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College panelists see change coming

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Two of the biggest names in college football, one a Heisman Trophy winner, the other a leading Heisman candidate, were under intense scrutiny last week for suspicion of signing autographs for pay, an NCAA violation.

In the not-too-distant future, however, college athletes will have the right to profit from their name, and college sports will be better off for it, predicted a panel of experts at last week's CSE Sports Marketing Symposium in New York.

The only question they have is what force will lead to such significant change in the college sports model. Will it be one of the many antitrust lawsuits, the National Labor Relations Board ruling on the Northwestern unionization case, or possibly even the big five conferences that pave the way for college athletes to have control over their own rights?

"Is there enough pressure right now that the NCAA or the conferences might come up with their own solution?" asked David Greenspan, a partner at Winston & Strawn, a firm that represents athletes in the Jenkins v. NCAA antitrust case. The Jenkins case calls for schools to operate in an open market, meaning the market would dictate how athletes are compensated, and NCAA restrictions on pay — the basis of the antitrust suits — would be lifted.

"No one knows what a free market would look like," Greenspan said. "We've never had that. Schools should be making their own choices."

With so many bigger issues at work in college sports, Greenspan and his fellow panelists were almost amused that Florida State's Jameis Winston, last year's Heisman winner, and Georgia's Todd Gurley were dominating the headlines because they were accused of signing autographs for money. Gurley was suspended, while Winston, who professed his innocence through the school, intended to play in Saturday's high-profile showdown against Notre Dame.



SBJ Podcast:

College writer Michael Smith and Executive Editor Abraham Madkour discuss the hot-button college panel from Day 1 of the CSE Sports Marketing Symposium in New York.

Ramogi Huma, who oversees the National College Players Association and through his work has emerged as the leading advocate for player rights, said the very NCAA rule that restricts Gurley and Winston from profiting is “likely illegal itself.” The ruling in the O’Bannon case said the NCAA and its members cannot fix the price to compensate athletes.

“You have to ask whether the rules themselves are the problem, because they don’t allow college athletes to have the same opportunities as everybody else in America,” said Huma, a former UCLA linebacker. “There’s a growing sentiment that such an arrangement needs to be questioned.”

Sports media consultant Ed Desser, who testified in the O’Bannon case, likened this time period to 1984, when NCAA policy permitted only a single TV contract and only two games were televised each Saturday. Courts overturned that rule and opened the door for conferences to negotiate their own deals and ultimately create their own networks.

“It’s so unthinkable that there was a time when there were only two games on TV,” Desser said. “If you look at this issue through the same prism, these issues [of player pay] will be settled, we’ll be past them, and college sports may be better off in the long run.”

The panelists also looked into the future at what an open-market system that doesn’t restrict athletes’ rights might look like.

Michael McCann, a sports law professor at the University of New Hampshire and legal analyst for Sports Illustrated, said the five power conferences — the ACC, Big Ten, Big 12, Pac-12 and SEC — could write their own changes. Among the changes those conferences are considering is paying athletes the full cost of attendance above what the scholarship provides, longer-term health care, and scholarships in perpetuity. Some schools are providing that case by case, but Huma and others want to see it become written policy across the country.

“The role of the conferences could be huge,” McCann said. “If they exert their autonomy, which we’re starting to see happen, that could be a game-changer. It might have to come down to a lawsuit or the NLRB, but it could come from within. I have a feeling that conferences over the next year will play a major role in trying to reach that negotiated solution.”

Conferences that are making these decisions are trying to balance the autonomy to create more athlete benefits with the need to keep a level playing field competitively.

“Liberating schools might actually promote more competitive balance,” Greenspan said. “Right now, schools compete for athletes based on their coaches and their facilities, and many schools are never going to be able to compete based on how big their stadium is. If freed up to guarantee scholarships for four years, to provide additional medical expenses, to benefit from name and likeness, that might be a way for some schools to compete.”

While the wheels are in motion to institute more of those benefits, athlete pay is the one area where college administrators have drawn the line. They have taken a hard stance against the idea of athletes being employees who have the right to market their name and likeness.

The panelists just don’t understand that. In fact, Desser said a system that permits athletes to make money

from signings and endorsements would enhance college athletics as an enterprise.

“I predict there will be an increase in visibility of college sports as a result of some of these restrictions being lifted,” Desser said. “Think about the number of players that would be doing local endorsements, not national, but these are players who are very well-known in their community. There are any number of companies that would love to have those players do endorsements in the local market. Those [deals] currently get channeled to the coaches. ... Commercials featuring athletes provide a benefit to the schools because of the additional exposure. It used to be that exposure is good. Additional exposure should be better.”

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