
CHAMBERS GLOBAL PRACTICE GUIDES

Sports Law 2024

Definitive global law guides offering
comparative analysis from top-ranked lawyers

Contributing Editor

Jamie Singer
Onside Law



INTRODUCTION

Contributed by: Jamie Singer, Nathan Chambers and Flora Peel, **Onside Law**

Onside Law has been at the forefront of sports law for nearly two decades, and has offices in Geneva and Sydney in addition to its London HQ. Specialist advisers to clients across sport, media and entertainment, the firm provides practical and effective legal and commercial advice. Its team of 26 in London – supported by Geneva and Sydney – is able to provide the most informed advice needed in this increasingly complex and sophisticated sector. Onside Law prides itself on being seen as trusted advisers and problem-solvers by all its clients. It acts

for many of the major governing bodies and international federations, counts six FA Premier League clubs as clients and acts for some of the most high-profile sports people on the planet. Onside Law's specialist areas include disciplinary, integrity and anti-doping; major sport events; broadcasting and media rights; sponsorship, licensing and merchandising; investment in sport; acquisition of sports clubs and properties; and esports. The firm would like to thank James Tobias for his contribution to this chapter.

Contributing Editor



Jamie Singer is a founding partner of Onside Law. He qualified at Clifford Chance and joined IMG in 2000, working as principal legal adviser to IMG's tennis, sponsorship and models

divisions. Jamie advises on a wide range of commercial, intellectual property, governance and regulatory matters across the sports and entertainment industries. His advice on commercial rights spans sponsorship, media rights, licensing, image rights and talent management. His regulatory practice focuses on integrity and match-fixing cases, often appearing before the Court of Arbitration for Sport in Lausanne. He is recommended as a leading expert in all of the legal directories.

Co-authors



Nathan Chambers is an associate at Onside Law, having spent time at the firm as a trainee on secondment from Accutrainee. Since joining Onside, Nathan has been

involved in a range of contentious, commercial, employment and corporate matters. He is also well versed in various football governing body regulations and has advised various agents on how to prepare for the FIFA Football Agent Exam.



Flora Peel is a paralegal at Onside Law, working across the corporate, commercial and litigation teams. Flora has assisted numerous clients across all sectors, including the ECB, West Ham and World Rugby. Away from work, Flora plays professional hockey for Great Britain, allowing her to incorporate much of her knowledge from the pitch into a legal context.

INTRODUCTION

Contributed by: Jamie Singer, Nathan Chambers and Flora Peel, **Onside Law**

Onside Law

642A Kings Road
London
SW6 2DU
UK

Tel: +44 20 7384 6920
Fax: +44 20 3627 4555
Email: Jamie.singer@onsidelaw.co.uk
Web: www.onsidelaw.co.uk



The Growth of Sports Law

Not so long ago, judges and academics scoffed at the suggestion that there was such a thing as “sports law”. There may have been a burgeoning sports industry, but it did not generate its own substantive body of law. Perhaps the idea that something as frivolous as sport could generate its own jurisprudence did not seem possible or even appropriate to a rather conservative judiciary.

With those commentators now clearly part of ancient history, Chambers publishes its fourth Sports Law Global Practice Guide. Sports law is now not only an internationally recognised legal discipline in its own right, but has also generated a significant body of legal precedent. In particular, it provides a crucial framework for the operation and regulation of an industry that has grown at an astonishing pace.

Dispute Resolution

As sport as a business has developed, the contracts underpinning its commercialisation have become ever more sophisticated and the rules which governing bodies impose to control and regulate their sports have had to continually adapt. With higher value contracts and more detailed regulation, as with any industry, disputes have become both more common and more complex.

The first specialist court to hear sports-related disputes was created in Lausanne, Switzerland in 1983. Since then, the Court of Arbitration for Sport (CAS) has heard over 8,000 cases and expanded with further outposts in the USA and Australia. It has also created ad hoc divisions to provide quick resolution to “on-field” disputes at many of the world’s most significant sporting events. This demand for specialist dispute resolution for sport has in turn led to the creation of national bodies which exclusively serve the sports community, ranging from Sport Resolution in the UK to the National Sports Tribunal in Australia.

With the extraordinary growth in the financial value of football and, in particular, football transfer deals, not only has FIFA (*Fédération Internationale de Football Association*) created its own dispute resolution chamber, but this has spawned domestic equivalents with many national football dispute resolution chambers. Some standard transfer agreements now even refer to the “laws of FIFA”.

All of these tribunals and courts have contributed to a rich source of jurisprudence whose foundations remain the many decisions that have been published by CAS. This body of case law, taken alongside the rules and regulations underpinning international sport, has created the

INTRODUCTION

Contributed by: Jamie Singer, Nathan Chambers and Flora Peel, **Onside Law**

Lex Sportiva, a distinct international body of law specific to sport.

This guide summarises the key principles of sports law in 14 jurisdictions. Each jurisdiction is reviewed following the same 12-section format with sub-sections, allowing for easy comparisons on specific issues and concerns. It is designed to provide an easy-to-understand guide specific to each jurisdiction, whilst also demonstrating how certain areas of practice have reached a near homogenous position internationally.

Anti-doping Rules

By way of example, as a result of the International Olympic Committee's (IOC) support for the World Anti-Doping Agency (WADA) and its requirements, anti-doping is regulated and enforced in much the same way across the globe through the WADA Code. The Code was revised in 2009, 2015, 2021 and 2022, providing a robust and uniform set of anti-doping rules applied by all 206 nations comprising the Olympic movement. In September 2023, WADA launched the first phase of the 2027 WADA Code & International Standards Update. This will involve the simultaneous review and update of the Code.

Betting

Conversely, the regulation and exploitation of sports betting differs significantly in different jurisdictions. In the USA, prior to the Supreme Court decision in *Murphy v NCAA* (2018), sports betting was generally prohibited. That decision marked a sea change in American sports and over 34 states have now legalised sports betting. This, in turn, led to a flood of data and licensing deals between sports leagues and betting companies looking to offer accurate real-time betting services. In 2022, US sportsbooks revenue hit USD7.5 billion, an increase of over 75% from the previous year.

France took a similar position, reserving sports betting to *Francaise des Jeux*, a heavily regulated state monopoly throughout the 20th century and beyond. It is only in the last decade that, following pressure from the EU, France set up the National Gambling Authority with a remit to grant sports betting licences to carefully selected commercial operators.

At the other end of the spectrum, sports betting in the UK has been an integral part of the commercial landscape for decades, with betting sponsors now accounting for 35% of the front of shirt sponsors in the English Premier League and a total investment of almost USD72 million. However, as the USA and France liberalise sports betting, in the UK a review of the Gambling Act 2005 has begun to restrict betting sponsorship of sport, with a ban of these industry deals coming into force in the 2026–27 season. Meanwhile, jurisdictions such as India continue to treat sports betting as, principally, an illegal activity.

Commercial Rights

The exploitation of sport's commercial rights has been one of the biggest growth industries of all in the past 25 years or so. In 2023, the sports industry has been estimated to be worth over USD500 billion according to the Business Research Company, a huge figure compared to its value at the turn of the millennium and despite the impact of the COVID-19 pandemic and ongoing war in Ukraine disrupting the economy.

As this guide demonstrates, different countries take different approaches to the creation and ownership of the sports rights creating this extraordinary value. In the UK and the USA, there is no standalone right in a sporting event or spectacle. Hence, the rights are exploited by a combination of commercial contracts, rights of access and a variety of intellectual property

INTRODUCTION

Contributed by: Jamie Singer, Nathan Chambers and Flora Peel, **Onside Law**

rights. Conversely, in France, event organisers enjoy automatic rights in the sporting spectacle itself, owning and controlling the commercial rights flowing from the events they organise.

However, regardless of how sporting rights accrue, their exploitation is very much an international business. The contracts granting broadcasting, sponsorship, merchandising and licensing rights are now carefully tailored industry-specific documents ensuring the vagaries of national regulatory systems do not devalue the international nature of their exploitation.

Termination of commercial agreements continues to be the subject of significant debate. The war in Ukraine has led many right-holders to consider whether contracts can be terminated where brands are simply based in or linked to Russia. There are also a few examples of sponsors attempting termination of contracts with clubs due to player behaviour. For example, Kurt Zouma's mistreatment of a cat led to sponsors arguing they were entitled to terminate contracts with Zouma's employer, West Ham.

Disputes will invariably follow as the interpretation of "reputation-based" termination rights are scrutinised.

Broadcast Rights

Traditionally, broadcast rights have been the most valuable of these commercial rights. The IOC generates over USD4 billion in its four-year cycles capturing summer and winter versions of the Olympics. FIFA have a similar aggregation model, with one men's World Cup every four years generating nearly USD3 billion, and the women's World Cup now generating more than USD570 million, for example. In these cases, such figures constitute well over half of their income. The contractual framework and legal system underpinning their exploitation has had

to withstand the constant evolution of the means of production and distribution as well as, latterly, the viewing platforms available for consumption. Broadcasting now encompasses multiple techniques for delivering a feed to a consumer and requires a suite of specific contracts to paper those transactions.

The effects of the COVID-19 pandemic within the sports industry continue to live on, albeit with much less severity. Due to the hardships suffered in the primary COVID-19 years, the industry continues to adapt to ensure any future pandemics come at a smaller cost. Commercial contracts and particularly force majeure clauses have been scrutinised, with the future of some of these organisations resting on how a "boilerplate" clause was drafted. The force majeure clause will now be a key element of commercial negotiation rather than an afterthought, as was often the case before. The consequences of COVID-19 and the interpretation of affected contracts will fuel litigation and disputes for years to come.

The Question of Insurance

Insurance is another area coming under scrutiny and development as a result of the pandemic. The All England Lawn Tennis Club (AELTC), owners of the Wimbledon Championships, were praised for their foresight as one of the very few organisations to have taken out event cancellation insurance which specifically included cancellation due to a pandemic. Their acumen ensured the protection of their financial position, despite cancellation (and in turn protected the share of profits which England's tennis association, the Lawn Tennis Association (LTA), relies upon). Going forward, insurance will be a key consideration for legal and finance directors, although the increased premiums will reduce the pool of event organisers who can even consider it.

INTRODUCTION

Contributed by: Jamie Singer, Nathan Chambers and Flora Peel, **Onside Law**

Freedom of Goods and Services

In Europe, COVID-19 is not the only major event that sport has had to navigate in the last few years. In December 2020, the European Union Withdrawal Act was passed by the UK Parliament and the UK left the EU on 1 January 2021. An immediate impact has been felt with regard to the transfer of professional athlete contracts, particularly in football. The fundamental principle of the free movement of goods and services within EU countries was critical to the operation of the football transfer system, as well as to many other sports. Those systems are having to adapt to the new reality and it will be interesting to see how they fare.

Since early 2022, we have been seeing the devastating consequences of the war in Ukraine also affecting sport. Initially, this led to many federations banning Russian and Belarusian teams from competition and withdrawing hosting rights – also affecting individual athletes across the world in all disciplines of sport. Already, Russia has launched numerous appeals at the CAS, which will have the difficult task of putting emotion aside to consider the legality of actions taken under the relevant constitutions and rules of participation.

The Future Awaits...

The events of the last few years have seen and will continue to see significant additions to the Lex Sportiva. It appears that 2024 will see sport continue to grow at rapid speeds, with fans keener than ever to experience the passion, atmosphere and excitement that sport has to offer. As lawyers supporting this industry, we hope this guide assists in navigating the challenges ahead.

CHAMBERS GLOBAL PRACTICE GUIDES

Chambers Global Practice Guides bring you up-to-date, expert legal commentary on the main practice areas from around the globe. Focusing on the practical legal issues affecting businesses, the guides enable readers to compare legislation and procedure and read trend forecasts from legal experts from across key jurisdictions.

To find out more information about how we select contributors, email Katie.Burrington@chambers.com