

ARTICLES

Age Eligibility Rules in Women's Professional Golf: A Legal Eagle or an Antitrust Bogey?

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After additional evaluation of her performance on the LPGA Tour over the last several months and conversations with Morgan [Pressel] and her family, I am now confident she's ready to compete successfully on the LPGA Tour.

- LPGA Tour Commissioner Carolyn Bivens announcing Morgan Pressel's successful petition to compete on tour five months before her 18th birthday (LPGA 2005).

INTRODUCTION

The issue of age eligibility rules in professional sports was thrust onto the front page of every major newspaper's sports section in 2003 when Maurice Clarett from The Ohio State University challenged the NFL's minimum age rule in federal court on antitrust grounds. The resulting legal opinions, *Clarett v. NFL* (2004a) and *Clarett v. NFL* (2004b), revealed the extent to which the

law struggles with eligibility rules in context of professional sports. At the district court level in *Clarett*, Judge Scheindlin granted Clarett's motion for summary judgment, finding that preventing the running back from earning a living in professional football was "precisely the type of injury that antitrust laws were designed to prevent" (2004a, p. 406). The NFL promptly appealed. The Second Circuit Court of Appeals reversed (*Clarett*, 2004b). Writing for a unanimous three-judge panel, Judge Sotomayor agreed with the NFL's argument that the NFL's eligibility rules should not be subject to antitrust review because of the non-statutory labor exemption. The court concluded that: "This lawsuit reflects simply a prospective employee's disagreement with the criteria, established by the employer and the labor union, that he must meet in order to be considered for employment" (2004b, p. 143).

There is no shortage of scholarly treatment of age-based eligibility rules in sports. McGowan (1996) analyzed minimum age rules in figure skating. Edelman and Harrison (2008) put the Women's National Basketball Association's minimum age and education rules under the antitrust microscope. Rodenberg (2008), Cimino (2006), and Jones (2005) explored the recently-revised age rules in the National Basketball Association. Women's professional tennis was subjected to analysis by McGuire (2007) and Rodenberg (2000). McCann and Rosen (2006) and Pensyl (2006) looked at the NFL's player eligibility rules after the *Clarett* decisions. Similar rules in women's professional golf have not specifically undergone a scholarly analysis until now although Cook (2008) addressed related issues in a non-academic book exploring the impact of teen phenoms on professional golf.

The participation of young people in highly competitive sport is controversial. Wiersma (2000) outlined the risks of single-sport specialization at a young age, citing burnout, over-involvement by parents and coaches, and stunted motor skill development. As a result, Baker (2003) recommended diversification in sport participation at early ages as an alternative. In the context of women's tennis, Doherty (1999) presented a laundry list of possible physical ailments stemming from early specialization including eating disorders, athletic amenorrhea, and osteoporosis. Such physical and psychological problems have given rise to a number of academic works that propose remedies. Merten (2004) opined that federal labor laws should be applied to curb the number of teenage athletes in the professional ranks. Farstad (2006) cited the United Nations Convention on the Rights of the Child to argue for minimum age rules in sport from a human rights perspective. Rowland (2000) posited that children's participation in high level sports competition is an ethical issue.

There are a plethora of examples of teenagers excelling at the highest level in a variety of sports. LeBron James in basketball, Jennifer Capriati in tennis, Freddy Adu in soccer, and Michael Phelps in swimming are just a few such examples. In professional women's golf, Natalie Gulbis, Paula Creamer, and Morgan Pressel have achieved success on the LPGA Tour as evidenced by their presence among the top 60 players on the 2008 year-end LPGA money list (LPGA, 2009).

The first part of this paper provides a history of women's professional golf, outlines the structure of the LPGA Tour, and details the LPGA's minimum age rule. Part two describes the broad impact of antitrust law on professional sports. The third section provides an overview on how sports eligibility issues have been treated under antitrust law. The final part offers a framework for how the LPGA's rule would likely be interpreted if challenged in court on antitrust grounds.

BACKGROUND ON THE LPGA TOUR

An understanding of the LPGA Tour is a prerequisite to a subsequent antitrust analysis. The sub-sections that follow highlight the LPGA Tour's history, structure, and age-based eligibility rule.

LPGA History

The first professional golf tournament for women was the All-American Open. Organized by George S. May in 1943, it was the first of a series of professional tournaments promoted and managed by May. Following the successful implementation of the All-American Open, Hope Seignious, a teaching professional from South Carolina organized the Women's Professional Golf Association (WPGA) to meet the need for an official governing body of professional women's golf in 1944 (Kahn, 1996).

The WPGA dissolved in 1949 following a series of internal conflicts involving player compensation and a lack of external funding. To meet the need for a governing body of women's golf, sport promoter Fred Corcoran worked with various manufacturers of golf equipment to establish the Ladies Professional Golf Players Association (LPGPA) in 1949. Because Corcoran had extensive experience in the professional golf industry, he was named tournament manager (Ladies Professional Golf Association [LPGA], 2008a). In 1950, the organization was expanded to include 13 members and officially became the Ladies Professional Golf Association (LPGA) (Kahn, 1996). Initially there were 14 LPGA Tour events with prize money totaling \$50,000.

Nine years later, the schedule had grown to include 26 total events boasting over \$200,000 in prize money. The USGA elected to sponsor the first official Women's U.S. Open in 1953. Shortly thereafter, Corcoran opted to return to managing men's professional golf. Management of the tour was returned to the players who also served as the board of directors (Crosset, 1995; LPGA, 2008a).

In 1963, the LPGA secured its first televised event when Sears and Roebuck agreed to serve as the title sponsor for the Women's U.S. Open. In spite of the gains made in the early 1960s, the tour struggled to adapt to the demands of the television market, which decreased the tour's financial stability. In 1966, Sears and Roebuck did not renew their television contract with the LPGA and the organization floundered. Purses stagnated and 16 tournaments were eliminated (Crosset, 1995; LPGA, 2008a).

The LPGA regained stability in the 1970s. Colgate Palmolive became the title sponsor of the tour in 1972, providing financial support to an organization they believed would help their corporate image. More importantly, Title IX of the Educational Amendments Act became law, mandating that all federally funded institutions provide equal funding to men and women. Title IX had radical effects on athletic opportunities for girls and women nationwide. The LPGA was one beneficiary of the increased emphasis placed on women's sport. With increased funding available to support interscholastic and intercollegiate athletics for girls and women, the number of talented female athletes in the United States increased dramatically. Greater numbers of women developed their athletic skills at younger ages. Overall, Title IX almost certainly increased the total number of qualified female athletes for the LPGA Tour. Further, the talent of potential players was enhanced after women had an opportunity to hone their skills on high school and college teams (Carpenter & Acosta, 2005).

It became apparent that a central governance structure was necessary to ensure the tour's continued success in the 1970s. LPGA President Carol Mann persuaded Ray Volpe, the former vice president for the National Hockey League, to become the commissioner of the LPGA. Volpe elected to make drastic changes to the structure of the LPGA. According to Crosset (1995) "Volpe dismantled the player-controlled executive board that managed the tour and developed a player council whose power was strictly advisory" (p. 51). Volpe also established a board of directors consisting of five volunteer members employed in the golf industry, the commissioner, and four players. The board was responsible for controlling the LPGA. Volpe also added media staff, hired a marketing firm to augment the image of the tour, and employed a

publicity coordinator and public relations director (Leonard, 2000; Crosset, 1995).

Under Volpe's leadership, the LPGA gained prominence as a professional sport league and increased profitability. Volpe used the sexual appeal of players such as Laura Baugh and Jan Stevenson to market the tour. Crosset (1995) stated:

By skillfully using the media, Volpe was able to cultivate corporate sponsors. Volpe aggressively courted sponsors by offering more services and involvement. Special sponsor packages enabled corporations to advertise to a target market, entertain buyers, put on employee functions, and demonstrate social responsibility. Corporate sponsorship, which accounted for only 10% of the LPGA's backing in 1975, jumped to 40% in 1978 (p. 53).

The tour also benefited from the arrival of Nancy Lopez, whose remarkable talent added star power to the LPGA (Leonard, 2000).

Following Volpe's resignation in 1982, John Laupheimer and Bill Blue each served as commissioner for a few years until 1990, when Charles Mecham was named the tour's top executive. As a former LPGA tournament director, Mecham understood the framework of the LPGA and its membership. Under the guidance of Mecham, "the players approved a new constitution that changed the nature and structure of the advisory board. The players abandoned Volpe's cohort representation. Now all members would be voted on at large in an attempt to get the most experienced and recognizable players involved" (Crosset, 1995, p. 53). The new constitution shifted greater governance power to the tour players.

In 1996, Jim Ritts succeeded Mecham as commissioner of the LPGA. Under the direction of Ritts, the LPGA secured additional television coverage, including the first television series sponsored by an external entity, State Farm Insurance. Seven LPGA events were televised during 1998 on various ESPN networks (LPGA, 2008a). After serving as the commissioner for three years, Ritts was replaced by Ty Votaw. Under Votaw's leadership, tour purses, television exposure, and profitability increased substantially (Bonk, 2005).

When Votaw's tenure as commissioner began in 1999, the LPGA sponsored 12 tournaments with total prize money per tournament averaging approximately \$800,000. By 2005, the LPGA schedule included 30 tournaments with prize money per event totaling more than \$1.4 million. Prize money increased nearly 64% during Votaw's term as commissioner. Three years into his stint as commissioner, Votaw developed a five year strategic

business plan for the LPGA called "Fans First." Elements of the initial plan included measures to increase the tour player's approachability and appearance (Sherman, 2002). In 2005, Votaw presented a new brand platform for the LPGA, titled "These Girls Rock," and the first LPGA Playoff system leading to the ADT Championships. Both measures were designed to improve the image of the LPGA and excitement associated with the tour (Business Wire, 2005).

Votaw stepped down in 2005 to pursue other opportunities. Carolyn Vesper Bivens was named commissioner of the LPGA tour on September 12, 2005, the first woman to hold the position (LPGA, 2008a). Bivens inherited an organization experiencing unprecedented growth. Due primarily to Votaw's "Fans First" strategic plan, the phenomenal play of tour star Annika Sorenstam, and the emergence of young talent such as Paula Creamer, the LPGA was poised for continued success. Dedicated to ensuring the continued strength of the LPGA brand, Bivens devoted her energies to increasing the number of LPGA tournaments, garnering additional corporate sponsors, augmenting television exposure, and increasing the global presence of the LPGA (LPGA, 2008a). One year into her tenure as the LPGA Commissioner, Blevins reinvigorated the Commissioner's Advisory Council. First used during Mechem's term, the Commissioner's Advisory Council consists of stakeholders from academia, political, cultural, philanthropic, and corporate sectors. The 22 member board is chaired by Bivens and Mechem and is charged with providing additional guidance in furtherance of the LPGA's mission (LPGA, 2006).

Structure and Governance of the LPGA

The LPGA is a not-for-profit organization consisting of LPGA tour events, corporate sponsors, and LPGA touring professionals (McDonald & Milne, 1999). In 2008, the LPGA operated a twelve month competitive tournament schedule consisting of 36 tour events in 10 different countries. Total prize money for the year was over \$62 million, a record for the LPGA (LPGA, 2008a). The LPGA is governed by the Board of Directors. The Board of Directors consists of Commissioner Blevins, who serves as an ex-officio member, six independent directors, the LPGA Player Executive Committee, and the national president of the T&CP. Three active LPGA tour players serve on the board, but do not have voting rights (LPGA, 2008b). Duties of the Board of Directors include evaluating the organizational goals and policies of the LPGA, strategic planning, cultivating and maintain relationships with

sponsors, providing oversight in financial matters, offering legal guidance for the tour, and other responsibilities stipulated in the LPGA Constitution (LPGA, 2008a).

LPGA Tour Age Eligibility Rule

The LPGA Constitution specifically outlines player eligibility for the Tournament Division. Article IX, Section 2 of the LPGA Constitution states:

Membership may be obtained only by making application, successful completion of qualifying competition as provided in Article VII of the Bylaws, and payment of requisite dues. Any female (at birth) 18 years of age or over shall be eligible to apply for membership in the Association's Tournament Division. Females (at birth) between the ages of 15 and 18 may be granted special permission to apply for membership by satisfactorily demonstrating to the Commissioner their capacity to assume the professional and financial responsibilities required of the Association's Tournament Division Members (LPGA, 2008b).

LPGA officials estimate that their minimum age rule was added to the constitution in the early 1970s (J. Dickinson, personal communication, October 10, 2008).

The LPGA minimum age rule is primarily designed to protect young elite athletes from entering the tour prior to legal adulthood. While few athletes have petitioned for early entrance into the LPGA, there have been instances where exceptionally talented and mature athletes have been granted full membership prior to their 18th birthday. Aree Song received a waiver granting her early membership in the LPGA at the age of 17 in 2003 (Hack, 2005). Arguably the most remarkable example is that of Morgan Pressel, who successfully lobbied for a waiver granting her full membership in the LPGA Tournament Division. After her first petition was denied, Pressel submitted a second request for a waiver after Bivens became commissioner in 2005. Following extensive conversations with the Pressel family and observation of her performance in LPGA events, Bivens concluded that Pressel possessed the intelligence and emotional maturity to successfully cope with the pressures of the tour (Bonk, 2005).

ANTITRUST'S INTERSECTION WITH SPORTS

Antitrust law has significantly impacted the sports industry. This section outlines how antitrust doctrine was formed and how such laws have been applied to professional sports generally and golf specifically.

Formation of Antitrust Doctrine

Since its adoption in 1890, the Sherman Antitrust Act (Sherman Act) has served as the prevailing antitrust statute in the United States. The Sherman Act prohibits "[e]very contract, combination. . .or conspiracy, in restraint of trade or commerce among the several states" (15 U.S.C. § 1, 2008). One of the first major Supreme Court cases interpreting the Sherman Act was *Standard Oil v. United States* (1911). *Standard Oil* deemed contracts, combinations, or conspiracies that "unreasonably" restrain trade to be illegal (p. 63). In *Chicago Board of Trade v. United States* (1918), the Court enunciated the guidelines to follow when analyzing an alleged restraint of trade:

The court must ordinarily consider the facts peculiar to the business to which the restraint is applied; its condition before and after the restraint was imposed; the nature of the restraint, and its effect, actual or probable. The history of the restraint, the evil believed to exist, the reason for adopting the particular remedy, the purpose or end sought to be attained, are all relevant facts (p. 238).

Such guidelines resulted in courts balancing the procompetitive and anticompetitive effects of the restraint at issue. This balancing is known as the "rule of reason" test. An exception to the judicial balancing act was carved out in *Northern Pacific Railway v. United States* (1958). In this case, the Supreme Court declared that blatantly anticompetitive restraints with no redeeming virtues could be declared illegal *per se* without any inquiry into the reasonableness.

Antitrust Law's Application to Professional Sports Generally

Metanias (1987) explained how the Sherman Act's substantive interaction with professional sports is relatively short. This relatively abbreviated legal history is primarily attributable to the Supreme Court's *Federal Baseball Club of Baltimore v. National League of Professional Baseball Clubs* (1922) decision. In *Federal Baseball*, major league baseball was found to be exempt from antitrust scrutiny. The Court reasoned that the sport of professional baseball was not part of interstate commerce. Fifty years later, the Supreme

Court revisited the issue in *Flood v. Kuhn* (1972). *Flood* described the *Federal Baseball* decision as "an aberration" and "an anomaly," but did not explicitly overrule it despite concluding that baseball "is a business and is engaged in interstate commerce" (p. 282). It was not until 1998 that *Federal Baseball* was partially overruled by the passage of the appropriately named Curt Flood Act (15 U.S.C. § 27, 2008).

After *Federal Baseball* (1922), numerous other sports were determined to be subject to federal antitrust laws. Included here were the major team sports of basketball (*Haywood v. National Basketball Association*, 1971), football (*Radovich v. National Football League*, 1957), and hockey (*Philadelphia World Hockey Club, Inc. v. Philadelphia Hockey Club, Inc.*, 1972). Individual sports featuring independent contractors outside a team setting were similarly put under the antitrust microscope. Boxing and tennis are the most prevalent examples. In *International Boxing Club v. United States* (1958), the Supreme Court did not find anything particularly unique about professional boxing mandating that the industry be exempt from federal antitrust laws. In the context of tennis, the U.S. Court of Appeals for the Second Circuit in the case of *Volvo North American Corp. v. Men's International Professional Tennis Council* (1988) specifically outlined the need for a determination of whether the rule of reason or *per se* test should apply. However, prior to any such determination, the parties reached an out-of-court settlement.

Antitrust Law's Application to Professional Golf Specifically

The sport of golf has not been implicated in antitrust cases to the extent of major American team sports. Nevertheless, two major antitrust cases have focused on professional golf, with *Blalock v. Ladies Professional Golf Association* (1973) decided under the *per se* test and *Deesen v. Professional Golfers Association* (1966) evaluated under the rule of reason test. Both cases shed light on how an antitrust challenge of the LPGA's age eligibility rule may be treated by the courts.

The *Blalock* (1973) case involved a professional golfer who had been suspended by the LPGA Tour for one year. The player was suspended after she was found to have impermissibly moved her ball on multiple occasions during competitive play. The player sued under Section One of the Sherman Act, arguing that the suspension amounted to a group boycott. The court agreed with *Blalock's* arguments, characterizing the suspension as being *per se* illegal and a "naked restraint of trade" (1973, p. 1265). The court's rationale was two-fold. First, the court found the suspension decision to be a result of

the LPGA Tour executive board's "unfettered, subjective discretion" (p. 1265). Second, the court took note that the executive board was comprised of other LPGA Tour players with voting power. This fact was notable because plaintiff's direct competitors had a financial incentive to keep plaintiff excluded from the market of professional golfers.

In contrast to *Blalock's* finding of *per se* illegality, *Deesen* (1966) adopted the rule of reason test. The plaintiff in *Deesen* sued under Section One of the Sherman Act after having his golf tournament entry form rejected on several occasions. The Professional Golfers Association (PGA) stated that his entries were denied because of prolonged poor play. The court found the PGA's requirements regarding minimum performance standards to be reasonable. The court also concluded that the PGA's rules pertaining to the maximum number of players eligible for tournament play to be a reasonable measure.

PROFESSIONAL SPORTS' ELIGIBILITY RULES UNDER THE ANTITRUST MICROSCOPE

A number of sport-specific eligibility rules have been analyzed from an antitrust perspective. In addition to an overview of group boycotts and concerted refusals to deal, this section discusses how certain courts have ruled when deciding the legality of such rules. This section concludes by offering a proposed analytical framework for independent contractor individual sports such as golf.

Group Boycotts and Concerted Refusals to Deal

Legal challenges to minimum age rules in professional sports typically label such eligibility rules as being group boycotts and/or concerted refusals to deal. Andersen and Rogers (1992) provide the following definition: "concerted refusals to deal or group boycotts typically involve collective action by a group of competitors for the purpose of excluding or otherwise interfering with other competitors" (p. 356). Early Supreme Court decisions such as *Fashion Originators' Guild of America v. Federal Trade Commission* (1941) and *Klor's v. Broadway Hale Stores* (1959) deemed group boycotts and concerted refusals to deal to be *per se* illegal. In contrast, the case of *Silver v. New York Stock Exchange* (1963) represented the Supreme Court's move towards the rule of reason test when interpreting group boycotts and concerted refusals to deal. Although not a sports-related case, the Supreme Court in *Silver* outlined a general exception to *per se* illegality that has been adopted by

at least one lower court charged with deciding the legality of a player eligibility rule.

In *Mackey v. National Football League* (1976), the Eighth Circuit was faced with a challenge to professional football's draft system involving college players. The court declared: "[t]he term 'group boycott' . . . is in reality a very broad label for divergent types of concerted activity. To outlaw certain types of business conduct merely by attaching the 'group boycott' and 'per se' labels obviously invited the chance that certain types of reasonable concerted activity will be proscribed" (*Mackey*, p. 619).

Nine years after *Mackey* (1976), the Supreme Court made a profound move away from the *per se* standard in the case of group boycotts and concerted refusals to deal. In *Northwest Wholesale Stationers v. Pacific Stationary and Printing* (1985), the Court ruled that a plaintiff seeking to attach the *per se* label must show that the activity in question has a predominantly anticompetitive effect that is not justified by efficiency.

Professional Sports Eligibility Rules in the Courts

Eligibility rules in professional sports have been decided under both the *per se* and the rule of reason test. The NBA's four-year college rule was declared *per se* illegal in *Denver Rockets v. All-Pro Management* (1971). The *Denver Rockets* court pointed towards the overly broad nature of the NBA's rule (*Denver Rockets*, 1971, pp. 1067-1068). *Linseman v. World Hockey Association* (1977) addressed the World Hockey Association's (WHA) rule mandating that all players be at least 20 years old. Adopting similar reasoning as that found in *Denver Rockets*, the *Linseman* court declared the WHA's minimum age rule to be completely arbitrary. In granting the plaintiff's motion for a preliminary injunction, the court pinpointed how the rule did not consider Linseman's talent level when barring him from playing in the WHA. *Blalock* (1973) also adopted the *per se* rule when the court declared the LPGA Tour to have impermissibly barred the plaintiff from competition.

In addition to the aforementioned *Deesen* (1966) case, a number of other antitrust cases have adopted the rule of reason test in sport eligibility cases. *Molinas v. National Basketball Association* (1961) involved a challenge to the NBA's expulsion of a player who had wagered on his own team. After being suspended, Molinas sued the NBA alleging that his indefinite suspension constituted an illegal group boycott. The court disagreed, generally finding that a sport governing body such as the NBA needs to be able to adopt reasonable rules. More specifically, the *Molinas* court found that the NBA's

anti-gambling rule was "about as reasonable a rule as could be imagined" (p. 244). *Smith v. Pro Football, Inc.* (1978) and *Neeld v. National Hockey League* (1979) reached similar results in their adoption of the rule of reason test. *Smith* found that "the 'anticompetitive evils' of the challenged practice must be carefully balanced against its 'procompetitive virtues' to ascertain whether the former outweigh the latter" (p. 1183). More pointedly, the *Smith* court declared that a "restraint is unreasonable only if it has the 'net effect' of substantially impeding competition" (p. 1183). *Neeld* involved a lawsuit by a one-eyed player declared ineligible by the National Hockey League (NHL). In rejecting the plaintiff's group boycott claim, the *Neeld* court specifically rejected the *per se* rule and instead found that safety was the primary impetus for NHL's eligibility rule where "the record amply supports the reasonableness of the by-law" (p. 1300).

Clarett (2004a) and *Clarett* (2004b) illustrate how major team sports with labor unions are treated differently than individual sports such as golf and tennis when under antitrust scrutiny. In unionized team sports, governing bodies defend challenges to their eligibility rules in two ways. First, if analyzed under the rule of reason test, the leagues can argue that the procompetitive effects of such rules outweigh any anticompetitive results. Second, they can appeal to the so-called non-statutory labor exemption to the antitrust laws. Unlike team sports, individual sports such as golf, tennis, and track and field do not have player unions. As such, there is no non-statutory labor exemption to the antitrust laws.

Proposed Analysis of Age Eligibility Rules in Independent Contractor Individual Sports

Although not an age eligibility rule case, *National Collegiate Athletic Association (NCAA) v. Board of Regents* (1984) is illustrative of how the Supreme Court would evaluate an antitrust challenge to a minimum age rule in professional sports using the rule of reason test, not the *per se* test. The Court adopted the rule of reason test, at least in part, because of the unique nature of sports. In *NCAA*, the justices found that the "case involve[d] an industry in which horizontal restraints on competition are essential if the product is to be available at all" (p. 101). In the course of discussing NCAA rules limiting television appearances by certain schools, the Court specifically distinguished rules that are potentially procompetitive, such as eligibility rules. *Board of Regents* is consistent with the rationale espoused by *Continental TV, Inc. v. GTE Sylvania, Inc.* (1977), a case evaluating territorial and customer

restrictions with qualities analogous to group boycotts, which concluded that "*per se* rules of illegality are appropriate only when they relate to conduct that is manifestly anticompetitive" (p. 49-50). One year after *Board of Regents* (1984), the Supreme Court further limited the use of the *per se* test to cases where the "challenged activity falls into a category likely to have predominantly anticompetitive effects" (*Northwest Stationers*, 1985, p. 298). Given *NCAA* (1984), *Continental TV* (1977), and *Northwest Stationers* (1985), the rule of reason should control antitrust challenges to the LPGA Tour's age eligibility rule. In the analogous individual sport of women's tennis, McGuire (2007) and Rodenberg (2000) came to the same conclusion when analyzing similar rules pertaining to participation on the the Sony Ericsson WTA Tour.

ANTITRUST ANALYSIS OF THE LPGA TOUR'S AGE ELIGIBILITY RULE

An underage golfer seeking to compete on the LPGA Tour would probably file her antitrust claim under Section One of the Sherman Act. Such a claim would almost certainly result in a rule of reason judicial balancing test between procompetitive and anticompetitive effects of the LPGA's minimum age rule. Like all sports leagues, women's professional golf is a unique industry. Players compete against each other on the golf course, but collaborate on certain governance issues and mutually agree to be bound by a set of rules. The LPGA Tour has a justifiable need to manage the pool of eligible players and ensure uniform treatment for the women who compete on tour.

The LPGA Tour can also point toward the reasonableness of its minimum age rule. Unlike rigid age rules in other professional leagues, the LPGA Tour's policy is flexible. As evidenced by the LPGA's deliberations in the case of Morgan Pressel, the tour evaluates applications for early entry on a case-by-case basis. The press release announcing Pressel's successful application indicates that the LPGA Tour's decision-making process includes, at a minimum, an evaluation of the prospective applicant's playing ability, intelligence, maturity, and financial stability. This case-specific calculus clearly distinguishes the LPGA Tour's age rule from the NBA's rigid rule that was invalidated in *Denver Rockets* (1971).

Although a litigant might attempt to rely on *Blalock* (1973) for precedent, for at least two reasons a litigant seeking to invalidate the tour's age rule would also not be able to persuasively rely on this case. First, since *Blalock* was decided, the LPGA Board of Directors has discontinued the practice of having

current players serve on the board with voting power. Currently, the three players on the board serve in an advisory capacity only and do not possess voting privileges. As such, it would be exceedingly difficult for an antitrust plaintiff to argue that concerted action among competitors resulted in the exclusion of the prospective player. Second, as demonstrated by *NCAA* (1984), the clear trend in sports cases is to adopt the rule of reason test, not *per se* rule applied in *Blalock*. These reasons, coupled with the necessity and reasonableness of the age policy, provide the LPGA Tour's minimum age rule with an extra layer of legal protection, and shield the organization from an antitrust lawsuit filed by an aggrieved teenager frustrated with her inability to compete on the LPGA Tour.

CONCLUSION

Like other sports governing bodies, the LPGA Tour has adopted minimum age eligibility rules to deal with precocious teenagers looking to compete at the highest level of women's professional golf. While some professional leagues have stringent age rules that may violate antitrust laws, the LPGA demonstrated progressive thought in the development of its eligibility rule. Because the LPGA allows for a multi-faceted evaluation in specific petitions for early entry to the tour, it is likely that LPGA Tour would prevail if the antitrust legality of its age restriction was challenged in court and evaluated under the rule of reason test.

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