



2011

Symposium: Uneven Bars: Age Rules, Antitrust, and Amateurism in Women's Gymnastics

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Recommended Citation

Rodenberg, Ryan M. and Eagleman, Andrea N. (2011) "Symposium: Uneven Bars: Age Rules, Antitrust, and Amateurism in Women's Gymnastics," *University of Baltimore Law Review*: Vol. 40: Iss. 4, Article 4.
Available at: <http://scholarworks.law.ubalt.edu/ublr/vol40/iss4/4>

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UNEVEN BARS: AGE RULES, ANTITRUST, AND AMATEURISM IN WOMEN'S GYMNASTICS

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I. INTRODUCTION

We respect the [gymnastics minimum-age] rules and some countries don't.

– U.S. national team coach Martha Karolyi¹

Ten years. That is how long it took Dominique Dawes, one of the most decorated American gymnasts ever, to receive the bronze medal she and her 2000 Olympic Games (Olympics or Games) teammates deserved.² In Sydney, Australia—the site of the 2000 Olympics and the first Games to be held since stricter minimum-age rules were imposed in the sport of women's gymnastics—Team USA won no medals but showed improvement over their 1999 World Championship performance by placing fourth as a team.³ However, a decade later, the 2000 team was retroactively awarded the bronze medal because the medal-winning Chinese team was disqualified for

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1. Eddie Pells, *US Gymnastics Still Unhappy About Age Rules*, USA TODAY (Aug. 16, 2010, 5:20 PM), http://www.usatoday.com/sports/olympics/2010-08-16-4215111810_x.htm.

2. *2000 Olympic Team Receives Bronze Medal at Visa Championships*, USA GYMNASTICS (Aug. 11, 2010), <http://www.usa-gymnastics.org/pages/post.html?PostID=6001>.

3. Pells, *supra* note 1; Diane Pucin, *U.S. Olympics Gymnastic Team Gets Bronze, 10 Years Later*, L.A. TIMES (Apr. 28, 2010), <http://articles.latimes.com/print/2010/apr/28/sports/la-sp-gymnasts-bronze-20100429>.

knowingly having an underage athlete on the team.⁴ Upon receiving her medal, Dawes said: “[T]he truth has been revealed.”⁵

Precocity and elite-level gymnastics have a long history. In 1976, fourteen-year-old Nadia Comaneci of Romania dazzled viewers with the first set of perfect scores ever in Olympic competition.⁶ Twenty years later, fellow fourteen-year-old Dominique Moceanu was a key member of the “Magnificent Seven,” which became the first American squad to claim the team gold at the Olympic Games.⁷ However, neither Comaneci nor Moceanu would be permitted to compete under the now-current age rules enacted in 1997.⁸ Further, as evidenced by numerous cases of state-sponsored age falsification, compliance with the minimum-age rule has been mixed and enforcement of the rule has been lacking.⁹ As a result, concerns about an uneven playing field between compliant and noncompliant nations have arisen.¹⁰ Similarly, the more stringent minimum-age policy has, in an unintended way, facilitated increased age-related fraud and moved women’s gymnastics further away from its amateurism ideals, damaging the sport’s credibility.¹¹

The history of elite-level gymnastics is replete with numerous examples of fifteen-year-old girls or younger who can achieve success on the biggest stage.¹² However, to date, no gymnast has filed a lawsuit challenging the mandates of the age eligibility rule. The primary purpose of this article is to establish the legal framework by which such a claim would be analyzed. The secondary purpose of this article is to explain how gymnastics’ age rule has helped further the demise of the sport’s amateurism principles. Section II of this

4. Pucin, *supra* note 3.

5. *USA Gymnastics Statement Regarding the IOC’s Decision to Award 2000 Olympic Bronze Medal to USA*, USA GYMNASTICS (Apr. 28, 2010), <http://www.usa-gymnastics.org/pages/post.html?PostID=5280&prog=h>.

6. Dan Wetzel, *The Olympics’ Age-Old Problem*, YAHOO! SPORTS (Aug. 14, 2008, 8:51 PM), <http://sports.yahoo.com/olympics/beijing/gymnastics/news?slug=dw-gymnasts-age081408>.

7. *USA Gymnastics Names 2010 Hall of Fame Inductees*, USA GYMNASTICS (Mar. 23, 2010), <http://www.usa-gymnastics.org/pages/post.html?PostID=5069>.

8. Pells, *supra* note 1; Tom Weir, *Tinkering with Rules has Tinkerbells Left Out*, USA TODAY, July 23, 1996, at 8E.

9. See Pells, *supra* note 1.

10. *Id.* (“[Martha] Karolyi and her husband, Bela, have long believed in scrapping age limits for senior events, saying that, among other things, they create an uneven playing field between countries that adhere to the rules and those that try to skirt them.”).

11. Wetzel, *supra* note 6.

12. See Christopher Clarey, *Miller Adds Maturity and Difficulty to Her Repertory*, N.Y. TIMES, July 18, 1996, at B9.

paper provides a historical overview of elite-level gymnastics, with an emphasis on both the interrelationship between the governing bodies and the current age rule. Section III addresses the overlap between antitrust law and sports, explains how eligibility rules in sports are treated by the courts, and analyzes the antitrust legality of minimum-age rules in gymnastics. Section IV concludes with an outline of the important policy implications stemming from the mixed enforcement of gymnastics' minimum-age rule and the resulting impact on amateurism.

II. OVERVIEW OF ELITE-LEVEL GYMNASTICS

A. Historical Development and Current Status

The sport of gymnastics has existed in the United States since the 1830s, when it was introduced by European immigrants.¹³ Originally controlled by the Amateur Athletic Union (AAU), USA Gymnastics (formerly known as the United States Gymnastics Federation) took over as the sport's national governing body in 1970 and has presided over the sport in the U.S. ever since.¹⁴ Based in Indianapolis, Indiana, USA Gymnastics is responsible for setting policies for gymnastics in the United States, selecting national teams, promoting the sport of gymnastics, enforcing International Olympic Committee (IOC) and Fédération Internationale de Gymnastique (FIG) rules, and serving as a resource for its member clubs, professional members, athletes, and fans.¹⁵

The first U.S. women's team competed in the Olympic Games in 1936, thus marking the international emergence of American elite-level women's gymnastics.¹⁶ The United States, which initially was not a strong contender for Olympic medals in women's gymnastics, won its first medal in 1948, a team bronze.¹⁷ The women did not win

13. *History of Artistic Gymnastics*, USA GYMNASTICS, http://www.usa-gymnastics.org/pages/home/gymnastics101/history_artistic.html?prog=pb (last visited May 14, 2011).

14. *About USA Gymnastics*, USA GYMNASTICS, http://www.usa-gymnastics.org/pages/aboutus/pages/about_usag.html (last visited May 14, 2011); *Former Women's National Champions*, USA GYMNASTICS, http://www.usa-gymnastics.org/pages/pressbox/history/nationalchamps_women.html (last visited May 14, 2011).

15. *About USA Gymnastics*, *supra* note 14.

16. *History of Artistic Gymnastics*, *supra* note 13.

17. *U.S. Medalists at Olympic Games—Men & Women Artistic Gymnastics*, USA GYMNASTICS, http://www.usa-gymnastics.org/pages/pressbox/history/olympics_medalists_artistic.html (last visited May 14, 2011).

another medal for thirty-six years, when the traditionally dominant Russians boycotted the 1984 Los Angeles Olympic Games, and the U.S. team finished with the silver medal behind Romania.¹⁸ One U.S. gymnast at those Games, Mary Lou Retton, was the first-ever U.S. woman to win the all-around gold medal and became an “American folk heroine,” as the *New York Times* referred to her following that Olympics.¹⁹ Retton was coached by Bela Karolyi, the same man who guided Romanian Nadia Comaneci to a gold medal in 1976.²⁰ Karolyi, a Romanian citizen who defected to the United States in 1981, established the United States as a powerful contender for World and Olympic medals after being named its national-team coach.²¹ Women from the United States went on to win five medals at the 1992 Barcelona Olympics and four medals at the 1996 Atlanta Olympics (including the team gold medal), after which Karolyi retired from coaching.²² Following a poor showing by the U.S. women at the 1997 World Championships,²³ Karolyi was retapped to lead the team for the 2000 Sydney Olympics.²⁴

After the 2000 Olympics, Martha Karolyi replaced her husband as national-team coordinator.²⁵ Martha implemented a semicentralized training system for the U.S. team. Under this system, gymnasts train with their hometown coaches but convene at the Karolyis’ ranch in Texas several times a year for national team training, where Martha Karolyi and the national team training staff assess the progress of the gymnasts.²⁶ The semicentralized system continues today, and since its implementation in 2001, the U.S. women’s team has won a team

18. *Id.*; *United States Olympic Committee Names Judge Charles Carter Lee as Chef de Mission for 2008 Olympic Games*, USA GYMNASTICS (Apr. 30, 2008), <http://www.usa-gymnastics.org/pages/post.html?PostID=2149&prog=h>.

19. Dave Anderson, ‘I Was Thinking, Stick, Stick’, N.Y. TIMES, Aug. 5, 1984, § 5, at 3.

20. *Id.*

21. *Karolyi Named National Team Coordinator for USA Women*, USA GYMNASTICS (Nov. 16, 1999), <http://www.usa-gymnastics.org/pages/post.html?PostID=1354&prog=h>.

22. *Id.*; *U.S. Medalists at Olympic Games—Men & Women Artistic Gymnastics*, *supra* note 17.

23. *See 33rd World Championships Artistic Gymnastics*, GYMNASTICRESULTS.COM, <http://www.gymnasticsresults.com/w1997w.html> (last visited May 14, 2011).

24. *Karolyi Named National Team Coordinator for USA Women*, *supra* note 21.

25. *Martha Karolyi Named National Team Coordinator Through 2004 Olympic Games*, USA GYMNASTICS (Feb. 20, 2001), <http://www.usa-gymnastics.org/pages/post.html?PostID=1301&prog=h>.

26. Alice Park & Kristin Kloberdanz, *Inside Camp Karolyi*, TIME, Aug. 16, 2004, at 64, available at <http://www.time.com/time/magazine/article/0,9171,994881-2,00.html>.

medal at all subsequent World Championships and Olympic Games.²⁷ Individual gymnasts have also found success, with Carly Patterson and Nastia Liukin winning the all-around gold medal at the 2004 and 2008 Olympics, respectively.²⁸

B. FIG and USA Gymnastics Governance

The IOC and its officials recognize the FIG as the supreme authority on international gymnastics.²⁹ The FIG, based in Lausanne, Switzerland, is the oldest governing body for the sport of gymnastics. It began in 1881 as the European Federation of Gymnastics and was renamed in 1921 when countries outside of Europe were first added to the federation.³⁰ In 2010, the FIG reported having 130 member federations, one of which is USA Gymnastics.³¹ The FIG's governance structure consists of a rule-making congress, a twenty-three-person executive committee (of which two members are from the United States), a twenty-one-person council (of which one is from the U.S.), six technical committees, two auditors, and thirteen content-specific commissions.³²

The FIG is the highest authoritative power in the sport of gymnastics, as it governs gymnastics competitions at the Olympic

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27. *U.S. Women Win Team Silver Medal at 2010 World Championships*, USA GYMNASTICS (Oct. 20, 2010), <http://www.usa-gymnastics.org/pages/post.html?PostID=6558>; *USOC Designates USA Gymnastics National Team Training Center at Karolyi Ranch as Newest U.S. Olympic Training Site*, USA GYMNASTICS (Jan. 26, 2001), <http://www.usa-gymnastics.org/pages/post.html?PostID=6979&prog=h>.
 28. *Patterson Wins GOLD in All-Around*, USA GYMNASTICS, (Aug. 27, 2004), <http://www.usa-gymnastics.org/pages/post.html?PostID=1194&prog=h>; Michael David Smith, *Olympic Gymnastics: USA's Nastia Liukin Wins Gold, Shawn Johnson Silver*, FANHOUSE (Aug. 15, 2008), <http://olympics.fanhouse.com/2008/08/15/olympic-gymnastics-usas-nastia-liukin-wins-individual-all-arou/>.
 29. *See International Gymnastics Federation*, OLYMPIC.org, <http://www.olympic.org/fig-artistic-gymnastics> (last visited May 14, 2011); *USA Gymnastics: Our Role in the Olympic Family*, *About USA Gymnastics*, USA GYMNASTICS, http://www.usa-gymnastics.org/pages/aboutus/pages/about_usag.html (last visited May 14, 2011); *see also* STATUTES OF FÉDÉRATION INTERNATIONALE DE GYMNASTIQUE (2011), *available at* <http://figdocs.lx2.sportcentric.com/external/serve.php?document=2549> [hereinafter FIG STATUTES].
 30. *Milestones in FIG History*, FÉDÉRATION INTERNATIONALE DE GYMNASTIQUE, <http://www.fig-gymnastics.com/vsite/vcontent/page/custom/0,8510,5187-204412-221635-49054-313081-custom-item,00.html> (last visited May 14, 2011).
 31. *See id.*; *About USA Gymnastics*, *supra* note 14 (noting that USA Gymnastics became a member of the FIG in 1970).
 32. *FIG Directory*, FÉDÉRATION INTERNATIONALE DE GYMNASTIQUE, <http://www.fig-gymnastics.com/vsite/vnavsite/page/directory/0,10853,5187-188051-205273-navlist,00.html> (last visited May 14, 2011).

Games, World Games, World Championships, and all other multi-continental events.³³ All member national federations, such as USA Gymnastics, must follow FIG rules and regulations regarding athlete eligibility in order to field a team for international competition and, more generally, in order to maintain their membership status in good standing.³⁴ National federations who are members of the FIG are entitled to vote, submit proposals, and participate in official FIG events.³⁵ The FIG retains the authority, however, to suspend or expel a member federation for rule violations.³⁶

USA Gymnastics is designated as the sole national governing body of gymnastics by the IOC and the FIG.³⁷ It became a member federation of the FIG in 1970.³⁸ “USA Gymnastics sets the rules and policies that govern gymnastics in the United States . . . [and] has many responsibilities, including selecting and training the U.S. Gymnastics Teams for Olympic Games and World Championships.”³⁹ The organization is governed by a president and chairman, a twenty-person board of directors, and an advisory council.⁴⁰

The FIG is most involved in USA Gymnastics’ governance of athletes who compete at an elite international level.⁴¹ Athletes on the national team routinely represent the U.S. in international competitions.⁴² The national team consists of approximately twenty-eight athletes, both junior (gymnasts under the age of sixteen) and senior (gymnasts who are sixteen-years old and older).⁴³ National teams are selected at the annual national championships.⁴⁴ Gymnasts may also become members of the national team via approved petitions.⁴⁵ Any gymnastics event in which U.S. athletes compete

33. See *supra* note 29 and accompanying text.

34. See *About USA Gymnastics*, *supra* note 14.

35. FIG STATUTES ch. 3, art. 3.1.

36. *Id.* arts. 7, 8.

37. *About USA Gymnastics*, *supra* note 14.

38. *Id.*

39. *Id.*

40. USA GYMNASTICS BYLAWS §§ 4.01, 4.02, 6.02(a), 7.01, 7.02 (2009), available at <http://www.usa-gymnastics.org/PDFs/About%20USA%20Gymnastics/Governance/usag-bylaws.pdf>.

41. *About USA Gymnastics*, *supra* note 14.

42. *Women’s Elite/Pre-Elite/TOPs Program Overview*, USA GYMNASTICS, http://www.usa-gymnastics.org/pages/women/pages/overview_elite.html (last visited May 14, 2011).

43. *About USA Gymnastics*, *supra* note 14.

44. *Id.*

45. *Id.*

with competitors from more than one nation must follow FIG regulations, as stated in Section II of the Sanctioning Procedures section of the USA Gymnastics 2010–2011 Women’s Program Rules and Policies document.⁴⁶ Historically, the relationship between USA Gymnastics and the FIG has been harmonious, as USA Gymnastics has never publicly deviated from FIG-imposed policy.

C. *Enactment and Administration of Minimum-Age Rule*

Prior to 1980, female gymnasts were required to be fourteen years or older in order to compete as senior gymnasts in international competitions.⁴⁷ In 1980, the FIG enacted a new minimum-age rule, which stated that the gymnast must turn fifteen years old in the same calendar year as the competition in order to be eligible to compete as a senior gymnast.⁴⁸ The rationale behind this decision was to emphasize and promote the artistry of the sport, which was more commonly associated with older gymnasts, than the acrobatic elements performed by younger gymnasts.⁴⁹ In 1997, the FIG increased this standard to sixteen years of age, which remains the current age minimum in women’s artistic gymnastics.⁵⁰ The increase from fifteen to sixteen years of age stemmed from the FIG’s increased concerns about “musculoskeletal development of young competitors, lengthening gymnastics careers, preventing burnout, and in order to redirect the image of the sport positively for the public, spectators and media.”⁵¹ FIG’s concerns mirrored issues raised by researchers, who keyed in on societal and health risks of elite-level youth sports such as mental burnout, overbearing parental and coach involvement, inhibited motor skill development, early-onset osteoporosis, amenorrhea, and eating disorders such as anorexia and

46. USA GYMNASTICS 2010–2011 WOMEN’S PROGRAM RULES AND POLICIES pt. 4, § 2 (2010), available at http://usagymnastics.org/PDFs/Women/Rules/Rules%20and%20Policies/2010_2011_w_rulespolicies.pdf.

47. International Amateur Athletic Federation, *Within the International Federations*, 1980 OLYMPIC REV. 513, 520, available at <http://www.la84foundation.org/OlympicInformationCenter/OlympicReview/1980/ore155/ORE155p.pdf>.

48. *Id.*

49. Neil Amdur, *Rift over Underage Gymnasts*, N.Y. TIMES, Dec. 7, 1981, at C4.

50. See Weir, *supra* note 8, at 8E (“Rulesmakers hope the age limit somehow will cure the ills that cloud the seeming innocence of their sport . . .”).

51. Van Anderson, *Female Gymnasts: Older and Healthier?*, TECHNIQUE, Aug. 1997, at 14, 15, available at <http://www.usa-gymnastics.org/pages/home/publications/technique/1997/8/female.pdf>.

bulimia.⁵² Along with these documented health risks, commentators also have cited child-labor issues that arise when young elite athletes turn professional.⁵³ Another researcher brought attention to several ethical issues involved with elite-level training for young athletes and urged governing bodies to answer elucidating questions: “What are the risks—physical, psychological, social—for children in elite sports? How common are they?”⁵⁴ The aforementioned health, well-being, and ethical risks for young elite athletes provided the basis for the FIG’s decision to enact minimum-age rules in the sport of gymnastics.⁵⁵

Since the implementation of minimum-age rules, there have been several instances of nations falsifying the age of their gymnasts.⁵⁶ For example, even when the age minimum was set at fifteen years old, North Korea was found to have falsified the age of gymnast Kim Gwang Suk, who won the gold medal on the uneven parallel bars at the 1991 World Championships.⁵⁷ North Korea was banned from competing in the 1993 World Championships as a result of the fraud.⁵⁸ More recently, as alluded to above, the 2000 U.S. women’s gymnastics team received a bronze medal ten years after the team finished fourth in the Sydney Olympics because officials discovered that a gymnast from the medal-winning Chinese team did not meet

52. Eryn M. Doherty, Comment, *Winning Isn't Everything . . . It's the Only Thing: A Critique of Teenaged Girls' Participation in Sports*, 10 MARQ. SPORTS L. REV. 127, 128, 137–38 (1999); Lenny D. Wiersma, *Risks and Benefits of Youth Sport Specialization: Perspectives and Recommendations*, 12 PEDIATRIC EXERCISE SCI. 13, 15–18 (2000).

53. See, e.g., Jenna Merten, Comment, *Raising a Red Card: Why Freddy Adu Should not be Allowed to Play Professional Soccer*, 15 MARQ. SPORTS L.J. 205 (2004).

54. Thomas W. Rowland, *On the Ethics of Elite-Level Sports Participation by Children*, 12 PEDIATRIC EXERCISE SCI. 1, 4 (2000).

55. MEN’S GYMNASTICS RULES AND POLICIES sec. VII (2011), available at http://www.usa-gymnastics.org/pages/men/pages/rules_policies.html. Although the focus of this article is on age rules in women’s gymnastics, please note that male gymnasts must also be at least sixteen years of age in order to compete at the senior elite level. *Id.*

56. Gymnastics experts predicted that age fabrication would occur in the wake of minimum-age rules being enacted. Weir, *supra* note 8, at 8E (“Bela Karolyi[] is adamantly opposed to the age rule and believes it could inspire an onslaught of forged birth certificates.”).

57. Kevin Sullivan, *In Olympic Community, N. Korea Is the Odd Neighbor*, WASH. POST, July 8, 1996, at C1.

58. *Id.*

the minimum age of sixteen in 2000.⁵⁹ Similarly, the Chinese women's team received heavy media scrutiny in 2008 when cyber-sleuths uncovered online documents that showed at least two gymnasts were underage.⁶⁰ The documents later disappeared from the internet, and the FIG launched an investigation into the matter. Ultimately, the FIG decided that the age verification documents provided by China were accurate and the gymnasts had not violated the age-minimum rule.⁶¹ Finally, in November 2010 the FIG announced a two-year suspension for the entire North Korea team after one of its gymnasts was found to have used three different birthdates in international competitions from 2003 to 2010.⁶² The FIG explained that its decision "is a clear signal to those who would willfully disregard the current rules surrounding gymnast age. The health of its athletes and respect for the law are among [our] highest priorities."⁶³

In an effort to better track the age of gymnasts competing internationally and reduce the prevalence of age fabrication, the FIG introduced a license (also called a "gymnastics passport") at the start of 2009.⁶⁴ All gymnasts must present this license in order to be eligible for international competitions.⁶⁵ The license must be renewed every two years, and it requires gymnasts to provide detailed personal information such as their full name, home address, email

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59. Kevin Helliker & Geoffrey A. Fowler, *China Stripped of Medal from 2000*, WALL ST. J., Apr. 29, 2010 at A11, available at <http://online.wsj.com/article/SB10001424052748704423504575212053805495856.html>.
 60. Miguel Helft, *Internet-Age Detectives on the Trail of Gymnasts*, N.Y. TIMES, Aug. 29, 2008, at D2, available at <http://www.nytimes.com/2008/08/29/sports/olympics/29gymnastics.html?ref=gymnastics>.
 61. Juliet Macur, *Inquiry on Age Clears Some Gymnasts, Not All*, N.Y. TIMES, Oct. 2, 2008, at D1.
 62. *Two Years Suspension!*, FÉDÉRATION INTERNATIONALE DE GYMNASTIQUE (Nov. 5, 2010), <http://www.fig-gymnastics.com/vsite/vcontent/content/news/0,10869,5187-188805-206027-44766-311274-news-item,00.html>.
 63. *Id.*
 64. *FIG License Check*, FÉDÉRATION INTERNATIONALE DE GYMNASTIQUE, <http://www.fig-gymnastics.com/vsite/vcontent/page/custom/0,8510,5187-196741-213964-46937-297133-custom-item,00.html> (last visited May 14, 2011); Marlen Garcia, *More Age Monitoring, Smaller Squad Sizes Ahead for Gymnastics*, USA TODAY (Aug. 9, 2008, 11:18 AM), http://www.usatoday.com/sports/olympics/beijing/gymnastics/2008-08-09-FIG-age_N.htm.
 65. FÉDÉRATION INTERNATIONALE DE GYMNASTIQUE, FIG LICENSE RULES 1 (2010), available at <http://figdocs.lx2.sportcentric.com/external/serve.php?document=2114>.

address, passport number, gender, date of birth, and the signature of both the gymnast and a representative from her national federation.⁶⁶

III. LEGALITY OF GYMNASTICS' MINIMUM-AGE RULE

A. *The Overlap of Antitrust Law with Sports*

Legal challenges to age-eligibility rules in sports usually take the form of antitrust lawsuits. The Sherman Antitrust Act of 1890 (Sherman Act) is the primary federal antitrust statute in the United States.⁶⁷ Section I of the Sherman Act prohibits “[e]very contract, combination[,], . . . or conspiracy, in restraint of trade or commerce among the several states.”⁶⁸ Recognizing that a plain-language reading of the Sherman Act could render almost all business agreements that crossed state lines illegal, the Supreme Court of the United States adopted a “rule of reason” test in its seminal Sherman Act opinion *Standard Oil Co. v. United States* over 100 years ago.⁶⁹ In *Standard Oil*, the Justices deemed that interstate commercial agreements would only be labeled illegal if they “unreasonably” restrained trade.⁷⁰ Later clarifications by the Supreme Court introduced an antitrust balancing test whereby the procompetitive effects of the regulation are considered vis-à-vis the restraint’s detrimental impact on competition.⁷¹ The rule of reason balancing test is not always employed. The Supreme Court has determined that certain types of egregious anticompetitive activity to be per se illegal. Examples include horizontal price fixing,⁷² tying arrangements,⁷³ and market division between direct competitors.⁷⁴ Nevertheless, with a few notable exceptions discussed *infra*, a perusal of the relevant case law reveals that most sports-related antitrust issues are evaluated under the rule of reason standard.⁷⁵

66. *Id.* at 4.

67. *See* 15 U.S.C. § 1 (2006).

68. *Id.*

69. 221 U.S. 1, 63, 66 (1910).

70. *Id.* at 58.

71. *See Nat’l Soc’y of Prof’l Eng’rs v. United States*, 435 U.S. 679, 692 (1978).

72. *Copperweld Corp. v. Independence Tube Corp.*, 467 U.S. 752, 768 (1984).

73. *Int’l Salt Co. v. United States*, 332 U.S. 392, 396 (1947), *abrogated by* Ill. Tool Works Inc. v. Indep. Ink, Inc., 547 U.S. 28 (2006).

74. *Copperweld Corp.*, 467 U.S. at 768.

75. *See, e.g., Nat’l Soc’y of Prof’l Eng’rs*, 435 U.S. at 691–92 (stating that unless the agreement is “so plainly anticompetitive that no elaborate study of the industry is needed to establish their illegality,” it will be analyzed under the rule of reason).

The interaction between sports and antitrust began inauspiciously. In 1922, the Supreme Court granted Major League Baseball an antitrust exemption based on a finding that the interstate commerce aspects of the sport were merely incidental to the staging of professional ballgames.⁷⁶ Although subsequently described as an “anomaly,”⁷⁷ an “aberration confined to baseball,”⁷⁸ and a “derelict in the stream of law,”⁷⁹ the 1922 *Federal Baseball Club of Baltimore v. National League of Professional Baseball Clubs* case has yet to be explicitly overruled by Congress or the Supreme Court.⁸⁰ Baseball’s peculiar antitrust exemption did not extend to other sports, however. In *International Boxing Club v. United States*, the Supreme Court concluded that there was no unique aspect in sports meriting an across-the-board exemption from federal antitrust laws.⁸¹ After boxing was found nonexempt, other sports were similarly deemed subject to antitrust scrutiny, including basketball,⁸² football,⁸³ hockey,⁸⁴ golf,⁸⁵ and tennis.⁸⁶

B. Antitrust Principles Applied to Sports Eligibility Rules

Eligibility issues in the sports industry have been a frequent subject of litigation.⁸⁷ The vast majority of plaintiffs have looked to the Sherman Act when filing lawsuits challenging sports eligibility rules.⁸⁸ Such rules are challenged on the basis that they constitute an

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76. *Fed. Baseball Club of Balt. v. Nat’l League of Prof’l Baseball Clubs*, 259 U.S. 200, 208–09 (1922).
 77. *Flood v. Kuhn*, 407 U.S. 258, 282 (1972).
 78. *Id.*
 79. *Id.* at 286 (Douglas, J., dissenting).
 80. *See generally* *Toolson v. N.Y. Yankees*, 346 U.S. 356, 356–57 (1952) (affirming *Federal Baseball Club of Baltimore* and noting that any change should originate in congressional legislation); *Major League Baseball v. Crist*, 331 F.3d 1177, 1177 n.1 (11th Cir. 2003) (following *Federal Baseball Club of Baltimore* with reservations).
 81. 358 U.S. 242, 244–45 (1955).
 82. *Haywood v. Nat’l Basketball Ass’n*, 401 U.S. 1204 (1971).
 83. *Radovich v. Nat’l Football League*, 352 U.S. 445 (1957).
 84. *Phila. World Hockey Club, Inc. v. Phila. Hockey Club, Inc.*, 351 F. Supp. 462 (E.D. Pa. 1972).
 85. *Deesen v. Prof’l Golfers Ass’n*, 358 F.2d 165 (9th Cir. 1966).
 86. *Volvo N. Am. Corp. v. Men’s Int’l Prof’l Tennis Council*, 857 F.2d 55 (2d Cir. 1988).
 87. *See generally* Matthew J. Mitten & Timothy Davis, *Athlete Eligibility Requirements and Legal Protection of Sports Participation Opportunities*, 8 VA. SPORTS & ENT. L.J. 71 (2009) (discussing the legal frameworks behind eligibility issues at the Olympic, professional, and interscholastic levels).
 88. Ryan M. Rodenberg, *Gender Policies in Golf and the Impact of Litigation: Lawless v. LPGA*, WORLD SPORTS L. REP., Dec. 2010, at 6.

impermissible concerted refusal to deal or group boycott.⁸⁹ Early Supreme Court cases found concerted refusals to deal and group boycotts to be per se illegal.⁹⁰ However, the Supreme Court has looked to the rule of reason standard in more recent decisions.⁹¹

The mode of analysis adopted in sports-eligibility rule cases has been somewhat of a mixed bag, with both the per se and rule of reason standards being adopted.⁹² Cases that found eligibility rules to be illegal per se include *Boris v. United States Football League* (age and education rule),⁹³ *Blalock v. Ladies Professional Golf Ass'n* (twelve-month suspension of player-member for on-course rule violation),⁹⁴ *Haywood v. National Basketball Ass'n* (four-year college eligibility rule),⁹⁵ and *Linseman v. World Hockey Ass'n* (minimum-age rule of twenty).⁹⁶ In contrast, a number of other cases looked to the rule of reason standard when evaluating the antitrust legality of specific sport eligibility rules. In *Deesen v. Professional Golfers Ass'n*, the court upheld league rules requiring players to meet certain

89. David G. Kabbes, Note, *Professional Sports' Eligibility Rules: Too Many Players on the Field*, 1986 U. ILL. L. REV. 1233, 1234-35; Robert B. Terry, Comment, *Application of Antitrust Laws to Professional Sports' Eligibility and Draft Rules*, 46 MO. L. REV. 797, 816 (1981).
90. *Klor's, Inc. v. Broadway-Hale Stores, Inc.*, 359 U.S. 207, 212 (1959); *Fashion Originator's Guild, Inc. v. Fed. Trade Comm'n*, 312 U.S. 457, 463-64 (1941).
91. *Nw. Wholesale Stationers, Inc. v. Pac. Stationary & Printing Co.*, 472 U.S. 284, 289 (1985); *Cont'l T.V., Inc. v. GTE Sylvania, Inc.*, 433 U.S. 36, 59 (1977).
92. There has been a plethora of academic articles analyzing eligibility rules in sports. For general treatment, see Kabbes, *supra* note 89; Terry, *supra* note 89, at 819-25. For examples specific to certain sports, see Marc Edelman & C. Keith Harrison, *Analyzing the WNBA's Mandatory Age/Education Policy from a Legal, Cultural, and Ethical Perspective*, 3 NW. J. L. & SOC. POL'Y 1, 21 (2008); Michael A. McCann & Joseph S. Rosen, *Legality of Age Restrictions in the NBA and the NFL*, 56 CASE W. RES. L. REV. 731, 731-44 (2006); Carter A. McGowan, *Rough Around the Edges: Professionalism, Eligibility, and the Future of Figure Skating*, 6 SETON HALL J. SPORTS & ENT. L. 501, 523-24 (1996); Bartlett H. McGuire, *Age Restrictions in Women's Professional Tennis: A Case Study of Procompetitive Restraints of Trade*, 1 J. INT'L MEDIA & ENT. L. 199, 220-51 (2007); Ryan M. Rodenberg, Comment, *Age Eligibility Rules in Women's Professional Tennis: Necessary for the Integrity, Viability, and Administration of the Game or an Unreasonable Restraint of Trade in Violation of Antitrust Law?*, 7 SPORTS LAW. J. 183, 197-212 (2000); Ryan M. Rodenberg, Elizabeth A. Gregg & Lawrence W. Fielding, *Age Eligibility Rules in Women's Professional Golf: A Legal Eagle or an Antitrust Bogey?*, 19 J. LEGAL ASPECTS SPORT 103, 110-16 (2009) [hereinafter *Age Eligibility Rules in Women's Professional Golf: A Legal Eagle or an Antitrust Bogey?*].
93. No. Cv. 83-49830 LEW, 1984 WL 894, at *1-2 (C.D. Cal. Feb. 28, 1984).
94. 359 F. Supp. 1260, 1265 (N.D. Ga. 1973).
95. 401 U.S. 1204, 1205 (1971).
96. 439 F. Supp. 1315, 1320 (D. Conn. 1977).

performance thresholds for future eligibility.⁹⁷ Similarly in *Neeld v. National Hockey League*, the court deemed a league rule requiring all players to have sight in both eyes to be a reasonable restraint given the accompanying safety issues.⁹⁸ Finally, the court in *Molinas v. National Basketball Ass'n* found that the association's antigambling rules were reasonable and justified the suspension of a player who gambled.⁹⁹

The Supreme Court has yet to decide a player eligibility case within the context of an individual (that is, non-team) sport. As such, there is no direct precedent how such a case would be decided.¹⁰⁰ The Supreme Court lends some guidance, however, in two sports-industry cases: *National Collegiate Athletic Ass'n v. Board of Regents*¹⁰¹ (NCAA) and *American Needle, Inc. v. National Football League*.¹⁰² Both decisions support the proposition that a court would likely evaluate an antitrust challenge to a minimum-age rule in individual sports under the rule of reason standard.¹⁰³ In *NCAA*, the Justices recognized the unique nature of sports in the context of an antitrust challenge to the NCAA's limits on television exposure for certain member schools, finding that the "case involve[d] an industry in which horizontal restraints on competition are essential if the product is to be available at all."¹⁰⁴ In its reasoning, *NCAA* distinguished between eligibility rules, which are restrictive but potentially procompetitive, and anticompetitive television broadcast

97. 358 F.2d 165, 170 (9th Cir. 1966).

98. 594 F.2d 1297, 1300 (D.C. Cir. 1978).

99. 190 F. Supp. 241, 244-45 (S.D.N.Y. 1961).

100. Antitrust cases pertaining to player eligibility issues that involve the major team sport leagues and accompanying labor unions are of limited precedential value in the context of gymnastics and other individual sports (e.g., tennis, golf, swimming, and track and field) since most such cases are decided on the basis of the nonstatutory labor exemption. *See, e.g., Clarett v. Nat'l Football League*, 369 F.3d 124, 125 n.1 (2d Cir. 2004). The athletes involved in individual sports are independent contractors and not members of any labor union, rendering the nonstatutory labor exemption inapplicable. *Id.* at 130; *see also Age Eligibility Rules in Women's Professional Golf: A Legal Eagle or an Antitrust Bogey?*, *supra* note 92, at 114.

101. 468 U.S. 85 (1984).

102. 130 S. Ct. 2201 (2010).

103. *See id.* at 2216-17; *Nat'l Collegiate Athletic Ass'n*, 468 U.S. at 117-20. Other Supreme Court decisions also lend support to the likelihood that the rule of reason would be the prevailing standard when evaluating gymnastics' minimum-age rule. In 1977, the Court concluded that "[p]er se rules of illegality are appropriate only when they relate to conduct that is manifestly anticompetitive." *Cont'l T.V., Inc. v. GTE Sylvania Inc.*, 433 U.S. 36, 49-50 (1977).

104. 468 U.S. at 101.

limitations.¹⁰⁵ The Court in *American Needle* similarly deemed the rule of reason to be the correct analytical standard when considering the NFL's licensing activities.¹⁰⁶ Justice Stevens, the author of the unanimous *American Needle* decision in 2010, rationalized that there are a number of reasons in the sports industry that "provide[] a perfectly sensible justification for making a host of collective decisions."¹⁰⁷ Further, *American Needle* cited *NCAA* for the proposition that "[w]hen 'restraints on competition are essential if the product is to be available at all,' *per se* rules of illegality are inapplicable, and instead the restraint must be judged according to the flexible Rule of Reason."¹⁰⁸

C. *Proposed Antitrust Analysis Extended to Gymnastics' Minimum-Age Rule*

If an underage gymnast seeking a place on the U.S. Olympic team or other elite-level national team is inclined to file a lawsuit challenging gymnastics' age rule, she would likely file her claim under section I of the Sherman Act.¹⁰⁹ USA Gymnastics, as the national governing body exclusively charged with administration of the sport and enforcement of its rules, would be the defendant.¹¹⁰ It is conceivable that the FIG, the governing body that formally enacted the age rule in 1997, could also be a possible target defendant. Although a trilogy of cases addressed the issue of extraterritorial jurisdiction in antitrust litigation,¹¹¹ the ability of an American plaintiff to have jurisdiction over the FIG, a Swiss entity with few

105. *Id.* at 108, 117.

106. 130 S. Ct. at 2206–07. Dicta in *American Needle* could be persuasive in the individual, nonteam sport context. See, e.g., Ryan M. Rodenberg & L. Jon Wertheim, Legal Case Brief, *American Needle v. National Football League et al.*, 560 U.S. ___ (2010), 2010 WL 2025207, 3 INT'L J. SPORT COMM'N. 371 (2010).

107. 130 S. Ct. at 2216.

108. *Id.*

109. See 15 U.S.C. § 1 (2006).

110. There is evidence that high-ranking individual members of USA Gymnastics do not support the way that the current age rule has been enforced since its adoption in 1997. See, e.g., Pells, *supra* note 1. With that said, there is no evidence in the public domain (e.g., press releases or official statements) setting forth USA Gymnastics' position on the wisdom of whether having an age rule is prudent.

111. *United States v. Sisal Sales Corp.*, 274 U.S. 268 (1927); *Am. Banana Co. v. United Fruit Co.*, 213 U.S. 347 (1909), *overruled by Kirkpatrick & Co. v. Env'tl. Tectonics Corp.*, 493 U.S. 400 (1990); *United States v. Aluminum Co. of Am.*, 148 F.2d 416 (2d Cir. 1945).

contacts in the United States, is uncertain.¹¹² Accordingly, the focus here will be on USA Gymnastics, which has dutifully enforced gymnastics' age rule since the current policy was enacted in 1997.¹¹³

Jurisdiction-related reasons notwithstanding, an underage gymnast plaintiff would be presented with a difficult antitrust case. As described *supra*, the rule of reason standard would probably govern, with the court balancing the procompetitive effects of the age rule with the rule's anticompetitive impact.¹¹⁴ Under this analytical standard, the court would be receptive to expert testimony and inquire "whether the restraint imposed is such as merely regulates and perhaps thereby promotes competition or whether it is such as may suppress or even destroy competition."¹¹⁵ The Supreme Court has made clear that "the antitrust laws were passed for the 'protection of competition, not [individual] competitors.'"¹¹⁶ Like other sports, organized women's gymnastics requires some degree of central rulemaking to establish uniformity regarding scheduling, scorekeeping, competition rules, and athlete eligibility. In addition to that uniformity, health and safety rationales, which were cited as impetuses for the current age rule's enactment in 1997,¹¹⁷ also justify some degree of central rulemaking. Empirical evidence analyzing the careers of gymnasts that emerged after the enactment of the current rule may yield additional evidence of the rule's efficacy.¹¹⁸

112. Generally, a defendant must have "certain minimum contacts within the territory of the forum such that maintenance of the suit does not offend 'traditional notions of fair play and substantial justice.'" *Int'l Shoe Co. v. Washington*, 326 U.S. 310, 316 (1945) (quoting *Milliken v. Meyer*, 311 U.S. 457, 463 (1940)). For a general discussion of international antitrust litigation, see J.S. Stanford, *The Application of the Sherman Act to Conduct Outside the United States: A View from Abroad*, 11 CORNELL INT'L L.J. 195 (1978).

113. Indeed, USA Gymnastics must comply with and enforce all of the FIG's applicable rules in order to ensure the continued eligibility of American gymnasts in FIG-sanctioned international competitions, including the Olympic Games. See *supra* text accompanying note 34.

114. See *supra* notes 90–92, 96–99 and accompanying text.

115. *Bd. of Trade v. United States*, 246 U.S. 231, 238 (1918).

116. *Brooke Group Ltd. v. Brown & Williamson Tobacco Corp.*, 509 U.S. 209, 224 (1993) (quoting *Brown Shoe Co. v. United States*, 370 U.S. 294, 320 (1962)) (emphasis omitted).

117. See *supra* note 50 and accompanying text. One commentator, citing examples from figure skating and gymnastics, proposed legislation to rein in perceived exploitation of elite teen and pre-teen athletes. Rachele Propson, Note, *A Call for Statutory Regulation of Elite Child Athletes*, 41 WAYNE L. REV. 1773 (1995).

118. *Gymnastics Too Young? FIG Says the Rumor is False*, INT'L SPORTS PRESS ASS'N (Feb. 13, 2007), <http://www.aipsmedia.com/index.php?page=news&cod=830&tp=n>.

A plaintiff challenging the minimum-age rule would likely advance two arguments. First, she would claim that the age restrictions are per se illegal as a group boycott or concerted refusal to deal.¹¹⁹ For the reasons detailed at length above, the possibility of such a per se argument being successful is slim.¹²⁰ Second, she would posit that there are less restrictive alternatives to the bright-line rule age policy currently in place.¹²¹ In this second prong of her argument, the underage gymnast would look to other women's sports leagues that impose minimum-age rules but administer such rules much more liberally. In women's tennis, the governing body (WTA Tour) has an age rule that prohibits those fourteen and under from competing.¹²² From the ages of fourteen to seventeen, players may compete in a limited number of events per a sliding scale that is more permissive each year.¹²³ At age eighteen, players may play as much or as little as desired.¹²⁴ In women's golf, the LPGA Tour's age rule mandates that players be at least eighteen.¹²⁵ However, the LPGA Tour rule includes a mechanism where exceptions to the policy are granted on a case-by-case basis after a careful evaluation of the applicant's intelligence, financial stability, maturity, and playing ability.¹²⁶ The LPGA Tour's approach is analogous to the one seemingly proposed by U.S. national-team coordinator, Martha Karolyi, who opined, "I'd like the FIG to look at the preparation of the child and let the country decide who is best to compete."¹²⁷

While plausible, these twin claims would be difficult to argue persuasively for at least three reasons. First, gymnastics, like all sports, can only function if uniform rules are applied. Eligibility rules would almost certainly be categorized as a core function of a governing body, as alluded to, and seemingly exempted in, *American Needle, Inc. v. National Football League*.¹²⁸ Second, given the dearth of empirical evidence analyzing the efficacy and effect of the 1997 rule change, an antitrust plaintiff with the burden of proof would have

119. *See* *Nw. Wholesale Stationers, Inc. v. Pac. Stationary & Printing Co.*, 472 U.S. 284, 290 (1985).

120. *See supra* note 100 and accompanying text.

121. *See* Gabriel A. Feldman, *The Misuse of the Less Restrictive Alternative Inquiry in Rule of Reason Analysis*, 58 AM. U. L. REV. 561, 595 (2009).

122. Rodenberg, *supra* note 88, at 190.

123. *Id.* at 191.

124. *Id.*

125. *Age Eligibility Rules in Women's Professional Golf: A Legal Eagle or an Antitrust Bogey?*, *supra* note 92, at 109.

126. *Id.*

127. Pells, *supra* note 1.

128. 130 S. Ct. 2201, 2216 (2010).

a difficult time positing that the anticompetitive effects of the rule outweigh the possible procompetitive and beneficial aspects of the rule.¹²⁹ Indeed, gymnastics' age rules were primarily enacted to protect young athletes from a host of health-related maladies.¹³⁰ Third, defendant USA Gymnastics may be able to avoid litigation altogether on jurisdictional grounds, arguing that the FIG is the appropriate (and sole) target of any antitrust claim given that the Swiss-based body is the entity that enacted the policy, is charged with the duty to investigate rule-breakers, and levies punishment against athletes and national federations in violation of the minimum-age rule.¹³¹

IV. CONCLUSION

While gymnastics' current minimum-age rule would likely survive an antitrust challenge, the rule's policy impact has been profoundly negative in two distinct ways. First, as predicted by Martha Karolyi,¹³² the enactment of the current age rule has helped usher in an era of increased corruption related to age fabrication. As the recent cases in China and North Korea evidence, the nefarious conduct reached governmental levels, where officials knowingly altered documents to further the fraud.¹³³ Second, the countries that falsify such documents as a way to circumvent the age rule have created an unlevel playing field vis-à-vis those countries that follow the rule.

Jennifer Sey, the 1986 U.S. national champion and seven-time national team member, cited the lightness and lack of fear of younger gymnasts as two key reasons why countries enlist underage gymnasts in international competitions; both factors allow gymnasts to perform difficult skills with greater ease.¹³⁴ Similarly, in the book *Little Girls in Pretty Boxes*, a 1995 exposé on gymnastics and figure skating, author Joan Ryan claimed that female gymnasts are "racing against

129. Rodenberg, *supra* note 88, at 204–05 (quoting *Smith v. Pro Football, Inc.*, 593 F.2d 1173, 1183 (D.C. Cir. 1978)); Jennifer Paul, Comment, *Age Minimums in the Sport of Women's Artistic Gymnastics*, 7 WILLAMETTE SPORTS L.J. 73, 77–78 (2010) (showing evidence of the effects of the 1997 rule change).

130. Paul, *supra* note 129 (citing Van Anderson, *supra* note 51, at 25–27).

131. See Note, *The Government of Amateur Athletics: The NCAA-AAU Dispute*, 41 S. CAL. L. REV. 464, 465 (1968).

132. Pells, *supra* note 1.

133. Helliker & Fowler, *supra* note 59, at A11; *Two Years Suspension!*, *supra* note 62.

134. Jennifer Sey, *Why are Gymnasts So Young?*, SALON.COM (Aug. 8, 2008, 12:00 PM), http://www.salon.com/sports/olympics/2008/08/08/chinese_gymnasts.

puberty” to reap the benefits of having a smaller, lighter body in gymnastics.¹³⁵ Additionally, offering credence to the idea that smaller, lighter, and younger gymnasts are viewed as the ideal, Ryan posited, “The window of opportunity is so narrow: from about thirteen to the onset of puberty.”¹³⁶

By developing sophisticated methods to bypass the FIG’s minimum-age rule, certain countries have contributed to the decay of amateurism ideals in both gymnastics and the Olympics. This increase in age-related corruption has resulted in the counterfeiting of government documents such as birth certificates and passports,¹³⁷ which has forced preteen amateur athletes to lie about their ages because of directives from their coaches and government-run national federations.¹³⁸ It is irresponsible of these adults in powerful positions to compel young amateur athletes to knowingly misstate their ages. In addition, it is unjust in the sense that a deserving and genuinely eligible athlete who meets the age requirement is shut out of competition and replaced by an underage teammate who is considered more valuable by her nation’s coaches and sport administrators.

Although the FIG recently implemented a new gymnastics “passport” licensing system, gymnastics experts pointedly question its efficacy.¹³⁹ For example, Bela Karolyi, who is now an NBC gymnastics commentator and no longer holds any official affiliation with USA Gymnastics,¹⁴⁰ offered the following solution: “The only way to stop this is to take off the age limit. To force honest countries to hold back [talented, but underage, gymnasts] and allow other countries, [who are] not so honest, to push them forward, it’s not

135. JOAN RYAN, *LITTLE GIRLS IN PRETTY BOXES: THE MAKING AND BREAKING OF ELITE GYMNASTS AND FIGURE SKATERS* 8 (1995).

136. *Id.* at 66

137. Jeré Longman & Juliet Macur, *Records Indicate Chinese Gymnasts May Be Under Age*, N.Y. TIMES, July 27, 2006, at SP1.

138. Wetzels, *supra* note 6.

139. Indeed, while the intent of the passport is admirable and bent on increasing integrity, the passport system’s protocol presents an obvious loophole that those with the propensity for age fraud will easily exploit. Past cases of age falsification in gymnastics have commonly involved retroactive document manipulation *after* an athlete reaches an elite level. See Helliker & Fowler, *supra* note 59, at A11; Longman & Macur, *supra* note 137, at SP1. Under the new passport guidelines, however, such *ex post* conduct will be replaced with a prospective *ex ante* scheme where the documentation of the youngest gymnasts (e.g., seven-year-olds) with even a glimmer of talent will be altered *before* the athlete’s first FIG-mandated passport is issued.

140. Neil Campbell, *Former Gymnastics Coach Furious over Potential Underage Competitors*, EPOCH TIMES (Aug. 10, 2008), <http://www.theepochtimes.com/n2/content/view/2487/>.

fair.”¹⁴¹ Karolyi’s point is timely and relevant: if the FIG is unable or unwilling to effectively implement and enforce the rule, the sport of gymnastics might benefit from having no minimum-age requirement at all. This would level the playing field between countries in international competition and provide more opportunities for gymnasts who might otherwise miss their window of opportunity to compete internationally. Under the current rule, an athlete’s birthday can drastically affect her ability to compete in World Championships and the Olympics. Karolyi opined on this point: “Think how many kids are ineligible because of a month or two? Where will they be in four years? Not in the same place. The window is small for gymnastics. Is it fair that they missed their chance at the Olympics by months or weeks?”¹⁴²

In any discussion of minimum-age rules, the health effects of elite gymnastics is a germane corollary conversation.¹⁴³ Despite the actions of certain noncompliant countries, the average age of gymnasts competing in the World Championships and Olympic Games is higher now than it was pre-1997.¹⁴⁴ However, this fact does not necessarily mean that younger gymnasts are no longer competing at a high level. The difference now is that gymnasts under the age of sixteen are considered “junior elite” gymnasts rather than “senior elite.”¹⁴⁵ The distinction is illusory, however, as the younger gymnasts follow training and competition schedules analogous to their elders.¹⁴⁶ Revealingly, Kelli Hill, a prominent American gymnastics coach, stated, “Sometimes our top juniors are better than some of our seniors.”¹⁴⁷ As such, retracting the minimum-age rule would not force gymnasts to reach the elite level any earlier than they already are. Rather, it would provide greater international

141. Kevin Manahan, *Bela Karolyi’s Solution Would End Gymnastics Age Limit*, THE STAR-LEDGER (Aug. 7, 2008, 9:59 PM), http://www.nj.com/olympics/index.ssf/2008/08/bela_karolyis_solution_would_e.html.

142. *Id.*

143. *See supra* notes 49–51.

144. Marlen Garcia, *American Gymnast Memmel Still Roaring in Her 20s*, USA TODAY (July 16, 2008, 6:13 PM), http://www.usatoday.com/sports/olympics/beijing/gymnastics/2008-07-16-chellsiememmel_N.htm.

145. *USA Gymnastics Women’s Program 2011 Elite/Pre-Elite Qualification Chart*, USA GYMNASTICS, <http://usa-gymnastics.org/PDFs/Women/ElitePre-Elite/10elitechart.pdf> (last updated April 22, 2011).

146. *See 2011 USA Gymnastics Women’s Program - Elite Calendar*, USA GYMNASTICS, <http://www.usa-gymnastics.org/PDFs/Women/calendar.pdf> (last visited May 14, 2011) (showing that 2011 events are split between junior and senior events).

147. Helliker & Fowler, *supra* note 59, at A11.

competition opportunities for all elite gymnasts regardless of their chronological age. Scholar Maureen Weiss emphasized this point:

[C]hronological age is not equivalent to social, emotional, cognitive, and anatomical age Two adolescents of the same age can be widely different in terms of social and emotional types of maturity So the implication of this idea is that age eligibility rules and policies need to consider the wide variety of individual differences in these various age indices and strategize ways of ensuring that the adolescent phenom is ready for the transition to professional.¹⁴⁸

The trend in which some countries follow the minimum-age rule while others repeatedly break it has resulted in the rule operating as an uneven bar on the issue of eligibility. National teams now compete in a competitive realm that is unequal. The uptick in age-related fraud has caused disintegration of the amateur ideals of the sport, which conflicts with the integrity-preserving impetus for the rule. However, it is unlikely that antitrust litigation would be successful in overturning the minimum-age rule. Instead, the FIG should revisit the minimum-age rule from a policy perspective that is centered on restoring amateurism ideals and improving athlete health as a way to ensure that it can be enforced properly (to the extent it is retained at all) and all countries are in compliance. But, if the FIG, in collaboration with national-level governing bodies such as USA Gymnastics, determine such a policy goal to be unreachable, the rule should be eliminated to allow all gymnasts and countries the opportunity for greater parity and fairness in elite-level international competition.

148. Dr. Maureen Weiss, Professor of Sport Psychology, Curry Sch. of Educ., Univ. of Va., Remarks at the Ladies Professional Golf Association Professional Athlete Forum: Phenoms to Professionals: Successful Transitions (Dec. 7, 2005) (transcript available at <http://www.lpga.com/content/NYForumSuccessfulTransitions120705.pdf>).