

The Role of Antitrust Law in Non-Team Sports

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Recently, professional sports leagues have garnered much attention due to expiring collective bargaining agreements and potential antitrust claims that may arise as a result. The Supreme Court's ruling in *American Needle v. NFL* has left leagues without a single entity defense in antitrust challenges. However, the non-team professional sports organizations such as golf, tennis, or automobile racing may still have a chance. While the challenges of these sports do not mirror those of professional team sports, antitrust law has had an influence, nonetheless.

Sports have introduced a unique problem in the application of the Sherman Act. Other than Major League Baseball, no other professional sports league has enjoyed an exemption from antitrust law (Kahn, 2009). As a result, courts have had to reconcile the purpose and goals of antitrust law with the necessary agreements and restraints essential for the success of professional sports. Fortunately, labor law has shielded professional sports leagues from some antitrust scrutiny through the labor exemption. The non-statutory labor exemption allows employers and employees to collectively bargain terms that would otherwise violate the Sherman Act (McCormick, 1997). The parties to a collective bargaining relationship are free to negotiate terms and conditions of employment, which in the realm of sports can include salary, rules of the games and other elements of the sport (McCormick, 1997). In the absence of a collective bargaining relationship, non-team sports cannot not assert this defense (Bolen, 2010). Without a complete antitrust exemption or a labor exemption, non-team sports are more susceptible to antitrust challenges.

Copperweld Corp. v. Independent Tube opened the door for another possible exemption from antitrust challenges under Section 1 of the Sherman Act. There, the Supreme Court ruled that a parent and wholly-owned subsidiary could not constitute an agreement or combination required under Section 1 because there is "complete unity of interest (*Copperweld Corp. v. Independent Tube Corp.*, 1984 at 2741). While the Supreme Court limited its holding to parent corporations and their wholly-owned subsidiary, professional leagues have argued for an extension to include their organizations.

The Supreme Court answered the question of whether leagues should be granted single entity status in *American Needle v. NFL*. In rejecting the single entity defense, the court echoed the sentiments of *Copperweld* stating that the teams that make up the league lack a complete unity of interest and still retain their own individual economic goals that make them competitors (*American Needle v. National Football League*, 2010). While the impact of *American Needle* is most obvious for the team sports, its impact on non-team sports is less clear.

The role of antitrust law in general, has been tenuous in the realm of non-team sports. Cases concerning non-team sports have slowly evolved. Even after the court in *NCAA v. Board of Regents of University of Oklahoma* held that the rule of reason was the appropriate in sports cases, other courts were still hesitant to automatically apply the rule of reason analysis (*Volvo v. Men's International Professional Tennis Council*, 1988).

The courts have been confronted with the issue of single entity status for non-team sports indirectly and, coincidentally, have responded to it indirectly, so as to avoid making an absolute judgment for non-team sports. It would appear that non-team sports would make the decision of single entity status a relatively simple one. However, the inevitable existence and necessity of joint ventures and sponsorships for tournaments complicate the issue.

The attention given to antitrust cases concerning professional team sports has overshadowed the complex antitrust issues in non-team sports. Countless articles have been devoted to dissecting and analyzing the decisions concerning the major professional leagues, while very few have focused on non-team sports, which leads one to question how antitrust law has been applied in those cases. A bigger question is whether the governing bodies of non-team sports should be (or can be) granted single entity status in light of *American Needle*.

Purpose of Study

The purpose of this study is to analyze how antitrust law has been applied to non-team sports and the possible ramifications of *American Needle v. NFL* on future case law involving non-team sports.

Methods

A comprehensive analysis of cases will be performed to review the application of antitrust law on non-team sports in the United States. The scope of case law for this study will consist of all federal circuits and the United States Supreme Court. A purposive sample of all minable cases concerning non-team sports challenged under antitrust law will be collected to analyze and evaluate the evolution of the application of the Sherman Antitrust Act. The most recent cases involving antitrust law and professional sports will be examined to extract the main elements influencing the courts' decisions. A discussion of those relevant elements as they may apply to future cases involving non-team sports will follow.

Implications

While it is impossible to predict how courts will resolve future legal controversies, existing case law does provide insight into how courts apply antitrust law to non-team sports to detect any patterns that make exist in the decisions. This study will seek to extract the relevant factors in case law in hopes of providing guidance for future cases involving non-team sports.

References

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