Industrial Organization of Baseball: A Unique Case Study

 Baseball is considered to be the national pastime of the United States and has been an ingratiated part of Americana for over a century. The sport has since become more popular globally, with many countries competing for every four years in the World Baseball Classic. Due to its popularity, baseball, like football, basketball, and hockey, has transformed into a multi-billion-dollar industry and operates more like a business than ever before. However, there is one main difference between the organizational structure of Major League Baseball (MLB) and the other major sports: MLB has an exemption to federal antitrust legislation. This exemption is unlike any other in American history and allows MLB to avoid legislation under both the Sherman act and Clayton act. There is an interesting history behind MLB’s exemption, and it has had a large impact on the organization’s internal operations. Baseball’s exemption has recently come under fire, as the current heads of both the Federal Trade Commission (FTC) and the Department of Justice’s (DOJ) antitrust division have been evaluating the market power of certain large companies in the United States. Those who support repealing the exemption claim that MLB has a monopsony on professional baseball labor, has an obscene share of market power, and that the exemption is outdated. This leads to the question: what would happen to Major League Baseball’s operations if it were to lose its antitrust exemption? The main ramifications on the industrial organization of MLB would be more franchise movements, a change in minor league operations, and an impact on other employee compensation.

 Major League Baseball’s antitrust exemption was originally granted in a court case in 1922 which argued that baseball games were not interstate commerce because they were played in one state at a time (*Federal Baseball Club,* 1922). The exemption has since been tested many times in history and has been upheld in the Supreme Court. Being immune to antitrust laws has allowed MLB to conduct itself in certain ways that are similar to a monopoly/monopsony, such as colluding to keep wages low and preventing franchises from moving. However, the exemption was restricted in 1998 due to the Curt Flood Act. In this act, MLB lost its antitrust exemption in the scope of employment issues, which was already a moot point since collective bargaining eliminates the possibility of antitrust lawsuits (Grow, 2009). The most interesting aspect of the Curt Flood Act is that its impact might have strengthened the exemption because it is the first piece of legislation codifying it. This explains why MLB supported and even legislated for its passing (Kaiser, 2004). It is important to understand the history of the exemption in order to understand the consequences if it were to be repealed.

The exemption is still on the books today and has recently been discussed by political figures on both sides of the aisle. Senator Bernie Sanders questioned the exemption and its impact on professional baseball recently (Shaikin, 2022). Senator Sanders claims that MLB is operating as a monopoly, when, in actuality, it operates more as a monopsony because it is a single buyer of labor in professional baseball, especially with its ownership of the minor leagues as well (Blair & Wang, 2020). Additionally, Senator Ted Cruz also weaponized the exemption by trying to get it overturned after he was upset with MLB’s decision to move the All-Star Game (Lacques, 2021). Furthermore, the DOJ has called on lower courts to interpret MLB’s exemption narrowly to lessen the ground that the exemption has to stand on (Press, 2023). This demonstrates how the exemption has been reviewed more frequently and could be repealed in the coming years, especially under the current administration.

If the antitrust exemption is repealed, one of the largest impacts would be an increase in the number of franchises moving from city to city. In most sports leagues, it requires a vote of the owners to determine if a franchise can move between cities; however, teams not in baseball can still move between cities because they can sue under antitrust law if they are denied. For example, this is what happened to the Raiders in the early 1980s when they were told to not move to Los Angeles, but the Los Angeles Memorial Coliseum Commission sued the NFL because they had already built the stadium. The Raiders won this lawsuit and were able to move to Los Angeles (Kurlantzick, 1983). Other sports leagues have had many franchises move cities over the past thirty years; however, baseball has had only one franchise relocation during the same period (Grow, 2012). This is because MLB has an antitrust exemption, so when owners are denied the ability to relocate their franchise, they have no legal recourse. If MLB loses its antitrust exemption, MLB could see more franchise relocations because owners could then sue the league. This instability could lead to some of the larger cities outbidding the smaller markets, causing them to lose teams, which are large sources of many economic opportunities for these smaller markets.

The next large organizational aspect of baseball that could change if it were to lose its unique antitrust exemption would be in the minor leagues. When a player joins an MLB team, often through the draft, they are forced to sign a Uniform Player Contract (UPC) to a minor league team, which is a uniform contract based on the draft position that is given to players. This kind of contract would not be permitted under current antitrust law due to its inherent collusion to keep the wages down, instead of exposing them to a free market. These minor leaguers were not part of a union until this past year, which meant that they were not governed by a collective bargaining agreement, thus these contracts would not be legal under current anti-collusion laws. This might be the reason that MLB began to recognize the Major League Baseball Players Association as the official bargaining union for minor league players because they see the future for the ending of the antitrust exemption (Feinsand, 2022). According to traditional monopsony theory, this move from a monopsony to a free market should lead to higher wages and better working conditions for minor leaguers. Furthermore, minor league teams themselves are contracted out by MLB and recently, MLB has restricted the number of minor league teams that an organization can have down to four. This means that many cities lost their minor league teams and now creates an even more competitive environment for these teams, where MLB teams can shop around for the cities that have the best facilities for the teams. This is an example of how MLB can exploit its market power over the cities that want minor league teams because they provide good economic opportunities and a sense of fandom for small cities. If MLB loses its antitrust exemption, it would have to change its contraction system due to the exploitative nature of the current system.

Another area that could change if MLB were to lose its antitrust exemption, would be higher compensation for other employees in MLB organizations. Coaches, scouts, and assistants have argued for years that teams collude to not hire staff from other teams who quit, which forces these employees to stay in their role, even if they could be making more in a free market. Some scouts even sued MLB for this collusion, but the case was thrown out due to MLB’s antitrust exemption (Mulry, 2019). If MLB loses the exemption, they could not restrict other employee wages or contracts such as they do now and could be proven to be colluding if a similar case were to be brought to court. The FTC has specifically aimed at non-compete clauses in employment contracts, and the current, invisible restriction on MLB employees from moving teams, unless they are fired, could be considered something similar to a non-compete agreement (Vedova, 2023). This means the FTC could target MLB and sue them under this collusion if they were to lose the exemption.

In conclusion, MLB heavily relies on its lucrative antitrust exemption that no other organization has been privy to in the United States, and if it were to lose this exemption, it would greatly impact the industrial organization of baseball in the areas of franchise relocation, minor league operations, and staff wages.

References

Blair, R. D., & Wang, W. (2020). *Rethinking major league baseball's antitrust exemption.* Journal of Legal Aspects of Sport, 30(1), 18-40.

*Federal Baseball Club v. National League,* 259 U.S. 200 (1922). (n.d.). Justia Law.

Feinsand, M. (2022, September 10). *MLB to recognize Minor League Union.* MLB.com. Retrieved March 27, 2023, from https://www.mlb.com/news/mlb-to-recognize-minor-league-players-union

Grow, N. (2009). *Reevaluating the Curt Flood act of 1998*. Nebraska Law Review, 87(3), 747-758.

Grow, N. (2012). *In Defense of Baseball's Antitrust Exemption*. American Business Law Journal, 49(2), 211-273.

Kaiser, L. L. (2004). *Revisiting the impact of the curt flood act of 1998 on the bargaining relationship between players and management in major league baseball.* DePaul Journal of Sports Law & Contemporary Problems, 2(2), 230-263.

Kurlantzick, L. S. (1983). *Thoughts on Professional Sports and the Antitrust Laws: Los Angeles Memorial Coliseum Commission v. National Football League.* Connecticut Law Review, 15(2), 183-208.

Lacques, G. (2021, April 14). *What is MLB's antitrust exemption? Ted Cruz, and Josh Hawley using baseball's century-old Golden Goose as political cudgel*. USA Today. Retrieved February 24, 2023, from https://www.usatoday.com/story/sports/mlb/2021/04/13/mlb-antitrust-exemption-immunity-ted-cruz-josh-hawley-baseball-all-star-game/7211552002/

Mulry, C. (2019). *Is baseball shrouded in collusion once more?* *assessing the likelihood that the current state of the free agent market will lead to antitrust liability for major league baseball's owners.* Fordham Journal of Corporate and Financial Law, 25(1), 273-302.

Press, A. (2023, February 1). *Justice Department: MLB antitrust exemption should be narrow*. ESPN. Retrieved March 2, 2023, from https://www.espn.com/mlb/story/\_/id/35571457/justice-department-mlb-antitrust-exemption-narrow

Shaikin, B. (2022, March 12). *News analysis: MLB oligarchs? sen. Bernie Sanders again takes aim at Antitrust Exemption. Los Angeles Times.* Retrieved March 2, 2023, from https://www.latimes.com/sports/story/2022-03-12/bernie-sanders-antitrust-laws-mlb-oligarchs

Vedova, H.; Technology, T. F. T. C. O. of. (2023, March 7). *FTC proposes rule to ban noncompete clauses, which Hurt Workers and Harm Competition.* Federal Trade Commission. Retrieved March 27, 2023, from https://www.ftc.gov/news-events/news/press-releases/2023/01/ftc-proposes-rule-ban-noncompete-clauses-which-hurt-workers-harm-competition