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# Sports Law

## The Great Exception

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# 1. Sports Law

Sports law is an amalgam of laws that apply to athletes and the sports they play

→ **Applicability**

Contract, tort, agency, antitrust, constitutional, labor, trademark, sex discrimination, criminal, tax issues

→ **Exclusivity**

Each sport operates under its own constitution

→ **Commonalities**

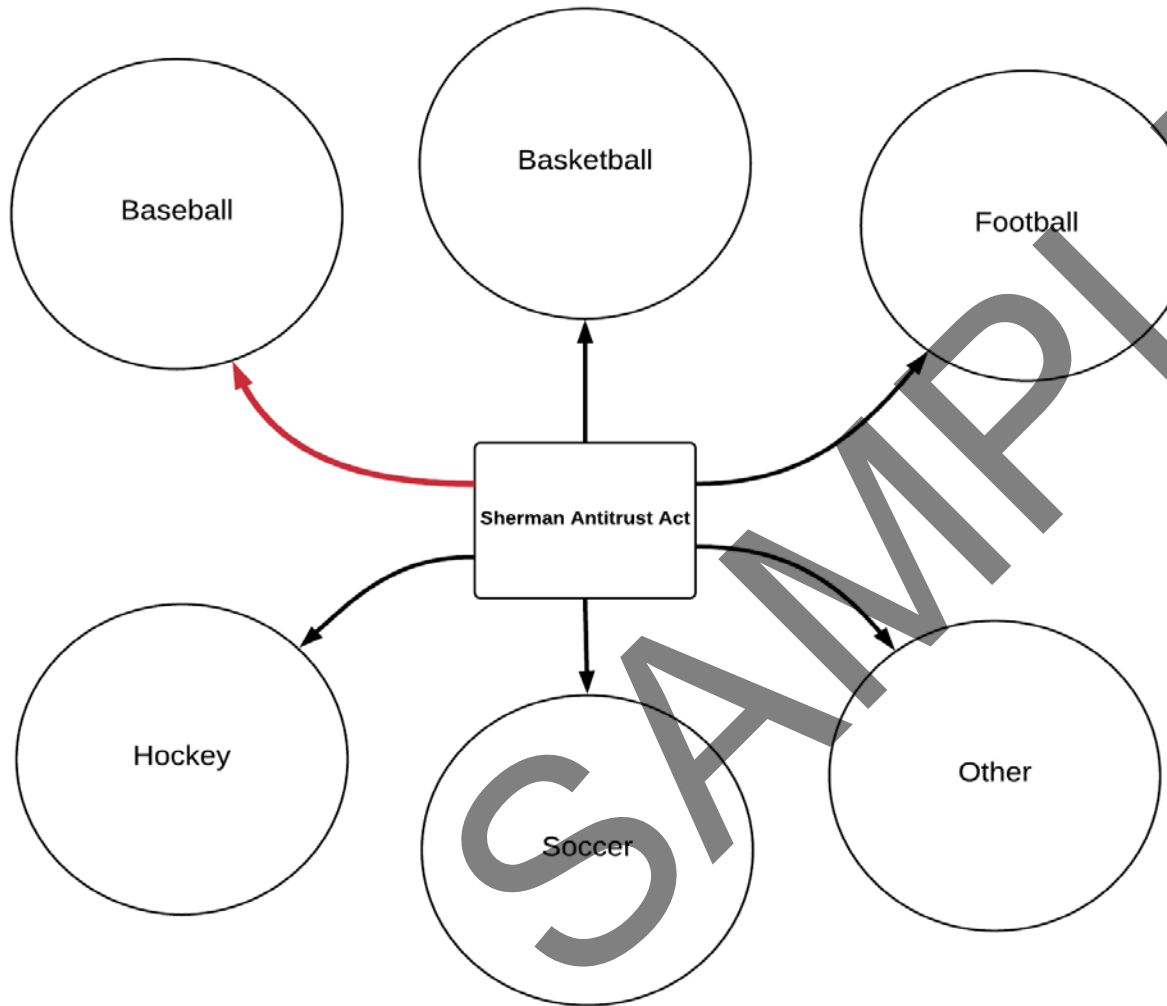
Antitrust and contracts

## CONSTITUTION AND BYLAWS OF THE NATIONAL FOOTBALL LEAGUE



Effective February 1, 1970  
(2006 Rev.)

\*Provisions of the Constitution relating to players (in particular, Articles XII, XIV, XV, XVI, XVII, and XVIII) remain subject to the provisions of the Collective Bargaining Agreement.



### Rules

- Baseball is exempt from the Sherman Antitrust Act  
=> stems from early

history

### Precedent

- Federal Baseball Club of Baltimore v. National League of Professional Base Ball Clubs, (1922)
- Flood v. Kuhn (1972)

— **The Sherman Antitrust Act** is

a federal statute passed by congress  
in 1890 prohibiting any contract,  
conspiracy, or combination of  
business interests in restraint of  
foreign or interstate trade

## Baseball Cases

- Federal Baseball Club of Baltimore v. National League of Professional Base Ball Clubs, (1922)
  - => Conspired to monopolize baseball
- Flood v. Kuhn (1972)
  - => Reserve clause vs 14th Amendment
  - => Justice Blackmun -> Congress
- Major League Baseball Players Association v. Garvey (2001)
  - => Do arbitrators have the final say?
  - => Does collusion impact this?

# Reserve Clause

- Players rights retained by the team upon the contracts expiration
- Players could be reassigned, traded, sold, or released at any time
- Violation of the 14th amendment? Federal Baseball Club v. National League
- Codified Reserve Clause until 1975
- Supreme Court held that baseball is an exhibition held for amusement, not interstate commerce

**MAJOR LEAGUE CONSTITUTION**  
**MLC Art. VI, Sec. 2 to Art. VIII, Sec. 1**

employees). Nothing herein shall be construed to limit any rights of indemnity that the Major League Clubs or any Major League Baseball entity may have against any Club.

Sec. 3. The form of player's contract to be used by the Major League Clubs, and all contracts between Major League Clubs and their officers and employees, shall contain a clause by which the parties agree to submit themselves to the jurisdiction of the Commissioner, and to accept the Commissioner's decisions rendered in accordance with this Constitution.

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# APPLICABILITY OF THE SHERMAN ACT TO FOOTBALL



NCAA v. Board of Regents of the University of Oklahoma  
Agnew v. National Collegiate Athletic Association  
Pugh v. National Collegiate Athletic Association

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# Milestones for the Sherman Act

NCAA v. Board of Regents 1984.  
Proverbial Framework

NCAA is not exempt from scrutiny under the Sherman Antitrust Act

U.S. District Court of NY ruled that NCAA rules and regulations implicate trade or commerce

MIBA v. NCAA 2004

Walk on Football Players Litigation 2005

Award of financial aid to college students to be “trade or commerce” and therefore subject to the Sherman Act.



## SHERMAN ACT--DEFINING MARKETS AND ANTI/PRO-COMPETITIVENESS IN AGNEW

- Plaintiff argued that NCAA cap on the number of scholarships given per team had an anticompetitive effect in violation of Sherman Act Section 1 as an unreasonable restraint of trade
- U.S. Court of Appeals Reasoning:
  - NCAA commercial transactions with student -athletes was present, therefore,
  - NCAA can engage in anti or pro -competitive behavior
  - Relevant market must be properly identify to assess if anti behavior had an adverse effect on the market
- Has been negatively cited in O'Bannon v. NCAA
  - Amateurism

# SHERMAN ACT--DEFINING ELIGIBILITY RULES IN PUGH

- Pugh accepted D1 grant -in-aid whose award could not exceed 1 yr
- Transferred to a D2 school, but as a result, the NCAA's "year -in-residence requirement" obliged him to sit out of competition for a full season because he must become a "resident" in the newly transferred school
- U.S. District Court of Indiana reasoning:
  - Drew from Agnew and Board of Regents (deductive reasoning)
  - Eligibility rules that foster competition are presumptively pro-competitive
    - Does not pertain to financial aid rules
  - None of this is applicable to baseball
- Not overruled nor have negatively criticized rulings



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## SHERMAN ACT--WHY BASEBALL SHOULD BE INCLUDED

- Similar set of circumstances?
    - Anti or pro -competitive arguments would not be valid as a restraint of trade in violation of the Sherman Antitrust Act
  - Rationale
    - Congress has not used legislative powers to designate baseball under the purview of Sherman
  - Right Field Rooftops, LLC v. Chicago Baseball Cubs, LLC (2015)
    - Cites Federal Baseball Club of Baltimore v. National League of Professional Baseball Clubs (1922)
    - “Purely state affairs”
  - Anti-competitives which fails to foster competition in amateur intercollegiate sports is illegal...in football
    - In baseball?
    - Question is not touched upon
  - Conclusion
    - All sports must be subject to federal antitrust laws because bylaws that inhibit competition are illegal in nature
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## SHERMAN ACT--WHY BASEBALL SHOULD BE INCLUDED CONT.

- Similar set of circumstances?
  - Must be applicable to all sports
- It's a question of upholding a rule of law
- Court's options:
  - Exempt all
  - Urge Congress to legislate

## Case Rule Fusion

- Agnew; Board of Regents:  
**Commercial Transactions, Relevant Markets, and Competitiveness**
- Board of Regents; Walk on Football Players Litigation  
MIBA: **Horizontal restraints**
- Pugh: **Eligibility/Financial Aid rules**
- Rooftops; Federal Baseball Club of Baltimore; Flood;  
MLBP: **baseball exemption**

IF a party demonstrates that the NCAA or its rules derive economic gain by engaging in commercial transactions,  
AND identifies a relevant commercial market in which anti-competitive effects may be apparent,

OR can demonstrate that the NCAA or its rules devise plans that horizontally restrain the operation of a free market,  
AND provides no valid justification for the horizontal restrictions

THEN this constitutes an unreasonable restraint of trade in violation of Sherman Antitrust Act Section 1.

HOWEVER,

IF the NCAA imposes eligibility rules that foster competition among amateur athletic teams,

AND are NOT deemed financial aid rules,

THEN they are presumptively pro-competitive AND are NOT in violation of Sherman Antitrust Act Section 1.

UNLESS the sport is professional baseball, THEN it is exempt from the Sherman Antitrust Act