



September 26, 2024

Senator Leo Housakos  
The Senate of Canada  
Ottawa, Ontario  
Canada  
K1A 0A4

**RE: NHL Comments on Bill S-269**

Dear Senator Housakos,

I write on behalf of the National Hockey League (the "NHL" or the "League") in response to the invitation from the Senate of Canada (the "Senate") to comment on Bill S-269, *An Act Respecting a National Framework on Advertising for Sports Betting* (the "Bill").

The Bill's stated objective is to "provide for the development of a national framework to regulate advertising for sports betting" and "to set national standards for prevention of risks for persons negatively impacted." The Bill also calls for the Canadian Radio-television and Telecommunications Commission (the "CRTC") to "review its regulations and policies to assess their adequacy and effectiveness in reducing the incidence of harms resulting from the proliferation of advertising of sports betting."

We support the Bill's consumer protection orientation given our ongoing League-wide commitment to that end. However, we question the need for national legislation in light of the healthy cooperation among industry stakeholders promoting consumer protection that already exists and the ongoing successful Sports Book regulatory environment at the provincial level.

#### **COMMITMENT TO CONSUMER PROTECTION**

As we have stated publicly on a number of occasions (including to your colleagues in the House of Commons in connection with the legislation that ultimately authorized provincial governments to regulate betting on single sporting events), consumer protection is a bedrock of the rules and practices for sports betting advertising in connection with NHL games and other activities. The NHL and its member clubs ("Clubs"), together with our broadcast rightsholders ("Broadcasters") and the operators of the legal sports books ("Sports Books") that we partner with, have implemented a number of specific requirements to ensure Sports Books' advertising is appropriately measured and balanced. By way of example:

#### **NHL- and Club-Controlled Inventory**

- The NHL and the Clubs only partner with reputable Sports Books who may activate NHL/Club sponsorship rights only within jurisdictions where such Sports Books are legal.
- All commercial agreements with Sports Books provide significant contractual requirements on the Sports Books' advertising. Specifically, such agreements expressly require that the target audience

***National Hockey League***

One Manhattan West | 395 Ninth Avenue | New York, NY 10001 | 212.789.2000

for a Sports Book's advertising be limited solely to individuals who can access and use the Sports Books' services lawfully and that all advertising and other materials be strictly tailored to that end. That means, they cannot and do not offer betting or advertise betting to minors or others who cannot use the Sports Book's services lawfully.

- We limit the number of physical in-ice and dashboard advertising positions that may be provided to Sports Books within an NHL game venue.
- We limit the amount of time that the brands of Sports Books may appear in virtual in-ice and virtual dashboard signage within an NHL game broadcast.
- Messaging within such virtual and physical advertisements cannot include any specific inducement to bet on the Sports Book's site.

#### **NHL and Club Broadcast Partner-Controlled Inventory**

- Broadcasters (e.g., Sportsnet) may only provide advertising inventory to Sports Books who have agreed to the terms required by the NHL.
- Broadcasters must ensure that Sports Book advertising includes appropriate responsible betting messaging, to the extent available, and avoids targeting minors.
- Broadcasters are required to ensure that all content concerning betting and advertisements for Sports Books on their platforms be, at all times, reasonable and appropriate in terms of types, prominence and amounts.
- Broadcasters themselves also support the Canadian Broadcast Standards Council and thinktv to provide an additional layer of oversight over Sports Book advertising.

A number of the NHL's rules concerning Sports Book advertising are principles-based, which affords the opportunity to respond to the highly context-specific nature of a specific advertisement or method of advertising. Our approach also means our rules are constantly refined to respond to ongoing industry developments. We consider all relevant factors, including the broadcast market, broadcast medium, time during which the advertising will appear, prominence of a piece of advertising, its relationship to other advertisements, and evolving cultural norms, to ensure our rules respond to various interested stakeholders and are ultimately in the best interest of our fans in Canada.

#### **PROVINCIAL APPROACH PREFERABLE TO NATIONWIDE APPROACH**

We believe regulation of Sports Book advertising should occur at the provincial level consistent with regulation applicable to other Sports Book licensing and operational matters.

Provincial regulators establish and enforce legal standards applicable to Sports Books. A number of those regulations – even outside the advertising context – implicate the same consumer protection issues that the Bill seeks to address. For example, regulators may, among other items, require funding of problem gambling support services, establish self-exclusion principles, and establish minimum betting ages. If the Bill were to pass, the subject Sports Book advertising regulations would overlay all other provincial Sports Book regulations. The potential result would be to limit a provincial regulator's ability to provide comprehensive and directed oversight. It follows that the regulator tasked with overseeing an industry should have available all of the tools that are consistent with its mission.

Similarly, we recognize Canada is a vast country with a diverse citizenry having distinct regional values and beliefs regarding sports betting. A nationwide approach would treat Canadian residents from across the country identically; one-size-fits-all regulation of Sports Book advertising may leave the interests of some – or even all – Canadians behind. On the other hand, we believe a framework that is provincial in nature – created by and responsive to the residents of that province – would be the most effective approach to the regulation of Sports Book advertising.

## **ADDITIONAL COMMENTS ON THE BILL**

### **Background**

The Bill seeks to achieve its stated objectives on a nation-wide basis in three ways:

- (a) “identify[ing] measures to regulate the advertising of sports betting in Canada, with a view to restricting the use of such advertising, limiting the number, scope or location — or a combination of these — of the advertisements or to limiting or banning the participation of celebrities and athletes in the promotion of sports betting;
- (b) identify[ing] measures to promote research and intergovernmental information-sharing related both to the prevention and diagnosis of minors involved in harmful gambling activities and to support measures for persons who are impacted by it; and
- (c) set[ting] out national standards for the prevention and diagnosis of harmful gambling and addiction and for support measures for persons who are impacted by it.

### **Scope of Implementing Regulations**

We note that the Bill provides only a general direction to “identify measures” and “set standards” without further clarity or direction as to how. In short, we believe the Bill, as currently presented, lacks adequate direction and therefore does nothing to ensure that subsequent regulations are measured, balanced, and flexible.

### **Benefits of Sports Book Advertising**

We also believe that limiting Sports Book advertising by legislative caveat may ultimately prove to be counterproductive. Advertising provides an opportunity for brands to compete for consumers and for brands to distinguish themselves from each other, which allows consumers to make informed decisions about brand preference.

### **Promote Research Prior to Enacting the Bill**

Finally, we emphasize the importance of conducting a significant amount of research and information gathering prior to proceeding with the Bill in order to develop a comprehensive, accurate, statistically significant understanding of effects of Sports Book advertising and the causes of harmful gambling activities. In its current form, the Bill seems to contemplate no further advance research, and instead limits research only to issues involving the prevention and diagnosis of minors involving in harmful gambling activities, with such research to be conducted after the Bill’s passage. Other topics that we believe warrant inquiry prior to the passage of any Bill include: (i) research into the prevalence and cause of minors becoming involved in problem gambling; (ii) whether the current prevention framework is sufficient and, if not, how it can be bolstered; and (iii) whether there may be less restrictive ways to prevent minors from becoming involved in harmful gambling activities.

We respectfully submit that additional thorough and adequate advance research in this area would provide the Senators with their best opportunity to adequately and accurately assess the need (or not) for federal legislation and, to the extent such legislation is deemed necessary, the proper scope of the same.

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We appreciate the opportunity to provide you with our thoughts. We remain committed to a well-regulated sports betting marketplace that truly promotes consumer protection in all of its forms and encourage this Committee to be deliberate in its steps.

Sincerely,

A handwritten signature in black ink, appearing to read 'Conal Berberich', written over a horizontal line.

Conal Berberich  
Group Vice President & Deputy General Counsel