

League of Fans'
SPORTS MANIFESTO

**It's Time to Establish a
National Sports Commission**

Report IX in a Series of XII

*League of Fans is a Sports Reform Project Founded by Ralph Nader to Encourage
Civic Responsibility in Sports Industry & Culture*

*By Ken Reed
Sports Policy Director
League of Fans*

October 26, 2011

Table of Contents

An Incoherent Approach Towards Sports Policy	3
An Integrated Sports Policy for the Country	4
Sports Policy in the United States Today	4
National Sports Commission Concept Has Bipartisan Support	6
Potential Roles and Responsibilities for the Commission	7
Recommendations	8
About the Author	12

An Incoherent Approach Towards Sports Policy

The United States is one of the few countries in the world that doesn't have a national, government-sponsored (at least to a degree) sports commission, sports ministry, or some other entity that plays a significant role in the development of the country's sports policy.

Unlike most countries around the globe, sport policy development and implementation in the United States is almost solely the responsibility of the country's sports power brokers: sports league commissioners, professional franchise owners, league and franchise administrators, association executive directors and presidents, and others that have a vested interest -- usually ego-based and/or greed-based in nature.

The sports policies and operational decisions turned out by these autocratic power brokers usually reflect win-at-all-costs (WAAC) and profit-at-all-costs (PAAC) mentalities and aren't always in the best interests of participants, fans or the games themselves. Moreover, these trickle-down policies and mindsets negatively impact high school and youth sports.

As sports reformer Bruce Svare points out, "Too often, the policies that end up directly affecting young athletes are made by individuals who have competing agendas such as the winning of games or commercial interests."

The Josephson Institute's Character Counts initiative identifies a variety of models of sport. Each model is based on a different perspective of the purpose of athletic competition. As such, each model reflects different priorities and values.

The recreational model is based on the premise that we can all participate in sports to test ourselves, get physical exercise and have fun. The educational model is about learning and developing physical skills, as well as life skills such as teamwork, leadership, giving your best effort, and dealing with any outcome with grace and dignity. The Olympian model stresses competition for its own sake, dedication to one's sport, and passionately striving for victory. Under the Olympian model, the ultimate goal is the *pursuit* of victory, not victory itself. The business model of sports transcends beyond professional sports. It views athletic competition as basically a form of entertainment to generate revenue and positive public relations. This model applies to big-time college sports in addition to professional sports. Unfortunately, it also applies to much of the modern Olympic games. In the business model, win-at-all-costs and revenue-at-all-costs mentalities dominate.

There's nothing inherently wrong with any of these models of sport, including the business model. However, the problem in the United States is that the business model of sports dominates and, as a result, sports policies and decisions determined by power brokers under the business model filter down to all other levels of sports in America.

Significant sports reform in this country will be difficult without a dramatic change in how this country's overarching sports policy is developed. And you can rest assured that

today's sports power brokers don't want to deviate significantly from the status quo. Therefore, in order to move from greed-based, economic-driven sports policies and decisions to sports policies and decisions more consistently based on what's in the best interests of *all* of the nation's sports stakeholders, including fans, taxpayers, communities and players at all levels, a national sports policy, developed and overseen by a National Sports Commission, is needed.

An Integrated Sports Policy for the Country

The creation of a National Sports Commission would fill a large vacuum and provide an important coordinating mechanism for sports in this country. As such, this Commission would be ideally positioned to develop not only a national sports policy, but a national code of sports ethics as well. The National Sports Commission could also serve as a type of clearinghouse for all sports stakeholders in the country.

The extent of the Commission's oversight role, from the youth level to the professional level, including the Olympic effort, would undoubtedly be a controversial topic. As such, a special committee, authorized by Congress, and comprised of sports leaders and stakeholders from all levels of sports would need to be created to establish the general roles, responsibilities, and parameters of the Commission.

The Commission would be government authorized but wouldn't need to be solely a government-funded entity. It could form a variety of strategic alliances with private foundations to help with fundraising, and in carrying out its mission.

Sports Policy in the United States Today

Currently, sports are basically unregulated in the United States. In effect, a taxpayer-subsidized monopoly is our form of sports regulation. No government agency is responsible for overseeing sports as a whole in this country.

Our professional sports leagues have long operated as monopolies, free from the natural regulation of a competitive marketplace, and for the most part free from any anti-trust concerns. There is no competitive market from the seller side of this business.

Historically, Congress has stayed far away from professional sports, other than granting various anti-trust exemptions.

Big-time college sports operate with little restraint under a non-profit tax-exempt umbrella given to universities and colleges in this country -- despite the highly commercialized nature of Division I football and basketball.

In the past year, we've witnessed conference realignment frenzy, driven by a cartel called the BCS (Bowl Championship Series). The BCS, made up of six major college

conferences, pulled away from the rest of the NCAA Division I-A football leagues and formed their own entity to control the vast majority of football television revenue.

Universities are jumping from one conference to the next, leaving behind long-time affiliations and rivalries in the quest for more dollars. As a result, fans lose because long-standing traditions and rivalries are broken up. Smaller Division I-A conferences like the Mountain West and Conference USA are left to struggle to survive. And the game of college football loses when a group of schools pulls away from their peers purely based on greed. Meanwhile, Congress and the Department of Justice have seen fit to allow the BCS cartel to continue to operate.

One pseudo sports entity that has a very limited impact on sports policy in this country is the President's Council on Fitness, Sports and Nutrition. The President's Council advises the President through the Secretary of Health and Human Services about physical activity, fitness, sports and nutrition. However, through the years, this group has basically been a non-entity, serving mostly in a public relations role, especially under the last couple administrations, during which the Council's funding and clout has been cut significantly.

Michelle Obama influenced the relatively recent addition of nutrition to the President Council's mission and she hopes to make the Council more active and impactful as part of her fight to reduce the childhood obesity problem in this country. However, the fact remains, the President's Council on Fitness, Sports and Nutrition doesn't have any impactful policy or decision-making responsibilities.

In the amateur sports realm, Congress passed the Ted Stevens Olympic and Amateur Sports Act in 1978 to charter the United States Olympic Committee (USOC), as well as National Governing Bodies (NGBs) for each sport. Their mission is to govern American participation in the Olympic movement and promote amateur sports in the United States. In addition, the Ted Stevens Olympic and Amateur Sports Act, through the NGBs and its members, is supposed to protect the opportunity of "any amateur athlete" down to the youth level "to participate in amateur athletic competition." The Stevens Act was also designed to protect Americans from discrimination in terms of equal opportunity in sports.

According to the USOC's web site, the organization seeks to "assist in finding opportunities for every American to participate in sport, regardless of gender, race, age, geography, or physical ability."

In reality, however, the USOC and NGBs do very little in this regard. These organizations focus almost exclusively on a small group of elite athletes, not the masses, and only pay cursory attention to the participation model of sports.

Under a National Sports Commission model, the USOC and NGBs could potentially be folded underneath the mission of the Commission and be held accountable for promoting sports participation for all Americans -- not just elite athletes -- as originally intended by

the Stevens Act.

National Sports Commission Concept Has Bipartisan Support

The concept of a National Sports Commission has drawn support from both the left and right side of the political spectrum. Conservative Michael Novak has called for a “semipublic, partly governmental and partly private” National Sports Commission with “clearly specified powers of regulation, arbitration, research, and supervision” in the sports realm. Novak proposes a 21-person governing board made up of various sports stakeholders.

Novak’s argument is based on what he sees as the unique role of sports as a public interest:

“The positive justification for such a commission is the critical role of sports in the imagination and spirit of the nation,” says Novak. “The negative justification is the string of scandals, corrupting practices, and serious grievances now afflicting the disordered and haphazard institutions of sports. Insofar as sports are public services, they have claimed special legal treatment. The logical extension of this conception is special legal oversight. The public interest is substantially involved Once established by the Congress, such a Commission could be formed by the legitimate election of representatives from the participating categories. This governing board could then choose an executive director for an appropriate term of office.”

Sports reformer Bruce Svare, a professor at the University at Albany - SUNY, and director of the National Institute for Sports Reform (NISR) believes a National Sports Commission needs to be a critical piece of any sports reform initiative.

“The establishment of a National Sports Commission is a must if we are to make any headway in our desire to reform sports to benefit all of our athletes and all of our citizens,” says Svare.

Novak’s vision of a National Sports Commission focuses primarily on professional sports while Svare’s vision of an National Sports Commission considers amateur sports for the most part. However, there’s no reason that a National Sports Commission couldn’t be comprehensive in nature, addressing pro and amateur sports. This is especially true when it comes to the development of a national sports policy, which ideally would address multiple levels of sport and a variety of sports issues in this country.

For example, an important role for the Commission would be developing policies and objectives around the participation model: sports for all citizens, including the promotion of the health and fitness benefits of lifetime participation in both team and individual sports.

Potential Roles and Responsibilities for the Commission

There are plenty of examples around the globe of the positive role a national sport policy

can play.

The Canadian Sport Policy was developed by government entities along with numerous private, community, professional and amateur organizations that influence and benefit from sport in Canada.

The overarching objective for the development of Canada's national sport policy was to make the sport system more effective and inclusive among all stakeholders to achieve the goals of enhanced participation, excellence, capacity and interaction in sport. One goal of the Canadian Sport Policy is to mitigate instances where professional sport distorts the basic values of sport. These are all objectives that would be applicable in the United States as well. Canada also has developed a national Strategy for Ethical Conduct in Sport and established a Canadian Centre for Ethics in Sport.

The European Sports Charter was developed by a committee made up of sport ministers from various countries. It has many objectives but one is especially pertinent to the subject of commercialization and professionalization abuses in sport: The Charter seeks to safeguard sport and its participants from exploitation due to an emphasis on political, commercial and financial gain. In addition, the Charter is linked with the European "Code of Sports Ethics".

The Australian Sports Commission (ASC) provides another potential model structure. The ASC was born with the *Australian Sports Commission Act 1989*, which laid out the Commission's roles and responsibilities.

The ASC administers and funds sport nationally on behalf of the Federal Government. Its mission is "to enrich the lives of all Australians through sport" and it seeks to achieve a balance among recreational activities, junior level sport, and elite athletic competition. The ASC also puts a huge emphasis on the participatory model, i.e., getting more Australians active in sports from the youth level through adulthood. That outcome is deeply needed in the United States as well.

The ASC implements sports policy principally through three divisions: Australian Institute for Sport, Community Sport, and Sport Performance and Development. According to the ASC, the Commission's "key objectives are to secure an effective national sports system that supports improved participation in quality sport activities by Australians, and to secure excellence in sports performance by Australians."

Other key result areas for the ASC according to its *Strategic Plan 2006-2009* include:

- increased opportunities for children to be physically active
- growth in sports participation at the grassroots level, particularly by Indigenous Australians, people with disability, youth and women
- best-practice management and governance of sport in and through national sporting organizations

- recruitment, retention and, where appropriate, accreditation of people in the sports sector
- maintaining the Australian Institute of Sports (AIS) as a world centre of excellence for the training and development of elite athletes and coaches
- enhancement of Australia's leadership in the international sports community
- improved economic efficiency in, and commercial return to, the ASC and national sporting organizations
- a drug-free sporting environment
- sustained achievements in high performance sports by Australian teams and individuals
- increased adoption of the values of fair play, self-improvement and achievement

Recommendations

1. Create a Special Committee to Determine the Feasibility of, and Parameters for, a National Sports Commission.

A special committee, authorized by Congress and comprised of sports leaders from all levels of sports, members of Congress, fans, athletes, and other stakeholders, including taxpayer groups, should be created to examine the feasibility, viability, and potential impact of a National Sports Commission. The special committee would also be charged with developing general roles and responsibilities for the Commission as well as budget guidelines.

If the Special Committee determines a National Sports Commission should be created, and Congress authorizes it, National Sports Commissioners could be selected by a panel representing all stakeholder groups: professional owners, college administrators, professional and amateur player groups, youth and high school administrators, fans, umpires and other sports officials, etc. Certain stipulations could be established for commissioners. For example, it could be stated that commissioners could not come from, or go to, the sport industry, in any capacity, for five years, to limit influence and enhance the independence of the commission.

Operating funds for a National Sports Commission could come from a combination of government and private sources. In late 2010, the National Foundation on Physical Fitness, Sports and Nutrition Act was passed to help fund the President's Council on Physical Fitness, Sports and Nutrition through the use of resources from the private sector. A similar model could be used to help fund the work of the National Sports Commission. Obviously, policies would need to be developed to avoid conflicts of interest and unfair influence.

Another possibility for funding the Commission, in all or part, would be establishing a

surcharge system, in which a National Sports Commission surcharge would be placed on all professional sports entities (i.e., leagues, franchises). This is a legitimate source of funding as pro sports leagues and franchises benefit substantially in this country from taxpayer-subsidized stadiums and arenas, as well as via antitrust exemptions that allow them to operate as taxpayer-subsidized monopolies.

A. Roles and Responsibilities for a National Sports Commission

There are a variety of roles and responsibilities a National Sports Commission in the United States could fulfill. The following are just a few that should be considered by the special committee:

- **Development of a National Code of Sports Ethics**
 - The Ethics Code would serve as the foundation for the development of a National Sports Policy. The combination of the two could make a compelling argument to those involved with sports in the United States that the integrity of sport must be given serious consideration in the development of sports policy and in operational decision-making -- from the national level on down to state and organizational levels.
 - The Commission would be a natural advocate for the values, ethics, ideals, traditions and best practices of our sports.
 - The Commission's overarching responsibility would be to demand fair, just and ethical sports programs at all levels.

- **Development of a National Sports Policy**
 - The National Sports Policy would create a new vision for sports in America, one that is driven by more than just commercial concerns and the entertainment ethic. In brief, it would be charged with looking out for the best interests of sport and its stakeholders – all of its stakeholders -- not just those with a vested economic interest. It would build from the grassroots level -- youth sports, adult participation, etc. -- on up to scholastic and collegiate sports, the Olympic program and professional sports leagues. The current United States approach to “sports policy” is just the reverse – flowing from the highest levels down. It's a profit first and win-at-all-costs approach that filters down from the professional level to the youth sports level. That approach needs to be addressed by a National Sports Commission.
 - To be effective, a National Sports Policy would need to be extremely inclusive and reflect the input (concerns, needs, wants, expectations, etc.) of all sports stakeholders, from the professional level to the lowest amateur levels.

Specific focus areas of a national sports policy should include:

- Protecting sport from commercialization, professionalization, and politicalization abuses in which the basic values of sport are distorted.
 - Enriching the lives of all Americans through increased sports participation opportunities at the grassroots level.
 - Balancing the country's emphasis between recreational sport, youth sport, and elite sport.
 - Increasing the focus on fair play and sportsmanship at all levels of sport.
- **Research and Analysis on Contemporary Sports Issues**
 - The Commission would be a natural clearinghouse for research and analysis on contemporary sports issues. In-house researchers and policy analysts could collect and analyze existing research in a type of “think tank” role. The Commission could also conduct its own primary research.

For example, potential research focus areas could include, “Why are young people dropping out of sports for good at such a young age? “Why are girls and women suffering a disproportionate number of ACL knee injuries compared to boys and men?” “Why is the use of performance-enhancing drugs increasing among our young people?” “What can be done to limit the number of concussions in sports?” “What are the pros and cons of community-based ownership of professional sports franchises?” “Why is overall sports participation declining in the United States?” Etc.

- The Commission could put out white papers, issue backgrounders, and other documents on key sports issues, e.g., the ramifications of early specialization in a single sport, professionalization and commercialization abuses in youth sports, concussion testing and prevention measures, etc.

(These are the types of issues American sports media should be exploring in more depth than what's done today. In most newspapers, the sports section is approximately 20-25% of the total content of the paper. If this much space is going to be devoted to sports we need to make better use of that space. The sports sections (which would more accurately be called “spectator sports sections”) should address participatory sports, along with spectator sports, and should examine contemporary sports issues at all levels in more depth. We also need more space devoted to “letters to the editor” in the sports section (many papers are cutting this feature back or eliminating it in the sports section) and more interaction tools and features in the sports areas of newspaper websites.)

- Serve as an Arbitrator and Regulator
 - A National Sports Commission serving as an arbitrator and regulator would be extremely controversial in the United States. However, a range of responsibilities in this area should be examined and considered by the

special committee exploring the feasibility of a National Sports Commission.

For example, the National Sports Commission could serve as a “national court of sports arbitration,” in a similar fashion to the international Court of Arbitration for Sport (CAS). The CAS uses 150 arbitrators from 55 countries to settle disputes in the world of sports. The CAS’ authority as the “Supreme Court of Sports” is well-established.

“The CAS has few limitations on what types of cases it can consider: As long as it involves sports, and both parties agree to the arbitration, pretty much any conflict is fair game,” according to journalist Brendan I. Koerner.

- o If a National Sports Commission is created, Congress should strongly consider folding the United States Olympic Committee (USOC), and each sport’s National Governing Body (NGB), under the Commission’s jurisdiction. The Commission would be responsible for ensuring that the mandate given NGBs via the Ted Stevens Sports Act -- promoting broad-based participation in their respective sports -- is being followed.
- o The U.S. Anti-Doping Agency, whose mission -- to preserve the integrity of competition, inspire true sport, and protect the rights of U.S. Athletes -- dovetails nicely with the mission of a National Sports Commission, could also fall under the jurisdiction of the National Sports Commission.

* * *

About the Author

Dr. Ken Reed is Sports Policy Director for the League of Fans. He is a long-time sports industry consultant, sports studies instructor, sports issues analyst, columnist and author.

Reed is a distance faculty member for the United States Sports Academy and occasionally teaches sports studies courses, including Contemporary Sports Issues, History of Sports, and Sports Sociology.

Reed has long been a strong advocate for quality physical education and sports programs for all students, not just elite athletes. He created the Center for the Advancement of Physical Education (CAPE) for PE4life, a non-profit organization dedicated to making quality daily physical education available to all students, K-12. As director and senior policy analyst for CAPE, he developed numerous position papers, white papers, issue backgrounders, and op-ed columns. He is the author of PE4life's "Blueprint for Change," an overview of the benefits of physical education as well as an action plan for getting our children moving in order to improve wellness, learning and behavior.

A "recovering sports marketer," Reed once was a sports marketing consultant before switching career directions and utilizing his marketing and communications skills in a social marketing role for a variety of sports, fitness and education causes. He has delivered numerous professional development seminars to educators on how physical education, sports, and other forms of physical activity can improve academic performance, decrease behavioral problems and enhance student wellness.

Reed also has served as an executive board member and faculty fellow for the National Institute for Sports Reform, as well as on the board of directors for Positive Coaching, a non-profit whose mission is to promote positive attitudes and behaviors in youth sports. In addition, Reed has served as an advisory board member for Metropolitan State College of Denver's Sports Industry Operations program.

He has published a sports novel targeting young readers, 10-14, called *Sara's Big Challenge*. The book's overarching theme is the importance of being true to yourself. He recently completed *Game Changer*, the inspiring story of Phil Lawler, the "father of the new physical education." Human Kinetics published the book in August 2011. In addition, he has been a sports columnist for several sports magazines. He currently writes a sports issues column for *Mile High Sports* magazine. He won first place in the 2005 Denver Newspaper Guild Awards competition for his sports commentary.

Reed holds a bachelor's degree from the University of Denver, a master's degree from Colorado State University (concentration in athletic administration), and a doctorate in sport administration (emphasis sport policy) from the University of Northern Colorado. His doctoral dissertation was a sports policy case study and dealt with the unsavory aspects of the Major League Baseball expansion process. Reed lettered in baseball and basketball at the University of Denver and has worn many hats in the world of sports, including coach, sports official, scout, manager, and sports talk show host.