

THE WHITE COLLAR

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The Law and "The Beautiful Game"

No Man's Land

In 1914, the world was embroiled in "the war to end all wars", a war that in just four years would wound or kill 25 million men, women and children. This particular war is still believed to have marked one of mankind's darkest and most gruesome moments. And yet in the middle of this darkness, on Christmas day 1914 across trenches from each other, the British and German soldiers stopped the barrage of mortar fire and the salvo of bullets, laid down their arms, crossed into 'No Man's Land' for a few hours... and together played a game of football.

Even in our darkest moments Sports have always had the ability to unite mankind. Like Music, Art or Literature, even those who do not partake in it cannot deny its compelling and unifying power for good. Of course we know the Christmas Day Truce of 1914 was not merely for football, still, the games played that day remind us of the potential Sports have to influence human community.

The Business of Sports

The Olympic games are another example of the enormous impact sports have had in human history. The ancient celebration held every four years promoted religion and athletic competition, it saw the cessation of all conflict between competing nations for the period of the games. Today to, the modern day Olympics are a huge global event, watched by nearly three-quarter of the entire world population in 2012, some 4.8 billion people. Total sponsorship of the London 2012 Olympics exceeded USD\$2 billion, and by comparison taking just the sponsorship from the Olympic Partnership program-London 2012 surpassed Beijing 2008 by at least an 8% quadrennial increase.

Research on the Beijing Olympics from the Stockholm University's School of Business and Business School Hebronner, Germany showed that Sports Sponsorship in China helps "to build not only brand equity, but also relationships, networks, and alliances. Relationship is utterly the most important element in business dealings in China". And



this fact is true not just in China but also, in Nigeria where business is guaranteed not by production resources and ability but by knowledge and partnership.

The Law of Sports

Often the law is thought of as a system of rights and obligations, carrot and stick incentives if you will. Or how these rights and obligations are enforced, and a lot of the time it is just that, enforcement. But more often than not the role law plays is as a facilitator for agreement, or in more commercially recognisable terms a facilitator of certainty and predictability. The law in essence is the bridge for building solid predictable business relationships. "How can one make this claim?" you may ask, especially in Sports where profitability is performance driven? Lets look at a few examples to better answer that question.

Eduok, Esperance FC v. Sarsborg 08 FC

In January of this year, the Nigerian Striker Emem Uduok, then playing for Dolphins FC a Lagos based team, was highly sought after by Football Clubs on the continent. Uduok's prolific form in the Nigerian Professional league attracted offers

notably from two Club sides, Sarsborg 08 FC based in Norway, and Esperance FC in Tunisia. A controversy ensued quickly when it was reported that the player had signed contracts to play for both Sarsborg 08 and Esperance in the same period, against FIFA regulations.

The question of who owned Uduok's 'Economic Rights' to play came under scrutiny. This of course is the proprietary right often shared by investors or other Clubs, to receive compensation when a player is sold, because of undertakings to fund some or all of the player's development. Another Grassroot Club/Football Academy A&B Academy claimed to own Uduok's Economic rights to play. It claimed that it had the right to authorise Uduok's contract with Sarsborg 08 since Uduok was only loaned to Dolphins FC, not sold. Dolphins FC refuted this claim and insisted no trip was authorised to Sarsborg 08 and they only recognised the negotiations with Esperance.

The situation highlighted the basic principles governing the structure of a sports contract, and if employed properly the law would have given the parties a simple and dependable basis for doing business together. Any decent lawyer would have been able to

point out to the parties the need to identify the holder of the player's economic right to play before commencing contract negotiations, and likely save the parties time, money and perhaps spared them the embarrassment.

Adrian Mutu v. Chelsea FC

Nearing the height of his career another footballer and striker Adrian Mutu transferred from Parma to Chelsea Football Club in August 2003 for £15.8 million. His prowess as a forward earned him 4 goals in his first 3 games, but soon after in only his second season he was found to have repudiated his contract after testing positive for cocaine. Chelsea FC were forced to terminate his contract and were faced with incurring the loss of his transfer fee without him completing his contractual period.

Mutu went on to play for Juventus in Italy after serving out a 7 months playing ban imposed by FIFA, and a series of transfers, first to Livorno FC and finally to Juventus. Chelsea FC then claimed for the sum of his transfer fee against Mutu and his new employers Juventus and Livorno at FIFA's Dispute Resolution Chamber, the tribunal set for resolving player/club disputes. The effect is that over a decade after Mutu's repudiatory breach and a series of appeals by Mutu, Chelsea FC won their claim against him and are entitled to be paid some £14.8 million in compensation, subject to his appeal to the European Court of Justice.

The claim again reasserts the strong and predictable nature the law provides for sports business. Big money requires big safety nets and few structures provide certainty and predictability as the law does. One only needs to consider the implications for multimillion dollar broadcasting rights for the Barclays Premiership or the viewing rights involved in the Olympics to see that when big money is involved law facilitates agreement.

Certainty and Predictability- Pillars of Business Success

Football is anything but certain and predictable and that is part of the allure of the Beautiful Game. However business and profitability are premised on exactly these two concepts- certainty and predictability. It is what makes individual or team performances into business dynasties, it is what separates the likes of Manchester United FC from Sheffield FC- the simple fact that team performance transcends sporting excellence and enters into business prowess.

In short the difference between Kano Pillars FC and Barcelona FC is not an unimaginable gulf in class or playing ideology. Any sports historian will show that Football teams, like sport sides go through different renaissance periods, playing styles and ideologies are re-invented, and importantly on any given Sunday the 11 men on one side may desire to win more than the 11 on the other side. Rather, what separates both teams is the "Legend" that is created and sustained over time by a certain and predictable level of performance.

This is what the law's structure does for sports. The law guarantees a minimum acceptable level of performance, which then translates to profits for the business. Small wonder then that the Nigerian Professional League is still a long way off comparison to the top 4 Football leagues in the world. Together, the English Barclays Premiership, the Spanish La Liga, the Italian Serie A and German Bundesliga earned a whopping £2.8 billion in television broadcasting revenue in the 2014/2015 football season. Inevitably this is reflected in players' wages and their ability to nurture and attract talent. It is clear, Nigerian Football and professional sports need the structures and stability that legal services are able to provide, which can then create profitability in the Nigerian Sports Industry. Send in the sports lawyers and watch sports taken to the next level in Nigeria.

RIGHT OF REPLY

Re: The Case for Solid Minerals Development

I read your write-up in THISDAY newspapers with the above title and the same thoughts that were on my mind when Olusegun Adeniyi wrote on solid minerals, some years ago, went through my mind again. Good piece, instructive, insightful but like most things written on solid minerals development it was mostly academic.

The solution for the development of the sector in Nigeria lies in the combination of the academic, technocratic understanding of the sector and the practical experience which unfortunately is almost non-existent in our country. From personal experience one of the most impactful and most outstanding gaps in the solid minerals development in the country is the lack of a functional railway.

Have you ever wondered why our colonial principals built the first railway in 1898, a full twelve years before the first paved road was constructed in 1910? The reason was that the railway was more important to the evacuation of produce. It must be noted that the solid minerals sector is mostly heavy industry and the best infrastructure for the movement of

the products and the equipment needed for mining is the railway.

Doing the cost comparison between the evacuation of solid minerals via roads and railways will show why no serious investor will put his money into a project that will only become a drain pipe. Give a thought to why cements factories are sited close to the source of the limestone deposits and imagine what Dangote would have done if he had to move limestone from Ewekoro to Obajana.

My personal experience in 2004 and 2005 will bring this to the fore. In 2004, I got allocations to evacuate iron ore from the National Iron Ore Mining Company, Itakpe and when I reached out to my Chinese partners they were excited. Then the practical reality set in, while the cost of iron ore in India was \$4 per tonne and \$7 per tonne for transportation by rail to China it would have cost me N 8,000 per tonne to move the ore from Itakpe to Lagos ports using our roads, a difference of over 90%. Of course the deal fell through.

Again in 2005, I got an order from a company in Port Harcourt to supply locally mined barite from either Benue or Nassarawa state and I

had to cough out N 240,000 for a 30-tonne truck to convey the products. But with the cost of transportation higher than the cost of the product and the investor left with zero profit margins I did not need a prophet to tell me to run.

A closer look at the rolling stock of the Nigerian Railway Corporation will show that with more cargo and freight wagons than passenger wagons the corporation was set up with goods evacuation as a top priority. If the Government can rehabilitate and fix the present line as it is with emphasis on freight, we will see a revolution not only in the solid minerals sector but a drastic reduction in the cost of locally grown foodstuff by at least 40%. Ever wondered why you have fruit and vegetable garden-markets close to railway crossings in most states that have railway connections in the southern part of Nigeria?

May, maybe all you need to ensure the completeness of your write-up is to include this simple line for government and our policy makers - Fix the railways and the solid minerals sector will open.

Arubi Agama