

# Unibet's sponsorship of the Royal Dutch Cycling Union

The recent sponsorship deal signed between the Royal Dutch Cycling Union ('KNWU') and the Swedish online betting company Unibet domiciled in Malta has led to much discussion and commotion in the Netherlands. Even politicians have got involved. At the time of the deal, Unibet did not have the necessary online gambling licence in the Netherlands. Nevertheless, the contract was signed. Michiel van Dijk of CMS Derks Star Busmann looks at the consequences and at the pro's and con's of the sponsorship deal against the backdrop of the impending liberalisation of the gambling market in the Netherlands. Is the integrity of the KNWU and sports in the Netherlands at risk if agreements with online gambling companies like Unibet are allowed or tolerated?

The KNWU's articles of association state that it is the umbrella association for the sport of cycling in the Netherlands. Like all other Dutch elite sports associations, the KNWU is affiliated with the Dutch Olympic Committee ('NOC\*NSF'). After sponsoring cycling and as the main sponsor of the KNWU since 1996, Rabobank announced in the autumn of 2015 that it would be terminating its sponsorship of cycling with effect from 1 January 2017. Previously<sup>1</sup> Rabobank had withdrawn as the main sponsor of the eponymous professional cycling team after the publication of a report from the US Anti-Doping Agency ('USADA')<sup>2</sup> pursuant to the Armstrong case and large numbers of doping admissions. That step led to an investigation of the doping culture

in Dutch professional cycling<sup>3</sup>. The termination of the Rabobank sponsorship meant that the KNWU needed to find a new main sponsor with effect from 1 January 2017, which turned out to be the online betting company Unibet. A four-year contract, to go into effect on 1 January 2017, was signed for a total of €7,000,000.

## Clash of sponsor interests?

In itself, the sponsorship deal between the KNWU and Unibet is neither exceptional nor spectacular. However, when considered more carefully, it can be seen as a clash with other sponsor agreements and sponsor interests involving the KNWU either directly or indirectly.

First of all, the KNWU is, as indicated above, affiliated with the national umbrella sports association, the NOC\*NSF. The main 'sponsor' (in other words, the financier) of the NOC\*NSF and of Dutch sports as a whole, and therefore of the KNWU, is a Dutch organisation, the Nationale Sporttotalisator foundation ('The Lotto'). The Lotto is, at heart, different from Unibet. In short, it sells tickets for a lottery, which is distinct from betting on sports in the way that Unibet facilitates. Factually speaking, The Lotto and Unibet are not competitors but the market view is that they actually are<sup>4</sup>. This is therefore a delicate situation.

Furthermore, The Lotto is the main sponsor of one of the most prominent European professional cycling teams on the UCI WorldTour: Team LottoNL-Jumbo. The agreement between the KNWU and the Dutch professional cycling teams is that cyclists will compete in Unibet clothing at international events such as the World Championships (from 1 January 2017 onwards). Previously, the name of the team sponsor was

on the national kit (on the side of the cycling shorts) but this has not been the case for some time now. Nevertheless, the cyclists in question do compete in a team that has a competing organisation as the main sponsor that gives its name to the team. The public perception is therefore that the cyclists will be advertising two competing companies at once.

Another factor is that The Lotto will soon be merging with Stichting Exploitatie Nederlandse Staatsloterij ('the State Lottery'). In turn, the State Lottery is a sub-sponsor of another Dutch professional cycling team and also sponsors a major annual indoor cycling competition in Rotterdam. This therefore represents another commercial conflict.

Be that as it may, the fact is that Unibet and The Lotto (and the State Lottery) operate in the same market. As far as online betting on football results is concerned, for example, Unibet and The Lotto (through the online Toto) are certainly direct competitors. It is therefore striking that the chair of the KNWU has stated that there is no conflict between the sponsorship deal between the KNWU and Unibet on the one hand and the partnership between the KNWU and The Lotto on the other. Incidentally, the same person has argued in the past<sup>5</sup> that sports should not be dependent on gambling and so it is remarkable that the KNWU has now turned to a sponsor from the gambling market.

## Sponsorship deal from a legal perspective

Under prevailing legislation in the Netherlands<sup>6</sup> it is forbidden to allow unlicensed competition for prizes if the winners are selected on the basis of the determination of chance over which the participants generally have no

control. In other words, a licence is required to organise games of chance legally in the Netherlands. Licences are granted, under strict conditions, by the national gambling authority (the 'Kansspelautoriteit') subject to compliance with a number of requirements listed exhaustively in law.

It should be noted that Unibet did not possess the stated licence when the sponsorship deal was concluded with the KNWU.

The law also prohibits the promotion of gaming without a licence<sup>7</sup>. This means that Unibet may not engage in sponsor advertising without the required licence. In other words, in effect, Unibet is not allowed to sponsor the KNWU without the required licence.

The KNWU has been asked in public to release full details of the sponsorship agreement but it has not done so, and nor has Unibet. In itself, this is understandable because the contract will in all probability include a confidentiality clause. However, it is regrettable. The agreement will undoubtedly include a resolute condition that Unibet must comply with the applicable laws and regulations and that it must obtain a licence from the national gaming authority. If Unibet has not done so by 1 January 2017, the resolute condition will come into effect.

However, the question is whether Unibet will be able to obtain a licence and the answer to this simple question is by no means straightforward. On the basis of legislation as it currently stands, the licence cannot be granted. The Dutch Gambling Act implies a closed system. There is an exhaustive list of circumstances in which licences can be granted. It does not include internet gaming or online gambling, Unibet's core

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business. At present, therefore, legislation *de facto* prohibits internet gaming or online gambling. This means that a change in the law will be needed for Unibet to obtain a licence and to fulfil the formal conditions to sponsor the KNWU.

#### **Political lobby or political pressure?**

The KNWU, which is a public supporter of integrity in sport, will therefore be working with a company with no licence in the Netherlands that will only be able to obtain that licence if the law is amended. This means that the KNWU is anticipating the outcome of the current political discussion about the liberalisation of the gaming market. In other words, it is reasonable to ask whether the KNWU is not allowing itself to be used as part of the lobby for the liberalisation of the gaming market. This has direct implications for the integrity of sport, and the KNWU and Unibet are pre-empting future developments.

An additional material consideration is the fact that a 'Remote Gambling Bill' was submitted to the Dutch Lower House in July 2014<sup>8</sup>. The aim of the bill is to regulate remote gambling, and therefore to further liberalise the gambling market in the Netherlands. The bill defines remote gambling as games of chance organised using electronic communications in which people can participate without actual or physical contact with the supplier or third parties who provide room and resources to participate in those games of chance<sup>9</sup>. Unibet is covered by this definition. The bill makes a distinction between legal and illegal remote gambling. It proposes a lower rate of gambling tax of 20% for legal remote gambling and the current usual

rate of 29% for illegal gambling<sup>10</sup>. This discussion is relevant because the proposed legalisation is intended to plug the loss of gambling revenue to foreign suppliers, which involves the loss of large amounts of funding for Dutch sports. At present, the Dutch market is almost exclusively in the hands of The Lotto and the State Lottery, which hand over a substantial part of the revenue to Dutch sports. Because betting monies are going abroad, Dutch sport is missing out on a large proportion of this source of finance and the bill is intended to remedy this situation. If this effort is to succeed, Unibet argues that the rate of taxation should ultimately be lowered to 20%. If the rate is kept at 29%, which is high in international terms, Unibet will in all probability withdraw as the main sponsor of the KNWU<sup>11</sup>. There are reports that Unibet believes that there is not enough financial leeway for large-scale sports sponsorship of the kind planned with the KNWU, and the question is then whether Dutch sport can benefit from the growing market for online sports betting, according to Unibet. In response to that possibility, and as a fallback scenario - in other words if the deal with the KNWU falls through - it is believed that Unibet is giving the KNWU a one-off sponsorship sum of €1,000,000 (for 2017).

The KNWU and Unibet are therefore assuming that, if the tax rate is 20%, a total of €7,000,000 will be transferred to the KNWU over a period of four years under the sponsorship agreement. The sponsorship deal begins at this point to look like political lobbying aimed at getting the discussion about the tax rate for online gambling back on the political agenda, with the ultimate aim of the introduction of a 20% tax rate. However, it is questionable

whether Dutch politicians will be receptive.

### Solidarity

By signing the contract with Unibet, then, the KNWU is anticipating the parliamentary debate of the bill mentioned here. This has implications for the integrity of sport and the KNWU. In any case, teaming up with a company such as Unibet suggests a lack of solidarity with the other sports associations. As mentioned above, Unibet competes with The Lotto, which has been the main partner of 'Dutch Sport' and therefore the KNWU for more than 50 years. Every year, the NOC\*NSF distributes approximately €45 million to the national sports associations, €2.3 million of which goes to the KNWU. In practice, Dutch sports associations (particularly in the area of elite sports) affiliated to the NOC\*NSF do not enter into sponsorship agreements with competitors of The Lotto. When the associations accept the 'Lotto funding' (in other words, the funds that The Lotto hands over to the NOC\*NSF for distribution to the various sports associations using an allocation key), this involves a *de facto* agreement to work exclusively with The Lotto given the general guidelines that apply to requests for funding from the applicable Lotto spending plan. The Lotto may grant written approval for a sponsorship agreement with a competitor. It should be noted that The Lotto has confirmed that it has not granted approval. The KNWU is therefore infringing the rule described here, even though it applied formally until year-end 2016 only and new agreements still have to be made for 2017. By entering into the sponsorship deal with Unibet the KNWU is disregarding the principle of solidarity as it applies

in the world of sport. The Lotto has stated that: "The KNWU's decision will disrupt the process of the modernisation of the gambling policy and will be detrimental to the structural funding opportunities for Dutch sports."<sup>12</sup> The materially beneficial deal for the KNWU could therefore prove expensive in the long run.

### Timing

The timing of the announcement of the sponsorship deal by the KNWU and Unibet is also remarkable. It will go into effect on 1 January 2017 and the announcement is therefore very early. The KNWU and Unibet are getting a long way ahead of the music given the political discussion of the bill. Of course, Unibet has generated enormous media attention and has therefore already booked a major success.

### The UCI

It is striking that there has been no international reaction, even from the UCI, the International Cycling Union. UCI regulations prohibit collaboration with betting companies: 'Anyone subject to the UCI regulations may not be involved directly or indirectly in the organisation of bets on cycling competitions, under penalty of a suspension of between 8 days and one year and/or a fine of CHF 2,000 to 200,000. In addition, if an organizer is involved, any competition organized by him may be excluded from the calendar for one year.'<sup>13</sup> Obviously, the details of the contract will have been studied by the KNWU and Unibet but it is striking that Unibet has sponsored a professional cycling team in the past before withdrawing in 2008 when a ban was introduced on sponsorship of this kind in various countries in southern Europe. Unibet is now taking the same risk with the KNWU by anticipating

future amendments to legislation.

### Conclusion

Although policymakers in Dutch sports are working hard on a sustainable financing model for the future, the KNWU has, in partnership with Unibet, crossed an imaginary red line. The only possible conclusion seems to be that, in one way or another, pressure is being exerted on the legislature in order to create a situation in which Unibet can obtain a formal licence and in order to initiate a discussion about the favourable tax rate of 20%. If either condition is not met, Unibet will withdraw and the KNWU will be back to square one. To resort to cycling terminology, the KNWU is 'selling the race.'

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**Michiel van Dijk** Partner  
CMS Derks Star Busmann, Utrecht  
michiel.vandijk@cms-dsb.com

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1. In the autumn of 2012.
2. <https://d3epuodzu3wuis.cloudfront.net/ReasonedDecision.pdf>
3. <http://www.cms-dsb.com/The-investigation-of-doping-culture-in-Dutch-cycling-13-08-2013; Sorgdrager Report, https://www.rijksoverheid.nl/binaries/rijks-overheid/documenten/rapporten/2013/07/01/meedoen-of-stoppen/meedoen-of-stoppen.pdf>
4. Newsletter from Van de Wall Bake dd. 2 February 2016, pages 12 and 13.
5. <http://www.sportknowhow.nl/nieuws-en-achtergronden/nieuws-alert/item/99882/>
6. Article 1(1a) Dutch Gambling Act.
7. Article 1(1b) Dutch Gambling Act.
8. Dutch Parliamentary papers II 2013/14, 33996, no. 2.
9. *Ibid.*, no. 3, p. 19.
10. *Ibid.*, no. 3, p. 44.
11. A salient detail is that the Lower House submitted an amendment to the bill in January 2016 that is based on a rate of 29%, <http://www.tweedekamer.nl/kamerstukken/detail?id=2016D00067>
12. <http://nos.nl/artikel/2083145-lotto-zeer-teleurgesteld-over-nieuwe-sponsor-wielerbond.html>
13. UCI Cycling Regulations, § 8, Article 1.2.030.