

Issue 5

# touchline

The journal of sport & risk with an international perspective

## Focus on Irish sport: GFC may impact the rise of Irish Sport

What if I owned  
a football club?

Exploring the future  
for sports viewing

Stadium safety  
in the spotlight

Photo by Kieran O'Shaughnessy



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# Regular Sport on the Increase in England

New research by Sport England shows an increase in the number of people playing sport regularly. Over 600,000 more people are playing sport regularly since 2005 when London won the bid to host the 2012 Olympic and Paralympic Games. The number of adults in England who play sport at least three times a week has reached 6.93 million, continuing the positive upward trend over the past four years.

The encouraging news comes despite a fall in the amount of money people are spending on sport and recreation during these challenging economic times. Sports which cost more to take part in, such as golf, sailing and snowsport, do appear to be facing challenges in retaining their participants. Also, whilst male participation has increased, participation by females and disabled people has decreased in the same period. The number of adults with a limiting disability doing regular sport has decreased by 42,800 to 386,700 and regular participation among women has fallen by 61,000 to 2.727 million.

The figures cover the first six months of a four-year funding period in which Sport England will invest up to £880 million of Exchequer and National Lottery funding in community sport. Almost half a billion pounds is going to 46 sports' national governing bodies, all of which have been set individual targets to increase participation over the four years.

Half a dozen sports are already meeting their growth targets for year one. In addition to cycling and athletics, which have delivered a combined increase of over 240,000 weekly participants, the other sports are boxing, table tennis, canoeing and netball.

Tennis, which has seen significant increases in participation since Andy Murray's strong performance at Wimbledon, is also on course to achieve its year one growth target.

There are four sports with over one million people taking part each week, swimming (3,162,400), football (2,122,700), cycling (1,880,000) and Athletics (1,739,700).

"This is an encouraging set of results," said Richard Lewis, Sport England's Chair. "It's clear we're making progress both in getting the right sporting opportunities in place, and in changing people's sporting behaviours.

"Six months into a four-year funding period, we're delighted that sports such as athletics and cycling are already delivering substantial growth. However, the figures clearly show we face challenges on participation among women and disabled people, and Sport England is committed to tackling these, as demonstrated by our allocation of £10m to projects specifically focused on women's sport."



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Cover image: Hurling  
Photo by Kieran O'Shaughnessy

## Cheats never prosper - but try telling the Irish that!!

So the luck of the Irish finally ran out with the hand of Henry.

The incident which led to the French goal in extra-time has been hotly debated around the world. Henry confessed to using his arm to control the ball before teammate Gallas scored. Within hours, the web was flooded with comments mocking the French striker for his blatant cheating. The Irish Justice Minister demanded a rematch and other commentators said that the French team should be thrown out of the World Cup finals and the match awarded to Ireland.

But of course this is not the first time that cheating has meant that the guilty person or team have benefited from the action. We like to think that sport was about integrity, fair play, pride in achievement, a drive to improve and the chance to compete against your peers with the best winning out. We therefore rightly react with anger and disgust when we see those who we may hold up as role models behaving in this way - particularly when our team are on the receiving end!

There are those who are prepared to go to any lengths to win, even if it means moving the goalposts - literally! In this edition we report on Kim Christensen, the IFK Gothenburg goalkeeper, caught on camera kicking in both sides of the goalframe to reduce its size at the start of a Swedish football match. He admitted that this was not the first time he had moved the goalposts "I got the tip from a goalkeeping friend a few years ago, and since then I have done it from time to time".

We tend to think that this is a modern phenomenon, but unfortunately cheating is as old as sport itself. The 1919 Black Sox scandal is a famous example of athletes throwing a contest. The 1919 World Series pitted the favourites Chicaco White Sox against the Cincinnati Reds. Rumours of the



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series being fixed were rampant before the match, which caused an influx of money to come in betting for the Reds. The rumours were true, and eight members of the White Sox conspired to throw the series. All eight players were eventually banned for life.

The Olympics have a long history of athletes using drugs, but it all came to a head in the 80's with Ben Johnson being stripped of his gold medal that he won in the 100m sprint. The scandal was particularly devastating for Canada, who latched onto Ben Johnson with excitement and national pride, only to be gutted two days later when it was revealed that Johnson had been using drugs.

One of the most famous cheats in sports history was Maradona's "hand of God" goal in the 1986 World Cup quarter-final between England and Argentina. Maradona punched the ball into the goal with his left hand. After the game and the 2-1 Argentinian victory came Maradona's famous quote claiming that the goal was scored a little with the head of Maradona and a little with the hand of God. Argentina went on to win the World Cup, only increasing the significance of the wrongly allowed goal.

So, whilst most of us will feel a great deal of sympathy with the Irish, unfortunately they were not the first and certainly won't be the last to be defeated by cheating. And who says cheats never prosper!

January 2010

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## Can Rio deliver a secure Olympic Games?

Rio de Janeiro has won the bidding for the 2016 Olympic Games, but the city has a long way to go before it is ready to host a secure games.

Recent violence across the Brazilian city left 12 people dead. Rio's mayor, Eduardo Paes, said combating local warfare will prove the biggest challenge for games organisers.

"We never hid our problems during the bid process. We always told people -- and we are still facing problems," Paes told the Global Sports Industry Summit in London. "We still have a lot to do, we have a long way to go and what happened

this weekend showed that."

Only two weeks after the city was awarded the Olympics, beating out Madrid, Chicago and Tokyo, drug traffickers shot down a police helicopter in Rio killing two officers. A further 10 suspected gang members were killed in another outbreak of violence.

While the city of six million people is known for its beautiful beaches and colourful partying, it is also one of the world's most violent cities. Almost daily shoot-outs between police and armed gangs that control many of the city's roughly 1,000 slums plague Olympic preparations.

However, Paes insists, "We are sure by 2016 we will deliver the Games and hopefully in a way that the city will be more peaceful and secure for all our citizens."

"We worry about security for our citizens, for our everyday lives, for the visitors that come on a regular basis. That's our challenge but things are moving forward. ... The violence we face in Rio will be much, much better by 2016."

Rio's win to host the Olympics means Brazil will host the world's two biggest sporting events back to back.

Many wondered whether hosting the World Cup in 2014 would work against Rio but Paes said the opposite ended up being the case.

"It showed the International Olympic Committee that Rio would have to be ready two years in advance," he said.



## Zero tolerance for head hits at Olympics

The International Ice Hockey Federation (IIHF) announced there will be zero tolerance for hits to the head in hockey matches played at the Vancouver Olympic Games.

This announcement sees the enforcement of a rule adopted in 2002 at the IIHF's congress in Sweden.

"The calling of this rule follows the same principles as the rule on checking from behind," IIHF sport director Dave Fitzpatrick said on the federation's website. "This means; a two-minute minor plus a 10-minute misconduct, a five-minute major plus an automatic game misconduct or a match penalty.

"The IIHF has a supplementary discipline rule where all such calls can be reviewed and additional suspension added if deemed necessary."

While the National Hockey League continues to debate the issue of hits to the head, the IIHF introduced its rule as a result of research into concussions and their long-term effects.

"This rule is backed by scientific research and study," said Fitzpatrick. "The application of the rule begins to address the insurance costs for medical attention of injured players plus the insurance for contracts between injured players and their club for missed time due to such head injury. We have learned through our research that the recovery from a concussion and the return to play is an individual one and can vary from player to player and increases with each additional concussion sustained."

Canada's Murray Costello, who is the IIHF's vice-president and chairman of the federation's medical committee, helped to introduce Rule 540, which penalizes a player "who directs a check or blow, with any part of his body, to the head and neck area of an opposing player or 'drives' or 'forces' the head of an opposing player into the protective glass on boards."

"With the size and speed of today's game, the players' talents and their lives are far too important to subject them to direct hits to the head," Costello said on the website. "We must eliminate them from the game; in the same way we removed hitting from behind, to avoid the threat of spinal injuries."



## HEAD HITS HIT HARD IN WASHINGTON

Washington State in the US has enacted the nation's toughest law regulating when high school athletes can return to games after having sustained a concussion.

The legislation prohibits athletes under 18, who are suspected of sustaining a concussion, from returning to play without a licensed health care provider's written approval.

The law also requires each of the state's school districts to work with the Washington Interscholastic Activities Association to develop a standard for educating coaches, players and parents

on the dangers of concussions and head injuries. A concussion and head injury information sheet must be signed by the athletes and their parents or guardians.

The U.S. Centers for Disease Control and Prevention estimates that more than 3.5 million sports-related concussions occur each year in the US. Concussions were the second most common injury among high school student-athletes during the 2008-09 school year (behind ankle strains and sprains), according to the National High School Sports-Related Injury Surveillance Study. Researchers estimate that high

school student-athletes suffered almost 400,000 concussions between 2005 and 2008. The majority of those injuries were in football, followed by girls' soccer, boys' soccer, girls' basketball and wrestling. An alarming 16 percent of all football players who sustained a concussion severe enough to cause loss of consciousness returned to play the same day.



## \$7.5 million payout to brain-injured football player

La Salle University in Philadelphia has agreed to pay \$7.5 million to a severely brain-damaged football (gridiron) player, an amount five times the school's annual athletic budget.

Preston Plevretes, a sophomore linebacker, was severely injured in a 2005 game against Duquesne University, six weeks after suffering a concussion during a practice session. His lawyers argued that because La Salle prematurely cleared him to return, without having him undergo proper testing or be seen by a doctor, the player became a victim of second-impact syndrome.

In that medical condition, the brain swells rapidly after a person suffers a second

concussion before symptoms from an earlier concussion have cleared up.

Plevretes, 23, from Marlboro, N.J., fell into a coma soon after a collision with a player from the opposing team. He has since undergone several operations and treatments, in facilities from Pittsburgh to Cologne, Germany.

His Philadelphia-based lawyer said Plevretes still requires around-the-clock care and has difficulty walking and talking.

La Salle now performs baseline testing at the start of a season to use as a comparison in the event of an injury.

The school also requires all athletes who suffer concussions to be examined by a concussion specialist, and it now uses "computerized neuropsychological testing" for those with head injuries.

The severity and frequency of football head injuries has led to increased liability and insurance payments for schools. Many schools the size of La Salle carry supplemental insurance for student-athletes, who first are required to submit any injury claims to their personal insurers. Many family plans, however, do not cover sports injuries.

## REDSKINS REIGN DESPITE RACIST CLAIMS

The US Supreme Court has dismissed an appeal lodged by a group of Native Americans who claimed that the Washington Redskins' name perpetuates racial stereotypes.

The complaint had already been rejected by a lower court and, although a victory for the plaintiffs would not have forced the National Football League team to change its name, it could have lost its exclusive rights.

The team was founded in 1932 as the Boston Braves but was renamed the Boston Redskins in 1933 after its American Indian head coach, William "Lone Star" Dietz. It moved to the District of Columbia in 1937 and became the Washington Redskins.



# Financial crisis may impact the rise of Irish sport

**Sarah O'Connor is the Chief Executive of the Federation of Irish Sports. Prior to joining the Federation, Sarah trained and worked as a solicitor with Arthur Cox, one of Ireland's leading commercial law firms. Sarah studied law at Trinity College Dublin before undertaking a Masters in Law at the University of Cambridge. Sarah also completed an MBA in Sports Management from the Instituto de Empresa Business School in Madrid Spain in March 2009. Passionate about all sport, Sarah played hockey for Leinster and Irish Universities and remains involved with her local hockey club in Dublin.**



The Irish are passionate about sport. 1.2 million adults actively participate in sport, with a further 700,000 young people aged between 5 and 19 also regular participants. It is estimated that 285,000 people volunteer in Irish Sport every single week. In addition, 17% of the population regularly attend live sporting events whilst 46% of the population have attended at least one sporting event in the last year. On top of this some 486,000 people have recently signed up to a Facebook petition calling on FIFA to allow a replay of the now infamous Ireland v France World Cup Qualifier.

The "hand" of Henry besides, Irish Sport has thrived in recent years. Much of this is attributable to increased government investment in sport which only began in earnest in the late 1990s. 1996 saw the appointment of the first ever Minister for Sport whilst, the Irish Sports Council ([www.irishsportsCouncil.ie](http://www.irishsportsCouncil.ie)) was formally established in 1999.

The regulatory framework within which sport operates in Ireland is multi-layered. The Department of Arts, Sport & Tourism ([www.dast.gov.ie](http://www.dast.gov.ie)) which, is the central government department with responsibility for sport remains responsible for the formulation and evaluation of sports policy, oversight of major capital infrastructure to include the redevelopment of Lansdowne Road and the administration of the Sports Capital & Local Authority Swimming Pool Programmes. Both of these Programmes provide grant aid to assist in the re-development and/or construction of sport facilities.

The Irish Sports Council has two principal objectives namely, increasing the number of people involved in physical activity and sport and to ensure Ireland's performances in international elite sport improve. As part of this role, the Irish Sports Council remains the principle funding agency for the 60 plus national governing bodies of sport ("NGBs") and the 33 Local Sports Partnerships. It is also responsible for conducting research into sport, administering the anti-doping regulatory regime and the international carding scheme under which elite athletes can apply for financial and sport science support.

The Irish Sports Council has also established two subsidiary agencies namely, Coaching Ireland (formerly the National Training and Coaching Centre) ([www.coachingireland.com](http://www.coachingireland.com)) and the Irish Institute of Sport. Coaching Ireland's remit is to develop coaching on the island of Ireland. The Institute of Sport's overall purpose is to create an environment which influences, supports and ensures that talented Irish athletes will achieve sustained levels of excellence in elite sport. This is done primarily through the delivery of sport science and medicine support to NGBs and athletes as well as developing elite coach education and athlete career and performance lifestyle support.

The Irish Sporting landscape, while diverse, perhaps differs from other major European countries in that in Ireland the principle sports are in fact the indigenous games of gaelic football, hurling and camogie. There are in excess of 2,610 Gaelic clubs dotted around the island of Ireland.

A Submission to Government on the Future Funding of Irish Sport

## WHY IRISH SPORT MATTERS

Think of the role sport will and should play in the health of our nation.

Without the contribution made by sport we would have to borrow even more money.

Sport is at the heart of our sense of community. It will help sustain us in difficult times ahead.

Sport is an investment in the worldwide Irish community. It helps enrich our lives.

Think of the number of indirect jobs sustained in pure and attending sporting events.

Think of a world without Irish sporting success.

### 6 REASONS WHY IRISH SPORT MATTERS

- 1 Participation in Sport Improves Public Health**
  - 1.9 million people globally each year are afflicted by physical inactivity
  - Reduce risk of cardiovascular disease, diabetes and osteoporosis
  - Helps control weight and promotes psychological well-being
  - A study estimates that for every 1% of the population that become active, 120 deaths from heart disease and cancer could be avoided
  - UK research has found that physical inactivity costs them up to 11% of the Health Budget
  - The WHO recognises that promoting physical activity can be a highly cost-effective and sustainable public health intervention
- 2 Sport Contributes to the Economy**
  - €60.4 million total economic impact of the Volvo Stoptover on the West of Ireland
  - Rally Ireland generating €48 million for the Irish West Region
  - Estimated that Ireland's Foyles rugby international attracts €83 million into local economy
  - Wimbledon soccer international contributes €25.1 million to Greater Dublin Region
  - 130 jobs created by the National Governing Bodies of Sport and Local Sports Partnerships
  - 2008 Andrew "Flamingo" generated €3.9 million for the local area
  - 40 Ireland Fairs is a board and hurling contribution more than €40 million for Dublin
  - Harpicon Cup Quarter Final between Donegal & Monaghan is estimated to have generated €10.15 million for Limavady.
- 3 Sport Builds Communities**
  - Sport is the largest single source of volunteering followed with over 780,000 people volunteered in sport at least once a year
  - 15% of adults volunteered in sport in the last 12 months which is the equivalent of 800,000 extra hours
  - 53% of the adult population are members of at least one sports club with better participation at 55%
  - 70% of sports participants say meeting people is a reason for playing
- 4 Sport Establishes Pride in Ireland at Home and Aboard**
  - 17% of the population regularly attend live sporting events
  - 44% of the population have attended at least one event in the last year
  - 808,000 people watched the 2009 All Ireland Football Final on RTE with 77,000 watching the live event on RTE
  - High Asian Gaelic Games to be held in Brisbane in 2009 with 20 clubs participating and the Asia Pacific Ireland Business Forum launching during the event
  - Over 100,000 people were estimated to attend the Nations 2009/10, 13 million the amount spent on Ireland's World Cup team match on RTE - the single most watched programme in 2009
  - Corked Ireland website attracted almost 3.5 million hits in 2009 and had 10,000 unique users in 2009
  - 1.5 million people attended GAA Championship matches in 2009
- 5 Sport Drives Tourism**
  - 420,000 people visited the Race Village during the Galway Races Stoptover event last year period
  - In excess of 200,000 overnight visits were directly attributable to the event
  - The 2009 Tour of Ireland cycle race was estimated to a global audience of 20 million by 200 Irish Cycling Federation
  - Dublin Chamber of Commerce found that 4 Nations fans in 2008 spent, during their visit this year as well as staying, approximately €125 million worth of food and drink with another €10 million spent on other government and non-government
  - €2.8 million TV viewership generated and RTÉ Ireland in 2007 - the most watched sport in the 2007/08 Even, WCC Series
- 6 Sport Makes us Feel Good**
  - Sport has been a consistent bright spot in an otherwise difficult year
  - Imagine 2009 without:
    - Gracie 100 celebrations
    - Grand Slam business
    - Irish and the World Cup Qualifiers
    - Bonnie Owens
    - Leinster and the Heineken Cup
    - The Irish Lions
    - Adam Carroll and A1 Grand Prix
    - Olivier Chazy, Daniel Phoenix and David Gillet at the World Athletics Championships
    - Katie Taylor and another European Boxing Championship
    - John Joe Neill's World Boxing Medal
    - Rugby's Six Nations Championship
    - Cock Lather 5th successive All Ireland Football Title
    - Philip Deignan and the Tour of Spain

The annual inter-county Championships in football and hurling capture the hearts and minds of communities' right around the country during the summer months. In 2009, 1.5 million people attended championship matches whilst 808,000 people watched the live broadcast of the football final with a further 720,000 tuning in for the hurling final.

Despite the huge following and significant commercial sponsorship that the Gaelic Athletic Association ("GAA") attracts, what remains unique about the GAA is that its players remain amateurs. Indeed, the amateur status of athletes is central to the ethos of the GAA and despite the growing number of professional opportunities for talented Irish athletes particularly in rugby, soccer and indeed more recently, Aussie Rules, it is difficult to see any significant change happening in the amateur status of GAA athletes. The participant numbers of gaelic games which would be in excess

reduced by some 33% from the 2008 peak of €311 million to €195 million in 2009. This resulted in a suspension of the Sports Capital Programme as well as a 11% reduction in the Irish Sports Council budget to just under €52 million.

The government did establish a National Lottery in 1986 which was designed to generate funds for good causes, one of which was sport. Unfortunately however, the proceeds of the Lottery which amounted to some €286 million in 2008 are simply directed towards the central exchequer with no ring fencing for any particular "good cause" including sport.

There is a real fear that sport may be seen as an easy target as the Irish government addresses the significant challenge of reigning in the budget deficit. This was heightened in July last year with the publication of a report on government spending which recommended a 33% reduction in Irish Sports Council funding without any significant analysis being completed.

There is a belief amongst Ireland's sporting organisations that a simplistic view of sport remains amongst our

- 1. Participation in sport improves public health**
- 2. Sport contributes to the economy**
- 3. Sport builds communities**
- 4. Sport establishes pride in Ireland at home and abroad**
- 5. Sport drives tourism**
- 6. Sport makes us feel good**

of 200,000 when the female sports of ladies football and camogie are taken into account, is matched only by soccer (and golf) which has more than 180,000 regular participants. Indeed, girls' and womens' soccer is one of the fastest growing sports in Ireland with a 57% growth in playing numbers since 2005.

However, it is perhaps rugby, at least on the international stage, that has captured the imagination of the Irish public more than any other sport in recent times with the so called "golden generation" of players finally ending a 61 year wait for Grand Slam Success in the RBS 6 Nations in March 2009 with a 17-15 win over Wales at the Millennium Stadium in Cardiff. This international success has been matched by Heineken Cup glory for the provinces of Munster and Leinster in 2006, 2008 & 2009. The IRFU, the governing body for the sport of rugby in Ireland, has managed to capitalise on that success by boosting player numbers by 24% in the 12 months between 2008 & 2009.

Golf too remains a hugely popular sport with over 53,000 women and 210,000 men playing the game. Ireland is lucky to have some of the world's best courses and indeed some of the world's best golfers with Padraig Harrington, Darren Clarke, Paul McGinley, Graeme McDowell and Rory McIlroy all achieving international recognition and success.

There are some 60 other sports played in Ireland. However, each of these remaining sports is generally not in a position to attract sustained commercial investment, be it through sponsorship or the sale of television rights. Indeed, for these sports it is the funding they receive from the Irish Sports Council that is vital to their continued operation, the implementation of development programmes, coach education, child protection and high performance programmes and pathways.

It is for this reason that the current global economic downturn has cast a few shadows over Irish Sport. Funding to sport was



policy makers and that sport is seen as just games and not something that contributes to public health, the economy, drives tourism, builds communities as well as projecting a positive image of Ireland both at home and abroad. On this basis, the Irish sporting community has come together to ensure that there is an increasing awareness of "Why Irish Sport Matters?" (<http://www.irishsportmatters.com/> and <http://www.facebook.com/whyirishsportmatters> )

Sport is a force for good. There is a chance that much like the environment in the 1960s that it something that we assume will be around forever, that it does not need nurturing, protection and development. Nothing could be further from the truth.

Irish sport, along with all the dividends it can deliver to Ireland both economic and otherwise, has real potential to be a tool in the recovery of our country. Here is hoping that our policy makers buy into that vision and allow Irish sport to maintain and build on the progress that has been made over the last ten years both in terms of increasing the accessibility of sport to all and improved consistency of performance on the international stage.

# on track

QUICK NEWS TO KEEP YOU IN THE FAST LANE

## Bidders for 2013 Rugby Sevens World Cup announced

The International Rugby Board has confirmed that three Unions have formally expressed their intention to tender to host Rugby World Cup Sevens 2013. Brazil, Germany and Russia are keen to host Rugby Sevens' showcase tournament for the first time, featuring 24 men's and 16 women's teams playing over three days of competition.

The strong level of tender interest is another significant boost for Rugby Sevens at a time when the sport is enjoying its highest ever profile following the International Olympic Committee's decision to include the sport in the Olympic Games, starting from 2016 in Rio de Janeiro.

The host of Rugby World Cup Sevens

2013 will look to follow in the footsteps of Dubai 2009, which elevated Rugby Sevens to new heights and demonstrated why the sport is a perfect fit for the Olympic Games.

The first to feature a women's competition, Rugby World Cup Sevens 2009 pushed the boundary for Rugby Sevens once more, shattering all previous broadcast records with the action reaching 141 countries through 29 international broadcasters in 19 languages.

The Host Union for Rugby World Cup Sevens 2013 will be selected by the IRB Council at its May 2010 meeting.

## Three cities to bid for 2018 Winter Games

Following the 15 October deadline, only three cities have announced their official bids to host the 2018 Winter Olympics. Annecy in France, Munich in Germany and PyeongChang in South Korea have submitted bids to the International Olympic Committee.

This is a decrease from previous bidding processes for these Games, most recently for the 2014 Winter Olympics, which saw

seven applicant cities put forward a case to the IOC.

The winner will be announced in Durban, South Africa in July 2011.



## ECB to fight back over Listed Events decision

The England and Wales Cricket Board is looking to strike back at the proposed decision to add the home Ashes Test Series to the newly revamped Listed Events ruling, which governs which sports events are reserved for free-to-air television, by producing its own review detailing the severe financial implications the move will have on the sport.

A nine month review of the existing structure of the Listed Events ruling led by former FA executive director David Davies, has recommended that the UK government add the national flagship cricket series to the list of events that cannot be shown on pay-TV in order for them to be made available to the widest possible audience.

The move, to be announced alongside

a number of other amendments, has significant financial implications for the ECB whose revenues derived from its existing TV rights deal with Sky would be likely to be reduced by over £100m in the advent of being forced to negotiate solely with terrestrial broadcasters.



If the proposed changes were to come into effect, the next home Ashes series (2013) would remain on Sky under its existing contract, with the first to switch back to terrestrial TV being the 2017 series.

The recommendations for the government are also likely to include placing international football qualifiers for the home nations, the Wimbledon tennis championship and golf's Open championship on the list.

## FINA considers adopting two world record marks



The argument over the use of high tech bodysuits in swimming has taken another turn after it was revealed the world governing body FINA is considering recommendations to adopt two sets of world records – one for times set using the performance-enhancing apparel and one without.

The Coaches Commission of FINA has recommended to the world governing body's ruling executive, which meets in January, the creation of a 'World Textile Mark' which would honour swimmers who beat world records that stood prior to 1st January, 2008, when all race suits were made of textile.

A new set of rules regarding the use of bodysuits came in on 1st January 2010, which bans suits that do not revert back to the 'textile-only' version of the apparel.

Since the launch of the Speedo LZR Racer, with several other high tech suits following in its wake, no fewer than 234 world records have fallen. The race suits, made of polyurethane and neoprene, aided buoyancy, speed and endurance by compressing tired muscles.

If the proposal of coaches is taken up, event organisers and suit makers are likely to offer two levels of world-record bonuses: one for those who get past the world record as it stood on 1st January, 2008, and another for those who pass suit-assisted performances.

Many would like to see a line drawn in the record books that does what coaches are suggesting, without the need for parallel sets of records: anyone who gets past a world record that stood on 1st January, 2008 would be the next world record-holder, without reference to the high tech era.



# on track

CONTINUED...

## LOTUS SECURE F1 GRID SPOT

Lotus are to return to F1 next season for the first time since 1994 after the team was awarded the final grid spot for the 2010 line-up.

The Malaysian funded outfit join Campos GP, Virgin and US F1 as one of four new teams for the upcoming season.

The FIA published the entry list for the 2010 world championship, featuring 12 rather than the expected 13 teams.

Brawn, as expected, plan to change their name following their takeover by Mercedes Benz, while newcomers Manor are officially entered as Virgin. Red Bull retain their Renault engine supply.

The full entry list of constructors and drivers as published by the FIA is as follows:

McLaren Mercedes; Brawn Mercedes Benz\*; Red Bull Racing Renault; Ferrari; Williams Cosworth; Renault; Force India Mercedes; STR Ferrari; Lotus Cosworth; Campos Dallara; US F1 Cosworth; Virgin Cosworth

The Lotus team will be initially based in Norfolk, though its future design, research and development, manufacturing and technical centre will be purpose built at Malaysia's Sepang International circuit. The organisation behind the new Lotus team have bought the rights to the name Team Lotus - which competed in F1 from 1958 through to 1994.



## Drinking and skiing – a recipe for disaster

It is estimated that approximately 1.3 million Britons will take to the slopes this northern hemisphere winter as the forecasts are good for Europe's ski resorts.

Custom dictates the après-ski drinks by the fire followed by a long sleep to do it all again tomorrow.

Recent evidence has shown, however, a surprising number of people get back on their skis after drinking during the day. Almost a quarter of skiers canvassed confessed they had skied down a mountain after drinking more than four units of alcohol. Thirty-five percent of men interviewed revealed that they regularly drink and ski.

A quarter of skiers say they've been affected by others who'd been drinking – for example being hit by a drunken skier. Men aged 31-35 are the group most likely to slurp and ski. Alarming, 41 per cent of this age group believe they are covered by their insurance in the event of any accident, even if it happens due to drinking alcohol.

Steve Williams, head of travel insurance at the website Confused.com, which carried out the research, said: "All travel insurance contracts have an exclusion regarding claims made as a result of alcohol consumption. Providers are fully within their rights to decline claims involving alcohol."

While some European ski resorts employ staff to patrol the slopes and watch out for reckless skiing or drunkenness, it's up to the individual to control themselves.



## Premier League unveils new financial regulations

The Premier League has introduced new financial regulations which will see top-flight clubs facing lengthy transfer bans if they fail to adhere to the new proposals which include legislation surrounding the number of 'home grown' players in each squad.

Under the new rules which govern the make-up of the clubs' squads, the Premier League Board has the power to punish clubs who fail to meet certain criteria. From

next season, each club will, at the end of every transfer window, have to name a squad of up to 25 players, at least eight of which will have to be 'home grown' - registered for at least three seasons at an English or Welsh club between the ages of 16 and 21. Squads can be increased beyond the 25 limit but only by players under the age of 21.

The Premier League's new financial rules are similar to UEFA's current licensing



guidelines, but differ in that they are compulsory to clubs and punishment takes the form of sanctions as opposed to outright exclusion from competition.

## Niall O'Driscoll

CEO, O'Driscoll O'Neil Insurance

Niall O'Driscoll is the Chief Executive Officer and major shareholder of O'Driscoll O'Neil Insurance Brokers, based in Dublin.

He is a highly motivated, solutions-focused individual who counts navigating the perils of three teenage children as one of his greatest accomplishments.



Niall kindly shared some of his time and insights with *Touchline*.

**Could you please describe the career path that has brought you to where you are today?**

I started in insurance in 1979. I went to Belfast to work for AON then came back in 1982 to work for local broker McMahon & Galvin until 1987. I then started the O'Driscoll O'Neil Group and am currently the CEO/major shareholder.

**What are your particular areas of interest or specialty in the insurance business?**

I specialised in sports insurance about 10 years ago and was the only broker in the Irish market dedicated to sports teams. This evolved out of my interest in underage soccer. I am Club Secretary of one of Ireland's largest schoolboys' soccer clubs - St. Joseph's Boys AFC.

I designed an insurance solution programme for soccer clubs 10 years ago and have now replicated the same products for over 30 different national governing bodies.

My particular interest in sports insurance is to provide solutions to many volunteers who run clubs.

**What professional accomplishments are you most proud of?**

Some of the major accomplishments for the business are that we were the first brokerage in Ireland and the UK to achieve ISO9000 and Q Mark status, together with having a specialised sports team.

**What are the best aspects of your current job?**

A great part of my current job is the variety of dealing with the different aspects of sports organisations and, indeed, businesses alike.

**What do you feel are important challenges for the industry in Ireland at the moment?**

The challenge is going forward in Ireland which is suffering from the economic recession. Premiums and claims are on a

sharp rise, which presents challenges in the whole area of risk management and client ownership. Ireland in particular is a highly-educated society and understands the need for solutions in these areas, but the reality is that it all costs money and time.

**You've worked with Sportscover for some time now. Do you have any comments on your dealings with the company?**

Our relationship with Sportscover has grown well over the last few years and the support of an insurer who understands sport assists O'Driscoll O'Neil in delivering tailor-made solutions to our clients. The variety of products that they offer is so much more beneficial than standard insurers operating in the market place.

**Which sports to you participate in or follow?**

I currently manage the Under 8s in St. Joseph's and am a keen supporter of Tottenham Hotspur in the Premier League. My favourite Manager would be Alex Ferguson. I have a keen interest in all sports.

**Which personal accomplishments you are most proud of in the last few years?**

My biggest personal accomplishment was fighting cancer 20 years ago and my most recent on-going personal accomplishment is managing three teenage children.

**What do you regard as your personal strengths and weaknesses?**

I'm highly motivated, focused and know what I want. My biggest weakness is lack of tolerance.

*Pictured above: Niall O'Driscoll (centre) with his brother Tim (left) and Sportscover's Christopher Nash (right) in Melbourne recently.*

# What if I owned a... football club?

Huge television deals and global advertising sponsorship opportunities continue to tempt investors from around the world into acquiring UK premier league soccer clubs.

Many of the buyers are canny business people adding diversity to vast corporate empires. Some of them are simply passionate fans of the beautiful game, whose entrepreneurial judgement has been left on the bench.

Whichever way you look at it, owning a football club must surely be one of the riskiest commercial ventures around. How many other enterprises combine so many risks, from the high value human capital of the players right through to the complex public liability risks represented by a football ground filled with delirious (or disappointed) fans?

On face value, owning a football club looks like a risk management nightmare! But, in reality, nearly all of the risk exposure issues that any soccer club faces are insurable - at a price.

## On me head!

Soccer players are highly trained athletes and they frequently take a knock. The sports pages are filled with stories of star players going down with anything from knee injuries to broken bones.

Clubs need to buy standard accident and injury covers that protect players and their club from personal accident costs, through to loss of earnings and private healthcare. Depending on the player and size of the club, such covers are sometimes negotiated through a player's agent and the premium cost shared with the player.

But it's complicated, as Chris Nash, active underwriter with Sportscover Syndicate 3334, points out. "There are side issues that need to be taken into account relating to, for example, players that are on loan and players that are loaned out," he explains. "Players' representative duties, when they play for the national team, must also be addressed. The club

Owning a football club is one of the riskiest commercial ventures around but nearly all the risk exposure issues are insurable.



won't normally release the player unless the national team demonstrates it has cover in place."

Owners face risks to their prized assets off the pitch as well, of course. Soccer teams are always on the move, playing away games in their own country and, if they are successful, cup ties abroad.

There hasn't been an incident to match the Munich air disaster of 1958 when eight Manchester United players lost their lives, but 50 years on the loss still resonates strongly with owners and underwriters alike.

"It is usual for entire teams to not travel together and for insurers to ask for the team to be split between different scheduled flights," Chris Nash explains. "If the team does travel together the insurer will usually include an aggregation limit in the coverage."

## Offside ref! Offside!

Back at home, there are wide ranging liability exposures, the most obvious being public liability and the risk management of big crowds. Around the stadium, owners also have employers' liability exposures that extend to ground and security staff as well as players.

With players, including the opposition, clubs face an on-field risk exposure relating to foreign objects on the pitch that could lead to injuries. "We insurers

usually ask clubs to do an 'emu parade' before games where staff walk the pitch in a line to look for potentially harmful objects," Nash says.

A good groundsman is worth his salt, as liability problems to do with the quality of the pitch could arise. But it pays to hire a decent electrician as well. A lot of games are played at night and it is not unusual for fixtures to be cancelled because floodlighting has failed. The penalties for compensating disappointed fans and keeping unhappy sponsors on side are immense.

"That's a contingency that can be insured if a club owner is prepared to pay the premium and accept the conditions placed upon them," Sportscover's Nash points out.

There are less tangible – but nonetheless insurable – issues that owners need to address if they are to avoid scoring an own goal with sponsors or advertisers. "Reputation – or 'death and disgrace' – is an important risk where star players are closely associated with the club's own brand," Nash points out. "A scandal surrounding a player could spell the end of a relationship with sponsors or even the direct sales of a club's product."

A scandal surrounding a footballer: how likely is that? Hmm. The more you think about the risks around owning a football club, the more attractive the fantasy football league becomes.

## “Is the match on the laptop tonight?”

*There has been fierce debate in countries such as the UK and Australia over which sporting fixtures should be “national heritage” events that must remain free to view for everyone on terrestrial TV. However, the debate is no longer only just about free TV versus pay TV. Now that Internet streaming is a reality, will it become the medium of choice by the viewing public?*

*Chris Hootton explores the future for sports viewing.*



Did you bother to watch Ukraine versus England online? No, me neither.

The reaction to the broadcast of that England international via the internet has been near hysterical, with many people enraged and pundits chastising broadcasters for making money out of a national event. This has led again to a sudden spate of patriotism demanding the free coverage of international fixtures.

Much ire has been directed at Setanta over the past year (note the “We hate Setanta” chants in the Andorra v England game in September 2008) and even now when they have gone bust they are still to blame for all failings in the Ukraine game.

By and large, the actual coverage of the match passed glitch free and will encourage media outlets to consider internet streams as viable going forward.

However, indignation regarding the politics surrounding the chain of events is apparent.


For those who argue that it is sacrilege for international games not to be shown on free to view television, think back ten to 15 years when the home games were shown but away games were only available through the medium of radio.

Furthermore, when was the last time all home nation’s games were freely available? In fact, in most countries there is already a huge number of subscribers for the sports channels of the satellite and cable broadcasters because many sports and events are just not available on free TV. So will watching sport on the internet become the norm?

‘Not everyone has access to the game on the internet!’ I hear some argue. If you look deeper, there are roughly

only 9.4 million people possessing a Sky subscription in the UK which is vastly outweighed by the 18.3 million households with Internet access according to government statistics this year, this represents 70% of the UK who potentially had access to the game.

So, a one off charge of around £10 seems good value when you weigh up a yearly Sky Sports subscription in excess of £300. However, perhaps the biggest hurdle facing web broadcasters is the reluctance of the public to buy into the box office culture as the Americans do for example. Many refuse to cough up for yet another subscription on top of the BBC television licence, a Sky football package, a Virgin Media subscription or the top-up ESPN football coverage.

Some websites offered the stream to viewers for free for signing to their service such as Bet365 or the numerous 

national newspaper websites such as The Sun and The Sunday Times.

With an increasing quantity of television programming becoming available to view online through services such as BBC Iplayer or 4ondemand, viewing habits are changing; meaning people are much more receptive to viewing a football match online.

However, there are the downsides of lag times; no matter how good a connection is promised or the speed of your broadband connection, there always seems to be the odd glitch. Or even more frustrating, when the commentary precedes the action by several seconds, removing the feel of live fluid stream and you hear the commentator shouting superlatives on the "quality of that strike" when the ball is still in the centre circle.

It really boils down to convenience and practicality against quality and atmosphere.

It was a rare set of circumstances that set the live internet broadcast into motion, beginning with the collapse of Setanta Sports who had the rights to England's away games. Kentaro, the company who held the rights to the fixture before they were sold to Setanta, tried to attract ITV and BBC but neither would meet the asking price for a meaningless game when England had already qualified for the World Cup, so Kentaro employed Perform to broadcast the event.

Declared a success after nearly 500,000 viewers signed up for the broadcast, there is obviously potential to develop the format, especially as more and more premier league clubs are setting up their own television channels online. This leap into the online mainstream could prove to be the catalyst for more of the big players to provide online coverage, but more likely this is only an experiment at present.

It wasn't so long ago that we had the debacle of u>direct, who bought the rights for England's game away in Finland in 2000, broadcasting the game through OnDigital with a somewhat disastrous outcome when coverage was interrupted after 15 minutes and the support line was permanently engaged. Subsequently the feasibility of online broadcasting suffered a massive set back in the public eye.

Despite the abundance of laptops, prevalence of Blackberries, and helpful widgets, many people are still secretly technophobes...

Despite the abundance of laptops, prevalence of Blackberries, and helpful widgets, many people are still secretly technophobes, so once online providers can distinguish a reputation of high quality streams from the ropery, intermittent illegal streaming websites dramatised in the papers, half the battle is won.

A growing fear of the television age, and one that will appear more prominent during this economic stumble, is that televising football matches will put the punters off from attending games. Internet coverage simplifies this process one step further and further reduces the related costs. But this does not seem to be the case. A report recently released by Deloitte's Sports Business Group reveals that football attendances in Europe are still on the rise, and Premier League grounds are 90% full! What recession!?

There seems to be a realisation by broadcasters that a large number of people now watch football online, whether at home

or in a pub legally or otherwise, and feel if they at least offer the service online legally then a percentage of these viewers, no matter how small, will take up the service. This is similar to the music industry where the issue of illegal downloads was tackled by introducing reasonably priced legal

downloads through providers such as iTunes, and more recently, the free to use Spotify.

The Internet may well provide a means for future viewing. Perhaps even a broadcast rights package will be sold off to show games in this format such as a recent deal where the Professional Squash Association signed a five year contract with Perform to broadcast 250 pay per view matches online. Perform also run online television channels for Chelsea FC, Cricket Australia and the Sony Ericsson WTA tour. In America, sports such as Major League Baseball and National Basketball Association have online subscriptions for online streams and 'out of market' packages to cover the games that don't command a high enough audience to warrant live television coverage.

For the present, this is merely an experiment to gauge the receptivity of the public to firstly watch games online and secondly to pay for the privilege on top of any current subscriptions. But perhaps it could be time to invest in an all in one media centre streamed into your HD TV or a comfortable sofa for your study!

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# Sports Shorts

## Rogge re-elected as IOC president

Jacques Rogge has been re-elected unopposed as president of the International Olympic Committee. Rogge will serve his final four years, which takes him through the London 2012 Olympics, before stepping down in 2013.

Sir Craig Reddie also became the first Briton to be elected on to the IOC's executive board since 1961.

A one-time Olympic yachtsman who also represented Belgium in rugby, he has also championed the creation of the Youth Olympic Games, which will debut in Singapore this year featuring athletes aged 14 to 18.

## Golfer hit on head by ball dies

Tributes have been paid to a 66-year-old mother of two who died the day after she was struck on the head by a golf ball.

Charity volunteer Janet Llewellyn from West Dunbartonshire, Scotland, was injured in a practice match at the Strathendrick Golf Club, Stirlingshire, on 1 October.

Her close friend Cathy McGroarty, 79, described the incident at the club in Drymen as a "total freak accident".

## Increase to 1000cc engines for MotoGP

MotoGP engines will increase in size from 800cc to 1000cc in 2012 after an agreement between the motorcycling series' governing body and rights holders.

The international motorcycling federation (FIM) met with rights holders Dorna in Switzerland to agree the switch and discuss rule changes.

'2012 will be the year of a new era of MotoGP,' stated FIM president Vito Ippolito. 'Manufacturers want 1000cc engines, so that's the way now.'

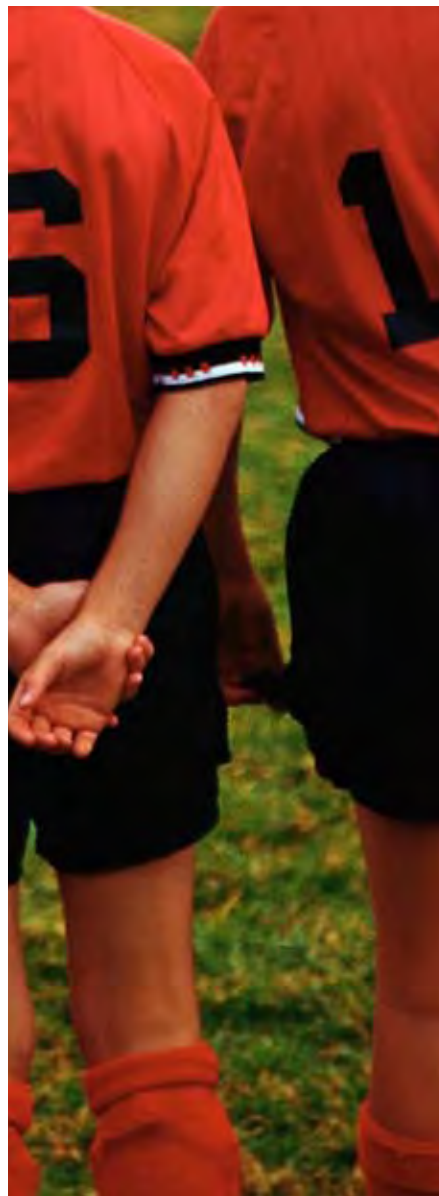
The top engine category in MotoGP increased from 500cc to 990cc in 2002 but was reduced to 800cc in 2007 in a bid to reduce costs and cornering speeds.

## New group cycling guidelines issued to reduce death and injury

New guidelines formulated with the help of Bicycle NSW, the state's main body for recreational and commuter cycling, have been issued by the New South Wales Government.

The main messages are to wear bright clothing, never ride more than two abreast, leave MP3 players and mobile phones at home and never travel in packs of more than 20.

The guidelines are aimed at reducing the increasing number of road injuries and deaths. In 2008 there were almost 700 cycling accidents, three involving fatalities, in the Sydney region alone. The number of deaths is expected to have doubled in 2009.



## 'Greatest security challenge' for London 2012

Lord West, Home Office minister has said that the London 2012 Olympics and Paralympics are likely to present the UK's 'greatest security challenge' since World War II.

Lord West is reviewing the best way to protect built-up areas, transport systems and national infrastructures from terrorist attacks and has stated that the level of terrorist threat at the London 2012 Olympics is expected to be severe. However he also added that it was important to ensure measures were not so heavy-handed that they frightened people away from the Games.

'We do not underestimate the scale of the Olympics challenge. The Olympics and Paralympics are about sport and not security.'

'We want the world to be inspired by sport in London, and our security plans have to strike a balance between visible security and the welcome that we want.'

'There is no doubt that the 2012 Olympic and Paralympic Games promises to be the greatest Games in history - and possibly the greatest security challenge the UK has faced since the Second World War.'

In January 2009, General Sir David Richards - who is now head of the Army - told MPs that 'the sooner we get clarity, the better' on the Olympic security process.

A Home Office spokesman said that the armed forces were expected to provide additional specialist support and back-up to police and other security teams at the Games.

# Sports Shorts

## Wigan players refund fans

Wigan Athletic's first-team players have personally refunded the club's fans who bought tickets at the DW Stadium for the Premier League game against Tottenham which saw the latter team crush their opponents 9-1.

Wigan took a large following to White Hart Lane for the defeat, the second heaviest in Premier League history.

'We feel that as a group of players we badly let down our supporters,' said Wigan captain Mario Melchiot via the official club website.

'This is a gesture we have to make and pay them back for their loyalty. We are professionals, we will take it on the chin and move on but it's important that we do not take our supporters for granted.'

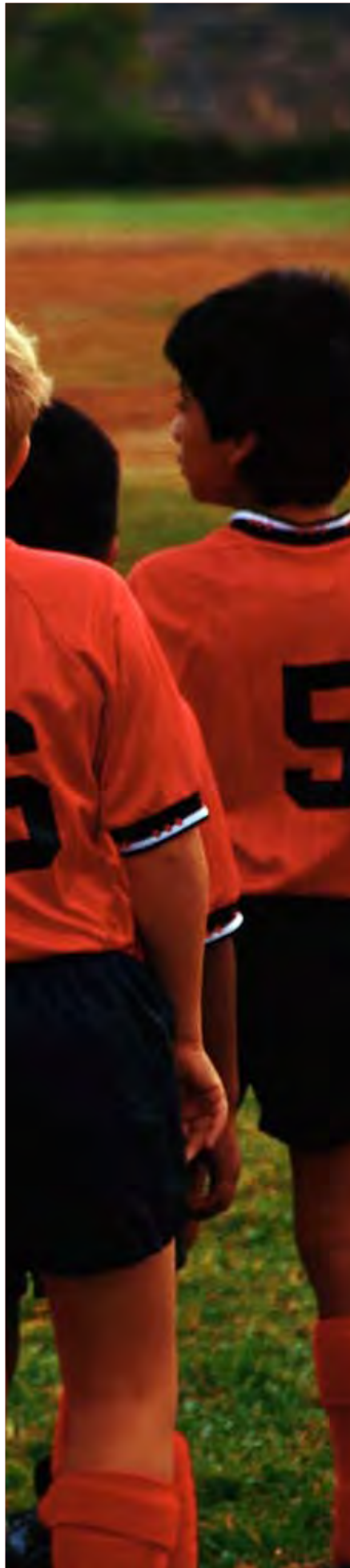
Wigan are the first team to concede nine goals in a Premier League match since Manchester United beat Ipswich 9-0 at Old Trafford in 1995.

## Making Aussie Rules safer for kids

Junior Aussie Rules teams are working hard to make the game safer after a report by the Murdoch Children's Research Institute revealed that almost a third of sport related head injuries that send children to hospital were incurred whilst playing the sport. The study collated information about children aged 6-16 presenting with head injuries to the Royal Children's hospital over a year.

Of the 406 head injuries in 2004, 70% involved boys and one-third occurred while playing sport. AFL was associated with more than 30% of the sport related injuries. Whilst most were mild but 13% were moderate or severe.

Some of the safety measures adopted are tackling being phased in over the junior years, trained medical volunteers being available and grounds being checked before matches. Many junior clubs are also insisting on helmets being worn.



## Half-time entertainment at risk because of law suits

Australian National Rugby League club Canberra Raiders are set to end crowd participation in half-time entertainment after a series of lawsuits by fans claiming injury when taking part in half-time games.

The move, which is likely to be followed by other NRL clubs, comes after the third lawsuit against the club by a person claiming to have been injured during half-time entertainment has gone to the ACT Supreme Court.

Lawyers for former Olympic volleyballer, Selina Scoble, have lodged papers in the ACT Supreme Court claiming their client suffered lasting injuries while throwing a rugby league ball during a celebrity match-day challenge at Canberra Stadium nine years ago. In another lawsuit, a Raiders fan is suing the club for injuries he suffered during a half-time competition at Canberra Stadium three years ago after he allegedly hurt himself in a competition to use a milk crate to catch balls kicked by former Raider Bronx Goodwin.

It is understood that another man is claiming compensation, after he allegedly suffered whiplash injuries after running into a giant rubber ball at another half-time entertainment event.

Now the Raiders management have decided that they can no longer afford the exposure of public participation in match-day entertainment, Chief Executive Don Furner explaining, "Crowd participation in half time entertainment is pretty much a no-go any more for us and we've spoken to a lot of the other NRL clubs and they're in a similar position."

Furner added that the move reflected the trend towards a more litigious society and was regrettable.

## *The keys to the clubhouse, but at what cost?*



For this issue, *Touchline* asked its panel of legal experts to comment on the contracts that some sporting clubs and associations need to sign to use third party venues.

Many sporting organisations (clubs) lease premises (including playing fields, courts and pools) from organisations such as local authorities (the lessor). Many club officers don't fully understand the ramifications of entering into a lease before putting pen to paper. In the rush to obtain the keys to the clubhouse, little thought is often given to what indemnity and insurance obligations clubs are signing up to, and how all of this might affect their insurance cover.



### *Australian Perspective*

#### **Australia: Read carefully and keep your broker in the loop**

Many leases contain indemnity and insurance clauses which can be intrinsically linked.<sup>1</sup>

Indemnity clauses are express terms in the lease by which the club commits to compensate the lessor for loss arising out of the agreement and occupation/use of the premises (to varying degrees depending upon the wording of the clause).

Insurance clauses oblige clubs to ensure that the lessor is a named insured, or has its interests noted on the club's policy of insurance.

#### **The pitfalls for clubs**

In theory, an indemnity clause should only attempt to balance the benefit that the lessor provides to the club by making its facilities available with the risk of it being sued for activities beyond its control.

However, many lessors go further than separating the risks arising intrinsically from the use of the facility and the sport being played and seek to obtain an indemnity from the club for all claims arising from use of the facility, and activities incidental to that use, regardless of who is at fault.

The law does step in to prevent the unfair operation of these clauses. The contra proferentem rule provides that any ambiguity in an indemnity clause will be construed by a court against the party seeking to rely on the indemnity (in this case, the lessor).<sup>2</sup> Therefore, where a clause does not expressly provide that a club agrees to indemnify a lessor for the lessor's negligence, the club would have a good argument that the clause is ambiguous and that it is not obliged to indemnify the organisation beyond the position at common law. The High Court of Australia has indicated a reluctance to require one party to fully indemnify another for the negligence of that other party unless the





words of the indemnity specifically require it to do so.<sup>3</sup> However the law remains in a relative state of flux.<sup>4</sup>

Where an indemnity clause is clearly drafted to cover a lessor's negligence, this could result in a club taking on extra liability than it would otherwise have had at common law. Take, for example a football player who is injured tripping on a sprinkler head placed by the lessor in a park in circumstances where the lessor (not the club) maintains the park. At common law the football club might face some liability exposure for allowing the game to go ahead, but in the absence of a clearly worded indemnity clause the lessor would wear the majority of liability for creating and failing to remove the hazard.<sup>5</sup> The existence of the indemnity clause means that the club is contractually assuming liability that it would not otherwise have.

If a club fails to take out insurance in the name of the lessor pursuant to an insurance clause, then this leaves the club vulnerable to a claim by the lessor for breach of contract. That is a purely contractual claim and bears no relation to any common law liability.

## Insurance ramifications

Most liability insurance policies contain exclusions for liability assumed under an agreement or contract, except to the extent that the liability would have been implied by common law. Therefore signing up to indemnity clauses that extend a club's liability beyond its common law exposure could leave clubs out in the cold for any extra liability assumed under that clause.

Similarly, breach of contract claims for failing to take out insurance in the name of the lessor are typically excluded for the same reason.

There are then arguments that such claims do not fall

within the insuring clause because they are not the result of an "occurrence" (typically defined to be an unexpected or unintended result) as the club intended to enter into the agreement with those contingent liabilities.

## Solutions

Club officers must read and satisfy themselves that they fully understand the lease before signing it.

Clubs should always advise their brokers of the existence of any lease.

Many clubs lack bargaining power when negotiating with lessors. However, in the likely event that the lessor insists on an indemnity clause in the lease, the club should in turn insist that the clause covers the club's negligence only. At the very least, clubs should ensure that the exclusion clause does not specifically refer to the lessor's negligence

If there is an insurance clause in the lease, clubs must inform their broker. It may be that, including a lessor as an insured or noting its interest does not attract any significant increase in the premium. But any increase is a small price to pay to avoid a potentially large uninsured exposure.

*Peter Murdoch is a Partner at the firm Barry & Nilsson Lawyers in Brisbane. His co-author Nathan Rehbock is a Solicitor at the firm.*

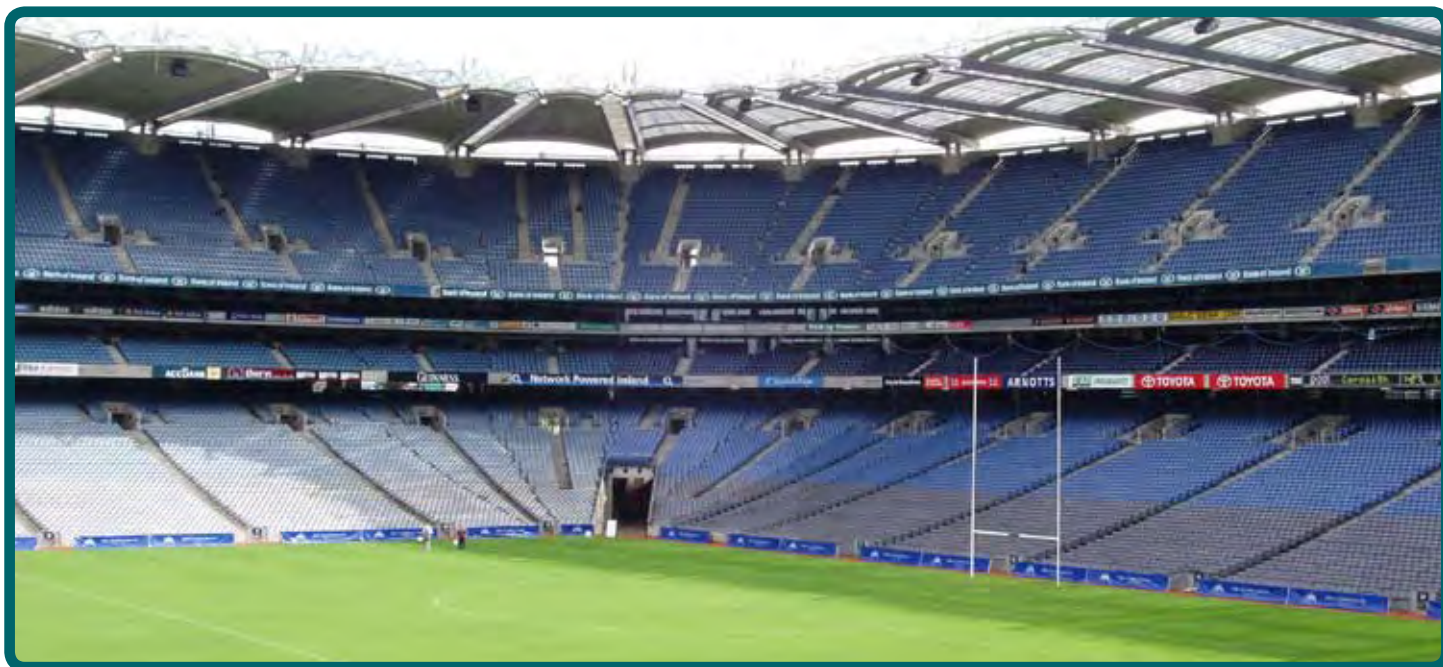
1 Erect Safe Scaffolding (Australia) Pty Ltd v Sutton [2008] NSWCA 114

2 Andar Transport Pty Ltd v Brambles Ltd (2004) 217 CLR 424

3 Ibid

4 There is a long line of authority post-Andar that does not settle on a consistent approach to interpreting indemnities such as this.

5 A similar factual scenario occurred in Williams v Latrobe Council [2007] TASSC 2. However, in that case there was no indemnity clause and the local authority was held 85% liable for the alleged incident and the two football clubs 15% liable.





## UK Perspective

### UK: Prevention is better than cure – check the exclusion clause

A case we worked on (and successfully defended) earlier this year involved an amateur football club, run by volunteers, which hired a sports hall for a fundraising disco. One of the party-goers took a tumble after slipping on the dance floor, severely injuring her wrist as a result. A claim was then brought against both the football club and the owners of the hall. Long before we got anywhere near the trial date, one of the most difficult issues which had to be addressed was this: if the claimant was successful, who would be liable?

In UK law, these issues are largely governed by the Occupiers' Liability Act 1957 (and its subsequent amendments), which sets out the obligations of a person "occupying or having control" over premises or fixtures. In our case, after seeking advice from Counsel, the parties resolved that liability would be split between the two Defendants, and apportionment was agreed long before trial. We (acting for the football club) were able to agree that the owners of the hall would bear 75 per cent liability – a surprisingly favourable result for our client. What made it inevitable that the football club would bear **some** liability (albeit a low 25 per cent) was a term in the hire agreement which imparted liability on the club – and the agreement had not been scrutinised by the club chairman before it was signed. Clearly little thought had been given to any potential accidents or injuries occurring, and the emphasis had been on getting the keys to the hall and arranging the party.

It would be unsurprising in the UK to hear of a council importing onerous terms into a hire contract, given the difficulties they would otherwise encounter in avoiding liability under the Occupiers' Liability Act (as the above example demonstrates). In *Andrew Guy Glenie v (1) Reginald Slack (2) Ian Barclay* (2000), the operator of a racetrack handed over control of the circuit to a promoter for a race meeting, but the occupier and operator did not escape liability for dangerous hazards in the construction of the racetrack which breached the sport's governing body's safety standards. The racetrack owner still bore partial liability for the injury to the claimant, even though all he really did was hand over the keys. To avoid incurring that liability, it is safest for the person hiring the premises to cover all angles from the outset and have liability excluded in the terms of hire.

The same should, therefore, be said for those hiring the premises. Any contract entered into in the UK would be subject to the provisions of the Unfair Contract Terms Act 1977 and therefore open to challenge if unreasonable, but the advice from a UK perspective would be the same as from any other perspective, and is based as much on common sense as any legal prowess: read the small print before you sign. Prevention is far better than cure, and the best way to ensure you are protected is to check the exclusion clauses, and do not sign up to them until they are fair.

*Stephen Hooper is a solicitor with Eastwoods Solicitors in London.*



## Canadian Perspective

### Canada: Seek independent legal advice and consider a UIP

Municipalities across Canada offer their residents the use of various recreational facilities, including: public parks, hockey arenas, soccer pitches, baseball fields, tennis courts, swimming pools, playground equipment, ski hills, skateboard parks and mountain bike trails. The use of these facilities can, and often does, result in injury. Many municipalities have therefore implemented proactive risk management procedures to protect themselves from liability exposure. Waivers, indemnity clauses and varying insuring agreements are the most common tools used by municipalities to prevent law suits or to protect against potential liability.

The waiver, in Canada, like most common law jurisdictions, is a binding contract in which the user of a recreational facility agrees to hold the municipality harmless for any damage to property or person that might be incurred as a result of their use of the facility. Canadian courts have historically applied a two-step analysis to determine whether an executed waiver is valid: is the waiver sufficiently clear

and unambiguous in identifying that the participant is forfeiting their legal right to sue; and did the party seeking to rely upon the waiver take reasonable steps to draw the terms of the waiver to the attention of the participant? The courts have concluded that it is irrelevant that the participant does not read and understand the waiver<sup>1</sup>, as long as they had the opportunity to do so, and were not operating under a disability or mistake which the enforcing party had knowledge of.<sup>1</sup> However, to successfully rely on a waiver, the defendant must prove that the plaintiff agreed, either expressly or by necessary implication, that the defendant would be absolved from any liability.<sup>2</sup>

Another safeguard used by municipalities to limit exposure is an indemnity or hold harmless agreement. The municipality obtains a promise from the user to reimburse it for any damages, interest or costs, it may be found liable to pay a third party. As these agreements are generally between sophisticated parties, there is no requirement to bring the terms to the attention of the signing party or the need to advise them to read the document.<sup>3</sup>



Lastly, because indemnity and hold harmless agreements require the contracting party to have financial means, municipalities have resorted to requiring the use to maintain liability insurance in their favour. CGL policies provide broad coverage for claims made against facility users and owners for bodily injury or damage to property of others which result from the user's operations or activities.

An example of the interpretation of an insurance clause in the sporting context is found in *Cowichan Valley School District No 79. v Lloyd's Underwriters*<sup>5</sup>. The District rented out its baseball field to a club for a tournament and required the club to take out liability insurance as a term of use. The District was listed as an additional insured for liability arising out of the operations of the field during the tournament. However, when one of the participants was injured playing baseball, the club's insurer refused to defend the District, arguing that the injury resulted from the District's failure to maintain the baseball field, and that the obligation to maintain the field arose out of their status as the occupier and not from the operations of the club. The court concluded that the cause of the injury was connected to both the operations of the club and the District in inspecting and maintaining the field. The District was therefore afforded a defence.

It is likely that the trend of requiring sports leagues to maintain liability insurance in favour of municipalities will continue to increase. In fact, there is a growing trend in Canada to enter into User Insurance Programs ("UIP"), which provide the most protection from liability. A UIP provides access to a previously negotiated insurance program that contains exclusive coverage for municipalities. Many cities across Canada have made this a term of any facility rental contract in an attempt to limit exposure to liability. Whether or not one enters into a UIP, indemnity agreement or signs a waiver, it is imperative that the contract is understood fully and in many circumstances it is prudent to obtain independent legal advice prior to entering into any agreement.

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1 *L'Estrange v F Graucaub Ltd.*, [1934] 2 K.B. 394 (C.A.).

2 *Tilden Rent-A-Car v Clendenning*, (1978) 83 D.L.R. (3d) 400 (C.A.).

3 *Dube v Labear*, [1986] 1 S.C.R. 649 and *Crocker v Sundance*, [1988] 1 S.C.R. 1186.

4 *Karroll v Silver Star Mountain Resorts*, [1988] B.C.J. No. 2266 (S.C.).

5 [2003] B.C.J. No. 1964 (S.C.).

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- Handball
- Keep Fit
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- Badminton
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## World Sports News Roundup

### SOUTH AFRICA - \$420M PRIZE MONEY FOR 2010 WORLD CUP

FIFA, the World football governing body, has announced that total prize money for the 2010 World Cup has been set at \$420m, a 61% increase on the levels at the last tournament in 2006. The winning team will get \$30m with the runner-up pocketing \$24m. At the bottom end of the scale, the lowest 16 teams will receive \$8m each. This figure is in addition to a \$1m set amount for 'preparations', FIFA general secretary Jerome Valcke announced.

An additional \$40m had been set aside for clubs whose players would take part in national teams. Part of this amount was to cover the cost of insuring those players.

FIFA also revealed that it has received 500,000 World Cup ticket requests in the third phase of the sales process, only 10 days after the allocation opened. 386,300 of those tickets were requested by South African residents (77% of the total applications), while 114,237 tickets applied for came from the rest of the world. The United States heads the list of foreign countries for this phase with 22,942 ticket requests, followed by the United Kingdom (20,232), Mexico (7,981), Germany (7,697), Australia (6,277) and Brazil (4,760).



### SOUTH KOREA TO MAKE GP DEBUT

As one of the many changes in this year's F1 schedule, South Korea will host its first grand prix, with Bahrain being the opener for the season.

The South Korean event, which will be held in Yeongam in the south-west of the country, was listed on the 19-race calendar for the season. Scheduled for 24 October, South Korea will be home to the third to last race, with Abu Dhabi the last race of the season on 14 November.

The inaugural Korean Grand Prix is now the only race marked as provisional, with its approval subject to the homologation of the newly-built Yeongam circuit. The 2010 FIA Formula One World Championship calendar is as follows:

- |                             |                          |
|-----------------------------|--------------------------|
| 14 March - Bahrain          | 25 July - Germany        |
| 28 March - Australia        | 1 August - Hungary       |
| 4 April - Malaysia          | 29 August - Belgium      |
| 18 April - China            | 12 September - Italy     |
| 9 May - Spain               | 26 September - Singapore |
| 16 May - Monaco             | 10 October - Japan       |
| 30 May - Turkey             | 24 October - Korea*      |
| 13 June - Canada            | 7 November - Brazil      |
| 27 June - Europe (Valencia) | 14 November - Abu Dhabi  |
| 11 July - Great Britain     |                          |

\*Subject to the homologation of the circuit.

### SWEDEN - MOVING THE GOALPOSTS - LITERALLY!

Kim Christensen, the IFK Gothenburg goalkeeper, was seen on camera kicking in both sides of the goalframe to reduce the target area ever so slightly at the start of a crucial match in the Allsvenskan (All Sweden)

Referee Stefan Johannesson spotted the posts had been moved a few centimetres about 20 minutes into the game and pushed them back into the right place but, because he was unaware that the goalkeeper was responsible, took no further action.

Faced with clear television evidence, however, Christensen later admitted that this was not the first time he had moved the goalposts — which, in the Swedish game, often rest on top of the artificial playing surface and can easily be manipulated. "I got the tip from a goalkeeping friend a few years ago, and since then I have done it from time to time," Christensen told a reporter

The Swedish Football Association is investigating the incident.

"I have never heard anything like this before," said Swedish FA's disciplinary chief Kheneth Tallinger. "It's unique."



### India — Commonwealth Games chief warns Delhi 2010

Commonwealth Games Federation chief Mike Fennell has warned Delhi that it must overcome major challenges in order to be ready to host next year's games. With numerous facilities being built for the event already missing deadlines, Fennell has insisted that there can be no more setbacks.

The warning comes on the heels of Fennell's recent criticism of the Indian organisers, saying construction delays posed a serious threat to the games. Suresh Kalmadi, organising committee chairman of the event, however, insisted India was up to the task, assuring the Commonwealth Games Federation that Delhi would 'live up' to the challenges it is facing.

The games are due to take place in October this year.

### UAE denied America's Cup by court

The New York Supreme Court has ruled that the next edition of the America's Cup cannot take place in the United Arab Emirates as planned by reigning champions Alinghi according to the rules that govern the sailing regatta.

Alinghi announced that it had selected the Gulf emirate of Ras al-Khaimah in the UAE for the race next February where it will go up against US challenger Oracle to decide the 33rd edition of sailing's premier competition. Oracle filed suit over Alinghi's choice of the site, arguing the venue is unsafe due to its proximity to Iran as well as being a violation of the rules.

Justice Shirley Kornreich based her decision on a stipulation in the 'Deed of Gift', the 19th century rules that govern the oldest competition in international sport, that say that the race cannot be held in the northern hemisphere between 1st November and 1st May.



World Sports News Roundup *continued..*

## Italian and Japanese cities set for 2020 bid

The Japanese cities of Hiroshima and Nagasaki have confirmed that they are considering bidding for the 2020 Summer Olympics in tandem with a campaign to promote a nuclear-free world. The two cities, which were rebuilt from the devastation of US atomic bombings in the closing days of World War II, said they would set up a committee to study the possibility of a joint bid.

While the International Olympic Committee's rules state that in principle only one city can host the Olympics, there have been exceptions, such as the 2008 Beijing Summer Games, when Hong Kong staged equestrian events.

Hiroshima, which hosted the 1994 Asian Games, and Nagasaki are around 300 kilometres (190 miles) apart.

Meanwhile, the Italian Olympic Committee has confirmed it is ready to bid for the Games with the mayors of Rome and Venice immediately putting themselves forward as the nominated bidding city.

The move follows the decision to award the 2016 Games to Rio de Janeiro who beat off Madrid, Tokyo and Chicago to land the prize. A Madrid victory, following on from London 2012, would have meant two European Summer Games in succession and hugely reduced the chances of a third straight Olympics coming to the continent.

The IOC is due to announce the 2020 host city in 2013.

## England 2018 World Cup host cities announced

Milton Keynes and Plymouth were the surprise inclusions after the England 2018 World Cup bid team unveiled the 12 host cities and corresponding stadia that will make up its bid document.

A total of 17 stadia will be proposed to FIFA with a final choice of venues to be made in 2013, should England's bid be successful.

Applications from Derby, Hull and Leicester were rejected while Birmingham, Bristol, Leeds, Liverpool, London, Nottingham, Manchester, Newcastle, Sheffield and Sunderland joined Plymouth and Milton Keynes as part of the bid.

England will find out if their bid to host the World Cup is successful in December 2010.

England 2018 bid host cities and stadia:

Birmingham (Villa Park)	Nottingham (new Forest ground)
Bristol (New Ashton Gate)	Manchester (Old Trafford & City of Manchester Stadium)
Leeds (Elland Road)	Newcastle (St James' Park)
Liverpool (Anfield or new Anfield)	Plymouth (Home Park)
London (Wembley, Emirates & Olympic Stadium or new Tottenham stadium)	Sheffield (Hillsborough)
Milton Keynes (Stadium:mk)	Sunderland (Stadium of Light)



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## Stadium safety in the spotlight

Stadium safety and security are ongoing concerns for football bodies around the world.

Tragically, football has seen more than its share of deaths from stampedes, overcrowding of stadiums, fires and other hazards. In June last year, FIFA and AFC held a joint workshop for National Security Officers in Asia, in the hope of teaching security officers how to ensure safety inside and outside stadiums. The panel was led by FIFA experts Walter Gagg and Adnan El Guindy, as well as Malaysia's FIFA Security Officer Datuk Dell Akbar Khan and FIFA Development Officer Windsor John. The plan is to hold similar workshops in each confederation.

FIFA made this decision following the death of 19 fans and more than 130 injuries in a crush at the Felix Houphouët-Boigny Stadium in Abidjan before Ivory Coast played Malawi in March.

One of the solutions stressed by the panel was the need for full-time and qualified National Security Officers. Currently, Asia has only four Security Officers on the FIFA panel.

"FIFA will support all Football Associations (FAs) and National Security Officers," said Al Guindy. "But at the end, if they cannot meet the requirements and if stadiums do not comply with certain standards, it will be banned from use."

While in theory this seems simple, a major obstacle to proper stadium management is ownership. In many cases around the world, stadiums are owned by the government or by private concerns. Still, FIFA is insisting that

Football Associations work with owners to ensure proper crowd management.

"Although we know that stadiums are sometimes not controlled by FAs, there should be a proper balance between the facilities available and the spectators," said Al Guindy. "FAs should be encouraged to share information between the local people, police, fire department, security and stewards. If there are problems, the FA should seek advice from FIFA."

The ability to empty a capacity stadium within eight minutes is one of the FIFA regulations. If facility managers are not able to do so, they should limit the capacity to a manageable number. Other requirements include an the outside perimeter which allows fans to spill out of the stadium, match tickets sold away from stadiums and the separation of spectators from players and the media.

In the past, many deaths have been attributed to fans without tickets or with counterfeit tickets surging into crowded areas.

"We insist that fans have tickets before they are allowed into the stadium. And tickets should never be sold on match day at the stadium," said Al Guindy. "Even if the match is free of charge, the organiser should still print tickets and only allow those with tickets to go inside."

## South Africa promises a safe World Cup

Every step has been taken to protect visitors to this year's World Cup in South Africa according to the chief executive of the event.

Danny Jordaan made this assertion in reply to concerns that South Africa's high crime rate.

"Yes, we have crime," said Jordaan, but he added that there was a difference between "societal crime

and the ability to host a big event".

Jordaan argued that South Africa had regularly proved itself capable of hosting international sporting events, starting with the Rugby World Cup in 1995, just a year after the country's first democratic elections.

He pointed out that the government had invested about R1.3 billion in World Cup security. There will

be 41,000 police officers at the tournament, with about 700 at each match.

"The Rugby World Cup, the Cricket World Cup, the Athletics World Cup and now the Football World Cup," he said. "In golf too - the Presidents Cup and other major events. You cannot mention more than 10 countries in the world with that kind of event profile."

# KIDS AT RISK OF OVERTRAINING

Overuse injuries and burnout are growing problems among the estimated 30 million to 45 million athletes ages 6 to 18, according to a clinical report published in 2007 in the journal *Pediatrics*.

Up to 50 percent of injuries seen by paediatric sports medicine doctors are related to overuse, the report states. Children who play the same sport year-round often suffer repetitive motion injuries, said Dr. Stephen Howell, an orthopaedic surgeon and sports medicine specialist at Methodist Hospital in Sacramento in the US.

"There's never a down season for a particular joint," he said. "I think it's more common because you have kids playing on a junior high or high school team, and they're also playing on club teams. That's a lot of games, a lot of practices."

The most frequent prescription for overuse injuries is something an ambitious athlete likely won't want to hear - rest. "They need to avoid all aspects of training, and sometimes that's a very difficult decision," Howell said.

The physical effects of overtraining are only part of the problem, however. Young athletes also are at risk of developing

burnout, said Dr. Matthew Hay, a paediatrician with the University of Texas Medical Branch in Galveston.

"Severe burnout in children looks exactly like depression," he said. Symptoms include fatigue, non-specific pain for more than two weeks and poor academic performance. Burnout often arises because parents put unnecessary pressure on a child. The parents envision their child getting a scholarship or making a professional or Olympic team. That goal is unrealistic for a majority of child and teen athletes, since fewer than one percent of high school athletes eventually make the pros, the *Pediatrics* clinical report states.

Given that statistic, parents of young athletes should instead encourage their kids to enjoy their sport without pushing them to unrealistic limits, Hay said. "The whole point of sports is to have fun," he said.

Here are some tips for parents based on recommendations from the American Academy of Pediatrics:

- **Make sure your child takes at least one to two days off from competitive games, practice and training each week.**
- **Encourage them to vary the sports. Using different muscle groups will help prevent overtraining injuries and burnout.**
- **Training goals such as repetitions and distance should not increase by more than 10 percent per week.**
- **The child should take at least two to three months off from a sport each year.**
- **Limit the athlete's sports involvement to one team per season.**

## Top 10 sporting injuries

There are hundreds of different sporting injuries, but there are certain parts of the body that are more prone to damage than others. In fact, the top three categories comprise more than 80% of all sports injuries, according to [AskMen.com](#)

**Number 10: Achilles Tendinitis**

**Number 9: Concussion**

**Number 8: Groin Strain**

**Number 7: Shin Splints**

**Number 6: Lower Back Pain**

**Number 5: Pulled Muscle**

**Number 4: Tennis or Golf Elbow**

**Number 3: Ankle Sprain**

**Number 2: Shoulder Injury**

**Number 1: Runner's Knee**

### Prevention is Key

Many sports injuries are due to an improper warm-up or stretching routine or because the level of intensity of the workout was increased too quickly. Therefore, the best way to avoid sports injuries that can keep you out of the game for weeks or months is to stretch adequately before and after your workout, and to pace yourself according to your level of skill and experience in the sport.





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