

Proponent Testimony of SB 13
For the Senate Education Committee

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Kody Epp
Open Spaces Sports Inc.

Chair Baumgardner and Members of the Committee, on behalf of Open Spaces Sports, thank you for the opportunity to provide proponent testimony in support of Senate Bill 13. Open Spaces Sports has been honored to be able to provide live video streaming of high school athletic events since 2009. In those years we have covered roughly 10,000 events and a countless number of student athletes in Kansas. We are based out of Colby, Kansas and primarily cover the schools in the northwest part of the state. Our goal as a company from its inception has been that of promoting the students in their athletic achievements, while also selling advertisements to local businesses to promote Kansas companies. The revenue generated from these advertisements is what makes it possible for us to then offer our video streaming coverage free to the viewer, as well as pay staff to provide quality and professional play by play coverage. We believe that every student, parent, grandparent, aunt, uncle, alumni, or fan should be able to watch and support the kids without the burden of having to pay for this service. We also support the companies in our state who offer similar video streaming services because that promotes the kids even more and gives multiple video-viewing options for people to choose from. We spend countless hours preparing, traveling, researching, and getting to know the area kids so we can provide the best possible experience to the viewer. We do this for all regular season events, and post season events when possible.

We pay leagues for the ability to stream league tournament games but it is not exclusive to Open Spaces Sports. We pay a fee to the KSHSAA for every post season event that we cover. We believe in the spirit of competition. That is what high school athletics and activities are all about. Competition is what we want as a company. That is the reason we do not agree with “exclusive” contracts for the video streaming or other types of coverage when concerning school athletics and activities. KSHSAA entered into the exclusive agreement model for state championship events approximately 9 years ago with a company called Play On! Sports. During that exclusive contract period, we were kept from covering several state championship events.

When KSHSAA’s exclusive contract with Play On! Sports ended, KSHSAA reached out to Open Spaces Sports and another broadcasting company to see if we could provide the state championship events coverage. Both broadcasting companies joined forces to cover all classifications championship events. We asked if we could make it “non-exclusive” as we knew what negative ramifications came with exclusivity, such as other broadcasting companies not being allowed to provide coverage. We wanted other broadcasting companies to be allowed the option to cover the events as well. We were told it had to remain “exclusive” and that it would also need to be free to the viewer. We did agree to this exclusive contract with some reluctance because of the exclusive piece. Our exclusive contract with KSHSAA expired after 3 years, in spring of 2018, at which point KSHSAA then signed the exclusive contract with the NFHS

Network to begin in the fall of 2018. This NFHS Network company is owned and operated by Play On! Sports. We were told this was to be the same type of agreement that we had which would be exclusive for state championship events only. Every year since the current contract between KSHSAA and NFHS Network in 2018, we have seen this “exclusive” coverage move from just championship events to semi-final games and in some cases complete regular season tournaments. Furthermore, all broadcasts on the NFHS Network require the viewer to subscribe to their platform by paying a monthly fee.

In 2022 Open Spaces Sports, along with another company, were told that we could video stream the 321A Regional Wrestling tournament. Both companies have streamed this regional wrestling tournament for many years with no problem, and were able to provide extensive coverage and promotion of those student athletes. We were subsequently told the day before the event that we would not be able to video stream because the host school for the tournament had signed an agreement with the NFHS Network and that contract made all post season events held at that school exclusive to them. The NFHS Network video for that event did not include any commentary and was nothing more than a wide angle view of the gymnasium. During the year 2022, NFHS Network was actively working to get as many schools as possible to sign up for their streaming service with the incentive that a portion of the subscriptions sold would go back to the school. We are not against KSHSAA having an agreement to have the NFHS Network be the streaming company for KSHSAA. We just support the idea of competition and believe that anything that is exclusive is counteractive to that.

It was after the aforementioned 2022 regional wrestling event that we at Open Spaces Sports had conversations with our state legislators to let them know what was going on. My fear has been that the contract for exclusive postseason rights that NFHS Network has with KSHSAA would then move to regular season events with the contracts that individual schools had signed.

My fear came true this current 2022-2023 school year just a couple weeks ago on January 7th 2023 when I was not able to stream a regular season wrestling tournament because the host school had an exclusive contract with the NFHS Network for all events at their school. I asked if they were going to have video coverage of the event knowing it was in a different building than their gymnasium and they said they had no way to provide video, yet all video rights were exclusive to NFHS Network. This meant that the student athletes that deserve to be covered and promoted received no video coverage.

Whenever Open Spaces Sports has not been allowed to provide video streaming, we have tried to cover them with an audio only commentary broadcast as we have felt the kids deserve the play by play commentary coverage from the people that have covered them all year. The majority of the video streams on the NFHS Network are done using an automated camera that usually does not come with any play by play commentary. It is the commentary, combined with the video that best serves as promotion of our youth. If you can see the kids but do not know who anyone is, is it really promoting them? Not every school or location has the ability to have a company like ours cover them, and in that light I would agree that any coverage for the kids is better than no coverage.

I hope that Senate Bill 13 will not just pertain to post season events but also include all public schools' regular season events as well. We are connected with a lot of other companies in Kansas that provide the same type of video streaming for schools they cover. We are aware of them also being kept from covering their teams in both the post season and the regular season. The NFHS Network is not the only company that is entering into exclusive video coverage. HUDL is another company that is using the same type of model, the pay to watch using an automated camera with no commentary.

Moving forward, my hope is that exclusive rights to any form of coverage of our kids is not possible. Our country, state, and schools are built on the spirit of competition. It is impossible to compete if you are not allowed to participate. Exclusive contracts prevent participation. Exclusive contracts prevent competition. Exclusive contracts prevent broadcasting companies from promoting student athletes.

I thank all of you, Chair Baumgardner and Members of the Committee, for your consideration in the matter of Senate Bill 13 and your willingness to hear from a fellow Kansan. God Bless.

Regards,
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Open Spaces Sports, Inc.