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January 27, 2023

Commissioner Adam Silver
National Basketball Association
645 Fifth Avenue
New York, NY 10022

Commissioner Gary Bettman
National Hockey League
1185 Avenue of the Americas, 15th Floor
New York, NY 10036

Dear Commissioners Silver and Bettman:

I am writing to urge that you sanction MSG Entertainment ("MSG") and its CEO James Dolan unless they immediately cease their outrageous use of facial recognition technology to identify and ban members of the public from Madison Square Garden because they have been deemed hostile to the legal and financial interests of MSG.

On October 13, 2022, it was reported that Mr. Dolan had banned 60 people from attending events at his venues because they were employed by a firm currently suing MSG.¹ A month later, Mr. Dolan banned employees of Greenberg Law PC from attending shows due to their representation of a client suing MSG.² On December 19, 2022, a mother taking her daughter's girl scout troop to a Rockettes show was barred from entering Radio City Music Hall, for the

¹ Kris Rhim, "Suing Madison Garden? Forget About Your Knicks Tickets," *New York Times*, October 13, 2022, <https://www.nytimes.com/2022/10/13/sports/lawsuit-msg-lawyers-banned-knicks-rangers.html>.

² Priscilla DeGregory, "Lawyers Sue MSG Over Ban, Fight to Attend Jerry Seinfeld and Christmas Shows," *New York Post*, December 8, 2022, <https://nypost.com/2022/12/08/lawyers-sue-over-madison-square-garden-ban/>.

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same reason.³ Since Mr. Dolan instituted this policy last year, the instances of frustrated Knicks and Rangers ticket holders – and their lawsuits – have mounted.⁴

The use of facial recognition technology at entertainment venues is a concerning trend to many. Facial recognition software has been proven to regularly misidentify people of color, and particularly women of color, more often than white people.⁵ The technology also poses grave privacy concerns, as individuals' face information is usually collected without their consent, cannot be encrypted, and is therefore vulnerable to data security breaches.⁶

I recognize that facial recognition software can aid in securing large venues, but Mr. Dolan has abused this technology to fuel his personal vendettas – not make games safer.

Many Knicks fans remember when MSG security handcuffed and ejected legendary player Charles Oakley from a Knicks game in 2017 after Oakley criticized Mr. Dolan in the press.⁷ In 2020, acclaimed director Spike Lee said he was “harassed by James Dolan” at a Knicks game, and removed from the Garden for feuding with the owner.⁸ Mr. Dolan has even extended these retaliatory actions to fans, verbally confronting one season ticket holder and threatening to ban another spectator just for yelling “sell the team” at a game.⁹ Recent reporting indicates that

³ Sarah Wallace, “Face Recognition Tech Gets Girl Scout Mom Booted From Rockettes Show – Due to Where She Works,” *NBC New York*, December 19, 2022,

<https://www.nbcnewyork.com/investigations/face-recognition-tech-gets-girl-scout-mom-booted-from-rockettes-show-due-to-her-employer/4004677/>.

⁴ Kashmir Hill and Corey Kilgannon, “Madison Square Garden Uses Facial Recognition to Ban Its Owner’s Enemies,” *New York Times*, December 22, 2022,

<https://www.nytimes.com/2022/12/22/nyregion/madison-square-garden-facial-recognition.html>; Jeanette Settembre, “James Dolan’s Facial ID Tech Snags Another Lawyer Who Says He Was Booted From Knicks Game,” *New York Post*, December 21, 2022,

<https://nypost.com/2022/12/21/lawyer-flagged-by-msg-facial-recognition-removed-from-knicks-game/>; Keith J. Kelly, “Dolan Bars 4th Attorney From MSG With FR Tech Software,” *West Side Spirit*, January 16, 2023,

[spirithttps://www.westsidespirit.com/news/dolan-bars-4th-attorney-from-msg-with-fr-tech-software-AF2351389](https://www.westsidespirit.com/news/dolan-bars-4th-attorney-from-msg-with-fr-tech-software-AF2351389).
⁵ Patrick Grother, Mei Ngan, and Kayee Hanaoka, *Face Recognition Vendor Test (FRVT) Part 3: Demographic Effects*, National Institute of Standards and Technology Interagency or Internal Report 8280, December 2019, <https://nvlpubs.nist.gov/nistpubs/ir/2019/NIST.IR.8280.pdf>; Joy Buolamwini and Timnit Gebru, “Gender Shades: Intersectional Accuracy Disparities in Commercial Gender Classification,” *Proceedings of Machine Learning Research* 81 (2018):77-91, <http://proceedings.mlr.press/v81/buolamwini18a/buolamwini18a.pdf>.

⁶ Hafiz Sheikh Adnan Ahmed, “Facial Recognition Technology and Privacy Concerns,” *Information Systems Audit and Control Association Newsletter* 51, December 21, 2022,

<https://www.isaca.org/resources/news-and-trends/newsletters/atisaca/2022/volume-51/facial-recognition-technology-and-privacy-concerns>.

⁷ Scott Cacciola, “For Charles Oakley and Knicks, a Long-Simmering Feud Boils Over,” *New York Times*, February 9, 2017, <https://www.nytimes.com/2017/02/09/sports/basketball/charles-oakley-james-dolan-knicks.html>.

⁸ Nick Green, “Why the New York Knicks Are in a Fight With Spike Lee,” *Slate*, March 3, 2020, <https://slate.com/culture/2020/03/spike-lee-knicks-james-dolan-feud-explained-madison-square-garden.html>.

⁹ Jay Schreiber, “Dolan Acknowledges Confronting Knicks Fan Outside the Garden,” *New York Times*, April 5, 2017, <https://www.nytimes.com/2017/04/05/sports/new-york-knicks-james-dolan-fan-confrontation.html>; Victor Mather, “A Fan Yells ‘Sell the Team.’ Did Knicks Owner James Dolan Threaten Him?” *New York Times*, March 11, 2019, <https://www.nytimes.com/2019/03/11/sports/dolan-knicks-sell.html>.

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facial recognition has enabled Mr. Dolan's bullying tactics, by allowing him to eject attorneys, celebrities, and fans alike from attending Knicks and Rangers games.¹⁰

Contrary to statements made by representatives of MSG, these practices have nothing to do with ensuring the safety and enjoyment of basketball and hockey fans. Instead, as NYS Attorney General Letitia James has pointed out, they may violate New York law.¹¹ A New York state court has already found as much, ruling that MSG Entertainment's actions violated New York State civil rights statutes.¹² Given N.B.A. spokesperson Mike Bass's recent statement that facial recognition technology is allowed "unless its use conflicts with local laws," it follows that Mr. Dolan's use of this tech must be halted immediately.¹³

Article 35A of the N.B.A. Constitution authorizes Commissioner Silver to suspend and impose a fine of up to \$1,000,000 upon any person "guilty of conduct prejudicial or detrimental to the Association." Similarly, article 6.3 of the N.H.L. Constitution authorizes Commissioner Bettman to discipline "any person connected with the League" if they are "guilty of conduct ... detrimental to the League or the game of hockey."

I implore both of your organizations to use your power and discipline MSG and Mr. Dolan for these alarming abuses unless they immediately cease profiling fans with facial recognition technology for non-security purposes. Thank you for your prompt attention to this important matter.

Sincerely,



Brad Hoylman-Sigal
State Senator
47th District

¹⁰ Peter Botte, "James Dolan's Facial-Recognition Tech Also Targets Knicks Fans, Celebrities Who Criticize Him," *New York Post*, December 29, 2022,

<https://nypost.com/2022/12/29/james-dolans-facial-recognition-tech-also-targets-knicks-critics/>.

¹¹ Letter from Kyle S. Rapiñan, New York State Office of the Attorney General Civil Rights Bureau, to James Haughton, Madison Square Garden Entertainment Corp., January 24, 2023,

https://ag.ny.gov/sites/default/files/nys_oag_letter_to_madison_square_garden_entertainment_corp.pdf.

¹² Decision and Order, *Hutcher v. Madison Square Garden Entertainment Corp.*, 2022 N.Y. Slip Op. No. 33853(U) (Sup. Ct., N.Y. County).

¹³ Kashmir Hill, "Lawyers Barred by Madison Square Garden Found a Way Back In," *New York Times*, January 16, 2023, <https://www.nytimes.com/2023/01/16/technology/madison-square-garden-ban-lawyers.html>.