

PROFESSIONAL SPORTS

Reprinted from March-April 2021 • Volume 12, Issue 1

and the

LAW

Jenner & Block's Sussman Discusses Trends in Pro Sports and the Media

Having spent more than 25 years in legal and leadership positions at some of the most prominent companies in the media industry, as well as served as general counsel and chief operating officer of the New York Yankees, David W. Sussman is uniquely qualified to assess media rights trends in the professional sports industry.

So recently, we sought out the Jenner & Block partner, who is a member of the firm's Content, Media & Entertainment Practice, to get his take in the NFL's recently announced record-breaking deal with traditional and streaming media companies. His interview follows.

What is your take on the NFL deal and its meaning?

For all stakeholders involved in all sports, this is a sign that sports are alive and well, COVID notwithstanding.

The dimensions of money just invested in the NFL is proof of the pent-up demand, even a craving, for sports.

You could argue that the NFL is in its own category because the revenues are always higher than the other major sports, which is undeniable. But the doubling down of the payments of the rights holders reflects a rising tide of the interest levels, certainly for broadcasters and hopefully for fans as well.

The mix of the rights fee buyers is also indicative of the breadth of the distribution interest. So, it's a great sign for all sports generally. It's a very positive statement.



David W. Sussman

How much was sports betting a factor?

Sports betting is clearly a factor. For example, the day the *Murphy* case was decided, Mark Cuban proclaimed that sports owners just saw the value of their franchises double. His sentiment (but we'll see about his math) is correct. Opening the door to legalized sports betting is another reason for fan engagement.

While sports betting had been going on before, the legalization of sports betting increases its proliferation. Marrying legal sports betting with large media companies is going to increase fan access to betting and their enjoyment of it.

It will be interesting to see as the other major sports renew their deals if they follow the NFL's deals, and if they approximate the same magnitude increase, it will reinforce the notion that sports betting is an engine.

You can look at the bet that the broadcasters have made as significant, when

you consider that less than half the states have legalized sports betting. We are still waiting on New York (which is very close), California and Texas and if they legalize sports betting, that could be something of a tipping point from the standpoint of the broadcasters, since it will confirm the wisdom of their investment.

Will this lead to more litigation?

This has been an ongoing question for the leagues. On one hand, the leagues want to grow revenues for team owners and grow access of to the game to fans.

But they have entrenched relationships with rights holders. That's the dilemma. How do you continue to provide great content to consumers, who now have access content across a myriad of platforms, an increasing number of which are provided direct-to-consumer? These are not the three or four cable companies or broadcasters we grew up with.

That complexity and disruption will lead to opportunities for some and litigation for others. While this increased supply of sports content is great for consumers, it will create business opportunities for lawyers. Disruption will lead to frustration. The rights are no longer linear. They're interactive. They're digital. And there will be new platforms. There will be more litigation.

Everyone will be trying to adapt to a new business model. It's really hard to identify who the losers are because there are so many winners. ■