

News

GOVERNMENT REGULATION

Labor's OFCC clouds clubs' future

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Another blow to the private club industry is currently brewing in Washington, D.C., and this one may have a lasting effect on the business.

Bias in the form of restrictive admissions policies is something the government has kicked around since the civil rights legislation of the 1960s, but no hard and fast rules have been developed to get to the root of the problem.

Indirectly, the clubs now face that government policy with a statement of intent being developed for federal contractors by the Labor Department's Office of Federal Contract Compliance (OFCC).

In essence, the OFCC is considering a policy restricting federal contractors from either having employer-paid memberships for its employees at clubs with restrictive admissions policies or charging off business expenses at such facilities. The idea here is clubs excluding blacks, women, and other minorities hamper the opportunity of employees in those categories to advance in a career as their white, male counterparts.

Questions about employer-paid dues first arose in April when banks in the western region were advised by the Treasury Department's Equal Opportunity Program coordinator about the club situation as it pertained to those financial institutions which are federally chartered. Banks and such institutions come under the law by virtue of the federal loans they receive.

This initial effort by the Treasury Department was advised by the Labor Department's chief legal minds. Shortly after, the direction of the OFCC work turned at once to all federal contractors, some 325,000 companies in all.

No policy is set to paper at this time, but the shock of such action by the Labor Department has set the chief lobbying arm of the private club sector into operation, as the National Club Association and its Executive Director Jerry Hurley brace for a fight with the government.

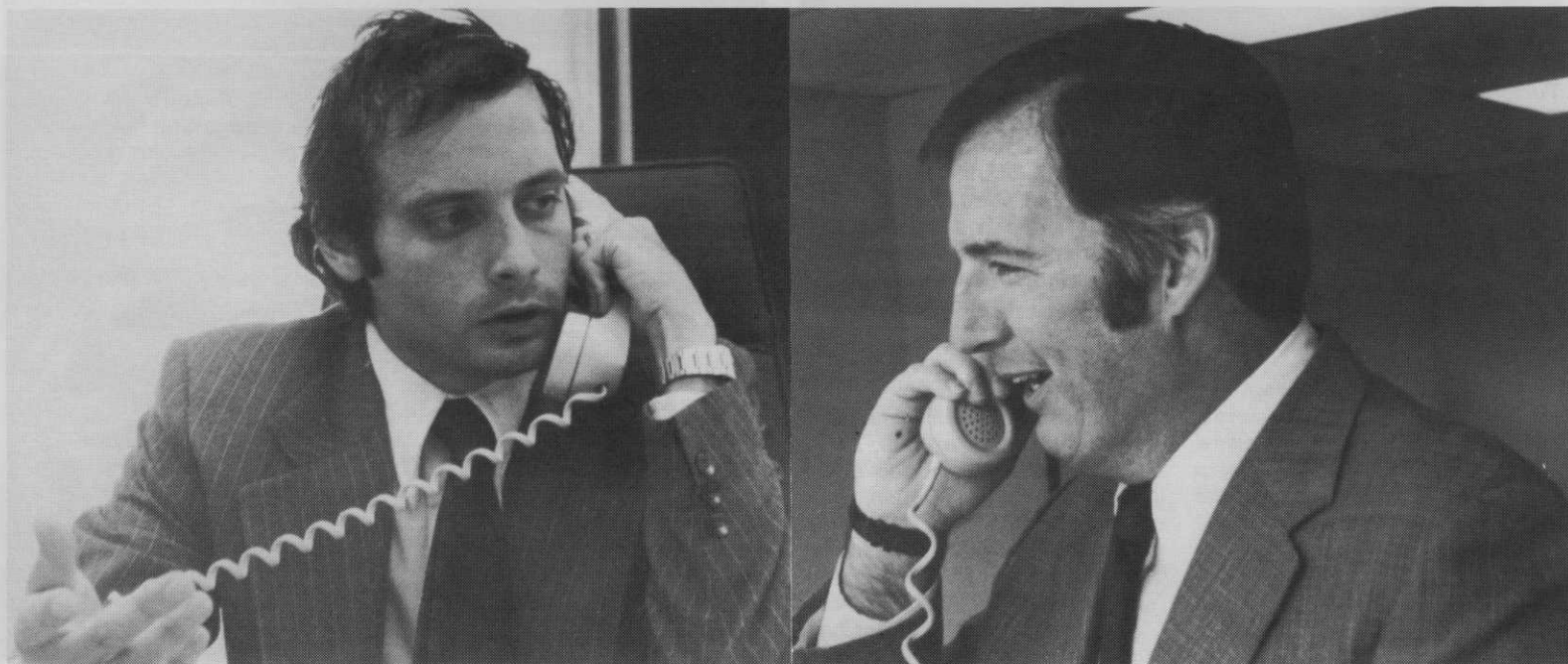
"What really is a restrictive admission policy? I wish some one could define it for me. The govern-

ment hasn't," Hurley said in a recent Washington interview with GOLF BUSINESS. Although Hurley made the statement that the NCA does not back such policies, he wondered if the Labor Department's effort was not a slap at the old-line establishment by a liberal line in that agency.

Even though the policy is not directly aimed at clubs, the NCA presented a 42-page argument to the Labor Department on the policy and is still waiting to see the OFCC's opinion on the piece. Hurley along with NCA legal counsel Tom Ondeck worked on the brief contending the government was not aware of the financial implications such a policy would have on those clubs.

The main contention for the Labor Department is clubs are a real business center in America. This is the biggest area of argument for the NCA. Quoting from their memorandum, "In reality, individuals join clubs for a variety of reasons. However, NCA believes it fair to state the great majority join particular clubs for the purposes

Keeping lines of communications open is the latest effort between Office of Federal Contract Compliance Director Larry Lorber, left, and National Club Association Executive Director Jerry Hurley. Lorber and Hurley are both involved in the dispute over whether federal contractors can be members of clubs utilizing restrictive admissions policies.



stated simply and specifically as the club's governing purposes. Therefore, an individual probably joins a golf club because he likes golf."

Whether this is a valid argument or not, the OFCC and its 29-year-old Director Larry Lorber don't buy it.

Interviewed in his office by GOLF BUSINESS, Lorber told Managing Editor Nick Romano he didn't agree with the NCA arguments. He mentioned that federal contractors were advised on such discriminatory actions against their employees as far back as 1971, when the Labor Department initiated an affirmative action plan for employees in its federal contracts. Previous policy statements on this manner were developed under an Executive Order from the White House. In fact, private clubs were excluded under the prime anti-discrimination document, the Civil Rights Act of 1964.

Although Lorber admits the climate of this political year in

Washington would probably hold up any policy statement until after the election, all indications are such action would occur even if President Ford was not in the White House. Jimmy Carter is not a likely opponent of such action.

Publicity the policy has already received has gotten several professional organizations, such as the American Bankers Association, to submit their own opinions on the government's plan. Accusations from opponents of the Labor Department point to the OFCC sending up a trial balloon to test reaction on the proposal. Hurley and his clubs contend even now contractors that do business with the government and have employees at such clubs are considering pulling out to avoid the hassle.

Even if the OFCC enacts its plan, Lorber admits it will be tough to enforce it. "We would have to depend primarily on individual citizens to report complaints to our office and then take action against federal contractors involved at such facilities."

Not sure of his own power in the matter, Lorber has asked the legal minds of the Justice Department to decide whether the OFCC has the power to make this policy. In July, OFCC asked Justice for its opinion on legal review of the policy and still no indication has come from Justice's attorneys whether Labor has the authority.

The true question here is whether federal agencies have the right to issue interpretive rulings (which have the effect of law) if such rulings exceed the agency's statutory authority.

There is the possibility that if Justice concurs with Labor's ability to apply such policies to federal contractors, the policy could eventually fall on all employers.

Political considerations are being made in this case. This is probably why the OFCC has dragged its feet on telling contractors what the policy will be. "People don't like the government telling them what to do," says Lorber. "We don't like to do anyone's housecleaning, but it is something that has to be done."

If Labor is stalled in its decision, so is the Treasury Department. In fact, since May. In a statement, Warren Brecht, assistant secretary and director of Treasury's Equal Opportunity Program, said he was anxious to get together with the Labor Department to review the whole question. Under the Executive Order, Labor has the responsibility of making the policy statement for the 16 agencies that hand out government contracts. Brecht hoped for a coordinative approach on the matter.

Alternatives as a way around the OFCC policy have been offered in discussion. Instead of employers

picking up the tab for employees directly, raises covering the costs of club membership could be given. Again, though, Lorber's office would take a dim view of such practices.

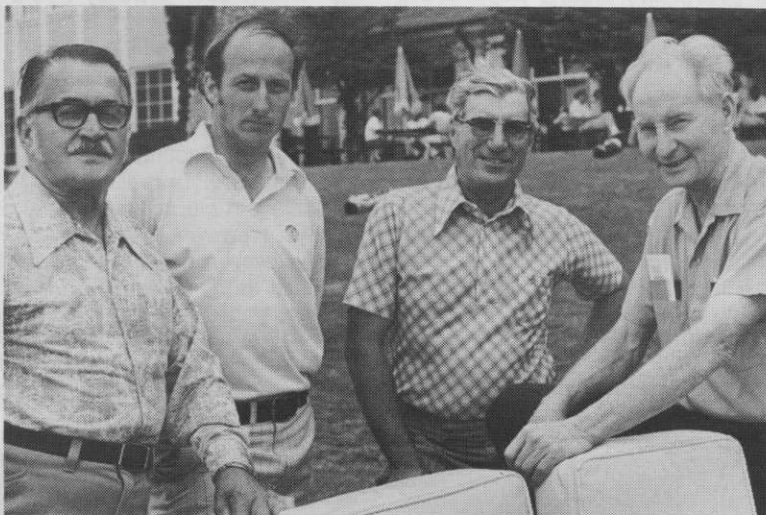
As far as GOLF BUSINESS can ascertain, there is no collective pressure from activist or feminist groups on this question, but there are reports such groups have contacted Lorber's office for comment. Hurley and the NCA have been quoted as saying the policy would probably destroy a lot of clubs, with the loss of more than 100,000 jobs involved. Lorber disagrees with that assessment and calls the NCA case overstated.

Attention will continue to be riveted on the problem and attacks by those in the industry on the Labor Department will continue. Milton E. Meyer, national secretary of the NCA out of Pinehurst Country Club in Littleton, Colo., was quoted as saying, "The question now remains whether Labor will act according to its own bias or whether it will respond to the reasoned opposition of the parties most directly affected."

Golf car safety probed by agency

Product liability suits are becoming a fact of life for many in industry today. The same may soon become more of a problem for those in the golf business, especially where the renting of golf cars is involved.

Not only is a club or course responsible for the physical damage an unsafe car can bring to the driver or passenger, but the



Turfgrass research was the winner in the first Research Benefit Golf Tournament held recently at the Wilmington (Del.) Country Club. Added dollars for the program of the H. B. Musser International Turfgrass Foundation were provided by the golfers in the outing. Involved in the program, from left, are Dr. Fred Grau, Musser Foundation president; David Kroll, assistant superintendent at Wilmington CC; George Osborn, turf contract services manager at the Hercules Country Club, Wilmington; and Harry McSloy, Wilmington superintendent.

Bolstering its staff of fashion-conscious women, DiFini Originals has added LPGA Professional Judy Rankin, right, to its board of "Lady Pro-Staffers." Rankin is welcomed into the fold by DiFini President Joseph J. DiFini. The LPGA star joins seven other professional women golfers.

