

Sports & Esports Alert

June 2020

The Next Opening Day: Sports After COVID-19

Loeb & Loeb's Sports practice recently hosted "The Next Opening Day: Sports After COVID-19," a virtual roundtable and happy hour. Panelists and participants discussed life after COVID-19, its effects on the sports industry, and finding the balance between a short-term strategy for adapting to restrictions immediately after the pandemic and a long-term strategy as the more permanent effects of COVID-19 ripple through the world economy. A video recording of the full roundtable can be found [here](#).

Our panelists included:

Jessica Berman – Deputy Commissioner and Executive Vice President of Business Affairs at the National Lacrosse League

Rich Lisk – Executive Vice President of GF Sports, LLC

John Ruzich – Chief Administrative Officer and Chief Legal Officer of Legends

Bonnie Bernstein (moderator) – Sports journalist for CBS and ESPN; founder of Walk Swiftly Productions; former Vice President, Content and Brand Development for Campus Insiders

This alert summarizes some of the highlights discussed during the roundtable:

- Arena Safety
- Content Consumption
- Players' Health Issues
- Alternative Revenue Streams

Arena Safety

The Panelists' Views

Even once restrictions are lifted on general attendance at sporting events, live sports will undoubtedly be very different than pre-COVID-19 sporting events. Although the details remain uncertain, teams and leagues will need to work with state and local governments and



communicate with other stakeholders within the sports industry in order to meet public health and safety standards for live events.

Panelists and participants generally acknowledged that more enhanced security measures will be required as fans enter the arena. Panelists suggested that, similar to the boarding procedures on airlines, teams and stadiums could adopt sequential entry, or segregating fans into groups, to enter the stadium. Other possibilities include limiting the number of entrance points to the stadium or implementing one-way traffic by separating entry and exit points.

Fans may be required to submit more personal and health information prior to entry – for example, by having their temperatures taken at the stadium. The panelists suggested that there could be an expedited entry point for fans willing to meet certain certification requirements, such as submitting biometric identifiers for verification.

Changes to seemingly small elements of the live game experience might be necessary. Fans may be required to present digital tickets rather than paper tickets upon entry to minimize contact with stadium personnel. From a legal

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perspective, teams may consider editing the waiver on the back of the ticket or any click-through terms required to purchase online tickets to reflect that attending fans waive the team's liability for damages resulting from any patron that may contract COVID-19 from attending the event. The terms on the ticket or online terms presented at checkout may also be updated to state that all entrants will be subjected to a temperature check upon entry, much like current patrons agree that certain bag sizes are permitted in the stadium and will be searched by stadium personnel.

Once fans enter the stadium, the in-game experience will also change. Teams will consider how to overhaul concessions, perhaps by limiting food and drink options (for example, selling items that can be individually wrapped or eliminating buffets) and minimizing contact with concessionaires by going cashless.

In order to ensure ticketing remains a sustainable revenue stream, teams will need to balance any new protocols with maximizing the number of repeat attendees. If security and entrance protocols are too strenuous and the in-game experience is too streamlined, fans may be unwilling to attend live events again and instead opt for home viewing. Some teams are considering providing entertainment as fans wait in line to enter the arena, recognizing that heightened security standards will lead to longer wait times in line.

Federal, state and local governments could introduce mandatory standards for venues, which could lead to the emergence of third party certifications that credential "enhanced" safety measures and award venues for exceeding the governmental standards. If this occurs, the panelists expected that venues will likely rush to secure these credentials to show their fans that protecting public health is a top priority.

What Loeb & Loeb Sports Is Watching

We are closely monitoring the announcements of several professional leagues in the U.S. and abroad as they work to resume play or make plans to begin their seasons. When (or if) venues are once again open to fans, leagues, teams and venues will have to consider both any enhanced security processes and the privacy and information security aspects of the processes that require fans to submit personal health information.

Content Consumption

The Panelists' Views

During the COVID-19 pandemic, people have moved away from consuming content on cell phones and have shifted back to watching content on larger screens. This shift in usage may spur an increase in providers bundling second screens into viewing packages as people utilize televisions over phones.

Other panelists suggested that the standards of production quality will change as Gen-Z viewers popularize low-quality viewing platforms, where uploads are usually filmed on phones, predicting that the sports industry will shift to focus on the quality of the content rather than top-quality graphics.

What Loeb & Loeb Sports Is Watching

The numbers support the panelists' views. According to Nielsen, during the week of March 23, 24.6% of people with televisions watched live or time-shifted TV—the highest level since the WHO declared COVID-19 a global pandemic. The New York Times recently conducted an analysis on U.S. internet usage and found use of Facebook, Netflix and YouTube apps have remained constant or decreased during the pandemic, while the number of users on their websites have increased. The question is whether, in the long term, this shift in content consumption is permanent or whether the trend will revert back post-pandemic.

Players' Health Issues

The Panelists' Views

Because athletes have access to comprehensive healthcare coverage, the panel expected that players will be more concerned with their odds of contracting the virus, especially in situations where players are involved in a contact sport, rather than how their medical bills will be paid. It is possible that some players will elect not to play due to health concerns.

What Loeb & Loeb Sports Is Watching

How will teams and leagues respond to athlete concerns about contracting COVID-19 and what will they do if an athlete does contract the virus after play resumes? As teams and leagues make plans to resume their seasons, they will also have to create procedures in the

event a player gets the virus. Further, as employers, the teams will have to consider their potential liability if a player contracts the virus during the course of his or her employment.

Alternative Revenue Streams

The COVID-19 pandemic has forced teams and leagues to explore the expansion of revenue streams other than ticket sales.

The Panelists' Views

Esports. Esports is becoming increasingly popular. Some panelists suggested that esports could be a potentially lucrative revenue stream for teams and leagues, especially if live sporting events are suspended for the foreseeable future.

Others commented that making esports a permanent source of team and league revenue is difficult. Not only are esports events different than regular sporting events because they last several days, which makes comparing esports revenue with revenue from traditional sporting events more challenging, but it is also hard to predict trends in esports and whether certain games and platforms will remain popular long-term. As discussed on the panel, some teams and leagues may choose to focus on media rights rather than esports, which are more valuable. Further, because esports is a relatively new development in the sports industry, educating brands – and their decision makers, who may only be familiar with traditional video gaming methods – on the value of sponsorships in esports, comes with its own set of obstacles.

Sports Betting. As sports betting becomes legal in several U.S. states, leagues and teams will look to sports betting as another stream of revenue. As discussed during the panel, even before COVID-19, the National Lacrosse League (NLL) announced partnerships with BetMGM, Genius Sports and Sportlogiq on its sports betting strategy. As teams and leagues ramp up this revenue stream, these partnerships will also serve as a marketing and fan engagement tool.

Media Rights. From the leagues' perspective, there may be an even higher premium on live sports content than prior to COVID-19. With certain major leagues in the process of beginning negotiations with media rights partners, there could be a shift in revenue from the media

companies to the leagues as people crave more sports content.

Shoulder Programming. While it is uncertain whether fans will want to attend sporting events at pre-COVID-19 levels, with an expected decreased seating capacity in stadiums (due to governmental standards), it is possible that the demand to attend games in-person will stay constant as fans become more comfortable with venturing out in public. The panelists expect that this limitation in capacity will cause teams to explore other methods of engagement at or near the stadium to maximize fan participation in live events, such as pairing a drive-in viewing experience with a concert, or hosting local pep rallies with players.

Partnerships. Teams will also have to examine how their sponsorship partners will be affected by the lack of live events in the short term and will need to develop innovative ways for maintaining and growing this revenue stream. For example, some teams are currently featuring their medical teams in social media posts that provide health tips to followers. The panelists suggested that teams may also explore creating new sponsorship categories.

Streaming Platforms. The panelists agreed that streaming platforms will become more involved in distributing sports content. For some fans, streaming platforms may be the only way to access certain sports content. Other than through local media rights deals, the NLL provides content exclusively through Bleacher Report Live for national broadcasts and works with the Bleacher Report Live to stream one free game per week.

Enhanced Technology. The panelists were surprised that technology like virtual reality (VR), which may provide fans with a viewing experience similar to the in-person experience, is not currently a focal point of discussion in the sports industry. They suspected that VR will be important in the long-term, but that the industry is focusing on short-term effects of COVID-19. Even with this innovative solution, the live viewing experience at home may be significantly affected if no fans are allowed in stadiums. Networks are recognizing this difference and are planning to use technology as a solution: Joe Buck announced that NFL broadcasts on Fox will incorporate fake crowd noise and may place virtual fans in the stands if fans are not permitted to attend NFL games this fall.

What Loeb & Loeb Sports Is Watching

Sponsorships are a lucrative revenue source for teams and leagues, and the panelists' suggestion that new sponsorship categories could be created has potential legal and industry implications. For example, if a "Sanitization Sponsor" was created, would that overlap with the team's existing Medical Provider category? The exclusivity definitions in future sponsorship agreements will need to be carefully drafted to make room for any category developed as a result of COVID-19.

Faced with the continued uncertainty caused by the COVID-19 pandemic, the sports industry is working to find solutions to potential changes in each aspect of professional sporting events. Loeb & Loeb's Sports practice will continue to bring you news and developments around the "next opening day."

COVID-19 Resource Center

For information on the business impacts of COVID-19, please visit our [COVID-19 Resource Center](#), which we continue to update as the situation evolves. If you have questions about COVID-19's impact on your business, please reach out to your Loeb relationship partner or email us directly at COVID19@loeb.com.

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