

# Demystified: The anatomy of a media rights agreement

By Ed Desser  
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**M**edia rights agreements can exceed a hundred pages of legalese, so most executives park them in digital or actual file drawers, never to see the light of day — except when there is a problem. The only regular audiences: leagues, banks, auditors, finance executives and media consultants like me. Since I believe every sports executive should have a basic understanding of these critical documents, here is a primer on the top 10 sections:

**1. Grant of Rights (What):** Three keys: (1) What they get (licensed rights); (2) What you keep (retained rights); and (3) What does the rights holder promise not to do (restrictive covenants). Typically, you grant the right to telecast some number of events. But live or delayed; exclusive or non-exclusive; via TV and/or via the internet (authenticated?); regionally, nationally, out-of-market or internationally; on broadcast or linear cable network, PPV or DTC? What is the distribution requirement? Which networks are permissible? Can the licensee also sublicense rights? Is an official status conferred? Exhibition in which language(s)? Who controls “gambling” rights?

**2. Term (How long):** When does the exploitation period start? How many seasons? Is there a “re-opener?” What are the “backend” or extension rights (the “futures”)? Can one party unilaterally extend, if so which, when, at what rate and for how long? Is there an exclusive negotiating period? When? What licensor restrictions (e.g., no prior discussions with third parties)? Required final offer? Are first refusal or matching rights included; for any or just lower offers? What provisions are subject to matching? How is a third-party deal valued?

**3. Consideration (How much):** Usually rights fees for each year and/or a growth rate, but additional payments may include marketing/sponsorship or cost to access commercial inventory. Variable fees may include additional or playoff games, per-subscriber or revenue share, signing and/or performance (ratings, playoff rounds) bonuses. Alternatively, a broadcaster gets paid for the use of its airtime (a “time-buy”) or inventory is shared (barter) rather than paying a rights fee.

**4. Programming (Which):** What is included? How many hours per season or games/events? Which ones? Preseason, regular season, all-star and/or postseason? Pregame and postgame shows or events only? Shoulder programming, offseason events (e.g., draft)? For college, are minimum “Olympic events” required?

**5. Scheduling (When):** Who determines the broadcast times? Selects the games and when? Changes? Is there an exclusive time-period window? What days of the week? Afternoon, late night or prime time? Single games or doubleheaders? National or regionalized? Re-airs? Are there specified team appearances? Exclusive or multiple licensees? Picking order or scheduling process? Who has final authority? For regional deals, most are exclusive and the network does all available games, but what if there is a scheduling conflict between baseball, NBA or NHL teams in April? What goes on the “overflow” channel?

**6. Format (Commercials):** How many units (30-second spots) per hour/game? Overtime? Intermission? How are they allocated between the parties? How long are the breaks? Who controls the insertion points and duration of the stoppage? Who has the right to sell? Which advertising categories are available and to whom? How is the revenue divided? What about billboards, drop-ins, titles, promos, promotional “elevators” and enhancements? Is the event or the series title-sponsored? Which party sells?

**7. Production (How):** Who produces the content? What priority rights do they get to camera, mobile unit parking and announce locations? Who does the credentialing? Who decides the editorial decision-making? Who selects or approves the announcers? What does the licensor supply (e.g., electricity, lighting)? What footage and feeds must be made available? For Olympic sports and lower-tier programming, can autonomous systems be used and who organizes, approves and pays?

**8. Tune-in (Promotion):** With myriad platforms today, event promotion is vital. What are each parties' responsibilities? What tune-in announcements are required? Website? Email blasts? Social media posts? Are sponsors attached?

**9. Contingencies (If):** While the foregoing are material operational elements of agreements, there are many terms that are just the opposite: things that rarely happen. More than half an agreement can be made up of provisions that only activate under atypical conditions. They range from force majeure, labor stoppages, team relocation, MAC/changed circumstances, bankruptcy. These provisions are not needed to administer the agreements day-to-day. Don't spend much time here, except for the MAC provisions, which could result in a rights fee adjustment.

**10. Boilerplate (Miscellaneous):** Most of these should be left to your lawyers. The preamble, whereas clauses, reps and warranties, indemnification, insurance, trademarks/copyrights, notices, subservience and choice of law are not items you must focus on personally. However, do consider how and where disputes are resolved, as this can affect addressing operating issues. What can you say publicly about a dispute that affects your fans? Where will a dispute be heard and by whom, what will the press have access to and thus what of the evidence and proceedings will become public? Is the arbitration subject to AAA, JAMS or federal discovery rules? These items will influence how a disagreement is ultimately resolved, and thus how you might choose to deal with a disagreement earlier.

Information is power. By knowing these key issues within your agreement, you can be a better steward of your media relationship.

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