



RESEARCH ARTICLE

Abuse of dominant position in the realm of the professional sports industry

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Abstract

The abuse of dominant position by sports regulators is a concerning issue that can significantly impact the integrity and fairness of sports competitions. Sports regulators, who are entrusted with maintaining the balance and promoting fair play within the industry, may sometimes exploit their authority to gain an unfair advantage or control over certain aspects of the sports landscape. When sports regulators abuse their dominant position, several detrimental consequences may arise.

Competition law plays a crucial role in ensuring a fair and open market, free from anti-competitive practices. In recent years, there has been increasing attention towards applying competition law principles to oversee the actions of sports regulating bodies. This article aims to explore the potential of competition law in preventing sports governing organizations from abusing their monopoly power. It is imperative that the sports industry and the sports regulator function in an anti-competitive manner and avoid abuse of the powers instilled in them. It delves into suitable legal frameworks, examines relevant cases, and discusses the impact of enforcing competition law within the sports industry. The results highlight the significance of competition laws in fostering equitable competition, safeguarding athletes' rights, and sustaining a dynamic and competitive sports landscape.

Keywords: Abuse of dominance, Antitrust laws, Competition policy, Market dominance, Sports regulatory bodies.

Introduction

Sports have always been competitive owing to the drive for excellence and the joy of winning. Concerns have been raised concerning sports regulating organizations' ability to maintain and shape the industry's natural environment. Competition law should limit sports governing organizations' misuse of power. This article will examine the complex link between competition law and sports regulatory organizations to illuminate the obstacles, implications, and potential advantages of applying competition law to sports (Sullivan C.F., 2011). Sports would not exist without international federations, national organizations, and governing bodies. These organizations set and enforce sports, anti-doping, and commercial rules. Allegations of power abuse by powerful members have led

to calls for tighter monitoring, even though their primary role is to ensure competitive fairness. Sports governing organizations' misuse of dominating positions is examined in this research. The study explores key legal frameworks, prominent cases, and competition law enforcement to understand how competition law promotes fair play, protects athletes' interests, and maintains a healthy and competitive sports environment. Competition law and sports regulatory bodies' misuse of power are investigated in this research paper (Stern R.N., 1979). For the research, academic articles, legal decisions, and regulatory guidelines will be studied. The approach compares competition authorities' enforcement techniques. Competition law and sports regulatory agencies' misuse of dominant positions are covered in this comprehensive method.

Discussion

Competition Law and its Relevance to Sports Regulatory Bodies

Competition legislation protects and improves commercial market customer choice. Antitrust law is also called competitive law. The main goal is to avoid anti-competitive company practices that hurt consumers, limit alternatives, or exploit market dominance (Geeraert A., *et al.*, 2014). Competition law prohibits price fixing, market allocation,

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cartels, dominant company misuse, and anti-competitive mergers and acquisitions.

Enterprise Criteria in Competition Law

Competition law considers every corporation or organization engaging in economic activity an enterprise. To measure competition and identify dominance, defining a business is crucial (Ritter, L. & Braun W.D., 2004). A legal entity, autonomous decision-making, economic activity, and market influence are standard characteristics for recognizing a business (Pijetlovic K., 2015). These factors enable competition authorities to analyze market dominance, possible anti-competitive activity, and the need for regulatory monitoring to preserve consumer welfare and fair competition.

Sports Regulators as Enterprises

Sports regulators may be businesses under competition law, depending on variables and jurisdictional interpretations. They may organize and promote sporting events, but their main goals are fair play, honesty, and athlete care. Competition authorities must determine whether a sports regulator participates in market-distorting economic activity. Revenue, commercial rights, and market impact will determine whether sports regulators are firms under competition law.

Objective

The following is a condensed version of the goals of competition law as they pertain to the world of sports.

- Competition legislation aims to level the playing field in sports (Mumcu A., & Zenginobuz U., 2001). It levels the playing field so players, teams, and stakeholders may compete, create, and win based on their ability (Mutlu U., 2009).
- The chief objective of competition law is to target athletes from being utilized or put through to any other type of biased treatment (Adam S., (2021). This includes protecting their rights to compete, utilize facilities for training, get fair compensation, and move freely within the sports industry (Backhaus J., 2007).
- Competition legislation encourages new ideas, financial investment, and overall improvement within the sports industry. Consumers get the benefits of increasing market competition in the form of a broader range of events, cheaper ticket prices, higher broadcast quality, and easier access to a greater number of sports activities.

Abuse of Dominance Positions in Sports

Abuse of dominance occurs when a dominant person or organization exploits its position in the market to unjustly injure or exclude competitors. Examples of this behaviours include price fixing and monopolization. When a dominant sports organization or a sport's governing body exploits its

position to unfairly benefit select players or stakeholders, limit access for others, or inhibit competition, this is an example of abuse of dominance.

The competition authorities such as the Competition Commission of India (CCI) play an essential part in the investigation of these instances and in ensuring that concerns about the misuse of dominant positions within sport regulating organizations are handled (Bostoen F., *et al.* 2020). Their actions are designed to safeguard the integrity of sports while also fostering fair competition, protecting the interests of athletes and smaller clubs and preventing unfair play.

Types of Abuse of Dominance

- **Restrictive Membership Policies:** Competition admission may be restricted due to membership regulations or eligibility standards imposed by governing bodies in sports. This may make it more difficult for new people to enter the field, which can slow down the market and limit innovation (Brook O., 2022).
- **Unfair Revenue Distribution:** Powerful sports organizations may use their influence to provide unfair advantages to certain players or teams by redistributing revenues, airtime, or sponsorships. This might result in a less-than-level playing field, which is damaging to healthy competitiveness since it reduces the sense of urgency (Cenuşe, M. & David A., 2011).
- **Excessive Control over Player Transfers:** Players' freedom of movement and their ability to pick their favorite teams or clubs may be hampered when governing authorities or dominating organizations place undue restrictions on player transfers. This may lead to an unfair playing field and a skewing of the talent pool.

Challenges

The sports industry's regulatory bodies are unique, making power abuse difficult to identify and remedy. Several considerations make this difficult. Locating the dominating group has been difficult. Sports markets and market dominance are harder to define and measure. Individual, team, national, and international sportspeople have diverse origins. When assessing dominance, each sport and market must be considered. Another challenge is distinguishing authorized regulatory operations from dominating misuse. Sports officials police their fields to guarantee fair play and athlete safety. These organizations may impose rigorous restrictions to protect the sport's integrity and spirit. Understanding each sport's governance structure is crucial to balancing regulatory autonomy and competition legislation.

Sport governing organizations' independence and self-regulatory authority may be a roadblock to outside involvement. It is generally difficult for external competition authorities to intervene successfully since these groups have

their internal dispute-resolution methods and disciplinary processes (Clarke J., 2012). The only way to overcome these obstacles is for competition authorities and sports regulatory agencies to work together and share relevant information (Fercic A., 2015). The multilateral character of sports raises questions of legal authority.

Competition authorities may struggle to assert jurisdiction or coordinate actions for multi-nation sports events and activities. International dominance abuse can only be handled by harmonizing legal frameworks and improving international collaboration (Findlay H. & Mazzucco M., 2010). Competition authorities, sports regulatory bodies, and other stakeholders must collaborate on a holistic solution. To maintain sports honest and level, laws and regulations must take into consideration sports' unique character while protecting players' rights.

Market Analysis in the Sports Industry

Products and services that are comparable in terms of their qualities, price range, and intended purpose are said to be part of the same relevant product market in competition law. On the other hand, the region where businesses compete is specified by the definition of the relevant geographic market (Forrester, I. S., *et al.* 2005). Competition law analysis relies heavily on identifying the relevant market in order to analyze market power and determine the extent to which competition exists. It allows competition authorities to assess a practice or behaviour's possible anti-competitive impact within a specified market (Hornuf, L., 2015).

Sports Industry and its Subsectors

Sports and leisure include many activities. Professional sports leagues, events, teams, equipment manufacturers, media, broadcasting rights, sponsorship deals, and venues are mentioned (Hwang J., 2022). Competitive team sports include football, basketball, and soccer. Tennis, golf, and athletics are harder than team sports. Sports has various sub-industries such as Sports event management, media and broadcasting, and apparel and equipment are examples (Johan W van, *et al.* (2021).

Product Market(s) for the Sports Industry

It is crucial to consider the interchangeability of various products or services while studying the relevant product market in the sports industry. Footballs, basketballs, and tennis balls, for instance, may all be seen as substitutes for one another in the market for sports equipment. Similar arguments might be made for the inclusion of sports apparel like jerseys and shoes in the same target market (Johnson A. T., 1978). The research has to account for the varying degrees of rivalry present in various segments of the sports business. Even while both football and basketball belong to the category of team sports, their markets may behave differently owing to differences in their fan bases, media coverage, and sponsorship options.

Geographic Market(s) for the Sports Industry

In the sports business, identifying the appropriate geographic market entails investigating the borders within which companies compete. Consumer tastes, broadcasting rights, and the existence of local teams or events are just a few examples of what might affect the regional market (Kisswani N. M., 2020). In a local football league, the target market may be restricted to the area around the league's major city, where the majority of the league's followers live and attend games. In contrast, the target market for a worldwide sporting event like the Olympics or the FIFA World Cup may span many nations or even continents owing to the event's appeal to an international audience (Liberty M. *et al.*, 2022).

Potential Market Barriers and Competition Constraints

Market barriers and competitive limits in the sports sector may alter market dynamics and competition.

- Exclusive broadcasting rights: Exclusive broadcasting agreements may make it more difficult to get sports material and reduce the amount of competition between broadcasters, both of which can result in increased costs for consumers (Malik P., *et al.* 2019).
- High entry barriers: Costs associated with launching a professional sports franchise, constructing a sports facility, and finding a sponsor might discourage new entrants and dampen competitiveness.
- Licensing and intellectual property: There may be difficulties for new entrants in the sports sector especially in the markets for sports clothing and equipment due to intellectual property rights such as trademarks and copyrights (Marcelo M., *et al.*, 2020).
- Regulatory restrictions: Restrictive laws or eligibility requirements, such as prohibitions on player transfers, wage ceilings, or limits on the number of international players, may be imposed by sports governing organizations.

Role of Competition Authorities

Competition authorities are crucial to the successful enforcement of antitrust legislation in the sports business. Competition Commission is tasked with looking into and fixing anti-competitive activities, such as abuse of dominance, within sport governing organizations (Moisejevas R., 2007). It may implement fines and other steps to ensure that competition is once again free and open in a certain area. Depending on national law and the extent of their mission, competition agencies' jurisdiction over sports-related disputes might vary. Authorities charged with regulating market competition may be allowed to intervene in sports-related disputes in certain areas, while in others they may have to demonstrate widespread market impact. Clarifying jurisdictional boundaries and providing

competition authorities with the power they need to execute their tasks are crucial for the efficient enforcement of competition law in sports.

Sport governing organizations and competition authority must work together to effectively enforce competition laws in the sports business. Sharing knowledge, doing research together, and appreciating one another's limitations are all examples of collaboration. Competition authorities may benefit from regulating bodies in sports actively engaging with them to provide information on the specifics of their sport and the issues they encounter in ensuring competitive equity (Poscic A., 2018). Competition authorities may get insight into the unique environment and dynamics of the sports business by cooperating closely with sports regulatory agencies. Better knowledge of the relationship between competition law and sports may be fostered by collaboration between these organizations.

Implications and Benefits

Protecting Honest Trade

Sports competition restrictions may promote fair play. Competition law protects athletes, teams, and stakeholders from anti-competitive behaviours and power abuse. This levels the playing field, making sports events more reliable.

Assuring the Safety of Athletes

Competition regulations need to be properly enforced to best protect the interests of athletes. By preventing exploitative behaviours and providing assurances of fair treatment, competition law safeguards athletes' rights to compete, get just compensation for their efforts, and train in an environment that is conducive to their physical and mental well-being. There are restrictions placed on restrictive eligibility standards, discriminatory tactics, and unfair contractual arrangements that might be detrimental to the careers of athletes.

Fostering Creativity and Concern for Consumers

The tight enforcement of competition regulations has resulted in greater investment and innovation within the sports industry, both of which are beneficial to consumers. Competition legislation makes it illegal for businesses to engage in anti-competitive behaviours like price-fixing, market allocation, and restrictive agreements. This promotes healthy athletic product, service, and entertainment competition. This increases product availability, lowers price, and improves quality.

Difficulties and Constraints

Competition law is difficult to apply to sports for a variety of reasons, including the special nature of sports; the need to strike a balance between competition and athletic integrity; jurisdictional considerations, such as separate regulatory frameworks; and the distinctive qualities of sports. Because

of its inherent features, the sports industry stands apart from other economic industries. The integrity of a sport may be preserved in part by the practice of adhering to a set of complex laws, traditions, and values. The direct application of competition law in the sporting world presents some particularly interesting issues. Finding a happy medium between unethical behaviours and unfair play in sports may be difficult. Even if essential to preserve the event, participants, or playing surface, participation limits may be anti-competitive. Competition officials, sports governing organizations, athletes, and anyone with an interest in the result must collaborate and exchange essential information to overcome these difficulties. Sports regulations must be consistent yet flexible to each game's conditions. All athletes will be on equal footing if this is implemented. Despite these difficulties, competition regulation may aid in the fair and sustainable growth of the sports business by protecting the values and principles that give sports its unique character.

Results and Observations

Recommendations

The interests of players, smaller clubs, and customers must be protected while still allowing for healthy competition, therefore finding this sweet spot between competition law enforcement and the peculiarities of the sports business is crucial. There has to be proactive engagement between sports governing organizations and competition authorities to increase collaboration and information sharing. Through working together, competition authorities will learn more about the sports sector and its unique challenges, improving their ability to apply the general principles of competition law (Poscic A., 2018). Authorities in charge of competitions should be nuanced in their evaluation of allegations of abuse of power within sports governing organizations. It is vital to acknowledge these organizations' legitimate role in preserving sports' integrity and establishing standards. The boundary between appropriate regulatory action and anti-competitive conduct has to be drawn more clearly (Reed D.D., *et al.*, 2006). Sports competition law needs international collaboration and harmonization. This will resolve jurisdictional issues and assure competition law enforcement worldwide. Regular sports industry evaluations should uncover market obstacles and competitive restraints. Competition authorities should vigorously examine collusion, exclusive agreements, and player movement limitations. Sports regulatory agencies need more openness and responsibility. Clear reporting and independent supervision may avoid dominance abuses. Competition authorities and sports regulatory organizations may work together to promote fair competition, safeguard stakeholder interests, and preserve the sports sector by adopting these guidelines (Rizzuto F., 2019).

Conclusion

Fair competition, athlete protection, innovation, and consumer welfare, as well as increased openness and accountability are all supported by competition law and the prohibition of abuse of power by sports regulatory organizations. By avoiding unfair advantages and other sorts of cheating, competition law enforcement contributes to the upkeep and preservation of sports' integrity. The enforcement of competition law contributes to the upkeep of the integrity of sports by prohibiting unfair advantages and other types of cheating (Rodger B. J., 1999). On the other hand, the singularity of sports, the requirement to find a balance between competition and athletic integrity, and the challenge of dealing with multiple countries with varied regulatory standards are all factors that have been cited as obstacles and restrictions on the application of competition law to sports. Paying attention to these concerns and working in conjunction with competition authorities are both necessary for the proper implementation of competition law in the sports sector. On the other hand, the singularity of sports, the requirement to find a balance between competition and athletic integrity, and the challenge of dealing with multiple countries with varied regulatory standards are all factors that have been cited as obstacles and restrictions on the application of competition law to sports. Paying attention to these concerns and working in conjunction with competition authorities are both necessary for the proper implementation of competition law in the sports sector (Smith R., 2004).

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