



Introspection of the Impact of Free Speech by Sportsman on Commercial Market and Analysing the Regulation of Speech by the Authority

*Astle*¹

DOI: <https://doi.org/10.60143/ijls.v8.i1.2022.73>

Abstract

Sports has been a subject of hard work and fickle passion for many youngsters. The athletes and their words are prodigious and left a high impact and influence in the market. Cristiano Ronaldo putting off Coca-Cola incident made the company suffer a loss of \$4 Billion in a day. The incident concludes the impact of sportsman's words and gestures on the commercial market. Athletes are the most celebrated and internationally recognised and adored personalities, so the need for their freedom to express themselves ought to be paramount. The need to provide them with the right to voice their political opinion is substantially important and their narrative on politics can influence hordes of people following them. Subject to the same concern, one might have wondered and showed ire on one's favourite sportsman for not being vocal about some country's integrity issues. This happens because the Board regulating sports does not want them to be voiced over issues having political interests. This is done to ensure fair judgement by the people instead of being blind followers of the ideology of their favourite sportsman.

So, does it mean that your favourite sportsman has waived off their freedom of speech? In this research paper, the evaluation will be of the impact of free speech by a sportsman on the political and commercial sphere. The evidentiary empirical understanding of the Board and athletes' relation over bestowing free speech shall be the addenda to the themes.

Keywords: Free speech, Commercial value, Political thought, Board relation with athlete, Advertisement.

Introduction

Unarguably, sportsmen are loved, appreciated and universally recognised. Their words are impactful and change the purchasing ability of their followers. But the question which comes to our minds is how far the change can be tracked and how far it has an impact on the commercial market. Cristiano Ronaldo putting off the Coca-Cola bottle, has been taken up as an exemplary model².

Secondly, the realm of sports is not construed into the boundary of consumers' sports merchandise and purchasing choices. It has a severe impact on society. Sportsmen like Imran Khan, George, and many others became supreme leaders of their countries. Their political opinion leaves a mark on the people's choice. Though the athletes are apolitical and are not allowed to utter controversial things, their respective Boards have laws enacted for the same. So, does that mean the athletes waived off their freedom of speech? The Board is the whole sole master of the sportsman. This is the second theme which the research paper will discuss.

Sports Law is one such area that is yet to be explored. In legal terminology, there is yet to have a specific jurisdiction and codified law. The Global Sports Market is estimated to be more than 350\$ billion (of 2020). Synonymous to this, the athlete also has a massive impact on society (Political and market based). Their act can

¹ Assistant Professor, GITAM University, Visakhapatnam

² Lovely Dasgupta, *Sports Law in India: policy, Regulation and commercialisation*, 86(SAGE Publication 2018)

Astle

make a difference in the choices of political ideology and consumer behaviour in the market. Sports as a law to regulate different dimensions of the activities performed by athletes and Boards are quite challenging to codify³. Since Sports has an interface with other laws, be it Competition Act for laissez-faire⁴ economy or the Human rights-related provision for racial discrimination or Personality Rights (IPR). So, it is essential to understand all these laws to facilitate the sports-related dispute.

The objective of the research is two-fold. The primary one is how far an athlete influences consumer behaviour and assesses the impact of their actions in the capital market. The methodology used is doctrinal research through pragmatic acts by the sportsmen, which resulted in surges or downfalls in the market indices and a manufacturing market. The model example is the snub of coco cola bottle by Cristiano Ronaldo (an influencing Footballer) which resulted in a 4 Billion dollar loss to the company stocks. The research will thus comprehend the market-based impact and what laws regulate these activities.

The realm of sports is not construed into the boundary of consumers' sports merchandise and purchasing choices. It has also impacted the political belief of the people. Leaders like Imran Khan, George and many others became supreme leaders of their country. Even in India, many of the cricketers being members of the Parliament, shows their popularity and influence on society. So, the objective of the paper is to facilitate the readers with the privilege of sportspeople being apolitical and understanding the impact of political and social beliefs.

Finally, the Constitution of India bestows all its citizens the freedom of speech under Article 19⁵, and most countries provide the same right. Before being a public figure, sportspeople are citizens, so it is their fundamental right to enjoy their freedom of speech, but most-

ly, we have seen how the Boards regulate their freedom of speech. So, the paper would meticulously evaluate the athletes' freedom of speech.

Expository Take on Sportsman and Commercial Market

Sports people have an undisputed influence on the purchasing decisions of their fans. Sporting agencies and brands always go for athletes to endorse their merchandise. The fan base of a particular sport or a sportsman tends to follow their lifestyle, the way they dress, what they eat what merchandise do they use, etc. This creates a substantial commercial market⁶. Nike (one of the sports brands) generated 37.4 billion US dollars in revenue in 2020⁷. It is not even clear how much commercial space does sports industry, including clothing, fantasy and market, construe. Rough data talks, fantasy sports generated 7.22 billion dollars in 2019. Roger Federer has a brand valuation of 37.2 million U.S. dollars, LeBron James (Basketball) 33.4 million, Usain Bolt, Cristiano Ronaldo, and Virat Kohli have 100 million U.S. dollars altogether. The statistics here show what impact a professional sportsman has on brand valuation and merchandise⁸. During farmer protest over farm law in India, an international singer Rihanna had a tweet that ignited the issues. But what would have happened if any Indian national cricket team or Olympian had commented?

The answer lies in the influential aspect of the athletes. The stands and the statement that sportsman offers are subject to high impact on the society. It could lead to any mishappening or any such positive impact too. The legality of the statements over political issues by an athlete has no specific legislation. In case of any defamatory statement, they are governed by the general laws for civilians (IPC, Cr.P.C., Torts, etc). Thus, it is the need of the hour to formulate a draft bill that governs the validity of the speeches made by sportsmen.

3 Genevieve Lakier, *Sport as Speech*, 16 University of Pennsylvania Journal of Constitutional Law 1109, (2014).

4 A market where there are free and fair economic activities without any interference (Mostly used as a term for free economic process and equality principle)

5 INDIA CONST. art. 19, § cl. 1

6 Mukul Kumar and Dr Sandeep Bhalla, International Journal of Physical Education, Sports and Health, Global Sports Market Today (Journal report – 2020)

7 D Tighe, Nike Revenue worldwide 2005-2021, Statista,

8 *Id.*

Legal Dimensions of Free Speech for Sportsmen

On a general dimension, there are three major stakeholders in sporting grounds. One is SGB (Sport's Governing Body)⁹. Secondly, it is Athletes and finally, the broadcasters/ Sponsors. Every player has the right to privacy, including the right to express their views over social media or in the public; that is the utmost right guaranteed to every citizen by the Constitution, but the regulations are made by the Boards related to the issues and what to speak and what not. Our Constitution of India guarantees freedom of speech and expression under Article 19. So, the players are regulated by their Boards on what to demonstrate and what not to. Even in press conferences, players are not supposed to raise any issues related to social and political opinions. So, don't the players waive off their fundamental rights?

The question persists as sports do not have any territorial jurisdiction. The right to freedom is also expressed as an 'International Human rights standard'. Under the Charter Rule 50¹⁰ (Olympic rules), even the International Olympic Federation has prohibited all kinds of political, racial, religious, and social demonstrations in all Olympic arenas and grounds. Rule 4, related to the Laws of the game, put some sanctions on players to show or demonstrate any equipment or clothes which players show through their religious images and pictures. Not complying with these provisions would result to get penalties and sanctions for the players. Many sports governing bodies as UEFA Rules, Federation of football put restrictions on demonstrations and signs related to the political and social beliefs of sportsmen.

Off The Field: Cristiano Ronaldo, Fizzing Coca-Cola Stacks

Euro Cup 2020, sponsored by Coca-Cola, lost a whopping \$ 4 billion in its stake market value. Cristiano

Ronaldo, a well-known footballer, off the field at a conference, moved 2 bottles of Coca-Cola from the table, replacing them with mineral water. The act resulted in shares of the company taking a dive and losing 4 billion dollars straight away. Coca-Cola, a soft drink company, has reached nearly around the globe with its market valuation. The company fell from 242 billion dollars to 238 billion dollars. The share prices dropped by 56.10 \$ to 55.20\$¹¹ in a day by a single move. The mayhem caused to the company by the act resulted in fragility. The market cap is highly volatile, and it is unprecedented to know about predicting the company's valuation. The financial suffrage to the company shows the power of an athlete over the product market. However, the administration does not constrain here. The marketing language expands to all forms of the manufacturing market, leaving an impact on the capital market. The incident shows the influence of the athletes over the market and consumer choice of products.¹²

The commercial market is volatile and is fragile, subject to the production and psychological factors which cling to it. The capital market is the space that creates or generates revenue from its stakes. Coca-Cola, registered with New York Stock Exchange (NYSE), has its value and assets subject to daily share market volatility. Whilst the product sold in the retail market is its net value, the athletes and their acts influence both the market.

Leveraging Sponsorship for Sports Brand Marketing

The sponsorship by companies and the creation of their brands by posing the sportsman as their ambassador is not new. It has been practised for decades when no social media and television were there to facilitate or influence the viewers. Carl Hubbell promoted for camel cigarettes. Muhammad Ali, a famous boxer, promoted D con bug sprays, the famous Adidas and Nike Jordan,

⁹ SGB are those entities which governs a following sports and is sole responsible for conducting tournaments, drafting Rules and regulation as well as contracts and agreements between the players and parties.

¹⁰ Tokyo Olympic, *Olympic Charter Rule 50, No demonstration of racist and religious act by players*

¹¹ Economic Times, How Cristiano Ronaldo's Euro snub made Coca-Cola lose billions of dollars, (20th March 2022 Edition) [https://economictimes.indiatimes.com/magazines/panache/how-cristiano-ronaldos-one-gesture-pushed-coca-cola-to-lose-billions-of-dollars \(2022- ET magazine\)](https://economictimes.indiatimes.com/magazines/panache/how-cristiano-ronaldos-one-gesture-pushed-coca-cola-to-lose-billions-of-dollars (2022- ET magazine))

¹² *Id.*

Astle

which was endorsed by Michael Jordan (Basketball)¹³. Several other athletes are promoting specific brands and corporate strategies more on branding. M.S Dhoni has endorsed the infamous fantasy league (Dream 11). On average, 50,000 ads are telecast over sports tournaments (FIFA and Euro Cup). So, when an athlete wins a contest or breaks a record, most brands would get associated with them to get quick attention. It not only helps them to gain the focus of the market but also enhances the revenue. The brand also suffers more loss when an athlete fails or does not perform well. It also results in them in the loss.¹⁴

Athletes And Freedom of Speech Under Supervision

Amidst the COVID pandemic, one African American was brutally assaulted and killed by a man of colour (In uniform). This ignited the rebellion and resulted in protests all around the globe. The most famous sport in India, Cricket, cognizance of the same and in protest, taking a knee down against racism. This has also happened in the Football league where the players protested with black ribbons against racism, and yes, who can forget the famous Olympic incident, where John Carlos at the ceremony wore black gloves, raising their fist during the US national anthem against the racism prevalent in the country. The sportsman and their words leave a significant impact on the followers. They are influential, but is their freedom of speech under supervision?

With the growth in education, people around the globe are now being more vocal about their rights. They have their say over the prevalent injustice. Athletes are adored universally and idealised by many. Still, the privilege to be apolitical lies with them. They have a significant impact on society, and their views and opinions can make a change. The power and love they possess can bring changes to the community in a more affirmative manner¹⁵.

The George Floyd case (the American racism case, 2020) resulted in all sports fields raising their voice for the same. Tokyo Olympics,¹⁶ under its notification, has already banned all such activity involving any social or political message. Even in 2020, the International Sports Federation also banned such activities.

No sports authority or sporting event allows any such demonstration in the field relating to cultures, class, race, religion, and any sensitive issues. They prohibit all these forms of protest, and the authority has rules and regulations for dealing with the same. Rule 50 of the Olympic Charter¹⁷ deals with prohibiting race, religion, and other forms of demonstration.

Undisputedly, the sporting authority is not so rationale. They cherry-pick as per their needs. A recent example of 'Take a bow' in Cricket by the ICC and BCCI were granted permission against the racist murder of George Floyd, but the same authority was silent over the issues of Farmers (in protest against the farm law) in their own country. It is convenient for them to choose and pick the instances the authority wants to deal with. Since cricket is flourishing in the USA, the example of protest by cricketers could help BCCI and ICC to generate income.

On the contrary, it could result in being in the bad books of other political party ideologies. So, even the Board does politics. If a player shows any statement on the political issues, the respective board as per their statute, is authorised to impose penalties and even ban them for a reason. So, no matter how big your star is, the management ought to be paramount.

Freedom of Speech: A Constitutional Right

Sporting authority in the modern generation is quite liberal when making it more for society. The rules, regulations and notifications always make sure that no sportsperson shall indulge in any such

13 Ohio University, *Sponsorship valuation and brand awareness*, <https://onlinemasters.ohio.edu/blog/building-brand-awareness-through-athletic-sponsorships> -(University Journal Scholarship Report on Sports Law) 2020

14 Lovely Dasgupta, *Sports Law in India: policy, Regulation and commercialisation*, 86(SAGE Publication 2018)

15 Gerald Hanks, *Supra Note 13*

16 karthik Subramaniam, Freedom of Expression in the Sporting Arena, JURIST – Student Commentary, June 30, 2020, <https://www.jurist.org/commentary/2020/06/karthik-subramaniam-athlete-freedom-of-speech/>

17 *Id.*

activity that represents a political thought process or religious sentiments. Players like Imran Khan and George Weah have become the supreme leader of their countries¹⁸. So instead of keeping sports apolitical, these players impacted the social, economic sector of the country and their people. Off field and post-match conferences, the T-shirt that a sportsman wears is now a means to communicate a message to the people, be it breast cancer awareness programme or a stand on racism. The sporting authority has been liberal in this generation and shows a sense of accountability. Though the disparity is, what if a player, by giving an opinion, is subject to threat or any unforeseen condition with them by Sport's governing body (SGB). The responsibility to protect them lies with their respective Board to defend them, and so Board regulates the freedom of speech by their enactments¹⁹. The global sporting industry is one of the fastest-growing industries. The industry is valued at 488\$. With the advent of fantasy leagues, it is supposed to cross over a 900 billion dollars by the end of this financial year.²⁰ The industry, Board or the authority are entirely reliant on the sports personalities to nourish and make money. They shall be provided with the freedom to put their views forward. The respective sports Board acts as a regulator in any case of disparity or social agendas. The board must immune their players and bulwark them from controversies. It is also argued that the primary Agenda of the sportsman is to play and represent their nation and not to be a political commentator. So, a limit imposed on the freedom of speech of the sportsman is essential for fair and clean play.

Conclusion and Suggestions: The Way Forward

The aspect of freedom of speech in two parlances, the first results in a change in consumer choice and adds value to the brands associated with the company. And same when the player does something unethical, the

brands suffer loss as it creates a negative image of that player (Tiger Woods sex scandal). This made an understanding of the commercial market being vulnerable, and speech by the sportsman creates the ability to change the consumer's choice. The marketing language emphasises this power that the sportsman possesses and does make them a brand ambassador of their entity. (Ms Dhoni for Dream 11- A fantasy sports, Virat Kohli for Wrong -A fashion Brand).

The second ambit is free speech on political issues. Athletes are universally adored and are loved and respected. Though the controlling Board wants them to be apolitical, their single instance can bring change in society. Even non-followers of the game and their followers appreciate that they are part of the national team representing their country. So, their opinion can bring change to the society. But why does the Board control their freedom to speak over political and other related issues? It is to be noted that the Sports Agencies or governing boards have legislation prohibiting any such activities, and non-abiding by this can result in match fee deduction, match ban, and any such decision as the authority finds fit.

This generation has seen a change where the sporting authorities are more liberalised towards political issues. Be it for racism, breast cancer and all such social causes that the different sports ground are raising their voice for, though, they are still cherry-picking convenient topics for them. It is also to be noted that, if a player has authority to put forward his or her political views, what if that results in violence. The responsibility will lie on the shoulder of the player only. So, the Board's intention to operate the player's freedom of speech is not for limiting it, but rather for safeguarding the same.

Based on the above contentions, the research paper highlights the fact that there should be a strict, comprehensive law regulating athletes' freedom of speech by the Sport's Governing Board (SGB). It is also high time to formulate a codified draft bill in this regard.

18 Gerald Hanks, *supra note 13*

19 Antonio Di Marco, *Athletes freedom of expression: The relative political neutrality of Sport*, 620-640, Human right law review 8-10 (2021)

20 *Supra note 4*