

MARKETING, SPORT AND LEGAL SYSTEM

Sport is now big business—worth more than 3% of world trade and 3.7% of the combined GNP of the 27 Member States of the European Union with a population of some 500 million—and a whole new body of law and practice has grown up in the field of the commercialisation of sports events and the exploitation of the image and personality rights of elite athletes, all of which is commonly referred to – in the jargon – as Sports Marketing.

Indeed, without the considerable revenues derived from various forms of Sports Marketing, especially Sponsorship and Sports Broadcasting and New Media Rights – many major sporting events, such as the Olympic Games and the FIFA World Cup, could not be organised and staged; and likewise many athletes could not afford to train and participate in them – much to the disappointment of sports fans around the world.

Every day we see news on television like:

- some sheiks from Arabian peninsula bought a football team from western Europe;
- the prize for some football players is more than 100 millions euro;
- basketball teams from USA offers salaries able to surpass 10 millions dollars for year for their best players;
- a minute for commercial in an American football final is more than 3 millions dollars.

This kind of news create a legitimate question: is this real world? They deserve these revenues, or only marketing is able to create such a terrifying “social painting”?

The inexorable rise of the Internet, the advent of Digital Television and Television “on demand” have provided new ‘platforms’ for not only the dissemination of information, but also programming of various kinds, including sports events.

Not only are major sports events broadcast on television and radio, but they are also transmitted ‘on line’ in so-called “webcasts”. The latest generations of mobile phones have also added a new ‘platform’ for providing a wide range of communications, including text messaging and access to the Internet. They have also provided the possibilities of downloading programmes of various kinds from the Internet, including “webcasts”. Likewise, video technology has advanced greatly in the last decade or so, and provided a wide range of commercial and business opportunities.

Many Sports Event organizers and Sports Rights holders have been quick to embrace this new advanced technology and have realized the value of these new 'platforms' not only for promoting their sports events, but also for cashing in on and deriving additional and lucrative income streams from the commercial demand for and exploitation of them.

Thus, these new media developments have opened up a new world of commercial opportunities in the sports marketing and other business sectors, and given rise to the need for the corresponding agreements to be drawn up in order to grant and protect these new media rights.

The rise of sport as a global industry is largely the result over the years of the marketing of sports, sports persons and events, originally in the United States of America (USA), and subsequently in Europe and elsewhere. This has led to the establishment of a world-wide discrete sports marketing industry, due to the vision and pioneering work of Mark McCormack in the USA, through his company, IMG (International Management Group); and in Europe, by Horst Dassler, of the German sports goods manufacturer ADIDAS, through his Swiss company ISL (International Sport Leisure and Culture), which he founded. Sadly, neither of these pioneers is alive today to see the extent to which sports marketing has grown and enjoy the full fruits of their work. Also, ISL went into bankruptcy several years ago.

Again, the press helps us: some contracts from Premier League in England, bigger than 1 billion dollars, were able to "delete moral feelings". The professionalism is introduced – in few sports, like rugby, as example – only by the money invested there – and by the huge "marketing factories" who work for more audience.

With so much money circulating and to be made in sport at the national and global levels, it is not surprising that disputes arise from time to time, not only of a purely sporting nature, for example, eligibility issues, but also of a commercial nature, for example under sports marketing agreements.

Lawyers are very important at these big sums: they must negotiate with wisdom, but without many acceptations of the proposals. In the same time, they must understand that a very safe contract is not so good for marketing rules, because it is not possible to talk about it – in fact, to obtain a less attention for that sport.

It can start now a big discussion about litigate parts and about court of justices able to solve these conflict – but the interest for such a subject is just for lawyers.

For marketing specialists, the situation is different – a good PR campaign is able to turn from black to white and from bad to good any position. They will love this opportunity, to have a permanent interest from the press.

In this equation, law and marketing can cooperate – and, may times, they do that. But sport is strongly affected; one day, even our children will must be obliged by law to make sport, or they'll be just victims of marketing; natural independence of brain will show to us that sport is not only marketing but is more that that an honor position.