

SPORTS MEDIA INSIGHT

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In the second of four articles Jon Higon, drawing on his 25 years of sports broadcasting experience, discusses his take on some recent developments in the industry.

For part one in Jon's series please click here:

http://www.couchmansllp.com/ssi_folder/right_nav/documents/SportsMediaInsight-WherenowforBBCandSport.pdf

Content and Technology

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The development and application of new technology and how we consume the results are increasingly important for sports and sports fans alike. The vast increase in channels, the internet and technology are providing not only easy access to a greatly increased number of sources but also a whole new genre of content.

Creative use of data helping us understand what the athletes are going through; amazing new footage shot from mini cameras (such as "refcam" in rugby and the on-bike cameras used in the Tour de France (<http://tiny.cc/x51h3x>) and other cycling races); or backstage footage of the stars training/relaxing can all produce compelling enhancements to primary broadcast coverage – either integrated into the coverage or via complementary (including second screen) use. These advances enable the proactive rights holder to engage with its fan base and reach out to new audiences in exciting and engaging ways beyond the broadcasters of their actual events. With audiences come revenue streams. Numerous companies now exist to exploit or assist in the exploitation of these rights. Many companies can produce live streaming services for sports and events enabling viewers throughout the world to access them in territories where television coverage is not available. Others, such as Rightster, also provide content management and monetising services, focusing on YouTube and other use of clips/extracts.

The question arises as to who is best placed to develop and exploit these opportunities. Clearly the event owner or sports body should have a major stake in engaging with its audience but sport historically tends to view technology first as a cost rather than purely in terms of opportunity. Sports do not always have the necessary funds or expertise to fully exploit the new opportunities. Many broadcasters still seek to acquire a package of rights that limits digital exploitation of match action – and also want to use these fields to enhance their own offering. Sponsors crave content and the ability to engage with the sports fan base. If the sport cannot either provide the engagement with its fans for its sponsors or enable the sponsors to drive that engagement for themselves then their offering as a sponsored property is likely to be devalued. All sports and events need to develop a proactive engagement with their fans via their digital assets – not all are embracing the opportunity to the same extent. It is a reflection both of the importance of the area and how the world has changed that in the USA the NHL (National Hockey League) has entered into a partnership with the technical arm of the MLB (Major League Baseball) to embrace this area to form a joint venture to enhance and exploit the NHL's digital platforms (<http://tiny.cc/m61h3x>). Two of the biggest and most powerful sports bodies in the world combining for a common good.

The flip-side of the opportunities technology is providing is the increase of piracy and other unauthorised activity. The issues of illicit sites and streaming of matches, undermining the value of broadcasters' exclusivity, are well known and on-going but new technology brings new challenges. Periscope, with others to follow, allows a person to take live action footage and stream it on-line via a smart phone. Vines enable people to distribute brief clips which can contain the most valuable extracts from sporting action, such as goals, via social media. This poses a dilemma for rights owners (<http://tiny.cc/k71h3x>).

On the one hand every rights owner wants their event to be discussed via social media (ideally framed positively). On the other hand, at some point such activity encroaches on the broadcasters' exclusivity. If that broadcaster is paying significant rights fees it will want, and can reasonably expect, the rights owner to take steps to protect its exclusivity. The question is how?

Taking a clip of a goal from the television coverage and distributing it yourself via social media is an infringement of copyright but does it merit legal action? Platforms such as YouTube, Facebook and Twitter have "take down" procedures which will limit impact but require resources to activate.

The position is more difficult when an individual takes the footage themselves – they will be the original copyright owner. They may have breached ticket conditions to create the material but that does not necessarily help (<http://tiny.cc/571h3x>). Revised and appropriate ticket conditions might offer protection with expulsion from the venue which is an effective, if hard to administer, sanction.

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About Couchmans LLP

Couchmans is the UK's leading specialist sports law firm (as ranked by the independent legal directories), providing advice to clients operating in the sports industry around the world. The firm serves many of the most prestigious operators in sport, who benefit from an unrivalled collective experience and highly commercial approach.

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