World Wide Basketball and Sport Tours, Inc. v. NCAA

388 F.3d 955, (6th Cir. 2004)

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The National Collegiate Athletic Association ("NCAA") appealed a 2003 Ohio district court order declaring that the NCAA's "Two in Four Rule" violated § 1 of the Sherman Act and permanently enjoining them from enforcing the rule. The "Two in Four Rule" refers to a rule adopted by the NCAA that allows Division I college basketball teams to only participate in a certified tournament once a year and twice every four years. Certified tournaments are multiple game early season tournaments usually taking place in Alaska and Hawaii. The rational of the rule is to address competitive equity concerns by giving many Division I institutions an opportunity to compete in certified events. The plaintiffs ("Promoters") in this case are promoters of outside certified tournament events. They allege that the Two in Four Rule was adopted purely to deny outside promoters the opportunity to make money from certified events. The Court of Appeals for the Sixth Circuit reversed the district court decision and ruled that the NCAA did not violate the Sherman Act.

Section I of the Sherman Act provides that an action must be commercial in nature for the Sherman Act to apply. Therefore, the act would be applied to the "Two in Four Rule" only if the rule was commercial in nature. The NCAA argued that the rule was intended to improve academic performance while the Promoters argued the rule was an unfair restraint on trade and commerce. The appeals court held that the rule was commercial in nature and, therefore, the Sherman Act applied.

In order to establish a claim under § 1 of the Sherman Act, the Promoters had to prove that the NCAA participated in an agreement that unreasonably restrained trade in the relevant market. The NCAA conceded that there was an agreement but argued that the "Two in Four Rule" did not unreasonably restrain trade. Whether an agreement unreasonably restrains trade is determined under one of two approaches: the per se rule or the rule of reason. The court applied the rule of reason would apply. Under the rule of reason the plaintiff bears the burden of establishing that the agreement produces significant anticompetitive effects within the market. If this burden is met, a defendant must prove that the restraint has a pro-competitive effect. The plaintiff then must prove that there are other ways to get the same pro-competitive effect. When applying the rule of reason, some courts apply a quick-look analysis in which an observer with a rudimentary understanding of economics could conclude that the arrangements in question would have an anticompetitive effect on customer markets.

The appeals court held that the district court erred in applying a quick-look analysis because the relevant market of the "Two in Four Rule" was not readily apparent. The burden was on the plaintiff to define the relevant market within which the anticompetitive effects of the defendant's actions occur. Failure to identify a relevant market is proper grounds for dismissal of a Sherman Act claim.

Because the Promoters failed to define the relevant market within which the significance of the allegedly anticompetitive effects can be gauged, and the record is not sufficient to support the district court's holding with respect to the relevant market, the promoters could not prevail on their claim that the "Two in Four Rule" violated the Sherman Act.