



SPORTS MARKETING

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This month we take a look at the complex world of Sports Marketing by speaking to Christopher R. Chase, a partner with Frankfurt Kurnit Klein & Selz, a nationally recognized media and entertainment firm. Christopher is a member of the firm's Sports, Marketing, and Intellectual Property Groups and he has a broad-based practice in those areas (including transactional and clearance work). He works with major brands, marketing agencies, production companies, and talent on all aspects of media and intellectual property work, and his particular niche is sports and event marketing. The firm advises clients in all consumer-facing industries, including automotive, quick service restaurants, airlines, finance, software, non-alcoholic beverages, and beer and spirits.

You work with numerous clients with in the sports industry. What are the most common types of cases you work on?

I advise clients on sponsorships, naming rights, endorsements, and licenses – more often than not on the sponsor side (or the party obtaining the rights), rather than the property side; however, I work with rights holders too.

Which transactions do you find most interesting/rewarding and why?

While each transaction is generally interesting and challenging, I particularly enjoy helping a brand sponsor a major sports property – such as with our client Heineken USA and Major League Soccer. It's a great feeling to work with a client on a transaction and then months later see the results come to life when a new marketing campaign comes out incorporating the rights being negotiated.

What challenges arise when advising major sports companies on marketing campaigns?

The advice we give to sports brands or any other brands using sports assets is no different to the advice we give to any brand advertising its goods or services: assemble and maintain appropriate substantiation for advertising claims and clear all intellectual property rights. But sports brands and other brands using sports assets tend to generate more publicity, and thus may incur more risk. For

example, when advising clients who produce Super Bowl commercials, we are especially mindful that millions will view the commercial and scrutiny – by regulators, competitors, and consumers – will be high.

Marketing campaigns focusing on sports or other entertainment assets also may involve associational marketing, more commonly known as "ambush marketing," where a marketer without rights attempts to associate itself with an event, league, team, or celebrity. I assist clients with walking that fine line between appropriate campaigns and those that risk veering into potential infringement.

Additionally, when advising a brand (or one of their activating agencies) on sponsorships and endorsements, I make sure that they are aware of the risks with such deals, including clutter (are there too many sponsors of a particular league/team/athlete, thus drowning out your rights?), flexibility (will the client be able to modify its rights and benefits over a long term deal?), exclusivity (true exclusivity is difficult to obtain, so will the client be able to "own" a platform instead?), and morals issues (this can affect both individual athletes/celebrities, as well as governing bodies (such as FIFA). We address these and other issues in our agreements.

Is there anything else that you would like to add?

While sponsorship and endorsement agreements



are somewhat formulaic in the sports and entertainment world, the industry knowledge we have at Frankfurt Kurnit helps ensure we can negotiate the best possible deal for our clients. For example, team sponsorships in the United States often have strict territorial restrictions (i.e., the sponsoring brand cannot use the team's name or logo in marketing materials outside of a very limited territory), which makes online and/or national campaigns difficult to accomplish without having to obtain additional sponsorship rights (usually from the league or other rights holders). Such restrictions are not necessarily the norm in other industries, so I make sure that the client is aware of this when negotiating and ultimately activating such a deal.

Additionally, sponsorships and endorsements have many hidden issues that may lead to hidden costs, such as having to pull down and replace marketing materials if an endorsed athlete/celebrity is injured or traded or commits a "morals" violation; having to pay SAG-AFTRA pension and health costs when the endorsed athlete/celebrity (or the sponsoring brand) is a member of that or other unions; making sure that the sponsoring brand's data security systems are up to par when the brand is collecting personally identifiable information as part of its sponsorships; and making sure that the "material connection" of an endorsed athlete/celebrity is disclosed per the Federal Trade Commission's endorsement guides. **LM**