



Sport Update

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It's an internet revolution

The most dramatic changes in sport and sport broadcasting are coming via the internet. Larger sports may wish to take advantage of the opportunities offered by the internet in terms of showing highlights and updates, and interaction with fan bases. Smaller sports however, may find the opportunities of even greater assistance in terms of expanding exposure to their sports.

For example, Euro 2008 will be shown online in Poland by Netia telecommunications company and the national broadcaster is reported to be negotiating another online deal with a much larger Polish telecommunications company. The National Hockey League has launched a broadband media service, NHL Network Online, which will offer The Hockey Show, daily updates on the NHL, live events and original programming from the NHL, and highlights. Major League Baseball has agreed a three year deal to offer games on the internet portal, Yahoo. Fans in eleven countries, including the UK and Germany, will be able to access games live and on demand on MLB.TV via Yahoo Sports.

Sports with less global exposure are also getting on board. The Professional Darts Corporation ("PDC") has announced plans for a competition which will be broadcast exclusively on the internet. The Championship of Darts will be aimed at an online and betting audience. The UK-based digital sports media company, Perform, is partnering with the PDC in launching the event. Perform has already developed Championship League Snooker for the internet. While some sport leagues and governing bodies are taking action against the video sharing website YouTube (See *Beauchamps Sport Update Volume 8*), the international archery federation, FITA, has launched its own channel on YouTube, cancelling its subscription broadband channel, archery.tv. YouTube has offered a wider audience for the sport and its channel has received a record number of views. Euroleague Basketball has also begun a YouTube channel, offering highlights and interviews. The channel will not show live footage because the league is continuing with its broadband channel, Euroleague.TV.

The General Association of International Sports Federations ("GAISF") is working on a plan to launch an internet portal for its sports federation members, numbering over 100, to enable the smaller sports to gain video exposure without having to pay for such exposure. The portal will provide an opportunity for exposure for smaller sports and highlights for the larger sports which carry live coverage on their own websites. Patrick Baumann, the secretary general of FIBA, is leading the project on behalf of GAISF. GAISF is currently in talks with possible partners, such as Google and Samsung, for providing the technology and helping with funding.

Mobile phones are also providing new opportunities for sports leagues. UEFA has begun offering news, results and standings via mobile phones in a preliminary launch, awaiting feedback from users. In some territories users can also subscribe to a video or text goal alerts service. Whether this service will garner much success remains to be seen. In the recently published 2008 Digital Entertainment Survey it is reported that live sporting events rank sixth in a list showing interest in on-demand content, with newly released DVD movies coming in first. Recorded sporting events ranked sixteenth. Almost 80 percent of respondents said they never use their mobile phones to stream or download sports clips. However, in the UK, over half the respondents would likely be willing to pay for live sporting events.



Specifying “specificity of sport”

Dutch and French ministers have released a joint declaration in an attempt to provide a definition, on an issue by issue basis, of the “specificity of sport”. The ministers are asking sports bodies to provide criteria in relation to the three issues mentioned in the joint declaration, which could be endorsed and approved by the member states and the European Commission in order to clarify the status of sport. The new EU Treaty acknowledged the specificity of sport but did not grant it special status in law as sport federations had hoped. In particular, the joint declaration focuses on the three issues of training and education, governance of sport, and players’ agents. The declaration is seeking, for example, for team sports, a minimum of homegrown players on each team in order to encourage clubs to invest in educating and training local youngsters. The declaration also recognises that the formation of a licensing system by the international federations or stricter European provisions for financial control of clubs is crucial to good governance.

Developments in the fight against ticket touts and ambush marketers

The Scottish Parliament is currently at the consultation stage for the Commonwealth Games Bill, which was introduced on the day Glasgow was awarded the Commonwealth Games. The Bill focuses on ticket touting and ambush marketing. While there are already legislative provisions in Scotland requiring re-sellers to disclose the face value of any tickets for sale and criminalising the causing of annoyance by touting and refusing to desist when asked by the police, the Bill makes someone selling in public, or selling with the intent of making a profit, guilty of touting. The Bill also gives enforcement officers the power to search premises and to purchase tickets to discover prices. eBay expressed concerns that it could be charged with an offence if someone sells tickets for profit on its website. There is an exception for such intermediaries where they could not be expected to know the intention of the third party. But Ministers have retained the power to make regulations specifying when the provision of electronic services constitutes a touting offence. The Bill also looks to protect official sponsors by restricting any advertising and street trading within the vicinity of the Commonwealth Games.

Meanwhile the UK government has proposed a list of “crown jewels” events in relation to ticket touting. Tickets for these events would be banned from resale in order to limit profiteering. Such events would include Wimbledon and major rugby matches. Currently only soccer and Olympic tickets cannot be resold in the UK. As the problem of ticket touts and profiteering is a problem in Ireland as well as the UK, the Irish government may wish to consider a scheme similar to this. Tickets for sporting events designated for “Free to Air” broadcast under the Broadcasting (Major Events Television Coverage) Act 1999 (Designation of Major Events) Order 2003 might be a useful starting point.

Battle of the kits

Nike and Adidas are at it again. Nike, having failed to replace Adidas as kit supplier for the German international football team, successfully set its sights on the French football team. The battle between the two sportswear companies increased the value of the contract to €42.7 million per year, making it the most lucrative deal of its type. The Brazilian Federation, CBF, caught wind of this deal and is now demanding renegotiations of its terms with Nike. The CBF claims that the two parties previously agreed to review the terms of their deal if and when Nike signed another major international sponsorship contract. Elsewhere, Nike’s kit deal with the Rugby Football Union was extended for four years in a deal worth £13 million. Nike will supply the kits for all England’s men’s teams as well as the English women’s team. Meanwhile, Nike is suing Adidas and Zheng Zhi, captain of China’s national soccer team and member of English second-tier club Charlton Athletic alleging that, by wearing Adidas clothing, Zheng breached an agreement signed in 2003 to act as brand ambassador for Nike. Adidas and Zheng are claiming non-payment by Nike. Adidas, meanwhile, has won a ruling from the European Court of Justice (“ECJ”) protecting its three-stripes brand. The ECJ ruled that clothing with two stripes infringed Adidas’ trademark, ruling that future cases involving other striped brands must be based on the public’s perception of the goods.



And now a word from our sponsors...

Insurance company, RSA, will sponsor the Irish men's senior, A and under-19 cricket teams as well as the Irish women's cricket team. The Irish Derby has signed a five-year sponsorship deal with Dubai Duty Free, replacing Budweiser. The international governing body for equestrian sports, FEI, is launching a special eventing series to be sponsored by international bank HSBC, which recently became the FEI's exclusive financial services partner. Dutch financial institution Rabobank, which is active in Ireland, has been named the largest spending sports sponsor in the Netherlands. The bank has invested €20 million in cycling, equestrian sports and field hockey each year while local Rabobank branches spent a further €20 million on regional events. Heineken is the second biggest spender at €22.5 million a year.

... and about responsible sponsorship

The European Sponsorship Association ("ESA") has brought the process of self-regulation to the world of sponsorship by setting up a pan-European complaints procedure for sponsorship. Any public concerns about sponsorship will be heard and adjudicated independently with the ESA joining forces with the European Advertising Standards Association in Brussels ("EASA"), which spent fifteen years setting up self-regulation in advertising in each European member state. Representatives from EASA and ESA, along with an independent person, will make up a Joint Sponsorship Arbitration Panel to adjudicate on any complaint. The Panel will take into account national situations and local expert opinions.

In the spirit of responsible sponsorship (no pun intended), Carling are self-regulating by removing its logo from children's replica shirts of Rangers and Celtic in an attempt to increase awareness for responsible drinking. The move is pre-emptive in light of the upcoming enforcement of a ban on alcohol advertising on children's sports replica shirts. Adult replica shirts will still carry the Carling branding.

Club held accountable for its fans

In the recent case of Olympiacos Sports Club of the Water Polo Team of Piraeus ("Olympiacos") v Ligue Européenne de Natation ("LEN"), the European governing body for water polo, CAS determined that clubs may be held responsible for and can be disciplined for the actions of their fans. The case arose out of altercations between Olympiacos supporters and Serbian fans at the Euro League Final Four. CAS upheld a previous decision by LEN to sanction Olympiacos for the incident pursuant to the Rules and Regulations of LEN. Olympiacos was aware that a number of the Greek supporters were listed as potential troublemakers but did nothing in this regard. CAS agreed with LEN that Olympiacos should have been more proactive in working with the organisers.



Canadian athlete pays for following nutritionist advice

A Canadian arbitration panel determined that Serge Despres, a Canadian bobsleigh athlete, was to be sanctioned after testing positive for nandrolone or its precursors after ingesting a supplement even though the supplement in question was to help recovery and not enhance performance, and had been recommended to him as free from any prohibited substance. Despres met with a sport nutritionist who was contracted by Bobsleigh Canada Skeleton ("BCS") to discuss food and supplements which might help repair an injured hip. Despres asked at a health foods store about the recommended supplement to make sure it was free of prohibited substances. With the recommendation of the sales person and the nutritionist, Despres assumed it would be an acceptable substance. The panel followed the CAS decision *Knauss* in which an athlete's sanction for ingesting a contaminated supplement was reduced. The Canadian panel noted that whether negligence is "significant" for the purposes of sanction reduction depends on "the actual facts of each case, an analysis of the totality of the relevant evidence, and the principle of proportionality. In addition, the fundamental principles that underlie the anti-doping program must be maintained." Despres did not choose the supplement for himself and was not looking to enhance his performance but to help recover from injury. However, he was not deemed to be free from fault or negligence entirely. The panel emphasised that an athlete has a positive duty to ensure that no prohibited substances enter his body. In *Vencill*, the CAS panel stated that for an athlete to rely on advice of friends and product labels regarding supplements and vitamins is a type of wilful blindness. Despres asked the sales person and not an independent party. He did not contact the manufacturing company, or seek out any independent information regarding the supplement and he did not discuss the matter specifically with the nutritionist. However, the steps he did take, the fact that he did not choose the supplement himself and the fact that it was to be used for recovery rather than performance enhancement satisfied the panel that he just barely met the standard for "no significant fault or negligence". The panel reduced his ban from the sport from twenty four months to twenty months.

Winning with a bang?

Coaches and players have long held the belief that abstinence before a match leads to success, but this may be just a myth according to researchers. There is a belief that refraining from sexual activity will increase aggression and energy. However, it has been shown that sexual activity actually increases testosterone and, therefore, aggression. It has also been shown that sexual activity does not affect aerobic power the next day, nor is there any effect on mental acuity. Not to disappoint you, but the average couple burns the same amount of calories during sex as they do walking up a flight of stairs. There is no information on how many calories you burn if you have sex whilst walking up the flight of stairs.

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