

The Association of Tennis Professionals: From Player Association to Governing Body

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The interest in sports economics has grown in recent years; however, a large majority of the literature focuses on professional team sports or college athletics. Most of the literature on individual professional sports focuses on tournament incentives for athletes to perform well. Few economics papers focus on the structure of these sports and the business operations of them. In 2008, the German Tennis Federation, Rothenbaum Sport GMBH, and the Qatar Tennis Federation filed suit in U.S. District Court accusing the ATP of violation of Section 1 and 2 of the Sherman Act of 1890. In August 2008, a jury ruled unanimously in favor of the ATP "that [it] did not enter into any contract or conspiracy that might have harmed competition and that there is no market that it monopolized or attempted to monopolize."¹ This case study adds to the literature in a practical way by analyzing the evolution of the ATP from a players union to its current industry structure and evaluating the question of whether the ATP is a single entity similar to the status granted to professional team sports organizations.

INTRODUCTION

Most of the literature on individual professional sports focuses on tournament incentives for athletes to perform well; however, few economics papers focus on the structure of these sports and the business operations of them. This case study adds to this literature in a practical way by exploring the evolution of the ATP from a players union to its current industry structure and evaluating the question of whether the ATP is a single entity similar to the status granted to professional team sports organizations.

The question of single-entity status was addressed in a 2008 lawsuit brought by the German Tennis Federation and others against the ATP for violation of Sections 1 and 2 of the Sherman Act of 1890. This lawsuit provides the ideal forum to begin a discussion of the unique structure of the ATP as a governing partnership between players and tournaments rather than solely operating as a player association or tournament organization. The paper is organized as follows: Section 1 summarizes the German Tennis Federation lawsuit against the ATP that granted it single-entity status. Section 2 summarizes the evolution of the ATP from a player association to a governing organization. Section 3 applies cartel and sports league theory to the ATP to evaluate whether its current structure meets the economics criteria for a league. Finally, Section

4 briefly discusses the implications of the legal ruling and this structure on individual professional sports organizations.

THE ATP: SINGLE-ENTITY OR NOT?

ATP World Tour 2009 Restructuring

In 2008, the ATP Tour announced a restructuring for the 2009 season. The purpose of the restructuring was to provide a tournament schedule that promotes player health, reduces the risk of player injuries, and lowers the number of player withdrawals; to increase and improve tournament infrastructures; and to increase player compensation at tournaments. The restructuring of the tournament schedule involved reorganizing 63 tournaments into 3 tiers—ATP World Tour Masters 1000s, ATP World Tour 500s, and the ATP World Tour 250s (ATP World Tour, 2009). The implementation of these tiers replaces the old tier system and is designed to improve the ranking system.²

Deutscher Tennis Bund vs. ATP Tour Inc.

Plaintiff Claims

In July 2008, the trial of Deutscher Tennis Bund vs. ATP Tour Inc. began in the U.S. District Court of Delaware. The plaintiffs, the German Tennis Federation, Rothenbaum Sport GMBH, and the Qatar Tennis Federation, claimed that the ATP Tour had violated Sections 1 and 2 of the Sherman Act of 1890 by "[attempting] to monopolize player commitments and tournament sanctions of men's professional tennis through its planned restructuring of the 2009 tournament schedule" (Jury rejects German Federation claims, 2008). The lawsuit was the result of the decision by the ATP Tour to downgrade the Hamburg Masters Series tournament. Instead of automatically being included in the ATP World Tour Masters 1000, it would be included in the ATP World Tour 500s. This move eliminated the requirement that top players be registered for the tournament and reduced the number of ranking points players would receive for participating in the tournament.

Under Section 1, the plaintiffs claimed the ATP Tour had violated the "rule of reason" in that the new 2009 ATP World Tour agreement would cause significant economic harm to the Hamburg. By downgrading the tournament, the incentive for top players to participate in the tournament would be significantly reduced. If the top players were not guaranteed to participate, the tournament would lose both sponsors and spectators causing significant monetary damages to the tournament owners and organizers (American Bar Association, 2008).

Under Section 2, the plaintiffs claimed that the ATP intentionally conspired to "monopolize... the markets for top-tier men's professional tennis, player services for top tier men's professional tennis and sanction for top-tier men's professional tennis tournaments" (American Bar Association, 2008). Therefore, the tournament rescheduling is the result of collusion among ATP officers and other tournament directors, who are separate entities, to control the market for men's professional tennis with respect to both tournaments and players.

Defense Claims

To counter these claims, the ATP employed the "single-entity defense" often used by professional team sports leagues. Under this defense, the ATP argued that it acts as any professional sports league regarding business decisions such that it operates as one governing

organization rather than several organizations in determining rules and schedules. (Schriner, 2008).

Verdict and Its Implications

In August 2008, a jury ruled unanimously on both counts in favor of the ATP "that [it] did not enter into any contract or conspiracy that might have harmed competition and that there is no market that it monopolized or attempted to monopolize" (Jury Rejects German Federation Claims, 2008). According to Schriner (2008), the judge in the case instructed the jury to determine whether the ATP "functions as a single business entity" regarding the management of various facets of the ATP Tour including designation of tournaments, determination of tournament schedules, and determination of ranking points. Therefore, by issuing a complete verdict in favor of the ATP, the jury effectively extended single-entity status and its antitrust exemptions to the ATP.

The implications of this complete verdict are significant not only to men's professional tennis, but also to women's professional tennis, men's and women's professional golf, and other individual professional sports organizations. By granting single-entity status to the ATP, it allows the ATP to have complete control over tournament sanctioning, tournament scheduling, ranking points, and broadcasting and merchandising rights.

THE EVOLUTION OF THE ATP³

This lawsuit and its subsequent verdict provide the ideal case under which to evaluate the evolution of the ATP World Tour from its beginning as a players union to a governing global sports organization. This section includes a history of the ATP and its evolution to its current organization.

In essence, the professional tennis industry is comprised of four global sports organizations: International Tennis Federation (ITF), ATP World Tour (formerly The Association of Tennis Professionals), WTA Tour (formerly the Women's Tennis Association), and the Grand Slam Committee. The ITF is the primary governing body which establishes the basic rules of play and oversees the four major tournaments (Australian Open, French Open, US Open, and Wimbledon), the lower-ranked professional circuits, and the Davis Cup and Fed Cup international team competitions. The ATP World Tour and the WTA Tour contract with players and tournaments to provide tennis events worldwide. Thus, unlike salaried professional sports team athletes, professional tennis players are "self-employed." It is this employee designation that makes the ATP World Tour (and other individual global sports organizations) unique compared to professional team sports leagues (Foster, 2006).

The Association of Tennis Professionals was officially established in 1972 as a players association whose goal was to promote the interests of players on the Grand Prix professional men's tennis circuit established in 1970. By acting as a unified body, the ATP established a world ranking system to assess player performance and determine tournament entry more objectively. Until 1989, ATP representatives worked with both the ITF and tournament representatives to guide men's professional tennis in a manner that supported the interested of the players.

In 1990, the ATP Tour began its inaugural season that included the Top 50 players in the world, who had signed contractual agreements to participate, and 76 tournaments. This organization, which officially became the ATP in 2001 and the ATP World Tour in 2009, was

not longer simply a players association, but a unique partnership between the player members and the tournament members. Specifically, the organization is governed by a Board of Directors, a Player Council, and a Tournament Council. The Board of Directors is elected by the members and comprised of a chairman, three player representatives, and three tournament representatives. The Player Council has 11 members includes four 1-50 ranked singles players' representatives, two 51- 100 ranked singles players' representatives, two 1-100 ranked doubles players' representatives, two at-large representatives, and one alumni's representative. Currently, the Top 3 players, Rafael Nadal, Roger Federer, and Novak Djokovic, comprise three of the representatives on the Player Council indicating the seriousness with which the top players consider their role in the governance of their sport. The Tournament Council has five European representatives, four International representatives, and four Americas representatives.

CARTELS, LEAGUES, AND THE ATP

This section applies basic concepts of cartel and league theory to demonstrate the single-entity operations of the ATP.

The ATP as a Cartel

According to basic cartel theory, a cartel has a greater potential for success if it meets the following criteria: nearly identical products; similar cost structures; division of market and revenues/profits; and binding and enforceable rules. In evaluating the current ATP organizational structure, it can be argued that the ATP does operate as a successful cartel. First, all tournaments provide nearly identical products—tennis matches. Although the quality of the players and the quality of the matches played may differ significantly across tournaments, the basic rules of play are identical for each tournament.⁴ Second, tournaments of the same size and stature will have similar cost structures for prize money, infrastructure, and other aspects of tournament operations. Third, tournaments are held in different cities regardless of when they are held. Therefore, competition within a city for player talent is rare although competition between tournament venues, especially lower tier tournaments, can occur. However, because the ATP sets the tournament schedule, this competition between venues is virtually eliminated. Furthermore, under the new ATP World Tour structure, in addition to a 20% increase in prize money, "a multi-million dollar bonus pool and a profit sharing model" have been created to provide greater incentive for players to have a more vested interest in the growth of the sport. Finally, both players and tournaments contractually agree to abide by the rules established by the ATP governing bodies regarding appearances and conduct by players and provision of facilities, trainers, and other player requests by the tournaments. If a player or tournament violates these rules, monetary penalties and other sanctions are strictly adjudicated and enforced by the ATP. Both players and tournaments have the right to appeal any penalties and sanctions levied on them.

The ATP as a Cooperative League

According to Fort (2006), "leagues enable owners to pursue economic goals and objectives that they cannot pursue as successful as acting alone" (p.134). Therefore, Fort contends that leagues engage in two types of cooperation to achieve their goals: single-entity cooperation and joint venture cooperation.

Single-Entity Cooperation

Single-entity cooperation occurs for the sole objective to make play occur. Therefore, to ensure the success of the competitive sports, leagues coordinate schedules, rules, and the championship structure for the sport (Fort, 2006).

Schedule. For the ATP, coordinating the tournament schedule ensures that as many tournaments as possible are available to players. Each tournament desires to have the highest quality players because those players will draw more spectators and tournaments sponsors. Hence, the tournament tier structure creates opportunities for the lower-tier tournaments to attract higher ranked players so the roster is stronger.

Coordinating the schedule also requires the ATP to determine season length. This issue has been at the forefront of player concerns for over a decade. As the popularity of professional tennis has expanded globally, more countries are competing to offer ATP-sanctioned tournaments. Although more tournaments and a longer season provide greater profits, the risk of injury or illness to the players increases. Consequently, player withdrawals from tournaments due to injury or fatigue have increased in recent years. This concern with player health and length of season was a primary goal of the restructuring for the 2009 season.

Rules. Although the ITF establishes the basic rules of play for men's professional tennis, the ATP establishes additional rules to ensure tournaments have strong fields. For example, top players are automatically entered into the ATP World Tour Masters 1000 tournaments. Under the new rules for 2009, players must provide official verification of injury or illness if they withdraw from a tournament within days of its start. Stricter penalties are imposed if players fail to participate in these tournaments without prior approval. Players are also required to make promotional appearances and conferences as representatives of the sport and the ATP. For tournaments, rules regarding player facilities, health officials, etc. are established to ensure a healthful environment for the players.

Championship structure. Finally, beginning in 2001, the ATP formed a more cohesive championship structure modeled after Formula One Points Race. In creating this championship structure, the ATP furthered its evolution into a governing organization. Players receive points based on the tournament tier and the round achieved in the tournament. These points are reset at the beginning of every season such that each season has a "Champions Race" that culminates with the ATP World Tour Finals in London at which both the singles and doubles ATP World Tour Champions are determined. The implementation of the Champions Race in 2001 was designed to improve fan interest in the sport. However, it remains possible that the player who finishes the year ranked first does not win the championship in London. Yet, generally, the top players have an incentive to participate in the year-end championship to ensure finishing the year ranked first and to begin the following season ranked higher.⁵

Joint Venture Cooperation

Joint venture cooperation occurs to increase the profits of the parties involved. For sports leagues, joint venture cooperation generally concerns protection and definition of territories; expansion and relocation; player, tournament, and broadcasting negotiations; revenue/profit sharing; and marketing and sponsorships (Fort, 2006).

Territory protection and definition. Territory definition and protection overlaps with coordination of tournament schedules. By setting the tournament schedule, the ATP effectively defines the territory for each tournament and provides protection for those tournaments by not

sanctioning another tournament in the same city simultaneously. In fact, it is rare for two ATP-sanctioned tournaments to occur in the same country simultaneously.

Expansion and location. The ATP determines expansion of the tournament schedule and influences location of tournaments. Because ATP-sanctioned tournaments attract higher quality players, then the tournaments are generally willing to agree to upgrades in infrastructure or player "perks" to ensure being kept on the schedule. For example, under the new 2009 ATP World Tour schedule, new venues in new countries, such as South Africa, are being offered to broaden the exposure of the sport worldwide (ATP World Tour, 2009). However, as in the case of the Hamburg tournament, timing of tournaments relative to the Grand Slam tournaments may encourage downgrading a tournament to a lower tier or forcing the tournament to move its dates to a more player-agreeable month.

Negotiations. Negotiations occur both inside and outside the ATP. Because the ATP is comprised of both players and tournaments, then negotiations between players and tournaments are similar to collective-bargaining agreements. However, these negotiations are somewhat different for the collective bargaining that occurs in professional team sports since ATP players have equal voting power regarding ATP policy. The players are an explicit part of the governing body; therefore, it could be argued that the ATP still operates as a player association and should be afforded the same antitrust exemption as other professional player associations (Applying Antitrust Labor Exemptions, 2008).

The ATP also negotiates as a single entity regarding broadcasting rights. Like professional sports teams, individual tournaments could negotiate "local" broadcasting agreements. However, because of the international nature of the sport, tournaments move from country to country on a weekly basis. With the number of TV stations worldwide desiring access to the top tournaments, it would be difficult for each tournament to negotiate TV rights separately. By negotiating as a single entity, the ATP lowers the time and cost to the tournaments of negotiating broadcasting rights. For example, the 2009 season boasts a more comprehensive TV package and more on-line broadcasts of tournaments so fans can more easily follow the Tour (ATP World Tour, 2009).

Revenue and profit-sharing. New to the ATP in 2009 is a type of profit-sharing program designed to encourage greater participation in events. Unfortunately, specifics regarding the profit-sharing and bonus pool program are difficult to acquire. According to the ATP World Tour (2009), the \$6 million bonus pool applies to the Top 12 players in the 2009 South African Airways Rankings. A player's share of the pool will be based on his fulfillment of his ATP commitments during the year. The implementation of these programs suggests that the ATP has developed into a more traditional "league" structure.⁶

Marketing and sponsorships. Finally, the ATP cooperates for marketing and sponsorships similar to the NFL and NBA. It spends money on advertising the ATP World Tour during tournaments and on the Tennis Channel. Furthermore, it also has licensed merchandising for various products, many of which donate money to charities. For the 2009 season, the ATP is engaging in a multi-million dollar advertising campaign called FEEL IT. This advertising campaign is designed to promote both the sport and the tour further by aiding ATP-sanctioned tournaments with promotional activities. Furthermore, it has implemented a "net branding" in which the level of the ATP tournament is identified on the ends of the net on the court.⁷

The ATP also acts as a single-entity in garnering sponsorships or partnerships for the ATP World Tour to provide cross-promotional advantages for the parties involved. The two primary ATP partners are South African Airways and Ricoh. These partnerships provide valuable sources of monetary and non-monetary support for the tour. For example, in addition to sponsoring

international tournaments, South African Airways also provides airline service to the Tour and Ricoh provides digital equipment employed by international tournaments (ATP World Tour, 2009). However, individual tournaments retain some autonomy in procuring sponsorships for their events such as clothing sponsors for the tournament officials and employees.

IMPLICATIONS OF SINGLE-ENTITY VERDICT ON INDIVIDUAL PROFESSIONAL SPORTS ORGANIZATIONS

Using cartel and league theory, the previous section explored how the current structure of the ATP fits the traditional economic cartel and sports league models. By displaying the characteristics of a successful cartel and engaging extensively in both single-entity and joint venture cooperation, it seems plausible that the jury's complete verdict in favor of the ATP's single entity defense has merit. Consequently, this verdict has implications for the operations not only of the ATP but also for other individual professional sports organizations such as the WTA, PGA, and LPGA.

Each of these organizations has undergone structural changes in the last decade that have given them more control of the operations of their respective sports. It is this element of control that appears to be central to the argument of whether these organizations do, in fact, operate as single organizations and whether this structure is crucial for the successful functioning of the sport. By accepting the single-entity defense in the Hamburg lawsuit, the jury effectively set a precedent for other individual professional sports organizations to assert greater control without concern for legal ramifications.⁸ By establishing the legality of the ATP's control over the governance of a significant portion of men's professional tennis, it essentially benefits from the antitrust exemptions given to professional team sports.

Consequently, other individual sports organizations may also benefit from these antitrust exemptions and have greater incentive to operate more cohesively in the development of their respective sports. Had the ATP lost the single-entity argument, then these sports organizations may have potentially reverted to player associations with limited ability to influence the operations of their businesses. Specifically, greater tournament autonomy to compete for player talent potentially creates weaker fields at these tournaments which could lead to lower revenues overall. Furthermore, from the player perspective, although they sacrifice autonomy in choosing which tournaments to play, they have greater influence regarding the scheduling and conditions under which they play.

By acting as a single-entity in conjunction with the tournaments, the ATP player members have been able to increase their compensation substantially since the inception of the current ATP structure in 1990. Players on the WTA Tour have had similar results regarding scheduling, playing conditions, and monetary compensation. Without this cooperation between players and tournaments, compensation and conditions would potentially erode. Those tournaments with wealthier sponsors would provide greater incentives for players to participate in their tournaments to the detriment of smaller tournaments. As a result, it is possible that fewer tournaments would exist thus further limiting the potential for players to improve in the rankings.

Finally, although the Hamburg tournament and its sponsors may not be wrong in contending that the ATP is a cartel, this contention only asserts that the ATP is collusion among tournaments. Upon further examination, the ATP could be considered a cartel, yet the collusion occurs between player and tournament members, not simply the tournament members. This structure is in stark contrast to professional team sports organizations. For team leagues, the

cooperation occurs through an unincorporated association of owners of separate teams. Each professional sports league does negotiate with its respective player association regarding salaries and other employment issues in collective bargaining agreements. However, the ATP is an incorporated body similar to that of a corporation with a CEO who is appointed by the Board of Directors (Forster and Pope, 2004). In essence, it is the integration of the player association with the "commission" to govern a significant portion of the sport. Thus, as previous stated, the ATP could be exempt from antitrust laws under the union collective bargaining rules (Applying Antitrust Labor Exemptions, 2008).

CONCLUSION

This case study explored the contention that the ATP acts a single-entity and should be awarded the antitrust exemptions currently enjoyed by professional team sports leagues. Using basic cartel and league theory from economics, the examination qualitatively assessed the validity that the ATP can be considered a successful cartel and a cooperative sports league. Because it generally appears to meet the criteria for a cartel, it essentially acts as a sports league through both single-entity and joint venture cooperation in an attempt to control the operations of the significant portion of men's professional tennis. The implications of the lawsuit which legally confirmed it single-entity status suggest that, had the ATP not been successful, men's professional tennis may have potentially become more dispersed possible to the detriment of the sport.

However, this examination simply provides a basis for which to engage in more specific analysis regarding the law and economics of individual global sports organizations. On one hand, it is a legal issue regarding the definition of "single-entity" and its interpretation with respect to specific criteria for allowing this type of cooperation and exploring whether entities such as the ATP should be required to be incorporated in order to engage in this behavior. On the other hand, it is an economic issue regarding the industrial organization of individual professional sports organizations. The sports economics literature is deficient in this area. However, with the increased global interest in both professional tennis and golf, it seems a relevant topic for research and more formal modeling, particularly in light of the Hamburg case which seemingly legalized a cartel.

ENDNOTES

1. Associated Press (August 5, 2008). "Jury rejects German Federation's claims of ATP antitrust violations," retrieved August 6, 2008 from <http://sports.espn.go.com/sports/tennis/news/story?id=3520923>.
2. The four major Grand Slam tournaments are organized by the International Tennis Federation; therefore, scheduling of these tournaments is outside the scope of the ATP.
3. Unless otherwise noted, the following section is summarized from ATP World Tour (2009).
4. Some rules regarding breaks between sets, call challenges, and other minor aspects of the game may be determined by the tournament or the ATP. However, these differences are not substantial.

5. This structure is slightly different than the PGA Fed Ex Cup race in which the player who wins the Cup can do so without playing the last event if he has enough points such that no one can surpass him.
6. The WTA is implementing a revenue-sharing program that appears to apply to tournaments' prize money based on a 3-year average ("Only War Would Hurt Us," 2009).
7. Initially, the "net branding" was designed to be in the center of the net on the court. However, many of the top players found the branding in the center of the net distracting causing the ATP to move the banners to each side of the net.
8. The ATP faced other lawsuits from tournaments since 2000 similar to the Hamburg case, specifically Indianapolis and Washington, DC tournaments in 2002 and the Monte Carlo Masters tournament in 2007. Both these cases were settled out-of-court such that both Indianapolis and Washington, DC accepted monetary compensation, moved to the new designated dates, and reduced their prize money. The Monte Carlo Masters tournament, which filed suit at the same time as Hamburg for similar reasons, settled when the ATP agreed to retain the tournament status but it is not a required tournament for the players (Tandon, 2008). The Hamburg lawsuit was the first case to go to trial.

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