



Protecting and Promoting the
Health of NFL Players:
Legal and Ethical Analysis and Recommendations

Chapter 19

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SUMMARY: **NFL Business Partners**



This document is a summary of the full chapter on NFL business partners in the Report *Protecting and Promoting the Health of NFL Players: Legal and Ethical Analysis and Recommendations*. The full chapter includes the following sections: (A) Background; (B) Current Legal Obligations; (C) Current Ethical Codes; (D) Current Practices; (E) Enforcement of Legal and Ethical Obligations; and, (F) Recommendations. Here, we provide our Recommendations, with only the minimum necessary background information. For more information and analysis of the role and responsibilities of NFL business partners, including relevant citations, please see the full chapter.

In the 2015 season, the NFL had approximately 29 official business partners, which collectively paid the NFL more than one billion dollars annually. While there are many other companies that might advertise on television during NFL games or around other NFL events, the business partners we are principally focused on here are those that have reached an agreement with the NFL to be considered an official partner or sponsor of the NFL. These business partners are an important component in professional football. Such a role includes the potential, and at times the obligation, to also play a role in player health.

The largest NFL business partners at the time of publication include Verizon (\$250m in sponsorship annually);

Anheuser-Busch (\$233m); Nike (\$220m); Pepsi (\$100m); and, Microsoft (\$80m). The relationship with the NFL generally provides the business partners, among other things, advertising during NFL games and through other NFL media, the right to include the NFL logo on their products and in their advertisements, the right to advertise themselves as the “official” brand of the NFL, exclusivity in their brand category, and/or the right to engage in promotional activities at NFL events, such as the Super Bowl. The business partners have clearly determined that the value of their association with the NFL and the related exposure exceeds the millions in sponsorship fees.

Recommendations Concerning NFL Business Partners

NFL business partners, due to the power of the purse, have a unique ability to influence the NFL to make positive changes concerning player health. Below we make recommendations that can improve business partners’ approaches to player health issues, to the benefit of both players and the business partners. In making these recommendations, we also stress that while we recommend and encourage business partners to act independently when necessary, if business partners collaborated and worked collectively on these issues, they would be more likely to achieve positive changes quickly and effectively.

Goal 1: To encourage NFL business partners to work towards advancing a culture of health for NFL players.

Recommendation 19:1-A: NFL business partners should not remain silent on NFL player health-related policies.

During the 2014 season, the NFL’s business partners condemned the NFL’s failures to handle and address domestic violence issues. Several of the business partners’ statements reflected on the NFL’s place in our society and emphasized the need for ethical conduct and leadership. However, none of the business partners have ever made any statements concerning the risks players face in playing professional football and the tolls of such a career. Moreover, the business partners never made any statement concerning the allegations in the Concussion Litigation (see Chapter 7: The NFL and NFLPA) that for many years the NFL misrepresented the risks of playing professional football to players. Why this asymmetry? It is quite possible that business partners’ comments on the domestic violence issue were in response to greater public pressure, and the more diffuse public pressure on player health has not yet reached the same crescendo.

Nevertheless, for the same reasons business partners’ commented on the NFL’s domestic violence issues, it should also make their voices heard on player health-related issues.

Recommendations NFL Business Partners – continued

Recommendation 19:1-B: NFL business partners should consider applying pressure on the NFL to improve player health.

The NFL is a business and, like any business, does not want to suffer a drop in revenue. Individually, the business partners might not represent a significant portion of the NFL's revenue, but collectively the business partners' sponsorship fees comprise more than 10% of the NFL's revenue. Thus, collectively, the business partners have leverage, i.e., the ability to force the NFL to make change at the threat of losing hundreds of millions of dollars. The business partners, consistent with the spirit of the United Nations Guiding Principles on Business and Human Rights ("Guiding Principles") and other social responsibility initiatives and aspirations they have, should use their power of the purse to help the players from whom they derive considerable financial value.

To be clear, we are not claiming that any of the problems we discuss in this Report or which NFL players face by playing football rise to the level of human rights violations; given the simple fact of consent to play and payment for services, the difficulties players face do not compare to the numerous and ongoing tragedies around the world that human rights law is thought to govern. Nonetheless, the Guiding Principles provide a framework for understanding business enterprises' ethical obligations concerning others. This framework is useful to understanding the relationship between NFL business partners and players, even if we are not discussing human rights violations.

To be fair, business partners might reasonably be concerned that any exercise of such leverage will only result in the NFL replacing them with a competitor. However, the NFL has reasons to maintain continuity with its current business partners. Sponsor turnover is bad for brand loyalty and identification for both the sponsor and the NFL, thus decreasing the value of the replacement partner's sponsorship.

Recommendation 19:1-C: NFL business partners should consider supporting organizations conducting due diligence into player health issues.

The Guiding Principles, generally speaking, instruct business enterprises to conduct due diligence into how their actions and business relationships impact others. If business partners are going to make fully informed decisions about their relationships with the NFL, it would be advisable that they consider research and data on NFL players and the issues they face. While the business partners themselves likely lack the capabilities or expertise to conduct research into player health issues, they have the resources to support organizations conducting such research.

Recommendation 19:1-D: NFL business partners should engage players concerning player health issues.

NFL business partners receive tremendous economic value from their association with, and from the work of, NFL players. In such situations, the Guiding Principles direct that the business enterprise should engage the stakeholders involved to understand the impact of the business enterprise's conduct on the health of the stakeholder. Such conversations have the possibility to improve relations between the stakeholder and business enterprise, the business enterprise's own business operations and the health of the stakeholder. In this context, NFL business partners could hold conversations with current or former players to better understand them and the issues that matter to them. Additionally, through these conversations, the business partners could learn how they might adopt more consistent messaging concerning professional football, apply pressure on the NFL where appropriate, and what types of causes or organizations concerning football the business partners should support. Such conversations would establish a better dynamic between players and business partners and enhance the business partners' reputation for social responsibility.