

COMMERCIAL RIGHTS, ETHICAL DUTIES AND CHALLENGES IN SPORTS: TOWARDS AN EFFECTIVE FRAMEWORK IN NIGERIA

ABSTRACT*

By providing financial support for sporting events, companies use sponsorship deals as a marketing strategy to promote the sale and request for their products and/or services. A broadcasting company that acquires the media rights in relation to a particular sporting event enjoys the exclusive right to televise visual and audio signals from such an event to its subscribing audience. There are also image rights that may be attached to a particular individual which allows such an individual to be in control of his/her personality/publicity and be in a position to monetize it, either by selling or licensing it. Collectively, sponsorship, media, and image rights are all exploitable commercial rights. So as to avoid undue exploitation of these rights, there are existing rules and regulations guiding the participation of commercial brands and athletes in various sporting events. There is a clear need for the appraisal of these rules so as to better understand their full scope and impact on concerned participants. This paper seeks to provide a comprehensive review of some of the relevant provisions of these rules and regulations at the global and continental level before examining Nigeria's country-specific regulatory framework.

Keywords: Sponsorship, Media Rights, Image Rights, Ethical Duties, Challenges, Sports

INTRODUCTION

Intellectual Property (IP) is literally property that comes from the human intellect/mind or through human creativity.¹ IP clearly denotes human ideas converted into a form that has proprietary value.² The leading factors within the ecosystem of sports are innovation and creativity,³ and as such, these inventors and creators are protected by several IP rights,⁴ like

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¹ S. A Fagbemi, "An Analysis of the Statutory Provisions and Case Law for Trademarks Registration under the Nigeria Trade Marks Act", *International Journal of Business & Law Research*, (July-Sept., 2015), pp. 24-31 at p. 24 (Seahi Publications, 2015), available at <http://seahipaj.org/journals-ci/sept-2015/IJBLR/full/IJBLR-S-2-2015.pdf>, last accessed on 29 March 2021.

² Ibid.

³ World Intellectual Property Organization, "Sport and Intellectual Property", available at <https://www.wipo.int/ip-sport/en/>, last accessed on 29 March 2021

Patents, Designs, Trademarks and Copyright.⁵ IP in sports calls for the safeguarding of certain commercial rights.⁶ This is important because the legal protection given to properly secure the economic value of IP rights in sports, encourages the growth of the sports industry, and this allows sporting organizations to finance mega sporting events.⁷ To illustrate, IP laws strengthen the relationship between sports and the media in terms of broadcasting rights,⁸ which offer massive commercial opportunities,⁹ and appear to be vital to the world economy.¹⁰

SPONSORSHIP, MEDIA, AND IMAGE RIGHTS

Sponsorship Rights

Sponsorship is an avenue through which most companies extend financial assistance to the organizers of a particular event so as to boost the sales, visibility and request for their products and/or services.¹¹ In the real sense of it, sponsorship rights are bundle of rights in relation to an event that allows a sponsor to use that event for the promotion of the merchandize, services or whatever legitimate business the sponsor is into.¹² Sponsorship agreements are generally complex and legal issues are bound to arise,¹³ especially in an area known as “Fiscal Sponsorship”.¹⁴ In this type of sponsorship, a sponsor assumes the responsibility of providing administrative support/funding for a specific project that is deemed to be for the advancement of the sponsor’s mission and goals.¹⁵

⁴ Ibid.

⁵ In Nigeria, works eligible for copyright protection are literary, musical and artistic works which sufficient effort has been expended on making such works to give it an original character and such works have been fixed in any definite medium of expression now known or later to be developed, from which it can be perceived, reproduced or otherwise communicated either directly or with the aid of any machine or device. The protection also extends to cinematograph films, sound recordings and broadcasts. See Section 1 of the Copyright Act, Cap. C28, Laws of the Federation of Nigeria, 2004.

⁶ World Intellectual Property Organization, “Sport and Intellectual Property”, (n. 3), *ibid.*

⁷ Ibid.

⁸ Ibid.

⁹ Ibid.

¹⁰ Ibid. This is through job creation and huge investment in public infrastructures.

¹¹ Oluwajoba Ogunwale, “Analysis of the English Premier League in relation to brand Endorsement, Sponsorship, Merchandising, Broadcasting and IP rights involved”, available at <https://soccernet.ng/2019/07/analysis-of-the-english-premier-league-in-relation-to-brands-endorsement-sponsorship-merchandising-broadcasting-and-ip-rights-involved.html>, last accessed on 8 April 2021

¹² Ibid.

¹³ Ibid.

¹⁴ New Media Rights, Guide to Intellectual Property & Fiscal Sponsorship Agreements for scientific, research, and archival projects, available at https://www.newmediarights.org/guide_intellectual_property_fiscal_sponsorship_scientific_research_and_archival_projects, last accessed 11 April 2021

¹⁵ Ibid.

At the core, for there to be a successful sponsorship, the sponsor would want to be placed in a position where it can, at least, expect to receive value for money parted with, and, on the part of the sponsored, where the sponsor is fully aware of what it has to deliver.¹⁶ It is extremely important for this to be specifically tackled at both the negotiation and contract stage.¹⁷ The essence of negotiating and drafting a sponsorship agreement is to look out for these obligations from both a legal and commercial perspective.¹⁸ In conventional sports like association football, players are free to get sponsors for playing kits like boots and gloves, while the club retains the shirt sponsorship.¹⁹ According to article 66(1) of the Federation of International Football Association (FIFA) Statutes (May 2021 edition), FIFA, its member associations and the confederations *are the original owners of all the rights emanating from competitions and events under their respective jurisdiction*. However, by virtue of article 66(2) of the FIFA Statutes (May 2021 edition), the FIFA council has the power to decide whether these rights are to be exclusively used, or jointly with a third party, or in its entirety through a third party. In relation to sponsorship rights, FIFA has adopted a very unique approach that allows it to offer its sponsors a variety of ways to associate their brands with FIFA and its events.²⁰ It appears FIFA has restructured its three-tier sponsorship structure of: FIFA Partners²¹ (1st tier), FIFA World Cup Sponsors²² (2nd tier), and National Supporters²³ (3rd tier), into FIFA Partners, World Cup Partners/Women’s Football Partners/FIFAE Partners, Sponsors, and Tournament Supporters.²⁴ However, this classification by FIFA seems to be a little confusing as there is no clear indication as to whether the new structure applies solely to the FIFA Partners tier or is an all out replacement of all prior existing three-tiers. Each level of sponsorship presents companies with

¹⁶Available at <https://www.harbottle.com/sport/sports-sponsorship/>, last accessed on 13 April 2021

¹⁷ Ibid.

¹⁸ Ibid.

¹⁹Daniel Alfreds, “IP and Rights Package: Legal issues to consider in esports sponsorships”, available at <https://esportsobserver.com/legal-issues-to-consider-in-endorsements-and-sponsorships-part-1/>, last accessed on 13 April 2021

²⁰ “FIFA Launches New Commercial Partnership Structure Including Dedicated Programs for Women’s Football and Esports”, available at <https://www.fifa.com/womens-football/media-releases/fifa-launches-new-commercial-partnership-structure-including-dedicated-programs-for-womens-football>, last accessed on 17 July 2022

²¹ World Intellectual Property Organization, “Licenses and Sponsorships in Sport”, available at <https://www.wipo.int/ip-sport/en/licenses.html>, last accessed on 13 April 2021. See also *Mastercard International Inc. v. FIFA*, 464 F. Supp. 2d 246 (S.D.N.Y. 2006)

²² Ibid.

²³ Ibid.

²⁴ “FIFA Launches New Commercial Partnership Structure Including Dedicated Programs for Women’s Football and Esports”, (n. 20) *ibid.*

the chance to benefit from a range of exclusive marketing opportunities that suits their brand both at and around FIFA events.²⁵

Unlike most legal agreements, there is no industry-specific law in Nigeria regulating sponsorship agreements and the inherent rights, and as such, sponsorship agreements in Nigeria are generally regulated by principles of contract. For instance, in Nigeria, whereas a contract of employment that attributes rights and responsibilities between parties to a bargain and emphasizes the power of the employer to control the work of the employee,²⁶ must be in line with the main legislation that regulates employment and labour relations in Nigeria, which is the Labour Act,²⁷ there is no such Act specifically regulating sports sponsorships in Nigeria. Hence, we encourage the National Assembly to draft and pass a “Sports Sponsorship Bill” that would establish the rights and responsibilities of the sponsor and the sponsored, its enforcement, remedy and termination mechanisms in different sports in Nigeria.

Media Rights

Media rights are transmission rights in relation to signals/recordings and the utilization of audio-visual media contents which may either be offline or online.²⁸ Offline media content includes *licensed re-communication by a second broadcaster of copyright works contained in a legitimate broadcast.*²⁹ Online media content includes *live streaming of events and live broadcasts.*³⁰ In Nigeria, media rights would be classified as “copyright”. This is because works eligible for copyright include “broadcasts” which has been defined as *sound or television broadcast by wireless telegraph or wire or both, or by satellite or cable programs and includes re-broadcast.*³¹ This entails the right to: *record and re-broadcast; communicate to the public of the whole or a substantial part of a television broadcast; distribute to the public for commercial*

²⁵ Ibid.

²⁶ See section 91 of the Labour Act 2004

²⁷ Cap L1, Laws of the Federation of Nigeria 2004. Other legislation regulating contract of employment in Nigeria include: the Constitution of the Federal Republic of Nigeria; The Trade Unions Act 2004; the Trade Dispute Act 2004; and the National Industrial Court Act 2006

²⁸ Nick Fitzpatrick, “Key updates on copyright protection and enforcement for sports media rights holders”, available at https://www.lawinsport.com/content/articles/intellectual-property-law/item/key-updates-on-copyright-protection-and-enforcement-for-sports-media-rightsholders?category_id=124, last accessed on 8 April 2021

²⁹ Ibid.

³⁰ Ibid.

³¹ Section 51 of the Copyrights Act, Cap. C28, Laws of the Federation of Nigeria, 2004.

*purposes.*³² The scope of media rights, which greatly affects the sports sector, extends to offline and online license, use and broadcast of major sports events.³³ Broadcasting is an essential aspect of many sports,³⁴ and is invariably viewed as a medium for reaching fans who are not able to make it to match venues, but still wish to follow-up live on the match.³⁵

Broadcasting is a special way of promoting leagues and is also as a significant source of revenue to leagues.³⁶ For example, the English Premier League (EPL) and the Major League Soccer (MLS) have both used broadcasting as a tool for ensuring the continuous growth of their leagues.³⁷ The EPL and the MLS have had broadcasting deals with big name broadcasters that offer massive international coverage.³⁸ This has, over the years, led to the increase in popularity of these leagues.³⁹ In Nigeria, the Nigerian Professional Football League (NPFL) is the apex football league in the country.⁴⁰ The league experiences a number of challenges that have kept its growth and development stunted.⁴¹ Inadequate media coverage of the NPFL games is one of the challenges facing the league.⁴² At the time of writing this paper, the NPFL has just a sole broadcasting agreement with Super Sport - an international broadcaster that may not be easily accessible to a majority of Nigerians.⁴³ The NPFL is encouraged to mirror the broadcasting strategy of the MLS and EPL by entering into agreements with local broadcasters for the airing of its league games on their stations, and by so doing, allowing majority of Nigerians to seamlessly view NPFL games.⁴⁴ It has also been suggested that since the NPFL is not a popular league currently, which implies that local broadcasters may not be willing to part with cash for broadcasting rights, the NPFL should strive to reach an “advert revenue split agreement” with

³²Section 8(1) of the Copyrights Act, Cap. C28, Laws of the Federation of Nigeria, 2004.

³³ Bankole Babatunde, “A Consultancy Report on Developing The Nigerian Professional Football League,” available at https://www.academia.edu/31526412/a_consultancy_report_on_developing_the_nigerian_professional_football_league_npfl, last accessed on 14 April 2021

³⁴ Ibid.

³⁵ Ibid.

³⁶ Ibid.

³⁷ Ibid.

³⁸ Ibid.

³⁹ Ibid.

⁴⁰ Ibid.

⁴¹ Ibid.

⁴² Ibid.

⁴³ Ibid.

⁴⁴ Ibid.

local broadcasters as an incentive to attract more local broadcasters.⁴⁵ No form of in-flow of cash is to be expected by the NPFL by way of broadcast fees, but instead focus should be on gaining traction and business trust with its licensed broadcasters.⁴⁶

Image Rights

Image rights may also be referred to as “Personality Rights”, “Publicity Rights” or “Face Contract Rights”.⁴⁷ Within the context of association football, image rights are rights which a player possesses that allows for its monetization by the player, and this could be by way of him/her controlling, selling, or licensing his or her image.⁴⁸ A player’s image is extensive enough to, *inter-alia*, include the player’s name, nicknames, likeness, image, photograph, signature, initials, physical details, and other personal characteristics.⁴⁹ It connotes everything that may form part of a player’s personality.⁵⁰ Thus, in *Proactive Sports Management Ltd v. Wayne Rooney*,⁵¹ a case involving a football star, Wayne Rooney, image right was defined as:

...the right for any commercial or promotional purpose to use the Player’s name, nickname, slogan and signatures developed from time to time, image, likeness, voice, logos, get-ups, initials, team or squad number (as may be allocated to the Player from time to time), reputation, video or film portrayal, biographical information, graphical representation, electronic, animated or computer-generated representation and/or any other representation and/or right of association and/or any other right or quasi-right anywhere in the World of the Player in relation to his name, reputation, image, promotional services, and/or his performances together with the right to apply for registration of any such rights.⁵²

⁴⁵ Ibid.

⁴⁶ Ibid.

⁴⁷ Ian Blackshaw, “Understanding Sports Image Rights”, available at https://www.wipo.int/ip-outreach/en/ipday/2019/understanding_sports_image_rights.html, last accessed on 30 March 2021; wherein it was asserted that Kevin Keegan was the first sports personality to enter actively into what was known at the time as a “Face Contract”.

⁴⁸ Jake Cohen, “Image Rights and International Footballers: The curious case of Mohammed Salah and the Egypt Football Association”, available at www.lawinsport.com/content/articles/item/image-rights-and-international-footballers-the-curious-case-of-mohamed-salah-and-the-egypt-football-association last accessed on 30 March 2021

⁴⁹ Ibid.

⁵⁰ Daniel Geey, “What are Image Rights in football: How did they affect Dybala’s transfer to Tottenham?,” available at <https://www.danielgeey.com/post/what-are-image-rights-in-football-how-did-they-affect-dybalas-transfer-to-tottenham/>, last accessed on 30 March 2021.

⁵¹ [2010] EWHC; [2011] EWCA Civ 1444. Also available at <https://www.lawteacher.net/cases/proactive-sports-management-v-rooney.php>, last accessed on 1 April 2021

⁵² Ibid.

Image rights, at this present stage of its development, are not regulated by custom-tailored copyrights and intellectual property legislation (one reason for this is that *one can only copyright works of creative expression but not a naturally occurring matter like a person's face*).⁵³ In the United Kingdom, image rights per se are not legally recognized except for tax purposes.⁵⁴ Image rights cases brought in Britain have been anchored on the unlawful “appropriation” of aspects of an individual’s personality.⁵⁵ However, in the United States of America, most states acknowledge and legally protect publicity rights on the general principles of the “recognition of the economic value of an individual’s identity” and “unjust enrichment”.⁵⁶ Some states in the United States of America have developed a legal framework for protection against exploitation of the economic benefits connected to the use of a person’s image.⁵⁷

⁵³ Prince-Alex Iwu, “The Legal Regime for Enforcement of Image Rights: A Nigerian Question” available at <https://www.lawyard.ng/the-legal-regime-for-enforcement-of-image-rights-a-nigerian-question-by-prince-alex-iwu/> last accessed on 1 April 2021

⁵⁴ Note that according to Daniel Geey and Pete Hackleton, “In England, football players are taxed by Her Majesty’s Revenue and Customs (HMRC) under the pay as you earn scheme (PAYE). Thus, tax is deducted at the time of payment by the club. A certain percentage of tax is paid as income tax. This is usually 45% tax on earnings over £150,000 (One Hundred and Fifty Thousand Pounds) as well as 2% National Insurance Contributions (NIC). Corporation tax is usually 20% of the Company’s income. A Premier League club making a payment to an Internationally Registered Company (IRC), rather than a salary payment through the PAYE system, does not deduct the percentage payable for income tax by the player as the player is not being taxed on that income at 45% but rather is paying corporation tax of 20%. This type of arrangement is seen as a way to reduce tax payable by both the player and the club which amounts to a **disguised remuneration**, considering the fact that these IRCs are established by players who claim to have image rights that have an independent commercial value. This has raised the following issue: Whether or not payments made by clubs to IRCs, in respect of a player’s image rights, constituted the player’s earnings so as to attract an income tax and NIC rather than a corporation tax”. See Daniel Geey and Pete Hackleton, “Image Rights In UK Football Explained”, available at <https://www.danielgeey.com/post/image-rights-in-uk-football-explained/>, last accessed on 1 April 2021. See also the cases of *Sports Club Plc, (Evelyn) & (Jocelyn) v. HM Inspector Of Taxes*, [2000] Sp C 253; [2000] STC (SCD) 443 and *Hull City AFC (Tigers) Limited v. HMRC*, [2019] TC7074.

⁵⁵In *Robyn Rihanna Fenty & Ors v. Arcadia Group Brands Limited (T/A Topshop)*, [2013] EWHC 2310 (Ch), the Defendant in this passing-off action, a well-known fashion retailer, started selling a t-shirt with the Claimant’s image in March 2012. The image in dispute was a photograph taken by an independent photographer, the Court found for the Claimant when it held in the following words: “The mere sale by a trader of a t-shirt bearing an image of a famous person is not, without more, an act of passing off. However the sale of this image of this person on this garment by this shop in these circumstances is a different matter. I find that Topshop’s sale of this Rihanna t-shirt without her approval was an act of passing off.” In the earlier part of the judgment delivered by Judge Birss on paragraph 2, he held as follows: “It is important to state at the outset that this case is not concerned with so called ‘image rights’. Whatever may be the position elsewhere in the world, and however much various celebrities may wish there were, there is today in England no such thing as a free standing general right by a famous person (or anyone else) to control the reproduction of their image.” See also Prince-Alex Iwu, “The Legal Regime for Enforcement of Image Rights: A Nigerian Question” available at <https://www.lawyard.ng/the-legal-regime-for-enforcement-of-image-rights-a-nigerian-question-by-prince-alex-iwu/> last accessed on 29 March 2021.

⁵⁶ Ian Blackshaw, “Understanding Sports Image Rights”, (n. 47) *ibid*.

⁵⁷ Sections 50 and 51 of the New York’s Civil Rights Law make it a misdemeanor to use in advertising or trade without consent, the name, picture or portrait of a person. With this development, over 30 states now recognize image rights either in common law or under statute in the United States of America.

In certain parts of Europe, there is the legal recognition and protection of the right of personality of individuals.⁵⁸ However, in Nigeria, there is no known law specifically regulating image rights, although where a person's image is registered as a device at the Nigerian Trade Marks Office, an unauthorized use of that device would be regarded as an infringement under the Nigerian Trade Marks Act.⁵⁹ Our expectation is that the Nigerian Trade Marks Act be amended so as to make adequate bespoke provisions for image rights that create a clear legal framework for the enforcement of image rights in Nigeria.⁶⁰ Also, our courts are called upon to embrace judicial activism and take up the challenge whenever they are called upon to develop this area of our law.⁶¹

ETHICAL DUTIES

Certain ethical duties have been put in place to guard against undue exploitation of existing commercial rights in sports. This section shall examine some of the relevant ethical duties in relation to the protection offered to safeguard the integrity of sports and associated economic activities. Most sports organizations have stipulated duties which all participants in the sports must adhere to. There are usually general duties and specific duties. General duties usually come

⁵⁸ For example, in Germany, Articles 1 and 2 of the Constitution protect image rights. Oliver Khan, the former German national goalkeeper, successfully sued Electronic Arts, the well-known games manufacturer, for using his name and image in an official FIFA Computer Football game without his express consent (*Kahn v Electronic Arts GmbH*, unreported, 25 April 2003).

⁵⁹ Cap. T13, LFN, 2004.

⁶⁰It is the humble view of the writer that image right ought to be classified as intellectual property. This is so because if we are to go by the definition of the term "Intellectual Property" as *property emanating from the human intellect, mind or through human ingenuity and invention*, then image right as personality right can conveniently be said to be a creation and invention of the mind. It takes a great deal of human effort for one to be able to say that one has created a personality that is considered to have an independent commercial value. It can be compared to the work of an artist on a canvass. The artist in this instance is that individual that has consciously taken out time to create a personality/reputation, an image that is independent of the creator. Furthermore, if we can classify trademark as intellectual property, and trademark in Nigeria has been defined to mean *a mark used or proposed to be used in relation to goods for the purpose of indicating, or so as to indicate, a connection in the course of trade between the goods and some person having the right either as proprietor or as registered user to use the mark* and "Mark" has been described to include *a device, brand, heading, label, ticket, signature, word, letter, numeral or any combination thereof* - See section 67 Trade Marks Act, Cap. T13, LFN, 2004, one wonders why image rights cannot be classified as an intellectual property considering the definition of image rights in the Wayne Rooney's case which suggests that an image includes *the player's name, nicknames, likeness, image, photograph, signature, autograph, initials, statements, endorsements, physical details, voice and other personal characteristics*.

⁶¹Ayokunle Adetula, "Image Rights and IP in Nigeria", available at <http://barcode.stillwaterslaw.com/1.1/2015/12/21/image-rights-and-ip-in-nigeria/> last accessed on 29 March 2021

in the form of holistic provisions that touch on almost all the specific duties subsequently provided for.⁶²

Duty of Neutrality

The key phrase here is “Political Neutrality”. It is often said that sports and politics do not mingle as there are justifications to keep the playing fields free of political intervention.⁶³ In association football, the world football governing body, FIFA, in its Code of Ethics, provides that in dealing with government institutions, national and international organizations, associations and groupings, persons bound by the Code shall remain politically neutral, in

⁶² For example, the FIFA in its 2018 Code of Ethics provides that persons bound by the code shall be aware of the importance of their duties and concomitant obligations/responsibilities and shall fulfill and exercise their duties and responsibilities diligently, respect FIFA’s regulatory framework, appreciate the fact that their conduct may have an impact on FIFA’s reputation, behave in a dignified and ethical manner, act with complete credibility and integrity at all times, and refrain from any activity or behavior/any attempted activity or behaviour that might give rise to the appearance or suspicion of improper conduct. See FIFA Code of Ethics (2018 edition), article 13(1)-(4)

- The International Cricket Council (ICC) has over the years regulated the ethical standards in its governance and administration of the sport by insisting, through its code of ethics, on essential ethics so as to safeguard the integrity and the reputation of cricket, maintain confidence in the ICC as the custodian of the sport, and allow the ICC secure the long-term health and vitality of cricket at all levels. Hence, general and specific duties exist which require behaviours to conform to the highest standards of honesty, impartiality, equity and integrity, all geared towards the enhancement of the reputation of the ICC, fostering of public confidence in the ICC’s governance and administration of the sport of cricket worldwide. See “Code of Ethics”, available at <https://www.icc-cricket.com/about/integrity/code-of-ethics#:~:text=Code%20of%20Ethics-.Code%20of%20Ethics,and%20administration%20of%20the%20sport>, last accessed on August 4, 2021. Conducts that are inconsistent with or which undermines in any way the objectives of the ICC Code of Ethics should generally be avoided. Also, acts or omissions that give the appearance of impropriety, or that denigrate the ICC, or that bring (or have the potential to bring) the ICC and/or the sport of cricket into disrepute should be avoided. See ICC Code of Ethics (2017 edition), article 2.1.1

- In relation to basketball, the Federation of International Basketball Association (FIBA) bears the responsibility of safeguarding the integrity and reputation of the sport of basketball worldwide and as such come up with the FIBA Internal Regulations which goes ahead to provide for the Code of Conduct, wherein the Code of Ethics and Integrity is also provided for. See FIBA Internal Regulations (2020 edition), article 111. The Code of Ethics and Integrity generally obliges basketball parties to ensure that basketball worldwide is both administered and played within a framework of ethical, honest, fair, transparent, democratic, credible, dignified, professional manner and also in the spirit of fair play and integrity. See FIBA Internal Regulations (2020 edition), article 113

- In boxing, the International Boxing Association (AIBA) Code of Ethics generally provides that all parties shall pay particular attention to observing the AIBA ethical principles, including but not limited to fair play and sportsmanship, when participating in AIBA’s championships and all other activities. See AIBA Code of Ethics (2018 edition), article 1

- In swimming, the *Fédération Internationale de Natation* (FINA) Code of Ethics generally provides that the aim of FINA and the entire aquatic family is to promote the highest possible ethical values within the sport of aquatics. See Preamble of the FINA Code of Ethics (2017 edition)

⁶³Hans Erik Naess, “The Neutrality Myth: Why International Sporting Associations and Politics Cannot Be Separated”, available at https://www.researchgate.net/profile/Hans_Naess/publication/325446832_The_neutrality_myth_why_international_sporting_associations_and_politics_cannot_be_separated/links/5b8cfa834585151fd144afe0/The-neutrality-myth-why-international-sporting-associations-and-politics-cannot-be-separated.pdf?origin=publication_detail, last accessed on August 7, 2021

accordance with the principles and objectives of FIFA, the confederations, associations, leagues and clubs, and generally act in a manner compatible with their function and integrity.⁶⁴ This is meant to be applicable in all regional and national football associations affiliated to FIFA because the relevant rules of conduct defined under part II, section 5 of the FIFA Code of Ethics are required to be included within the respective applicable regulations of confederations and member associations unless such rules of conduct are already included within their respective regulations currently in place.⁶⁵ In Cricket, there is no express provision on the duty of neutrality under the ICC Code of Ethics (2017 edition). This seems to be the case in basketball as the FIBA Internal Regulations (2020 edition) does not provide for the duty of neutrality. In boxing, AIBA Code of Ethics (2018 edition) provides that the Parties must comply with the principles of political neutrality.⁶⁶ In swimming, the FINA Code of Ethics (2017 edition) provides that officials shall remain politically neutral, in accordance with the principles and objectives of FINA, the confederations, associations, leagues and clubs, and generally act in a manner compatible with their function and integrity.⁶⁷

The International Olympic Committee (IOC) has a Code of Ethics that extensively deals with the issue of neutrality. Thus, there must be respect for the universal fundamental ethical principles that are considered the foundation of “Olympism”, one of which is respect of the principle of the universality and political neutrality of the Olympic Movement.⁶⁸ Also, support and promotion by broadcasters, sponsors, partners and other supporters must be in a form consistent with the rules of sports and the principles defined in the Olympic Charter and the Code, in order to preserve its integrity and neutrality.⁶⁹ Again, the principle of neutrality of the candidature process shall be respected by all the Olympic parties.⁷⁰ On relations with Olympic movement constituents, top sponsors and third parties are required to remain neutral and shall refrain from making any public declaration and may in no way support a candidate.⁷¹ The IOC administration shall also

⁶⁴ FIFA Code of Ethics (2018 edition), article 14(1)

⁶⁵ Ibid, article 1(2)

⁶⁶ AIBA Code of Ethics (2018 edition), article 2(8)

⁶⁷ FINA Code of Ethics (2017 edition), clause v(e)(10)

⁶⁸ IOC Code of Ethics (2020 edition), article 1.2

⁶⁹ Ibid, article 14

⁷⁰ Ibid, article 15

⁷¹ Ibid, article 12

maintain a strict duty of neutrality at all times.⁷² The neutrality of the IOC members is to be respected.⁷³ Same neutrality principle was reiterated in articles 2, 3, 6, 15 and 16 of the IOC Code of Ethics (2020 edition).⁷⁴

Duty to Report

There is an obligation to report wrongdoing in sports and for this to be properly observed, there is need for effective and efficient reporting mechanisms.⁷⁵ In sports, potent reporting mechanisms are critical in the fight against corruption in sports as it is an important way of detecting fraud and corruption.⁷⁶ Reporting mechanisms are needed in all sports organizations.⁷⁷ In association football, persons bound by the FIFA Code of Ethics who become aware of any infringements of the Code are required to directly inform, in writing, the secretariat and/or chairperson of the investigatory chamber of the Ethics Committee, and failure to report such infringements shall be sanctioned with an appropriate fine and/or a ban on taking part in any football-related activity for a maximum of two years.⁷⁸ In cricket, there is an obligation on officials to report to the Ethics Officer (without delay) all knowledge concerning any approach or invitation received by the official to engage in conduct that would amount to a breach of the Code of Ethics.⁷⁹ This obligation also applies to any incident, fact, or matter that comes to the attention of the official that may evidence a potential breach of the Code of Ethics.⁸⁰ The duty to report is a continuing obligation in relation to new incidents, facts, or matters notwithstanding the fact that

⁷² Ibid, article 22

⁷³ Ibid, article 10

⁷⁴ There is need for a harmonized application of the principle of political neutrality in sports. For example, in 1968, Tommie Smith and John Carlos, who had just finished first and third in the final of the Olympic 200-meter dash, stood on the victory platform as “The Star-Spangled Banner” was played, and with Smith wearing a black right-hand glove and Carlos wearing the left-hand glove of the same pair, both raised their right and left hands respectively to identify with the struggle of black Americans and to showcase the unity and power in black America by forming an arch of unity and power. Both the IOC and the United States Olympic Committee (USOC) didn’t take it lightly with them. The USOC suspended and expelled them. This same similar act is what is currently condoned in association football under the “Black Lives Matter” movement. See Jeff Merron, “10 Political Statements in Sports History”, available at <https://www.espn.com/chat/sportsnation/story?page=politicalstatements-030228>, last accessed on August 7, 2021

⁷⁵ “Reporting Mechanisms in Sport: A Practical Guide for Development and Implementation”, available at https://www.unodc.org/documents/corruption/Publications/2019/19-09580_Reporting_Mechanisms_in_Sport_ebook.pdf, last accessed on August 10, 2021

⁷⁶ Ibid.

⁷⁷ Ibid.

⁷⁸ FIFA Code of Ethics (2018 edition), article 17(1)(2)

⁷⁹ ICC Code of Ethics (2017 edition), article 2.1.5.1

⁸⁰ Ibid, article 2.1.5.2

the official had already reported his prior knowledge.⁸¹ Similar duty to report exists under article 3.2 of the ICC Code of Ethics and under article VI(1) of the FINA Code of Ethics (2017 edition). Under article 18 of the IOC Code of Ethics (2020 edition), Olympic parties are to inform the IOC Chief Ethics and Compliance Officer, in the strictest confidentiality and by using the appropriate mechanisms, in particular the IOC Ethics and Compliance Hotline, of any information related to a violation of the IOC Code of Ethics, with a view to possible referral to the IOC Ethics Commission, and any disclosure of information must not be for personal gain or benefit, nor be undertaken maliciously to damage the reputation of any person or organization.

Duty to Cooperate

The duty to cooperate is crucial in the gathering of intelligence during sports investigations, and as such, natural and legal sports persons, at the request of sports organizations/governing bodies, are generally obliged to cooperate by providing certain requested information for the purpose of such investigations.⁸² This obligation can be found in article 2.1.5 of the ICC Code of Ethics and also in articles 2.6, 4.6, 5, 7, and 18 of the IOC Code of Ethics. In association football, under the FIFA Code of Ethics, persons bound by the Code are required to assist and cooperate truthfully, fully and in good faith with the Ethics Committee at all times, regardless of whether they are involved in a particular matter as a party, as a witness, or in any other role.⁸³ The Union of European Football Association (UEFA), in pursuit of its objective *to further promote and continuously improve the standard of all aspects of football in Europe*, has also imposed and implemented into the rules governing UEFA's Financial Fair Play, similar obligations of cooperation on football clubs, and thus under the responsibilities of a licensee (football club), the licensee must, *inter alia*, cooperate with the licensor and the UEFA Club Financial Control Body in respect of their requests and enquiries.⁸⁴

⁸¹ Ibid.

⁸² "The Duty To Cooperate-Questions Arising From The Man City v UEFA Decision", available at <https://www.lawinsport.com/topics/item/the-duty-to-cooperate-questions-arising-from-the-man-city-v-uefa-decision>, last accessed on August 12, 2021

⁸³FIFA Code of Ethics (2018 edition), article 18

⁸⁴ UEFA Club Licensing and Financial Fair Play Regulations (2018 edition), article 56. In *Manchester City v. UEFA*,⁸⁴ CAS 2020/A/6785 after internal emails were hacked and published in relation to the so-called "Football Leaks Documents", as part of investigations of Manchester City Football Club's (MCFC) alleged breach of the Financial Fair Play Regulations (FFPR), the UEFA Club Financial Body (CFBC) on March 20, 2019 requested MCFC to provide all relevant information, including emails and documents, by 27 March 2019. MCFC failed to provide any information and the CFBC repeated its request on 29 March 2019, with April 4, 2019 as deadline for cooperation with UEFA in form of document production. MCFC, instead of cooperating, expressly rejected the

Duty of Fairness

Fairness is an important element that safeguards sports competitions as every competitor is believed to want a fair fight and a genuine opportunity to prove himself or herself worthy of victory.⁸⁵ This duty of fairness is critical for governing bodies in sports in their quest to establish a system of rules that guarantee a level playing field for all participants.⁸⁶ In association football, parties are expected to further respect the core value of fair play in every aspect of their functions.⁸⁷ Under the FINA Code of Ethics, fair play is the basic guiding principle in the sport of aquatics.⁸⁸ Cricket is renowned for strong ethical values of fair play and sportsmanship.⁸⁹ Participants in the Olympic Games must not, by any manner whatsoever, manipulate the course or result of a competition, or any part thereof, in a manner contrary to sporting ethics, and shall not infringe the principle of fair play or show any unsporting conduct.⁹⁰ Also, principle 6.6 of the Basic Universal Principles of Good Governance of the Olympic and Sports Movement Fairness of the IOC Code of Ethics provides that fairness and fair play are central elements of the competition as fair play is considered the spirit of sports. AIBA members are required to undertake at all times to respect and ensure respect of the principles of fairness by operating within the spirit of the rules and never taking an unfair advantage.⁹¹

Duty of Responsibility

To be sportsmanlike requires sports participants to take responsibility for their actions and emotions on and off the field.⁹² Being responsible requires that sports participants keep

provision of requested information on the grounds of the inadmissibility of criminally obtained documents resulting from the hack. After the CFBC Chief Investigator's Referral Decision and the Appealed Decision taken by the UEFA Adjudicatory Chamber to the effect that MCFC be excluded for two years from UEFA club competitions, MCFC appealed to Court of Arbitration for Sport (CAS) and ultimately provided certain information in the proceedings before the CAS panel for the first time. The CAS panel was called upon to decide, among other things, whether or not MCFC had failed to cooperate with UEFA and was therefore in breach of its cooperating obligations under the FFPR. On July 13, 2020, the CAS panel found that MCFC was in breach of article 56 of the Financial Fair Play Rules. MCFC was fined accordingly.

⁸⁵ Pete Hitzeman, "Fairness In Sport And The Highest Peaks In The World", available at <https://breakingmuscle.com/fitness/fairness-in-sport-and-the-highest-peaks-in-the-world>, last accessed on August 12, 2021

⁸⁶ Ibid.

⁸⁷ FIFA Code of Ethics (2018 edition), preamble

⁸⁸ FINA Code of Ethics (2017 edition), clause v(c)(3)

⁸⁹ ICC Code of Ethics (2017 edition), article 1.1.1

⁹⁰ IOC Code of Ethics (2020 edition), article 10

⁹¹ AIBA Code of Ethics (2018 edition), preamble

⁹² Kirk O. Hanson and Matt Savage, "What Role Does Ethics Play in Sports?", available at <https://www.scu.edu/ethics/focus-areas/more/resources/what-role-does-ethics-play-in->

themselves updated on the rules and regulations governing their sports.⁹³ In association football, FIFA bears a special responsibility to safeguard the integrity and reputation of football worldwide.⁹⁴ Social and environmental responsibilities are also assumed.⁹⁵ The IOC Code of Ethics provides that the Basic Universal Principles of Good Governance of the Olympic and Sports Movement such as transparency, responsibility and accountability, must be respected by all Olympic parties.⁹⁶ In boxing, under the AIBA Code of Ethics, AIBA members undertake at all times to respect and ensure respect of the principle of responsibility by taking responsibility for their actions and being positive role models at all times.⁹⁷

CHALLENGES

Interest in Betting and Gambling

This is a challenge peculiar to sponsorship agreements and rights.⁹⁸ Whereas betting on sports competitions is not to be seen as a negative act, it is important for those involved to ensure that mitigating measures are implemented to help curb the risks that could spring up from illegal criminal exploitation of sports betting.⁹⁹ There is a strong evidence base suggesting that gambling has the potential of becoming a serious vice of detrimental effects for individuals, communities and societies.¹⁰⁰ As a result of this, there are measures outlined by sports governing bodies, teams and regulators for minimizing the supposed risks.¹⁰¹ Hence, under the FIFA Code of Ethics, persons bound by the Code *are forbidden from participating in (either directly or indirectly) betting, gambling, lotteries or similar events or transactions related to football matches or competitions and/or any related football activities.*¹⁰² This prohibition also extends to

[sports/#:~:text=Ethics%20in%20sport%20requires%20four,integrity%2C%20responsibility%2C%20and%20respect.&text=Athletes%20and%20coaches%20are%20not.%2C%20gender%2C%20or%20sexual%20orientation,](#) last accessed on August 2, 2021

⁹³ Ibid.

⁹⁴ FIFA Code of Ethics (2018 edition), preamble

⁹⁵ Ibid.

⁹⁶ IOC Code of Ethics (2020 edition), article 11

⁹⁷ AIBA Code of Ethics (2018 edition), preamble

⁹⁸ We shall illustrate this by showing how betting companies associate with sports clubs.

⁹⁹ “A Study of Betting Operators and their Sponsorship of Sport”, available at https://glms-sport.org/wp-content/uploads/2020/07/20_glms_sponsorship_report_final-July-2020.pdf, last accessed on August 29, 2021

¹⁰⁰ Christopher Bunna and others, “Shirt Sponsorship by Gambling Companies in the English and Scottish Premier Leagues: Global Reach and Public Health Concerns”, available at <https://www.tandfonline.com/doi/pdf/10.1080/14660970.2018.1425682?needAccess=true>, last accessed on August 29, 2021.

¹⁰¹ “A Study of Betting Operators and their Sponsorship of Sport”, (n. 99), *ibid.*

¹⁰² FIFA Code of Ethics (2018 edition), article 26(1)

having interests (either directly or indirectly through or in conjunction with third parties), in entities, companies, organizations, etc., that promote, broker, arrange or conduct betting, gambling, lotteries or similar events or transactions connected with football matches and competitions.¹⁰³ The ICC, through the Anti-Corruption Code, seeks to prevent corrupt betting practices from undermining the integrity of the sport of cricket¹⁰⁴ and as such:

...an official may not have a business association (whether direct or indirect) or enter into any business arrangement (whether formal or informal) with any betting organization that involves the payment of any monies to or by, or the conferring of any benefit(s) or advantage(s) upon or by, the Official, either directly or indirectly, as a result of such association or arrangement unless such association or arrangement is disclosed to, and recorded and approved by the Ethics Officer.¹⁰⁵

The above provisions notwithstanding, over the last decade, association football in the UK has clearly developed a love affair with gambling marketing, as see shirt sponsorships by different betting/gambling firms.¹⁰⁶ The question now is whether or not such shirt sponsorships amount to “participation in betting/gambling” or “having interest in betting/gambling”. In the UK, gambling used to be a clandestine activity that attracted significant punishment.¹⁰⁷ However, the legal framework has been significantly varied over the years from the enactment of the 1906 Street Betting Act to the 1960 Betting and Gaming Act that allowed gambling in Britain, and then to the National Lottery Act in 1993 and finally to the 2005 Gambling Act, which appreciably liberalized gambling laws and, through regulation, approved online gambling and also allowed advertisement of such by gambling companies.¹⁰⁸

Since the inception of the 2005 Act in the UK, prominent partnerships have been entered into between gambling companies and clubs in the English Premier League (EPL).¹⁰⁹ As at July 2,

¹⁰³ Ibid, article 26(2)

¹⁰⁴ ICC Code of Ethics (2017 edition), article 2.5.1

¹⁰⁵ Ibid, article 2.6

¹⁰⁶ Christopher Bunna and others, (n. 100), *ibid.*

¹⁰⁷ *Ibid.*

¹⁰⁸ *Ibid.*

¹⁰⁹ *Ibid.*

2020, about 10 clubs in the EPL were sponsored by gambling companies.¹¹⁰ The rationale for such continued relationship with betting companies, notwithstanding the sports-specific regulations against such, appears to be hinged on the legal backing offered by national laws as is the case in the UK.¹¹¹ It has been clamoured that the impact of the 2005 Act in UK on football sponsorship should be revisited so as to identify potential harms,¹¹² and the relationship between football and the gambling industry should be reviewed.¹¹³ Recently, a House of Lords Select Committee was set up for this review.¹¹⁴ The committee submitted a report to the effect that EPL clubs should not be permitted to have betting firms on their shirts.¹¹⁵ Also, an across-party committee, which was assembled for the purpose of examining the impact of the UK's gambling industry, reported that sponsors on championship club shirts should phase out by 2023, and that other sports should put an end to shirt betting sponsorship in three years.¹¹⁶ It has further been recommended that there should be no gambling advertisement in or near any sports grounds or sports venues, including sports programs.¹¹⁷

Spain has recorded a variety of betting sponsorships, especially in her top-tier league, with the most prominent being that of “bwin” and Real Madrid, as “bwin”, a betting company, appeared on Real Madrid shirts between 2007 and 2013.¹¹⁸ However, with the promulgation of the Royal Decree on Advertising and a ruling to that effect, a four-hour advertising window for betting companies is what is currently permitted and betting companies are prevented from becoming a main shirt sponsor.¹¹⁹ Although similar approaches above ought to be adopted by African countries, we understand that an outright ban from associating with these betting companies would not be in our best interest.¹²⁰ Instead, we recommend for there to be a constructive review

¹¹⁰ Alistair Magowan, “Gambling in football: Betting Sponsorship on Shirts should be banned - Lords Report”, available at <https://www.bbc.com/sport/football/53261364>, last accessed on August 29, 2021

¹¹¹ Ibid.

¹¹² Christopher Bunna and others, (n. 100), *ibid.*

¹¹³ Ibid.

¹¹⁴ Alistair Magowan, (n. 110), *ibid.*

¹¹⁵ Ibid.

¹¹⁶ Ibid.

¹¹⁷ Ibid.

¹¹⁸ “A Study of Betting Operators and their Sponsorship of Sport”, (n. 99), *ibid.*

¹¹⁹ Erin-Marie Gallagher, “Gambling Companies Banned From Sponsoring La Liga Teams”, available at <https://insidersport.com/2020/07/09/gambling-companies-banned-from-sponsoring-la-liga-teams/>, last accessed on August 29, 2021

¹²⁰ “A Study of Betting Operators and their Sponsorship of Sport”, (n. 99), *ibid.*

of policies on this,¹²¹ for the sake of the African States that may struggle as a result of loss of funds from these betting companies.¹²² For instance, the Kenyan government banned gaming advertisements in a bid to mitigate the social impact of betting on the Kenyan population, this led to taxation changes and the suspension of operations in Kenya by “SportPesa”, a top investor in Kenya that also sponsors Everton Football Club.¹²³ It is our submission that there should be modification of the betting rules to make room for provisions that mandates sports entities to carry out due diligence by:

considering the legality/integrity of the betting operator; allowing the exchange of information to safeguard the integrity of sports; ensuring there’s no common interest and ownership/no influence on sports decision; and preventing conflict of interest and misuse of inside information.¹²⁴

Global and national sports bodies should be encouraged to see to the effective implementation of a much improved rules governing betting sponsorships, in line with the above.¹²⁵

Ambush Marketing

This is another challenge that really affects sponsorship rights. Ambush marketing happens when an entity that is not recognized as the official sponsor of an event, without the permission of the event owner, undertakes certain level of marketing in such an event, with the intention of creating a supposed association with the event, or in other cases, for the purpose of taking undue advantage of the profile of the event.¹²⁶ A limited definition of ambush marketing relates to advertising that is intentionally misleading like where the logo of an event organizer is used without authorization in an advertisement to imply that the advertiser is a sponsor of the event.¹²⁷

¹²¹ Ibid.

¹²² Ibid.

¹²³ Ibid.

¹²⁴ Ibid.

¹²⁵ Ibid.

¹²⁶ James Hennigan and Tim Taylor, “Ambush Marketing: How to stay on the right side of the law”, available at <https://www.lawinsport.com/content/articles/intellectual-property-law/item/ambush-marketing-how-to-stay-on-the-right-side-of-the-law>, last accessed on 9 April 2021

¹²⁷ Adam Hyland, “Anti-ambush marketing legislation – does it work” available at <https://www.lawinsport.com/content/articles/intellectual-property-law/item/anti-ambush-marketing-legislation-does-it-work>, last accessed at 9 April 2021

There are clamours by event owners and organizers for a specific legislation that would address the ills of ambush marketing,¹²⁸ on the belief that ambush marketing infringes on certain aspects of their intellectual property rights.¹²⁹ In some countries, ambush marketing is unlawful¹³⁰ and may give the event organizer grounds to sue.¹³¹ Protection is given against two main types of ambush marketing: **Ambush marketing by association**;¹³² and **Ambush marketing by intrusion**.¹³³ In Nigeria, ambush marketing is generally regulated by traditional IP Laws. There is no special legislation in place to check the activities of smart ambush marketers. At best, Nigeria has the Advertising Practitioners (Registration, etc.) Act,¹³⁴ and the Nigerian Communications Act.¹³⁵ However, these statutes do not specifically regulate ambush marketing. It is therefore recommended that international best practices in this area be adopted so as to encourage sponsorship of sporting events in Nigeria which will help boost the economy.

Bribery and Corruption

This challenge, *inter alia*, affects media rights of broadcasters especially as it relates to the determination of the natural outcome of televised games. We do not think there is need for the examination of the overview of the scale and variety of bribery and corruption in sports.¹³⁶ However, we should say that, so far, research on bribery and corruption in sports tends to focus

¹²⁸ Ibid.

¹²⁹ James Hennigan and Tim Taylor, (n. 126) *ibid*.

¹³⁰ “Creating a false or misleading association with an event may constitute unlawful passing off (e.g. the UK) or unfair competition (e.g. France and Germany), or it can breach advertising regulations. It may be a criminal offence to engage in certain ambush marketing activities like: use of actual names, logos, slogans or branding of events, or anything that might be confusingly similar to these; use of pictures or words that are clearly suggestive of an event or which are intended to refer to it; running of competitions that give away tickets to events as prizes without the organizer’s express permission to do so; use of event branding/names/logos etc. on product packaging; registration of internet domain names that include any part of the name or slogan of an event or anything similar to it; use of words like “Sponsor”, “Partner” or “Supporter” in relation to an event in marketing without the official right to do so.” *ibid*.

¹³¹ Adam Hyland, (n. 127), *ibid*.

¹³² “This type of ambush marketing occurs when advertisers attempt to create a link directly or indirectly that implies an association between the event and the brand. It does not require the consumer to be misled as to sponsorship status and is usually conducted off-site, on social media, or through television or print advertising.” See John Grady, “Predicting the Future for Rio 2016: Legal Issues in Sponsorship, Ambush Marketing, and Social Media”, available at <https://www.entsportslawjournal.com/articles/10.16997/eslj.199/>, last accessed on 14 April 2021

¹³³ “This type of ambush marketing focuses on attracting additional publicity to the ambusher’s brand beyond what ordinary promotional efforts would achieve. It is usually on-site and less likely to occur because of proper on-site brand policing efforts.” *ibid*.

¹³⁴ No. 55 of 1988, Cap. A7, Laws of the Federation of Nigeria, 2004

¹³⁵ No. 19, 2003

¹³⁶ Adam Masters, “Corruption in Sport: From the Playing Field to the Field of Policy”, available at <https://www.tandfonline.com/doi/pdf/10.1016/j.polsoc.2015.04.002>, last accessed on September 3, 2021

only on one aspect or another of the issue without looking at the other variants.¹³⁷ This is an issue for another day.

In relation to bribery, under the FIFA Code of Ethics, persons bound by the Code are prohibited from directly or indirectly accepting, giving, offering, promising, receiving, requesting or soliciting any personal or undue pecuniary or other advantage in order to obtain or retain business or any other improper advantage to or from anyone within or outside FIFA.¹³⁸ Also, under the ICC Code of Ethics, an official is prohibited from offering or accepting any bribe, payment, commission, gift, donation, kickback, facilitation payment, or other inducement or incentive (whether monetary or otherwise) in order to influence actions or decision-making in relation to any matter involving the ICC.¹³⁹ This also comes with the obligation to disclose bribery requests to the Ethics Officer without delay.¹⁴⁰

THE WAY FORWARD

Sponsorship agreements in Nigeria should be regulated by an industry-specific Act. Also, ambush marketing as a sponsorship challenge in Nigeria should not be generally regulated by the traditional IP laws in Nigeria but should be well addressed under a sponsorship agreement framework, and it should adopt international best practices in this area so as to encourage sponsorship of sporting events in Nigeria which will help boost the economy of the country. Notwithstanding the supposed regulation of media rights as “broadcasts” under the Copyright Act, there is still need for action plans, policy guidelines and regulations that would take account of the practical and ethical challenges accounted in the exploitation of this right. Sports governing bodies should develop Nigeria’s country-specific media rights action plans, improve existing plans, implement good media rights practices, and encourage networking and cooperation with other associations so as to convincingly project themselves as outward-facing organizations. It appears nothing much is happening in the image rights space in Nigeria, and

¹³⁷ Ibid.

¹³⁸FIFA Code of Ethics (2018 edition), article 27(1)

¹³⁹ ICC Code of Ethics (2017 edition), article 2.4

¹⁴⁰ Ibid. After a close scrutiny of the codes, we discovered that corruption was never defined. It is said that this is so because of the fact that the international nature of these sports negates legal definitions of corruption and the term also does not easily lend itself to strict legal definitions. It was submitted in the past that defining corruption in sports is problematic and that the common definitions of corruption tend to be limited by the definer’s perspective, which could be economic, political etc. See Adam Masters, (n. 136), *ibid*.

there is no clarity on the utilization of image rights in Nigeria. This is attributable to the fact that there is no known law specifically governing image rights in Nigeria. Image rights have generally been regulated as a registered device under the Trade Marks Act. Whereas this paper suggests that protection against the unauthorized use and exploitation of the economic benefit in an image may reasonably lie in the Trade Marks Act, it is our humble submission that the Trade Marks Act be amended so as to make adequate provisions for image rights in Nigeria, thereby creating a clear legal framework for the enforcement of image rights in Nigeria.