

(NON)GAMBLING CORRUPTION IN SPORTS

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The Professional and Amateur Sports Protection Act (“PASPA”), a federal statute banning state-sponsored sports gambling nationwide except in Nevada, Delaware, Oregon, and Montana, celebrated its twentieth anniversary on October 28, 2012.¹ If New Jersey voters and the state’s governor have their way, PASPA will not reach its twenty-first birthday. On January 17, 2012, New Jersey Governor Chris Christie signed into law a voter-approved referendum to amend the state’s constitution and permit regulated gambling on sports.² The referendum was a direct affront to PASPA and in clear conflict with the statute’s prohibitive language.³ Governor Christie acknowledged the obvious conflict in a subsequent press conference and all but invited a legal challenge:

We intend to go forward and allow sports gambling to happen [A]m I expecting that there may be some legal action taken against us to try to prevent it? Yes. But that’s going to be their burden to try to prevent it We may have to go through some litigation to get there . . . but I think we’re going to be successful.⁴

The National Collegiate Athletic Association (“NCAA”), National Basketball Association (“NBA”), National Football League (“NFL”), National Hockey League (“NHL”), and Major League Baseball (“MLB”) accepted the governor’s invitation to litigate. The quintet of

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1. 28 U.S.C. §§ 3701–3704 (2006). PASPA was signed into law by President George H.W. Bush on October 28, 1992. Nevada, Delaware, Oregon, and Montana were grandfathered in under the statute by virtue of their then-existing regulated gambling on sports.

2. Complaint at 2, Nat’l Coll. Athletic Ass’n v. Christie, 3:12-cv-04947-MAS-LHG (D.N.J. Aug. 7, 2012).

3. 28 U.S.C. § 3702 (2006).

4. Cheryl Armstrong, *All Major Sports Sue NJ Governor Christie for Signing Gambling Law*, COURTHOUSE NEWS SERV., <http://www.courthousenews.com/2012/08/09/49140.htm> (last updated Aug. 9, 2012).

plaintiffs, all specifically deputized under PASPA to enforce the terms of the statute,⁵ filed suit in the U.S. District Court for the District of New Jersey on August 7, 2012, seeking declaratory and injunctive relief.⁶ In their complaint in *NCAA v. Christie*, the plaintiffs alleged:

Sports gambling in New Jersey would irreparably harm amateur and professional sports by fostering suspicion that individual plays and final scores of games may have been influenced by factors other than honest athletic competition. As Congress recognized when it enacted PASPA, the proliferation of sports gambling threatens to harm the reputation and goodwill of Plaintiffs, and to adversely affect the way the public views amateur and professional sports.⁷

In *Christie*, the plaintiffs argued that gambling's corrupting influence detrimentally impacts the integrity of the game.⁸ The stance of American sports leagues in connection with this issue has been long and largely consistent. Once described by an in-house MLB attorney as a "campaign. . . aimed at preserving the integrity of our sports contests,"⁹ leagues primarily posit that corruption is a creature of external gambling, not from sources of a more endogenous variety. With PASPA-specific *Christie* as a backdrop, this article normatively argues that such a near-singular focus on gambling as the root cause of sports corruption is insufficient and dangerous. Industry representatives and government policymakers should take a broader view of corruption issues in sports and be mindful of money-driven manipulation, fraud, and deception that is completely unrelated to gambling. Khalid Ali, Secretary General of the Belgium-based European Sports Security Association, expressed similar sentiments regarding how nongambling corruption in the sports industry can impact game outcomes and in-game events: "We must remember that betting-related match-fixing is only half of the story. Nonbetting, or sporting related, match-fixing also threatens the integrity of

5. 28 U.S.C. § 3703 (2006).

6. Complaint, *supra* note 2, at 11.

7. *Id.* at 3. In a previous PASPA-related case involving Delaware, the same group of five plaintiffs made related allegations. See *Office of Comm'r of Baseball v. Markell*, 579 F.3d 293, 304 (3d Cir. 2009) (ruling under the language of PASPA's grandfathering clause that Delaware is limited to offering multi-game football parlay cards, not single game wagering).

8. Complaint, *supra* note 2, at 3. For treatment of recent high-profile gambling-related scandals, see SEAN PATRICK GRIFFIN, GAMING THE GAME: THE STORY BEHIND THE NBA BETTING SCANDAL AND THE GAMBLER WHO MADE IT HAPPEN (2011); DECLAN HILL, THE FIX: SOCCER AND ORGANIZED CRIME (2008). For an in-depth discussion of three historical sports gambling scandals, see generally ELIOT ASINOF, EIGHT MEN OUT (1963); DAN E. MOLDEA, INTERFERENCE: HOW ORGANIZED CRIME INFLUENCES PROFESSIONAL FOOTBALL (1989); CHARLEY ROSEN, THE WIZARD OF ODDS: HOW JACK MOLINAS ALMOST DESTROYED THE GAME OF BASKETBALL (2001).

9. Thomas J. Ostertag, *From Shoeless Joe to Charley Hustle: Major League Baseball's Continuing Crusade Against Sports Gambling*, 2 SETON HALL J. SPORT L. 19, 21 (1992).

sport. . . .”¹⁰ More broadly, law professor Richard H. McLaren opined that “there is an increasing need to regulate corruption, keep sporting events clean, and restore and build public confidence in professional . . . sport.”¹¹

The impetus for PASPA is well documented. Congress surmised that betting on sports was “. . . undermin[ing] public confidence in the character of professional and amateur sports . . . [and] promot[ing] gambling among our Nation’s young people.”¹² Then-New Jersey Senator Bill Bradley, a former NBA player for the New York Knicks, set forth other reasons supporting PASPA: “If the dangers of state sponsored sports betting are not confronted, the character of sports and youngsters’ view of them could be seriously threatened Legalizing sports gambling would aggravate the problems associated with gambling. As a society, we cannot afford this result.”¹³

Declarations filed in *Christie* by the president of the NCAA and commissioners in the NBA, NFL, NHL, and MLB tell a similar story. NCAA President Mark Emmert stated that “the NCAA and its member institutions have worked diligently since its inception over one hundred years ago to protect the integrity of the NCAA and maintain the public’s confidence in college athletics.”¹⁴ MLB Commissioner Bud Selig declared that “my most important responsibility is working to maintain the integrity of MLB and to preserve public confidence in our sport.”¹⁵ Gary Bettman, the commissioner of the NHL, stated that the league “works tirelessly to earn and protect its reputation for integrity of competition, without which the league will no longer be viewed as quality family entertainment.”¹⁶ Declarations by NBA Commissioner David Stern and NFL Commissioner Roger Goodell were largely analogous.¹⁷ In the five declarations that were filed, the concept of “integrity” was repeatedly referenced, evidencing its corruption-related importance in a general sense and to sports gambling specifically.

10. *ESSA Welcomes the Commission’s Proposals to Safeguard the Integrity of Sport*, DINGNEWS.COM (Oct. 24, 2012), <http://www.dingnews.com/en/nota.aspx?id=18405>.

11. Richard H. McLaren, *Is Sport Losing its Integrity?*, 21 MARQ. SPORTS L. REV. 551, 552–53 (2011).

12. S. Rep. No. 102–248, at 4 (1992).

13. Bill Bradley, *The Professional and Amateur Sports Protection Act—Policy Concerns Behind Senate Bill 474*, 2 SETON HALL J. SPORT L. 5, 5–6 (1992).

14. Declaration of Mark Emmert at 4, Nat’l Collegiate Athletic Ass’n v. Christie, No. 3:12-cv-04947 (D.N.J. Aug. 10, 2012).

15. Declaration of Allan H. Selig at 2, Nat’l Collegiate Athletic Ass’n v. Christie, No. 3:12-cv-04947 (D.N.J. Aug. 10, 2012).

16. Declaration of Gary Bettman at 2, Nat’l Collegiate Athletic Ass’n v. Christie, No. 3:12-cv-04947 (D.N.J. Aug. 10, 2012).

17. *Compare* Declaration of David J. Stern at 3, Nat’l Collegiate Athletic Ass’n v. Christie, No. 3:12-cv-04947 (D.N.J. Aug. 10, 2012), *with* Declaration of Roger Goodell at 2, Nat’l Collegiate Athletic Ass’n v. Christie, No. 3:12-cv-04947 (D.N.J. Aug. 10, 2012).

Integrity-laden discussions in connection with sports corruption speak to a wider narrative than mere sports gambling, however. Sports are distinguishable from other forms of entertainment. In a case pertaining to the ownership of real-time sports data under copyright law, the U.S. Court of Appeals for the Second Circuit, in dicta, observed that, “[u]nlike movies, plays, television programs, or operas, athletic events are competitive and have no underlying script.”¹⁸ In other words, the ultimate outcome of sporting events is, presumably, uncertain. Such uncertainty of outcome is often described synonymously as competitive purity, sporting legitimacy, and honest athletic competition. Researchers have empirically tested the extent to which uncertainty of outcome is attractive to sports leagues, broadcasters, and consumers,¹⁹ including gauging suspense as a predictor of viewer enjoyment²⁰ and advertising effectiveness.²¹ Gambling-related corruption in the form of microlevel spot fixing, point shaving, or outright match-fixing undoubtedly runs counter to the perception of uncertain outcomes in sports. Outcome uncertainty is also impacted by manipulation completely unrelated to gambling. The “convergence of sports and entertainment” was detailed in *Money Games* by David M. Carter, a book that included glowing testimonials from NBA Commissioner Stern and MLB Commissioner Selig referencing the blurred line between sports and noncompetitive scripted entertainment.²²

Examples of such (corruption-inducing) blurring abound,²³ with the so-called “Spygate” scandal being the most prominent recent domestic example.²⁴ During Spygate, it was revealed that the NFL’s

18. Nat’l Basketball Ass’n v. Motorola, 105 F.3d 841, 846 (2d Cir. 1997).

19. For a survey of dozens of such empirical studies, see generally Dennis Coates et al., *Outcome Uncertainty, Reference-Dependent Preferences and Live Game Attendance*, (U. of Alberta, Dep’t of Econ., Working Paper No. 2012-07, 2012), available at <http://www.economics.ualberta.ca/~media/economics/FacultyAndStaff/WPs/WP2012-07-Coates-Humphreys-Zhou>.

20. See generally Jennings Bryant et al., “Buzzer Beaters” and “Barn Burners:” *The Effects on Enjoyment of Watching the Game Go “Down to the Wire”*, 18 J. SPORT & SOC. ISSUES 326 (1994); Erik M. Peterson & Arthur A. Raney, *Reconceptualizing and Reexamining Suspense as a Predictor of Mediated Sports Enjoyment*, 52 J. BROADCASTING & ELECTRONIC MEDIA 544 (2008); Gan Su-lin, et al., *The Thrill of a Close Game: Who Enjoys It and Who Doesn’t?*, 21 J. SPORT & SOC. ISSUES 53 (1997).

21. See generally Colleen C. Bee & Robert Madrigal, *It’s Not Whether You Win or Lose; It’s How the Game is Played: The Influence of Suspenseful Sports Programming on Advertising*, 41 J. ADVERTISING 47 (2012).

22. In antitrust cases, for example, sports leagues often argue that they are merely one of many options in the entertainment market along with motion pictures, music, and Broadway shows. See, e.g., *Am. Needle v. Nat’l Football League*, 130 S.Ct. 2201, 2207–2208 (2010).

23. See Richard H. McLaren, *Corruption: Its Impact on Fair Play*, 19 MARQ. SPORTS L. REV. 15, 15 (2008) (noting that corruption “robs sport of its essential feature of uncertainty of the outcome and accelerates its spin into the forum of entertainment, and thus it no longer is sport”).

24. Corruption is by no means restricted to U.S. sports, with the multi-faceted corruption surrounding soccer’s global governing body, the Fédération

New England Patriots used team personnel to surreptitiously videotape opposing teams in order to gain a competitive advantage. The entire episode resulted in calls for a Congressional hearing by U.S. Senator Arlen Specter,²⁵ an unsuccessful class action lawsuit by aggrieved fans of an opposing team,²⁶ and a full-length investigative book.²⁷ Using a variety of statistical techniques,²⁸ academics have pinpointed (sub)conscious nongambling corruptive biases among judges, referees, and umpires in baseball,²⁹ basketball,³⁰ gymnastics,³¹ ice hockey,³² diving,³³ figure skating,³⁴ rugby,³⁵ and

Internationale de Football Association (“FIFA”), being the most obvious recent example. For details regarding FIFA’s recent corruption-related travails, see Roger Pielke, Jr., *How Can FIFA Be Held Accountable?*, SPORT MGMT. REV. (forthcoming 2013), available at <http://leastthing.blogspot.com/2012/10/how-can-fifa-be-held-accountable-now-in.html>.

25. See Mike Fish, *Specter: Goodell’s Spycgate Explanations Don’t Pass Scrutiny*, ESPN (Feb. 15, 2008), <http://sports.espn.go.com/nfl/news/story?id=3246788>.

26. See *Mayer v. Belichick*, 605 F.3d 223, 225, 237 (3d Cir. 2010).

27. See generally BRYAN O’LEARY, *SPYGATE: THE UNTOLD STORY* (2012).

28. A related nonquantitative inquiry has been undertaken in the nascent field described as “the jurisprudence of sports.” See Mitchell N. Berman, “*Let ‘em Play*”: *A Study in the Jurisprudence of Sport*, 99 GEO. L. J. 1325, 1334–35 (2010) (noting the use of temporal variance in foul calling); Mitchell N. Berman, *Replay*, 99 CALIF. L. REV. 1683, 1687 (2011) (describing the use of instant replays).

29. See Christopher A. Parsons et al., *Strike Three: Discrimination, Incentives, and Evaluation*, 101 AM. ECON. REV. 1410, 1415–16 (2011).

30. See Kyle J. Anderson & David A. Pierce, *Officiating Bias: The Effect of Foul Differential on Foul Calls in NCAA Basketball*, 27 J. SPORTS SCI. 687 (2009); Paul Gift, *Sequential Judgment Effects in NBA Officiating: An Analysis of Referee Bias in Make-Up Call Situations* 6–17 (July 1, 2012) (unpublished working paper), available at http://papers.ssrn.com/sol3/papers.cfm?abstract_id=2104391; Joseph Price & Justin Wolfers, *Racial Discrimination Among NBA Referees*, 125 Q. J. ECON. 1859, 1859, 1867 (2010); Joseph Price et al., *SubPerfect Game: Profitable Biases of NBA Referees*, 21 J. ECON. & MGMT. STRATEGY 271 (2012); Timothy Zimmer & Todd H. Kueth, *Testing for Bias and Manipulation in the National Basketball Association Playoffs*, 5 J. QUANTITATIVE ANALYSIS SPORTS (2009).

31. See Hillary N. Morgan & Kurt W. Rotthoff, *The Harder the Task, the Higher the Score: Findings of a Difficulty Bias* 2–3, 16–17 (Aug. 28, 2012) (unpublished working paper), available at http://papers.ssrn.com/sol3/papers.cfm?abstract_id=1555094 (discussing that more difficult gymnastics routines typically receive higher scores).

32. See generally Jack Brimberg & William J. Hurley, *Are National Hockey League Referees Markov?*, 22 OR INSIGHT 234 (2009).

33. See generally John W. Emerson et al., *Assessing Judging Bias: An Example From the 2000 Olympic Games*, 63 AM. STATISTICIAN 124 (2009).

34. See generally Eric Zitzewitz, *Nationalism in Winter Sports Judging and Its Lessons for Organizational Decision Making*, 15 J. OF ECON. AND MGMT. STRATEGY 67 (2006).

35. See Katie Page & Lionel Page, *Evidence of Referees’ National Favoritism in Rugby*, 1–35 (NCER Working Paper Series, Working Paper No. 62, 2010), available at <http://www.ncer.edu.au/papers/documents/WPNo62.pdf>.

soccer.³⁶ Also, in just the past two years,³⁷ specific instances or allegations have arisen in connection with (i) suspense-motivated stoppages in car racing events;³⁸ (ii) uneven rule enforcement of time violations in tennis;³⁹ (iii) the lack of randomness in the U.S. Open tennis tournament draw;⁴⁰ (iv) at least one NFL referee requesting a coach to call a timeout in order to accommodate more television commercials;⁴¹ (v) rematch-ensuring fraud by boxing judges;⁴² and (vi) strategic tanking in badminton,⁴³ soccer,⁴⁴ and the NBA.⁴⁵ Each of the foregoing examples was unrelated to gambling but nonetheless

36. See generally Thomas J. Dohmen, *The Influence of Social Forces: Evidence from the Behavior of Football Referees*, 46 *ECON. INQUIRY* 411 (2008); Luis Garicano et al., *Favoritism Under Social Pressure*, 87 *REV. ECON. STATISTICS* 208 (2005).

37. For historical examples of nongambling fraud in sports, see BRIAN TUOHY, *THE FIX IS IN: THE SHOWBIZ MANIPULATIONS OF THE NFL, MLB, NBA, NHL AND NASCAR* (2011), and Patrick Hruby, *The Truth is Out There: From the 1985 Draft Lottery to the Olympics to Game-Fixing...Which Sports Conspiracy Can You Believe*, *POSTGAME* (May 30, 2012), <http://www.thepostgame.com/blog/hruby-tuesday/201205/conspiracy-theory-david-stern-michael-phelps-patrick-ewing-michael-jordan>.

38. See Terry Blount, *Bruton Smith Wants 'Timeouts,'* *ESPN.COM* (June 30, 2012), http://espn.go.com/racing/nascar/cup/story/_/id/8117189/bruton-smith-says-nascar-needs-mandatory-cautions.

39. See Douglas Robson, *Is It Time for Tennis to Bring in Shot Clock?*, *USA TODAY* (Mar. 8, 2012), <http://usatoday30.usatoday.com/sports/tennis/story/2012-03-08/atp-tour-flouting-the-time-rule/53420792/1>.

40. See Paula Lavigne & Alok Pattani, *U.S. Open Random Draw Questioned*, *ESPN.COM*, http://espn.go.com/espn/otl/story/_/id/6850893/espn-analysis-finds-top-seeds-tennis-us-open-had-easier-draw-statistically-likely (last updated Aug. 15, 2011).

41. See Doug Farrar, *Jeff Fisher Was Asked to Call Timeouts for MNF Commercial Breaks*, *YAHOO! SPORTS* (Oct. 19, 2010), http://sports.yahoo.com/nfl/blog/shutdown_corner/post/Jeff-Fisher-was-asked-to-call-timeouts-for-MNF-c?urn=nfl-278323.

42. See Bob Velin, *Bradley-Pacquiao Decision Leaves Boxing Reeling*, *USA TODAY*, <http://usatoday30.usatoday.com/sports/boxing/story/2012-06-10/timothy-bradley-manny-pacquiao-results-stuns/55509840/1> (last updated June 11, 2012).

43. See Justin Peters, *Shuttlecock and Bull*, *SLATE* (Aug. 1, 2012, 2:20 PM), http://www.slate.com/articles/sports/fivering_circus/2012/08/badminton_scandal_olympics_2012_why_were_those_olympic_badminton_players_trying_to_lose_and_why_is_the_sport_so_dirty.html.

44. See Tom Degun, *IOC Content with FIFA Decision Not to Punish Japan on Olympic Match-Fixing Admission*, *INSIDE GAMES* (Aug. 2, 2012), <http://www.insidethegames.biz/sports/summer/football/18027-ioc-content-with-fifa-decision-not-to-punish-japan-on-olympic-match-fixing-admission>.

45. See Henry Abbott et al., *10 Points on Tanking*, *ESPN.COM* (Apr. 27, 2012), http://espn.go.com/blog/truehoop/post/_/id/41456/10-points-on-tanking. For a more in-depth treatment of the issue, see generally Christopher Walters & Tyler Williams, *To Tank or Not to Tank? Evidence from the NBA* (Mar. 2-3, 2012) (unpublished working paper), available at http://www.sloansportsconference.com/wp-content/uploads/2012/02/35-Walters_Williams_NBA_2012.pdf.

manipulated and impacted the uncertainty of outcome supposedly inherent in nonscripted competitive sporting events.⁴⁶

Gambling-related corruption in sports is barred at the federal level by the Sports Bribery Act of 1964.⁴⁷ In contrast, corruption unrelated to gambling is not explicitly banned. Such absence is problematic.⁴⁸ Due to the “peculiar economics” of sports,⁴⁹ commercialized sporting events are unique in that “[u]nlike most economic contests, demand arises more from interest in observation of the contest itself (e.g. a race or a match) than in the outcome of the contest.”⁵⁰ Working in concert with affiliated referees, coaches, players, facility personnel, commercial sponsors, or broadcast partners, a sports league cognizant of such demand function can, in theory and practice, manipulate its own contests to artificially inflate consumer interest and revenue potential. So long as such manipulation has no nexus to gambling, the rigging of game outcomes or individual events occurring therein is legal. No federal law definitively prohibits it.

The closest any law comes to such a ban is the so-called “quiz show scandal” statute that was passed in 1960 following multiple high-profile cases of deceptive fraud on wildly popular television shows that tested contestants’ intellect in various ways.⁵¹ The show *Twenty-One* was the most prominent example of how such shows were scripted for commercial success, with certain contestants being supplied the answers to trivia questions while other contestants were

46. For the avoidance of doubt, all references to “sports” herein are distinguishable from professional wrestling, a noncompetitive entertainment spectacle widely known to be staged with prearranged outcomes. See David Shoemaker, *A Brief History of Wrestling Fakery*, GRANTLAND (June 15, 2012, 12:00 AM), http://www.grantland.com/story/_id/8056213/john-cena-big-show-how-century-pretend-fighting-led-wwe-reality-era.

47. 18 U.S.C. § 224 (2006). Shortly after passage of the statute, the Federal Bureau of Investigation set up a Sports Bribery Program. See *Sports Bribery Program*, FED. BUREAU INVESTIGATION, http://www.fbi.gov/about-us/investigate/organizedcrime/sports_bribe (last visited Nov. 7, 2012).

48. The absence of a specific integrity-preserving statute in the context of modern “reality” television shows that involve prize-earning competitions among contestants is equally problematic. See Tara Brenner, *A “Quizzical” Look into the Need for Reality Television Show Regulation*, 22 CARDOZO ARTS & ENT. L.J. 873, 898 (2004); Kimberlianne Podlas, *Primetime Crimes: Are Reality Television Programs “Illegal Contests” in Violation of Federal Law?*, 25 CARDOZO ARTS & ENT. L.J. 141, 170 (2007).

49. Walter C. Neale, *The Peculiar Economics of Professional Sports*, LXXVIII THE Q. J. OF ECON. 1, 1 (1964).

50. Ian Preston & Stefan Szymanski, *Cheating in Contests*, 19 OXFORD REV. OF ECON. POL’Y 612, 612 (2003). See also Scott M. Gilpatric, *Cheating in Contests*, 49 ECON. INQUIRY 1042, 1042 (2011).

51. See 47 U.S.C. § 509 (2006). A 1994 Hollywood movie directed by Robert Redford entitled *Quiz Show* dramatized the scandal that engulfed *Twenty-One*, one of the most popular shows of the genre. For a scholarly account of the scandal, see Richard S. Tedlow, *Intellect on Television: The Quiz Show Scandals of the 1950s*, 28 AM. Q. 483, 487–89 (1976).

instructed to purposefully answer select questions incorrectly.⁵² Findings from a U.S. House of Representatives subcommittee found a “complex pattern of calculated deception of the listening and viewing audience.”⁵³ Legislative action was swift—47 U.S.C. § 509 generally forbids deception of the public by engaging in “any artifice or scheme for the purpose of prearranging or predetermining in whole or in part the outcome of a purportedly bona fide contest of intellectual knowledge, intellectual skill, or chance.”⁵⁴ Although athletic contests are not explicitly excluded from the statute, one commentator has opined that the law pertains only to “skills that are of a primarily intellectual nature . . . [and] does not cover athletic events, talent contests, or beauty pageants.”⁵⁵

To close the legislative gap and ensure that both gambling and nongambling integrity issues in sports are addressed, there are three possibilities. First, the aforementioned quiz show scandal statute could be revised to explicitly include sporting events. Second, the Sports Bribery Act of 1964 could be amended to include unilateral or collaborative nongambling sports manipulation, fraud, or deception as a prohibited activity. As is the case in securities fraud cases, both of the aforementioned proposed legislative tweaks would require that defendants act with scienter.⁵⁶ Third, a new statute, modeled on the doping-specific Integrity in Professional Sports Act of 2005, could be enacted.⁵⁷ All three proposals are consistent with the plethora of integrity-focused comments league executives have enunciated in *Christie* and elsewhere, including the open letter NFL Commissioner Roger Goodell released on the eve of an(other) “unpredictable” 2012 season that stated, in relevant part: “As always, we hold everyone, including ourselves, strictly accountable for protecting the integrity

52. See JOSEPH STONE & TIM YOHN, *PRIME TIME AND MISDEMEANORS* 26–27 (1992).

53. H.R. Rep. No. 86-1800, at 25–26 (1960).

54. 47 U.S.C. § 509(a)(3) (2006). Title 47 of the U.S. Code sets forth the parameters under which the Federal Communications Commission (“FCC”) and the National Telecommunications and Information Administration function. The most recent FCC inquiry into a potential violation of the statute involved “Our Little Genius,” a Fox television game show that was pulled prior to its planned debut in 2010. See Edward Wyatt, *F.C.C. Opens an Inquiry for a Game Show on Fox*, N.Y. TIMES (Feb. 19, 2010), <http://www.nytimes.com/2010/02/20/business/media/20genius.html?scp=7&sq=&st=nyt&gwh=3523063375E729F351AFABD0EE902BF2&r=0>.

55. Podlas, *supra* note 49, at 156. Although beyond the scope of this Article, a plausible argument can be made that competitive sporting events do fall under the purview of the statute.

56. For a discussion of how the scienter requirement attaches in the analogous context of securities fraud, see *Ernst & Ernst v. Hochfelder*, 425 U.S. 185, 197–214 (1976).

57. Sponsored by U.S. Senator Jim Bunning of Kentucky, the Integrity in Professional Sports Act of 2005 solely pertained to doping matters. It died in committee and was never voted upon. See Integrity in Professional Sports Act, S. 1960, 109th Cong. (2005), available at <http://www.gpo.gov/fdsys/pkg/BILLS-109s1960pcs/pdf/BILLS-109s1960pcs.pdf>.

of the game”⁵⁸ Accordingly, assuming the plaintiffs’ *Christie* pleadings, coupled with related public statements made in other contexts, accurately reflect sports league policy vis-à-vis integrity in its broadest construct, the leaders of the most prominent American-based sports governing bodies would seemingly be active supporters of the integrity-preserving legislation proposed here.

58. Roger Goodell, *Letter to NFL Fans*, NFL.COM (Aug. 31, 2012, 2:32 PM), <http://www.nfl.com/news/story/0ap1000000056927/article/roger-goodell-there-is-no-place-for-bounties-in-football>.