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Betting on the Future- How to Keep NBA Games Legitimate

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BETTING ON THE FUTURE-HOW TO KEEP NBA GAMES LEGITIMATE

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I. INTRODUCTION

Sports betting is a controversial topic in the United States: a fun way to spice up athletic events to some, an immoral habit draining the bank accounts of hard-working Americans to others.¹ However, following the Supreme Court's decision in *Murphy*, and the ever-expanding list of states legalizing sports betting, it appears that sports betting is here to stay.² The advent of legalized sports betting, however, carries with it serious questions regarding the integrity of the games that people are betting on, as sports betting can expose athletes and athletic contests to improper external influences.³ Widespread debates involving regulation, integrity fees, and data sourcing are particularly relevant in basketball, especially regarding the National Basketball Association (NBA).⁴ This paper begins with a background of the history of sports betting in general, with a focus on sports betting and point-shaving scandals in American basketball; explores shifting attitudes and legal dynamics surrounding the legalization of sports betting from the perspective of both the public and professional sports leagues; discusses what makes basketball so susceptible to negative external influences in the context of sports betting; and explains the roles of state regulations, integrity watchdogs, integrity fees, and data streams with regards to maintaining the integrity of NBA games. The paper then argues that the best way to maintain the integrity of NBA games is through continued state regulation, a competitive data bidding process in each state rather

¹ Christopher C. Schwarz, *Has the Supreme Court's Sports Gambling Decision Opened the Door for Corruption in Esports?*, N.J. Law., February 2021, at 49.

² *Murphy v. Nat'l Collegiate Athletic Ass'n*, 138 S. Ct. 1461, 1484-85 (2018).

³ Daniel J. Spitz and Ryan P. Terry, *We Can Handle It: Advocating in Support of State Legislation of Legal Sports Gambling Post-Murphy v. NCAA*, 30 J. Legal Aspects Sport 153, 160 (2020).

⁴ John Holden and Mike Schuster, *The Sham of Integrity Fees in Sports Betting*, 16 N.Y.U. J.L. & Bus. 31, 39 (2019).

than paying integrity fees to the NBA, and for the continued utilization of integrity watchdogs to detect betting irregularities.

II. BACKGROUND

A. History of US Sports Betting and its Initial Icy Reception

The United States has a long and complicated history with wagering on professional sports, but gambling itself stretches as far back as the Paleolithic Period.⁵ During the colonial days in America, the colonies utilized lotteries to generate revenue when there was no federal government.⁶ Once the lotteries were outlawed, underground sports betting became prevalent in the 1800s, with bettors focusing on horse races.⁷ In the early decades of the 20th century, the focus of sports betting shifted to baseball, which led to the infamous “Black Sox” scandal of 1919.⁸ This scandal involved the Chicago White Sox intentionally sabotaging the World Series in exchange for money from a crime boss.⁹ Baseball’s woes continued when Pete Rose, the all-time leader in hits in MLB history, was caught betting on his own team.¹⁰

Congress, aware of the growing illegal sports betting market, attempted to regulate it by passing the Revenue Act of 1951, which legalized betting at a federal level but required that gamblers report their betting to the federal government for tax purposes.¹¹ However, as organized crime continued to dominate the underground sports betting market, in 1961 Congress decided to take a more aggressive approach with the Wire Act, which specifically targeted bookies and

⁵ Christopher C. Schwarz, *supra* note 1, at 50.

⁶ See Shain Roche, *The Bank Is Open: An Overview of How Murphy v. National Collegiate Athletic Association Will Affect the NBA and Its Players*, 20 J. High Tech. L. 119, 123 (2020) (Noting that states have historically regulated lotteries.).

⁷ *Id.* at 124.

⁸ *Id.*

⁹ Christopher C. Schwarz, *supra* note 1, at 51.

¹⁰ *Id.*

¹¹ See Shain Roche, *supra* note 6, at 124 (Bettors were still subject to criminal penalties under state laws.).

organized crime.¹² Further legislation arrived in 1992, when President George H.W. Bush signed the Professional and Amateur Sports Protection Act, or “PASPA,” into law, which prohibited states from authorizing sports betting.¹³ The Act stated, “It shall be unlawful for a governmental entity to sponsor, operate, advertise, promote, license, or authorize by law or compact, or a person to sponsor, operate, advertise, or promote, pursuant to the law or compact of a governmental entity a lottery, sweepstakes, or other betting, gambling, or wagering scheme based, directly or indirectly.”¹⁴ Finally, in 2006, the Wire Act was fortified by the Unlawful Internet Gambling Enforcement Act of 2006, which banned those engaged in betting from knowingly accepting payment in connection with “unlawful internet gambling.”¹⁵ Combined, these laws, the history of sports betting scandals, and disapproval from professional sports leagues put the future of sports betting in serious doubt.

B. Shifting Attitudes in the Public & Legal Landscape

Opponents of sports betting have largely argued that it is a vice and immoral for several reasons: it can become addictive, it encourages fans to root for players rather than teams, and it is risky.¹⁶ However, given the explosion of sports betting over recent years, it is now apparent that there is a massive market and extensive public support for sports betting, suggesting that the public at large does not see this activity as a negative.¹⁷ Furthermore, the previous existence of a black

¹² See 18 U.S.C. § 1084 (“Whoever being engaged in the business of betting or wagering knowingly uses a wire communication facility for the transmission in interstate or foreign commerce of bets or wagers or information assisting in the placing of bets or wagers on any sporting event or contest, or for the transmission of a wire communication which entitles the recipient to receive money or credit as a result of bets or wagers, or for information assisting in the placing of bets or wagers, shall be fined under this title or imprisoned not more than two years, or both.”).

¹³ 28 U.S.C.A. § 3702 (West).

¹⁴ *Id.*

¹⁵ Keith C. Miller, *Sports Betting Integrity at Risk: The Role of the Wire Act*, 61 Santa Clara L. Rev. 247, 261 (2020).

¹⁶ Nicholas Burkhardt & Dylan Welsh, *The Legalization of Sports Gambling: An Irreparable Harm or the Beginning of Unprecedented Growth?*, 21 Sports Law. J. 145, 165 (2014).

¹⁷ Daniel J. Spitz et al., *supra* note 3, at 165-166.

market for sports betting suggests that there has always been public support for sports betting.¹⁸ Proponents of sports betting argued that it should not be left in the shadows where it would continue to occur, unregulated, untaxed, and untapped as a source of revenue for both states and professional sports leagues.¹⁹

In 2011, former Governor of New Jersey Chris Christie, and proponents of sports betting, challenged PASPA in federal court, in order to legalize sports betting, and this statute essentially made it illegal for states to sponsor sports betting, with a few exceptions that PASPA grandfathered into the law.²⁰ Finally, in 2018, after ten years of litigation, the United States Supreme Court found PASPA unconstitutional.²¹ However, the exponential growth of sportsbooks around the country since PASPA's repeal has led to some concern about sports integrity, especially regarding basketball, given its history of integrity issues.²²

C. Sports Betting (Point-Shaving) Scandals in Basketball

1. NBA Scandals

The NBA has a tumultuous history with sports betting. Jack Molinas, an exceptional player for the Fort Wayne Pistons in the 1950's, was expelled from the NBA for gambling.²³ Suspicions of Molinas' gambling arose after a Pistons game against the Boston Celtics, where the Pistons possessed an 11-point lead at halftime over the Celtics, who were favored by six points.²⁴ Molinas received a note at halftime that read, "Joe sent me," and the Pistons were ultimately defeated by

¹⁸ John Holden et al., *supra* note 4, at 73.

¹⁹ *See id.* (These sports leagues have since made millions through sports betting partnerships and broadcast deals.).

²⁰ *See* Keith C. Miller, *supra* note 15, at 261 (PASPA, when it was passed, gave New Jersey the option to grandfather in Atlantic City, which, ironically, New Jersey opted against at the time.).

²¹ *Murphy*, 138 S. Ct. at 1484-85.

²² Nicholas Burkhart et al., *supra* note 16, at 153.

²³ Kendall Howell, *You Can Bet on It: The Legal Evolution of Sports Betting*, 11 Harv. J. Sports & Ent. L. 73, 87-89 (2020).

²⁴ *See id.* at 89-90 (Molinas scored 18 points in the first half.).

seven points, which subsequently led to bookmakers refusing to take bets on Pistons games.²⁵ After an NBA investigation, Molinas admitted to gambling, was immediately suspended, and was eventually kicked out of the NBA.²⁶

Unfortunately, the Molinas scandal is not the only blemish on the history of the NBA's integrity. The most notorious scandal is the Donaghy scandal in 2007, involving then-referee Tim Donaghy, who was found to have not only bet on NBA games generally, but also the games he worked.²⁷ Donaghy, a referee for 13 years, provided "picks" for NBA games as part of a secret agreement between himself, Jack Concannon, James Battista, and Thomas Martino, utilizing his access to non-public information, such as the identity of officiating crews for upcoming games, the interactions between certain referees and team personnel, and the physical condition of certain players, to make the picks.²⁸ Donaghy eventually came forward after the government discovered his scheme, cooperated with the FBI and received 15 months in prison, and his actions decreased public confidence in the integrity of NBA games and gave sports betting detractors a very public example of the threat the industry poses to sports integrity.²⁹ According to one poll conducted in 2007, 88% of respondents believed Donaghy personally affected the outcomes of games that he officiated.³⁰ Former NBA Commissioner David Stern called the scandal the "worst thing that could happen to a professional sports league."³¹ Therefore, it is easy to see why the NBA, historically, has exhibited a reluctance to embrace sports betting, given the history of negative external influences that have accompanied it.

2. NCAA Scandals

²⁵ Kendall Howell, *supra* note 23, at 89-90.

²⁶ *Molinas v. Podoloff*, 133 N.Y.S.2d 743, 744 (Sup. Ct. 1954).

²⁷ Christopher C. Schwarz, *supra* note 1, at 51-52.

²⁸ *United States v. Donaghy*, 570 F. Supp. 2d 411, 415-416 (E.D.N.Y. 2008).

²⁹ *Id.* at 416.

³⁰ Nicholas Burkhardt et al., *supra* note 16, at 153.

³¹ *Id.*

The NBA does not have a monopoly on integrity issues with regards to the game of basketball, as collegiate basketball has seen its fair share of scandal. One of the most infamous scandals in NCAA history is the Boston College point-shaving scandal of the 1970's. Point-shaving does not necessarily mean letting the opposing team win, it means that a team intentionally fails to cover the point spread for a game.³² For example, if a team is favored by three points to win and is engaging in a point-shaving scandal, that team intentionally tries to win the game by less than three points. The Perla brothers, Rocco and Anthony, lifelong gamblers, grew up with a senior on the Boston College basketball team, Richard Kuhn.³³ Kuhn, responsible for ensuring that Boston College would fail to cover point spreads, would be paid \$2,500 for each game he "fixed."³⁴ After failing to ensure that Boston College did not cover the point spread against its rival, Providence, the Perla brothers recruited Boston College leading scorer Ernie Cobb to join the conspiracy, leading to better results for the point-shaving scheme.³⁵ Eventually, the scheme unraveled when an individual involved with the Perla brothers, Henry Hill, confessed to authorities after being arrested on unrelated drug charges.³⁶

The scandals in NCAA history are numerous. During the 1950-51 season, the City College of New York (CCNY), as well as 32 basketball players from seven different schools, appeared to shave points in 86 games.³⁷ CCNY had been lauded as the first team to ever win both the NIT Tournament and the NCAA Tournament in the same season, but when the scheme was uncovered, CCNY's team fell apart and dropped to Division III status, Long Island shut down its basketball

³² Haley M. Robb, *Hedge Your Bets: How the Legalization of Sports Betting Could Be the Downfall of Intercollegiate Sports*, 122 W. Va. L. Rev. 351, 372-73 (2019).

³³ *United States v. Burke*, 700 F.2d 70, 73 (2d Cir. 1983).

³⁴ *Id.* at 74.

³⁵ *See id.* (Notably, the strategy succeeded in games against UCLA and Fordham.).

³⁶ *Id.* at 75.

³⁷ Haley M. Robb, *supra* note 32, at 373.

program for seven years, and the University of Kentucky Basketball Team was banned from NCAA participation for an entire season.³⁸

Arizona State University endured its own point-shaving scandal, when guard Stevin Smith, the team's best player, accrued a debt with a campus bookmaker and agreed to engage in point-shaving to pay off his debts.³⁹ Tulane's basketball team engaged in its own scheme, as four starters agreed to engage in point-shaving for two games.⁴⁰

Finally, Northwestern's basketball team got caught participating in a point-shaving scandal during the 1994-95 season, which involved two starting players ensuring Northwestern failed to cover the point spread in games against Penn State and Wisconsin.⁴¹

D. Why Basketball is Particularly Susceptible to Issues of Integrity

Basketball is extremely susceptible to issues of integrity for a variety of reasons. Unlike other major sports, such as soccer, football, and baseball, basketball involves a small number of players actively on a court at any given time. This makes it much easier for one player to influence the outcome of a game, especially if the player involved is the team's star player or leading scorer, as seen in the Boston College point-shaving scandal.⁴² Players in basketball simply have many more opportunities to touch the ball during each possession than in other sports, which gives players with bad intentions (point-shaving), more opportunities to negatively impact the game's integrity.

³⁸ Haley M. Robb, *supra* note 32, at 373.

³⁹ See Zachary Pekale, *A bookie, a bet, a basketball player: 25 years ago, point-shaving scandal rocked Arizona State*, CRONKITE NEWS ARIZONA PBS (Dec. 11, 2018), <https://cronkitenews.azpbs.org/2018/12/11/point-shaving-scandal-rocked-arizona-state/> (Smith ensured that the Sun Devils won consecutive games by exactly 6 points, but eventually the scheme became obvious to ASU students and was exposed.).

⁴⁰ See SI Staff, *BIG TROUBLE AT TULANE: ALLEGATIONS ABOUT ANOTHER POINT SHAVING SCANDAL HAVE ROCKED THE OFT-SCARRED WORLD OF BASKETBALL*, SPORTS ILLUSTRATED VAULT (Apr. 08, 1985), <https://vault.si.com/vault/1985/04/08/big-trouble-at-tulane> (Tulane, including Metro Conference Player of the Year John "Hot Rod" Williams, failed to cover the spread against Southern Mississippi and Memphis State.).

⁴¹ Pam Belluck, *COLLEGE BASKETBALL; Ex-Northwestern Players Charged in Point-Shaving*, THE NEW YORK TIMES (Mar. 27, 1998), <https://www.nytimes.com/1998/03/27/sports/college-basketball-ex-northwestern-players-charged-in-point-shaving.html#:~:text=The%20gambling%20case%20began%20in,school's%20leading%20all%2Dtime%20rusher.>

⁴² *Burke*, 700 F.2d at 74.

In addition, unlike baseball, which does not involve fouls, or football, where one can commit as many penalties as one likes without “fouling out,” basketball players in college foul out after their fifth foul, and basketball players in the NBA foul out after their sixth foul.⁴³ Therefore, a team’s leading scorer, looking to shave points, could commit two quick fouls to start a game, at which point a coach would likely take this player out to prevent him from fouling out early in the game, and allow the other team to build up a lead. Or, in the waning moments of a game, the player seeking to shave points could commit a foul on purpose to stop the clock and give the other team an opportunity to cover the point spread.

Further, the Donaghy scandal illustrated the ease with which a referee could orchestrate point-shaving in an NBA game. The referee could call quick fouls on a team’s best player, ensuring he will be sent to the bench early. Referees could also call strategic fouls, such as “illegal defense,” a rarely called foul that would force a team to play less aggressive defense once called.⁴⁴ Coaches too could engage in point-shaving by benching their best players for longer stretches than usual, calling timeouts at inopportune moments, or drawing up poorly designed plays to ensure their team does not score at key junctures in the game. These strategies could easily influence the scores of basketball game. Therefore, basketball is extremely susceptible to point-shaving from a variety of angles.

Given the history of scandals involving sports betting and the game of basketball in the United States at the college and professional level, concerns about the integrity of the game in and around

⁴³ See Marsha Green, *Here’s What to Know About Fouls in NCAA Basketball*, NBC SAN DIEGO (Mar. 23, 2022), <https://www.nbcsandiego.com/news/sports/heres-what-to-know-about-fouls-in-ncaa-basketball/2902802/#:~:text=If%20the%20player%20reaches%20a.NBA%2C%20which%20takes%20six%20fouls> (However, players in any major sport can be ejected for unsportsmanlike conduct.).

⁴⁴ See Scott Eden, *From the archives: How former ref Tim Donaghy conspired to fix NBA games*, ESPN (Jul. 9, 2020), https://www.espn.com/nba/story/_/id/25980368/how-former-ref-tim-donaghy-conspired-fix-nba-games (The former illegal defense rule, now eliminated, essentially made it illegal for teams to play a “zone” defense, which involves defenders being assigned spots on the court rather than actively guarding a player at all times of the defensive possession.).

where sports betting is legal are not unfounded. Sports betting impacts the game of basketball from a fan standpoint because it adds monetary incentives and creates a kind of “game within a game” as “prop bets” on player statistics become more popular.⁴⁵ The downside of introducing this monetary component into the game of basketball, as history illustrates, is that it introduces bad actors who seek to take advantage of the sports betting system by bribing players and officials. In the past, this has led to players and referees adjusting their play and decision-making processes to prioritize cash over basketball.⁴⁶ This is a real risk that has had major consequences on the integrity of NCAA and NBA games, which is why appropriate safeguards have been adopted by many states via regulations and why the NBA has contracted with integrity watchdogs to monitor suspicious betting line movements. However, the fact remains that the game of basketball, notably at the NBA level, is particularly susceptible to integrity issues stemming from negative external influences caused by sports betting.

E. Professional Sports Leagues’ Shifting Attitudes

In 2007, amid the Donaghy crisis, NBA Vice President Rick Buchanan said, “The harms caused by the government endorsement of sports betting far exceed the alleged benefits,” but, in 2014, the NBA did an “about-face,” as Commissioner Adam Silver stated, “Sports betting should be brought out of the underground and into the sunlight where it can be appropriately monitored and regulated.”⁴⁷ Silver specifically called for monitoring of unusual betting line movements, licensing integrity watchdogs, and adopting a federal framework.⁴⁸ The NBA has since become equity partners with FanDuel Sportsbook and has also partnered with MGM.⁴⁹ As a whole, the

⁴⁵ Prop bets allow bettors to wager on individualized player statistics (for example, one could bet on Carmelo Anthony to score 20 points in a game).

⁴⁶ *Donaghy*, 570 F. Supp. at 415-416.

⁴⁷ *Id.* at 160.

⁴⁸ *Id.*

⁴⁹ John Holden et al., *supra* note 4, at 34.

progression of the NBA's attitude towards sports betting can be described as an intense opposition that evolved into a mild skepticism, which has since morphed into an open acceptance.⁵⁰

Professional sports leagues' attitudes have mirrored public sentiment, which strongly favors sports betting, partnering with companies such as FanDuel and DraftKings in order to obtain revenue from fantasy sports in particular.⁵¹ Fantasy sports involve payment of a fee to join a fantasy league.⁵² The league participants "draft" players to their teams, and, each week of the season, teams receive points for how well their players perform, competing against another fantasy team.⁵³ Fantasy sports have been an exceptional tool with regards to boosting fan engagement, as, even when game scores are out of hand or two bad teams are playing each other, fans continue to watch the games in order to see how their fantasy players perform.⁵⁴ Therefore, professional sports leagues have demonstrated that their priority is fan engagement, regardless of whether that equates to fan loyalty to players or fan loyalty to teams.

The NBA's attitude adjustment towards betting is not difficult to understand. Months after the *Murphy* decision, the NBA partnered with MGM, the first partnership between a professional sports association and a major gambling operator in the United States.⁵⁵ The partnership is a three-year deal worth \$25 million and allocates 1% of the total amount of money bet on NBA games via MGM's systems to the NBA.⁵⁶ In return, the NBA will supply MGM with official data and promote MGM resorts across the NBA's online platforms.⁵⁷ The NBA, perhaps seeing a

⁵⁰ Grant Ellfeldt, *Be Honest with Me: How Federal Regulation of Sports Gambling Must Protect the Integrity of the Game*, 40 Loy. L.A. Ent. L. Rev. 89, 91 (2020).

⁵¹ *Id.* at 96.

⁵² *Id.* at 95.

⁵³ *See id.* (At the end of season, the team with the most points, or most wins against other teams, wins, depending on how the league is set up.).

⁵⁴ *Id.*

⁵⁵ *Id.* at 139.

⁵⁶ *Id.* at 139-140.

⁵⁷ *Id.*

tremendous market of untapped potential with regards to sports betting, leaped at the opportunity to secure strategic partnerships. This is a stark change from the days when former NBA Commissioner David Stern argued that allowing sports betting would “turn fans into gamblers who cheer only for players, teams, and bets rather than their hometown favorite.”⁵⁸ Stern also warned that this deterioration of the bond between team and fan would cause irreparable harm to the NBA.⁵⁹ Senator Bill Bradley, a former NBA player and PASPA proponent, warned that sports would become more about money than personal achievement and sportsmanship, and he feared that sports betting would alter the way young people view professional athletes, who have traditionally served as role models to children.⁶⁰ The relationship between the NBA and sports betting has come a long way.

F. Integrity Fees & Watchdogs

The NBA’s commitment to sports betting has developed in tandem with the desire to charge state-licensed sportsbooks “integrity fees” through its partnerships with integrity watchdogs.⁶¹ These integrity fees, which involve state-licensed sportsbooks purchasing “official data” from the NBA, are estimated to secure \$2 billion in revenue for the NBA.⁶² For example, one proposed Indiana bill in 2018 read, “A sports wagering operator shall remit to a sports governing body...an integrity fee of one percent (1%) of the amount wagered on the sports governing body’s sporting events.”⁶³ NBA Commissioner Adam Silver, when asked why the NBA would charge integrity fees, responded that the NBA’s motive was twofold: to protect the integrity of the game and to

⁵⁸ Nicholas Burkhart et al., *supra* note 16, at 165.

⁵⁹ *Id.*

⁶⁰ Kendall Howell, *supra* note 23, at 97.

⁶¹ See John Holden et al., *supra* note 4, at 35-36 (These are essentially taxes on bets placed to cover the costs for ensuring that the data and games are not compromised by integrity issues and bad actors.).

⁶² *Id.* at 36.

⁶³ *Id.* at 37.

compensate the NBA for its “intellectual property.”⁶⁴ Furthermore, NBA Executive Vice President Dan Spillane stated, “To compensate leagues for the risk and expense created by betting...we believe it is reasonable for operators to pay each league 1% of the total amount bet on its games.”⁶⁵ It appears that the NBA’s integrity fee idea is a driving force behind its shift in attitude towards sports betting. The NBA is now attempting to charge integrity fees to sportsbooks in each state where sports betting is legal to further supplement its sports betting revenue.⁶⁶

The NBA has also partnered with integrity watchdogs, such as Sportradar and Genius Sports, which are third-party companies that monitor sports betting lines for irregularities and also sell data to bookmakers.⁶⁷ These companies notify customers, such as the NBA, about suspicious activities.⁶⁸ The watchdogs are able to pick up on these irregularities by using a variety of tools, such as utilizing fraud detection systems, employing teams of skilled analysts to monitor live betting lines, and maintaining strong relationships with law enforcement around the country.⁶⁹ Other tools used by watchdogs include using predictive algorithms to catch betting irregularities, creating integrity training programs for professional sports leagues’ employees, and launching in-depth investigations to get to the root cause of integrity breaches.⁷⁰ The watchdogs contract with professional sports leagues, such as the NBA, and sell their “official league data,” collected from leagues’ data scouts and journalists, to sportsbooks.⁷¹ So, the partnerships between the NBA and these watchdogs allows the league to require sportsbooks to purchase official NBA data through

⁶⁴ Prince Grimes, *Adam Silver on the future of sports betting and the NBA*, SPORTS WASHINGTON (May 29, 2021), <https://www.nbcsports.com/washington/wizards/adam-silver-applauds-mse-sportsbook-explains-nbas-stance-gambling>.

⁶⁵ John Holden et al., *supra* note 4, at 39.

⁶⁶ Daniel J. Spitz et al., *supra* note 3, at 161.

⁶⁷ John Holden et al., *supra* note 4, at 35.

⁶⁸ *Id.* at 47-48.

⁶⁹ *Monitoring & Detection: What we Offer*, SPORTRADAR, <https://integrity.sportradar.com/anti-match-fixing/monitoring-and-detection/>.

⁷⁰ *Put integrity at your core*, GENIUS SPORTS (2022), <https://geniussports.com/sportstech/integrity/>.

⁷¹ *Id.* at 49.

these integrity watchdogs, selling sportsbooks on the idea of secure data and charging an integrity fee in the process. This business model provides the NBA with additional revenue and promotes integrity, a win-win for the league.

III. ANALYSIS

A. States Should Continue to Regulate Sports Betting

To ensure the integrity of basketball games, which are particularly susceptible to integrity issues, at all levels of competition, the states should continue to regulate sports betting with sports integrity watchdogs and implement a competitive bidding process. States have been doing a good job at experimenting with legislation to ensure the integrity of sports betting, adopting a wide variety of regulations that have been successful and are tailored to each state's unique needs. This makes states the best option to ensure the integrity of basketball games. While the states have been doing a very good job at integrity monitoring, however, additional safeguards cannot hurt, especially given the history of integrity issues in basketball games, and a competitive bidding process as well as the utilization of integrity watchdogs would only add more layers of security with respect to the sports betting data.

The trend of state acceptance of sports betting is unsurprising. The legalization of sports betting possesses both public and private support, as evidenced by the enthusiasm of professional sports leagues to capitalize on revenue-earning opportunities and the public's willingness to spend money betting on sports in massive quantities. This makes the legalization of sports betting extremely popular politically. By August 2018, the same year that *Murphy* was decided, 30 states had already legalized or began the process of legalizing sports betting, and in the first 18 months following the repeal of PASPA alone, states received \$100 million in tax revenue.⁷² Sports betting

⁷² Daniel J. Spitz et al., *supra* note 3, at 165-166.

attracts a tremendous audience and is bringing a new kind of excitement to sporting events; being able to bet on the winner of games, the point spread, and on player props creates a kind of “game-within-a-game.” This enthusiasm was on full display in New York in January, 2022, as gross gaming revenue was over \$112 million for the month alone.⁷³ Not only was the gross gaming revenue massive, but the handle, or total amount wagered, in New York for January, 2022 was nearly \$1.7 billion.⁷⁴ Since 2018, when sports betting was legalized, the gross sportsbook revenue in New Jersey is over \$1.8 billion, over \$1 billion in Pennsylvania, and close to \$885,000 in Illinois.⁷⁵ In total, gross sportsbook revenue is close to \$9.5 billion, with states collecting close to \$1.5 billion in taxes.⁷⁶ Therefore, many states have jumped at the opportunity to legalize sports betting.⁷⁷

B. Avoid Further Costly Litigation

To best ensure that NBA games maintain their integrity amid the advent of sports betting, states should continue to regulate sports betting, as they have been very successful implementing a wide array of regulations that have done a good job of ensuring the integrity of sports betting. In the wake of *Murphy*, the states have taken the wheel with regards to regulation of sports betting. The road to get to this point was costly and time-consuming, and a shift to federal regulation would

⁷³ Ulrik Boesen, *Large Spread in Tax Treatment of Sports Betting Operators*, TAX FOUNDATION (Feb. 9, 2022), <https://taxfoundation.org/sports-betting-tax-treatment/>.

⁷⁴ Chris Altruda, *Legal US Sports Betting Revenue, Handle, And Tax Totals Since PASPA Repeal*, SPORTSHANDLE (June 10, 2022), <https://sportshandle.com/sports-betting-revenue/>.

⁷⁵ *Id.*

⁷⁶ *Id.*

⁷⁷ One suggestion of the pro-federal regulation syndicate has been to create a federal enforcement agency, similar to the SEC, to directly bring claims against infringers of sports betting laws. This suggestion would be extremely costly, as it would involve the creation of a federal agency that would have to monitor, regulate, and enforce penalties for non-compliance, all of which would be paid for by the American taxpayer. Furthermore, given the drawn-out litigations involved in *Christie* and *Murphy*, federal regulation of sports betting, which just became state-regulated in 2018, would likely reignite litigation concerning federalism and the anti-commandeering doctrine.

likely lead to legal retaliation from the states, such as New Jersey, that fought hard to legalize sports betting and reap its tax revenues.⁷⁸

C. State Regulation Accounts for States' Unique Needs

States' needs and economic situations are unique and should therefore be individualized with regards to sports betting regulations, and this is highlighted by the legislative experimentation the 30 states that have legalized sports betting have undertaken, resulting in a wide array of regulations that vary from state to state. For example, Pennsylvania utilizes a regulation that states, "Each sports wagering certificate holder shall report to the department and pay from its daily gross sports wagering revenue, on a form and in the manner prescribed by the department, a tax of 34% of its daily gross sports wagering revenue."⁷⁹ On the other hand, West Virginia imposes a regulation on sports betting that reads, "For the privilege of holding a license to operate sports wagering under this article, the state shall impose and collect ten percent of the licensee's adjusted gross sports wagering receipts from the operation of West Virginia Lottery sports wagering."⁸⁰ The disparities between some states' tax rates are colossal, as New York, New Hampshire and Rhode Island all tax at a rate of 51% of gross gaming revenue, while Nevada and Iowa tax at a mere 6.75% rate.⁸¹ Other notable differences in tax rates include high-level taxing states such as Delaware, which taxes at a 50% rate, and Tennessee, which taxes at a 20% rate, and low-level

⁷⁸ See Daniel J. Spitz et al., *supra* note 3, at 166 (Of note, the Sports Wagering Market Integrity Act of 2018, which would have created a framework for federal regulation of sports betting, was proposed twice in Congress but failed to gain any traction, as it did not make it out of committee due to the first session ending. Still, the fact that this proposed legislation failed to catch on underscores the lack of support for federal regulation of sports betting. The proposed framework, which would have established a federal agency, "National Sports Wagering Clearinghouse," to collect and distribute information, would have allowed states to "opt in" to a federal regulatory scheme, but it is unclear how much revenue states would have received from sports betting, if any. Given how hard states fought to secure the legalization of sports betting and the immense profits states have generated from regulating it, it is hard to see why states would opt into any proposed federal scheme and share these tax benefits with the federal government.).

⁷⁹ See 4 Pa. Stat. and Cons. Stat. Ann. § 13C62 (West) (The tax is really 36% when accounting for a 2% local tax.).

⁸⁰ W. Va. Code Ann. § 29-22D-16 (West).

⁸¹ Boesen, *supra* note 73.

taxing states such as Michigan, which taxes at a 8.4% rate, and South Dakota, which taxes at a 9% rate.⁸² These are policy choices that will have different effects on how sports gambling develops and grows locally.⁸³ A uniform federal regulatory scheme, such as the one proposed under the failed “Sports Wagering Market Integrity Act,” would not account for the individualized nature of states and their people.

Each state should be free to regulate how it sees fit to account for unique economic, geographic, and political needs, but the existing regulations in several states contain a few characteristics that are extremely creative with regards to safeguarding sports integrity, and states seeking to legalize sports betting should seriously consider adopting them. For example, Michigan has a sports betting regulation that mandates immediate notification to the Michigan Gaming Control Board of any defects or malfunctions regarding a sports betting platform, requires maintenance of records for a minimum of 5 years, and empowers the Gaming Control Board to require the platform to discontinue usage in the state.⁸⁴ This procedure ensures that any integrity issues are promptly reported, that records are available for examination should a pattern of irregularities begin to occur, and that the sports betting platform is accountable to a higher authority, incentivizing platforms to ensure everything is running smoothly.

In Colorado, the legislature created a regulation that ensures that taxpayers will reap the rewards of sports betting, not pay for its regulation. The Colorado regulation mandates an annual “Sports Betting Operations Fee,” calculated using several factors, that covers the administrative and personnel costs of regulating sports betting “to ensure that tax revenue from net sports betting

⁸² Boesen, *supra* note 73.

⁸³ Grant Ellfeldt, *supra* note 50, at 116 (For example, New Jersey structures its sports gambling licensing agreements around revitalizing Atlantic City.).

⁸⁴ Mich. Admin. Code R 432.732b.

proceeds is directed to intended beneficiaries.”⁸⁵ This system ensures that taxpayers are rewarded, not penalized, by the legalization of sports betting.

Mississippi mandates that licensees “adopt approved internal controls to identify wagers which may indicate cheating, manipulation, interference, with the regular conduct of the sport, or violations of the integrity of any sport on which wagers were made.”⁸⁶ The regulation also requires that licensees report integrity issues or suspicions within 12 hours to the Executive Director of the Mississippi Gaming Commission, who retains power to void or suspend betting and to report the issues to law enforcement or sports’ governing bodies.⁸⁷ This regulation creates a link for reporting integrity violations between the Gaming Commission and law enforcement, ensuring integrity violations are taken seriously by sportsbooks, while keeping sports leagues, such as the NBA, in the loop.

New Jersey states that, “an operator will immediately report to the division any criminal or disciplinary proceedings commenced against the operator in connection with its operations, any abnormal betting activity or patterns that may indicate a concern about the integrity of a sports event, any potential breach of a sports governing body’s rules or codes of conduct that pertain to sports wagering, any conduct that corrupts a betting outcome of a sports event for purposes of financial gain, including but not limited to match fixing, and suspicious or illegal wagering activities, including the use of funds derived from illegal activity, using agents to place wagers, or using false identification.”⁸⁸ New Jersey also requires that, “An operator will maintain records of

⁸⁵ See 1 Colo. Code Regs. § 207-2:7.1 (The factors considered in calculating the fee include: the projected budget for the upcoming fiscal year, the projected number of sports betting operators, the projected percentages of all wagers taken online and in sportsbooks in licensed casinos, and the total commission appropriation for operational expenses related to sports betting other than the direct and indirect costs of processing a licensee’s application and background investigations.).

⁸⁶ 13 Code Miss. R. Pt. 9, R. 3.19.

⁸⁷ *Id.*

⁸⁸ N.J. Stat. Ann. § 5:12A-10 (West).

sports wagering operations in accordance with regulations promulgated by the division.”⁸⁹ Therefore, New Jersey possesses strong safeguards against any irregular betting activities and demands that sportsbook operators keep a paper trail to track any suspicious activity.

In Tennessee, “Licensees shall share with the council, in real time and at the account level, information regarding a bettor, amount and type of bet, the time the bet was placed, the location of the bet, including the internet protocol address if applicable, the outcome of the bet, and records of abnormal betting activity.”⁹⁰ Therefore, Tennessee mandates that licensees immediately report any suspicious activity so that potential corruption is weeded out as quickly as possible.

In Iowa, “With the approval of the commission, a licensee under section 99F.7A shall cooperate with investigations conducted by sports governing bodies, including but not limited to providing or facilitating the provision of account-level betting information and audio or video files relating to persons placing wagers. However, a licensee shall not share information that would interfere with an ongoing criminal investigation.”⁹¹ Therefore, Iowa makes clear to licensees that cooperation with sports leagues, such as the NBA, is not encouraged, but mandatory, in order to best ensure the integrity of sports betting.

Finally, Virginia provides an avenue of communication between sports’ governing bodies and the director of the Virginia Lottery, as, if a sport’s governing body has a “good faith, reasonable basis to believe such restriction, limitation, or prohibition is reasonably necessary to protect the integrity or the public’s confidence in the integrity of the sport’s governing body,” the sport’s governing body, such as the NBA, may contact the director of the Virginia Lottery and

⁸⁹ N.J. Stat. Ann. § 5:12A-10 (West).

⁹⁰ Tenn. Code Ann. § 4-49-115 (West).

⁹¹ Iowa Code Ann. § 99F.12 (West).

request that the director restrict or prohibit bets on sporting events offered by a permit holder.⁹² Therefore, the Virginia regulation creates an integrity safeguarding process for the NBA to follow, as, should one of the NBA's integrity watchdogs detect an irregularity in betting patterns, communication with the state will rectify the situation and address any integrity concerns. Virginia's sport betting regulation also mandates that, within 90 days of beginning operations and on an annual basis, permit holders engage in independent laboratory testing regarding system security and integrity.⁹³

As illustrated by these laws, there are many smart and effective processes already put in place by state regulations. States looking to legalize sports betting should look to these laws when crafting their own regulations, as they possess creative ideas for creating a strong integrity monitoring system, establishing a link between law enforcement and state regulatory boards, and bringing the NBA to the table as well.⁹⁴ Mississippi, Iowa, and Virginia, in particular, have shown that states are accounting for integrity issues that sports, particularly basketball, have had by establishing clear protocols and/or lines of communication between the NBA and the states, their gaming boards, and/or their licensees. Therefore, states are having no trouble coming up with effective methods to regulate sports betting in a way that is inclusive of law enforcement and sports leagues, making state regulation the best way to ensure the integrity of basketball games.⁹⁵

⁹² See 11 Va. Admin. Code 5-70-180 (In Virginia, the Lottery is tasked with regulatory responsibilities for casinos and online sports betting.).

⁹³ See *id* (These assessments must include at a minimum: a vulnerability assessment of all devices and networks, a penetration test of all devices to determine susceptibility to compromise, a technical security control assessment against the provisions of the sports betting law, an evaluation of information security services, cloud services, and payment services, and any other criteria determined by the Virginia Lottery director.).

⁹⁴ Opponents of state regulation of sports betting have argued that Internet gambling across state lines is "inefficient," and they laud the uniformity that accompanies federal regulation, but state regulation of sports betting allows for individualized approaches that cater to each state's unique needs. The federal blanket "one-size-fits-all" approach is bogged down by bureaucratic redtape, national politics, and likely litigation in opposition from the states. So, the federal approach does not appear to offer as much efficiency as its proponents suggest.

⁹⁵ Federal bureaucracy, which would add unnecessary delays and costs to the regulation process, could also stifle the growth of an exploding new industry.

1. Data Should be Provided to Sportsbooks Via a Competitive Bidding Process

The NBA has been extremely vocal about the need for integrity fees to ensure that its games retain their integrity.⁹⁶ However, there are two major issues with integrity fees: NBA data is not proprietary and using a single source for data increases, rather than decreases, the likelihood of source corruption. The NBA continues to push hard for the utilization of integrity fees, as integrity fees would generate an enormous amount of revenue for the league.⁹⁷ In an interview during which the NBA's Vice President and head of Fantasy and Gaming, Scott Kaufman-Ross, was asked what "actual and tangible costs" integrity fees would be going toward, Kaufman-Ross responded, "I want to be clear that the fee is not just about the cost. It's about the fact that it's our product."⁹⁸ This highlights the NBA's underlying motive in pushing states to adopt integrity fees: compensate the NBA for the data it creates, such as game scores and player statistics.

Courts consistently have held that sports data is not proprietary, and the seminal case relating to the NBA is *Nat'l Basketball Ass'n v. Motorola, Inc.*⁹⁹ In *Nat'l Basketball Ass'n v. Motorola*, Motorola appealed a permanent injunction concerning a pager sold by Motorola, called "SportsTrax," that gave live updates on basketball statistics, including the teams playing, score changes, the team in possession of the ball, whether a team is in the free-throw bonus, the quarter of the game, and the time left in the quarter.¹⁰⁰ The court held that Motorola's transmission of real-time NBA game scores and statistics did not constitute a misappropriation of NBA property, as Congressional legislation passed in 1976 protected broadcasts of live performances, such as

⁹⁶ John Holden et al., *supra* note 4, at 36.

⁹⁷ *Id.* at 37.

⁹⁸ Matt Moore, *Exclusive Q&A: The NBA Details Its Role in Sports Betting, Integrity Fees and More*, ACTION NETWORK (Sep. 23, 2021), <https://www.actionnetwork.com/nba/nba-sports-betting-stance-role-integrity-fees-legal-states-casinos>.

⁹⁹ *Nat'l Basketball Ass'n v. Motorola, Inc.*, 105 F.3d 841, 843-844 (2d Cir. 1997).

¹⁰⁰ *Id.*

sporting events, but not the underlying events themselves.¹⁰¹ The court also noted that there was no evidence that anyone used SportsTrax as a substitute for attending NBA games or watching the games on television.¹⁰² Courts have ruled that sports data is not proprietary in the context of Fantasy Sports and other sports, such as football, as well.¹⁰³

Proponents of integrity fees contend that the NBA should be compensated if sportsbooks and casinos are making money by using NBA statistics.¹⁰⁴ However, that data is not proprietary and the NBA is, therefore, not legally entitled to compensation for its statistics. The NBA itself seems to have come to this realization, which may explain why it has dropped its integrity fee asking price from 1% to 0.25%.¹⁰⁵ Furthermore, the NBA makes millions of dollars through sportsbook and casino partnerships and is therefore making money in the sports betting market regardless.¹⁰⁶

The utilization of integrity fees in each state would mean that all data used by sportsbooks would come from a single source: the NBA.¹⁰⁷ This would actually threaten the integrity of NBA games rather than protect it, as, if state-licensed sportsbooks were to exclusively utilize NBA data, this would mean that there would be a single data source that hackers and those looking to corrupt NBA games could target.¹⁰⁸ Any data source can be hacked, which means, should the NBA be the

¹⁰¹ See *Motorola, Inc.*, 105 F.3d at 845 (The court noted that, under 17 U.S.C. § 102a, the statute for federal copyright protection, eight categories of “works of authorship” are protected, which does not include sporting events, and, although the list is non-exhaustive, no analogous categories to sporting events are listed.).

¹⁰² *Id.* at 853-854.

¹⁰³ See *CBS Interactive Inc. v. Nat'l Football League Players Ass'n, Inc.*, 259 F.R.D. 398, 404 (D. Minn. 2009) (holding that CBS Fantasy Football, which used players' names and statistics, did not violate any publicity rights, and the court compared players' names and statistics to information publicly available in newspapers); see also *Nat'l Football League v. Governor of State of Del.*, 435 F. Supp. 1372, 1376 (D. Del. 1977) (holding Delaware Lottery's utilization of NFL schedule and game scores did not constitute “wrongful dissemination,” as the schedule and scores are public information); cf. *Daniels v. FanDuel, Inc.*, 109 N.E.3d 390, 392 (Ind. 2018) (holding FanDuel's utilization of college players' image and likeness fell into an exception of Indiana's right of publicity statute that exempted “material that has newsworthy value,” and the court further noted that “it would be strange to rule that a company could not use information that was available to everyone.”).

¹⁰⁴ John Holden et al., *supra* note 4, at 68.

¹⁰⁵ Daniel J. Spitz et al., *supra* note 3, at 161.

¹⁰⁶ *Id.* at 160.

¹⁰⁷ John Holden et al., *supra* note 4, at 49.

¹⁰⁸ *Id.*

sole data source, if there is just one security breach, the entire NBA betting market would suffer rather than one sportsbook's data source.¹⁰⁹ Utilizing the NBA as the sole data source also gives an opportunity to bad actors, such as Tim Donaghy, to wield an incredible amount of power and do significant damage should they choose to do so. It is also ironic that the NBA, pushing for adoption of its official data from a single source in order to ensure integrity, is partnered with integrity watchdogs that employ algorithms that rely on multiple sources of data in order to monitor betting irregularities.¹¹⁰ Therefore, to reduce this risk of corruption, states should allow for a competitive bidding process where sportsbooks choose the highest bidder among data companies, ensuring that there is diversification of data sources throughout the states. This bidding process would be beneficial to all parties, as multiple data companies could get in on the bidding process, sportsbooks would be paid more, and states would be able to regulate sports betting within their borders how they see fit. So, a competitive bidding process is the best way to ensure the integrity of NBA sports betting.

Proponents of integrity fees argue that, by paying these fees, the NBA can use the money to monitor and ensure that the sole data source is not corrupted.¹¹¹ In the interview discussed above, NBA Vice President and head of Fantasy and Gaming, Scott Kaufman-Ross, stated that one of the reasons why the NBA wants to charge integrity fees is to set up a “best-in-class integrity and monitoring system...something we can't do right now because it will take a multi-state view.”¹¹² However, the NBA, without being paid integrity fees, already was responsible for monitoring and ensuring the integrity of its games. The NBA possesses a clear interest in ensuring its games are legitimate so that its reputation is not undermined. Also, the NBA has already partnered with

¹⁰⁹ John Holden et al., *supra* note 4, at 49.

¹¹⁰ *Id.* at 72.

¹¹¹ Daniel J. Spitz et al., *supra* note 3, at 161.

¹¹² Matt Moore, *supra* note 109.

integrity watchdogs to monitor betting lines for any irregularities.¹¹³ Therefore, it is unclear why more money is needed to create a “best-in-class monitoring system.” Professional sports leagues, for the most part, have managed to protect the integrity of their games for decades without third-party contractors and private monitoring companies, and now the NBA has the help of these third parties under contract.¹¹⁴ Furthermore, professional sports leagues previously ensured the integrity of their games without this added assistance during times in which sports betting was largely an unregulated black market, meaning all of the regulatory safeguards that are present today were not there to help them.¹¹⁵ Kaufman-Ross has acknowledged such, stating, “When that data is available in a transparent market, it allows us to build better models and have access and insights into what’s happening, which puts us in a better position to do all the things we need to do.”¹¹⁶

Finally, another argument made in favor of paying integrity fees to the NBA is that, should the NBA become the sole data source for NBA sports betting, it would encourage cooperation between the federal government and the NBA, which could make regulation and integrity monitoring much easier.¹¹⁷ However, sportsbooks are not required to obtain their data from the NBA, which means the NBA is not the only data source that needs to be regulated. State regulation and enforcement of penalties would be much more effective, as, rather than have taxpayers in states that have not even legalized sports betting pay to have sports betting regulated in other states, only states that receive revenue from sports betting would be responsible for its regulation and enforcement of penalties.

¹¹³ John Holden et al., *supra* note 4, at 34.

¹¹⁴ *Id.*

¹¹⁵ It also bears mentioning that there is much less incentive today for players to accept bribes from orchestrators of point-shaving schemes than there was in the 1900s, as players today make millions of dollars compared to the modest salaries that players used to be paid decades ago.

¹¹⁶ Chris Mannix, *How the League Went on Defense*, SPORTS ILLUSTRATED (Aug. 9, 2021), <https://www.si.com/betting/2021/08/09/gambling-issue-the-leagues>.

¹¹⁷ Grant Ellfeldt, *supra* note 50, at 90.

2. Implement Integrity Watchdogs to Monitor Data

The fact that integrity fees should not be paid to the NBA does not mean that integrity watchdogs cannot be utilized as an additional safety net to ensure that games remain legitimate. The NBA, which is making millions from its partnerships with sportsbooks and casinos, has voiced its concerns regarding the integrity of its games.¹¹⁸ Therefore, the NBA should continue its partnerships with integrity watchdogs such as Sportradar and Genius Sports.¹¹⁹

Sportradar has enjoyed success with European basketball, signing a 2-year deal with easyCredit BBL, also known as Basketball Bundesliga, and monitors over 350 games.¹²⁰ Sportradar utilizes the Integrity Services' "Intelligence & Investigation" and "Education & Prevention" tools to guard against match fixing in the Slovak Basketball Leagues with the help of a global team of qualified integrity experts that report irregularities to leagues' governing bodies.¹²¹ Sportradar possesses several impressive tools that are utilized to combat integrity issues. The Fraud Detection System monitors the worldwide global betting market via a sophisticated algorithm, containing an extensive historical database and possessing "close relationships with law enforcement agencies and police around the world."¹²² In each case where fraudulent activity is suspected, "a comprehensive report is compiled within 72 hours, providing an excellent platform for any potential disciplinary proceedings or criminal investigations into match-fixing."¹²³ Sportradar tracks the odds movements at "over 600 independent bookmakers," and state lotteries

¹¹⁸ Daniel J. Spitz et al., *supra* note 3, at 160.

¹¹⁹ Shain Roche, *supra* note 6, at 139-140.

¹²⁰ *Sportradar to Monitor Basketball Competitions for European League Organisations*, THE SPORTS INTEGRITY INITIATIVE (Nov. 5, 2021), <https://www.sportsintegrityinitiative.com/sportradar-to-monitor-basketball-competitions-for-european-league-organisations/>.

¹²¹ *Id.*

¹²² *Monitoring & Detection: What we Offer*, *supra* note 69.

¹²³ *Id.*

are tracked in real-time in order to detect any anomalous betting patterns, generating an alert when bookmakers' odds change by greater than the pre-defined parameters.¹²⁴

Genius Sports employs its own techniques to monitor data integrity, comparing how odds move in real time, utilizing a predictive algorithm, and launching in-depth investigations to get to the root cause of irregularities.¹²⁵ Genius Sports also stresses the importance of integrity education and training, utilizing an e-portal on its website that formalizes integrity training and uses workshops to provide expert training.¹²⁶

While diversification of data streams would help ensure the integrity of NBA games by preventing a single data source from being corrupted, this does not mean that the threat of corruption would disappear altogether. This is where companies such as Sportradar and Genius Sports come into play. These companies could simply monitor betting irregularities in relation to NBA games, and, if an issue were to arise, the watchdog could notify the state where the irregularity occurred. The state would then work with the sportsbook and its data provider and would have the power to enforce penalties under state law. States have an incentive to make sure corruption and fraud are not occurring within their borders, giving them a strong motive to take these watchdogs seriously and cooperate with them. Furthermore, there is nothing preventing states from utilizing watchdogs themselves or requiring data providers to utilize these watchdogs as a way of bolstering sports betting integrity.

IV. CONCLUSION

¹²⁴ *Monitoring & Detection: What we Offer*, *supra* note 69.

¹²⁵ *Put integrity at your core*, *supra* note 70.

¹²⁶ *See id* (This also involves understanding the risks and consequences of match-fixing and helps teach NBA employees what questions they should avoid answering, such as questions about player availability for specific games or other insider information, such as what referee crew is working a particular game.).

The best way to ensure the integrity of NBA games involves state regulation of sports betting, a diversified stream of data sources with regards to sportsbooks, and the utilization of integrity watchdogs as safeguards. State regulation of sports betting will allow for states to continue to reap the tax benefits of regulating sports betting, allow for individualized state-by-state regulatory schemes that reflect the unique needs of states and their citizens, and avoid federal bureaucratic redtape. Diversified data streams will make bad actors less powerful, reduce the risk of corruption, and promote a competitive bidding process that will benefit states and sportsbooks. Integrity watchdogs should continue to be utilized by the NBA to monitor betting irregularities and report issues to the states and sportsbooks, which can monitor compromised data sources and take appropriate remedial measures.

This plan makes everyone a winner. The states continue to regulate sports betting and therefore continue to receive significant revenue from taxing sports betting. Data companies are free to bid to provide sportsbooks with statistics in the states they so desire. Sportsbooks obtain more revenue by selection of the highest bidder. Integrity watchdogs continue to be compensated for their work. The public would benefit from being able to bet on and enjoy NBA games with confidence that everything possible is being done to maintain the integrity of the games. Finally, the NBA is a winner, as, although it will not be compensated for the propriety of its data, it can still bid to provide data to sportsbooks. Furthermore, the integrity of NBA games is maintained, ensuring fan confidence, reducing the risk of corruption, and producing a better product that will generate more revenue. Therefore, this plan is the best possible way to maintain the integrity of NBA games.