In this fantasy, fans come first

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PROFESSIONAL BASEBALL thrives because of the passion of its fans, and the statistics junkies who build their own fantasy teams are among the most dedicated fans of all. Yet this, it seems, is a problem for Major League Baseball, because MLB does not control every last imaginary "draft" and "trade."

The US Supreme Court struck a blow for fans yesterday when it declined to hear pro baseball's attempt to assert control over its players' names and performance stats. The court let stand an appellate ruling that allowed a for-profit company to use that information. The case itself was decided on complex legal grounds. But it touches upon a much broader problem: the tension between the business of sports and the public devotion that makes that business possible.

Many fantasy leagues operate under licenses from pro leagues or their players. But many do not. CBC Distribution and Marketing once had a license to use baseball stats but no longer does. Last year, the Eighth Circuit Court of Appeals ruled that the company's First Amendment rights to use widely available information overrode a Missouri state law protecting athletes' rights to their own publicity. Yesterday, the Supreme Court declined to hear baseball's appeal.

Pro leagues have long played a double game: appealing to public spirit when they seek, for instance, tax dollars for new stadiums, while fiercely protecting their own bottom lines. Once fantasy sports caught fire on the Internet, Major League Baseball clearly saw a business opportunity and took steps to concentrate the activity on a small number of high-profile licensee websites.

But not every expression of fan enthusiasm needs to fall under leagues' corporate control. Writer Daniel Okrent, a founder of Rotisserie League baseball, argues that fantasy baseball has helped fuel the big leagues' popularity. "Never," he said, "has a hand that fed them so well been bitten so forcefully." The Fantasy Sports Association estimates that 7 million to 8 million Americans play fantasy baseball - and are three times as likely to attend games as fans who don't play.

The CBC case will probably have wider implications. Other pro leagues - including NASCAR and business offshoots of the National Football League, National Basketball Association, and National Hockey League - filed briefs on behalf of pro baseball. (Full disclosure: The Globe's parent company is a partial owner of the Boston Red Sox.)

Pro sports should worry more about alienating core fans than about unlicensed
fantasy leagues. From foamy fingers to fantasy leagues, fans have invented elaborate new ways to show their devotion over the years. Pro leagues benefit handsomely, even if indirectly, when these innovations flourish. ■

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