



# Sport Update

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## New focus of anti-doping

In Canada, the Canadian Centre for Ethics in Sport (“CCES”) has announced (on April Fools’ Day no less) that Genevieve Jeanson, a now retired cyclist, has been found to have committed an anti-doping rule violation by repeatedly using Erythropoietin (“EPO”) throughout her cycling career. A 12-month investigation was conducted by the CCES into allegations she made during a radio interview in 2007. A cyclist using EPO, what’s newsworthy about that we hear you say? The case has a number of aspects which demonstrate the revised focus of the anti-doping drive under the 2009 World Anti-Doping Code (“Code”). Both Ms. Jeanson’s coach and her doctor were given lifetime bans, while she herself received a 10-year ban, along with permanent ineligibility for federal funding.

Ms. Jeanson is 27 years old and has retired from cycling. The reduction of her ban from a lifetime ban to a 10 year period of ineligibility is indicative of the leniency offered under the new Code where an athlete assists the anti-doping organisation in an investigation into doping. Ms. Jeanson began taking EPO when she was 16 years old and the lifetime bans imposed on both her coach and her doctor demonstrate the increased sanctions which can be imposed on athlete support personnel who are involved in the administration of a prohibited substance or who assist in it in some other way, particularly in the case of minors. Another trend that this case evidences is the new focus on investigations and other non-analytical methods of stamping out doping.

However, the case also highlights one of the key difficulties for governing bodies and doping authorities. Although the doctor and coach have been banned from cycling for life, what does that really mean and how can it be enforced? In the case of athletes who are found to have committed a violation, the governing body can ensure that the athlete does not take part in events sanctioned by it during his or her period of ineligibility. In the case of athlete support personnel such as doctors or coaches, it is not so simple. While such doctors and coaches can be banned from the stadia at which sporting events take place, how do you stop or police the private relationship between an athlete and a doctor or the athlete and his or her coach? In another Canadian case, swimming coach Cecil Russell received a life ban (incidentally, he also confessed to helping a steroid peddling colleague burn a murder victim’s body in a silo beside his home) for being involved in a major drugs ring. Despite the ban, Russell has been coaching his son Colin Russell who appeared at last year’s Canadian Olympic swimming trials. The coach’s lawyer has claimed that he still has the right to work with his local swimming clubs as a ‘consultant’. Commentators have agreed that a potential way to tackle this difficulty is to sanction clubs, teams or athletes who engage with banned doctors or coaches.

## Tackling touts

The organiser of the 2010 Winter Olympic Games in Vancouver, the Vancouver Organising Committee (“VOC”), has commenced legal action against a ticket tout company in order to prevent the re-sale of tickets by the company. As in Ireland, ticket touting is not illegal in Vancouver. The VOC alleged that Coast2Coast Tickets is misleading consumers by claiming to have official Olympic tickets for sale. As the company is not an official Olympic sales agent, tickets which are sold through the company could be cancelled by the VOC. The VOC is using copyright and trade mark law and consumer protection legislation in order to pursue the ticket tout company. Everyone who purchases a ticket through official channels signs up to a ticketing agreement which includes restriction on selling the tickets for an amount above face value. In this regard, the VOC does not plan to go after individuals who re-sell tickets, but wants to crack down on sponsors and national Olympic committees who breach this ticketing agreement by putting tickets on the black market. The intention is to revoke or reduce the ticket allocations of sponsors and national Olympic committees who breach the ticketing agreement.



## And now a word from our sponsors

There has been some comment regarding the use of public money for sports sponsorship by financial institutions in receipt of Government money. Interestingly, Bank of America chief Kenneth Lewis has moved to defend spending on sports sponsorship insisting that it can be justified, even in an economic slowdown. He claims that sports sponsorship is effective in generating sales and profits for companies. He said "I was never inclined to pump big sums of money into sports marketing until I saw the facts and the numbers. In general terms, for every dollar we spend on sports marketing, we get 10 dollars in revenue and 3 dollars in earnings." That would explain the continuing spend on sports sponsorship then. He defended any charge of bias by saying he doesn't even like sport.

Bank of America is in receipt of billions of bailout dollars from the US Government and is the sponsor of America's National Football League, Major League Baseball and NASCAR motor racing. Bank of America had been involved in negotiations for the naming rights deal to the redeveloped New York Yankee Stadium, but has put an end to those negotiations. Also in the US, CitiBank has received a lot of criticism over its 20-year \$400 million naming rights deal for the new baseball stadium of the New York Mets. But if the Bank of America chief is right, maybe we should all invest in Citibank...

German authorities have proposed a ban on programme sponsorship on public service broadcasters ARD and ZDF. However, sport looks set to be exempted from the proposed ban. The ban must be seen in the context of a continuing debate in Germany over the level and function of the licence fee (one that seems to be going on in Ireland as well) in a continuously evolving and fragmenting broadcasting world. The ban means that programme sponsorship (except sport) will not be allowed after 8pm Monday to Saturday, or at all on Sundays. German regulators have recognised that programme sponsorship is sometimes tied to the acquisition of top sports rights and allowed sport the exemption.

Magners has extended its title sponsorship of rugby's Magners League for two years until May 2011. The 2009/2010 season will also see the start of a play-off structure for the Magners League. This is an interesting match-up - rugby is not generally a summer game and cider (whether you want to call it Bulmers or Magners) is often considered a summer drink and has taken a hit over the past number of summers with the seemingly never-ending bad weather. Also, negotiations between Celtic Rugby Limited (the Magners League tournament organizers composed of representatives of the various Unions involved) and the Italian Rugby Federation are ongoing regarding the inclusion of Italian teams in the Magners League. The board of Celtic Rugby Limited has given its approval to two Italian teams taking part commencing in the 2010/11 season. It will obviously involve extra fixtures and the existing teams have made it clear that there must be commercial value to the deal and no decrease in current revenue streams. Ultimately, the Italians will have to bring in a TV partner. Meanwhile, in a story totally unrelated to sponsorship, a complaint to the Advertising Standards Authority in the UK regarding a Magners advert has been upheld. A television advert depicted a man walking into a pub (this isn't a joke). The voiceover says "The perfect ice-breaker. Making sure the conversation flows, in the time it takes to create a cool, crisp pint. No ice, just pure, premium taste". A single viewer complained that the advert suggested that an alcoholic drink could boost confidence and lead to social success. Advertising suggesting products give us certain characteristics totally unrelated to the product, really?

Speaking of booze, owners of teams in American football's National Football League are reported to be considering dropping their ban on alcohol sponsorship. Due to the economic slowdown, the team owners are discussing permitting alcohol and lottery sponsorships. That's right, when things get tough turn to the booze and gambling!

## Aussie ambush

Does anti-ambush marketing legislation work? According to the Australian Government, the answer is yes. It has released a report on the effectiveness of the legislation used in relation to the staging of the Commonwealth Games in Melbourne in 2006 and in relation to legislation protecting the Australian Olympic Committee. The two pieces of legislation under review were the Melbourne 2006 Commonwealth Games (Indicia and Images) Protection Act 2005 and the Olympic Insignia Protection Act 1987. The results of the review were based on interviews with the various stakeholders as well as with governing bodies not protected by similar legislation. In relation to the 2006 Commonwealth Games, no adverse ambush marketing activity was found to have occurred and a changing perception of the ethics of ambush marketing was cited in the report. Other governing bodies would like similar legislation to cover their sports, but this does not appear likely in relation to most other governing bodies, as the cost of major sporting events are inevitably contributed to by Governments to some degree, but the cost of ordinary tournaments and competitions run by most governing bodies do not come out of the Government purse so....you can draw your own conclusions.



## Bidding for major sporting events

Aside from back-slapping and political manoeuvring, what can a sports governing body do to maximise its chances of winning a bid to host a major sporting event? This is the subject of a recent research paper by Dr Geoff Walters of the Birbeck Sports Business Centre in his paper entitled "Bidding for major sporting events; key issues and challenges faced by sports governing bodies in the UK".

It is available at the following link - [www.sportbusinesscentre.com/researchpapers](http://www.sportbusinesscentre.com/researchpapers). What are the key issues that arise? One key issue is Government support. Depending on the scale of the event, it can be almost impossible to win the bid to host a major sporting event if a sports governing body doesn't have support from its Government. Aside from financial support, it is also important that Government provides a legal framework for the organisation of major events which may include legislation relating to street trading, advertising, ambush marketing and ticket touting. Tax arrangements can also be important. It is understood that the UK and the US are the only two major nations that levy tax on overseas athletes endorsement income. This is suggested to be one of the reasons why Sergio Garcia decided last year, out of all the tournaments held in the UK, to only compete in the British Open. Interestingly, golf's World Match Play Championship had been played at Wentworth annually since 1964, but due to a number of leading players missing the event in 2007, the tournament sponsor HSBC withdrew from its 10 year contract and the 2009 event has relocated to Marbella in Spain. Visas and the migration of the athletes involved in the sporting event can also be a key issue. Perhaps the main issue is the cost of both the bid and hosting the event. The high cost of preparing a bid for a major tournament or event raises questions as to whether it is worth a national governing body committing significant financial resources to a bid, particularly if the other elements are not in place. This is not to mention the cost of actually hosting the event and securing the necessary funding. An issue linked to generating funding is the ability to secure commercial sponsorship, as it can help to raise awareness of an event and increase its profile. A number of issues arise in this context. Many small sports do not attract significant TV interest, even for a major international event. This makes it more difficult to attract commercial sponsors. It is international federations who retain the sponsorship and commercial rights to an event and so the sports governing body will generally have little opportunity to negotiate with commercial sponsors. The lesson? It is essential to have all your ducks in a row when preparing a bid for a major sporting event.

## Warren fails to burrow himself out of trouble

Recently retired former world champion boxer Joe Calzaghe, has won a High Court case against his ex-manager and promoter Frank Warren. Calzaghe claimed £2 million in unpaid fees, while Warren counterclaimed that Calzaghe owed him £1 million for breaking a verbal contract by which he agreed to take part in one more fight. Calzaghe denied making any such promise to Warren and the judge found that there were aspects of the evidence given by both parties that caused him to question their credibility, accuracy and reliability. He concluded that if an oral agreement was reached, some written record would have been created prior to the fight in question and on that basis he found that no oral agreement was reached. He found that written terms had covered all of Calzaghe's fights from 1998 onwards and felt it was inexplicable that an astute and experienced businessman failed to produce one shred of paper to record the alleged deal. The lesson? Don't rely on oral agreements and do enter a formal written contract every time.

March was a great month for Irish sport and saw Bernard Dunne win a world bantam-weight title in a helter-skelter fight with Ricardo Cordoba. Dunne's promoter Brian Peters pulled off something of a coup by bringing a world title fight to Dublin in the first place, but he also managed to get Cordoba to sign up to the fight without a re-match clause, something which is largely unheard of in boxing circles. Boxing in Ireland is almost entirely reliant on terrestrial television. Under Brian Peters' contract, RTE is obliged to use Peters for all professional boxing it shows, but Peters is not tied to RTE and can negotiate with BSkyB, BBC or whoever else he chooses. This only applies to fights shown in Ireland.



## TV listings

The UK government is conducting a review of the 'listed events' legislation which ensures that certain sporting events must be aired on free-to-air television. As you might expect, there are two sides lobbying strongly. The BBC has argued that there are millions of 'main-eventers'. These are people who tune in for big international matches and tournaments, or the water-cooler moments like Wimbledon or the Grand National. It is claimed that having these events on pay-per-view television would mean that many of these people would be lost to sport. The BBC argued that you would not have 42 million people in the UK watching the Olympics if they had to pay for the privilege. The BBC is expected to argue for expansion of the list to cover the Lion's Rugby Tour and golf's Ryder Cup. BSkyB on the other hand is set to argue for pay per view television to be allowed to broadcast live coverage of events such as the Olympics and soccer's World Cup. Unsurprisingly, BSkyB is arguing that the rights holders are best placed to decide how to promote their sport and argue that there is no evidence that sports lose their visibility and appeal as a result of being shown on pay-per-view television.

## It takes two baby

The words Swedish and swimsuit in the one sentence usually cause a stir and this story is no different. Swedish swimmer, Therese Alshammar, has had her world record at the Australian Championships in Sydney revoked after being found to have broken Swimming Australia's rules. How? She wore two swimsuits. She is the first swimmer to be disqualified under new rules introduced by Swimming Australia last year. Traditionalists have argued that wearing two swimsuits allows a swimmer to gain greater compression and buoyancy. While independent tests were unable to find any significant evidence of this, a recent flood of world records led to technology becoming a big talking point in swimming. Last year saw an amazing 108 world records, 79 of them by swimmers wearing the Speedo LZR Racer.

Swimming's international federation, FINA, has agreed to introduce new rules on the length, thickness and buoyancy of competition swimsuits. The new rules will apply in competitions from the 1<sup>st</sup> January 2010. FINA has decided that swimsuits should not cover the neck, nor extend past the shoulders or ankles and should have a maximum thickness of 1 mm and a maximum buoyancy effect of 1 Newton. It's fairly straightforward really.

## Falling on deaf ears

Golf is a good walk spoiled, but apparently it's also now bad for your hearing. Doctors at Norwich University have warned that titanium drivers cause a sonic boom and protection should be worn (for your ears when using a titanium driver). The Ping G10 is said to have reached 130 decibels. This is somewhere between the equivalent of a jet engine and a gunshot. All joking aside, this will inevitably result in claims and manufacturers and golfing authorities may wish to consider how to take proactive steps to reduce any potential liability.

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