

# Chicago Daily Law Bulletin®

Volume 164, No. 177

Serving Chicago's legal community for 163 years

## NBA gets into betting bonanza early with MGM collaboration

**A**s a handful of states allow sports gambling/wagering, the National Basketball Association has named MGM Resorts International its official gaming partner, the first deal between a professional sports league and a casino operator in the United States.

The NBA took a bold, early lead among major sports leagues with the July 31 announcement of its new partnership with MGM Resorts International, which will give the hotel and casino organization use of both the NBA and the WNBA's branding and data across its physical and digital sports betting platforms.

The landmark agreement will help the partners claim a share of the considerable revenue expected to be generated from gambling in the wake of the U.S. Supreme Court's decision to legalize sports gambling.

The high court on May 14 struck down the federal ban on state involvement in betting on amateur or professional sports upon concluding the federal Professional and Amateur Sports Protection Act of 1992, or PASPA, was unconstitutional. The decision in *Murphy v. NCAA* (in which the NBA was a party) cleared the way for states to legalize, regulate and tax gambling on sports.

Delaware, Mississippi, New Jersey, Pennsylvania and West Virginia have already moved to permit sports betting and nearly 20 other states have introduced legislation this year.

The NBA and MGM said they will partner on cross-promotion opportunities, the creation of special digital content and efforts to protect the integrity of NBA and WNBA games, including real-time data sharing. MGM will also pay the NBA for data to use in determining betting outcomes, according to MGM.

While MGM is the only company that can market itself as "the official gaming partner of the NBA," the multiyear agreement is not exclusive. The NBA is free to — and likely will — make deals with other casinos.

The individual NBA teams are also free to sign their own deals

### SPORTS MARKETING PLAYBOOK



**DOUGLAS N. MASTERS  
AND SETH A. ROSE**

*Douglas N. Masters is a partner at Loeb & Loeb LLP, where he litigates and counsels clients primarily in intellectual property, advertising and unfair competition. He is co-chair of the firm's intellectual property protection group and he can be reached at dmasters@loeb.com. Seth A. Rose is a partner at the firm, where he counsels clients on programs and initiatives in advertising, marketing, promotions, media, sponsorships, entertainment, branded and integrated marketing, and social media. He can be reached at srose@loeb.com.*

with gaming operators. And, of course, other casino companies can also offer patrons sports wagering on NBA games, whether or not they have an agreement with the league or any of the teams.

The sports betting partnership builds on the league's existing relationship with MGM, which bought the WNBA's Las Vegas Aces in 2017 and hosts the team's home games at its Mandalay Bay Events Center. The organization has also partnered with the NBA on the MGM Resorts NBA Summer League for the last two years.

How states handle concerns related to revenue and taxes from sports wagering could shape the NBA-MGM deal as well as future partnerships between leagues and gambling operators.

The NBA and Major League Baseball are actively seeking a cut of the revenue generated by sports gambling. Both leagues are lobbying state legislators to include paying the leagues an integrity fee for the use of their data and the expected increased expenses related to monitoring their sports' integrity.

At a panel on the future of sports betting at the National Conference of State Legislatures' annual meeting in late July, MLB Senior Vice President and Deputy General Counsel Bryan Seeley said the league wants just a fraction of the total amount wagered on sports in a given state—0.25 percent.

The other two of the Big Four

leagues, the National Football League and the National Hockey League, have kept a low profile on sports gambling. The NFL recently spoke out in support of protecting game integrity and mandating the use of official league data, in a letter to the Pennsylvania Gaming Control Board in response to its proposed regulations for sport gambling in the state, according to the Legal Sports Report.

So far, states don't seem inclined to give up any money to the leagues. In addition to Nevada, which PASPA expressly exempted from the sports betting ban, betting on sports has gone live in five states, none of which included paying integrity fees to the leagues in their gambling laws.

The tax rates on gambling also vary among the states. New Jersey, for example, set different tax rates on gaming revenue derived from different sources: 8.5 percent for on-site sports betting revenue; 13 percent for online wagering run by casinos; and 14.25 percent for online wagering run by racetracks, according to The Legal Sports Report website. Other states have different rates and simpler tax structures. West Virginia's gambling tax is 10 percent, while Pennsylvania's is 36 percent.

Restrictions on what bettors can wager also varies from state to state. New Jersey, for instance, prohibits sport betting on high school games, collegiate games involving New Jersey-based teams

or college games played at venues in the state and eSports.

Another provision could complicate matters for partnerships like the one between the NBA and MGM, especially if other states follow suit. New Jersey restricts casinos that own stakes in a team or league from offering betting in that league. So, because the owner of the Golden Nugget Atlantic City also owns the NBA's Houston Rockets, the Golden Nugget can't offer wagering on the NBA.

Interestingly, one contractual aspect of the NBA-MGM partnership could actually become a requirement of sports gambling policy at the federal or state level.

Senate Minority Leader Chuck Schumer, D-N.Y., in late August proposed a federal framework he believes would protect consumers and the integrity of the games, according to Forbes. His proposal would require gambling operators to use the leagues' official data to determine betting outcomes.

The NBA and MLB, joined by the PGA Tour, issued a joint statement in support of Schumer's proposal, Forbes noted. A similar requirement has been proposed at the state level in New York.

The number of states allowing sports wagering is expected to double by next year, which all but ensures the proliferation of new agreements between sports and gambling industry players to make the most of what could be a revenue bonanza.

In June, the first month that Delaware started accepting bets, the state took in \$7 million in bets, while New Jersey, which began taking bets on June 14, took in \$16.4 million. While critics, including the Motley Fool, called the revenue generated good but not great, not all of the two states' casinos and racetracks were up and running on accepting wagers yet.

In creating the first partnership of its kind, the NBA and MGM have set an example for others to follow or improve upon in what promises to be a burgeoning new industry.

At the same time, they will likely also be at the forefront in adapting to sports gambling's changing legislative landscape.