

U.S. Professional Sport Organization Policies Shift to Embrace Legalized Gambling Entities: A Roll of the Dice?

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INTRODUCTION

In 1991, the commissioners of the major professional sports leagues in the United States converged on Capitol Hill to decry the potential threat to the integrity of their sports should more states be allowed to join Nevada in taking wagers on professional and college games (Ostertag, 1992). During these highly-publicized hearings, National Football League (NFL) Commissioner Paul Tagliabue testified that "the bottom line is that legalized sports gambling sends a regrettable message to our young people about government – that anything goes when it comes to raising revenues or bolstering local economies, and we might as well legalize, sponsor and promote any activity so that the state can get its 'cut'" (Hearings on H.R. 74, 1991).

Major League Baseball (MLB) Commissioner Fay Vincent's testified:

The intense feelings with which I approach betting on Baseball might best be understood if one remembers that the Office of the Commissioner of Baseball was created in direct response to the 1919 'Black Sox' scandal. Protecting the integrity of the game is our primary job. State-sponsored sports betting runs the real risk of undermining public confidence in the honesty of what transpires on the field. . . . No state should be permitted to create an environment that is conducive to a major sports betting scandal, which would affect the citizens of all states (Hearings on S. 474).

National Basketball Association (NBA) Commissioner David Stern, echoing the integrity theme, testified that "[s]ports betting places athletes and games under a cloud of suspicion, as normal incidents of the game give rise to unfounded speculation of game-fixing and point-shaving" (Hearings on S. 474, 1991). As a result of these and other hearings, Congress enacted a law prohibiting any government entity from operating a wagering scheme based on

competitive games in which amateur or professional athletes participated (Nevada, Oregon, Delaware and Montana, states which had enacted statutes prior to 1992 allowing for sports wagering, were exempted from the Act through a "grand-fathering" clause) (Professional and Amateur Sports Protection Act of 1992).

Although the testimony of Commissioners Tagliabue, Vincent and Stern specifically addressed the issue of state-sponsored wagering on professional sporting events, some might suggest that their collective concerns over the integrity of sports, as well as the messages sent to young fans, may be ringing hollow a decade later. Their testimony provides an illuminating historical perspective on the recent proliferation of marketing alliances between U.S. professional sport organizations and legalized gambling entities (LGEs) such as government-authorized lotteries, casinos, race tracks and off-track betting organizations (LGEs do not include internet sports gambling, itself a burgeoning industry, because the U.S. government considers such gambling illegal (Weir, 2003)).

Fast forward, for instance, from 1991 to 2003: Stern, in an interview on ESPN's "Outside the Lines" addressing the NBA's and Womens National Basketball Association's (WNBA) growing business involvements with LGEs, remarked:

In a country where 40 states have (lotteries), and state legislators decided long ago to bet the grocery money to help education by picking a lottery ticket, gambling is the American way. Gambling is out of the bag. We are a nation of lottery players, slot-machine players, etc. I won't start moralizing about that. My narrow area of protection is the NBA and basketball betting (Farrey, 2003, para.9).

In a similar vein, MLB president and Chief Operating Officer Robert DuPuy has stated: "Our society has evolved in terms of accepting legalized gambling as a form of entertainment, and we've tried to evolve with it . . . Tribal casinos are popping up almost everywhere, and they're an accepted form of social behavior. There's an enormous difference between legalized gambling and betting on baseball, which is anathema to the competitive integrity of the game" (Crasnick, 2003, p. 4).

This article presents an impartial overview of the rapid emergence of LGE sponsorship within U.S. professional sport. With historical concerns over gambling associations as a backdrop, Part I begins by discussing both societal and sport-industry trends that have fueled the emergence of LGE sponsorship as a growing revenue stream for professional sport organizations. It then provides examples of various LGE sponsorship activities and how such

activity has been expanding in scope and significance in recent years. Part II focuses on the internal rules and policies that govern the major professional sport leagues' associations with LGEs. Following a review of the rules that are common to each of the leagues, the article utilizes sources from Major League Baseball to illustrate how these leagues have been revising their rules and policies to better accommodate LGE sponsorship. Part III examines several of the emerging trends and activities with respect to professional sport organizations and LGEs. Part IV first explores some of the data that suggests that the government's growing acceptance of gambling is fueling a dramatic, and dangerous, increase in the gambling habits of adolescents and college-aged individuals, and particularly athletes themselves, with regard to sports-related gambling. Given these findings, this section then suggests that the marriage of professional sport organizations and LGEs raises concerns that might ultimately result in potential legislative intervention.

PART I - THE GROWTH OF GAMBLING AND LGE SPONSORSHIP OF U.S. PROFESSIONAL SPORT ORGANIZATIONS

As suggested by NBA Commissioner Stern and others, the marriage of U.S. professional sport organizations and LGEs is, in many respects, a reflection of society's growing acceptance and our government's continued endorsement of legalized gambling. The marriage also reflects the changing landscape of professional sport, which has resulted in an ever-broadening range of sponsorship activities by LGEs.

A. Societal and Sport-industry factors

While this article focuses specifically on the recent emergence of LGE sponsorship within U.S. professional sport, and not on sports betting per se, it is important to understand the underlying broader factors and influences that have triggered the growth of LGE sport sponsorship. Legalized gambling is experiencing an unprecedented boom across the United States, as governmental entities faced with budget deficits look for ways to raise revenues ("States, cities ignore odds. . .," 2003). Among the chief catalysts for this growth has been the Indian Gambling Regulatory Act of 1988 (IGRA), a federal law granting American Indian tribes the right to regulate gambling activity on tribal lands (Claussen & Miller, 2001; Goldin, 1999). As of 2002, there were approximately 290 casinos on Indian reservations in 28 states, with tribal gambling revenues having grown from \$212 million in 1988 (the year of IGRA's enactment) to an estimated \$12.7 billion by 2001 (Barlett & Steele, 2002). The IGRA's enactment has also fueled the desire of state as well as

businesses located on non-tribal lands to cash in on society's gambling mania, resulting in at least 25 states establishing casinos in direct competition with Indian tribe casinos ("States, cities ignore odds. . ."). According to one trade publication, the number of major casinos in the United States (those with more than 250 slot machines) has increased 25% in the past four years, from 405 in 1999 to 508 in 2003 ("Casinos place their bets," 2003).

Similar meteoric growth has occurred in the area of state lotteries and riverboat gambling. In 1973, seven states had lotteries (Claussen & Miller, 2001). In June of 2003, Tennessee became the thirty-ninth state to authorize a state lottery ("States, cities ignore odds. . .," 2003). The number of riverboat casinos, also an emerging source of sport sponsorship revenue, exceeds over 100 establishments in six states (Claussen & Miller, 2001).

As a result of this tremendous growth and acceptance, "gambling has shed its image as a corrupting vice and has been reconstructed as a socially acceptable leisure activity" (Claussen & Miller, 2001, p. 353). For instance, in a study conducted in 1996, 92% of Americans were in agreement that casino gambling is acceptable entertainment (Goldin, 1999). The American public now spends an estimated \$70 billion a year on gambling, nearly three times as much as it spends on movies, concerts, sports and the theater combined ("State, cities ignore odds. . .," 2003). Dubbed by some as our "new national pastime," the United States was the world's fastest-growing gambling market over the last decade, and gambling now generates far more public revenues (estimated at \$27 billion in "gambling privilege taxes" in 2000) than the revenues generated from either tobacco or alcohol (Morais, 2002, p. 66).

In addition to increased governmental endorsement and societal acceptance of legalized gambling, several sport industry-specific factors have helped trigger the appeal and acceptance of LGE sponsorship over the past decade. Most notably is the increased competition between and among sport organizations for sport sponsorship dollars and the need to develop new revenue streams to meet ever-escalating operational costs. During the 1990s, as many as 13 new leagues and 170 new professional sport teams came into existence, dramatically increasing the amount of sponsorship inventory available for sale and the number of organizations vying for sponsorship dollars (Mahony & Howard, 2001). Furthermore, the sport facility construction boom of the 1990s resulted in higher debt responsibilities for many franchise owners (Mahoney & Howard, 2001). Finally, escalating player payrolls, a dramatic drop-off in tobacco advertising and sponsorship (Turco, 1999), and a weakened economy has spurred increasing demand for new revenue streams. These economic factors have eroded the barrier that had historically been established between sport organizations and LGEs. A review

of the index of sport sponsors in Team Marketing Report's annual *Sports Sponsor FactBook* revealed that, from 1996 to 2002, the number of U.S. and Canadian LGEs listed as sponsors increased from 22 to 48 (the latter figure including 25 U.S. state lotteries as well as the D.C. lottery) (Lane, 2003).

B. Expansion of LGE sponsorship activities

The enactment of the IGRA and rapid adoption of state lottery acts in the late 1980s and early 1990s created an entirely new category of potential advertisers and sponsors for professional sport organizations. While some leagues, most notably the NFL, remained steadfastly opposed to any local team affiliations with LGEs, other leagues tweaked their league rules and policies to allow for generic product/service advertising in gameday program magazines, with league-mandated restrictions on what images the LGE advertising could feature and what words and phrases could be used (i.e., words and phrases such as "casino," "gambling," "gaming," and "roll the dice" were prohibited).

Gradually, other closely monitored forms of in-venue advertising were allowed, including generic advertising on scoreboards and within game broadcasts during regular commercial breaks. In recent years and even months, LGEs have been securing a much broader presence not only within sports venues, but also beyond. For example, in one of the first LGE sponsorship deals to expand beyond simple in-venue signage, the Sycuan Indian tribe signed a deal to become the title sponsor of the San Diego Padres 2000 season (Millican & Barfield, 2000). In October, 2003, the Boston Celtics announced a sponsorship agreement with Mohegan Sun that includes Mohegan Sun advertising on the basket stanchions and on the seat backs of both the home and visiting teams, both highly visible locations for television viewers ("Celtics, Mohegan Sun in sponsorship deal," 2003). The agreement provides Mohegan Sun with the right to use the Celtics' logos and trademarks in its marketing and advertising programs ("Celtics, Mohegan Sun in sponsorship deal").

LGE sponsorship activity has also moved beyond the sport venue itself. For instance, GoldenPalace.com, a cyber-casino based in Antigua, joined a growing list of LGE broadcast sponsors when it agreed to sponsor the Montreal Expos' English radio broadcasts in 2003 (Crasnick, 2003). During the 2003 season, Mohegan Sun, leveraging its sponsorship of the Boston Red Sox, sent so-called "brand ambassadors" dressed like baseball players throughout New England, urging fans to sign a "We Believe" document wishing the Red Sox good luck. Adult signers were given a "peel-and-win"

game piece that could only be redeemed by being brought to Mohegan Sun casino to determine if the consumer had won. Prizes included Red Sox game tickets, Red Sox merchandise and a \$1 million grand prize ("Red Sox, Conn. Casino. . .," 2003).

LGE sponsorship has also recently expanded to entitlement rights for professional sporting events at an increasing number of levels. For example, London-based on-line wagering house Sportsbook.com title sponsored an American Le Man Series race in Miami, Florida (James, 2003). Similarly, commercial casino owner Boyd Gambling Corporation's title sponsorship of the 2003 NASCAR Busch Series Sam's Town 300 in Las Vegas spawned a relationship with the local Coca-Cola distributor resulting in an in-store promotion ("Casinos place their bets," 2003). "You don't often see casinos promoted in grocery stores, even in Vegas," said Boyd's director of marketing Dan Stark, explaining the value of the sponsorship to the casino ("Casinos place their bets," p. 1). Last but not least, Par-A-Dice Hotel & Casino served as the title sponsor for the East Coast Hockey League All-Star Game and Skills Competition, as well as the host hotel for the event ("Par-A-Dice ECHL. . .," 2004). As these examples suggest, LGEs continue to negotiate and secure a much more significant presence within the sport sponsorship industry.

PART II - TRACING THE EVOLUTION OF MAJOR PROFESSIONAL SPORT LEAGUE RULES AND POLICY

The growth of the LGE industry, coupled with the desire of professional sport organizations to generate new revenue streams, has resulted in a gradual evolution in the rules and policies that the major U.S. professional sport leagues have adopted with respect to advertising and sponsorship arrangements with LGEs.

A. Rules Common to All of the Major U.S. Professional Leagues

Although each of the four major professional sport leagues have rules specific to their league, there are several overarching rules consistent across all of the leagues that are designed to maintain the "firewall" between LGE sponsorship and the actual activity of sports betting. In several instances, these rules trace their origin to lawsuits filed by the leagues against states and provinces prior to the enactment of the Professional and Amateur Sports Protection Act of 1992.

First, teams may not form advertising or sponsorship relationships with casinos that have a sports book (betting on actual professional or amateur

sports contests) or with lotteries that offer schemes based on the outcome of actual sporting events (excluding horse and dog racing). The NBA has carved out one notable exception: the Maloof family, owners of the Sacramento Kings, also own The Palm casino in Las Vegas, which is allowed to have a sports book in all sports except the NBA (O'Keeffe, 2002).

Second, teams may not enter into sponsorship agreements with any government-run lottery that incorporates, or is contemplating incorporating, the use of the scores, point totals or results/outcomes of games as part of its scheme. This restriction is specifically relevant to the two leagues that have entered into licensing arrangements with state lotteries (discussed in greater detail below). This restriction has its roots in several lawsuits. The first was the landmark case of *National Football League v. Governor of the State of Delaware* (1977), in which the league unsuccessfully challenged the legality of a Delaware State Lottery game tied to the outcome of NFL contests. The Delaware lottery was subsequently scrapped due to poor financial results, as was also the outcome with respect to several other league lawsuits against government-run lotteries, including *National Basketball Ass'n. v. Oregon State Lottery Comm'n* (1989); *Bowie Kuhn v. Canadian Sports Pool Corp.* (1984); and *National Hockey League v. La Societe Des Loteries Et Courses Du Quebec* (1991).

Third, league rules restrict teams from allowing live or replayed lottery drawings to be held within their venues, as well as live or replayed lottery drawings to be shown on its video scoreboards or on any other in-venue visual display or broadcast in its venues. The leagues have deemed such activity to be too closely and visibly inked to the actual lottery process, as opposed to the advertising and promotion of the LGE itself.

Fourth, teams may only enter sponsorship arrangements with government-authorized and operated lotteries. This rule provides leagues with the assurance that the sponsoring LGEs are legal and regulated enterprises, as opposed to off-shore casinos such as GoldenPalace.com and local bingo parlors. This rule thus eliminates the possibility of teams entering into arrangements with gambling-related entities that may at some point come under law enforcement scrutiny.

B. Further Examination of League Rules and Policies

The desire to attract LGE sponsorship dollars has resulted in continuing modifications of the major professional sport leagues' rules and policies with respect to advertising and sponsorship relationships between their leagues/teams and LGEs, particularly within MLB, the NBA and the NHL (the

NFL has maintained the strictest policies against LGE sponsorship for reasons posited below). Because of the structure of league-team relations, in which the league office essentially works for the collective teams, the impetus for rule changes have typically come from the individual teams seeking to "push the envelope" toward greater revenue generation. For instance, although the major professional sports leagues have historically banned LGEs from featuring gambling elements (e.g., dice, chips, roulette wheels) in their in-venue signage or advertising, one NBA team successfully argued that its local LGEs cost of reproducing its broadcast advertising spots and print advertisements would be so cost prohibitive as to prevent the LGE from affording to enter into a sponsorship agreement with the team. Based upon the team's appeal, the NBA revised its policy to allow LGEs to include gambling elements and images of consumers engaged in gambling so long as the advertisements did not "prominently feature" gambling images or activity (the ads, as approved by the league, showed one-third hotel, one-third restaurant and one-third gambling elements) (NBA source, 2003).

Of all of the four major U.S. professional sport leagues, none has remained as vigilantly opposed to LGE involvements as the NFL. One can make the argument that the relative financial stability of its teams, its player compensation system, its typically sold-out games, and its unparalleled television deals generating \$77 million per year to each team, has resulted in a less urgent need to compromise its position on LGE sponsorship (Lowry, 2003). As a result, and in stark contrast to the other major professional leagues, the NFL rules on LGE advertising and sponsorship have remained highly restrictive.

The NFL, for instance, was the last of the major U.S. professional leagues to allow its teams to accept even generic in-stadium or print advertising from LGEs (a policy change enacted by the league in April, 2003) (National Football League, 2003). The policy restricts teams to accepting general advertising only, with no use of club marks or anything resembling a sponsorship, and limits the approved categories to state and municipal lotteries, state and municipal off-track betting organizations and horse or dog racing tracks (with casinos noticeably absent) (National Football League). The NFL rules further prohibit clubs from entering into sponsorships or any other type of promotional program with LGEs that suggest an affiliation with or endorsement of these organizations. Examples of promotional activities involving lotteries, OTB organizations and horse or dog racing tracks that remain prohibited include: the use of club names, logos or colors in advertisements for these LGEs; the sponsorship by these LGEs of games, game-related events or other club-related events; the distribution at games of

products or materials promoting these organizations or their activities (other than generic ads in game magazines); the appearance of club owners, players or other employees in advertisements or at promotional events for LGEs; and the acceptance of advertising of any lottery games that includes a sports motif or theme (National Football League). All forms of advertising from, and all other associations with casinos, touting services, riverboats and other facilities that house or operate gambling activities is strictly prohibited. These rules apply to: club radio shows, television broadcasts (including pre and post-game shows), coaches shows, club magazine shows, the league's official gameday magazine and other club publications, and stadium signage (NFL Owners Meeting, 2003)

The NFL's concern about the perceived association with LGEs was illustrated in the extreme when, prior to the 2003 Super Bowl, the league refused to allow an advertisement for the Las Vegas Convention and Visitors Authority to appear during ABC's Super Bowl telecast (Friess, 2003). Voicing concerns strongly reminiscent of the Congressional hearings in the early 1990s, a league spokesman remarked: "Public perception of the integrity of our game is critical, and this could negatively impact that perception. Las Vegas is one area where the very foundation of its success has been gambling" (Friess, p. 5C). A lawsuit, based on alleged violations of free speech, restraint of trade and antitrust theory, was threatened by Las Vegas Mayor Oscar Goodman, but has to date not been pursued (Friess 2003).

PART III. THE EVOLUTION OF MLB RULES AS ILLUSTRATIVE OF SHIFTING EMBRACE OF LGE SPONSORSHIP

While the NBA and NHL, citing confidentially concerns, declined to release a copy of their league rules and policies regarding LGEs, it is reasonable to assume that, given their increasing involvement in LGEs (detailed in Part III below), their rules and policies have undergone significant alterations in recent years. This section details the evolution of MLB's rules and policies with respect to LGEs as illustrative of the process.

No professional sport league has had a more sullied past with regard to gambling than MLB, whose history of high-profile gambling incidents include the "1919 Black Sox" scandal that resulted in the hiring of Judge Kenesaw Mountain Landis as baseball's first commissioner; the suspensions of Brooklyn Dodgers manager Leo Durocher, and later Detroit Tigers star pitcher Denny McLain, for consorting with gamblers; the banning from baseball-related employment of legends Willie Mays and Mickey Mantle for accepting

employment at a New Jersey casino; and, most recently, the lifetime ban of all-time hit leader Pete Rose for alleged gambling on baseball in violation of Major League Rule 21(d), a rule originally enacted in 1928 and at all times prominently posted in the clubhouse of every Major League team (Ostertag, 1992).

Given its high-profile history of gambling incidents, MLB has historically been among the most vigilant of the professional sport leagues in restricting and carefully monitoring its clubs in their advertising and promotional affiliations with LGEs in their efforts to eliminate the appearance of impropriety. For this reason, the evolution of MLB's policies best illuminates the loosening of sports organization's restrictions on LGE sponsorship. Former commissioner Bowie Kuhn maintained an extremely vigilant stance for MLB during his tenure from 1969-1984. Kuhn prohibited clubs from entering into *any* agreement allowing a state lottery to stage a promotional event in the stadium and similarly prohibited in-game or club-sponsored broadcast sponsorships by state lotteries (Ostertag, 1992). In a tersely worded Memorandum to all clubs in May, 1981, Kuhn reiterated baseball's prohibition against arrangements with local lotteries and other legalized betting enterprises in response to several clubs that were operating in violation of league guidelines, stating: "... these arrangements make Baseball look ludicrous and hypocritical in its continuing opposition to legalized gambling on team sports. . . . The Clubs who are so involved obviously know who they are" (Ostertag, p. 39). In subsequent memoranda, Kuhn prohibited clubs from accepting any form of advertising from casinos, lotteries or racetracks in club publications, on in-stadium message boards or through public address announcements (Ostertag).

MLB's vigilant stance toward LGEs softened with the arrival of Peter Ueberroth as MLB Commissioner in 1985. Known for his business savvy and revenue-generating acumen, Ueberroth began to set a new tone for MLB. In addition to his highly-publicized decision allowing Mays and Mantle to resume their ties to MLB (Martinez, 1985), Ueberroth substantially modified league rules in March, 1985, specifically allowing clubs to accept advertising in any form from a federal, state or provincial lottery, provided only that any such advertising "not include or use Club names, logos, announcers, or personnel or in any way be identified with a Major League Baseball Club or Major League Baseball" (Ostertag, 1992, p. 39). This memorandum also limited the single cash prize amount that the league, its clubs and their affiliated sponsors could award in a promotion to \$50,000 (a restriction that has long since been rescinded with the advent of \$1,000,000 prizes). As stated

in the Memorandum, "It is not in Baseball's best interest to be involved in such programs (offering substantial individual cash awards)" (Ostertag, p. 40).

In 1990, newly-appointed commissioner Vincent, whose staunch and moralistic approach to gambling associations was no doubt fueled by his direct involvement in the Rose scandal, nonetheless chipped away at MLB's historic resistance to LGE sponsorships after lobbying by MLB clubs. For example, an MLB memorandum issued to all clubs in November, 1990 (entitled "Advertisements and Club Promotions Involving Legalized Gambling Establishments"), broke new ground in MLB by allowing clubs to include the logo of LGEs on premium giveaway items in conjunction with promotional event days (Ostertag, 1992).

In March 1995, Commissioner Bud Selig issued a memorandum designed to update, expand upon and modify, as appropriate, all of the prior memoranda of his predecessors. The most significant modifications came in the area of LGE sponsorships involving federal, state and provincial lotteries. Consistent with past MLB regulations, these revisions prohibited the acceptance of lottery advertisements, sponsorships, or promotional events from any governmental authority that allowed, or was seeking to allow, betting on professional or amateur sports (the rules, however, specifically exempted states that engaged in generic baseball-themed games, such as scratch off inning-by-inning "baseball" games) (Major League Baseball, 1995). However, MLB clubs were extended the authorization to use club broadcast announcers and/or stadium public address announcers in connection with in-stadium LGE promotions and to authorize placement of the logo of an LGE on an in-stadium giveaway item that could also include the club logo (Major League Baseball, 1995).

Although in-stadium lottery drawings remained prohibited, MLB granted clubs the opportunity for lottery drawings to be telecast or radio broadcast, winning numbers to be communicated during telecasts or radio broadcasts of club's games, and announcements or "crawlers" to promote a lottery drawing to be held afterwards, so long as they occurred during regular commercial breaks (excluding "lead-ins" or on-air "billboards") (Major League Baseball, 1995, p. 3). While prohibiting the sale or promotional giveaway of lottery tickets at any club's stadium or appurtenant areas (or any other property under the club's control), the rules allowed for such activity if a club's stadium is part of a complex that contained commercial establishments (i.e., bars and restaurants) over which the club held no ownership or other legal authority.

In December 2002, in response to its clubs' increasing desire to enhance LGE sponsorship benefits, MLB again altered its rules. This memorandum, again intended to supercede all prior memos on LGE involvements, defined LGEs to include

all entities that are engaged, directly or indirectly, in legalized gambling operations, including, without limitation, casinos, Jai Alai Frontons, horse or dog race tracks, off-track betting organizations, gambling enterprises operating on riverboats and Indian reservations, and bingo parlors, as well as all entities or governmental authorities that own, operate, oversee or otherwise exercise any ownership or managerial control over any such entity. . . (Major League Baseball, 2002, p. 1).

The memorandum further defined "Permitted Lotteries" as including "any federal, state or provincial lottery that does not offer, promote or have any involvement, whether direct or indirect, in any form of sports betting" (Major League Baseball, p. 1).

MLB's rules with respect to federal, state or provincial lotteries currently provide that clubs

may enter into advertising, sponsorship and promotional arrangements . . . and [lottery] advertising, sponsorships, promotional events, and promotional materials (including premium items that contain a lottery logo) may contain, involve, or use Club names, logos, telecasts or broadcasts (or excerpts thereof), announcers (including announcer "lead-ins" or on-air "billboards"), personnel or mascots. (Major League Baseball, 2002, p. 2).

However, notwithstanding the foregoing,

in no event may: (i) [a lottery] game or promotion be related to or contingent upon the outcome of a sporting event; (ii) Club names, marks or logos appear on actual lottery tickets, games or game cards, (iii) baseball tickets be used as prizes for lottery sponsorships or promotions (provided, however, that cash prizes are permissible in connection with such arrangements); or (iv) lottery ticket stubs be used in connection with lottery sponsorships or promotions (e.g., discounts on baseball tickets or Club merchandise). . . . (Major League Baseball, p. 2)

With respect to other casinos and other LGEs, the memorandum provides that

. . . no [casino] advertisement, announcement, sponsorship, promotional event or material, game or game card shall contain, involve, or use Club names, logos, telecasts or broadcasts (or excerpts thereof), announcers (including announcer "lead-ins" or on-air "billboards"), personnel or mascots . . . , or be identified in any way

with a Major League Club or Major League Baseball. . . ." (Major League Baseball, 2002, p. 3).

The memorandum adds that

(i) Clubs may accept advertising from, and allow sponsorships of giveaway items or involvement in promotional events by, [casinos]; and (ii) Clubs may use Club broadcast announcers or stadium public address announcers in connection with in-stadium promotions and authorize the placement of the logo of the [casino] on an in-stadium giveaway item that also contains a Club logo. . . . (Major League Baseball, 2002, p. 3).

The December 2002 memorandum to MLB clubs reflected several significant changes to Selig's earlier memorandum. For instance, MLB's current rules allow for lottery drawings, "crawlers" promoting upcoming lottery drawings held afterwards, and for communication of winning lottery numbers during telecasts or radio broadcasts within the game itself. The prior rules had allowed such activity "only during regular commercial breaks." The new rules also eliminated the earlier provision prohibiting the use of the word "casino" in advertisements, sponsorships and promotional events. Furthermore, they eliminated the prior stipulation that agreements for advertising, sponsorships or promotions with casinos not exceed a term of one year or include any option or renewal clauses exercisable by the casino.

With respect to lotteries, MLB's new rules, while continuing to prohibit the use of baseball tickets as prizes in sponsorships and promotions, provide that cash prizes are permissible in connection with such arrangements. Furthermore, prizes in team-related sponsorships and promotions with LGEs may include gambling establishment room nights, restaurant vouchers and other non-gambling business incentives. Finally, clubs are permitted to "post signage on the premises of Legalized Gambling Enterprises publicizing future Club events and promotions" (Major League Baseball, 2002, p. 4). Each of these new rules has served to enhance the sponsorship opportunities for LGEs and thus create more incentives for LGEs to contract with MLB teams.

PART IV - EMERGING TRENDS AND ACTIVITIES INVOLVING

No form of LGE involvement is more direct than team ownership. In a first for American sports, and requiring the sanctioning of NBA Commissioner Stern, the Connecticut-based Mohegan Sun Resort and Casino purchased a team in the Women's National Basketball Association ("WNBA") in January, 2003 (Bondy, 2003). The team moved from Orlando, Florida, and was

renamed the Connecticut Sun. The team plays its home games in the Mohegan Sun Arena, located adjacent to the casino with entrances approximately 30 yards from slot machines and roulette tables. When asked about potential concerns regarding the Mohegan Sun ownership of the franchise, WNBA President Val Ackerman stated:

I would just say, we're comfortable with it. We care that there is no sports book [at the casino]. That's important. And by law, there won't be. They have other forms of gambling activities and those forms of gambling activities are largely legal in most of the country. . . . We do have an existing rule – and Mohegan has agreed to comply with it – that puts limitations and prohibitions on the co-promoting of the gambling activities with the basketball activities. . . . A number of our teams, in fact, have had associations with organizations that have gambling. The opportunities for sponsorship involvement by LGEs have significantly broadened over the past few years. activity. So this is not new territory for us. . . . But I guess this has come up in the context of questions relative to the family element. I don't want to speak for all parents, but I have no qualms about taking my daughters to Mohegan Sun to spend a week or go see an event or go see the WNBA play. It's not an issue for me as a parent. I'm hopeful that other parents have the same view (Doyle, 2003, p C3).

Recent activities of the NBA, NHL and the Arena Football League also shed a new light on the marriage between professional sport and LGEs, particularly with respect to lotteries. By way of background, the expansion of federal, state and provincial lotteries resulted in a corresponding growth in the number of sports-themed lottery games (e.g., scratch-and-win games), some of which offered professional team-related prizes through generic messaging. One example is a "Grand Slam Game" in which consumers matching random baseball events, such as Grand Slam homeruns, win cash prizes or trips to sports championship events. The popularity of sports-themed lottery games (many of which constituted, in essence, attempts to capitalize on the popularity and brand loyalty of the local sports team) recently resulted in the NBA, NHL and the AFL breaking substantial new ground in terms of associations with LGEs.

In January 2002, through a narrowly-carved exception for two of its financially-strapped Canadian teams, the NHL authorized the Calgary Flames and the Edmonton Oilers to enter into a marketing partnership with the Alberta lottery (Girard, 2002). The "Breakaway to Win!" lottery offered a prize of \$90,000 plus four tickets to Game 4 of the Stanley Cup finals, as well as

secondary prizes including season tickets and autographed player jerseys. After paying out \$3.5 million in operations and prizes for each round of the lottery, the teams were entitled to split the profits up to a maximum of \$1.5 million per team (in its first season, the revenues generated to the team fell woefully short of this amount) (Girard, 2002).

New ground in LGE sport sponsorship was forged again in 2002 when the NBA and sister-league WNBA became the first U.S. professional sports leagues to license the use of their team logos to state lotteries by entering into a multi-year deal with MDI Entertainment, a global leader in licensed lottery games and promotions ("MDI entertainment. . .," 2002). In addition to cash prizes, the lottery games offer a variety of NBA and WNBA merchandise and experiences as secondary prizes. New Jersey, Indiana, Wisconsin, California, and Washington, D.C. were among the early-adopters of these NBA-licensed lottery games ("MDI entertainment. . ."). For example, during the 2003 season, each of the seven teams in the NBA's Pacific Division appeared on \$2 tickets that offered payoffs between \$2 and \$10,000, with second-chance drawings that included a trip to the 2004 NBA All-Star Game ("MDI entertainment. . ."). MDI's deal with the NBA and WNBA permits the sale of lottery tickets inside their venues, as well as the free distribution of lottery tickets to fans attending NBA and WNBA games as part of promotional days sponsored by the local state lottery (Farrey, 2003).

In July 2003, the NHL followed the NBA's lead by also entering into a licensing arrangement with MDI, pursuant to ownership-approved rules that were amended in part to address the previous Calgary Flames/Edmonton Oilers exception ("Minnesota launches. . .," 2003). The first NHL-licensed state lottery game was launched in November of 2003 with a "\$3 NHL All-Star Game" scratch game offering cash prizes of up to \$20,000 as well as merchandise and tickets to the 2004 NHL All-Star Game in Minnesota ("Minnesota launches. . ."). Similar to the NBA arrangement, MDI pays a licensing fee to the league (not a percentage of the lottery game revenues). State lotteries have the option of conducting an NHL-licensed game collectively using six or more team logos on scratch-and-win tickets (typically with a hockey thematic, such as match 3-in-a-row for a "hat-trick"), which the league itself can approve, or using one individual team and its logo. In the case of the latter, the government-run lottery deal must be pre-approved by the local team on lottery tickets, necessitating some level of sponsorship spending with the team. This requirement serves to drive new sponsorship revenues to the team, generate an increased level of sponsorship spending with the team, and/or induce the lottery to design their advertising to promote the team, thereby increasing the team's overall advertising presence within its market.

Similar to the NBA's arrangement with MDI, NHL teams are permitted to sell and/or distribute free lottery tickets to fans in-arena (subject to all applicable state lottery laws), a promotional tactic that would have been heresy only a few years ago (S. Cohig, personal communication, October 2, 2003).

In December 2003, the AFL joined the lottery craze, signing a three-year licensing agreement allowing MDI Entertainment to market instant lottery scratch tickets featuring logos, themes, marks and designs of the league, and with league approval, specific AFL teams and events ("Lottery games to run. . .," 2003).

In January 2003, another potential ground-breaking event occurred in the marriage of LGEs and sport organizations when the NHL Calgary Flames announced that it had applied to the Alberta Gambling and Liquor Commission to build a casino inside the city-owned Pengrowth Saddledome that could generate millions for the hockey club (Wilton, 2003). In defending the proposal, Kings president Ken King stated: "I believe we are well within our rights to seek to do it, as much as if we were building another food facility or another entertainment element" (Wilton, 2003, p. A7). Although this casino-within-arena proposal faces hurdles from opponents, this development, along with the licensing of league logos to state lotteries (discussed in greater detail below), again illustrates a growing dependence of professional sport organizations upon LGEs as a source of revenue.

PART IV – LGE SPONSORSHIP OF PROFESSIONAL SPORT ORGANIZATIONS: A ROLL OF THE DICE?

The growing marriage between U.S. professional sport organizations and LGEs is premised, one can argue, on a mixed message. On the one hand, professional sport organizations decry gambling as a threat to the integrity of sport. On the other, they embrace advertising and sponsorship from LGEs that promote gambling. As a result, more and more fans of all ages, are being daily exposed, both in-venue and through sports media coverage, to commercial messages designed to promote gambling entities and activities. For instance, children attending a Boston Celtics game are exposed throughout the game to signage for Mohegan Sun. Sports fans over 18 can visit their local convenience store and purchase a NHL-themed lottery ticket and scratch for a chance to win a trip to the NHL All-Star Game. Fans attending a baseball game can go home with a team cap sponsored by the local Indian casino. Scenarios such as these raise serious questions regarding the cause-and-effect role that professional sport organizations may be playing in promoting not only gambling generally but, by extension, sports-related gambling. It also

raises questions regarding the extent to which professional sport organizations may be "rolling the dice" in so closely aligning with LGEs, while at the same time preaching gambling as the gravest threat to the integrity of its games.

Claussen & Miller (2001) suggest that the integrity of our sports contests may become increasingly compromised by the growing incidence of sport-related gambling among adolescents, college-aged students and even, ultimately, professional athletes themselves. For instance, in June 2003 Washington Capitals (now New York Rangers) hockey star Jaromir Jagr admitted he ran up a \$500,000 debt betting on sports events five year ago with an off-shore gambling website (Weir, 2003). Indeed, in recent years, there has been an alarming increase in the number of professional and amateur athletes admitting to either frequenting gambling establishing and/or incurring substantial gambling debts (Farrey, 2003). Furthermore, several studies have found an alarming increase in the number of collegiate athletes who are gambling on sporting events, including their own contests, as a result of the anonymity and ease provided by on-line gambling entities (Kindt & Asmar, 2002).

In what should also be of particular concern to professional sport organizations, a 1999 poll of Americans found that only 26% believed that it should be illegal for adults to bet on sports events, 10% did not know, and 64% would legalized sports gambling (Carey & Bryant, 1999). Furthermore, a more recent poll conducted in 2003 found that half of Americans aged 16 and older have placed a bet on sports in the past 12 months, a total estimated at 118 million people betting on sports, including office pools, gambling with friends, horse-racing and casinos (Keating, 2003). This poll also found the following:

- 52% of Americans believe that some sports are fixed, including 60% of regular bettors (32% think that the NBA is fixed, 24% think college basketball is fixed, 23% think baseball is fixed);
- Nearly 40% of the U.S. population believes that "betting is a big problem in our society" and about 3.5 million Americans believe they have a sports-gambling addiction;
- Nearly two-thirds of people in their 20s believe betting on sports is "no different" than buying a lottery ticket, while 41% see Internet sports betting as "perfectly harmless";
- Support for the legalization of sports betting nationwide peaks, at 46%, among teenagers (Keating, 2003).

As suggested by Claussen & Miller (2001), "the potential attraction that sport gambling holds for youth and the easy availability of Internet sports gambling, added to the addictive potential of gambling, should challenge policymakers to begin to make greater efforts to address this problem" (p. 359). The U.S. professional sport leagues' acceptance and endorsement of LGE sponsorship adds a new dimension to this argument, as well as the possibility of legislative action at some point in the future.

For instance, concerns over the growing prevalence of sports gambling, particularly among adolescents and college students, has begun to spawn legislative action in the form of pending bills including "The Student Athlete Protection Act" (2003), designed to prohibit high school and college sports gambling in all states including those in which such gambling is already permitted. Furthermore, concerns over the increase in illegal internet sports gambling has spawned the "Internet Gambling Funding Prohibition Act" (2003), which was introduced into the Senate in March, 2003, designed to prevent the use of certain payment instruments, credit cards, and fund transfers for unlawful internet gambling. The Senate Banking Committee approved this bill unanimously in July, subsequent to the House passing a similar bill, and is currently awaiting a vote before the full Senate (Weir, 2003).

Thus, it is evident that Congress, as well as social action groups such as the National Coalition Against Legalized Gambling (NCALG), are becoming increasingly vigilant in attempting to publicize and address the negative societal and personal ramifications and costs of gambling (NCALG). As these costs grow more widespread, it is possible if not likely that the marriage between professional sport organizations and LGEs will likewise attract greater scrutiny. The potential for governmental action would be premised on issues similar to those raised with respect to tobacco advertising and sponsorship within sport that resulted in the FDA's banning of brand-name tobacco sponsorship in 1997 (Matthews, 1998; Patrick, 1997). Whether potential legislative action designed to ban LGE sponsorship of professional sport organizations would pass First Amendment muster is, as well, fodder for future academic research.

In the meantime, as the marriage between professional sport organizations and LGEs continues to thrive, we are left with the words of Maryland Congressman and former NBA star Tom McMillan who suggests that, as sport organizations move forward with LGE involvements, they "may find out whether it was decades of anti-gambling zealotry or mere coincidence that kept its games clean (from gambling scandals) all these years" (Farrey, 2003, para. 30).

CONCLUSION

In explaining their growing involvements with LGEs, U.S. professional sport organizations have sought to fashion a "bright line," staunchly opposing sports betting on their contests while at the same time embracing LGEs as a by-product of an increasingly accepted form of social behavior. However, this "bright line" raises numerous issues that should be of longer-term concern to professional sport organizations. For instance, one commentator, suggesting that MLB's long-held rules against gambling associations have become "a casualty of economic reality," has stated that "[p]erception counts for a lot, and baseball can't assume a high-falutin' moral stance on one hand while drawing fine distinctions on the other. To the average fan, gambling associations are gambling associations, and every exception erodes the firewalls" (Crasnick, 2003, p. 4). It should be of growing concern to stakeholders whether U.S. professional sport organizations, through their embrace of LGE associations are, wittingly or unwittingly, help fuel problem gambling, particularly among young fans. It should also be of concern to stakeholders whether the proliferation of sports gambling may ultimately impact the integrity of our games. As Maryland Congressman McMillan suggests, if such LGE associations continue, "all you need is one major incident and you can do tremendous damage to the integrity of sports. I think that's a risk factor that professional sports . . . need to take a look at" (Farrey, 2003, para. 31). Ultimately, it may be incumbent upon Congress to take that look.

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