

THE COMING REVENUE REVOLUTION IN SPORTS

JACK F. WILLIAMS*

I. State of the Business of Sports 671

II. Traditional Sources of Revenue..... 673

 A. National Football League (NFL) 673

 B. Major League Baseball (MLB)..... 676

 C. National Basketball Association (NBA)..... 679

 D. Other Revenue Sources 680

9. Fan Blogs (with advertising)..... 691

10. Gaming..... 691

IV. Fantasy Leagues..... 693

 A. History of Fantasy Leagues 694

 B. The Right of Publicity 696

 C. First Amendment Issues 701

 D. The Four Toms 702

V. Observations 706

Along with the U.S. population, [sports'] fanbase has grown enormously in the last half century, as new professional leagues sprouted, media mushroomed, and professional sports became thoroughly assimilated into the entertainment industry. Fans are the geese who have laid the golden eggs for pro athletes, team owners, sports broadcasters. Meanwhile, that same flow of cash has altered the relationship between spectators and the contests. A newfound distance, which can verge on alienation, separates the audience from athletes and teams. Choices made within the sports and political establishments over the next few years may determine whether pro sports' dizzy growth continues, or if those golden orbs will turn into goose eggs.¹

Sports as a business has matured at an accelerating pace in the past two decades.²

been at the vanguard of the revenue revolution, allowing a level of fan interaction that has changed how we think about sports and the successful sports business plan. Traditionally, the sports market consists of gate revenues for live sporting events; rights fees paid by broadcast and cable television networks and TV stations to cover those events; merchandising, which includes the selling of products with team or player logos; sponsorships, which include naming rights and payments to have a product associated with a team or league; and concessions. Currently, other revenue streams such as internet, satellite, or mobile phone subscriptions to sports events or programming are transforming sports into programming content designed as a means to secure greater revenue. These new sources bring with them a host of legal, financial, and business issues that will challenge our understanding about fundamental aspects of property law, privacy, publicity, and value. This paper will discuss both traditional and non-traditional revenue sources, the legal and business implications they create, and the need for a new business paradigm to address these issues and harness the new synergies the leveraging of existing and future technologies present.

I. STATE OF THE BUSINESS OF SPORTS

Sports is big business.⁴ Its present structures and attributes are well known.⁵ The sports industry includes: (1) sports entertainment, (2) sports products, and (3) sports support organizations. The focus in this article is on the sports entertainment sector. That sector includes professional and amateur sports teams and tournament sports. This article will focus on sports teams within leagues and will not address directly tournament sports, which provide similar but significantly different issues and challenges in this area. The sports entertainment sector is comprised of various firms (i.e., clubs) that join together in leagues to provide similar, well-defined products and services (i.e.,

⁴ *Id.* E

some form of competition, media, merchandise, etc.) through similar production methods (i.e., play the game).⁶

Sports is among the largest and fastest growing industries both in the United States and abroad. An excellent source that taps into the pulse of the industry as a whole is the Street & Smith's Sports Business Journal Annual Survey.⁷ In the S&S Annual Survey one finds some eye-popping numbers. For example, the sports business industry generated over approximately \$213 billion in revenue.⁸ That makes the sports industry twice the size of the automobile industry.⁹ The S&S Annual Survey further breaks down the source of revenues. These sources include advertising at \$27.43 billion; endorsements at \$897 million; sporting goods at \$35.62 billion; facility construction at \$2.48 billion; internet at 239.1 million; licensed goods at \$10.50 billion; media broadcast rights at \$6.99 billion; professional services at \$15.25 billion; spectator spending at \$26.17 billion; sponsorships at \$6.4 billion; medical spending at \$12.6 billion; travel at \$16.06 billion; multimedia at \$2.12 billion; gambling at \$18.90 billion; and operating expenses (other than travel) at \$22.98 billion.¹⁰

Although not the focus of this article, the manufacture and sale of sports equipment and clothing shares a symbiotic existence with sports entertainment. Thus, sales of sports equipment and clothing may serve as a reasonable barometer of sports enthusiasm. That enthusiasm, if captured effectively and efficiently by the various professional leagues, may translate into revenues. According to the National Sporting Goods Association, sales for all athletic and sports clothing for 2002 were almost \$10 billion.¹¹ Additionally, sales for athletic and sports equipment were over \$21 billion.¹² Moreover, receipts from spectator sports events for 2002 were over \$1.5 billion.¹³ These numbers, among other data, suggest that large

6. WILKOFSEY GRUEN ASSOC., GLOBAL ENTERTAINMENT AND MEDIA OUTLOOK: 2005-2009: FORECASTS AND ANALYSIS OF 14 INDUSTRY SEGMENTS (6th ed. 2005).

7. Street & Smith's Sports Business Journal, <http://www.sportsbusinessjournal.com/index.cfm?fuseaction=page.feature&featureId=43> (last visited May 31, 2006).

8. . . .

9. . . .

10. . . .

11. . . . : 1999-2002,7(2002001BehKic 3s2d7(Y)Absansctf)5e vaTJ-2.19(0)5.B

2006]