

**Chicago Professional Sports Ltd. P'ship and WGN v.
National Basketball Association**

95 F.3d 593 (7th Cir. 1996)

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The Chicago Professional Sports Limited Partnership ("Bulls"), a member of the National Basketball Association ("NBA"), sought to sell broadcast rights to the WGN television station, while the NBA sought to restrict broadcast rights and impose additional fees. The Bulls claimed this action violated antitrust laws, while the NBA argued it is a single firm under antitrust laws and possesses the option to restrict licensing rights. However, the district court invalidated the restrictive fees and held the NBA was not a single firm because the NBA and its member teams did not have a complete unity of interest. The NBA appealed the district court's judgment. The Seventh Circuit Court of Appeals reviewed the district court's decision to determine if the fees imposed by the NBA were valid and within the authority of a sports league. While the Seventh Circuit did not decide on the NBA's status as a single entity or multi-employer unit, it did determine that the NBA's integration of operations warranted full application of the Rule of Reason. Thus, the court vacated and remanded the district court's decision determining the NBA's status under antitrust law.

The core question in an antitrust issue is output. Unless a contract reduces output in some market to the detriment of consumers, there is no antitrust problem. A high price is not itself a violation of antitrust laws. Because the Bulls are willing to pay a higher price to televise their games, there is no reduction in the output of the games. Furthermore, courts must respect a sports league's disposition of issues related to the operations of its league that do not violate antitrust laws, just as they respect contracts and decisions by a corporation's board of directors. Therefore, it is not the position of this Court to impose opinions on the NBA's choice of operation.

Courts apply the Rule of Reason to determine if the actions taken by a party violate antitrust laws. Under the Rule of Reason, only combinations and contracts unreasonably restraining trade are subject to actions under antitrust laws and that size and possession of monopoly power were not illegal. In applying the Rule of Reason, the court reviewed the characterization of the NBA to determine if it was a single entity or a multiple employer unit. To determine the characterization of a business entity for purposes of antitrust law, the district court plays the leading role, followed by deferential appellate review. Because there is no single ruling among the lower courts to determine if a sports league is a single entity and because sports are sufficiently diverse, it is essential to investigate their organization.

Ultimately, the Seventh Circuit Court of Appeals concluded that because the NBA is sufficiently integrated, a full analysis of the Rule of Reason is not necessary. Therefore, in order for the Bulls and WGN to succeed, they must establish that the NBA possesses power in a relevant market and the exercise of this power has injured them. Substantial market power is an indispensable ingredient of every claim under the Rule of Reason. Because the NBA does not predominate the advertising market, there is no indication the NBA has a substantial market power. However, if the court determines the NBA is a single entity, the market power analysis is irrelevant.

The Seventh Circuit Court of Appeals remanded to the district court to determine if the NBA is a single entity. Pending further proceedings the Bulls and WGN must respect the NBA's limitations on the maximum number of superstation telecasts.