



Antitrust and Its Effect on Professional Sports, NCAA and NIL.



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History of Antitrust Law in America.



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- Sherman Antitrust Act of 1890
- Federal Trade Commission Act of 1914
- Clayton Act of 1914



Modern Iterations of Antitrust Law.

- Sherman Act and Trade.
- FTC and method of Competition.
- Clayton Act and Mergers.



Purpose of Modern Antitrust Law

- Open Markets.
- Competition Amongst Corporations.
- Free Trade.



— AntiTrust Application in Professional Sports.



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Sherman Act and Prohibitions Amongst Competitors in Sports.



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Competitors Joined in Single Entity Venture.

- Los Angeles Memorial Coliseum Commission v. National Football League.
 - Single Entity Designation.
 - Individual Franchises In Order to Avoid Antitrust Scrutiny.
 - Relationship Between Leagues and Their Members.
- American Needle, Incorporated v. National Football League.
 - Separate Actors and Separate Interests.
 - Rule of Reason.



Sherman Act and Monopolization in Sports.



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Natural vs. Organic Monopolization.

-Supreme Court Two Part Test in United States v. Grinnell Corp., 384 U.S. 563, 570-71 (1966).

-Superior Product Exemption.

-Vertical Integration.

-MLB Antitrust Exemption.

-Independent Baseball Teams.



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Current MLB Antitrust Issues.

- Nostalgic Partners v. Office of the Commissioner of Baseball.
 - Elimination of Competition.
- Daniel Concepcion v. Office of the Commissioner of Baseball.
 - Wage Fixing



Unions in Sport and Antitrust Law.

- Mackey v. National Football League.
- Clayton Act and Exemptions Afforded to Unions.
- Unions in All Major Sports.



Recent Development in Professional Sports, PGA and LIV Golf.

-PGA v LIV Golf League.

-Mickelson v. PGA Tour, Inc., (N.D. Cal. Oct. 25, 2022)
-Sherman Act §1 and §2 violations.

-PGA and LIV Merger.



NCAA and Antitrust.





Antitrust and Challenges to NCAA Regulatory Powers.

- NCAA and the Rule of Reason.
- Amateurism Designation Protection.
- Anti Compensation.

O'Bannon v NCAA (2015)

- Approved Compensation.
- NCAA Hypocrisy on display.
- NIL Prohibition.
 - the College Education Market and the Group Licensing Market
- Denial of EA Sports Deal.



NCAA v. Alston (2021)

- Education Compensation Contravening antitrust Principles.
- Education Costs v. Value of Athletic Services.
- Education Related Compensation.
 - NCAA Proactive Changes.
 - Money Talks.



NIL Landscape Post Alston.

-Interm NIL Policy.

-NIL Collectives.

- (1) marketplace collectives
- (2) donor-driven collectives
- (3) dual collectives
- (4) yoke collectives

-Self-Regulation.



Student-Athletes NIL Rights and Competitive Balance

- NIL Preserving Professional v. Amateur Distinction.
- Problems with Self-Reporting.
- Pay to Win and Competitive Gaps.



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Suggested Solutions to NIL Problems.



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Hard NIL Cap for College Football.

- NFL Model Cap problems.
- Destruction of Distinction.
- Students-Athletes as Employees?
 - Collective Bargaining Agreements.
- Hard Cap Benefits.
 - Current NCAA Policies Undisturbed.
 - NIL Market Predictability.
 - Recruitment Equality.



NIL Hard Cap and Antitrust.

- Horizontal Price Fixing.
- Hard Cap Promotes Competitive Balance.
- Increase in College Education Market.



State or Federal Regulation.

- Current State Laws and Applications.
- Suggested Federal Regulation.
 - Push by the SEC.
- Alternative Regulation.
 - Independent Bodies.
 - NCAA Governance.





NCAA Possible Action.

- Employment of Athletes.
 - Collective Bargaining (Again).
- Conference Regulation.
- Continuation of the Wild West.
 - Money Money Money.



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Conclusion.

-Professional Sports and Changing Landscapes.

_College Sports Navigating Antitrust.

-NIL Massive Changes.



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Questions?

