

Chapter 2

Sport and Antitrust Law

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ABSTRACT

This chapter explores the relationship between sports and different types of competition, legal and actual possibility to apply competition, particularly antitrust, laws to sports, primarily to the sphere of professional sports and sports industry. The commercial and non-commercial components, yet linked to the interests of profit, in modern professional sports entails certain applicability of competition law to the field of sports. However, excessively strict application of antitrust laws can lead to devastating consequences for all types of sports or sports in general. Therefore, it is important to take into account specific characteristics of the sport sphere (more than any other sphere of activity). This is important when deciding on the application of competition law to this sphere or withdrawal of this sector from the application of competition law. Nature and inherent specific features of professional sports activities and sports in general have a significant impact on the application of competition law. Economic competition in the field of sport is atypical. The authors give their definitions of “sport,” “competitiveness in the sport,” “commercial competition in the field of professional sports,” “autonomy of sports,” “sports monopsony,” “sports monopoly,” and “sports oligopoly.”

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INTRODUCTION

The scientific community has discussed the question of whether sports is subject to antitrust laws and to what extent. A simple answer has not been found. It also could not be found in principle. This section explores the scientific approach to the solution of this problematic issue.

The combination of commercial activities and sport led to the emergence of problems for public authorities authorized in the sphere of anti-monopoly activities implementation. It also generated a number of questions related to how the athletic competitiveness typical of sports events and competition in the economic sense can be interconnected.

The question about the extent to which sport can and should be subject to antitrust laws relates to whether sports organizations have the right, based on the principle of autonomy of the sports that are recognized by international organizations (including the EU [EU]), to set their own rules of realization of sports activities. This includes rules for the organization and holding sports events, which to some extent violates antitrust laws.

This section studies the approaches of some countries at the legislative level related to the decision of whether (or to what extent) professional sports can and should be subject to antitrust laws. In particular, special attention is paid to the study of the judicial practice of a number of countries on the issue. Because the study covers some countries with an Anglo-Saxon legal system where legal precedent is a source of law. And due to scientific interest to the positions of the judiciary set out in such decisions concerning various aspects of the problem issue under consideration and the possibility of such authorities to study each case individually, taking into account all of its extensive specifics.

Basic Definitions

Sport is a set of the following:

- Area of public relations and decentralized stratified system of institutionalized and regulated activities;
- Conducted in the competitive, educational, cultural, recreational, health or business purposes;
- Associated with organized or unorganized implementation by one or more persons or association of persons;

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