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How General Counsel Can Prevent Abuse in Sports

Compliance and Ethics

Interviews and Profiles

Sports and Entertainment

ACC sat down with Andrea Carska-Sheppard, the general counsel of Workplace Options LLC — the world's largest integrated employee well-being company headquartered in Raleigh, NC, to speak about her pro-bono work in international sports and her recent article. "Tone from the Top: The Role of the General Counsel in the Prevention of Harassment and Abuse in International Sports" is published in a special edition on Prevention of Abuse and Harassment in Athletics and Sports by the World Athletics Association in Monaco.

Andrea Carska-Sheppard, General Counsel of Workplace Options LLC

What or who inspired you to write this article?

The idea to specifically address the role of general counsel came to me at the ACC's Global GC Summit in London. His Royal Highness The Prince of Wales spoke virtually, noting the important role GCs can play globally and encouraging us to act individually on environmental, social, and governance (ESG) issues and, in a way, "setting us on a mission." I have been working pro bono in international sports for many years and always thought that the chief lawyers in sports companies and organizations can have a very influential voice in preventing harassment and abuse.

As to writing this specific article, it was somewhat of a lucky coincidence. I already had an idea for this topic in mind when I spotted a request for article proposals from the World Athletic Association in Monaco. They were preparing a special publication on the prevention of abuse and harassment in athletics and sports, so with my co-author, we acted quickly to submit a proposal.

What is the main message you try to convey?

Our main message is on the influential roles that general counsel can play in preventing and addressing harassment and abuse in sports. The underlying concept is zero tolerance for any form of harassment and abuse — not only crimes, but any form, based on the notion that abuse is something we can control and prevent.

I work for Workplace Options LLC, which is the largest integrated provider of employee well-being services, providing clinical counseling and work-life services. Last year, as a result of the global pandemic, we saw the hardest attack on employee mental health. But we also saw employers (including those in the sports world) stepping up and providing increased support for employees and their families.

Part of this support is in the prevention of harassment and abuse, helping to ensure people's well-being, not only in the sports world, but with humanity in general.

Who is the target audience?

The article speaks to the most senior lawyers working in international sports, but there are also aspects that speak to lawyers in general. The safeguarding and prevention of harassment and abuse should not only be on the radar of human resource departments and employment counsels (either in-house or outside legal advisors), but because it is a much broader societal matter, for companies it is part of their ESG.

Just before the pandemic, I attended the joint conference in Montreal between the Court of Arbitration (CAS) and Sport Dispute Resolution Centre of Canada (SDRCC) and was impressed by how engaged both lawyers and arbitrators are now with this topic. Lawyers as a profession have the necessary skills to work in this area, and in the future, we will see more lawyers acting as safeguarding officers. In support of this, the IOC (which is currently a global leader in this area) just launched an important initiative: the Safeguarding in Sport Certificate. The IOC also has a very robust safeguarding framework set up for the Tokyo Olympic Games. It was implemented the first time at the Rio Olympic Games when the IOC safeguarding officer was on site.

What about the difference between the corporate setting and international sports organizations?

That is a good point. The governance structure of international sports federations is very specific — unlike the corporate world. They are made up of deliberative bodies, based on the will of members operating through independent ethics commissions, and disciplinary tribunals that are subject to arbitration. But while there are differences, there are still universal principles that apply, whether the sporting entity is set up as a nonprofit or uses a corporate structure.

Looking 10 or 20 years into the future, where we will be in regard to tackling the issue of harassment and abuse in sports?

There will be stricter regulations and oversight to safeguard athletes and others in sports — somewhat similar to the trend we have seen in doping. Currently, the most prominent statesman who is fighting abuse in sports is Prince Faisal of Jordan (a member of the IOC executive board and also chair of the

IOC Working Group on Prevention of Harassment and Abuse in Sports.). His views, which he shared with USA Today during the PyeongChang Olympics, were that the fight against harassment and abuse in sports should share an equal footing with the work to prevent doping and there has been progress, and that is the trend I can see happening.

In the United States, we have the US Center for SafeSport, an independent 501c(3) nonprofit organization focused on ending all forms of abuse in sport. Also, the Sport Dispute Resolution Center of Canada has created a Safeguarding Tribunal for hearing disputes arising from serious conduct violations, with provisions to protect vulnerable parties and witnesses.

I believe that this type of institution will be common in many countries around the world. But it is not only the international sports community that will be applying pressure, but also parents, grandparents, and the community at the grassroots level. They will expect a safe sports environment, otherwise they will pull their children from the local programs. In time, the culture will change and "see something, say something" will become more the norm.

How can GCs and others help?

They can help by using their voice and position to make sure that their organizations not only effectively address incidents of abuse, but also put in place policies and procedures that are living documents to be implemented and acted upon.

When we were doing our research, we noted that there is not much public information on how professional sports organizations address these issues — for example, Formula 1 racing, basketball, baseball, and hockey. They also operate on an international scale, so it would be interesting to have more insight on how they are handling this issue.

It would also help if more GCs were appointed within sports organizations as independent directors with a seat on the board. It seems that currently there is no clear path for this, so more education should be done in this area by ACC and other associations.

Staff

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