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A fix for the big-time college football mess (essay)

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The endless conversation about big-time football appears to be reaching a point of decision and change. While some would like to see big-time football disappear from the collegiate enterprise, this is not likely or desirable. We like our football, our constituents like our football, the nation tunes into our football, and for many universities, nothing is more visible or engaging about their operations than their football.

So we will have football. Success in the big-time has created a variety of conflicts between ideal models for amateur competition and real behavior that the current system finds increasingly difficult to manage. Much of the difficulty stems from the problem of money: too much of it. The money is not going away because we like our football, but we need a better model to manage the money and the game.

Part of the difficulty comes from trying to reconcile the notion of a college-based student activity with the exceptionally high profile and revenue of a previously unimaginably popular and commercial viable enterprise. Football at the top level of American's institutions, exemplified by the five major athletic conferences, is a big business that depends for its success on the recruitment, retention, and development of superb athletes who must also function as students.

Among the many issues and controversies (academic, ethical, financial, and operation) that complicate our current operating arrangements, refined over many years, is the mismatch in the eyes of our constituents between the revenue scale of the football enterprise and the compensation provided football players (especially the celebrity players of the most successful teams). The current model limits compensation to direct payments for tuition and other college expenses and the indirect compensation by providing players with a high-cost platform for the development of their potential professional value and their possible future value from a professional contract.

Boxed in by our definition of amateur student-athlete, we have found it difficult to construct imaginative ways of reflecting market circumstances that affect the players. We sometimes think that without the strict amateur definition, the college football enterprise would collapse into an uninteresting minor league activity divorced from its academic sponsorship. This may well underestimate the potential creativity of the university, which has, in other contexts, developed mechanisms that could provide a useful model for the football dilemma.

Any model would need to (1) address the market issue of the value of football players within the five major conferences, (2) redefine the organic connection between college education and the student-

athletes in the football enterprise, and (3) retain the connection between football and the rest of the college intercollegiate athletic enterprise.

Fortunately, universities have mechanisms for dealing with similar issues that might be adapted to meet the needs of the football enterprise. Think, for a minute, about the university medical center hospital. In many cases this is a separate not-for-profit enterprise, affiliated with the university. Its relationship with the parent university is contractual, and transactions that involve university and hospital are done not through university internal governance mechanisms but by contract that specifies how the hospital economy and the university economy will interact.

The agreements also specify how the academic activities of the university in medical education and research will engage the hospital and how the hospital activities related to patient care and other services will engage the university.

But the two enterprises are financially, legally and operationally separate organizations. They may well have interlocking boards of directors/trustees, but the labor and financial structure of the hospital is not the same nor is it constrained by the circumstances of the university, and the university's labor and financial structure is not the same nor is it constrained by the circumstances of the hospital.

Adapting this notion to football, imagine that we spin off the football enterprise out of our university and athletic department into a private not-for-profit corporation affiliated with the university, let's call it the University Football Corp, or UFC (and we could substitute the name of the University for each institution's football not-for-profit). We license our name and trademarks to our UFC, we lease our football-related sports facilities to the UFC, we contract for various management services that the university may provide the UFC. The coach and other athletic personnel who operate the football activity will be employees of the not-for-profit UFC, and will not be constrained or managed by the university. The financial structure of the football enterprise will require that it be self-supporting. This should not be a problem for the football programs in the five major conferences since almost all of them do indeed make a profit, even if their universities' intercollegiate sports programs over all lose money.

Students who perform as football players will be employed by the UFC not-for-profit to perform football duties, but requirements for a football player employee will include an age limit between 18 and 24, eligibility limits, enrollment in the university, maintenance of academic good standing, and progress toward a degree. This is not unusual for other student employees of the university.

The football employee will receive a two-part compensation. The first part will be equivalent to the full cost of attendance at the university, to match the requirement that the football player be a student. This amount will be paid by the UFC not-for-profit to the university that will award the financial aid as it would for any student. The second part will be variable and will depend on the market value of the football player to the UFC not-for-profit. This second amount can vary by season and the market for college-age football players, and might well follow norms and procedures established in the National Football League.

This model bears a close resemblance to what we do for medical students, for faculty physicians, and for other university people who have duties and obligations associated with an independent hospital affiliated with the university.

Where is the NCAA in this model? Like hospitals, the UFC not-for-profit will be regulated by an external agency, in this case the NCAA, that will establish the game rules as it does now, and specify the academic eligibility requirements for football players to be considered students, but the NCAA will not regulate payments to players. These will be managed by each institution's UFC, but probably in accord with rules established by the five major conferences. The NCAA may well require these organizations to have transparent and independently audited financial records so that the public is clear about the way in

which the athlete who is also a student is being paid and managed and clear about the financial arrangements between each UFC and its parent university.

Football players must be students in good standing and making appropriate progress toward a degree and can only have four years of eligibility, but they can test their value in the commercial sports marketplace at any time and choose to leave for professional work.

Once hired for professional play, of course, they will no longer be eligible to participate in the university-related not-for-profit UFC.

Athletes within the UFC can also contract for commercial endorsements and other sports-related (but not sports competition) activities and earn stipends or fees, but they must do so through the UFC not-for-profit so that the organization can identify conflicts of interest or commitment. Similarly, employees of the UFC (coaches, athletic directors, and others) can earn outside income related to sports but must report this income and receive approval for outside commitments from their institution's UFC (again to prevent conflicts of interest and commitment). Alumni and other fans can contribute to the football enterprise, either to support players or to subsidize athletic facilities, but again, always through the institutional UFC to ensure transparency.

The UFC not-for-profit will create various funds and arrangements for player health and safety and compensation for injuries or other insurance-related functions. Whether it decides that it is better to hire the football players as employees or deal with their football participation as independent contractors will be an issue to be resolved as the market for football players indicates. Either solution would work, although of course the players are likely to emulate the professional marketplace and create a union to represent their interests. In some universities this would mirror the union representation of other student employees. Players can have agents, lawyers or other advisers to help them negotiate the contracts that govern their college-related football participation, although not the academic requirements that define them as students. The five major conferences may well establish salary caps and other financial constraints proved useful in the professional marketplace.

Because each UFC football enterprise is affiliated and ultimately controlled by its parent university, if indirectly through its board appointments, and because it is required to manage its enterprise through contracts with the university that are publicly available, the university can reap the benefits of big-time football without the constraints of trying to fit the football juggernaut into the university's normal academic infrastructure. However, the university can require that the football UFC provide a significant payment to the university for the use of its name and other marks, a payment that will serve to subsidize the university athletic program for other sports as happens currently.

Finally, because this arrangement puts the academic scholarships for football players who must be students inside the university (but paid by the UFC not-for-profit), the current commitment to women's sports driven by Title IX requirements to keep scholarships reasonably equivalent will remain.

Any university can create this model and participate, although they will need conference support, television revenue, and other characteristics of big-time programs to succeed. Such an opportunity may well help institutions decide that they want good football but not big-time football.

While endless details will need to be worked out, as were required to create the arrangements that govern independent not-for-profit hospitals affiliated with major research universities, the model offers an approach to the growing difficulty of managing big-time football within the current university context.

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