

ECONOMIC CARTELS AND ANTICOMPETITIVE BEHAVIOUR IN THE SPORTS INDUSTRY¹

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ABSTRACT

The purpose of this paper is to investigate the emergence and consequences of cartel agreements in the global sports market, as well as to point out the harmful effects of prevailing forms of non-competitive market behaviour. Cartels in sports are collusive agreements among rival teams that jointly perform on the market with the aim of protecting mutual business interests. The sports market cartelization arose as a result of the growing commercialization of the sports industry, which transformed many sports organizations, teams and clubs into a kind of business with enormous profits. The article applies meta-analysis and desk research, that is, a systematic review and analysis of relevant scientific and professional papers in this field. Cartel agreements in contemporary elite sports directly undermine free competition among players by controlling their rights during drafts, their contracts, their salaries and terms of players' trade, as well as by imposing restrictions on their club membership. In this way, the sports market cartelization jeopardizes the public interest, neglects the social community needs, and undermines the integrity of the sport itself. Other forms of anticompetitive behaviour are here also presented, such as unfair sports market behaviour, agreements on salaries, transfer rules,

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commercialization of broadcasting rights, pre-arranged agreements in the tickets' sale, etc. This topic is naturally followed by some ethical considerations that point to the controversies of the modern sports and the connection between the economic success of cartels and their unethical behaviour. Cartels bring enormous benefits to a minority to the direct detriment of the majority of stakeholders in the sport, and thus the wider social interest.

Keywords: economics of sport, commercialization of sport, cartelization of elite sport, non-competitive market behaviour, profit seeking, ethical considerations.

EKONOMSKI KARTELI I NEKONKURENTNO PONAŠANJE U INDUSTRIJI SPORTA

APSTRAKT

Svrha ovog rada je da istraži pojavu i posledice kartelskih sporazuma na globalnom tržištu sporta, kao i da ukaže na štetne efekte preovlađujućih oblika nekompetitivnog tržišnog ponašanja. Karteli u sportu su koluzivni dogovori međusobno konkurentnih timova koji zajednički nastupaju na tržištu sa ciljem zaštite uzajamnog poslovnog interesa. Kartelizacija sportskog tržišta je nastala kao rezultat rastuće komercijalizacije industrije sporta, koja je transformisala mnoge sportske organizacije, timove i klubove u svojevrsna preduzeća sa enormnim zaradama. U članku se primenjuju meta-analiza i desk istraživanje, odnosno sistemski pregled i analiza relevantnih naučnih i stručnih radova iz ove oblasti. Kartelni dogovori u savremenom elitnom sportu direktno podrivaju slobodnu konkurenciju između igrača kontrolisanjem njihovih prava tokom postupka regrutovanja, njihovih ugovora, visine njihovih plata i uslova trgovine igračima, kao i nametanjem ograničenja na njihovo pripadništvo određenom klubu. Na taj način kartelizacija tržišta sporta ugrožava javni interes, zanemaruje potrebe društvene zajednice i urušava integritet samog sporta. Pored kartela, u radu su predstavljene i druge forme nekonkurentnog ponašanja poput nelojalnog ponašanja učesnika na sportskom tržištu, sporazuma o visini plata, pravila o transferu igrača, komercijalizacije prava na emitovanje sportskih takmičenja, unapred sklopljenih dogovora pri prodaji ulaznica i dr. Ovu temu prirodno prate i neka etička razmatranja koja upućuju na kontroverze savremenog sveta sporta i vezu između ekonomskih uspeha kartela i njihovog neetičkog ponašanja. Karteli donose ogromne koristi

za odabranu manjinu na direktnu štetu većine stejkholdera u sportu, a samim tim i šireg društvenog interesa.

Ključne reči: ekonomika sporta, komercijalizacija sporta, kartelizacija elitnog sporta, nekonkurentno tržišno ponašanje, etička razmatranja.

Introduction

Consideration of the most important issues related to the relationship between sport and economy first requires a more precise definition of the terms sports economy and the economics of sports, as well as distinguishing between these two slightly different concepts. However, these terms are most often equated in practice today. Sports economics is a special branch of economics that is largely based on microeconomics, focusing on the study of characteristic of sports institutions, as well as many economic, legal and wider social issues in the field of sports. The theoretical grounds of sports economics are largely embedded in theoretical and empirical microeconomic analysis, with its far-reaching applications and consequences (Cooke, 2024). The economic analysis of sports is therefore mainly focused on the study of various broader and at the same time macroeconomic topics such as the economics of discrimination, wage differences, labour economics, market efficiency, public finances and antitrust policy in sports. It also relies on a series of quantitative and qualitative data on individual productivity of athletes, their salaries, their careers, teamwork, managerial behaviour, etc. (Kahane and Shmanske, 2012). Sports economics is a scientific discipline that deals with the study of the relationship between sports and the economy, bearing in mind the fact that recently there has been a growing commercialization, professionalization and media penetration of sports events in various sports branches (Weiss and Norden, 2021, p. 243). Andreff (2001) especially points out that sports economics specifically deals with measuring the economic importance of sports, delving into the economic aspect of participation in sports competitions and events and into the dimension of the relationship between sports and economic development.

On the other hand, the economics of sports is a somewhat narrower term that is more focused on the economic environment and the treatment of microeconomic subjects, i.e. individual professional team and non-team sports such as golf, boxing, athletics, swimming, horse riding, etc. In this sense, the economics of sports also studies team sports organized in leagues, as well as their economic behaviour, which they often manifest

through their cartel behaviour and established collusive agreements (Goddard and Sloane, 2005, p. 1). Hoa Sen (2022) emphasizes that economics of sports includes the study of economic activities that are directly related to the organization of specific sports events such as training and competition, and indirectly to the production and provision of sports services. As such, economics of sports is mainly focused on the management of sports services and business in the field of sports, management of media relations, financing of sports activities, as well as the organization of specific sports events. In contrast to the economics of sports, the former sports economics therefore rather relies on a number of microeconomic sub-disciplines such as industrial economics (for example, the organization of the league functioning and of its system of teams), the theory of the firm (for example, considering the plausibility of the profit maximizing goal in circumstances where teams suffer financial losses), labour economics (for example, determining the impact of labour market regulations on player mobility and their earnings), and the theory of demand (for example, measuring the impact of various determinants on the demand for sports matches) (Cooke, 2024).

Sport has a great potential to influence the stimulation of economic growth and development. In addition to being a source of leisure and entertainment, the sports industry can also have enormous economic importance for all contemporary countries, regardless of the level of their development. The economic benefits from the impact of sports are large and varied, and they range from the development of the national and local economy, infrastructure, new technologies and job creation, all the way to the development of the local community, tourism and the entertainment industry. In this way, sport encourages long-term possibilities of sustainable economic and social development and economic prosperity of the country (Universidad Europea, 2023). Active participation in sports improves the state of health of individuals and the local community productivity, reduces health costs, affects the development of personality, character and discipline, and thus promotes social cohesion. At the same time, the implementation of mega sports events can greatly improve the infrastructure, create new jobs, encourage the inflow of foreign investments, build established players and athletes, and thereby greatly contribute to the economic development of the observed country. Therefore, it can be said that sports has multifaceted effects on the development of modern economy and society (Aggarwal, 2014). As such, sports and mega sports events

play a prominent role in the local, national and regional economy, as well as in the development of a country's image. It is expected that the role of sports will continue to grow since it not only contributes to better health of the population, but also encourages people's socialization and belonging to a certain team, thus making a significant contribution to the development of global society and economy (Opolska and Proskina, 2017, pp. 327-328).

Recently, there has been a growing contribution of the sports sector to national economies around the world. The participation of the sports sector in the gross domestic product (GDP) of the European Union (EU) is on average 2.12%, with its annual value of 279.7 billion euros. Moreover, the share of employees in the sports industry in the total employment of the EU amounts to 2.72%, while despite the pronounced global economic crises, the sports industry continues its steady growth. Sport is an employment-intensive economic activity, while with the growth of the European GDP by 1% there is an increase in the number of employees in sports by 1.35%. Conducted research shows that educational services in sports (0.39%) and sports services such as the operations of sports facilities, sports clubs and fitness centres (0.33%) represent the two main sports-related factors contributing to the EU GDP. At the same time, Austria, Germany, Poland and France record the biggest contribution of the sports sector to the growth of their economies (European Olympic Committees, 2024). Globally, today the sports industry is worth around US\$ 700 billion, generating 1% of global GDP, in which the production of sports goods, clothing, equipment and spending on health and fitness are its biggest contributors. Thus, this sector brings far-reaching benefits to the global economy through its intensive linkages with other sectors such as education, real estate, construction, medical services and rehabilitation, and tourism (The University of the West Indies, 2017).

The Role of Sports in the Economic and Social Development of the Country

Today, the sports sector represents one of the most important economic sectors and consists of numerous economic activities⁴ that undoubtedly

⁴ To name just a few of them: research and development (R&D), treatment and rehabilitation, sports tourism, production, sale and trade of sports goods, construction and maintenance of sports facilities, organization of sports events, marketing and advertising, etc.

encourage economic growth and development. The sports sector also opens up opportunities for creating new jobs and starting businesses in many areas such as buildings and construction, information technology (IT), sports medicine, media, sports services, wholesale and retail of sports equipment, rural and sports tourism, etc. Sport is also an important part of the leisure industry and as such causes broader – intangible and more general social benefits by increasing individual productivity, encouraging the development of the character of individuals and communities, and thus mitigating the impact of bad health and harmful habits on society. In this sense, sports appears as a valuable tool for rural, local, national and regional development, but also for the regeneration of cities, at the same time encouraging the revitalization of supporting sectors such as tourism, finance and infrastructure. Although sports is, quite paradoxically and contrary to its essential nature, in close relation with the short-term profit seeking private business sector, the sports industry can encourage the sustainable development of local communities based on its services and appropriate physical education. In addition, sport, as a vital activity of modern human civilization, also has its beneficial effects on society itself, which are reflected in a healthy lifestyle, improved physical and mental health, general prosperity of citizens, education, development of science and culture. Finally, playing sports also prevents some socially undesirable forms of behaviour such as alcoholism, addiction to gambling and drugs, crisis of moral values, general decline in educational and cultural level, society's inferiority complex and the like (Barbu et al., 2020, pp. 30-31).

The commercialization of sports is reflected in the massive influx of top sports events into the media sphere. The commercialization of the sports industry has transformed many sports organizations, teams and clubs and turned them into multimillion-dollar companies, leaving those organizations that were not ready or did not want to follow contemporary market trends on the edge of existence. This phenomenon arose as a consequence of the prioritization of economic reasons, neglecting sport as an important general-beneficial, educational, social and cultural activity. The commercialization of sports inevitably requires the management of changes in the form of adaptation to economic, political, social and technological trends in the environment (Đurović et al., 2017, p. 61). The commercialization of sports owes its merits to the continuous growth of the sporting events popularity, which is

paradoxically based on a general lack of respect for "real" competences in mass society. Namely, Hughes and Coakley (1984, p. 62) noticed a long time ago that the popularity of sports is based on the permanent erosion of the basic relationship among competences, self-knowledge and self-esteem, as basic values and virtues that were traditionally nurtured and embodied in the sports itself. Today, this phenomenon is usually condemned as an undesirable process with the claim that commercialization cancels the very essence of the existence of the sports itself. In addition to undoubtedly providing better and far-reaching sources of sports funding, commercialization has also encouraged the emergence of undesirable behaviours such as doping, match-fixing, gambling, betting, and violence. Despite wiping out the intrinsic sports element and the spirit of sports, commercialization is most present in corporate sports for at least three main reasons (Westerbeek and Smith, 2003, pp. 89-90). First, the popularity of corporate sports is based on the mass interest of its spectators. Second, because of its immense popularity, sports can generate huge revenues from ticket sales, television and internet rights, as well as from sponsorships, retail of sporting goods and the sale of licensing rights. And thirdly, sport has the possibility of employing a highly educated and skilled workforce, as well as experienced professional managers and marketers, who engage in further capitalization of commercial opportunities in sports sector.

Today, the global sports industry is facing a period of massive transformation, especially after the *COVID-19* coronavirus pandemic, while recording epochal changes in the application of new technological solutions and its social relations with fans, and changing the business and commercial models of the functioning of sports leagues and teams. Deloitte agency predicts the following five key trends that are expected to permeate the future economic landscape of sports: 1) the changing nature and commercial models of the sports economy, 2) the inclusion of generative Artificial Intelligence (AI) in sports matters, 3) the future directions for organizing sports mega-events, 4) investing in building databases on fans, and 5) developing the potential for a "new normality" in college sports. It is expected that traditional areas of sports such as sponsorship, ticket sales, licensing and trade in sports goods will continue to develop and rise with the application of new technological solutions. Also, emerging trends such as the growth in the number of investors and media rights holders, globalization, the growth in the market value of women's sports and new ventures in the field of real

estate could open up new business opportunities in the field of sports. Building on data analytics and machine learning, AI is expected to permeate many aspects of sports through innovative applications and content generation and management, live streaming of sports events, player market evaluation, sports betting, fan engagement, and back office operations (Deloitte, 2024, pp. 3-4).

Cartel Agreements in Sports Industry

The competition protection policy imposes numerous restrictions on market participants with the aim of encouraging healthy competition and introducing possible measures against monopolies and other unfair business practices. In this context, restrictions mean the prohibition of market participants to sign harmful cartel agreements, as well as of imposing obligations on individual market participants to close business agreements against their will (Vukadinović, 2014, p. 89). A cartel can best be described as an association in an oligopolistic market in the form of gentlemen's agreements or legally binding contracts that distort market competition. Their goal is to raise sales prices and reduce sales volume in order to increase the profit of a given industry. Commercial cartels can take different forms, from open accords to tacit agreements, while cartel agreements are easier to achieve in the case of a smaller number of market participants, homogeneous products and looser legal regulations (Jakšić, 2006, p. 300). Cartels are secret horizontal agreements made between direct competitors with the aim of establishing an agreement on selling price, market sharing or customer sharing, while their consequences are usually reflected in the increase in product prices, decline in quality, as well as in the absence of consumer choice.

Accordingly, cartels in sports can be described as a kind of alliance of mutually competitive sports teams that act together with the aim of protecting mutual business interests. In addition to the undoubted benefits of sports events, during the last decades some of their shortcomings have come to the fore, undermining the very purpose and value of the social community and contributing to the appearance of various pathological forms of behaviour. These harmful forms of sports and economic associations arose as a result of the massive corporatization of sports organizations, including those from first-class professional leagues, which are primarily focused on financial gains. Corporate cartels have led to the emergence of numerous social

anomalies, both nationally and globally, especially in the sphere of professional and youth sports. These undesirable phenomena resulted from the defective behaviour of privileged and supposedly elite athletes who are not fully interested in respecting social restrictions (Zhou and Yu, 2014). At the same time, this kind of behaviour is often encouraged by the organizations that are in charge of running sports competitions.

Thus, over time, international sports cartels became the subject of investigation and occasional criminal prosecution due to their participation in criminal activities aimed at unjust enrichment. Meanwhile, sports cartels have made great progress thanks to intensive propaganda and entering into various political alliances, relying on their power and influence. This is why the most popular professional sports leagues, sports conferences, and many international sports organizations have acquired statutory preferences and exemptions from many antimonopoly legislation provisions that regulate the non-competitive behaviour of contemporary market participants. This fact also explains the colossal investments in the construction of extravagant stadiums and sports arenas around the world, ignoring the general public interest and the vital needs of the wider community (Weston, 2024).

Today, professional athletes, teams and major sports leagues are subject to the influence of economic interests and market laws. The quality of a professional sports team primarily depends on the quality of its members. However, since teams compete with each other to attract better players, the quality of a given sports team also depends on its financial power and influence. Financially stronger teams are better on average and are usually located in bigger cities. However, there are exceptions to this rule that come from small markets, and that are dedicated to developing quality athletes and increasing their competitiveness. The career of such players usually ends with joining one of the larger, big-market teams that usually attract athletes through higher salaries and benefits. One of the factors that determines the financial strength and competitiveness of a sports team is the league's rule on the division of revenue from ticket sales. For example, in American basketball and hockey, the home teams take all of the revenue from ticket sales, while the visiting teams are "left short-handed." On the other hand, in American baseball this proportion is 85:15, while in football it is 60:40. These rules give home teams an inherent financial

advantage over their visitors. If this proportion were even, then the financial advantage of teams from big cities and from bigger markets would be relatively smaller. However, when it comes to revenues from sports broadcasting contracts, the benefits and financial gains are shared equally among the clubs. Over time, this trend also led to a reduction in the differences in financial power among the contractual parties. Although not completely eliminated, in this way the dominance of big market teams over small ones was greatly mitigated (Scully, 2023).

By their very nature, American sports leagues function as cartels that exclude competition of other companies – the owners of other sports clubs. For example, in the United States of America (USA), a company can establish its own baseball team if it obtains a franchise license from Major League Baseball (MLB). American antitrust laws generally prohibit the operation of cartels in the economy, but American professional sports are the only private business that is to some extent exempt from these rules. Unlike baseball, which was granted this privilege by a court decision dating back to 1922 in a dispute between the Baltimore Federal Baseball Club and the National Baseball League, no other sport is so exempted from competition policy regulations. Despite this, all American professional sports teams enjoy an exemption from operations and television broadcasting rights. American sports leagues enter into secret agreements that manage the draft process, contractual arrangements and distribution of players among teams. Taken together, these agreements constitute a monopsony market structure in which there is monopsony power of club owners in the purchase of players' services. Club owners use their market power by buying players at a lower price than their market value and true contribution to the club's income.

Athletes approach to most professional sports teams through the process of drafting, that is, a kind of selection of players. A common feature of this recruiting process is the granting of exclusive rights to one team to enter into negotiations with each potential player individually. Once selected, the professional athlete enters into negotiations with the given team, while other teams cannot offer him/her better conditions to attract him/her to their ranks. In some cases, the bonuses that are contracted during the selection of candidates can be extremely high. However, such cases are still relatively rare and depend on the quality of the athlete and the current state of the labour market in sports. For example, in baseball, where players are first mostly drafted to the minor leagues, they have

relatively long careers, are not limited by salary caps and are paid during the contract period. On the other hand, in football, where athletes face salary restrictions, players' careers are short, while their salary is not guaranteed if they do not fit into the team, if they suffer an injury or fail during the season. Unlike baseball where signing big bonuses are rare, in football the bonuses can be extremely high for influential players. Although the criteria that affect the drafting of amateur players have become weaker over time, there is still no real competition for beginner players. Once a player reaches an agreement with a certain team, he signs a uniform contract that allows him to sell his services only to the team he signs with. Although these contracts differ from sport to sport, they all generally contain provisions on basic prohibitions against player-initiated transfers to other teams. In other words, while only the owners of the clubs can trade their players with other teams, in the meanwhile the players do not have the possibility to independently offer their services to competing teams (Scully, 2023).

The owners of the clubs usually justify their market position with the necessity of restricting the movement of players in order to maintain competitive balance and prevent the monopolistic dominance of sports clubs in a certain sports branch. However, economic logic could be sceptical of this argument since this violates the basic principles of fair market competition, in which, in the absence of these restrictions, players would go to clubs that offer the highest earnings, regardless of their spatial location. These rules directly violate the rules of free market competition. Market rules dictate that players should eventually migrate to those teams that generate the highest profits and pay the highest salaries, with or without restrictions on player-initiated movements. This is especially true since the advent of free agency, which helped players to move more freely among clubs, but did not dramatically affect the overall movement of players expressed through their salaries, trade volume, transfers from lower leagues and the like. In addition, player-initiated movement restrictions affect the distribution of talents within a given league, as well as the distribution of revenue among club owners and players, most often in favour of the clubs. On the other hand, in the free agency regime, players receive earnings in accordance with their contribution to the club's income. The dramatic increase in salaries since the mid-1970s, especially in American baseball and basketball, was a result of the relaxation of restrictions on transfers initiated by athletes.

Another important antimonopoly issue in the field of sports is related to the absence of the possibility of forming new sports leagues. Collusive agreements among television networks and existing leagues on the distribution of broadcasting rights represent a significant oligopolistic barrier to the entry of new leagues into the sports game. In this sense, broadcasts of football matches have a special value since football attracts a huge number of spectators and fans. The growth of the audience is accompanied by an increase in income from advertising, and therefore an increase in the income of the national leagues from television broadcasting rights. Granting the broadcast rights to a number of television networks instead of only one has also led to the transformation of the national leagues into a kind of their partners in contracting broadcasting rights. Considering the fact that broadcasted matches influence fan attraction and loyalty, as well as the growth of attendance and ticket sales revenue, it is clear that a competitive league will not be able to survive in the market without access to any television network. Moreover, national leagues usually have multi-year exclusive contracts with television networks, which represent a serious barrier for competing leagues to enter the market. Only when such a contract would expire, would there be an opportunity for them to enter the given market. However, for all that to happen, the games of the new league would have to be attractive for television networks. Since teams from new leagues are in an inferior position compared to incumbent well-established teams with the biggest stars in their ranks, television networks usually have little incentive to include them in market competition. Therefore, since the rights to broadcast matches are hereby exempted from antitrust law, it is unlikely that competitive sports leagues will be able to enter the given market at all.

Reasons for Entering into Cartel Agreements in American Sports

As we have seen, all American sports have a cartel organizational structure since in order for a given team to be able to start playing in a certain league it has to get a franchise license to do so. And while there is no opportunity for teams to improve and move from lower levels of the game to higher ones, the opposite is true for players who can move among teams from different levels, but only by agreement established among club owners. As a result of these rules, American teams cannot be relegated to the lower leagues if they experience a series of bad season results. So, the system protects them from failure. However, unlike

American football, English football has a different organizational structure as it consists of a series of leagues, from the lowest ones to their highest levels, while all teams from one level can, if they win games within their league, progress few steps forward. Therefore, during every year, all the teams in England fight for not to lose games within their league, in which case they would be relegated. Theoretically speaking, a team that is at the lowest level could fight for placement in the highest leagues over time.

This comparison, among other things, also indicates that the differences between the cartel market structure and the free market fully affect the distribution of profits earned from the match among players and sports teams. American sports teams are organized on a franchise basis and usually earn huge sums of money. Unlike them, football and soccer clubs from England do not do this because the growth of their income is accompanied by the growth of player salaries. More precisely, the growth of their income from better contracts with television networks or from the sale of sports souvenirs is channelled into the players' earnings, not to the clubs' profits. In this sense, Tim Worstall (2013) emphasizes that in American elite sports profit is usually directed towards a scarce good. On the contrary, since in English football teams can freely move through leagues from different levels, profits are directed towards players whose quality and competence actually determine the membership of a given team in a certain league. In this sense, belonging to the highest league is not treated as a scarce good.

In contrast to English football, in the American cartelized system of professional sports, a collusive agreement, but not free competition, determines a team's affiliation to the Big League. Since in the American system, league membership represents a scarce good, part of the extra income certainly goes to club owners, enabling them to earn huge profits. It is clear that if there were no cartels, all the money would be channelled into players' salaries (Worstall, 2013). In this way, sports cartels de facto tend to generate rents by limiting production and payments for inputs such as players' salaries. Big sports programs and mega sports events draw rents from athletes who bring income based on their performances and spend them on maintenance of facilities, coaches' salaries and other expenses, thus generating huge profits for sports clubs. However, there are also claims that such rules encourage value creation, prevent the downfall of amateur sports and contribute to the competitive balance of

teams. In addition, since the success of athletes partly depends on their relative performance, there are opinions that the shaping of competition could have positive social effects (Kahn, 2006, pp. 1-2).

Some authors like Westerbeek (2016) even compare cartels in sports with illegal drug trade, pointing out the current explosion of values in sports and the multimillion-dollar income of sports teams as a feature of our current reality. The strength of cartels in sports is based on the attractiveness of the sports product, the desire to win, cheap production, opportunities to make money, efficient distribution channels, market size, the desire for social acceptance, and the hunger for success. Elite professional sport offers its followers glamor and the satisfaction of powerful emotional whims. At the same time, digital production and distribution of sports matches enable immediate and global access to the mass market of sports events. Big data analytics and other modern technological solutions have made it possible to turn sports competitions into a series of completely new sports products. These processes also encouraged the development of the institution of betting, making a strong contribution to the monetization of sports and match fixing. In this sense, there is a question concerning how long this kind of commodification of sport should be tolerated before it completely collapses its integrity and compromises its consumption.

Other Forms of Non-competitive Behaviour in the Sports Industry

As we have seen, professional sport is contradictory in its nature since it can simultaneously be considered a regular commercial activity, but also a special venture with regard to its specificities, economic logic, linkages with culture, and the role of the state and legal regulations in its governing. Considering the specificities of the sports industry, especially the collusive agreements among rival teams and the growing commercialization of sports activities, the issue of competition law in sports takes on special importance. The importance of this issue stems from the fact that sport can be viewed as a purely sporting activity, but also as an activity that includes economic and commercial elements (OECD, 2010, p. 11). All this leads to the conclusion that competition regulators should take into account the specificities of this sector when applying provisions of competition law.

With the exception of "real" amateur sports, almost all sports competitions and mega sports events involve some elements of business and commercialization. Commercialization in sports has led sports organizations to be market-oriented, to satisfy the needs of spectators, as well as to apply new strategies to increase income and profits. This process also introduced the institutions of strategic planning, performance and systems management, as well as of quality management into sport, inevitably affecting its competitiveness. The expansion of the commercialization of sports has also led to a rapid growth in the number of professional sports teams, transforming many sports organizations into profitable enterprises with enormous earnings. In this way, over time, sports organizations became more and more focused on their profits from sponsorships, sales of television rights, advertisements, and the sale of their players (Skorić, 2014). Therefore, the provisions of the competition law are also applicable to sports market participants, including sports leagues, teams, clubs and governing bodies, both from the aspect of forming potential mergers, and from the aspect of far more prevalent non-competitive market behaviour. As might be expected, the process of commoditization of sports has given rise to some ethical issues related to sports, which will be discussed in more detail in the rest of this paper.

As already indicated, sport appears as a very complex activity that includes many economic actions and various involved participants who enter into mutually compound relationships and connections. Problems related to the protection of competition in sports have appeared in a large number of areas and include unfair behaviour of sports organizations and clubs, but also of other stakeholders such as sponsors, broadcasters, ticket sellers, and advertisers. The results of their market behaviour are anticompetitive and primarily aimed at harming the interests of the athletes themselves, fans and the wider audience. Therefore, the public opinion often criticizes the anticompetitive practices during the organization of sports leagues and tournaments, which can be aimed at jeopardizing the position of existing sport clubs, but also at excluding new potential entrants in a given league. Similarly, the labour market in sports is also subject to competition regulation, especially in terms of restrictions imposed on athletes, sports federations or in terms of agreements made among clubs, such as salary agreements and player transfer rules.

In addition to these two areas, the regulation of anticompetitive market behaviour in sports also affects the commercialization of the sports competitions broadcasting rights, which usually appear as the main source of income for sports organizations, receiving the significant attention of antimonopoly regulators. The largest number of such cases refers to the collective sale of broadcasting rights, which exerts signs of cartel behaviour, followed by the sale of tickets for sports events. Various competition related problems have arisen in this area, such as the discriminatory sale of tickets on geographical grounds and the signing of exclusive contracts, for example with certain credit card companies. Secret agreements have also appeared in the sphere of sports betting, fixing the outcome of sports matches, as well as in the exclusive branded products market, while setting the standards of sports equipment used in competitions can also be considered a form of anticompetitive practice (OECD, 2023, pp. 15-21). All these harmful practices directly interfere with the real essential being and purpose of existence of the sport itself.

Finally, although there is no economic reason for clubs to monopolize a competition or championship, this often happens in modern practice. It seems that sports governing bodies, which produce significant incentives for market monopolization and for reaping the benefits of monopoly extra profits, also contribute to this practice. Budzinski and Feddersen (2022) point out that in practice there is usually only one national premier league or only one national top sports tournament organized by the respective governing entity. However, it seems that monopolies are still inevitable in some premier top leagues, indicating the need to at least reduce their powers, and thus the extent of abuse of their market power. Therefore, these authors advocate for the possibility of granting rights to third parties to organize the tournament through public and transparent tender procedures, that is by creating periodic market competition, encouraging innovation and strengthening the influence of fan preferences (Budzinski and Feddersen, 2022, pp. 1-11). Hence, due to the factual and inevitable presence of monopolies in the sports industry during the organization of leagues and sports tournaments, there is often abuse of the market position by governing bodies and leagues, exercising their market power and entering into various forms of non-competitive behaviour. These processes are clearly taking place to the direct detriment of players and beneficiaries of sports services.

Ethics of Cartels and Anticompetitive Behaviour in Sports

Since the beginning of the 1990s of the last century, the development of the popular sports commercialization experienced an extraordinary speed. Although this problem was evident even earlier, in recent times there has been an exceptional penetration of market-oriented processes into the sphere of sports. This wave of commoditization, i.e. commercialization of sports was accompanied by various trends such as professionalization and global migration of players, corporatization of sports teams and clubs, expansion of trade in sports goods, changes in rules with the aim of attracting new users, but also changes in competition structures, content, purpose and cultural identity of sports. Over time, in the windstorm of these factors, some ethical considerations have arisen, that aroused the intuitive discomfort of the sports community members in relation to these shifts (Walsh and Giulianotti, 2001, p. 53).

Ethical issues in sports are considered the main factor in the success of a sports organization. Given that the sports industry is one of the main contributors to global GDP, as well as big business in national economies around the world, high wages can lead to increased temptation for all sports participants, including making questionable decisions and undertaking unethical activities and actions to ensure victory. In the practice of American baseball teams, cases of stealing signs or using hand signals to communicate with team members in order to gain an advantage are not uncommon. These and similar questions are important in the world of sports since sport itself is based on the belief in the equality of rules for all. Although ethical concerns may vary among different types of sports and leagues, there are still some common ethical issues that are more or less characteristic of all types of sports: 1) abuse of drugs such as steroids and human growth hormones, 2) racial, religious and gender discrimination, 3) corruption and bribery, 4) match-fixing practices, and even 5) physical, verbal, emotional, and mental harassment. Ethical issues are also present when hiring for various managerial, director, coaching and player positions, which can further lead to legal repercussions and damage to the reputation of the sports clubs. When employing in the sports industry, there is often discrimination and hiring based on employee recommendations, which can encourage favouritism or unequal treatment of candidates (Ohio University, 2023).

As already mentioned, the idea of corporatization of sports is completely opposed to the very essence of sport as an activity that is consumed for enjoyment and leisure. The sports simply experienced a transformation of its priorities over time, which paved the way for illegal tactics to achieve ultimate success. Sage (1990) long ago pointed out the controversies of the modern world of sports in his sociological studies of sports, noticing the connection between the economic success of cartels and their unethical behaviour, especially in highly organized and commercialized American sports. Therefore, the author advocates for egalitarian cooperation, interpersonal solidarity, respect for individual and group differences, as well as respect for individual rights and freedoms. These moments certainly require a permanent change in social and cultural awareness, which could trigger a redefinition of the relationship among people in sports. Accordingly, he identifies sports cartels with organizations of independent firms that exercise some form of restrictive or monopolistic influence during production (sports matches and tournaments), sale of goods (players), and the control of their earnings (Sage, 1990). As such, cartels bring enormous benefits to a privileged minority to the direct detriment of the majority of stakeholders in the sports, and therefore the public goods and general interest.

Freedman (1987) also observed that sports leagues act as cartels in that they 1) restrict free competition among players by controlling their rights during drafts, contracting times and players' trades, 2) act together to reject or accept new teams into the league and control the process of relocation of teams, and 3) perform differentiation between local and regional media and act uniformly in negotiations on media rights fees at the national level. In this way, professional sports leagues, using their economic legal powers, operate outside the free competitive market. It is clear that this state of affairs has opened up a series of ethical questions, as well as ethically questionable behavioural practices, especially in the domain of social responsibility. At the same time, social responsibility includes building moral and legal responsibility of individuals for themselves, for the people who surround them and for wider social institutions. In this sense, reliability, social awareness and concern for others are crucial foundations of social responsibility. However, in professional sports, whose primary goal is to make a profit, profit motive usually takes precedence over social considerations. This endangers the public interest, ignores the needs of the wider community

and undermines the integrity of sport as an institution. Finally, the cartelized nature of professional sports and its power structure often suppresses responsibility to oneself, others, and the wider community. In this way, sports can be equated with the eccentric entertainment of rich club owners, while little attention is paid to the fact that team ownership is not based on merit, but on enormous wealth. In such manner, we can conclude that the economic structures of professional sports favour club owners, sometimes violating their obligations towards the social community and leading to morally problematic behaviour (DeSensi and Rosenberg, 2020).

Concluding remarks

Sport is directly related to the societal culture and serves to improve its economic and social environment. Top results in sports, which bring with themselves globally recognized national representativeness, promote sports talent, persistent work of coaches, sports clubs and organizations, as well as fighting spirit and unquestionable sports ethics (Jovanović, 2015). However, the growing commercialization of professional sports leads to the conclusion that it also has its own extensive economic dimension, which makes it a subject to the actions of competition authorities. At the same time, it is well known that ensuring free market competition is essential for the proper functioning of the sports industry. The commercialization of the sports industry is reflected in the massive influx of top sports events into the sphere of media and colossal earnings, transforming many sports organizations, teams and clubs into a kind of companies with huge profits. This phenomenon arose as a consequence of the prioritization of economic motives, ignoring the essential nature of sport as an important socially useful, developmental, educational and cultural activity. Commercialization also led to the inevitable cartelization of the top sports market, which undermined the intrinsic purpose and value of the social community and contributed to the appearance of various pathological and unethical forms of sports behaviour.

These harmful forms of sports and economic association arose as a result of the corporatization of sports organizations, including those from the first-class professional leagues, which are primarily focused on the achievement of enormous financial earnings. Corporate cartels have led to the emergence of numerous social anomalies, both nationally and

globally, especially in the sphere of professional and youth sports. However, when considering these socially harmful issues, one should take into account all the specificities of sport, such as the interdependence among members of the sports community and the need to establish a competitive balance. Although the protection of competition in sports industry is not a new topic, recently there has fortunately been a growing interest in this issue. This is also indicated by the fact that recently the number of competition authorities in charge of investigating anticompetitive behaviour in the sports industry has been increasing, as well as the scope of non-competitive practices that are assessed, both during the organization of sports events and on the sports labour market itself. Furthermore, new sports and sporting events such as electronic sports and fantasy games have become the subject of competition control, indicating a growing interest of antitrust authorities in this important emerging topic (OECD, 2023).

The dilemma of ethical or unethical behaviour in sports is often resolved by public opinion embodied in the mass media. The lack of ethics in sports contributes to the decline of the moral principles of the sports organization and society itself. This is particularly visible in cartel and other non-competitive forms of sports behaviour that endanger the public interest, ignore the needs of the wider community and undermine the integrity of sport itself as an institution. In addition, cartels in professional sports restrict free competition among players by controlling their rights during drafts, their contracts and trades of players, as well as by imposing restrictions on their club memberships and wages. In other words, while in such market structures only club owners can trade their players with other teams, at the same time the players do not have the possibility to independently offer their services to competing teams. In this way, professional sports leagues, using their economic and legal powers, operate outside the free competitive market. As such, cartels bring enormous benefits to a privileged few at the direct expense of the majority of stakeholders in the sport, and therefore of the public goods and interests of the wider community. Therefore, the goal of sports ethics should be to respect for the agreed rules, renunciation of unfairly gained advantages, enjoyment of equal opportunities, as well as respect for sports competitors and opponents. Adopted social norms and economic practices affect professional sports, as well as the behaviour of people in it, shaping the way of acting of the sports institutions themselves (Perović et al., 2017).

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