The Economic and Social Costs of Vertical Integration by Horizontal Agreement in Minor League Baseball

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AALS ABSTRACT

This paper is written as a contribution to a collection of essays honoring the prominent sports economist Rodney Fort, who recently retired from the University of Michigan. The objective of presenting the paper as part of the Works-in-Progress program at the AALS Section on Sports Law meeting, in addition to hopefully being interesting to readers, is to assess whether there is enough to craft a distinctive law review article that sets for a basis to challenge MLB policies. The key legal references are highlighted.

Prior to 1947, Baseball's apartheid era resulted in a thriving infrastructure of player development and competition under the aegis of the Negro Leagues. After integration, Negro League clubs received no compensation for players under contract (despite rigid rules in that regard protecting clubs hiring for white players in "organized baseball"). To stay afloat, Negro Leagues asked for official status as minor league clubs, a proposal rejected by Major League Clubs. This rejection inspired a pre-retirement inquiry by Professor Emeritus Rodney Fort. His preliminary thesis is that this rejection was part of an anti-competitive strategy to maintain MLB's monopoly. Inspired by this inquiry, this paper looks at MLB's control of player development from a different perspective. It summarizes and applies to baseball the literature popularized by Oliver Williamson's make-or-buy analysis. Then, the paper applies Williamson's insights to the decision to internally develop or acquire talent in MLB players, and describes how MLB clubs have agreed to use basically the same make-or-buy decisions: make the same number of players, and buy players only if they are surplus to requirements from other MLB clubs. The paper describes both the economic inefficiency of this decision as well as the social injustice that results: the absence of independent minor leagues as a source of supply precludes economic incentives for clubs to train and develop poor inner-city or rural kids.

In sum, the paper concludes that current MLB policies artificially suppress the salaries of minor league players by limiting their alternatives to developing their talent to MLB farm systems, and artificially suppresses the ability of individual MLB teams to make efficient decisions that render their ultimate output responsive to consumer preference. In short, these policies constitute unreasonable restraints of trade in violation of §1 of the Sherman Act. The paper proposes that MLB clubs be free to select their own number of players to internally develop (make) or acquire elsewhere (buy), and clubs should compete freely for players developed independently by minor league clubs not affiliated with an MLB partner.

1. Williamsonian make-or-buy analysis

An essential concept of industrial organization economics is that firms selling products or services will either vertically integrate or contract with separate firms for upstream or

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downstream services, as it is efficient to do so. (Bendickson 2014, citing Chandler, 1977; Coase, 1937; Thompson, 1967; Williamson, 1975). With regard to inputs, Williamson (1975) describes the firm's choice as "make or buy." Factors include costs of employing personnel to develop services at desired level of quality, the cost of the services, and bargaining costs if contracting outside the firm.

As applied to sports, a key "input" for major league clubs are players. In basketball and football, an independent industry of intercollegiate sports trains and develops players who are ready to provide immediate value to NBA or NFL clubs. In baseball, someone needs to develop younger players. Williamson's insights predict that, absent a cartel arrangement, clubs would decide to "make" (i.e. develop their own younger players at their own expense) or "buy" (i.e. acquire younger players whose skills are near-ready for their own needs), as it is efficient to do so – that is, based on an assessment of the costs of developing what is now known as a Baseball Operations staff, against the costs of acquiring developed players from others.

In contrast, MLB clubs recently agreed to restructure player development, with the following key features:

(1) MLB abrogated a long-standing agreement with minor league clubs whereby each team agreed to enter into "professional development agreements" with farm clubs, with MLB paying for coaches and players;

(2) MLB replaced this system with one where MLB operates various competitions at four levels of play, with each club providing players and coaches at each level;

(3) Younger players selected in a draft and undrafted players would also receive training at each club's spring training facility; and

(4) MLB is seeking to develop relationships with independent minor leagues in the United States to acquire players for a fixed fee. Based on past agreements, the fee is not likely to be sufficiently high to provide an economic incentive for independent minor leagues to develop and train younger players. Instead, the expectation is that younger players will only be trained by the minimal collective efforts of MLB youth development programs and by the pay-to-play system where families pay for teenagers to receive development and exposure to scouts.

To better understand the current arrangements, it is useful to compare them with examples of less restrained markets. Antitrust law often infers how restricted markets would operate without restraint by examining similar markets where restraints do not exist. For example, broadcast restraints in college football were found unreasonable, in part, because the Supreme Court observed that college basketball was flourishing without the restraints. *National Collegiate Athletic Ass'n v. Board of Regents*, 468 U.S. 85, 119 (1984). The NBA's strict output restraints on superstation sports broadcasts were found unreasonable, in part, because the court of appeals observed that league objectives of competitive balance and avoidance of free riding were achieved in MLB by a significant tax on superstation revenues for redistribution to other clubs. *Chicago Professional Sports Ltd. Partnership v. National Basketball Ass'n*, 961 F.2d 667, 671 (7th Cir. 1992).

Likewise, we can observe patterns of player development by considering global soccer. Although the market for player development in soccer features a number of restraints on player mobility,[1] each club makes its own Williamsonian make-or-buy decisions with regard to investment in players for development within their own training "academies" or by acquiring veteran or younger players whose development began elsewhere, typically through paying a large transfer fee to the player's current employer to secure the player's release from his contract. Another common feature of global soccer is a temporary "loan" of a player under contract to another team for all or part of a season. Typically, players not yet ready for their team who may be employed but "loaned" to another club for development.[2] Seccia (2020) summarizes these options.

To illustrate, I examined the roster of the English Premier League club Tottenham Hotspur as of the summer of 2022. Tottenham maintains its own youth academy, and six of their players are products of their own development system, including England captain Harry Kane. The other 19 players are products of other club's academies. The most typical pattern (13 cases) is for a player to sign an initial contract with the club for whose youth academy the player was developed, and then the player's contract is sold to another team. These clubs are either smaller-revenue English clubs or clubs in other leagues, so that the player's value to Tottenham is higher; the same dynamic would occur with regard to independent minor leagues in American baseball. Global soccer seems to exemplify what scholars call "strategic outsourcing": "the organizing arrangement that emerges when firms rely on intermediate markets to provide specialized capabilities that supplement existing capabilities deployed along a firm's value chain." (Holcomb & Hitt, 2007, pp. 467-468).

The efficiency of strategic outsourcing is confirmed empirically in European soccer. Lechner and Gudmundsson (2012) found that internally-developed resources had a negative effect on sports team performance. They interpret this result by observing that although the ability of a club to develop younger talent might be normally distributed,

> the internal development ability of one club needs to be compared to the global development ability of all other clubs in the world. While the advantage of internally-developed resources is their organization-specific component, the completion of a team with externally-acquired resources permits clubs to have more choice for selecting highly complementary resources but also to increase the overall level of resources by acquiring a higher level of industry-specific skills. Indeed, we found that firms with more financial resources could increase the value creating role of externally-acquired resources. ... organizations that depend too heavily on internal resources might do so because of financial constraints but also because these

[1] It is customary for younger players to sign multi-year professional contracts. If they wish to change teams, they need to reach an agreement with their employer; if they breach their contract, FIFA regulations can impose harsh sanctions on the new employer, resulting in significant "transfer fees." In addition, FIFA and the European Union have worked out regulations requiring a club employing a veteran player to provide some "training compensation" for clubs who helped develop the player earlier in his career. Ross (2021), chapters 3.3 and 5.4, discusses these issues. (An updated and refined reform proposal, in Spanish, appears in González & Ross (2022).)

[2] As an illustration, England defender Eric Dier, as a 17-year old in the youth academic for Sporting Lisbon, was loaned to the English Premier League club Everton's youth team for "an opportunity for the athlete to grow in a more competitive and demanding environment". "Eric Dier emprestado" (in Portuguese). Sporting CP.

> organizations may have developed an inward focus that makes them forego opportunities to successfully complement their existing resources and build a more complex resource bundle.

(at 301-02). Note that they found in European soccer no significant relationship between financial resources and internally-developed resources, which would have been the case if financially constrained clubs had no other options. They concluded that even financially constrained clubs should invest more in scouting external players; this conclusion suggests that smaller MLB clubs should find it efficient and performance-enhancing to facilitate independent minor leagues who can develop players they can scout. Consistent with this chapter's thesis, they conclude that although make-or-buy is often viewed as a dichotomous choice, their results support the view that existing internal resources should be complemented by external resources from independent markets. Similarly, Seccia (2020) concludes that a combination of make and buy strategies positively affects the performance of football clubs, unlike the make strategy that has an insignificant impact and the buy strategy that has a negative one.

Scholars have noted that organizations should concentrate on core competencies and contract with the market (i.e., buy) for inputs that they do not have a competitive advantage in producing (Barney, 1991). Although contracting can be costly and internal input development can avoid holdup and other transactions costs from the market (Williamson 1981), the likelihood of competitive input suppliers, as exists in global soccer, should minimize these issues. (Indeed, there is reason to believe that independent minor league baseball teams would be less costly to deal with, and less likely to engage in holdup, than global soccer clubs operating in vastly different legal and cultural environments, yet soccer's largest clubs rely significantly on "buy" rather than "make" decisions for player development.) More generally, a wide variety of scholars (summarized in Bendickson 2014) observe that complete vertical integration depends too heavily on organizational capabilities and that concurrent sourcing is often the most effective strategy. Generally, scholars have noted disadvantages of vertical integration, including excess capacity, poor organization, obsolete processes, loss of valuable information from independent suppliers, and challenges to change through learning in stable environments. (Harrigan, 1984; Sorenson, 2003).

Another key component of the make-or-buy determination is asset specificity, which Williamson (1985) called the "locomotive" of transaction cost economics. As he observed, highly specific assets are difficult to find in the market and organizations that do not produce these will be vulnerable to a host of potentially negative consequences. However, if a club's players were that specific, we would not observe significant internal transactions among MLB clubs to create a specific kind of player for a given MLB club.[3] Bendickson (2014) found that, on the 25-man rosters used from 2002-11, MLB clubs developed internally an average of 8.5 players, with a range of 13.3 (Minnesota) to 5 (Chicago White Sox).[4] To update, I examined the

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[3] Glenn, McGarrity and Weller (2001) found that the asset specificity in baseball was primarily observed with middle infielders.

[4] Bendickson's results understate the limited extent of internal development. His research design defines a player as having been internally developed if the player spent two or more seasons in a club's farm system. Since this essay's claim is that there are significant welfare benefits from having independent minor league clubs, in particular to identify young players and develop them, this assumption seems too narrow. Bendickson's analysis excludes, for

Los Angeles Dodgers, who in 2020 were ranked as the third best farm system in MLB (MLB.com 2020). Their 2022 opening day roster consisted of 10 players developed internally by the Dodgers and 18 players who were developed by other teams and acquired by the Dodgers via trades or free agency, suggesting that the Dodgers do not perceive asset specificity as a key to their success.[5] Bendickson (2014, at 35) concludes that asset specificity is low in baseball.

Uncertainty is another factor recognized in the literature with regard to backward integration for asset supply. As Bendickson observes, there is a trade-off because clubs may have greater information about players who are fully established on other MLB clubs, or further advanced in development, but acquiring these players is more costly than training and developing internally. It seems fanciful to believe that these trade-offs are identical among all 30 MLB clubs. Indeed, Bendickson's results (p. 70) demonstrate that clubs with demonstrably poorer development programs "buy" significantly more players from other MLB clubs. Moreover, for those clubs wishing to buy, because they wish to minimize uncertainty and their own internal development programs have not been successful, it is not cost-minimizing to limit their acquisition to those of the 29 other MLB clubs who may have surplus players, instead of fostering concurrent sourcing from independent minor league clubs. Conversely, the notion that every club finds it optimal to invest in four affiliated farm clubs and extensive training of younger players at their spring training camp seems implausible.

Skepticism that MLB's horizontal agreement to develop players internally[6] reflects each club's optimal assessment of its own Williamsonian make-or-buy analysis is further justified by a historic examination of minor league baseball in the 1950s. The market was not free of restraint: indeed, the labor market was substantially restrained by agreement between MLB and the National Association, representing minor league baseball clubs, that effectively granted a "property right" regarding the services of a player who signed an initial professional contract to

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example, virtually the entire value of Mexican baseball in identifying and developing your players who now play in MLB (see note __, *infra*), who are treated under his methodology as identical to an American player drafted or signed by an MLB club as an amateur free agent. In contrast, in a study of European football, Lechner & Gudmundsson (2012) only counted as an internally-developed resource those players in a club who played in the professional team and had been developed within the club's youth program.

[5] Further research could develop this issue at the sub-roster level. Although 64% of the Dodgers' roster was developed by other MLB clubs, four of their five opening day starting pitchers were developed internally.

[6] According to Bendickson, when MLB clubs acquire talent developed by other MLB clubs, they are adopting a sort of concurrent sourcing. Few would suggest that an agreement by the world's major automobile manufacturers to produce all their own parts, but to also acquire parts from other large manufacturers, constitutes the sort of concurrent sourcing described in the literature. The opportunity for holdup or transaction costs at the MLB level seems higher than in dealing with a competitive market of independent minor league suppliers of talent. Moreover, highly talented players are likely to be of much greater value to other MLB clubs than minor league clubs. Thus, all the reasons Bendickson discusses for why MLB clubs would not rely solely on their own club's player development apply to reliance solely on players developed within MLB. The focus of this paper is the joint decision to forego independent sources of inputs. In this sense, it is not appropriate to define the MLB approach as "concurrent sourcing." This may explain why Bendickson found (p.71) no significant relationship between team wins and whether a club seemed to "buy as predicted" by his model. The make or buy decision, when "buying" is limited to surplus-to-requirements players from other MLB clubs, is significantly distorted. Scholarship could further develop Bendickson's analysis -- that defines vertical integration as developing players within one's own club and concurrent sourcing as acquiring players from other MLB clubs -- to include the decision to forego sourcing from outside MLB.

the first club that signed the player (the "Reserve Clause"). *American League Baseball Club v Chase* (1914). However, MLB clubs did not collude on how to develop players, and there was a wide array of make-or-buy decisions.

For example, in 1955 the minor leagues featured 83 independent teams with no formal affiliation, who had every incentive to develop players whose contracts could be sold to the highest MLB bidder. Clubs adopted a variety of make-or-buy strategies. For example, the Brooklyn Dodgers had affiliate agreements with fifteen minor league clubs, while the Boston Red Sox only had seven and the Washington Senators had six. (Stats Crew, Baseball Reference a). The Pacific Coast League was so successful that some believed they could become a third major league. It featured two affiliate teams (the Los Angeles Angels and San Diego Padres) and six unaffiliated teams. Baseball Reference. Like global soccer today, unaffiliated clubs had a profitable business model. Clubs without a formal affiliation were able to compete with clubs with affiliate agreements whose coaches and players were paid by the parent MLB club, based on revenues from live gate and sponsorship and, importantly (and again like global soccer) fees for selling player contracts to MLB.

This section provides evidence to infer two critical things about the current MLB player development policies. First, they are literal restraints of trade (and, because MLB is a monopoly, have a demonstrable impact on competition): absent these agreement individual MLB clubs would behave differently in obtaining talent for their teams. Second, these restraints are not necessary for any legitimate purpose, because both MLB in the 1950s and global soccer today flourishes without these restrictions on player development.

2. MLB cartel agrees to complete vertical integration

Since the 1990s, the "Professional Baseball Agreement" negotiated between MLB and MiLB clubs guaranteed that MLB clubs would reach affiliation agreements with 119 clubs (Chass 1990), and a de facto agreement to operate no more than 6 farm clubs.[7] As a result, prior to MLB's recent restructuring, 180 MiLB clubs occupied virtually the entire market for developing players. (Bendickson 2014). Independent clubs were left to take on leftover players for consumer entertainment, with only rare opportunity to move back into "organized" baseball. Nor is there any indication that MLB was interested in, or would tolerate, competition among clubs to secure contract rights for players signed by independent clubs.

Given diversity of team needs, resources, and management skills, it is highly implausible that having precisely 6 affiliate teams is the optimal form of partial vertical integration for each club, and that limiting out-sourcing to players who are surplus to requirements of the 29 other MLB clubs is the optimal form of partial concurrent sourcing. Free of restraint, the more likely result is that some teams would maintain or seek to invest in strong development programs with affiliate teams, others would rely almost exclusively on acquiring developed players from multiple sources, and others would engage in mixed strategies.

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[7] Baseball Reference a. In 1995, for example, all 30 clubs operated one and only one farm team in AAA and AA, 25 operated three teams at the A level (5 operated only 2).

However, the monopoly benefit of the agreement far outweighs any inefficiencies from a sub-optimal make-or-buy regime. For an individual firm in a competitive market, a misalignment in make-or-buy decisions results in lower profit. (Mayer, 2000). This is not necessarily the case when misalignments result from collusion. Today's agreement to operate four vertically integrated minor league clubs with additional players receiving training at spring training facilities echoes the MLB decision in the 1950s to forego the established player development operation run by the Negro Leagues, which would have continued to supply MLB clubs with future Jackie Robinsons and Henry Aarons. To be sure, some teams would do better in an unrestrained market, although it is not clear which teams those would be. And all clubs would lose the monopsony power over players they now possess.[8]

Agreements among firms with market power to establish inefficient arrangements in order to maintain their market power are archetypical unreasonable restraints of trade. They should be enjoined under § 1.

3. Adverse social effects of MLB scheme

Scholars and policymakers have given more attention recently to ways in which antitrust law can be used to address social injustice. In many cases, injustice is the result of exogenous inequalities that combine with market forces to further disadvantage the disadvantaged. In this case, however, a result that restores competitive markets will likely improve social justice.

In global soccer today, there are many opportunities for athletically talented, hard-working kids from severely impoverished backgrounds to be identified by those with a financial interest in player development, to have their skills developed, and then to proceed to the highest levels of the sport. Back in the 1950s and before, there was a strong infrastructure in American rural and inner-city communities to likewise identify talent. This does not exist today in American baseball precisely because of MLB restraints of trade.

Today's baseball can be illustrated by a hypothetical family from Navojoa, Mexico (hometown of legendary pitcher Fernando Valenzuela). Imagine two brothers, Santiago and Angel Lopez, each of whom had 14-year old sons who were athletically gifted, Diego and Luis, respectively. Santiago and his wife decided to move his family to East Los Angeles; Angel decided to remain in Sonora. With regard to baseball, Luis Gomez would, at some point, be identified by a scout with two leading options for development, the Mexican Pacific League or the Mexican Baseball League. (The latter has, in turn, a development league of smaller clubs.) Perhaps Luis would follow the career of his idol, Valenzuela, signing with the local Mayos team and then seeing his contract transferred to Guanajuato, before his contract was again transferred to Leones de Yucatan, when his contract was purchased by the Los Angeles Dodgers. In contrast, Diego would find limited options to develop his skills in California, absent funding to join private traveling squads.[9]

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[8] Bendickson (2014) suggests that, in making this calculation, MLB clubs may overestimate the benefit of vertical integration because of a "too much of a good thing" effect.

[9] Private teams' costs range from $500-2500 per year, plus extensive costs in travel. Hitting Vault. Former MLB player Eric Davis observes:

In 2021, the *Washington Post* profiled nine prominent African American baseball stars as part of a series discussing the decline of Black participation in baseball. (Post 2021).[10] They illustrate the infrastructure that has been eliminated by the MLB cartel. Willie Mays joined the Birmingham Black Barons of the Negro Leagues at age 17. (Sheinin 2021). Vida Blue had quit sports at De Soto High School in Mansfield, Louisiana, but he had attracted sufficient attention from major league scouts to be drafted in the second round by the Oakland Athletics in the 1967 draft. Since that time, no player has made the major league from De Soto High School. Solomon (2021), noting that urban white high schoolers are 67% more likely to play baseball than their Black counterparts, concludes that this "both reinforces and helps to explain the growing disconnect between baseball and Black America. And it largely stems from a parallel crisis of affordability and accessibility, generated by the highly commercialized youth sports industry."

Why would the Los Angeles Dodgers not follow Barcelona and operate their own academy, to develop players like Diego? One answer is they do, investing millions annually at Campo Las Palmas in the Dominican Republic. Garcia (2016). Why not operate an academy in East Los Angeles, or South Central, or run programs for elite development in Dodger Stadium? The answer is that the Rule 4 Draft deprives MLB clubs of any economic incentive to develop their own players. If the Dodgers were to create their own academy, investing 7-figures to produce the same number of high quality prospects in Los Angeles that they develop in the Dominican Republic, they would not be able to sign these players to minor league professional contracts; rather, some other team would simply select them in the draft. The economic effect of under-investment when others can free ride is well established in the literature. Posner (1975).

The Rule 4 draft precludes efficient investment by clubs who would extend the "make or buy" calculation down to youth sports (as most large European soccer clubs do). But when combined with the inability of independent minor league teams to train players and sell their contracts for healthy profits, MLB policies preclude a business model where independent minor league clubs, like the old Pacific Coast League or Negro Leagues, could profitably train players.

The result is not just economically inefficient. It leaves player development almost entirely to self-funding by parents and family. The result is blatantly discriminatory, and it has resulted in a predictably sharp decline in participation in baseball by African Americans and

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> In my day, the scouts were so on point that they knew where to go to find Black players, and they did. They went into South Central Los Angeles. They went into Birmingham, Alabama, to find Willie Mays and these types. When you have scouts that are intrigued to want to do something, then you put forth that effort. Today, scouts are lazy. Today, scouts go to showcase games and if you're not a Black player that's a top-flight kid at Perfect Game, who sees you?

(Hill 2021). See also Solomon (2021) ("Years ago, Black kids in America's cities could play baseball with friends on neighborhood fields. They could compete in community-driven local leagues, receiving quality coaching and instruction.") There are exceptions. The Washington Post series notes that White Sox shortstop Tim Anderson did not play travel ball and was "discovered" by a community college coach who was scouting a high school teammate. Anderson, in an interview, specifically notes the "lack of access" for African Americans to pursue professional baseball opportunities (Lee 2021).

[10] African American participation rose steadily after Jackie Robinson integrated MLB in 1947, rising to a peak of 18.7% in 1981 and commencing in 1995, a steady decline to 6.7% in 2016. Armour and Levitt. Brewer (2021) offers a poignant narrative on the challenges when an African American player is alone or one of few on a club.

Puerto Ricans. Indeed, there are more Mexican than Mexican-American players in MLB, because infrastructure for player development remains in Mexico.[11]

4. Solution: let the market work by barring MLB anti-compete agreement

The economist F. M. Scherer observed that sound structural remedies in antitrust law are to the economy what surgery is to a patient. (Cited in Romaine & Salop 1999). Unlike ongoing conduct remedies or drug treatment, structural remedies restore marketplace incentives to preclude the need for further government intervention. The simple and practical solution is to simply bar MLB clubs from agreeing among themselves not to compete for player contracts from, or otherwise reach agreements with, independent minor league teams.

Absent such an agreement, each MLB team could add additional minor league clubs with full affiliate agreements[12], engage in joint ventures with independent minor league owners, loan players on their rosters to independent clubs for superior development, or, as is the norm in global soccer, adopt Williamson's "buy" option by purchasing player contracts from independent clubs.[13] MLB could continue to operate its own MiLB system as it chooses, including cooperatively, as long as its practices do not exclude independent competitions.

Critical to this remedy is that if a player under contract to an independent minor league club is valuable to more than one MLB club, MLB clubs must be free to bid for right to the player's services. This would provide the incentive for independent minor leagues to operate, both to create and enhance sporting entertainment for smaller towns and suburbs, but also to develop elite talent. The combination of typical revenue from ticket sales, concessions, parking, sponsorships, and broadcast, along with revenue from the sale of player contracts, should be sufficient to permit viable independent clubs to operate.

Claims that only clubs without the burden of paying for players and coaches can be viable are belied by the widespread existence of independent minor leagues today, even though they do not provide the sort of player development suggested here. With regard to franchises part of the official Minor League system prior to 2020, these claims may reflect the costs that owners had to incur to acquire these clubs. Because of the vertical integration described above, investors interested in operating MiLB clubs found few clubs for sale, driving up franchise values. Forbes (2016) estimate of franchise values for the restricted number of franchises in the

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[11] A website survey by Khalid Smith identified 12 Mexican-American MLB players in 2022, and 31 Mexican nationals in MLB. Players identifying as Mexican-American: Jason Castro, Jesse Chavez, Jarren Duran, Joe Kelly, Evan Longoria, Noe Ramirez, Anthony Rendon, Sergio Romo, Aaron Sanchez, Jose Trevino, Alex Verdugo, and Taijuan Walker. Players identifying as Mexican nationals: Miguel Aguilar, Victor Arano, Manny Banuelos, Humberto Castellanos, Daniel Castro, Luis Cessa, Jesus Cruz, Jorge De la Rosa, Daniel Duarte, Marco Estrada, Yovani Gallardo, Giovanny Gallegos, Miguel Gonzalez, Victor Gonzalez, Luis Gonzalez, Alejandro Kirk, Alejo Lopez, Adrian Martinez, Andres Munoz, Roberto Osuna, Isaac Paredes, Oliver Perez, Gerardo Reyes, Manuel Rodriguez, Fernando Salas, Julio Urias, Ramon Urias, Jose Urquidy, Luis Urias, Hector Velazquez, and Christian Villanueva.

[12] MLB's operation of its current, vertically integrated competitions among club-affiliated teams could continue, as long as each club can also, if it wishes, support other clubs in independent minor leagues.

[13] Perhaps to prevent overstocking, MLB might limit the number of players under contract to each club who might be assigned to an affiliate team or loaned to an independent team.

prior system were as high as $49 million for a AAA team in Sacramento, and a lucrative and successful A team in Dayton, Ohio, was valued at $45 million. (Klebnikov, 2016). Were substantial debt payments on the inflated costs of acquiring the franchise excluded, far more clubs would be viable.[14]

Competition from independent minor leagues would not only result in a more efficient scheme of player development, and a justice-promoting increase in opportunities for poor inner-city and rural teens to receive training and development, but would largely avoid current litigation concerning the exploitation of minor league players. Competition would force MLB clubs to compensate young players they believed to be prospects, and those whose believed their services were insufficiently valued by the MLB club selecting them in a draft would have the option to pursue their careers through negotiated deals with independent minor league clubs.

The Rule 4 draft was adopted in 1965 to address competitive balance issues in baseball. Since then, MLB clubs have adopted a host of less restrictive ways to share revenue and otherwise deal with balance issues. Moreover, courts and commentators have observed that increased revenue sharing is another tool to improve competitive balance. Another alternative to the complete ban on independent minor leagues would be an expansion of the Rule 5 draft, that permits weaker teams to select players off of the minor league rosters of better teams. In sum, there is no persuasive claim that eliminating competition from independent minor leagues is justified to preserve competitive balance among MLB clubs.

5 Conclusion

This analysis serves as a useful case study to make three important points and antitrust and economics beyond the specifics of baseball. First, it illustrates how cartels prefer inefficient input-selection schemes that they can control and monopsonize to more efficient schemes where they would have to pay competitive input prices. Second, it shows how surgically intervening regarding the inner-workings of joint ventures with market power can achieve desired pro-competitive results. Finally, it demonstrates how competition policy and social justice can interact.

[14] As a case study, consider the case of the limited supply of New York City taxi medallions. They were originally licensed for $10 in 1937 by the city, but the price had inflated to $5000 by 1950 because supply was more limited than the market demanded. (Jacobs 2022). By 2013, medallions were being sold at auction for $1.3 million. (Kowalski, 2019). Once Uber and Lyft entered the market to compete, the price dropped to $160,000. (Jacobs 2022). This suggests the cost to enter a competitive market as an independent minor league club would be far less that the cost of acquiring an affiliated MiLB club under the Professional Baseball Agreement regime. See also Cooper 2020, concluding that independent minor league clubs are primarily valued based on traditional earnings factors, while affiliate clubs are valued based on scarcity.

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