Testimony of Bob Bowlsby
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Subcommittee on Manufacturing, Trade, and Consumer Protection
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Chairman Moran, Ranking Member Blumenthal and distinguished members of the subcommittee, on behalf of the Big 12 Conference and its members, thank you for holding this hearing and providing me with this opportunity to testify. I am grateful for the expressed interest of the Senate in issues pertaining to intercollegiate athletics. The impact our nation's student-athletes have had on our American culture is truly remarkable.

I believe in the extraordinary opportunities our country's colleges and universities provide to our nation and the world. I also believe in the American model of intercollegiate athletics as a co-curricular activity on our campuses. I have worked in collegiate athletics for more than forty years because I believe that the fundamental purpose is to help 18 year-old adolescents become 22 year-old adults and in the process provide opportunities for an outstanding athletics experience and to provide first-rate educational opportunities. We should not forget in this discussion that an athletics scholarship has provided educational opportunities for millions of young men and women in the last century. Most of them have left college with a degree and little or no debt. Sometimes this experience also leads to a professional career or an Olympic opportunity; both are highly desirable byproducts of a successful collegiate athletics experience, but not the foundational goal. I served as the director of athletics at three fine universities for almost 35 years and left my last position at Stanford University because I believe there is much that is good and right about intercollegiate athletics and that I can be a part of changing that which is not as good as it can be.

I theorized that I could be a more effective agent for change by occupying one of the five Autonomy Conference (Pac12, BigTen, ACC, SEC and Big12) Commissioner positions. Over the past eight years I have been afforded the opportunity to participate in affecting just such change. Along with my commissioner colleagues and our members we worked to provide student-athletes with the full cost of attendance in addition to Basic Educational Expenses (Tuition, Fees, Room, Board and Books). This change has provided funds for trips home, entertainment, incidental living expenses, etc. and amounts to between \$3000 and \$6000 per student per year. We have changed rules so former participants can return to school on scholarship to complete their degrees. We have configured legislative changes to allow unlimited meals and snacks. We have implemented transitional healthcare so that medical expenses for injuries that linger on until after graduation or departure from school can be reimbursed. We have accomplished all of this while still making sure that scholarship student-athletes can also receive the full measure of PELL Grant benefits up to \$6800 per year.

The covenant with the 21st century student-athlete is far superior to the scholarship and benefits package available just five years ago. We have made constant progress since receiving the prerogatives that have come with the new Autonomy structure of the NCAA.

Among these prerogatives is legislative authority to make changes that address the needs of highly recruited and exceptionally talented student-athletes. When all of the recent NCAA legislative amendments are considered along with the quality of the facilities, medical services, academic support, travel opportunities and high level coaching and mentorship, the quality of life for the Division I student-athlete is quite high. In fact, one of every five collegiate athletes is a first generation student and the opportunity to attend college is truly life changing for them and their families. Over my many years involved in higher education I have encountered very few former participants who did not view their college years as the best of their careers.

I recently attended the memorial service for Coach Hayden Fry. Coach Fry and I were colleagues while I was the Director of Athletics at the University of Iowa. It was remarkable to see so many former players come back and talk about the impact Coach Fry had on their lives. They talked of the value he placed on education and on learning to be a productive adult.

I also heard the story of how Coach Fry integrated the Southwest Conference when he brought Jerry Levias to Southern Methodist University. Mr. Levias went on to be a first team all-conference performer for three straight years but also endured the injustice of opponents' treatment. Coach Fry passed at age 90 and he and Mr. Levias spoke regularly until the time of his death.

I quickly realized that Coach Fry's legacy had much more to do with the relationships than it did with the 230+ victories or the induction to many halls of fame. I heard very few comments about the details of the games they all played but instead many anecdotes about the hard discipline when they missed a class or the celebration when a young man walked across the stage to receive his degree after coming to campus as a "high risk" student. I also heard of the shared experiences that truly made them a team.

The four years that student-athletes spend on campus are transformative. There are stories of failure but many more stories of extraordinary and unlikely success. The kinship of a college sports team is singular in its ability to shape. I fear that if we adopt a process that permits per se "play for pay" or any proxy for "pay for play" we will find ourselves changing the team chemistry that has made college athletics so special.

In the same time frame that we have provided more benefits and celebrated the growth potential afforded by intercollegiate athletics, we have witnessed explosive growth in debt service through mind-boggling facility projects intended to impress 17 year-olds and we have experienced meteoric escalation in compensation for coaches, directors of athletics and commissioners. This rapid escalation is principally facilitated by the increases in revenue from the sale of media rights. These trends require attention and I suggest for your review an essay by Dr. Kevin Blue, the Director of Athletics at the University of California at Davis, which thoughtfully dissects the expense trends and the causality for the dramatic increases in the past 20 years. I have included Dr. Blue's analysis for your reference.

Consistent with my comments above, I am a believer in constant evolution and I am devoted to any sort of continuing improvement program. As it pertains to a new model of collegiate licensing and a loosening of restrictions on how student-athletes might activate around their personal name, image and likeness opportunities, I find myself supportive of the concept but daunted by the shadow that lies between the idea and the reality. I am particularly hesitant regarding the viability of the “guard rails” that are nebulously asserted to be capable of ensuring boosters, donors, and other interested third parties are not disruptive, unregulated and unwelcome participants in the recruitment processes.

In an era of increasingly frequent transfers, the outside influencers noted above will most certainly engage in the transfer space, even without the knowledge or invitation of institutional employees. Within the Autonomy Conferences where recruiting competition is most acute, we have sought to do everything possible to embrace and enhance integrity. Our constituents, college sports fans and our universities, demand it. I fear, and I believe, that the invitation of third parties into the NIL space will irretrievably insert them into the recruitment and transfer environment. We have already witnessed far too many such intrusions on fair play.

The American collegiate model of intercollegiate athletics has no parallel in the world. We are not the NFL, NBA or MLB where well-organized drafts determine the participants. Neither are we the Olympics where the athlete’s only choice of participation is with their country of origin. Recruitment, especially in Division I, is highly competitive and highly regulated. To replace or significantly amend the current benefits system we must be able to move ahead with assurance that recruitment can exist and that integrity can be maintained and enhanced.

As a former collegiate wrestler, and having served two terms on the United States Olympic Committee, I have significant concerns regarding any legislative or structural initiative that will weaken our Olympic Sports on campus or that could compromise our nation’s aspirations to ascend podiums in international competitions. While all college sports participants might be alleged to have equivalent opportunities to profit from name, image and likeness activities, I believe that the present discussion is principally about football and men’s basketball players and I am certain that the participants in these two sports will harvest the vast majority of the opportunities. It follows that this disparity will ultimately diminish other sports on campus. This diminishment could come in the form of reduced scholarships, declining budgets or even sport eliminations. Because more than 80% of our Summer Olympians come through college programs, any damage to Olympic Sports on campuses could have a profoundly negative effect for our international Olympic efforts. I also believe that the relegation of some sports to second-class citizenship could directly or indirectly impact institutions’ compliance with Title IX. Before Title IX’s implementation only 1 in 27 high school females played varsity sports, today that figure is 1 in 2.5. Simply put, I do not believe the architects of the Title IX of the Education Amendments of 1972 envisioned two or more classes of student-athletes on campuses, even if the funding were to come from outside the campus coffers. These two considerations implore caution.

Will intercollegiate athletics survive? Of course. Will we evolve and will games still be played? Without question. Likely, the balance of competition will not be dramatically altered. There have always been institutions and locations that have enjoyed advantages, and there always will be. Having stated that, we must go forward with our eyes wide open. The changes advocated in many of the state legislative proposals and, likely, in some of the national concepts, will benefit a very small percentage of the 450,000 student-athletes in our country and will de facto render a much larger percentage to a lesser status. It is difficult to argue that the American collegiate model is not collectivism in some form. For decades we have funded broad-based sports programs, including our institutions’ Title IX initiatives on the revenue derived from a few sports. This approach is defensible and worthy of protection because of the multitude of opportunities it creates. Student-athletes in a wide array of sports work very hard in the search of excellence. Their labors are neither less time consuming nor less strenuous than the efforts in football, or basketball or baseball. The participants in high-profile sports enjoy the benefits that accrue to those in sports that are adored by the public and coveted by television networks. Likewise, the coaches in these sports have benefitted from an inflated marketplace and aggressive representatives who play institutions off against one another for the highest offer. Notwithstanding these sometimes misguided expenditures, the current model of athletics funding works because it meets the universities' objective of offering a full array of co-curricular opportunities for its students. There is plenty of work to be accomplished but I advocate that we be thoughtful in our collaboration.

The potential for harm is present and changes that some assert as inalienable rights also have the possibility to irreparably damage the collegiate model of athletic participation. This model is, and has been, the envy of the world. This unique and long standing model exists as a useful and appropriate rite of passage between high school and the rest of one's life. College sports is not a vocation and the participants are not employees. Professional sports offer this arrangement and it is fair and timely to consider whether the current limits to access should be amended or eliminated to allow those who wish to pursue professional opportunities to do so at any time. Conversely, for more than 95% of the collegiate athletics population, the four years of college sports participation is the last they will enjoy in organized, high level competition. Their active sports careers will be over, but the education they earned, the comradery they enjoyed and the experiences they treasured will pay dividends for many years to come.

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Rising Expenses In College Athletics And The Non-Profit Paradox

This article examines the structural reasons why controlling expenses – especially for salaries and facilities – has been difficult in the current economic system of major college sports. The combination of three significant economic characteristics currently drives financial choices: the non-profit organizational structure, zero-sum competition, and accelerating revenue. The combination of these structural characteristics creates inescapable upward pressure on expenses, and differentiates financial decision-making in college sports from both professional sports and other non-profit sectors. The structural uniqueness of the non-profit economic system of college sports calls for innovative business and legal solutions to curtail excessive spending and its associated problems, and ensure the long-term health of college athletics in the United States.

For-Profit Business and Non-Profit Organizations

A business exists to maximize income for its owners, while also maintaining a sense of corporate social responsibility to other stakeholders. On the other hand, a non-profit organization, such as a school or a charity, exists solely to execute its mission.

Non-profit organizations do not have owners expecting a financial return, so their leaders do not operate with the goal of making a profit. Instead, financial decisions are guided by the primary objective of mission impact, while also being mindful of long-term investments and sustainability.

Accordingly, when revenues increase for a non-profit organization, expenses tend to grow commensurately. New income is used by the organization to further pursue its mission, not to create profitable operating margins. For example, a food bank that receives a new large grant will expand to serve more disadvantaged people rather than keeping the money. The level of annual expenditures for a non-profit organization is generally determined by its anticipated annual revenues.

Athletics Departments as Non-Profit Organizations

College athletics departments and their associated foundations are structured as non-profit organizations since they are part of universities. However, they differ from most other non-profits in two important ways.

First, college athletics programs compete against each other in a zero-sum game; in other words, a college sports program can only succeed at the competitive part of its mission (win) if another fails (lose). Other kinds of non-profit organizations do not deal with this dynamic to the same extent. The zero-sum nature of competition in college sports thus creates an insatiable desire for an athletics program to make investments that drive success in the competitive part of its mission.

And second, for modern college programs in the major conferences especially, revenue has accelerated at an unusually strong rate in recent years. The median Division I Football Bowl Subdivision (FBS) athletics program experienced inflation-adjusted revenue growth of 67% from 2006-2015[1], a higher rate of revenue growth than all other non-profit sectors in the United States over this period of time[2].

The combination of zero-sum competition, revenue acceleration, and non-profit financial incentives would predict an increase in spending, which has indeed come to fruition in major college sports. With gravity-like inevitability, expenses are pulled to the threshold established by the highest revenue earners. Paradoxically, the non-profit organizational structure – typically associated with austerity and frugality – has actually helped to create the extraordinary spending growth we've seen.

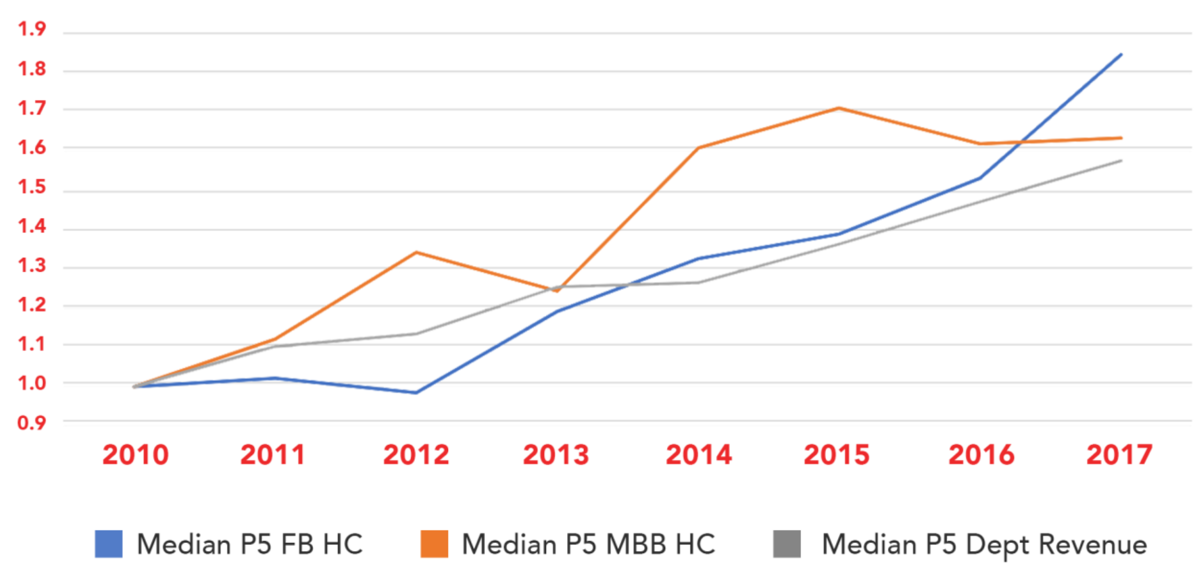
Comparing College and Professional Sports

Unlike professional teams, college athletics departments do not have owners with a personal financial stake in the game. Professional owners want to win, but they are simultaneously incentivized to control costs in order to turn a profit or manage operating losses, and to consider long-term franchise value. These incentives are reflected in league-wide policies developed to control spending and enhance competitive equity, and also in the financial decision-making of team executives.

On the other hand, financial decision-making in college athletics reflects the different set of incentives that the non-profit structure encourages. Every dollar of generated revenue is spent in pursuit of the competitive and student-athlete education missions. Some income might be saved for contingent or long-term use, but none is taken as profits[3]. When revenue increases dramatically, increases in spending quickly follow.

In fact, head coach salaries in Power Five college football and men's basketball have increased more rapidly than head coach salaries in the NFL and NBA, relative to the rate of revenue growth in each environment. The median Power Five head football coach salary grew by 87% from 2010-2017, at a faster pace than the median revenue increase of 58% for Power Five athletic departments during this period[4]. On the other hand, media reports suggest that NFL head coach salaries grew by approximately 50% during the same period, at a slower pace than the 70% growth of NFL revenue. In the NBA, revenue increased by over 90% from 2010-2017, but head coaching salaries are estimated to have grown less than 40% during this period[5]. Coaching salaries grow at a faster rate in college sports than in professional sports as more revenue becomes available to fund them.

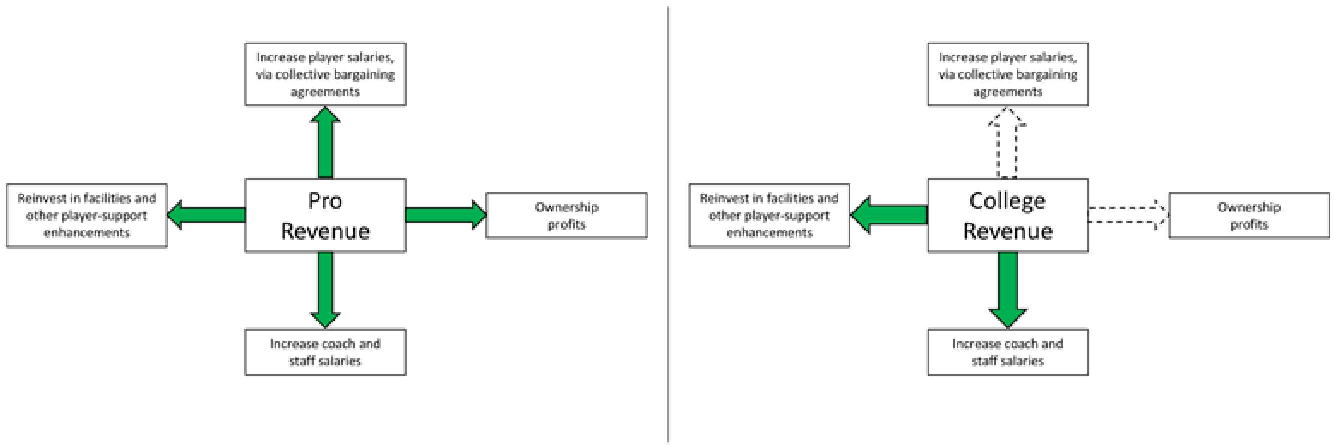
Change in Median FB HC Salary, MBB HC Salary & P5 Department Revenue 2010-2017



Of course, another notable difference between college and pro is that paid professional athletes share in revenue increases through collective bargaining agreements, which means that a smaller portion of revenue growth remains to flow through to coaches, management, or ownership. But the non-profit structure of athletics departments also inherently facilitates salary growth, especially when negotiating contracts with star coaches. Athletics directors and presidents do not have the support of an owner who is incentivized to keep costs in check and provide the reassurance – and personal career insurance – to walk away from unfavorable deals.

Instead, athletics directors and presidents know that they will be harshly criticized by vocal fans and influential benefactors if they fail to come to terms with a star coach, even if the terms being negotiated are not optimal for the school. Agents understand this dynamic, and have been able to negotiate college coaching contracts that are increasingly favorable as media rights revenue growth created a larger pool of available funding[6]. There is a more direct path from organizational income received to coaching salaries paid in non-profit, mission-driven college sports.

Distributing Revenue Increases in Professional and College Sports



Revenue increases are distributed more evenly in professional sports.

Revenue increases in college sports are distributed to investments in coach/staff salaries, facilities, and other player-support enhancements such as food and full-cost-of-attendance stipends.

These Decisions are Rational and Predictable

From a behavioral economics perspective, financial decision-making in college sports has been perfectly rational within the structures of the current system. Aggressively reinvesting available revenue back into the competitive mission is sensible behavior that is aligned with the local interests of each school and its leadership. In some instances, there is clear evidence that a coach or team has made a transformational impact on the overall profile of a university, further justifying the decision to invest[7].

The overall increase in spending on facilities and salaries in college sports is a natural byproduct of each school's mission-driven desire to compete in a zero-sum game, where leaders are incentivized to spend available revenue towards the competitive mission rather than make profits. Expense increases thus reflect systemic characteristics, and not "flaws" of involved individuals. College athletics decision-makers are acting rationally and predictably in the current system, just like others would if confronted with similar industry characteristics.

Why Does This Matter?

Aggressive expense growth in college athletics – that is structurally reinforced by its economic system – has created some of the most pressing challenges our industry faces. It has increased perceptions of unfairness for student-athletes and led to gerrymandering around the definition of amateurism in an effort to preserve the educational roots of college athletics. It has intensified financial pressure – ironically, given that we're in an era of unprecedented revenue growth throughout the industry – on athletics departments who aren't at the very top of the revenue production pyramid (i.e., the top quartile of Power Five programs) and placed these middle-income schools at an even greater competitive disadvantage. And, it has created long-term financial obligations that might turn into problematic exposures if revenue growth were to slow, stop, or reverse.

Importantly, the focal point of this issue is not the resource imbalance between Power Five schools and Group of Five or FCS, but rather the financial and competitive challenges that arise due to the effects of relative expense growth within each competitive level. For example, even though Power Five schools have more revenue to deploy than others on an absolute basis, a majority of them remain under financial pressure trying to keep up with the small group of schools who set a high bar on expenses in search of every possible competitive advantage.

Accordingly, even if setting aside financial sustainability considerations and viewing the issue only through the lens of competitive self-interest, a majority of Power Five schools ought to support a systemic solution among major conferences to control expenses. Such a system would not only mitigate challenges related to financial sustainability and public perception regarding spending, but would also enhance competitive opportunity for median schools by reducing the spending power advantage currently held by top-quartile revenue earners. In fact, *successfully lobbying for a system of expense limits would be the most impactful action some schools could take to enhance their competitive self-interests.*

What Should Be Done?

To stimulate progress towards a solution, a critical mass of influencers must first recognize that the expense growth problem in college sports is structural in nature – i.e., it is not the result of "flawed institutional leadership", nor can it be effectively addressed without systemic change. The next step of identifying feasible solutions requires an in-depth legal, economic, and political analysis that is beyond the scope of this particular article.

Many people in our industry think about this problem often. Conventionally suggested methods – such as expense caps or other legislated changes about how resources are allocated or shared with central campus – are intuitive but complex to implement. Some solutions might present legal challenges, particularly around antitrust law, that could require a degree of regulatory involvement. Additionally, there would be political difficulties for some campus leaders to advocate for solutions that may be unpopular with a portion of their local constituents, a dynamic which would slow legislative progress in the member-driven governance model of the NCAA.

However, even with the complexities involved, an invigorated focus on establishing mechanisms for expense control is worthwhile, and should be acted upon as an important priority for the sustainability of college sports. Aggressive expense growth, and its associated challenges, will continue unless there is systemic change.

The economic system of major college sports uniquely combines the non-profit structure, zero-sum competition, and extraordinary revenue acceleration. It is a structural outlier in the American economic landscape, and should be managed as such from a legal and antitrust perspective. The uniqueness of its economic system calls for new thinking and innovative solutions if we seek to ensure the long-term health of college sports in the United States.

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Undergraduate research assistants Mitch Iwahiro, Mia Motekaitis, and Tyler Mundy contributed to this article

[1] According to the 2016 edition of Revenues and Expenses of NCAA Division I Intercollegiate Athletics Programs, median revenue growth from 2006-2015, on an inflation-adjusted basis, was 67% for FBS, 55% for FCS, and 55% for D1 without football.

[2] Information about non-profit revenue and expense growth by sector can be found on this 2018 report by the Urban Institute called The Non-Profit Sector in Brief. On an inflation-adjusted basis, overall higher education sector revenue grew by 39% from 2005 to 2015. Religious organization revenue grew by 59% over the same time period, the most growth of any non-profit sector outside of college sports.

[3] In a few cases, a portion of net income from athletics is redirected to the financial needs of main campus.

[4] Salary information gathered from USA Today database and other publicly available sources. Analysis included public school data only, unless private school coaching salary information appeared on the Form 990. Revenue data gathered from EADA reports and Knight Commission College Athletics Financial Database.

[5] NFL and NBA revenue gathered from statista.com. Salary information gathered from media reports. NFL and NBA salary information is not comprehensive, but is sufficient for the purposes of these general conclusions.

[6] Coaches are also incentivized to secure the best possible contract terms because schools are growing less patient about results. Available revenue makes it easier for schools to terminate coaches and endure switching costs.

[7] For example, here is a brief note about the major institutional impact of successful football at Clemson and Alabama.