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Sports Law 2022

China: Law & Practice and
China: Trends & Developments
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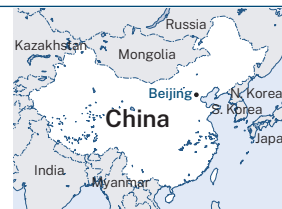
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Law and Practice

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1. REGULATORY

1.1 Anti-doping

An athlete using a prohibited substance would not constitute a criminal offence under PRC law but will only trigger administrative sanctions from the authorities in China. Additionally, Amendment XI to the Criminal Law of the People's Republic of China ("Criminal Law"), which was enacted in 2021, criminalises doping-related actions such as inducing, abetting, or deceiving an athlete to use prohibited substances during important domestic or international competitions. The punishments applicable to such a crime include imprisonment of up to three years, criminal detention and a fine. What is more, offenders who organise or force any athlete participating in a significant domestic or international sports competition to use stimulants shall be subject to a heavier punishment than what is provided above for an ordinary offence.

The Prohibited Substance Catalogue, which is substantially similar to the WADA Prohibited Substance List, is jointly promulgated and renewed on a yearly basis by the General Administration of Sports of China (GASC), the Ministry of Commerce (MOFCOM), the National Health Commission of the People's Republic of China (NHC), the General Administration of Customs (GAC), and the National Medical Products Administration (NMPA).

The GASC promulgated the Administrative Measures on Anti-doping ("Anti-doping Measures") in July 2021, as an addition to the Regulations on Anti-doping promulgated by the State Council (last amended in 2014, "Anti-doping Regulations"). Under the authorisation of the Anti-doping Regulations and the Anti-doping Measures, the GASC promulgated numerous anti-doping rules, which were eventually unified and amended to formulate the Anti-doping Rules, last promulgated by the GASC in Decem-

ber 2020, which are consistent with the principles of the World Anti-Doping Code ("Code"), and cover doping violations, inspections, investigation, testing, waivers, hearings, penalties for athletes and entities, dispute resolution and other rules in connection with anti-doping.

What is more, as a member of the International Convention Against Doping in Sport and the World Anti-Doping Code, the GASC also translates the WADA Prohibited Substance List into Chinese for domestic implementation.

The China Anti-Doping Agency (CADA), an internal organ of the GASC, is the national anti-doping organisation in China. Its main purposes are to participate in the formulation of anti-doping catalogues, organising and implementing doping inspections and testing, organising and implementing investigations and hearings on doping violations, and constructing and managing doping test labs. CADA promulgates an annual work report on anti-doping work and doping violations on its official [website](#). According to CADA's 2020 annual report, it prosecuted 31 doping violations in 2020.

1.2 Integrity

According to the Sports Law of the People's Republic of China ("Sports Law"), athletes, coaches, and referees are prohibited from fraud, match-fixing, and malpractice. According to the Administrative Measures for Sports Events ("Sports Events Measures"), match-fixing and gambling on sports events will constitute administrative violations or even criminal offences. Although there is not a specific crime of match-fixing, there are various applicable provisions in the Criminal Law against match-fixing, gambling on sports events, misconduct, bribery or fraud, such as anti-corruption, anti-bribery, and anti-gambling provisions. In 2021, the GASC, together with the Ministry of Public Safety (MPS) promulgated a circular related to

match-fixing and gambling, under which the GASC and MPS emphasised the importance of fighting against match-fixing and gambling on sports events. The GASC and MPS will enforce more serious sanctions against match-fixing and gambling on sports events, which may also constitute criminal offences if the offender is a public servant. For example, in 2012, a number of GASC officials in charge of football, along with a number of football referees, were sentenced to five to ten years of imprisonment for accepting bribes in order to fix the outcomes of football matches. More recently, in 2019, a Chinese snooker player was sanctioned with a life-time ban for match-fixing by the Chinese Billiards & Snooker Association.

1.3 Betting

Betting is prohibited under PRC laws regardless of whether it is related to sports or anything else. However, there are several kinds of lotteries related to sports events in China. According to the Regulations on Administration of Lotteries, such lotteries are strictly regulated and supervised under PRC laws. For example, only central government-permitted entities may issue such lotteries, which must be supervised by the GASC. As stated in **1.2 Integrity**, running gambling houses is a serious criminal offence under PRC laws. At the same time, betting is also an administrative violation. Such offences and violations are often subject to the jurisdiction of the police, instead of sports governing bodies.

1.4 Disciplinary Proceedings

The disciplinary proceedings set forth in the Anti-doping Rules, the Anti-doping Measures and other applicable laws and regulations are consistent with the Code and the relevant international standards; eg, the International Standard for Testing and Investigations and the International Standard for Code Compliance by Signatories.

Take doping as an example: it will be considered as a doping violation if the anti-doping test of an athlete is positive, an athlete refuses or dodges a test, or an athlete possesses prohibited substances.

The competent authority will take two samples from an athlete. If sample A is positive, the competent authority will require the athlete to give an explanation. At the same time, the competent authority will test sample B.

If the test of sample B is also positive, the competent authority will file an indictment with the hearing committee and the committee may enforce sanctions against the athlete.

A dispute involving international games or international-level athletes may only be submitted to the Court of Arbitration for Sport (CAS) for arbitration. Other disputes may be submitted to a national dispute resolution agency under the CADA.

A disciplined athlete is only entitled to an appeal if the matter is of international nature, but the hearing can be held by the CAS or the CADA. Any sanctions will not be suspended during the appeal process.

2. COMMERCIAL RIGHTS

2.1 Available Sports-Related Rights

Apart from sponsorship (see **2.2 Sponsorship**) and broadcasting (see **2.3 Broadcasting**) rights, there are various commercial rights related to sports; eg, merchandising and ticketing.

Merchandising usually includes the sale of goods related to the name, marks, logos, images, and other intangible property of a club or an athlete. Usually, the club or the athlete will enter into an agreement with the manufacturer

or the retailer, where the club or the athlete will grant the manufacturer or the retailer a licence to design, produce, or sell products embodying the name, marks, logos, images or other intellectual property rights or intangible property rights. The agreement could be on a contingent basis; ie, the club or the athlete is entitled to a share of revenue gained by the manufacturer or the retailer. But as a more usual case, the manufacturer or the retailer will pay a non-refundable but recoupable advance plus a royalty to the club or the athlete.

Ticketing is another source of revenue for a club. Usually, a club will not own a stadium but rent one for a sports event. There is usually text on the ticket stating that spectators shall not disseminate footage of the event. However, due to COVID-19, most professional sports events in China are currently (March 2022) carried out without spectators, which heavily reduces the clubs' ticket revenue. Clubs, organisers, and law enforcement authorities are making every effort to fight against the resale of tickets. It is an administrative violation to "scalp" sport tickets under the Law on Penalties for the Violation of Public Security Administration of the People's Republic of China and a person committing such violation may face a fine of up to CNY1,000 or even administrative detention for up to 15 days.

2.2 Sponsorship

Sponsorship is one of the most important funding sources for sports events. Sponsors have great regard for the exposure opportunities provided by sports events. Generally, sponsors are classified into different categories with different rights, for example, sponsors to the league, the event, the clubs or the athletes. They promote their brand by a variety of means, for example, displaying their names, brands, or trade marks on billboards around the court, on the floor, or on athletes' jerseys, titling clubs, or displaying their commercials during halftime breaks or timeouts.

However, the Chinese Football Association (CFA) promulgated a rule in 2020 stating that the name of a football club in CFA Super League, Division A League, and Division B League shall not contain the name of sponsors starting from the 2021 season.

Usually sports right-holders will grant sponsors a bundle of rights in consideration of their provision of sponsorship, including:

- using the names, logos or trade marks of the sports right-holders in sponsors' products and services;
- stating the sponsorship relationship between the sponsor and sports right-holders;
- displaying images of athletes in sponsors' products, services or commercials; and/or
- displaying brands in the stadium, around the court, or on athletes' gear.

The key terms of a typical standard contract include:

- the class of the sponsor; ie, titling sponsor, official sponsor, strategic partner, etc;
- the sponsor fees and payment methods;
- the term and territory of the sponsorship;
- the scope and degree of any exclusivity;
- benefits for sponsors, including brand exposure, rights for certain events, use of sport right-holders' property;
- non-compete clauses; eg, the sports right-holder shall not attract other sponsors providing products or services similar to those the sponsor provides; and
- the allocation of intellectual property rights.

2.3 Broadcasting

The broadcasters for sports events include cable TV and webcasters. Cable TV usually generates profit from broadcasting rights through advertising and webcasters. Since all China TV stations are state-owned entities, they do not

collect subscription fees directly from a public audience. The audience usually pays a very low rate for carriers to use their internet service and the cable TV service is usually bundled with that internet service. In this case, audiences do not usually pay separately for cable TV. Cable TV broadcasters in China exploit their broadcasting rights through advertising during quarter breaks, halftime breaks or timeouts. With respect to webcasters, they usually generate profits from both advertising and subscriptions. For instance, a person has to pay subscription fees to watch China Basketball Association (CBA) games on Tencent Sport, one of the largest sport webcasters in China. In addition, there will be quarter and half-time commercials.

With the rocketing development of the sport market in China, sports right-holders usually do not have to put in much effort to attract broadcasters. Instead, broadcasters or licence resellers will pitch sports right-holders for exclusive broadcasting licences; and the price of such exclusive licences has increased sharply during recent years. For example, in 2015, China Sports Media paid CFA CNY8 billion for a five-year CFA Super League exclusive broadcasting licence, which was later raised to CNY11 billion for a ten-year exclusive broadcasting licence. By comparison, the five-year bundle for 2007 to 2012 only cost CNY50 million.

3. SPORTS EVENTS

3.1 Relationships

Usually sports events are organised by sports associations and the participants; ie, athletes and clubs will participate in the sports events through registration. Without registration with the relevant association, no athletes or clubs are allowed to participate in the sports events organised by such association. There are various proprietary rights for sports organisers in China,

such as the right to exclusively organise sports events, intellectual property rights and the right to control the access to the venue.

According to the Sports Law, the national comprehensive sports events, such as the National Sports Games, shall only be organised by the GASC and its authorised organisations and the national individual sports events shall only be organised by the national association for such individual sports, for example, the National Football CFA Super League shall only be organised by the CFA. Due to such exclusivity, the organisers control all rights and interests arising from the sports events.

According to the Sports Events Measures, the names, marks, organising rights, broadcasting rights and other intangible property rights may be exploited by sports events organisers. Due to the aforementioned exclusivity, the original owners of those rights are always sports events organisers. For example, according to the CFA Statutes, the CFA is the original owner of all of the rights emanating from competitions and other events coming under its jurisdiction, including but not limited to intellectual property exploitation rights, merchandising rights, and other rights generated from the sports events organised by the CFA.

Access to the venues is controlled based on property rights. The venues are usually leased by the organisers and the organisers may set rules for entering the venue and spectators' conduct. Usually the spectators are informed that they are not allowed to film events or act in other ways which may infringe rights of the organisers.

As stated above, nationwide sports events are organised by the GASC or national sports associations. The participants are also members of respective associations. Those members may be governed by the statutes of their respective

associations; if there is any violation, the associations may issue sanctions to their members.

3.2 Liability

Under PRC law, the organisers bear a duty of care relating to organising sports events. Such duty of care originally arose from the duty of care under the Civil Code of the People's Republic of China ("Civil Code"). Under the Civil Code, operators and managers of stadiums will bear tort liability if they fail to fulfil their duty of care. In addition, according to the Sports Events Measures, the organisers of sports events shall be responsible for the safe operation of the sports events they organise. Apart from civil liability, organisers may also be subject to criminal liability if serious consequences occur due to their failure to fulfil the duty of care. For example, in a cross-country race held in Gansu Province in 2021, 21 deaths and eight injuries were caused by extreme weather, and five organising staff members were arrested for their breach of the duty of care when organising the race and failing to take precautions regarding possible weather changes.

According to the Civil Code, under the principle of "assumption of risks", if a person suffers injuries when participating in sports events, and if those sports events contain inherent risks and such damages cannot be attributed to other participants' intentional conduct or gross negligence, then the injured person may not seek remedies against other participants. In a case in Beijing applying the "assumption of risks" principle, a person was hit by a badminton shuttlecock smashed by the other player, resulting in serious injury to his right eye. But the other player was not held liable because there are inherent risks in badminton and the other player did not intentionally or with gross negligence violate any rules of the game.

To avoid violence or disorder, the organisers usually hire professional security guards and everyone entering the stadium has to go through a security inspection. Some stadiums even have screens in front of the audience seats to prevent the spectators from rushing or throwing anything onto the game grounds.

4. CORPORATE

4.1 Legal Sporting Structures

Most professional clubs in China are limited liability companies (LLCs) or corporations. According to the Administrative Regulations on the Registration of Social Organisations ("Social Organisation Regulations"), social organisations or non-governmental organisations (NGOs) are allowed to be involved in profit-making business. Professional clubs have to attract investment and sponsorship, sell tickets, and carry out other profit-making business. In such cases, professional clubs have to be commercial entities. But non-professional clubs have various forms: some are LLCs or corporations, while others are NGOs. The governing bodies in China are usually governmental agencies or governmental organisations (GO).

4.2 Corporate Governance

China does not have sport-specific corporate laws. The operation of sports clubs is governed by the laws regulating the type of entity that a given sports club is formed as, for example, the Company Law of People's Republic of China ("Company Law") and the Social Organisation Regulations. If a club violates relevant laws and regulations, sanctions or penalties will be imposed by the competent authorities, which are the State Administration of Market Regulation (SMAR) for LLCs and corporations and the Ministry of Civil Affairs for social organisations and NGOs.

However, some sports associations do have certain regulations applicable to the corporate governance of sports clubs and other relevant entities. For example, as stated in **2.2 Sponsorship**, the name of a professional team in Division A or B of the CFA Super League shall not contain any sponsor's name. In addition, according to the CFA Statutes, a natural person or a legal entity shall not control more than one club or football organisation. If a club violates the aforementioned regulations, the CFA may suspend or deregister the club's membership. Under such circumstance, the club may not participate in any of the events organised by the CFA, which means all nationwide football games because, as stated in **3.1 Relationships**, all nationwide games for a certain sport can only be organised by the national association for such sport.

Since sports associations are not LLCs or corporations, there are no directors of sports associations in China. Sports associations have only a president and committee members who are responsible for the daily operations. As to professional clubs, the officers do owe the directors' duties stipulated in the Company Law.

According to the Company Law, the director or manager of an insolvent company is not allowed to be a director, supervisor, or senior officer of another company within three years after the liquidation date of that insolvent company.

4.3 Funding of Sport

As mentioned in **2.2 Sponsorship**, sponsorship is the main funding stream for sports events. Government agencies will take the lead in organising sports events and provide some preferential policies, such as the specific lane for Olympic vehicles. Specific undertakers will be responsible for the operation, including attracting sponsorships, and co-ordination of the interests among stakeholders. The central government will fund a nationwide comprehensive

sports event at the kick-off stage, but the main sources of funds are still sponsorship, advertising and commercial operations.

4.4 Recent Deals/Trends

With the successful organisation of the Beijing 2022 Winter Olympics, private equity investment in the skating and skiing industry has become a great hit in China. The GASC promulgated a circular to encourage the development of towns with special characteristics, especially for outdoor skating and skiing. Wanda, a famous real estate investor in China, began the development of a "snow town" in north-east China.

5. INTELLECTUAL PROPERTY, DATA AND DATA PROTECTION

5.1 Trade Marks

According to the Trademark Law of the People of Republic of China ("Trademark Law") any natural person, legal entity, or other organisation may submit an application with the China National Intellectual Property Administration (CNIPA) to register a trade mark and CNIPA will issue a trade mark certificate upon approval. According to the Trademark Law, the following marks shall not be used as trade marks:

- those identical with or similar to the name, national flag, national emblem, national anthem, military flag, army emblem, military songs, medals, etc, of the People's Republic of China;
- those identical with the names and signs of central state organs, names of the specific locations thereof, or those identical with the names or devices of landmark buildings;
- those identical with or similar to the names, national flags, national emblems or military flags of foreign countries, unless permitted by the government of the country;

- those identical with or similar to the names, flags, or emblems of international inter-governmental organisations, unless permitted by the organisation concerned or unlikely to mislead the public;
- those identical with or similar to an official sign or inspection seal that indicates control and guarantee, unless it is authorised;
- those identical with or similar to the names or signs of the Red Cross or the Red Crescent;
- those discriminating against any race;
- those of fraud that may easily mislead the public in characteristics such as the quality of goods or place of production;
- those detrimental to socialist morals or customs, or having other insalubrious effects;
- the geographical names of administrative divisions at or above the county level;
- foreign geographical names well-known to the public;
- generic names, devices, or model numbers of the goods;
- those simply indicating the quality, main raw materials, function, use, weight, quantity or other features of the goods; and
- those lacking distinctive characteristics.

A mark will get comprehensive protection after registration with the CNIPA. No other person is allowed to use the trade mark without written consent of the trade mark owner. If a mark is not registered, the protection for such mark will be limited to the geographical area where the owner's business is located and the scope of the owner's business. A notable example is a Chinese company winning a case against MUJI Japan for trade mark infringement because the Chinese company registered the trade mark "MUJI" before MUJI Japan came into China.

5.2 Copyright/Database Rights

Similar to the counterparts of other signatories of the Berne Convention, the Copyright Law of the People's Republic of China ("Copyright Law")

protects audio-visual works, paintings, photographs and compiled works, etc. Registration is not required under the Copyright Law; ie, a copyrightable work is copyrighted immediately upon its completion. However, registration is still encouraged as evidence of copyright ownership. A notable principal under the Copyright Law is that the sports event itself is not copyrightable. The audio-visual works and photographs derived from the sports event (eg, the broadcasting images) are copyrightable and will be protected by the Copyright Law.

The most common defence under the Copyright Law is fair use. Usually a person will not commit copyright infringement if such person uses a work without the consent of the copyright holder provided that such use is for personal study, research, or appreciation.

Another scenario where fair use can be applied is where a person will not commit copyright infringement if such person invokes parts of the other's work for the purpose of introduction or comment.

There is no standalone database right under the Copyright Law. Databases are usually protected as compiled works. If the selection, editing, or compilation of data reflects the originality and creativity of the compiler, such database is copyrightable. For example, a compilation of the telephone numbers of all restaurants in Shanghai is not copyrightable but a compilation of hot sports news in China in the year 2021 may be copyrightable.

Notable Sports Copyrights Cases

The phenomenal Sina.com v iFeng.com case and CCTC v Baofeng.com were both tried in the first-instance court, the court of appeals, and only concluded by retrial court in 2020. The facts in the two cases were quite similar: ifeng.com re-broadcast CFA Super League games to

which Sina.com enjoyed exclusive live broadcasting rights, and Baofeng.com rebroadcast 2014 FIFA World Cup games to which CCTC had exclusive broadcasting rights. These two cases set the standard rule for copyright protection for live broadcasting of sports games. Before these two cases, live broadcasting of images/video clips taken from the live broadcasting of a sports event were often treated as video recordings, which enjoy limited protection under the Copyright Law; ie, prohibited from unauthorised duplication, distribution, leasing, and making available to the public. Video recordings do not enjoy broadcasting rights, which means if the live broadcasting image is not treated as a work but rather video recording, such broadcasting, which is the most important right for broadcasters, is not protected under the Copyright Law. In these two cases, the retrial court eventually ruled that the live broadcasting of images and video clips constitutes copyrighted “work” under the Copyright Law, which deserve more comprehensive protection under the Copyright Law. Thus, unauthorised use of the images/video clips taken from the live broadcasting of the games constitutes copyright infringement. The aforementioned cases both set a benchmark for other similar cases, after which broadcasters, both TV stations and webcasters, have received more comprehensive protection for their broadcasting.

5.3 Image Rights and Other IP

According to the Civil Code, every natural person’s image is protected, of course including the image of athletes. Any unlawful use of a person’s image will constitute a tort under the Civil Code and such person is entitled to reimbursement for losses arising from such unlawful use.

5.4 Licensing

Sports bodies may license their IP in sports events. As stated in **3.1 Relationships**, almost all valuable nationwide sports events such as the

CFA Super League and CBA League are organised by their respective national association. All IP derived from the sports events are also proprietarily reserved by those national associations. For example, it is stated in the CBA Statutes that all rights arising from the sports events organised by the CBA – including IP, exploitation rights and other rights – are the property of the CBA. There are similar provisions in the CFA Statutes. In that case, the athletes themselves usually do not have any copyright over the sports events or broadcasting streams.

There are few restrictions on assignment of IP in China. For copyright licensing or transfer, a written agreement is required. Such an agreement generally contains certain provisions related to the type of right, exclusivity, territory, term, fees, payment, and liability for breach. The transfer of trade marks needs to be approved by the CNIPA because the CNIPA will issue a new trade mark certificate to the new trade mark owner. Likewise, a written agreement is required for trade mark licensing and transfer.

5.5 Sports Data

A series of high-tech devices are commonly used in sports events and daily training to collect the sports data of athletes. This data is normally used to improve the athlete’s performance. Any abuse of such data may violate the laws and regulations of China or constitute criminal offences under serious circumstance.

Spectators’ data, on the other hand, is usually collected for “big data” analysis purposes; eg, to study the age groups, commodity preferences, etc, of the spectators of sports games. The sports events organisers usually use the data to make more precise pitches to sponsors, and sponsors may also use the data to place advertisements more precisely.

5.6 Data Protection

The GDPR does not apply in China. Instead, China has its own set of data protection laws, which in part reflect the principles of the GDPR. For example, both the Personal Information Protection Law of the People's Republic of China ("PI Protection Law") and the Data Security Law of the People's Republic of China ("Data Security Law") were enacted in 2021. Under the PI Protection Law, personal information (PI) is "any kind of information related to an identified or identifiable natural person as electronically or otherwise recorded, excluding information that has been anonymised." There is also a category called "sensitive personal information", which includes biometric recognition, religious belief, specific identity, medical and health issues, financial accounts, personal location tracking and other information.

Under the aforementioned laws, an individual's PI is strictly protected, and the processing and export of PI is also strictly regulated. The protection measures for sensitive PI are stricter. For example, one may obtain general consent from individuals to process their PI but needs to obtain so-called "specific consent" from individuals to process their sensitive PI. Abuse of PI will be subject to administrative liability or criminal liability. An entity abusing PI may face a fine of up to CNY50 million according to the PI Protection Law. An entity may face a fine of up to CNY10 million for violating the Data Security Law. An individual abusing PI may face up to seven years' imprisonment pursuant to the Criminal Law.

6. DISPUTE RESOLUTION

6.1 National Court System

The courts in China have limited jurisdiction over disputes related to sports. As stipulated in the Sports Law, "disputes arising from competitive

sports activities shall be mediated and arbitrated by sports arbitration institutions" and the establishment of such institutions shall be regulated by the central government separately. However, there is no arbitration institution established by the central government.

However, although there is no state-governed arbitration institution, sports associations usually have their own arbitration institutions. Most sports disputes will be submitted to the arbitration institution of the respective sports association (see **6.2 ADR, including Arbitration**). Notwithstanding the above, there are still some sports cases that are heard by national courts. For example, an employment dispute was heard by a trial court in Shanghai in 2020, ruling that the employment dispute was not within the jurisdiction of the CFA and that the club should reimburse the athlete for early termination of their contract. There was also another case heard by a trial court in Beijing in 2020 in which the court sent judicial suggestions to the CFA that it should remove the finality statement in its statutes.

6.2 ADR, including Arbitration

Associations usually have their own arbitration institution and all sports disputes under the jurisdiction of an association will be submitted to its arbitration institution. The statutes of the associations also usually declare their exclusive jurisdiction and finality over sports disputes. For example, the CFA Statutes require all members to submit sports disputes to the arbitration commission of the CFA and all awards made by it shall be final.

6.3 Challenging Sports Governing Bodies

The Sports Law empowers the sports governing bodies to enforce sanctions against their members. Also, the governing bodies usually declare their power to enforce sanctions against

their members and athletes. Typically, the sports governing bodies impose fines, point deduction, revocation of results, ban, revocation of membership.

If a sanction is enforced by a governmental agency such as the GASC or its local agencies, the sanctioned party may appeal to the court for trial. But if the sanction is enforced by an association, the sanctioned party may only appeal within the association. For example, according to Practice Rules of the CFA Arbitration Commission, challenges to sanctions enforced by the disciplinary committee may be submitted to the CFA arbitration commission for arbitration.

7. EMPLOYMENT

7.1 Sports-Related Contracts of Employment

Sports clubs and athletes usually enter into a contract which is not simply an employment contract. According to the Opinions on Strengthening and Improving Labour Protection Management of Professional Football Clubs, clubs may agree on terms according to the unique characteristic of the football industry. For example, according to the Labour Contract Law of the People's Republic of China ("Labour Contract Law"), an employee may resign without any cause with 30 days' notice, which is not practical in the sports industry. For example, it is customary that a sports club require an athlete to pay liquidated damage for early termination.

Salary caps are applied to certain sports games in China. For example, the seasonal salary cap for a CFA Supreme League domestic player is CNY5 million (tax inclusive), and EUR3 million (tax inclusive) for expatriate players. Likewise, for CBA League domestic players, the salary cap is CNY6 million.

7.2 Employer/Employee Rights

As stated above, the relationship between players and sports clubs is complicated. Some courts have ruled that the rights of players are protected under the Labour Contract Law, as stated in **6.1 National Court System**, but others have ruled that employment disputes between clubs and athletes do not fall under the Labour Contract Law and should be heard not by a court but rather by the CFA arbitration commission.

7.3 Free Movement of Athletes

Foreign athletes are free to compete in sports tournaments/competitions. However, some associations may limit the total number of foreign athletes a club may deploy in a single game. Foreign athletes have to apply for a visa to participate in sports events in China. If the athlete is a top-eight Olympic Games or World Cup player, a medal winner at the Asian Games, or hired by a top tier club, such as a club in the CFA Super League or CBA League, an R-Visa may be applied for. Other athletes hired by clubs may apply for Z Visas (work visa). If the athlete is invited to attend a competition in China, the athlete can apply for an F Visa (visit visa).

8. ESPORTS

8.1 Overview of Esports

Esports was first listed in the sports industry catalogue by the GASC in 2019 and later became a formal competition of the Asian Games 2022. The esports industry has been developing rapidly in recently years. According to market research, China's esports market reached CNY147.4 billion in 2020, increased by 29.8% compared with 2019. The total users were more than 500 million in 2020, increased by 5.5% compared with 2019. The total number of users may have been more than 525 million in 2022. According to another research entity, the market may increase to over CNY184.33 billion in 2022.

In 2018, the total investment amount in China's esports industry was approximately CNY10.4 billion but in 2019, it decreased by 91.3% to CNY0.91 billion. The total amount in 2020 was CNY2.3 billion and as of November 2021, the total amount was CNY2.3 billion.

A notable case is 52tt.com's obtaining a USD100 million investment from Matrix Partners China and Orchid Asia. With the increasing number of mobile games and users, and the development of professional clubs, both professional esports and non-professional esports are likely to develop rapidly in the future.

9. WOMEN'S SPORT

9.1 Overview of Women's Sport

Women's sports are developed as equal, if not superior, to men's sports in China. Almost all professional leagues organise women's sports events, for example the WCBA and CFA Women's Super League. Statistics indicate that from 2013 to 2020, the number of female athletes over National Grade 2 increased by 141,000, and 480 of them were at international level, accounting for 57.1% of the total of new international level athletes. As of 2020, there were 7,434 professional level female coaches in China; 298 Chinese female athletes participated in the Tokyo Olympic Games 2020, accounting for 69.1% of the total Chinese athletes, and among 88 Chinese medal winners, 53 of them were female. In the Beijing Winter Olympic Games 2022, 176 Chinese athletes participated and 87 of them were female. Chinese female athletes won 14 medals in the Winter Olympics, accounting for 53.8% of the total medals won by Chinese athletes. The national women's football team recently won the AFC Women's Asian Cup last month. Alipay declared that they will pay the team CNY13 million in awards. Women's sports

attracts more and more attention from the public in China. For example, the viewership rate of the Women's Volleyball Nations League 2021 surmounted the figures for the European Cup and the World Cup 2022 qualifiers.

10. NON-FUNGIBLE TOKENS (NFTS)

10.1 Overview of NFTs

NFT is a relatively new concept in the Chinese sports market and market players tend to be cautious toward the application of NFT technologies for sports collectibles. On the one hand, the trading of virtual items is not a new concept in the Chinese market, far preceding the recent boom of the NFT technology. On the other hand, the Chinese government has taken a hard line against private cryptocurrencies. Since 2017, regulators have instituted an outright ban on cryptocurrency exchanges and ICOs in China, and also imposed severe restrictions on the use of cryptocurrencies and relevant trading services. The Interpretation of the Supreme People's Court of Several Issues on the Specific Application of Law in the Handling of Criminal Cases about Illegal Fund-Raising, which was amended in February 2022, further expressly provides that the "trade of virtual currency" as a means of illegal fund-raising may be considered a crime under PRC law. Therefore, NFT virtual collectibles that are offered and traded in a way similar to virtual currencies may also face similar risks.

11. REGIONAL ISSUES

11.1 Overview of Regional Issues

There are no significant issues not already raised elsewhere in this chapter.

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Trends and Developments

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Rapid Growth in China's Sports Industry

In recent years, the strength of China's sports industry has grown significantly, the global allocation of sports resources has continued to improve, and the international influence of the sports industry has continued to increase. Statistics indicate that the total market size of China's sports industry has increased from CNY1.71 trillion as of the end of 2015 to CNY2.74 trillion as of the end of 2020, slightly falling from CNY2.95 trillion as of the end of 2019 due to the impact of COVID-19.

Statics indicate that as of the end of 2018, there were more than 4.6 million people working in China's sports industry. The number of legal entities in China's sports industry increased from just over 1,000 as of the end of 2015 to almost 3,000 as of the end of 2019. As of the end of 2020, there were 3.71 million sports venues in the country, with an area of 3.1 billion square meters. Such sports venues include those for basketball, football, volleyball and badminton.

Taking advantage of the Beijing Winter Olympic Games 2022, the winter sports industry has developed rapidly in China. Market research shows that as of October 2021, the number of people participating in winter sports nationwide was 346 million, and the participation rate for winter sports exceeded 24%. In the snow season 2020–21, the number of Chinese winter leisure tourists reached 230 million, the income of winter leisure tourism exceeded CNY390 billion, and the general market size of winter sports was CNY624.65 billion in 2021 and is expected to grow to CNY785.29 billion in 2022.

The sports-related consumer market is also expected to grow rapidly. In 2019, the per capita GDP of China exceeded USD10,000. The huge market demand generated by the nation's rising middle class has led to the growth of the sports industry in China. According to a new survey by Morgan Stanley, 35% of residents choose to play sports games in their leisure time. This is expected to translate into increased consumer demand for professional sports. With respect to the scope of consumption, presently, customers in China are becoming more accustomed to paying for experience-oriented consumption such as fitness centres and on-site game viewing, sports tourism and esports. As competition performances, sports media, winter sports, "smart" sports and other industries continue to mature, new formats and products such as "cloud" competitions, online fitness, smart sports tourism, and online sports training will have an important role in sports consumption.

COVID-19

The development of the Chinese sports market is not without challenges. COVID-19 must be one of the biggest challenges of all. In the past two years, the COVID-19 pandemic has seriously affected the sports industry. Many important sports events were cancelled, such as F1 China, and many games were played in foreign countries, such as the qualification games for the 2022 World Cup. After the suspension of most sports events, China's sports industry has gradually resumed "normal service" recently. The China Football Association (CFA) Super League, China Basketball Association (CBA) League, China Volleyball League and other sports events have returned to normal operation, except there are no spectators. But due to the

adverse impact caused by COVID-19, the value of those sports events decreased sharply, not only because of fewer matches in a season but also because sponsors and broadcasters lack cash. For example, the sponsorship fee of the CFA Super League was CNY618 million in 2019, but decreased to CNY300 million in 2020. In addition, in 2015, China Sports Media paid CFA CNY8 billion for a five-year CFA Super League exclusive broadcasting licence. But due to the COVID-19 pandemic and reduction in games, the contract was revised to CNY11 billion for a ten-year exclusive broadcasting licence. That said, with the successful closing of the 2022 Winter Olympics and the return of economic growth since 2021, it is expected that the sports market will also resume growth, with the potential to soar, in 2022.

Private investment in sports

Private equity investment in the winter sports industry is growing in China. In 2019, the State Council promulgated its Opinions on Promoting the Nationwide Fitness Programme and Sports Consumption to Boost High-Quality Development of the Sports Industry (the “Opinions”). Thereafter, the General Administration of Sports of China (GASC) promulgated the Sports Development Plan for the 14th Five-Year Plan in October 2021. Both of these aim to encourage the development of investments in the sports industry in China, including through state-owned investment funds and private capital, such as private equity investment funds, including establishing a number of private investment funds that specifically target the sports industry. It is expected that the total investment in the sports industry will soar, with the goal of making China’s sports market worth a total of CNY5 trillion by 2025.

Regulatory guidance and IP protection

In their determination to boost the market, the Chinese authorities have also expended great

legislative effort to provide systematic and regulatory guidance and protection to the market and its players. For example, the Administrative Measures for Sports Events was enacted in May 2020, outlining the competent organisers for different sports events, the rights and obligations of those organisers, and liability for violations. Most importantly, it liberalised the administrative procedures for international sports games held in China. Such games, except some special categories of sports, or world class games, now only need to gain approval from provincial level governments instead of from the GASC.

The market also sees strengthened protection for economic benefits deriving from the sports market. In 2020, the Beijing High Court heard two benchmark cases, the Sina.com v iFeng.com case and the CCTC v Baofeng.com case, both at retrial stage, to confirm that sports broadcasting rights are copyrightable and to scrutinise unauthorised use of images or video clips taken from live broadcasting of sports games.

In 2021, the amended Copyright Law of the People’s republic of China (“Copyright Law”) was enacted. The Copyright Law further clarifies that audio-visual works are not limited to motion pictures, episodes, documentaries, and animations, but sports broadcasting images may also be copyrightable. The Copyright Law also clarifies that webcasting is in the scope of broadcasting, and rebroadcasting and unauthorised webcasting also constitute infringement of broadcasting rights.

Anti-doping measures

As a member of the International Convention Against Doping in Sport and the World Anti-Doping Code, China has great regard for anti-doping efforts. The GASC promulgated the unified Anti-doping Rules at the end of 2020, and the Administrative Measures on Anti-doping (“Anti-doping Measures”) in July 2021, to set record-

high anti-doping efforts nationwide. In addition, Amendment XI to the Criminal Law of the People's Republic of China, enacted in 2021, for the first time expressly included doping-related crimes specifically in the sports domain. Now, a person commits a criminal offence when inducing, abetting, or deceiving an athlete to use prohibited substances during important domestic or international competitions.

Extant legal issues and regulatory challenges

However, there are also legal issues in the market that remain to be solved. For example, the current law does not clearly identify the legal relationships between professional athletes and sports clubs. While sports governing bodies such as the CFA tend to provide in their statutes that their own arbitration institutions have exclusive jurisdiction over disputes between professional athletes and sports clubs, such provisions are not without objections. In an employment dispute heard by a trial court in Shanghai in 2020, the court ruled that employment disputes are not within the jurisdiction of the CFA, and the club in question was ordered to reimburse the athlete for early termination of their contract. In another case heard by a trial court in Beijing in the same year, the court sent judicial suggestions to the CFA stating that it should remove from its statutes the statement regarding the finality of its arbitral awards. The court also challenged the authority of the arbitration institution of the CFA because, according to the current Sports Law, a sports arbitration institution shall be set up by the central government, not a sports association (notwithstanding the fact that the central government has not set up any sports arbitration institutions).

As a potential further advance in the sports legal landscape, a draft amendment to the Sports Law of the PRC ("Draft Sports Law") was released in October 2021. The Draft Sports Law outlines the causes of action that may be submitted for arbi-

tration to challenge a sanction of disqualification, cancellation of competition results or suspension of competition made by sports NGOs, athlete management units, and event organisers in accordance with doping management regulations. The Draft Sports Law also states that contractual disputes and other property rights disputes between citizens, legal persons and other organisations, or labour disputes between employers and employees do not fall under the jurisdiction of sports arbitration. The draft also sets the standard for qualified arbiters and the formation of the panel. In addition, the Draft Sports Law stipulates the process for application for cancellation of arbitral awards. If the Draft Sports Law is passed as it is currently written, the chronic disputes over jurisdiction in disputes between national courts and the arbitration institutions of sports-governing bodies, such as the CFA and CBA, can be expected to eventually be resolved, and the market is expected to operate more smoothly.

The potential impact of new technologies

The Chinese market has seen wide application of new technologies revamping the sports industry. For example, it is reported that AI technologies are being used to train Chinese athletes in several kinds of sports ranging from freestyle skiing aericals to Ping-Pong. Big data analytics is also widely used to profile the age groups, preferences, etc, of sports audiences and consumers. The application of new technologies also calls for new legislation; eg, for the protection of personal information and other sports-related data. In this regard, similar to the GDPR, in 2021, China enacted the Personal Information Protection Law of the People's Republic of China and the Data Security Law of the People's Republic of China, both of which will govern the protection of personal data.

NFT has also been a hot topic in the market recently. However, the Chinese market is cur-

rently cautious regarding the application of NFT technologies for sports collectibles. Not only is the technology itself a new concept that is yet to be proved in the Chinese market, but also the risks associated with NFT are significant. Cryptocurrency is subject to strict government scrutiny in China, and if a company offers NFT virtual collectibles that can be traded in a way similar to virtual currencies, it may be considered a criminal act of illegally raising funds in China.

Conclusion

As a quick summary, with the favourable government policies, rapid legislative developments and booming market, the sports law landscape in China, similar to that of other sectors in China, is expected to see vibrant, constant change, and market players are advised to consult with professional legal counsel when facing any legal challenges or uncertainties.

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