

Ben Miller talks UFC's latest business moves

PLAYING WITH ANTITRUST FIRE By Ben Miller Randy Couture may not be explicitly saying it in mainstream sports media interviews the way he was two and a half years ago, but it's clear none the less that UFC continues to see itself as an MMA version of NASCAR. Just as the France family openly recruits drivers from competing organizations, demands exclusivity of their contracted drivers and plays an aggressive hand in setting the rules for driver sponsorships, Dana White and the Fertitta family does the same for fighters. In both cases the organization has become bigger than the sport. There are far more NASCAR/UFC fans than auto racing/MMA fans in the United States. And in both cases the success of the organization has generated bad will among competitors, ex-employees, some media elites and people who just tend to be contrarian in nature. An occasional cry among these critics is the accusation of monopolistic practices. While words like, "monopoly" and "predatory" are rarely heard (unless you're watching video of McMahon's anti-Turner crusade from the mid-90's), euphemisms like, "built-in advantage" and "control" relay a similar message. The message is that a lot of people in and around MMA think that UFC is too powerful and that the sport (or at least the fighters) would be better off if there were more than one organization that the public regarded as major league. My opinion on whether UFC's dominance is good for fighters aside, the report in the July 6, 2009 Wrestling Observer Newsletter on UFC's recent move to charge vendors a \$100,000 maintenance fee every six months for the right to sponsor fighters has to be seen as a negative. It can be argued that instituting this requirement is fair. After all, the UFC name is what gives fighters life in collecting video game royalties, appearance fees and the like. But it can also be argued is that this is another shot aimed directly at UFC's competitors, with the idea being that if a vendor has \$200,000 in sunk costs per year sponsoring UFC fighters, that vendor is paying less per fighter if they exclusively sponsor UFC rather than divvying up money between UFC, Strikeforce, Affliction and whoever else comes along. This is where things get tricky. Antitrust law -- at least in the United States -- tends to be kind to large companies as long as they stay positive. For example, the dolts in Europe may fine Intel or Apple because they make great processors or great jukebox software that dominates the market, but American regulators tend to let great companies make great products and claim great market share. In the United States the problems tend to arise only after the big boys go on attack. As anyone who remembers the live Spike TV special that went head-to-head with Affliction's first pay-per-view event a year ago knows, UFC has never been afraid to go on the attack. But with this sponsorship change and the rumored threats against fighters who might appear in a competing MMA video game from Electronic Arts (authors of the successful "Madden" NFL video game series), UFC may be playing with antitrust fire. Over the last year a couple of things have happened that may have ripened the environment for increased antitrust scrutiny: one of UFC's competitors folded and a Democratic administration entered the White House. While Strikeforce gobbled up some of the market share formerly held by EliteXC, it has now been nine months since an MMA event aired on CBS. Affliction continues to operate, but with Trilogy being their third event and so many fighters being signed to three fight contracts, their future is uncertain. As it concerns the Obama administration, releasing the Federal Trade Commission (FTC) hounds on UFC is almost certainly not on their radar. But the fact is that Democratic administrations have historically had quicker antitrust trigger fingers. Witness Microsoft's troubles with the law in the 90's. That type of attack simply didn't happen (for better or for worse) under the Bush administration. Sports organizations in general tend to be pretty safe from antitrust scrutiny. In baseball, basketball and elsewhere there are sports organizations that unreasonably restrain trade, produce artificial scarcities of product, create high barriers to entry and fix prices for both consumers and employees. But in all of those cases, the potential political backlash against an aggressive politician or bureaucrat should they mess with the beloved NFL, NBA, et. al. has always kept the FTC at bay. The question for UFC is whether they have generated enough goodwill to be able to play by their own rules or whether people start viewing these moves as monopolistic hubris that deserves the attention of Uncle Sam. *****
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