

THE ANTITRUST ANTIDOTE: A SOLUTION TO INDIANAPOLIS' SOCCER DILEMMA AND HOPE FOR U.S. PROFESSIONAL SOCCER

LAUREN LATHAM*

I. INTRODUCTION: INDY'S SOCCER DILEMMA AND THE ANTITRUST ANTIDOTE

A. Explanation of Current Events: Indy Eleven, MLS, and Indianapolis

Indianapolis's only professional soccer team, Indy Eleven, competes in the United Soccer League ("USL") Championship, which is classified as a second division professional soccer league by the United States Soccer Federation ("USSF").¹ Indy Eleven previously planned to build a new stadium, "Eleven Park,"² in the city pursuant to a deal with developer Keystone Group.³ However, in May 2024, the mayor of Indianapolis, Joe Hogsett, decided to withdraw his and the city's support from the Eleven Park project and pursue a new project: the construction of a Major League Soccer ("MLS") stadium to bring an MLS team to Indianapolis.⁴ Because MLS is the top division of professional soccer in the U.S., bringing an MLS team to the city would generate a greater economic return on such a large, expensive project.⁵ However, many supporters of Indy Eleven oppose bringing an MLS team to Indianapolis because the city already has an established professional soccer team with a loyal fanbase, and because some supporters viewed the Eleven Park project as a step towards realizing Indy Eleven's long-standing ambition to compete at the highest level of professional soccer in the U.S.

To those unfamiliar with the professional soccer system in the United States, a logical solution to the conflict created by the city's withdrawal of support

* J.D. Candidate 2026, Intellectual Property Law Graduate Certificate Candidate 2026, Indiana University Robert H. McKinney School of Law; IAPP Westin Scholar Award Recipient 2024-2025. The author would like to thank Vice Dean Max Huffman for his support and advice throughout the note development process, and her family, friends, colleagues and mentors for their encouragement during her time in law school.

1. *USL Championship*, UNITED SOCCER LEAGUE, <https://www.uslsoccer.com/usl-championship> [https://perma.cc/69D3-ZEUA] (last visited Nov. 7, 2024); *About Indy Eleven*, INDY ELEVEN, <https://www.indyeleven.com/about-indy-eleven/> [https://perma.cc/4LYD-MW4U] (last visited Oct. 20, 2024).

2. Jill Sheridan, *As Indy Eleven fans hope to join Major League Soccer discussion, Brickyard Battalion president weighs in*, WFYI INDIANAPOLIS (May 10, 2024), <https://www.wfyi.org/news/articles/indy-eleven-fans-hope-to-be-part-of-major-league-soccer-discussion-brickyard-battalion-president-weighs-in> [https://perma.cc/P5KW-ZBM5].

3. Alex Almanza, *Waiting for Kickoff: What's next for Indy's MLS stadium plans and Eleven Park?*, WTHR (May 30, 2025), <https://www.wthr.com/article/news/local/indianapolis-major-league-soccer-mls-plans-indy-eleven-park-stadium/531-8cc31c7a-c1e7-4fbc-aeca-92279d2e1acf> [https://perma.cc/7S74-M4FG].

4. Brian Haenchen, *MLS says Indy 'doing everything right,' but 'very much in the beginning of the process'*, INDIANAPOLIS STAR (July 24, 2024), <https://www.indystar.com/story/sports/2024/07/24/mls-expansion-commissioner-don-garber-says-league-content-at-30-teams-for-now-indianapolis-bid/74407621007/> [https://perma.cc/4HRU-QQJE].

5. *About Major League Soccer*, MLS SOCCER, <https://www.mlssoccer.com/about/> [https://perma.cc/3CAT-72KP] (last visited Feb. 15, 2026).

would be for Indy Eleven to perform well enough to earn promotion to MLS.⁶ Historically, this solution has not been possible in the United States because MLS operates as a closed league, and no system of promotion and relegation exists between MLS (Division I) and the lower professional leagues: USL Championship (Division II) and USL League One (Division III). Instead, professional soccer teams have been confined to these closed leagues, with no opportunity to move to the top tier, MLS, based on sporting merit.⁷ As a result, USL teams have remained USL teams, and MLS teams have remained MLS teams, regardless of the teams' on-field performance or fan support.⁸

Although promotion and relegation have historically not existed within the U.S. professional soccer system, and no mechanism currently allows clubs to earn entry into MLS through on-field performance, USL recently announced plans to launch a new Division I league, USL Premier, and implement promotion and relegation within its own league structure,⁹ creating an interconnected three-tier professional soccer system.¹⁰ If sanctioned by the U.S. Soccer Federation, this new USL Division I league could begin play as early as 2028¹¹ and stand alongside MLS in the top tier of the U.S. professional soccer pyramid.¹² While this development represents a historic shift in the American soccer landscape, it does not create a pathway for clubs like Indy Eleven to reach MLS, nor does it alter the league's closed, franchise-based control over access to the sport's top tier. Instead, it merely creates an alternative league that could potentially compete with MLS—but only if USL successfully launches the new league and obtains Division I sanctioning from USSF. Thus, despite these reforms, Indy Eleven remains categorically excluded from MLS competition—and, by extension, from the top level of professional soccer in the United States.

6. Sheridan, *supra* note 2.

7. Barnaby Lane, *MLS Promotion/Relegation: The Arguments For & Against*, SPORTS ILLUSTRATED (Jan. 29, 2025), <https://www.si.com/soccer/arguments-for-against-mls-promotion-and-relegation> [<https://perma.cc/GZ6J-4BFW>].

8. Haenchen, *supra* note 4.

9. Jeff Carlisle, *Will USL's move to pro-rel change U.S. soccer, threaten MLS?*, ESPN (June 8, 2025), https://www.espn.com/soccer/story/_/id/45464543/will-usl-move-promotion-relegation-change-us-soccer-threaten-mls [<https://perma.cc/KN57-FZ52>].

10. USLSoccer.com Staff, *United Soccer League Adopts Promotion and Relegation System, Ushering in a New Era for American Soccer*, UNITED SOCCER LEAGUE (Mar. 19, 2025), https://www.uslsoccer.com/news_article/show/1334700 [<https://perma.cc/C2MT-HL4N>]; *see also* *USL Premier Set to Reshape American Soccer Pyramid*, GRAND PINNACLE TRIB. (Jan. 27, 2026), <https://evrimagaci.org/gpt/usl-premier-set-to-reshape-american-soccer-pyramid-525739> [<https://perma.cc/74SM-RKHX>].

11. *USL Premier Set to Reshape American Soccer Pyramid*, *supra* note 10.

12. Carlisle, *supra* note 9; Paul Tenorio, *USL Premier announced as new professional league, pro-rel era to launch in 2028*, N.Y. TIMES (Jan. 27, 2026), <https://www.nytimes.com/athletic/7000491/2026/01/27/usl-premier-mls-pro-rel-pyramid/> [<https://perma.cc/TF24-TA9U>].

B. Antitrust Law and Promotion and Relegation Must Apply (to U.S. Soccer)

In the United States, soccer has been developing rapidly and gaining popularity among Americans.¹³ However, the structure of the United States professional soccer system impedes teams and leagues seeking to elevate American soccer to a world-renowned pyramid of high talent and competition. Drawing on the success of the English soccer pyramid, many sports commentators, fans, and officials believe that the key to creating a reputable, well-known, and stable system in the United States is to implement promotion and relegation.¹⁴ Although several leagues, players, and independent actors have challenged the current frontrunners of soccer in the United States—the United States Soccer Federation and Major League Soccer—alleging violations of antitrust law to promote integrity and bolster competition among professional clubs and leagues, none have succeeded.¹⁵ Some, such as the North American Soccer League, have seen their futures effectively eliminated by the alleged actions of MLS and USSF.¹⁶ Now, a local club, Indy Eleven, is facing an uncertain future due to the closed U.S. soccer system.¹⁷

This note compares the U.S. soccer pyramid to the famed English pyramid, analyzes potential MLS or USSF violations of the Sherman Antitrust Act of 1890, reviews European antitrust law, and explores past and pending soccer and sports antitrust cases to ascertain how the present issue in Indianapolis may be resolved. Because MLS and USSF have likely engaged in illegal anticompetitive behavior, both entities must reconfigure the professional soccer system. To avoid future anticompetitive challenges, MLS and USSF must adopt a system of promotion and relegation, adopt new standards for admitting teams to higher tiers based on merit rather than money, or actively enforce the existing standards for professional leagues. Only then can Indy Eleven and other similarly situated teams stand a chance at making it to the major league.

Section II provides an overview of soccer governance and domestic league systems across the world, with greater detail given to the European, English,

13. *Soccer reportedly overtakes baseball in the U.S. as America's third favorite sport*, FOX SPORTS (Jan. 7, 2026), <https://www.foxsports.com/articles/soccer/soccer-reportedly-overtakes-baseball-in-the-u-s-as-americas-third-favorite-sport> [<https://perma.cc/H8Y5-W9RU>].

14. E.g., Tom Hindle, Ryan Tolmich & Alex Labidou, *The Rondo: What are the implications of USL's landmark move to promotion-relegation, will it have any reverberations for MLS, and does it alter U.S. soccer landscape?*, GOAL (Mar. 20, 2025), <https://www.goal.com/en-us/lists/the-rondo-what-are-the-implications-of-usl-s-landmark-move-to-promotion-relegation-would-mls-ever-follow-suit-and-does-it-alter-u-s-soccer-landscape/blt46818c811ef9cd1a> [<https://perma.cc/2386-U655>]; Derek Reese, *Why soccer fans prefer promotion and relegation*, WORLD SOCCER TALK (Apr. 29, 2023), <https://worldsoccertalk.com/news/why-soccer-fans-prefer-promotion-and-relegation-20230206-WST-417655.html>. [<https://perma.cc/Y6FV-EBK7>].

15. Melanie Anzidei, *NASL failed to prove USSF and MLS conspired against it, jury decides*, ATHLETIC (Feb. 3, 2025), <https://www.nytimes.com/athletic/6110245/2025/02/03/nasl-ussf-mls-lawsuit-verdict/> [<https://perma.cc/U8GE-ANMT>].

16. *Id.*

17. Almanza, *supra* note 3.

and American soccer systems. It compares the English pyramid and its “open” system to the U.S. soccer pyramid and the “closed” model that it follows. Following this comparative analysis of soccer systems, Section III aims to further elaborate on the problems with MLS and USSF (and the U.S. professional soccer system as a whole). It serves as a bridge to the next portion of this note, Section IV, which focuses on the relevant antitrust law in the U.S. and competition law in the United Kingdom. Throughout Section IV, the laws and principles of both countries are compared. Finally, Section V connects the soccer systems, laws, and ideas discussed in the previous sections to provide a solution to Indy Eleven’s soccer dilemma and to the current state of the U.S. soccer pyramid.

II. BACKGROUND

Colloquially known as “the Beautiful Game,” soccer is widely regarded as the most popular sport in the world.¹⁸ According to the Fédération Internationale de Football Association (“FIFA”), the sport has over five billion fans worldwide,¹⁹ with around 250 million people playing²⁰ in 200 countries.²¹ However, while soccer dominates in popularity in most of Europe, South America, Africa, and Asia, it is not the most popular sport in the United States.²² European soccer, in particular, is globally renowned for its prestigious leagues and surplus of talented players, and such fame has generated a financially lucrative sport with no shortage of fans across the world.²³ Soccer in the United States, however, does not share the same reputation; according to data published by *The Economist* in November 2025, soccer ranked number three in popularity, behind basketball and (American) football.²⁴ To understand this disparity in prestige and popularity, an examination of two factors—the relationships between national soccer associations and professional leagues and the structures

18. *Explained: Why is football called the beautiful game?*, GOAL (Apr. 13, 2020), <https://www.goal.com/en-us/news/explained-why-is-football-called-the-beautiful-game/16ayjoi69lor168ku0gwsd9vd> [https://perma.cc/UY7R-PKA4].

19. *The Football Landscape*, FIFA PUBL’NS, <https://publications.fifa.com/en/vision-report-2021/the-football-landscape/> [https://perma.cc/V6B9-3YJ8] (last visited Jan. 18, 2026).

20. Peter Christopher Alegi et al., *football*, BRITANNICA (Feb. 2, 2026), <https://www.britannica.com/sports/football-soccer> [https://perma.cc/T9WM-7WDH].

21. Michael Levy, *FIFA*, BRITANNICA (Mar. 9, 2026), <https://www.britannica.com/topic/Federation-Internationale-de-Football-Association> [https://perma.cc/5C6H-A9V7].

22. *Soccer reportedly overtakes baseball in the U.S. as America’s third favorite sport*, *supra* note 13.

23. See MD Motasim Billa, *Inside European Football: How Is It Structured?*, TVISTA (Feb. 5, 2024), <https://tvista.org/sports/65/inside-european-football-how-is-it-structured> [https://perma.cc/KZQ5-M82J].

24. Ben Steiner, *Soccer Passes Baseball in Race to Be America’s Favorite Sport—Report*, SPORTS ILLUSTRATED (Jan. 20, 2026), <https://www.si.com/soccer/soccer-passes-baseball-race-america-> [https://perma.cc/7EX3-K4EB].

of domestic professional soccer competitions—is paramount.²⁵ Ultimately, these factors “heavily impact football development throughout the world.”²⁶

A. Professional Soccer Systems and Governance Across the Globe

Founded in 1904, the Fédération Internationale de Football Association (“FIFA”) acts as the ultimate governing authority of association football (soccer) across the world.²⁷ FIFA oversees all aspects of the sport, including universal rules and officiating standards, the administration of international competitions (like the World Cup), and the global development of soccer at all levels.²⁸ The organization’s members include more than 200 national associations, which belong to one of FIFA’s six regional confederations: CAF (Africa), AFC (Asia), UEFA (Europe), CONMEBOL (South America), OFC (Oceania), and CONCACAF (North America).²⁹ Each national association serves as a representative of FIFA by promoting and regulating soccer within its respective country; for instance, the United States Soccer Federation (“USSF”) is the national association governing soccer in the United States, and the Football Association (“FA”) is the national association that governs the sport in England.³⁰ Thus, while the regional confederations oversee continental competitions between different national association teams, individual countries are responsible for operating their domestic leagues and competitions.³¹ As a result, the relationships between national associations and the leagues “organised at [the] national level and taking place within its jurisdiction” differ across the world.³²

1. Governance: Relationships Between National Associations and Leagues

Generally, domestic leagues follow one of two governance models: association or separate entity. Leagues that follow the association model have the same legal form as their national association and are typically managed

25. CAMILLE BOILLAT & RAFFAELE POLI, GOVERNANCE MODELS ACROSS FOOTBALL ASSOCIATIONS AND LEAGUES (David Rodrigues & Kevin T. Marston eds., vol. 4 2014).

26. *Id.* at 1.

27. Levy, *supra* note 21.

28. *Id.*; see, e.g., *FIFA – Soccer’s World Governing Body*, U.S. SOCCER FED’N, <https://www.ussoccer.com/history/organizational-structure/fifa> [https://perma.cc/5WS4-UL53] (last visited Nov. 14, 2024); *About FIFA: Professional Football*, INSIDE FIFA, <https://inside.fifa.com/about-fifa/stakeholders> [https://perma.cc/BN7E-UDLU] (last visited Nov. 14, 2024).

29. Levy, *supra* note 21.

30. See, e.g., *About FIFA: Member Associations*, INSIDE FIFA, <https://inside.fifa.com/about-fifa/associations> [https://perma.cc/P9CU-74LX] (last visited Nov. 14, 2024).

31. *How is European soccer structured with leagues and cup competitions?*, BUNDESLIGA, <https://www.bundesliga.com/en/faq/what-are-the-rules-and-regulations-of-soccer/how-is-european-soccer-structured-with-leagues-and-cup-competitions-10568> [https://perma.cc/L848-UKVS] (last visited Nov. 14, 2024).

32. BOILLAT & POLI, *supra* note 25, at 5.

entirely by, financially dependent on, or fully subject to the rules and decisions of the national association.³³ In contrast, leagues structured as separate entities operate as “a company with an independent ownership structure,” in which “decision-making power belongs to the shareholders” rather than to the national association.³⁴ However, leagues following the separate entity model retain strong relationships with their respective national associations, since such associations are the supreme soccer authority in a country and are responsible for the development of soccer at a national level. As such, despite the league’s model, most national associations organize their country’s national cup competitions and manage basic competencies of the sport, such as “the appointment of referees, disciplinary processes, and the rules of the game.”³⁵

2. Domestic Competition Structures

In most countries, domestic leagues and competitions are organized into professional soccer league systems known as “pyramids” due to their structural shape; each system is arranged as a hierarchical pyramid with tiers and divisions, which denote various levels of competition.³⁶ At each tier or division, professional soccer clubs compete against each other within designated leagues.³⁷ Because this system is structured so that the prestige and ranking of a club or league correspond to tier placement, a country’s best teams usually compete in the league at the top tier of the pyramid, and the least skilled teams compete in lower leagues at the bottom of the pyramid.³⁸ To reinforce this structure and facilitate competition, professional soccer pyramids typically operate as “open” league systems with promotion and relegation.³⁹ In these open league systems, teams move up or down to different leagues on the pyramid based on how the team performs competitively within its league each season.⁴⁰ Thus, at the end of the professional soccer season, the teams that performed best in a league are promoted and therefore move up to a higher tier or division on

33. *Id.* at 8-12.

34. *Id.*

35. *Id.* at 9-16, 60.

36. *Id.* at 2; see also Luka Cajic, *Unveiling the US Soccer Pyramid: An Ultimate Guide to the National League Structure*, STUDBUD, <https://studbud.org/unveiling-the-us-soccer-pyramid-an-ultimate-guide-to-the-national-league-structure/> [<https://perma.cc/CSB5-QNMF>] (last visited Feb. 15, 2026).

37. Draculer, *Football 101: How to get started?*, MEDIUM (Jan. 4, 2024), <https://thefootballhq.medium.com/football-101-how-to-get-started-7d82f307cf36> [<https://perma.cc/XNQ9-7QSK>]; see also BOILLAT & POLI, *supra* note 25, at 5-7 (demonstrating that some leagues consist of a single division, while others contain multiple divisions which are individually ranked in accordance with the entire hierarchical scheme).

38. Reese, *supra* note 14.

39. Derek Reese, *What is promotion and relegation?*, WORLD SOCCER TALK (Apr. 29, 2023), <https://worldsoccertalk.com/news/what-is-promotion-and-relegation-20230205-WST-417286.html> [<https://perma.cc/7VYU-MUWR>].

40. Billa, *supra* note 23.

the pyramid. The teams that performed the worst at the end of a league's season are relegated to a lower-division league or competition.⁴¹ While the details of promotion and relegation (such as the number of teams and the ways in which league standings are determined) vary depending on the country, most of the world utilizes this open league system for professional soccer; according to FIFA's 2023 Professional Football Report, approximately 84% of FIFA's member associations' league systems utilize promotion and relegation mechanisms.⁴²

B. The English and American League Systems

1. Introduction: Europe and North America

In Europe, professional soccer is governed by the Union of European Football Associations ("UEFA"), one of FIFA's six regional confederations.⁴³ Of UEFA's 55 national associations,⁴⁴ only two countries, Gibraltar and San Marino, do not use promotion and relegation mechanisms in their domestic league systems.⁴⁵ Thus, most European soccer leagues, including the top leagues in the world—the English Premier League, Italian Serie A, German Bundesliga, Spanish La Liga, and French Ligue 1 (collectively known as the "Big Five")—operate with promotion and relegation.⁴⁶ Similarly, most national associations belonging to the Confederation of North, Central America, and Caribbean Association Football ("CONCACAF") utilize open league systems in their countries. However, the largest countries in CONCACAF—the United States, Canada, and Mexico—operate their domestic soccer competitions without promotion and relegation.⁴⁷

41. Grey Whitebloom, *How Promotion and Relegation Works in Football*, GIVEMESPORT (Mar. 24, 2024), <https://www.givemesport.com/how-promotion-relegation-works-football/> [https://perma.cc/S5YZ-2QFX].

42. PROFESSIONAL FOOTBALL REPORT 2023 (2023), <https://digitalhub.fifa.com/m/2a5dc95026d9cf8a/original/FIFA-Professional-Football-Report-2023.pdf> [https://perma.cc/FRL4-MXHZ].

43. Billa, *supra* note 23.

44. PROFESSIONAL FOOTBALL REPORT 2023, *supra* note 42, at 198.

45. Barnaby Lane, *What Is Relegation in Soccer? Understanding the System & Its Impact*, SPORTS ILLUSTRATED (Mar. 19, 2025), <https://www.si.com/soccer/what-is-relegation-in-soccer> [https://perma.cc/CND5-MKBP].

46. Reese, *supra* note 39.

47. Derek Reese, *Leagues Cup doesn't fit CONCACAF ecosystem: How to fix it*, WORLD SOCCER TALK (Aug. 25, 2023), <https://worldsoccertalk.com/news/leagues-cup-doesnt-fit-concacaf-ecosystem-how-to-fix-it-20230825-WST-451641.html> [https://perma.cc/FHJ9-CN66].

2. Professional Soccer in England⁴⁸

The English football (soccer) pyramid, home to the world's most popular and highest-ranked domestic soccer competition—the Premier League—has achieved global recognition for its extensive hierarchy and rich history.⁴⁹ As the oldest soccer league competition, the English league system is credited with many of the sport's innovations, including the introduction of promotion and relegation mechanisms, which were implemented into the English Football League in 1898.⁵⁰ Today, the FIFA national association that governs English soccer is the Football Association (“FA”).⁵¹ Although the FA does not directly manage professional football league competitions, it supervises the organization of professional leagues; for instance, the FA ensures that such leagues comply with the directives of FIFA, UEFA, and the FA, and that the “sanctity of promotion and relegation between domestic league competitions” is preserved in England.⁵² The two leagues that operate professional soccer competitions in England, the English Premier League and the English Football League (“EFL”), are both structured as separate entities from the FA. However, the FA holds a minority stake, the “Special Share,” in the Premier League, which grants the FA oversight authority over certain matters; for example, the Premier League must obtain the FA's written consent before altering its rules governing promotion and relegation.⁵³ In contrast, the FA does not hold any shares in the EFL, whose shareholders are the league's 72 Member Clubs.⁵⁴ However, since the FA is responsible for domestic soccer at the national level, the EFL divisions, such as the Premier League, are still subject to FA regulations, including rules on player contracts.⁵⁵

The English pyramid itself consists of 11 tiers, but only the top four are considered professional and compete at the national level: the Premier League (tier 1), EFL Championship (tier 2), EFL League 1 (tier 3), and EFL League 2

48. Although the United Kingdom is the sovereign political entity which governs England, Scotland, Wales, and Northern Ireland, each country has its own FIFA member association which oversees the development of domestic soccer. As such, each country has its own domestic league system. See *Football Association*, BRITANNICA (Mar. 20, 2023), <https://www.britannica.com/topic/Football-Association> [https://perma.cc/BW7M-M6BM].

49. Alex Mitton, *English Football Pyramid Explained: How Promotion, Relegation and Cup Competitions Work*, GIVEMESPORT (May 16, 2024), <https://www.givemesport.com/english-football-pyramid-explained/> [https://perma.cc/9V39-V5DV].

50. *Innovation*, EFL, <https://www.efl.com/about-the-efl/history/innovation/#> [https://perma.cc/AK87-TE9N] (last visited Nov. 14, 2024).

51. BOILLAT & POLI, *supra* note 25.

52. *Rules of the Association*, in THE FA HANDBOOK 2024-2025, at 107 (2024).

53. *Articles of Association*, in PREMIER LEAGUE HANDBOOK 2025-2026, at 701-702, 705-706 (2025).

54. *Articles of Association*, in ENGLISH PREMIER LEAGUE HANDBOOK 2024-2025 at 198, 200 (2024).

55. *Rules of the Association*, in THE FA HANDBOOK 2025-2026, at 123 (2025).

(tier 4).⁵⁶ Currently, the Premier League consists of 20 teams, and each division within the English Football League contains 24 teams.⁵⁷ Until 1992, the English Football League managed all levels of English professional football, including tier 1.⁵⁸ However, “[f]ollowing the ratification and final approval by the Football Association in February 1992,” the top teams from the English Football League first division tier seceded from the EFL and formed the present-day tier one competition, the Premier League.⁵⁹ Although the Premier League operates as a distinct entity from the English Football League—which governs the other three professional English divisions directly below the Premier League—promotion and relegation between all four professional levels of the pyramid occur each season.⁶⁰ For instance, the Premier League teams with the lowest points at the end of a season are relegated to the second-level EFL Championship, and the highest-scoring teams from the Championship are promoted to the English Premier League (“EPL”).⁶¹ Points are allocated to teams based on game performance: teams earn three points for each win, one point for each tie game, and zero points for a loss.⁶² As a result, clubs earn their positions in top-tier or lower-tier leagues by merit.

3. Comparison: Professional Soccer in the United States

In the United States, the United States Soccer Federation (“USSF”) is the FIFA national association that acts as the governing body of all levels and aspects of soccer in the country, overseeing youth, club, amateur, and professional leagues, coach and referee organizations, and state associations.⁶³ Like the English professional leagues, the American professional leagues are structured as separate entities, but unlike the relationship between the FA and the Premier League, USSF does not hold any shares in the top professional

56. *English Football League Pyramid System Guide*, WILLIAM HILL NEWS, <https://news.williamhill.com/football/english-football-league-pyramid-system/> [https://perma.cc/S7BL-C2ME] (last visited Nov. 7, 2024).

57. *Id.*

58. Oliver Roeder, *Beneath The Premier League Stands The Great Football Pyramid Of England*, FIVETHIRTYEIGHT (Sep. 19, 2014), <https://fivethirtyeight.com/features/beneath-the-premier-league-stands-the-great-football-pyramid-of-england/> [https://perma.cc/8FMK-29H5].

59. Jason Rodrigues, *Premier League football at 20: 1992, the start of a whole new ball game*, GUARDIAN (Feb. 2, 2012), <https://www.theguardian.com/football/from-the-archive-blog/2012/feb/02/20-years-premier-league-football-1992> [https://perma.cc/J5G3-VUMU].

60. Mitton, *supra* note 49.

61. *Id.*; see also James Reade, *Why Is There Promotion And Relegation In European Soccer?*, FORBES (Oct. 9, 2020), <https://www.forbes.com/sites/jamesreade/2020/10/08/why-is-there-promotion-and-relegation-in-european-soccer/> [https://perma.cc/76DR-63SK] (discussing the economic and entertainment justifications for the promotion and relegation system).

62. Mitton, *supra* note 49.

63. *Membership Categories*, U.S. SOCCER FED’N, <https://www.ussoccer.com/organization-members-directory> [https://perma.cc/XY39-LLUW] (last visited Nov. 7, 2024).

league it sanctions.⁶⁴ However, since USSF is the supreme authority for domestic soccer in the United States—similar to the FA in England—it oversees the structure of and guidelines for its professional leagues.⁶⁵ For instance, USSF creates the American soccer pyramid by sanctioning qualifying leagues into one of three competitive divisions—or tiers—for men's outdoor professional soccer: Division I, Division II, and Division III.⁶⁶ These divisions create a hierarchical pyramid, with Division I being considered the top level of professional soccer in the United States.⁶⁷ While USSF has sanctioned three leagues to compete at the Division III tier, it has sanctioned only one league for Division II and one for Division I.⁶⁸

The American pyramid itself consists of five levels, but only the top three tiers—Divisions I, II, and III—are sanctioned by USSF for professional competitions.⁶⁹ MLS consists of 30 teams and is sanctioned as the sole Division I league; thus, MLS is considered the top level of professional soccer in the United States.⁷⁰ Below MLS is the United Soccer League (“USL”) Championship, which features 24 teams and is the only league sanctioned as Division II.⁷¹ Currently, three leagues—USL League One, MLS Next Pro, and the National Independent Soccer Association (“NISA”)—are sanctioned as Division III and therefore compete in the tier below the USL Championship.⁷² Unlike European professional soccer, which utilizes a system of relegation and promotion to allow teams to move up or down competition levels based on performance (winning or losing games), the United States professional soccer scheme operates as a closed system with no such movement between its leagues.⁷³ Because of this system, current MLS teams remain “top” teams competing in Division I, while lower division professional soccer teams, such

64. See *Fraser v. Major League Soccer, LLC*, 284 F.3d 47 (1st Cir. 2002) (describing the ownership structure of MLS as distinct from the United States Soccer Federation).

65. See *BYLAWS OF THE UNITED STATES SOCCER FEDERATION, INC.* (2025), <https://ussoccer.app.box.com/s/ummpm6cykezn0qcl1zolp32j5yj6qole> [<https://perma.cc/5S2G-UFSY>].

66. *THE UNITED STATES SOCCER FEDERATION, INC. POLICY MANUAL 16* (2025), <https://ussoccer.app.box.com/s/d17mtf22sltr4k8r7513970c13almooo> [<https://perma.cc/6AGW-3VYU>].

67. Cajic, *supra* note 36.

68. Gerald Barnhart, *US Soccer's Club Structure – The Breakdown*, INW SOCCER NEWS (Feb. 11, 2024), <https://www.inwsoccernews.com/2024/02/11/us-soccers-club-structure-the-breakdown/> [<https://perma.cc/4SVC-YC5B>].

69. Spencer Collins & Meghan Bragg, *Breaking down the soccer pyramids in the US*, WCNC CHARLOTTE (Oct. 14, 2024), <https://www.wcnc.com/article/news/verify/breaking-down-soccer-pyramids-united-states/275-abb9077c-2a14-47fb-888f-ec83f4db54a7> [<https://perma.cc/HRH5-M6UK>].

70. Barnaby Lane, *How Many MLS Teams Are There for the 2025 Season?*, SPORTS ILLUSTRATED (Feb. 19, 2025), <https://www.si.com/soccer/how-many-mls-teams-are-there-for-the-2025-season> [<https://perma.cc/3V6J-HNXQ>].

71. Barnhart, *supra* note 68.

72. *From Grassroots to Pro: Understanding the U.S. Soccer System*, BROOKLYN FC (Sept. 16, 2025), <https://www.brooklynfootballclub.com/2025/09/16/from-grassroots-to-pro-understanding-the-u-s-soccer-system/> [<https://perma.cc/NQC2-QLAT>].

73. Reade, *supra* note 61.

as teams playing in the second-highest league, the USL Championship, are unable to move up to the MLS based on merit, regardless of their popularity or success on the field. Consequently, MLS teams that perform poorly remain in the top division of professional soccer.⁷⁴

III. IMPLICATIONS: MLS, ANTITRUST LAW, AND THE HOPE OF PROMOTION AND RELEGATION

Prior to the birth of the MLS, the United States had seen a few Division I soccer leagues come and go, merge and succeed, and ultimately fail.⁷⁵ After the predecessor league to the MLS folded in 1984, the United States was left without a major professional soccer league for a decade.⁷⁶ In 1993, as a condition to granting the United States' bid to host the 1994 World Cup, FIFA urged the country's national association to form a top-tier professional soccer league.⁷⁷ Thus, Major League Soccer was created, and ten teams played their first MLS season in 1996.⁷⁸ Although the early years of the MLS were plagued with various financial challenges and fan shortages, after a series of stabilization efforts in the early 2000s, the league's popularity and size have consistently grown in correspondence to Americans' increasing interest and involvement in the sport.⁷⁹ Since the inception of the MLS, new leagues and divisions of professional soccer, such as the Division II USL Championship, have likewise developed and continue to expand as soccer's popularity in the United States flourishes.⁸⁰

In general, all the American "major league" sports operate closed leagues. Other professional sports leagues, such as the National Football League ("NFL"), the National Basketball Association ("NBA"), and the Major League Baseball ("MLB"), all consist of independently owned and managed teams that compete against each other within single leagues.⁸¹ While the USL follows this

74. Anna Claire Mercer, *Not Just Kickin' It: How the Current United States Soccer System Will Not Yield Success in MLS*, 10 MISS. SPORTS L. REV. 281, 300 (2021).

75. Aimée Lister, *The history of Major League Soccer*, RED BULL (Nov. 9, 2022), <https://www.redbull.com/us-en/history-of-major-league-soccer> [https://perma.cc/CXR3-A6EK].

76. Michael Lewis, *How the birth and death of the NASL changed soccer in America forever*, GUARDIAN (Oct. 20, 2018), <https://www.theguardian.com/football/2018/oct/20/nasl-history-soccer-america> [https://perma.cc/KZ8B-Q4X5].

77. Lister, *supra* note 75.

78. *Id.*

79. Chris Beaumont, *A Brief History of Major League Soccer*, TOTAL FOOTBALL ANALYSIS (Feb. 2, 2023), <https://totalfootballanalysis.com/opinion/a-brief-history-of-major-league-soccer> [https://perma.cc/X5VM-EU3G].

80. *About USL Championship*, UNITED SOCCER LEAGUE, <https://www.uslsoccer.com/usl-championship> [https://perma.cc/72BZ-35AM] (last visited Nov. 25, 2024).

81. Leah Farzin, *On the Antitrust Exemption for Professional Sports in the United States and Europe*, 22 JEFFREY S. MOORAD SPORTS L.J. 75, 80 (2015).

franchise model for club ownership, the MLS does not.⁸² Instead, soccer clubs that compete in the MLS do not have independent owners; the teams are run by “investor-operators.”⁸³ These investor-operators invest financially into the MLS entity, which owns the teams, in exchange for the right to operate a team.⁸⁴ Essentially, MLS “is owned by the same people running the teams.”⁸⁵ Thus, because the operators of MLS teams also have equity interests in the league itself, the MLS structure acts as a disincentive for the league to entertain the idea of implementing a promotion and relegation system.⁸⁶ Furthermore, because teams have recently paid between \$200 million and \$500 million in expansion fees to join MLS, investor-operators are unlikely to risk their large investments in MLS by supporting a system in which their teams’ poor performance could result in relegation to a lower competition league.⁸⁷ However, supporters of implementing promotion and relegation into U.S. professional soccer cite this financial risk as one of the benefits of such a system because it incentivizes club and league stakeholders to invest in their teams’ performance on the field.⁸⁸ As a result, the development and quality of professional soccer in the United States will continue to improve. For instance, the former Miami Football Club (an MLS team) CEO, Sean Flynn, explained that by adopting promotion and relegation, “America will be open, resulting in better teams through all divisions, compelling storylines to increase fan excitement and greater financial success for everyone involved in this beautiful game.”⁸⁹

Beyond potential economic success and increased team quality, an open system ensures integrity in professional soccer and promotes inclusivity. Instead of allowing only large cities and wealthy teams to compete at the top level, a promotion and relegation system gives any city or team, regardless of size or capital, the opportunity to achieve success, fame, and financial rewards.⁹⁰

82. Derek Reese, *What is the difference between MLS and USL?*, WORLD SOCCER TALK (Nov. 17, 2023), <https://worldsoccertalk.com/news/what-is-the-difference-between-mls-and-usl-20231116-WST-470478.html> [<https://perma.cc/B528-VEGZ>].

83. Isaac Krasny, *Unpacking the Major League Soccer Business Model*, MEDIUM (June 7, 2017), https://medium.com/@isaac_krasny/unpacking-the-major-league-soccer-business-model-827f4b784bcd [<https://perma.cc/4PED-YYN9>].

84. *Id.*

85. *Id.*

86. *Explained: Why U.S. soccer doesn't have relegation and promotion – and will MLS ever change?*, GOAL (Feb. 20, 2023), <https://www.goal.com/en-us/news/explained-why-us-soccer-doesnt-have-relegation-and-promotion---and-will-mls-ever-change/7a2v9a1dga8v116cbjr5lsp11> [<https://perma.cc/6XV3-79PD>].

87. Evan Frank & Brian Haenchen, *Indianapolis will bid for an MLS team. What to know about possible stadium location, fee*, INDIANAPOLIS STAR (Apr. 25, 2024), <https://www.indystar.com/story/sports/2024/04/25/mls-in-indianapolis-what-to-know-major-league-soccer-bid-stadium-expansion-fee-indy-eleven/73458963007/#> [<https://perma.cc/RFE4-RBX7>].

88. Reese, *supra* note 39.

89. *Miami FC taking promotion-relegation fight to Court of Arbitration for Sport*, ESPN (Aug. 3, 2017), <http://www.espnfc.com/miami-fc/story/3171424/miami-fc-taking-promotion-relegation-fight-to-court-of-arbitration-for-sport> [<https://perma.cc/VX5Z-3DUA>].

90. Reese, *supra* note 39.

Furthermore, it encourages a system built on merit rather than financial connections and assets. For teams to reach entry into the top-tier league, they must earn it by winning games, which safeguards the integrity of the sport. The American system, as it is currently structured, fails to do this. For instance, in 2012, after finishing the previous second-tier league season in second-to-last place, the Montreal Impact was awarded admittance to the MLS.⁹¹ Instead of sporting criteria, the MLS commissioner at the time explained that the club was admitted to the MLS based on factors such as “[c]ommitted and engaged ownership, [a] comprehensive stadium plan, [demonstration of] fan support for professional soccer in the market, [s]upport from sponsors, television partners and other constituents, [g]eographic location, [and a] strategic business plan for the launch and successful operation of the club.”⁹² Although these criteria are logical considerations for granting a team entry into a league, the absence of factors related to the team’s competitive ability or quality of play results in a less honorable system that disfavors sporting merit.

Lastly, by instituting automatic promotion and relegation, teams are incentivized to perform well during a season because it gives them a goal to work towards—promotion to a more advanced league. Likewise, it creates a pyramid in which teams compete at the appropriate level with other teams of similar competitive status.⁹³ For instance, each year, during the U.S. Open Cup—a yearly tournament between teams from all U.S. professional leagues, regardless of tier level—USL Championship teams regularly defeat MLS teams, despite the fact that teams in the USL Championship are competing in their regular seasons in a lower tier than the MLS teams.⁹⁴ Most recently, in July 2024, Indy Eleven (USL Championship) beat Atlanta United (MLS) in the U.S. Open Cup Quarterfinals, therefore eliminating the MLS team from the competition and sending Indy Eleven to the Semifinals.⁹⁵ Despite this accomplishment, or any other victories from the regular season, the closed U.S. soccer system provides no pathways for the Indy Eleven to earn membership to the MLS. And since the MLS has already denied Indy Eleven’s bids to join through an expansion package, the financial route to the MLS is also unavailable to the team.⁹⁶ However, the last pathway to the MLS—the legal route—may be

91. BOILLAT & POLI, *supra* note 25, at 98-99.

92. *Id.*

93. Reese, *supra* note 39.

94. James Nalton, *A relegation push and CBS: USL’s quest to become America’s go-to league*, GUARDIAN (Apr. 9, 2024), <https://www.theguardian.com/football/2024/apr/09/promotion-relegation-cbsmessiuslsoccermls#:~:text=“USL%20teams%20beat%20MLS%20teams,keen%20on%20owning%20the%20sport> [https://perma.cc/KM5G-YR9W].

95. *Indy Eleven Delivers Dramatic Upset on First Matchday of 2024 U.S. Open Cup Quarterfinals*, U.S. SOCCER (July 9, 2024), <https://www.ussoccer.com/stories/2024/07/2024-us-open-cup-atlanta-united-indy-eleven-sacramento-republic-seattle-sounders-score-result-stats-goals-recap> [https://perma.cc/VF8Z-GC3V].

96. Mickey Shuey & Taylor Wooten, *With Indy’s soccer future in balance, city to go all-in on MLS*, IBJ (May 3, 2024), <https://www.ibj.com/articles/with-indys-soccer-future-in-balance->

available if the actions of MLS, USSF, or both have violated federal antitrust laws.

IV. ANTITRUST LAW COMPARATIVE ANALYSIS

A. Relevant Antitrust Laws and Principles: the U.S.

In the United States, antitrust law serves to prevent powerful private entities from engaging in anti-competitive behavior. The theory behind U.S. antitrust statutes is that by outlawing certain agreements and actions that prevent competition in the market, the viability of businesses and the flow of commerce will depend on the economy's natural expansions and recessions. Thus, antitrust law seeks to ensure that the “volume of commerce, sales, or market opportunities” will not be impeded by restrictions, agreements, or other interventions used by competitors to intentionally control or manipulate the market.⁹⁷ The Sherman Antitrust Act of 1890 and the Clayton Antitrust Act of 1914 form the foundation of and legal framework for enforcing antitrust law in the United States. For purposes of this note, the most relevant federal antitrust statute, the Sherman Antitrust Act of 1890 (the “Sherman Act”), explicitly prohibits two types of “actions” that it deems to be anti-competitive: concerted action and unilateral action.⁹⁸ The Sherman Act specifies that violators of its provisions are subject to hefty fines,⁹⁹ and Section 4 of the Clayton Act provides a private right of action for parties harmed by any anticompetitive practices forbidden in the federal antitrust laws, including those prohibited by the Sherman Act.¹⁰⁰

1. Sherman Act Section 1: Concerted Action

Under Section 1 of the Sherman Act, “[e]very contract, combination in the form of trust or otherwise, or conspiracy, in restraint of trade or commerce among the several States, or with foreign nations, is declared to be illegal.”¹⁰¹ This section of the Act deals with “concerted action” between multiple parties as opposed to a single party acting unilaterally.¹⁰² In regard to the type of concerted action prohibited, the courts have broadly interpreted the scope of the

city-to-go-all-in-on-mls [<https://perma.cc/9NQA-3W4V>]; Katie Cox & Matt McKinney, *Indy Eleven enters bid to become Major League Soccer member in 2020*, WRTV (Jan. 31, 2017), <https://www.wrtv.com/sports/indy-eleven-seeks-to-become-member-of-major-league-soccer> [<https://perma.cc/Q2GZ-XXJ3>].

97. Herbert J. Hovenkamp, *The Antitrust Text*, 99 IND. L.J. 1063, 1069 (2024).

98. 15 U.S.C. §§ 1-2 (2004).

99. *Id.*

100. 15 U.S.C. § 15 (1982).

101. 15 U.S.C. § 1 (2004).

102. WILLIAM C. HOLMES & MELISSA H. MANGIARACINA, ANTITRUST LAW HANDBOOK § 2:4 (2024).

statute to include behavior which is “unreasonably restrictive of competitive conditions.”¹⁰³ Overall, for there to be a violation of Section 1 of the Sherman Act, the evidence must show the existence of an agreement between multiple parties to engage in anticompetitive behavior, and that such competitive restraints are unreasonable. Thus, numerous practices, including price-fixing, territorial or customer restraints, group boycotts and refusals to deal, exclusive dealing arrangements, and conditional tying agreements, have been struck down by the courts as unreasonably anticompetitive and therefore illegal under Section 1.¹⁰⁴

In analyzing whether the conduct engaged in by defendants was violative of antitrust law, courts have developed two distinct frameworks. The first framework recognizes that some practices—such as horizontal price-fixing and market restraints—are so fundamentally anticompetitive that they are considered “per se” or conclusively illegal under Section 1.¹⁰⁵ Other restrictive practices, however, may withstand antitrust scrutiny depending on whether the restraint “merely regulates and perhaps thereby promotes competition or whether it is such as may suppress or even destroy competition.”¹⁰⁶ This framework, known as the “rule of reason” analysis, was further developed by the Supreme Court in *N.W. Wholesale Stationers, Inc. v. Pacific Stationery and Printing Co.*, where the Court addressed whether the defendant’s alleged anticompetitive conduct constituted a per se violation of Section 1.¹⁰⁷ The Court explained that the allegation of a certain practice that might be anticompetitive, such as a concerted refusal to deal, is not alone sufficient for the application of the per se test because “not all concerted refusals to deal are predominantly anticompetitive.”¹⁰⁸ Thus, to obtain an analysis under the per se rule, a plaintiff must show that the challenged practice had anticompetitive effects.¹⁰⁹

If the reviewing court determines the alleged conduct was not inherently anticompetitive, it then engages in a rule of reason analysis, in which “the factfinder weighs all of the circumstances of a case in deciding whether a

103. *Standard Oil Co. of N.J. v. U.S.*, 221 U.S. 1, 58 (1911); *see, e.g., Nat’l Soc. of Pro. Eng’rs v. U.S.*, 435 U.S. 679, 690 (1978) (explaining the test for unreasonableness).

104. *HOLMES & MANGIARACINA*, *supra* note 102, § 2:2.

105. *E.g., N. Pac. Ry. Co. v. U.S.*, 356 U.S. 1, 5 (1958) (“[T]here are certain agreements or practices which because of their pernicious effect on competition and lack of any redeeming virtue are conclusively presumed to be unreasonable and therefore illegal without elaborate inquiry as to the precise harm they have caused or the business excuse for their use.”); *see, e.g., Ethyl Gasoline Corp. v. U.S.*, 309 U.S. 436, 458 (1940) (holding that horizontal price-fixing agreements are per se illegal under the Sherman Act); *see also U.S. v. Topco Assocs., Inc.*, 405 U.S. 596, 596-97 (1972) (horizontal restraints, such as the allocation of territories to reduce competition, are per se violations of Section 1).

106. *Bd. of Trade of Chi. v. U.S.*, 246 U.S. 231, 238 (1918).

107. 472 U.S. 284, 288 (1985) (arising from Northwestern’s expulsion of Pacific from its cooperative without notice or a hearing, which resulted in Pacific filing suit against Northwestern. Pacific alleged that Northwestern’s conduct constituted a concerted refusal or group boycott, which Pacific argued was per se illegal under Section 1 of the Sherman Act. The Court disagreed).

108. *Id.* at 298.

109. *Id.*

restrictive practice should be prohibited as imposing an unreasonable restraint on competition.”¹¹⁰ Such circumstances may include the actors’ intent, the structure of competitive conditions in the affected market, the market power of the defendants, and any relevant justifications for engaging in the challenged practices.¹¹¹ Typically, courts start with identifying the “relevant market” affected by such concerted practices, because “[w]ithout a definition of [the] market there is no way to measure [the defendant’s] ability to lessen or destroy competition.”¹¹² The delineation of the relevant market is then followed by an examination of the relative market power¹¹³ of the defendants and an assessment of the “actual or threatened impact[s]” of the anticompetitive practices on competitors, consumers, and the market as a whole.¹¹⁴ However, the Court has held that an “elaborate market analysis” is not always required under a rule of reason analysis, because the goal of market delineation is to show “genuine adverse effects on competition.”¹¹⁵ Thus, where proof of “actual, sustained adverse effects on competition” has been demonstrated in specific geographic or product areas, the absence of a “detailed market analysis is not fatal” to a rule of reason case.¹¹⁶

Even if a plaintiff can successfully show that the defendant engaged in concerted conduct which had tangible, anticompetitive effects on the market, the defendant may escape potential Section 1 liability if the court views the concerted action to have occurred within a single entity, rather than two or more legally distinct actors.¹¹⁷ This “single entity” exception was first established in *Copperweld Corporation v. Independence Tube Corporation*, when the Supreme Court explained that “[n]othing in the literal meaning of those terms [the Section 1 provisions prohibiting concerted agreements] excludes coordinated conduct among officers or employees of the same company.”¹¹⁸ As

110. *Cont’l T.V., Inc. v. GTE Sylvania Inc.*, 433 U.S. 36, 49 (1977).

111. *See, e.g., FTC v. Indiana Fed’n of Dentists*, 476 U.S. 447, 461 (1986). For a discussion of courts’ applications of the rule of reason and examples of factors used to determine whether the challenged conduct unreasonably restricts competition, *see* HOLMES & MANGIARACINA, *supra* note 102, § 2:10.

112. *Ohio v. Am. Express Co.*, 585 U.S. 529, 543 (2018) (quoting *Walker Process Equip., Inc. v. Food Mach. & Chem. Corp.*, 382 U.S. 172, 177 (1965)).

113. HOLMES & MANGIARACINA, *supra* note 102, § 2:10 (explaining that the term “market power” has various definitions, but it often refers to the “ability to control price or exclude competition” (citing *Black v. Occidental Petroleum Corporation*, 69 F.4th 1161, 1176 (10th Cir. 2023))); *see, e.g., Am. Express Co.*, 585 U.S. at 549 (“‘Market power is the ability to raise price profitably by *restricting output*.’” (emphasis added) (quoting PHILLIP E. AREEDA & HERBERT HOVENKAMP, *FUNDAMENTALS OF ANTITRUST LAW* §5.01 (2011))).

114. *Am. Express Co.*, 585 U.S. at 544–51; *see, HOLMES & MANGIARACINA, supra* note 102, § 2:10.

115. *Indiana Fed’n of Dentists*, 476 U.S. at 460–61.

116. *Id.*

117. *Copperweld Corp. v. Indep. Tube Corp.*, 467 U.S. 752, 769 (1984) (“[I]t is perfectly plain that an internal ‘agreement’ to implement a single, unitary firm’s policies does not raise the antitrust dangers that § 1 was designed to police.”).

118. *Id.*

the Court further explained, this is because “[t]he officers of a single firm are not separate economic actors pursuing separate economic interests, so agreements among them do not suddenly bring together economic power that was previously pursuing divergent goals.”¹¹⁹ Applying this reasoning to the facts of the case, the Court in *Copperweld* held that “the coordinated activity of a parent and its wholly owned subsidiary” must likewise be viewed as conduct “of a single enterprise for purposes of § 1 of the Sherman Act” because the two have “a complete unity of interest.”¹²⁰ Although a single firm’s conduct may still face scrutiny under Section 2 of the Sherman Act (actual or threatened monopolization), the Court held that concerted practices between actors within a single entity are exempt from Section 1 liability.¹²¹ As will be examined later, since *Copperweld*, sports leagues have frequently—and successfully—asserted this single entity defense to combat allegations of anticompetitive conduct in violation of Section 1.

2. U.S. Antitrust Law: Sherman Act Section 2

As opposed to concerted actions and agreements between multiple parties, Section 2 of the Sherman Act deals with the unilateral action of a single actor in the marketplace. Under Section 2 of the Act, it is illegal for a person to “monopolize, or attempt to monopolize, or combine or conspire with any other person or persons, to monopolize any part of the trade or commerce among the several States, or with foreign nations.”¹²² Thus, an entity violates Section 2 when it retains actual monopoly power or attempts to acquire monopoly power “through competitively unreasonable practices.”¹²³ The scope of Section 2 is not limited to the actions of single firms.¹²⁴ Attempts by multiple parties to monopolize, or actual conspiracies between two parties to monopolize by attaining market power, are also deemed to be illegal practices under Section 2.¹²⁵

Although Section 2 seems straightforward, successful claims against monopolizing behavior contain multiple elements.¹²⁶ First, the plaintiff must identify the relevant market¹²⁷ of competition and then prove the defendant has “possession of monopoly power in the relevant market.”¹²⁸ The “relevant

119. *Id.*

120. *Id.* at 771.

121. *Id.* at 775.

122. 15 U.S.C. § 2 (2004).

123. HOLMES & MANGIARACINA, *supra* note 102, § 3:2.

124. *Id.*

125. *Id.*

126. HOLMES & MANGIARACINA, *supra* note 102, § 3:4.

127. See 15 U.S.C. § 2 (2004) (the term “relevant market” comes from the statutory language that refers to the monopolization of “any part of the trade or commerce” in the U.S. or with foreign countries); see also *Standard Oil Co. of N.J. v. U.S.*, 221 U.S. 1, 61 (1911).

128. *U.S. v. Grinnell Corp.*, 384 U.S. 563, 570-71 (1966).

market” includes both the relevant product (or service) market and the geographic (physical area or location) market in which the defendant competes.¹²⁹ While the standard test for defining the relevant product market is one that “is composed of products that have reasonable interchangeability for the purposes for which they are produced—price, use, and qualities considered,”¹³⁰ the court has explained that some markets may be defined more broadly as to include a combination of multiple “different products or services where that combination reflects commercial realities.”¹³¹ The other dimension of the relevant market analysis—the identification of the geographic market—is considerably less complex than the product market delineation, as it typically involves the geographic area where the defendant competes and where its customers can shop for alternatives.¹³² Once both dimensions of the relevant market have been defined, an assessment of the defendant’s monopoly power is conducted.¹³³ Although monopoly power is often defined as the power to “control prices or exclude competition”¹³⁴ within the relevant market, other identifiers, such as percentage of market share, may be used to demonstrate the defendant’s monopoly power.¹³⁵

Finally, if the claimant successfully shows that the defendant actually achieved monopoly power in the relevant market, the plaintiff must show that the defendant engaged in “the willful acquisition or maintenance of that power as distinguished from growth or development as a consequence of a superior product, business acumen, or historic accident.”¹³⁶ Alternatively, if the offense claimed is attempted monopolization—as opposed to actual monopolization—the plaintiff must prove multiple elements, including the relevant markets targeted, specific anticompetitive conduct “likely to result in monopolization of the market,” intent to monopolize, and that the actions and power of the defendant are so egregious that there is a high probability of an impending monopolization.¹³⁷ Overall, in addressing this element, the Court often addresses whether the monopoly power has been acquired or maintained through competitively unreasonable means.¹³⁸

For instance, in *Aspen Skiing Co. v. Aspen Highlands Skiing Corp.*, the Court considered the effects of the defendant’s conduct on the plaintiff and other rivals, its impact on consumers, and whether the conduct “impaired competition

129. *Standard Oil Co. of N.J. v. U.S.*, 221 U.S. 1, 61 (referencing 15 U.S.C. § 2 (2004)) (“The commerce referred to by the words ‘in part,’ . . . has both a geographical and a distributive significance.”).

130. *U.S. v. E.I. du Pont de Nemours & Co.*, 351 U.S. 377, 404 (1956).

131. *Grinnell Corp.*, 384 U.S. at 572.

132. *U.S. v. Philadelphia Nat’l Bank*, 374 U.S. 321, 357-60 (1963).

133. HOLMES & MANGIARACINA, *supra* note 102, § 3:4.

134. *E.I. du Pont de Nemours & Co.*, 351 U.S. at 391.

135. *See Eastman Kodak Co. v. Image Tech. Services, Inc.*, 504 U.S. 451 (1992).

136. *Grinnell Corp.*, 384 U.S. at 570-71.

137. HOLMES & MANGIARACINA, *supra* note 102, § 3:6.

138. *See Aspen Skiing Co. v. Aspen Highlands Skiing Corp.*, 472 U.S. 585 (1985).

in an unnecessarily restrictive way.”¹³⁹ In the Court’s view, “[i]f a firm has been ‘attempting to exclude rivals on some basis other than efficiency,’ it is fair to characterize its behavior as predatory.”¹⁴⁰ After assessing these factors, the Court determined that “the monopolist made a deliberate effort to discourage its customers from doing business with” its rivals, and that its exclusionary conduct was not motivated by any legitimate business purposes (such as efficiency concerns).¹⁴¹ While subsequent cases have provided various formulations of the *Aspen* test, as Holmes and Mangiaracina explain, courts have tended to “distinguish between acts that reflect competition on the merits, versus exclusionary acts that have no apparent rational business purpose other than eliminating competition in the market and seizing or maintaining monopoly power.”¹⁴² Thus, for a plaintiff to successfully challenge the exclusionary, monopolizing practices of a monopoly, the alleged conduct must have been done for anticompetitive purposes—like inhibiting competition—rather than for commercially meritorious purposes which reflect “a superior product, a well-run business, or luck.”¹⁴³

B. U. K. and European Antitrust Law

Unlike the United States, which passed its first federal antitrust law in the late nineteenth century, the United Kingdom did not begin developing a statutory framework for competition law until the mid-twentieth century, with the enactment of the 1948 Monopolies and Restrictive Practices Act.¹⁴⁴ Until 1948, antitrust law in the United Kingdom was based on common law principles, such as the doctrine of restraint of trade.¹⁴⁵ Despite the existence of these principles, the United Kingdom’s judicial system of antitrust law remained underdeveloped and underenforced compared to other major jurisdictions, due in part to the “persistent Victorian commitment to the politics of laissez-faire when British enterprises enjoyed an international pre-eminence.”¹⁴⁶ From the passage of the first antitrust statute in 1948 until the UK’s accession to the European Economic Community (“EEC”) in 1973,¹⁴⁷ the United Kingdom experimented with several statutory and regulatory schemes for the governance of anti-competitive practices, yet most ultimately proved unsuccessful for

139. *Id.* at 605.

140. *Id.*

141. *Id.* at 610.

142. HOLMES & MANGIARACINA, *supra* note 102, § 3:5.

143. *Aspen Skiing Co.*, 472 U.S. at 596.

144. Andrew Scott, *The Evolution of Competition Law and Policy in the United Kingdom* 6 (London Sch. Econ. & Pol. Science L., Soc’y & Econ. Working Papers, Working Paper No. 9/2009, 2009), https://researchonline.lse.ac.uk/id/eprint/24564/1/WPS2009-09_Scott.pdf [<https://dx.doi.org/10.2139/ssrn.1344807>].

145. *Id.* at 4.

146. *Id.* at 3.

147. The EEC is now the European Union (EU). *See id.* at 9-11.

various reasons.¹⁴⁸ Upon its entry into the EEC, the United Kingdom became subject to the EEC Articles on competition law, including those covering restraint of trade and anti-competitive agreements.¹⁴⁹ In effect, UK businesses became subject to “two bodies of law [which] imposed different and potentially dichotomous regulatory burdens [. . .] in respects of the same practices,” which ultimately became impracticable.¹⁵⁰ Thus, to “align national competition law as closely as possible with EC law,” the United Kingdom passed the Competition Act 1998, which contained two principal prohibitive provisions.¹⁵¹ These provisions proscribe two types of practices: anti-competitive agreements (Chapter I) and abuse of a dominant position (Chapter II).¹⁵² Although the circumstances surrounding the creation of the Competition Act 1998 have changed—the EC officially became the EU in 2009¹⁵³ and the United Kingdom formally withdrew from the EU in 2020—the United Kingdom’s national statutory framework remains in place and continues to coincide with European antitrust law;¹⁵⁴ indeed, the Chapter I and Chapter II prohibitions of the Competition Act 1998 have been referred to as the UK equivalents of Article 101 and 102 of the Treaty on the Functioning of the European Union (“TFEU”).¹⁵⁵ Currently, the Competition Act 1998, along with the Enterprise Act 2002, provides the framework for and is paramount to antitrust law in the United Kingdom.¹⁵⁶ For the purposes of comparison with the U.S. Sherman Antitrust Act, however, the Competition Act 1998 is the most relevant.

Before leaving the EU, the EU Commission and court systems had jurisdiction over antitrust matters in the UK. Now, however, UK courts and regulatory authorities—such as the Competition and Markets Authority (“CMA”)—have sole jurisdictional authority over domestic antitrust actions, with a few caveats.¹⁵⁷ For instance, the EU authorities may continue to exercise jurisdiction over proceedings initiated before the transition period ended, and UK companies remain subject to EU competition law to the extent that a breach affects trade with any EU member state.¹⁵⁸ Further, because UK competition law “developed in tandem” with EU competition law, and therefore “UK

148. *Id.*

149. *Id.* at 15.

150. *Id.*

151. *Id.* at 17.

152. *Id.*

153. Treaty of Lisbon Amending the Treaty on European Union and the Treaty Establishing the European Community, Dec. 13, 2007, 2007 O.J. (C 306) 1.

154. AIRLIE GOODMAN ET AL., PRIVATE ANTITRUST LITIGATION IN THE UK AND THE US: COMPARISON AND STRATEGIC CONSIDERATIONS (2024), Thomson Reuters w-036-4382.

155. PRAC. L. COMPETITION, OVERVIEW: UK COMPETITION LAW (2025), Thomson Reuters 3-107-3683.

156. ADRIAN MAGNUS ET AL., COMPETITION AND MARKETS AUTHORITY: OVERVIEW (UNITED KINGDOM) (2024), Thomson Reuters w-037-1413.

157. PRAC. L. COMPETITION, BREXIT: IMPLICATIONS FOR UK COMPETITION LAW ENFORCEMENT (2025), Thomson Reuters w-019-5177.

158. *Id.*

competition authorities [such as the courts and the CMA] developed competition law practices in line with EU law and precedent,” the EU case law and Commission decisions were foundational to the UK’s competition law system.¹⁵⁹ Thus, the UK added section 60A to the Competition Act 1998, which “requires UK courts and competition authorities to interpret UK competition law in a manner consistent with Retained EU law,” which includes EU Commission and European Court of Justice decisions.¹⁶⁰ Although section 60A allows UK authorities to deviate from EU competition law under specified circumstances, the retained case law carries the same weight as decisions of the UK Supreme Court and the High Court.¹⁶¹ Thus, for comparative purposes, early competition case law and enforcement actions from the EU will be referenced, in addition to those from the UK.

1. Chapter I: Agreements

Similar to Section 1 of the U.S. Sherman Act, Chapter I of the Competition Act 1998 deals with the anti-competitive actions of multiple parties, rather than a single party acting independently. Chapter I prohibits agreements or concerted practices “which have as their object or effect the prevention, restriction, or distortion of competition within the United Kingdom” and which may otherwise “affect trade” within the country.¹⁶² Unlike the Sherman Act, however, Chapter I specifically lists certain concerted practices which are prohibited, such as: price-fixing, production controls or limitations, supply or market sharing, applying “dissimilar conditions to equivalent transactions with other trading parties,” and subjecting contracting parties to additional obligations outside the scope of the contractual subject matter.¹⁶³ While many of these practices have been deemed as violative of the Sherman Act, these determinations have resulted from U.S. judicial decisions, rather than statutory language. Additionally, the Competition Act provides exemptions for some agreements that would otherwise be prohibited by Chapter I if they meet the requirements of one of the block, retained, or individual exemptions outlined in Chapter 43, section 9 of the Act.¹⁶⁴ In contrast, the various exemptions to the Sherman Antitrust Act in the U.S. have been created over time by Congress and the federal courts.¹⁶⁵

159. *Id.*

160. *Id.*

161. *Id.*

162. Competition Act 1998, c. 1, § 2 (U.K.).

163. *Id.*

164. UK COMPETITION: CHAPTER I PROHIBITION (Prac. L. Competition ed., 2025), Thomson Reuters 6-107-3691.

165. *See, e.g.,* Copperweld Corp. v. Indep. Tube Corp., 467 U.S. 752, 769 (1984) (defining the single entity exemption from Section 1 liability); *see also* Richard Cordero, *Exemption or Immunity from Federal Antitrust Liability Under McCarran-Ferguson (15 U.S.C. 1011-1013) and*

Generally, agreements that violate Chapter I consist of horizontal restrictions (such as price-fixing agreements between competitors) or vertical restrictions (for instance, exclusive supply agreements).¹⁶⁶ To determine whether an agreement violates Chapter I, first, an assessment of the agreement's effect or object must be conducted. If an agreement is alleged to have anti-competitive effects, the relevant competition landscape and market structure must be examined.¹⁶⁷ On the other hand, if an agreement's object is allegedly anti-competitive, the agreement's contents, goals, and the context of its operation must be considered before examining potential effects.¹⁶⁸ Additionally, an analysis of the relevant product and geographic markets is conducted to gain further insight into the agreement's effects.¹⁶⁹ Finally, an agreement must have an appreciable effect on both competition and trade in the UK; in other words, there must be "a close nexus between the effect on competition and trade" for an agreement to be deemed unlawful under Chapter I.¹⁷⁰

2. Chapter II: Abuse of Dominant Position

Like the U.S. Sherman Act, the UK Competition Act 1998 also contains a section dedicated to anti-competitive, unilateral conduct in the marketplace.¹⁷¹ However, while Chapter II of the Competition Act prohibits conduct which "amounts to the abuse of a dominant position in a market" if it affects trade within the UK,¹⁷² the unilateral conduct prohibited by Section 2 of the Sherman Act is defined as the retention of monopoly power and other "attempts to monopolize."¹⁷³ Similarly, unlike the U.S. law, Chapter II lists examples of conduct which may constitute an abuse of a dominant position, such as imposing unfair prices, applying dissimilar conditions to equal transactions, and limiting markets, technical development, or production.¹⁷⁴ However, this list is not exhaustive. Further, Chapter II, like Chapter I, includes a list of block exemptions and exclusions, while the Sherman Act does not.¹⁷⁵ Overall, however, Chapter II is similar to Section 2 of the Sherman Act in that both focus on entities that engage in monopolistic behavior or otherwise abuse their market

State Action and Noer-Pennington Doctrines for Business of Insurance and Persons Engaged in It, 116 A.L.R. FED. 163 (1993) (providing a detailed overview of the statutory and caselaw framework for Sherman Act exemptions).

166. UK COMPETITION: CHAPTER I PROHIBITION, *supra* note 164.

167. *Id.*

168. *Id.*

169. *Id.*

170. *Id.*

171. Competition Act 1998, c. 2, §§ 18-19 (UK).

172. *Id.* at § 18.

173. 15 U.S.C. § 2 (2004).

174. *Id.*

175. Competition Act 1998, c. 2, § 19 (UK).

power, and the prohibitions apply regardless of whether an entity acts alone or in conjunction with others.¹⁷⁶

To determine whether a violation of Chapter II has occurred, a three-step inquiry is required.¹⁷⁷ First, the relevant product and geographic markets must be defined.¹⁷⁸ Next, an entity's dominance in the market is assessed by looking at whether the entity possesses the "power to behave independently of competitive pressures."¹⁷⁹ A company may be dominant, for instance, if there are low constraints on its market power, it holds a large share of the market, and the market has high entry barriers (for new competitors).¹⁸⁰ However, merely holding a dominant position in a market is not enough for a company to violate Chapter II. The dominant entity must abuse its powerful market position, which may be done by excluding competitors or by imposing unfair prices on consumers or conditions on contracting parties.¹⁸¹

V. APPLICATION AND SOLUTIONS

Given the state of professional men's soccer in the United States—which is currently structured as a three-tier pyramid, with only one league, MLS, sanctioned by USSF for the top tier competition (Division I), and no system of promotion or relegation to allow teams to gain entry to the top league based on sporting merit—it seems logical to subject the top league, MLS, and the domestic governing body, USSF, to antitrust scrutiny. Specifically, there are three possible antitrust claims against MLS, USSF, or both entities.

The first possible antitrust claim is that MLS and USSF are engaging in collusive conduct to restrict competition in the U.S. marketplace for top-tier professional soccer, in violation of Section 1 of the Sherman Act. As stated previously, USSF is the FIFA national association that acts as the official governing body of soccer in the U.S. and holds the authority to sanction professional leagues at various levels of domestic competition.¹⁸² Indeed, USSF has created the American soccer pyramid, which consists of three tiers: Division I, II, and III, respectively.¹⁸³ While USSF has sanctioned multiple leagues for the lower divisions, since 1996, the organization has only sanctioned one league for its Division I competition: MLS.¹⁸⁴ Additionally, the closed-league structure of MLS, with no promotion or relegation mechanisms, deprives lower-level

176. ALEX NOURRY & DAN HARRISON, *UK COMPETITION: CHAPTER II PROHIBITION (ABUSE OF DOMINANCE)* (Prac. L. Competition ed., 2025), Thomson Reuters 4-107-3692.

177. *Id.*

178. *Id.*

179. *Id.*

180. *Id.*

181. *Id.*

182. *See* BYLAWS OF THE UNITED STATES SOCCER FEDERATION, INC., *supra* note 65.

183. *See* THE UNITED STATES SOCCER FEDERATION, INC. POLICY MANUAL 16, *supra* note 66.

184. *Timeline*, U.S. SOCCER FED'N, <https://www.ussoccer.com/history/timeline> [<https://perma.cc/EC82-WPRV>] (last visited Mar. 7, 2025).

teams of the opportunity to gain entry into the Division I competition.¹⁸⁵ Thus, the restrictions imposed by MLS, coupled with the fact that USSF has only sanctioned MLS for Division I, open the door to the possibility that MLS and USSF have an illegal concerted agreement to restrict competition in violation of Section 1.

However, this argument likely lacks merit for two reasons. First, in antitrust cases naming USSF as a defendant, courts have focused their discussion and analysis on MLS, absent any evidence of an agreement between USSF and MLS.¹⁸⁶ Second, the United Soccer League (“USL”), which currently maintains both Division II and Division III leagues, announced in February 2025 that it plans to “launch a Division One men’s professional league in 2027-28,”¹⁸⁷ USL Premier.¹⁸⁸ Given USL’s recent success in attaining USSF Division I sanctioning for its women’s league, and the existence of its other USSF-sanctioned leagues, it is unlikely that USSF will deny USL’s new league Division I sanctioning.¹⁸⁹ Thus, because USSF will soon grant another professional men’s league Division I status, any potential claims regarding USSF’s alleged collusion with MLS to restrict competition in the Division I market are without merit and will not be addressed in the following analysis.

Although no viable allegations of anticompetitive behavior may be made against USSF, the conduct of MLS is still subject to antitrust scrutiny. Specifically, either: (1) MLS and its clubs have a collusive agreement to restrict top-tier professional men’s soccer in the U.S., in violation of Section 1 of the Sherman Act, or (2) MLS has monopolized the top-tier professional men’s soccer market in the U.S., in violation of Section 2 of the Sherman Act. The next section will focus on insights from European competition law and the United Kingdom soccer models, recent cases that have shaped antitrust law in the context of the U.S. sports industry, and the circumstances in Indianapolis, which indicate that a successful antitrust case against MLS may be on the horizon.

A. Insights from the United Kingdom and Europe

As discussed earlier, the United Kingdom is home to the world’s most popular and profitable professional soccer league.¹⁹⁰ Although the domestic

185. Lower division teams may submit bids to MLS, but the league must first approve the bid. If MLS accepts a bid, the team must pay a hefty expansion fee to join the league. *See* Frank & Haenchen, *supra* note 87.

186. *See infra* notes 211–226, 239–244 and accompanying text.

187. *United Soccer League Takes Bold Step Forward with Launch of Division One Professional Men’s League*, UNITED SOCCER LEAGUE (Feb. 13, 2025), https://www.uslsoccer.com/news_article/show/1331372#:~:text=TAMPA%2C%20Fla.,sport%20is%20experiencing%20unprecedented%20momentum [https://perma.cc/UUJ4-Y88U].

188. *See USL Premier Set to Reshape American Soccer Pyramid*, *supra* note 11.

189. *USL plans to launch Division I men’s league, take on MLS*, SPORTS BUS. J. (Feb. 13, 2025), <https://www.sportsbusinessjournal.com/Articles/2025/02/13/usl-plans-to-launch-division-i-mens-league-take-on-mls/> [https://perma.cc/BZ68-ML9W].

190. Mitton, *supra* note 49.

leagues in the United Kingdom and across Europe all operate as open systems,¹⁹¹ in 2021, this harmonization was challenged when a group of “elite” European soccer teams proposed creating a new “European Super League” (“ESL”) for seasonal competitions.¹⁹² This proposal was ultimately abandoned for many reasons, probably in part due to UEFA’s proposed sanctions and the widespread controversy and backlash the ESL faced.¹⁹³ However, when the Super League plan was first introduced, many legal scholars considered whether the league would violate European competition law—specifically 101(1) of the TFEU, which prohibits “all agreements between undertakings . . . and concerted practices which . . . have as their object or effect the prevention, restriction or distortion of competition within the internal market” (the equivalent to Chapter I of the UK Competition Act 1998).¹⁹⁴ Essentially, it was believed that the ESL (if established) would not survive competition law challenges in Europe because the league would be “based on agreements between big clubs or at least on concerted practices of big clubs.”¹⁹⁵ As other scholars have framed the antitrust issues associated with the proposed ESL, forming a breakaway league is not inherently anti-competitive, but a closed model would be more likely to run afoul of the law.¹⁹⁶

In the U.S., however, closed leagues are the norm in professional sports competitions. These systems are generally not challenged (except in the context of professional American soccer), and if they are, they do not face strict antitrust scrutiny (as illustrated previously). In Europe, however, a closed soccer league would almost certainly face competition law challenges.¹⁹⁷ One reason for this discrepancy could be attributed to the specific language in the relevant competition (and antitrust) statutes. For instance, European (and UK) competition law generally covers sports leagues because Article 101 TFEU explicitly covers decisions by both undertakings and associations of undertakings.¹⁹⁸ And, even though such sports leagues “may be viewed as single economic entities for some purposes, the decisions of the sporting leagues are therefore nevertheless subject to antitrust scrutiny.”¹⁹⁹

Overall, the European Courts’ treatment of sports leagues, competitions, organizations, and governing bodies in relation to the relevant competition law

191. Hanno Beck, Aloys Prinz & Tsjalle ven der Burg, *The League System, Competitive Balance, and the Future of European Football*, 30 *MANAGING SPORT AND LEISURE* 21, 36 (2025).

192. *Id.* at 38-39.

193. *Id.*

194. *Id.*

195. *Id.*

196. Robby Houben, Jan Blockx & Steve Nuyts, *UEFA & Super League: who is calling who a cartel?*, 22 *INT’L SPORTS L.J.* 205, 214-15 (2022).

197. *See id.*; *see also* Katarina Pijetlovic, *European Model of Sport: Alternative Structures*, in *RSCH. HANDBOOK ON EU SPORTS L. AND POL’Y* 326, 339 (Jack Anderson, Richard Parrish & Borja Garcia eds., 2018) (arguing that closed leagues would be difficult to defend if challenged under EU competition law).

198. *Id.* at 210.

199. *Id.*

is at odds with the approach of U.S. courts. While the antitrust analyses used by U.S. courts focus more on economics and on whether allegedly anti-competitive behaviors or restrictions unreasonably affect relevant markets, European courts take a different approach that is arguably less lenient. For example, the Court of Justice has ruled that restrictions imposed by professional sports governing bodies (such as UEFA) are subject to Articles 101 and 102 of the TFEU. Such organizations may only escape the competition prohibitions if the restrictions “are inherent in the pursuit of legitimate objectives of general interest and are proportionate to them.”²⁰⁰ Examples of objectives which may be considered “legitimate” include “the integrity of sport, the protection of health and safety, the organization and proper conduct of competitive sport [. . .], [and] solidarity between participants and the protection of the volunteer model of a sport.”²⁰¹ Yet the open-league structure of sports, like professional soccer, in European countries may contribute to the different approach taken by European competition authorities and courts.

Additionally, although sports leagues may be subject to antitrust scrutiny under the EU and UK competition laws, such scrutiny is seldom applied. Unlike in the U.S., where the main entities subject to antitrust challenges are sports leagues, in Europe, the entities facing the most antitrust scrutiny are sports governing bodies, such as UEFA (in the U.S., this would be USSF).²⁰² Thus, because sports governing bodies are generally responsible for the development of a sport in a country (including youth, amateur, and professional levels), the goals and objectives of such organizations are fundamentally different than those of sports leagues, which are primarily focused on the economic benefits they can receive from selling their product (whether it is selling tickets to games, broadcasting rights, or merchandise).²⁰³ Due to the inherent differences between the regulation of and application of antitrust laws to professional sports entities in Europe and the U.S., and the lack of evidence or other basis to support an antitrust action against the U.S. sports governing body (USSF), it seems unlikely that European or United Kingdom competition law can provide any solutions to the U.S. professional soccer dilemma.

B. U.S. Antitrust Law and the Sports Industry: The Single Entity Defense

Although professional sports leagues, in general, fall under the purview of the Sherman Act “because they affect interstate commerce and are therefore capable of affecting competition by behaving like a cartel or a monopoly,” many actors are able to circumvent antitrust challenges due to the unique nature of the

200. *Id.*

201. *Id.*

202. Farzin, *supra* note 81, at 75-76.

203. *Id.* at 77-78; BOILLAT & POLI, *supra* note 25, at 9-16 (discussing the structures of and relationships between domestic football (soccer) competitions, leagues, and national governing bodies).

professional sports industry.²⁰⁴ For instance, professional sports leagues often argue that at least some degree of economic cooperation between teams within the league is necessary to maintain “athletically balanced competition,” which is a main component of the product (sports entertainment) sold to their consumers (sports fans).²⁰⁵ A prevalent and successful defense used by U.S. sports organizations to ward off antitrust allegations is the single entity argument, which arises from a non-sports case, *Copperweld Corporation v. Independence Tube Corporation*.²⁰⁶ Prior to *Copperweld*, however, sports entities that attempted to claim exemptions from antitrust violations by arguing the single entity defense were not always released from liability.²⁰⁷

For instance, in 1982, the North American Soccer League (“NASL”) brought a suit against the National Football League (“NFL”) for alleged violations of antitrust laws. The NFL’s member football clubs had agreed to prohibit “making or retaining any capital investment” in other professional sports leagues’ members, including the NASL.²⁰⁸ Although the Court of Appeals for the Second Circuit acknowledged that the teams in the NFL needed to cooperate with one another because their economic success, strength, stability, and “quality of sports competition” were interdependent, the court refused to accept the NFL’s contention that its status as a “single economic entity” insulated it from the Sherman Act’s prohibitions on anticompetitive agreements.²⁰⁹ Thus, after conducting a rule of reason analysis, the court determined that the agreement between the NFL’s members violated Section 1 of the Sherman Act and directed the district court to impose a permanent injunction prohibiting the ban.²¹⁰

However, two years later, the Supreme Court decided *Copperweld* and essentially endorsed the single entity argument as a viable defense against antitrust claims. In *Copperweld*, the Court concluded that the conduct of a parent and wholly owned subsidiary was exempt from the Sherman Act’s Section 1 prohibitions on concerted actions in restraint of trade because it characterized a parent and its subsidiary as a “single firm” rather than “two independent firms acting in concert.”²¹¹ Since *Copperweld*, the single entity defense has become a prominent mechanism for entities like sports leagues to shield themselves from

204. Farzin, *supra* note 81, at 81-83.

205. *Id.* at 78.

206. *Id.* at 82-83.

207. See Brendan Ewing, *MLS Promotion! Can MLS’s Single Entity Status Protect it from “Pro/Rel”?*, 25 JEFFREY S. MOORAD SPORTS L.J. 359, 360-61, 376-78, 389-91 (2018) (explaining that *Copperweld* “opened the door to a ‘single entity’ defense to antitrust litigation” for sports leagues); see, e.g., Farzin, *supra* note 81, at 82-83.

208. *N. Am. Soccer League v. Nat’l Football League*, 670 F.2d 1249, 1250 (2d Cir. 1982).

209. *Id.* at 1253-57; see 15 U.S.C. § 1 (2004) (Sherman Act section which prohibits concerted actions and agreements in restraint of trade); see also HOLMES & MANGIARACINA, *supra* note 102, § 2:16 (discussing competitively motivated group boycotts and concerted refusals to deal, which are practices generally characterized as violative of Sec. 1 of the Sherman Act).

210. *N. Am. Soccer League*, 670 F.2d at 1261-62.

211. *Copperweld Corp. v. Indep. Tube Corp.*, 467 U.S. 752, 771-72, 775 (1984).

anti-competitive conspiracy allegations.²¹² This defense is especially relevant in assessing potential antitrust claims against MLS because, according to some, the league was “designed to conform to the single entity exception to Section 1 of the Sherman Act.”²¹³ As explained previously, MLS is structured so that the league itself owns all member soccer clubs, which are then operated by investor-operators who invest in the league.²¹⁴ If, in fact, the league’s investor-operator structure was chosen specifically to circumvent antitrust scrutiny, it has succeeded. Indeed, the first antitrust lawsuit against MLS, *Fraser v. Major League Soccer, LLC.*, was brought in the U.S. District Court for the District of Massachusetts in 2000.²¹⁵

In *Fraser I*, the plaintiffs—representatives of a certified class of professional soccer players who competed on MLS teams—sued MLS, USSF, and several MLS investor-operators for alleged violations of Sections 1 and 2 of the Sherman Act.²¹⁶ The plaintiffs claimed that the defendants had violated antitrust law by limiting competition for player services by “contracting for player services centrally through MLS” rather than through individual MLS teams and imposing player transfer fees, which restricted players’ relocation opportunities.²¹⁷ Additionally, the plaintiffs claimed that MLS, USSF, and the named investor-operators were jointly exercising monopoly power in violation of Section 2 of the Sherman Act.²¹⁸ However, the District Court rejected these arguments because it determined that MLS’s corporate structure was akin to the single economic entity described in *Copperweld*; therefore, as a single entity, MLS’s policies could not, “as a matter of law,” violate Section 1 of the Sherman Act.²¹⁹

Two years later, in *Fraser II*, the plaintiffs appealed the District Court’s decision to the Court of Appeals for the First Circuit, which rejected the District Court’s oversimplified characterization of MLS as a pure single entity business arrangement like the one at issue in *Copperweld*.²²⁰ Instead, the First Circuit described MLS as “a hybrid arrangement, somewhere between a single company (with or without wholly owned subsidiaries) and a cooperative

212. See Ewing, *supra* note 207.

213. Farzin, *supra* note 81, at 88; see also Bryan A. Green, *Can Major League Soccer Survive Another Antitrust Challenge? Emerging Threats to its Single Entity Treatment*, 4 INT’L SPORTS L. REV. 79, 81-83 (2009) (discussing the history of Major League Soccer and league structure).

214. Krasny, *supra* note 83.

215. *Fraser v. Major League Soccer, L.L.C.*, 97 F.Supp.2d 130 (D. Mass. 2000) [hereinafter “*Fraser I*”].

216. *Id.* at 131.

217. *Id.*

218. However, the District Court did not address the alleged Section 2 violation because it was not at issue on plaintiffs’ motion for summary judgment. The plaintiffs also alleged violations of § 7 of the Clayton Antitrust Act, 15 U.S.C. § 18, but for the purposes of this note, these claims and the court’s ruling on these issues were omitted from this discussion. See *id.*

219. *Id.* at 134.

220. *Fraser v. Major League Soccer, L.L.C.*, 284 F.3d 47, 57 (1st Cir. 2002) [hereinafter “*Fraser II*”].

arrangement between existing competitors.”²²¹ Ultimately, the court declined to definitively resolve the single entity question, refusing to extend *Copperweld* to grant categorical single entity protection to sports organizations or to characterize MLS itself as a single entity.²²² Further, the court stated that even if Section 1 of the Sherman Act applied to the case at hand, MLS could not “be condemned by per se rules” and the venture presented “at best a debatable case under the rule of reason,” especially because the jury rejected “plaintiffs’ own market definition” (which was either the United States or Division I).²²³ Consequently, according to the court, the jury’s rejection of the relevant market “doom[ed]” the monopolization claims under Section 2 of the Sherman Act because this is one of the requisite elements in establishing a Section 2 violation.²²⁴ Thus, the First Circuit affirmed the District Court’s judgment in favor of MLS, USSF, and the investor-operators.²²⁵ Although the First Circuit did not directly endorse MLS’s status as a single entity, it did not reject that characterization either; thus, MLS has continued to operate under the protection of the single entity defense, which may help explain why its “‘cartel-like’ structure” has rarely been challenged in court since *Fraser II*.²²⁶ However, there may be hope for those who still wish to subject MLS and USSF to the competition protections afforded by the Sherman Act. In the last fifteen years, the sports industry has continued to face antitrust litigation. And while not every plaintiff who challenges a sports conglomerate succeeds, each antitrust case provides an opportunity to strategize.

C. Building an Antitrust Strategy

1. Challenging the Single Entity Exemption for MLS

In 2010, the Supreme Court decided *Am. Needle, Inc. v. National Football League*, a case that weakened the single entity defense for sports organizations hoping to avoid antitrust liability.²²⁷ The suit arose from a decision by the NFL and its 32 professional football teams to form an entity known as the National Football League Properties (“NFLP”), which would be responsible for the NFL and its teams’ intellectual property and for the development and licensing of that property. The NFLP had granted nonexclusive licenses to several vendors, including American Needle, to create and sell NFL team apparel.²²⁸ However,

221. *Id.* at 58.

222. *Id.* at 59.

223. *Id.*

224. *Id.* at 62.

225. *Id.* at 71.

226. Daniel S. MacMillan, *Is MLS Inherently Anticompetitive? The Strange Single-Entity Structure of Major League Soccer in Order to Legitimize American Professional Soccer*, 28 MARQ. SPORTS L. REV. 503, 507 (2018).

227. 560 U.S. 183 (2010).

228. *Id.* at 186-88.

shortly thereafter, NFLP gave Reebok International an exclusive license to create and sell certain trademarked apparel, and the NFLP did not renew its license to American Needle. As a result, American Needle sued for violations of Section 1 of the Sherman Act, but the NFL claimed it was exempt from the statute's provisions because it was a single entity.²²⁹

The Court, however, reaffirmed the principle articulated in *Copperweld*, emphasizing that “‘substance, not form, should determine whether a[n] entity is capable of conspiring under § 1.’”²³⁰ Therefore, “[t]he key [to evaluating Section 1 claims] is whether the alleged ‘contract, combination . . . , or conspiracy’ is concerted action—that is, whether it joins together separate decisionmakers” or instead involves “‘separate economic actors pursuing separate economic interests.’”²³¹ Thus, the Court explained that the structure of multiple legally distinct entities—whether organized separately or as a joint venture, as a single entity, or under a unified body—is not determinative in deciding whether parties are capable of or have in fact violated Section 1 of the Sherman Act.²³² As a result, the Court rejected the NFLP’s single entity defense, reasoning that “[t]he NFL teams do not possess either the unitary decision making quality or the single aggregation of economic power characteristic of independent action.”²³³ Thus, the NFLP’s alleged concerted action remained subject to antitrust scrutiny under Section 1 because a single entity structure does not shield an organization from such analysis.²³⁴

Because the Supreme Court has refused to recognize the single entity defense as a blanket exemption from potential antitrust liability under Section 1, and because the economic structure of MLS clubs has changed since *Fraser I* and *Fraser II* were decided, new challenges to the anticompetitive conduct of MLS should, at a minimum, proceed past the single entity exemption and subject the league’s conduct to a rule of reason analysis. First, the single entity defense is premised on the notion that a parent and its wholly owned subsidiaries share a “complete unity of [economic] interest.”²³⁵ In *American Needle*, the Court reasoned that the teams within the NFL did not share the same economic interests, because the teams “compete with one another, not only on the playing field, but to attract fans, for gate receipts, and for contracts with managerial and playing personnel.”²³⁶ Similarly, although the soccer clubs within MLS contribute some of their individually-acquired revenue to the league itself, 70% of the revenue earned by individual teams—from ticket sales, parking and stadium fees, local broadcasts and sponsors, and stadium merchandise sales, for

229. *Id.*

230. *Id.* at 195 (citing *Copperweld Corp. v. Indep. Tube Corp.*, 467 U.S. 752, 773 (1984)).

231. *Id.*

232. *Id.* at 196.

233. *Id.*

234. *Id.* at 203.

235. *Copperweld*, 467 U.S. at 771.

236. *Am. Needle*, 560 U.S. at 196.

instance—is retained by the clubs themselves.²³⁷ Further, after *Fraser II* was decided, the league implemented the “Designated Player Rule,” which allows individual clubs to acquire (up to) three players on their teams “whose total compensation and acquisition costs exceed the Maximum Salary Budget Charge, with the clubs bearing financial responsibility.”²³⁸ Thus, these changes show that individual MLS clubs have been given greater economic latitude in spending and earning, allowing for greater competition between clubs.

As a result, individual MLS clubs have greater incentives to compete for better players and more fan engagement to achieve greater economic success, which ultimately deconstructs the economic unity and interests of the teams within the league itself. Therefore, in light of *American Needle* and these increasingly divergent economic interests between teams, the single entity defense should not shield MLS from Section 1 liability.

2. NASL’s Antitrust Lawsuit Against MLS and USSF

However, more than twenty years after *Fraser II*, it appears that parties attempting to assert antitrust claims against MLS and USSF are still struggling to define the relevant market or provide direct evidence of a conspiracy, and therefore are failing to prove violations of Section 1 or 2 of the Sherman Antitrust Act.²³⁹ Indeed, in the most recently decided antitrust action against MLS and USSF, the North American Soccer League (“NASL”)—a former USSF-sanctioned, Division II professional men’s league—alleged that the entities conspired to grant and maintain for USL a monopoly in the relevant market (Division II professional soccer) and that MLS possessed monopoly power in the relevant market (Division I professional soccer) in the U.S. and Canada.²⁴⁰ In addition to the Section 2 claims, the NASL alleged that MLS and USSF violated Section 1 of the Sherman Act by conspiring “to exclude NASL and others from competing against MLS in the market for top-tier men’s professional soccer leagues in the U.S. and Canada.”²⁴¹

Unfortunately, in February 2025, the jury returned a verdict in favor of MLS and USSF, “ultimately finding that NASL was unable to prove substantial harm in the relevant markets that would be foundational to its claims of

237. Jameson Scarsella, *Sporting Econ 101: MLS Finances Explained*, BUS. DOWNLOAD (Sep. 5, 2023), <https://thebusinessdownload.com/sporting-econ-101-mls-finances-explained/> [https://perma.cc/6G6R-FDQR].

238. *2026 MLS Roster Composition*, MLS SOCCER (Feb. 3, 2026), <https://www.mlssoccer.com/about/roster-rules-and-regulations> [https://perma.cc/6PLB-VEG7].

239. *Fraser II*, 284 F.3d at 59-61.

240. *N. Am. Soccer League, LLC v. U.S. Soccer Fed’n., Inc.*, No. 17-CV-5495 (BMC), 2024 WL 2959967, at *4 (E.D.N.Y. June 12, 2024).

241. *Id.* at *1.

conspiracy.”²⁴² According to the jury verdict form, it appears that NASL failed to prove the existence of the relevant antitrust markets, which NASL had defined as Division 1 and Division II sanctions for men’s professional soccer leagues in the U.S. and Canada.²⁴³ NASL plans to appeal the decision, but until then, the jury’s verdict regarding NASL’s failure to define the relevant markets must be highly regarded, especially because a jury twenty years earlier—in *Fraser I*—also indicated that the plaintiffs failed to prove the existence of the proposed relevant market.²⁴⁴ Additional inquiry into these failed attempts to convince juries of the relevant markets affected by the alleged anti-competitive conduct is imperative if future plaintiffs hope to bring a successful antitrust action against MLS or USSF.

D. Challenging the Cartel (The Solution)

Although European and United Kingdom competition law offers little to no solutions to the antitrust problems associated with the U.S. professional soccer system, the popularity, prestige, and economic success of the European and English soccer pyramids should serve as role models for MLS and USSF. An open-league format, with promotion and relegation mechanisms, is ideal for professional soccer pyramids for several reasons. Because the threat of relegation and the potential benefits associated with promotion serve as strong incentives for clubs to invest in the development of player talent and the competitive strength of their teams, “the overall quality of play will be higher in an open league than in a closed league resulting in more competitive games and higher fan utility.”²⁴⁵ The integrity of the sport is increased by a system that rewards teams and players based on sporting merit rather than a system that rewards entry to the top-tier based on maximizing profit.

Expenditures on players and team development are higher in open leagues than in closed leagues because this spending serves as an investment in the quality of the sport and is likely to yield greater economic benefits in the long run, as higher-quality competitions will attract more fans and engagement in the U.S. soccer market. Indeed, teams in the MLS “will always be weaker than teams from the top leagues in Europe because the MLS is a closed league.”²⁴⁶ Furthermore, MLS and its investor-operators currently lack any incentive to invest in competitive quality and on-field performances, because teams do not

242. Melanie Anzidei, *NASL failed to prove USSF and MLS conspired against it, jury decides*, N.Y. TIMES (Feb. 3, 2025), <https://www.nytimes.com/athletic/6110245/2025/02/03/nasl-ussf-mls-lawsuit-verdict/> [https://perma.cc/U8GE-ANMT].

243. Verdict Form at 7, *N. Am. Soccer League, LLC v. U.S. Soccer Fed'n, Inc.*, No. 17-CV-5495-HG (E.D.N.Y. Feb. 3, 2025).

244. *Fraser I*, 97 F.Supp.2d at 135-39 (D. Mass. 2000); *Fraser II*, 284 F.3d at 62 (1st Cir. 2002).

245. John Jasina & Kurt Rotthoff, *A Model of Promotion and Relegation in League Sports*, 36 J. ECON. & FIN. 303, 313 (2012).

246. *Id.* at 305.

fear relegation; in a closed system like MLS, once a team is granted entry to the league, it is (essentially) guaranteed to retain its position and status as a Division I team.²⁴⁷ Thus, if MLS or USSF hope to compete at the same high level of play as European leagues, these entities need to ensure that teams are incentivized to develop their players' skills and enhance their prestige. Further, open systems may benefit small market teams because they provide an opportunity for free entry into the top leagues based on talent, skill, and success on the field, rather than on which market or investor is willing to pay the highest expansion fee to gain entry to MLS. For small market teams that earn entry into a top-tier league through promotion, attendance to their games is likely to increase, which would generate more revenue for communities at a financial disadvantage. This has been illustrated in the English pyramid system; on average, "promotion into the Premier League is accompanied by an increase in attendance of 6,000 people per game."²⁴⁸ Overall, an open system in the United States would create higher-quality soccer teams, leading to greater fan engagement and contributing to the sport's development in the country.

Given the benefits of implementing an open system with promotion and relegation mechanisms, it would be advantageous for USSF and MLS to abandon the closed model. Furthermore, if USSF or MLS were to voluntarily implement promotion and relegation between the professional soccer divisions, it could avoid future antitrust challenges. Because MLS has historically been the only league sanctioned by the USSF to operate in the top-tier of the U.S. professional soccer pyramid, and because it continues to control access to its Division I competition through expansion fees and discretionary selection, it essentially holds a monopoly over the top level of professional men's soccer in the country. Additionally, because MLS requires teams hoping to gain entry into the league to pay millions of dollars to "earn" an expansion deal, and the MLS ultimately decides which teams (who pay the expansion fee) it wants to join MLS based on factors unrelated to sporting merit, such arbitrary and expensive barriers to entry make the league susceptible to further antitrust liability.²⁴⁹

Furthermore, because the USSF has either been complicit in MLS's exclusive endeavors or has actively facilitated and maintained MLS's monopoly over the top-tier professional soccer market in the U.S., it, too, may be vulnerable to future antitrust challenges from competitors it has restricted or excluded. However, due to MLS's and USSF's past ability to ward off the antitrust claims brought against them in lawsuits, and the economic advantages that the MLS investor-operators receive from dominating the professional soccer market, it seems unlikely that either entity will voluntarily amend the closed system and face competition from potentially higher-quality teams and

247. Ali Harb, *Lionel Messi makes MLS debut: how does the league work?*, ALJAZEERA (Aug. 28, 2023), <https://www.aljazeera.com/sports/2023/8/28/lionel-messi-makes-mls-debut-but-how-does-the-league-work> [https://perma.cc/BW6D-NBGT]; see Reese, *supra* note 14.

248. *Id.* at 316.

249. See BOILLAT & POLI, *supra* note 25, at 98.

leagues. Moreover, if USSF ultimately sanctions USL's proposed Division I league, USL Premier, a successful antitrust challenge to USSF's conduct may become even less likely.²⁵⁰ Antitrust claims against MLS, however, retain merit regardless of USL's plans to launch USL Premier. Even if USL successfully launches a USSF-sanctioned Division I league within an open pyramid structure, MLS will still operate as an exclusionary, closed system, and its longstanding dominance of the Division I tier would continue to create significant barriers for qualified teams seeking entry into the top level of professional soccer. Thus, it may ultimately be necessary for such teams to bring antitrust claims against MLS because its entrenched dominance in the U.S. top-tier professional soccer market may prevent USL from meaningfully competing in the Division I market.

Arguably, Indy Eleven is the best-suited plaintiff for a successful challenge against the anticompetitive behavior of MLS and USSF. As a club that competes in the division directly below MLS, has repeatedly sought entry to MLS but been denied, and recently defeated an MLS team while placing fourth in the 2024 U.S. Open Cup,²⁵¹ Indy Eleven is an ideal plaintiff to raise claims against MLS and USSF for violations of Sections 1 and 2 of the Sherman Antitrust Act. First, *American Needle* opened the door for self-proclaimed single entities, such as MLS, to face antitrust scrutiny (such as a rule-of-reason analysis or at least a market analysis) rather than immediately avoid it by claiming a structural defense. Thus, Indy Eleven could conceivably argue that the investor-operators of MLS have agreed to "consolidate their economic interests into one body, despite actually holding separate economic interests," which has resulted in "a deprivation of independent centers of decision-making in the relevant marketplace" and therefore, contend that the court is compelled to engage in, at a minimum, a rule of reason analysis under Section 1.²⁵²

Further, because MLS repeatedly denied Indy Eleven access to the Division I market (via an expansion package to join the MLS), and now MLS has engaged in agreements or has otherwise conspired with Indianapolis officials to implement its own team in Indianapolis, Indy Eleven may have another option for a legal claim; the team may be able to show that MLS has attempted to, or is in the process of, monopolizing the professional soccer market in Indianapolis. By bringing a suit against MLS and USSF for violations of the Sherman Act, Indy Eleven could receive various types of relief or remedies. The preferred form of relief would be an injunction preventing MLS from monopolizing the Indianapolis professional soccer market. This would provide the most direct relief to Indy Eleven and may be the most realistic remedy the

250. See *supra* notes 187-90 and accompanying text.

251. See *Indy Eleven Delivers Dramatic Upset on First Matchday of 2024 U.S. Open Cup Quarterfinals*, *supra* note 95.

252. Ewing, *supra* note 207, at 403.

club could receive. On the other hand, a court may issue an injunction requiring MLS, USSF, or both to amend their procedures, rules, and standards for clubs seeking to advance to higher divisions. While it is unclear whether a court could force MLS or USSF to implement promotion or relegation as a remedy, the closed model of professional soccer in the U.S. is impeding the sport's development, harming lower-level teams and leagues—including Indy Eleven—and overlooking fan welfare. By bringing a legal challenge against MLS and USSF, Indy Eleven will not only solve its own dilemma but also work to improve the integrity of soccer in the U.S.

VI. CONCLUSION

Indianapolis's soccer dilemma is not an anomaly. It is a symptom of a deeper structural failure in the governance of professional soccer (and professional sports generally) in the United States. By organizing soccer around a closed, franchise-based model that conditions entry to the top tier on wealth rather than merit, MLS has insulated itself from competitive pressures, distorted the incentives of clubs and investors, and foreclosed the very pathways that make soccer the world's most dynamic and credible sporting system elsewhere. The result is a pyramid in name only—one that preserves hierarchy without permitting movement, and stability without accountability.

This Note has argued that the current structure of U.S. professional soccer is not merely undesirable but also legally vulnerable. Although past antitrust challenges against MLS and USSF have failed, largely because of difficulties defining relevant markets and the historical shelter provided by the single entity legal defense, doctrinal developments since *Fraser I* and *II*, especially the Supreme Court's decision in *American Needle*, have substantially weakened MLS's ability to avoid meaningful scrutiny under the Sherman Act. At the same time, MLS's evolving economic structure—one in which clubs retain substantial independent revenue streams and compete aggressively for talent, fans, and local market dominance—undercuts the premise that the league and its teams still share a complete unity of economic interests. Indy Eleven stands at the center of this conflict. It is a club with proven competitive success, demonstrated fan support, and a tangible record of outperforming MLS teams on the field, yet it remains permanently locked out of the top tier because it cannot, or will not, purchase its way in. If MLS is permitted to deny access to the Division I market while simultaneously inserting its own team into Indianapolis, the league's conduct begins to resemble not merely a closed system, but an exclusionary one that risks crossing the line from business model to unlawful monopolization.

To be sure, antitrust law does not guarantee promotion and relegation, nor does it mandate any particular league structure. But it does prohibit the use of market power to exclude competitors, entrench dominance, and foreclose competition without legitimate justification. At a minimum, it demands that

MLS's practices be subjected to serious rule-of-reason scrutiny rather than to structural immunity under the single entity defense. More broadly, the case for reform extends beyond litigation. An open system that rewards sporting merit, incentivizes investment in quality teams and players, and preserves the integrity of competition would better serve fans, players, clubs, and the long-term development of the sport in the United States. It would also align American soccer with the global norms that have made the game the world's most popular sport.

If MLS and USSF will not move voluntarily toward a more open and competitive system, pressure will come from elsewhere—from courts, from competitors, like USL, and from markets that increasingly recognize the costs of artificial closure. Therefore, the crux of Indy Eleven's fight extends beyond just one city or one club. Ultimately, it is about whether American soccer will continue to be governed as a protected cartel or finally be allowed to become what the sport has long been elsewhere: a competition where success is earned on the field rather than purchased in an executive suite.