Good morning,

My name is George Wrighster, and I am a former college football player for the University of Oregon and a former NFL Player for the Jacksonville, Jaguars. I am a Fox Sports Radio host and the creator of the Unafraid Show, a sports news website that covers sports, entertainment, and the business of the industry. First, I would like to thank the Chairman and Senators for allowing me to testify today.

The college sports industry has reached a point where it can no longer ignore the blatant inequities that plague the college athletics system. It is no secret that college athletics is a billion-dollar industry that is propelled by undercompensated labor. In 2019, the Power 5 conferences, which include the Big 10 Conference, Atlantic Coast Conference, Pac-12 Conference, the Southeastern Conference, and the Big 12 Conference, generated over $2.9 billion in revenue.[i] However, the athletes who risk their bodies and sacrifice countless hours in preparation and training to generate said revenue were capped to a cost-of-attendance scholarship as their only compensation. While a college scholarship is valuable, it is no longer commensurate with the value that college athletes bestow upon their colleges and universities. For far too long the NCAA and its members have hidden behind the charade of amateurism as a justification for systemically denying college athletes the true value of their worth. The time for that to stop is NOW.

Each year it becomes increasingly clear that college sports is about way more than playing for the love of the game and winning championships. With growing television revenue from major broadcasting deals and the ever-increasing coaching salaries there is no denying that college sports are big business. Specifically, in 2016 the NCAA extended their contract with CBS Sports and Turner, a division of Time Warner for the right to broadcast the Men's March

Madness basketball tournament.[ii] Per the contract extension, the NCAA will earn $1.1 billion per season.[iii] In regard to coaches' salaries, several college coaches enjoy six and seven figure salaries. For example, in 2019, Clemson University's football coach, Dabo Swinney, became the highest paid college football coach earning $9.3 million per year.[iv] Similarly, Duke University's basketball coach, Coach K, earns $8.98 million per year.[v] These earnings are not limited to head coaches, as assistant coaches are certainly getting their piece of the pie.

Several assistant coaches earn million-dollar salaries as well. In 2019, 24 assistant coaches earned at least $1 million dollars in one season.[vi] The NCAA is not allowed to place limits on coaches' salaries because the court has found such limits to be a violation of federal antitrust law. In *Law v. NCAA*, several assistant coaches challenged a NCAA rule that required schools to cap at least one coach's salary to $16,000 per year.[vii] The Tenth Circuit Court of Appeals held that the NCAA's rule violated federal antitrust law.[viii] Accordingly, the rule was deemed unenforceable and coaches are now able to earn what the relevant market dictates they are worth. The rules should be no different for college athletes and their ability to profit from their name, image, and likeness. College athletes should be able to profit from their name, image, and likeness free of arbitrary limits set by the NCAA and its members.

The proposed "*Student-Athlete Equity Act of 2020*" (the Act) is a step in the right direction, but the Act is a bit more restrictive than I believe is necessary. The Act takes the necessary step of prohibiting schools from enacting rules that prevent college athletes from licensing their Publicity Rights. However, the Act goes too far in conditioning college athletes' ability to license their Publicity Rights on the successful completion of one full-time semester of college. It may be arguable that the condition serves an academic purpose by ensuring that college athletes will be focused on their studies. However, there are better ways to accomplish

that academic goal that do not require college athletes to sacrifice valuable time in which they could be building their brand. The Universities immediately start generating revenue from a players talents, name, image, and likeness immediately, so the student-athletes should be afforded the same opportunity. Specifically, the NCAA could work with its members to create programs similar to what the University of Nebraska and the University of Colorado have created.

The University of Nebraska has launched a partnership with Opendorse, an athlete marketing company that seeks to help athletes maximize their name, image, and likeness rights on social media.[ix] The program is entitled the "Ready Now Program" and it seeks to provide college athletes with the tools necessary to "navigate the complexities of social media and maximize their brand in the digital world."[x] Similarly, after Colorado passed its name, image, and likeness bill[xi] into law The University of Colorado created the "Buffs with a Brand" program.[xii] The program focuses on three key topics, which are personal brand management, entrepreneurship, and financial literacy.[xiii] The program will provide The University of Colorado's athletes with the tools necessary to capitalize on their name, image, and likeness rights.[xiv]

Instead of making college athletes wait a semester to begin to build their brands, the NCAA and its members should develop courses to assist college athletes in their brand building endeavors. Creating such programs would provide the most benefit to college athletes both academically and economically. Not forcing college athletes to wait a semester to begin building their brands is vital for many college athletes. For some, their time as a college athlete is the point at which they are the most marketable, and as such, is the time where they can attain their highest earning potential. To deprive them of that marketability for a semester would be

completely unjust. After all, college athletes are no less susceptible to injury during their first semester, so why should they have to wait to take advantage of their marketability as a college athlete?

Additionally, not all college athletes are granted a full scholarship. Accordingly, college athletes have expenses that their name, image, and likeness revenue could help cover. Therefore, to make college athletes wait a semester before taking advantage of their marketability to garner endorsements and sponsorship deals would do them a major disservice.

Moreover, an assumption made by the provision requiring college athletes to complete a semester before profiting from their Publicity Rights is that college athletes have no value outside of their athleticism. This simply is not true. College athletes have talents outside of their chosen sport. Consider the story of former University of Central Florida (UCF) kicker, Donald De La Hay. Donald De La Hay used his creative talents to create a YouTube channel called "Deestroying." On the channel, he creates exceptionally engaging videos by filming various aspects of his life. In 2017, about 90,000 people had subscribed to De La Hay's YouTube channel.[xv]

Accordingly, he began to generate advertisement revenue.[xvi] When the NCAA realized that he was generating revenue from the channel they demanded that he no longer make money from his athletically related videos.[xvii] The NCAA forced De La Hay to choose between his eligibility and his YouTube channel. The NCAA agreed to allow De La Hay to profit from his non-athletically related videos, but refused to allow him to profit from his athletically related videos.[xviii] De Lay Hay refused to give in to the NCAA's unreasonable demand and lost his eligibility as a result of his refusal.[xix]

The NCAA's request in this case was completely absurd. The NCAA essentially wanted De La Hay to separate his athleticism from the rest of who he is as a person. De Lay Hay was not making money on YouTube because he was an athlete. He was making money on YouTube because he has a gift for making engaging videos outside of his athletic abilities. De La Hay just so happened to play football for UCF as well. Since De La Hay made videos that highlighted moments in his everyday life, the videos naturally featured his time as a football player.

College athletes should not have to worry about how their success pursuing a skill outside of their athleticism will affect their eligibility as a college athlete. The requirement that college athletes complete a semester before profiting from their name, image, and likeness stands to continue to put college athletes in such a position, thereby again impeding their ability to truly market themselves and profit from whatever brand they create.

Furthermore, the provision requiring college athletes to complete a semester of college before profiting from their name, image, and likeness will especially burden men's college basketball players. Several men's college basketball players play one year in college and then enter the NBA Draft. This trend is due to the NBA's rule that requires NBA Draft entrants to be one year removed from high school before entering the draft. The players who enter the NBA Draft after one year of college will only have one semester to profit from their name, image and likeness as a college athlete. This is completely unfair and serves no benefit to the players in any way. All college athletes should be able to profit from their name, image, and likeness immediately when they begin college.

Another provision that I believe is too restrictive in the "*Student-Athlete Equity Act of 2020*" is the provision that bars college athletes from entering in to licensing deals that conflict with their schools' sponsorship agreements. This provision unjustly keeps college athletes from

seeking licensing deals with companies who may compete with companies the university has a sponsorship with. For example, a college athlete attending a school who has a contract with Nike would be prohibited from seeking a licensing deal with Adidas. A blanket prohibition restricting college athletes' ability to seek licensing deals with competitor companies goes too far. College athletes should be able to garner endorsement deals with competing companies. However, the school could preclude the athlete from wearing the competitor's apparel during games and other official team events. Colleges and universities could base their sponsorship model on the one employed by the National Football League (NFL).

The NFL has a sponsorship with Bose, a company that makes speakers and headphones.[xx] Due to this, players who have an individual sponsorship with Beats, another company that makes speakers and headphones, cannot wear Beats headphones or anything else representing the brand on the sideline. However, when the players are not engaged in official NFL activities they are allowed to endorse products by Beats. Colleges and universities should create a similar system for college athletes who enter deals with companies who compete with their school's sponsors.

Lastly, there is a provision in the "*Student-Athlete Equity Act of 2020*" that mandates the creation of a publicly accessible website on which any sponsorship or endorsement agreement a college athlete enters must be published. This requirement seems to go against one of the NCAA's core arguments in support of its amateurism rules. It seems to against the NCAA's argument that amateurism rules are necessary to integrate college athletes into the greater student body and make them feel as though they are no different from other any student. However, requiring college athletes to publicize their sponsorship deals places a requirement on college athletes that is not asked of other students.

No other student on campus is required to report their earnings or potential earnings in a public forum for other students to see. If the goal of this provision is to promote transparency, that goal can certainly be accomplished in a less intrusive way. Having college athletes report to their compliance office the details of their endorsement deal could serve this goal. The compliance office could then help ensure that college athletes have sufficient information to make the best decision regarding their deal. However, requiring college athletes to make their deals public for everyone to see is overly intrusive and is unnecessary to foster transparency.

A baseless point that is often made when addressing college athletes' name, image, and likeness rights is that such allowance will only benefit certain athletes. Many contend that only college athletes participating in the major revenue generating sports will benefit from being allowed to profit from their name, image, and likeness. However, this could not be further from the truth. Over the past few years, there have been several college athletes participating in Olympic Sports who could have benefited tremendously if college athletes were allowed to market their name, image, and likeness.

One of those athletes is Katie Ledecky. Katie Ledecky is a world class swimmer who participated in the 2016 Summer Olympics. There, she took the world by storm and could have taken advantage of several sponsorship opportunities. However, she was precluded from taking advantage of those opportunities if she wished to remain eligible to swim for Stanford University. Ledecky competed for Stanford University for two seasons and announced she was turning pro in 2018.[xxi] Once Ledecky turned pro, she was able to take advantage of any sponsorship opportunity she wanted. While Ledecky turned pro in terms of competition, she remained enrolled at Stanford University.[xxii] She also continued to train with her teammates and coaches.[xxiii]

Essentially, Ledecky did everything a collegiate swimmer would do except participate in competitions. She was precluded from collegiate competitions due to the NCAA's amateurism rules. The NCAA's amateurism rules forced Ledecky to choose between reaping the financial rewards that her athleticism rightfully bestowed upon her and continuing to compete as a college athlete. It seems that both Ledecky and Stanford University could have benefited from Ledecky being allowed to license her Publicity Rights.

Similarly, in 2019 Katelyn Ohashi, a University of California Los Angeles (UCLA), gymnast catapulted to fame when a video of her gymnastic routine went viral.[xxiv] The video was viewed 90 million times as the United States learned who Katelyn Ohashi was.[xxv] Ohashi was everywhere. She did an interview on Good Morning America, she was a part of ESPN's 2019 Body Issue, and the video served as great publicity for UCLA's gymnastics program.[xxvi] In fact, the video was posted on the UCLA gymnastics Twitter page where it received almost 44 million views.[xxvii] While Ohashi was becoming a household name, she was precluded from profiting from her success due to the NCAA's amateurism rules.

As a result, Ohashi published a video entitled "*Everyone Made Money Off My N.C.A.A. Career Except Me.*"[xxviii] In the video, Ohashi addressed the unfairness of the NCAA's rules explaining that she was unable to take advantage of opportunities to profit from her name, image, and likeness because of the NCAA's restrictions.[xxix] Likewise, in 2020 UCLA had another women's gymnasts break the internet. Nia Dennis became a viral sensation when a video of her floor routine to the backdrop of Beyoncé's *Homecoming* Album took the internet by storm.[xxx] Dennis garnered the attention of Grammy award winning recording artist Alicia Keys and United States Senator Kamala Harris.[xxxi] These are two prime examples of athletes who did not participate in major revenue generating sports who would have benefited greatly if allowed to

license their Publicity Rights. There is no professional gymnastics league for Ohashi or Dennis to join. Therefore, their time as college gymnasts was their best opportunity to profit from their athletic skills. They were unjustly forced to miss their opportunity due to the NCAA's amateurism rules.

Lastly, during the 2019-2020 college basketball season Sabrina Ionescu took the country by storm. Ionescu played for the University of Oregon (Oregon) and emerged as the university's biggest star. It is arguable that she was even more popular than Oregon's quarterback Justin Herbert who was the 6th overall draft pick in the 2020 NFL Draft. At the start of the college basketball season, Nike began selling University of Oregon number 20 jerseys. Ionescu wore the number 20 while playing for Oregon.[xxxii] In less than 2 hours, the number 20 jerseys sold out proving that Ionsecu had a marketable brand that Oregon fans want to be associated with.[xxxiii]

Several months later, Ionescu was the number one overall draft pick in the 2020 WNBA Draft. She was selected by the New York Liberty. Within an hour of her selection, her New York Liberty jersey sold out.[xxxiv] Ionsecu has not played in her first WNBA game and her jersey sold out as soon as it became available. This further proves that Ionescu was marketable as a college athlete. Her WNBA jersey did not sell out because she had officially become a professional athlete. Her WNBA jersey sold out because of her success and reputation as a college athlete. The rules precluding Ionsecu from reaping the financial rewards of her success and reputation as a college athlete are simply unjust.

There is an opportunity for all college athletes to benefit from being allowed to license their Publicity Rights, as can be seen with the marketability of the aforementioned women collegiate athletes competing in non-revenue generating sports. It is a myth that only athletes competing in revenue generating sports will benefit. Additionally, another point made in

opposition to allowing college athletes to profit from their name, image, and likeness is that it will cause issues with Title IX compliance. However, allowing college athletes to profit from their name, image, and likeness will not pose Title IX issues for two reasons. One reason is because the athletes will be paid from third parties not the schools. The second reason is that there are plenty of opportunities available for women as evidenced by Katie Ledecky, Katelyn Ohashi, Nia Dennis, and Sabrina Ionsecu.

While the "*Student-Athlete Equity Act of 2020*" does take the necessary step of prohibiting schools from enacting rules that prevent college athletes from licensing their Publicity Rights, it does not allow college athletes to fully take advantage of all potential opportunities. The Act requires college athletes to wait a semester before being allowed to financially benefit from their brands as college athletes. The Act also does not allow college athletes to enter into any type of sponsorship deal that conflicts with a deal their college or university is a party to. Both provisions severely limit the goal the Act was written to accomplish. That goal was to finally allow college athletes to receive a bigger piece of the financial pie their labor affords the NCAA, its members, and the conferences.

If there is one thing that the Coronavirus pandemic has taught us about the resumption of fall college sports, namely football, is just how dependent so many are on the revenue college athletes' undercompensated labor generates. An article was recently published that addressed the negative financial impact the city of Baton Rouge will suffer if Louisiana State University (LSU) is forced to cancel the 2020-2021 football season.[xxxv] The article highlights that local businesses could lose 50% of their business if there is no LSU football. The points made in that article highlight once again that college sports are not amateur, it is in fact big business.

It is for this reason, that so many schools have taken the very dangerous risk of bringing college football players back to school for voluntary workouts. In doing so, many schools like Ohio State University have asked their athletes to sign a pledge agreeing to assume responsibility if they contract COVID-19.[xxxvi] The athletes have been asked to sign these documents without being given an opportunity to seek outside counsel regarding their rights prior to signing. The NCAA, its members, and the conferences believe that college athletes are mature enough to sign documents that give away their name, image, and likeness rights and that attempt to absolve the colleges and universities of liability if an athlete contracts COVID-19. However, the NCAA, its members, and conferences do not believe that those same college athletes are mature enough to handle negotiating sponsorship agreements their first semester of college. This makes no sense and further proves that the limits set forth in this Act are unnecessary and serve no beneficial purpose to the college athletes.

College athletes were not asked to wait a semester to allow medical professionals to study and develop the best practices for resuming college sports amid the Coronavirus pandemic. Therefore, they should not be required to wait a semester before being able to profit from their name, image, and likeness. It is often said that when a person is backed into a corner that person must do something. However, that person must not simply do something, but must do the right thing. Here, it is incumbent upon Congress to the right thing and revise this Act to allow college athletes to profit from their name, image, and likeness free of unnecessary limits and restraints. Thank you.

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