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The Olympic Model: Mitigating Financial Corruption in Collegiate Athletics

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THE OLYMPIC MODEL: MITIGATING FINANCIAL CORRUPTION IN COLLEGIATE ATHLETICS

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ABSTRACT

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In this paper, I review the immense commercialization of collegiate athletics and the National Collegiate Athletic Association's (NCAA) strict adherence to its principle of amateurism. With legal attention regarding antitrust infringement and illegal activity in recruiting practices, the NCAA and its member institutions face increasing challenges to their operations which were originated for an activity that is a minor semblance of its current state. As a whole, collegiate athletics have evolved into a billion-dollar industry, yet the form of compensation for the individuals generating the demand has remained stagnant. To address this discrepancy, I determine fair market value calculations utilizing financial reports from university athletic departments and corresponding professional revenue-sharing agreements to discern the value of a student-athlete's participation. My paper delves into the potential resolutions the NCAA may consider, and the subsequent issues that implementation may provoke. Specifically, I analyze the Olympic model and its ability to move toward fair student-athlete compensation while retaining the NCAA's purpose.

KEYWORDS: Olympic model, NCAA, Student-athlete, Amateurism

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CHAPTER ONE

Introduction

Recent years for the National Collegiate Athletic Association (NCAA) and its member institutions could be characterized as the best or the worst of times depending on the narrative portrayed. Monetarily, billion-dollar media contracts have been signed and compensation packages for coaches and conference commissioners have grown to millions of dollars. Numerous college athletes have reached celebrity status, television viewership has never been higher, and graduation rates remain slightly above national averages (Sanderson & Siegfried, 2016). Contrarily, the NCAA's policies have received significant attention stemming from antitrust lawsuits, criminal charges in relation to recruiting practices, and stagnant student-athlete compensation despite significant revenue growth. As monetization of collegiate athletic participation continues to take place, the NCAA will be forced to examine the shortcomings of its current system, and potentially consider a new framework to effectively manage the business it has created. The Olympic model, which permits individuals access to the free market of commercialization, may be the most feasible and comprehensive solution available.

A Brief History of the NCAA

The NCAA has a deeply-rooted history in America, and has greatly influenced the rise of intercollegiate athletics through its regulations and commercial activity. In 1905, President Roosevelt commissioned a rules committee to address rising concerns over the safety of football played on college campuses, and in 1910, the NCAA was born (Smith, 2014). The initial purpose of the NCAA was to formulate rules for various intercollegiate sports, however, its mission quickly evolved as the popularity of college athletics grew and competition intensified. Fast forward to the present, and the NCAA and its member institutions have created their own industry of commercialization with nationally-televised games, million-dollar contract signings, and aggressive merchandise promotions. This evolution in demand has also created a need for an evolution in regulation, but in large part, the NCAA's original policies remain in effect today.

Specifically, the NCAA's interpretation of amateurism has received the most attention from participants and non-participants alike. According to its website, the NCAA requires its student-athletes to pass and adhere by amateurism standards, which forbid: "salary for participation in athletics, prize money above expenses, play with professionals, and involvement with an agent" ("Amateurism," 2014). Numerous individuals have voiced their concerns over this standard, criticizing its breach of antitrust in the wake of collegiate athletics' rise to commercial prominence. To take a step back, the United States government enacted the Sherman Antitrust Act in 1890 to oppose the use of trusts, monopolies, or cartels that harm free and open trade ("The Antitrust Laws," 2017). Essentially, this law prohibits the restraint of a free market, which has consistently been present in legal action pursued against the NCAA.

Legal Attention

White v. NCAA, No. CV 06-0999 VBF (C.D. Cal. Jan 29, 2008)

In 2008, the NCAA agreed to set aside $10 million and pay up to $8.9 million in attorney fees in order to settle an antitrust suit regarding an unfair capping of scholarships awarded to athletes. The case was spearheaded by former Stanford football player, Jason White, and marked an increased awareness to the cost of attendance discussion. The argument was centered around induced hardships because of the time-constraints student-athletes face, creating an inability to earn part-time income. The $10 million was made available on a claim basis over a three-year span to Division 1 football and basketball players to be used for educational purposes; however, the NCAA admitted no wrongdoing as part of the settlement.

Northwestern Univ., Case 13-RC-121359 (N.L.R.B. Region 13, Mar. 16, 2014)

Northwestern University football players have also brought their concerns to presiding legal authority, originating on the basis of student-athlete time demands, increasing revenue generated by college sports, and a lack of voice on issues such as safety and long-term health care. The National Labor Relations Board ultimately dismissed the players' petition to unionize, disallowing their ability to collectively bargain as university employees. The ruling was predominantly met with relief by those involved in the matter, as the uncertainty surrounding a different outcome could have resulted in a chaotic reorganization. However, the Northwestern student-athletes collectively brought more attention to the NCAA's regulation, pioneering the conversation on the discrepancy of power between the NCAA and student-athletes.

O'Bannon v. NCAA, Nos. 14-16601, 14-17068 (9th Cir. Jan. 28, 2015)

The O'Bannon case initially gained notoriety when Ed O'Bannon—a former UCLA basketball player—noticed himself in an EA Sports video game, and challenged the use of player likenesses by the NCAA. The case eventually morphed into a closer look at the television revenues earned by the organization, and the lack of compensation to the ones who were creating that money: the players. After multiple years of litigation, U.S. District Court Judge Claudia Wilken ultimately rejected the challenges, but recognized that the NCAA is, "not above antitrust laws," and that its rules had been too restrictive in maintaining amateurism. As a result, the NCAA was required to permit its member schools to provide up to the cost of attendance to their student-athletes—a stipend above the discrete cost of college to address transportation spending, personal expenses, etc. The case clarified numerous legal concerns surrounding the NCAA, but certainly did not end the discussion.

Illegal Activity

Not only have the NCAA's standards been legally challenged in excess of the presented cases, its member institutions have also challenged how strictly the organization regulates and enforces those standards. While the ruling of amateurism was founded with good intent—to foster a competitive landscape, and to retain the focus on education for students who also happen to play sports—the anticompetitive nature of the regulation has created a black-market in this evolving industry. In a league dictated by the success of recruiting teenagers to enroll at a given school, the NCAA must be aware of activities that could potentially sway the minds of said teenagers and their families. In fact, there have already been numerous investigations of member institutions, which could just be the tip of the iceberg.

For the purposes of this paper, illegal activities will not be explored in depth, but the multitude of their occurrences is valuable to note as changing the NCAA's current system could help evade these negative externalities. Rubenstein's (2017) article examines criminal investigations on university athletic departments, dating as early as 1973 when Southwestern Louisiana was found guilty by the NCAA for paying players cash and interfering with GPAs. In 1987, Southern Methodist University received penalties for illegally paying football recruits. The early 2000s saw the Universities of Ohio State and Southern California receive sanctions for their players receiving hundreds of thousands of dollars in illegal benefits, resulting in a forfeited Heisman Trophy (Rubenstein, 2017). And most recently in 2018, dozens of prominent basketball programs have been investigated by the FBI for illegal recruiting processes. This list certainly does not represent the entirety of NCAA investigations, but the impression that the principle of amateurism creates more suspect activity than the NCAA is capable of monitoring is warranted.

CHAPTER TWO

Current Compensation

Student-athletes who are fortunate enough to be offered a scholarship do technically receive compensation in exchange for their athletic participation. In an article from CNN, Val Ackerman and Larry Scott (2016)—commissioners of the Big East and Pac-12 conferences, respectively—argue that a free education is more than enough in terms of remuneration. Not only do student-athletes receive an academic scholarship, "they also get high quality medical care, academic support, and quality travel experiences." Additionally, Ackerman and Scott reference slightly higher graduation rates for athletes compared to other college students, and mention former players who are now executives thanks to their education and experiences as student-athletes (Ackerman & Scott, 2016). Their argument carries weight—the cost of college has grown tremendously, and the majority of students who do not receive an athletic scholarship face substantial debt upon graduation. The debate, however, is not whether student-athletes receive valuable compensation, but rather, the question lies in if they receive the appropriate value for what they create. For full disclosure, USA Today reported that Larry Scott was paid $4.2 million in 2015 for his role as Pac-12 commissioner (Berkowitz, 2017).

Also, the time and effort demands of collegiate athletics far surpass those of a typical full-time job. According to the NCAA's 2016 Study of the Student-Athlete Experience, Division 1 football players reported spending a median of 42 hours per week on athletic pursuits and 38.5 hours per week on academics ("GOALS," 2016). Combined, these figures result in an average of 80.5 hours each week devoted to maintaining athletic scholarships. The value of a full-ride scholarship may be comparable to an average salary of a full-time job, but not many full-time jobs require an average work time of 80.5 hours per week.

Furthermore, the long hours and diligent work would certainly be worth the chance at a professional contract, but unfortunately, a major discrepancy exists between the proportion of college athletes who think they will play professionally compared to the proportion of those who actually do. From an NCAA study in 2011, 76% of Division 1 men's basketball players reported that they were at least 'somewhat likely' to become a professional and/or Olympic athlete in their sport ("FARA," 2011). In actuality, the NCAA reported in 2017 that only 1.1% of NCAA players will be drafted in the NBA, and only 19.1% will play some form of professional basketball ("Estimated," 2017). These opportunities include the NBA, NBA G-League, and international leagues—which are far more abundant than the possibilities in football. 58% of Division 1 football players believed they were 'somewhat likely' to play professionally, when in reality, only 1.9% will play in the NFL, Canadian Football League, or Arena Football League. The gaping difference is the same for other sports too, including baseball, hockey, and women's basketball. Although the responses are limited to 'somewhat likely,' the opportunity to make a living as a professional athlete is largely overestimated by NCAA participants.

Clearly, the NCAA faces a multitude of challenges with its current system that the organization will eventually have to address. Competition is only intensifying and commercialization is only increasing, in fact, resolution to this issue is far overdue. In

1995, Walter Byers (the NCAA executive director from 1951 to 1987) argued in his memoir titled *Unsportsmanlike Conduct* that the NCAA no longer represented a student activity, but rather, a commercial enterprise. He poignantly states, "amateurism is not a moral issue; it is an economic camouflage for monopoly practice" (Byers, 1995). At the end of Byers's tenure, in 1988, the NCAA signed a media rights agreement with CBS worth $55 million per year. In 2017, the comparable NCAA media rights agreement was worth $771 million per year ("Where," 2018). Yet, athlete compensation barely budged, merely progressing from an academic scholarship to the current allowance of full cost of attendance—begging the question, what are the athletes actually worth?

CHAPTER THREE

Fair Market Values

In an attempt to determine an accurate fair market value of college athletes, I utilized the U.S. Department of Education's Equity in Athletics database and the current revenue sharing percentages of the NFL and NBA ("Equity," 2017). Each year, every NCAA institution is mandated by equity initiatives to report financial information on the revenues and expenses created by their athletic programs. For the purposes of this paper, I only gathered information on the top two revenue-generating sports (football and men's basketball), and included only the highest ten revenue-generating universities for each sport in the table below. The fair market value calculation was determined utilizing the figures outlined in the NFL and NBA collective bargaining agreements, which guarantee a minimum of 47% and 50%, respectively, of all revenues generated to be allocated to the players (Gaines, 2017). Although equitable distribution within each college team is not likely to be realistic, I believe it is a valuable demonstration to divide a team's fair market value by the number of scholarships available (85 for football and 13 for basketball) to emulate a per-athlete basis. Multiplying the per-athlete figure by four, results in a four-year total of each athlete's fair market value for the duration of a typical athletic scholarship.

Table 1: Fair Market Value Calculation – Football

Rank	University Name	Team Revenue	Fair Market Value (*47%)	Per Athlete (FMV/85)	Four-Year Total
1	Texas	$ 127,465,311	$ 59,908,696	$ 704,808	$ 2,819,233
2	Tennessee	$ 107,103,765	$ 50,338,770	$ 592,221	$ 2,368,883
3	Alabama	$ 103,870,999	$ 48,819,370	$ 574,346	$ 2,297,382
4	Notre Dame	$ 98,532,894	$ 46,310,460	$ 544,829	$ 2,179,316
5	Michigan	$ 97,149,706	$ 45,660,362	$ 537,181	$ 2,148,723
6	Oklahoma	$ 94,142,098	$ 44,246,786	$ 520,550	$ 2,082,202
7	Auburn	$ 92,537,433	$ 43,492,594	$ 511,678	$ 2,046,710
8	Georgia	$ 87,613,126	$ 41,178,169	$ 484,449	$ 1,937,796
9	Ohio State	$ 86,646,061	$ 40,723,649	$ 479,102	$ 1,916,407
10	Louisiana State	$ 85,741,919	$ 40,298,702	$ 474,102	$ 1,896,410

(Data reported to the US Department of Education representing July 1, 2016 to June 30, 2017)

Table 2: Fair Market Value Calculation – Men's Basketball

Rank	University Name	Team Revenue	Fair Market Value (*50%)	Per Athlete (FMV/13)	Four-Year Total
1	Louisville	$ 45,632,816	$ 22,816,408	$ 1,755,108	$ 7,020,433
2	Duke	$ 31,033,555	$ 15,516,778	$ 1,193,598	$ 4,774,393
3	Kentucky	$ 27,239,237	$ 13,619,619	$ 1,047,663	$ 4,190,652
4	Syracuse	$ 26,889,157	$ 13,444,579	$ 1,034,198	$ 4,136,793
5	Indiana	$ 23,094,923	$ 11,547,462	$ 888,266	$ 3,553,065
6	Wisconsin	$ 22,808,750	$ 11,404,375	$ 877,260	$ 3,509,038
7	Arizona	$ 21,726,050	$ 10,863,025	$ 835,617	$ 3,342,469
8	North Carolina	$ 21,342,328	$ 10,671,164	$ 820,859	$ 3,283,435
9	Ohio State	$ 19,872,727	$ 9,936,364	$ 764,336	$ 3,057,343
10	Tennessee	$ 18,595,510	$ 9,297,755	$ 715,212	$ 2,860,848

(Data reported to the US Department of Education representing July 1, 2016 to June 30, 2017)

The resulting numbers are remarkable. At the University of Louisville, the men's basketball team generated over $45 million from July 1, 2016 to June 30, 2017. Taking into consideration the corresponding revenue-sharing agreements from professional sports and dividing equally among scholarship athletes, a single player would be worth over $1.7 million in fair market value. For comparison, the 2017 in-state cost of attendance at the University of Louisville—or the value of an in-state, student-athlete's scholarship—was approximately $27,000 ("University," 2017). Granted, this does not necessarily compare apples to apples. As one can imagine, there are certainly differences between the operations of professional and collegiate athletics, therefore, using professional revenue-sharing agreements in a collegiate fair market value calculation is intended as a baseline reference rather than a foregone conclusion.

The million-dollar question persists—how can the NCAA properly allocate the money generated by certain sports without destroying the system and the industry altogether? For starters, there are benefits to the current model. In the University of Oklahoma's case, total revenue from all sports exceeded total expenses in 2017, creating the opportunity for that money to be used elsewhere ("Equity," 2017). OU's president, David Boren, has stated that the athletics department at Oklahoma has used profits from its football-ticket sales to contribute over $25 million to the university for faculty, library, and academic support over recent years (Mussatto, 2016). On the other hand, the University of Tulsa (another NCAA Division 1 school in the state of Oklahoma) operated its athletic department at a loss in 2017. In fact, the majority of NCAA member schools do not generate a profit from the aggregate of their offered sports ("Equity," 2017). So, while the perception that the highest earning schools could easily muster the money to pay their athletes is warranted, that story does not hold true throughout the entirety of the sample.

Additionally, equitable payments across sports present an important dynamic. According to Cork Gaines (2017) from Business Insider, the average amount of revenue made by a Division 1 football team surpasses the average revenues generated by all other collegiate sports combined. Most notably, the University of Texas—the school that earns the highest overall revenue from all of its offered sports—receives 70% of its athletics revenue solely from its football program (Gaines, 2017). Even though a full-ride scholarship for baseball is worth the same amount as a full-ride scholarship for football, the ideology behind equal payments to scholarship athletes regardless of sport does not make sense when one is disproportionately generating more money than the other. If student-athletes were to be paid by the NCAA, would each sport have to be paid equitably?

This question brings another facet to the impartiality conversation: gender equity. The NCAA strictly adheres to Title IX standards, which require schools to, "provide equitable opportunities for women and men to participate in sports," and that, "female and male student-athletes [must] receive athletic scholarship dollars proportional to their participation" ("Women," 2018). In other words, if the NCAA or any of its member schools were to pay student-athletes, they would be required to pay women and men proportional amounts. The revenue statistics from the Department of Education show that female athletics do not generate anywhere near the amount of money that male sports do, essentially thwarting the idea of accurately compensating the student-athletes for what they generate in the first place ("Equity," 2017). Succinctly, numerous roadblocks stand in the way of the NCAA and its member institutions' ability to directly pay student-athletes anything exceeding the cost of attendance, but clearly, fair compensation is being confined under the current system.

CHAPTER FOUR

The Olympic Model

A potential compromise for both student-athletes and the NCAA was uniquely presented in the unionization attempt of the Northwestern football players, "eliminate restrictions on players' ability to directly benefit from commercial opportunities" ("N.L.R.B," 2014). Essentially, the Olympic model. The Olympic model is distinct from the NCAA's current system in that its definition of amateurism grants athletes the ability to access the free market of commercialization (Connelly, 2017). This could include endorsement deals, commercials, autographs, etc. while the NCAA and its member institutions do not pay a cent. In fact, the Olympic model would take the entire compensation conundrum out of the NCAA's hands, while keeping the major premises of the system intact. The Olympic model is not free of faults, but it may be the most effective solution available.

First, unwinding the amateurism rule will rid the NCAA of antitrust concerns. Under the current ruling, college athletes are not allowed to receive any type of pay for their athletic abilities, and are prompted at the conference level to sign waivers forfeiting their publicity rights without compensation (Keilman & Hopkins, 2015). The main issue at hand is centered around an athlete's name, image, and likeness (NIL), which member institutions and media affiliates use in promotion of games, memorabilia, and various other items. Famously, the case of Johnny Manziel (the 2012 Heisman Trophy winning quarterback from Texas A&M) is often brought to the forefront when examining the potential revenue generation of a single player. From ticket and jersey sales, to win bonuses and auctioned dinners, Manziel was undoubtedly an integral part of vaulting A&M into one of the highest-earning athletic programs in the country. However, he received the same scholarship compensation as the third-string quarterback who never played a down. Had the NCAA's interpretation of amateurism been less stringent, Manziel's NIL could have earned him a large sum of money while in college, and the right to do so would have cost the university and the NCAA nothing—except possibly a decrease in their own earnings off him.

Not to be ignored, the third-string quarterback at Texas A&M did greatly benefit from the NCAA's current system—as do numerous student-athletes who play lower revenue-generating sports and/or attend lower revenue-generating schools. In fact, the majority of athletic departments are not even self-sufficient. Using data from fiscal year 2008, the NCAA reported that on average, student fees make up 25% of total revenues earned by Football Championship Subdivision programs (Fulks, 2009). If member institutions were to increase student-athlete compensation directly, that increase would likely come at the expense of additional student costs for a significant number of universities. Under the Olympic model, member institutions would not be forced to attain supplement resources to pay student-athletes anything above what they currently do, and the individuals who are unable to generate value in a free market would still earn an education in exchange for their athletic participation. In short, the Olympic model advocates for student-athletes earning exactly what they are worth—no more and no less, and at the discretion of the individual.

The Olympic model does bring about logistical concerns, though, such as university affiliations, differing brands, and recruiting impacts. Any proposed change to the current system will have to come with a new set of rules—a potentially important one being university affiliation. For example, if a college athlete were to be featured in a Nike advertisement, would he or she be allowed to adorn anything university affiliated? Simplicity would argue no, as that would require university approval, an allocation of the revenues, and a deviation from the separation of the NCAA and student-athlete commercialization. Along similar lines, an explicit ruling would need to be in place regarding university sponsorship versus athlete sponsorship. An Adidas-sponsored school would be expected to require all athletes to wear Adidas team-affiliated products on the playing field regardless of a player's brand endorsement. This could be imperative, since many universities typically receive lucrative apparel contracts. Ensuring the validity of those contracts would maintain income streams for athletic departments to use toward funding lower-income sports whose athletes may not have similar commercialization potential. And finally, the soundness and legality of recruiting will likely forever contain a labyrinth of implications, but the NCAA could potentially take a step in the right direction under the Olympic model. The task is no small feat, but bringing all activity into the light may advocate for a cleaner, more socially responsible process to the persuasion of high school athletes' decisions. After all, it certainly is not a secret that money is already an issue in recruiting, but whether the NCAA is willing to openly declare recruiting an arms race is a major hurdle.

Under the Olympic model, it would be legal for boosters from the wealthiest programs to essentially pay top recruits to attend their school. This is not necessarily an issue for recruiting outcomes, as top programs already secure the highest-rated recruits year in and year out. The process of which they are doing so, however, could be flipped on its head, as tremendous amounts of money may no longer be thrown at universities for coaching salaries and state-of-the-art facilities to attract players. If boosters can instead legally pay athletes directly, schools' funding sources may whither. This would most certainly have an impact on athletic departments, but it could potentially reach academic support as well. There is no way to ascertain the magnitude of the potential repercussions under a different recruiting landscape, however, the NCAA will be expected to retain jurisdiction over new policies. Kahn (2007) argues that the economics of recruiting is already an inefficient allocation of resources, therefore, an open market with continued NCAA regulation might advocate for a more productive process. His justification is rooted in the demand and supply equilibrium that member institutions would no longer be entirely responsible for (Kahn, 2007). Under a revised NCAA system, recruiting reformation will be inevitable—the Olympic model could potentially offer an economically efficient solution.

Above all, the foundational concern of the Olympic model is the impact that commercialization might have on student-athletes, however, education and pay are not mutually exclusive. Consider a hypothetical example of a high-school student who plans to study business in college. Not only does the student plan to garner a business degree through higher education, he or she also has a talent for painting that is worth value in the market for art work. Imagine that the student painted a piece that an alumnus of a local college has the desire to purchase for $100,000. In fact, the alumnus says he or she will purchase the student's art work and fund additional commissioned pieces if the student decides to study business at the alumnus's school. If the market deems the student's work worthy of those prices, then the student is encouraged to capture the value he or she has created. Why is the situation different for a college athlete who has a talent worth value to buyers in the market for sports? The argument that athletes would not be able to adequately manage academics, sports, and commercialization restricts the value-creating individuals of their own decision. First and foremost, just as the student could have declined the alumnus's offer, and instead focused his or her attention elsewhere in college, student-athletes can choose not to participate in commercial activity. Second, student-athletes who generate demand have the option to hire an agent to manage those demands, easing time constraints and scheduling conflicts. And finally, the educational standards of the NCAA will still be in place to ensure student-athletes meet GPA and credit requirements, and university athletic departments will still have the ability to formulate their own policies on practice and class attendance. After all, a student-athlete who is unable to play is not expected to generate significant market value.

CHAPTER FIVE

Conclusion

From the origin of on-campus football rules in 1910, to millions of spectators around the world watching championship games in 2018, collegiate athletics have drastically evolved throughout the existence of the NCAA. During that time, however, the system that the organization and its member institutions have operated under has barely budged, resulting in numerous court cases, institutional investigations, and significant media attention. When the NCAA finally recognizes the need for reformation, the Olympic model offers a comprehensive solution to relieve the NCAA of antitrust concerns, appropriately compensate student-athletes who generate significant demand, and preserve the benefits of student-athlete scholarships. Under the Olympic model, the ruling of amateurism will need to become more flexible in order to permit student-athletes access to the free market of commercialization. However, the foundational focus of the NCAA—offering students an opportunity to compete in athletics at the collegiate level while garnering an education—will remain the overarching goal for member institutions.

The Olympic model is not without qualms, though, as regulation over clashing sponsorships, recruiting practices, and student-athlete priorities will need to be in place to more effectively manage a new system. And if professional revenue-sharing agreements are any indication, some student-athletes may be capable of capturing multi-million-dollar fair market values, so the necessity for oversight will not change. The NCAA will retain jurisdiction over all of these items, and much like any other regulating body, it will be expected to evolve to the dynamics of the industry.

Ultimately, the Olympic model advocates for the traditional aspirations of collegiate athletics. Schools themselves will not have to worry about an arms race of funding—which could come at the expense of other sports, or through a further increase to student fees. Outcries over television contracts, coaching salaries, and ostentatious facilities will no longer be at center stage if the ones generating the money are allowed the right to receive a fair compensation. And the creation of opportunities in sports and academics remains the preeminent principle for member institutions. Fundamentally, the Olympic model bridges the gap between amateur and professional in an evolving industry—rightfully rewarding individuals for their value creation, while retaining the necessity of the NCAA and the meaning of student-athlete.

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