

OZ SPORTS: A Trans-Pacific Sports Law Discussion
Jarryd Hayne and Sports Leagues Who “Leave Money on the Table”

Stephen F. Ross, 24 September 2015

Most folks reading a website devoted to American and Australian sports are well-aware of the public attention accorded the success of National Rugby League (NRL) superstar Jarryd Hayne’s transition to rookie status with the NFL’s San Francisco 49ers. [By way of personal footnote, I was privileged to witness one of the most amazing rugby league scoring tries imaginable several years ago when Hayne, playing for the Parramatta Eels, caught the equivalent of an American-football punt, broke through 3-4 Wests Tigers tackles, saw the two last defenders converging on him, kicked the ball ahead, sped through the defenders and on the third bounce picked up the ball in mid-stride for the score.] My own interest as a student of sports law and business, in the following story, is the refusal of NFL officials to license 49ers games to the Australian over-the-air Seven network:

<http://www.smh.com.au/sport/us-sports/jarryd-hayne-and-the-san-francisco-49ers-in-line-to-smash-australian-television-records-20150906-gjgh3x.html#ixzz3mfD27C6W>

It is not surprising that Australians would be particularly keen to watch Hayne’s exploits, but the leagues Executive VP for International Rights, Mark Waller, noting that he works for all 32 club owners, emphasized his mandate to “represent all 32 teams equally.” In short, Australian networks, reflecting market demand, might be willing to offer more money to watch Australian stars, but the NFL is prepared to leave that money on the table in order to make sure that no one has an advantage over someone else.

When my daughters were young, I played a game where I asked each of them if they would prefer to receive \$1 each, or if instead I have \$5 to one of them and \$10 to the other. The disfavored sibling in each case insisted that \$1 each was preferable. Ronald Coase won a Nobel Prize with the insight that with perfect information and no bargaining costs, money is never “left on the table.” (See generally *The Problem of Social Cost*, 3 J. Law and Econ. 1 (1960)). Coase would no doubt explain that my young kids lacked the insight to realize they would be better off splitting the higher offer, and hopefully they could overcome these bargaining costs.

The NFL’s position on antipodean 49ers broadcasts is just another example of the inefficiencies that occur in club-run sports leagues. (For a book-length treatment of this, see my book with Stefan Szymanski, *Fans of the World, Unite! A (Capitalist) Manifesto for Sports Consumers* (Stanford Univ. Press 2008), <http://www.sup.org/books/title/?id=11178>.) Because sports are so competitive on- and off-the-field, clubs not only oppose initiatives that cost them money, but also oppose initiatives that MAKE THEM MONEY (all revenues for NFL International are divided equally among the clubs), if there is ANY possibility that ANY club might be marginally better off.