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## The Future of Sports

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# Jeffrey S. Moorad Sports Law Journal Symposium

## THE FUTURE OF SPORTS

As society changes, so do our pastimes. The 2019 *Jeffrey S. Moorad Sports Law Journal* Symposium—The Future of Sports—examined *The Future of Sports* and how the industry is evolving to respond to societal and fan demands. Thoughtful and critical conversations were had, and insights came from the brightest minds in the industry. We were honored to be joined by athletes, industry experts, and attorneys. The Symposium continued to elevate the high-standard of sports law symposia at the Villanova University Charles Widger School of Law, and remained one of the marquee events that the University puts on.

Interview with Michael Rubin

**Interviewer:** Jeffrey Moorad

**Interviewee:** Michael Rubin, Executive Chairman of Fanatics and co-owner of the Philadelphia 76ers and New Jersey Devils

This year, the Symposium began with a one-on-one interview with one of the most prominent figures in the business of sports, Michael Rubin. As the Executive Chairman of Fanatics, one of the most successful sports merchandising companies in the world, and co-owner of two local professional sports teams, he joined us to share his personal story and shed light on the direction the business of sports and sports law is headed in.

**Jeffrey Moorad:** Hello again. Michael Rubin glad to have you here. You know, I know often, people have these like long introductions and, you know, they try to, you know, come up with clever ways to introduce people. I decided I'm going to let you introduce yourself. Why you here?

**Michael Rubin:** Villanova dropout.

**Audience:** (laughs)

**Jeffrey Moorad:** Villanova dropout. That's a good . . .

**Michael Rubin:** How, how's that for succinct? To the point? Haven't been back here since I, I was thinking about it, 1990. I went here for about six weeks. This is my first time back.

**Audience:** (laughs)

**Jeffrey Moorad:** Well that's good, I'm glad you're back. I'm glad you came back to the law school. You know this is the other side of the tracks, but . . .

**Michael Rubin:** I could of . . . but I would've been here for a week, max. I could've never made it six weeks here.

**Audience:** (laughs)

**Michael Rubin:** Zero chance.

**Jeffrey Moorad:** And you don't employ lawyers now or anything, right?

**Michael Rubin:** No, we actually have an act to employ as many lawyers as possible in all of our companies. We've always been very good at that. I always create a little drama that gets extra lawyers employed as well.

**Jeffrey Moorad:** That's good.

**Michael Rubin:** Yeah.

**Jeffrey Moorad:** That's good. So you're a Philadelphia kid?

**Michael Rubin:** Well I live today about, between three and four minutes from here.

**Jeffrey Moorad:** Oh.

**Michael Rubin:** So, it's a long journey. This was my longest commute ever to speak with a group of people. So, thank you everybody. And I grew up in Lafayette Hill, about fifteen minutes from here.

**Jeffrey Moorad:** Nice. And entrepreneur blood in- in you from the beginning, I assume?

**Michael Rubin:** Definitely. And I'm one who actually believes it's something you're born with or you're not. So different people can think of it different

ways, but I really believe it's either in you or it's not. And for me I was, you know, it was the only thing I was good at. I was a terrible student. As I just displayed by saying I went here for six weeks. I was a terrible athlete, as you can see when you look at me.

**Audience:** (laughs)

**Michael Rubin:** And, I was good at one thing, I was always good at business. I actually, my last memory of Villanova, and I was just thinking about it, I remember sitting in the parking lot every morning. The phone was like, you know, a brick, this, the mobile phone you had then. I would be on the phone. I'd be buying and selling closeout footwear because that was my business when I was eighteen years old when I went to Villanova. And I really never made it to class, but I was in that parking lot back there.

**Audience:** (laughs)

**Michael Rubin:** I made, I was in that parking lot for hours a day for the six weeks that I went here.

**Jeffrey Moorad:** That's awesome. Sounds like my experience. I sold law school outlines out in the parking lot.

**Audience:** (laughs)

**Michael Rubin:** Any customers?

**Jeffrey Moorad:** Huh?

**Michael Rubin:** Any customers?

**Jeffrey Moorad:** Oh yeah.

**Michael Rubin:** Good.

**Jeffrey Moorad:** Oh, the first-year students were scared out of their minds.

**Michael Rubin:** I hope you weren't selling the grades, or the . . .

**Jeffrey Moorad:** Yeah right. It wasn't so . . .

**Michael Rubin:** You could go to jail for that. You could go to jail for that these days.

**Jeffrey Moorad:** (laughs) Exactly. So, so, talk about risk taking. Talk about, you know, your tolerance, it may be different than others, for truly playing out entrepreneurship.

**Michael Rubin:** Yeah, look, I'm a big believer that you need to take risks in business to accomplish big things. I think there's a . . . so many people have so many good ideas, but they're actually scared to act on them. For me, I'm almost opposite. I almost act too quickly. So I think that you want, you know, I think the difference between me today and me thirty years ago is I'm more calculated in the risks that I take. But I think taking risks is absolutely critical to getting big results in business, and I think you can see that in, really my entire, work to date, and you know, I'm just getting started. My entire work to date, you know, I think we've taken big risks in so many of the things that we've done. And by the way, I fail all the time. And that's fine. Like, I kind of, I was just saying to somebody yesterday, like I still like failing. Like, you fail, you figure out what went wrong, and then you figure out how to turn that into the next success. People, so many people are scared to fail, and if you're scared to fail, you're not going to do anything.

**Jeffrey Moorad:** Yeah.

**Michael Rubin:** So, you know, to me, you just gotta go for it and, you know, put more W's on the board than you put L's on the board.

**Jeffrey Moorad:** No, I agree. That's a great, great philosophy. So, talk to us about the vision of Fanatics. Obviously, you've become best known for Fanatics. It's not all you've done in your business career, but you know, tell us about how that evolved, how you got involved, and you know, how the company has taken shape over the years.

**Michael Rubin:** Yeah, so, well let me maybe back up. So, my old company, GSI Commerce, that's where we

started the licensed sports business. And, we started that business in 1999. eBay acquired it in 2011, and I bought back Fanatics in 2011 from eBay. They didn't want to own any inventory, any businesses that owned inventory. So, I bought the business back. It was about a \$250 million business in 2011. What I knew from running GSI Commerce, from 1999–2011, was that retail was changing dramatically and there were two companies that were changing retail dramatically. It was Amazon and Alibaba. And these two companies were sucking up more than all of the growth of retail growth. So whatever retail's growing, Amazon and Alibaba were sucking up more, you know, they were sucking up that growth plus even more. So, I had a huge respect for these two companies, and it made me realize that if you're going to be in e-commerce, if you don't have a completely differentiated business model, you should literally go home, close shop, quit, and find a new career. And there are so many people in e-commerce that have tried to be undifferentiated, and they're selling the same shit as Amazon, and they really have no reason to be.

And so, when I bought back Fanatics in 2011, I'd say it was in the same camp, that it really wasn't differentiated. It sold the same product that was commonly available, and so we believed the way to really win in e-commerce against, Amazon and Alibaba, and by the way, this came from a complete respect and admiration for Amazon and Alibaba, was that you need to completely differentiate what you do. So, we basically believed there were two things we had to do. One, we had to verticalize the business. And to verticalize the business, that means you design, develop, and sell to consumers what you make. And that's not what most people do in retail, okay? That's kind of like what an H&M does, it's what a Gap does, it's what a Lululemon does, but it's not what a Toys

R Us did, or a Sports Authority or, Best Buy does today. And so, my belief was you had to be vertical, and that whatever you sold that wasn't vertical, it had to be exclusive, that you couldn't find it commonly available.

So today, the company has gone from \$250 million in 2011—2010— the year before we bought it. This year it'll be about \$2.5–2.6 billion, and of the nearly, you know, ten times in sales, I'd say, in 2010, maybe two-percent or three-percent of our business came from our own products, and today, it's probably on track to be about two thirds next year. So, it's gone from two-percent or three-percent to kind of call it, you know, sixty-five to seventy-five percent of the business, our own products. And that differentiation is what's given us this great moat that most people in e-commerce don't have and can't succeed against Amazon and Alibaba.

And so for me, it was, I think we had the right vision up front, to be able to sell exclusive product that wasn't going to be commonly available, you know, throughout the internet, and that's been, a big reason for our success. Now what's the end result? Fans get a much broader assortment of merchandise today. So, fans are winning, the leagues and teams make a lot more money from this business than they used to make under the old model, and they're taking all of the customer data that they have from this big business. We have like 40 or 50 million customers today. All the teams and leagues are using that to better communicate with their fans. And so, fans get a much better experience, the leagues and teams make a lot more money, and we actually have a business model that's actually a great long-term business, versus we'd be having a little bankruptcy sale sign above us if we didn't do this. So, complete change over the last seven or eight years.

- Jeffrey Moorad:** So, for the audience's benefit, describe what you sell.
- Michael Rubin:** Yeah. So, how many people in this audience are sports fans? See some . . . okay. Whosever not, we got to convert you guys immediately. By the way, Sixers playoffs start tomorrow, so we . . . Anyone who's not a sports fan, we're going to have an introductory program for the Sixers. It begins tomorrow for the playoffs. So, we sell, if you think about, in the NFL, where's Brian Westbrook? His jersey, which we sold millions of dollars-worth of his jersey. We would sell that jersey. We sell today, you know, Tom Brady jerseys. We sell Carson Wentz jerseys. We sell really anything in sports, whether it's an NFL jersey, a Sixers t-shirt, you know, if you're a sports fan and you go to NFL Shop, NBA Store, MLB Store, we power and operate all of these stores, and we operate the flagship Fanatics stores, so any time you buy licensed sports merchandise online, a lot of that merchandise comes from our company.
- Jeffrey Moorad:** So today, the brand Fanatics actually means something as well. So, I drove by the Audi stadium down in D.C. the other day, like, "Whoa. There's the Fanatics logo up there." So, I mean, tell me how that, you know, has evolved as a philosophy to brand with Fanatics.
- Michael Rubin:** Yeah, so I think, when we started, we started with the five leagues' e-commerce rights. So, if you look back to when I bought the business back in 2011, we owned the NFL Shop, the NBA Store, NHL Store, MLB Store, and Nascar's e-commerce business, and that was the \$250 million-dollar business. What we recognized first, we were only in pro sports. We wanted to get into college, so we bought this little company called Fanatics, which kind of did what we did in pro sports, they did in college. And then we said, you know what, we want Fanatics to kind of be, you know, kind of



be the super site, have everything that we sell. And so today, Fanatics is actually our biggest site. Of the \$2.5 billion dollars that we'll do this year, that's probably about one third of our business goes through the flagship Fanatics site. And Fanatics is also the biggest brand of merchandise that we sell. The Fanatics brand is about a third of what we sell. But we also, we make, and a lot of people don't know this. We make Under Armour licensed products. We make Nike licensed products. So today, I'm starting next year, in the NFL, in major league baseball, any time you buy a Nike baseball jersey from the Padres, or you buy an Eagles NFL jersey, that's all being made by us as well on a completely vertical basis.

**Jeffrey Moorad:** Got it. Tell us about "v-commerce." What is it, what's it mean, and what's it going to mean going forward?

**Michael Rubin:** Yeah, so "v-commerce" is really what I was talking about before. It's being vertical. And again if you think about what are the best retail . . . If you just look, forget about e-commerce. If you think about what's going to work in retail over the next decade or two, it's going to be companies that aren't selling commonly available merchandise. Because if you have a commonly available product, you're going to go to Amazon, or if you live in China, you're going to go to Alibaba, which is, you know, Tmall there, and you're going to search for that product, you're going to buy it from their site. So, what v-commerce is about, is really being about vertical. So, the best comparison I can give you again is, I think about Lululemon. I think about H&M. I think about Zara. I think about, you know, companies that they create their own brand and they're vertical. And I believe the difference between those companies and what we're doing, and we're really the leader of v-commerce online, is that we're primarily through e-

commerce. So, if you started a new H&M in 2019, you wouldn't start it with opening thousands of stores. You'd do it through the internet. And what we did, we said, "Look, we're going to build this highly vertical business, but we're going to do it through the internet." So today, seventy-five to eighty percent of our sales go through the internet, where somebody like an H&M or a Zara, or a Uniqlo or a Gap probably does ten to twenty percent of their sales. And so, it's v-commerce, but it's driven through the internet.

**Jeffrey Moorad:** So how do you battle the behemoth, Amazon?

**Michael Rubin:** Yeah, it's again what I said before. It's very straightforward, which is, if you try to battle Amazon by selling the same stuff that Amazon sells, you should literally like, give up. It is a . . . You cannot win that battle, and so many people . . . I have so many people come to me and say, "We got this great idea, I want-" Anything, if the products you sell are commonly available by Amazon or Alibaba, they are going to beat you like, the best . . . And I just had this conversation. I have a friend of mine who owns a multi-billion-dollar retail business. I had this conversation last week, and you know, the business has not been doing well. They told me all the things they were going to do to fix the business. And I looked at him, I said, "I love you. Literally sell your business today, liquidate your inventory, shut your business down, and run away." Because every year it's going to get worse and worse and worse. And they looked at me like I had seven heads, and I said, "You're going to thank me if you listen to me, because I can tell you all you're going to do is lose all of your money if you keep trying to stay at this."

So, if you're not differentiating, highly differentiating, you can't win in retail. And whether it's retail in physical stores or e-commerce, you have to be completely differentiated with the

product that you're selling and the experience that you have.

**Jeffrey Moorad:** So how does the new Nike agreement with NFL and MLB play out, and how does it impact fans around the world?

**Michael Rubin:** Yeah, so we started, when we started getting vertical, the first thing we did was get the rights to make fan gear. So it was, you know, how do we make a Sixers hoodie, or how do we make a Padres or, you know, Eagles t-shirt? And so, we started with fan gear, and we did all of that under the Fanatics brand. And then what happened was the leagues recognized that they had this relationship with the performance brands, like Nike, Adidas, and Under Armour, and it was a really important relationship, but they were essentially great at one part and not as good at the other part. The part they were great about was the marketing aspect, like you know, a Nike, Adidas, Under Armour, these were great marketing partners that brought great value to the NFL, the NBA, MLB. To have them on the court, on the ice, on the field. But they actually weren't great at monetizing the licensed sports business, at making sure they covered every fan in the merchandise. So, what the leagues did was they split the rights into two parts versus one. One, they figured out who's the best performance brand to work with to market their sport and to, and to have the right arrangement with, from a marketing perspective. And then they'd bring Fanatics in to monetize the transaction. So, starting next year in all of baseball and all of the NFL, everything that's manufactured, everything that has the Nike brand, will be, manufactured by Fanatics in a vertical basis. So, whether we're selling Fanatics merchandise or Nike merchandise, we're making that merchandise on a vertical basis. So, a league like the NFL or Major League Baseball, they go out and

they sell the marketing rights to Nike and the merchandise rights to us.

**Jeffrey Moorad:** Nice.

**Michael Rubin:** And by the way, the great thing for fans, and how does it really affect fans, is a much broader assortment of merchandise because we wake up and go to bed every day obsessed with how do we grow the licensed sports business. And that's why we've gone from \$250 million dollars in 2010 to, \$2.5–2.6 billion dollars in 2019, and so we're figuring out, how do we, you know, quadruple the business over the next decade. And, you know, Nike and Adidas and Under Armour, they woke up and said, "How do we leverage these marketing partnerships to sell more branded apparel and footwear?" which is the primary reason they did it. So, the leagues were incredibly smart for splitting these rights into two sets of rights and having us figure out how to leverage those rights to really grow the licensed business and having the performance brands really be able to market those sports.

**Jeffrey Moorad:** So, I guess that plays into my next question. You're a disruptive company. You have been over the time you've been involved with it. What's left to disrupt? Where do you go from here? What's Fanatics look like in the future?

**Michael Rubin:** Yeah, so I'd say, I still look at Fanatics as just getting started, and I really feel that way. I mean, we've been, you know, we've only been at it for seven or eight years I think. My goal is to get this to a \$10 billion dollar plus company over the next decade, you know, we're still eventy-five percent smaller than that. I think there's huge growth in college. We're just really getting into that business and we're taking kind of a vertical model into the college space today. We are just starting to expand globally. You know, we've got a small but fast-growing soccer business. You know, what we

call football here, everywhere else in the world but America. So huge opportunities there. I think, we're now working . . . We have a global marketplace strategy, where we're taking the assortment of merchandise we have and putting it in every global marketplace throughout the world, so we think that's a big opportunity. So, I'd say for Fanatics, you know, while we've had nice growth to date, I feel like we're just getting started.

**Jeffrey Moorad:** Great. So, let's shift gears. Talk about sports team ownership. You've dabbled.

**Michael Rubin:** Yeah.

**Jeffrey Moorad:** You've had a little fun, I assume.

**Michael Rubin:** I'll let you know when the playoffs are over.

**Jeffrey Moorad:** (laughs)

**Audience:** (laughs)

**Jeffrey Moorad:** So . . .

**Michael Rubin:** It's fun if you're in the playoffs in June. If you're not in the playoffs in June, it's less. Less fun.

**Jeffrey Moorad:** If you're an NBA owner.

**Michael Rubin:** Yeah.

**Jeffrey Moorad:** Or an NHL owner.

**Michael Rubin:** Or hockey, yeah.

**Jeffrey Moorad:** And, any other sports in the future?

**Michael Rubin:** Look, you know I think everybody knows, I'm one of the owners of the Sixers and Devils, and that's been a great experience for me to date. I was fortunate to get involved with Josh Harris and David Blitzer when they put the deal together in 2011. You know, there's a great small group of owners, and you know, it's been both a good financial investment, but much more importantly, it's been a ton of fun. I've learned a tremendous amount from it. So, if

you can grow your capital significantly while really enjoying what you're doing and learning a lot, I think that's very important. You know, it's no secret, I've failed miserably trying to buy the Carolina Panthers last year. I looked at that as also great experience. You know, to me again, I talk about failing to me is great. I thought it, you know, was a great opportunity. I went after it hard, we didn't get the right result, and to me it's like right back at it the next day.

So, I like to, the two sports that I love are the NBA and the NFL, I'm a sports fan in all sports, but the two sports I'm super passionate about are the NBA and the NFL. I'd certainly, you know, it's not a secret that I'd like to own my own NFL team over time, and I think to me, if you just work your ass off and stay focused, and you're unrelenting you can kind of make a lot of things happen.

**Jeffrey Moorad:**

So, no baseball, no global soccer.

**Michael Rubin:**

Yeah. I'm not a baseball [or] global soccer guy from an ownership perspective in any meaningful way. I think you've got to be . . . I think to own these businesses, you, at the end of the day, you still, you represent your city, you represent the team. I think you've got to be, you know, incredibly passionate about it, and I have that for basketball and football. I don't have that for the other sports in the same way. So, I don't think I'd make a great owner. I think you can't just do a financial transaction. Even if you came to me today and said that I could buy the Philadelphia Phillies at 10 times EBITDA I won't want to do it, just because I wouldn't be the best, you know, person to do that. Now fortunately, we have a great owner in John Middleton, and he's doing a great job with the team, but I mean, if someone came to me and just said, "Here's a baseball team, it's a great financial transaction, but you need to go

to eighty-one home games,” you know, and the same thing would be for hockey or soccer, just, you’ve got to do what you’re incredibly passionate about, you know, and I’m incredibly passionate about the NBA and the NFL.

**Jeffrey Moorad:** That’s fair. Tell us about Meek Mill. How’d you meet, how’d your relationship evolve, and what’s that about?

**Michael Rubin:** Meek and I met five or six years ago at a NBA All Star game. It was actually pretty interesting because my daughter at that point was a huge fan of his ex-fiancée, Nicki Minaj, and they were sitting randomly next to us. So my daughter who doesn’t really get excited about meeting anybody, starts like gushing at Nicki, and I’m like, “Kylie, tone it down a little bit,” and she starts talking to Nicki and as Meek and I are bored as the two ladies are talking about music and my daughter’s getting a good lesson on what’s coming next for Nicki, Meek said to me, you know, “Who are you?” I said, “Who are you?” And he said, “Oh, you’re the guy, I know who you are. You’re the guy from the- you’re one of the guys from the Sixers.” And he- I said, “What do you do?” He said, “I’m a rapper.”

I never had heard of him, and you know, within a minute or two, he started asking me tons of questions. And it was kind of like, you know, I barely made it out of high school. I missed seventy days my senior year of high school. I came here for all of about six weeks. I don’t think I made it through a semester, and the way I always learned was like, I’m like a sponge. I ask lots of questions. I still do it today. That’s my learning process.

Well, he was doing the same thing with me. He’s saying, “Hey, I want to do this deal. How would I do this?” and, “Hey, I’ve got this idea in sports, and what do you think about that?” And

he was just peppering me with questions. And I kind of saw with him like, you know, a version of me that grew up in a different environment. And so, you know, we became mildly friendly at the beginning. To be honest, the Sixers were going through a tough rebuilding process. We kind of stunk at that point. He said, "Hey, you know, I'd love to come to some games with Nicki," and so, you know, five years ago, four years ago, the most entertaining things about our game was when he came with Nicki to the games. You know, we were going through a tough rebuild. And, he started coming to our games a lot, and we were just mildly friendly. And you know, maybe after he'd been to his tenth game I said to him one time, I said, "Hey. You know, I'm going to the- I'm leaving here with a bunch of friends, and we're going to the Borgata," which is a casino in New Jersey. I said, "Do you want to come?" And he said to me, "I'm not allowed." And I literally looked at him, I said, "Like, do you need a note from your mother?"

**Audience:** (laughs)

**Michael Rubin:** And he's like, "No, no, no, I'll go to jail." I'm like, "You'll go to jail for going to the casino with me?" He's like, "Yeah I'm on probation." I'm like, "How's this probation thing work?" I had no idea. And, he didn't go that night, fortunately, because you know, it was . . . He didn't go to jail that time for not breaking a law. But we became, over the next, I don't know, three, four years, we became really, really friendly. And November of . . . So, I kept hearing from him about, this crazy situation. He couldn't leave, you know, Pennsylvania. He couldn't work, and I guess it was the summer of 2017, he was always around. And I kind of looked at him one day, I'm like, "Dude. Get a job. Like, what's going on with you?" I'm like, "You're



around too much.” He’s like, “Michael. I’m not allowed to leave Philadelphia.”

And that’s when I . . . It hit me like, this is so unfair. Here’s this guy whose family and, you know, his network of people depend on him to tour and perform, and he’s not allowed to leave Philadelphia. So, I started trying to help him to figure out how to deal with this probation thing that I had no experience with. Because now he’d become one of my really good friends. You know, we were talking on the phone every day of the previous year or two. And needless to say, I’m sure most people know the story, but he was in New York. He popped a wheelie on a motorcycle, he put it on Instagram live, and the next day he was at a kids’ charity basketball tournament, and twenty-one police officers showed up to, for what he thought was to give him a police escort to go to the next place. Except they weren’t giving him a police escort, they were taking him to prison, or to jail, for popping a wheelie on a motorcycle. And that happened, and then there was a fight in an airport that he broke up that they charged him for fighting, and then they looked at the videos and realized that his buddy was jumped in the airport by this person who actually worked at the airport.

And those two incidents, where there were no charges in either case, were enough to put him, were enough for a judge to bring him in for a probation violation. And so, as just, sometimes destiny just works itself out the way it does. He called me that morning and said, “Hey, you know, if you have time, can you come to this probation hearing? Like, I keep telling you how crazy this judge is, I want you to see this firsthand.”

So, I looked at Saj, who is in the audience, who’s worked with me for seven or eight years, who’s my partner and Chief of Staff. I said, “Yo,

I'm gonna go to Meek's thing today." And I get there, and the first thing is the judge shows up forty-five minutes late, and I'm a little bit annoyed. I'm not . . . I'm expecting everyone to respect each other's time. And then, the probation officer and district attorney both get up and speak glowingly about him and recommend no sentence. I looked at the lawyer and said, "Like, why are we here? You've got a probation officer and a DA recommending no sentence." They said, "Eh, don't worry about it. Nobody ever gets sentenced in that situation." And an hour later the judge said, "I'm sending you to state prison for two to four years."

**Jeffrey Moorad:**

Wow.

**Michael Rubin:**

And that for me was like, you just talk about a life changing moment. Like, you had to . . . I could never explain it to everybody here, the way I felt, but watching what had become one of your closest friends get sent to prison for not committing a crime, and they take him away in front of you and he's taking his wallet out of his pants and his watch off, and they're putting him in handcuffs. I just looked at him and said, "I'm not gonna stop until I get you out of prison." And then fortunately, there was a woman next to me I'd never met, who was Jay-Z's partner from Roc Nation. And she said, "Hi, I'm Dez. We talked on the phone once. I'm not stopping either." And the two of us basically said like, this is so wrong, we have to fix it.

And for the next six months I barely worked. Like I had trouble focusing on Fanatics and my day job because I was so upset by what I saw happen, and we basically led the charge to get Meek out of prison. And what was really interesting, and I'll just wrap it up with this. What was really interesting was, we spent all the time up front with . . . And, by the way, they told us, and this is an interesting legal thing because, I

called the lawyers and I said, "Something is wrong here, I want to get investigators." They said, "No, you can't hire, the defense can't hire investigators." I said, "Okay well, I'm not the defense. I'm hiring investigators." And we hired, you know, ten or twenty investigators, and we kept looking at the judge. And the judge turned out to be crooked and lots of bad things about the judge.

Meek kept saying to me, "Michael, I never did what I was charged of and when I was a kid, when I was nineteen." He was charged for pointing a gun at multiple police officers. Sure enough, a couple months later, we start investigating the police officers and we find out, the first officer comes forward and says, "Oh no, he never pointed the gun, the whole thing's a lie." Like, "What'd you say?" Like, "Oh no, he didn't point the gun." "Yeah, can you sign the affidavit?" "Sure."

He signs the affidavit. I call Meek and say, "You're gonna be out of prison." We were at the Super Bowl, last year, the Eagles were in the Super Bowl. I called Meek and said, "You're gonna be out of prison in a couple days." And obviously I had no clue. Signed affidavit from the police officer saying that he never pointed the gun. Found out the cop that charged him was on the district attorney's list of officers too dirty to testify, that his testimony shouldn't have been used. We still couldn't get him out of prison. And so, fortunately the Supreme Court stepped in in April and ordered his release. Which was actually literally April, about a year ago right now. And, that was the, that was the fun part of it where he left prison and we went to the Sixers when we beat the Heat in the fifth game and closed out the play-off series, so hopefully he'll bring us good luck in the playoffs this year.

**Jeffrey Moorad:** That's an amazing story. So, all of that led to the organization you call "Reform."

**Michael Rubin:** Yeah, so really what happened was, I thought originally this was just about a horrific judge mistreating Meek. And by the way, she is horrific and she mistreated him. But that wasn't . . . What I realized during the process was that the entire system was fundamentally broken. And when you have a guy who it's now been proven that he didn't commit the crime that he was charged of, and we can't get him out of prison, now I'm realizing the whole system's fundamentally broken. And I . . . My conversation, I would talk to him on the phone from prison every day, it shifted from, you know, "We have to get you out of prison," to, "as soon as we get you out of prison, we need to do something about this." And what I realized was that there's, look, I grew up in Lafayette Hill and lived five minutes from here. This was not my . . . I knew nothing about it. I'm not embarrassed about that, either. Like a lot of people say like, "Oh that's kind of pathetic. You took your celebrity friend who had to go through his situation to realize that the criminal justice system is broken." Well guess what? I had no exposure to it.

But what I realized was, it was really broken, and so, as soon as he got out of prison, I started, I basically said we're gonna start what I hope can be the most impactful kind of movement within criminal justice reform, and I said to Meek, "Now that you're out of this, you know, I think you should put \$5 million dollars behind this foundation we're gonna start," and I committed a meaningful amount of money. Then my next phone call was to Jay-Z and Robert Kraft. Both of those guys said yes. So within weeks of him getting out of prison, you had myself, Robert Kraft, Jay-Z, and Meek Mill, who were committing to start this foundation/move-

ment. And now fortunately we then brought in Dan Loeb, Mike Novogratz, Clara and Joe Tsai, who just bought the Brooklyn Nets, and Robert Smith, who's the richest African-American man in the country. And we launched this in January with \$50 million dollars committed capital. Well, we hired Van Jones as the CEO to run it, and our goal was pretty simple. We want to get a million people out of the system over the next five years while keeping communities really safe.

And I'll tell you this. People told me I was nuts when I came up with the number of . . . I'll tell you, I have a really good friend of mine who's a very important person within government, and I showed him the presentation. He said, "This is incredible, but you should take the million down to 10,000 people." I said, "Actually, I think I should take the million to 2 million people." He was kind of saying, "You got everything right, but your goal is too ambitious." And I kind of felt like it wasn't ambitious enough. I can tell you now, we're focused 100% on fixing the probation and parole system, where there's 6.7 million people in America in the criminal justice system. We have five times the rate of incarceration as the whole rest of the world, and there's 4.5 million people on probation and parole. And I think, if you asked me today knowing what I know, I think that number should be half or less. And we're working, and by the way we're starting in Pennsylvania first to, "How do we change the laws?" And I'll tell you what, it's been- I've never learned more than I have in the last year and a half and, I think we're gonna get . . . I'm bullish, we're gonna get some business results to what's a pretty political issue.

**Jeffrey Moorad:** No different than your sports fandom. If you have passion, it matters.

**Michael Rubin:** Yeah, the difference is though, you're . . . In business, when something doesn't make sense, you fix it and go. And in a . . . and I have no interest in politics whatsoever. My first . . . By the way, I joke all the time because we're really focused hard on Pennsylvania is our first state. Because Pennsylvania, just so everybody knows, Pennsylvania is the third worst state in the country on criminal justice. So, I was just looking at New York to Pennsylvania. We have three times the rate of probation and parole in Pennsylvania versus New York. So, one in every thirty-five people in Pennsylvania are on probation and parole. Think about that. One in every thirty-five people. Now by the way, how many people in this room are on probation or parole today?

**Jeffrey Moorad:** (laughs)

**Michael Rubin:** Don't see any . . . Ah, I see one hand. Thank you for the one hand back there. If you just go into Philadelphia and ask people, "Are you on probation and parole?" Most people's hands go up in the city. And, so, it's just, the system's fundamentally broken. I mean, I met a guy who literally sold a teeny amount of cocaine. You know, hundreds of dollars of cocaine ten years earlier, and he made an illegal U-turn, and they sent him back to prison. For an illegal U-turn, okay? And this shit happens every single day. So, fixing probation laws are really important. I think it's actually the easiest part of the criminal justice system because it's not like, there's no debate about, you know, this person murdered somebody, and should they get a second chance? This is like, "Hey, the person smoked weed and they're getting sent back to prison," which is, by the way, the number one reason people go to prison for probation violations is for smoking weed. Yeah, can't imagine I'd send anyone to prison for smoking weed.

**Jeffrey Moorad:** So in an era of player activism, you're unique. As an owner, as a future more significant owner potentially. I mean, it's a unique platform to take on, and frankly, hats off to you.

**Michael Rubin:** Appreciate that. You know, look, look. I didn't look to take it on. I mean, people say to me all the time, like, "You know, why'd you get involved?" I got involved because a good friend of mine was getting screwed over and I couldn't watch it happen. And then like, you know, your entrepreneurial skills kick in. You're like, "I have to do something about this." But I . . . Look, I think players are very fortunate that they have big platforms that they can use to make the world a better place, and I think, to be honest, when this happened in November of 2017, there were a lot of people who called me and said, "Michael, don't get involved. Michael, this is gonna be bad for your business. Michael, this will be bad- It will be bad for the Sixers. This will be bad for Fanatics, fans won't want to buy from-" I was kind of like, "Okay, cool. Let's go."

I was unfazed by any of it. Because it was, they were coming after my friend and it was so wrong. And you know, look, I think hopefully . . . I will say that I think, in a way, hopefully because I was sucked into this issue, and I think people, probably one of the few, if not only people in sports ownership to take on an issue the way I've taken it on. I hope it encourages other teams and other owners to find things that they really care deeply about. You can't do it if you don't care deeply about it, but for me, this was so personal. So, I think it's necessary, but it's definitely not something people have had the interest or courage to do up until this point.

**Jeffrey Moorad:** That's great. So there are a lot of future sports industry folks here. Some that are involved in the industry today. What the theme of this

Symposium today is “The Future of Sports.” What advice would you have for people in the audience, for people who are interested in the industry, about what they’re gonna see in the future?

**Michael Rubin:**

Yeah. Well the first thing I’d say is you gotta figure out . . . I say to people all the time, when you figure out what you wanna do from a career perspective, and I have friends that sell companies and then they look at what to do next or they left a job or got fired from a job and they ask me advice. And I always say, to me, there’s a couple criterion. One, is the opportunity a big enough opportunity? And then two, are you working with really good people? And I think if you can’t do both you shouldn’t do it. In retail, I’d say there are very few really good opportunities in retail. So, if you came to me and said you were considering a career in retail, I’d say, in a lot of cases, find a new career. Like, it’s not gonna be a good career. And by the way, there’s good, like in any industry, there’s good and bad. There are lots of great businesses in retail, but there are more bad businesses. I think sports is a great business. I think it’s really a great business. I’m a huge fan of the sports industry. I’m involved in two significant businesses, Fanatics and the Sixers and Devils. And I think if this is an industry that you have passion about, and it’s something that you truly love, I think you should go for it, and I think you’re going to continue to find great opportunities.

I think there’s lot of entrepreneur opportunities. Look what we’ve done, we’ve taken a business that we bought for a few hundred million dollars. It’s now, last valuation was worth \$4 or \$5 billion dollars when we raised money a couple years ago at Fanatics. I think we’ve created a lot of value through selling merchandise. I think sports gambling is going to be great



value created in that. I've been saying what a big opportunity I think that is. So, I think the sports industry's a great industry, and I think you're going to find great entrepreneur opportunities in it, so I'm a real fan of doing it.

**Jeffrey Moorad:** Michael Rubin, we appreciate you being here today. Thank you.

**Michael Rubin:** Pleasure. Thanks for having me.

*Panel 1*

**The Future of the NCAA**

**Moderator:** Andrew Brandt

**Panelists:** Val Ackerman, Mark Jackson, Brian Westbrook

From the current NCAA business model and its implications on schools like Villanova to the future of the NCAA in light of recent decisions like *O'Bannon v. NCAA*, Panel 1 explored the many complicated dimensions of the NCAA. Panelists included Val Ackerman, Commissioner of the Big East; Mark Jackson, Director of Athletics at Villanova University; and Brian Westbrook, a 2001 graduate of the Villanova School of Business and former All-Pro Running Back for the Philadelphia Eagles.

**Andrew Brandt:** I just, you and I have talked a lot about this, and we've talked in front of people about this, just sort of a sense of being an athletic director in today's environment, especially here, with such unique atmosphere here, so many sports, and obviously we're known for our championship basketball team, but sort of operating in whatever you want to call it, big-time college athletics, medium-size college athletics, in this environment, how do you operate as an athletic director at a school like this?

**Mark Jackson:** Yeah, it's difficult, but you know, as we heard out last speaker talk about, if you're not connected to your passion, you really don't have a chance and fortunately for whatever reason, I find being on a college campus and impacting the lives of eighteen to twenty-two year old men and women, I get passionate about it.

I enjoy it . . . The opportunity to impact a comprehensive collegiate experience, not just on the athletic side, but from an overall community perspective is unique, and to build a connection that hopefully is going to last the rest of their lives, so that for the next sixty or seventy years they love coming back and being a part of this, whatever is going on at the university, is really, really special, that's the number one objective at our department: is to make sure that we're graduating complete student athletes, that our kids touch every corner of campus, and I think based on Val's leadership and the members of our conference, you know, we're aligned in that mission.

A lot of our member institutions share that same vision, which makes it a great place to come to work. On the flip side of that, the challenges that we face- pick up the newspaper, turn on any- anybody following college athletics, it's inherently risky, and we're dealing with risk all the time and exposure on major topics . . . That seem to rear their head every semester, we're dealing with a new topic, the FBI probe, to college admissions, to right on down the line.

Couple that with you know, in most cases, college athletics is a broken financial model, a very broken financial model, when you have one program like us and men's basketball, that really at the end of the day generates a little bit of revenue, but then you have twenty-three sports that cost a whole bunch of money to run, especially FCS football, which brings its own benefit to produce guys like this, but financially, it's hard, it's hard to do.

So, there are challenges, fortunately, again, we've figured out the right algorithm or recipe here at Villanova to make it work, but . . . Those challenges are the ones we're faced with every day. How do we educate our student ath-

letes, how do we mitigate risk, and how do we survive in a broken financial model, so we're sort of countering that against this unbelievable experience that's unique to anything in the world, right? College athletics doesn't happen anywhere else but here, and . . . I know I take great pride in that.

**Andrew Brandt:** Yeah, quick follow up, because you mentioned FCS football and what a driver football is in this environment, and of course the Big East emanated the new Big East, sort of leaving . . . Some of the big-time football behind. But I've heard you talk about statistics and football compared to, again, I keep saying it, two out of three national championships in the last three years here, financially how's that compare to even average football programs?

**Mark Jackson:** Yeah, I think if you pay attention, and Val can speak to this much more intelligently than I can, but if you look at what they call the power of five or the Autonomy Five, whatever you want to call it, we don't really look at it that way, the other five. The economics are completely different, these television deals put them in a separate category all based on big time football, and . . . You know, not to say that we're not competitive on that landscape, but that gap between sort of the haves that have major FBS football, and the have-nots that don't, financially, it poses challenges.

And for us, at Villanova, you know, our financial model, there is nobody else that we can compare it to, and you have flagship blue-blood basketball, and the premier basketball conference in America, and you combine that with a fully funded FCS football program, those two things don't exist anywhere else. So, our budget model is difficult that way, and if we were to make decisions strictly on budget, you know, we might reconfigure that, but we don't, because of its tremendous value.

Brian is a perfect example of a program that's been around 100+ years has been a consistent top twenty-five, caliber program, and our graduation rates are overall a success, and the type of men that come out of that program, we're incredibly proud of and that's why we invest in it and that's why, you know, we built the Talley Center, and we're in the premier conference of the FCS that produces more NFL talent than any other FCS conference . . . And then, we also have a tremendous responsibility, again Brian can speak to this, when you think two out of every three African American males on our campus are student athletes, and the majority of which are tied to our football roster, and to watch what those men do with their lives, after coming out of this football program, it's hard to put a price tag on that.

So, there is tremendous value in that.

**Andrew Brandt:** That's great. And Val, we talked about this conference that you lead, where it is a basketball conference, and I think in any business, sports or otherwise, you want to stand for something. The Big East is something that stands for premier basketball, quality leadership, talk about the conference from that perspective.

**Val Ackerman:** Well, happy to do that Andrew, and first I want to thank you for allowing me to . . .

**Andrew Brandt:** Of course.

**Val Ackerman:** . . . Be here today and to see this great turnout here is fantastic, and I want to commend Mark for the amazing job that he does here at Villanova, he's a great leader, you're lucky to have him. It has been, to answer your question, it's been an honor for me, now, six years to represent this group of schools, I think back in 2013 when the old Big East was disintegrating, to pick up on some of Mark's comments here, disintegrating because schools were trying to find greener pastures in the sport of football,

most of the schools that left the Big East left for football reasons, and specifically to the Atlantic Coast Conference, which was trying to build itself as a football power, and has.

And I think six years ago, there was really a lot of uncertainty about what the future would hold for a group of schools who wanted to go back to their basketball roots this conference, interestingly, we're celebrating our 40th birthday, in May. [The] Conference was founded in 1979 as a basketball focus conference, for schools that at that time were independent, and wanted a better way to get into the NCAA post season, and they knew that needed to be in a conference arrangement to do that, so they went off on their own, formed the Big East Conference in 1979, the schools were principally in the northeast, many of them private schools, many of them Catholic schools, and that is itself a connective, form of connective tissue, because with that private Catholic school, sort of template, our schools in addition to this basketball interest, do have a value set.

And Mark spoke so eloquently about some of those values, of the priority of academics, the development of the whole person, something that all of our presidents talk about . . . And then of course, you know, in the case of our schools, this focus on a service oriented mission, and in fact that's worked into a lot of the programming that student athletes here at Villanova and elsewhere do, because they're out in the community, they're learning what it means to help people and so on, developing important skills that way. So, that three-legged stool if you will, of academics, athletic excellence focused in basketball, and then the service piece I think would be if, you know . . . That's the answer to your question, Andrew, sort of what the Big East stands for now.

**Andrew Brandt:** Right.

**Val Ackerman:** You know, I will say it's been very interesting picking up on another Mark's comments, we're, as conferences go, we're really a tweener. I mean, the NCAA, for those of you who aren't sort of fully briefed on the whole sort of big thing that the NCAA is, it's 1,100 schools, split up in three divisions, the bulk of the schools are in Division II and III. So that's 700 or 800 schools, and then D1 which the Big East and our schools are part of is 350 schools.

So, that's massive, compared to- I came out of pro basketball, we had only twenty-four teams in the NBA when I was working at the NBA, and now you've got 350 schools in D1 alone, so . . . It's sort of a massive structure here, and it really is divided out by the schools who play high-level football, the schools that play the next level football, and then the schools that don't have football that their conference is sponsoring, that's the Big East now.

So, among those group of conferences, we really do stand apart, because we are a planet of very high level in basketball. I mean, you know, this year was- this was a down year for the Big East in basketball, and we still got four teams into the NCAA tournament. And that was largely because we had, you know, a lot of our players graduate. Villanova has got I think 100 percent graduation rate among your men's basketball team, which is incredible, we had players who we didn't think were going to go into the NBA going to the NBA last year.

**Andrew Brandt:** And that was here.

**Val Ackerman:** Including here, and that happened elsewhere, where we just lost some really great upperclassmen, and so this was a year where the Big East was very young. So, you know, I think next year for those of you who care about the fortunes of the Big East in basketball, you know, we're

going to be back, I think in a very big way, including here. And so that's exciting to our presidents because, athletics is a front porch, you hear that, you know, all the time, it is a way for people to get to know your school, there is just very few ways that schools can promote themselves, and what they stand for, and kind of their values that's, you know, in a way that sports offers.

In our country, it's very unique, other countries don't have college sports like we have them here. We have them here, they're unique, you know, we have our issues, we know it, it's very complex, to do what we do. But it's also very unique in a good way, that we have these programs that develop people, but we also give universities an incredible opportunity to engage students, to engage alums, I mean, Nova Nation, like comes out in full force for this, and it's incredible, to engage communities . . . And, and to make you know, to make known all the good works they do outside of sports, so again it's an honor for me to be a part of this, and . . . You know, I just think on behalf of the Big East, we have a lot of exciting times ahead.

**Andrew Brandt:** Well said. Brian, couple of the people have asked me, can we clap for Brian? Because he's, yeah, yeah . . . (laughter and applause)

I will say this, and perhaps, maybe our most celebrated, certainly on the football side, athlete out there, every time I ask, every time, Brian's like, "Just tell me when to show up. Tell me when to be there." I really appreciate it.

**Brian Westbrook:** Thank you.

**Andrew Brandt:** And Brian, you've seen it from all sides, coming up as an athlete in that football environment, that Mark and Val just talked about here, and now you're seeing what's happened in college sports, you know, would like to get your thoughts on football, being a player, is it what

you think you thought would evolve when you were an athlete here? It's obviously changed, and it's becoming in some ways, a lot of professional aspects, especially what Mark talked about, with the Power of Five, so looking at the football landscape and the NCAA, both in places like this and in those power conferences, what's your take?

**Brian Westbrook:** Yeah, well certainly, thank you guys for the warm applause. I think Val and Mark certainly probably deserve much more applause than I do, and thank you for putting this all together Andrew, it's a pleasure to be back here on campus . . . Every time I come back, there's new buildings up and it's parking lots, buildings, and more students, so that's a great thing, but . . .

**Andrew Brandt:** You'll help pay for them, right?

**Brian Westbrook:** I am, I feel like, yeah, I'm paying for all of it, actually. You know, the landscape of football, and really I kind of put it together, it's become football, basketball, the NCAA is become big business, and it's about making money, and I think that it's a good thing. I think the schools are getting more and more money, I think that . . . You know, the programs, being able to support more programs, just not the football, the basketball program, I think that's very, very important, you can support the women's field hockey, the women's lacrosse, and the men's swim team, I think that's just as important . . .

You have some of these TV contracts, you're able to put money in different places, that prior to that, you just weren't able to put. And, you know, you guys, Val and Mark, you guys are at the forefront of trying to figure out how to make all the money fit, and make sure that it all works. And, I think it's a great thing, the businesses involved with some of the sports, I think it's a great thing, I also think part of the process



probably should be some of our players should understand it, and we can get our players, and I'm sure you guys are doing that, getting our players involved in the business side of it as well.

You know, we know that as players, we know them as professional students, but they should also understand the business side to it and with that being said, and I'm not sure where you guys are at on this, but, I mean, there's a financial responsibility, too. And, I remember, I was reminded this morning, when I was playing football here, they were selling number 20 jerseys, with Westbrook on the back, and even though they might not have sold as many as Tim Tebow, who's probably the number one college jersey ever, there's a couple of them. And, you know . . .

**Andrew Brandt:** Did you notice that while you were here, and do you think about that?

**Brian Westbrook:** Well, I think part of my evolution as a businessman, as an entrepreneur, is understanding things. I was so focused on playing the game, that the business side to me wasn't as important, it just wasn't at the forefront of my mind. I think our athletes now, you see them much more business conscious . . . One of the investments I am part of, is SeventySix Capital. We're a venture capital group, and we have an athlete venture group, and we have a lot of athletes involved with that because athletes want to be a part of business now.

They don't want to just be forced to play football or basketball or baseball, and only worry about that, you know, for a long time here, and we kind of heard it with LeBron, it was, "Shut up and dribble, don't do anything else," and I think those days are over.

You know, you have athletes doing a lot of different things, and so, the business side of it

wasn't as prevalent when I was in school, and of course, being at the smallest school, at a Division I-AA school at the time, the business side of it wasn't our number one focus, but now you have guys that are big brands, Zion Williamson, big brands, Tim Tebow, obviously early on, big brand, and there is a business element to it. And, it's huge and I think, in a way, we have to figure it out, and Val and Mark have to tried to figure out the equations much better than I can, but somehow we have to be able to allow the athlete not only to learn about the business and be educated on the business, but also reap some of the rewards that their name, and their likeness, is . . . You know, the income, the revenue, that they're producing.

I think that'd be a big part of the NCAA taking the next step, and it'd probably be a long process, and I know that . . . At the end of the day, for some schools, it's not going to be fair.

**Andrew Brandt:** Right.

**Brian Westbrook:** But we have to figure that out, and I think that's the next progression for what's going to happen in the NCAA.

**Andrew Brandt:** Yeah, and I think the education thing is really happening. Just so people know, Coach Wright now brings his recruits not only around campus, but through here to meet me and our staff, because we're in sports law and we're in sports business, and hopefully we can be a resource. So that's starting now with his recruiting classes, those are the kind of things that are happening, that are so positive, and learning about the business going forward. Now Mark, in this environment, you mentioned a couple things that are obviously not great topics, but FBI scandal, all the news that's so negative about college athletics and it's turning into big business and players should be able to leave, and they're making so much money,

Brian talked about the jerseys. How do you see that, in your environment, and your sort of hearing it from all sides but you're just trying to maintain the best program you have here, when something like happens, an FBI scandal, what's your . . . What's your plan of action when that happens?

**Mark Jackson:** Yeah, I think, transparency is a big word that we harp on . . . You know, we want to feel good about everything that we're doing, knowing that if something goes wrong in today's day and age, it's going to brought to light.

**Andrew Brandt:** Right.

**Mark Jackson:** You know, I think that's more and more true every day, and it gets brought to light like that. And all of a sudden you're adjusting, and you don't know where it's coming from, or what the next topic's going to be, I tell our student athletes, it's like painting the Golden Gate Bridge, you know, as soon as you finish one side, you gotta come back and paint the other side, so we're constantly trying to proactively educate our kids to avoid those types of situations.

Obviously, the basics, you hire really good people that make good decisions, right? And, whatever controversy we face, I think the first two questions as an athletic director that I'm going to be asked is, "What did you know?" and "What did you do?" And I better be able to answer those really clearly on any given topic, and sometimes I don't know. This admission scandal that kind of came out of left field for me, as a guy that worked at USC for ten years . . . No idea. No idea, and I worked with a lot of those people and that was, it was happening, and . . . Bad people are going to find a way to do bad things . . . I'll leave that at that.

But, you just got to constantly be vigilant, I think, just in the time that I've been here, at Villanova, we've, and Val would attest to this,

we've gone from you know, transfer policy being at the sort of the big focus, then all the sudden the FBI probe hit, and then, you know, pay for play is a constant undercurrent that we talk about, now it's admissions scandal, so all these, all these different topics . . . I'd love sports betting, marijuana, you know, the legalization of marijuana, how are we going to handle that?

Some pretty big topics, that we've been very, very fortunate, I think, based on the culture of Villanova and the type of people that have been around, not only the athletic department but this community, for a long time, we've made really good decisions, I think because our athletic department, and the coaches, they're aligned with the mission of the university. Do we always get it right? No. Are we going to be perfect? No. One thing we can't be is naïve to think it can't happen here, that's another thing that I've been stressing . . . You know, I go back again to my USC days, and you know, the Reggie Bush decision, and that major case USC is still recovering from. You know, ten or eleven years later, and that was based on one student-athlete's stepfather making a really poor decision two and a half hours away from campus, and they're recovering from that.

So, it can happen here, we just want to try and be as vigilant as possible.

**Andrew Brandt:**

Val, when you see these scandals, when you see Power Five conferences doing, you know, paying football coaches \$12,000,000 a year, doing \$3,000,000 deals a year on television, you know, do you have a sense of where . . . Is this model sustainable, on a general sense, for the big time Power Five conferences, and where do you fit? Do you ask yourself those kind of things?

**Val Ackerman:**

Well, I mean, sure. I mean Mark has things that keep him up at night, and you know,

speaking for the conference, it's just sort of very interesting because there's things Mark has to deal with on campus that he and only he and his coaches and the folks here deal with, I mean . . . We have a different role. And the NCAA has a different role still, in terms of how conference sports get managed, so when these things sort of hit, you know, the list that Mark ticked off, what I try to do, how I try to do it is I try to keep our board updated. I think Mark knows this, every time we have a board meeting, we sort of go through conference business, and how we're going to do in men's basketball this year.

You know, Big East tournament, how ticket sales are going, and sort of things that are very specific to the Big East. But I also make it a point to get in front of our board, Father Peter, and his colleagues, the issues of the day in college sports. Because one, I want them to know, I think they are . . . We have a group of presidents in the Big East that are very dialed in, and they have big jobs, I don't even know how they do it.

They have so much they have to worry about on campus . . . But they are very tuned in, I think, to the issues of the day, and in particular, the issues as they bare on what it means for the Big East, so I try to get that in front of them. I'll bring in experts to the meeting, you know, we've had many guest speakers who will come in, because I don't think I know everything, I know my limitations on some of the subject matter here, so I'll bring in lawyers if we have to talk about sports betting, for example . . . You know, we're talking about diversity and inclusion, we just formed a working group at the Big East to really dial in on that very important topic, and what we can do as a Conference to support the work of our schools, so we'll have experts that will brief our group on that.

So, I see it as my job to keep it in front of them, where we as a Conference can be helpful, we try. So with the FBI scandal of last year, the NCAA acting quickly, put together commission, chaired by former secretary of state Condoleezza Rice, they wanted a blue ribbon commission, many of whom did not have ties to basketball, but were thought to be people of integrity, that could put together basically a reform brief. Which after several months of research and interviews and so on, they did, that was the so-called Rice Report that came out a year ago, with a whole list of recommendations- they're a very comprehensive report, it wasn't one thing- that they saw a need to get at in terms of the, in some cases corruptive college basketball recruiting environment.

Our part of that is we gave a brief; we gave the Commission in advance of their report a brief. We talked to our ADs on my staff in the Big East, Stu Jackson, who used to run basketball operations for the NBA, was in that job for thirteen years, knows as much about basketball as anybody in the country, weighed in. We had our views about one and done. We recommended the NBA just let the kids go right out of high school. If they can earn a living, playing basketball right out of high school, why should they have to not be able to do that for a year? Why should they have to go to Europe, or the G-League, or come to a college if they don't want to be in school?

Let them go right to the NBA, we said. So, we had a whole list of recommendations on that score, and again, in an attempt to be helpful, because as a basketball conference, we felt like we had a grasp on this material, and we wanted to be in a leadership position. So, where we can help, we will, the NCAA is always asking for input from the membership on issues ranging from e-Sports, which they're trying to get their

arms around right now, it's a growing activity on campus, NCAA doesn't regulate it, it's going to be a big business, to your point, everyone is sort of going, "Ah," like what do we do with this, we actually have a big e-Sport competition now, congratulations to you.

**Mark Jackson:** We won. Yeah, we won the championship.

**Val Ackerman:** You guys won, they just won League of Legends, so . . . He's a jack of all [trades] here, with his management ability.

**Andrew Brandt:** It's not just basketball now.

**Val Ackerman:** So, you know, there is a whole, I mean, I don't know, this is a broad question, Andrew. I mean there are so many, so many issues today that we're trying to stay on top of, trying to figure out where we fit in, in terms of sustainable, I don't know. I mean, the grand experiment of the Big East is that we can win national championships in basketball without football money. We're the grand experiment on that. We do not have anything close to the revenue streams that the Atlantic Coast Conference, Pac-12, Big 12, Big 10, and SEC have.

I mean they're- and that's because of football. That's seventy-five percent or eighty percent of the revenue in college sports is coming from the sport of football. So, we don't have that, but we have other things, and we've got, we think, what we need to really keep it going in a very relevant and nationally competitive fashion, and that's important to our schools. They wanted to be basketball schools so that's how we're going to do it there. Is it sustainable long term? I don't know the answer to that, because if, a pay for play system comes into being, or the rules do change on an IL that require additional financial obligations to be made by the schools, or there is additional expenses associated with our cost structure because the cost of business never goes down. Cost of business

always goes up, I do think as Mark noted, athletic departments will be really pinched.

You know, and, if not for . . . For example, the beneficence of donors, who make a lot of good things happen because of their ability to fund capital projects or the Finneran Pavilion . . . Or new fields or whatever, you know, a lot of what we do just doesn't happen, it's really not on the backs of the students, it's on the backs of the donors, and the reason they're doing it is because of what they feel about their alma mater, they're rooting for the name on the front of the jersey. They often don't even care who the athletes- they're rooting for Villanova.

They're rooting for the alma mater there, and as an alum of Virginia, you know, who watched if it . . . Okay, no, I said to everybody, if it couldn't be the ten schools that I had first, and if it couldn't be one of the ten, they were my eleventh choice, but you know, they got it, so, but that's, you know, and I've been gone many, many years, but that, you know, those, that's a big pull, still, a long time later.

So, that to me, those are open questions I think, but until those days happen and we have to figure out, we're just going to, you know, kind of keep plugging along and do what we're doing.

**Andrew Brandt:**

Just to follow up with Val said, for people who don't know, this rule that high school players can't go directly to the NBA, and as Val talked about, recommending that rule, which is obviously not the case, you have to stay one year . . . It's not an NCAA rule. It's an NBA rule. So, that is negotiated between the NBA and the NBA players, and we'll have the head of the NBA players up here in a little while, and just so people know, this is not something that college sports is dictating, it's pro sports. So, I think people need to . . .



**Val Ackerman:** And it's union, by the way. The NBA needs the support of its union, it's a term of their collective bargaining agreement, so it's- the two parties have to agree on that, and . . . They're apparently in the midst of those negotiations now, as we understand from the published reports, we understand that's now under examination.

**Andrew Brandt:** I did want to follow up, when you talked about Virginia, or your number eleven, or whatever it was, just a side question, how do you make Mark Jackson feel like he's the most special AD in the conference, and every other AD feel the same way, and every other president? That is, I would think, a very challenging part of your job.

**Val Ackerman:** I love all my children. It's not really that hard, you know, at least for me. I just love the Big East, I mean, I don't want to sound like a sap, but I played basketball at a time when women's basketball was just getting off the ground. My dad was a basketball referee, you know, I worked at the NBA for sixteen years, I worked for many basketball organizations, I just love this game, and for me to be able to work in a conference where basketball is so the focus, is sort of like a dream come true for me.

You know, the answer to your question is, and it gets back to a point Mark and I made, the commonality of our conference makes it really easy, I think, to sort of deal with everybody in a particular fashion.

The old Big East broke up because not only was it the football schools versus the basketball schools, and, Vince Nicastro, who fortunately now works for us, the conference offices are, their able deputy commissioner and Chief Operating Officer, knows all the stories, of how the old league broke up and how our league came to be. But the fact that our schools are so

common now, we have ten schools, we have nine Catholic, they're different orders, right? So, I had to learn the Augustinian versus the Dominican versus the Vincentian . . . You know, orders. And one private, and that's Butler.

But there are values at Butler are very similar to the values at Villanova, so our boardroom, our board meetings are very collegial, you know, our presidents really, they're very united in many respects, and so, and there's only ten so it does make it easy for me, I get to every school every year, it's important to me to be on every campus, our ADs are amazing, you know, many have been with us for the last six years. Mark, one of our newcomers, but has quickly fit in . . . You know, some of our AD's have been around for a really long time, among the most respected in our business.

So, it's a really easy group to like, you know, if that makes sense, and to . . . They're so collaborative, and we all work together so well that it really isn't hard to sort of make everybody feel like they're part of things, and important because they are.

**Mark Jackson:**

Yeah, and I'll weigh in here because she's being very humble and modest . . . This woman's a trailblazer on a number of different fronts. Just a fantastic leader in our industry, male, female, doesn't matter, I've seen her in all different kinds of settings. Not just saying this because you're sitting here, a brilliant woman that I've seen at the highest levels of the NCAA, whether it's the soccer influence that you have on where we're headed as a country around soccer, to the Vatican . . . We're really fortunate to have Val's leadership, and there is a collegiality I think amongst our institutions based on that leadership and how she pulls us together.

We're not always aligned, but having been a part of some other conferences, we need each other to survive and when you think about the major components of our Fox contract and our Big East Garden contract, and we've hit on some really big topics in the short time that I've been here, and I think because of your leadership we're strongly positioned as we ever have been, so. You do a wonderful job. Let's clap for Val.

**Audience:** (applause)

**Val Ackerman:** Thank you.

Thank you, Mark.

**Andrew Brandt:** Alright Mark, they've clapped for Brian and Val, you're . . . You and I are . . .

**Audience:** (laughs)

**Andrew Brandt:** Brian, you and I have talked about sort of the college sports model, what we're talking about is big-time college football and college basketball, and the way it feeds professional sports. Again, is that going to continue, is that sustainable, is there going to be some pay model in your mind that's next for these kind of big-time college sports?

**Brian Westbrook:** Well, I mean, first of all, I want to speak one thing about the NBA thing, and I think it's interesting because like Mark mentioned, the NBA, I think Val actually mentioned it, the NBA is the reason why guys can't go straight from high school and I think there is a reason for that. They want to see what these guys are just a little bit before they come into the League. They're making a big investment in some of these players, and so they want to at least get a year glimpse of the type of player that they are on the collegiate level, just to see you know, what they're going to be as a pro, so I kind of understand that, but I also believe that there a bunch of kids, LeBron, and Kobe, and

those are the greats, Kevin Garnett, there is a bunch of kids that will have the opportunity, that's going to fail.

**Andrew Brandt:** Right.

**Brian Westbrook:** And then you wonder what's happening to those guys, and so there is some concern on both sides, but . . . When you talk about pay for play, when you talk about these big-time schools getting these big-time TV contracts, which was huge. I mean, you talk about Nick Saban and I don't know how much he makes, tens of millions of dollars, that's a lot when you're talking about kids that are on his team. The ninety kids that are on his team that are at times, are struggling to eat, trying to find something to eat in the mess hall after practice, that's a big disparity, and I think that there has to be some middle ground there.

When you talk about, and I use Zion Williamson as an extreme example, he's on one end of the spectrum, there are a bunch of other players that are on the other end. But he's a guy that'll sell hundreds of thousands of jerseys this year, right? And, the school will make thousands of dollars, hundreds of thousands of dollars on that. To me, that's on his back, and of course, and I know Val mentioned the name of the front, and Duke is a big-time name, and I think that name will continue to ring bells, but a lot of those people that're buying the jersey are supporting one person, Zion Williamson, not just the school, and I think that there is a way that these guys should be compensated, and I don't know that it's going to be taken away from the school, and from my opinion, I don't know everything about the whole deal, but I know the schools are getting paid by the TV revenue share, right?

And I think that if you have, you're using these kids' likenesses, that they should be supported

by that, and if you're using Brian Westbrook likeness to sell jerseys or footballs or whatever at the school store, Brian Westbrook should get a piece of that, because it's me, and it's what I represent of how I carry myself, and that's why you're able to sell those things. And I know it may mess up some things, it's not equal to everyone, but not everyone is out there doing the right thing, not everyone is out there on the floor excelling.

And, you know, there's a bunch of smart people, way smarter than me, that are tasked at figuring this out. Val and Mark probably at the lead of this. As a player, all you're saying is, "Well," . . . There's other players, and I'll give you an example. What if Zion, for some crazy reason, wanted to stay in school, and one of the reasons was because, "You know what, I'm going to get \$60,000 from the sale of my jersey, I don't need it, and I know it doesn't compare to the NBA money, but I want to actually stay in school, I want to stay one more, enjoy being a collegiate student one more time, and that's \$60,000, or whatever the number amount is, is going to help me stay there."

To me, that makes a difference. And, there's just a bunch of college kids that are struggling, and the one thing that you don't want to see, the one thing I don't want to see, is guys making financial decisions to leave school, leave their education, leave their everyday life to go live an adult life just for a financial decision. It just doesn't make sense to me, and I think there is way to kind of get around that. It's going to take a lot of smart people to figure that out, and I think it's going to be difficult.

**Andrew Brandt:**

So, are you talking about mainly the marketing endorsement model, or do you think there should be some kind of compensation for top athletes?

**Brian Westbrook:** Well, I think, I think there's certainly the marketing side of things, when you talk about their likeness, absolutely, there should be a big chunk there. Unfortunately for that, there is only- and we're not talking about a bunch of people.

**Andrew Brandt:** Right.

**Brian Westbrook:** There may be four, five, six, let's say ten at the most, people in the NCAA basketball, that would probably reap the rewards from that, quite honestly. I mean you could sit here and name, if you could name me ten people in the tournament that you would want to go buy their jersey, I think a lot of people would struggle to do that quite honestly. So, there'd really be four or five people that have that ability, so, that wouldn't really affect everybody, but I do think . . .

First of all, and this kind of a misnomer, these guys are getting a lot. So they're getting a lot from the school, they're getting a great education, they're getting food, they're getting room and board, they're being able to travel, you look at the Villanova basketball team, probably just like any other big time school, they're staying at the best hotels, eating the best food, they're being treated like royalty everywhere they go, this is a first class place. Big East is a first-class conference, so they're being treated well.

These guys aren't staying in a Motel 6. But at the same time, these schools, these cultures, are making a bunch of money on the backs of these players, and I think these players should be compensated a little bit more than just school, a little bit more than just a \$250,000, or \$300,000 it takes, to be educated for four years. I think there is a way to do that, and I think it's up to front runners in these sectors to be able to figure that out. In the old model, the same

way Michael Rubin was talking about reform of a justice system model that was built years ago that doesn't fit anymore, I think that's what the NCAA is tasked with.

Figuring out a model to make sure players are compensated the same way that coaches and ADs and commissioners are compensated. Not to say that you're making, you're not making \$50-60,000 a year, but \$10-15-20,000 would make a difference to some of these young people and their families.

**Andrew Brandt:** I mean, that's the question Mark, because big-time college basketball, which we are, big-time college basketball, you see what's happening. A, you coaches, hangers on, people paying, agents when they're twelve years old, all kinds of people stroking these kids . . . Obviously you can sit and say, "Well, we don't recruit those kinds of kids."

But now, AAU has taken over that level of play, and how do we, you, Mark, Jay, stay above the fray? I mean obviously our values, but yes.

**Mark Jackson:** Yeah, and first I want to hit on Brian's point, because that was really well stated. And I couldn't agree with you more on the image and likeness piece to big time college athletics. If there is a way we could develop some kind of trust where money is put aside so that when a kid graduates, he collects what he earned based on his name, image, and likeness, I couldn't agree with you more.

You know, I'd like to hear your take on the latest case study around the *Allston* case and then the, what's the UCLA, the guy that played basketball UCLA?

**Val Ackerman:** *O'Bannon?*

**Andrew Brandt:** Yeah, *O'Bannon*.

**Mark Jackson:** *O'Bannon*, the *O'Bannon* case, yeah, I always forget *O'Bannon*. And where that stood, the bigger picture of pay for play, again, I'd like to hear your perspective, the implications of Title IX, you know, and how do we stay equitable in terms of distribution of funds, if it were ever to get to that, and not only would we have financial implications that we probably couldn't uphold, but then there's also an equity standard that we've . . .

**Brian Westbrook:** It'd be almost impossible, based on just that, because unfortunately I think there is a great, a lot of great women's sports, but they just don't make a lot of money, and it's unfortunate, and it shouldn't be that way . . .

**Mark Jackson:** Yeah, it's just the reality, but I do think there is real merit in the image and likeness from my perspective and I would support that. To briefly hit on your point, I think, basketball, if anybody has had a chance to read Jay's book that came out a couple years ago called, 'Attitude' I think, lessons learned from the 2009 Final Four, where he came out of that, although it didn't go our way at the end, had the ability to have his pick of blue chip, five star, one-and-done type kids, and we took some chances and if you saw his win total after 2009, you know, it took a significant dip, he had to sort of rethink his philosophy on that about obviously doing your homework, doing your due diligence, not just recruiting the kid, recruiting the whole family, somebody, you know . . .

Recruiting somebody here that is aligned with Villanova's mission . . . Jay understands that better than anybody in college athletics, I think, he's such an ambassador for Villanova because he believes so much and it's part of who he is, his wife went to school here . . . So, he recruited kids that we aligned with that, and I think that we're now seeing the benefits. Puts



a lot of thought into every decision that somebody he brings to campus, and, oftentimes he will pass on a more talented kid that doesn't fit the mission.

Do we always get it right? No. No, look at this season, you know, we had a big-time transfer, in Jahvon [Quinerly] just wasn't a fit, [he is a] great kid, just didn't fit you know, on either side, so, sometimes you learn lessons that way.

**Andrew Brandt:** Yeah, and I'll let you start in a minute Val, because I remember Jay telling me, you know, not mentioning any names, but some coaches out there, says, "They can't coach," because they're managing the high school coaches of the kids, they're managing the AAU coaches, they're managing the entourages, they're not really coaching, and I know he never wanted to get into that, but that can be reality for top players, right, Val? I mean that level of player in basketball these days.

**Val Ackerman:** Sure, well, I would just add to Brian's comments, agree, well said . . . I don't know how it works in football, Brian, but in basketball, it's just sort of interesting to me, this is why we supported the elimination of one-and-done . . . If you're a high school basketball player, you do have an opportunity to go pro right away. You can go to Europe, that's been going on forever. You can go there, you can be a pro, you can draw a salary . . . In some cases, in many countries, it's very favorable tax treatment, I don't know how that works with tax treaties, but you can get great deals, housing, get everything covered, you can be a professional right away.

The NBA rules, even though they block a player from going directly to the NBA out of high school, they have always allowed a player to go directly to the G-League right out of high school. So, you can become a professional basketball player in the United States right out of

high school. So, you can decide to go there, and become a pro. You can draw a salary . . . Everything that goes with that, it's taxed, of course . . . The G-League is working hard, it seems, to build that league, they have now come up with this category of contract called 'select' contract, I think it's \$125,000 a year, that it goes into effect this year, so they are in effect saying the NBA is, we recognize there may be players out there who don't want to go to college, who don't want to go to Europe, we're happy to have them and for the tippy top best of those players, we're going to offer them the salary.

I don't know where they came up with the number, but that's it. I'm also hearing that the G-League for those players who don't want to go to college in addition to having a grossed up salary structure, is also going to offer educational opportunities to the players, so you could go there, be a pro, draw the salary, everything that goes with pay for play, and get your education on the side. So that option, which to me is fantastic, because that covers a category of players. College basketball, at least it seems to me, has a different sales proposition here.

At least has, you know, of course, it's being tested. But that proposition has been, if you want to come here, here's what the quid pro quo is for you, here is what the compensation is for you. You get a full scholarship, I mean, I had this costed out at your place, Mark, a couple years ago, it was probably what a men's basketball player gets here at Nova, all in, I mean, the attributable value of the travel, but the tuition fees, room and board, academic advising, I don't know, you can cost out the medical . . .

**Mark Jackson:** Massage therapy.

**Val Ackerman:** Right, I mean, it's not cash in the pocket, but now there is, right, because it's cost of attendance, on top of the scholarship benefits, I don't know, \$150,000? Something like that?

**Mark Jackson:** At least, at least.

**Val Ackerman:** Maybe more, it's not nothing. And, you know, you're part of this, and you get to play in Madison Square Garden, and you're not in the G-League gyms, et cetera, you're part of something really special, you're getting, and importantly you're getting your education at a first-class university like this one, so, I don't know, I mean, I played basketball in Virginia, I was on a scholarship, I was happy to have it. The idea for me, for women's basketball players would get a salary, is, it's frankly, it doesn't make any sense to me, I mean, just as an aside . . .

I sat in a four-hour meeting, on Wednesday at ESPN with sixty stakeholders from women's basketball. Okay? Who are all very committed to growing the game, it had people from the WNBA, women's college basketball, we had people globally who attended, we had twenty people from ESPN there because they are a major stakeholder in the women's game, and one of the core issues of women's basketball is, that the sport is operating at a big cost, the revenues aren't there like they are on the men's side.

Programs, because of Title IX, are spending on women, because it's a Title IX principle that the men are getting this, so the women get that, but the fact is they're running at large deficits at many universities, so some of the litigation I think women's basketball's been included in that, and that's perplexing to somebody like me. I don't know why that, but there is a Title IX issue. So, that adds to the complexity, you know, of this sort of landscape that we're in here.

But all I'm submitting, Brian, I think, you know, there is enough pressure on the system now, and the commercial outcomes in some cases are very visibly significant, very visibly meaningful, so I kind of agree with you that there- we're working towards something here. You know, some system, and I think the concerns of the players in those cases have to be heard, and dealt with in some fashion, but to be very clear here, that's not most of college sports. You know, college sports, remember I said, we've got 800 schools in D-II in D-III. Mark's got a lot of schools in his program which are not bringing in this kind of revenue. We've got one- he's got one team that's basically funding everything else, and if there's pressure on that team, in terms of additional costs of doing business, that's going to pressure other programs, and maybe donors will come up with the money, and maybe there's another way to skin those cats, but it's . . .

These are very uncertain- these are questions that right now- that don't have answers, so it makes it very hard to predict, there's no crystal balling here, that I think any of us could do, with precision for you on that.

**Brian Westbrook:** One of the big issues I would think that schools and conferences would have with pay for play is that the better schools, the teams that win that get more money . . .

**Andrew Brandt:** Arms race.

**Mark Jackson:** Yeah.

**Brian Westbrook:** Yeah, it'd be almost like a baseball type of deal, like you have more money, so you get the best players, and the smaller schools get none of the good players or they have to find a different way to develop talent, and it would just be almost hard and impossible for schools like Villanova to compete against North Carolina and the bigger schools that, Kentucky, that win

almost every year or at least have a vision to win every year. It would just be tough, and so, certainly there is complications and a difficult manner about it, but I think the NCAA continues to find revenue and it doesn't go down, I think the TV revenue continues to go up, one of the things you guys continue to fight for, and eventually I think you'll figure it all out.

So, I have a lot of confidence in that.

**Andrew Brandt:** I remember you telling me, Brian, at the Eagles, you'd have players walking in from big-time colleges looking around saying, "Dude, my college has much better facilities than the Eagles, geez. What is this?"

**Brian Westbrook:** So, somebody would make the joke that some of the first rounders that went to Florida State, and Ohio State that they took a pay cut to come to the NFL.

**Andrew Brandt:** Yeah, we'll talk to Jeff Kessler about that mess.

**Brian Westbrook:** Yeah, I see you Coach Mark Ferrante, the football coach in the back, I laugh because a lot of the guys that I played with, they were getting compensated just a bit in college. And they were like, "Well, how much did you get paid, you were the man at Villanova, how much did you get paid?" Well I was like, "I got paid in homework assignments and essays and nonsense." There was no dollars exchanged, I will tell you that. It would've been nice.

**Andrew Brandt:** Well time flew, let's thank our panel, Mark Jackson, Val Ackerman and Brian Westbrook, thank you.

*Panel 2***Gender Equality and Equal Pay in Sports****Moderator:** Andrew Brandt**Panelists:** Jeffrey Kessler and Penny Lee

Panel 2 offered a thoughtful discussion on the current state of equal pay in the realm of sports but also in the American work place in general. We were joined by Penny Lee, who is the Head of Public Affairs for Invariant, and who has also served as a top political advisor to Senate Majority Leader Harry Reid (D-NV). We were also joined by Jeffrey Kessler, one of the premiere sports lawyers in the world, and counsel for the United States Women's National Soccer Team in its litigation against the US Soccer Federation.

**Andrew Brandt:** Again, preeminent people. When I think of sports attorneys on the player side, there's no name that comes up before one, Jeff Kessler. And, like I mentioned with Brian Westbrook, it's just such an honor that I can call Jeff, sometime in the spring every few years and say, "Can you join?" And he says, "Just tell me where and when."

Jeff Kessler, as has been mentioned by Jami [McKeon], NBA Players Association, and our executive director will be up here next, NFL Players Association, US Soccer, Women's Soccer team, which we'll talk about, US Women's Hockey team, players individually, Tom Brady, as you may remember (laughs). So, these are the kind of things that we can bring here, the insights of Jeff, and of course, all that was discussed on the prior panel with NCAA issues and pay for play, the force behind that on the legal front is Jeffrey Kessler. And we'll talk about that.

Penny Lee has a legislative angle that is unique, talking about gender equity and women's issues. And I'll start with you there. So, H.R.7 is out. It is a legislative piece trying to get what we all want, which is for the gender equity, what Jami talked about, the disparities here. So,

your work . . . You have an insight as to how we're addressing that legislatively.

**Penny Lee:** Yeah. It's one of those things that elections matter.

**Andrew Brandt:** Yeah.

**Penny Lee:** So, what we saw in the 2018 election was a sea change, as to who was now representing in Congress. We now have back as a speaker, Nancy Pelosi. And with that, she has 100 women now behind her that for the first time they've been elected into Congress. So, this is a sea change in what it does. The speaker can dictate what is on the agenda to a much greater effect than what they can in the Senate.

So, she really can drive and put forth what she wants to in the agenda that is. And so, you would have to be completely deaf, not to have understood that part of the movement, and it really truly was a wave, a women's waned election not only from participation. You saw record numbers of women turning out to vote, but also now as far as who was elected. And so that is dictating what is on. So, as they come into every new Congress, every new bill gets attached a number.

So the seventh bill that was addressed, H.R.7 was the Paycheck Fairness Act. This was done on purpose. It was done with thought. And a lot of questions were, were put out to say, "Well, didn't we already establish that in 1963 with the Equal Protection Act?" Yes, but what we have seen is that there, and as Jami has eluded to in some of the statistics that she just stated that there hasn't been equity as far as on the pay—since 1963 women still make eighty-three percent to the dollar of which the man does. And so a lot of women in Congress led by Rosa DeLauro out of Connecticut this is a bill that she has put forth for the last ten years. Finally, was able to bring it to the floor. And it was to

correct the . . . There was a line in the Equal Protection Act that said, "You can discriminate based on sex, or you can allow for sex not to influence the salary if that is based off of seniority, merit, probation, and anything other than sex."

And so what they were trying to do was tighten that definition up, "anything other than sex." And so what it did was it addressed no retaliation. If you have somebody that goes and puts forth a complaint that says that they are not getting equal compensation, oftentimes, in a workforce environment, there would be a retaliation against that worker.

So it was trying to eliminate that retaliation. Also, one of the determining factors was wage history. Oftentimes, women come into various promotions, and they've consistently been at a bottom rung. So therefore, even when they go to a promotion or to a new job, based on prior work history, they aren't able to garner the wages of which a man does in that same role. So things such as that. So there was a tightening of various different languages to get at that. What they felt was a discriminatory allowance of the notion of "anything other than sex."

So that was what they did. It has passed the House. It passed majority with just Democrats, only one . . . Chris Smith out of Connecticut, was the only Republican that voted for it. It now will get kicked over to the Senate, where, and being a Senate alumni of Harry Reid, I can tell you, the Senate is where all good things go to die, often times. But in the Senate, we obviously do not have the same type of leadership. As speaker Pelosi and Mitch McConnell right now is not, has no willingness to bring that up to bare. So, again, it will be a now- it will go forth but right now there is no movement past the House.



**Andrew Brandt:** Jeff, on the sports side, was the recent US Women's Soccer action by you, first with the EEOC in 2016, was that your first foray into this issue, on the player front, with the equal opportunity, the gender part of it?

**Jeffrey Kessler:** In terms of filing a lawsuit, yes. But actually, when the women's tennis players were working to get equal prize money . . .

**Andrew Brandt:** Yeah.

**Jeffrey Kessler:** . . . in the four slams, and in the highest level of the WTA events, we were actually counseling them on those efforts as well. So that was probably my first foray into trying to get equal pay. But the Women's Soccer team . . .

**Andrew Brandt:** Yeah.

**Jeffrey Kessler:** . . . is the first lawsuit.

**Andrew Brandt:** So take us inside the actions. First, the EEOC action, now, the litigation on behalf of the Women's Soccer team. How'd you get involved?

**Jeffrey Kessler:** Yes. So this went back to when the women were doing a new collective bargaining agreement.

**Andrew Brandt:** Correct.

**Jeffrey Kessler:** And, at that time, this was several years ago, we were retained, as we often are, on the players' side to give advice. And the first thing we do is we look at the facts, the underlying facts, the economics of the industry, how they were being treated. And it immediately occurred to us that this was a violation of all Title VII and the Equal Pay Act. Because . . .

**Andrew Brandt:** Because why?

**Jeffrey Kessler:** And you don't often have this precise set of circumstances that present themselves in sports. And the reason is, to state a legal claim under those statutes, you need a common employer. Well, in most of these sports, there is not a

common employer for the male and female athletes. Here, there was. It was the United States Soccer Federation, [which] has a national team for men and a national team for women. And they all enter into employment agreements with those teams. In fact, there was a union for both the men and the women, different unions who were negotiating.

**Andrew Brandt:** Okay.

**Jeffrey Kessler:** And so, it set itself up where you had male and female athletes who were doing essentially the same job. And the main two differences were that the women's team was phenomenally successful and the men's team was not. Uh, and if you looked at it . . .

**Andrew Brandt:** Spoken like their lawyer.

**Jeffrey Kessler:** I mean the facts are the facts. And on a revenue basis, the women's team was much more profitable for the United States Soccer Federation than was the men's team. So you didn't have some of the issues you could get into, you know, in other sports where the men's teams are just generating much more money. That was not the case with the women's team, yet they were making seventy percent or less than what the men's team was making. So what's up with that?

What's up with that is discrimination. Okay. It's very much a reflection of what we just heard about. It's a national issue. It's not a sports issue. But the women on this team who are phenomenal athletes and are phenomenal leaders said, "We're going to stand up and do something about it." Not just for themselves but really as an example to try to use sports, as it often can be, as a positive example for the world in terms of that. So they started this struggle with an EEOC complaint a few years ago. And then, unfortunately, the EEOC is not the most active body in the world these days.

And so the investigation continued, and continued, and it continued. And finally, the women said . . .

**Andrew Brandt:** Was there any way you could prod that along as the attorney?

**Jeffrey Kessler:** We prodded as much as we can, and there were efforts to try to mediate a settlement. But all of that went nowhere. And, finally, the women said, "Enough is enough." They were going to file their own lawsuit. And every single member of the current team joined in as an individual plaintiff. So while it is also a class action for the players who came previously, going back to the statute of limitations, each member of the team wanted to individually join to show their unity on this issue.

**Andrew Brandt:** You've represented a lot of men's organizations.

**Jeffrey Kessler:** Yeah.

**Andrew Brandt:** Is it different representing women's organizations?

**Jeffrey Kessler:** No. In fact, the male athletes have been tremendously supportive of the women on this. The men's national team said they hope the women get every penny, and they deserve it. Many of the players have spoken out about that. I see some other athletes from the various sports I'm involved in, whether it's the NBA or the NFL. All those athletes have said, "Right on." You know, "Go get that money for the women as well. They deserve it." So there's been no problem there.

**Andrew Brandt:** What is the defense being offered by the US Soccer Federation why they won't pay?

**Jeffrey Kessler:** So, they have a variety of defenses. One of their defenses is they're trying to deny that, in fact, they should be treated as a common employer, because there are two different

teams. I don't think that is legally correct, but that's one of the defenses that they've made. A second defense they've made is that somehow it's okay because it was a union, and the union agreed to what the women are getting and bargaining. And, therefore, that's some type of waiver. For all of you who know the law in this area, unions cannot waive Title VII. Unions cannot waive the Equal Pay Act any more than a union could agree to waive the minimum wages laws of the states.

Those base requirements apply whether or not you have a union agreement. By the way, the union wanted equal pay. And the only reason they didn't get it is because the USSF said no. And they then had to decide whether to take a significant advancement, which they did get in their last deal, and work, or to not work at all which they thought would be more destructive to their sport. So, what they concluded they would do is that they would do the best they could in collective bargaining but then assert their legal rights, which is exactly what they are doing here.

So that's the defense that's been raised. And their last one is—it sort of blames somebody else. So they say, "Well, we'd love to pay the women the same but, you know, FIFA doesn't give us the amount of money for the World Cup for the women as they do for the men," which is true. But that has nothing to do in our view with what the USSF does with their money. Okay. FIFA is not in this country. I can't sue them under Title VII . . .

**Andrew Brandt:** You would if you could.

**Jeffrey Kessler:** . . . or the Equal Pay Act, but I can sue the USSF. And they are required to treat the women equally under the law regardless as to whether the rest of the world is discriminating or not. And, frankly, what USSF should be

doing is saying, “You know what? We’ve got the money. We are going to treat these women fairly, and let’s set an example for the rest of the world.” Maybe, they’ll come to that. We hope they’ll come to that, if not, we think that, eventually, a jury is going to make them come to that.

**Andrew Brandt:** And what’s been so impressive is that your star players, and this happens, I’m going to talk to Michele about the NBA players, like Chris Paul, LeBron, your star players have stepped up. Been very vocal, been out in the media, Alex Morgan, et cetera. That obviously shows the passion that these women have for this.

**Jeffrey Kessler:** There’s no question about it. They feel . . . Look. They get letters from little girls all over the country who are so excited about them fighting for equal rights. You know, my granddaughter who’s four years old knows they’re fighting for equal rights. She doesn’t understand even the issue . . .

**Andrew Brandt:** That’s not because she’s your granddaughter?

**Jeffrey Kessler:** But why, why would women make less if they’re just as good? She doesn’t understand that issue.

**Andrew Brandt:** Right.

**Jeffrey Kessler:** I don’t understand that issue. I’m like her. So this is something that has to be established and fought for.

**Andrew Brandt:** And Penny, sports we talked about, I think Mark Jackson talked about sports being the whatever, the window, the, the porch, the front gate for everything else in the universities. It seems like these women athletes stars can be that for what you’re talking about legislatively.

**Penny Lee:** Yeah. And they have been, you know, tremendous advocates, for this issue, obviously, putting forth on a day to day basis and letting the

actions speak for their words and putting it back up and being willing to take the risks. Risks of their own job, risks of their own security, risks of, you know, never being able to play again. And so, they put it forth out there.

And so a tremendous amount of people have applauded not only the soccer [players], but also Serena and Venus, and what they did with tennis, you know, asking for it. And so as the saying is with Martin Luther King, the arc of justice is slowly bending. And you're starting to see that it takes a tremendous amount of time to change these ways and to change this behavior. And it has to be done with intention.

Recently, California just passed a law in which they are requiring public companies that are based within California to have a certain percentage of women on the boards. There's criticism. I was on a panel recently with a Congressman and he said, "You know, I don't think that we should be doing that legislatively, or I don't think we should be doing that through the laws."

Well the problem is, for the last 100 or 250 years, the behavior hasn't changed. And so similar to what we had to do was to force laws and to force regulations down to be able to change on racial disparities and to be able to open up our schools, open up our businesses, other things not to allow for racial discriminatory issues to occur, but also, in the same thing, we feel it on gender.

And so I've seen- you're just at the tip of the iceberg right now as far as on a national conversation. It is front and center. Right now when you only have nine percent of the boards in America having a woman on that board. Or of the Fortune 500, only twenty-four CEOs are women. You are having that conversation

because you are also seeing that at the end of the day, it's a profitable thing to have.

When you have a gender diverse board, your percentage of income goes up twenty-four percent. Your profits go up twenty-four percent. So it is a profitable thing to do. So, people are recognizing it. They're understanding it. The overarching cloud of "Me Too," "Time's Up," those conversations are also occurring and kind of pushing this and propelling it forward. So, I think you're only at the tip of the iceberg.

**Andrew Brandt:** Jeff, what was talked about last panel was obviously some financial constraints with some of the pay-for-play stuff that you're behind with the *Alston* case due to Title IX issues. So here we are, gender equity versus pay-for-play, two issues that you're both involved with. Can you square those?

**Jeffrey Kessler:** Sure. If Title IX applies with respect to the payments of compensation and benefits to college athletes, then I think that's great. What will be the result? The result will be that more athletes will get the compensation. And if there are financial constraints, maybe the men will get a little less and the women will then be brought up to them, and that's terrific. Okay.

I don't know if Title IX requires that or not. I wish it did, frankly, from my standpoint. The reason I don't know is because there are a lot of decisions that say, "You don't have to spend the same on teams for men and women on Title IX." So, for example, I could tell you right now, every major football school spends vastly more on their football team than they do on all their women's sports put together. And that's not a Title IX violation.

What Title IX has been held to protect is the equality of the availability of scholarships. That it 100% protects, and it's had a dramatic example. So, I'd be in favor of it applying, but I

don't know if it applies. But in any event, that'll just determine how the money is shared. Then, I'm in favor of greater shares, not lesser shares for women.

**Andrew Brandt:** I guess the question is if there's more pay for superstars in big-time college football or basketball, it will directly affect other sports, minor men's sports and, of course, women's sports.

**Jeffrey Kessler:** No, it won't.

**Andrew Brandt:** How or why not?

**Jeffrey Kessler:** Okay. So right now, we have something called Division Three, right? Division Three has every single team. It has no major sports to support it financially. Okay. Same thing in Division 1A or if you're in the Ivy League. You have no revenue sports. Believe me. I know. I went to Columbia.

The football team does not generate money to support the other sports in those schools. Every one of those schools has every one of those sports. Why do they get support and how? The same way that the English department gets supported. English department has no revenues either. The same way that the drama club gets supported. The drama club doesn't have maybe a little tiny bit of revenue as well. Or the school newspaper or anything else that gets supported because for those other sports, it's part of what the colleges find valuable and offered.

This whole idea that somehow the basketball and football players at the revenue sports should somehow not get anything because the rowers need it is a canard. It's just not true. It's not true in any sport that's out there. What they're actually supporting is not the rowers. They're supporting, and I'm sorry to say this, the coaches, the athletic directors, the facilities, and everything else.



If you're at the University of Alabama, so, the coach instead of making \$11 million, will make \$7 million. And the rest will go to those athletes, ninety-five percent of which will never go to the NFL, by the way, or to the NBA out of Duke. Most of the players do not go on to professional careers. And, instead, this is their one shot to try to reap some benefits out of that. And the money is going, frankly, where it shouldn't go.

**Andrew Brandt:** Which is?

**Jeffrey Kessler:** To the coaches, the athletic directors, facilities, any place else except that the people who actually generate the money.

**Andrew Brandt:** Where does that case stand?

**Jeffrey Kessler:** Well, we won. We had a trial that took place in November. And the NCAA restriction was struck down. We had requested two forms of injunctive relief, the one that we really preferred and, frankly, the one that we got. The one that we really preferred would have said the NCAA is just out of this business entirely and individual conferences could set their own rules and competition with each other as to how to treat their athletes in these revenue sports.

Oh, by the way, I don't expect every conference to do the same thing. If you're in the Patriot League, you may not do the same thing for your football players if you're in the SEC, okay. That's just a reality in terms of where the money is, in terms of that. But the relief we did get, said, "The NCAA can no longer regulate educational benefits." So what does that mean?

Now, all the schools and conferences will be free to do as much as they want in terms of giving post-graduate education scholarships, study abroad, tutoring, computers, work-study programs, and, most importantly, from my stand-

point, academic achievement encouragement rewards so that they can go out, for example, and give their athletes \$15,000 a year if they're making progress towards their degree and another \$15,000 if they get their degree so it will encourage education.

And it was very interesting to me. Mark Emmert recently got interviewed about this during the tournament. And he said he thinks competition to provide more value in education is a good thing. Well, now, he's got it. And despite that fact, by the way, his organization is appealing that, so there's sort of a disconnect between what he said and what they're actually doing. And by the way, we're, of course, appealing.

**Andrew Brandt:** You're appealing?

**Jeffrey Kessler:** We're appealing because we still think we should get the broader relief. . .

**Andrew Brandt:** Which is money.

**Jeffrey Kessler:** . . . which would allow the conferences to take over all of this. And we'll see what happens when we get to the Court of Appeals.

**Andrew Brandt:** What's the status? What's the timing there? You never know.

**Jeffrey Kessler:** We're probably looking at least a year before we would get a Court of Appeals ruling on this. A year to a year and a half would be typical for the Ninth Circuit in terms of when we get a final decision.

**Andrew Brandt:** And, Penny, speaking of timing, these bills, I mean, obviously, you said we have encouraging signs in Congress now, but we also know where things go to die. So what's your timing assessment?

**Penny Lee:** If I had that magic ball. Well, we have sixty-three legislative days left in the year stunning with all the different things. So, we have things

such as immigration, debt ceiling, and a host of . . . a whole host of other revenue and appropriations bills to get through. So, on this one, we were also going into the 2020 elections, so we have just a really narrow window this year to actually get some legislative actions done.

And then we go into a full-blown presidential election and everything kind of gets tied up into all the messaging bills and what needs to go on to the floor. You recently saw, in the Senate, they put up a green new deal, and that was just to really generate thirty second ads off of it. All the Democrats voted against it.

So if you can't support that, then how can it be real? So, we're going into . . . By January, we'll be in the complete silly season where most of the bills other than just to keep the government afloat will be on a message side, and that will be to affect an election. So this one is one. It will be used as a weapon in political campaigns. It was able to pass the House with only one Republican saying that they weren't for the equal pay of women.

So that is what these bills are going to be doing from now until the end of 2020. And, again, we'll go back through and see what the outcome of the election is going to be and whether or not we do have the first woman and whether or not President Trump is reelected or however it gets shaped. So, I would say right now, it is not going to go anywhere. But, again, being able to use as a tactic, as a strategy, on the campaign trail between now and the end of the year.

**Andrew Brandt:** And Jeff, the status of the women's suit?

**Jeffrey Kessler:** So we're at the very early stages of the suit. Right now, we're finding out about where it will be heard. So, we filed our case in Los Angeles. And there is another case that Hope Solo had individually filed in San Francisco. The USSF

had moved to transfer Hope Solo's case to Chicago where they're headquartered as they think that they prefer to have the case heard there. This is now all before what we call the multi-district litigation panel, which is a group that decides where to centralize cases when they have common issues.

And so we're advocating that everything be heard in Los Angeles. I assume the USSF hasn't responded yet, but I believe they're going to say Chicago. And then we'll get a decision on that. There's a hearing on May 30th in New Orleans. And so it'll be argued then, and we'll get a decision shortly on that in June.

Um, once we know what court we're in, then I expect that there will initially be motions to dismiss filed by the USSF when arguing whatever they are going to argue to try to say the case shouldn't go forward. We'll overcome that. And then we'll move into discovery and get a trial scheduled. And hopefully within a year or so of that, if we don't settle and get equal pay through settlement, then we will go to a jury trial.

**Andrew Brandt:** And the women's . . .

**Jeffrey Kessler:** And we like, we like our chances in front of a jury on this issue.

**Andrew Brandt:** I'm sure you do. The women's team continues to play with the gaps in pay as we see.

**Jeffrey Kessler:** Yes. Oh, their first goal right now is to win the World Cup this year.

**Andrew Brandt:** Of course.

**Jeffrey Kessler:** And that's what they are focused on. And I'm hoping that's what they're going to do, and that they will continue to play. They made that decision when they decided, rather than strike or face a lockout on collective bargaining, to take their agreement. They still feel that their

sport needs to be supported both in the US and globally. And they were not willing to take a disruption in play over this especially when the legal system offered another alternative for them to seek equal pay.

**Andrew Brandt:** We'll be following it. Thanks so much, Jeff Kessler and Penny Lee. Great discussion.

*Panel 3*

**Data, Gambling, and Privacy of Athletes**

**Moderator:** Andrew Brandt

**Panelists:** Adam Berger, Jeffrey Moorad, Michele Roberts, and Darren Rovell

Panel 3, the final panel of the day, featured prolific speakers from the world of sports, gambling, and data. The conversation focused on the current state of affairs in the world of sports and sports betting and how, in light of the many implications of legalized gambling and the value of player data, leagues and industries might react in the future. Panelists included Adam Berger, Villanova Law Class of 2010 and associate at Duane Morris, LLP; Jeffrey Moorad, Villanova Law Class of 1981 and Chairman of Morgan Lewis's Global Sports Industry Practice, as well as Chairman/CEO of Moorad Sports Partners; Michele Roberts, Executive Director of the NBA Players Association; and Darren Rovell, Senior Executive Producer at the Action Network.

**Andrew Brandt:** Adam, if you would, give us a take, since May 14th, the world changed of sports betting according to the United States Supreme Court. You've been in the trenches working on it. Sort of general overview, big picture, where are we with this new landscape of sports betting?

**Adam Berger:** Sure. Well, first of all, thanks for having me today. Really a pleasure. It's funny you say that. Darren and I were talking before we went on, and he asked me how long I've been practicing, and I said about eight or nine years, all in the gaming space. And he said, "When you started, did you think sports betting would become legal?" And I said, "I didn't think it in 2010 or '11. Frankly, I didn't think it in 2016 or 2017." The first I thought it was even possi-

ble was when the Supreme Court granted cert. The Supreme Court generally doesn't care about sports, about gambling. The federal government, for the most part, stays out of gambling space. So when we found out the case was trying to move towards the Supreme Court, we thought, "They're never going to hear it. Maybe there's a nuanced constitutional argument they want to hear."

We were all wrong. The Supreme Court granted cert early 2018, and then, I think . . . Well, I think once they granted cert, everyone thought maybe we have a chance here, and that's when we started to get a lot of interest. And the coolest part being a gaming lawyer in this space was that now we're hearing from media companies, telecom companies, apparel companies, companies who have sports assets and they want to combine those with the gambling space, and that's not even why this panel, I think, is so timely today. Since the Supreme Court's decision came out, keep in mind PASPA did not make sports betting illegal. It simply said states are not allowed to authorize it. So since May, states have now had the freedom to legalize, adopt legislation, and then promulgate regulations to allow sports betting to occur within their borders, either in person or over the internet.

Right now, you have about ten states that have legalized sports betting, most of which are live. In Pennsylvania right now, you can bet in a casino. Online's coming. You probably have another twenty states that are considering legislation. Politics get in the way as always, and the process, I think as we saw in the last panel, can be slow and arduous. But I think in the next five to ten years, we're going to see sports betting legalized in probably somewhere between twenty-five and forty states.

Just on a straight gaming revenue side, you're talking about an industry that's three to ten billion dollars per year. And then when you talk about the ancillary benefit to sports teams, to apparel companies, to media companies, two, three times that. So, this is major business, and I think it's very timely to speak about it.

**Andrew Brandt:** And Michele, major business means major revenues. There are going to be major revenues bringing in the NBA. The NBA's been the progressive leader on this with Adam Silver's op-ed in the New York Times four years ago, and here we are.

**Michele Roberts:** Right.

**Andrew Brandt:** When you look at all this revenue coming in from gaming and Mark Cuban saying franchise values are going to double, as the player's representative, what do you see?

**Michele Roberts:** Well, I'm not as giddy as everybody else is about gambling. I'm not. It's not because of any, you know, philosophical or religious belief that I harbor. I'm as . . . I am giddy, with respect to the amount of revenue that's predicted to be generated. And with the assistance of my counsel here during our last round of CBA negotiations, we made sure to include gambling revenue as part of the dollars that would be shared with the players.

So, you know, part of me is- is cool with it. But I don't ignore one of the inevitable consequences of sports betting, and we can look outside the United States and see what's happened in other sports in other countries. There are going to be winners and there are going to be losers and there are going to be big losers, and those losers are going to be pointing fingers, and they'll be pointing fingers at a number of people, and a number of categories of people, but that category will include players.

Careers can be ruined, brands can be damaged, and part of what we need to do is prepare a system that will protect the athletes, and that's who I work for. A system that will protect the athletes and not spend as much time, or at least some time, protecting against what we know are going to be some incredibly negative potential consequences for our players. So, you know, on a Tuesday, I think about the money and I'm doing somersaults in my office and on Thursday, I start thinking about accusations of cheating and I become depressed, but I'm working through it, you know?

**Darren Rovell:** I can help you if you want.

**Andrew Brandt:** That brings up so many issues, and Darren, you've spoken on all of them now, covering this full time. You're a living example of the change in what's happened, moving over from ESPN to the Action Network. I don't know where to start. You can sort of bounce off what Michele just said, in terms of where this is going in your mind.

**Darren Rovell:** I mean, there's a million questions, and one of the reasons why I moved to the Action Network is I believed that I could cover the business of betting, that segment, every day. In 2015, I think I wrote twenty stories on sports gambling, and then 2016, was maybe thirty-five, and then 2017 was maybe fifty, and 2018 was sixty-five, and I'm probably going to . . . in 2019, I'll now write 200. So there are a lot of issues and there's a lot of things to cover. I don't know where to start either. Do you want to . . . Should we- should we ask a specific? I mean, I'll talk for the next hour. So what do we want to hit on exactly?

**Andrew Brandt:** Why did you make the move?

**Darren Rovell:** Okay.

**Andrew Brandt:** From ESPN to a sports gambling website?



**Darren Rovell:** Yeah I mean, so, for me, I just felt, living in New Jersey, I think each state is basically its own country now, and living in New Jersey and seeing the manifestation of what it had become, which is basically . . . outside of Vegas, it's essentially Europe, where you- the difference between New York, where there currently isn't gambling, and New Jersey is insane. You go from New York, through the Lincoln Tunnel, and then on the outside of Lincoln Tunnel, there's the first five signs you see are Draft Kings, FanDuel, Caesar's, William Hill. There's thirteen different apps you can bet from your phone. New Jersey Transit on the buses and on the rail, they have advertising on the wall, on the ceiling, on the floor. People are leaving. In New York, they're leaving their lunch breaks and making Secaucus a tourist destination.

**Andrew Brandt:** (laughing)

**Darren Rovell:** Stopping on the platform, making a bet, and then going back. So, I just don't know how many businesses you've ever had in the history of the world where you're able to see such a small piece of it in mature stage and knowing that the rest is going to come and also knowing that there's a timetable that's going to give you time because of all the political aspects of it. So, I was salivating at this opportunity because I was living in and seeing everything that was going on in conversations with my friends and society, and so, to me, I felt like I had to make the move, as long as it was a move to a company that was based in data, that was not taking bets, so there was a couple caveats there, and that's how I wound up at Action.

**Andrew Brandt:** We'll come back to that. Jeff, you've been on this from the league and team side. I just mentioned, with Michele, the revenues that will be flowing in from this, and we'll talk about her concerns more, but you've seen that, and you've been part of that from the infancy.

**Jeffrey Moorad:**

I have a bit, and you know, look, I think, in my opinion anyway, getting this issue out from the shadows, is a good thing. It's a good thing for the industry, for the sports industry, frankly, for our society. It's like, illegal bookmakers or, obviously I don't bet a lot, so I don't even know the terminology that's proper, but the fact is, you know, people who have placed illegal bets for years are now being pushed to the background, and I think that's a good thing. And what's evolved is an opportunity for professional sports teams, leagues, ultimately trickle-down benefit to players, to derive new revenue flows that just weren't part of the landscape in the past.

So, in that regard, you know, look, I've actually debated this issue with several folks. In fact, some who've surprised me in their opposition to sports betting or legalized sports betting. The fact is that I see it as just another way of teams and leagues and, as I said, ultimately players benefiting from what was taking place otherwise in the shadows. So, I think it's all a good thing, and I think that there's an enormous challenge that lies ahead for proper regulating, for proper controls, making sure that abuses don't take place to the best that we can, but I think that, generally speaking, that this is a really exciting time for professional sports, for the industry as a whole, and the challenges to moderate it properly.

**Andrew Brandt:**

Darren, some of the concerns that— I keep saying I'll get back to Michele on— but you talked about, you know, three seconds left in a game with “x” spread and a meaningless layup. So, what happens there? I mean, you have an issue. Are they going to point fingers at players? Is this going to create a whole new set of problems that we haven't anticipated?

**Darren Rovell:**

Right. So, to alleviate some of Michele's anxiety hopefully, I think that yes, it will make the

pie bigger, but the legal pie will just take some of the illegal pie. So, I would suggest to you that some of this stuff is already happening and the players already have the pressure. But no, I mean, there is an interesting scenario where, you know, by virtue of the NBA doing a deal with MGM, which would be, the percentage would be shared with the players, then I say, "Okay." And the league's also saying, "When you go to MGM, we are saying, by virtue of our sponsorship, that this is a blue-chip brand. This is different from Bravado or any illegal company. So, you should go to an MGM sportsbook."

Well, what happens if I go to an MGM sports book and as Andrew was saying, there was ten seconds left and the Knicks are a one-point favorite and they're down and- and I have the Bucks and Giannis goaltends at the last second and the Knicks win by one point and I went to an MGM sportsbook and I'm really upset that I lost, and then, in the effort of integrity, Adam Silver or the NBA put out their two-minute report or whatever and they put this out, obviously, before betting, but the idea was to be upfront and there was no conspirators here. And they come out and they say, "Well, actually, that was the wrong call. Giannis didn't goaltend." Okay.

So, I now went to MGM, that was the book you told me to go to because that was affirmed by you through this sponsorship. I lost. You then told me the next day that I shouldn't have lost, but that I did lose and the result of the game is not changing, but I also . . . MGM bought the data and the data, like does that stat change? Because if that stat changes, do I have a case?

And so, these are some of the complex issues that go on. There's going to be another issue with latency and are the games going to be attended? Are tickets going to go up in price

because bettors feel they have a one-second advantage on live in play? So, there's a lot of things going on, but I mean, certainly the conflict between the integrity of the game and the integrity of the result when you try to make the integrity of the game an issue. I mean, there is definitely some conflict.

**Michele Roberts:** Yeah. I mean, that's— so that's one example, and currently in our sport, the media has access to our players during practices, before games, and after games. And a reasonable question to ask LeBron is, “You know, Bron how are you feeling? You feel okay?” And a reasonable response would be, “Fine.” Well, last year, we learned after the Finals, that LeBron had a broken hand. No one knew about that. And the first thought I had was, “Were we in a betting landscape and that information had been revealed only after that sweep,” I think they were swept, weren't they?

**Darren Rovell:** Yeah.

**Michele Roberts:** I can't remember. I cannot— I can only imagine the outrage that that information was not disclosed to the betting public. So, we have to have a conversation about exactly what players are obligated to say in response to media inquiries, what teams have to disclose about whether a player is going to be able to play, whether a player's going to be rested. There's a lot of talk now about load management. I mean, we really have to think about the public's right to know, the athlete's right to privacy, and a team's desire to maintain some competitive advantage, and these conversations just aren't happening because we're all so excited about the money.

I'm . . . look, I'm excited about the money. I mean, one of my responsibilities is to keep my-get my players as rich as possible, so I'm not poo-pooing that. It's just that I . . . you know,

as we have time, as these states begin to, one by one and they will, very quickly, pass legislation, we have to spend this time preparing for the protection of the integrity of that game . . .

**Andrew Brandt:** But can you . . .

**Michele Roberts:** And the privacy of the players.

**Andrew Brandt:** And I'll get the legal opinion from Adam. Can you protect that data? Can you protect what these players . . . load management, hydration, heart rate, if it . . . and how do you protect that, and is there a value to that? To me, these are all questions going forward. Data is the key to everything going forward. And now we're not only going to get data about shot . . . you know, all the analytics data on the court, but we're going to find out more about players' variable heart rates and Fitbit and whatever the next evolution of that is. Can you protect that?

**Michele Roberts:** I'll keep talking. You know, and again, Jeffrey's here, one of the things we negotiated on our last CBA was whether or not players could be compelled to wear devices . . .

**Andrew Brandt:** Right.

**Michele Roberts:** That would measure some of this stuff. And every . . . no one said the word gambling, but we all knew what we were talking about.

**Darren Rovell:** And the answer was no, right?

**Michele Roberts:** The answer was no?

**Darren Rovell:** They could not be compelled?

**Michele Roberts:** But, it will undoubtedly be revisited because with the advent of gambling. That is data that gamblers will be interested in having.

**Andrew Brandt:** Absolutely.

**Michele Roberts:** And so, the question is whether or not we agree to allow that—allow players to wear those things, have that data be available for sale, because that's what we're talking about, or not.

And again, this is just a long list on the long list of things we have to talk about and implications we have to consider.

- Andrew Brandt:** What are your players, and I'll leave you alone in a second . . .
- Darren Rovell:** (pulling out phone) Let me tweet what you just said.
- Michele Roberts:** (laughs)
- Andrew Brandt:** Darren has two million followers. Yeah, we can tweet.  
(laughing)
- Darren Rovell:** (tweeting from phone) I'm serious.
- Michele Roberts:** I know you are.
- Andrew Brandt:** What are your players telling you about legalized sports betting? What is their reaction?
- Michele Roberts:** I won't quote anyone, but I will say that it's essentially what I've been saying. We, on the one hand, appreciate the revenue opportunities, but we do want to understand the implications, in terms of maintaining the integrity of the sport. We share that goal with the League, and player— individual player protection against false accusations and privacy. So, you know, we internally are having the discussion, and we can't wait to have the opportunity to engage in these conversations with the League.
- Andrew Brandt:** Awesome. Jeff, you've been on both sides.
- Jeffrey Moorad:** Yeah.
- Andrew Brandt:** Players and teams.
- Jeffrey Moorad:** Yeah. Look. I think that the data gathering is a really, really key thing going forward. And you know, just as it's been an element of bargaining in the past, I mean, I think it continues to be a real commercial point for companies that are trying to gain an edge in providing cutting-edge material, whether it be Action Network or others. For example, the Alliance of American

Football, which just met an untimely end, was a league that I'd followed closely, and interestingly, it was a bit of a test tube for exactly what Michele just mentioned, and that is players wearing wearables that measured their locations, their GPS location on the field, wherever they were.

And you know, you say, "Why is that a big deal with a startup football league?" Well, remember it was a single-owned entity, so that as opposed to individual teams, with all due respect, there was no player's union. There were no multiple owners. There was a single entity which ran the organization and owned it and controlled it. So they were able to create a bit of a test tube for players wearing these wearables and, you know, frankly, figuring out a way to better measure those geo-locations of the players for purposes of ultimately feeding that into the sports betting community.

Why is that relevant? Imagine the idea of, you know, betting on an in-game bet, for example, in the NFL, where you're looking at your phone, you're thinking about betting, but you're twelve seconds delayed. If you have GPS devices on players, the feedback, you know, again Darren talked about latency, again, to that point, the quicker that data can get to that user and the quicker the user can make a decision, theoretically, about how to place a bet. Theoretically, on the next play, the more useful that data is so that, as you— as you imagine that kind of rippling through, from a value perspective, the chain of sports betting, players, teams, broadcasters, etc. I think that that becomes a really, really key thing going forward. I expect there to be a lot more focus on exactly those issues, whether it be in collective bargaining or simply in the commercial exploitation of the new aspect of the sports industry.

**Darren Rovell:** Can I talk about data for a second?

**Andrew Brandt:** Yeah.

**Darren Rovell:** So, for those of you who aren't familiar with the Action Network, it's basically three sports data companies rolled into one, and we allow you to enter your bet and you can watch the scoreboard and see your ability to cash in the moment, and if you have multiple bets, you can kind of watch your wallet. But one of the things that we do, aside from that algorithm, is we have twenty-five years of data, and there is a high-end product that we sell called BetLabs, which is essentially come up with your own theory, betting theory, and then see if it works, and if it works more than fifty-five percent of the time, you might as well try it out.

So, you know, one of things you can type in, and this is just . . . I'm just talking about the obsession with data. Imagine if you have even more data, like the health data, but you know, you could basically have a theory that, if the wind's blowing more than twenty-five miles per hour, that there's fewer points scored so that . . . and Vegas doesn't figure that out and so the under hits more— more when the wind's blowing more than twenty-five miles per hour. You— you type that in, it tells you what percentage of time the under has hit when the wind's blowing twenty-five miles per hour over the past twenty-five years in whatever sector you want, like college football or the NFL, and then if it comes out to a good percentage, then you can click and it will tell you what games this week the wind is blowing more than twenty-five miles per hour.

So, you know, at least gamblers, bettors, most of them don't want to go with their gut, so the more information that you can provide, the better. And what sports has that is different from . . . you know, I hate when people say, "Well, you know, sports gambling. That's a—that's a crapshoot." Well, it's a whole lot less of



a crapshoot than investing anything in Wall Street, and I'll tell you why: you know, any company on the Stock Exchange is required to report information four times a year. That's it. I know a whole lot more information about anything that I'm betting versus Wall Street.

And here's the second point that I think many people miss, and I worked at CNBC for six years, so I know it well: when you're betting on a stock, even if the stock wins, it's not clear that you win. So . . . or the company wins, it's not clear that the stock wins, which means that it's not clear that you win. So, this is what I mean. You invest in a company and the company reports earnings and the earnings go crazy. Well, then the media says, "Well, we didn't . . . we expected it to go crazy. It didn't go crazy enough. It didn't beat its whisper number." And then all of a sudden, you didn't win even though you won. But in sports, when I bet on something, the result is clear. I— he either scored more points, the team either scored more points, the team won, they lost. They covered, they didn't. And so, when you think of it in that sense, betting on sports is a million times more of a real property and a better bet than, say, Wall Street.

**Andrew Brandt:** Adam, you covered the FanDuel DraftKings explosion in 2015. Is it your theory that that sort of paved the way, provided a soft landing for the country, obviously the Supreme Court, to accept a more general sports betting landscape?

**Adam Berger:** Absolutely. I think, from a business standpoint, it made American sports fans comfortable, to some degree, with the concept of gambling, even though I'll argue to the death that fantasy is not gambling. I think it's great. We can argue about that all day, another panel.

**Audience:** (laughing)

**Adam Berger:**

But I think it made the leagues, the teams, and everyone involved much more comfortable with the concept that this is coming and that people can engage in sports in a new way, find new entrance, find new viewers, participants, find new ways for viewers to view sports, and I think that paved the way for where we are today. From a legal standpoint, I think the companies in the industry right now have learned a ton from the fantasy experience. Whether you think fantasy was gambling or not, it was clearly on a very, very uneasy ground, you know, in 2014, 2015. That did not stop FanDuel, DraftKings from going on an all-out ad blitz, and you couldn't turn on the TV without seeing five, six, seven commercials in a row for these companies, especially during Sunday football.

The companies who are looking at the space right now are taking a much more measured approach, and I think you see that particularly from the non-gaming companies who want to get involved, whether they're media companies, merchandising companies, any companies with sports assets or broadcasting assets. They say, "We want to be involved in this, but we want to do it in a way that maintains integrity of the games and that maintains our brand," and I think Michele hit on those points.

So, I think, in some ways, maybe it's fortuitous that the legislative process is taking so long because it's giving some of these non-gambling companies, as we'll call them, an opportunity to sit on the sidelines, really be poignant and make the right decisions in the long run. So, I think the fact that it's going to develop over the next five to ten years, I think you're going to see a much more mature market and you won't see that crash that happened with fantasy and it won't be as sporadic.

**Jeffrey Moorad:** There's also a really unique dynamic here in that, you know, the US is kind of following Europe, and it's usually the other way around, it seems. But in this particular area, the US has been more conservative than our European brethren, and has, frankly, been more conservative, in terms of rolling out any kind of acceptance of this as being a legal means of fun, playing money, however you want to describe it. But with that, there's a whole generation of companies that are rolling over from Europe that are experienced in the sports betting world. One of them happens to be a company that I have a bit of familiarity with called Sportradar, which is now, I believe, the official data provider of all the major leagues in the US.

So that . . . imagine that. You know, we grew up, at least many of us grew up, in an era where, Elias Sports Bureau, House Sports Bureau, AP, those are the data aggregators of our day, right? Those are the box scores that you read. That's who compiled them. And today, you have companies like Sportradar, which is a Switzerland-based company, and is essentially the backend of the sports betting world in Europe.

So, that they're kind of the . . . they're the quiet, backend of that world for anyone who wants to get involved, place a bet, whether it's through William Hill or whoever else. It's like, Sportradar you can bet . . . well, no pun intended, is probably the provider on the backend of that business, and now we're seeing Sportradar and many others coming from Europe, the UK in particular, where there's an extensive business in this regard, and it's influencing how it rolls out in the US. I think it's an interesting point.

**Andrew Brandt:** Yeah. I mean, it's so interesting to me, following sports law through the ages and the first

commissioner coming into sports was due to the Black Sox scandal, 1920, and Pete Rose still banned from baseball and the Tim Donaghy scandal, and it was always this, you know, integrity. You can't get near gambling, and I'm still . . . I'm asking this in so many ways. What changed? Like, what is this? Why is it so accepted now? Are we just being bullied by Europe? I mean, what has changed about this issue so much, and is it simply revenues?

**Darren Rovell:** I think some of it has to do with the parallel course of marijuana and cannabis. I think that, I don't know, but it seems like that has always had a predominantly positive connotation, while gambling has had a negative connotation, and I think just the states and the articles reviewing cannabis and marijuana and the legalization of that coming along at the same time as this is one of the reasons. And I think the other reason is we're just talking about it more, so it's making more sense to people, except that athletic director on 60 Minutes. Sorry, I have to take another shot at him.

**Michele Roberts:** (laughing)

**Darren Rovell:** The idea that it's not happening and now it's going to happen is just not true.

**Andrew Brandt:** Right.

**Darren Rovell:** And the idea that you can see irregularities and that it would be harder to cheat is completely true. You even have . . . you look at tennis, which is one of the most absurdly bet sports. I have people in my office who are betting more on a tennis match than the guy who, if he won, would win, and that's normal actually. Like, they're betting not challengers, which is, like, one under the ATP, but they're betting futures, where, if the guy wins a tournament, he wins \$1,700.

**Andrew Brandt:** Who's offering that bet?

**Darren Rovell:** Oh, Betfair. Oh, everyone in Europe offers that bet, yeah. And so, you just have to figure, okay, why has tennis noticed all these scandals? And they've noticed because it's happening, the irregularities happen, and it's spotted. I think it's, in some sports, it's easier to pull off cheating than not, but I think, just under the microscope, if you believe that sports is a concert of individuals together, it makes it harder to do, and it makes it harder, even, when we have the data now and the love for the data to pull off something like Donaghy, which as the NBA said in their long letter after the ESPN article, and I . . . it'd be interesting if you guys read both, even this facts of the Donaghy case are disputed as to how much was done and known and forced and whatever.

So, I think a lot of people are talking about it now. It's more out there. I think we're having more rational conversations. Because when I moved from ESPN to the Action Network, I expected some of the negative stigma stuff, and I really didn't get it. I mean, I did not get the negative stigma stuff, not that I didn't get it. And so for me, that was like, "Okay, something in the last six months has happened. We've had these dialogues and maybe it's the legalization, the Supreme Court hearing it," but I think it's making more sense to people now.

And yes, there are the negative sides, the down-sides of anything that leads to addiction, but it's not, it doesn't start with, the negative now.

**Andrew Brandt:** No, it is . . . when I covered the move from the Oakland to Las Vegas, the Raiders, the owners meetings, I'm like, "What are your concerns about Las Vegas?" "Well, it's a small market, is it going to last? Is it stable?"

**Darren Rovell:** They didn't mention gambling until, like . . .

**Andrew Brandt:** I'm like, "What about gambling?" "Oh, we're fine. We're fine." Really?

- Darren Rovell:** And a year before they stopped Tony Romo's fantasy convention, you know, because they were in an establishment that was connected to a casino.
- Michele Roberts:** I was once told that the answer to every question is money, and nine times out of ten, that turned out to be true. I'm not as young as I look. When I was a kid . . .
- Audience:** (laughing)
- Michele Roberts:** I remember people in my neighborhood playing the numbers, right?
- Andrew Brandt:** Yeah.
- Michele Roberts:** And now, almost every state has the lottery, and it makes a ton of money for and fills states' coffers. Well, that's what gambling is, and so I think our tolerance level increased when people took a closer look at the amount of revenue that could be generated, and frankly used in great ways for individual states. So yeah. I do think we've matured. Some of the religious objections people have traditionally had, those things have pretty much fallen by the wayside, but . . .
- Darren Rovell:** Even the Bible Belt, which you would think . . .
- Michele Roberts:** That's right.
- Darren Rovell:** Which you would think would be traditionally slow in even having conversations about gambling. I mean, there's many states that have adopted bills. It's the tribes that have stopped it.
- Michele Roberts:** Yes.
- Darren Rovell:** So, it's kind of interesting. Even there it's relaxed.
- Michele Roberts:** But it's . . . but for the money, I don't think it would've accelerated the way it has, but there's a lot of money out there, and it should come from underground. There's no question about

that. It should come from underground. But let there be no mistake about it, we're not just becoming much more sophisticated in our thinking; we're counting the money.

**Jeffrey Moorad:** And to that point, this has been a process. I mean, I remember 2006, 2007, I was running the Arizona Diamondbacks, and we took a proposal that we had from a Native American casino that wanted to sponsor our team, and it was for a multimillion dollar per year deal for five . . .

**Darren Rovell:** Wasn't it like a, "Presented by Caesar," type of thing?

**Jeffrey Moorad:** It was. It was Gila River Casino, and it was . . .

**Darren Rovell:** Come on!

**Jeffrey Moorad:** And— and guess what? It was the first deal in that space that Major League Baseball allowed, and we had to go all the way to Bud Selig to get approval for it because, the initial reaction was, "Oh, my gosh. We can't allow you to" . . .

**Darren Rovell:** And they did not have sports gambling. That was just gaming.

**Jeffrey Moorad:** That's right. That's right. And they said, "You know, well, we can't have you associated. That's a bad thing. It'll be a bad precedent." So, that's where this has come from and today, I mean, there are, you know, I— I don't even want to guess at the number. I'm assuming it's 100 or more sponsorships around sports with Native American casinos whether it's Suns or Diamondbacks in Arizona, or frankly, any number of teams around the US. I mean, it's now a natural and an accepted practice to do. It's a category that you want to make sure you fill when you're selling sponsorships for a professional team. Again, it's come a long ways.

**Darren Rovell:** What was the Padres? Sycuan or something like that?

- Jeffrey Moorad:** Yeah, that was it.
- Andrew Brandt:** And we had Oneida Nation Casino in Green-bay. Same thing. Indian. But you know, the thing, Darren and Michele and Adam you can weigh in, what is going on with the leagues? They've accepted the Supreme Court ruling, obviously, but they didn't want this. They fought it for seven years in court.
- Darren Rovell:** They spent a lot of money.
- Andrew Brandt:** Yeah, millions. And . . .
- Darren Rovell:** The flip is just hilarious. I mean . . .
- Andrew Brandt:** They want federal.
- Darren Rovell:** I mean, Adam Silver's okay, but everyone else. I mean, when the Las Vegas and the Vegas Knights came to town, I was there for the first day when they announced the team, and Gary Bettman really did say that he did not want the two casinos' sports books closet to the arena to have the Knights on the board. Like, that's a . . . eighteen months, that's a crazy flip to a press conference in New York to announce we're selling non-exclusive relationships as many, come one, come all! You know what I mean? And the NFL was very interesting because, at the owner's meetings, they've quietly, basically, schemed out how they're going to turn on this. Like, right now, we're going to do a casino relationship, but not a sports book relationship. And then soon, we'll do a sports book relationship, but publicly, they haven't said that.
- Andrew Brandt:** Right.
- Darren Rovell:** So, the flip is crazy, and I think Michele's right with the money. But you just . . . I guess you just fall on your sword because it's embarrassing if you go back and read the clips.
- Michele Roberts:** (laughs)



**Andrew Brandt:** Well, does a federal statute, which is what the leagues want, in your opinion Adam, do they have any chance? I mean, I know our President is a former casino owner, but does that have any chance?

**Jeffrey Moorad:** He doesn't pass laws.

**Andrew Brandt:** Right (laughs).

**Adam Berger:** From everything we're seeing, I think a federal statute is highly unlikely. I think, looking at the history of gambling in this country, the federal government has generally kept to the side. When they have dabbled their foot in—PASPA, The Wire Act—they haven't done so particularly clearly, and they've often created more questions than answers. And I think you just have the landscape in politics right now that there's other issues out there that are clearly more important, I think, as a country, as a whole.

**Andrew Brandt:** There are a few, yeah (laughs).

**Adam Berger:** There— there certainly are a few. Congress can't move on those, so to think they're going to move on something like sports betting I think is highly unlikely. And day by day, the more states that regulate, the more states that pass legislation, I think the harder it becomes to find a unifying federal statute that answers it. Now, having said all that, the Department of Justice came out in January, took a very drastic interpretation of a federal statute called the Wire Act, which might have great implications on the future of internet gambling, which would affect internet sports wagering. Potentially drastically it could, depending on the interpretation, level of prosecution the DOJ brings could really harm that industry. If that were to happen, I think you'd have a very strong gambling lobby, a very strong lobby from states that have gambling, that depend on tax revenue that could lead you toward federal

resolution, but short of that, I don't think that federal legislation is particularly likely to pass.

**Andrew Brandt:** Any of these leagues have a chance with these integrity fee asks?

**Michele Roberts:** (laughs)

**Darren Rovell:** Well. You want the microphone?

**Michele Roberts:** No, I'm only laughing because, not yet. I mean, I must say I agree with the league's desire that there be a federal framework because, you know, we're chasing different states, trying to have some impact on what different states are doing. We, too, with no luck, by the way. We're not getting a piece of the action either.

**Andrew Brandt:** Right.

**Michele Roberts:** But, no. Unless the tide turns right now, it looks like they're going to continue to strike out. Are you disagreeing with that, Darren?

**Darren Rovell:** Well, right now they've had . . . there's not a single state . . . of the eight states, there's not a single state that has it. The leagues are trying to get them to write it into a bill and that's how they do it. Originally, it was said that the integrity fee would be one percent, so one percent of the top of the gross handle, and now they're saying it would be about point two-five percent (0.25%). Well, let's just take what's going on here in Pennsylvania. Pennsylvania was said to be, in a way, New Jersey was the impetus for the suit and Chris Christie, but Pennsylvania's going to be the state that's going to emerge as the winner.

And right now, Pennsylvania has 1/10th the monthly revenue in sports gambling as New Jersey. Part of it is you don't have mobile yet, and eighty percent of the money that New Jersey's bringing in is mobile, but part of it is also the fact that the state has decided to

charge \$10 million for a gambling license and then taking another forty-one percent. So, you'd think, "Oh, 0.25%. That's not a lot." But when you take into account the fact that, as of now, under the current scenario, an operator in Pennsylvania, if they're saying there's no other brand halo and they're just looking at what they're bringing in, a lot of people don't think they can make money under that system. So, whether it's 0.2 . . . anything greater than zero percent is an issue.

So, I don't think it's going to happen. I think the leagues have been lucky enough to be able to sell their data because that's a big debate, too. I'm sure some of you . . . you guys know the STATS versus Motorola Inc. case, where it basically said that stats, when tied to names, are not subject to copyright, and so, the leagues, and this is a whole big thing with fantasy, too. You know, can you . . . do the leagues sell the relationships and the logos? They can't necessarily sell the stats, but they've been pretty effective thanks to MGM, and I know a lot of operators are mad at MGM for doing the deals with the leagues, for affirming that this does have value when there are third-party stats providers that cost much less. And the leagues say, "Oh, you get the marks on your app and you get a whole bunch of other things," but even the one . . . the most preeminent one in Europe that's come over to the US, William Hill, has so far refused to do a deal with the league, not believing that there's incremental value. So, I would say, right now, they're lucky to get data. Data's going to be a huge business if it gets affirmed and they're going to be making a lot of money.

One last thing is that the money does come from media. Um, you know, I think when the NBA got their last bump, I said, "Well, this is it," as everyone has said after every deal. "This

is it. There can't be another increase here." And then gambling comes along and you have now, the guys that are the best at this type of stuff are finally the Apples, Hulus, Netflix, Amazon, those guys are the one-clicks, the micro pays. They are the best for and will have it be 2022, 2023, in-game betting on a single screen where you can just click. So, I feel like it's impossible that we won't have another uptick in rights fees because we're finally bringing along the technological partners that are the best at this. So, if they don't get their integrity fee, they'll make money in many other ways.

**Andrew Brandt:** Absolutely.

**Jeffrey Moorad:** I agree. The platforms may change, but media's going to continue to drive the rights around sports and ultimately, look, the control of that- of that IP is what's valuable and that's the players play a part in that, the owners of clubs who take risks and the business plays, obviously, play a part in it as well, as do the leagues that oversee them. But the fact is the control of that IP is going to continue to drive rights fees and the like, and I agree completely, Darren. I think the incremental part of the industry that's being created right now and shaking out in front of our eyes around sports betting is going to just enhance that.

The last thing I'd say is that, as it relates to kind of how that happens and how it rolls out and what the affect on franchises is, and you know, Andrew, you referenced Mark Cuban's comment about how, "My franchise just doubled in value." Look, probably a little ambitious on his part, at least on the front end, but you know, maybe not long term. I know that I saw an NBA prospectus on an NBA team recently that I'm under NDA on, but in that . . .

**Darren Rovell:** But can I tweet that you saw a prospectus on an NBA team?

**Audience:** (laughs)

**Jeffrey Moorad:** Oh, yeah. No, you can't.

**Darren Rovell:** Okay. I figured— I figured the NDA part would not be good.

**Jeffrey Moorad:** (laughing). The NDA is more important than NBA in that regard. But in any case, in that prospectus, it suggested that, and this was, you know, six months ago, right after the Supreme Court ruling, it suggested that there was going to be a projected, incremental, ten to fifteen million dollars a year of revenue that was going to come from sports betting. Now, I guarantee you that the investment banker that put that together or the team official or owner who inspired the theory, they didn't know. They're just guessing. It's kind of . . . it's literally throwing a dart against the wall at this point, but ultimately, when all this shakes out as we've all suggested in our own way up here, there's going to be extensive value that's going to flow to this industry. And everyone is going to get their rightful piece of it: the data piece, the ownership piece, the player piece, even the lawyers.

**Adam Berger:** Let's hope, right?

**Jeffrey Moorad:** Well, the lawyers will get a lot.  
(laughing)  
Anyway.

**Andrew Brandt:** Always the lawyers. Last question on what you were just . . .

**Darren Rovell:** There will be lawyers.

**Andrew Brandt:** There will be lawyers. You can tweet that. (laughs) Michele, speaking of lawyers, the last question is collective bargaining. You mentioned, with Commissioner Silver, you already have dealt with that in the existing CBA. I guess the obvious question, and I know the answer, but does this move up the priority list

for the next CBA with attorney Jeff Kessler here, does this move up as a real bargaining . . . not only to address revenue, but to the other issues you have?

**Michele Roberts:** We got it, so . . .

**Andrew Brandt:** Right.

**Michele Roberts:** We now know that that's going to be part of the basketball-related income, but the issues regarding data. I mean, those are things . . .

**Andrew Brandt:** Right.

**Michele Roberts:** . . . that were left unresolved, and there's no secret we're going to have to talk about those things because the implications are now significant. So, sure. It's certainly no longer number thirty on the list. It's probably number two or three. But I got my gladiators, so I'll be fine.

**Andrew Brandt:** (laughs)

**Michele Roberts:** See, he's working on it now.

**Darren Rovell:** He's working right now.

**Andrew Brandt:** Writing a memo.

**Darren Rovel:** Jeff, that's you.

**Jeffrey Moorad:** Oblivious (laughing).

**Andrew Brandt:** And just to kudos, there are a lot of inharmonious labor relations between the leaders of unions and leagues. It just seems like you and Commissioner Silver have a very strong working relationship, which is really a model for pro sports, so congratulations on that. Maybe it appears more harmonious than it is. Who knows?

Adam, Michele, Darren, Jeff, thanks. This has been a great panel.

**Adam Berger:** Thank you.

**Jeffrey Moorad:** Thank you.

