Outside the Lines

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Chairman's Note

Great seeing so many of you in Boston this year, at SABR's best-attended convention to date. With labor issues dominating so much baseball talk this year, our Committee meeting also set an attendance record – you'll notice a lot of new names added to our mailing list.

For the benefit of rookie and veteran members alike, a couple of reminders. The Committee's mailing list is maintained by me, not the SABR office. If you've moved, or added or changed an E-mail address, please let me know. *Outside the Lines* is also available in E-mail form – if you're interested, drop me a note at SABRBaseballBiz@aol.com.

Sorry that the newsletter's a little later than usual, but with a possible labor stoppage set for August 30, it seemed pointless to hold to the usual late-August publication date. The deadline for submissions for the next issue is **November 15**.

Summary of New Collective Bargaining Agreement

Duration: Five years, 2002-06 Agreement is retroactive to start of 2002 season and expires December 19, 2006 – the last day before owners have to offer contracts to unsigned players for the 2007 season. This was a last-minute compromise: the players wanted the deal to run through December 31, the owners wanted it to expire on October 31.

Local Revenue Sharing: Rises from 20% under the 1996-2001 CBA to 34%, net of ballpark expenses. Revenue sharing money divided equally among all teams. Following the recommendation in their Blue Ribbon Economic Panel report, the owners had originally proposed sharing 50% of local revenues.

Central Fund Revenue Sharing: $72.2 million (based on 2001 revenue figures) taken from clubs which are net payers in the base revenue sharing plan and given to those who are net receivers. This amount will fluctuate in conjunction with the base plan, and is phased in: 60% in 2003, 80% in 2004, 100% in 2005-06. Money is paid and disbursed in proportion to a club's distance from the average. Fluctuations intended to assure that the projected amount of revenue is transferred each season from the combination of local and central fund revenue sharing.

Discretionary Fund: $10 million from central fund to be placed within the Commissioner's control, to be allocated at his discretion. The owners had originally proposed a $100 million discretionary fund, most of which seems to have been replaced by the central fund revenue sharing formula discussed above.

Luxury Tax Threshold: No luxury tax in 2002; $117 million in 2003, $120.5 million in 2004, $128 million in 2005, $136.5 million in 2006. Luxury tax expires on the final day of the 2006 season, so if the parties play under the terms of the expired agreement in 2007, there will be no luxury tax. For luxury tax purposes, payrolls are defined to include salaries plus earned bonuses for all players on the 40-man roster, plus a fixed amount per team in benefits and related expenses. All multiyear contracts are valued at their average annual value regardless of the actual payout in a specific year – which means that for luxury tax purposes the 2002 Yankees have a payroll of about $171.2 million, even though their actual cash outlay in 2002 is about $30 million less.

Luxury Tax Rates:
2002: No tax
2003: 17.5%
2004: 22.5% for first-time violators, 30% for second-time violators
2005: 22.5% for first-timers, 30% for second-timers, 40% for third-timers
2006: No tax for first-timers; 30% for second-timers; 40% for third- and fourth-timers

Luxury tax money to be used for player benefits, the industry growth fund, or player development in countries lacking organized high school baseball. The owners had originally demanded a 50% luxury tax on payrolls over $98 million.

Minimum Salary: $300,000 in 2003 and 2004, with two-year cost of living adjustment in 2005 and one-year COLA in 2006. As of 2003, minor leaguers on split contracts must receive at least $50,000/year while in the minors, up from $40,500 under previous CBA

Amateur Draft: Rules for a proposed worldwide draft to be established by a jointly appointed committee. Committee will decide whether clubs will be allowed to trade draft picks and will determine the number of rounds: the players want 20, the owners want 38. A club which fails to sign its first-round draft pick will receive a corresponding compensation pick in the next year's draft; one which fails to sign its second-round pick will receive a "sandwich" pick between the second and third rounds. Draft pick compensation for losing Types A, B or C free agents eliminated – which means that unless the final CBA contains language in which the owners agree to continue bargaining with the players over the draft, they're probably free to change it in the future without bargaining the changes with the MLBPA.

Contraction: Clubs agree to maintain 30 teams through 2006. They may elect to eliminate two teams for the 2007 season; if they do, they must notify the players by July 1, 2006. Players agree that if they do, they will not argue before the NLRB that contraction is a mandatory subject of collective bargaining. If owners elect to contract in 2007, their July 1, 2006 notice does not have to tell the players which teams will be contracted. The current contraction grievance will be withdrawn – a decision was supposed to come by July 15, but it's widely suspected that arbitrator Shyam Das deliberately held off in hopes of prodding the parties to resolve the matter between themselves.

Discipline: Same as current system: suspended players to receive full salary. Owners dropped proposals to authorize suspensions without pay and to establish a system of automatic fines and suspensions for certain offenses

Salary arbitration: Same as under prior CBA Owners dropped proposal to eliminate arbitration for "Super Twos" and to allow clubs to release players after exchanging arbitration figures

Club Debt: Cannot exceed 10 times EBIDTA (earnings before interest, depreciation, taxes and amortization), except that clubs which have moved into new parks within the past 10 years can have debt equal to 15 times EBIDTA. Three-year grace period, at the end of which the Commissioner must choose between this debt limitation and the old 60/40 rule. "Debt" defined to exclude money owed to players on long-term contracts.

Interleague Play: Expressly reauthorized for the duration of the CBA.

Drug testing: Random testing of all players for illegal steroids in 2003. If 5% of players test positive, mandatory random testing during the next two seasons; if 2.5% or fewer test positive in consecutive years, mandatory random testing ceases, replaced by survey testing. The first time a player tests positive, he is placed in a treatment program; subsequent positive tests bring suspensions of 30 days to two years. No testing for other illegal drugs, or for legal drugs such as androstenedione.

Benefits: Clubs' contribution increased from $70 million in 2002 to $114-$115 million.

Expense allowances: Annual cost of living increases for spring training and meal/other expense allowances.

Injury rehabilitation: Players with less than five years of major league service can be sent to a club's spring training facility for rehabilitation; however, each day starting with the 11th counts toward the maximum length for rehabilitation assignments (30 days for pitchers, 20 days for others)

Second opinions: Clubs will pay for players' transportation expenses if they seek a second medical opinion anywhere in the country. Formerly the country was divided into three regions; players paid for their own transportation if they went outside their region to seek the second opinion

Contract tenders: All contract tenders to unsigned players on 40-man rosters will be made by the Commissioner's office instead of individual teams. The owners dropped an earlier demand to require all clubs to report offers to free agents to the Commissioner's office, which the players viewed an an open invitation to collusion.

Waivers: Additional round of waivers added: current waiver period of Nov. 11-30th day of season is split in two, with the first period ending February 15 and the second beginning February 16.

Jayson Stark of ESPN has estimated that even without accounting for the effect of the luxury tax, the changes in the revenue sharing formula will take another $16 million from the Yankees, $10 million from the Mariners, $9 million from the Mets and $8 million from the Red Sox in 2003 as compared to 2001. The biggest net gainers will be Commissioner Selig's own Brewers (surprise!) and the Pirates, each receiving $5.9 million more, followed by Oakland ($4.4 million), Minnesota and Kansas City ($4 million each).

MLB News

New CBA negotiated without work stoppage. On August 30, the strike date set by the MLBPA, the owners and players reached agreement on a new CBA just hours before the first game would have been affected. The terms are detailed in an accompanying article. The owners subsequently ratified the deal by a 29-1 vote, with only the Yankees opposed.

On eve of labor showdown, fewer fans and more sympathy for owners. In an ABC poll taken August 21-25, 28% of respondents indicated they were baseball fans, down from 44% in March. Respondents sided with the owners by a 38-26% margin. A USA Today poll of fans conducted August 19-21 showed 43% favoring the owners' side, 30% the players'.

Despite Commissioner's warnings, all teams make payroll. The 2002 All-Star weekend was supposed to be the apex of Bud Selig's career in Organized Baseball. Instead it turned into a nightmare which started with a business columnist in his hometown paper urging him to sell the Brewers to someone who could run the club better, and ended with the Commissioner practically booed out of his home park after declaring the All-Star Game a tie.

The day after the All-Star Game debacle, Selig decided to make something else the story. Out of the blue, he told reporters that one club (believed to be the Tigers) might not be able to make its next payroll and another (most likely the Devil Rays) might not survive the season. MLB President Bob DuPuy and Vice President of Administration John McHale quickly disavowed Selig's comments, insisting no club was at risk of going bankrupt this season, but Selig's comments fueled another round of negative publicity for every small-market or debt-laden team.

This wasn't the Commissioner's first bizarre comment about baseball economics this season. In May, while insisting that MLB was committed to contracting by two to four teams, he said that *six to eight* clubs might not survive another 18 months – thus raising the specter of two to six failing businesses spending millions of dollars they don't have to buy out their similarly situated brethren.

One "aberration" sets AL consecutive-wins record; another leads division by 14 games. In early August Commissioner Selig called the success of the Minnesota Twins, who opened the season with MLB's fourth lowest payroll, an "aberration." Shortly thereafter the Oakland Athletics, who began the year with MLB's *third* lowest payroll, broke a 96-year-old AL record by winning 20 games in a row. Meanwhile Selig's Brewers have the NL's worst record despite outspending Minnesota and Oakland by $10 million.

MLB's Canadian rights holder buys out last year of contract. The Score, the smallest of Canada's three national TV sports networks, paid C$12 million to buy out its C$20 million contract to air midweek and Sunday night games in 2003.

World Series ticket prices unchanged for 2002. Box seats will sell for $175 and $145, with reserved seats costing $125 and $110, bleacher and general admission running $60, and standing room available for $40. Teams set their own prices for the first two rounds of the postseason, but MLB guidelines recommend a range of $40-$80 for the LCS, $17-$45 for the divisional series. (If the Red Sox make the playoffs, they'd have to *cut* prices to meet this range.)

MLB and umpires spar over use of computerized ball-strike tracker. The umpires object to MLB's use of the QuesTec Umpire Information System for evaluating their performance, claiming that the device doesn't accurately measure the location of pitches. The World Umpires Association has formed a panel of physicists and engineers to evaluate the equipment.

Around the Majors

Red Sox, vendors battle over access to street outside Fenway. In an attempt to increase concession revenue, the Boston Red Sox have begun erecting turnstiles on Yawkey Way and allowing only authorized vendors to sell in the area directly in front of the park.

Cubs lose bid for more night games, larger bleacher expansion. The City of Chicago rejected the Cubs' request to play 30 night games per year at Wrigley Field instead of the 18 authorized by current law, denied the Cubs' request to erect pillars on the sidewalk to support an expansion of the Wrigley Field bleachers, and directed the club to pay market rent for city-owned land adjacent to the park that the Cubs had been using for free. However, the city sided with the Cubs in their dispute with the owners of nearby buildings who sell tickets to watch Cubs games from their rooftops, prompting the parties to open negotiations over the proper amount

Twins' new stadium proposal dead – for now. The plan passed by the Minnesota legislature this spring wasn't enough to persuade the St. Paul city council to hold a referendum on the necessary taxes – particularly since the Twins refused to commit to contributing their share of the money if the referendum passes, or even to staying in Minnesota. MLB's promise not to contract until at least 2007 may change matters, especially as the period of the Twins' guaranteed existence now approaches the life expectancy of 87-year-old owner Carl Pohlad. With any other owner, the Twins would have a much easier time winning public support for a taxpayer-subsidized ballpark.

Expos remain in limbo for 2003. When Major League Baseball bought the Montreal Expos during the offseason, it was widely assumed that the Expos would be moved or contracted before the 2003 season. This assumption has become much more tenuous now that the owners have agreed not to contract before 2007 and the attorneys representing the Expos' former limited partners in their RICO suit (see below) have vowed to seek an injunction against any attempt to move or sell the team. The draft 2003 schedule shows the club remaining in Montreal.

Fred Wilpon group now sole owner of Mets. After a dispute which spilled into the courts (see below), Fred Wilpon and his Sterling Equities real estate partners bought Nelson Doubleday's 50% of the Mets for a reported $137.9 million. The figure represents half the Mets' $391 million appraised value, after accounting for its outstanding debt.

Yankees have pro sports' most valuable brand name. A FutureBrand survey found the Yankees' brand worth about $334 million, $34 million higher than the #2 Dallas Cowboys and almost $200 million more than any other baseball team. Next on the list were the New York Mets ($135 million), Boston Red Sox ($111 million), Los Angeles Dodgers ($96 million, Seattle Mariners ($86 million), and Atlanta Braves ($84 million). Darren Rovell of ESPN.com reported that the Yankees' figure is comparable to the value of the Four Seasons Hotel brand.

Athletics renew stadium lease through 2007. Oakland will pay $500,000 in rent in 2003-05, rising to $550,000 in 2006 and $600,000 in 2007, plus 50 cents per ticket sold over 2,000,000/year. The lease contains three one-year club options and a $250,000 escape clause if the club wants to break the lease before 2007. Oakland's current deal provides for the team to pay about $1 million/year in maintenance and game-day costs, but no rent.

The Docket

Minnesota news organizations lose bid for Twins documents. Following the settlement of the Metropolitan Sports Facilities Commission's lawsuit against the Minnesota Twins, several news organizations sued for access to the 9,000 pages of documents produced by the Twins and a document filed by MLB which detailed loans made by Twins owner Carl Pohlad's banks. The judge held that documents produced in litigation pursuant to a confidentiality order aren't covered by the state law governing access to public documents.

Former Expos limited partners file RICO action against Loria, Selig, others. The suit, filed in federal court in Miami, Florida, alleges that former Expos owner Jeffrey Loria, his stepson Jeffrey Samson and MLB executives conspired to eliminate major league baseball in Montreal. Unless MLB can get it dismissed on the pleadings, discovery in this well-financed action could prove acutely embarrassing to Selig and MLB. It also complicates MLB's ownership of the Montreal Expos, as the complaint requests an injunction against the sale or contraction of the Expos and plaintiffs have vowed to seek temporary relief if MLB tries to move the Expos out of Montreal.

Mets' valuation briefly heads to court. Last October Nelson Doubleday, owner of 50% of the New York Mets, agreed to sell out to Fred Wilpon, owner of the other 50%, for a price to be determined by a neutral arbitrator. Arbitrator Robert Starkey, selected by Commissioner Bud Selig, valued the Mets at $391 million – considerably less than Doubleday had anticipated, particularly since he claimed that Cablevision's Charles Dolan had offered $500 million for the club in May 1999. When Wilpon sued to force Doubleday to accept the price set by the arbitrator, Doubleday responded that as part of MLB's labor strategy, Wilpon, Selig and Starkey had conspired to "manufacture phantom operating losses" and "depress franchise values." Wilpon and Selig denied the charges – but within days Selig had become personally involved in negotiations, pressuring Wilpon to pay a larger portion of the purchase price in upfront cash. The parties settled there dispute shortly thereafter.

Cablevision loses motion to dismiss Yankees' lawsuit. Cablevision, Greater New York's largest cable operator, has been engaged in a seasonlong dispute with the New York Yankees regarding the terms under which Cablevision would carry the Yankees' new YES network. The dispute wound up in federal court when the Yankees sued Cablevision for allegedly violating the antitrust laws to prevent YES from competing with its own regional sports channels, MSG and Fox Sports New York. Cablevision had offered the Yankees a choice of 55 cents/month per subscriber on a basic channel, or their own pay channel for which they could set their own price and keep all the revenue. YES demanded coverage on a basic channel at a rate of $2/month in 2002, rising to $2.12/month in 2003 and rising again in 2004, but later offered to settle for $1.28/month in 2002, $1.75/month in 2003 and $2.28 in 2004. Cablevision refused.

MLB in Congress, 2001-02

With the 107th Congress winding down its final session, it's time to look at the baseball-related legislation introduced over the past two years.

The threatened contraction of the Minnesota Twins prompted introduction, in both the House and Senate, of the "Fairness in Antitrust in National Sports (FANS) Act of 2001." This bill, S. 1704 and H.R. 3288, would have eliminated MLB's antitrust exemption with regard to the elimination or relocation of major league franchises.

A milder approach was taken by H. Res. 326, entitled "Encouraging more revenue sharing among major league baseball teams as an alternative to team eliminations," which simply urged owners to "give serious consideration to the increased sharing of broadcast revenues on a league-wide basis as an alternative to eliminating franchises by reason of their lack of revenue."

In response to the increased number of games available only on cable, Reps. Kucinich (Cleveland) and Hinchey (upstate New York) offered H.R. 5062, the "Baseball Fan Protection Act," which would have amended the Internal Revenue Code to eliminate the ability of the purchaser of a sports franchise to allocate 50% of the purchase price to player contracts unless the club made all its games available on free TV.

On July 22, 2002, the House of Representatives passed H. Res. 496, which urged MLB and the MLBPA to implement a mandatory steroid testing program.

Finally, both Houses of Congress passed a concurrent resolution urging the Federal Mediation and Conciliation Service to offer its services to MLB and the MLBPA and use its best efforts to settle the labor dispute without a strike or lockout.

Book Review: The End of Baseball As We Knew It, by **Andy McCue**

Charles P. Korr. *The End of Baseball as We Knew It: The Players Union, 1960-81.* Champaign, IL: The University of Illinois Press, 2002.

As August wound down this year, and baseball fans were all focused on the question of whether we'd see yet another work stoppage, it was timely to be reading Charles P. Korr's *The End of Baseball as We Knew It: The Players Union, 1960-81*.

Korr, a history professor at the University of Missouri, St. Louis, traces the Major League Baseball Players Association from its feeble birth in the 1950s, through the hiring of Marvin Miller to the grievance procedures, arbitration proceedings and confrontations with management that established the players' union as the most potent force in the game.

The book ends with the 1981 strike because it confirmed what everyone but a group of hardline owners had already perceived – the players union had not only taken the roof off salaries, it had released the players from a system that constricted their economic rights at every turn.

From his initial moves to stabilize the union's financial position, Miller had impressed the players with his ability to use labor laws to protect their pension plan, their playing conditions and other rights. He got the owners to agree to arbitration, the first necessary step in his long-range run at the reserve clause. Curt Flood, whose case was a failure in every legal sense, allowed Miller to educate the players about the possibilities and methods of overturning the reserve clause. Jim Hunter, who became a free agent after Charlie Finley failed to honor his contract, educated the player about the possible money within free agency.

After aborted runs by players such as Ted Simmons and Bobby Tolan, Andy Messersmith and Dave McNally eventually provided the test case Miller had been looking for. An arbitrator made the decision Miller had long expected – freeing the players from the reserve clause. The next negotiations actually found Miller giving away some of the freedoms the Messersmith/McNally decision allowed by restricting free agency for players early in their careers. Miller believed a market flooded with too many players each winter could well depress salaries.

That set the stage for the 1981 strike. Hardline executives such as Gussie Busch and Bob Howsam had read the last negotiations as union weakness. They set out to break it. And they failed, cementing the union's potency. In effect, although the details of arbitration and free agent compensation and salary caps and luxury taxes have changed over the years, none of the intervening negotiations or work stoppages has changed the fundamental relationship confirmed by the 1981 strike, which makes it an excellent place to stop the book. It was, notes Korr quoting Paul Richards, "the end of baseball as we knew it."

The book is blessed by Korr's unparalleled access to materials from the MLBPA archives. He can quote from letters written to and from the players' association years before Marvin Miller even came on the scene. He can use the union's written summaries of bargaining sessions to assess both the positions of players and owners and the union negotiators' analysis of what was happening. He makes excellent use of Miller's clever letters to journalists, revealing Miller's sly sense of humor and the way the union executive was constantly conscious of how the baseball battles were being interpreted (or often misinterpreted in Miller's view) to the general public.

Korr backs up the documentary evidence with a wide range of interviews - with Miller, other union officials, owners' negotiator John Gaherin, players active in the union and journalists who covered the events. It's interesting to note how many of today's managers – Joe Torre, Bob Boone, Don Baylor – were actively involved in the union.

There are, unfortunately, limits to Korr's sources. And, to no one's surprise, these came from the owners' side. Gaherin was available, but he was fired in 1976 for being too realistic about what the owners could do. His successor, hardliner Ray Grebey, was not. Bowie Kuhn appears through quotations from his book and from news stories, but there was no interview. Some owners and executives – Bud Selig, Buzzie Bavasi, Ewing Kauffman – were interviewed, but these are not the major players of the time.

There were also no documents equivalent to the MLBPA's memos on the state of negotiations, the shifts in the owners' positions and the union side's analysis of what this all meant.

Thus, the book is somewhat skewed to the side of the players' union. Korr works very hard at being balanced, but he doesn't have the same depth of analysis, anecdote and reflection coming from owners as he does from the union. It also may have contributed to Korr's emphasis on what happened and why, rather than analysis of what didn't happen.

These do lead to a couple of distinctions that I think would have been important to make, but Korr passes over.

One is the players' association's decision to support Curt Flood's suit. Korr goes to great length to examine the meeting between the union board and Flood, and board members' concerns about the issue of race and how this would be perceived. Korr doesn't spend much time analyzing what arguments Miller made about the situation and, in other circumstances, Miller has noted that one strong argument he put forward to support Flood was concerns about Flood's legal representation. Miller expected Flood to lose his case and was concerned that too strong a decision against Flood might make the players' legal position worse. That legal strategy was successful. The Supreme Court upheld an earlier ruling, but suggested to Congress that this was an area that should be looked into.

Another is the difference between the roles played by Andy Messersmith and Dave McNally in the case that overturned the reserve clause. This case started, you will recall, when the Dodgers refused to overturn a longstanding policy and give Messersmith a no-trade clause. As 1975 went on, pressure built on the Dodgers to give Messersmith the clause, but McNally's entry into the grievance made the Dodgers' position moot and led Walter O'Malley to cease efforts to sign Messersmith.

Messersmith, and his subsequent contract with the Braves, certainly showed the economic possibilities of free agency, but McNally provided the legal leverage that allowed the case to go ahead.

Korr's handling of each of these situations is a quibble compared to the strengths he brings to the book. The sources are excellent; his treatment judicious. The writing is clear. And, not least, he tells the story economically. There is no blow-by-blow recounting of each negotiation. Instead, he keeps his focus on the broader story of the growth and changes in the union, and how that changed baseball as we knew it.

The View from Japan, by **Yoshihiro Koda**

In my last column, I reported that the Nippon-Ham Fighters wanted to move their home from Tokyo to Sapporo but the Seibu Lions were complaining about it. Fortunately, the Lions have changed their mind. They have agreed to the Fighters' plan and the league has approved it. The Fighters recently made it official that they will move to their new home in 2004.

Why in 2004, not 2003? Possibly because of their lease with Tokyo Dome, their current home. Tokyo Dome is a multipurpose indoor stadium in a very busy city; it may be too expensive to cancel the contract. If my hunch is correct, it may be reasonable for the Fighters to remain one more year in Tokyo, but I still regret it. Both the club and its fans will be lame ducks in 2003.

Anyway, the gate to Sapporo for the Fighters seems to be opened, now. But suddenly, another concern has appeared – a scandal involving Nippon Meat Packers, an English name of the Fighters' parent company Nippon-Ham.

A few months ago, some mad cows were found in Japan. The Japanese government had decided to use public money to buy beef, both to stop the distribution of the dubious meat and to save the Japanese meat industry. The plan was intended for domestic meats only. But following the hard climate for business as consumers had avoided to buy beef not only domestic products but also imported one, some traders have applied imported one in disguise. Unfortunately, a subsidiary of the Nippon Meat Packers was one of them. Since it was known, some of retailers have withdrawn the products of Nippon Meat Packers from their shops. Following the blames, Nippon Meat Packers fired some employees who had handled unfair application. They also announced some designs or demotion of executives. And the Fighters delayed setting up their office in Sapporo, too.

The Fighters have denied any change of the plan moving their home to Sapporo. They announced the new date for setting up their office later. Following consumers' request and the punishment in or to Nippon Meat Packers, some retailers re-start to sell their products. But their business is much damaged. Unfortunately, the Fighters don't make profit by baseball business itself. The sponsorship by Nippon Meat Packers is important for their operation. So, there are some concerns for the future of the Fighters still.

As you know, Japanese economy is in the long time recession. A lot of companies have been withdrawing from ownership or sponsorship to sports clubs or events during that period. But Nippon Meat Packers have been keeping their ownership to the Fighters. They also have been keeping their sponsorship to one of the professional soccer club. In addition to, they are playing another role in professional baseball now by challenging to develop new market in Sapporo. If they quit it, I don't know sure who takes over this project.

It is regarded that Japanese companies expect to improve their image by owning professional baseball clubs. I wonder how much effect is expected to Nippon Meat Packers or Nippon-Ham in this case. But I can say it is effective to me. As a fan of ball games, I evaluate their role for promoting it. I hope Nippon Meat Packers or Nippon-Ham will recover soon from this difficult situation and keeping their support for sports activities.

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