

insights

TYPES NOT MAPPED YET November 16, 2023 | TTR not mapped yet | David J. Kaufman

More money, more antitrust concerns

Big-time college sports are all about the money. Money for the schools, Money for the athletic programs, money for specific sports, money for the coaches and now with NIL programs, money for the college athletes. More often, however, these programs are being challenged and being challenged on antitrust grounds.

Careful lawyers and plaintiffs are examining existing antitrust laws to go after these arrangements. Absent new federal regulation or collective action, or even voluntary collective guidelines, antitrust law may be the key front for policing college athletics and college money.

This article and the arguments advanced by a University of Michigan Law School professor show that perhaps another avenue for policing college athletics is use of antitrust laws. Crane argued that the NCAA bylaw enforced against Harbaugh violates antitrust law. He in essence argues it violates an economic rule as opposed to a rule of the game, implicating antitrust law. He converts this from an economic discussion to one about competitive balance. Interesting, huh? Check out his note: <https://www.yalejreg.com/nc/sign-stealing-and-the-antitrust-laws/>

Crane argues that the reasoning for that restriction is what's key: it was implemented in 1994 as a cost-cutting measure, one that would prevent big-time programs from spending on something that smaller ones couldn't afford. Crane says that's the precise type of financial restriction that courts—and the Justice Department—have been skeptical of upholding.

"Once you understand this as an economic rule, as opposed to a rule of the game, that raises antitrust issues," Crane says. "Certainly if this were ever challenged, the NCAA and the Big Ten would have arguments. The problem with those arguments as I understand them so far is that they would be about competitive balance."

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