
In August 1993, the FTC’s Bureau of Competition issued an order to the PGA Tour as a result of its investigation of the PGA Tour for antitrust violations. The FTC concluded that two provisions of the PGA Tour rules created anticompetitive restraint on trade as prohibited by Section One of the Sherman Antitrust Act. The investigators had determined that the Conflicting Events Rules and the Media Rights Rule violated the Act. As the FTC released little information concerning this matter, the author assumes that the FTC will pursue the rules as creating concerted refusals to deal and output restrictions.

The Conflicting Events Rule prevents a PGA Tour member from participating in any other golf event on a date when a PGA Tour co-sponsored event is scheduled. The rule permits seven enumerated exceptions, as well as permitting individual requests of exemption to be submitted to the PGA Commissioner, “who grants the overwhelming majority of player requests for releases.”

The Media Rights Rule requires that players assign their media rights to the PGA Tour in return for membership benefits, including television coverage. Like the Conflicting Events Rule, players can submit requests to the commissioner for specific exemptions. Furthermore, personal appearances and instructional programs are outside the scope of the rule.

The author offers that the PGA Tour should be commended for creating these rules as they benefit customers with more televised golf tournaments, increased income for players, and large donations made to charities as a result of similar sponsorship rules.

The author provides a thorough analysis of antitrust case law and its application to this situation. The Article reasons that the relevant product market is
“broadcast sports” and that the relevant geographic market is the United States. Agreeing that the threshold elements for a violation are met by the two rules in question, the author argues that the rules are procompetitive by ensuring quality standards of play and increased competition among athletes. He directs that a court should consider “whether the rules are so anticompetitive in purpose or effect as to be unreasonable.” In applying a rule of reason test, the author urges a court to focus on the PGA Tour business according to its results, not solely by its procedures. He asserts that golf is, in fact, dependent upon horizontal restraints of trade. He concludes: “If it ain’t broke, don’t fix it.”

Michelle B. Lee, Section 2(A) of the Lanham Act as a Restriction on Sports Team Names: Has Political Correctness Gone Too Far?, 4 SPORTS LAW. J. (1997)

As “political correctness” becomes a reality in our society, entities have begun to challenge names of sports teams, such as the Atlanta Braves and the Washington Redskins. Opponents to these names assert that they are violations of § 2(a) of the Lanham Act, which permits cancellation of trademarks that are “offensive,” “scandalous,” and “disparaging.” The author argues that imposing this condition on team trademarks creates constitutional disregard of the First and Fifth Amendments.

After determining that team trademarks are protected speech under the First Amendment, the author reasons that to deny the benefit of registration on a creator is contrary to constitutionally protected interests. Without benefits and protections, a trademark will enter into the public domain and lose all value as a “source identifier.” Further, the author shows that by definition “trademark” is a form of commercial speech. Central Hudson Gas & Elec. Corp. v. Public Serv. Comm’n of N.Y., 447 U.S. 557 (1980), provides a test for weighing the protection to be awarded commercial speech. According to the author’s analysis and application of this test, team names deserve protection as they are not offensive, the government has no “substantial” interest in their cancellation, and they ought not to be characterized as categories of “impermissible speech.”
The author argues that § 2(a) creates a taking under the Fifth Amendment because a trademark is a judicially recognized property right. This taking is a “regulatory taking” and results in the loss of economic viability for a given mark. Such a taking could be justified only if there was a “legitimate” state purpose in protecting the public from harm. None, according to the author, has been offered.

Finally, the author faults § 2 of the Lanham Act for employing terms that are “void-for-vagueness.” She discusses that a lack of guidance exists in allowing a court to interpret standards like “scandalous” and “disparaging.”

**Guilty Until Proven Innocent:** *Random Urinalysis Drug Testing Upheld in Vernonia School District, 4 SPORTS LAW. J. 115 (1997)*

During the 1980s, school officials began to notice a startling and progressive increase in students’ use of drugs and alcohol. The leaders of this activity were the leading student-athletes. The Supreme Court of Vernonia found the random drug test on the student-athletes not to be an infringement of their Fourth Amendment rights. The Court used the balancing test found in *Skinner v. Railway Labor Executives’ Ass’n*.

**Jamie P.A. Shulman, The NHL Joins In:** *An Update on Sports Agent Regulation in Professional Team Sports, 4 SPORTS LAW. J. 181 (1997)*

The Article examines the role of sports agents in professional sports. The evolution of agents’ involvement in professional sports is traced from its beginnings. The events that triggered the introduction of agents are also examined with emphasis on salary escalation. Next, the potential abuses of agents are examined. These abuses range from the mismanagement of money to conflicts of interest. An in-depth look at the different types of conflicts of interest that may appear is conducted, with discussions of agents representing more than one player on a team and representing both a player and the coach of a team. Next, an examination of the tenets of agency law is
discussed, as well as the methods used to regulate abuses by agents.