Insight

Incumbent Tours Agree to Merge with LIV Golf

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Executive Summary

- The PGA Tour, European Tour, and LIV Golf's contentious relationship that turned the golf world upside down has ended in a merger that will combine the assets of the three tours into one for-profit entity.
- The proposed merger raises fresh antitrust concerns, potentially violating Section 7 of the Clayton Act, which prohibits mergers and acquisitions where the effect "may be substantially to lessen competition, or tend to create a monopoly."
- The two dominant incumbents – already entwined in a strategic partnership and merging with a bourgeoning maverick and only substantive competitor – risk a merger to monopoly and undoing the procompetitive benefits realized by playing professionals and consumers.

Introduction

After exchanging accusations of anticompetitive behavior and engaging in court battles around the world, the disputes between the premier professional golf tours, the PGA Tour and European Tour with breakaway rival LIV Golf, have ended in a merger agreement to combine assets into one for-profit entity. Furthermore, all pending lawsuits initiated by the tours have been dropped.

The PGA Tour and European Tour have enjoyed a position of market dominance for decades and have long worked together to promote their respective tours. The PGA Tour, an organization that was itself a breakaway tour, has been the predominant professional players tour since 1968. It was not until 30 years later that the threat of a new rival professional golfers' organization first emerged.

Whispers of a rival tour that began in 1994 grew louder in January 2020 and, after several renames, LIV Golf made its tournament debut in June 2022. LIV Golf successfully entered a market controlled by two tours, thus expanding the market of golf content available to consumers on television, various streaming platforms, and in-person attendance. The new professional golf tour departed from the traditional PGA Tour and European Tour format, giving playing professionals and consumers of golf content a new product. To fill its roster of players, LIV Golf poached several notable names from the PGA Tour and European Tour.

In turn, the PGA Tour and European Tours banned these tour-hoppers from playing in their respective events and strengthened their existing strategic alliance. To dam the drip of players moving to LIV Golf, the incumbent tours boosted the season-long prize money total, announced schedule changes to promote the tours' most reputable players, and created a bonus pool to be paid at the end of the season. These changes were a direct result of the competitive threat posed by LIV Golf's entry into the market.

The proposed merger among the commercial businesses of the three tours threatens to undo these procompetitive benefits and raises fresh antitrust concerns. A merger involving the two intertwined incumbents, the PGA Tour and European Tour, and maverick rival LIV Golf may violate Section 7 of the Clayton Act. The act prohibits mergers and acquisitions where the effect "may be substantially to lessen competition, or tend to create a monopoly." This proposal is a merger to monopoly and will likely be investigated by U.S. antitrust authorities. The merger also involves one of competing buyers, leaving elite playing professionals one option to whom they may sell their playing talent.

LIV Golf Tees Off

The PGA Tour and European Tour have enjoyed their dominant incumbency for decades. While there are several professional tours around the world, most are designed to provide playing professionals with the opportunity to earn playing privileges on golf's two premier stages. Additionally, some of these tours are owned and operated by the PGA Tour and European Tour, including the Korn Ferry Tour and the Challenge Tour. While the PGA Tour and European Tour are separate entities, they coordinate operations. LIV Golf broke the mold, entering a market controlled by the two predominant tours and providing fans with additional golf content on television, streaming platforms, and in-person attendance.

LIV Golf was conceived in 1994 with the idea of the World Golf Tour. The proposal didn't immediately materialize and remained only an idea for nearly 30 years. Between 2018 and early 2020, whispers of a new golf league grew louder. In January 2020, the Premier Golf League, a golf tour with a noticeably different playing format than that of the PGA Tour, was made public. After several renames, what is now known as LIV Golf debuted in June 2022

and poached numerous notable names from the PGA Tour to fill its roster. In turn, the PGA Tour banned these tour-hoppers from playing in its events.

Procompetitive Effects

As LIV Golf continued to bring more star players from the incumbent tours onto the new circuit, the PGA Tour and European Tour were forced to make several changes to compete for player talent. The first step was to strengthen their existing strategic alliance. The partnership involved the PGA Tour increasing its stake in the European Tour from 15–40 percent while "provid[ing] additional competitive opportunities for professional golfers on both Tours…."

The PGA Tour also announced changes to player compensation, benefits, and tournament purses for the 2022–23 season:

Expansion of Player Impact Program

Beginning in 2021, the Player Impact Program was designed to compensate players who influenced the business side of the PGA Tour. In other words, players responsible for drawing fans to attend tournaments or watch on television would be rewarded. A pool of $40 million was to be distributed among 10 players according to a score based on a variety of factors including internet searches, social media engagement, and time spent on a tournament television broadcast. In response to LIV Golf's rise, the PGA Tour increased the pool to $100 million to be disbursed among 20 players. This incentive directly improved the product for fans by driving athletes to engage online and interact with those in the golf community. Ultimately, the Player Impact Program is an important component of the PGA Tour's competitive strategy.

Earnings Assurance Program/Travel Stipend Program

On the PGA Tour and European Tour, tournaments are 72 holes (four 18-hole rounds) with a cut, determined by score, after 36 holes. Players who do not make the cut do not get paid.

LIV Golf's model is a no-cut 54-hole event where every player earns a portion of the tournament purse.

The PGA Tour designed the Travel Stipend Program and Earnings Assurance Program to guarantee a minimum income for players who pay to travel around the country to participate in tournaments. The Travel Stipend Program provides non-exempt players, those who have not earned full membership to the PGA Tour based on a points system, with $5,000 for every missed cut and subsidized travel and tournament-related expenses.

Furthermore, the PGA Tour also created the Earnings Assurance Program which would guarantee fully exempt members $500,000 for the season if the player meets certain playing obligations.

It is likely that these programs were established in response to LIV Golf's no-cut model that guarantees all players earn a portion of the tournament purse.

Tournament Purses

LIV Golf prize purses far exceed those of the PGA Tour. In response, the PGA Tour announced several "elevated events" in which purse sizes would increase to $20 million. Total prize money for the 2022–23 season increased from $367–$427 million.

The players who remained on the PGA Tour and European Tour benefitted from the changes made as a direct result of competition from LIV Golf.

Golf fans around the world also benefited from increased competition. A new competitive golf league increased the supply of golf content for consumption. While the content provided by LIV Golf continued to promote traditional aspects of professional tournament golf, including having an individual tournament winner, this new tour added a team aspect to tournaments and made other modifications to differentiate its product.

Both players and fans have benefited from increased competition. Players' potential earnings have increased, and fans are able to consume more content.

What Brought About the Merger

The merger involves three entities: the commercial and business rights of both the PGA Tour and European Tour and the LIV Golf business from Saudi Arabia's sovereign wealth fund. Together, the merged entity will become a for-profit business. Details concerning the operation of the newly combined entity have not yet been made public.

With most details about the merger still in flux, there are a few possibilities that forced the incumbent tours and rival LIV Golf to the negotiating table.

It was reported that the PGA Tour could not afford to keep spending at the rate it has been to maintain pace with LIV Golf and keep other players from defecting. Moreover, the lawsuits subjected officials of Saudi Arabia's sovereign wealth fund to potential depositions. The merger agreement also involved dropping all current lawsuits.

Antitrust Concerns

As LIV Golf was taking off, the new rival tour and the PGA Tour alongside the European Tour exchanged lawsuits over antitrust concerns. The Department of Justice Antitrust Division was investigating LIV Golf's allegations that the PGA Tour was engaging in anticompetitive practices for banning players. The PGA Tour countersued, claiming LIV Golf was stifling competition. This was not the first time a U.S. antitrust agency has investigated the PGA Tour for barring players from competing in other leagues. In 1994, the Federal Trade Commission (FTC) investigated this very claim but abandoned the probe a year later.

The current deal among the three tours raises fresh antitrust concerns, and unlike other professional sport leagues that enjoy narrow antitrust exemptions, the PGA Tour does not. Section 7 of the Clayton Act prohibits mergers and acquisitions where the effect "may be substantially to lessen competition, or tend to create a monopoly." This merger would eliminate competition between the dominant incumbents, already engaged in a cooperative relationship, and a rival maverick firm. It is a merger to monopoly of professional golf. The new entity would eliminate competition for, among other things, sponsorships, tickets, and television contracts.

Section 2.1.5 of the 2010 Horizontal Merger Guidelines (HMG) discusses how the Department of Justice and the FTC consider maverick firms. The HMG describes a maverick as a "firm that plays a disruptive role in the market to the benefit of customers." Moreover, the HMG states that "if one of the merging firms has a strong incumbency position and the other merging firm threatens to disrupt market conditions with a new technology or business model, their merger can involve the loss of actual or potential competition." The changes made by the PGA Tour and European Tour in response to LIV Golf clearly show that LIV Golf disrupted the industry.

Additionally, Section 12 of the HMG outlines mergers of competing buyers. A merger among the three tours would leave elite professional golfers with one option to whom to sell their playing ability. Rather than a market of competing buyers setting wages, the new combined entity would become a monopsony, a situation where one firm enjoys all the buying power. LIV Golf created a secondary market for players to sell their talents. This created a market for wages, forcing the PGA Tour to increase tournament purses and other monetary benefits paid to players. A secondary effect of this monopsony for professional golfers is the imposition of a limit on the number of current and aspiring players competing in professional tournaments, robbing consumers of greater choice.

This merger could potentially lead to the unwinding of the procompetitive benefits playing professionals and consumers of golf have enjoyed.

Conclusion

The PGA Tour, European Tour, and LIV Golf's contentious relationship that turned the golf world upside down has ended in a merger that will combine the assets of the three tours into one for-profit entity.

With details of the agreement still forthcoming, the proposed merger raises fresh antitrust concerns. The deal could potentially violate Section 7 of the Clayton Act, which prohibits mergers and acquisitions where the effect "may be substantially to lessen competition, or tend to create a monopoly." This newly formed entity would eliminate all competition in elite professional golf for, among other things, sponsorships, tickets, and television contracts. Furthermore, the merger is one of competing buyers, leaving these playing professionals with only one option to whom to sell their playing talent.

The two dominant incumbents, already operationally cooperating, merging with a disruptive maverick and only competitor, risks a merger to monopoly and undoing the procompetitive benefits realized by playing professionals and consumers of golf content.