

Sports law in the age of COVID-19

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The world before COVID-19 seems a long time ago. Any way you choose to look at the global sports and events sector, 2020 has already been a year of monumental disruption. Competitions in most major professional sports have been topped, tailed, trimmed or truncated, while major events from the Tokyo summer Olympics to Wimbledon and many points in between have been subject to postponements, cancellations and calendar re-shuffles.

Quite apart from the human costs of the pandemic, the economic impact in terms of devastating job losses lost broadcasting revenues, gate receipts, sponsorship funding and vital footfall for travel, tour, hospitality and other symbiotic sectors has left event rights' holders and venues amongst those scrambling to plot a course forward. The previously booming sports industry has suffered a significant dent in global revenue as a result of the coronavirus-triggered shutdown starting in March 2020, when the coronavirus was declared a pandemic.

This article examines how the UAE's sports sector has been affected by the pandemic and the key elements required for a speedy recovery. Specifically, it looks at:

- the impact on UAE sports & events;
- lessons from sports and events that have successfully pivoted;
- how shutdown dynamics work;
- classifying and addressing the risks;
- return to sport guidelines – logistics; and
- a way forward.

UAE sports and events impact

The 2020 UAE Tour, a UCI sanctioned cycling event, taking place across the Emirates (23-29 February) was arguably amongst the very first international sporting events in the world to fall victim to COVID-19. The 7-stage road race was abruptly cancelled before the final two stages could be held. Over one hundred participants, team members and officials were quarantined in what seemed like an unprecedented move at the time. The appropriate decision (seemingly obvious now, but at the time both difficult and bold) was taken after late night deliberations between authorities, organisers and medical advisors when two cases of coronavirus were suspected among staff members of one of the participating teams.

After the UAE Tour, events began to fall like dominoes. In addition to the closure of professional football competitions in the UAE, a host of marquee events were either called off, suspended or rescheduled. The Dubai World Cup horse race, the Dubai Open 2020 Chess tournament, the Asian qualifiers for the 2022 FIFA World Cup, Asian Champions League matches, the MENA golf tour, the ITU World Triathlon Abu Dhabi and the Abu Dhabi Paratriathlon World Cup were amongst the casualties with even the opening of Dubai Expo 2020 being postponed until late 2021.

Lessons from sports and events that have pivoted

To adapt, there is a need for the sports ecosystem to embrace greater flexibility through the current slowdown and to be better equipped to withstand similar potential ordeals in the future. Traditional sports can learn lessons from the successes of some new entrants to the market such as esports, where the successful staging of F1 virtual Grand Prix events, ePremier League invitationals, the Mutua Madrid Open Virtual Pro (tennis), the virtual grand national and the first-ever virtual Tour de France offered by Zwift (including classifications for both men and women), have uncovered and exploited new market opportunities to garner increased appeal and rampant growth during the lockdown. Everyone wants to see an expeditious return of sports. For those sports that cannot effectively pivot, appropriate regulations can help speed up the process, provided they address the specific risks facing each sport.

Shutdown dynamics

Some events were impacted either directly by participants or stakeholders such as governing bodies, leagues, organisers, players or teams or indirectly by the lack of travel or accommodations logistics, closure of venues or the impact of statutory or regulatory provisions, amongst many other fact-specific reasons. The specific mechanics affecting any given event are particularly germane to the commercial and legal implications of cancellation, including such issues as the unparalleled reconsideration of force majeure, and the determination of liability and applicability of any insurance cover.

In the UAE, like many jurisdictions, there has been governmental action to ensure the safety of the population and to minimise the risk of exposure and transmission. Specifically, a number of swift and broad-ranging actions have impacted sporting shutdowns. While it is typically the case in the UAE that broader population protection was at the core of the legal mechanisms rather than sports-specific measures, it will be instructive in terms of sports reopening plans to consider the specific concerns that need to be addressed before reopening, be it through repealing or amending measures or providing for substitute requirements that otherwise ensure public health and safety. In response to the seismic and rapidly evolving threat to public health and safety posed by the COVID-19 outbreak, the UAE government and its constituent emirates took legislative action, implementing a range of mitigation measures. These measures were prepared and issued swiftly, often in the form of Circulars and Ministerial Resolutions as opposed to full statutory enactments, aimed at containing the virus. As early as 18 March 2020 – exactly one week from COVID-19 being declared a pandemic by the WHO, a series of precautionary measures were announced by the UAE Government to curb the spread of the virus. These measures included the mandatory imposition of a 14-day quarantine period applicable to anyone travelling to the UAE from abroad, the immediate suspension of issuance of new labour permits, (with certain exceptions), and the suspension of return entry even for valid residence visa holders caught outside of the UAE at the time of the decision. Numerous further safety decisions were issued by the General Civil Aviation Authority across a period spanning from April-June 2020. In a jurisdiction like the UAE where much of the sporting activity includes participation and/or support from tourists, athletes, production staff and others, the inbound and outbound travel restrictions issued in April had the indirect but immediate effect of preventing sporting activities.

Some travel measures have eased with the imposition of new safety requirements (e.g., PCR tests for all inbound and transit passengers travelling to the UAE and the establishment of isolation facilities). In addition to these strict travel measures (understandable in a nation bearing multiple prominent international airports), domestic mitigation measures were taken to control and regulate the day-to-day behaviours of residents, such as the enforcement of strict and mandatory social distancing measures and the mandatory use of face masks.

The Department of Culture and Tourism ('DCT'), Abu Dhabi has acted to limit mass gatherings to strict

minimums. It swiftly issued a Circular suspending public event in mid-March, and only permitted the operation of remote events with effect from mid-May (conferences, workshops and training courses) subject to a remote event licence being obtained for the same. Compliance with these directives has been enforced by timely inspections conducted by DCT inspectors and any events staged in breach of these measures constitute an offence for which violators would face significant legal sanctions. Additionally, strict penalties would continue to apply to anyone acting in violation of the precautionary and preventive measures issued by the Ministry of Health and Community Protection, the Ministry of Interior and the National Emergency Crisis and Disaster Management Authority.

Return to sport guidelines - logistics

Each jurisdiction and each sport must grapple with these issues and, while the re-emergence of sports is very much a work-in-progress, we can learn from those who have been quicker to reopen in effecting optimal changes as well as from the pitfalls of those that have not worked as well. In this regard, a number of international sports' governing bodies have introduced guidelines, standards and recommendations to offer direction and a blueprint to leagues, relevant national sports bodies, teams and federations so that similar policies may be adopted to ensure the safe, smooth and secure resumption of sporting activity. Amongst the many return-to-sport guidelines that have been introduced in the recent months are the following examples:

1. Premier League 2019-2020 Restart Guide
2. ICC Back to Cricket Guidelines, May 2020
3. ITF Return to Tennis Guidelines, June, 2020
4. FIA Return to Motorsport Guidelines, June 2020
5. Safe Return to Rugby in the Context of COVID-19 Pandemic, June, 2020
6. FIBA Restart Guide for National Federations

While travel, accommodation, air filtration systems and many more elements impacting sports are touched on, some common themes can be drawn from these return programmes. Each of these guidelines contains minimum health and safety standards to be observed by the players, officials, staff, stakeholders and media personnel and, arguably, all involved have the responsibility to ensure safe reopening. These measures include without limitation:

- the need to avoid unnecessary physical contact;
- the need to maintain and adhere to the social distancing of 1.5-2m (including by adding locker-room space, additional facilities, etc.);
- disinfection protocols for venues and facilities;
- staged/phased return to training starting from solo training to training in small groups and eventually resuming full-squad training;
- the need for athletes to carry/ maintain their own individual
- equipment (where practicable);
- the need to minimise or avoid the use of communal facilities (changing rooms, dining halls, showers);
- the need to wear PPE when not playing or training or engaged in rigorous physical activity; and
- implementing appropriate biosafety plans.

Various creative measures have been devised in an effort to adhere to and promote the goals of these guidelines to support the safe return of sports. From the use of hub-cities in MLB to the Disney Bubble for the NBA, charter flights from Emirates for the USTA, isolation camps prior to cricket tests from the ICC and the reduction of support categories for Formula One events, it is clear there is a flexible will to adapt to new measures to preserve sports.

A way forward

Expecting a bright-line transition between pandemic modified sports' activity and a post-pandemic comprehensive lifting of all restrictions on sporting events may be unrealistic – perhaps even in the context of one or more viable vaccines (given such factors as uneven roll-out, the need for prudent caution and data analysis in terms of mid to long-term efficacy, etc.). What is certain, however, is that sports have shown the capacity for survival and adaptability. Athletes and organisations alike will need to work with governing bodies to support adaptations and fans may need to appreciate and accept some variation in the historical sporting products as well as their methods of consumption. Pandemic pivots have shown green shoots in new disciplines, as well as the modification of existing forms. Zwift, Rouvy and a range of esports remind us of the ever-changing landscape and opportunity to create new niches where quality and competition drive interest and passion.

The broadcast successes of events such as the NFL Draft, the eNASCAR iRacing Pro Invitational Series and Hafthor Bjornsson's new world deadlift record remind us how loyal the fan-base remains. Sports governing bodies and stakeholders will need to develop effective guidelines for return to play. The broader ecosystem of contractors from media to ticketing providers, transit solutions, F&B, merchandising and the multitude of other contractors that depend on the sports industry will doubtless be willing to conform in most cases. The UAE has been a leader in this adaptability with Abu Dhabi hosting the UFC's inaugural Fight Island that began with UFC 251 and ran through July on Yas Island in a specially developed "safe zone". If this can be done with such success, despite the strict safety measures in place in the UAE, there are examples to follow – even if it is clear a single roadmap forward will not fit every sport. Additionally, with the ICC calendar now free after the postponement of the T20 World Cup, the UAE has been identified by the BCCI as the host for its marquee event the 2020 IPL, which kicked off in late September and which will run through until early November (at venues in Abu Dhabi, Dubai and Sharjah). This serves as a positive reminder that while COVID-19 legal restrictions are still very much in play, with appropriate advice and guidance sports' events can be successfully organised and delivered. In short, sports will find a way to adapt and, we need to keep learning from what works and, perhaps more from what does not work.

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