

PROFESSIONALISM IN THE OLYMPIC GAMES

INTRODUCTION

It has been argued that the character and purpose of the Olympic Games has undergone a transformation in recent years.¹ Questions of eligibility and the role amateurism should play fuel the controversy.² On the surface, strict proponents of amateurism in the Olympic Games appear to have cause for concern. Recent changes to the procedure for determining an athlete's eligibility status have seemed to abolish the traditional concept of amateur competition.³ However, upon examining the history and development of the Games, such arguments appear untenable.⁴ Athletes have long been compensated for their athletic talents, either secretly or through alternate channels.⁵ The paramount change today is simply the formalization of financial support received by athletes from various sport federations.⁶ Arguably, then, true amateurism never existed.

1. David A. Rose, *Should the Olympic Games be Abolished?*, in *OLYMPIC GAMES IN TRANSITION* 395 (J. Seagrave & D. Chu eds., 1988).

2. John MacAloon, *Issues and Problems*, in *OLYMPIC GAMES IN TRANSITION*, *supra* note 1, at 295. See also Trevor Taylor, *Politics and the Olympic Spirit*, in *THE POLITICS OF SPORT* 216 (Lincoln Allison ed., 1986).

3. Andrew Strenk, *Amateurism: The Myth and the Reality*, in *OLYMPIC GAMES IN TRANSITION*, *supra* note 1, at 303. After the International Olympic Committee (IOC) removed the term "amateur" from the Olympic Charter, emphasis shifted away from defining an amateur. *Id.* Further changes, such as the IOC's decision to allow individual sports federations to specify eligibility standards in each sport, contributed to the demise of the classic, 19th century amateur. *Id.* Before the term was removed, an amateur athlete was defined in the Olympic Charter as "one who participates in sports for educational, physical, mental and social benefits derived therefrom and for whom participation in sports is nothing more than recreation without material gain of any kind, direct or indirect." Olympic Charter, Rule 26 (1960); see also 1991-92 NCAA MANUAL, Bylaw 12.02.1 (Laura E. Bollig ed., 1991).

4. Rose, *supra* note 1, at 396.

5. *Id.*

6. *Id.* Rule 26 of the Olympic Charter specifically prohibited any form of compensation to an Olympic athlete, directly or indirectly. *Id.* Athletes from communist countries who were financially supported, continued to be considered amateurs and eligible for competition. *Id.* Prohibiting athletes from accepting compensation encouraged dishonesty and corruption. Strenk, *supra* note 3, at 315, 321. An investigation after the 1968 Olympic Games in Mexico City revealed that only five track and field medalists did not receive some form of compensation. *Id.* Enforcement of Rule 26 in 1968 would have disqualified the athletes and stripped them of taken their medals. *Id.* at 315. Today, with the skyrocketing costs of training and the need to devote the majority of time to train, athletes could not afford to compete without receiving financial support. *Id.* As a result of the changes in the Olympic Charter by the IOC,

HISTORICAL PERSPECTIVE OF AMATEURISM

Values of amateurism have been said to comprise the spirit and ideal of the Olympic Games. However, the meaning of true amateurism is unclear and, therefore, subject to contradicting interpretations.⁷ Instead of promoting fair play and honesty, amateur rules have fostered counterproductive results.⁸

"Amateurism," at its inception, was not as honorable and undiluted as popularly believed.⁹ The concept was contrived by the wealthy, leisure class of the 19th-century, who intended to exclude

different kinds of Olympians are now possible in the West. For example, there are professionals who make enormous amounts of money from competitions or product endorsements related to their athletic success (e.g. track and fields stars, such as Carl Lewis and Bruce Jenner, gymnastic star, Mary Lou Retton, and down hill skiers such as Phil and Steve Mahre); there are "corporate/government professionals" who are supported by their government or corporate entities, but their particular sport prevents them from joining the first category (e.g. U.S. women's volleyball team members) and, there are the "wealthy sportingly asocial" amateurs whose sport is subcultural or whose personality prevents them from promoting themselves into the second category (e.g. archers and kayakers). Rose, *supra* note 1, at 396.

7. Taylor, *supra* note 2, at 219. Although the Olympic Charter encourages the promotion of "those physical and moral qualities which are the basis of sport" and endorses "fair and frank competition," it leaves much unanswered as to the definition of the Olympic ideal. *Id.*

8. Strenk, *supra* note 3, at 308, 321. At the 1984 Olympic Games, conflict over the eligibility of athletes was visible in the sports of ice hockey, skiing, track and field, and soccer. *Id.* In ice hockey, professionals were defined as those playing in ten or more National Hockey League games. *Id.* However, players in the International League and European professional teams, were not considered professionals and therefore eligible to compete in the Olympics. *Id.* at 304. Skiing champions, Ingemar Stenmark of Sweden and Hanni Wetzell of Luxembourg, were declared ineligible to compete in the 1984 Winter Olympics due to their status as professionals. *Id.* However, other top European and American skiers were continuing to earn five-figure incomes and remain eligible by funneling their monies through federation trust funds. *Id.* at 304-305. The athletes could not receive this money directly, however, they were able to withdraw money from these funds at any time to compensate for living expenses. *Id.* In tennis, anyone under the age of twenty was eligible, regardless of their earnings as professionals or endorsements; while anyone older than twenty years was automatically ineligible. *Id.* at 305. In track and field, world record holders, Renaldo Nehemiah and Willie Gault, were pronounced ineligible to compete in the Summer Games because they had signed contracts to play in the National Football League. *Id.* Yet, other athletes were able to earn hundreds of thousands of dollars a year and still remain eligible for the Olympics by channeling their money into trust funds (e.g. Carl Lewis' earnings in 1984 were over \$780,000, and Edwin Moses' were approximately \$600,000.) *Id.* Finally, in soccer, players from the European and South American world championship teams were prohibited from competing in the 1984 Games. *Id.* As a result, the Canadian team, consisting of professionals, defeated the Mexican team consisting of nonprofessionals. *Id.*

9. Richard Gruneau & Hart Cantelon, *Capitalism, Commercialism and the Olympics, in OLYMPIC GAMES IN TRANSITION*, *supra* note 1, at 348. Amateurism was viewed as an expression of patriarchy linked to class power. *Id.* Amateur athletics was a means to regulate and detach the working class by the dominant members of the bourgeoisie. *Id.*

those of lesser means from participating in athletic competition.¹⁰ Equating athletic skill with monetary rewards represented a theory of equality at large for society, thus endangering the authority of the bourgeoisie class.¹¹ Participation without compensation symbolized affluence and status; the acceptance of professionalism would provide the working class with an opportunity to excel in athletics and further compel equality in society.¹² The concept of professionalism was thus, scowled with hostility by the wealthy class.¹³

Although the objective of amateurism is no longer to confine athletic participation to the wealthy class, the presence of an amateur ideal continues to invite conflicting standards and inequitable results to the world of sports.¹⁴ Because the amateur code penalized unknowing athletes who naively accepted compensation, other athletes remained silent, lied or deceived officials in order to remain eligible for amateur competition.¹⁵ For years, Western countries have maintained an "underground economy" to provide athletes with the financial means to compete.¹⁶ Reparation is achieved through performance

10. Leonard Shulman, Comment, *Compensation for Collegiate Athletes: A Run For More Than The Roses*, 22 SAN DIEGO L. REV. 701 (1985). See also Strenk, *supra* note 3, at 309. The concept of amateurism was conceived by the bourgeoisie class of the 19th-century in order to expel the working class from athletic competitions. *Id.* As a result, "play without pay became a mark of status and affluence." *Id.* Consequently, athletes from the working class were disqualified from athletic competitions. *Id.* John Kelly, an American rowing champion and bricklayer, was disqualified from the Henley Regatta in 1920 because he had used his hands in laying bricks, which was a violation of the amateur regulations. *Id.* Similarly, in 1936, the Australian eight-oared shell was disqualified from the Olympics because one of the members was a policeman. *Id.* In equestrian sports, amateur status was conditional on being an officer. *Id.* Noncommissioned officers were not considered "gentlemen," thus defining them as professionals. *Id.* For the 1948 Olympic Games, a Swedish equestrian was elevated to the rank of officer to qualify for the Olympics, but immediately after the Olympic Games, he was demoted back to his former rank. *Id.* These cases were acceptable arrangements to sport officials because it was understood that "amateurs did not stoop to menial occupations [sic] that demeaned the status of a gentleman." *Id.*

11. *Id.*

12. Gruneau & Cantelon, *supra* note 9, at 349. See also David C. Young, *Professionalism in Archaic and Classical Greek Athletics in OLYMPIC GAMES IN TRANSITION*, *supra* note 1, at 27. Society regarded amateurs as "well-born, aristocrats," whereas professionals denoted the working class. *Id.* at 28.

13. Gruneau & Cantelon, *supra* note 9, at 349.

14. Rose, *supra* note 1.

15. Strenk, *supra* note 3, at 309, 321. Jim Thorpe, a double Olympic champion in 1912, lost his medals because he had played semi-professional baseball, a non-Olympic sport. *Id.* He had played baseball long before competing in the Olympics became a possibility. *Id.* Nevertheless, his honesty and naiveté in using his own name cost him his medals, while other athletes purposely saying nothing or using false names remained eligible. *Id.* at 309-10.

16. See Strenk, *supra* note 3, at 312. For an account of the methods historically utilized by athletes to obtain financial support. *Id.* Because rules of amateurism were preserved, meet

bonuses, clinics, money laundered through athletic clubs, exaggerating expenses and secret contracts entered with companies associated with sports.¹⁷ Traditionally, the governments of socialist countries and western Europe have subsidized and supported their athletes both financially and materially.¹⁸ Along the same lines, athletes from the United States have accepted valuable college scholarships, as well as received prize money through the use of trust funds.¹⁹ Conceivably, then, the so-called evolution of amateur athletic compensation has been reduced to merely formalizing a time honored practice.²⁰

AMATEURISM IN THE OLYMPICS

The "amateur ideal" in Olympic competition has not gone untouched. The once claimed amateur event has been affected by increased commercialization and exploitation by corporate interests,

promoters came up with creative ways to guarantee participation of prominent athletes. *Id.* Performance bonuses, secret contracting and money laundering through clubs were the creative methods devised in order to funnel money to athletes. *Id.* By 1976, performance fees reached \$20,000 per meet for a top athlete considered capable of breaking a world record. *Id.* at 312-13.

17. *Id.* A notable West German runner commented, "[i]f an athlete can get money he should take it. [A]lmost all of the Europeans do. Our top distance runner, Harold Norpoth, is [an] expert at making expenses." *Id.* By 1976, elite athletes demanded up to \$20,000 for so-called "performance fees," prompting the demise of the first professional track organization. *Id.* Essentially, athletes were earning more as amateurs than as professionals. *Id.* at 313. Bob Newland, track promoter and manager of the 1976 U.S. Olympic track team, acknowledged the hypocrisy of amateurism, recognizing that although declared as amateurs, such athletes are earning more than professionals in that sport. *Id.*

18. Strenk, *supra* note 3, at 308. Governments in the socialist countries of what was Eastern Europe subsidized every elite athlete, thereby transforming them in practice into "state professionals." *Id.*

19. *Id.* Superior athletes from the United States were granted university scholarships valued at tens of thousands of dollars for their athletic ability. *Id.* Furthermore, the concept of trust funds was adopted by the national governing body for track and field in the United States. *Id.* Trust funds allowed athletes to place all their prize earnings into a fund and withdraw funds for living expenses as needed. *Id.* Even with this outright acceptance of monetary support, athletes have continued to remain amateur "on paper" although professionals in practice. *Id.* A professional athlete is defined as "one who receives any kind of payment, directly or indirectly, for athletic participation except as permitted by the governing legislation of the Association." 1991-92 N.C.A.A. Manual, *supra* note 3, Bylaw 12.02.4. This is exactly what "amateur" athletes have been doing for years. Strenk, *supra* note 3, at 308. See also, DON YAEGER, UNDUE PROCESS: THE NCAA'S INJUSTICE FOR ALL 114-15 (Sara Chilton ed., 1991). The National Collegiate Athletic Association places prohibitions on athletes citing the rules on amateurism, however, amateurism "went out the window" when athletes were allowed to accept athletic scholarships worth thousands of dollars. *Id.* Digger Phelps, one time Notre Dame basketball coach, commented that "[a]s soon as we get room and board and tuition, we are professionals. Let's grow up to the fact it's big-time business." *Id.*

20. Rose, *supra* note 1; see also *supra* notes 17 and 18.

sports organizations and political motivations.²¹ As the popularity of athletic competition rapidly increased throughout the 1960's and 1970's, political activists and corporate entities began exploiting sports to promote their causes.²² As a result, the commercial and political stakes of winning firmly positioned themselves at the forefront of the Olympic Games.²³ Though the Olympic Charter mandates that "[t]he Olympic Games are not for profit" and that "neither individuals, organizations or nations shall be permitted to profit from them . . . commercially," realistically, the Olympics have evolved into a "commercial bonanza."²⁴ Amateur athletics are no longer considered solely a weekend activity, but now constitute a "major industry."²⁵ While the Olympic Games remain "nominally amateur," realistically the bar

21. Strenk, *supra* note 3, at 307. Peter Gent, National Football League veteran and author of *North Dallas Forty* and *The Franchise*, comments on the fundamental differences between amateur and professional athletes: "Professional athletes are first and foremost show business, dealing with illusion and entertainment. The first responsibility of the players is to the audience, not themselves. . . . Audience satisfaction is not supposed to be a factor in amateur athletics." *Id.* But cf. Sean Freyne, *Early Christianity and the Greek Athletic Ideal*, in *SPORT* 93 (Gregory Baum & John Coleman eds., 1989) (arguing that commercialization has transformed sport into a commodity); Rose, *supra* note 1; Lynn Rosellini & Mike Tharp, *A Question of Rivalry*, *U.S. NEWS & WORLD REPORT*, Oct. 10, 1988, at 40. Top athletes can earn thousands of dollars at a single meet. *Id.* Roger Kingdom, Olympic medalist, stated that, "[i]f a meet director says he'll pay you \$50,000. . . you're going to look for help because you want the money." *Id.*

22. Arthur T. Johnson & James H. Frey, *Sports and the State*, in *GOVERNMENT AND SPORTS* 1, 6 (Arthur Johnson & James Frey eds., 1985). Social and antiwar activists began a movement to exploit sports events in order to increase public awareness for their causes. *Id.* These groups were criticized for attempting to "politicize" sports. *Id.* Sports also became a means to convey national and international policy (e.g. 1980 and 1984 boycotts by the United States and the Soviet Union). *Id.* at 4. Furthermore, corporate interests took advantage of the increasing popularity of sports determined from the new records of public interest. *Id.* at 7. See also Rose, *supra* note 1, at 398. Rose comments that over the last twenty years, the commercial and political stakes of winning have come to dominate the character of the Olympic Games. *Id.*

23. Rose, *supra* note 1, at 398.

24. MacAloon, *supra* note 2, at 297. See also Taylor, *supra* note 2, at 218 (arguing that the rules regarding amateurism have become "anachronistic and inappropriate in the wider world"). *Id.* The current Olympic rules plainly state that "no one is permitted to profit from the Olympic Games;" however, Olympic Officials understand that in order for television and sponsors to put money into the games, they must at least expect to indirectly profit from their investment. *Id.* Freyne, *supra* note 21, at 108. Speculating that sport is a way of life and commercialization of sport has turned into a commodity. *Id.* As a result, the Olympics are manipulated and exploited for extraneous purposes, and no longer inspired by patriotism. *Id.*

25. Donald Shuck, Comment, *Administration of Amateur Athletics: The Time For An Amateur Athlete's Bill of Rights Has Arrived*, 48 *FORDHAM L. REV.* 53, 68 (1979); See also Strenk, *supra* note 3, at 309. Some of the driving forces behind the commercialization of sport include increased costs of technology, equipment and training, ceaseless competitions, political and social pressures, influence by the media, and enormous financial rewards received through sponsorships and media exposure. *Id.*

against professionalism has been eradicated. Reacting to the pressures applied by capitalist nations, the International Olympic Committee (IOC) effectively modified the Olympic rules to professionalize athletic programs.²⁶ In effect, emphasis was shifted from defining an amateur to defining a professional, and thus the demise of amateurism had begun.²⁷

STRUCTURE OF THE OLYMPIC GOVERNING BODIES

To examine the impact of the modifications on the eligibility rules, it is beneficial to understand the composition and operation of the various bodies that govern the Olympics. The Olympic system is comprised of four interdependent bodies: the IOC, international sport federations, national Olympic committees, and an organizing committee for each Olympics.

The IOC controls all rights and is the final authority on all issues regarding the Olympic Games.²⁸ The IOC is empowered to establish authoritative rules and regulations so long as they comply with international law.²⁹ A sport must be recognized by the IOC to be incorporated into the Games.³⁰

26. Rose, *supra* note 1, at 396. See also Strenk, *supra* note 3, at 303. For years, IOC absolutely prohibited any professional athlete from participating. *Id.* However, after removing the term "amateur" from article 26 of the Olympic Charter in 1971 and substituting the term "eligible," the emphasis shifted away from the concept of amateurism and more to defining professionalism. *Id.* The IOC's decision also bestowed the authority for deciding the eligibility requirements to the individual international sports federations. *Id.* Thus, each sport came to have different standards for determining eligibility, some allowing compensation funneled through trust funds, subsidization by governments, and others continuing to proscribe any form of compensation. *Id.*

27. Strenk, *supra* note 3, at 304. See also *infra* notes 40 and 42.

28. Olympic Charter Rule 4 (1980); see also 1991 USOC FACT BOOK 49. The official aims of the IOC are specifically:

- (1) To encourage the organization and development of sport and sport competitions;
- (2) to inspire and lead sport within the Olympic ideal, thereby promoting and strengthening friendship between the sportsmen of all countries;
- (3) to ensure the regular celebration of the Olympic Games; and,
- (4) to make the Olympic Games even more worthy of their glorious history and of the high ideals which inspired their revival by Barron Pierre de Coubertin and his associates.

Id. See also Jeffrey Marks, *Political Abuse of Olympic Sport*, 14 N.Y.U. J. INT'L. & POL. 155, 162 (1981).

29. Olympic Charter Rule 11 (1980). The IOC is vested with substantial legal authority, engages in considerable diplomatic activity and is an authority on intergovernmental affairs. See Marks, *supra* note 28, at 162.

30. 1991 USOC FACT BOOK at 53. To become recognized, each federation must be in accord with Olympic rules. There can only be one federation governing each sport, and that federation must show that the sport is widely practiced (world championships and international

Every sport is then governed, on the international level, by an affiliated federation in each member country.³¹ Each international federation establishes its own rules for eligibility, subject to IOC approval. Additionally, each international federation designates a governing body for each recognized sport in the member country.³²

For a country to compete, it must establish a national Olympic committee independent of its government through a private act.³³ The national Olympic committee then must offer open membership to all eligible athletes in its country and oversee the organization of each sport in the individual country.³⁴ Each national Olympic committee has the exclusive authority to represent its country and admit its athletes into the Olympic Games.³⁵

competitions) in at least 75 countries and 4 continents. See also Olympic Charter Rule 4 (1980).

31. Olympic Charter Rule 35 (1980). The Charter documents the international federations which are recognized by the IOC. Additionally, the Olympic Charter By Law X to Rule 35 (1980) specifies the criteria for IOC acknowledgment of a particular sport and sport federation. *Id.*

32. Shuck, *supra* note 25, at 68. The Amateur Sports Act of 1978, codified at 36 U.S.C. §§ 371 et seq. (Supp. IV, 1980), denies recognition as a national governing body to any amateur sports organization that fails to:

(3) agrees to submit. . .to binding arbitration conducted in accordance with the commercial rules of the American Arbitration Association in any controversy involving its recognition as a national governing body. . . .

(5) demonstrates that its membership is open to any individual who is an amateur athlete. . . .

(6) provides an equal opportunity to amateur athletes. . .to participate in amateur athletic competition, without discrimination. . . and with fair notice and opportunity for a hearing to an amateur athlete. . .before declaring such individual ineligible to participate.

36 U.S.C. § 391 (b)(3),(5),(6) (Supp. 1979). See also 1991 U.S.O.C. FACT BOOK at 54.

33. Taylor, *supra* note 2, at 224. The Amateur Sports Act of 1978 was enacted by The United States Congress to provide a means of settling disputes between American sport associations, as they attempted to become recognized as the national governing body in the United States for a sport recognized by the IOC. The federal government emphasized that it would not be the regulator of amateur athletics. See H.R. REP. NO. 1627, 95th Cong., 2d Sess. 8 (1978), reprinted in 1978 U. S. C. A. N. 7482; see also WONG, *infra* note 35, at 247. Instead, the federal government empowered the United States Olympic Committee (USOC) to make all decisions regarding the United States' participation in the Olympics, including the decision of whether to participate at all. 36 U.S.C. § 374(3) (Supp. IV 1980). The USOC is granted exclusive jurisdiction over all issues relating to the participation and representation of the United States in the Olympic Games. *Id.*

34. Taylor, *supra* note 2, at 224.

35. 1991 USOC FACT BOOK at 7, 50; see also Olympic Charter Rule 24(B). The objectives of the national Olympic committees "shall be to ensure the development and safe-guarding of the Olympic movement and sport. National Olympic committees shall be the sole authorities responsible for the representation of their respective countries. . . ." *Id.* See also GLENN WONG, *The Amateur Athlete*, in *ESSENTIALS OF AMATEUR SPORTS LAW* 247 (1988). In *Defrantz v. United States Olympic Comm.*, 492 F.Supp. 1181, 1183 (D.D.C. 1980), the court reiterated the IOC Olympic Charter, Rule 24B, which stated that, "National Olympic Committees may be

The United States Olympic Committee (USOC) is recognized by the IOC as the national Olympic committee responsible for guiding the Olympic movement in the United States.³⁶ The USOC is authorized to assign a governing body within the United States to each recognized Olympic sport.³⁷ The USOC then recommends that national governing body to the sport's international federation as the official representative of the sport in the United States.³⁸

ELIGIBILITY IN THE OLYMPICS—WHO IS ELIGIBLE?

Historically, the IOC opposed the admittance of professional athletes into the Olympic Games. However, widespread dissatisfaction with the eligibility rules persuaded the IOC to remove the term "amateur" from Article 26 of the IOC Charter, and replace it with the terms "eligible" and "ineligible."³⁹ Once the dispute over defining "professional" and "amateur" was dispelled, opposition ceased.⁴⁰ Eventually, by 1981, emphasis shifted from what constituted an amateur to what constituted a professional.⁴¹ The demise of amateurism was expedited when the IOC granted the authority to promulgate eligibility standards to the individual international sports federations.⁴²

established as the sole authorities responsible for the representation of the respective countries at the Olympic Games, so long as the NOC's rules and regulations are approved by the IOC." *Id.* IOC Olympic Charter, Rule 24B.

36. 1991 USOC FACT BOOK at 50.

37. JOHN C. WEISTART & CYM H. LOWELL, *THE LAW OF SPORTS* § 1.29 (Supp. 1985). This article presents a full description of the purpose and intentions supporting the enactment of the Amateur Sports Act of 1978. *Id.*

38. 36 U.S.O.C. § 3392(b). *See also* WEISTART & LOWELL, *supra* note 37, at 26.

39. Strenk, *supra* note 3, at 303-04. *See also* Eugene Glader, *Amateurism and the Modern Olympic Movement*, in *AMATEURISM AND ATHLETICS* 158 (1978).

40. Strenk, *supra* note 3, at 303-04. In 1971, the IOC officially removed the term "amateur" from its charter thereby shifting the emphasis away from defining an amateur athlete. *Id.* This move was generated by the consummation of Avery Brundage's tenure as President of the IOC. *Id.* Brundage was a leading advocate for segregating remuneration and amateurism, and robustly opposed the idea of compensating amateur athletes. *Id.* Brundage advocated "sport for the sake of sport" and took affirmative steps during his tenure to prevent amateurs from accepting pay in exchange for performance. *Id.* The cessation of Brundage's term effectively prompted a relaxation of eligibility rules and a more open acceptance of professionalism. *Id.* However, even with his steadfast view of "sport for the sake of sport," Brundage, in response to attacks alleging that the Olympic rules were too restrictive and aristocratic, admitted that "[i]t's about time to recognize that some sports and events cannot be kept amateur at international levels." Glader, *supra* note 39, at 158.

41. Strenk, *supra* note 3, at 303. The IOC reasoned that conscience instead of earnings or conduct would determine status. *Id.*

42. Olympic Charter Rule 26 (1980). This rule has frequently been amended over the years but now assigns responsibility for deciding who will be eligible to compete in the Olympics to the individual sports federations. *Id.* *See also* Strenk, *supra* note 3, at 304; Marks, *supra*

Each federation chose various definitions, but all deviated from the traditional concept of amateurism.⁴³ The differing standards of eligibility created incongruities in the means by which an athlete could be compensated and still remain eligible. By relinquishing the authority for deciding eligibility standards to the individual international federations, the IOC left the door open for professionals to participate in the Olympics. However, the acceptance of professionalism has been overshadowed by the confusion stemming from its allocation.⁴⁴ With the absence of congruity between the individual sports federations, it is not surprising that conflict and confusion resulted.⁴⁵

Eastern European countries and third-world nations liberally construed their eligibility rules after the "state amateur."⁴⁶ This allowed the government to subsidize athletes without jeopardizing their amateur eligibility status.⁴⁷ The United States' national governing body for track and field, The Athletic Congress (TAC), espoused a form of compensation through "trust funds."⁴⁸ Trust funds gave amateur athletes the opportunity to deposit and withdraw earnings to pay for living expenses, while still remaining eligible.⁴⁹ These, and

note 28, at 161. There is support for the IOC's promotion of professionalism in the Olympics, specifically in the sport of figure skating. Lisa Luciano, *Stop Freezing Out the Pro Skaters*, N.Y. TIMES, Mar. 10, 1991, at S7. According to Luciano, "even the ISU [International Skating Union which is, the international federation for the sports of figure skating and speed skating] recognizes that the concept of amateur versus pro is outdated and has substituted the terms eligible and ineligible." *Id.*

43. Strenk, *supra* note 3, at 304. International federations began shifting away from the classic English definition of amateur and espoused more liberal renditions of the term. *Id.* By 1981, United States track and field athletes were able to compete in corporate sponsored meets and openly accept prize money with the condition that the money be channeled into a trust fund. *Id.*

44. Peter Alfano, *Lukewarm Welcome For Professionals*, N.Y. TIMES, Feb. 12, 1988, at A30. Even though the IOC endorsed the acceptance of professionals in order to follow a "realistic attitude of the modern world," its endorsement was overshadowed by the confusion stemming from the IOC's decision to grant each of the international federations authority to decide eligibility standards. *Id.*

45. *Id.*

46. See *supra* note 18 and accompanying text.

47. *Id.*

48. Strenk, *supra* note 3, at 304. In 1985, the International Amateur Athletic Federation (IAAF), the international federation for track and field, followed TAC's lead in adopting the concept of trust funds and sponsored the international IAAF/Mobil Grand Prix track meet with an aggregate purse of \$542,000. See also Christine Brennan, *USOC to Give Olympians \$18 Million*, WASH. POST, July 22, 1988, at A1. The USOC announced the inauguration of the most extensive payment program in its history, allocating \$18 million in direct cash payments to athletes to compensate for the lack of financial support while an athlete devotes his time to training. *Id.*

49. Strenk, *supra* note 3, at 304.

other changes, provoked conflict over the eligibility status of professional athletes.⁵⁰

At the 1984 Winter Games, conflicts over eligibility flourished. A number of premiere athletes, such as Carl Lewis, Edwin Moses and Mary Decker, remained eligible by funneling hundreds of thousands of dollars of earnings through trust funds, while other athletes, such as Willie Gault and Renaldo Nehemiah were denied eligibility because of their existing contracts with professional football teams.⁵¹ Ironically, these professional football players earned less than some of their "amateur" counterparts.⁵² Athletes who competed in National Hockey League games were defined as professionals, and thus barred from participating, while hockey players who participated in the international league or European professional leagues were regarded as amateurs.⁵³ Skiing champions, such as Ingemar Stenmark of Sweden and Hanni Wetzell of Luxembourg, were denied eligibility status for accepting compensation outright, while other notable skiers remained eligible by channeling earnings of six-figures into trust funds.⁵⁴

The summer sports of tennis and soccer experienced similar eligibility conflicts.⁵⁵ However, the international federations governing these sports have since permitted tennis and soccer professionals to compete in the Olympics, provided they have not reached their 23rd birthday.

50. Strenk, *supra* note 3, at 307-08. See also *Nehemiah v. The Athletic Congress of the U.S.A.*, 765 F.2d 42, 43 (3d Cir. 1985). Nehemiah lost his eligibility to participate in amateur track and field events as a result of signing a professional football contract. *Id.* Rule 53 of the IAAF Constitution rescinds eligibility once an athlete competes in any athletic event for pecuniary rewards. *Id.* Rule 11 of TAC, provides the opportunity to remain eligible if TAC is persuaded that the practice of the professional sport does not enhance the athlete's ability in any athletic event. *Id.* Although TAC reinstated Nehemiah, the IAAF took an opposing stance and the Court of Appeals avoided an evaluation of the IAAF's authority by dismissing Nehemiah's claim based on lack of personal jurisdiction. *Nehemiah*, 765 F.2d at 43.

51. Strenk, *supra* note 3, at 307-08.

52. *Id.*

53. *Id.* See Robert McG. Thomas Jr., *Olympics to Allow Pros in 3 Sports*, N.Y. TIMES, Mar. 1, 1985, at A19. As of today, the dispute and confusion in the sport of hockey has somewhat dissipated in that professional hockey players under the age of twenty-three are permitted to compete in the Olympic Games. *Id.* At the IOC's annual meeting, the IOC granted the request of the international federations governing the sports of hockey, soccer and tennis to allow professionals under the age of twenty-three to compete in the Olympics. *Id.*

54. Strenk, *supra* note 3, at 304.

55. *Id.* at 305.

Following suit, the sport of sailing has abandoned all restrictions prohibiting professional participation.⁵⁶ Sailors are no longer required to funnel earnings into trust funds.⁵⁷ Effectively, all sailors will be forced to play by the same rules, meaning that each athlete must compete while under the sponsorship of both the international and national sport federations.⁵⁸

In the 1992 Olympic Games, professional basketball players will be afforded the opportunity to compete freely for the first time.⁵⁹ Amateurs, i.e., those not receiving any form of compensation, will still be permitted to participate, but it will mark the first time that unrestricted professionals are admitted.⁶⁰ Despite the increasing awareness of the befuddled and discrepant concept of amateurism, it continues to be embraced in the American public's ideals of sport.⁶¹ Regardless of this inbred endorsement of amateurism, more sport federations have emulated the IOC in adopting liberal policies designed to admit professionals.⁶² Regardless, confusion over the issue of amateurism and eligibility has prospered. International federa-

56. Barbara Lloyd, *IOC Letter Alters Olympic Eligibility*, N.Y. TIMES, Dec. 24, 1989, at 8C.

57. *Id.*

58. *Id.*

59. Michael Janofsky, *Basketball Proposal Would Allow Pros*, N.Y. TIMES, Mar. 30, 1989, at B15 1. See also Alfano, *supra* note 44, at A30. The hypocrisy existing in the sport of basketball prompted the removal of compensation as a restriction for participating in the Olympics. *Id.* Basketball, unlike most other sports in the Olympics, continued to differentiate between professionals and amateurs, irrespective of the fact that many countries openly paid their team players comfortable salaries. *Id.* Additionally, European countries had for years subsidized their athletes, usually citing their occupations as students or soldiers. *Id.* These so-called "amateurs" could surprisingly afford expensive sports cars and glitterized life-styles, yet remain eligible. Eligibility rules changed as a result, and therefore, basketball professionals are now allowed to participate in the Olympic Games free of restriction. *Id.*

60. Janofsky, *supra* note 59, at B15.

61. Strenk, *supra* note 3, at 305. Although the legal definition of amateur has frequently been modified over the past twenty years, the moral definition has endured. *Id.* This disparity has instigated the confusion afflicting the world of sport today. *Id.* The distinction between professionals and amateurs extends beyond whether an athlete receives financial compensation. *Id.* at 307. "It all used to be so simple. Professionals made money and amateurs didn't. Now the line between the two has blurred." Luciano, *supra* note 42, at S7. A noted distinction is that a professional's foremost obligation is to the audience. *Id.* A professional is claimed to focus his attention on audience satisfaction, a supposedly obscure component of amateur athletics. *Id.* It is argued that amateur athletics primarily strive to build character and accentuate the thrill of competition thereby constructing a solid foundation for the athlete before he escalates to the professional level. Rose, *supra* note 1, at 397.

62. Lloyd, *supra* note 56, at 8S. See also Jonathan S. Fishbein, *When Sovereign's Collide: Why America's Figure Skating Competitors Are The Ultimate Losers Under the Amateur Sports Act of 1978*, 9 CARDOZO ARTS & ENT. L. J. 231 (1990).

tions are a maze of organizations with different eligibility rules.⁶³ Some athletes will be capable of earning millions of dollars, while others will face restrictions and the threat of ineligibility for accepting financial remuneration.⁶⁴ Without a consistent eligibility standard for all Olympic athletes, inequities will continue to plague the Olympic Games.

AMID THE CONTROVERSY THE COURTS ELECT TO PASS

The explosion in popularity of professional and amateur sports has launched a series of courtroom confrontations,⁶⁵ regulatory actions and governmental investigations.⁶⁶ Athletes' demands for an absolute right to compete, as well as a greater voice in setting policy,⁶⁷ have met little success.⁶⁸

Courts have deferred to the various sport governing bodies in defining eligibility standards and resolving disputes which surround amateur athletics, thereby leaving very little decisional law in the field.⁶⁹ The judicial system, as a rule, intervenes in controversies only to the extent that legislative actions deprive rights afforded by the constitution, by the institution, or by basic fairness.⁷⁰ Courts have explicitly concluded that the right to compete in sports is neither a

63. Don J. DeBenedictis, *Standards for Amateurs in Olympics Battled in Court*, 114 N.J.L.J. 9, 10 (Aug. 16, 1984). See also Gregory J. Tarone, *Amateur Athletes and Eligibility*, 93 CASE & COMM. 3 (May-June 1988). See generally, USOC Constitution, Chapter XIX, §§ 2, 3.

64. Strenk, *supra* note 3, at 304. Track and field athletes are able to accept millions of dollars in prize money by funneling it through a trust fund and withdrawing for any living expense. *Id.* Professional and collegiate basketball players will both be competing in the 1992 Summer Games. *Id.* However, only professional athletes under the age of twenty-three in the sports of soccer, hockey and tennis will be allowed to play. *Id.* Finally, in the sport of boxing, boxers can be supported by sponsors but only if he did not obligate himself to a professional contract. *Id.*

65. See *Oldfield v. Athletic Congress*, 779 F.2d 505 (9th Cir. 1985); *Nehemiah v. The Athletic Congress of the U.S.A.*, 765 F.2d 42 (3d Cir. 1985); *Defrantz v. United States Olympic Comm.*, 492 F. Supp. 1181 (D.D.C. 1980);

66. Johnson & Frey, *supra* note 22, at 1.

67. *Id.* at 9.

68. See *Oldfield*, 779 F.2d at 506-08. Provisions of the Amateur Sports Act of 1978 have been held to fall short in providing an absolute right to compete. See *Nehemiah*, 765 F. Supp. at 43; Johnson & Frey, *supra* note 22, at 9. Notwithstanding the adoption of trust funds, disbursement of funds by the United States Government, and acknowledgment of professionals in chosen sports, athletes have persisted in demanding for an absolute right to compete. *Id.*

69. DeBenedictis, *supra* note 63, at 10.

70. WONG, *supra* note 35, at 249.

property right nor a liberty right, thus not subject to due process guarantees.⁷¹

Athletes have challenged various governing bodies, alleging that their decisions to deny eligibility status were arbitrary and in violation of the Amateur Sports Act of 1978.⁷² Courts, however, have rejected the argument that the Act grants an absolute right to compete, reasoning that the primary purpose of the Act was to eradicate rivalries between the various sport organizations which had previously hampered athletic performance on the international level.⁷³ The Act merely provides a means to resolve disputes between athletes, national governing bodies and sport organizations. Further, it designates the USOC as the "coordinating body for amateur athletic activity" and rectifier of disputes, but confers no implied absolute right to compete.⁷⁴

The decisions in *DeFrantz v. United States Olympic Committee*⁷⁵ and *Oldfield v. Athletic Congress*⁷⁶ reinforced the USOC's au-

71. DeBenedictis, *supra* note 63, at 10. See also *DeFrantz v. United States Olympic Comm.*, 492 F. Supp. 1181 (D.D.C. 1988). In reviewing the legislative history of the Amateur Sports Act, the court found that the statute did not guarantee athletes a right to compete. *DeFrantz*, 492 F.Supp. at 1190-91. The court could not sustain a finding of an implied private right of action to enforce a right that did not exist. *Id.*

72. 36 U.S.C. §§ 371-396 (1982); *Oldfield v. Athletic Congress*, 779 F.2d 505 (9th Cir. 1985). *Oldfield's* claim that the USOC was discriminatively denying his right to compete in violation of the Amateur Sports Act of 1978 was rejected by the court on the grounds that Congress never intended to provide a private right of action when adopting the Act. *Id.* at 506.

73. *Oldfield*, 779 F.2d at 506. See also March L. Krotee, *An Organizational Analysis of the IOC*, in *OLYMPIC GAMES IN TRANSITION*, *supra* note 1, at 144 (1988); *DeFrantz*, 492 F. Supp. at 1190.

74. 36 U.S.C. § 374(6) (1982). In *Oldfield*, Brian Oldfield, citing the Senate Report, argued that the Amateur Sports Act of 1978 contained an implied private right of action and absolute right to compete. *Oldfield*, 779 F.2d at 508. The court reasoned that reliance on the Senate Report was without merit due to contrasting provisions adopted in subsequent legislation. *Id.* The court acknowledged that the statements made by a bill's sponsor are typically "to be accorded substantial weight in interpreting the statute," however when the statements are directly contradicted in subsequent legislation, they carry little influence. *Id.* *Oldfield's* reference to the report of the President's Commission on Olympic Sports is thus of little value since the report was in plain contradiction with the final legislation. *Id.* In conclusion, the court firmly admonished a private right of action under federal law for athletes, stating that to imply a right "would be to believe that by its silence Congress intended to confer a cause of action to enforce nonexistent rights." *Id.* See also *DeFrantz*, 492 F. Supp. at 1181. In announcing its rejection of a private right of action for athletes, the court in *Oldfield* relied on *DeFrantz* by stating: "to find an implied right in such circumstances. . . would be to believe that by its silence Congress intended to confer a cause of action to enforce non-existent rights." . . . "[T]o the extent Congress provided protection for amateur athletes to compete, it did so in terms of eliminating the rivalries between sports organizations." *Oldfield*, 779 F.2d at 508 n.2 (quoting from *DeFrantz*, 492 F. Supp. at 1192).

75. *DeFrantz*, 492 F. Supp. at 1190.

thority under the Amateur Sports Act of 1978⁷⁷ by refusing to acknowledge a "right to compete" for athletes. In *DeFrantz*, the court reasoned that expanding the constitutional guarantee of liberty to include a right to compete in athletics would effectively abuse the protection of the constitution and invite an inundation of lawsuits.⁷⁸ The court further stated that "[c]ertainly one must be praised for his devotion and sacrifice; however, these factors alone have never been reasons to afford constitutional protection."⁷⁹ The court reiterated past Supreme Court decisions which explicitly held that the USOC was not a governmental participant and the role of supervising athletes is in no way a traditional governmental function.⁸⁰ Thus, any action initiated by the USOC does not constitute state action and effectively eliminates the protections of the constitution.⁸¹ In *Oldfield*, the court reiterated that the original version of section 2036 of the Amateur Sports Act, which provided a substantial amount of rights to athletes, had been dismissed by Congress, thus the Act was not intended to provide an absolute right to compete.⁸² Moreover, the court reaffirmed that the purpose of the Amateur Sports Act was to respond to disputes and dispose of rivalries between the various sport organizations, not to confer a right of competition.⁸³

By eluding involvement in athletic eligibility disputes, courts appear to have acquiesced to inequitable results. Renaldo Nehemiah, a world record holder in the 110-meter high hurdles and professional football player, challenged the IAAF's authority to deny him eligibility standing because of his career as a professional football player.⁸⁴ The IAAF denied him eligibility standing even after he had received approval from both the USOC and TAC to compete in both professional football and amateur track.⁸⁵ The Third Circuit Court of Appeals validated the IAAF's decision to disqualify Renaldo Nehemiah

76. *Oldfield*, 779 F.2d at 505.

77. 36 U.S.C. § 374 (1982); *Oldfield*, 779 F.2d at 508; *DeFrantz*, 492 F. Supp. at 1181.

78. *Oldfield*, 779 F.2d at 506 (citing the opinion in *DeFrantz*, 492 F. Supp. at 1194-95).

79. *DeFrantz*, 492 F. Supp. at 1194-95.

80. See *Behagen v. Amateur Basketball Ass'n of the United States*, 884 F.2d 524, 528 (10th Cir. 1989); *Oldfield*, 779 F.2d at 508; *DeFrantz*, 492 F. Supp. at 1194; see also 36 U.S.C. § 1101 (1982) (enumerating that the USOC was established as a private corporation).

81. *DeFrantz*, 492 F. Supp. at 1194.

82. *Oldfield*, 779 F.2d at 508. See generally 36 U.S.C. § 374; *DeFrantz*, 492 F. Supp. at 1192. See also *Behagen*, 884 F.2d at 531.

83. *DeFrantz*, 492 F. Supp. at 1192. See also *Behagen*, 884 F.2d at 529.

84. *Nehemiah v. The Athletic Congress of the United States*, 765 F.2d 42, 43 (9th Cir. 1985).

85. *Id.*

from participating in amateur track and field competitions by dismissing his claim on procedural grounds.⁸⁶ By avoiding an examination of the IAAF's Rule 53, which terminates eligibility for those athletes accepting financial rewards for their athletic ability, courts have sanctioned a perverse result.⁸⁷ Even though United States District Court Judge Clarkson Fischer expressed that "[t]here may be a pervasive hypocrisy in the so called rules governing the amateur standing of participating athletes [citing amateur track and field athletes earning six-figure incomes and Eastern bloc athletes who train full-time and maintain illusive government jobs]," he concluded that "if the plaintiff desires to play in fantasyland, he must abide by their rules."⁸⁸

RECORD BREAKING PERFORMANCES COST MONEY

The United States currently leads all countries in the amount of money, time and attention it devotes to sports.⁸⁹ Such devotion is manifested through schools, professionalism, Olympic tradition and increased adult involvement in sports.⁹⁰ Sports have effectively infiltrated and dictated our leisure, industry, family relationships, gender roles, and daily speech, not to mention racial, religious, political and sexual identities.⁹¹ As a result, over the past fifty years, exceptional

86. *Id.*

87. DeBenedictis, *supra* note 63, at 9.

88. *Id.* The President of the IOC, Juan Antonio Samaranch, has also commented that "it is time for the sports world to be realistic. We are living in the 80's, not the 20's." *Id.* He expressed his feeling that the concept of amateurism is outdated, aimed at the working class of the 19th century. *Id.* See also Strenk, *supra* note 3, at 304. The IAAF organizational structure illustrates this hypocrisy. Although the IAAF Constitution outlaws any open acceptance of financial rewards, it permits track and field athletes to compete in meets rewarding them with thousands of dollars, provided the money is channeled into so-called "trust funds." *Id.* In 1982, following the approval of trust funds, allowing athletes to deposit earnings into a fund and freely extract for living expenses, TAC co-sponsored the USA/Mobil Grand Prix rewarding up to \$763,000 in prize money to amateur athletes. *Id.* By 1985, the IAAF officially joined the meet and endorsed the rewards to athletes. *Id.*

89. John MacAloon, *Double Vision: Olympic Games and American Culture*, in *OLYMPIC GAMES IN TRANSITION*, *supra* note 1, at 282. Sports play such a dominant role in each American's life, that the United States leads all nations in the number of resources it dedicates to sport. *Id.*

90. *Id.*

91. *Id.* See also Dave Anderson, *Falls From Olympus*, N.Y. TIMES, Feb. 21, 1988, at S2. At the 1980 Winter Olympic Games, after a miraculous victory by the United States hockey team, many Americans began confusing a miracle with tradition. *Id.* The victory was a stroke of luck, not tradition, but as other athletes began experiencing similar strokes of luck, such as Bill Johnson winning the first U.S. gold medal in alpine skiing, Americans viewed winning gold

record breaking achievements have occurred.⁹² With the increased level of performance by all athletes, it has become essential for an athlete to devote the majority of his time to training. The super human efforts required of athletes who qualify for the Olympics are admirable, however, such devotion demands time and money.⁹³ Top athletes have come to no longer perform solely for prestige and self-satisfaction, but for endorsement contracts and prize money as well.⁹⁴ Allowing athletes to funnel earnings through trust funds and sign attractive endorsement contracts, is basically transforming the athletes into professionals.⁹⁵

Endorsements had grown so outrageously at the 1984 Olympics, that "amateur" athletes went so far as to employ agents to spot profitable opportunities and negotiate contracts.⁹⁶ Track promoter and manager, Bob Newland, commented, "[w]e are naive to think that our athletes aren't already professionals. Our top athletes are making \$800-\$1,000 a weekend on the indoor circuit."⁹⁷ Athletes such as Steve Smith, Olympic pole vaulter, stated that his earnings of \$61,000 in a two year period as a professional were "chicken feed" compared to an amateur's earnings.⁹⁸ At the 1988 Winter Games,

medals as a "tradition." *Id.* With these economic and social pressures impressing upon athletes, they are encouraged to "gain the edge" at all costs. *Id.*

92. Sir Roger Bannister, *The Olympic Games: Past, Present, and Future*, in OLYMPIC GAMES IN TRANSITION, *supra* note 1, at 423. Some commentators believe that the surge of record breaking occurring within the past fifty years is due to increased technology and additional pressures from an exigent public. *Id.* Unfortunately, the misuse of anabolic steroids by athletes has also increased and evolved into a major threat to "top level sport." *Id.*

93. *Id.* Because the level of performance has increased so tremendously over the last 20 years, athletes need much more time and money in order to compete successfully. *Id.* The ability to pay for the increased costs depends on the wealth of the country. *Id.* Athletes from third world countries will not be able to compete on the same level of wealthier countries. *Id.*

94. Rosellini & Tharp, *supra* note 21, at 40. In the modern version of fevered rivalries, such as the one involving Carl Lewis and Ben Johnson, athletes are competing for more than mere prestige and glory, but for "fat endorsement contracts, rich purses and a host of other goodies that shine more brightly than gold." *Id.* Although rivalries have always been a part of history, never has the price been so high. *Id.* In 1988, under pressure from promoters, Lewis and Johnson finally agreed to compete in a match race, each athlete grossing \$250,000 for his performance. *Id.*

95. See, e.g., *id.* Although athletes like Carl Lewis can legally earn hundreds of thousands of dollars for performances in meets, they are designated as amateurs. *Id.*

96. Robert Ruxin, *The Regulation of Sports Agents*, in GOVERNMENT AND SPORTS, *supra* note 22, at 79.

97. Bannister, *supra* note 92, at 423.

98. *Id.*

over forty million dollars in corporate sponsorship was effused into support for athletes.⁹⁹

With the increasing influx of corporate sponsorships and prize earnings, it is important to examine what an athlete's ultimate goal has become and what effect achieving this goal has upon the athlete.¹⁰⁰ At the XXIII Olympic Games, the gold at stake was not necessarily in medal form, but in the form of fame and exposure received through endorsement contracts.¹⁰¹ Advisors of two famed athletes, Carl Lewis and boxer Mark Breland, admitted that years ago, they outlined specific marketing plans targeted at ways to aggrandize the athlete's value.¹⁰² As a result of this scrupulous plan, Breland was capable of earning up to \$250,000 in his professional debut.¹⁰³ It is estimated that Mark Spitz's seven gold medals generated \$5 million in revenues.¹⁰⁴ Dwight Stones, a two time Olympic medalist in the high jump, revealed that his own personal strategy was "to break the record as often as possible, but in the smallest possible increments. You had to slice the baloney thin, because you got a bonus each time you broke the record. So why mess up and break it more than you should?"¹⁰⁵ When athletes precociously strategize about how to profit from their Olympic performance and abuse their bodies to achieve

99. Anderson, *supra* note 91, at S2. "Never has the American price of an Olympic gold been so high." *Id.* (citing a United States Committee official's statement addressing the tremendous increase of corporate sponsorships and contributions).

100. Rossellini & Tharp, *supra* note 21. Roger Kindom, U.S. gold medalist in the 110-meter hurdles explained "[i]f a meet director says he'll pay you \$50,000 to beat me, and you know you can't do it, you're going to look for help because you want the money." *Id.* See also, Lindsey, *infra* note 101, at B16. When asked if he would participate in the 1988 Summer Games, hurdler Edwin Moses replied "[u]nfortunately, I might have to." Insinuating that as a result of his long term contract with Adidas, from which he garnered \$457,000 in endorsements last year, Moses will be "compelled" to compete. *Id.* This observation threatens the entire purpose of competing in the Olympics for the "sake of sport" alone. But *c.f.* Freyne, *supra* note 21, at 107 (arguing that "sport for the sake of one's country" is a misuse, and that one ought to be free to participate for his or her own well being and enjoyment, not solely for his or her country).

101. Robert Lindsey, *An Olympic Gold Medal Can Mean Millions*, N.Y. TIMES, Aug. 8, 1984, at 7. Athletes have devoted more time and effort worrying about how to market themselves and what types of endorsement contracts they can obtain. *Id.* At an athlete's "moment of triumph," he not only celebrates his superior achievement of winning at the Olympics, but also his increased value to corporate and sport interests. *Id.*

102. *Id.*

103. *Id.*

104. *Id.*

105. Strenk, *supra* note 3, at 313.

this plan, the nature and value of the Olympics depreciates.¹⁰⁶ If these so-called "amateur athletes" are in reality receiving thousands of dollars in rewards, are they realistically distinguishable from professionals?¹⁰⁷

Following the 1968 Olympic Games, an investigation revealed that only five medalists in the sport of track and field had not received any type of remuneration. One of the athletes involved in the scandal commented that "world class athletes would not be world class athletes without taking money. They would never be able to afford the proper training and diet."¹⁰⁸

The USOC has recently allocated \$18 million to athletes through the sale of Olympic coins to assist in paying for an athlete's training. USOC President, Robert Helmick, acknowledged that "it is simply no longer possible for a world class athlete to compete successfully, and at the same time earn a living through a full time job."¹⁰⁹ Monies will be disbursed in the forms of programs, scholarships and job opportunities.¹¹⁰ The USOC has acted on complaints claiming that not enough money had been distributed directly to the athletes, by adopting a cash payment program.¹¹¹ Although incapable of distributing funds equal to the amounts of lucrative endorsement contracts, the USOC has at least recognized the necessity of compensation in order to produce competitive athletes.¹¹² Considering the varied comments posed regarding the issue of amateurism, one thing remains relatively clear, the ideal of the "true amateur" is a fallacy as athletes are essentially receiving financial remuneration for their ability.¹¹³

106. Lindsey, *supra* note 101, at 4. See also Rosellini & Tharp, *supra* note 21, at 40; MacAloon, *supra* note 2, at 297 (arguing that the Olympics have commercialized, and as a result, patriotism and devotion to sport are transformed into "sales gimmicks" and encourages free enterprise).

107. See, e.g., Strenk, *supra* note 3, at 313. Bob Newland, manager of the 1976 U.S. Olympic track team, comments "[w]e are naive to think that our athletes aren't already professionals. Our top athletes are making \$800-\$1,000 a weekend on the indoor circuit." *Id.* See also Rosellini & Tharp, *supra* note 21, at 40. Carl Lewis and Ben Johnson earned \$250,000 each in one dual meet, yet ironically remained amateurs. *Id.*

108. Strenk, *supra* note 3, at 315.

109. Brennan, *supra* note 48, at A1. The USOC adopted the most far reaching payment plan in its history, which will allot \$18 million from the sale of Olympic coins directly to athletes in order to compensate for living expenses. *Id.*

110. *Id.*

111. *Id.* Under the program, approximately 1,000 athletes will receive \$10,000 over a four year period, amounting to \$2,500 per year, \$208 each month. *Id.*

112. *Id.*

113. Rose, *supra* note 1, at 397-98.

CONCLUSION

Rules on amateur eligibility have often produce "counterproductive results," penalizing honest or naive athletes the most severely, while at the same time, overlooking situations where so-called "amateurs" are earning thousands of dollars under the table or through trust funds.¹¹⁴ Amateurism as an ideal and role model has been unsuccessful because it ironically promotes dishonesty and manipulation. For years, a "double standard" has existed.¹¹⁵ This hypocrisy is exemplified by athletes, who are able to channel thousands of dollars in prize money and endorsement contracts into a trust funds or are completely subsidized by their governments, yet remain nominally amateur.¹¹⁶ The IOC recognized this double standard and effectively adopted a liberal policy endorsing the inclusion of professionals into the Olympics, thereby espousing "a realistic attitude in the modern world."¹¹⁷ The Amateur ideal was deceptive at its inception, formulated by the individuals in power as a means to separate classes; thus, the ideal can not serve as a role model or regulation in today's society.¹¹⁸

In mixing professionals with amateurs, critics feel that the contrast in goals will provoke several conflicts, especially in team sports.¹¹⁹ It has been argued that professionals will only regard the Olympics as "[a]n acute diversion, an extra honor, perhaps a *noblesse oblige*, a national responsibility, or just another business trip."¹²⁰ In retrospect, however, these potential problems appear minuscule compared to problems already stemming from the hypocrisy of eligibility

114. See *supra* notes 48-50 and accompanying text. See also, Alfano, *supra* note 44, at A30.

115. Alfano, *supra* note 44, at A30.

116. See *supra* notes 48-50 and accompanying text.

117. Alfano, *supra* note 44, at A30.

118. Taylor, *supra* note 2, at 238; see also notes 9 and 10 and accompanying text.

119. Pete Newell, *How to Blend Pros Into the Olympics*, N.Y. TIMES, Oct. 15, 1989, at S10. Problems will arise in the selection of a coach, the player selection process, and agent intrusion. *Id.* For instance, in the sport of basketball, selecting players, determining the ratio between the number of professionals and amateurs, accommodating professionals accustomed to an elaborate surrounding, and responding to the professional's agent are cited as potential problems. *Id.* See also George Vecsey, *Crossing the Magic Line*, N.Y. TIMES, Sept. 30, 1988, at A16.

120. Rose, *supra* note 1, at 397. Professional tennis player, Chris Evert has even remarked "[i]t's very difficult when you are a tennis player and you have great tournaments like Wimbledon, the United States Open, the French [Open], to get 100% psyched up for the Olympics." Vecsey, *supra* note 119, at A16. Citing such comments, critics have been quick to question professionals' desire to participate in the Olympics at all. Newell, *supra* note 119, at S10.

rules and the disparity between sport governing bodies in admitting strict "amateurs," professionals, or both.

Advocates of professionalism, on the other hand, argue that the concept of amateurism is obsolete.¹²¹ When considering that all basketball players receive some form of financial reward, yet are often defined as amateur, it seems plausible to adopt an open door policy and eliminate this incessant hypocrisy existing in amateur athletics.¹²² Summarizing a popular sentiment in the world of sports today, Howard Peterson, director of the United States Ski Association commented that if "athletes have devoted their lives to training" why should they not be given the opportunity to capitalize on it.¹²³

Commercialization, politics and big business have now become the prevalent motivations behind the Olympic Games.¹²⁴ The Olympics have generated a "commercial bonanza for athletic and business interests alike."¹²⁵ International competitions, costly training, hi-tech equipment and augmented political pressures propelled the costs of competition immensely.¹²⁶ Top athletes have grossed hundreds of thousands of dollars by exploiting their athletic ability and transforming their notoriety into profitable business ventures.¹²⁷ Characteristics of good sportsmanship, devotion, respect and fair play are not incongruous with receiving financial rewards for athletic performance. Any person who has participated in amateur sports and observed professional sports knows this to be true.¹²⁸ Why should athletes not be compensated for their performances and hard work? Why should professionals be excluded when athletes in the modern day are allowed to accept support? Is it feasible to effectively prevent athletes from receiving any rewards or support for training and com-

121. See Vecsey, *supra* note 119, at A16. In his endorsement of the acceptance of professionals into the Olympics, Boris Stankovitz of Yugoslavia, General Secretary of the World Basketball Federation, stated that "[t]here are no longer any basketball players who do not receive some money." *Id.* He additionally commented that "technically speaking, the professional teams are stronger than ours, but we believe that all players should play against the best." *Id.* See e.g., Janofsky, *supra* note 59, at B15.

122. Vecsey, *supra* note 119, at A16.

123. Alfano, *supra* note 44, at A30.

124. MacAloon, *supra* note 2, at 297. A discussion of the increasing dominance of commercial interests upon the Olympic Games. *Id.*

125. *Id.*

126. Strenk, *supra* note 3, at 308.

127. *Id.* at 313. Examples of amateurs earning more than professionals. See also Rosellini & Tharp, *supra* note 94, at 40.

128. Taylor, *supra* note 2, at 239.

petition in this day of increasing costs and competitiveness?¹²⁹ It appears that exorbitant amounts of time and capital have been expended in the quest for finding the "true amateur."¹³⁰ The IOC has acknowledged the necessity of displacing the hypocrisy resulting from the attempt to distinguish professionals and amateurs. Emphasis should be placed on solving far greater problems which are haunting the Olympics, such as increased drug abuse and commercialization, and away from searching for an ideal that never really existed in the first place.¹³¹

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129. Bannister, *supra* note 92, at 423. An examination of the tremendous augmented time demand for training and the necessity of financial support to athletes incapable of earning a living due to the time allotment for training. *Id.*

130. *Id.*

131. Strenk, *supra* note 3, at 321.