

# THE MARKETING MOMENT:

## Sports, Wagering, and Advertising in the United States

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## Executive Summary

Advertising is ubiquitous, coming at us through our phones, our screens, and even, seemingly, the ether itself, via the always-on ears and voice of Alexa or Siri. Meanwhile, social media has efficiently transformed users into data, and data into highly targeted ads. The experience of being targeted via advertising has become so omnipresent that we can easily forget where boundaries might lie, nor do many of us stop to consider the experience's very ubiquity.

This report aims to help inform a critical conversation on advertising as it plays out in sports wagering settings – a particularly contentious area that the US is only beginning to engage. We draw on evidence and insights from other jurisdictions, as the International Gaming Institute has long recommended, and we bring together experts from the fields of law, operations, regulation, problem gambling, responsible gaming, and sociology to do so.

The report itself takes a “yesterdays, todays, and tomorrows” approach, by examining history first, then summarizing a number of current debates, and then providing recommendations for the future. Specifically, after reviewing the historical evidence, relevant (but relatively scant) research literature, and current debates, we recommend the following for the future – to help avoid the kinds of pitfalls that other jurisdictions have experienced:

- 1) Especially during this “new” period of sports wagering legalization and implementation, sports gambling operators must ensure that advertising does not target vulnerable populations, particularly youth. In addition, a public health approach should be taken with government providing funding for prevention, education, treatment, regulatory, and research programs in support of a more holistic “safety net.” Of course, the industry has a vital role to play -- in educating its customers, its employees, and its communities about responsible gambling, in constantly evaluating its own practices to make sure they are aligned with best research-based practices, and in dedicating resources to help those experiencing problems connect with those who can help them.
- 2) The media also has a vital role to play, particularly in today's digitized era. If a story cites an illegal gambling site, the story should say so explicitly. Furthermore, the public needs to be made aware that offshore sites pay no taxes, that the jobs created are largely (if not entirely) offshore, and that responsible gambling programs for these companies are not overseen by any US regulatory body. While we are encouraged by certain media voices and their focus on responsible gambling, the media simply has to raise their level of awareness and sensitivity to the issues that we have raised here alongside gambling companies, teams, and leagues. One helpful step in the right direction: training, educational programming, and even scientific forums for sports broadcasters on problem and responsible gambling, to increase awareness and sensitivity to the issue at the outset. This is mandated for other important social issues in the workplace, and the same approach should be taken with problem gambling and illegal gambling's costs. In addition, groups like [Conscious Gaming](#) are seeking to apply some of the industry's strongest technological tools to help educate the public about illegal sites, providing a ready reference and resource for journalists.

- 3) Social media platforms provide gambling operators and sports teams with a powerful vehicle to communicate with their customers and fans. Restrictions pertaining to sports wagering messaging should be put in place with certain social media accounts – especially platforms that are particularly popular among under-age groups such as teens, like Instagram, Tik Tok, and Snapchat.
- 4) On a broader educational level, we call for a proactive cross-disciplinary summit of thoughtful and impactful leaders, to discuss the intersection of sports gambling and advertising and its resulting impacts on athletes, teams, leagues, and the public. This should be as comprehensive a gathering as possible, including the active participation of league and team officials, current and former athletes, media companies, gambling industry representatives, academics and researchers, problem gambling experts, public policy experts, regulators, and politicians, among other interested parties.
- 5) In addition to protecting their brands and their games’ integrity, universities also should protect coaches’ and student-athletes’ mental wellness. While the NCAA does provide mental health support and substance abuse prevention resources, a survey of Division 1 schools found that only approximately 20% of the schools that offer sports wagering education include information about gambling disorders. This is disturbing during a historical moment when gambling disorders are listed alongside substance abuse in the Diagnostic and Statistical Manual of Mental Disorders. At a minimum, the NCAA and its members need to mandate responsible gambling education as well as educational programming on the nature of sports wagering, the aforementioned conflicts that can exist (for instance, with affiliate marketers, whom athletes may just see as “normal businesses”), and the potentially devastating impacts of gambling disorders.
- 6) Finally, the industry should ensure that its messaging is responsible, both in terms of content and location. For example, we endorse the Responsible Marketing Code for Sports Wagering developed by the American Gaming Association, in an effort to set an industry standard in the US for the marketing of sports wagering. Given the broad membership of the AGA, the Code’s scope and reach are potentially quite substantial.

This report was sponsored by Entain Foundation US; however, as with all IGI reports, the document is entirely the work of the authors, and the sponsor did not see the final report until it was released to the public. Given its intended audience of US policymakers, regulators, and the general public, we aim for an accessible style, free of academic jargon. Of course, these are all topics whose complexity necessitates further analysis and discussion, and we look forward to engaging them as these debates continue to unfold.

Ultimately, a spirit of (and process for) transparency, public awareness, research, and education is one we wholeheartedly endorse. We believe this report constitutes a promising start, in a manner that will surely lead to national conversations, as we have learned from other jurisdictions and the US’ own history with sports wagering advertising.

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# Introduction

Advertising is ubiquitous.

Social media has efficiently transformed users into data, and data into highly targeted ads [\[1\]](#). Advertising comes at us through our phones, our screens, and even, seemingly, the ether itself, via the always-on ears and voice of Alexa or Siri [\[2\]](#). The experience of being targeted via advertising has become so omnipresent that we can easily forget where boundaries might lie, nor do many of us stop to consider the experience's very ubiquity.

It seems natural, then, to take some time to contemplate how advertising is put to use in a consumer environment that has expanded in legality and popularity of late: sports wagering. We find ourselves in a moment where the US is expanding its sports wagering opportunities, while the UK (and other countries) are simultaneously rethinking the way that sports wagering is marketed. Because a comprehensive account of all impacts of all advertising would require several books, our focus is intentionally narrow, and aims to illuminate the most germane issues in the United States today.

More specifically, we seek to shed light on a series of advertising issues that have arisen in the online sports wagering sphere. To explore properly the evolution of these issues, we will divide this report into three sections that summarize 1) Where We Have Been, 2) Where We Are, and 3) Where We're Going (including recommendations on where we might and should go). This "yesterdays, todays, tomorrows" approach helps frame often-complex debates and solutions.

Section 1 (Where We Have Been) will provide context by offering a brief examination of advertising history in relation to sports. This section will develop a summarizing sense of the setting and the evolution of sports advertising.

Section 2 (Where We Are) will summarize the data and talk about existing trends and regulations, as well as public perceptions that have emerged regarding sports wagering advertising. We will also examine the media's role in engaging and reporting on black market/illegal sites, as well as the roles the media and gambling industry have played in promoting inappropriate messages. Finally, we will discuss recent developments at major universities, where deals being made with athletics departments play a central role in today's scene.

Section 3 (Where We're Going) will offer recommendations, propose guidelines, and examine mechanisms to proceed. We also will present a new model, the American Gaming Association (AGA) Sports Wagering Code, and the processes it employs to monitor these issues.

Ultimately, a spirit of (and process for) transparency, public awareness, research, and education is one we wholeheartedly endorse. We believe this report constitutes a promising start, in a manner that will surely lead to national conversations, as we have learned from other jurisdictions and the US' own history with sports wagering advertising.

## Section 1: Where We've Been

### Advertising, Sports, and Wagering: A Brief History of Relevance

While many fans may wax eloquently (or at least nostalgically) about pure displays of athletic competition, commercial interests have long driven the growth of sports. In fact, the relationship between sports, advertising, and wagering is ancient. Wagering on sporting events can be traced to the Greek Olympic Games, as evidenced by artefacts indicating that wagering drove great enthusiasm for the games [4]. In the US, wagering and sports can be traced to at least the earliest days of horse racing, specifically, the nation's first racetrack on Long Island, N.Y. in 1665 [5].

The development of sports as a commercial endeavor, and the creation of the first opportunities for other businesses interested in profiting from fans, first appeared on a large scale in the mid- to late-19<sup>th</sup> century [6]. From this stage forward, the metaphorical race was on. The growth and popularity of competitive sports grew alongside (if not *because* of) the explosive growth and consolidation of media in the latter half of the 1800s [7]. During this time, mass media served as a vital ingredient to offer businesses an array of promotional opportunities including advertising, sponsorships, partnerships, stadium signage, program ads, uniform logos, broadcast ads, naming rights, giveaways, and special events; thereby creating an entire sector of advertising that we know today as sports marketing, a field that includes devotees in both business and academe.

A famous early example of using celebrity sports figures to advertise sports brands happened when Gene Sarazen signed an endorsement deal with Wilson Sporting Goods [8]. This marketing relationship lasted from 1923 until 1999, making it the longest-running sports endorsement deal in history [9]. Soon after, in one of the most memorable American sports branding efforts, General Mills started featuring athletes on its Wheaties boxes – heralding their marketing slogan, “Breakfast of Champions” [10]. From Lou Gehrig to Mary Lou Retton to Muhammed Ali, the tradition has become so “All-American” it is hardly even considered in the context of sales promotions anymore, instead stamping an athletic career with the mark of success.

In 1962, the sports advertising game was changed forever, thanks to a then-modest start-up called Blue Ribbon Sports [11]. Ultimately rebranded as Nike, this company would indelibly alter the course of endorsement history by entering into a multi-million-dollar relationship with Michael Jordan in 1984, and then later with other iconic sports figures like LeBron James [12, 13]. As a *Harvard Business Review* article puts it, the rest is advertising history [14]:

*Nike is a champion brand builder. Its advertising slogans — “Bo Knows,” “Just Do It,” “There Is No Finish Line” — have moved beyond advertising into popular expression. Its athletic footwear and clothing have become a piece of Americana.*

More recently, the mass legalization of sports wagering has led to the further expansion of sports marketing – into the world of sports wagering. Consistent with traditional sports advertising, sports wagering advertising employs a wide array of promotional vehicles. This report examines many of these advertising activities in more detail.

## Event, Athlete, and Stadium Sponsorships

The first Olympics sponsorship occurred in 1908, with soup maker Oxo marketing its hot and cold beef stock drinks and rice pudding in this elite athletic setting [15]. Coca-Cola first partnered with the Olympics in 1928, in a relationship that has flourished to this day as an important driver of both institutions' marketing efforts [15].

Adidas founder Adolf Gassler was the first to offer free products to an athlete for promotional purposes. Believing Jesse Owens to be a certain winner at the 1936 Berlin Olympic Games, Gassler gave the American runner Adidas merchandise to wear during the Games [16]. Since then, this practice has turned into a multi-billion-dollar promotional activity, with businesses around the world sponsoring individual athletes, teams, and even entire leagues or competitions.

From the historical record, it would seem that St Louis' Sportsman's Park was the first stadium or arena to sell its naming rights. In 1954, local brewery Anheuser Busch purchased those rights and the facility was renamed Busch Park [17]. According to NBC Sports, this genesis story is a creative one [18]:

*When Anheuser-Busch owned the Cardinals, owner August Busch Jr. wanted to rename Sportsman's Park in St. Louis "Budweiser Stadium" to advertise the family business. (Baseball Commissioner) Ford Frick told him he couldn't because parks could not bear the name of an alcoholic beverage. So he named it "Busch Stadium." Frick said OK, since it was named after the Busch family. Right after that the company introduced Busch Bavarian Beer — now just Busch Beer — which made the ballpark's name a backdoor product promotion.*

Since then, sports teams have continuously sought to monetize various spaces within and atop their facilities. While stadium naming rights and in-stadium advertising were among the earliest efforts, over time they have grown more sophisticated and specialized, providing vital revenues to ever-more-expensive team and league operations. Today, even sub-elements of the stadium can be sponsored. For instance, when it opened in 2008, the new Indianapolis Colts stadium, Lucas Oil Field, featured a hallway filled with dishwashers, refrigerators and washing machines, brought to football fans by the (oddly-named) Indianapolis based retailer Hhgregg [19]. "We think we've kind of taken it to a new level," the senior executive vice president for the Colts said at the time [19]. Meanwhile, in the nation's gambling capital, Las Vegas' T-Mobile Arena boasts the Jack Daniel's Lounge, the Bud Light Lounge, the Goose Island Lounge, the Grey Goose Lounge, the Stella Artois Lounge, and the Toshiba Plaza [20].

## Collegiate and Professional Athletics

Collegiate athletic events have enjoyed the glossy sheen of amateurism, but have long had clear commercial objectives. In 1852, the Harvard and Yale boat clubs gathered in New Hampshire for a friendly competition that became the first known intercollegiate contest [21]. It was organized by the superintendent of the Boston, Concord, and Montreal Railroad. He was able to lure the teams with promises of "lavish prizes" and "unlimited alcohol," all intended to serve as an opportunity to market railroad services to wealthy passengers [22].

The intervening years saw the development of an enormous entity known as the National Collegiate Athletics Association -- or NCAA [23]. NCAA Men's Division I Basketball Championships (cleverly and protectively branded as "March Madness") has itself become a multi-billion dollar industry [24]. The financial details are substantial: CBS and TNT combined to pay the NCAA \$19.6 billion to televise the 2010-2032 events [25]. Keep in mind that this amount is only for basketball, and only collegiate-level basketball. To offset this investment, both networks will repackage portions of the airtime into smaller segments to resell to advertisers (and even other channels), as well as by giving viewers additional programming online [24].

Looking at professional US sports, the NFL leverages (and co-develops) its popularity with multi-billion dollar contracts with ESPN, CBS, FOX and NBC. Its current contracts expire in 2022, and as usual, the future financial figures are expected to climb even higher, possibly doubling, in part because of increased competition for content from streaming services such as Amazon, Netflix, and Apple TV [26].

It represents a bit of an oversimplification, but in essence all of this money flows from a single source: advertising revenue [27]. The networks pay the leagues for the rights to broadcast these events, and then turn to advertisers to sell sponsorships and commercials to make their money back - and then some [28]. It all becomes a self-fulfilling prophecy of sorts: the more advertising that can be generated, the greater the rights payments [29]. The greater the rights payments, the greater the growth of the popularity of sports, and the greater the player salaries and team values [27]. In order to grow the number of viewers, networks are incented to find new and exciting ways to enhance game coverage with investments in technology [30]. Enhanced game coverage brings in new viewers -- and the cycle starts again [29].

Nor is this cycle illogical: major sports events such as the Olympics and World Cup are perhaps the largest advertising events in the world [31]. The Super Bowl serves as a major platform for advertisers to debut new campaigns and reinforce existing ones [32]. Though per spot cost started modestly in 1966, it rose steadily and broke through the million-dollar mark at Super Bowl XXIX in 1994. In some years, the advertising becomes the "story" -- more than the game itself, even [33].

Today, sports franchises sometimes feel like media companies -- and vice versa. After all, franchises feature logos or brand messages in seemingly every space they can find. Even the last "sacred space" in US sports, the uniform itself, has been tagged of late, with MLS following its European counterparts [34], and with the NBA and NHL recently adding corporate logos to their outfits [35].

For many years, the NFL did not allow gambling companies to advertise at the Super Bowl, nor was Las Vegas allowed to advertise as a destination itself [36] (even though the famed "What Happens Here" ads featured no gambling activities whatsoever). As recently as 2015, a major fantasy football event that was scheduled to be held at the Venetian hotel-casino in Las Vegas was cancelled [37], due to the NFL's rules prohibiting relationships between gambling entities, players, and teams. Soon after, however, the NFL's Oakland Raiders enlisted UNLV International Gaming Institute researchers to develop a more research-based understanding of the links between gambling and the marketing of Las Vegas -- among other issues [113]. This research-based understanding helped inform early debates on these topics [38], major players like Las Vegas Sands Corporation, the Las Vegas Convention and Visitors Authority, and even the Nevada State Legislature got involved, and the Las Vegas Raiders' debut season took place just five years after the Venetian (non)event.

## **A Case Study: England, Football, and Shirt Sponsors**

As we turn our attention overseas, nowhere have gambling marketing issues been more controversial than they are in England, which plays host each weekend to the world's most visible and popular sports league. Currently, the English Premier League, as well as its lower leagues, find themselves in a heated advertising debate that has engaged Parliament, the media, and several community organizations [39].

Sports wagering advertising ubiquity in English football is such that 10 of the 20 Premier League sides sport a wagering sponsor on their jersey [40]. In the lower leagues [41], this omnipresence is even more unmissable, as 17 of the 24 teams in the second-tier Championship have sports gambling shirt sponsors [42]. Many of these betting companies do not actually operate in England [43], reflecting the league's global appeal and audience. Meanwhile, Sky Bet sponsors the entire Championship itself [44], as well as the two tiers of English leagues beneath it. Concerned observers contend that these advertisements may encourage addictive behaviors [45], and urge a critical review of these impacts [44].

This ubiquity leads to angst about young viewers [46], as they are exposed to advertisements every time they see their favorite player onscreen. On the other hand, this omnipresence also creates a financial dependence that is especially acute in lower leagues – especially in a COVID era when fans cannot attend matches [47]. In lower leagues, television and other sponsorship revenues are also lower, and, hence, teams rely heavily on wagering sponsors [42].

For its part, Parliament has promised to move, with the Conservatives pledging that “the Government has committed to review the Gambling Act 2005 to make sure it is fit for the digital age” [48]. Indeed, this might well be the question of our gambling era more generally: *how do we navigate a gambling world that is increasingly lived in virtual spaces?*

There are many lessons to be learned from England. For one: unchecked growth can lead to a backlash and/or a pumping of brakes – either by the government, or by the industry itself. And second, in the US, advertising is due for a critical evaluation now, before backlash emerges. Gambling has mainstreamed and has a right to advertise its products; however, those rights can and should be questioned when they impose upon others' experiences in a way that leads to direct and clear harm.

## **Technology and the Evolution of Advertising**

At this stage, the contributions of technology cannot be overlooked in sports, in online wagering, and in advertising. Technological innovation has not only expanded advertising's presence from print, radio, and television to a vast array of digital and virtual channels, it has also transformed the very nature of advertising itself -- from a simple information delivery tool to an immersive, customized, and elaborate system of persuasion [49, 50] Widespread Internet access, ever-evolving social media channels, and hardware innovations (such as smartphones, wearables, and tablets) all connect and interconnect the consumer and corporations like never before, equipping all parties with vast (but unequal) amounts of information [49, 50].

These same forces that have transformed advertising have also revolutionized the sports betting industry. Hardware advances have led to the innovation of countless gambling products including online, mobile, and in-game or live betting – each of which allow for easy access to markets and enable virtually 24/7 continuous activity [51]. Indeed, the convergence of gambling’s expansion with advertising’s expansion has reshaped both.

This evolution is evident in the contrast between marketing practices of traditional land-based venues and present-day online operators. For decades in the US, “casino marketing” was largely unnecessary, as the legal industry existed in monopolistic or near-monopolistic environments [52]. Later, when the casino marketing field was established, it was sophisticated only at the high end [53]. Specifically, high-end casinos competed for high-end customers (the famed “high rollers”) with targeted marketing campaigns consisting of specialized offers [53]. These high rollers would find themselves with competing offers of complimentary rounds of golf, food, or show tickets, with hopes that they would gamble in between “comped” activities [53].

In the late 1990s, casino marketing underwent a “Moneyball” transformation [54], focusing on new and quantitative operational analyses, enabled by the ability of just about anyone with a computer to number-crunch massive databases. This shift owes much to leaders like Gary Loveman, who imported loyalty club analytics techniques from other industries [55]. A former Harvard Business School professor, Loveman became CEO of Harrah’s (now Caesars) at a time when its competitors had far more attractive (and far more expensive) resorts filled with the same gambling games. To some degree, Loveman’s metaphorical hand was forced: his company *had* to compete on marketing, as its product was inferior and unchangeable in the near term. This shift in turn transformed the way that the entire population of casino customers were treated, as Harrah’s “Total Rewards” system reached far beyond the standard high roller strata to reach players at all levels, and at casinos that spanned the entire US via the nation’s largest casino company (in terms of number of “stores”) [55].

Adoption and implementation of this kind of data-driven methodology has accelerated across industries due to the growth of the Internet and companies’ and consumers’ appetite for personalization (and relatedly, highly customized data) [49]. Online gambling operators have been obvious adopters, with their ability to track and collect more and more accurate customer data than their counterparts in the brick and mortar business. In an industry with very little product differentiation and finite price elasticity [56], these sophisticated and potentially fruitful strategies are particularly attractive to sports betting providers.

Hence, advertising is a powerful tool in an operator’s arsenal that can be used to attract potential customers. However, with intense financial pressure and furious rivalry between competitors, it is important that the risks these efforts may pose, particularly to more vulnerable populations, are not overlooked.

## Section 2: Where We Are

### Current Regulations in the US

As of the writing of this report, online sports wagering is legal in the following 14 US states: Nevada, New Jersey, West Virginia, Pennsylvania, Rhode Island, Iowa, Oregon, Indiana, New Hampshire, Illinois, Michigan, Colorado, the District of Columbia, and Tennessee [57]. With legalization comes regulation – but the two are not always aligned. Generally, US regulations for sports wagering advertising fall into three main categories: responsible gambling messaging, target audience, and content.

From a responsible gambling messaging perspective, all sports wagering advertising regulations require that the jurisdiction’s toll-free problem gambling helpline be featured on marketing materials, across a variety of media, and/or displayed on the online/mobile wagering site [58].

Furthermore, regulations typically prohibit marketing that targets vulnerable populations, such as individuals on self-exclusion lists and those below the legal age to gamble. Among US states, Illinois seems to enforce the most stringent requirements, as sports wagering advertising regulations require that advertising:

- Shall state patrons must be 21 years of age or older to wager;
- Shall not contain images, symbols, celebrity or entertainer endorsements, or language designed to appeal specifically to those under 21 years of age;
- Shall not feature anyone who is, or appears to be, under 21 years of age;
- Shall not be published, aired, displayed, or distributed in media outlets, including social media, that appeal primarily to individuals under 21 years of age;
- Shall not be placed before any audience where the majority of the viewers or participants is presumed to be under 21 years of age [59].

In addition to similar content and placement prohibitions on underage gambling, Tennessee regulations also require that ads note the legal age to gamble [60]. Meanwhile, the District of Columbia extends advertising prohibitions to vulnerable groups that “are considered moderate and high-risk groups for gambling addiction” [61].

From a content perspective, eight states (CO, DC, IA, NV, NJ, PA, IL, and TN) include advertising requirements prohibiting operators from engaging in false or misleading advertising. Additionally, regulations require advertising to adhere to standards of good taste and decency in many of these markets [58].

The District of Columbia and Tennessee go a step further in defining specific content requirements for advertising. In DC, regulatory language states that advertising content must not “encourage players to chase their losses or re-invest their winnings” or “suggest that betting is a means of solving financial problems.” Additionally, these regulations mandate that advertising provide a “balanced message with regard to winning and losing.” [61] Similarly, Tennessee regulations require advertising to avoid claims that gambling will “guarantee an individual’s social, financial, or personal success.” [60]

A couple of jurisdictions extend requirements beyond the three main categories by regulating the placement or frequency of sports wagering advertising. For instance, the District of Columbia specifically prohibits the placement of advertising within “two (2) blocks of any of the designated Class A Sports Wagering Facilities.”<sup>[61]</sup> Tennessee prohibits advertising on any medium that is “exclusively devoted to responsible gaming.”<sup>[60]</sup> Additionally, Tennessee includes somewhat vague regulatory language related to the frequency of advertising, specifically stating “advertisements shall not be placed with such intensity and frequency that they represent saturation of that medium or become excessive.”<sup>[60]</sup>

Finally, both Tennessee<sup>[60]</sup> and West Virginia<sup>[62]</sup> include an approval process for sports wagering advertising. These states require advertising to be submitted to the regulatory agency in advance for approval prior to publication or dissemination.

As a whole, these regulations are consistent with extant research that suggests potential vulnerability of specific groups to gambling advertising – in particular, research suggesting that the key vulnerable groups are younger populations and those with a history of addictive and/or problematic gambling behaviors <sup>[63, 64, 65, 66, 67]</sup>.

### **Public Perceptions**

The legalization of online sports wagering in numerous jurisdictions, coupled with the return of pro sports after the COVID shutdowns, means that sports wagering advertising is ramping up in the US <sup>[68]</sup>. It is estimated that over \$1 billion will be spent on NFL sports wagering ads during the 2020-2021 season <sup>[69]</sup>. Unsurprisingly, numerous online sports wagering firms are competing for market share, and are all pledging a high level of marketing investment <sup>[69]</sup>. This raises the question of how much advertising is *too* much.

Since online sports wagering, and even sports wagering itself outside of Nevada, is relatively new in the US, there is not a lot of history to gauge public perception of sports wagering advertising. The most relevant comparison may be the public controversy that occurred at the explosion of daily fantasy sports (DFS) advertising in the US in 2015 <sup>[70]</sup>. During a period that few sports fans will forget, viewers and spectators were inundated with advertising, and quickly grew weary of the constant barrage of ads.

Little research exists that examines public perception of sports wagering advertising. A recent study in the UK sought to explore this topic among sports bettors; however, it was limited to interviews with only 19 respondents. According to this research, the “frequency and unavoidability of advertisements were viewed negatively by some sports bettors” <sup>[71]</sup>. It is important to note that these interviews were conducted prior to the UK operators’ “whistle-to-whistle” ban (described below). From a content perspective, the research seems to indicate that there is little tolerance for advertising that is deceptive in nature or targeted to vulnerable populations, particularly children <sup>[72,73]</sup>.

Once again, international jurisdictions may serve as a warning to US operators. In multiple jurisdictions, the quantity of gambling advertising aired during live sports has led to negative public opinion about the industry and, often, a regulatory reaction [74]. Italy implemented a complete ban on all gambling advertising in 2019 [75]. Similarly, Spain recently restricted gambling advertising to 1 am to 5 am and limited sports sponsorships [76]. In the UK, online sports wagering operators implemented a “whistle-to-whistle” ban on gambling advertising during live sports events [77]. This means that no gambling ads are aired from five minutes before a televised sports event to five minutes after, unless the match takes place after 9PM. Additionally, the UK Gambling Commission is considering a ban on gambling advertising in sporting venues and on jerseys [78].

Many online gambling operators have discussed the ways that the experiences of Europe and DFS have shaped their advertising strategy in the US [79]. Operators have vowed to be more “thoughtful” in how they target marketing, hoping to create a “delicate balance” that avoids over-saturation and the potential of regulatory intervention seen in Europe [79]. Despite this, there is still concern that the same issues will arise in the US if online gambling operators follow the same marketing strategy that led to the backlash in Europe. As the Executive Director of the US National Council on Problem Gambling notes: “it almost looks like some of the big internationals are simply taking the money they would have spent on banned ads and sponsorships in the UK and shifting it to the exact same thing in the US” [69].

Some considerations may serve as protective factors in the US, at least in the initial implementation of online sports wagering. Because online sports wagering is relatively new to the US, there may be a higher tolerance for increased advertising at the outset. However, there has already been some early grumbling over the volume and repetition of advertising in newly established markets [80]. On the other hand, tolerance may increase as the public learns of the activity’s legal status. A recent American Gaming Association poll found that in jurisdictions that had legalized sports wagering, only 56% of respondents knew that sports wagering was legal [81]. Further, this tolerance may extend to raising brand awareness of the specific sites that are legal in a particular jurisdiction [82]. Finally, public support for legalized sports wagering in the US has reached an all-time high, with 78 percent of Americans supporting legalized sports wagering [83]. Taken together, these facts may contribute to increased acceptance of additional advertising – at least in the short term.

### **The Media, Illegal Websites, and Messaging**

As we have seen, the US online wagering landscape can be incredibly confusing when seeking to ascertain what is legal and what is not. Furthermore, even respected media outlets get it -- and further contribute to this confusion. The *Washington Post* recently ran a story on sports wagering during COVID-19 [84]. The story actually opens by highlighting Bovada, a website that operates in an offshore market (which does not stop it from marketing aggressively to Americans, despite its status as an illegal operator). The *Washington Post* seems as amused as an uninformed American gambler might be, noting that during a time when sports went dark, gamblers could turn their betting attention to the weather.

One problem: US-based gamblers *cannot* legally wager on the weather. But no distinction is made in the article – nor is there a disclaimer or any indication that this is an operator in an illegal market, even though the article proceeds to compare Bovada implicitly to operators who have undergone the full burden of regulatory review in the US. This contributes in no small way to the aforementioned public confusion that looms over sports wagering in the US today, as these messages do not make clear that

there are options aplenty for Americans to wager, both legally and illegally, in many jurisdictions. Nor does it make clear that illegally wagered revenues accumulate entirely to offshore entities who pay no US taxes, create no US jobs (at least no direct jobs that are on the books), and support no domestic responsible gambling services.

During a moment when, in general, US gaming regulation has evolved into an internationally respected and rigorous enterprise, American media outlets like *Newsweek* regularly write articles that cover gambling on the US presidential election outcome [85], while only briefly mentioning that the activity is actually illegal – and sometimes not mentioning this crucial detail at all [86]. This is inexcusable, even in a clickbait era, as one would be hard-pressed to find another activity in American life whose legality is similarly poorly understood – and yet find media outlets misidentifying its legality (or not identifying it at all).

In some ways, this development is not new: newspapers, radio stations, and some of the nation’s most popular television sportscasters have regularly discussed which team was favored and/or by how many points. Legendary broadcasters like Howard Cosell and Al Michaels at ABC and Chris Berman at ESPN (as well as countless local sportscasters across the country) frequently referred to gambling point spreads or odds – sometimes subtly, and sometimes openly – despite the activity’s illegal status in most US jurisdictions [87, 88].

In recent years, the powerful sports network ESPN has contributed to this confusion in its own way. Beginning in September 2015, the network premiered a midnight version of its wildly popular SportsCenter show hosted by Scott Van Pelt. The daily highlight and news show introduced a nightly feature called “Bad Beats.” It was announced as a segment that would explore “games that had a unique resonance in Las Vegas” [89]. This was a full 3 years before the Supreme Court would make gambling on sports legal in any state other than Nevada. As fans return to arenas and stadiums in markets across the country that have now explicitly approved sports wagering, it is vital that the media covering these events take a close look at how they cover the wagering aspects of these contests.

The nation’s media have an enormous opportunity to contribute to public health and safety by committing to both self-education and the education of the general public on sports wagering. Specifically, educational programming should cover how sports betting works, what the odds mean, why youth and vulnerable populations should not be involved (even as a gift or a one-off), and, importantly, what should be done when gambling behaviors become problematic for individuals, loved ones, households, and workplaces. Unfortunately, this need comes at a time when there is more pressure than ever to generate revenues -- in an industry that has been profoundly affected by the economic impacts not only of the pandemic, but also of the tectonic media and journalism shifts in a more digital direction.

Meanwhile, providers of sports wagering products cannot be let off the hook either, as they have also engaged in ethically problematic and irresponsible advertising. For instance, as recently as September 2020, Pennsylvania sportsbook *Barstool* posted a doctored image of a child holding a sign referencing a betting line to market to their Instagram followers [90]. These kinds of marketing efforts, which clearly violate standards like the AGA’s Responsible Gaming Code of Conduct [91], come as worldwide ad impressions for gambling sites more than doubled during the coronavirus pandemic [92].

Sometimes, it seems, more subtle advertising messages inconspicuously leverage the beliefs, attitudes, and emotions of customers. Researchers in the UK have highlighted two master advertising narratives commonly utilized in online sports betting [93]. The first is skill-enhancing advertising, where “there is an overemphasis on the capacities and knowledge of the bettor,” and the second is risk-lowering advertising, “which underemphasize the risks involved in betting and typically overestimate the probability of winning” [93]. The former is particularly concerning given the characteristics of sports bettors, who tend to be more highly educated, tech-savvy, and perceive their gambling outcomes to be a byproduct of their own skills and knowledge as opposed to luck [51]. Worse, advertising that targets these “delusions of expertise” [94] can contribute to problematic gambling behavior [95].

### University Issues and Affiliate Marketing

Recently, two major developments in the US converged in a way that might forever transform advertising and university athletics. University athletics departments have been financially devastated by COVID-19, with entire seasons cancelled, including lucrative postseason tournaments [96]. Meanwhile, sports wagering’s increased legalization has led to opportunities for these athletics departments to generate revenues – during a moment when revenues are needed. Typically, it is during times of economic duress that gambling legalization bills are often passed [97], and it seems that a similar dynamic is emerging in a new context, with sports wagering and university athletics.

Recently, Colorado University (CU) signed what is believed to be the first partnership between a major university and a sports wagering operator [98], announcing a five-year deal with online sportsbook PointsBet. In its press release, the university mentioned responsible gambling [99], but it remains to be seen what kinds of messaging and programming are implemented. [100].

*Sports Illustrated* obtained the official agreement via a public records request [101], and it reveals the terms of the agreement:

*PointsBet will make quarterly payments to Colorado through June 2026, when the deal expires. The payments, made on the first day of July, October, January and April, escalate each year, starting \$76,250 in Year 1 and increasing to \$86,250 in Year 5. Annual totals are \$305,000 (2021), \$315,000 (2022), \$325,000 (2023), \$335,000 (2024) and \$345,000 (2025).*

Over five years, CU will receive at least \$1.625 million – an amount that certainly helps alleviate the financial impact of reduced television and gate revenues. The article also notes that CU will receive a \$30 referral fee for each individual that clicks through and downloads the app, in a widely-used marketing strategy called “affiliate marketing [101].

Here, once again, a brief study of the UK experience is informative. In 2019, three leading affiliates in the UK founded an independent body dedicated to consumer protection and responsible gambling: Responsible Affiliates in Gambling (RAiG) [102]. The formation follows a lack of affiliate licensing requirements in the UK, and the subsequent onus of responsibility for affiliate actions falling largely on gambling licensees rather than the affiliates themselves. For example, in 2017 the UK Gambling Commission fined an operator (BGO Entertainment Ltd.) £300,000 for “misleading advertising on its own and affiliates’ websites” [103].

In the US, licensing requirements are developing differently than they have in the UK, with several states imposing licensing requirements for affiliate marketers. However, legislation requirements and procedures differ state by state [104], and there seem to be emerging differences based upon the type of sports wagering available. For example, no US jurisdiction requires affiliates that promote horse racing to obtain a license, while most (if not all) sport wagering affiliates do require a license [105, 106].

This licensing issue aside, affiliate marketing presents other unique challenges with respect to sports wagering. These issues are eloquently highlighted by the research team at Northumbria University in a 2020 *International Gambling Studies* letter authored by Houghton and colleagues [107]. While the CU deal mentioned above appears to work on a CPA (cost per acquisition) basis with a one-off payment to the affiliate in return for each customer referral, another perhaps more concerning commission structure is revenue sharing, or “revshare.”

In a revshare, affiliates receive a percentage of the operator’s net revenue, or to put it more plainly: customer losses. For example, US-based online gambling website FanDuel offers a revshare commission structure that pays its affiliates up to 35% of net revenue [108]. Many affiliates attract their audiences via delivery of “expert advice” in the form of suggestions (or “tips”) on bets to make on upcoming sporting events [107]. The revshare structure brings about an obvious conflict where affiliates might be incentivized to provide advice that pushes its audience toward operators with the most attractive commission structures. As Houghton and colleagues suggest, this issue may be further compounded by a lack of transparency, with gamblers perhaps unaware of these relationships and commission structures [107]. Moreover, this lack of transparency could lead gamblers to think that affiliates are their “peers,” hence creating a false sense of trust. The effect this artificial trust will have on perceptions of advertising messaging, and its downstream effects on gambling behaviour, needs to be better understood through peer-reviewed research.

## Section 3: Where We Are Going

### Recommendations

Based on this review of the extant literature and evidence, we offer the following recommendations for sports wagering advertising in the US:

- 1) Sports gambling operators should ensure that advertising does not target vulnerable populations, particularly youth. It is with this in mind that we recommend that gambling companies not be featured on jerseys in youth sizes. Some suggest an additional step of a “whistle-to-whistle” ban on in-game advertising [44]. Instead, we believe that these kinds of measures, which are not put into place with other potentially harmful products like alcohol, only address a relatively small part of the problems that vulnerable populations face. As such, we recommend a public health approach be taken with government providing prevention, education, treatment, regulatory, and research programs for a more holistic “safety net.” And, of course, the industry has a vital role to play -- in educating its customers, its employees, and its communities about responsible gambling, how to keep gambling a safe endeavor as well as the dangers of gambling problems, and in dedicating resources to help those experiencing problems connect with those who can help them.
- 2) The media also has a role to play, particularly in today’s digitized era. If a story cites an illegal gambling site, the story should say so explicitly. Furthermore, the public needs to be made aware that offshore sites pay no taxes, that the jobs created are largely (if not entirely) offshore, and that responsible gambling programs for these companies are not overseen by any US regulatory body. While we are encouraged by certain media voices and their focus on responsible gambling, the media simply has to raise their level of awareness and sensitivity to the issues that we have raised here alongside gambling companies, teams, and leagues. One helpful step in the right direction: training, educational programming, and even scientific forums for sports broadcasters on problem and responsible gambling, to increase awareness and sensitivity to the issue at the outset. This is mandated for other important social issues in the workplace, and in these workplaces this kind of education should be mandatory for those covering sports games (which will in turn help those wagering on those games). In addition, groups like [Conscious Gaming](#) are seeking to provide some of the industry’s strongest technological tools to help educate the public about illegal sites, providing a ready reference and resource for journalists.
- 3) Social media platforms provide gambling operators and sports teams with a powerful vehicle to communicate with their customers and fans. Restrictions pertaining to sports wagering messaging should be put in place with certain social media accounts – especially platforms that are particularly popular among under-age groups such as teens, like Instagram, Tik Tok, and Snapchat [109]. Just recently, the UK’s Betting and Gambling Council (BGC) proposed new rules to protect children, whereby links or call-to-actions to gambling websites would not be permitted on “organic posts” on the social media feeds of football clubs, with bans also applying to displays of gambling advertising (such as odds or bonuses) which cannot be solely targeted at over-18s [110]. Additionally, social media companies shoulder certain responsibilities here. All social media companies should be urged to provide age-gating capabilities to their users, allowing accounts to set minimum age requirements for their profiles and, more importantly, individual

posts. Addressing these issues now will set a precedent as future social media platforms and technology take shape.

- 4) On a broader educational level, these are issues that call for a proactive cross-disciplinary summit of thoughtful and impactful leaders, to discuss the intersection of sports gambling and advertising and its resulting impacts on athletes, teams, leagues, and the public. This should be as comprehensive a gathering as possible, including the active participation of league and team officials, current and former athletes, media companies, gambling industry representatives, academics and researchers, problem gambling experts, public policy experts, regulators, and politicians, among other interested parties. A robust collaborative, resulting in a consensus outline of what research is needed in the short-term and long-term, would yield benefits that accrue for the vital decade to come in sports wagering.
- 5) In addition to protecting their brands and their games' integrity, universities also should protect coaches' and student-athletes' mental wellness. While the NCAA does provide mental health support and substance abuse prevention resources, a survey of Division 1 schools found that only approximately 20% of the schools that offer sports wagering education include information about gambling disorders [\[111\]](#). This is disturbing during a historical moment when gambling disorders are listed alongside substance abuse in the Diagnostic and Statistical Manual of Mental Disorders. At a minimum, the NCAA and its members need to mandate responsible gambling education as well as educational programming on the nature of sports wagering, the aforementioned conflicts that can exist (for instance, with affiliate marketers, whom athletes may just see as "normal businesses"), and the potentially devastating impacts of gambling disorders. On the latter, it should be emphasized that those with gambling disorders might potentially engage in the very sorts of gambling acts that lead the public to rightfully question the integrity of the game itself.
- 6) Finally, the industry should ensure that its messaging is responsible, both in terms of content and location. For example, the American Gaming Association (AGA) has launched the Responsible Marketing Code for Sports Wagering (Code) [\[112\]](#), in an effort to set an industry standard in the US for the advertising and marketing of sports wagering. Given the broad membership of the AGA, the Code's scope and reach are potentially quite substantial. Beyond this, the AGA is seeking broad participation, beyond its membership, which, we believe, will assist in compliance efforts. However, it is important to note that this Code is voluntary and, as a trade association, the AGA has no formal jurisdiction over gaming operators, particularly those that are not part of its membership. Beyond identifying non-compliant sports book operators on its website, the AGA has no authority to enforce the Code.

In the Code, the AGA commits to providing biannual training opportunities for employees involved in the advertising or marketing of sports wagering services. The organization also commits to providing parental control software companies with the names and website addresses of all AGA member sports wagering operators.

Additionally, AGA sports wagering operator members commit to comply with the Code by providing training to everyone involved in the advertising or marketing of sports wagering services, adopting internal review processes to evaluate and monitor promotional and marketing

messages, adhering to contemporary standards of good taste for all messaging, using age affirmation and geolocation mechanisms, reasonably preventing distribution of promotional products to persons below the legal sports wagering age, maintaining responsible gambling messaging in all advertising, including links to responsible gambling resources, providing attribution in individual messaging, offering opting out/unsubscribe options, respecting user privacy, and providing disclosures about how user information is shared with unrelated third parties.

Further, AGA members agree to refrain from designing and placing sports wagering messages that appeal to or are offered at an event where the majority of attendees are expected to be below the legal age for sports wagering, offering marked promotional products such as clothing, toys, games, or game equipment intended for use by those who are below the legal age for sports wagering, promoting or advertising sports wagering in college or university-owned news assets, suggesting that social, financial, or personal success is guaranteed by engaging in sports wagering, promoting irresponsible or excessive participation in sports wagering, and implying or suggesting illegal activity.

To monitor Code compliance, the community at large is encouraged to flag potential violations of the Code by sports wagering advertisers and marketers. Any sportsbook operator or its affiliate(s) can be reported (not just AGA members). Complaints can be submitted here: [AGA CCRB Liaison](#). Complaints, responses, and CCRB decisions will be summarized and made publicly available on the AGA website. While providing opportunities for the public to engage is important for monitoring compliance, the process and lack of awareness of the Code at the community level raise concerns about whether the public will actually file complaints. As such, we would recommend a robust marketing campaign to raise awareness of the Code and complaint process. Additionally, the AGA should make the complaint form readily available to the public.

Ultimately, this spirit of (and process for) transparency, public awareness, and education is one we wholeheartedly endorse. We believe this approach is a promising start to addressing an issue that will surely lead to controversies and national conversations, as we have learned from other jurisdictions and the US' own history with sports wagering.

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Becky Harris was selected as a Co-Chair for the American Gaming Association (AGA) Responsible Marketing Code for Sports Wagering, Code Compliance Review Board and receives no compensation for her role with the AGA. She serves as a non-executive director on the Board of PointsBet and receives remuneration for her participation. Ms. Harris also serves as a paid consultant from time to time and has received payment from GLG, GMA and the Skill Integrity Council as well as reimbursement for travel for participating in various events from Clarion Gaming, IAGR, SBC Events, and R. Scott Rasmussen.

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