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Supreme Court Holds That Sherman Act Bars NCAA From Limiting Education-Related Benefits For Student-Athletes

Client Alert | June 21, 2021

Decided June 21, 2021

***Nat'l Collegiate Athletic Ass'n v. Alston*, No. 20-512; and *Am. Athletic Conf. v. Alston*, No. 20-520**

Today, the Supreme Court unanimously held that the NCAA's current limits on education-related benefits for student-athletes violate the Sherman Act.

Background:
The NCAA imposes eligibility rules fixing the compensation and benefits that member schools can offer student-athletes. The NCAA maintains that its rules, including its restrictions on certain education-related benefits, are necessary to preserve amateurism in college athletics, which is what distinguishes its product from professional sports.

Several student-athletes brought class-action suits against the NCAA and its member conferences, arguing that the restrictions on compensation and benefits run afoul of the Sherman Act. After a bench trial, the district court enjoined the NCAA's restrictions on education-related benefits after ruling that they violated the Sherman Act. The court ordered the NCAA to allow its member schools to offer athletes education-related benefits such as academic incentive awards and paid, post-eligibility internships. The court did not, however, enjoin NCAA rules that restrict benefits *unrelated* to education.

The Ninth Circuit affirmed, holding that the NCAA's limits on education-related benefits violate the Sherman Act, and that allowing student-athletes to receive certain education-related benefits beyond the cost of college attendance, such as paid post-eligibility internships, would not eliminate the distinction between college athletics and professional sports.

Issue:
Whether the NCAA's restrictions on education-related benefits for student-athletes violate the Sherman Act.

Court's Holding:
Yes. The NCAA's restrictions on education-related benefits violate Section 1 of the Sherman Act. Substantially less restrictive rules that permit student-athletes to receive certain limited education-related benefits would adequately preserve the distinction between college athletics and professional sports.

The district court's injunction "does not float on a sea of doubt but stands on firm ground—an exhaustive factual record, a thoughtful legal analysis consistent with established antitrust principles, and a healthy dose of judicial humility."

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Justice Gorsuch, writing for the Court

Gibson Dunn submitted an *amicus* brief on behalf of the Players Associations of the NFL, NBA, WNBA, and National Women's Soccer League, and the National Collegiate Players Association, in support of respondents: *Shawne Alston, et al.*

What It Means:

- Today's decision rejects the NCAA's argument that it is effectively immune from antitrust scrutiny because its rules should receive abbreviated, deferential review, and instead holds that the NCAA's restrictions are subject to review under the "rule of reason."
- The Court confirmed that antitrust law does not require businesses "to use anything like the least restrictive means of achieving legitimate business purposes," but upheld the district court's conclusion that restrictions on education-related benefits were not necessary to preserve consumer demand for college athletics, in light of the record evidence establishing that the immense popularity of college sports is largely unrelated to education-related benefits paid to student-athletes and given the existence of substantially less restrictive alternatives.
- The Court's decision permits student-athletes to receive a variety of education-related benefits that go beyond the cost of college attendance, such as academic and graduation incentive awards, graduate-school scholarships, and paid, post-eligibility internships. That said, there is nothing that *requires* member schools to offer such benefits, nor are individual conferences prohibited from imposing their own restrictions.
- The continued viability of the NCAA's restrictions on benefits *unrelated* to education remains an open question. The student-athletes did not press their challenge to these rules—which the Ninth Circuit upheld—before the Court. Justice Kavanaugh wrote a separate concurrence "to underscore" his view that those rules "raise serious questions under the antitrust laws." He indicated that the NCAA may lack a valid procompetitive justification for its remaining compensation rules because its argument—"that colleges may decline to pay student athletes because the defining feature of college sports . . . is that the student athletes are not paid"—"is circular and unpersuasive."
- Nothing in the Court's decision prevents states or Congress from devising different rules to govern the compensation and benefits available to college athletes. Many states have adopted or are considering proposals to loosen restrictions on such benefits. Congress is considering similar proposals, as well as a bill, the "Fairness in Collegiate Athletics Act" (S. 4004), which would arguably give the NCAA the antitrust immunity it sought in this case.

The Court's opinion is available here.

Gibson Dunn's lawyers are available to assist in addressing any questions you may have regarding developments at the Supreme Court. Please feel free to contact the following practice leaders:

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