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Fighting for Respect: MMA's Struggle for Acceptance and How the Muhammad Ali Act Would Give it a Sporting Chance

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FIGHTING FOR RESPECT: MMA’S STRUGGLE FOR ACCEPTANCE AND HOW THE MUHAMMAD ALI ACT WOULD GIVE IT A SPORTING CHANCE

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I. INTRODUCTION

Mixed martial arts ("MMA") is one of the fastest growing sports in the world. It is a combat sport in which competitors employ various fighting styles including muay thai, boxing, wrestling, and Brazilian jiu-jitsu. MMA began more as a spectacle than a legitimate sport, and public outcry led initially to MMA bans throughout the United States. MMA has since improved its safety standards in order to be sanctioned by most of the state athletic commissions in the United States today. While much has been accomplished in making the sport a mainstream success, there are still some areas that could be improved upon. MMA is still misunderstood by much of the public, and many politicians base their negative views of the sport on misconceptions which abounded during the sport’s infancy. MMA must be recognized by the public as a legitimate sport in which those who compete are not merely competitors, but disciplined athletes. The federal government should intervene to improve fighter pay and ensure fair contracts. The simplest way to do this would be for Congress to amend the Muhammad Ali Boxing Reform Act ("Ali Act") to include the same protections for mixed martial artists as it currently does for boxers. Both sports have been plagued with problems and both are regulated by the various state athletic commissions.

This Note will discuss why the Ali Act should apply to MMA. Part II will describe the history of MMA and relate how the sport came to be banned in much of the United States. It will go on to detail how reform allowed MMA to grow into a billion dollar industry. Part III will analyze West Virginia's law banning MMA and why the justifications of the ban given by the state athletic commissioner are not supported by the available research. Part IV will give an overview of federal boxing reform and its impact on that sport. Finally, Part V will examine how the Ali Act would impact the sport of MMA and how the similarities between the two sports would make such a transition possible.

II. MMA’S ORIGINS, DARK PERIOD, REFORM, AND RESURGENCE

The sport of mixed martial arts can trace its genesis to the ancient Olympics in 648 B.C.\(^4\) It was then called pankration, meaning “the one who has power” or “the one who wins with total power and knowledge,” and combined boxing, wrestling and fighting with the feet.\(^5\) Pankration was described by the ancient Greek philosopher Philostratos as “the most exciting and worthiest of all sports in ancient Olympia” and remained a part of Olympic lore until 393 A.D. when the Olympics of the ancient era officially ended.\(^6\) Pankration was not included as a sport when the Olympics were revived in 1896 under the International Olympics Committee.\(^7\)

A. Appearance in the United States

MMA first appeared in the United States on November 12, 1993 in Denver, Colorado.\(^8\) Robert Meyrowitz, Arthur Davie, and Rorion Gracie wanted to settle the age-old question of which fighting style was superior and founded WOW Productions\(^9\) in order to hold a tournament showcasing various fighting disciplines. The event was billed as the Ultimate Fighting Championship (“UFC”) and featured competitors practicing the arts of sumo wrestling, kickboxing, boxing, and Brazilian jiu-jitsu.\(^10\)

The fights did not take place in a ring like boxing or pro wrestling, but in an eight-sided cage known as the Octagon.\(^11\) The first UFC event had few rules. The fighters did not wear gloves over their hands\(^12\) and they were permitted to do most anything except eye gouging or biting.\(^13\) An early marketing campaign for the event declared that there were three ways to win, “by knock-

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\(^5\) Id.

\(^6\) Id.

\(^7\) DAVID C. YOUNG, THE MODERN OLYMPICS: A STRUGGLE FOR REVIVAL 100–05 (1996).

\(^8\) DAVID T. MAYEDA & DAVID E. CHING, FIGHTING FOR ACCEPTANCE 12 (2008).

\(^9\) Id.

\(^10\) Id.


\(^12\) The boxing participant, Art Jimmerson, wore a boxing glove over one hand. He gave up during his fight out of frustration after being taken to the ground by his opponent and not being able to get back to his feet. Kevin Curran, MMA’s Most Unbelieveable Submissions: The Top Ten, BLEACHER REPORT, July 26, 2008, http://bleacherreport.com/articles/41287-mmas-most-unbelievable-submissions-the-top-ten/page/3.

out, submission or death.”\textsuperscript{14} The first UFC was won by the smallest competitor, Brazilian jiu-jitsu practitioner Royce Gracie, the younger brother of UFC co-founder Ronin Gracie.\textsuperscript{15} The event was popular on pay-per-view, with 80,000 people watching from their homes.\textsuperscript{16} This success led the founders to organize more events. Eventually, UFC events had set time limits, padded gloves, weight classes, judge’s decisions and banned such moves as head-butting and groin strikes.\textsuperscript{17} Naturally, a new sport that becomes popular in such a rapid fashion will draw the attention of politicians and others who have heard of rumors of its brutality. Enter Senator John McCain, R-Arizona.

\textit{B. John McCain’s Crusade}

Since it employed few rules, UFC organizers had trouble scheduling venues in which to hold their events. Denver had been chosen as the site for the first event since the state of Colorado did not have a boxing commission.\textsuperscript{18} The UFC would sometimes schedule an event, but would have to either move the event to another location or cancel based on local political pressure.\textsuperscript{19} In 1995, McCain wrote to then-Governor of Wyoming, Jim Geringer, “The ‘Ultimate Fighting Championship’ is a disturbing and bloody competition which places contestants at great risk for serious injury or even death, and it should not be allowed to take place anywhere in the United States.”\textsuperscript{20} McCain also wrote to the governors of the other forty-nine states urging them to ban “ultimate fighting,” which he colorfully compared to “human cockfighting.”\textsuperscript{21} His comparison of the sport to cockfighting was ironic since cockfighting was still legal in Arizona at the time when McCain made his statement and was not banned until later.\textsuperscript{22}


\textsuperscript{16} Id.

\textsuperscript{17} \textit{NEV. ADMIN. CODE} § 467.7962 (2008).


\textsuperscript{19} MAYEDA \& CHENG, supra note 8, at 13.

\textsuperscript{20} \textit{CLYDE GENTRY, NO HOLDS BARRED: ULTIMATE FIGHTING AND THE MARTIAL ARTS REVOLUTION} 122 (2002).

\textsuperscript{21} Plotz, supra note 13.

\textsuperscript{22} \textit{DAVID A. NIBERT, ANIMAL RIGHTS/HUMAN RIGHTS: ENTANGLEMENTS OF OPPRESSION AND LIBERATION} 183 (2002).
It is interesting to note that McCain never pushed for reform of “ultimate fighting.” Rather, McCain attempted to eradicate the UFC altogether. There are several sources of possible motivation that may have been involved in McCain’s stance against the UFC.

First, McCain often speaks of a lifetime love of boxing and claimed some success as a boxer at the Naval Academy in the 1950s. He would secretly watch boxing on Friday nights at the academy on a small television that he had hidden in his room. McCain also credits his boxing background as having helped him survive as a prisoner of war in Vietnam because he “knew how to take hard blows.” After his success as a politician, McCain could often be seen ringside in the audience at some of the biggest boxing matches with tickets supplied to him for free from boxing promoters. Boxing had been good to McCain.

Second, McCain had another tie to boxing through his beer connections. His wife, Cindy McCain, is the daughter of James Hensley, one of the nation’s largest Anheuser-Busch distributors. She inherited his stake in Hensley & Co. when he died. When McCain first ran for office, one of his earliest donors was Anheuser-Busch’s political action committee. James Hensley and other executives from his company donated so much money to McCain’s campaign that the “Federal Elections Committee ordered McCain to give some of it back.” Some estimates suggest that Cindy McCain’s net worth is at least $100 million. Anheuser-Busch is also one of the biggest boxing sponsors in the world.

Whatever McCain’s motivation, he spoke openly in the press about the barbarity of MMA and claimed that it was unsafe. In an interview with Slate, McCain was asked to explain the moral distinction between boxing and mixed


25 Crowley, supra note 24.

26 Id.

27 Bimbo, supra note 24.


29 Id.

30 Id.

31 Id.

32 Id.

33 Crowley, supra note 24.

34 Bimbo, supra note 24.
martial arts.\textsuperscript{35} McCain cut the interview short and yelled at the journalist, “If you can’t see the moral distinction, then we have nothing to talk about!”\textsuperscript{36} This outburst came from a man who had sat ringside and witnessed a boxer die in the ring.\textsuperscript{37} Thus, it appears McCain did not want a sport that he considered beneath boxing to sully boxing’s reputation or to gain in popularity.

McCain’s tactics worked initially, as states across the country began passing legislation to ban “ultimate fighting.”\textsuperscript{38} The medical community also joined McCain’s crusade, including Dr. George Lundberg who wrote about MMA in the Journal of the American Medical Association:

> It is literally a fight to the finish — be that death, incapacitation, or surrender. The more violent, destructive, and dangerous the events are, the more the promoters and some spectators seem to like it . . . . The more blood the better — on opponents, on ring officials, and on ringside spectators. This is one completely repulsive activity . . . . Just as they do not telecast “underground” dogfights from Georgia or cockfights from Arkansas, legal bullfights from Juarez, Mexico, or human executions from prisons, they should not telecast these human fights.\textsuperscript{39}

In early 1997, McCain became chairman of the FCC and used his influence to persuade Neil Henry, McCain’s personal friend and owner of the company that provided the UFC with its pay-per-view service, to drop UFC events from his service.\textsuperscript{40} This effectively drove the UFC underground as the potential number of pay-per-view subscribers shrank from 35 million to 7.5 million and the pay-per-view audience shrank from 300,000 per show to 15,000.\textsuperscript{41} This led to the inability of the UFC to pay its best fighters and forced the organization to schedule events in Japan and Brazil.\textsuperscript{42}

\begin{itemize}
\item \textsuperscript{35} Plotz, \textit{supra} note 13.
\item \textsuperscript{36} \textit{Id.}
\item \textsuperscript{37} \textit{Id.}
\item \textsuperscript{38} Jordan Robertson, \textit{State Readies for First Mixed Martial Arts Fight After Ban Lifted}, SFGATE.COM, Mar. 4, 2006, \url{http://www.sfgate.com/cgi-bin/article.cgi?f=n/a/2006/03/04/sports/s000041S24.DTL&type=printable}.
\item \textsuperscript{39} George D. Lundberg, \textit{Blunt Force Violence in America — Shades of Gray or Red: Ultimate/Extreme Fighting}, 275(21) JAMA 1684, 1685 (1996).
\item \textsuperscript{40} Donald F. Walters, Jr., \textit{Mixed Martial Arts: Ultimate Sport, or Ultimately Illegal?}, GRAPPLE ARTS, Dec. 8, 2003, \url{http://www.grapplearts.com/Mixed-Martial-Arts-3.htm}.
\item \textsuperscript{41} Plotz, \textit{supra} note 13.
\item \textsuperscript{42} \textit{Id.}
\end{itemize}
C. MMA Reform

The dark years of mixed martial arts lasted for roughly four years, from 1997–2001. New Jersey became the first state to legally sanction MMA in 2000 after the UFC implemented new rules “designed to protect fighters and gain public acceptance.” The statute came to be known as the Unified Rules of Mixed Martial Arts Combat (“Unified Rules”). On January 9, 2001, the near-bankrupt UFC was sold to Las Vegas casino owners Frank and Lorenzo Fertitta for $2 million. This sale provided the UFC with the financial backing to push for the acceptance of MMA as a legitimate sport. It also didn’t hurt that Lorenzo Fertitta was a former member of the Nevada State Athletic Commission and knew the politics involved in the fight industry.

Following New Jersey, Nevada also adopted the Unified Rules on July 23, 2001. The new rules featured five weight classes, rounds, time limits, a list of over thirty-one fouls, and eight possible ways for the fight to end. The Unified Rules provided not only safety, but also uniformity in regulating MMA amongst the states.

The commission charged with drafting the rules looked to other combat sports and incorporated some of those rules into the Unified Rules, including the “accepted Olympic rules for boxing, judo and wrestling, as well as the rules for professional kickboxing, and Brazilian jiu-jitsu tournament rules.” The commission struggled with how to regulate striking on the ground since no other combat sport allows this maneuver, but included this as well since it is an integral part of MMA. The Unified Rules helped pave the way for MMA to be viewed as a legitimate sport and have become the standard rules in most MMA promotions and among the various states that permit MMA competition. In these states, the various athletic commissions regulate the sport much like they

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43 MAYEDA & CHING, supra note 8, at 14.
44 Walters, Jr., supra note 40.
45 MAYEDA & CHING, supra note 8, at 15.
47 NEV. ADMIN. CODE § 467.7962 (2008). The Unified Rules set guidelines for duration of bouts, method of judging, proper attire for combatants, and how bouts may end. Id. The rules also list thirty-one fouls including striking downward using the point of the elbow, kneeling or kicking the head of a grounded opponent, holding the ropes or fence, and throat strikes of any kind. Id.
48 Id.
49 Walters, Jr., supra note 40.
50 Id.
51 Id.
do boxing. MMA returned to pay-per-view during this period of reform, as well, and other states began adopting the Unified Rules.

D. The UFC Takes a Chance and it Pays Off

Though it was becoming accepted by some in the public, the UFC still was running at a deficit of $44 million and so its backers took a chance on reality television by investing another $10 million to self-produce an MMA reality show. The show, appropriately named “The Ultimate Fighter,” debuted in 2005 and consisted of sixteen fighters competing for a six-figure UFC contract and aired on Spike TV. The fighters lived and trained together in one large house without television or telephones. Each week, two of the participants fought under Unified Rules; the loser was eliminated and the winner advanced. The show was a hit with “males in the eighteen to thirty-four year old demographic.” The show just completed its eighth season and is broadcast in more than 100 countries.

The show is seen as the catalyst that made MMA a sensation and increased the popularity and acceptance of the sport. “‘The show is our Trojan horse,’ said [Lorenzo] Fertitta. ‘People were surprised to find out that the fighters work hard, that they’re not crude thugs but great athletes, intelligent and with good manners.’” At one time, the UFC included diverse fighters such as “an attorney, a psychologist, an IT expert, a math teacher and a former member of the Croatian parliament,” along with Olympic medalists and former collegiate wrestling national champions.

In 2006 the UFC beat boxing and wrestling in the pay-per-view world, grossing more than $222 million. The “UFC 75” pay-per-view drew 5.6 million viewers, and was watched by more men between the ages of eighteen and forty-nine that day than any other program including college football and

55 Id.
56 Id.
57 MAYEDA & CHING, supra note 8, at 15.
59 Id.
60 Id.
61 Beato, supra note 23.
NASCAR.\textsuperscript{62} In 2007, seven of the top ten pay-per-view events in the United States and Canada combined (in terms of revenue) were UFC promotions.\textsuperscript{63} It is estimated that the UFC is now valued at $1 billion.\textsuperscript{64}

The sport’s popularity, combined with the revenue it generates and a better understanding of the sport itself, has led thirty-six of the forty-four states with athletic commissions to officially recognize and regulate MMA.\textsuperscript{65} However, the UFC is not satisfied; its goal is to have the sport legalized in all fifty states. The UFC moved forward in attaining this goal when it hired Marc Ratner as its Vice President of Government and Regulatory Affairs.\textsuperscript{66} Ratner is a past executive director of the Nevada State Athletic Commission and a former UFC critic who appeared in 1995 with Sen. John McCain on the Larry King Show in opposition to MMA.\textsuperscript{67} Ratner is in contact with several states where MMA is still unregulated or illegal and is getting a warm reception, except in West Virginia, where he claims officials won’t return his calls.\textsuperscript{68} In 2008, Bud Light, an Anheuser-Busch brand, became the exclusive beer sponsor of the UFC.\textsuperscript{69} Later that year, McCain’s home state of Arizona legalized MMA and began regulation of the sport.\textsuperscript{70} John McCain has been quoted as saying, “The sport has grown up. The rules have been adopted to give its athletes better protections and to ensure fairer competition.”\textsuperscript{67} Ratner and McCain are examples of former foes of MMA who have followed the sport through its various reforms and now view it as legitimate.

Others still view the sport in a negative light. For example, one person voiced displeasure when CBS began airing MMA on primetime by writing an article stating, “No matter how much the ‘cage fighting’ enthusiasts scream for its allowance, don’t listen to them. They are wrong, dead wrong. The fact is

\textsuperscript{64} Grossekathofer, supra note 58.
\textsuperscript{67} Bimbo, supra note 24.
\textsuperscript{71} Davies, supra note 14.
they are bloodthirsty primitives who have no place in a decent society.”72 The writer later opines, “One would hope that [CBS executive] Kelly Kahl’s children would be attacked by a cage fighter.”73 Opinions such as these suggest that the critic has not watched an MMA bout, nor does the critic understand the rules of the sport.

III. ONE STATE’S REASONS FOR CONTINUING TO BAN MMA

MMA is illegal in West Virginia, and the Chairman of the West Virginia Athletic Commission, Steven A. Allred, has publicly stated, "We think that MMA is Brutal and Dangerous and we will 'NEVER' allow ANY such events in our State as long as I am in charge!"74 Chairman Allred cites safety concerns for the ban on MMA and specifically sees “striking with the knees and/or elbows, striking of a ‘downed’ opponent with either the fists, elbows, and/or feet, use of choke holds either vascular or respiratory — not to mention the fact that the gloves used are of minimum weight (which cause a great amount of cuts on opponents) and no foot or instep padding is used on the feet/legs” as dangerous for participants.75

Chairman Allred also points out that the other four commissioners also strongly oppose the legalization of MMA and that the state legislature unanimously defeated a proposal to legalize MMA a few years back.76 He refers to MMA as an “activity that portrays nothing but a somewhat regulated ‘street fight.’”77

Despite having such strong opposition to the sport of MMA, Chairman Allred fails to cite any study that would indicate his opinion regarding the safety of the sport is justified. He apparently feels that his personal opinion and that of his fellow commissioners suffice in preventing his home state from reaping the benefits of revenue generated by hosting a MMA event.78 Personal opinions

73 Id.
75 E-mail from Steven A. Allred, Chairman of the West Virginia State Athletic Commission, to D. Geoff Varney (Nov. 21, 2007, 11:06 EST) [hereinafter Chairman of the West Virginia State Athletic Commission] (on file with author).
77 Chairman of the West Virginia State Athletic Commission, supra note 75.
78 For example, a study conducted by an economic development consulting firm found that a UFC event held in Buffalo, New York, would generate $5.2 million in economic activity for the area, with $1.7 million of that total coming from direct event spending. A similar breakdown for a Madison Square Garden event proposed an $11.3 million gain for the state, with direct event spending gar-
regarding MMA bans are not uncommon among those holding political office. When Fall River, Massachusetts Mayor Robert Correia found out a MMA gym was operating not far from his office, he immediately started speaking out in an effort to ban MMA in his town and to shut down the gym because he had “heard that MMA is unsafe.” Politicians, like Correia, are not as outspoken about the more understood sport of boxing.

A. MMA vs. Boxing

It seems that much of the criticism against MMA is due to regulations that differ from those of America’s accepted combat sport of boxing, which adheres to the Marquis of Queensbury rules (“Queensbury”). Under the Queensbury rules, boxing only permits punches to the head and body of an opponent, unlike MMA “which permits punches and kicks to all areas of the body with the exception of the groin, neck and back of the head, as well as knees and elbow strikes, takedowns, throws, and submissions.” MMA’s non-adherence to the traditional rules of boxing causes some individuals to believe it is more dangerous. Their ignorance of the sport and its rules gives them a false impression.

Chairman Allred fully supports boxing, while having an unabashed bias against MMA. His fondness for boxing is exemplified in the former name of the agency at which he is employed. Although it was renamed the West Virginia State Athletic Commission in 1983, the commission today still more closely resembles its previous moniker of the West Virginia State Boxing Commission because West Virginia statute bans MMA.

...
1. Bout Duration

Chairman Allred’s safety concerns regarding MMA seem to be set out in the sections of the West Virginia Code of State Rules regulating boxing and devoted to banning MMA.84 However, the statute doesn’t really do much to protect boxers. Section 48.2(b) bars “[r]ounds in excess of three minutes in length.”85 The typical boxing match has ten or twelve rounds of three minutes each. MMA, on the other hand, has three, five-minute rounds for regular fights and five, five-minute rounds for title fights under the Uniform Rules.86 That means that boxing matches that go the distance last between thirty and thirty-six minutes, while a MMA bout lasts between fifteen and twenty-five minutes. Studies conclude that brain damage among amateur boxers who fight only three rounds per match is significantly less than that of professional boxers who typically fight ten or twelve rounds.87 The inclusion of a three-minute per round cap in West Virginia’s statute seems to have been arbitrarily passed in opposition to MMA, since the Unified Rules of MMA regulates five-minute rounds.

2. Fouls

West Virginia’s boxing regulations list fourteen fouls, while the Unified Rules of MMA (as adopted by the state of Nevada) list thirty-one possible infractions.88 What about Chairman Allred’s assertion that MMA is nothing more than a “somewhat regulated street fight?”89 Based on numbers alone, it would seem that MMA is more regulated under the Unified Rules than boxing is in the state of West Virginia under its rules.

3. Glove Size and Traumatic Brain Injury

West Virginia’s anti-MMA statute also contains a ban of “[g]loves of less than eight ounces in weight.”90 Chairman Allred feels that the larger gloves used in boxing (boxers use eight to ten ounce gloves; MMA fighters use four to

85 W. VA. CODE R. § 177-1-48.2(b) (2006).
88 W. VA. CODE R. § 177-1-32 (2006); NEV. ADMIN. CODE § 467.7962 (2008). Boxing fouls in West Virginia include hitting an opponent who is down or rising after being down, hitting below the belt, jabbing opponent’s eyes with the thumb of the gloves, and purposely going down without being hit.
89 Chairman of the West Virginia State Athletic Commission, supra note 75.
eight ounce gloves) reduce injuries,\textsuperscript{91} but the purpose of boxing gloves is not to protect the head of an opponent, but to protect the knuckles of the boxer.\textsuperscript{92} Dr. Allan J. Ryan\textsuperscript{93} recommended eliminating boxing gloves altogether because they can absorb sweat and act as a club with which to bludgeon one’s opponent.\textsuperscript{94} One study found that the “straight right” punch employed by boxers is equivalent to “being hit on the head with a thirteen-pound wooden mallet swung at a speed of twenty miles per hour.”\textsuperscript{95} A study by the American Medical Association notes that

Boxing-induced brain injury can cause death, although acute mortality from boxing is rare. A subpopulation of professional boxers suffers from chronic neurological injury, the severity of which in later life correlates in some studies with the frequency of exposure (number of bouts), and possibly severity of head trauma as measured by the occurrence of technical or concussive knockout.\textsuperscript{96}

A type of chronic traumatic brain injury, \textit{dementia pugilistica}, occurs in approximately 17 percent of all retired boxers and results in difficulty processing information and short-term memory.\textsuperscript{97} Other studies suggest the numbers may be as high as 60 to 87 percent in those boxers “who fought of-

\textsuperscript{91} Chairman of the West Virginia State Athletic Commission, \textit{supra} note 75. \textit{See}, e.g., W. VA. CODE R. \textsection 177-1-38.1 (2006); NEV. ADMIN. CODE \textsection 467.427(6) (2008).
\textsuperscript{92} GILDA BERGER, \textsc{Violence And Sports} 58 (Franklin Watts 1990).
\textsuperscript{93} Dr. Ryan was one of the pioneers of sports medicine. In the 1950s, Ryan served on early American Medical Association sports medicine committees. He served as president of the American College of Sports Medicine (ACSM) from 1963 to 1964. He was a consultant to the President’s Council on Physical Fitness and Sports and was secretary-general of the International Federation of Sports Medicine.
\textsuperscript{94} Allan J. Ryan, \textit{Eliminate Boxing Gloves}, \textsc{Physician & Sportsmed}, Dec. 1983, at 49.
\textsuperscript{97} Rowland Lewis, \textit{Why Haven’t We Banned Boxing?}, 6(23) \textsc{Neurology Today} 5, 5–6 (2006).
MMA critics who support boxing either are not aware of these studies, or choose to ignore them.

The use of smaller gloves by MMA fighters leads to more injuries to the hands than in boxing, but also prevents the repeated blows to the head that result in brain damage to boxers due to the hand protection provided by the larger boxing gloves. Boxing rules, such as the standing eight count, also allow for more damage to a fighter. Professional MMA fighter, Dan Henderson, said

"[In] boxing you get hit in the head . . . twelve rounds straight, and you get your bell rung in boxing and the ref has to step in and give you an eight count. Then they let you go out there and let you get beat up again two or three times before they stop the fight. We get our bell rung, and the fight’s over."

MMA also allows fighters to perform submission holds on their opponent, which aids in reducing multiple blows to the head.

MMA fighter, John Rallo, stated, “Unlike boxing, I can use submissions to defeat my opponent. Since competitors can honorably tap out usually nothing more is injured than pride. . . . It is not personal. . . . After the match is over you get up, shake each other’s hand, and continue to be friends.”

Furthermore, the smaller MMA gloves also have open fingers so that grappling may be employed. The ability of a fighter to take his opponent to the ground instead of taking multiple blows to the head from punches helps to explain why the knockout percentage in MMA fights is almost half that in boxing.

Professional MMA fighter, Darren Goo, said,

People think [MMA is] less safe because you can do more things, or maybe they see more blood because the gloves are smaller and elbows are allowed, so you see more facial cuts. I would rather have a facial cut than a serious concussion. The

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99 Plotz, supra note 13 (MMA fighters do not throw multiple skull punches to their opponent for fear of breaking their hands); Ryan, supra note 87, at 49.

100 MAYEDA & CHING, supra note 8, at 153.

101 Walters, Jr., supra note 40.

102 Id.

long term affects of a facial cut are minimal, but lasting brain damage can affect you the rest of your life.\textsuperscript{104}

A Johns Hopkins University School of Medicine study found that MMA injuries are comparable to other combat sports that involve striking, but that the lower knockout rates in MMA suggest a reduced risk of traumatic brain injury when compared with other striking sports such as boxing.\textsuperscript{105} The Journal of Combative Sport has documented seventy-one boxing deaths since 1993.\textsuperscript{106} There has been only one confirmed death in a sanctioned MMA fight in the same time period.\textsuperscript{107} In the UFC, MMA’s largest promotion, the worst injuries have been one broken arm and one broken leg, the latter being caused when the fighter’s leg broke while kicking his opponent.\textsuperscript{108} Ironically, the broken leg occurred during a special MMA event designed to raise money for U.S. troops suffering from combat-induced traumatic brain injury.\textsuperscript{109} Still, the medical community including the American Medical Association, the British Medical Association, and the Canadian Medical Association have called for a ban of both boxing and MMA because they are against the Hippocratic Oath.\textsuperscript{110} However, this stance doesn’t prevent medical supervision, because at each UFC event there are doctors stationed around the Octagon, ambulances waiting outside the arena, and the nearest emergency room and neurology department are always notified in advance.\textsuperscript{111}

4. Cages vs. Rings

West Virginia’s concern with the “[u]se of a caged arena instead of an authorized boxing ring”\textsuperscript{112} is also unwarranted since the cage prevents hyperextension of the neck, which has been a “major cause of death and injury in

\begin{itemize}
\item Mayeda & Ching, supra note 8, at 152.
\item Incidence of Injury, supra note 103, at 140.
\item Grossekathofer, supra note 58.
\item Chairman of the West Virginia State Athletic Commission, supra note 75.
\end{itemize}
boxing” when “fighters hyper-extended their necks when they [were] punched against the ropes, because nothing stops their heads from snapping back.”

Similarly, West Virginia’s stance against “vascular chokes” is not backed by medical studies. The state of California had similar concerns about such chokes when adopting MMA regulations, but decided to allow the submission maneuver upon further review and recommendations from its Medical and Safety Standards Advisory Committee. West Virginia has never cited any medical evidence in support of its MMA ban.

Thus, it appears that the criticisms leveled against MMA are based upon faulty visual perceptions and/or misunderstandings, since medical studies show the sport is at least as safe as boxing. UFC President Dana White sees a cultural divide between American and Japanese MMA fans:

People think our sport’s more violent than boxing. Wrong! They’re weirded out because it goes to the ground. We grew up with John Wayne movies — you don’t hit a man when he’s down. It’s un American! John Wayne would deck a guy, stand him back up and hit him again. So when Americans first watch UFC — one guy’s on top of the other, hitting him when he’s down — they say, ‘Oh God, he can’t defend himself!’ It’s not like that in Asia, where they’ve been doing martial arts since the samurai days.

White’s view is justified by the fact that MMA events in Japan were selling out 50,000-plus seat arenas in the mid to late 1990s, while legislation was enacted against the sport in the United States during this time.

Despite its posturing, West Virginia does not seem to be all that concerned with boxing safety. The commission allowed boxer Tommy Morrison to fight within the state in 2007, knowing that Morrison had previously retired from boxing after testing positive for HIV. West Virginia does not usually require a blood test from boxers, but ordered Morrison to provide one before it would sanction his fight. Morrison was allowed to submit the results of a test administered in Arizona that came back negative for HIV. Later, Morrison’s

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114 See Chairman of the West Virginia State Athletic Commission, supra note 75.
116 Dana White, supra note 53.
117 Maya & Ching, supra note 8, at 15–16.
120 Id.
former agent said the fighter was indeed HIV positive and had fraudulently passed the test.121 A state with a genuine concern for fighter safety would require blood and other medical tests in every case before a fighter is sanctioned to fight.

B. Potential for Corruption

Furthermore, boxing industry insiders may have an undue influence over state boxing commissioners. In most states, state athletic commission personnel regulate combat sports. In Nevada, “each of the state’s five [boxing] commissioners is given six [free] tickets in addition to his own seat for every fight card held in the state” paid for by the promoter.122 In April of 2007, “state athletic commission personnel attended the [World Boxing Commission’s] World Medical Congress in Cancun, Mexico. In addition to the medical agenda, those present enjoyed fine dining, cocktail parties, golf and other forms of entertainment.”123 It should be noted that a commissioner who receives free tickets is required to report the gratuity on his personal income taxes.124

The governor of the state in which they reside typically appoints state athletic commissioners to their positions.125 Many of the commissioners have no type of experience with combat sports126 and some freely admit that their appointments are a result of political favors.127 Some commissioners, like former California State Athletic Commission Executive Director, Armando Garcia,

123 Hauser, supra note 122.
124 Id.
have been denounced as having an obvious bias in favoring boxing over MMA.\textsuperscript{128}

Because many commissioners work without compensation from the state,\textsuperscript{129} it is not surprising that some of them see boxing as a way to reap some personal benefit from their position.\textsuperscript{130} Boxing promoters are quick to oblige these commissioners, which helps forge a close relationship between the two parties, making boxing’s continued success a high priority in the mind of the commissioners. West Virginia is one of the states in which the governor appoints individuals to the athletic commission, and they serve without pay for a period of four years.\textsuperscript{131}

\section*{C. MMA Safety as Compared with Other Sports}

Is there any validity to those who, like Chairman Allred and Mayor Correia, feel that MMA is less safe than other contact sports, or are these concerns more based on the past stigma and unfamiliarity with the sport? A hearing on a proposed bill that would have allowed the New York State Athletic Commission to regulate MMA suggests the latter since the bill was met with both “confusion and opposition.”\textsuperscript{132}

Studies have shown that approximately 3.8 million emergency room visits occur annually as a direct result of sports-related injuries and that the cost of these medical expenses total $680 million.\textsuperscript{133} Approximately 150 student-athletes are killed each year as a result of injuries sustained in sporting events unrelated to MMA or boxing.\textsuperscript{134} A study conducted by the University of North Carolina’s Center for the Study of Retired Athletes found a direct correlation between rates of diagnosed clinical depression and the number of concussions sustained among retired NFL players.\textsuperscript{135} During the 1996–97 school year in Ohio and Pennsylvania, 47.2 percent of all high school football players reported

\begin{thebibliography}{9}
\item\textsuperscript{129} \textit{Id.}
\item\textsuperscript{131} Welcome, supra note 83.
\item\textsuperscript{132} Hunt, supra note 65.
\item\textsuperscript{134} Michael Lasalandra, \textit{Student Athletes’ Deaths Can Often Be Prevented: Doctors Attribute Most to Cardiac Conditions}, \textsc{Boston Herald}, Oct. 22, 2002, at 3.
\item\textsuperscript{135} Alan Schwarz, \textit{An Answer to Help Clear His Fog}, \textsc{N.Y. Times}, May 31, 2007, at D7.
\end{thebibliography}
at least one concussion while playing football. Yet, Americans embrace these sports and think little of the potential for serious injury.

In sum, mixed martial arts and mixed martial artists have been fighting against stereotypes and misconceptions since the sport first debuted in the United States. Since that time, safety measures have been put in place and the sport is now legal in nearly every state. While the safety measures have helped for the most part, some states do not have state regulatory authorities to ensure fighter safety for MMA. Mixed martial artists also have no protections against unscrupulous business practices. Boxers, however, are covered by a federal law that protects not only a boxer’s physical well being, but also his financial well being in regards to contracted bouts and other business matters. The sport of MMA needs similar protections for its fighters.

IV. FEDERAL BOXING REFORM

In 1996, Congress passed the Professional Boxing Safety Act (“Safety Act”) and it was signed into law. The Safety Act established basic medical and safety standards and some federal oversight of the sport. The Safety Act requires all boxing matches and events to be supervised by the athletic commission of a state or, in the event the state does not have a commission, the athletic commission of another state. The Safety Act also requires

1) a physical examination of each boxer by a certified physician to determine if the boxer is physically fit,

2) an ambulance or medics on site with proper resuscitation equipment,

3) a physician to be present at ringside at all times, and

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137 To be more precise,

There are actually only two states in which MMA is banned — New York and West Virginia — both based on laws written at a time the rules of the sport were different. UFC right now will only run in the [40] states where the sport is both legal and regulated, although almost every state except the aforementioned two have regular shows. Of the remaining [8] states, five don’t have athletic commissions and the other [three] that have athletic commissions, haven’t given the commissions jurisdiction over MMA events.

*EXC Shaping Up, supra* note 3.


139 *Id.*

4) health insurance for each boxer covering any injuries sustained in the match.\(^{141}\)

The Safety Act did not address any financial concerns of boxers regarding coercive contracts or unfair business practices of promoters or managers.

However, the Ali Act was passed in 2000 to address the unethical and exploitive treatment of boxers and also incorporated the provisions of the Safety Act.\(^{142}\) Specifically, the Ali Act sought

1) to protect the rights and welfare of professional boxers on an interstate basis by preventing certain exploitative, oppressive, and unethical business practices;

2) to assist State boxing commissions in their efforts to provide more effective public oversight of the sport; and

3) to promote honorable competition in professional boxing and enhance the overall integrity of the industry.\(^{143}\)

One of the bill’s sponsors, Rep. Michael Oxley, R-Ohio, said, “What was once a great sport has been taken over by greed and abuse. Boxing fans ought to be able to watch a fair fight, and boxers deserve a fair reward for their sport.”\(^{144}\) On April 22, 1999, at a full Commerce Committee hearing, New York Post boxing writer Wallace Matthews testified that the unregulated nature of the boxing industry allows promoters and sanctioning organizations to improperly benefit.\(^{145}\) Matthews also questioned the inexperienced, politically appointed state commissioners and their ability to effectively regulate the sport.\(^{146}\)

\(A. \) Contract Requirements

The first part of the Ali Act mandated that within two years of enactment, the Association of Boxing Commissions (ABC) must develop guidelines for minimum contractual provisions to be included in bout agreements and box-

\(^{141}\) Id. § 6304 (2000).


\(^{143}\) Id.


\(^{145}\) S. REP. 106-83, at 4 (1999); Melissa Bell, Time to Give Boxers a Fighting Chance: The Muhammad Ali Boxing Reform Act, 10 DEPAUL-LCA J. ART & ENT. L. 473, 486–89 (2000). Promoters included contract provisions which required boxers to hire relatives or associates of the promoter, effectively allowing the promoter to take more than the standard 1/3 of the fighter’s purse. Sanctioning organizations often chose judges who backed the organization’s champion.

Congress wanted some uniformity in contract provisions and sought to prevent boxers from being taken advantage of. Congress recommended that the State boxing commissions follow the guidelines as set forth by the ABC.

The ABC adopted the following bout agreement guidelines, which are followed by all state sanctioning bodies:

1) Bout agreements shall contain:
   a) Date, time and location of the event;
   b) Date, time and location of the weigh in;
   c) Contracted Weight;
   d) Amount of Purse;
   e) Specify any/all fees that will be deducted;
   f) Specify the number of Rounds in the bout.

2) The boxer and promoter must sign and date the bout agreement.

The guidelines also mandate that a copy of the bout agreement be provided to the boxer and supervising commission prior to the weigh-in.

B. Protection from Coercive Contracts

The Ali Act defines a coercive contract as

a contract provision that grants any rights between a boxer and promoter, or between promoters with respect to the boxer, if the boxer is required to grant such rights, or a boxer’s promoter is required to grant such rights with respect to a boxer to another promoter, as a condition precedent to the boxer’s participation.

149 Id.
151 Id.
in a professional boxing match against another boxer who is under contract to the promoter.\textsuperscript{152}

An example of the type of practice this provision seeks to address is the contract Evander Holyfield was forced to sign before being granted a fight against World Boxing Association Heavyweight champion Mike Tyson in 1996.\textsuperscript{153} Don King was Tyson’s promoter, and King was known for having a challenger sign an agreement for him to promote them if they won a belt from one of his fighters, even though the challenger already had his own promoter.\textsuperscript{154} Contracts such as these are what the Ali Act was meant to target and why promoters like Don King were in Congress’s sights.\textsuperscript{155} Under the Ali Act, a coercive provision such as the one signed by Holyfield would be limited to a period of one year.\textsuperscript{156} If the boxer is a mandatory challenger\textsuperscript{157} to the belt as recognized by a sanctioning organization, the boxer would not have to sign such an agreement at all.\textsuperscript{158}

C. Sanctioning Organizations

Section 6307(c)(a) of the Ali Act requires the ABC to develop “guidelines for objective and consistent written criteria for the ratings of professional boxers.”\textsuperscript{159} It also mandates an appeals process that a boxer may use to question his rating; this process requires the organization to provide the boxer with written criteria of its rating system and the basis for the boxer’s particular rating.\textsuperscript{160} A copy of the explanation must also be submitted to the ABC.\textsuperscript{161} Section 6307(c)(c) requires the sanctioning organization to post on its website any change in ranking of a boxer previously rated in the top ten, and to provide a copy of the rating change and explanation to an association affiliated with at least a majority of the State boxing commissions.\textsuperscript{162} It also requires public disclosure to the Federal Trade Commission of the organization’s ratings

\textsuperscript{152} § 6307(b)(a)(1)(B).


\textsuperscript{154} Id.

\textsuperscript{155} House Passes Ali, supra note 144.

\textsuperscript{156} § 6307(b)(a)(1)(A)(i).


\textsuperscript{158} § 6307(b)(b) (“No boxing service provider may require a boxer to grant any future promotional rights as a requirement of competing in a professional boxing match that is a mandatory bout under the rules of a sanctioning organization.”).

\textsuperscript{159} § 6307(c)(a).

\textsuperscript{160} § 6307(c)(b)(1).

\textsuperscript{161} § 6307(c)(b)(2).

\textsuperscript{162} § 6307(c)(c).
criteria and policies, general sanction fee schedule, its bylaws, appeal procedure for a boxer’s rating, and a list and business address of those officials who vote on the boxer ratings.\textsuperscript{165} Before a sanctioning organization may receive compensation in connection with a boxing match, it must disclose “all charges, fees, and costs the organization will assess any boxer participating in the match; all payments, benefits, and fees the organization will receive from all sources affiliated with the event; and any additional information the commission requires.”\textsuperscript{164}

The purpose of the provision is to provide some type of criteria for the rating system of the various organizations. There has long been corruption and inconsistency in boxing ratings; reports of bribes to sanctioning organization officials are not uncommon, and in one instance a fighter was still ranked in the top ten after having died some months earlier.\textsuperscript{165}

D. Required Disclosures for Promoters

The Ali Act also requires a promoter to provide to the state boxing commission responsible for regulating a match with

a copy of any agreement in writing to which the promoter is a party with any boxer participating in the match; a statement made under penalty of perjury that there are no other agreements, written or oral, between the promoter and the boxer with respect to that match; all fees, charges, and expenses that will be assessed by or through the promoter on the boxer pertaining to the event, including any portion of the boxer’s purse that the promoter will receive, and training expenses; all payments, gifts, or benefits the promoter is providing to any sanctioning organization affiliated with the event; and any reduction in a boxer’s purse contrary to a previous agreement between the promoter and the boxer or a purse bid held for the event.\textsuperscript{166}

The promoter must also disclose to the boxer any amounts of compensation the promoter will receive, all fees, charges, and expenses that will charged to the boxer by the promoter, and any reduction in a boxer’s purse contrary to a previous agreement with the promoter.\textsuperscript{167} This information shall also be pro-

\textsuperscript{163} § 6307(c)(d)(1)(A–D).

\textsuperscript{164} § 6307(d).


\textsuperscript{166} § 6307(c)(a).

\textsuperscript{167} § 6307(c)(b).
vided to the State Attorney General upon request.\(^{168}\) The promoter shall not receive any compensation from the match until all these requirements are met.\(^{169}\)

Having the information available upon request to the State Attorney General may discourage a promoter from engaging in unfair or unsavory business dealings. A boxer may not know that the actions of the promoter are wrong, or may not wish to challenge the promoter himself for fear of retaliatory actions by the promoter that could sully the boxer’s reputation or career. An Attorney General would not have these same fears.

E. Judges and Referees

The State Boxing Commission must be provided with a statement of all consideration to be received from any source for participation in a match in regards to judges or referees.\(^{170}\) A judge or referee shall not receive any compensation until this requirement is met.\(^{171}\) A boxing match may not be arranged, promoted, organized, produced, or fought unless the referees and judges participating in the match have been certified and approved by the boxing commission in a given state.\(^{172}\)

F. Confidentiality

The Ali Act further prevents disclosure to the public of any matter furnished by a promoter under Section 6307(e) unless required in a legal, administrative, or judicial proceeding.\(^{173}\) If a state law requires such a disclosure, the promoter may meet this requirement by filing the information with the ABC and is not required to provide such information to the state itself.\(^{174}\) This provision is designed to protect the privacy interests of the parties involved in business dealings.\(^{175}\)

G. Conflicts of Interest

Section 6308(a) provides that no member of a boxing commission “may belong to, contract with, or receive any compensation from, any person who sanctions, arranges, or promotes professional boxing matches or who otherwise

\(^{168}\) § 6307(e)(c).

\(^{169}\) § 6307(e)(a).

\(^{170}\) § 6307(f).

\(^{171}\) Id.

\(^{172}\) § 6307(h).

\(^{173}\) § 6307(g)(a).

\(^{174}\) § 6307(g)(b).

has a financial interest in an active boxer currently registered with a boxer registry.”  

This applies to persons who administer or enforce state boxing laws and any member of the ABC.\footnote{6307(a).} The section also makes it unlawful for “a promoter to have a direct or indirect financial interest in the management of a boxer.”\footnote{Id.} It makes it unlawful for a manager to have a direct or indirect financial interest in the promotion of a boxer or to be employed by or receive compensation from a promoter other than amounts in relation to the manager’s contract with a boxer.\footnote{Id.} Lastly, the section makes it illegal for any sanctioning organization to receive “any compensation, gift, or benefit, directly or indirectly, from a promoter, boxer, or manager.”\footnote{Id.} Exceptions are made for receipt of payment by a promoter, boxer, or manager in relation to the sanctioning organization’s published fee for sanctioning a professional boxing match or any related reasonable expenses as long as such payment is reported to the boxing commission.\footnote{Id.} Gifts or benefits received are excepted if they are of minimal value.\footnote{Id.} This provision attempts to inhibit any unfair favors obtained through the use of bribery.

\section*{H. Enforcement}

An important part of the Ali Act is the ability of the United States Attorney General to bring a civil action in federal district court for suspected violations of the Act.\footnote{Id.} This includes obtaining an “injunction, restraining order, or other order, against any person” to prevent the suspected person from engaging in, sanctioning, promoting, or participating in a professional boxing match in violation of the Ali Act.\footnote{Id.} Any manager, promoter, matchmaker, or licensee who violates any provision of the Ali Act (except Section 6307 (a)–(f) or (h)) shall face a prison sentence of up to one year, fined up to $20,000, or both upon conviction.\footnote{Id.} Persons knowingly in violation of Section 6307 (a)–(f) or (h), shall be imprisoned up to one year upon conviction or fined no more than $100,000.\footnote{Id.} The fine is increased in the case of a boxing match where the gross revenue exceeds

\begin{footnotesize}
\begin{enumerate}
\item \footnote{6307(a).} § 6308(a).
\item \footnote{Id.}\footnote{6307(b)(1)(A).} § 6308(b)(1)(A).
\item \footnote{Id.}\footnote{6308(b)(1)(B)(i–ii).} § 6308(b)(1)(B)(i–ii).
\item \footnote{6308(c)(1).} § 6308(c)(1).
\item \footnote{6308(c)(2)(A).} § 6308(c)(2)(A).
\item \footnote{6308(c)(2)(B).} § 6308(c)(2)(B).
\item \footnote{6309(a).} § 6309(a).
\item \footnote{Id.}\footnote{6309(b)(1).} § 6309(b)(1).
\item \footnote{6309(b)(2), (2)(A).} § 6309(b)(2), (2)(A).
\end{enumerate}
\end{footnotesize}
Any “member or employee of a boxing commission, any person who administers or enforces State boxing laws, and any member of the [ABC] who knowingly violates [section 6308(a) [Conflicts of Interest] of this title shall, upon conviction, be imprisoned for not more than [one] year or fined not more than $20,000, or both.”

Boxers may not be fined more than $1,000 upon conviction for violation of any part of the Act.

The Section also grants a private right of action to any boxer suffering financial injury as a result of another boxer violating the Act, including the recovery of attorneys’ fees, damages incurred, and court costs. It also provides for action by a state to enjoin, to enforce compliance, to obtain fines, or to obtain other relief against a person violating the section.

The Act prohibits a State Attorney General from bringing a claim against the “Federal Trade Commission, the United States Attorney General, or the chief legal officer of any State for acting or failing to act in an official capacity.” State attorneys general may not bring an action “against a boxer acting in his capacity as a boxer.” The Act also gives states the right to enact more stringent laws in furtherance of boxing industry reform.

I. Criticism of the Ali Act

Some have argued that the Ali Act does not go far enough in protecting boxers. States are charged with enforcing the law and are required to have varying levels of medical standards. Others point out flaws in the ratings criteria, including the previously cited example of a fighter moving up in ranking months after his death. Criticism has also been directed at the Ali Act due to its failure to adequately address boxer unions or pensions. Congress has introduced amendments to the Ali Act, but these measures have not achieved pas-
sage.\textsuperscript{198} Though not all-encompassing, few would argue that the Ali Act has not improved boxing for the better. The protections provided for boxing in the Ali Act are needed, as well, in MMA.

V. **WHY THE MUHAMMAD ALI ACT SHOULD COVER MMA**

Boxing and MMA have many similarities. Both can trace their history to the ancient Olympics, both are regulated by the state athletic commissions, and neither have a centralized league or governing body regulating the sport. They also both have the distinction of knocking opponents unconscious as one of the sport’s goals. The Association of Boxing Commissions (ABC) even approves the rules used in the sport of MMA.\textsuperscript{199} An even more relevant reason for MMA being covered by the Ali Act is the fact that MMA suffers from the same ills that have plagued boxing over the years, which had prompted the Ali Act in the first place.

Mark Cuban, owner of HDNet Fights, has stated of UFC contracts, “[T]heir contracts don’t adhere to the [Muhammad] Ali [Boxing] Reform Act. There will come a time in the not distant future when they will be required to.”\textsuperscript{200} Cuban is not the only MMA insider who has made the connection between MMA and the Ali Act.

MMA and boxing promoter, Gary Shaw, has spoken of the contracts he requires his fighters to sign, “[W]e’re basically in line with the Muhammad Ali law. We don’t sign anybody for [twenty] year contracts. We don’t have any slaves, no indentured servitude here. Fighters fight for us . . . because we treat them well.”\textsuperscript{201}

Rob Maysey, a licensed attorney, has also argued in favor of the Ali Act being applied to MMA. First, Maysey cites the fact that MMA does not have a centralized governing body.\textsuperscript{202} Second, he mentions that the commissions currently have no oversight of MMA contracts, which could result in contracts lacking in “mutuality of obligation.”\textsuperscript{203} He next discusses the possibility of un-


\textsuperscript{203} Id.
ethical promoters exploiting lax regulations in states with weaker regulatory oversight.\textsuperscript{204} He goes on to discuss the failure of any MMA promotion to adopt objective ratings criteria for fighters.\textsuperscript{205} Maysey then speaks of anti-competitive business practices of some promotions that prevent the public from seeing the best fights possible.\textsuperscript{206} Lastly, the need for uniform contract requirements in MMA is analyzed.\textsuperscript{207} Those supporting the application of the Ali Act to MMA make good points, and it would not be very difficult for mixed martial artists to be covered by the Act.

A. Ali Act Findings and Applicability to MMA

Congress’s findings in the Ali Act could just as easily apply to MMA by replacing a few words. I have included the text of Congress’s findings in the Ali Act and have substituted language pertaining to boxing with words that would allow coverage of MMA as well. An improved finding might read:

[Proposed finding]

1) Professional [fighting] differs from other major, interstate professional sports industries in the United States in that it operates without any private sector association, league, or centralized industry organization to establish uniform and appropriate business practices and ethical standards. This has led to repeated occurrences of disreputable and coercive business practices in the [fighting] industry, to the detriment of professional [fighters] nationwide.\textsuperscript{208}

Unlike professional team sports, such as the National Football League, MMA has no league or any centralized body to provide uniformity on fighter contracts or other aspects of the sport. The largest organization in MMA is the UFC and they tend to dictate any trends in the sport regarding fighter compensation. The UFC business model is followed by the smaller organizations for the most part. The second finding might be amended thusly,

[Proposed finding]

\textsuperscript{204} Id.

\textsuperscript{205} Id.

\textsuperscript{206} Id.

\textsuperscript{207} Maysey, \textit{supra} note 202.

2) State officials are the proper regulators of professional [fighting] events, and must protect the welfare of professional [fighters] and serve the public interest by closely supervising [fighting] activity in their jurisdiction. State [athletic] commissions do not currently receive adequate information to determine whether [fighters] competing in their jurisdiction[s] are being subjected to contract terms and business practices which may violate State regulations, or are onerous and confiscatory.\textsuperscript{209}

Since both MMA and boxing are regulated by the same athletic commissions, it makes sense that both should be covered under the Ali Act and enjoy the same protections under the Act. The Ali Act requires disclosures that could greatly benefit MMA as it does boxing. UFC contracts are grossly one-sided in favor of the promotion, and a fighter has little recourse other than to take the UFC contract, unless he opts to go to a smaller promotion for less money, but with more power to control his career.\textsuperscript{210}

A further amended finding might read:

\begin{quote}
[Proposed finding]
\end{quote}

3) Promoters who engage in illegal, coercive, or unethical business practices can take advantage of the lack of equitable business standards in the sport by holding [fighting] events in States with weaker regulatory oversight.\textsuperscript{211}

Boxers are protected under the Ali Act, and matches must be sanctioned by state athletic commissions or, if fought in a state without a commission, by the commission of another state. MMA does not have the same protections. In 2007, former boxer Tommy Morrison made his MMA debut on an American Indian reservation.\textsuperscript{212} Boxing matches on tribal lands must be regulated under the Ali Act, but not MMA fights.\textsuperscript{213} His opponent weighed 340 pounds, which was well over the Unified Rules maximum of 265 pounds.\textsuperscript{214} Since MMA is unregulated on reservations, it did not matter. It also did not matter that the rules were changed at the last minute, to the disadvantage of Morrison’s opponent, and the

\textsuperscript{209} \textit{Id.}


\textsuperscript{214} Merrill, \textit{supra} note 212.
fight more resembled a boxing match using MMA gloves. This debacle would never have occurred if MMA was covered under the Ali Act.

The fourth finding might read:

[Proposed finding]

4) The sanctioning organizations which have proliferated in the [fighting] industry have not established credible and objective criteria to rate professional [fighters], and operate with virtually no industry or public oversight. Their ratings are susceptible to manipulation, have deprived [fighters] of fair opportunities for advancement, and have undermined public confidence in the integrity of the sport.

There exists no industry-wide ratings system of professional mixed martial artists. The titles are exclusive to a particular organization, and fights are scheduled based on what will be most profitable rather than on merit.

The fifth finding could be amended to read:

[Proposed finding]

5) Open competition in the professional [fighting] industry has been significantly interfered with by restrictive and anti-competitive business practices of certain promoters and sanctioning bodies, to the detriment of the athletes and the ticket-buying public. Common practices of promoters and sanctioning organizations represent restraints of interstate trade in the United States.

Certain MMA promotions have promotional contracts that tie up a fighter for many years. These contracts give a disproportionate amount of power to the promotion and little to the fighter. Fans are denied ever seeing the best fighters from competing organizations fight due to the business models of those organizations, like the UFC, which refuse to co-promote with rivals. These organizations require exclusivity agreements of their best fighters and prevent these fighters from fighting for any other promotion.

Finally, the last reading could be amended to read:

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215 Id.
217 Id.
218 Fedor, supra note 210.
219 Id.
220 Maysey, supra note 202.
FIGHTING FOR RESPECT

[Proposed finding]

6) It is necessary and appropriate to establish national contracting reforms to protect professional [fighters] and prevent exploitive business practices, and to require enhanced financial disclosures to State athletic commissions to improve the public oversight of the sport.\textsuperscript{221}

These abuses occur in MMA just as they do in boxing. A large amount of money is paid to mixed martial artists through bonuses that are not a part of their promotional agreements; these bonuses are solely paid at the discretion of the promotions and are highly subjective.\textsuperscript{222} Since the findings could be amended so easily, how would MMA be regulated under the Ali Act?

B. How the Ali Act Would Work in MMA

Now that the proposed findings have been discussed, I will next focus on some of the various sections of the Ali Act and how each would apply to MMA.


Uniform minimum contract provisions would be implemented in the sport. This requirement would set standards such as minimum bout agreements to be promoted for the fighter. This would benefit the promotion by ensuring a fighter fulfills a certain number of bouts as well as benefit the fighter by disclosing to the fighter his own obligations and those of the promotion on his behalf. The provisions would also provide the fighter with the amount of his purse and specify any fees that will be deducted.


Protection from coercive contract provisions would prevent promotions from having broad or extremely one-sided contracts. For an example of one of these one-sided contracts, look to the contract the UFC proposed to Fedor Emelianenko, an MMA fighter who many consider to be the best in the sport. Emelianenko said the contract he was offered was very limiting.


Disseminated by The Research Repository @ WVU, 2009
Basically I can’t leave undefeated. I can’t give interviews, appear in films or advertising. I don’t have the right to do anything without the UFC’s agreement . . . I didn’t have the right to compete in combat sambo competition. It’s my national sport . . . . There were many such clauses; the contract was [eighteen] pages in length. It was written in such a way that I had absolutely no rights while the UFC could at any moment, if something didn’t suit them, tear up the agreement. We worked with lawyers who told us that it was patently impossible to sign such a document.223

Emelianenko went on to sign with Affliction Entertainment (Affliction), a UFC rival, in 2008.224 When Affliction folded as a promotion in 2009, the UFC began to pursue Emelianenko once again.225 Though the UFC was more flexible this time during negotiations, Emelianenko ultimately signed with Strikeforce, another rival promotion, largely based on the UFC’s refusal to co-promote.226

The standard UFC contract contains various clauses that effectively disadvantage a fighter. The retirement clause reads:

If at any time during the Term, Fighter decides to retire from mixed martial arts or other professional fighting competition, then ZUFFA [UFC’s parent company] may, at its election, (i) suspend the Term for the period of such retirement; (ii) declare that ZUFFA has satisfied its obligation to promote all future Bouts to be promoted by ZUFFA hereunder, without any compensation due to Fighter therefore; or (ii) elect to provide Fighter with notice of an Acceleration.227

The disadvantage comes from the ability of Zuffa to hold the fighter under contract for perpetuity if it so wishes based upon the terms of the contract. The “Champion’s Clause” under a Zuffa contract states:

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223 Fedor, supra note 210.
[If], at the expiration of the Term, Fighter is then UFC champion, the Term shall be automatically extended for a period commencing on the Termination Date and ending on the earlier of (i) one year from the Termination Date; or (ii) the date on which Fighter has participated in three bouts promoted by ZUFFA following the Termination Date ("Extension Term"). Any references to the Term herein shall be deemed to include a reference to the Extension Term, where applicable.  

This particular clause is the one Fedor Emelianenko had problems with when UFC first spoke with his management. For example, if he wished to sign a two fight deal with the UFC and won his first non-title match, and then fought the champion and defeated him, his contract would be automatically extended for a maximum of one year or three bouts, whichever came first. He would be prevented from fighting for any other promotion and would be fighting in the UFC under the financial terms of his original contract without any bargaining power as champion to get higher pay. If Emelianenko was a mandatory challenger under an objective ratings system, the contract signed by Emelianenko would be unenforceable under the Ali Act. A Commerce Committee report on the Ali Act found that "[p]romoters in the [boxing] industry have utilized contracts with vague or unspecified terms regarding how long the contract will be in effect, thereby permitting the promoter to control a boxer for virtually the boxer's entire productive career." The UFC's champion's clause seemingly would fall under this description and would be unenforceable if it extended a fighter's contract beyond the one year time limit stipulated in the Ali Act.  

3. Objective Ratings Criteria  

Under the objective ratings criteria provision of the Ali Act, there would be a system in place and guidelines for the rating of fighters. Several incidents have occurred in the UFC in which fighters considered in the top ten have been relegated to untelevised preliminary bouts (not on the main fight card) because UFC management was upset with them or because it was the last contracted fight under their promotional agreements.  

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228 Id.  
229 15 U.S.C. § 6307(b) (2006); see supra text accompanying note 158.  
231 § 6307b(a)(1)(A)(i–ii). The UFC has also attempted to control the business decisions of non-UFC fighters in regards to the licensing of their likeness by threatening that signing on to be in a rival MMA videogame will preclude the fighter from ever joining the UFC. See Josh Gross, Before Saturday’s Big Fight, Smaller Fights Brew Behind Scenes, SPORTS ILLUSTRATED, July 6, 2009, available at http://sportsillustrated.cnn.com/2009/writers/josh_gross/07/06/ufc.100.sponsorships/index.html?eref=T1.  
For example, Fabricio Werdum had four fights left on his UFC contract and was considered by most to be a top ten fighter. After losing to a fighter making his UFC debut, the UFC invoked a contract clause allowing them to re-negotiate Werdum’s contract for lesser pay. After refusing to take a paycut, he was released by the UFC.

Both Tito Ortiz and Andrei Arlovski were also considered top 10 fighters. Tito Ortiz had been one of the most popular UFC fighters over the years, even appearing on Donald Trump’s Celebrity Apprentice television show. Arlovski’s last preliminary fight had been five years prior, yet he and Ortiz both ended their UFC contracts fighting a preliminary bout.

Moreover, Jon Fitch had just fought for the welterweight title and lost by decision, after winning fifteen straight previous bouts. He was released by the UFC along with other fighters after refusing to sign away his likeness rights for a UFC video game. Fitch objected because he would be signing away his likeness for life under the terms of the agreement. Fitch re-joined the UFC a day later after agreeing to sign the licensing deal. He was scheduled for a preliminary bout in his next fight.

All these examples suggest that it clearly is a problem when a fighter can go from the top ten to a preliminary bout on the whims of a promotion. The absence of objective ratings criteria contributes to this problem by allowing promotions to schedule fights without considering rankings; they can arrange bouts based solely on how much money the bout will generate, unlike boxing which balances revenue-generating fights with fighter rankings. This policy is anti-competitive in nature since it does not allow the best fighters to face one another, and effectively promotes a monopoly of the sport by the largest promo-

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234 Id.


236 Martin, supra note 232; Stupp, supra note 232.


238 Id.


tion. The Ali Act’s objective ratings criteria would correct this injustice to fighters and fans alike by allowing these fights to happen.

4. Required Disclosures

The Ali Act requires specific disclosures for promoters as well as judges and referees. The required disclosures for promoters would benefit MMA fighters more than the disclosures for judges or referees because some promotions like to use what they call “bonuses” to pay fighters in addition to their contracted compensation agreement.241

One example is the report that Fedor Emelianenko was paid only $300,000 for his Affliction bout against Tim Sylvia for the World Alliance of Mixed Martial Arts (“WAMMA”) heavyweight championship.242 It was later reported that Emelianenko also received an extra $1.3 million in bonus money.243 The UFC is also known to use similar bonuses such as the $500,000 bonus given to George St. Pierre after UFC 65.244 If these promotions were required by federal law to release these figures to the states, as under the Ali Act, it would discourage any hidden agreements with fighters such as these. Currently, these figures are only released at the discretion of a promotion unless state law requires otherwise.

C. Stance of Industry Insiders Concerning the Measure

Mark Cuban feels that the Ali Act already applies to MMA. “Congress wanted to protect fighters. There is enough ambiguity in some definitions in the [A]ct, that it could easily be applied. Which means it comes down to how the appropriate politicians feel that the [A]ct can be applied to the benefit of their constituents. Meaning fighters and fans of MMA.”245 Cuban went on to say, “It won’t be hard to demonstrate that MMA fighters have been taken advantage of, particularly with contracts and how they are enforced.”246

MMA fighter Matt Lindland feels that UFC contracts are illegal.247 “Based on the Muhammad Ali Act, you cannot be the promoter and the manager

241 How UFC Controls Costs, supra note 222.
243 Id.
245 Caplan, supra note 200.
246 Id.
at the same time. If they are telling you who and when you are going to fight, they are the manager as well as the promoter.”

The UFC is concerned over the prospect of the Ali Act being applied to MMA and has hired the lobbying firm, Brownstein, Hyatt, Farber, and Schreck (“Brownstein Hyatt”) to advocate for them on Capitol Hill. Brownstein Hyatt lobbyist Makan Delrahim says, “Sometimes those types of laws can become vehicles for other things, affecting other sports. Boxing has a whole different story and certain laws may have been appropriate, but it is a whole different operation for MMA; it wouldn’t make sense to apply the same rules.” However, Delrahim’s view is more wishful than factual because there are arguably more similarities than differences between MMA and boxing. These similarities help bolster the proposition that MMA should be covered under the Ali Act.

VI. CONCLUSION: PROTECTION NEEDED IN MMA

MMA is in desperate need of protection, much like boxing was when the Safety Act and Ali Act were passed. The same types of unfair and anti-competitive practices are taking place in MMA as they were when Congress decided to pass boxing reform. The Ali Act would provide MMA with contract requirements to ensure fair contracts for fighters, an objective ratings system to ensure the best fights are taking place regardless of the promotion, and require an increased focus on safety through uniform standards. However, MMA is still not accepted by many and is widely misunderstood, as well. The sport does not currently have someone of the stature of Senator McCain demanding change, as he did with boxing.

MMA fighters will benefit greatly with more competition among the different promotions. This will mean more money for the fighters since currently, as MMA’s largest promotion, the UFC can pay whatever it wants and the fighters have no choice but to accept it. WEC fighter Uriah Faber has stated, “[C]ompetition is important. It’s important for our economy; it’s important for fighting and it’s important for the fighters themselves.”

Concerning fighter demand for higher pay, UFC President Dana White has been quoted as saying, “See, this is the one part of the business I f**king hate. Everybody wants more money, they want it now. And then all these fighters are like, ‘We’re the superstars, not the UFC! It should all be about us.’ You dumb motherf**kers. You don’t know what you’re f**king with. I’m a promo-

248 Id.
250 Id.
ter. And a lot of this shit is built with smoke and mirrors.\textsuperscript{252} This attitude is reminiscent of promoters, like boxing’s Don King, whom the Ali Act was meant to regulate.\textsuperscript{253}

As MMA becomes more understood and respected as a legitimate sport, reform will come. More states are accepting it and the sport is gaining new fans every day. However, the lack of quality competition amongst the promotions will likely cause the sport to stagnate. If MMA is held as a monopoly by only one powerful organization like the UFC, then that organization will set the industry standard for contracts and fighter benefits. Without adequate oversight that the Ali Act would supply, there is a good chance that fighters will be forced to sign away more of their rights in disproportionately lopsided contracts. Congress recognized a need for such reform in boxing. One can only hope that Congress will have the foresight to act in preventing the unfair and exploitative treatment of MMA fighters as well.

\textit{Geoff Varney}\textsuperscript{*}

\textsuperscript{252} Erik Hedegaard, \textit{What the F**k is Dana White Fighting For?}, \textit{Rolling Stone}, June 12, 2008 (censored by author).


\textsuperscript{*} Research Editor, Volume 112 of the \textit{West Virginia Law Review}; J.D. Candidate, West Virginia University College of Law, 2010; B.S. 2000, Fairmont State College. The Author would like to thank the law review members of the West Virginia University College of Law for their recommendations and technical support in publishing this Note. The Author would also like to thank Professor André Douglas Pond Cummings for his support and guidance in the creation of this Note. Finally, the Author would like to thank his family, especially his wife, Sonya, and son, Ryland, for their love and support during his law school career.