

Information



Baseball as a Protected Business: Antitrust Law One hardly thinks of federal legislative frameworks or fair competition rules and regulations when baseball is mentioned. Quite the contrary, one is more inclined to think of the Little League World Series, of the current batting champion, or impending pitcher duels. True, recent years have seen baseball tainted by a variety of steroid scandals. Scandals like steroids, however, come and go and the national pastime tends to prevail. Why does the national pastime prevail, unchallenged and financially secure, despite changes in national opinions and popular trends? One reason, the focus of my speech today, is the special protection that baseball (Major League Baseball) has been afforded by Congress. This protection comes in the form of antitrust law and, to a significant extent, insulates owners and other interested stakeholders from competition within the baseball industry.

As an initial matter, it is important to define what is meant by antitrust law, a topic frequently foreign to baseball aficionados. Antitrust law is an umbrella designation that includes a number of laws dealing with fair competition; more specifically, because America deems itself a free market capitalist economy, there exist a number of laws designed to prevent such things as monopolies and unfair methods of competition. Strangely enough, baseball has for quite some time been exempt from a number of antitrust laws. As stated by Bartee, “ professional sports are a textbook example of a bilateral cartel made up of club owners and unionized players engaged in intrastate and interstate commerce. The club owners exercise monopoly power in the product market” (2008: n. p.). Baseball, like steel or agriculture in certain respects, is a protected industry. It is not a monopoly per se but a competitive cartel in which owners compete with the unionized players. We

read all of the time about competition between owners and players. There are disagreements about such things as free agency, salary caps, and collective bargaining agreements. The irony is that while the owners and the players often trade accusations about the other using unfair methods or misleading financial formulas the truth is that both reap the rewards of a non-competitive industry because of the antitrust exemption granted to Major League Baseball by the United States Congress. In addition, in a 1972 case called *Kuhn v. Flood* and decided by the United States Supreme Court, it was also decided that “baseball and its reserve system are also exempt from state antitrust laws. The exemption was therefore not only left intact, it was again extended” (Bartee, 2008: n. p.). Baseball, in short, is exempt from both federal and state antitrust laws and therefore entitled to behave as a cartel.

Interesting, other professional sports have not been granted an antitrust exemption. Neither the National Football League nor the National Basketball Association benefits as a protected industry under American antitrust law. For this reason, competition is more severe and threatening in financial terms. There have, for example, been many threats to the National Football League whereas Major League Baseball remains secure. There is a Canadian Football League, an Arena Football League, and a couple of decades ago Donald Trump and other wealthy investors started a professional football league to challenge the National Football League. Trump’s league was even successful in stealing top draft picks, such as Steve Young and Hershel Walker, from the National Football League. Baseball faces no such threats because its antitrust exemption allows the owners to control the product and the players’ union to bargain as sole representative of the players. Entry into

the market is virtually impossible without the cartel's approval.

In the final analysis, baseball has long been the national pastime and, for the most part, a profitable business enterprise for owners, and more recently, for players. It would be wrong, however, to view baseball's successes as the product of astute business acumen or a superior product; to be sure, the product is excellent, but it is also protected and insulated from competition in substantial ways. What might happen to Major League Baseball if its exemptions from federal and state antitrust laws were rescinded? Perhaps the league would splinter, perhaps competitors would arise, and perhaps baseball as we have come to know it would cease to exist. Perhaps, given that baseball is our national pastime, it is fair to grant the exemptions.

Perhaps.

Work Cited

Bartee, H. (2008). " The Role of Antitrust Laws in the Professional Sports Industry From a Financial Perspective." The Sport Journal Vol. 11 No. 3. Retrieved August 24, 2008