

ONE HUNDRED FOURTEENTH CONGRESS
Congress of the United States

COMMITTEE ON ENERGY AND COMMERCE
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MEMORANDUM

December 6, 2016

To: Subcommittee on Commerce, Manufacturing, and Trade Democratic Members and Staff

Fr: Committee on Energy and Commerce Democratic Staff

Re: Hearing on “Mixed Martial Arts: Issues and Perspectives”

On **Thursday, December 8, 2016, at 10:30 a.m. in room 2322 of the Rayburn House Office Building**, the Subcommittee on Commerce, Manufacturing, and Trade will hold a hearing titled “Mixed Martial Arts: Issues and Perspectives.”

I. BACKGROUND

Professional mixed martial arts (MMA) is a full-contact combat sport in which fighters use a variety of martial arts techniques, including striking, but do not use weapons or other objects.¹ MMA matches consist of three to five rounds lasting up to five minutes each, with a one minute rest period between each round.² Fighters for the Ultimate Fighting Championship, the dominant MMA promoter company in the United States, are paid a fixed sum for each match and an additional bonus if they win.³ Fighters typically work with a trainer and a business

¹ *Mixed Martial Arts: 11 Things You Really Need to Know About the World’s Fastest Growing Sport*, Daily Mirror (Mar. 24, 2014) (www.mirror.co.uk/sport/other-sports/mma/11-things-you-really-need-3277676).

² Ultimate Fighting Championship, Rules and Regulations (www.ufc.com/discover/sport/rules-and-regulations) (accessed Nov. 23, 2016).

³ *Fighting a Cage Match to Turn UFC into a National Phenomenon*, New York Times (Mar. 27, 2016) (www.nytimes.com/2016/03/27/business/fighting-a-cage-match-to-turn-the-ufc-into-a-national-phenomenon.html). Information on fighter pay for other promoters is not publicly available.

manager, who are paid a percentage of the fighter's income.⁴ Some MMA fighters have raised concerns about pay and other benefits.⁵ MMA promoters have been criticized for imposing restrictive contracts and not allowing fighters the ability to negotiate the terms of those contracts.⁶

The combat sports industry is not administered by a single league or entity.⁷ Instead, MMA matches are organized, advertised, and financed by various private promoters, which set fighter rankings and organize matches internally.⁸

II. FEDERAL REGULATION OF COMBAT SPORTS

MMA is currently unregulated at the federal level.⁹ Rep. Markwayne Mullin (R-OK) introduced H.R. 5365, the Muhammad Ali Expansion Act, in 2016, which would expand the existing federal law governing boxing to include MMA and other professional combat sports.¹⁰

Existing federal boxing regulations were established by the Professional Boxing Safety Act of 1996, as amended by the Muhammad Ali Boxing Reform Act of 2000 (together known as the "Ali Act").¹¹ The Ali Act attempts to set minimum standards for state regulation of health, safety, and business practices in the boxing industry.¹²

The Federal Trade Commission (FTC) is responsible for making disclosures required of sanctioning organizations publicly available if the organizations do not post the information online.¹³ FTC also has broad authority under Section 5 of the FTC Act to challenge unfair or

⁴ Brendan Maher, *Understanding and Regulating the Sport of Mixed Martial Arts*, Hastings Communications and Entertainment Law Journal (2009-2010).

⁵ *Ali Act Amendment Could Expand Federal Law's Coverage to MMA*, ESPN (May 19, 2016) (www.espn.com/mma/story/_/id/15589773/bill-aims-expand-muhammad-ali-boxing-reform-act-mma).

⁶ *The Battle to Protect Fighters in the Fastest-Growing, Least-Regulated Sport in America*, Washington Post (Apr. 22, 2016) (www.washingtonpost.com/business/economy/the-battle-to-protect-fighters-in-the-fastest-growing-least-regulated-sport-in-america/2016/04/22/b9484fe0-fc21-11e5-886f-a037dba38301_story.html).

⁷ *Id.*

⁸ *Id.*; *Ali Act Amendment Could Expand Federal Law's Coverage to MMA*, ESPN (May 19, 2016) (www.espn.com/mma/story/_/id/15589773/bill-aims-expand-muhammad-ali-boxing-reform-act-mma).

⁹ *See* note 5.

¹⁰ H.R. 5365.

¹¹ 15 U.S.C. § 6301-13.

¹² *Id.*

¹³ 15 U.S.C. § 6307c.

deceptive business practices, and has twice investigated UFC's parent company for possible violations.¹⁴

Attempts to update the Ali Act have not been successful.¹⁵ The most recent Energy and Commerce subcommittee hearings regarding proposed enhanced protections for boxers occurred in 2004 and 2005.¹⁶

III. STATE OVERSIGHT OF COMBAT SPORTS

Under the Ali Act, state boxing and athletic commissions are primarily responsible for boxing regulation and enforcing those regulations.¹⁷ State commissions oversee all matches, approve referees and judges, and maintain a registry of boxers.¹⁸ The Association of Boxing Commissions and Combative Sports (ABC), a voluntary advisory group of state and tribal regulators, publishes suggested rules for boxing and MMA as well as guidelines for boxing contracts.¹⁹

Professional MMA matches are legal in all fifty states.²⁰ A majority of states have regulated MMA in some way, either by giving state commissions administrative, regulatory, and enforcement authority or by legislating and delegating enforcement to state agencies.²¹

IV. CURRENT STATUS OF THE ALI ACT

¹⁴ *Federal Trade Commission Closes Inquiry into UFC Business Practices*, Las Vegas Review-Journal (Nov. 24, 2015) (www.reviewjournal.com/sports/mma-ufc/federal-trade-commission-closes-inquiry-ufc-business-practices).

¹⁵ Michael J. Jurek, *Janitor or Savior: The Role of Congress in Professional Boxing Reform*, Ohio State Law Journal (2006).

¹⁶ House Committee on Energy and Commerce, *Hearing on Examining Professional Boxing: Are Further Reforms Needed?*, 108th Cong. (Sep. 9, 2004) (H. Rept. 108-127); House Committee on Energy and Commerce, *Hearing on U.S. Boxing Commission Act*, 109th Cong. (Mar. 3, 2005) (H. Rept. 109-6).

¹⁷ See note 13.

¹⁸ 15 U.S.C. § 6303; 15 U.S.C. § 6305; 15 U.S.C. § 6307(h).

¹⁹ Association of Boxing Commissions, *Unified Rules for MMA* (www.abcboxing.com/wp-content/uploads/2015/09/unified_rules_fouls_rev0816.pdf) (accessed Nov. 28, 2009); Association of Boxing Commissions, *Boxer and Bout Sample Contracts* (www.abcboxing.com/boxer-and-bout-sample-contracts) (accessed Nov. 28, 2009).

²⁰ New York, which was the last state to legalize MMA, repealed its ban on the sport in 2016. *Ultimate Fighting Championship Ends a Long Odyssey to Legalization*, New York Times (Jul. 16, 2016) (www.nytimes.com/2016/07/17/sports/ultimate-fighting-championship-ends-a-long-odyssey-to-legalization.html).

²¹ Jordan T. Smith, *Fighting for Regulation: Mixed Martial Arts Legislation in the United States*, Drake Law Review (Mar. 25, 2010).

The Ali Act has been criticized as insufficient to fully protect the safety and welfare of boxers.²² It has been suggested that boxers are more vulnerable to exploitation than other professional athletes because the industry lacks a central governing authority, a strong boxers' union, and uniform business practices.²³

Concerns have also been raised regarding inconsistent or poor enforcement of boxing regulations by state athletic commissions and state and federal law enforcement.²⁴ A 2003 GAO report found “there is a varying degree of oversight depending on the resources and priorities of each state or tribal commission,” and in July 2016, the New York Inspector General found “widespread disorder” at the New York Athletic Commission.²⁵ ABC asserts it has made multiple referrals to U.S. Attorneys’ offices that have not been prosecuted.²⁶ The U.S. Department of Justice has noted that violations of the Ali Act are misdemeanors, and it usually devotes its resources to prosecuting felonies.²⁷

V. CONCERNS REGARDING BRAIN INJURIES

In recent years, researchers and regulators have begun to focus on risks of brain injuries in MMA fighters.²⁸ Research shows that repetitive hits to the head have cumulative, long-term effects on brain function and physiology, and may increase the risk of chronic traumatic encephalopathy (CTE), a neurodegenerative disease.²⁹ In October 2016, a 25-year-old who died earlier in the year was the first MMA fighter to be publicly diagnosed with chronic traumatic encephalopathy (CTE), a neurodegenerative disease.³⁰ New York’s recent legalization of mixed

²² Government Accountability Office, *Issues Related to the Protection of Boxers’ Health, Safety, and Economic Interests* (Jul. 2003) (GAO-03-699).

²³ See note 10.

²⁴ See note 20.

²⁵ *Id.*; *Inquiry Finds Widespread Disorder at New York Athletic Commission*, New York Times (Jul. 25, 2016) (www.nytimes.com/2016/07/26/sports/boxing-new-york-inspector-general-athletic-commission.html).

²⁶ See note 20; *No One is Enforcing the Federal Boxing Laws*, ESPN (Sep. 25, 2007) (www.espn.com/sports/boxing/news/story?id=3032059).

²⁷ See note 20.

²⁸ *Cleveland Clinic Recommends Changes in Light of Brain Injuries*, ESPN (Nov. 25, 2015) (www.espn.com/blog/mma/post/_/id/22729/cleveland-clinic-recommends-changes-in-light-of-brain-injuries).

²⁹ Memorandum from Democratic Staff to Democratic Members of the House Committee on Energy and Commerce, Subcommittee on Oversight and Investigations, Forum on Evaluating the State of Concussion Research and Implications for Public Health (Mar. 14, 2016).

³⁰ *First Case of CTE Diagnosed in MMA Fighter*, Boston Globe (Oct. 21, 2016) (www.bostonglobe.com/sports/2016/10/20/first-case-cte-diagnosed-mma-fighter/SfUZnoh3Z1dT9xruTm95RO/story.html).

martial arts included a provisions that recognize the risk of brain trauma.³¹ Among other things, the New York law requires promoters to carry a minimum of one million dollars of insurance for each licensed boxer and MMA fighter to cover the treatment of life-threatening brain injuries.³²

VI. WITNESSES

Randy Couture
President
Xtreme Couture

Jeff Novitzky
Vice President of Athlete Health & Performance
Ultimate Fighting Championship

Ann McKee, M.D.
Professor of Neurology & Pathology, Neuropathology Core
Alzheimer's Disease Center, Boston University

Lydia Robertson
Treasurer
Association of Boxing Commissions and Combative Sports

³¹ A02604, 2015-2016 Reg. Sess. (N.Y. 2016).

³² *Id.*; *New York to Require \$1 Million Brain-Injury Coverage for Mixed Martial Artists*, New York Times (Jul. 19, 2016) (www.nytimes.com/2016/07/20/sports/new-york-to-require-1-million-brain-injury-coverage-for-mixed-martial-artists.html).