



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



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.



Sherman Act and Prohibitions Amongst Competitors in Sports.





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.



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.

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.

-Interim 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.

Further Changing Landscapes

-House et al., v. NCAA

-Carter v. NCAA

-Hubbard v. NCAA



Further Changing Landscapes

Fontenot v. NCAA

-Denard Robinson et al., v. NCAA

-State of Ohio et al., v. NCAA



Further Changing Landscapes

- Dartmouth Men's Basketball Unionized
- Collective Bargaining Agreements



Further Changing Landscapes

-Medical Insurance

-Mental Health

Post-Eligibility Injury Insurance





Suggested Solutions to NIL Problems.

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.



Applicability to You



Conclusion.

-Professional Sports and Changing Landscapes.

-College Sports Navigating Antitrust.

-NIL Massive Changes.

Questions?

