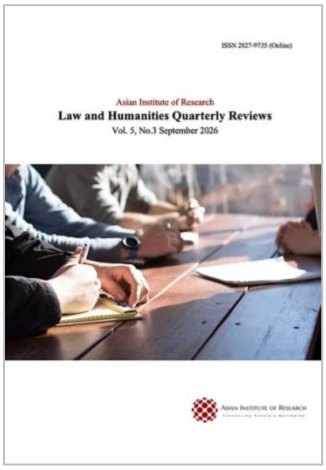

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A Comprehensive View of Antitrust Law in the United States: "Sports, Big Tech and Franchising Contexts" Part II: Is Antitrust Law Still Relevant Today?

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Abstract
Part II of this larger study of antitrust law in the United States discusses whether antitrust law is still relevant by reviewing the implications of antitrust enforcement in the franchising, "big tech," and sports contexts. The article provides a detailed look at the economics of these sectors of the American economy and highlights unique antitrust issues relating to each of these sectors. Focusing on "Big Tech," the article highlights the major antitrust cases concerning Amazon, Google and Apple; focusing on franchising, the article highlights issues relating to illegal tie-ins; and focusing on athletics, the article reviews the history of antitrust litigation in professional and college sports and discusses various legislative solutions to the perceived "chaos" in college athletics, as well as addressing the implications of classifying college athletes as employees.

Keywords: Franchising, "Big Tech," Sports Organizations, House Settlement, O'Bannon, Alston, Illegal Tying, Apple, Amazon, Google

1. Why Antitrust Law is Still Relevant: The Economic Record

Why are antitrust laws still central to the franchising, "Big Tech," and sports sectors of the American economy? To paraphrase: "It's all about the money."

A closer look at the economics of these three sectors of the American economy will highlight the importance of gaining a competitive edge by implementing practices that might, at the same time, invite antitrust scrutiny.

1.1. The Franchise Sector

There is no doubt that franchising is a significant contributor to the national economy. Miller (2026) provides a close look at the U.S. franchise industry. According to Franchise Association projections for 2026 (International Franchise Association, 2025), the U.S. franchise sector will generate more than $907.3 billion in economic output annually, which represents roughly 3% of GDP in the United States (Barragan, 2026).

There are approximately 832,000 individual franchise units operating across the United States, spanning more than three hundred distinct business categories, although concentration is heavily weighted toward food service, personal services, and business services.

Franchises employ an estimated 8.9 million workers directly, with total employment impact exceeding 13 million. Direct franchise employment is roughly comparable to employment in the entire U.S. manufacturing sector.

As a result, competition for customers continues to be fierce, as both franchisors and franchisees look for any "edge" that might improve their competitiveness, especially in industries that contain multiple participants. In these circumstances, it should be no surprise that the franchise sector continues to be the source of scrutiny concerning practices that indicate anticompetitive behavior such as illegal tying arrangements, division of markets, and allegations of price fixing

1.2. Professional Sports

A study of professional sports yields a similar perspective. In 2025, professional sports in the United States generated a combined revenue of about $52.3 billion across the five major leagues — NFL, NBA, MLB, NHL, and MLS — making American sports the most lucrative ecosystem in global athletics (Liu, 2026).

In addition, women's sports in the United States is experiencing a growth in popularity and exposure in the media, fueling increasing attendance at WNBA and NWSL games.

1.2.1. The NFL

The website, Doc's Sports Service (2026), provides the most comprehensive look at finances in the NFL. In one sense, the NFL operates as a vertically integrated entity, and in another sense, the NFL is composed of individual teams competing for fans, ticket sales, television exposure, and sales of branded items.

The NFL stands out as the most powerful sports money-making machine in the United States. In 2025, the NFL surpassed $14.5 billion in total revenues (Bachar, 2026). The main driver is its 11-year media rights package running through 2033 with CBS, FOX, NBC, ESPN/ABC, and Amazon, "projected to hit a stunning $16 billion annually" (Whitfield, 2026). NFL franchises are collectively valued at around $176 billion. A key feature of the NFL's business model is the distribution of these revenues. In 2025, each of the league's thirty-two franchises earned a record $450 million in centrally shared income alone (Badenhausen, 2026), made possible by lucrative media rights packages.

The NFL's dominance is bolstered by the revenues the NFL receives from advertising. Networks pay the NFL over $2 billion per year in broadcast rights. In 2026, Super Bowl commercials sold for more than $7 million per 30 second spot, with some reaching $8 million (Suter, 2026). At the team level, the Dallas Cowboys are clearly the "poster boy" of profitability for the NFL, with an estimated $1.2 billion in annual revenue and $629 million in operating income.

Players are represented by the NFL Players Association (NFLPA). The current collective bargaining agreement was ratified in 2020 and extends through the 2030 season. The agreement included changes to league revenue distribution, increases in player benefits, and health and safety improvements. The agreement increased the regular season to 17 games played, while increasing active roster and practice squad limits.

1.2.2. The NBA

Amico (2025) provides an insight into NBA finances. The NBA has finalized a new 11-year media and streaming rights package with Disney (ABC/ESPN), NBCUniversal, and Amazon Prime Video worth approximately $76–77 billion, tripling its previous deal (Adgate, 2025). The deal took effect during the 2025–26 season and dramatically increased the league's media revenues and exposure.

Industry estimates showed that the NBA's 30 franchises collectively generated over $14.5 billion in income in 2025, a sharp rise from pre-pandemic levels. The Golden State Warriors are the most valuable NBA franchise valued at $10.8 billion, followed by the NY Knicks at $10.1 billion, and the LA Lakers at $10 billion, with the average NBA team valued at approximately $5.5 billion in 2026 (Singh, 2026).

Players are represented by the National Basketball Players Association (NBPA). The term of the collective bargaining agreement began on July 1, 2023 and runs through June 30, 2030, for a total of seven seasons. The NBA and NBPA each have an option to terminate the CBA after its sixth season (i.e., on June 30, 2029) by notifying the other party on or before October 15, 2028 of their intention to do so.

1.2.3. MLB

Writing for Doc's Sports, Bruhn (2026) provides the most comprehensive look at MLB finances. MLB has experienced record growth, ending 2025 with an all-time record of $12.5 billion in gross revenues. Advertising during the World Series remains especially lucrative, with 30-second time slots priced between $500,000 and $600,000 for the early games, and higher for games six or seven. Ozanian (2026) states that the average value of an MLB team stands at $2.62 billion. The New York Yankees remain as the most valuable MLB franchise at $8.5 to $9.4 billion.

However, a key structural issue persists concerning the uncertain future of regional sports networks (RSNs) covering professional baseball. Following Diamond Sports' (formerly Bally Sports) restructuring, MLB is pushing toward centralizing local broadcast rights by 2028, which could reshape revenue distribution and viewing accessibility, possibly triggering renewed antitrust scrutiny relating to vertical price fixing. Other issues include expansion into international markets, additional franchise expansion in the United States, franchise relocation, and questions stemming from MLB's antitrust exemption found in *Federal Baseball Club v. National League* (1922), which has been described as an "anomaly" and "aberration," yet still recognized by American courts, although not in its once absolute form.

The players are represented by the MLB Players Association (MLBPA). Issues on the bargaining table are expected to include early career pay, competitive balance, housing, meals and travel allowances in the minor leagues, and questions relating to the league's luxury tax. The MLB collective bargaining agreement will expire at the end of the 2026 season, but neither side is expecting either a strike by players or a lock-out by team owners.

1.2.4. NHL

The National Hockey League *2024/25 Business Report* (Research and Markets, 2025a) contains detailed data analytics on NHL teams, stadiums, income, fan interests, and income from international broadcasts. NHL revenues exceeded $7.5-$8 billion for the 2025-2026 season — its highest ever — fueled by record attendance. The NHL's focus on sponsorship expansion and the sale of branded apparel through the internet also signals continued commercial growth and diversification but might invite scrutiny of practices relating to illegal tying and monopolization.

Players are represented by the NHL Players' Association (NHLPA). On July 10, 2020, the NHL and NHLPA announced the extension of the CBA through the 2025–26 NHL season. On June 27, 2025, the CBA was extended again through the 2029–30 NHL season and will now expire on September 15, 2030.

1.2.5. MLS

Among all the professional sports leagues, MLS has a unique "single-entity structure" (U.S. Department of Justice, 2022) where the league owns all teams centrally (see Research and Markets, 2026b). Total MLS revenues in 2025 were approximately $2.872 billion, with team revenues standing at $87-90 million. The average MLS salary is $354,390. By way of comparison, salary averages in the NFL were $2.7 million; in the NBA, $9.7 million; in

MLB, $4.9 million; and in the NHL, $3.5 million. The average MLS team is worth $767 million, a 6% increase from 2024, with gains concentrated among top clubs, with the bottom twelve franchises rising just 2% on average (Birnbaum, 2026).

The 30 MLS franchises are collectively worth $23 billion, including real estate and team-related businesses.
It is no surprise that Inter Miami's local revenues surpassed $200 million, boosted, no doubt, by Lionel Messi's impact and Inter Miami's first MLS Cup title (Hageman, 2025). As a positive indicator, seven MLS teams exceeded $100 million in revenue, up from four in 2024, while several clubs including Vancouver, Montreal and Colorado generated only $35 million to $40 million in revenues.

MLS faces limited national media revenue compared to other leagues. Teams currently receive approximately $5 million annually from the media deal with Apple after subtracting production costs, while NHL clubs average $40 million from television agreements.

Because MLS operates as a single entity, MLS has largely escaped scrutiny and litigation relating to antitrust issues. Players in MLS are represented by a union, the MLS Players Association (MLSPA). The MLS Collective Bargaining Agreement expires on January 31, 2028.

Key issues facing MLS include the structure of the current salary-cap and unique "designated player rules," a roster mechanism that allows each club to sign up to three players whose salaries exceed the league's maximum budget charge, while only a small, fixed portion of their pay counts against the salary cap (see Williams, 2025). The remaining portion of the salary is paid directly by the league's ownership. These rules helped MLS to bring in global stars like David Beckham and Lionel Messi without breaking its salary-budget system. Other issues involve higher minimum salaries, better housing allowances, contract buyouts and job security; standardized medical care across all clubs and stronger health-and-safety protocols; and anti-harassment protections through enforcement of professional conduct rules.

MLS hopes to translate the success of the 2026 World Cup into tangible increases in attendance and promotional sales.

1.2.6. Women's Professional Sports: The WNBA and the NWSL

Women's professional sports in the United States are dominated by the Women's National Basketball Association (WNBA) and the National Women's Soccer League (NWSL). WNBA teams are individually owned — but with strong NBA ties, in a hybrid ownership structure:

- 42% of the WNBA is owned collectively by the 30 NBA owners;
- 42% is owned by individual WNBA team owners;
- 16% is owned by a strategic investor group (Nike, Dell, Laurene Powell Jobs, etc.).

Many WNBA teams are owned by the same ownership groups that own NBA teams (e.g., Liberty/Nets, Fever/Pacers, Mystics/Wizards). Other teams have independent owners (e.g., Seattle Storm's ownership group, Mohegan Tribe for the Connecticut Sun). Expansion teams increasingly are awarded to NBA ownership groups because they provide facilities and infrastructure already in place.

NWSL teams are individually owned — via "investor-operators," using a franchise investor-operator model, similar to MLS. Each team has an individual ownership group that owns a share of the league and also operates the team. However, player rights are held by individual teams. The league recently changed rules to allow private equity firms to take majority control of teams.

In 2024, U.S. women's professional sports generated an estimated $1.28 billion in total revenue, marking the first time the sector surpassed the $1 billion mark. Women's professional sports generated about $2.35 billion in global revenue in 2025 (see Georgio, 2023).

Women's sports are now a multi-billion-dollar industry, growing 240% in four years. This growth is driven by rising attendance and fan engagement, stronger media deals, major sponsorship investment, expansion of professional leagues, and increased visibility of star athletes in both the WNBA (A'ja Wilson, Caitlin Clark, Breanna Stewart, Sabrina Ionescu, and Angel Reese) and the NWSL (Barbra Banda, Ashley Sanchez, Trinity Rodman, Temwa Chawinga, and Evelyn Ijeh).

Commercial revenues were $696 million which include broadcast revenue of $340 million from TV and streaming rights, sponsorships and matchday revenue of $240 million from ticket sales, concessions, and merchandise sales stemming from record-setting attendance at NWSL and WNBA games.
Interestingly, McKinsey's 2025 analysis found that women's sports revenue grew 4.5 times faster than men's sports between 2022 and 2024, with women's sports still far from its full monetization potential (McKinsey & Company 2025). Data from individual sources indicate:

- WNBA: The league's revenue rose over 200% in 2024 compared to two years earlier, aided by a new 11-year media deal worth approximately $2.2 billion starting in 2026;
- NWSL: Average attendance exceeded 11,000 for the first time in 2024, with total fans surpassing two million.

Players in the WNBA are represented by the Women's National Basketball Players Association (WNBPA). A CBA signed in 2020, covering salaries, maternity benefits, travel standards, revenue sharing, and marketing deals, runs through 2032. Players in the NWSL are represented by the NWSL Players Association (NWSLPA). The league is governed by first-ever CBA signed in 2022, covering minimum salaries, free agency, housing, parental leave, and safety protections. The CBA runs through December 31, 2030.

Women's professional athletics in the United States faces several potential antitrust issues including league structure, restrictions on labor markets, and media rights—issues not unlike those faced by men's sports—reflecting classic antitrust flashpoints restricting competition for labor.

1.2.7. The USFL-NFL Suit

Interestingly, NFL policies that may have invited antitrust scrutiny in the past have been largely resolved through the collective bargaining process (see *Mackay v. NFL*, 1976) or by the Congress granting specific exemptions from antitrust law to the NFL. One case, however, stands out as it posed a direct threat to the structure of the NFL.

In 1986, a challenge to the NFL was made by the fledgling United States Football League (USFL) (*US Football League v. National Football League*, 1986) in which the USFL claimed the NFL had willfully acquired and maintained monopoly power in professional football, conspired to exclude competition, and used its dominance to deny the USFL access to television broadcasting (Garber, 1986).

The case went to trial in 1986. After ten weeks of testimony, the jury found the NFL liable on the claim of actual monopolization under the Sherman Act, concluding the NFL had unlawfully maintained monopoly power in the relevant market and that this conduct had caused injury to the USFL; however, the jury awarded only nominal damages of $1.00, trebled to $3.00, citing minimal actual harm, effectively ending the controversy. (President Trump was one of the plaintiffs in the lawsuit as owner of the New Jersey Generals and was generally "credited" with the failure of the law suit and the eventual collapse of the USFL (Pearlman, 2018)).

1.3. College Athletics

Interestingly, with antitrust issues largely settled in professional sports, collegiate sports continue to be in the spotlight, with issues relating to revenue sharing, NILs, collectives, and potential unionization taking center stage.

Why are the stakes so high? Again, it is a matter of money. Revenues generated by college sports (see USA Today, 2026) provide fertile grounds for actions on the margin that may implicate antitrust law, as individual teams and conferences fight for dominance in ticket sales, promotions, collectives, and recruitment and retention of players.

Total revenues from college athletics in 2025 are estimated at $22–$25 billion, combining school-level revenues across Divisions I, II, and III with conference-level revenues.

Based on IRS filings, in fiscal year 2025, the Power 4 in college athletics conferences consisting of the Big Ten Conference, the Big 12 Conference, the Atlantic Coast Conference (ACC), and the Southeastern Conference (SEC) generated about $4 billion in total revenue (Wilson, 2025).

- Big Ten — $1.47 billion, the largest revenue figure in college sports history, driven by escalating media rights deals;
- SEC — $1.11 billion, boosted by a major ESPN/ABC media contract;
- ACC — $826.5 million, reaching record revenue due to expanded TV distribution and new member schools;
- Big 12 — $610.9 million, with growth driven by conference expansion and media rights.

The University of Notre Dame is not a member of an athletic conference but has a contractual relationship with the ACC. Notre Dame's annual revenue from college football is estimated to be $186.1 million, bolstered by its exclusive media partnership with NBC. The overall program value is estimated at $1.85 billion, falling behind only Texas and Georgia (Trendsmark, 2026).

Group of Five conferences, consisting of the AAC, C-USA, MAC, Mountain West, and Sun Belt, operate at a much smaller scale, often with net operating losses.

Division I athletics (Power 4 + Group of Five) conferences generated $4.02 billion in FY2025. School-level revenue for Power 4 institutions typically ranges from $100 million–$250 million each. Group of Five, consisting of 65 schools, generates median athletics revenue of $25–$35 million per school.

Division II athletics, consisting of approximately 300 schools, generates median athletics revenue of $6–$8 million. Division III Athletics, consisting of approximately 430 schools, show median athletics revenue of $3–$5 million.

The NCAA as an entity generated $1.28 billion in FY2025, mostly from "March Madness" media rights (Ganguly, 2026). Is there any reason to question the NCAA's intense interest in legislation introduced in Congress that will significantly impact its role in intercollegiate athletics, and which will place further emphasis on revenue generation by individual schools seeking "top flight" athletes who will be attractive to fan bases and to regional, national, and perhaps international media in the future?

1.4. "Big Tech"

Official IRS filings on revenue and net income (Business Stats, 2026) for the four "Big Tech" giants featured in this study reveal:

- Apple total revenue: 416.2 billion; net income of 112 billion;
- Amazon total revenue: 716.92 billion; net income of 77.67 billion;
- Google total revenue: 402.85 billion; net income of 132.17 billion; and
- AT&T total revenue: 125.65 billion; net income of 21.95 billion.

In the "Big Tech" sector, cases discussed below will highlight practices relating to monopolization, illegal tying arrangements, improper division of markets, and other allegations of anticompetitive practices. These cases must also be viewed in the context of a highly competitive market which will no doubt only intensify in the age of AI and the enormous generation of revenues collectively by "Big Tech" companies which amounted to $2.02 trillion in 2025.

In view of the economics of these sectors, how has the legal system addressed issues which have distinct implications for each of these economic sectors?

2. Antitrust Implications in Franchising

Allegations of antitrust violations have been well documented in the franchise relationship, but most especially with reference to allegations of illegal tying arrangements.

2.1. Tying Arrangements

An illegal tying arrangement occurs when a seller or lessor uses its market power over one product (the tying product) in order to force a buyer or lessee to also purchase or lease a second, separate product (the tied product) that may not be similarly desired (Bauer, 1980; Klein & Saft, 1985). Market power is a firm's ability to influence the price of a product or service by controlling supply, demand, or both, allowing it to set prices above marginal cost without losing customers.

Under Section 1 of the Sherman Act and Section 3 of the Clayton Act, there are four specific elements necessary to prove an illegal tie-in.

- *Two separate products* — The tying product and tied product must be distinct in the eyes of consumers. If a buyer or lessee would normally view the purchase or lease of the products as a separate choice, this element is met (*Times-Picayune Co. v. United States*, 1953).

  In contrast, if the two products are not separate and are viewed as a single integrated product, there is no "tie" at all. For example, a smartphone is sold with an operating system. Since the two items are so integrated that consumers would not view them as distinct choices, one of the essential requirements of an illegal tie-in collapses. This is sometimes referred to as the "practically indistinguishable" defense to a charge of an illegal tie-in.

- *Conditioning the sale* — The seller forces or coerces a buyer or lessee to purchase or lease the tied product in order to obtain the tying product. This can be explicit ("You must buy X to get Y") or subtle, and may be found in contract terms, technical restrictions, or through exerting economic pressure. If the buyer or lessee was not forced to purchase or lease the product that was the subject of the tie-in, or where alternatives exist, an illegal tie-in will generally not be found.

- *Market power in the tying product* — The seller must have sufficient market power in the tying product market to meaningfully compel the buyer's or lessee's choice. Market power can arise from monopoly status, the existence of a patent (see *Illinois Tool Works Inc. v. Independent Ink, Inc.,* 2006), or brand dominance (*Northern Pacific Railroad v. United States,* 1958).

- A *"not-insubstantial amount" of commerce is affected* — The tie must impact a meaningful volume of sales in the tied product market. Courts do not require large numbers—just more than a "trivial" or *de minimis* amount. Tying will not be judged to be illegal where commerce is insufficiently affected; that is, where the volume of tied-product sales is too small to meet the legal threshold. If the alleged violator exhibits no real market power in the tying product, the tie will not be judged to be illegal on its face (*International Salt Company v. United States*, 1947).

If a defendant shows that the products are not distinct, the plaintiff's case would fail *before* reaching questions of coercion, market power, or foreclosure of competition. The "practically indistinguishable" defense is often the strongest defense in modern tying cases, especially in technology markets where product integration is common. For example, where a manufacturer requires the purchase of a proprietary ink cartridge along with the purchase of a printer, where the ink cartridge is essential to the printer's function, and consumers do not view alternatives as meaningful options, an illegal tie in will ordinarily not be found. An additional example may be found where a medical device is sold along with a required sterilization component, and the sterilization component is necessary for safe operation of the device, courts may treat them as one product and thus not an illegal tying arrangement (see Lee, 2025).

2.1.1. Possible Justifications for Otherwise Illegal Tying Arrangements

Under a modern approach, courts increasingly evaluate tying under the rule-of-reason, which allows a broader range of defenses relating to:

- *Consumer benefits* — Where the tie-in improves convenience, reliability, or user experience;
- *Innovation incentives* — Where the tie-in encourages investment in new technologies or ecosystems; or
- *Competitive neutrality* — Where the tie-in does not foreclose competitors from offering their products or services in any meaningful way.

There are several potential justifications that can be offered when a party is charged with an illegal tie-in (Patton, 1972) including:

- *Quality control* — The seller argues the tying arrangement ensures that the product works properly or safely, meeting legitimate "Quality Control" obligations of the franchisor (see *Susser v. Carvel*, 1954; Iacobucci, 2003; Siebert, 2021);

- There may be cases where "*the franchise is essentially the product.*" For example, the franchisee of a brand root beer franchise (A&W) or the franchisee of a specialized yogurt (TCBY) or ice cream franchise (Dairy Queen) may be required to purchase its root beer mix, yogurt mix, or ice cream from the franchisor on the grounds that the franchise is "essentially the product." Another example occurs where a franchisee of a gasoline service-center franchise is required to purchase the brand gasoline of the franchisor and not from any other supplier (Blair & Lafontaine, 2010)—but probably not ancillary products such as tires, batteries, or windshield washer fluid;

- *Technical integration* — The products are designed to function together through the legitimate "integration of technologies" and separating them would potentially degrade performance or would be "practically or scientifically impossible" (see Crane, 2024);

- *Ensuring safety or regulatory compliance*—The tie is necessary to meet legal, health, safety, sanitation regulations, or standards. An example occurs where a franchisor in the automotive sector requires "certified parts" in maintenance of its products, or where the franchisor is able to demonstrate that a specific law, regulation, or government standard *requires* the franchisee to use the tied product or service and not "after-market parts" supplied by the franchisee or a third party (*Principe v. McDonald's Corp.*, 1980; see also Bartoletti, 2025);

- *Preventing "free-riding"* — The franchisor claims that competitors could exploit its investment (e.g., in brand reputation or in research and development (R&D) expenses) unless customers use the tied product (Kidwell, Nygaard, & Silkoset, 2007);

- *Reducing transaction or manufacturing costs* — where "bundling" reduces costs or simplifies distribution in ways that benefit consumers (see Evans & Salinger, 2005).

3. "Big Tech" Applications

Several recent antitrust cases relating to "Big Tech" giants Google, Amazon, and Apple merit attention.

3.1. Google I

In *United States v. Google LLC* (Google I) (2025), Judge Amit Mehta rejected a request made by the Department of Justice to break up Google by selling Chrome or Android but instead imposed several *behavioral remedies* (described in Part I of this study) aimed at curbing Google's "search monopoly," barring Google's exclusive search-distribution deals, and ordering Google to share certain search data with competitors. Judge Mehta found, however, that the government's proposal to break up Google was an "overreach."

The decision by Judge Mehta contained:

- A ban on exclusive contracts: Google may no longer enter into or maintain exclusivity deals that make Google Search, Chrome, Assistant, or Gemini the default on devices;
- Restrictions on revenue-share agreements: Google cannot condition payments on multi-year placement of its apps or on blocking rival search engines or browsers. Annual contracts will continue to be permitted;
- Data-sharing requirements: Google must provide "qualified competitors" access to portions of its search index and user-interaction data (but not its advertising data);
- Limits on syndication access (referring to the ability of Google to distribute and share content or services across various platforms) for rivals concerning the ability of qualified competitors to connect to and ingest data from Google's search index and related systems. Competitors can buy Google's search and text-ads syndication services on standard "commercial terms" (see Ong, 2025);
- Transparency in ad auctions: Google must publicly disclose material changes to its ad-auction systems (a real-time, automated process in digital advertising where available ad impressions are bid on by multiple advertisers, and the highest (or most competitive) bid wins the right to display the ad) and the method used to decide the cost and placement of digital advertising on certain ad-networks; and
- Creation of a technical oversight committee: A committee will monitor Google's compliance for a period of six years, providing "technical expertise, ongoing monitoring, and enforcement support" (Knappenberger, 2026). The committee is comprised of thirteen members from Snow Flake, Kuber Matic, Huawei, Apple, Boeing, Ericsson, Google, Microsoft, Red Hot, Adobe, Defense Unicorn, and an independent engineer and author.

Judge Mehta's ruling signaled a judicial preference for behavioral remedies over structural breakups, which may be especially relevant in future litigation in "big tech" markets shaped by AI.

3.2. Google II

A second case involving Google, *United States et al. v. Google LLC* (2025) (Google II), which the Office of Public Affairs of the Department of Justice described as a "landmark victory in the ongoing fight to stop Google from monopolizing the digital public square" (U.S. Department of Justice, 2025), was presided over by Judge Leonie Brinkema. Judge Brinkema issued a finding that Google had attempted to monopolize ad-server and ad-exchange markets through self-preferencing and exclusionary control of ad-tech stack, which is the collection of interconnected software platforms, tools, and systems that advertisers, publishers, and agencies use to buy, sell, deliver, target, and measure digital advertising (see Moss, 2026).

Judge Brinkema found that Google's anticompetitive conduct had included improper strategic acquisitions, illegal product tying, improper exclusive dealing arrangements, and manipulative auctions practices that had disadvantaged competitors and had inflated costs for advertisers (see Doyle, Barlow & Mazard, 2025).

3.3. Amazon

In *Federal Trade Commission v. Amazon* (filed in 2023), the Federal Trade Commission and the attorneys general of seventeen states alleged that Amazon had illegally maintained monopoly power in two markets—its online "superstore" and its online marketplace services for sellers—through a set of interlocking, exclusionary tactics and contracts that punish discounting, coerce sellers, bias search results, and lock consumers into Amazon's ecosystem (an interconnected and interdependent network of diverse business entities). The FTC argued that the following "tactics" employed by Amazon violated Section 2 of the Sherman Act and Section 5 of the FTC Act through:

- Anti-discounting tactics punishing sellers who offer lower prices, thereby deterring competition and keeping prices artificially higher;

- Coercive seller fees charging “sky-high fees” and forcing sellers to use Amazon’s logistics (*Fulfillment by Amazon* or FBA), where sellers send inventory to a warehouse and Amazon handles storage, packing, shipping, customer service, and product returns in order to remain competitive;
- Biased search and “Buy Box” placement (the white box on the right-hand side of a product page where customers can see price, delivery details, quantity selector, and most importantly, the “Add to Cart” or “Buy Now” buttons), steering shoppers toward Amazon’s own products or to sellers who use their paid services;
- Blocking rivals from reaching critical scale preventing new or smaller competitors from attracting enough shoppers and sellers to challenge Amazon’s dominance; and
- Degrading service quality which worsens service for both shoppers and sellers without fear of losing business (see Hadero, 2023).

The FTC is seeking injunctive relief blocking Amazon’s exclusionary practices, both structural and behavioral remedies, and the restoration of competition in its superstore and online marketplace services. The case is ongoing in the U.S. District Court for the Western District of Washington.

3.4. Apple

In the antitrust case against Apple (*United States v. Apple Inc.,* 2024), filed in the United States District Court for the District of New Jersey on March 21, 2024, the Department of Justice and the attorneys general of fifteen states alleged that Apple illegally maintains monopoly power in the smartphone market—especially the segment they call “performance smartphones”—by using its “tight control” over the iPhone ecosystem in order to block technologies that would make it easier for consumers and developers to switch away from Apple to a competitor’s products.

Gorin (2024) explains the Apple ecosystem system as:

> “an interconnected network of devices, software, and services centered around a smartphone, designed to provide seamless connectivity, synchronized data, and enhanced user experiences” through restrictions on app distribution, payments, and interoperability.”

The DOJ argues that Apple is not just competing aggressively—it is illegally preserving a monopoly by suppressing technologies that could weaken the iPhone’s dominance in the market, including super apps, cloud streaming, cross-platform messaging, smartwatch interoperability, and digital wallets that allow for storage of debit and credit card information.

In its defense, Apple argues that the smartphone market is already broad and highly competitive, and that restrictions are designed to protect user privacy and enhance security. The case is in active discovery, a phase that often lasts 1–2 years, and a trial is unlikely before 2027, at the earliest.

4. Antitrust Implications in Sports: A View of Antitrust Exemptions

Both professional and collegiate sports are entering a period of structural realignment and disruption driven by legal, economic, and technological forces.

Antitrust law has occupied a unique space in the history of American sports and is increasingly central to its governance. Professional leagues require cooperation across a variety of areas in order to produce a viable product, but practices relating to the media and allegations of collusion have invited antitrust scrutiny in the past under the Sherman Act.

4.1. Professional Sports

Today, professional sports navigate in a complex but relatively stable legal environment often shaped by specific antitrust exemptions granted by Congress. For example, the Sports Broadcasting Act of 1961 granted limited antitrust immunity for the collective sale of broadcast rights; special provisions enacted as part of the U.S. Code at one time permitting certain "blackout rules" for televising home football games (15 U.S.C. Section 1292); or the limited exemption for professional football which allowed the merger of the AFL with the NFL prior to the 1970 season (15 U.S.C. Section 1291).

There are two other antitrust exemptions that apply in professional sports. The *statutory labor exemption* shields labor unions from antitrust scrutiny when labor organizations engage in collective bargaining with owners of sports franchises and engage in other organizing activities. The statutory labor exemption allows a union to negotiate over wages, hours, and working conditions without the union being treated as an illegal combination or a monopoly under antitrust statutes. However, the exemption does not protect conduct by a union that combines with a non-labor group, goes beyond legitimate labor objectives, or involves third parties outside of the collective bargaining relationship.

Labor agreements in professional sports also operate under the *non-statutory labor exemption*, a judicially created doctrine that originated in a series of U.S. Supreme Court decisions such as *United Mine Workers v. Pennington* (1965) and *Local 189, Amalgamated Meat Cutters v. Jewel Tea Co.* (1965). The non-statutory labor exemption shields an agreement collectively bargained between an employer and a union from antitrust attack (Pleasure, 2000). The doctrine ensures that policies favoring collective bargaining and negotiation take precedence over antitrust considerations.

Mackay v. NFL (1976) outlines the elements of the non-statutory labor exemption:

- *Existence of a valid labor relationship*: There must be a recognized labor-management relationship, typically evidenced by a collective bargaining agreement (CBA) or other formal bargaining process between employees and employers;
- The agreement must be the product of *"good faith" collective bargaining* and cannot be imposed unilaterally by management without such bargaining; and
- The alleged restraint must be *within the scope of the labor relationship and relate to the terms and conditions of employment with reference to "wages, hours, and working conditions."*

Professional sports have relied heavily in the past on the non-statutory labor exemption to resolve issues such as the salary cap, the professional draft, rules relating to free-agency, roster size, and other restraints on player movement that might otherwise be considered as illegal restraints on trade, price-fixing, or improper restrictions on the labor market. Because these and other issues are negotiated with the player's union and included in a collective bargaining agreement, they are protected from attack on antitrust grounds.

4.2. Antitrust in College Sports: A Brief Survey

Until the 1980s, college sports, and more specifically the NCAA, were historically insulated from antitrust scrutiny by the repeated rhetoric surrounding the bedrock tome of "amateurism" maintained by the NCAA (Hunter, Shannon, & Lozada, 2025a; 2025b).

Today, the NCAA faces intensified legal pressure, as commercialization permeates college athletics and college athletes vigorously assert economic rights in order to gain their "fair share" of revenues produced by their labor. Traditional justifications offered by the NCAA for preserving its antitrust exemption came crashing down as the United States Supreme Court announced that "The NCAA is not above the law" – the last line of the concurring opinion written by Justice Brett Kavanaugh in the Supreme Court decision in *NCAA v. Alston* (2020) (Hunter, Delle Donne, & Shannon, 2021).

For decades, the NCAA defended restrictions relating to compensation of athletes, athletic eligibility and other policies by invoking the principle of amateurism. A crack in the favored status of the NCAA, which had argued for blanket immunity from antitrust law, was first seen in the landmark decision in *NCAA v. Board of Regents of the University of Oklahoma* (1984), in which the U.S. Supreme Court ruled that the NCAA's restrictive television rights plan for college football violated the Sherman and Clayton Acts, finding the plan to be an unreasonable restraint of trade. However, while the Supreme Court may have struck down the NCAA's television plan as "unreasonable," at the same time the Court suggested in *dicta* that some rules based on the NCAA's defense of amateurism might be reasonable under certain circumstances and might be in fact procompetitive. These dicta became the foundation of arguments subsequently made by the NCAA in a series of cases in which the NCAA attempted to maintain its control over college athletics by arguing that its rules were immune from antitrust attack.

4.2.1. *O'Bannon* and *Alston* as "Game Changers"

Over the next decades, however, a series of cases have systematically dismantled the NCAA's insulation from the reaches of antitrust law. One case in particular would significantly alter the powers of the NCAA and call into question its core "amateurism" rationale: *O'Bannon v. NCAA* (2014).

> "In 2008, Ed O'Bannon, a former student-athlete at UCLA, noticed that a character in a college basketball video game looked like him and wore his jersey number. O'Bannon had never provided his image or likeness, nor had he ever been compensated for its use. O'Bannon filed a class action lawsuit against the NCAA, challenging its restrictions on the commercial use of players' names, images, and likenesses ("NIL")."

In *O'Bannon v. NCAA* (2014)*,* a suit initially filed in 2014, the District Court in California found that NCAA's rules restricting the compensation of college athletes beyond their athletic scholarships restrained trade in violation of Section 1 of the Sherman Antitrust Act. In an opinion by Judge Claudia Wilken, the District Court held that the NCAA's restrictions were anticompetitive vertical restraints. The Wilken's decision allowed schools to offer athletic scholarships up to the "full cost of attendance" and up to $5,000 in deferred compensation, holding that restricting athletes' right to compensation for the use of heir "name, image, and likeness" violated the Sherman Act. The NCAA appealed the decision of the District Court.

In the appellate case, *O'Bannon v. NCAA* (2015), the Ninth Circuit Court of Appeals affirmed that part of the decision that held that the NCAA's rules unlawfully restrained trade, but struck down the $5,000 deferred-compensation remedy, holding that direct cash payments were inconsistent with preserving amateurism in college sports, which the Court found was a "worthwhile objective." Perhaps most importantly, *O'Bannon* established that NCAA rules were not exempt from antitrust scrutiny and would henceforth be evaluated under the rule- of-reason. In a second case, *NCAA v. Alston* (2021), the United States Supreme Court held that NCAA limits on education-related benefits for college athletes violated Section 1 of the Sherman Act. The Court unanimously affirmed lower-court findings that the NCAA's restrictions—covering benefits such as graduate-school scholarships, paid internships, computers, and tutoring—were unreasonable anticompetitive restraints in the market for the "labor" of student-athlete.

Applying a rule-of-reason analysis, the *Alston* Court concluded that the NCAA's restrictions were "patently and inexplicably stricter than necessary" to preserve amateurism in college athletics and to assure the continued demand for college sports. While the Court did *not* address broader compensation rules (such as "pay" for unrelated to education), it rejected the NCAA's request for a highly deferential standard amounting to a limited antitrust exemption and signaled once again that amateurism did not grant the NCAA blanket antitrust immunity. Justice Kavanaugh's concurring opinion in *Alston* signaled deep skepticism toward NCAA compensation restrictions, suggesting they resemble classic "wage-fixing" in clear violation of the Sherman Act.

As a result of *O'Bannon* and *Alston*, the introduction of "name, image, and likeness" (NIL) rights has transformed college sports. Athletes can now engage in a wide array of commercial deals with third parties "through endorsements, sponsorships, social media posts, and more" (see Pierce, 2026). Future attempts by the NCAA or athletic conferences to regulate NIL markets—especially by imposing restrictions on "recruiting inducements"—would no doubt face additional antitrust challenges if they appear to suppress competition among schools or athletes, unless a limited antitrust exemption were granted based on a new understanding of amateurism in college sports.

However, at the same time, the consolidation of power among major or “Power Conferences” through realignment continued to raise antitrust concerns related to market dominance, exclusive media contracts, and competitive imbalance.

4.3. The House Settlement

Maginnis (2026) provides the context to issues relating to compensation of college athletes as he writes: “Despite the amateurism principle, collegiate athletics are a multi-billion-dollar industry. In a record-breaking 2024, the NCAA reported nearly $1.3 billion in revenue. After settling its balance sheets, the NCAA distributed $961 million to its member schools across all athletic divisions.”

Perhaps the greatest factor in the changing landscape of college athletics was the settlement reached in *House v. NCAA* (2025), approved by Judge Claudie Wilken in June of 2025 (Cohen, 2025; College Sports Commission, 2026). Judge Wilkin has emerged as the “key” judicial player in the major cases to have reached the courts thus far relating to NIL rights and compensation based on athletic performance.

The House Settlement consolidated three major antitrust cases, *House v. NCAA* (Arizona State swimmer)*, Hubbard v. NCAA* (Oklahoma State football player)*, and Carter v. NCAA* (Duke University football player), in which the various plaintiffs had argued that NCAA amateurism rules illegally restricted athletes from receiving a share of the revenues generated by their athletic performance (see McCann, 2023).

As a result of the House Settlement, schools may now pay athletes directly for school’s NIL licensing and revenue-sharing agreements — effectively ending the NCAA’s amateurism model. Athletes can receive direct compensation from their universities, payments which are often facilitated by booster-funded “collectives” or alumni-funded groups that pool resources to pay athletes for the use of their NIL rights. Since 2021, collectives have become a dominant source of NIL income, accounting for over 80% of the $1.7 billion NIL market in 2024–25 (see Headley, 2025).

Each Division I school can choose to share up to 22% of its average revenue generated by media rights, ticket sales, and sponsorships with its athletes. The settlement provides for a Year 1 cap of ~$20.5 million per school, rising to an estimated cap of ~$21.3 million per school in 2026-2027. The cap will increase by 4% annually for three years before recalculation, creating a predictable, school-funded compensation model—at least for Division I athletes, mainly participating in college football and basketball.

Cohen (2025) notes:

> “Because football and men’s basketball are the primary revenue drivers at most schools, and that money helps fund all the other sports, it stands to reason that the football and basketball players will get most of the money. But that is one of the most difficult calculations for the schools to make. There could be Title IX equity concerns as well.”

In order to compensate for past NCAA restrictions which had denied athletes compensation beyond their athletic scholarships, the NCAA and Power Five conferences will pay $2.576 billion–$2.78 billion in damages over a 10 year period to athletes who were previously barred from earning NIL income. This fund covers athletes who participated in college athletics from 2016–2024 across multiple sports—but mainly college football and basketball. Scholarship caps are replaced with roster limits (Jain, 2025), allowing schools to award a greater number of full or partial scholarships, potentially expanding access to athletic aid. Beginning in 2026-2027, college athletes would be granted a window of five years of eligibility to participate in college athletics—although details are yet to be finalized and are currently enmeshed in a number of lawsuits (Nettuno, 2026).

In order to avoid the appearance of “pay-for-play,” athletes must now report third-party NIL deals worth $600 or more, and all NIL deals must be validated as “legitimate business transactions” via the NCAA’s “*NIL Go System,*” overseen by the College Sports Commission and operated by Deloitte (Kazimov, 2025). Any NIL deals that do not reflect “fair market value,” and any “pay-for-performance” contracts tied to stats or wins, as well as any deals lacking a valid business purpose, will be "flagged" by the system as inappropriate. What will happen at that point is yet to be determined.

4.4. Athletes as Employees? One More Issue on the Horizon

An emergent question concerns whether college athletes should be classified as employees and thus eligible to form a union, a position vigorously opposed by the NCAA. Hudson (2014) provides a context to the issue of classifying college athletes as employees as he wrote:

> "On March 26, 2014, the Chicago district of the National Labor Relations Board ruled that football players at Northwestern University were employees, not amateur athletes, and were able to vote on whether they should form a union. Led by former Wildcats quarterback Kain Colter and National College Players Association president Ramogi Huma, and backed by the United Steelworkers union, the newly formed College Athletes Players Association (CAPA) had successfully convinced NLRB regional director Peter Sung Ohr that college football players were primarily on campus to win football games, not for an education."

However, the petition was rejected by the full NLRB in August of 2015 (Toporek, 2015). Interestingly, the Board at that time noted that its decision not to assert jurisdiction applied strictly to the unique facts of the case involving Northwestern University football players, who would have been the only athletes in the "Big Ten" to be represented by a union, not to a *theoretical petition* from all scholarship athletes participating in the NCAA's ten recognized Division I Conference, encompassing 138 schools. The Board also said the decision "does not preclude a reconsideration of this issue in the future," particularly "if the circumstances of Northwestern's players or FBS football change such that the underpinnings of our conclusions regarding jurisdiction warrant reassessment."

That "reassessment" took place six years later and was the basis of a Memorandum issued by NLRB General Counsel Jennifer Abruzzo on September 29, 2021, titled *Employee Status of College Athletes* (NLRB, 2021). The Abruzzo Memorandum found that certain "Players at Academic Institutions," including college football and other student-athletes, are in fact employees under the National Labor Relations Act (NLRA) and thus are entitled to statutory labor protections, including the right to be represented by a labor union of their own choice and to engage in collective bargaining with their employers over matters of "wages, hours, and working conditions" unique in college athletics.

General Counsel Abruzzo, who was appointed to her position by former President Biden, concluded that athletes who perform services for their educational institutions in return for compensation in the form of an athletic scholarship and who are acting under institutional control are *statutory employees* under Section 2(3) of the National Labor Relations Act, which broadly defines "employee" with exceptions that did not specifically exclude college athletes. Interestingly, Abruzzo also rejected the term "student-athlete" as used by the NCAA, arguing that this terminology had been used strategically to deny workplace protections to college athletes. Instead, Abruzzo advocated for the use of the term "*Players at Academic Institutions*."

The implications of the Abruzzo Memorandum were far reaching. If athletes were to be classified as employees, many NCAA rules could be treated as classic "wage-fixing agreements" and thus as impermissible restraints in the labor market in the absence of a collective bargaining agreement or a specific antitrust exemption.

The Abruzzo Memorandum, however, was rescinded in February of 2025 (NLRB, 2025) when the NLRB General Counsel William Cowan, appointed by President Trump, issued a subsequent Memorandum which rejected the central thesis that college athletes are employees. The Cowan Memorandum's revised interpretation means that it is unlikely that a union representing college athletes teams would be certified by the NLRB in the foreseeable future, making it more difficult for college athletes to pursue unionization under the National Labor Relations Act or to resolve outstanding issues through collective bargaining.

4.5. Possible Legislative Solutions

Congress has since "entered the breach" of disputes in college athletics through the introduction of legislation, most prominently the SCORE Act (*Student Compensation and Opportunity through Rights and Endorsements Act*), introduced in July 2025 as H.R. 4312 by Rep. Gus Bilirakis, with bipartisan sponsors including Reps. Janelle Bynum, Brett Guthrie, Tim Walberg, and others; the *Student Athlete Fairness and Enforcement Act* (SAFE Act), introduced in September 2025 by Senators Maria Cantwell, Cory Booker, and Richard Blumenthal; and the *Protect College Sports Act of 2026,* bi-partisan legislation introduced by Sen. Maria Cantwell and Sen. Ted Cruz, with support from Sen. Eric Schmitt and Sen. Chris Coons (Williams, 2026).

The various proposals contain many similar provisions but differ on such important issues as considering athletes as employees or granting the NCAA either a limited or full antitrust exemption.

4.5.1. The SCORE Act

The SCORE Act is a bipartisan proposal aimed at creating a uniform national framework for college sports, particularly concerning NIL rights, protections for athletes, and assuring institutional accountability.
Key provisions of the Act include:

- NIL Standardization: Establishes a single national NIL rules framework for all NCAA institutions and governing bodies, replacing the current patchwork of state laws and NCAA regulations;
- Athlete protections include legal rights for athletes to enter NIL agreements and to hire agents to pursue legitimate NIL opportunities;
- Prohibits "pay-for-play" and predatory compensation schemes, masquerading as legitimate NIL deals;
- Provides student privacy protections and support for financial literacy and contract guidance for college athletes;
- Academic and Health Support: Mandates access to academic/career counseling and "robust mental health services," covering medical expenses necessary to treat athletic injuries for a period of 3 years post-enrollment; and
- Protects scholarships regardless of injury to a player or any income earned from NIL activities.

The SCORE Act would create regulatory clarity relating to eligibility, transfer timelines, and compensation caps. The Act would require registration for agents representing college athletes in NIL negotiations and affirms student-athletes' classification as non-employees. Further, the Act mandates public reporting of student fees used to fund athletics and prohibits top-revenue programs from using these fees for general costs of college athletics. The SCORE Act passed committee stages in both the House and Senate but was pulled from the House floor vote in December 2025, leaving its status in limbo.

4.5.2. The SAFE Act

The Safe Act would:

- Create a national NIL standard, preempting state NIL legislation;
- Create health and safety mandates in such areas as heat exertion rules, concussion protocols and asthma standards, and provide for 5 years of post-eligibility medical coverage for all college athletes;
- Provide scholarship protections with 10-year scholarship guarantees for the student athlete in order to complete degree requirements;
- Mandate agent regulation, providing for mandatory registration, and a 5% fee cap on NIL agent compensation;
- Provide for media rights reform, allowing schools and athletic conferences to negotiate media rights collectively without the prospect of the application of antitrust provisions by creating a "limited" antitrust exemption relating to issues considered in the legislation;
- Create transfer portal changes permitting athletes to transfer *twice* without sitting out a mandatory year; and

- Introduce limits on “pay-for-play” by requiring that NIL payments must be made for the legitimate use of an athlete’s NIL rights.

4.5.3. Protect College Sports Act of 2026

The Protect College Sports Act of 2026 has garnered the most attention and support in the Congress and the public. The Act is a bipartisan legislative effort designed to stabilize college athletics by establishing enforceable national rules, while preserving fair competition and protecting student-athletes. The bill attempts to restore order in college sports by codifying NIL rights, scholarship protections, and healthcare benefits for student-athletes and to rein in the “chaos” caused by unlimited transfers, “out-of-control” eligibility rules, and actions of predatory agents (see Wohlewend, 2026).

According to its sponsors, the Act would also:

- Preserve women’s and “Olympic sports” (Kuch, 2026) (those sports that are officially recognized and contested at the Summer and Winter Olympic Games, governed by international federations and organized into disciplines and events) by banning major college athletic programs from cutting women’s and Olympic sports programs (Sully, 2025), reducing roster spots (Murphy & Rothstein, 2024) or scholarships below 2024–2025 levels for a period nine years;
- Protect “traditional intercollegiate rivalries” and ensure a reasonable stream of TV revenues for the general benefit of college sports; and
- Restore a competitive balance in college athletics so that smaller programs can compete alongside the “blue bloods” of college sports.

Key provisions of the law relate to:

- NIL Rights: Enshrining in law athletes’ right to earn compensation for their name, image, and likeness, but with guardrails to prevent “pay-for-play” (Forde, 2024);
- Scholarship and Healthcare Protections: Making scholarship and healthcare benefits for student-athletes enforceable in law;
- Transfer and Eligibility Rules: Establishing limits on transfers and eligibility in order to reduce current “transfer chaos” caused in part by the “transfer portal” which Schrotenboer (2026) describes as “sucking life out of college sports”;
- Conference Stability: Proposals under review include capping Power Four conference sizes at 19–20 teams and creating a five-year window for schools seeking to join these conferences;
- Women’s and Olympic Sports Safeguards: Banning cuts to women’s and Olympic sport programs for nine years for schools with over $80 million in athletics revenue; and
- Media Rights Pooling: Allowing conferences to pool media rights in order to increase revenue—effectively providing a limited exemption from antitrust scrutiny.

The Act passed the Senate Commerce Committee with bipartisan support (19–9) on June 18, 2026 (Williams, 2026). The Trump Administration has endorsed it, although the President had offered his own suggestions for reforms in Executive Order 14322 – *“Saving College Sports”* (July 24, 2025) and Executive Order 14400 – *“Urgent National Action to Save College Sports”* (April 3, 2026)**,** which critics charged would actually *increase* the NCAA's control over college athletes and athletic programs. The President also threatened to review federal government grants and contracts for colleges that do not comply with NCAA rules (Rinaldi, 2026).

Key opponents of the legislation initially included the SEC and Big Ten Conferences, who released a joint statement saying the bill “leaves critical issues unresolved” and could expand litigation rather than reduce it (Jain, 2026; Pells, 2026); Auburn University and University of Alabama, who issued a joint letter opposing the bill, arguing it fails to address the central challenges in college athletics and leaves key issues to the courts (Rauterkus, 2026); and the AFL-CIO, calling the legislation a return to “an old system of athlete exploitation,” reducing athletes’ transfer rights, and failing to grant college athletes employee status (Kelley, 2026).

Extensive negotiations took place between the legislation’s sponsors and representatives of the Big Ten and the SEC who finally reached an agreement on August 2, 2026 (Russo, 2027), sending the bill to the floor of the U.S. Senate. However, the fate of this legislation remains uncertain. Last minute opposition by the Congressional Black Caucus further dimmed the Act’s passage (Niles, 2026).

5. Conclusion: The Continuing, but Limited, Role of Antitrust

This article examined the continuing relevance of antitrust law in three economically important but institutionally distinct settings: franchising, Big Tech, and sports. The central conclusion is clear. Antitrust law remains an essential mechanism for protecting competition, restraining exclusionary conduct, and preventing powerful firms or coordinated entities from using market power to impose costs on consumers, workers, franchisees, athletes, advertisers, and smaller rivals. Its relevance has not diminished. Rather, contemporary disputes demonstrate that antitrust analysis has become more fact-dependent, more attentive to market structure and economic realities, and more intertwined with other legal regimes, particularly labor law, intellectual property law, consumer protection law, and sector-specific regulation.

In franchising, antitrust law continues to provide an important boundary between legitimate system-wide control and improper restraints on competition. Franchisors have substantial interests in preserving brand integrity, uniform quality, safety, and customer expectations. These interests may justify certain purchasing requirements, technical standards, and restrictions designed to prevent “free riding” or protect the value of the franchise system. Yet, the franchise relationship cannot serve as a vehicle for coercive tying, unlawful territorial allocation, resale price restraints, or other practices that needlessly foreclose competition in markets for goods and services that franchisees might otherwise obtain independently. The critical inquiry is not whether a franchisor exercises control, but whether the challenged restraint is reasonably related to legitimate operational needs and produces benefits that outweigh its competitive harms.

The Big Tech cases reveal a different but equally consequential application of antitrust law. Digital platforms may generate substantial consumer benefits through integrated products, ecosystem coordination, security protections, innovation, and low- or no-price services. At the same time, the scale, data advantages, default arrangements, network effects, and control over digital distribution channels held by major technology firms can enable exclusionary conduct that rivals find difficult to overcome. The litigation involving Google, Amazon, and Apple illustrates the modern challenge: courts and enforcement agencies must distinguish vigorous competition and legitimate product integration from conduct that unlawfully preserves monopoly power, raises rivals’ costs, restricts interoperability, or denies competitors meaningful access to customers and markets. The appropriate remedies must be carefully tailored. Overly intrusive intervention may discourage innovation, while weak behavioral commitments may leave the conditions that produced market dominance substantially unchanged.

Sports present an especially complex case because cooperation among competitors is often necessary to create the product itself. Teams must agree on rules, schedules, player eligibility, media arrangements, and competitive structures in order to produce a viable league. Accordingly, sports cannot be analyzed solely through the lens of ordinary commercial rivalry. Nevertheless, the need for cooperation does not create blanket immunity from the Sherman Act. Professional leagues remain subject to antitrust scrutiny except where statutory exemptions, judicially recognized doctrines, or collective bargaining protections apply. Statutory and nonstatutory labor exemptions are particularly significant because collectively bargained agreements can address salary caps, drafts, free agency, roster rules, and other employment conditions that otherwise might be characterized as restraints on trade.

College athletics is the setting in which the limits of the traditional amateurism model have become most evident. The progression from *NCAA v. Board of Regents of the University of Oklahoma* to *O’Bannon v. NCAA*, *NCAA v. Alston*, and the *House* settlement demonstrates that the NCAA and its member institutions cannot rely on amateurism as a categorical defense to restrictions on athlete compensation. College athletes now participate in a system marked by NIL opportunities, direct institutional revenue sharing, booster-supported collectives, transfers, eligibility litigation, and increasing pressure to recognize the economic value of athletic labor.

These changes have made it increasingly difficult to maintain a regulatory structure that treats athletes as participants in a purely educational enterprise while institutions, conferences, broadcasters, and commercial partners derive enormous revenues from their performances.

Antitrust litigation has helped expose restraints that no longer fit the economic realities of major college sports. It is less clear, however, that antitrust litigation alone can produce a stable and equitable governance system. Courts are well suited to assess specific restraints, determine whether a challenged practice is unreasonable, and impose relief tailored to an established violation. Courts are less well positioned to construct a durable national framework for revenue sharing, athlete health and safety, transfer rules, Title IX compliance, scholarship protections, agent regulation, media rights, and the long-term viability of nonrevenue and Olympic sports. Those issues require institutional choices that extend beyond the traditional remedial function of antitrust law.

One possible path forward is collective bargaining. If college athletes attain employee status under applicable law or otherwise acquire a meaningful mechanism for collective representation, negotiations between athletes and institutions could address compensation, benefits, health care, working conditions, eligibility, transfers, and revenue sharing. Properly structured collective bargaining could also bring certain agreements within the protection of the nonstatutory labor exemption, reducing recurring antitrust exposure while giving athletes a direct voice in rules that govern their economic and athletic lives. Such a development would not eliminate difficult questions concerning the appropriate bargaining unit, the role of the NCAA and conferences, public-private institutional differences, and the preservation of broad-based athletic opportunities. It would, however, offer a more participatory alternative to a system governed principally by litigation and unilateral institutional rulemaking.

Congress may also choose to enact targeted legislation, but any statutory solution should be approached with caution. A national framework could reduce the uncertainty created by inconsistent state NIL laws and continuing litigation. Yet, a broad antitrust exemption for the NCAA, conferences, or institutions would risk reinstating the very forms of economic control that recent antitrust decisions have challenged. Any legislative protection should therefore be limited, transparent, and conditioned on meaningful athlete safeguards, including enforceable compensation rights, medical protections, academic support, due-process procedures, and protection against retaliation. Antitrust immunity should not become a substitute for accountability.

The broader lesson of this Article is that antitrust law remains relevant precisely because market power continues to evolve. In franchising, the question is whether control protects a legitimate brand or suppresses independent competition. In digital markets, the question is whether integration and innovation are being used to create consumer value or to entrench durable dominance. In sports, the question is whether necessary coordination serves the production of a competitive product or improperly restricts athlete compensation and mobility. The answers will vary by market, legal doctrine, and factual context. But the foundational antitrust principle remains constant: economic power must not be exercised in a manner that unreasonably denies others the opportunity to compete.

Accordingly, the question is not whether antitrust law is still relevant today. It plainly is. The more difficult and therefore important question is how antitrust law should operate alongside labor law, private ordering, judicial remedies, and carefully designed legislation in markets whose commercial structures increasingly blur the boundaries between cooperation and collusion, integration and exclusion, and innovation and entrenchment. The future of antitrust enforcement will depend on maintaining that distinction with doctrinal rigor, economic realism, and sustained attention to the interests of those most affected by concentrated economic power.

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