

November 9, 2017
US House of Representatives – Energy and Commerce
Subcommittee on Commerce, Manufacturing & Trade
Hearing: “Perspectives on Mixed Martial Arts”
Statement of Tracey Lesetar-Smith, Esq. on behalf of Bellator MMA

My name is Tracey Lesetar-Smith and I am Vice President of Business and Legal Affairs at Viacom Media Networks. On behalf of Bellator MMA and Viacom, we thank the Committee for holding this hearing and continuing its efforts to educate, inform, and progress regulation of Mixed Martial Arts in the United States.

Bellator supports and commends Congressman Mullin’s efforts to continue the legacy of prioritizing fighter health and safety as well as fairness, transparency, and fighter livelihood. We additionally commend the many athletes that have come out in support of his efforts – a courageous and important movement to bring awareness of MMA as a sport, the unique issues surrounding MMA, and the many reasons people in The United States have become progressively more devoted students and fans of martial arts.

By way of background, I have been the head of business and legal affairs for Bellator since I began with the company in 2011 as Bellator’s first General Counsel, shortly after Viacom acquired a controlling stake in Bellator. Prior to Bellator, I was a labor and employment litigator with a global law firm and was at the outset of my professional career honored to serve on staff for a Member in the House of Representatives. I have also been an avid martial arts practitioner for 15 years, particularly in the disciplines of Brazilian Jiu-Jitsu, Tae-Kwon Do, Kickboxing, Boxing, and Muay Thai.

Bellator MMA was founded as an MMA league in 2008. In 2011, media giant Viacom Media Networks acquired a controlling stake in the Company and brought its programming to MTV2 and subsequently, Spike TV. Bellator MMA is considered the primary competitor to the UFC. Bellator customarily holds 22 to 26 MMA and Kickboxing events per year throughout the world, and is broadcast in over 150 countries globally. In the past 2 years, Bellator has been expanding internationally, conducting events beyond North America, including in the United Kingdom, the Republic of Ireland, Italy, Hungary, and Israel.

At present, Bellator is the primary driver of the current free agency market for athletes in MMA. For many years after Zuffa’s acquisition of renowned MMA promotion Strikeforce, brands other than the UFC had difficulty in attracting and retaining top-level MMA athletes. Indeed, it was conventional wisdom at the time that the preponderance of talented and well-known MMA athletes was under contract to the UFC without plans to depart. Under the leadership of Bellator President Scott Coker, Bellator has begun to shift this paradigm, making what can only be called seismic acquisitions of top-level free agents and fan favorites from the UFC and elsewhere. This has not transpired overnight. The MMA market has been slow to shift. But Bellator’s ascendance in the market over the past 3 years has been profound and steady. Bellator’s ratings have grown significantly following Scott Coker’s arrival and have remained strong and competitive since then. Additionally, Bellator has seen promising growth in live event attendance and gate revenue during that same time period. From a media perspective, the Bellator name is recognized and resonates at both the local and national levels more than ever. Bellator and Bellator athletes are now covered by media more consistently and on a greater scale, resulting in increased exposure for the brand and fighters.

Boxing and MMA

At the time of enactment, the Muhammad Ali Act was built upon an existing ecosystem of fighters, managers, promoters, sanctioning bodies, and regulators. In that pre-existing ecosystem, the established sanctioning bodies determined rankings, mandatory matchups, and titles. The Muhammad Ali Act did not create those sanctioning bodies, their rankings, or the ecosystem itself; rather, the Act endeavored to ensure that the

existing system was functioning in a way that prioritized fairness, transparency, and was built upon the existing Professional Boxing Health and Safety Act's basic safeguards to fighter safety and livelihood.

Although there are some commonalities between boxing and MMA, MMA does not have the pre-existing, sanctioning-body based architecture of boxing. It instead organically developed under a fundamentally different business model – a “league” system. Under the MMA league system, each league contracts with and promotes its own athletes, with titles being held and ultimately passed along within the league. Each league also has its own events, media distribution deals, partnerships, and sponsors. Rarely, if ever, do the major MMA leagues share these relationships with other competitor leagues, resulting in each league independently operating in its own “silo,” so to speak. That said, Bellator frequently co-promotes events with smaller domestic local promoters and international fight promoters to enhance our events and allow them opportunities to showcase their league talent.

It is important for the Committee to understand that boxing and MMA both utilize multi-year, multi-fight, exclusive promotional contracts. As many in the boxing industry can attest, the original Muhammad Ali Act does not outlaw all long-term, exclusive promotional contracts. Rather, in practice, it limits contracts that condition a specific fight with a particular opponent upon the fighter's granting long-term, exclusive promotional rights to the promoter. The Act also prohibits such contracts where the specific bout is the consequence of a mandatory match imposed by a sanctioning organization. Some may view long-term, exclusive contracts as an impediment to competition, both to athletes and competing promoters, given that one promoter may exclusively retain its athletes for a period of 1 to 4 years, for example, effectively preventing the athlete from fighting elsewhere and restricting other promoters from contracting with the athlete for their own shows. Regardless of whether these contracts actually impede competition, they are a bedrock of the league system. Bellator invests a great deal of time, resources, and capital into promoting and marketing each long-term athlete and therefore the exclusivity and duration of each contract reflects a desire to seek a return on investment. For example, once an athlete is signed with Bellator, the announcement of the signing often requires media interviews, appearances, taking new photographs of the fighter, participation in press conferences, and media shoots – all of which require both fighter travel as well as staff travel and pay. Further, the promotion of each bout requires Bellator to outlay a great deal of money and resources in advertising, marketing, partnerships, venue acquisition, regulatory fees, staging, labor, and television production costs. This is especially true with young developmental talent that Bellator identifies early in their career, and in which we will ultimately invest resources over time in the hopes that the athlete will become – on our watch – a star.

As many longtime professionals in the boxing industry will tell you, the process of convening the relevant parties in the boxing ecosystem on an *ad hoc* basis to “make fights” that are mandatory matchups under any given sanctioning body can be a long, arduous task, perhaps years in the making in some cases. In contrast, MMA's league system and roster of athletes under multi-bout contracts have advantages, including allowing Bellator to plan and budget for 6 to 10 events in advance with possible dates, potential matchups for the cards, target geographic markets and venues, marketing plans, and ultimately, the potential narratives and stories to be told over the course of the subsequent 3-6 months. Were an MMA promoter such as Bellator compelled in each instance to bring multiple parties to the table for new negotiations, we would have difficulty giving fans regularly-programmed events and the continuous narrative they have come to expect in the sport of MMA.

The Competitive Landscape

Bellator and the UFC currently compete for athletes. As the primary executive overseeing fighter contracts, I can represent that in most cases, when athletes contemplate signing with Bellator, they base it on several factors, including: (1) receipt of the most attractive compensation package they feel best reflects their market value, including purses and bonuses; (2) the ability of fighters to procure robust income from sponsors, as

Bellator lays very few restrictions on athletes' ability to display their own chosen sponsors throughout the year and during their fights; (3) the caliber of other athletes they will likely face in their weight division and the compelling potential matchups in Bellator; and (4) where they feel they will be treated with respect, are the most comfortable with the organizational leadership, will be marketed in accordance with their expectations, and where they feel their story will be told in a meaningful way.

Bellator is still a young brand in the grand timeline of the sport, but it is a formidable and determined competitor, made more so with the support of Viacom. UFC was the first major MMA brand in America and therefore one of its chief advantages is the passage of time. Furthermore, for many years, the UFC utilized tactics that made competition in the MMA industry very challenging. The advantages they have retained in the wake of those years has indeed set the bar for competition very high at times. But as more time elapses and with the emergence of relatively powerful, savvy competitors like Bellator, the industry will continue to see increased competition.

There are those that believe there is a silver bullet that will rupture the UFC's heavy market share. As its foremost competitor, we can dispel that notion: There is not. However, the continued unimpaired movement of skilled athletes to organizations like Bellator and Bellator's continued ability to foster, build, and develop remarkable talent will be critical in our continuing ability to reshape the landscape of MMA as we know it. Moreover, the continued, increased attention and interest of media, both endemic to MMA and mainstream media will prove essential to this endeavor.

Regulation: Improvements to be Made

Bellator relies upon State and Tribal Athletic Commissions to regulate our events. We believe these agencies are best positioned to objectively ensure competitive fairness to the athletes, such as testing for Performance Enhancing Drugs (PEDs), and to enforce critical safeguards of each and every fighter's health and safety. Commissions can play truly critical roles in testing for and the prevention of both Traumatic Brain Injury (TBI) and extreme weight cutting – both pressing concerns that the MMA industry is facing.

The efforts of most Commissions are, however, crippled by underfunding, lack of staff, and few resources. It is Bellator's position that the federal government should do whatever it can to advocate for and support the crucial work of these Commissions.

Given the many dangers of TBI and Chronic Traumatic Encephalopathy (CTE) to combat sports athletes, and especially to boxers, uncovered in the years since the initial enactment of the Muhammad Ali Act, it is Bellator's position that if Congress is serious about protecting fighter health and safety, it must utilize the opportunity granted by Congressman Mullin's legislation to raise the threshold requirements for medical testing to explicitly include tests to detect TBI. It should not merely be "advisable," as it is in the current incarnation of the Act, that these athletes undergo regular testing for such issues.

It is axiomatic that Fighters are the lifeblood of combat sports. If we do not push the community to regulate with an eye toward their lives after they have hung up their gloves, we have done their futures, their families, and combat sports a great disservice. Increased support for regulators on the ground and promulgating laws that promote consistent regulation are therefore imperative.

In closing, Bellator supports the intent of H.R. 44 and its goals of transparency, fairness, health, safety, and improving the livelihood of MMA athletes. We look forward to working with the Committee to strengthen the language of the bill in order to allow Bellator to continue growing more competitive in this industry.