

NATIONAL SPORTS LAW

NEGOTIATION COMPETITION 2025

FINAL ROUND

“Revolution Royale”

GENERAL FACTS FOR BOTH TEAMS

The annual NFL schedule release has evolved into one of the quirkiest traditions in professional sports. What once consisted of a simple press release or a bland graphic on a team website has, in recent years, turned into a kind of social media arms race. Fans now eagerly await not only the slate of games but also the creativity of the reveal itself. The best productions go viral, attracting millions of views, spawning memes, and earning national media coverage, while the worst ones are mocked relentlessly and become symbols of organizational tone-deafness.

A few franchises have distinguished themselves in this new arena. The Los Angeles Chargers, for instance, are widely considered the gold standard, producing elaborate animated videos filled with sly pop culture references and inside jokes for both football obsessives and internet culture alike. Other teams have experimented with different approaches—short films, celebrity cameos, musical parodies—and each year outlets from ESPN to The Athletic weigh in on the best productions.

The New England Patriots, one of the NFL’s most storied franchises, have not fared as well. Their 2024 schedule release video featured Barstool Sports founder Dave Portnoy reading jokes about opponents from behind a podium.¹ While some fans appreciated the blunt delivery, the overall response was overwhelmingly negative. Commentators derided the video as uninspired, lazy, and a far cry from the innovative efforts of rival franchises.

The Patriots’ marketing and social media staff is determined to rebound. After extensive brainstorming—while focusing especially on the two highlights from the 2025 schedule releases:

¹ <https://www.youtube.com/watch?v=9vsyNrqtTxI>. The Patriots also had an “Egg Drop” schedule release video, but the focus for many has been on the Dave Portnoy video.

the Chargers’ Minecraft video² and the Atlanta Falcons’ Mario Kart video³—they feel they have a perfect way to match that trend: placing their schedule release within the ultra-popular video game Fortnite.

Since its launch in 2017, Fortnite has become a cultural phenomenon. Known primarily for its “Battle Royale” mode, in which 100 players compete to be the last one standing, Fortnite has also developed a reputation as a hub of pop culture crossovers. Its brightly colored visuals, dance emotes, and endlessly customizable avatars have made it a favorite among younger players, while partnerships with Marvel, Star Wars, music superstars, and even professional sports leagues have kept it at the center of internet culture.

In addition to the core game, Fortnite features a “Creative Mode,” allowing users to design and build their own virtual spaces and experiences. Players have used Creative Mode to create everything from custom obstacle courses to virtual concerts, and major brands have embraced it as a platform for marketing experiments. The NFL itself partnered with Fortnite in 2018 to release official team jerseys as in-game skins, and several teams have dabbled with gaming crossovers as part of their digital outreach.

The Patriots’ marketing team sees the brands as a natural fit; the visual humor and dynamic style of Fortnite offer the perfect stage to capture fans’ attention. Along these lines, the Patriots social media staff envisions using Creative Mode to stage an animated, tongue-in-cheek video in which each week’s opponent is revealed through a Fortnite-inspired set piece. Possible mock-ups include a Patriots character storming a pirate ship to announce a matchup with the Tampa Bay Buccaneers, or kicking open a saloon door to reveal the Dallas Cowboys.

There are, however, obstacles. While Fortnite thrives on user creativity, it is also tightly controlled by its developer, Epic Games. The company carefully manages its intellectual property and has drawn sharp boundaries between fan-created content and commercial use by outside organizations. Past collaborations with outside entities—from the NFL to Marvel Studios—have been carefully negotiated licensing deals, not informal permissions. Epic has consistently emphasized protecting its brand from misuse or unwanted associations. Moreover, the NFL itself has made clear to teams that they must be more careful about intellectual property

² <https://www.youtube.com/watch?v=R6qi8BELUA0>

³ <https://www.youtube.com/watch?v=x7PJLS9NBm0>

use in these videos after the Indianapolis Colts were forced to take down their own Minecraft-inspired video in 2025 as they had not received permission from Microsoft for the use.

It is in that environment that the Patriots and Epic Games now sit down to discuss the possibility of a Fortnite-based schedule release video. Both the Patriots and Epic Games have given their representatives full authorization to be as creative as they can to try to find a solution that fits both sides' needs.

CONFIDENTIAL FACTS FOR THE NEW ENGLAND PATRIOTS

No one in the Patriots’ creative team has forgotten the 2025 schedule release debacle. The Dave Portnoy “roast” video — intended to be edgy, playful, and self-aware — instead landed flat. While a few hardcore fans enjoyed Portnoy’s blunt humor, the broader reception was brutal. Commentators called it lazy and uninspired, and social media mocked it relentlessly. The video became a minor PR headache and a symbol of a franchise struggling to find its cultural voice in the post-Tom Brady era.

Internally, the fallout was real. The Kraft family, always attentive to the business side of the brand, made it clear that the 2026 release needed to be a hit. Ownership doesn’t demand viral sensations, but they expect a professional, creative product that reflects the organization’s status as one of the NFL’s premier franchises. The message has filtered down to every staff meeting: “Whatever we do this year, it can’t be forgettable.”

To prepare, the Patriots’ creative team spent much of this summer dissecting what worked for other teams. They watched the Chargers’ highly praised Minecraft video and the Falcons’ Mario Kart-style release and studied how these teams used internet culture, animation, and humor to grab attention. After brainstorming several ideas, they decided on a bold swing: a full schedule release video created within Fortnite Creative. The vision is simple but exciting: a Patriots-branded world where each opponent is revealed through a themed sequence—storming a pirate ship for the Buccaneers, chasing a jet-shaped villain for the Jets, maybe even facing down an animated ram for the Rams.

Ultimately, the Patriots believe that Fortnite fits perfectly with their goals. The visual style of the game is visually dynamic and instantly recognizable and appeals specifically to younger fans: a demographic the Patriots and the NFL at large are constantly striving to reach. Fortnite’s sandbox companion software Fortnite Creative also offers endless creative potential, with assets, animations, and humor baked into the platform. The social media team has already experimented some of their preliminary ideas in the Fortnite Creative and are excited about what they can do unleashed—especially if they are able to secure use of the internal assets that make up Fortnite Creative to allow them greater power, control, and flexibility.

However, the Patriots know they can’t just create this video without permission. The Colts’ experience in 2025 was a cautionary tale: after releasing a Minecraft-based schedule

video, they were forced to pull it down within hours after Microsoft objected to the use of its IP. NFL Properties sent a quiet but firm memo to all clubs afterward, warning that third-party IP needed to be cleared months in advance and that clearance will not happen without a fully executed licensing agreement with any affected third parties. The Patriots have no desire to risk embarrassment by seeing their big creative idea yanked for copyright reasons. So when they settled on Fortnite, they knew they needed to approach Epic Games directly. They believe they can make a strong case: the Patriots are one of the NFL's most recognizable franchises, and while their creative output has lagged, they have the resources to produce something polished. They also see potential for mutual benefit — Fortnite gets a free marketing bump to millions of football fans; the Patriots get a fresh creative platform.

To that end, Patriots are also not blind to the larger landscape. They know Fortnite's cultural moment has cooled somewhat, especially compared to its peak years, and that Roblox and Minecraft have captured much of the younger gaming audience. To the Patriots, this feels like an opportunity: they sense Epic might be more receptive to a deal now than it would have been a few years ago, perhaps even eager to use this project to showcase Fortnite Creative and regain ground. That said, they are wary of becoming part of a bigger Epic strategy they can't control. The Patriots will want to keep their distance if Epic indicates any desire to see this as a stepping stone to a league-wide partnership or broader NFL play. They'll gladly share data or praise a good collaboration to the NFL league office, but they are determined not to promise more than they can deliver or become Epic's advocate with NFL Properties.

Despite their enthusiasm, the Patriots are realistic about challenges. Marketing budgets aren't unlimited, and ownership doesn't want to overspend on something seen as non-core. The Patriots have earmarked around \$300,000 for this project, and \$100,000 is already tentative spoken for; the creative team is currently interviewing for two new staff members with strong video production chops and experience with Fortnite Creative. They could stretch higher for something extraordinary, but anything approaching half a million dollars will meet significant resistance from ownership. The Kraft family wants a viral hit, but not *that* much. And, truthfully, Epic should be champing at the bit to work with a massive NFL brand like the Patriots; anything more than a token \$50,000 licensing fee will be met with some skepticism.

Of course, since the creative team hasn't actually hired their two new staff members yet, the \$100,000 could be used to pay Epic's creative team to help them with the project if Epic

were so inclined to offer these services. Using Epic’s obvious expertise with their own software is not something the Patriots included in their initial pitch—their creative team is busy with their own work, after all—but it would definitely be more efficient to just solicit that expertise to really make the video stand out and shine. There are certainly cons to this approach—it’s not like the team is just hiring the new staff members as one-time independent contractors; they’ll be coming on as full employees with other responsibilities beyond this one video—but the opportunity to work with Epic to produce a really stellar video is certainly intriguing if it can be done for the right price.

Regardless of who is primarily in charge of the video though, the Patriots still want to *own* the video at the end of the day. That does not just mean legally—though the Patriots of course insist on owning the final copyright to the video—but creatively as well. As noted, the Patriots creative team already has some great ideas, and they’re excited to prove they can bounce back creatively. They are not necessarily inclined to fully hand the keys to an outside group, even if Epic has talent and expertise. The Patriots scoff a little bit at Epic’s public portrayal of Fortnite as a “family-friendly” game and brand; regardless of the game’s cartoony visual style, the game still at the end of the day involves shooting other people with guns. This is fine for the Patriots, but Epic being too skittish about how the Patriots want to approach this video just because of a few distasteful Dave Portnoy jokes would feel hypocritical. Moreover, the Patriots need this to feel like their voice, not an ad for Fortnite. A generic, overly “game-y” product could fall flat with their fans in the same way the Portnoy roast did.

Of course, the Patriots know that Epic will insist on at least some level brand protection and oversight. The Patriots can live with basic checkpoints—a script review to make sure jokes aren’t off-color, a midway look at visuals to ensure style alignment, and a final cut review. They would be less enthusiastic about anything that slows the process, however. They only get the official schedule about a month before release, so time is tight. So if Epic does get involved at any level, the Patriots want to keep things moving. They’d expect Epic to return reviews within three business days of each checkpoint—the same timeline they would insist on if they simply contracted Epic to make the video for them. They’d also expect freedom to make quick changes without getting bogged down in layers of approvals. Ultimately, the earlier the Patriots can lock down this deal the better; agreeing terms today will allow ample time for the creative team to plan ahead and avoid scrambling closer to the deadline.

The Patriots also know Epic will want credit. They're fine with giving a nod — a brief “Powered by Fortnite Creative” line at the end of the video and/or in the video description along with credits for anyone at Epic who worked on the project will suffice. But the spotlight should be on the Patriots, not on Epic. Any branding should feel tasteful and secondary; a watermark across the screen for the entire video for example would be completely ridiculous. Similarly, the Patriots know that Epic will want to promote the video themselves, especially if their creative team had any sort of significant role in making it. That would be fine, but the Patriots would insist that this piggyback promotion be delayed significantly to allow the Patriots a moment to shine on their own. A window of a day or so—or at least a few hours—seems reasonable.

The final details should not be too difficult to work out. The Patriots know that any license will only be for this singular video—though they do like the idea of negotiating for additional videos that they can share if they win bigger games if it fits within their budget. They also fully understand that Epic will be quite limited in the third-party assets that are ever present in Fortnite; the Patriots will be careful not to accidentally include Luke Skywalker or Iron Man or whoever else they're showcasing in their latest season. If an idea comes to mind that involves third parties, the Patriots may seek to secure protections on their own—or at least get clearance from their lawyers that any such use would be fair use—but the Patriots are absolutely willing to include a rock-solid indemnification clause that places the legal burden on them instead of Epic.

Above all, the Patriots are excited about this potential collaboration and is happy to be reasonably flexible in order to make a deal happen. To that end, the Patriots are willing to consider any and all creative solutions that you and/or the Epic's representatives might offer that can help the two sides bridge any positional gaps.

CONFIDENTIAL FACTS FOR EPIC GAMES

Epic's brand management department was wondering when an NFL team would come to them asking for permission to use Fortnite assets in a schedule release video. The whole Epic Games team has plenty of NFL fans among them, and they have watched and given their vantage point working on a game like Fortnite they especially enjoy watching the creativity of the videos, as they can easily imagine doing something similar in Fortnite Creative.

There are a lot of benefits towards a renewed partnership with the NFL. Fortnite's user base has slipped considerably since its 2018-2020 peak, especially among younger players. Roblox and Minecraft have eaten into its dominance, and internal marketing reports show that Fortnite is no longer the "it" game for kids under 15. Epic leadership has set aggressive goals for reversing that trend, and one of the key strategies is reestablishing high-profile partnerships. Partnerships with the NFL doesn't quite directly deliver the younger demographic—most surveys show the average age of avid NFL fans to be in the 50s—the same surveys do show quite a bit recent growth in the 18-24 age ranges, which represents Fortnite's core demographic.

Epic also sees benefits to a schedule release video due to the showcase it would place specifically on Fortnite Creative. The core Fortnite game's numbers have fallen, but nowhere near critical mass; Fortnite Creative, on the other hand, has really struggled to get off the ground since it was released in December 2018. By contrast, rivals Roblox and Minecraft have only exploded in popularity over the past few years. Highlighting Fortnite Creative as a comparable (if not better) sandbox environment in this medium could be a significant boon for the platform.

Moreover, Fortnite's 2018 partnership with the NFL was quite successful, with the only real criticisms from players based around the relatively limited offerings of the partnership both in time duration (only lasting for one season) and what exactly was available. Seven years later, the Fortnite team feels they could do so much more with an NFL partnership. Upper management has had to temper creative's expectations in this regard; one schedule release video with one team does not mean that the entire NFL partnership is coming back. But there is some hope that this could be a foot in a very lucrative door that could even lead to a new deal with the NFL at large.

As such, Epic Games is across the whole company absolutely open to allowing an NFL team to do a schedule release video. But when the creative team imagined getting pitched on

having a schedule release video in Fortnite, they figured it would be the Chargers, not the Patriots. The Chargers in-house creative and social media teams have shown their creative chops and then some, with the 2025 Minecraft video only the latest in a long line of viral hits. The Patriots, on the other hand—well, the reaction to their 2025 Dave Portnoy video says it all. The roast schedule release was widely criticized for crossing into mean-spirited humor, and Epic is a bit wary of attaching Fortnite’s lighthearted, family-friendly image to that kind of content.

Given the high value of the Fortnite brand, Epic would expect to receive a decent amount of money for the use of their intellectual property. They see no reason that the Patriots—one of the wealthier franchises in the extraordinarily wealthy NFL—cannot pay more than what they should see as a fairly token amount. Yet they see what they would need from the Patriots as being on a sliding scale alongside creative control. While this was not part of the Patriots initial pitch, Epic is willing to offer the services of their own creative team to make the video. Yes, they know that most teams do these videos in-house, but—quite frankly—most teams have shown that they *can* do these videos in house. Having Epic’s creative team do the video would be a win-win; the Patriots would get a presumably better video, while Epic’s assets would be much better featured in that video.

If Epic’s creative team is allowed to produce the video—with the Patriots having only approval rights at the end—Epic would be willing to charge significantly less for the license—as little as a token \$50,000—since this approach reduces the risk of a poor-quality video and allows Epic to use the project as a true showcase for Fortnite Creative. By contrast, if the Patriots insist on doing all production themselves and give Epic only minimal control, Epic would want a much higher fee—as much as \$500,000, if it were just up to them—to compensate for the risk and the potential lost marketing value if the video is a dud.

Of course, Epic would insist on more compensation if they’re going to offer not only their intellectual property but also use of their creative team, but that price may be less than the Patriots think. Brand control is, after all, priceless. If the Patriots only require final approval rights, Epic would be willing to rent out their creative team for \$150,000. The more the Patriots want to be involved in that creative process—requiring anything from weekly meetings, multiple check-in opportunities, or joint production—the more Epic would want to charge to lose that creative freedom.

If the Patriots do insist on making the video in house without the help of Epic’s creative team, Epic will still insist on some level of creative control—especially if the Patriots are unwilling to pay the full \$500,000 for the license. Epic is aware that timelines are tight since the teams only get the schedule about a month before the release, and they can make that happen. If the parties can reach a deal today, Epic’s creative team will be able to plan ahead to fully prioritize this project in the months preceding the schedule release.

However, Epic sees three baseline areas where they would want to check in on the process: preliminary script review to make sure the jokes are not too risqué, a midway asset review to ensure the Patriots are representing Fortnite’s visual style correctly, and—obviously—final cut review. Epic would of course be willing to offer the Patriots the exact same rights if Epic’s creative team were to be allowed to take on the project themselves, though they would insist on having a response back from the Patriots within three business days of each checkpoint so that they can keep the project moving along. This is the same timeline they would be willing to promise if the Patriots are doing the project in-house. If the parties agree to work together, it may be best for those two teams to work out at timeline themselves together at a later date.

Digging into the details, Epic would insist on credit, their own sharing rights, and legal protections. In a perfect world where they have sole control, Epic would make the video with a small “Powered by Fortnite Creative” tag or overlay in a corner of the window throughout the entire video. If that’s too much for the Patriots, Epic would be fine with a disclaimer at the start—one that includes language like “This content was built in Fortnite Creative and is used with permission from Epic Games. Gameplay not representative.”—and appropriate credits at the end of the video scaling based on their level of involvement. They would also want a “Powered by Fortnite Creative” in the description of the video as well, along with the names of everyone at Epic who worked on the project.

Epic would also want to promote the collaboration on their own social media channels so they can fully take advantage of the showcase opportunity for Fortnite Creative. If their creative team is involved, they will expect the right to share the video on Epic’s own social channels, though they can agree to wait a few hours—or at most a couple of days—after the Patriots’ official release to avoid stealing the team’s spotlight.

As for legal protections, Epic wants to ensure that the Patriots understand that their own licensing powers are limited. Fortnite has a multitude of licenses itself—from Marvel to Star

Wars to Avatar: the Last Airbender—but it should be made clear to the Patriots (if they're not aware already) that Epic cannot allow the use of those intellectual property assets in this video. The license deals that Epic signed with those companies are extremely limited, and Epic will not be willing to risk breaching those contracts and upsetting their partners. Even if the Patriots were willing to agree to an airtight indemnification clause, Epic cannot risk those relationships. If the Patriots want to go out and secure those licenses themselves that would be their prerogative, but Epic would be unable and unwilling to facilitate those side deals.

Finally, Epic wants to make clear in any resulting licensing contract that the license will cover one video for the 2026 schedule release only. If the Patriots want to use Fortnite additional videos (e.g., short 30-second clips to release after certain games), those must be created at the same time as the main video and will cost \$25,000 each, whether produced by Epic or the Patriots. If Epic's creative team is doing the videos themselves, Epic would fine not charging extra for the labor for those videos—it is, after all, more marketing material—but only if their preferences for creative control, branding, and sharing are met.

Above all, Epic is excited about this potential collaboration and is happy to be reasonably flexible in order to make a deal happen. To that end, Epic is willing to consider any and all creative solutions that you and/or the Patriots' representatives might offer that can help the two sides bridge any positional gaps.