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NBA Top Shot Moments – What Are You Actually Buying?

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If you haven't heard about NBA Top Shot yet, you soon will. It is one of the fastest growing online marketplaces for buying and selling Non-Fungible Tokens, or NFTs. NFTs are a type of cryptocurrency built on blockchain principles. While NFTs are not necessarily new, the way NBA Top Shot sells them is quite revolutionary. The NFTs are bundled with short highlight videos from actual NBA games called "Moments," which are sold in virtual 'packs' to start. The real allure of NBA Top Shot, however, is the online marketplace where anyone can buy and sell "Moments." Think of it like eBay for virtual basketball cards. In just a few months of operation, NBA Top Shot has amassed over \$270 million in sales of "Moments."

Now, you might be saying to yourself, why do I want a video highlight of an NBA game that I can watch for free anytime I want? Well, that is where NFTs come into the picture. Just like traditional cryptocurrency such as Bitcoin and Ethereum, NFTs are based on blockchain principles to make them unique and rare. When you bundle an NFT with an NBA highlight, you create a limited edition digital collectible.

In the NBA Top Shot "Marketplace" users can buy, trade, sell, and showcase "Moments," similar to what one would do with traditional sports collectibles and memorabilia. NBA Top Shot is licensed and backed by the NBA, and the NBA Players' Association. Recently, several NBA players including Josh Hart of the New Orleans Pelicans and Terry Rozier of the Charlotte Hornets have come out in support of the platform. According to CBS and CryptoSlam, the NBA Top Shot Marketplace has amassed over 88,000 buyers and over \$270 million in sales in just three months of operation.

NBA Top Shot "Moments" come in all shapes and sizes, and are valued by their rarity. For example, Platinum Ultimate Moments have only three (3) digital copies, while Genesis Ultimate Moments have only one (1) digital copy. This explains why a Moment featuring a LeBron James dunk on Nemanja Bjelica recently sold for \$208,000. Digital packs of more common Moments with populations of roughly 15,000 sell for much less, but are near impossible to obtain due to the high demand. With all of this money flying around, investors and collectors alike should be asking themselves, "what do I actually own when I purchase a Moment, and what can I do with it?"

According to NBA Top Shot itself (which is owned and operated by Dapper Labs), "[e]ach Moment has a defined set of attributes—including, among other things, scarcity—which help to determine the value of a Moment. That said, the value of each Moment is inherently subjective...". The cryptocurrency exchange platform Kraken notes that, like other crypto assets, NFTs are immutable, resistant to theft, impossible to forge, and easily trackable. The difference, however, between NFTs and cryptocurrencies like Bitcoin lies in the fact that NFTs are unique, and cannot be replaced by something identical (like another Bitcoin). These characteristics are what allows NBA Top Shot Moments to act as digital collectibles. When you purchase a Moment, you are really purchasing a unique NFT on a specific blockchain network (the "Flow Blockchain" in this case). The Flow Blockchain was designed specifically for games and digital collectibles.

Purchasing a Moment means that you own the underlying NFT completely. The owner may trade, sell, or give away the NFT, using the NBA Top Shot Marketplace. The NFT is mediated entirely by the Flow Blockchain, and Dapper Labs are unable to seize, freeze, or otherwise modify ownership of the NFT. Dapper Labs can, however, revoke your license to the intellectual property associated with the NFT – i.e., the associated NBA video highlight. Ownership of a Moment comes with the following license to "Art," which is defined as "any art, design, and drawings (in any form or media, including, without limitation, video or photographs) that may be associated with a Moment that you Own.":

License to Art. Subject to your continued compliance with these Terms, [the creators] grant[] you a worldwide, non-exclusive, non-transferable, royalty-free license to use, copy, and display the Art for your Purchased Moments, solely for the following purposes: (i) for your own personal, non-commercial use; (ii) as part of a marketplace that permits the purchase and sale of your Purchased Moments, provided that the marketplace cryptographically verifies each Moment

owner's rights to display the Art for their Purchased Moment to ensure that only the actual owner can display the Art; or (iii) as part of a third-party website or application that permits the inclusion, involvement, or participation of your Purchased Moment, provided that the website/application cryptographically verifies each Moment's owner's rights to display the Art for their Purchased Moment to ensure that only the actual owner can display the Art, and provided that the Art is no longer visible once the owner of the Purchased Moment leaves the website/application.

The above-referenced license comes with certain restrictions. Among other things, owners of Moments may not: (a) modify the "Art," (b) use the Moment to advertise or market a third-party product or service, (c) sell or otherwise commercialize merchandise that includes or contains the Art, (d) use the Moment in connection with certain prohibited behaviors like illegal conduct, violence, cruelty, etc., or (e) use the Moment in movies, videos, or other forms of media. In addition, the license granted to a Moment's owner expires immediately upon the termination of ownership of the Moment.

According to NBA Top Shot's Terms and Conditions, if a user violates any terms of the license, Dapper Labs "may, at [their] sole and absolute discretion, and without notice to you...immediately suspend or terminate your user account and/or delete your Moments' images and descriptions...." If NBA Top Shot "delete[s] your Moments' images and descriptions from the App, such deletion will not affect your ownership rights in the NFTs that you already [o]wn, but you will not receive a refund of any amounts you paid for those Moments." Similarly, if a user terminates his or her account, the user will no longer have access to the Moments' images and descriptions, and will similarly not receive any refund.

So, what does this all mean? It basically distills down to the following: when you purchase a Moment, you acquire complete ownership of a unique NFT and a corresponding license to use and display the video clip associated with the Moment. Dapper Labs can revoke your license to use and display the video clip, but they cannot take away your rights in the underlying NFT. What value an NFT has without an associated piece of digital artwork that people want to own is an open question. NFTs still have value based on their scarcity, but probably not nearly as much value without the associated digital artwork. Crypto assets like NFTs differ substantially from traditional means of investing, and prudent investors need to understand what, exactly, they are buying. If you buy shares of stock in a company, those shares can't really be devalued in the same way that a Moment can be if the license to a video clip is separated from the associated NFT.

NBA Top Shot is an exciting new product and investment opportunity, especially for people that are looking for alternatives to traditional investing. Based on the success of NBA Top Shot, there is no doubt that NFTs will continue to be utilized to form the basis for crypto assets. Before you invest, read the fine print, and understand what you are buying. The potential exists to have fun and make large gains in the short term with NBA Top Shot, but there is also the possibility for substantial losses if you don't understand what you actually own.

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