

Hats Off

**By Reg P. Wydeven
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When I was in first grade, my mom bought me a blue and gray winter coat and to match, a Detroit Lions stocking cap. And so, a lifelong love of the Lions (second only to my love of the Packers) began.

Well, not since the winter of 1979 has an NFL hat made such an impact. In a case soon to be heard by the U.S. Supreme Court, a legal battle over an NFL hat could send shockwaves throughout the professional sports and even the business worlds.

In 2004, American Needle, Inc. filed an antitrust lawsuit against the NFL, alleging that the league was using its monopoly powers illegally to deprive the company of its share of the market for caps and hats bearing logos of NFL teams. American Needle made knit caps and baseball hats bearing NFL logos for decades until the NFL entered into an exclusive apparel control with Reebok in 2000.

The NFL won the lawsuit, and the appellate court also ruled in the league's favor. American Needle, however, filed a request for the U.S. Supreme Court to review the case. Of the 7,500 or so such requests filed annually, the court takes on only 70 or 75 cases for decision each year.

But then, in a shocking twist, the NFL informed the Supreme Court that it endorsed American Needle's request for a hearing and a decision. This would be the equivalent of Mike McCarthy throwing a red flag after Aaron Rodgers threw a pass the referees already ruled a touchdown.

The method behind the league's madness was that in addition to ruling on the American Needle case, the NFL wanted the Supreme Court to grant the league total immunity from all forms of antitrust scrutiny. If successful, the ruling would extend this immunity to the NBA, the NHL, MLB, MLS, NASCAR, and the NCAA as well.

The legal doctrine at issue is the concept known as "single entity." If the NFL convinces the Supreme Court that the league is a single entity competing with other providers of entertainment, as opposed to a group of 32 individual teams competing with each other, the landscape of the sports industry will be completely transformed.

As a single entity, the league would be immune from antitrust laws, as violations of the Sherman Act require a "combination, contract or conspiracy" that restrains competition and hurts consumers. As a single entity, the NFL cannot be in combination, contract or conspiracy.

The result would be more global than the limited scope of the league's victory in the American Needle case alone. After the NFL entered into its exclusive contract with Reebok in 2000, the prices for hats increased from \$19.99 to \$30, while prices of replica jerseys increased by 60 percent.

If the NFL wins at the Supreme Court level, the league could fix ticket and merchandise prices, establish tiered player and coaches' salaries, and eliminate free agency. The NFL team owners would become a monopoly, raking in unprecedented profits and most likely start wearing monocles.

The fear is that the ruling would extend beyond the sports world. If the Supreme Court holds that the 32 teams in the NFL constitute a single entity, the federation of banks that comprise the credit card network could make the same claim, which would be more disastrous than Brett Favre becoming a Minnesota Viking.

And to think, the establishment of the credit card cartel could be traced to one little NFL hat.

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