exclusively governed by the 1976 Copyright Act, which is a very lengthy and complex statute with additional enabling regulations. The USA is a member of the Berne Convention. Registration is not required to pro-

tect copyright, which exists from the moment of creation of an original work of authorship that is otherwise protectable by copyright.

However, except for non-US Berne Convention works, registration is still required as a prerequisite to sue for copyright infringement in the USA. In addition, if a registration is issued within three months of a work's first publication, in a subsequent infringement action the copyright owner may seek both statutory damages (in lieu of a need to prove actual damages or an infringer's profits) and legal fees if successful. Although non-US Berne Convention country copyright owners are exempt from the registration requirement as a pre-condition of suing for infringement, they cannot seek statutory damages or legal fees unless a US registration is effective before an act of infringement begins.

Common defences include lack of personal jurisdiction, statute of limitations, absence of infringement based on non-substantial similarity of copyright-protectible elements, public domain, lack of copyrightable subject matter, scènes à faire, idea-expression merger, and statutory fair use.

The applicability of the Copyright Act's three-year statute of limitations and the reach-back period for damages was partially addressed for the first time by the US Supreme Court in 2024, which held that damages can cover a period of time extending back indefinitely beyond the three years from when an infringement suit is filed and is otherwise timely brought. Validity of the controversial *"discovery rule"* was not addressed by the Court but delayed until a future case. The *"discovery"* rule has been adopted by most federal appellate courts and allows a plaintiff to bring an infringement action within three years of when the plaintiff knew or, in the exercise of reasonable diligence, should have discovered the infringement.

Databases can be protected by copyright and/or trade secret laws under both state and federal laws. Trade secrets are typically protected by confidentiality and non-disclosure agreements. Copyright does not protect facts, such that factual data within a database cannot be protected; however, the original structure, sequence and organisation of a database (ie, the schema) can be protected if it is original.

5.3 Image Rights and Other IP

There is legal recognition for name, image and likeness rights for individual athletes, but generally only at the state level under statutory and common law rights of publicity. As this is governed by the laws of 50 individual states, it is a complex area of US law. Some states do not recognise a right of publicity, while many others recognise such right by statute and/or common law. Some states also recognise a post-mortem right of publicity that extends beyond a person's death and which can be enforced by the deceased person's heirs.

The rights of college athletes to be able to financially exploit their own name, image and likeness (NIL) experienced a ground-breaking moment in 2021, when some new state laws and National Collegiate Athletic Association (NCAA) rules changes provided such athletes, for the first time, with the right to profit by licensing their NIL rights. In the past, NCAA rules prohibited college athletes from accepting any such compensation as a condition of being able to compete as an *"amateur"*. Student athletes now have the opportunity to enter into endorsement and sponsorship deals, and to earn revenue from social media posts. However, universities are prohib-

ited from compensating student athletes directly or offering NIL deals as recruiting incentives.

In addition to publicity rights, well-known and famous athletes (both professional and college) may develop trade mark rights in their names and persona, providing additional intellectual property protection under federal and state law. The concept of *"passing off"* is a form of trade mark infringement and unfair competition under the federal Trademark (Lanham) Act and state laws, regardless of whether an athlete's rights are registered. However, athletes would only have enforceable trade mark rights in their names or other aspects of their persona if such persona were in fact used as a brand to market and sell goods/services in the USA. Under new 2024 NCAA rules, universities may offer educational workshops to student athletes on protecting their intellectual property rights and provide guidance on managing and exploiting those rights.

5.4 Licensing

Licensing is a primary revenue generator of team and league revenues. In the USA, the professional major sports leagues generally control and administer all member team trade mark rights and the licensing thereof (see **2.1 Available Sports-Related Rights**). Licensing revenues are shared with teams based on contractual formulas.

Athletes are generally free to enter into direct sponsorship and licensing agreements, typically through their agents, provided such acts do not otherwise violate their team and league policies and any player contract provisions.

There are no legal restrictions on assigning IP rights to third parties, with the only statutory exception that an *"intent to use"* federal trade mark application can only be assigned to a successor of the underlying business. Restrictions on assignment of IP rights to third parties are generally a matter of contract. In the absence of any such restriction, contractual rights may generally be assigned except for personal service contracts; however, this is a matter of state law and is therefore subject to specific applicable laws of the 50 states.

5.5 Sports Data

Sports in the USA are heavily reliant on massive amounts of data and statistics respecting players' performance and health, training, coaching competitive team positions and information, scouting reports, team competition, and fans. Major sports leagues and their teams employ sophisticated technology to capture real-time game data, such as MLB's StatCast system, an artificial intelligence (AI) tool that uses radar and high-speed cameras to record all movements made by players and tracks the flight and velocity of baseballs. Similar systems are installed in NFL and NBA arenas, and are being implemented by the National Hockey League (NHL). The NFL, in collaboration with Amazon Web Services, has created the Digital Athlete, an AI tool that creates a virtual representation of an NFL player, using TV footage and sensors in football gear, to enhance player safety and better predict and prevent player injuries. Formula 1 racing is at the leading edge of data capture technology, with each car outfitted with up to 300 sensors that produce approximately 1.1 million data points per second.

There are many commercial opportunities presented by voluminous sports data. This includes use of licensed data by third-party developers who create and license sports-related applications, AI technology and application programming interfaces (APIs) using data that focus on a

myriad of sports-related uses, such as athletes' health and nutrition, athletes' performance, training regiments, scouting reports, player-trading decisions, statistics for game broadcasts, fantasy sports, sports betting, video gaming, e-sports competitions, and predictive modelling.

5.6 Data Protection

In the USA, there are no specific data protection laws at the federal level regarding sports. However, various states have enacted data protection and security laws that protect personally identifiable information. The 2023 California Privacy Rights Act which amended the pre-existing California Consumer Privacy Act, is currently the most extensive consumer data privacy law in the US and is modelled in part on concepts included in the GDPR. Many other states have since enacted or are in the process of enacting their own data privacy and security laws. In addition, all 50 states have data breach-reporting laws, which require formal notice to be given to persons impacted by data breaches that compromise their personal data.

There have been multiple cyber-attacks on sports leagues and teams, which remain vulnerable. For example, in 2021, Major League Baseball's computer system was hacked. In 2022, a major ransomware attack hit the San Francisco 49ers' NFL football franchise, targeting financial information.

If personal health-related information of individual athletes is collected, maintained or provided by medical practitioners, healthcare institutions or their business associates, such data is protected under the federal Health Information Portability and Accountability Act (HIPAA).

In one notable example, in 2015–16, the FBI investigated MLB allegations that the St Louis Cardinals hacked into the internal networks of the Houston Astros, including the baseball club's proprietary competitive databases of scouting reports, trades and proprietary statistics. A Cardinals' scouting director ultimately pleaded guilty to unauthorised access to an Astros computer.

6. Dispute Resolution

6.1 National Court System

Internal Regulation and Arbitration

US sports leagues are typically governed according to rules and internal regulatory procedures set forth in league constitutions and by-laws. In many cases, a league commissioner serves as a chief executive officer and is responsible for overseeing the day-to-day operation of the league. Although the organisational structure of each league differs, the commissioner generally has plenary authority to enforce league rules.

Jurisdiction over sports-related disputes depends on the nature of the dispute. In professional sports, an arbitration clause is often found in a CBA between a players' association and the league or team. Under most CBAs, it is common for grievance, salary, and contract disputes to be resolved through binding arbitration. League constitutions and by-laws often require that disputes between the league, players, member teams, officials, or shareholders be resolved through arbitration, with the league commissioner serving as arbitrator.

Dispute Resolution Before the Courts

It is a common requirement under most governing documents that the internal arbitration process be exhausted before a dispute can be heard in court. While it is unusual for a player to appeal their suspension, this can occur.

There are cases in which disputes involving leagues or teams may be heard initially in state or federal court. This usually occurs when a litigant is not party to the league's operating agreements and is not bound by an arbitration provision contained in those governing documents.

6.2 ADR (Including Arbitration)

League constitutions and by-laws typically require that disputes between the league, players, member teams, officials or other internal league stakeholders be resolved through arbitration, in many cases before the league commissioner as arbitrator.

MLB

One type of arbitration is the *"baseball arbitration"*, which originates from a methodology that was used to resolve baseball players' salary disputes. In this type of arbitration, each party submits to an arbitrator an amount that represents the party's last, best offer. The arbitrator then must pick one of the submitted figures. MLB CBA still requires *"last, best offer"* arbitration. This system usually causes good faith bargaining and results in a high percentage of settlements.

NBA

The NBA utilises arbitration to resolve issues pertaining to the CBA. The CBA provides for arbitration of disputes relating to player grievance and selected articles within the CBA. Issues involving income, salary cap, and minimum team salary are subject to arbitration under the CBA. Some disciplinary determinations issued by the NBA commissioner are binding upon the player. If the disciplinary determination meets certain criteria, it may be appealed to a grievance arbitrator for a final determination.

NFL

The NFL CBA provides for arbitration of what are essentially labour disputes between the team and a player including salaries and whether an injury that precluded a player from performing was sustained as a result of play.

6.3 Challenging Sports Governing Bodies

Following a league-issued decision, there is typically an internal appeals process that is set forth in league-governing documents. This internal appeals process is typically the final adjudicatory step available at the league level. After an arbitration award is issued, a party seeking to enforce the award should file a petition in federal court to confirm such award within one year of the date the award was issued. As noted in **6.1 National Court System**, after exhausting their appeal options at the league level, players or teams may appeal the league's determination in federal court under a narrow set of circumstances set forth in the Federal Arbitration Act (FAA) or under the Labor Management Relations Act (LMRA). An appeal sought from an arbitration award in the labour and employment context will result in an appeal under the LMRA. Otherwise, the FAA's appeal procedures are likely to apply.

The standard for vacating an arbitration decision is high and courts are generally deferential to arbitration decisions since the parties agreed to arbitration in lieu of using a court to settle the dispute. Courts will generally uphold the decision unless the arbitrator acted with bias, corruption or fraud, or exceeded their authority under the terms of the CBA. Similarly, under the FAA, a party may seek to vacate an arbitration award where:

- the award was procured through corruption, fraud or undue means;

- there was evident partiality or corruption among the arbitrators;
- the arbitrators were guilty of misconduct and the rights of a party were prejudiced; or
- the arbitrators exceeded their powers, or so imperfectly executed them that a mutual, final and definite award upon the subject matter submitted was not made.

7. Employment

7.1 Sports-Related Employment Contracts

Relationships between athletes and sports organisations in football, basketball, baseball, hockey, and soccer are typically handled by employment contracts, commonly referred to as Standard Player Contracts or Uniform Player Contracts (SPK). An SPK is typically a form document which has been negotiated between the league and the players' union pursuant to a CBA. Most CBAs require that the league does not approve an individual player's SPK unless it has been negotiated with an agent registered with the player's union or the player has negotiated the contract themselves. Generally, the Commissioner of the league has the power to reject an SPK if the agreement violates any provision of the CBA, including its salary cap and registered agent provisions.

Typical Terms of the SPK

The standard SPK typically requires the player to:

- participate in meetings, training camps, workouts, practice sessions, regular season games, exhibition games, and postseason games;
- license the player's name(s), image, likeness, and other identifying information and characteristics to the team for promotional purposes and seek the team's consent before engaging in any media or public appearances;
- participate in reasonable activities promoting the team and league as directed;
- maintain good moral character, good citizenship, good sportsmanship, and integrity, including by not betting on games, accepting anything of value to attempt to fix a game, or using or providing others with prohibited substances;
- maintain good physical condition and notify the team of injuries and illness, including notifying the team of injuries incurred as a result of the player's employment with the team;
- abstain from playing other sports or engaging in activities that may involve a substantial risk of personal injury without the consent of the team; and
- accept an assignment of the SPK in the event the team trades the player to another team, and faithfully perform the duties as required by the SPK for the new team.

While CBAs may restrict the subjects on which teams and individual players may negotiate in an SPK, the parties are generally permitted to negotiate the player's signing bonuses, contract restrictions on trading the player, and compensation in the event of injury, among other provisions. The SPK may also specify the team's option to retain a player for another year after the conclusion of the SPK, or the player's option to become an unrestricted or restricted free agent. As an unrestricted free agent, the player may opt to remain with their current team for another year or accept offers from other teams. As a restricted free agent, the player may receive offers from other teams, but must allow their original team an opportunity to meet or exceed any offers.

CBAs between players' unions and sports organisations also typically require the league and teams to spend a guaranteed amount on player compensation.

Antitrust and Anti-competitive Concerns

Employment contracts between sports teams and players requiring loyalty to the player's team and league do not unreasonably restrain competition. Additionally, the non-statutory labour exemption to antitrust laws insulates agreements in the CBA from antitrust challenges. In particular, anti-competitive provisions in a CBA may be entitled to the non-statutory labour exemption where:

- *"the restraint on trade primarily affects only the parties to the collective bargaining relationship"*;
- *"the agreement sought to be exempted concerns a mandatory subject of collective bargaining"*; and
- *"the agreement sought to be exempted is the product of bona fide arm's-length bargaining"*.

Such protections may not extend to league-wide rules having an anti-competitive effect that have not been negotiated between the players' union and the sports organisation.

With respect to student athletes, NCAA rules limiting education-related benefits, such as scholarships for graduate school, payments for academic tutoring, or paid post-eligibility internships, violate the Federal Antitrust Act.

7.2 Employer/Employee Rights

Anti-discrimination Protections

Under Title VII of the Civil Rights Act of 1964 (Title VII), Title I of the Americans with Disabilities Act of 1990 (ADA), the Age Discrimination in Employment Act (ADEA), Title II of the Genetic Information Nondiscrimination Act of 2008 (GINA), and analogous state and local laws, sports organisations are prohibited from discriminating against or harassing their athlete-employees on the basis of race, colour, religion, national origin, sex, sexual orientation, disability, age, and genetic information. Generally, player-employees are also protected against retaliation for engaging in protected activities, such as complaining of unlawful discrimination; filing a charge of discrimination; and/or participating in an investigation, lawsuit, or other proceeding concerning discrimination. State and local laws may provide protections based on additional protected characteristics.

Americans With Disabilities Act

Pursuant to Title I of the ADA, and state and local disability laws, employer sports organisations have a duty to not discriminate against player-employees on the basis of disability, to keep player-employees' medical information confidential, and to provide a reasonable accommodation to player-employees with disabilities absent an undue hardship. The extent to which player-employees may be entitled to reasonable accommodations in a profession based on physical ability and competition has not yet been outlined by the courts.

Sports organisations may also have a duty to not discriminate against players on the basis of disability if they are public accommodations. See PGA Tour, Inc v Martin, 532 US 661, 681 (2001).

Age Discrimination

The ADEA and state and local counterparts prohibit discrimination on the basis of age, with the ADEA and many states protecting individuals aged 40 and above. However, sports organisations should ensure that their practices are compliant with the requirements of an applicable

state and/or local laws with a lower protected age or which do not specify an age threshold.

Gender Discrimination

Recently, disparities in pay and working conditions between men and women athletes have become the subject of significant public attention and litigation. See, Morgan v United States Soccer Fed'n, Inc., granting the Soccer Federation summary judgment on women soccer players' discrimination claims as to pay under the Equal Pay Act and Title VII and as to field surfaces under Title VII, and denying summary judgment on their claim of discrimination in the provision of charter flights. Following this litigation, the US Soccer Federation reached a settlement to pay the US Men's National Team and the US Women's National Team equally, along with other considerations. However, claims of gender discrimination in employment by athletes are rare because a prima facie, case of discrimination requires a showing of different treatment between the sexes by a singular employer, and most sports organisations employ players of the same sex.

Race, Colour, and National Origin Discrimination

Under Title VII and analogous state and local laws, employer sports teams are prohibited from discriminating against players on the basis of their race, colour, and national origin, among other protected characteristics. However, where a sports organisation acts on the basis of a protected characteristic with the goal of remedying its past discrimination, there is generally no violation of Title VII.

Protection of Genetic Information

Oftentimes, and as directed by the terms of a CBA, employer sports organisations have a role in managing player-employees' health and collecting their medical information. Pursuant to Title II of GINA, employer sports organisations are prohibited from discriminating against player-employees on the basis of their genetic information; requesting, requiring, or purchasing genetic information about player-employees; disclosing genetic information about player-employees, subject to limited exceptions; or retaliating against player-employees for protected conduct under GINA. GINA also requires that employer sports organisations keep player-employees' genetic information confidential. Employer sports organisations seeking to take advantage of increased accessibility of genetic testing and advancement of wearable technologies may be limited by GINA's requirements.

Wage and Hour Law

The Fair Labor Standards Act of 1938 (FLSA) and state and local wage and hour laws require that employer sports organisations pay all players the minimum wage and most players overtime premiums for hours worked over 40. Although there is no explicit exemption from the FLSA's overtime provisions for athletes generally, the FLSA carves out an exemption for baseball players during the regular championship season as long as they are paid at least the minimum wage for 40 hours weekly. Florida and California have recently enacted similar provisions in their state wage and hour laws, and lobbying efforts may continue in other states.

Collective Bargaining

Under the National Labor Relations Act of 1935 (NLRA), player-employees are entitled to unionise, collectively bargain with their employer sports organisations, and participate in protected concerted activity. Under the NLRA, a sports organisation may not take unilateral action on terms affecting *"wages, hours, and other terms and conditions of employment"*, such as free

agency, first refusal provisions, salary arbitration, the college draft, salary caps, minimum individual salaries, and fringe benefits, because these are mandatory subjects of bargaining. See 29 USC § 158(d).

Despite student athletes not being classified as employees, in late 2023, the Service Employees International Union filed a petition with the National Labor Relations Board (NLRB) seeking to represent members of the Dartmouth College men's basketball team in collective bargaining, which action was challenged by the college. In 2024, a regional director of the NLRB issued a decision determining that all basketball players on the men's varsity basketball team constituted a unit appropriate for collective bargaining. Earlier in 2023, following the filing of an unfair labour practice charge, the NLRB issued a complaint alleging that the University of California, the Pac-12 Conference, and the NCAA misclassified student athletes as non-employees, in order to intentionally deprive the student athletes of their rights under the NLRA. However, in January 2025, the union withdrew the Dartmouth College NLRB petition, and the National College Players Association (NCPA) moved to withdraw the charge against the University of California, the Pac-12 Conference, and the NCAA. In seeking to withdraw the charge, the NCPA explained this decision was based on numerous factors – including that multiple states now have laws permitting universities to directly pay athletes NIL money and a preliminary federal court settlement agreement that would allow universities to directly compensate athletes – and thus the NCPA seeks to provide adequate transition time under these contemplated legal changes before athletes' employee status is ruled upon.

Unemployment Benefits

The Federal Unemployment Tax Act requires the Secretary of Labor to reject any state's unemployment programme if it provides unemployment benefits to professional athletes who are not playing between seasons if they are expected to play the next season. See 26 USC § 3304(a)(13).

Workers' Compensation

Whether and the extent to which a professional athlete is entitled to workers' compensation for injuries sustained while working varies from state to state.

Worker Adjustment Retraining Notification Act of 1988 (WARN Act)

The WARN Act and its state analogues require employer sports organisations to provide employees, their representatives, and certain governmental officials with advance notice of closings and layoffs affecting a threshold number of employees. Under federal law, and in many states, employers including sports organisations are not required to provide WARN notices for lockouts during labour disputes.

7.3 Free Movement of Athletes

The IRCA

The Immigration Reform and Control Act (IRCA) prohibits employers from discriminating on the basis of an individual's real or perceived citizenship or national origin. These IRCA protections do not apply to employers with three or fewer employees, to claims already under consideration with the Equal Employment Opportunity Commission under Title VII, or to situations where citizenship status is required by law or by government contract. The IRCA protects citizens and aliens actively pursuing citizenship and prohibits employers from enacting blanket hiring policies restricting employment to US citizens.

The IRCA preserves employers' rights to prefer citizens over equally qualified aliens.

Immigration and Visas

The Immigration and Nationality Act (INA) governs immigration laws as they pertain to professional athletes. There are both immigrant and non-immigrant options for foreign athletes seeking entry to the United States. Some of these are discussed below.

EB-1 – employment-based first preference immigration

A professional athlete who can demonstrate, by extensive documentation, extraordinary ability in athletics through sustained national or international acclaim may apply for an EB-1 Visa. While an employment offer is not required, the athlete must provide evidence showing they seek entry to the USA to continue to work in their field of expertise.

B-1 – temporary business visitor

An athlete visiting for a professional or commercial purpose may apply for a B-1 Visa. This visa generally limits the visitor to a six-month period (with the opportunity to apply to extend the stay to a maximum of one year), and prohibits the visitor from engaging in productive labour and employment while in the USA. Types of foreign national athletes that can enter the United States using a B-1 Visa include individual professional athletes who will receive no salary, other than prize money, and athletes of foreign-based teams that belong to international leagues or competitions, whose salaries are principally earned in the foreign country.

O-1A – individuals with extraordinary ability or achievement

An athlete who possesses extraordinary ability and has been recognised nationally or internationally for those achievements may be eligible for an O-1A non-immigrant visa. The initial period of stay granted under an O-1A visa is three years.

P-1A – athlete

A foreign athlete seeking temporary entry to the USA for the sole purpose of competing at a specific athletic event may seek entry under the P-1A Visa. To qualify, the individual must be an individual or part of a team at an internationally recognised level of performance or a professional athlete. The INA defines a professional athlete as one employed by a team that belongs to an association of six or more teams whose total combined revenues exceed USD10 million per year, if the association governs the conduct of its members and regulates the contests and exhibitions in which its member teams regularly engage, or any minor league affiliated with such an association.

8. Women's Sport

8.1 Women's Sport Overview

The continuing evolution of the business and media landscape of sports has created new opportunities for women athletes as well as for women's sports generally.

The ability of college athletes to monetise their name, image and likeness (NIL) has provided new opportunities for women athletes. NCAA women's basketball remains one of the top collegiate sports in generating NIL revenue.

Professionally, investments and opportunities in women's sports properties continue to grow. In 2022, the Women's National Basketball Association (WNBA), a high-profile professional women's athletic league, completed one

of the largest ever capital raises for a women's sports property. New league properties such as Unrivaled, a women's 3-on-3 basketball league, have attracted significant investment. Finally, the ongoing trend of appreciating franchise valuations has also carried over to women's sports, as two franchises in the National Women's Soccer League (NWSL) were sold in 2024 for record valuations. Multi-club ownership groups, often a feature of ownership structures in men's football leagues, have recently been formed for the purpose of acquiring stakes in women's football clubs in Europe.

The ongoing competition for sports programming has also created opportunities for women's sports content. The All Women's Sports Network, a new streaming service which debuted in 2024, provides continuous coverage of female athletes on and off the field along with original programming and live sporting events. The service is available in over 60 countries, making it the first global network dedicated entirely to women's sports. Media rights for women's sports have also increased significantly in value. In 2023 the NWSL announced a multi-year media deal with CBS Sports, ESPN and Amazon Prime Video for USD240 million, representing a 40-times multiple of the NWSL's previous agreement. In 2024, the WNBA announced its own new media rights deal with Disney, Amazon Prime and NBC, valued at over USD2 billion for 11 years.

Despite these new opportunities, several challenges remain for women in sports. Funding discrepancies and disparate treatment at universities continue to be a source of controversy. The participation of transgender women in women's sports has driven conversation regarding maintaining competitive balance while respecting and recognising transgender rights. In college, while some women have earned significant NIL income, the average NIL income for women student athletes is significantly lower than for male athletes. Professionally, despite the significant increase in media rights and franchise values, the salary gap between male and female athletes remains. The recent settlement agreement to establish equal pay for the men's and women's US national soccer teams in the new CBAs represents an important step towards equality.

9. Esports

9.1 Esports Overview

The esports industry went through several notable changes and milestones in 2024.

The year saw the inaugural Esports World Cup event and the announcement by the International Olympic Committee of the Olympic Esports Games to be held in Saudi Arabia in 2025. Additionally, there were several notable acquisitions in the esports industry in 2024. These factors, along with a general influx of funds from the Saudi Arabian government, moved the esports industry in a positive direction after a difficult post-COVID-19 period.

The first esports world cup was held in Riyadh, Saudi Arabia, this past July. The event brought together esports fans and 1,500 of the top esports players, representing more than 100 nations, over an eight-week-long competition that included a record-breaking USD60 million prize pool.

The Kingdom of Saudi Arabia also made significant investments in the esports industry in 2024. With over half its population being esports enthusiasts, the government of Saudi Arabia views the esports industry as a vehicle to both grow and diversify its economy. In March 2024, the

Saudi National Development Fund announced the establishment of two venture funds aimed at making equity investments in gaming and esports companies.

The International Olympic Committee (IOC) took notice of the success of the Inaugural Olympic Esports Week in 2023, and the successful inclusion of esports in the Commonwealth Games, PanAmerican Games and Asian Games. Desiring to reach a younger market, the IOC announced that esports would become a competitive medal-winning event. The inaugural Olympic Esports Games are set to be held every other year, with the inaugural games taking place in Riyadh, Saudi Arabia in 2025.

10. NFTs, AI and the Metaverse

10.1 Non-Fungible Tokens (NFTs)

Non-fungible tokens (NFTs) are unique digital assets that use blockchain technology to record ownership. Each NFT has a unique identifier that is recorded on a blockchain database, which acts as a public ledger to verify ownership and transfers. NFTs can reflect a variety of tangible and intangible objects, such as images, videos, songs and art. NFTs are distinguished from other digital assets that use blockchain technology, such as cryptocurrencies, by the *"non-fungible"* nature of NFTs. Each NFT represents a specific and unique item and is not valued on a one-for-one basis.

In sports, NFTs have been created for the ownership of images, video clips, highlights and player trading cards. One of the earliest and most significant NFT ventures in sports is the NBA's Top Shot product. Top Shot is an NFT marketplace for digitised NBA-related content. The NBA licenses highlights and images to a third party which digitises the footage and creates NFTs, each with its own blockchain authenticity. Fans then buy and sell the NFTs, and transfers are recorded on a blockchain ledger for verification. The NFL's NFL All-Day product and the Ultimate Fighting Championship's UFC Strike product are additional examples of sports leagues creating officially licensed NFTs to be sold on similar marketplaces.

NFTs also provide teams and leagues with additional opportunities to enhance fan relationships, and allow for real-world applications beyond investment. For example, holders of NFTs may be granted special in-person experiences, personalised messages from players, or discounts on merchandise. Holders of NFTs have also been able to participate in unique fantasy sports contests and to vote on governance and other team decisions such as player awards. As teams and leagues continue to innovate with immersive viewing experiences, NFTs and blockchain technology may provide a crucial link between fans and their favourite teams and players.

NFTs also provide individual athletes with ways to reach a broad consumer base with their own licensed NFTs, such as athlete-designed artwork or images. Players have paired the sale of their own NFTs with the opportunity to meet them in person and attend games.

The NFT market poses significant risks for both investors and creators. Little regulation currently exists, and it remains to be seen how regulatory authorities will look to assert control over the market. Class action lawsuits have been filed, including against Top Shot, alleging that the products sold on its marketplace are unregistered securities. While the Top Shot suit was ultimately settled, other NFT products may face similar claims in the future. Furthermore, invest-

ing in NFTs is speculative in nature with limited historical information to make informed decisions. Trading volume and valuations, based heavily on demand and scarcity, have fluctuated widely. After peaking in 2021, many NFT marketplaces, including those relating to sports, have experienced significant decreases in value.

Finally, many NFT purchases are made with cryptocurrency such as bitcoin, which imposes risks of its own including price volatility, security risk and high transaction fees. The developing security and valuation issues in the broader cryptocurrency market may cause teams, leagues and other players to reassess their use of NFT, given cryptocurrency's status as a common currency for NFT purchases and the overlapping use of blockchain technology in both cryptocurrency and NFTs.

10.2 AI

While the AI landscape has been rapidly evolving, the regulatory framework in the USA remains in its early stages. AI has proved to have many applications in athletics already, with infinite possibilities on the horizon.

Federal AI Guidance

As of January 2025, there was no formal, dedicated federal AI legislation. However, some preliminary guidance has emerged at the federal level.

The Blueprint for an AI Bill of Rights

In October of 2022, the White House Office of Science and Technology Policy (OSTP) published a white paper titled the *"Blueprint for an AI Bill of Rights: Making Automated Systems Work for the American People"*. This paper notes that its principles do not constitute binding US government policy or guidance on the public or federal agencies. The document proffers five key principles:

- You should be protected from unsafe or ineffective systems.
- You should not face discrimination by algorithms, and systems should be used and designed in an equitable way.
- You should be protected from abusive data practices via built-in protections and you should have agency over how data about you is used.
- You should know that an automated system is being used and understand how and why it contributes to outcomes that impact you.
- You should be able to opt out, where appropriate, and have access to a person who can quickly consider and remedy problems you encounter.

The AI Risk Management Framework

In January 2023, the US Department of Commerce's National Institute of Standards and Technology (NIST) published the *"AI Risk Management Framework"* (AI RMF). In March of 2023, it launched the Trustworthy and Responsible AI Resource Center, which aims *"to offer a resource to the organizations designing, developing, deploying, or using AI systems to help manage the many risks of AI and promote trustworthy and responsible development and use of AI systems"*.

State AI Regulation

A number of states have begun to enact measures aimed at a better understanding and regulation of AI. Certain states (including Alabama, California, Colorado, Connecticut, Illinois, Louisiana, New Jersey, New York, North Dakota, Texas, Vermont and Washington) have implemented legislation aimed at researching AI to better understand its possible consequences.

Other states (including California, Colorado, Connecticut, Delaware, Indiana, Iowa, Montana, Nevada, Oregon, Tennessee, Texas and Virginia) have regulated how entities can use automated processing systems to utilise customers' personal data. A couple of other states (Colorado and New York) have enacted legislation aimed at preventing discrimination through automated or algorithmic decision-making tools. A few other states (including California, Colorado, and Utah) have enacted AI governance laws. Many more states are in the process of introducing proposed legislation aimed at further regulating AI.

Applications of AI in Sports

While regulation remains in the early stages, AI has already found many applications in the professional sports world. Generative AI (eg, ChatGPT) in particular, has been seen to play a role in content creation, maximising athlete performance, advertising and marketing, and operational efficiency.

In content creation, AI has been used to automate the generation of highlight reels by ingesting footage and identifying portions with action or excitement that match the user's prompts. Another use case is exemplified by the PGA Tour, which began harnessing AI in 2018 to create automated recaps for each player. The PGA Tour's AI collaborations have evolved over the past several years, yielding AI-produced video highlights, the tour's *"Every Shot live"* feature, and a chatbot that can answer questions about golf history, betting odds, and tournament logistics. Further opportunities exist to develop automated commentary, which could even adopt cloned voices of celebrities, athletes, or existing newscasters – subject to licensing and/or data privacy restrictions.

AI has also been harnessed to maximise performance within the sports arena, where it is used (in some cases, embedded, into shoes, racquets, clubs or other equipment) to analyse athletes' biomechanics to optimise performance, and it has even been used to develop predictive modelling programmes to forecast (and therefore help prevent) injuries. It can also simulate game scenarios, allowing coaches to better plan training programmes and develop play strategies. AI has also been utilised to help many MLB franchises ingest large amounts of player data to generate reports, thereby helping to automate the talent acquisition process, provide analytics for sports betting, and offer comprehensive data to players, coaches and fans. It has also found applications in game analytics; for example, umpire, referee and judge assistance in order to make more accurate decisions during play and competitions. AI has also presented new opportunities for sports advertising.

AI also promises enhanced efficiency within stadiums. Facial recognition AI has already been introduced to streamline ticketless entry features. Other current applications, such as automated checkout experiences employed by some retailers, might be utilised in sports arenas to facilitate sales of merchandise, food and beverages.

Opportunities and Risks

As with any new technology, AI presents opportunities for further evaluation and has already revealed certain risks. For example, certain generative AI tools have been reported to *"hallucinate"* data, meaning that they respond to prompts with invented information. Other potential stumbling blocks include licensing and other intellectual property concerns. Another main concern around AI is its potential to render the human workforce obsolete – although, as with

prior industrial revolutions, it is likely that existing jobs will evolve and there will be an emergence of new job opportunities. As opportunities unfold, the regulatory framework will likely be bolstered in response.

10.3 The Metaverse

The metaverse represents a tremendous development in how we interact with technology. With the use of virtual reality and augmented reality, the metaverse is a digital world that will allow people to have fully immersive lifelike experiences. As Mark Zuckerberg said, the metaverse is *"the embodiment of the web where you are part of the experience yourself, not just looking at it…"*.

Sports Teams

Sports teams continue to explore the metaverse, slowly implementing new and innovative technologies that provide fans with a new way in which to consume sports. In a 25 September 2024 Major League Baseball game between the Tampa Bay Rays and Detroit Tigers, certain fans were able to attend and watch the game using avatars in a virtual stadium. Hawk eye cameras were able to translate the real-world action into the virtual reality stadium, where fans, through their virtual reality avatars, were able to watch the game inside the virtual stadium from unique points of view, such as being positioned on the field in the outfield itself. Additionally, the NFL and the Roblox platform continued their partnership, working together to incorporate NFL intellectual property into NFL Universe Football allowing Roblox's approximately 80 million daily active users to experience their favourite NFL team in the metaverse.

Sponsors

Sponsors continue to explore the opportunities in the metaverse. One potential advantage for sponsors is that they can do much of the same thing that they do in the real world, but more creatively and at a lower cost. For example, brands can host an event where the fans' virtual avatars can engage with the brand, and even their favourite athletes, in the metaverse. While virtual real estate does have costs in the metaverse, it is likely lower than renting out a physical building in the real world.

Sports Training

Athletes are training in the metaverse, simulating real game events at game time speed, but without the risk of injury. Virtual reality simulations can provide instant feedback and data to not only improve physical mechanics but also mental decision-making and strategy. For example, there are virtual reality headsets that can help train baseball players with their pitch recognition (fastball, change up, curveball, etc) which is something that is typically difficult to train in real life.

Legal

The metaverse provides an interesting civil procedure challenge: who has jurisdiction, and which law applies? Users from different countries (and in the USA, different states) can interact in the same virtual space. Or maybe even more fundamentally, what court would have authority to hear a case where a defendant's physical location is different from where the harm occurs in the virtual world?

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