

AMATEUR HOUR: IS THE NCAA WELL EQUIPPED TO
PROTECT THE AMATEUR STATUS OF STUDENT-
ATHLETES?

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TC 660H

Plan II Honors Program

The University of Texas at Austin

May 15, 2019

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ABSTRACT

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Founded in 1906, one of the primary responsibilities of the National Collegiate Athletics Association (NCAA) was to protect the amateur status of college athletes. Over the last century, the lines have blurred, and in 2019 the NCAA lacks both a consistent definition of amateurism and the confidence of the public in their ability to protect it. This thesis aims to illuminate how the NCAA is currently working to protect amateurism for young athletes, and what options they have in the future to maintain and improve their ability to do so.

College athletics is a multi-billion dollar industry, primarily reliant on the labor of (effectively) unpaid 18 to 22 year olds. In 1906, the absence of massive athletic-department paydays prevented many of the complications we see today. Public debate over whether the players (particularly in the high-revenue sports of football and basketball) should be paid for their efforts has reached an all-time high, and many lawsuits filed over the last two decades have questioned whether it is even legal for collegiate athletes to not receive payment for their play or likeness. I discuss the key takeaways of these debates and legal battles within this thesis.

The NCAA faces other problems as well—inconsistent definition and application of amateurism, a threat of new entrants in the market for athletes aged 18 to 22, and growing revenues with opposing solutions on how to distribute them all threaten to impair the ability of the NCAA to protect young athletes. This thesis will examine the impact of each of these dangers to the NCAA.

If the NCAA can make a few important changes, most specifically allowing players to be compensated for their likeness up to a reasonable point, it will have maintained a status of modified amateurism among college athletes while still compensating people more fairly for the value that they create. If the NCAA is unwilling or unable to further adapt its definition to protect and advocate for modified amateurism amongst student athletes, any amateurism within collegiate athletics may cease to exist.

Acknowledgements

I would first like to thank my family for their support and dedication to my education for the last 23 years.

Next, I would like to thank Dr. Clement and Dr. Vick for their wisdom, encouragement, and patience throughout this project.

Lastly, I would like to thank generations of student-athletes at the University of Texas for both helping me fall in love with UT and inspiring me to write about the challenges that the NCAA and its student-athletes currently face.

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Chapter 1

Introduction

When Duke basketball star Zion Williamson stepped through his shoe and injured his knee in a February 2019 game against North Carolina, media around the country resumed a debate that has been hashed out every few months for all of my life—should college athletes be paid? Zion Williamson, after all, is worth millions of dollars to Duke University, Nike, and dozens of National Collegiate Athletic Association (NCAA) officials, but all he sees of that money is in the form of tuition and a small “cost of attendance” stipend. Some media members, who point out that most collegiate football and basketball players are young black men, have called the system “like slavery”¹. It does seem a little unfair that someone like Zion, who in the immediate future has no use for the one year of classes he will take at Duke before declaring for the NBA draft, wouldn’t be compensated in a different way.

While this case was not the first instance of this debate (or even the first of 2018-2019), the case of Zion Williamson perfectly encapsulated many of the different elements I had been researching. My research question is as follows: considering the environment of college athletics in 2019, particularly the revenues brought in by major collegiate football and basketball programs and the increasing availability of other options for young athletes, is the NCAA well equipped to protect the amateur nature of college athletics or is there an impending change coming?

¹ Blackstone, Kevin B. “It’s Not Wrong to Say College Sports Is like Slavery. It’s Wrong That No One’s Trying to Fix That.” *The Washington Post*, WP Company, 8 May 2018, www.washingtonpost.com/sports/colleges/its-not-wrong-to-say-college-sports-is-like-slavery-its-wrong-that-no-ones-trying-to-fix-that/2018/05/08/564b789c-52df-11e8-9c91-7dab596e8252_story.html?utm_term=.cd35b9c74ebd.

It's important to remember that, for all of the national debate surrounding this issue, the vast majority of college athletes wouldn't be affected by these changes much at all, because only football and basketball bring in enough money and attention to justify paying student-athletes. While there are certainly a few college athletes in less "popular" sports that could be compensated, that compensation would rarely be worth more than the value of a college degree, and often the NCAA provides the highest level of competition. This thesis will focus primarily on the ability of the NCAA to protect the amateur status of young football and basketball players while improving the lives of all student-athletes. There are important lessons to glean from all NCAA sports that are relevant to the debate.

Modes of Research

I read a litany of law reviews, case studies, books, and articles. Through these, I was able to gauge how legal professionals, historians, and media members felt about the history of the NCAA and its operations. I had discussions with current and former student-athletes, professors, and media members. Through these pursuits, I was able to understand the current and past landscape of college athletics, and how there is discontent among many different stakeholders. I looked over different bylaws of the NCAA, court cases it had been involved in, and statements that have been made. These allowed me to begin to grasp the reasoning behind many of the actions of the NCAA that the media and the public find inexplicable, and understand why institutional change has been hard to come by or slow moving. The following thesis will show my findings.

Overview of Contents

Chapter 2 will be a discussion of amateurism. The origins of the word are far more loaded than many people realize, and the original intention of amateurism was

less about protecting young people than it was preserving a system of athletics for the upper class². Through the last 150 years, the definition has changed considerably—what was once \$15 per month for laundry money eventually became illegal, and then returned in the form of a \$2,000-\$6,000³ full cost of attendance stipend. In the meantime, Western society’s desire for amateurism has waned. Both the Olympics and the NCAA made their commitment to amateurism within ten years of each other, and yet the International Olympic Committee hasn’t required its athletes to carry the amateur status in over thirty years⁴. The NCAA, on the other hand, was much more willing to alter their definition of amateurism over time, yet remains unwilling to eliminate it. The NCAA is fighting the popular culture in the battle to protect what can only be described as the *modified* amateur system that they have maintained for over six decades. I also use this chapter to determine how to define amateurism

As I will discuss at length in Chapter 3, one of the primary reasons for the founding of the NCAA was to protect the amateurism of college athletes. I aim to use this chapter to present and explain the different phases of the NCAA. Once highly concerned with making sure that no collegiate athlete, regardless of their financial need, even received a scholarship, the NCAA has a rich history of adapting to some elements of the culture while fighting back on other pressures. Legal precedent set throughout the 113-year history of the NCAA is vital to a clear understanding of the operations of the NCAA in 2019, and Chapter 3 will explore some new challenges facing the NCAA in their effort to protect amateurism.

² *Ancient Olympics*, 2012, ancientolympics.arts.kuleuven.be/eng/TE016EN.html.

³ Smith, Christopher. “Full Cost of Attendance: What Will It Mean for Power Five Players?” *Saturday Down South*, SEC, 10 Apr. 2015, www.saturdaydownsouth.com/sec-football/full-cost-of-attendance-explained/.

⁴ Jennings, L.A. “For Love or For Money: A History of Amateurism in the Olympic Games.” *Vice*, VICE, 7 June 2016, www.vice.com/en_us/article/gvaqdm/for-love-or-for-money-a-history-of-amateurism-in-the-olympic-games.

Chapter 4 will begin to address the threats to the NCAA in its current form, beginning with new entrants to the market of athletes aged 18 to 22. Whether it is European or G-League basketball, new professional football leagues with different regulations on who can and cannot participate, or even different types of sports altogether, the NCAA is facing different competitors in convincing athletes to play for their member institutions. This threat has never been higher than it is today, and will only continue to grow as the potential revenue generated by these athletes grows.

Chapter 5 centers on a discussion of the growing TV revenues, particularly in collegiate football and basketball. Live sports are one of the most valuable properties for television broadcast companies to obtain⁵, and both the NCAA and its member institutions have been able to capitalize on this over the last decade or more. The distribution of these revenues causes some problems by misaligning incentives for schools of different size: Chapter 5 will dive into how these misaligned incentives could spell trouble for the NCAA. If the NCAA successfully realigns incentives for both large and small schools, the “pie” (amount of revenue distributed) will grow for all member institutions while amateurism is still protected. If handled poorly, the amount of money at stake could cause certain programs to decide to split from the NCAA and form their own league with the intent of creating more revenue for their schools.

Chapter 6 is a discussion of the societal pressure to compensate players for their likeness, and the viability of this option for the future of the NCAA. First brought to the national media by a lawsuit in 2009, the ability for a player to profit off of their likeness may be the modification that needs to be made to continue to preserve modified

⁵ James, Meg. “The Rise of Sports TV Costs and Why Your Cable Bill Keeps Going Up.” *Los Angeles Times*, Los Angeles Times, 5 Dec. 2016, www.latimes.com/business/hollywood/la-fi-ct-sports-channels-20161128-story.html.

amateurism while allowing players to be more fairly compensated. However, the NCAA will be hard pressed to find a way to do this that doesn't open Pandora's box and create a system that is more comparable to a free-agent market in professional sports, where teams can bid on players coming out of high school without an upper limit.

Understanding why the NCAA fought so hard against the 2009 O'Bannon lawsuit, and determining if they were correct to do so, is the main focus of this chapter.

Finally, Chapter 7 will be the conclusions and recommendations that I would make to the NCAA. My research has led me to believe that, contrary to the belief of much of the national media, the NCAA has found different ways to adapt its definition of amateurism in order to protect some of the character that was originally intended in collegiate sports. If the NCAA can make a few important changes, most specifically allowing players to be compensated for their likeness up to a reasonable point, it will have maintained a status of modified amateurism among college athletes while still compensating people more fairly for the value that they create.

Chapter 2

The Ever-Changing Definition of Amateurism

Many people believe that the definition of amateurism in the way that we know it today originally stems from Greeks competing in the Olympics. This is not the case—in fact, the earliest usage of the word amateur that resembles the definition that we have today is from the late eighteenth century. The word is derived from the Latin word *amator*, which means lover⁶. It then became the French word amateur, and was later adopted into English. Even today, it has three primary meanings, only one of which is important to this thesis. It is defined as “one who engages in a pursuit, study, science, or sport as a pastime rather than as a profession.” This use of the word originated in the nineteenth century, in both England and the United States. The word was heavily associated with class, rather than skill—an athlete from the upper class played sports as a pastime, and made their money in other ways. A professional was an athlete from a lower class, who had to be paid to play his sport (lacking another way to bring in an income). In fact, at the 1878 Henley Regatta, the rules stated, “no person shall be considered an amateur oarsmen or sculler who is or has been by trade or employment for wages, a mechanic, artisan, or laborer.”⁷ Being an amateur athlete required that one be a member of the upper class.

It follows, then, only an industrialized society with different classes of people would even have a use for the modern concept of amateurism. There simply was not

⁶ “Amateur.” *Merriam-Webster*, Merriam-Webster, www.merriam-webster.com/dictionary/amateur.

⁷ Same as footnote #4.

enough time in most earlier societies to leisurely play games during the daylight hours, and an even less of an option for people to sacrifice something of value to come watch the athletes participate. There are a few examples from earlier societies that may have led to something similar to amateurism, but no records indicate that any of these societies did.

Athletes in Past Societies

The Greek Olympics

Because of the modern Olympics that long required the athletes to be amateurs, many people believe that the word (or one with the same meaning) was used to describe ancient athletes who participated in the original games. This is not the case—the Ancient Olympics were never longer than five days, and were only one or three days for much of their history⁸. The rest of the year, the athletes who competed in the events were required to do other things to contribute to their families or cities, lacking both the time and the audience to perform professionally year round. These athletes did “engage in the pursuit as a pastime rather than a profession”, and therefore do fit the definition of amateurism—but this wasn’t out of a sense of obligation, but rather necessity. There were members of different royal families who participated in the Olympic games (most famously, Alexander I)⁹, and were likely able to train with much more rigor than the other participants, never needing to work in the field.

⁸ “Ancient Olympic Sports - Running, Long Jump, Discus, Pankration.” *International Olympic Committee*, 20 Dec. 2018, www.olympic.org/ancient-olympic-games/the-sports-events.

⁹ “Ancient Olympic Athletes - Leonidas, Melankomas, Milon.” *International Olympic Committee*, 20 Dec. 2018, www.olympic.org/ancient-olympic-games/the-athlete.

Roman Gladiators and Chariot Races

Roman society had professional “athletes” in a way that Greek society never did. Gladiators, professional Roman fighters tasked to entertain audiences, were compensated for their work entertaining people. They also fought at the risk of death, and the entertainment sometimes involved them killing convicted criminals, slaves, or wild animals. The closest sport to a gladiator fight that exists today is likely boxing or the UFC (Ultimate Fighting Championship), and there are parallels that can certainly be drawn between the two. However, there were no “amateur” gladiators—if non-professional gladiators wanted to fight each other, it wouldn’t have been considered a sport. If they wanted to try to kill a wild animal, the animal wouldn’t be placed in a stadium first—they would simply be hunting it.

Roman society also amplified the (originally Greek) sport of chariot racing. Chariot races were routinely performed at traveling circuses throughout the empire¹⁰. In this case, the chariot racers were compensated as entertainers (employees of the circus), similar to how a NASCAR driver would be today. However, because of the high cost of both time and capital to become involved in chariot racing, there are no records of leagues of amateur chariot races throughout Ancient Rome.

Amateurism in the Nineteenth and Early Twentieth Century

Amateurism, then, was a term for the upper class to use to describe their athletic pursuits. In the nineteenth century, American upper class young men in the north east often went to University after attending prep school, and so it makes sense that the term would’ve been so important to schools like Harvard, Yale, and Princeton. The founding

¹⁰ “Chariot Racing in Ancient Rome - The History, Fans and Facts.” *The Great Courses Daily*, 6 Mar. 2019, www.thegreatcoursesdaily.com/chariot-racing/.

of the NCAA will be discussed at length in the next chapter, but before the NCAA, amateurism was not a requirement of an intercollegiate athlete. Beginning with the NCAA (or at the time, the IAAUS) in 1906, that changed, and both the Olympics and intercollegiate sports adopted rules that required participants to be amateurs in 1896 and 1906, respectively. It is quite possible that this was to restrict participation in these sports to the upper class, whose members around the world wrote the rulebooks.

The International Olympic Committee (IOC) was famously fervent about the rules of amateurism. Famous American Athlete Jim Thorpe won two gold medals at the 1912 Olympic games. Decades later, the IOC found out that Thorpe had played minor league baseball for a few weeks in the summer of 1909 for grocery money. His medals were stripped, and not recognized until after Thorpe's death¹¹. Importantly, Thorpe was a poor Native American, and didn't fit the mold of many Olympians less than twenty years after they were revived. In the true spirit of "amateurism" at the time, Thorpe's lower socioeconomic status did, in many ways, prevent him from competing in the Olympics.

Olympic Rule Changes

This rule in the Olympics persisted until 1988, when the IOC allowed all professional athletes eligible for participation in the Olympic games. Famously, this allowed for Michael Jordan and the "Dream Team" to compete in the 1992 Olympic Basketball tournament, which has become one of the most famous American moments at the Olympics. Prior to the rule change, college athletes would sometimes compete in the different events, before becoming professionals. The most notable example of this is

¹¹ Jenkins, Sally. "Why Are Jim Thorpe's Olympic Records Still Not Recognized?" *Smithsonian.com*, Smithsonian Institution, 1 July 2012, www.smithsonianmag.com/history/why-are-jim-thorpes-olympic-records-still-not-recognized-130986336/.

the 1980 U.S. hockey team, who defeated powerhouse Russia to advance to the Gold Medal game, which they would later win. I think that there is a poetic justice to the fact that the two most well known Olympic achievements in American history came from a group of college amateurs and a group of adult professionals, only 12 years apart. It indicates that, while many on both sides of the argument believe that the other side is wholly incorrect, most people love to see their country (or their school, their city, or their state) win the athletic competition, regardless of whether the athletes are being paid or not.

The Definition of Amateurism in the NCAA Today

In the next chapter, we will dive deep into the modifications that have been made over the last 113 years to the definition of amateurism that have considerably modified the original intent. There is no argument that college sports are only supposed to be played by the upper class anymore—if anything, the more common argument goes that the upper class benefits financially on the backs of the lower class athletes doing all of the work. There are a few important individual cases to examine regarding a college athlete’s amateur status to compare to what amateurism looked like over 100 years ago.

Joseph Schooling and the “Minor” Sports

The Olympic Committee of Singapore paid Joseph Schooling, a swimmer at UT Austin, over \$700,000 for his gold-medal performance in the Olympics in 2016.¹² In 2017 and 2018, Schooling continued to compete as an amateur swimmer in the NCAA championships, leading UT to two more national titles. Mark Emmert, the president of the NCAA, raised concerns about this situation, but it is consistent with the

¹² Solomon, Jon. “NCAA Prez Concerned by Texas Swimmer Paid \$740K for Winning Olympic Gold.” *CBSSports.com*, 9 Sept. 2016, www.cbssports.com/college-football/news/ncaa-president-concerned-by-texas-swimmer-paid-740000-for-winning-olympic-gold/.

implementation of the rules over the last few decades. The problem that the NCAA has run into is a cultural one—the backlash against the NCAA would be tremendous if they denied an athlete like Schooling, who bested Michael Phelps in a race, the opportunity to continue competing in his sport. Because both collegiate and professional swimming are not as nationally relevant, the NCAA can easily slide by unnoticed by allowing athletes to compete as amateurs who, by any definition, are not amateurs. This indicates that, in 2019, there are instances where the NCAA is more concerned with the public opinion of the institution than they are with protecting amateurism. After all, one of the original justifications for amateurism was that “fair play and good sportsmanship are possible only when sports are an athlete's *avocation*, never his or her *vocation*.”¹³ Joseph Schooling, a talented enough swimmer to defeat Michael Phelps and earn \$700,000 from his home country, cannot reasonably compete fairly against an amateur swimmer. But what are Emmert and the NCAA to do?

Kyler Murray and the Two-Sport Athlete

Kyler Murray, standout football and baseball player for Oklahoma University, received nearly \$5,000,000 as a signing bonus after the Major League Baseball draft in the summer of 2018¹⁴—in the fall of 2018, he led the football team at OU to a 12-1 record and won the Heisman Trophy, clearly maintaining his amateur status. While Kyler had never played professional football before (and was disqualified from playing NCAA baseball after he took the signing bonus), calling him an “amateur athlete” who competes in sports only for the enjoyment and not for the money is disingenuous. Compare two-sport athlete Kyler Murray, allowed to accept nearly \$5 million dollars for

¹³ Same as footnote #4

¹⁴ “Source: A’s, Murray Nearing \$5 Million Bonus.” *MLB.com*, www.mlb.com/news/a-s-kyler-murray-agree-to-5-million-bonus-c280111876.

one sport while maintaining his amateur status in another, with two-sport athlete Jim Thorpe, whose decision to take grocery money for barely-organized baseball games prohibited him from competing as an amateur decathlete on the world stage. This is maybe the starkest example of how the definition has changed in the last century. There is no element of discrimination against those in the lower class, but there are also very relaxed requirements for someone to be considered an “amateur athlete” as the athlete is reclassified as an amateur for each specific athletic endeavor.

Recruiting Athletes

Under the original system of amateurism that the NCAA established, recruiting young men and women to play for your school was against the rules (again, we will dive deeper into this in the third chapter).¹⁵ This is no longer the case, and almost all major athletic departments have the ability to get students into their schools that would not otherwise be accepted. In fact, this turned to scandal in the spring of 2019, as it was revealed that some rich parents across the country had paid different “consultants” to help grease the wheels and convince college coaches to put different athletes on the admissions list for major universities including the University of Southern California, the University of Texas, and Yale University.¹⁶ Lists like these are very common throughout the country—prospective athletes who are being recruited by sports teams from tennis to football are put on lists by coaches. These lists are given to admissions officers, who then look to green light these students based on lower qualifications than a normal applicant. This clearly indicates that the value of a degree from a prominent

¹⁵ Muenzen, Kristen R. “Weakening Its Own Defense? The NCAA’s Version of Amateurism.” *Marquette Sports Law Review*, vol. 13, no. 2, pp. 257–288.

¹⁶ The New York Times. “College Admissions Scandal: Your Questions Answered.” *The New York Times*, The New York Times, 14 Mar. 2019, www.nytimes.com/2019/03/14/us/college-admissions-scandal-questions.html.

University is compensation, desired by people to the point of breaking the law. If the degree is worth a grease payment of a million dollars or more, then the compensation that the athlete is receiving could certainly be considered enough to no longer call them an amateur athlete, playing only for the love of the game.

Consistency Is Key

Judge Claudia Wilken, who presided over the well-known O’Bannon vs. NCAA case (discussed in depth in Chapter 6), said of the NCAA, “The association’s current rules demonstrate that, even today, the NCAA does not necessarily adhere to a single definition of amateurism.”¹⁷ For the sake of the debate over whether the NCAA can protect amateurism, I think it is important to recognize that the definition has changed. The original inspiration for the word was to separate the upper and lower classes, which is no longer a goal of the Olympics or the NCAA (of course, only the NCAA still requires that an athlete be an “amateur”). Societal pressure to allow young athletes opportunities has changed the way that the NCAA wants to police amateurism, and the NCAA has determined that a professional tennis player can still be an amateur golfer. Most importantly, they have modified their definition of amateurism to allow for a scholarship to a university of the athlete’s choosing. Therefore, for the sake of this paper, I hope to determine if the NCAA has the ability to prevent a system akin to free agency (like that in many professional sports) or a “salary” for players. If they are able to preserve what we currently consider amateurism, or a system that closely resembles it, the NCAA has accomplished its goal. The following chapter on the history of the NCAA

¹⁷ Solomon, Jon. “The History Behind the Debate Over Paying NCAA Athletes.” *The Aspen Institute*, 24 May 2018, www.aspeninstitute.org/blog-posts/history-behind-debate-paying-ncaa-athletes/.

will examine different ways that the NCAA has applied their changing definitions of amateurism, but these changes are not a failure in and of themselves.

Chapter 3

The History of the NCAA

When examining the NCAA in 2019, it is vital to understand the foundation of the institution. Through bylaws, statements, and court precedents spanning over 100 years, there is a fair amount of information in the public domain regarding the NCAA. From its founding to its status as a billion-dollar behemoth that affects hundreds of thousands of lives annually, the NCAA has been better at responding to changes in culture than people often give it credit for. This chapter will dive into why the NCAA was founded, what changes have been made throughout its one hundred and thirteen year history, and how the history of the organization is affecting its behavior today.

College Athletics Before the NCAA

Intercollegiate athletics began long before the NCAA was founded, but there were some key differences between now and then. Yale and Harvard competed in a rowing match in 1852, which is the first recognized intercollegiate athletic event. Some elements of this competition can still be seen today—young men competing in a sport, hoping to “test the superiority of the oarsmen of the two colleges.” Harvard won the competition (and therefore the bragging rights) and collegiate athletics was born.¹⁸ A few decades later, after much debate on the rules, college football began in the same region, with both Harvard and Yale being major powerhouses in the early days of the sport. The rivalries were regional, just as they are today, and the bragging rights were highly coveted.

¹⁸ Shiff, Blair. “The History behind America’s Oldest Active Collegiate Sporting Event.” *ABC News*, ABC News Network, 9 June 2017, abcnews.go.com/Sports/history-americas-oldest-active-collegiate-sporting-event/story?id=47852376.

Lack of Amateurism

As college athletics expanded throughout the country, it was common to find schools hiring players to compete in their athletic events who were not students at the school.¹⁹ In the absence of a governing body, there were no rules as to who could or could not compete in matches, and even in the late 1800s, schools, players, and alumni were interested enough in beating their rivals that they showed a willingness to pay for a victory. This complete lack of amateurism (or even attempt to have it) is a very key difference between college athletics before and after the founding of the NCAA. It clearly violates the spirit of the game to pay athletes with no affiliation to the school to compete in its jersey, and a desire for amateurism was one of the reasons that the NCAA was founded.

Rule Inconsistency

Walter Camp, one of the most famous and prolific football players of the first half-century of football (and honored with the title “The Father of American Football”), was actually a medical school dropout who stuck around Yale and played football for 6 years.²⁰ For decades, Camp constantly rewrote and reformulated the rules of American football, hoping to make the games safer, fairer, and more entertaining. There was no governing body regulating the entire country, and often the home team would simply decide the rules of the game that they would be playing. This lack of consistency across the sport became an issue that threatened to inhibit the growth of the sport, and there were consistency problems in more collegiate sports than just football. The desire for a

¹⁹ Gurney, Gerald Sherman, et al. *Unwinding Madness: What Went Wrong with College Sports - and How to Fix It*. Brookings Institution Press, 2017.

²⁰ Weinreb, Michael. “The All-American Sport: Walter Camp's Vision for Football...” *The Athletic*, The Athletic, 13 Feb. 2019, theathletic.com/810309/2019/02/11/college-football-1880s-walter-camp-rules-first-all-america-team/.

more consistent on-field product, governed by a national group, was another key factor in the call for the formation of the NCAA.

Danger to Student-athletes

No element of collegiate athletics was more important to the founding of the NCAA than the danger that was posed to different athletes. Through the 1890s, many of the rule changes that took place in football specifically were made to lower the death toll of football. John Heisman, Walter Camp, and Pop Warner, all still venerated today as instrumental to the game of American football (and specifically, the game for college aged men and younger) were a huge part of instituting the forward pass as legal, often citing pressure from the society at the time regarding rising death tolls. Harvard president Charles Eliot was one of the strongest critics of collegiate football, and there was no single body that was able to unilaterally change the rules or defend football as a sport.²¹ According to different New York Times reports, over 20 college football players died on the field each year between 1890-1892. While Camp was able to stem the tide of calls to ban American football with well-timed rules changes, danger to college athletes (highlighted by the death of 18 football players 1905) was a major factor in President Theodore Roosevelt calling for a meeting.²²

Founding of the NCAA

Like we so often see today, the founding of the NCAA stemmed from a discussion surrounding college football. President Teddy Roosevelt, a huge football fan himself, heard calls from around the country to ban the sport. He called a meeting in the fall of

²¹ Weinreb, Michael. "The First Forward Passes: In a Decade of Change, Eddie..." *The Athletic*, The Athletic, 11 Mar. 2019, theathletic.com/858132/2019/03/11/1906-saint-louis-eddie-cochems-college-football-forward-pass-legalized/.

²² Zezima, Katie. "How Teddy Roosevelt Helped Save Football." *The Washington Post*, WP Company, 29 May 2014, www.washingtonpost.com/news/the-fix/wp/2014/05/29/teddy-roosevelt-helped-save-football-with-a-white-house-meeting-in-1905/?utm_term=.4cc70ee10511.

1905 with coaches and advisers from Harvard, Princeton, and Yale, with the goal of improving football. Roosevelt's son had been severely injured playing for Harvard, so he was personally invested in improving the safety of young football players. These meetings drastically changed the future of collegiate athletics: while the immediate rules change allowed the forward pass (and, in doing so, fundamentally changed the sport to be similar to what it has become today), they also needed a governing body to form and enforce new regulations. In 1906, sixty-two colleges formed the Intercollegiate Athletic Association of the United States (IAAUS). This organization is the original form of the NCAA, and it would change its name in 1910.²³

The stated purpose upon the founding of the NCAA was to protect student-athletes from the “dangerous and exploitative athletics practices of the time.”²⁴ Early on, the NCAA played a minimally intrusive role. The NCAA had established bylaws that it relied on the member institutions to establish. There were no NCAA championships, and with only sixty-two member schools to begin with, there were many colleges that had no relationship with the NCAA (this is important only because it provides a historical basis for an NCAA to exist without all major institutions being a part of it).

Amateurism Early in the NCAA

Amateurism was one of the most important principles of the young NCAA. As discussed earlier, it was illegal at the time to even give a student-athlete a scholarship to incentivize them to come to your school and play for you, and it would remain illegal until 1956. As we noted, this was a drastic change from the pre-NCAA years, when schools would often hire athletes with no affiliation to the school to play in the games.

²³ Same as Footnote #15.

²⁴ Treadway, Dan, and Dan Treadway. “Why Does the NCAA Exist?” *HuffPost*, HuffPost, 7 Dec. 2017, www.huffpost.com/entry/johnny-manziel-ncaa-eligibility_b_3020985.

There are clear accounts of how amateurism was defined in the first ten years of the NCAA: “financial inducements from any source, including the faculty or university financial aid committees, were not allowed. Singling out prominent athletic students from preparatory schools is a violation of the amateur code, as was playing those who are not bona fide students.”²⁵ Take both elements of that definition in to account—not only are scholarships illegal for athletes who were literally putting their lives on the line, but recruiting was not allowed either. A student who wished to play collegiate athletics would have to be admitted to the school purely on their academic merit, and would then have to try out for the team, without any coercion from the school. If they were able to make the team, there would be no compensation of any kind, regardless of their academic need.

In 1916, the by-laws were cleared up additionally, stating that an “amateur” is “one who participates in competitive physical sports only for the pleasure, and the physical, mental, moral, and social benefits derived directly therefrom.”²⁶ This was a guiding principle for the NCAA for nearly half of a century after its founding, and there is a strong argument to be made that this is the only time the NCAA has ever operated under “true” amateurism. Of course, there is speculation (and some confirmation) that just as is the case today, there were alumni, booster groups, and even athletic departments that would make under-the-table payments to athletes to ensure that they would choose the right school. The NCAA’s ability to regulate, especially early on, was very poor—as stated above, the NCAA relied heavily on member institutions to self-police. While this remains the case, the NCAA (and even the FBI) makes much more of an effort to prevent these payments now.

²⁵ Same as Footnote #15

²⁶ Same as Footnote #15

Evolution of Scholarships

Legal Need-Based Aid

In 1948, the NCAA made their first effort to slightly modify their stringent requirements for amateur athletes. This is known as the “Sanity Code”, and is the first time that college athletes were allowed to receive any form of compensation from their University and still play college sports. Under this change, students could receive a scholarship for their tuition and fees if they demonstrated financial need and met the normal admissions requirements of the school.²⁷ This change is jarring from the perspective of a reader in 2019—it makes it abundantly clear that, for the first 42 years of the NCAA, even student-athletes who were too poor to pay for classes were not allowed to receive scholarships from their school, even if they excelled academically and demonstrated their true need. This reinforces the idea that “amateurism” in the NCAA was originally intended just as much as a way to keep the lower class out of collegiate athletics as it was to protect young athletes. This provision also made sure to specially note that the scholarship could not apply to room and board, but only to college tuition. At a time when college tuition was, in many places, under \$100 per semester, this was an almost nonexistent amount of compensation for athletes who created, even at the time, a lot of value for their schools. For reference, a highly paid NFL player at the time would make \$13,000 per semester, or approximately 520 times what a California resident would pay in a tuition fee at the University of California Berkeley.²⁸ While this was the practice in place, there was no change in the consistency that people would illegally pay student-athletes.

²⁷ Same as Footnote #15

²⁸ Vega, Lilia. “The History of UC Tuition since 1868.” *The Daily Californian*, 8 May 2018, www.dailycal.org/2014/12/22/history-uc-tuition-since-1868/.

A More Modern Scholarship

In 1956, the NCAA decided to change the rules once again, with the purpose of stopping these payments from boosters and alumni. At that time, they voted to “allow full grants-in-aid,” which included tuition, fees, room and board, books, and even a \$15 per month laundry stipend.²⁹ This is much closer to the system we have today, and was the last major change before 2015. What the NCAA was unable to do with this change was alter the amount of money that booster clubs had—they simply increased the compensation that would be allowed to student-athletes. With that in mind, it’s no surprise that booster clubs continued using illegal payments to entice students to attend their school, a problem that has persisted until today (and helps drive the national conversation regarding the NCAA).

These two changes, made in 1948 and 1956, forever altered the fabric of collegiate athletics. From 1906 until 1956, there was absolutely no benefit (that could be given legally) to a student-athlete to play a sport. When this changed in 1956, and there was now an exchange of value for a student deciding to represent a school athletically, they no longer fit the truest definition of amateurism. Ever since 1956, it can be said that the NCAA operates under a “modified amateurism”, as discussed earlier. The NCAA proved, fifty years after its creation that it was willing to fundamentally change the way that student-athletes were treated, largely because they hoped to stop illegal advantages gained by teams whose boosters had bigger checkbooks. This was not the best reason to fundamentally change their organization, as evidenced by the fact that the changes they made had a very minimal impact (if any) on how boosters behaved. In fact, you could make an argument that it became worse after 1956—young people in preparatory

²⁹ Same as Footnote #15

schools had more incentive to play sports (in order to go to college for free), so sports became more important for young people, which led to prices going up for the most in-demand athletes.

Mixed Motivations

The better motivation for change to the NCAA could instead be found in the inspiration for its formation—the desire to protect student-athletes. The NCAA has always been much better at handling 18- to 22-year olds than it has graduates of its member institutions, and a desire to protect student-athletes is what led to rule changes across generations that have quite literally saved lives. If the NCAA had hoped to preserve the amateur status of athletes, then introducing a system that fundamentally changed how they defined amateurism (particularly the change in 1956, that did not require financial need or academic prowess to be exhibited) was not necessarily the right way to do so. While it seems impossible to believe that a system could exist in 2019 that didn't allow student-athletes to even receive scholarships for their performance, the motivation behind the changes was imperfect, and the NCAA should learn from their mistakes going forward, and not simply change their rules *for the sole purpose of* preventing illegal payments or media backlash. While these two considerations will likely influence any future changes, the driving force behind successful reform must come from a desire to protect (or improve) the lives of student-athletes.

Cost of Living

Beginning in 1956, the NCAA has had a varying level of willingness to pay students a true cost of attending the university—hence the “laundry money” allowed to each player beginning with the first legal athletic scholarships. However, in the years between 1956 and 2015, the cost of going to college went up, and the cost of attendance

compensation waned. Additionally, the “laundry money” was only allowed for 16 years, and in 1972 the compensation package removed this (already miniscule) “attendance stipend”.³⁰ By 2011, the national conversation again was pushing the NCAA to up the compensation for athletes, with dozens of stories each year about student-athletes who couldn’t have jobs and weren’t able to even travel home for the holidays because their families didn’t have the money for a plane or bus ticket.

This change manifested itself in a \$2,000 annual stipend, approved by Mark Emmert, the president of the NCAA. Emmert noted that, “They [the stipends] were adopted in a very clear effort to support our students, and I think, in the end, they will do that.”³¹ Unfortunately, Emmert did not foresee the override option being exercised, where 125 member institutions could block the legislation until it could be considered a few months later at the annual NCAA convention.³² Some students, who signed National Letters of Intent in the two months between the legislation passing and the override, were able to receive the stipend, but it was put on debate at the 2012 convention. Emmert remained confident that the stipend would pass in its current form at the convention, but the vote was delayed again. Eventually, after a complicated, multi-year process, it was decided that beginning in 2015, student-athletes would be able to receive this additional stipend (further modifying the definition of amateurism that the NCAA abides by), and that the stipend would be variable based on where the student-athlete attends school. There are a few variables that go into this equation—cost of essential

³⁰ Press, Associated. “NCAA Shelves \$2,000 Athlete Stipend.” *ESPN*, ESPN Internet Ventures, 16 Dec. 2011, www.espn.com/college-sports/story/_/id/7357868/ncaa-puts-2000-stipend-athletes-hold.

³¹ New, Jake. “Colleges Inflate Full Cost of Attendance Numbers, Increasing Stipends for Athletes.” *Colleges Inflate Full Cost of Attendance Numbers, Increasing Stipends for Athletes*, 12 Aug. 2015, www.insidehighered.com/news/2015/08/12/colleges-inflate-full-cost-attendance-numbers-increasing-stipends-athletes.

³² Same as Footnote #30

items in the area, cost of travelling to an area (for example, because it is harder to get to College Station, Texas than it is to get to Austin, Texas, the student-athletes at Texas A&M University get a higher stipend than those that attend UT Austin).³³ This proposal was similar to the one propose by the Big Ten Conference, and was supported by President Emmert, who saw this as an even better solution than the one originally passed by the board in 2011.³⁴

The Legality of TV Revenue

There have been many court cases involving the NCAA, and specifically regarding the amateur status of NCAA athletes, over the years. The most important of these cases in setting the precedent for how the NCAA currently operates was brought to the Supreme Court, and stemmed from an argument over the revenues that schools could capture from television rights to broadcasting college football games. The danger that this continues to pose to the NCAA will be discussed at length later in this paper. Walter Byers, who had served as the Executive Director of the NCAA for nearly 35 years at the time, implemented a plan that would limit the number of college football games that could be televised. He believed that all college football games being broadcast on TV would hurt in-game attendance, and at the time it was more profitable for the member institutions to sell tickets to the games than to have their games broadcast on TV. After all, only a few teams were big enough to have their games nationally broadcast, and the compensation that institutions received was miniscule relative to today's multi-billion dollar rights deals. Oklahoma University's Board of Regents felt that this was anti-competitive, and the court sided with the OU Board of Regents. The decision included

³³ Same as Footnote #3

³⁴ Johnson, Dennis A, and John Acquaviva. "Point/Counterpoint: Paying College Athletes." *The Sport Journal*, 31 Jan. 2015, thesportjournal.org/article/pointcounterpoint-paying-college-athletes/.

that “by curtailing output and blunting the ability of member institutions to respond to consumer preferences, the NCAA has restricted rather than enhanced the place of intercollegiate athletics in the Nation’s life”.³⁵

“The Character and Quality of the Product”

While this was a hugely important decision that helped pave the road for current NCAA TV contracts that have blurred the lines of amateurism, there is a second line in the decision that has had potentially an even more profound effect on the way the NCAA has chosen to defend amateurism over the last thirty-five years. According to the majority opinion written by Justice Stevens, “in order to preserve the character and quality of the product, athletes must not be paid.”³⁶ While this was not at all the main element of the lawsuit, the precedent that it set for the NCAA going forward was sweeping. In future Supreme Court cases, including the O’Bannon lawsuit (discussed at length in Chapter 6), the NCAA would use this line to justify why players couldn’t be compensated for, among other things, their likeness. The Supreme Court wasn’t totally off-base in their diagnosis in 1984—schools with more money, alumni, and national recognition, especially in the early days of nationally televised college football, would be at a huge competitive advantage if players could be paid any amount in a system akin to free agency in professional sports. However, there are elements of the game today that indicate that the Supreme Court’s ideals have not been properly carried out since the 1984 decision, and the “product” that they sought to preserve has changed considerably.

³⁵ Grimmett, Edward H. “NCAA Amateurism and Athletics: A Perfect Marriage or a Dysfunctional Relationship? An Antitrust Approach to Student-Athlete Compensation.” *Touro Law Review*, vol. 30, no. 3, Oct. 2014, pp. 821–860.

³⁶ Stevens, John Paul. “NATIONAL COLLEGIATE ATHLETIC ASSOCIATION, Petitioner v. BOARD OF REGENTS OF the UNIVERSITY OF OKLAHOMA and University of Georgia Athletic Association.” *Legal Information Institute*, Legal Information Institute, 27 June 1984, www.law.cornell.edu/supremecourt/text/468/85.

³⁷ Same as Footnote #35

In the nearly thirty-five years since this decision, TV rights deals have grown exponentially. What a network was asked to pay for an entire season of college football games in 1984 is less than 1/23rd of what CBS now pays annually for the rights to broadcast the NCAA Basketball Championship (March Madness) tournament in 2019 alone. The three games of the college football playoff are worth over fourteen times what the original college football season-long deals were worth—this is to say, the product has commercialized more than the Supreme Court would’ve expected. Additionally, the NCAA has allowed for a natural stratification between the “haves” and the “have-not’s”—what used to be NCAA Division I was split into NCAA Division I A and I AA, which later became FBS and FCS. The FBS was then split into “Power Five” and “Group of 5” conferences, even further developing the “haves” receiving more money than the “have-not’s” (because the rights to the Power 5 conference television broadcast are worth much more money, and the member schools of the conferences get to split the money obtained for the rights). Conferences like the SEC and individual schools like UT Austin make more money on their own deals than the Pac 12 or schools like Illinois. In many ways, the Supreme Court’s decision to allow the unlimited broadcast of TV rights of intercollegiate athletic events, while having the goal of increased competition in mind, ended up stratifying the major NCAA sports even more.

Key Takeaways From 113 Years of the NCAA

Through 113 years, the NCAA still exhibits two of its founding principles—a desire to protect student-athletes, and a dedication to keep amateurism alive in college sports. The definition of amateurism, however, has changed considerably from a more classic definition to a modified one, particularly with the changes made to student-athlete compensation in 1956 and 2015. While national conversation seems to have driven these

changes, the stated goals of preventing illegal payments and fairly compensating athletes for the value they created were not met. When making key changes to their structure, it is important that the NCAA remember their original goal of protecting student-athletes.

An incredibly important part of the history of the NCAA is the revenue growth it has experienced over the last 113 years. For many decades, there was almost no revenue for the NCAA. Without television broadcast rights, the NCAA had very few streams of revenue. The majority of NCAA revenue comes from selling the TV rights to the March Madness tournament, and the growth for those rights has grown from less than \$9 million in 1980, over \$270 million in 2002, and over \$820 million in 2018. This revenue growth has added an element of controversy to the NCAA—in 1980, there was far less of a reason to call for players to be compensated for the \$9 million that they created. When the players created nearly one hundred times of that value in 2018, the calls were much louder.

Much of the legal precedent used by the NCAA stems from one case from 1984 that went all the way to the Supreme Court, and has two major takeaways to the current operations of the NCAA. First, the rights to broadcast games cannot be restricted by the NCAA. While this was originally done to increase competition, it hasn't exactly done so. The other important note was that the Supreme Court specifically stated that student-athletes could not be paid in order to preserve both the "character and quality" of the games, a precedent that the NCAA has continued to lean on. The irony of this, of course, is that the same statement could've been made before 1948 regarding scholarships—"in order to preserve the character of a sport where students who attend a school compete against each other athletically, we cannot recruit and compensate those players." The

NCAA clearly did not hold that opinion. The argument could've been made against a cost of living stipend prior to 2015—the “character” of amateur collegiate sports requires that students not be compensated—until it doesn't. What the NCAA has shown throughout the years is that, with substantial national pressure and questionable legal precedent, they are not opposed to modifying their definition of amateurism. This is the most important takeaway for the future of the NCAA. Understanding the definition of amateurism and the history of the NCAA is vital to a discussion of the threats that could be posed by new entrants, like the ones that we will discuss in the next chapter.

Chapter 4

New Players

Part of the reason the NCAA has been able to survive for so long with very few periods of rapid transition comes down to, in many ways, the lack of availability of other options for young athletes. Most professional leagues are populated with people in their mid-twenties (or later), and the success of people age 18-22 in these major sports is often very limited. For other athletes, their sport is not played at a professional level in the U.S., so the college game is their last opportunity to play at the highest level. Many of the smaller sports that are paid professionally do not afford the athletes to make the living that they could make by utilizing their college degree, or there are very few professional slots for a very high number of potential players. Furthermore, both the NBA and NFL have made it against the rules to enter the league directly from high school, narrowing the options for the 18 year-old American athlete to do anything other than pick their favorite (or the best) school and compete for anywhere from one to four years before moving on to professional sports or a career outside of athletics.

Opportunity Cost for Young Athletes

The opportunity cost for an athlete choosing to play in college rather than play their sport professionally is higher in 2019 than it has ever been. As professional athletes have earned higher salaries across all major sports over the last twenty years, the value of a college degree has not escalated at the same rate (while the cost of the degree may have increased, the value of the degree is functionally the same).

When a top-tier 18 year-old athlete could've made \$6,000 annually playing professional baseball (the minimum in 1968), there was little reason to complain that a

player choosing to play collegiately should be compensated. They were sacrificing an opportunity cost of only \$6,000, while also taking advantage of a free college education. As the average salary has now grown to nearly \$4 million in the MLB, the opportunity cost of collegiate sports has grown too. With this rise in opportunity cost comes louder calls for the cost to be offset by some form of player compensation. This greatly contributes to the problems that the NCAA is facing today.

Clearly, in 2019, the status quo is changing, and will continue to change as calls for eighteen- to twenty two-year old star athletes to be paid. Global opportunities for players in basketball, baseball, volleyball, and other sports have made a European or Asian career viable in a way that it never has been before. Additional football leagues, looking to take a slice of the pie that the NFL currently dominates, have begun to pop up in the United States and Canada. Minor league basketball, known as the G-League, will allow players to enter straight from high school in the fall of 2019,³⁸ and it is expected that the NBA will repeal their rule disallowing 18-year-old high school graduates from entering the league sometime within the next five years. Esports (or professional videogames) leagues have popped up and are populated with young people, and most universities have not yet formed even club (non-NCAA, university affiliated) teams. With all of these new entrants to the market hoping to capitalize on the stardom and athleticism of the most talented high school athletes (and offering them the opportunity to make money in a way that would violate the NCAA's founding principles), it's time to question whether the NCAA will lose its perch as the only option for young athletes.

³⁸ release, Official, and NBA.com. "NBA G League Introduces New Professional Path for Elite Basketball Prospects." *NBA.com*, NBA.com, 18 Oct. 2018, www.nba.com/article/2018/10/18/g-league-professional-path-official-release.

Current Status Quo

It is important to remember that, for the sake of this discussion, we are primarily talking about the ability of the NCAA to protect amateurism in football and men's basketball (as stated in the introduction, the national debate always centers around these two sports, and they are the only two where the athletes sometimes create more value for the school than they receive through their scholarship). Each of these two American major professional leagues currently operates under different rules—the NFL requires players to be three years out of high school, while the NBA requires just one year.

NFL Rules of Eligibility

There are a considerable number of issues for the NCAA and student-athletes that are caused by the NFL not allowing players to leave for three years. One of these issues is illustrated perfectly by star Clemson University quarterback Trevor Lawrence who, as a freshman, led his Clemson Tigers to the national championship. Because of the NFL's policy that Lawrence must wait two more full years before being eligible to declare for the NFL draft, Lawrence will be risking injury every time he steps on the field for the next two years, and is unable to be compensated in a highly competitive league. He is the definition of a captive entertainer—the NCAA gets most of the media blame for this, but if there were a competitive football league that Lawrence could join at age eighteen and play for a salary, much of the heat on the NCAA would dissipate.

This has caused a recent phenomenon of star players choosing to sit out the bowl game at the end of the season, in order to not get hurt and have their draft stock dip before the NFL draft. Many fans find this practice disappointing, but it's tough to blame the athletes—in that one bowl game, they could lose millions of dollars by playing, but

have nothing to lose by sitting out. Nick Bosa, a star at Ohio State University, took this practice even further, missing more than two-thirds of his last season before NFL eligibility. He was met with derision from some fans and even a few members of the media, but the national conversation has turned so far on the NCAA that many lauded him for his decision.³⁹

The other major dilemma caused by the NFL's rules of eligibility is that a player cannot declare for the NFL draft and, if not selected, return for his final year (or two) of college eligibility. Lil' Jordan Humphrey, a standout receiver for the University of Texas, experienced this problem in the spring of 2019.⁴⁰ In order for a football player to declare for the NFL draft, they must waive their amateur eligibility at the college level. The NBA used to have the same issue, but the NBA and NCAA resolved it (to great success). It is important that the NCAA make strides with the NFL to fix this problem in the future, so that players don't miss out on opportunity simply because they enter their name in a draft.

The NBA and the One and Done Problem

The NBA has shifted their rules around considerably in the past, with different legal cases determining when players would be allowed to enter. Some of the greatest players of all time (including Earvin "Magic" Johnson and Larry Bird) chose to play multiple years in college before going to the NBA—even though this was not required of them. In 1995, the common practice changed, and a twenty-year period without anyone

³⁹ Cooper, Sam. "Nick Bosa Will Focus on NFL Future, Won't Return to Ohio State." *Yahoo! Sports*, Yahoo!, sports.yahoo.com/report-nick-bosa-will-focus-nfl-future-wont-return-ohio-state-154309555.html.

⁴⁰ Kellum, Don. "New Orleans Saints Undrafted Rookie Profile: Lil' Jordan Humphrey." *Canal Street Chronicles*, Canal Street Chronicles, 2 May 2019, www.canalstreetchronicles.com/2019/5/2/18525713/new-orleans-saints-rookie-lil-jordan-humphrey-2019-nfl-draft-drew-brees-michael-thomas-wide-receiver.

entering the league directly from high school ended.⁴¹ Over the next ten years, many of the best players in the league had entered straight from high school (including Kobe Bryant and LeBron James). Beginning in 2005, the NBA changed the rule so that, to qualify for the draft, a player must both be nineteen years old in the year of the draft and (if they are an American player) have graduated high school at least one year ago.⁴² In that time, the phenomenon of the “one and done” player has grown, indicating a college basketball player who plans to only stay one year in collegiate basketball before entering the NBA. In 2018, fifteen of the thirty picks in the first round of the NBA draft were “one and done” players.

The Greg Oden Problem

In my discussions with certain student-athletes and members of the media, it became apparent that many of these “one and done” players in basketball were a different brand of student than even the other players on their team. This was most aptly illustrated to me by Mark Titus, a former college basketball player and close friend of “one and done” player Greg Oden. Oden played for Ohio State in the 2006-2007 season, before becoming the first overall pick in the NBA draft after just one year. Oden was a student just like the rest in the summer and fall of 2006, needing to pass his classes in order to be allowed to play for the basketball team. The dynamic was already clearly different, however, because the whole world knew that Oden would be leaving after just one year at school. Titus described Oden as a “temporarily unpaid professional.” Essentially, Oden was spending his one year “working” at Ohio State

⁴¹ Davis, Scott. “WHERE ARE THEY NOW? The Players from Kevin Garnett's 1995 NBA Draft Class.” *Business Insider*, Business Insider, 24 Sept. 2016, www.businessinsider.com/where-are-they-now-1995-nba-draft-2016-9.

⁴² Michael McCann. “What Happens If the NBA Nixes One-and-Done Rule?” *SI.com*, www.si.com/nba/2019/03/03/legal-analysis-change-age-eligibility-rule-one-and-done.

University. His incentives were to get in better shape, perform at a high level in games that were watched by hundreds of NBA scouts, and grow his public image. The compensation he received was only in the form of classes (now, in 2019, he would also receive his “cost of attendance” stipend, which at Ohio State is less than \$3,000 annually). He would have no immediate use for the entry-level classes that he took (in fact, he plans to graduate from Ohio State this May, 13 years after enrolling).⁴³

The NCAA wants its players to be “student-athletes”, as evidenced by over a decade of advertisements noting, “Almost all of them [the athletes] will go pro in something other than sports.” In the case of Oden, he will never be a student in the same way that I am a student, because the only reason he is attending a University at all is because he (and other stars like him) are not yet allowed to make money and gain exposure by playing their sport. The new entrants that we will now discuss at length offer players like Oden a better opportunity to do so, and therefore threaten the business model of the NCAA.

New Entrants in Basketball

The most viable current example of a new entrant taking away is being seen in basketball. There are now (beginning in the fall of 2019) two alternatives that offer elite, 18-year old basketball players the chance to play against very high levels of competition while getting paid. Both of these options have positives and negatives for potential 18 year-old athletes, but one of the positives for each of these options is the opportunity to be compensated. The chance to make money playing basketball to either help support a family or start an independent life is very appealing, and for certain young players this

⁴³ Anderson, Natasha. “Basketball Player Greg Oden Graduates from Ohio State.” *fox8.Com*, 5 May 2019, fox8.com/2019/05/05/basketball-player-greg-oden-graduates-from-ohio-state/.

outweighs the potential upside offered by college basketball. These alternatives are: (1) playing abroad professionally and (2) joining the NBA G-League (or minor league).

European, Asian, and Australian Leagues

The first alternative is to play overseas for a year. As leagues in Europe, Asia, and Australia have progressed, so too has the number of young people across the world (including American-born basketball players) choosing to play abroad rather than for an NCAA member institution. Terrance Ferguson, a highly rated recruit in the Class of 2016, chose to play in Australia rather than in the NCAA, and made nearly \$1 million in doing so.⁴⁴ After his time in Australia, he was able to seamlessly transition to a career in the NBA, and has been very vocal about his decision. Terrance is one of many young basketball players deciding to play overseas, and is now being followed by even bigger “celebrity” names like LaMelo Ball.

In the highly publicized event I alluded to earlier that took place in February 2019, star “one and done” player Zion Williamson stepped through his shoe and injured himself. Donovan Mitchell, former NCAA player and current NBA star, tweeted “Again let’s remember all the money that went into this game.... And these players get none of it.... And now Zion gets hurt... something has to change,” and tagged the official NCAA account in his tweet. Luka Doncic, former European basketball star and current NBA sensation, playfully responded, “go play in Europe.”⁴⁵ Comments like these, especially between a former NCAA player and a former European league player who are both sharing similar NBA success, are the exact comments that lead to young players

⁴⁴ Ferguson, Terrance. “Why I’m Going Pro in Australia | By Terrance Ferguson.” *The Players’ Tribune*, www.theplayertribune.com/en-us/articles/2016-6-30-terrance-ferguson-arizona-australia-basketball.

⁴⁵ Doncic, Luka. “Go Play in Europe <https://t.co/2o2VPbwnYX>.” *Twitter*, Twitter, 21 Feb. 2019, twitter.com/luka7doncic/status/1098452857471275009?lang=en.

realizing that, in the global world we now live in, playing in Europe is a completely viable option for a young athlete who wants to be paid.

The NBA G-League

In response to incidents like this (and wishing to capitalize more on the value that can be created by young superstar players), the NBA is now allowing 18 year old players to play in the G-League, a developmental league with NBA affiliate teams, before they are eligible for the draft. Their salary is capped at \$125,000, and it will be interesting to see in the next three- to five-years how many talented young athletes decide to play in the G-league rather than for a major college program.⁴⁶

The main drawback to both of these options is that NCAA basketball still provides the highest level of exposure to future NBA stars that wish to bump their reputation before they enter the league. The G-league is a much lower level, and it will likely take a few years before top talent would enter this league (and by then, they'll likely be allowed to go straight to the NBA). As watching foreign games gets easier through streaming services like YouTube, the exposure of foreign leagues will continue to grow. Even with the slightly lower levels of exposure, the opportunity for a salary and a new experience is potentially dangerous to the NCAA's current stranglehold on almost all 18-year-old basketball players.

Both of these two alternate options present a major threat to the NCAA and its ability to protect amateurism among college athletics. Take Duke University, for example, and the nearly \$31 million in revenue their basketball program brings in each

⁴⁶ Same as Footnote #38.

year.⁴⁷ This money is allocated throughout the athletic department (and, in the case of the most successful schools, the University) helping further both athletic and academic pursuits. If Duke consistently loses the best talent to the NBA G-League and overseas leagues, they will also lose viewership, merchandise sales, and other sources of revenue. In order to continue to achieve their goals of helping maximize the educational experience of student athletes (and to all students at certain schools), they want to maximize the money their basketball program brings in. Offering 10-15 college athletes a contract of \$200,000/year in addition to an academic scholarship and cost of living stipend would make Duke the most attractive option again, as it had been for decades, and there is a compelling argument to be made from Duke's point-of-view that they would make much more than they spent by offering these contracts to the top-rated young players—however, they would no longer be amateur athletes. The NCAA would never allow this to happen (as I've repeatedly stated, it flies in the face of one of their main purposes of existence)—but could there potentially be a different way to compensate athletes more fairly, without paying them a salary or having a free agency system? The NCAA must seek out good alternatives in order to keep illegal payments out of the game—or worse, schools leaving the NCAA.

If new entrants (like the G-League and overseas leagues) are able to poach all of the talent that has traditionally gone to NCAA programs, viewership and revenue will follow the athletes. If the major basketball colleges lose this source of revenue, they will lose out on revenue to help pay for academic and athletic pursuits at their university.

Leaving the NCAA, paying the top athletes a salary to play for their schools, and

⁴⁷ Carlson, Chris. "Which College Basketball Programs Make the Most Money? Syracuse among Top 5." *Syracuse.com*, Syracuse.com, 30 Mar. 2017, www.syracuse.com/orangebasketball/2017/03/which_college_basketball_programs_make_the_most_money_syracuse_among_top_5.html.

capitalizing on the increased income would further their institutional goals. In order for the NCAA to fight this complete loss of amateurism, it is possible that they may need to further adapt their definition and rules to allow for some type of additional compensation.

New Entrants in Football

The NFL has historically had such a stranglehold on the professional football market that it has been nearly impossible to create and maintain a different league. Leagues like the USFL and XFL have tried and failed, and the most recent failure was the AAF, which played most of one season in the spring of 2019 before folding. If there is a future where young football players are able to go play elsewhere for a salary, a league will need to hit on something that the other leagues have failed to hit on. The next league that will attempt to successfully join the NFL as a successful professional football league is a new iteration of the XFL, which is set to play its first game in the early spring of 2020. This is a revival of the original XFL by Vince McMahon, who also was in charge of the original league.⁴⁸ This time, he has brought on Oliver Luck, who has considerable experience working within both the NCAA and NFL, as a former NFL player and Athletic Director at West Virginia University. Notably, Luck has said that the eligibility restrictions are “in development”, not committing to the idea that players would have to have the same eligibility requirements as the NFL.⁴⁹ Allowing athletes to come straight from high school could be the piece of the pie that makes the XFL viable,

⁴⁸ Draper, Kevin. “Vince McMahon Says He Will Revive the XFL, With a Very Different Look.” *The New York Times*, The New York Times, 25 Jan. 2018, www.nytimes.com/2018/01/25/sports/football/vince-mcmahon-xfl.html.

⁴⁹ Jones, Kaelen. “XFL Restates It’s Not Restricted by Eligibility Rules.” *SI.com*, www.si.com/nfl/2019/01/08/xfl-eligibility-rules-nfl-restrctions-age-college-football-draft.

all the while threatening to take away some of the quality of the product of college football.

There would be advantages and disadvantages to this new league for an athlete. First, it would likely turn into almost a minor-league system for the NFL, mirroring the G-League rule change that recently took place in basketball. Exposure would likely be lower than college football, as XFL teams (just like G-league teams) do not already have devoted fan bases and lucrative TV contracts that will bring them national attention. Secondly, they will run a higher risk of injury, as they will be playing against older, more physically developed men from a younger age. Lastly, salaries are not very high in the XFL—there is a tier system that allows a certain number of players per team to make a certain amount of money, but no player will make much more than \$250,000 in a single season, according to a Darren Rovell tweet. If a player runs a higher risk of career ending injury for a salary much lower than that which he could receive in the NFL, all for less exposure, some athletes may decide that the college system is more fitting for them. Of course, there is no guarantee that the XFL will decide to allow players straight from high school, but from a business standpoint, it does seem to make sense.

Esports: How Videogames May Threaten the Status Quo

For decades, many people who work in traditional, physical sports have laughed at videogames as “not real sports.” I am not here to litigate what constitutes a sport—what is undeniable is that people playing videogames professionally is at an all time high, and the NCAA has lagged behind in setting up their own league. As young people across the country and the globe continue to shift their entertainment and leisure patterns to esports, the NCAA will have to decide if they intend to charge forward and

create an amateur system for college students who wish to play esports, or leave the videogames to the professionals.

The Popularity of Esports

Esports exploded in popularity in Asia, but their growth in America has taken off. According to the Washington Post⁵⁰, there are estimates that esports will generate \$345 million in revenue in North America this year. The prize money for winning the biggest tournaments in esports has already surpassed that in NASCAR, golf, or cycling. Over ten times as many people watched the League of Legends world championship in 2017 than watched Wimbledon or the U.S. Open in golf. Among young people, the popularity is startling—A Washington Post poll found that 38% of young Americans say that they are fans of esports or competitive gaming—for reference, the NFL was only at 40%. With increased fandom will come increased participation, money, and national exposure.

The Viability of Esports in the NCAA

The NCAA didn't even begin to explore the possibility of esports at the NCAA championship level until 2017.⁵¹ Unfortunately for amateurism, the specific environment of esports may make it impossible for the NCAA to ever find a foothold. The most important difference between esports and traditional American sports offered by the NCAA is that athletes can be paid from a very young age. In 2015, a 16-year old in Pakistan became the youngest esports player to surpass \$1 million in career earnings.⁵² In football, swimming, volleyball, or most other major sports, it is impossible for a

⁵⁰ Ingraham, Christopher. "The Massive Popularity of Esports, in Charts." *The Washington Post*, WP Company, 27 Aug. 2018, www.washingtonpost.com/business/2018/08/27/massive-popularity-esports-charts/?utm_term=.ba6f5ff3b50b.

⁵¹ "Game On | An NCAA Champion Feature." *NCAA.org - The Official Site of the NCAA*, www.ncaa.org/static/champion/game-on/.

⁵² Daultrey, Stephen. "Pakistani Teenager Becomes Youngest Gamer to Surpass \$1million in ESports Earnings as Dota 2 Tournament Sets Major Records." *Guinness World Records*, Guinness World Records, 11 Aug. 2015, www.guinnessworldrecords.com/news/2015/8/pakistani-gamer-becomes-youngest-gamer-to-surpass-1million-in-esports-earnings-a-391494.

player to make millions before they turn 18. In esports, it may be the norm for the best players, and the NCAA would have no way to compete with those earnings. While not a short-term problem for the NCAA, esports could present a long-term challenge if current consumption trends continue.

Overall Threat of New Entrants Disrupting the Current NCAA

There are new entrants and changing consumer trends that could absolutely harm the short- and long-term position of the NCAA as the prime option for young athletes. They are insulated from some of these new entrants by the fact that NCAA member institutions have large, built-in fan bases that have proven for over a century to be highly invested in the success of their teams. However, if new leagues in football and basketball are able to successfully convince young athletes that they are better off entering a new league than they are joining an NCAA program, the NCAA will have failed (in a limited sense) in their goal of preserving the amateur status for the very top tier of young athletes. This is already seen in baseball, tennis, soccer, and some other sports, where many of the most talented players enter the draft and play in the minor leagues (or professionally overseas) directly out of high school. The good news for the NCAA is that the number of athletes who would be able to turn professional straight from high school is very low in both football and basketball, even if the leagues grow in size and exposure, and collegiate programs would certainly be able to fill roster slots with other student-athletes. In this way, it is a very limited failure on the part of the NCAA, and one that has not hurt them greatly in baseball. New entrants to the market are not the only threat to the NCAA—the next threat we will examine is the growing TV revenues and how they may be high enough to topple the modified amateurism that the NCAA holds dear.

Chapter 5

More Money, More Problems

In 2019, just about the only valuable live-television property that remains is live sporting events. The NCAA conferences and member-institutions know that, and have been successfully capitalizing on it for the last few years. Major broadcasting companies have been paying huge sums of money to broadcast college games live, and that money isn't always distributed "fairly". In fact, the inherent inequity of the current division of NCAA television revenues poses a major threat to the NCAA, because the major brands in college football and basketball stand to benefit from flexing their muscles and leaving the NCAA for greener pastures.

Misaligned Incentives

The way to capture the most value for your school through selling the broadcast rights to football and basketball games varies considerably between schools of different sizes, regions of the country, and football prominence. This idea was partially discussed in Chapter 3, but it is important to note again that these programs were not all created equal. Schools like Alabama and Texas A&M, with massive alumni bases who love football, will rarely (if ever) benefit from splitting revenue evenly. Schools like TCU or Vanderbilt, with far fewer living alumni and less of a tradition of football success, rely on the money spent to broadcast the bigger programs to be partially allocated to them. With the incentive structures for schools of different sizes being diametrically opposed, schools wishing to maximize their revenue (and therefore the amount of money that can be poured back into their university) often end up negotiating very differently.

Individual Schools Capitalizing on Strong Brands

There are systems like the NBC deal with Notre Dame, worth a reported \$15 million per year,⁵³ to exclusively broadcast their home football games. This could be likened to the highly controversial Longhorn Network, which also pays UT Austin about \$15 million per year.⁵⁴ These deals have other incentives for major programs—Texas and Notre Dame fans know that they will always be able to watch their team play in football (and almost every other sport for Texas), a luxury that many fans do not have. There is a recruiting advantage, as young athletes hoping to increase their exposure know that they will be broadcast more than their competitors who go to smaller schools. And the large payouts allow for things like the Counseling and Mental Health Center on the University of Texas campus to exist, providing a hugely valuable service to all students at UT.⁵⁵

Conference Negotiations

Other forms of revenue are negotiated by the conference. The majority of TV revenue for college football programs is dealt by conference arrangements with ESPN, Fox, CBS, and other major networks. Deals are put in place for roughly 15 years at a time, and the revenue goes 100% to the conference. The conferences then split up revenue evenly amongst all schools in that conference. This system is perfect if you are Vanderbilt or Maryland, who both recently received paychecks of \$41⁵⁶ and \$34 million⁵⁷

⁵³ “NBC’s Notre Dame Deal Extended.” *ESPN*, ESPN Internet Ventures, 18 Apr. 2013, www.espn.com/college-football/story/_/id/9186897/nbc-extends-notre-dame-fighting-irish-football-deal-2025.

⁵⁴ Bucholtz, Andrew, et al. “Six Years after Longhorn Network’s Launch, It Hasn’t Lived up to Fears.” *Awful Announcing*, 17 Sept. 2017, awfulannouncing.com/ncaa/six-years-longhorn-network-launch-fears-hopes.html.

⁵⁵ Fenves, Greg. “We Heard You: Funding Mental Health Services for Students.” *We Heard You: Funding Mental Health Services for Students | Office of the President | The University of Texas at Austin*, president.utexas.edu/messages/funding-mental-health-services-for-students-january-2018.

⁵⁶ Rittenberg, Adam. “SEC Generated \$596.9M in Revenue in 2016-17; 14 Schools Got \$40.9M.” *ESPN*, ESPN Internet Ventures, 1 Feb. 2018, www.espn.com/college-sports/story/_/id/22288788/sec-generated-5969-million-revenue-2016-17.

⁵⁷ Barnett, Zach. “The Big Ten’s Revenue Distributions Will Top \$52 Million per School next Year.” *FootballScoop*, 21 June 2018, footballscoop.com/news/big-tens-revenue-distributions-will-top-52-million-per-school-next-year/.

from the SEC and Big 10, respectively. However, ESPN and CBS aren't paying the conferences to watch the Vanderbilt or Maryland games—they're paying to watch Michigan, Ohio State, Alabama, LSU, and a select group of others. In fact, some schools in the SEC receive massive payouts from the CBS broadcasting rights deal *despite not playing a game on the network*. Vanderbilt has played 6 games on CBS over the last 21 seasons, but has taken a cut of the SEC/CBS revenues every year.

Revenue Growth and Renegotiation

Not only are TV revenues incredibly high for NCAA member institutions, but they are also growing at an exponential rate. Each season, the American public is willing to pay more for the ability to cheer for (primarily) major college football, basketball, and baseball teams. ESPN now pays \$470 million annually for the rights to broadcast the College Football Playoff (which is already not governed by the NCAA).⁵⁸ This money is distributed based on a few different factors, including the fact that all ten conferences comprised of FBS (Football Bowl Subdivision) teams receiving part of the payout. The NCAA brings in over \$900 million in revenue from March Madness (the NCAA sanctioned college basketball tournament to crown a champion), representing over 90% of their annual revenue.⁵⁹ The rights that ESPN procured in 2011 for all non-football and basketball NCAA Championship events were purchased for \$500 million over 12 years—that deal may be worth three to four times what ESPN is actually paying for it.⁶⁰

⁵⁸ Hinnen, Jerry. "ESPN Reaches 12-Year Deal to Air College Football Playoffs." *CBSSports.com*, CBS Sports, 6 Apr. 2017, www.cbssports.com/college-football/news/espn-reaches-12-year-deal-to-air-college-football-playoffs/.

⁵⁹ Parker, Tim. "What Does the NCAA Really Net from March Madness?" *Investopedia*, Investopedia, 21 Oct. 2018, www.investopedia.com/articles/investing/031516/how-much-does-ncaa-make-march-madness.asp.

⁶⁰ Shaw, Lucas. "ESPN, NCAA Extend Deal through 2023-24." *Reuters*, Thomson Reuters, 15 Dec. 2011, www.reuters.com/article/us-espn-ncaa/espn-ncaa-extend-deal-through-2023-24-idUSTRE7BE2FM20111215.

After looking through the numbers, it is clear why UT and Notre Dame both sought individual deals, because they could capitalize on national interest specifically on their own teams, and further the academic and athletic goals of the university with the additional revenue. Alabama, University of Southern California, and Florida State sharing their TV revenue evenly with South Carolina, Arizona State, and Boston College doesn't make sense in the long-run for the major programs, and with each year of growth comes a few million more reasons to change the status quo. Fortunately for many of these programs, the TV deals will not be around forever, and the big players will have a chance in the coming decade to flex their muscles and try to get the best deal possible. The Big 10 rights deal expires in 2022. The SEC deal with CBS expires in 2024, as does all of the Pac-12 broadcasting rights. All Big 12 conference-wide deals expire in 2025. With these expirations comes a huge opportunity for the real revenue drivers of the sport to start to maximize on their yearly income.

Implications for the Future of the NCAA

This is where the NCAA's ability to protect amateurism comes into play. Texas, Notre Dame, Alabama, and others all have a very real interest in maximizing this revenue, both for their school and for their student-athletes. With more money comes more exposure, nicer facilities, bigger bonuses, and, very notably, bigger contributions back to the institution. While some may scoff at this, the Counseling and Mental Health Center at UT Austin discussed above is the perfect example of college athletics working to benefit the University as a whole. With this interest, and the media-savvy people working in the athletic departments at the biggest schools, it doesn't make sense to continue splitting revenue with smaller schools.

It has been speculated by the Atlantic⁶¹ and other major publications that leaving the NCAA and forming a more traditional league, with teams still affiliated with the major universities, would best serve major football programs and the universities they currently represent. By eliminating the NCAA, conference offices, and small schools from the revenue, these programs would massively help their bottom line, without sacrificing any marquee matchups that fans and athletes crave. Baked into this split from the NCAA would be a desire to recruit 100% of the top talent, and once no longer bound by NCAA amateurism rules, these programs *could* offer salaries or signing bonuses to their athletes without breaking any rules.

Of course, in the current environment where there is no alternative for football players age 18-21 to play football at a high level for money, there would be no reason for these schools to pay their players. However, without the legal backing and precedent of the NCAA and the formative 1984 ruling (discussed in Chapter 3), and seeing as the revenues brought in by this league would be astronomical, it would be very difficult legally to keep from paying players. This would only affect the largest schools—maybe 30 or so—and therefore only about 2,400 athletes, a miniscule number compared to the total that the NCAA oversees every year. However, this loss would be a massive cultural blow to amateurism in the United States, as college football is by far the most watched product of the NCAA. This is a cultural loss that the NCAA must do everything in their power to avoid.

⁶¹ Cole, Jonathan R. "Why Sports and Elite Academics Do Not Mix." *The Atlantic*, Atlantic Media Company, 16 Mar. 2017, www.theatlantic.com/education/archive/2017/03/the-case-against-student-athletes/518739/.

Potential Steps for the NCAA to Mitigate Risk

What are the steps that the NCAA can take to avoid losing their biggest, most prominent football programs in the member institution's effort to maximize the money that they can bring in to help their athletic departments and universities? What about the same problem in basketball, where TV broadcast rights are over \$800 million annually? Even the smaller NCAA championships, broadcast by ESPN, are worth hundreds of millions of dollars over a decade or less. There are a few different approaches that the NCAA should take to realign broadcast rights to keep key stakeholders happy.

First of all, the NCAA should consider making it as easy as possible for the biggest programs to maximize their revenues under the current administration. While they exhibit no control over the College Football Playoff System, it could be beneficial to try to negotiate that the payoffs be weighted more towards the bigger and more successful football programs. This attitude would be in direct contradiction with the goal set forth by the Supreme Court in 1984 to "preserve the character and quality of the game", and would only increase the disparity between the "haves" and the "have-nots" of college football. However, the NCAA can try to make this change happen on its own terms, or it can risk losing the biggest programs altogether.

Secondly, and as was discussed in Chapter 4, the relationship between the NCAA and the NFL is not as strong as that between the NCAA and the NBA. If that relationship could be strengthened, the NFL is one of few institutions with the requisite influence to keep NCAA member institutions interested in staying with the NCAA. The NFL likely has no interest in losing out on its (near 100%) share of the professional football market, and a league of paid players that are tied to different universities could prevent an even

bigger risk than the XFL or AAF ever could. Perks like allowing NCAA students who enter the draft and remain unselected to return to complete their eligibility would be a simple change that could go a long way in helping protect the NCAA from this potential exodus.

Lastly, the NCAA could take an active role in helping the negotiations for new television broadcast deals as they all expire over the next six years. If the NCAA can potentially incentivize new deals to be signed quickly and collectively by the same conferences, they likely buy themselves at least another decade of the modified amateurism that they currently protect. The NCAA must focus on the Big 10 and SEC, which will be renegotiating their deals first (and will also command the highest valuation). If the NCAA can survive while those two behemoth conferences negotiate their next TV deals, it is almost certain that they won't have any problem with losing major programs due to broadcast revenues in the near future.

Overall Risk Factor to the NCAA

While it may seem far-fetched, the growth rate of TV revenues for all collegiate sports (primarily football and basketball) presents a major threat to the ability of the NCAA to keep student-athletes amateur. When major programs decide that they want to fight to maximize the revenue coming back to Austin, Ann Arbor, or Tuscaloosa, they will likely find that splitting off from the NCAA is the best option to maximize profits, and after splitting would not be held to the same rules as they have been for over a century. The same could happen with collegiate basketball programs, hoping to capitalize on the nearly \$1 billion generated in three weeks alone by the championship tournament.

The NCAA must be vigilant in fighting to keep these large institutions from leaving and forming their own separate leagues, even if that means catering certain agreements to benefit the largest revenue drivers across different sports. Because there would be such a high degree of coordination between athletic departments that rarely interact, it would not be the easiest task for the largest programs to split off. Different actions taken over the next five years by the NCAA can greatly mitigate the risk, and even locking in a couple of the major conferences quickly could have the effect of maintaining the status quo for decades to come. The next area of importance for the NCAA to consider is the societal pressure, specifically surrounding the players being compensated for their likeness.

Chapter 6

Owning Your Likeness

Ed O’Bannon was a basketball player at UCLA in the 1990s. His team won the 1995 NCAA Championship, and O’Bannon was named the Most Outstanding Player of the tournament. The team was considered to be so good that you could select to play as the 1995 UCLA Bruins on the NCAA March Madness videogame that came out well over a decade later.⁶² The NCAA and Electronic Arts (EA) expected that many fans would want to play as the legendary O’Bannon when trying to win the virtual championship. What the NCAA didn’t realize is that O’Bannon saw their licensing his likeness as an opportunity to challenge the NCAA on their ability to use a player’s image without giving him or her any compensation, and the lawsuit that he filed helped put in motion a movement that has the potential to change the NCAA’s definition of amateurism.⁶³

Background of the Lawsuit

In 2009, Ed O’Bannon brought a class action antitrust suit against the NCAA. He alleged that the NCAA “unreasonably restricted competition by fixing the players’ income at ‘zero’ for the use of their names and likenesses.” O’Bannon’s goal was to give student-athletes the right to pursue compensation for the fame that they had accrued while playing college athletics.⁶⁴ After all, O’Bannon (and many athletes before and after him) have become cultural superstars worth millions of dollars for the fame that gained while playing college sports. Johnny Manziel became Johnny Football. Vince Young and Zion Williamson were both household names while they were in college. NCAA women’s

⁶² Rhoden, William C. “The Fight That Ed O’Bannon Started with the NCAA Isn’t over Yet.” *The Undeclared*, The Undeclared, 19 Mar. 2018, theundefeated.com/features/fight-ed-obannon-started-with-ncaa-basketball-isnt-over-yet/.

⁶³ Same as Footnote #35

⁶⁴ Same as Footnote #62

basketball players Brittany Griner and Maya Moore were both incredibly famous while they were still in college, but were unable to profit from their likenesses.

The defense of the NCAA rested on its foundation, for over one hundred years, as a regulator of amateur athletics. Any restrictions placed on student-athletes was to preserve the key difference between a college athlete and a professional one, and the 1984 precedent discussed in Chapter 3 was absolutely monumental to the defense. The NCAA was simply seeking to protect the “character and quality of the product” by disallowing a student-athlete like O’Bannon to profit off of his likeness, and allowing students to profit in this way would fundamentally change the way college athletes are viewed. What the NCAA wasn’t mentioning is that it changes the nature of college athletes no more than a full athletic scholarship does.

In the end, not much has come from the lawsuit—yet. Electronic Arts was forced to stop producing the NCAA videogames that consumers loved so much. O’Bannon and thousands of other former college athletes reached a settlement of \$60 million with Electronic Arts, mostly receiving small checks in the mail compensating them for their likeness being used in videogames throughout the years.⁶⁵ O’Bannon won in a lower court, and Judge Claudia Wilken noted that the NCAA seemed to be very inconsistent with their application of the word “amateur” (a fact that many had known for decades, and is noted throughout this thesis). The case made its way up to higher and higher courts, and eventually O’Bannon’s central thesis that “certain NCAA amateurism rules violate federal antitrust law” was ruled to be correct by the Ninth Circuit before the Supreme Court declined to review the case. The 9th Circuit did limit this statement by

⁶⁵ “Average Payout in EA/NCAA Lawsuit around \$1,200.” *SI.com*, www.si.com/college-basketball/2016/03/15/ed-obannon-trial-ea-sports-settlement-average-1200.

saying the member schools only needed to provide “up to the cost of attendance”. As discussed throughout this paper, that change was already in the works, and the cost-of-attendance stipend is now a reality. The lasting impact of the O’Bannon case, however, is yet to be seen, as many in the media have seen the precedent set by the Ninth Circuit that “certain NCAA amateurism rules violate federal antitrust law” could soon mean that players can be compensated for their likeness. The ruling also spelled trouble for the NCAA and its 1,200 member colleges, who are “participating in an anti-competitive conspiracy... to deny men’s basketball and football players of the monetary value of their names, images, and likenesses.”⁶⁶ Activists who wish to improve the lives of these college football and basketball players hope to use this precedent to soon allow players to be compensated more fairly.

Cultural Motivations Behind Paying Collegiate Athletes

It has become very trendy to crusade against the NCAA in the media. Whether it is in blogs, on Twitter, or even on TV, many people find making fun of the NCAA (or downright criticizing it) is a way to obtain favor with young fans. Pat McAfee, former NCAA and NFL athlete, had 110,000 people view his video on Twitter that he captioned “Daily reminder that you should hate the NCAA”.⁶⁷ LeBron James said that the NCAA was “corrupt” shortly after NBA coach Steve Van Gundy said that it is “one of the worst organizations—if not the worst organization— in sports.”⁶⁸ Jay Bilas, an NCAA basketball

⁶⁶ Winn, Luke, and Colin Becht. “Supreme Court Decision Leaves NCAA Amateurism in Limbo.” *SI.com*, www.si.com/college-basketball/2016/10/03/ed-obannon-ncaa-lawsuit-supreme-court.

⁶⁷ McAfee, Pat. “Daily Reminder That You Should Hate the @NCAA #ForTheBrand #Positionists Pic.twitter.com/YpYvdrpsMc.” *Twitter*, Twitter, 12 Oct. 2017, twitter.com/patmcafeeshow/status/918514382660931584?lang=en.

⁶⁸ Boone, Kyle. “The NCAA Has a New Critic as LeBron James Says It Is a ‘Corrupt’ Organization.” *CBSSports.com*, 28 Feb. 2018, www.cbssports.com/college-basketball/news/the-ncaa-has-a-new-critic-as-lebron-james-says-it-is-a-corrupt-organization/.

analyst for ESPN, has been a longtime (and very vocal) critic, saying, “The idea that the free market works for the entire world, save the athletes, is ludicrous to me.”⁶⁹

Many of these critics are former athletes themselves, and others are constantly surrounded by them. They see the value that they create for universities, and wonder why all of the money goes to the (predominantly) old white men in the athletic department and coaching booth, while all that the (predominantly) young black men get is a scholarship worth far less than the value they create? The optics certainly aren’t good, and the fact that the highest paid public employees in many southern states is the head football coach at the biggest university is regrettable, especially when his players aren’t even allowed to sign their own picture. While it won’t end the debate, allowing players to be compensated for their likeness could help improve the public opinion of the NCAA without ruining collegiate athletics.

What is a Likeness?

There are dozens of ways that famous athletes could profit off of their own likeness, and there is a strong argument to be made that this doesn’t make them any less of an amateur than a full athletic scholarship does. The way that it manifested itself most publicly was the videogame, but this would be far from the biggest way student-athletes made money if they were allowed to profit off of their likeness. Trevor Lawrence could sell autographed pictures of himself (some other college athletes already do so illegally, at great cost to themselves if they are caught). Zion Williamson could sign a shoe deal with Nike, and could wear the new “Zion 1” shoe while playing for Duke—all the while profiting off of the millions of kids who would flock to buy these shoes.

⁶⁹ Gregory, Sean. “ESPN’s Jay Bilas on Basketball’s March Madness and the NCAA.” *Time*, Time, 14 Mar. 2019, time.com/5551317/jay-bilas/.

Defensive linemen or benchwarming basketball players could make money by becoming social media celebrities and marketing different products for companies. Baylor University could sell jerseys with Brittany Griner's name on the back, and both could profit. While this does represent a major positive change in the lives of student-athletes, it doesn't change their relationship with their sport or their school any more than the awarding of a scholarship does.

Advantages to Allowing Players to Profit Off Their Own Likeness

There are several advantages to a system that allows players to be compensated for their likeness. First, their payment is market-driven, and would still affect a relatively small percentage of student-athletes. For example, there are only so many players on a college basketball team who would become famous enough to reap large profits from their likeness. The majority of teams wouldn't have any stars that made a national impact, and those that did already recruit the best talent and usually lose their players after a year (like Duke). People like star Duke basketball player Wendell Carter's mom, who said that the NCAA was "like slavery"⁷⁰ as her son finished his one year in college, would be at least partially appeased by his ability to profit from his already valuable likeness.

Secondly, this system is already partially in place, and the universities and conferences are blatantly treating their athletes unfairly. Take Malik Jefferson, former UT football star. Malik wore the uncommon jersey number 46, and was the most iconic player on a Texas team in a transition period. That year, Nike and the University of Texas sold only one jersey through the store—a jersey with the number 46, without a

⁷⁰ Berkowitz, Steve. "Mom of Duke's Wendell Carter Says NCAA System Resembles 'Slavery and the Prison System'." *USA Today*, Gannett Satellite Information Network, 7 May 2018, www.usatoday.com/story/sports/ncaab/2018/05/07/ncaa-like-slavery-prison-system-knight-commission-kylia-carter/587519002/.

name (this, of course, would be illegal). Schools across the country do this every year, sneakily profiting off of selling something as close to a player's likeness as legally allowed. Nearly a decade after Johnny Manziel took the college football world by storm, Texas A&M is still making money off of #2 jerseys sold to toddlers. This is deliberately circumventing the rules, and criticism of practices like these is completely warranted.

Third, allowing the players to profit off of their own likeness should only “grow the pie”—that is to say, increase the amount of money people spend on college athletics, and therefore not destroy any value for the NCAA or its member institutions. Throwing the name “Ehlinger” on the back of a Burnt Orange #11 Texas jersey should only increase its sales, and allow both Sam and the university to profit. Relicensing the videogames and dispensing part of the profits to student-athletes featured in the game seems to be a win for consumers, a win for videogame developers, and a win for student-athletes. Allowing Zion Williamson or other famous basketball players allows them to grow their personal brand, without diminishing the quality of college basketball or the support that Duke is able to receive from the profits generated by its world-famous basketball team. These advantages make a compelling case for players to be allowed to profit off of their likeness, and many in the media have started to make the case.

Disadvantages of Allowing Players to Profit Off Their Own Likeness

There are a few fair concerns that could be raised by this proposal—most importantly, the notion that, if unregulated, it could irreparably alter the competitive landscape of college athletics. There are two main ways that this could occur.

First, the biggest and best programs in each of the major sports already have an advantage in recruiting, but this advantage would skyrocket if student-athletes had an unlimited ability to profit off of their own likeness. The recruiting pitch is easy to

understand: “Come play at Alabama or Duke, and you will become a celebrity without even trying. You’ll make way more money than your peers.” Schools that have the most national exposure would go from attracting most of the best talent to attracting all of the best talent, as students hoping to profit more would go to the schools that gave them the best chance to do so. While the competitive balance is certainly already skewed in almost every collegiate sport, the problem would only be exacerbated if the NCAA allowed this compensation.

Secondly, illegal practices would surely immediately be put into place, and would be very difficult for the NCAA or its member institutions to regulate against. As discussed throughout this paper, alumni and fans of different college teams have proven for well over a century that they are willing to break the rules and spend considerable amount of money to ensure that their college team wins games. In a world with an unlimited cap on a student-athlete’s ability to profit off of their own likeness, a situation like the following would occur with dizzying frequency: a player like Zion Williamson is being recruited out of high school. A North Carolina booster approaches him at a high school game and notes that, if he decides to attend UNC, he can guarantee that he’ll buy \$100,000 in autographed pictures of Zion. A Duke booster overhears the conversation, and later contests that he would buy \$110,000 in Zion Williamson t-shirts, and make sure that Zion made more money at Duke than he ever could at UNC. The same system could happen at the biggest schools with the most rabid fans every year, and then the NCAA would have devolved into something that is no different from the free agency system. This is a scenario that would absolutely fundamentally change the nature of amateurism at the college level, and the NCAA would not allow this to happen. Both of these examples of what *could* go wrong with a likeness compensation system can be

prevented with a “cap”. The implementation of any likeness compensation system in college sports would require stringent regulation to prevent certain boosters from taking advantage of the new arrangement. Potential regulations will be discussed in Chapter 7.

What The NCAA May Argue—and Why They Are Wrong

At this point, we have nearly a decade of examples of the NCAA arguing that players should not be compensated for their likeness, and it all revolves around the Supreme Court precedent mentioned throughout the thesis that players must not be paid in order to protect the “character and quality of the product”. The same argument was not used when the NCAA decided that a full “cost of attendance” stipend was fair and necessary for all student-athletes just four years ago, and the selective use of precedent is exactly what Judge Claudia Wilken noted in her original decision on the O’Bannon case. If the stipends and the scholarship do not affect the character and quality of the product, then the goal of both the NCAA and those who advocate for further compensation of college athletes should be to reach a compromise with a solution that resembles the scholarship and the stipend. The NCAA is unlikely to improve their status in the court of public opinion if they refuse to allow some form of additional compensation. The advocates for student-athletes are unlikely to reach their goals of improved compensation if they demand uncapped earnings for all players based solely on what the market demands. Both sides could work together to reach their goals.

A Reasonable Compromise

A compromise could be devised so that players could profit off of their likeness with certain restrictions that prevent it from resembling the free agent markets and multi-million dollar salaries of professional sports. Designing that compromise would be incredibly complicated for the NCAA, but there is hope. As discussed throughout

Chapter 3, the NCAA has responded in the past to cultural concerns about the mistreatment of its student-athletes. It has been most effective, historically, when its goal has been improving the lives of the student-athletes, and not simply caving to societal pressures or trying to curb the illegal behavior of boosters. There are a few ways to design such a system that would allow for a more market-based, fair system of compensation for student-athletes. Again, note that these solutions apply predominantly to collegiate football and basketball players, who are “captive entertainers” in that their best current option is to spend at least some time as collegiate amateurs.

Chapter 7

Conclusions and Recommendations

Conclusion of Thesis Question and Restatement of Thesis

To begin this project, I set out to answer the following question: considering the environment of college athletics in 2018, particularly the revenues brought in by major collegiate football and basketball programs and the increasing availability of other options for young athletes, is the NCAA well equipped to protect the amateur nature of college athletics or is there an impending change coming? This question was the wrong one to ask, which became apparent to me early in the process of researching my topic. The answer, to the best of my estimation, is that both of these are true. The NCAA, which set out in 1906 to protect both the physical safety and the amateur status of the collegiate student-athlete, has successfully modified its definition twice over the course of the last 113 years. I believe that an impending change is both necessary and overly possible, if not probable. That change is the adoption of a plan that allows student-athletes to be compensated for their likeness up to a fair point, and my evidence for believing that the NCAA will adopt this change stems from a thoroughly researched understanding of the history of both amateurism and the NCAA, as well as the most pressing issues currently threatening the long-term viability of the NCAA. If the NCAA can make this change, it will have maintained a status of modified amateurism among college athletes while still compensating players more fairly for the value that they create.

Through these conclusions and recommendations, I hope to illustrate a few possible methods of determining an appropriate “cap” for a student-athlete to profit off

of their likeness, as well as pose future questions to the reader about different areas that could affect the NCAA in the near future.

Recommendations: Potential Structure for Likeness Compensation

There are a few different ways that the NCAA could go about setting caps for the compensation that a student could receive for their likeness. Regardless, I believe that an important element of the regulation must be that each individual buyer of a licensed product is capped at a certain amount, similar to a cap on individual campaign contributions. This helps mitigate the risk of a booster recruiting an entire football team by making sure that they all max out their allotted cap for likeness compensation.

Low Uniform Cap Across All Sports

The first, and most simple option is to set a low cap, the same across all sports. This would operate similarly to the cost of attendance stipend, and would allow players to be compensated for sales of the NCAA videogame or a team poster, for example. The problem with this is that the solution is too small—nobody would feel that enough was done to help even the playing field between the departments making all of the money and the athletes doing most of the value creation.

Different Caps for Different Sports

College football and basketball are the biggest moneymakers in college athletics, and the athletes that play these sports create the most value for their schools. They also attain the most notoriety, meaning that, in a purely open market, they would command the most. One potential solution would be to set caps for each sport, primarily based on a combination of the demand for athletes in that sport as well as the athletes earning potential if they were not an amateur athlete. In most of the more minor sports, the cap would likely be in the \$10-\$20,000 range, and very few individuals would reach it.

Determining a Fair Cap: Football

This is the most difficult exercise in determining a fair cap, because there is no direct substitute at this time. Looking at the proposed salary structure of the XFL alongside the CFL and NFL is unhelpful, due to the massive discrepancy between the amounts. The easiest way to set a reasonable cap on football players is to compare the value created by the football team compared to the basketball team. On average, football brings in four times the revenue across all Division I schools.⁷¹ I therefore suggest a cap of four times the \$125,000 cap that I determined for basketball (see below) for a total of \$500,000 as a cap. This is about \$100,000 less than a late-round NFL draft pick would make annually over the course of their four-year rookie contract, so this cap still puts them below NFL players.⁷² I decided to use the revenue brought in by the entire football team, rather than the individual football player, because football rosters are so big that the cap for the football players would be considerably lower than that which I determined for basketball players. Because the top tier of football players creates much more value, their cap should not be lower. In a world where buyers are restricted to buying things only for themselves and their families, it is unlikely that many players would hit this cap.

Determining a Fair Cap: Basketball

A fair cap is slightly easier to determine in basketball, considering the availability of close substitutes. For the next few years, the basketball likeness compensation cap could be set at \$125,000, or the same as a salary in the G-League. Let us use an example

⁷¹ Blackstone, Victoria Lee. "How Much Money Do College Sports Generate?" *Finance*, 28 Jan. 2019, finance.zacks.com/much-money-college-sports-generate-10346.html.

⁷² Smith, Jeff. "NFL Draft Pick Salaries: How Much Do Rookies Make on First Contract?" *Heavy.com*, 27 Apr. 2019, heavy.com/sports/2019/04/nfl-draft-pick-salaries-contracts-signing-bonuses/.

of three different athletes. A top-tier athlete who chooses to go to the G-league would make that \$125,000 in salary, and could also begin making money off of his likeness. A top-tier athlete who chooses the NCAA would be able to make up to the same amount of money as the G-league salary, while also getting to experience college, attend classes, and gain more national exposure than the G-league player. A middle tier college athlete (the fourth or fifth starter on a basketball team) may make an additional \$7,000 over his scholarship and cost of attendance stipend, through videogame and jersey sales. This cap is no more difficult to define when the NBA allows players to enter straight into the NBA from high school—NCAA basketball will not be able to compete with these salaries reasonably, and there are a very small amount of players who will be able to make the jump immediately.

High Uniform Cap Across All Sports

The logic behind this option is very simple—minimum restrictions will allow players to be compensated at the closest to their fair value. If a certain swimmer or tennis player’s likeness happens to have the same value as the best quarterback in college football, there is no good reason to prevent that. It is likely that it would happen very rarely, but in a special case, there is an argument that players of smaller sports shouldn’t have a lower cap just because their sport brings in less money. This plan would call for a uniform cap, comparable to the football cap described above, for all NCAA athletes, and assumes that the vast majority of college athletes would see no change in their compensation compared to the “Low Uniform Cap” plan listed above.

What About the Rest?

No matter what the cap, it is likely that some players will exceed it. There are a few different creative ways that the NCAA could spend this money. My favorite option is

to take an option out of the University of Texas’s book, and funnel all of the money into on-campus mental health resources for students of the University that the athlete attends. The student-athlete would be fairly given recognition, and the students of the University would benefit from the rare athlete who exceeds the cap, rather than the athletic department. This seems like the rare opportunity for the NCAA to create a policy that isn’t immediately met with virulent derision.

Reiteration of Important Takeaways

“Amateurism” is Fluid

Amateurism is not as old as many people think that it is. In fact, the idea is less than two hundred years old, and was originally used to keep poor people from being allowed to play sports in the same category as rich people. The Olympics and the NCAA co-opted the word, and there is reasonable debate as to whether they did so to keep the game fair or just to keep the lower class out. Fifty years into the existence of the NCAA, they changed the meaning of the word fundamentally, allowing players to be compensated with the value of a college degree. The definition again changed in 2015 with a full “cost of attendance” stipend, and the Olympics decided to detach themselves completely from the word over thirty years ago. In 2019, the word “amateur” functionally means whatever the NCAA says that it means—which gives them the authority to change it as they see fit.

The History of the NCAA Drives the Future

The NCAA was founded with the safety of college football players in mind, and it operates best when it is working to protect young athletes. The NCAA has shown a propensity to change as the culture calls for it, albeit slower than some people may wish. Different legal precedent set throughout the years strongly influences the way that the

NCAA behaves in 2019, but this doesn't mean that the NCAA behaves without inconsistencies.

Main Threats to the Viability of the NCAA

While there are many threats to the status of the amateur collegiate athlete, two of the biggest are:

1. the possibility (and increasing reality) of new entrants into the market competing for 18 to 22 year old athletes, and
2. the potential for major institutions to leave the NCAA in search of more money for their athletic and academic programs.

Both of these threats have been brought to the forefront of the NCAA's concerns because of the amount of money available to successful sports leagues. Revenues coming from broadcasting rights, ticket sales, merchandise, and other related business have grown consistently since the founding of the NCAA, and the fact that it has taken this long for some of these problems to arise is in part due to the love clearly exhibited by the general public for collegiate athletics. The next ten years will present major opportunities for the NCAA to either strengthen or weaken their position as a protector of amateurism by responding to these two threats, and if they are unable to succeed, the landscape of both collegiate and amateur athletics could look vastly different in 2030 than it will in 2020.

Additional Threats to the NCAA

One reason the NCAA may struggle in adjusting to these two specific threats is because they are of less immediate concern right now that many other issues plaguing the organization. An almost constant barrage of lawsuits have been filed against the NCAA over the last decade, ranging many issues—players at Northwestern wanting to

unionize, college football players with lasting damage from concussions suffered while playing NCAA sports (primarily football), and others. The conclusion of the O'Bannon case saw Electronic Arts (EA) pay an average of \$1,200 to 29,000 student-athletes, whose likenesses had been used in the videogames for profit (without compensation). Because they have had to focus on these smaller, less "existential" and forward-facing problems, it is unlikely that the NCAA has been able to devote resources towards solving these upcoming problems. Their ability to do so is vital to their existence, and it seems that their existence is the only societal structure that we have left protecting amateurism. Mark Emmert and his colleagues must divert some of their resources and best people to these problems, as well as identify other potential threats, if the NCAA is to protect amateurism as successfully as they have to this point.

Ed O'Bannon and New Precedent

Ed O'Bannon opened a can of worms when he filed a class action lawsuit against the NCAA. Amateur athletes being able to profit off of their own likeness is the exact type of moderate step that the NCAA could legislate into existence, and the highest court that the case reached agreed with O'Bannon that the NCAA is currently behaving as a conspiracy to deny athletes their right to a fair compensation. When the Supreme Court hears a case regarding the same issue, it will be incredibly important to see whether they agree with their own decision, made in 1984, that student-athletes must not be paid in order to preserve the character and quality of the product.

Relevant Unanswered Questions

I think that the most pressing question that the NCAA will have to address over the next half-century is how to deal with the victims of concussions playing NCAA sports, particularly football and soccer. As the research continues to point towards the

negative effects of concussions being far more extreme than we ever thought before, the NCAA and the NFL both run a high risk of lawsuit unless there are major rule changes to the game. Life can be so cyclical—114 years ago, Theodore Roosevelt called a meeting that would lead to the founding of a group whose stated purpose was to keep college football players from dying. Over a century later, after the public thought that the problem had been solved, new evidence suggests we simply delayed the result.

A second relevant question is how the NCAA will adapt to changing consumer preferences of how fans consume sporting events. In the age of high definition television and every game available anywhere (live), the fear of the NCAA in 1984 that fans would stop coming to games is starting to come true. Will the NCAA work to keep fans interested in attending games in person, or will crowd sizes continue to shrink? If in-person crowds do shrink, will the NCAA be able to replace the lost revenue?

What Does the Future Hold?

“One who participates in competitive physical sports only for the pleasure, and the physical, mental, moral, and social benefits directly derived therefrom.” If one were to hold the NCAA to that definition of amateurism, the NCAA is not close to protecting it—nor have they been for over 60 years. But, if the NCAA is able to continue to evolve and update their definition as they have done in the past, they can maintain the same level (or very close) of amateurism that we have now in college athletics. If they don’t, they run a high risk of both athletes and institutions leaving the NCAA, in search of more money elsewhere.

Adaptation

I expect that the NCAA will adapt in order to survive, whether that happens in five, ten, fifteen years. The most likely way I expect that to manifest itself is through

allowing players to be compensated for their likeness, to a reasonable point that will steadily grow throughout the years. I also expect that competitors to the NCAA, like international leagues, minor developmental leagues, and secondary professional football leagues all have a good chance of developing further. I expect that television rights will continue to become more and more valuable, and as young consumers of media move further and further away from the traditional cable package, that individual schools will sell the broadcast rights to their games directly to their fans.

Esports

The incredibly fast pace of innovation within esports, the countercultural attitude surrounding esports, and the young age of successful esports players all lead me to believe that the NCAA will struggle mightily in establishing a successful amateur league for esports. I also expect that they will continue to grow in popularity considerably in the U.S., but they will be resigned to intramural competitions or club teams between different colleges. The NCAA is likely to regret being so late to the game on esports, but I don't believe there is much that could've been accomplished in the way of esports.

Public Perception

Through this project, I've come to accept the notion that many people simply love to hate the NCAA. I do not expect that the public perception of the NCAA will ever be positive—the best they can hope for is a lighter shade of negative. “Commercialism in college athletics must be diminished and college sport must rise.” This quote could've come from 2019, but it was written in 1929. The NCAA has existed—and continued to both modify and champion amateurism—through 113 years of criticism, and I'm betting they'll be able to continue to do the same.

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Biography

Andrew Mitchell Bramlett was born and raised in Plano, Texas on December 5th, 1995. He enrolled in the Plan II Honors program and the Business Honors program at the University of Texas at Austin in the fall of 2014, and enrolled in the Master in Professional Accounting program in the fall of 2016. In college, Andrew was a member of the Tejas Club, the Texas Cowboys, Student Government, the Undergraduate Business Council, the Intercollegiate Athletics Council, the Friar Society, and a fellow of the Center for Sports Leadership and Innovation. He graduated in May of 2019 and plans to work for PriceWaterhouse Coopers in Dallas beginning in August. Andrew loves his family, his friends, and his Longhorns.