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Leaving it on the Field: A review of the Bowl Championship Series and Proposal of a Postseason Playoff to Remedy the Negative Ethical Implications on Higher Education of the Current Model

Thomas Benton York

LEAVING IT ON THE FIELD: A REVIEW OF THE BOWL CHAMPIONSHIP SERIES AND PROPOSAL OF A POSTSEASON PLAYOFF TO REMEDY THE NEGATIVE ETHICAL IMPLICATIONS ON HIGHER EDUCATION OF THE CURRENT MODEL

by
T. Benton York

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Approved by

Advisor: Dr. Charles K. Ross

Reader: Dr. Marvin P. King

Reader: Dr. Ken B. Cyree

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ABSTRACT

THOMAS BENTON YORK: A Review of the Bowl Championship Series and Proposal of a Postseason Playoff to Remedy the Negative Ethical Implications of the Current Model on Higher Education
(Under the direction of Dr. Charles K. Ross)

This thesis considers the current format of the postseason for the National Collegiate Athletic Association (NCAA) Division I-Football Bowl Subdivision (FBS), critiques its ethical implications, and proposes a twelve-team postseason playoff to remedy the ethical dilemmas caused by the Bowl Championship Series (BCS) and the commercialization of football at the Division I-FBS level. Research was focused on sports law journals, books detailing the history of college football, transcripts from Congressional hearings, and articles from prominent sports news sources. The first chapter outlines the evolution of college football since the advent of television as mass media and highlights the medium's direct effects on the administration of the sport. The second chapter details the BCS and its implementation. The third chapter calls into question the ethics of universities using football as a revenue generator without naming a NCAA champion as is done in every other sport and the lower divisions of college football. The fourth chapter lays the framework for a postseason playoff system and addresses how it resolves the conflicts of interest presented by the BCS.

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Introduction

When the Rutgers football squad squared off against the team from Princeton in Piscataway, New Jersey in 1869, those young men could never have imagined that the game they played would one day be able to generate millions of dollars for their universities or that millions of people would even care to see it. Even Walter Camp, the father of American football, could not have dreamed the game he helped to institutionalize would ever become so profitable. The games played by Walter Camp's teams at Yale and those young men in New Jersey were from a different time. Not only is the game played differently, but the student athlete of the modern era of college football plays for much more than bragging rights, the home state, and the alma mater. On the line now are the six and seven figure contracts for head coaches and university administrators, and at stake are the potential millions of dollars available to the teams who play well enough to share in the cash cow of the Bowl Championship Series (BCS). If a team can garner high enough profile, they can play in a nationally broadcast game, cashing in on television rights. If an individual player distinguishes himself as truly outstanding, he can earn his own riches in the National Football League (NFL), and his university can sell replicas of his jersey and profit without worrying about having to compensate the player. If a team wins all of its games, plays in the right conference, and markets its prowess to the media well enough, they can have a shot at a national championship that can be disputed if another team has done the same.

Since 1998, there has been an institution that administers a formula to crown a national champion after national a championship game has been played. The BCS serves as this institution but not without controversy. Many commentators today would argue that the BCS system serves all concerned parties far better than the preceding system in which the Associated Press (AP) and ESPN/USA Today Coaches Poll determined who they perceived to be the best team in college football. Still, cries from sportswriters and fans from all over the country ring out for a playoff similar to that of nearly every other National Collegiate Athletic Association (NCAA) sport. University presidents and athletic directors continue to shoot down this idea and continue to support the bowl system in which teams from diverse regions of the country compete for the chance to end the season with a win. Also at stake are the payouts for participation and winning, none so rewarding as the bowls making up the BCS: the Rose Bowl in Pasadena, California, the Orange Bowl in Miami, Florida, the Sugar Bowl in New Orleans, Louisiana, the Fiesta Bowl in Tempe, Arizona, and the recently added BCS National Championship Game that rotates between the four sites.

Many would argue that the current system has simply put a new name on the old system and even served to further the commercialization of college football. With an understanding of how college football has become so profitable and how the BCS has come into being, questions arise about the system and its implications. What does the BCS actually do? What are the effects of the BCS? When these questions are answered, the most important issue comes to light: is the BCS an ethical system? After considering the ethical dilemmas in which the BCS places universities, it becomes clear that a postseason playoff would be far better for the interests of football at the Division I-Football Subdivision (FBS) level.

Chapter One

College Football History and Context

How did the game of football become so popular and profitable? The short answer is simply television. The Modern Era of college football evolved with the explosion of television set ownership across America and the organized regulations of broadcasts by the NCAA beginning in 1951. The first televised college football game was played on Saturday September 30, 1939 between Fordham with its famed "Seven Blocks of Granite" and Waynesboro State. The primitive NBC broadcast of the game came only a month after the same network had aired a Major League Baseball game for the first time between the Brooklyn Dodgers and the Cincinnati Reds. While most universities feared that television would empty seats at games and lose revenue at the gates, the University of Pennsylvania as well as Notre Dame revolutionarily pursued televised broadcasts of their games in order to market their teams to a broader audience. With college graduates making up such a small part of the populous, the state university and its football team simply were not the linkage institution they are today. All one had to do to truly be a Pittsburgh Steelers fan was to reside in or near the city, but the average steelworker was not going to care about the University of Pittsburgh because he had no connection. With Penn games broadcast by the Philco Corporation in Philadelphia beginning in 1940, Philadelphians who were not among the 60,000 fans who routinely attended games at Franklin Field could follow the team and develop a connection.[1]

Notre Dame had the benefit of being the nation's premier Catholic University, and for that reason had a built-in national fan base that schools like the University of Oregon simply did not have. So it was only natural in 1950 for Penn to sell its broadcasting rights to ABC and Notre Dame to DuMont for $150,000 and $85,000 respectively. These television contracts provided the impetus for creating the modern NCAA, as university administrators across the country were beginning to see ticket sales decline and feared that unless they acted as a unit, television would bankrupt their athletic departments and destroy the sport. Thus, in January 1951, the newly revamped NCAA voted 161-7 to restrict television contracts that were not negotiated by the NCAA. Penn Director of Athletics Francis T. Murray called the plan both short-sighted and illegal as it pertained to antitrust laws, an argument that would be silenced by threats from the NCAA and pressure from other Ivy League institutions.[2]

This new television policy represented the first time the NCAA exercised authority over its member institutions. The Association had developed after a 1906 meeting with President Theodore Roosevelt and the presidents of Harvard, Yale, and Princeton to discuss regulating the game to avoid the brutal injuries and even deaths that had become common as a result of particular formations and tactics. From then on, the NCAA mainly served as a regulator for the rules of the game.[3]

In 1948, the NCAA passed the Sanity Code, which outlawed athletic scholarships, off campus recruiting, stipends for players, and required schools to hold

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[1] Dunnavant, Keith. *The Fifty Year Seduction*. New York: St. Martin's Press, 2004, 2-4.
[2] Dunnavant ..., 5, 9.
[3] Dunnavant ..., 18.

athletes to the same academic standards as the rest of its student body. The Sanity Code was a disaster. In 1950 when there was an opportunity to enforce it, the necessary two-thirds majority needed to expel seven universities charged with egregious negligence of the Sanity Code was not attained, and the NCAA lost credibility with its members as well as its critics. That changed with the new television plan in 1951, and more importantly in 1952 with the passage of the 9th Bylaw, which gave powers to the NCAA to legislate and enforce regulations and policies.[4]

The NCAA first put its newfound authority on display in 1952 with the yearlong suspension of the University of Kentucky men's basketball team. When Kentucky's legendary coach Adolph Rupp did not fight the suspension, all NCAA member institutions knew that the Enforcement Division created by NCAA Executive Walter Byers would be more than hot air. The Enforcement Division also served to highlight the value of bowl games when it leveled a two-year television and bowl appearance ban against the Auburn University football program in 1956 for recruiting violations. Bowl games up to this point had been a reward for the players on the team after a good season. There was a monetary reward for playing, but the main focus was in giving the players an opportunity to travel and play games against teams whom they would not traditionally have the opportunity. As television revenues continued to rise and more national exposure came as a result, appearances in these bowl games became more and more important to the success of a football program.[5]

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[4] Dunnavant..., 19, 14-15.
[5] Dunnavant ..., 27-28.

The concept of the bowl game began in 1902 when the Pasadena Tournament of Roses Association invited the University of Michigan to play against Stanford University in order to be able to pay for the city's annual Parade of Roses and the other events associated with it. The Rose Bowl stadium was constructed in 1923 and first hosted the University of Southern California and Pennsylvania State University. The Tournament committee invited the best team from the eastern United States to play against the Pacific Coast Conference champion. These teams included Alabama, Brown, and Wisconsin. However, in 1947 the Rose Bowl made a decision that would change the course of college football history: the Pacific Coast Conference champion would face off against the champion of the Big Ten Conference every year. This agreement allowed the two conferences with the largest television markets to face off every year in a nationally televised New Year's Day exhibition.[6]

Recognizing how valuable the bowls were becoming and taking advantage of the NCAA's new power, Byers took control of the bowl games by mandating that member institutions could only participate in NCAA sanctioned bowl games. These games had to meet particular requirements including that 75% of all revenues be awarded to the participating schools.[7] At the same time, Byers negotiated the first national broadcast of the Rose Bowl in 1951. The Orange, Cotton, and Sugar Bowls would follow in 1953. As revenues from television grew throughout the 1950's and 1960's, Byers continued to maintain a policy that distributed those revenues between the NCAA member institutions and restricted television appearances regardless of the

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[6] *Determining a Champion on the Field: A Comprehensive Review of the BCS and Postseason College Football, Hearing Before the Subcommittee Commerce, Trade, and Consumer Protection of the Committee on Energy and Commerce, House of Representatives*, 7 December 2005 (Washington: U.S. Government Printing Office, 2005), 39.
[7] Dunnavant..., 27.

size of the program. A small minority of universities was responsible for the profitable ratings of the broadcasts, but the policies on football and television still came from the voting majority that either did not draw significant viewership or did not play football at all. From 1960 to 1970, revenues for the NCAA television plan grew from $3.125 million to $12 million. At the same time, NFL's television revenue increased from $3.1 million to $45.6 million.[8] Because the NFL had received antitrust exemption and dedicated its resources to marketing the game, the popularity soared especially after the merger with its competitor the American Football League. At the same time, the NCAA continued to force unmarketable games while restricting its ratings-grabbing teams from getting too much broadcast time. The NCAA had an extremely marketable product, but Byers continued to restrict its money making potential, much to the frustration of many universities who were providing the large television audiences without receiving proportional compensation.

By 1973, the NCAA realized it would be prudent to reorganize its now cumbersome membership into three divisions: Division I, II, and III.[9] Initially, Division I included 273 members of which only 126 played any football. Of those 126 institutions, around 80 teams played in major conferences.[10] The disparity between the revenue generating capabilities of the large programs and the costs of competing for the smaller universities became truly significant in the 1970's with a weak U.S. economy and the passage of new federal regulations requiring a greater commitment to women's athletics. These financial struggles culminated in talks

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[8] Dunnavant…, 36-37, 89.
[9] Division I and II award athletic scholarships. Division III does not.
[10] Watterson, John Sayle. *College Football: History, Spectacle, Controversy.* Baltimore: Johns Hopkins Press, 2002, 333.

centered on cutting costs in order to provide a more even playing field. During this process, Long Beach State president Stephen Horn devised a plan to ease the budget burdens for the smaller programs like that of the school he represented. Under his "Robin Hood Plan" as it would be tabbed, 50% of all television revenues would be shared evenly among Division I schools regardless of size or frequency of television appearance. The other 50% would be shared evenly between the member institutions of Division II and III. The Robin Hood Plan also proposed a similar distribution of bowl winnings.[11] The NCAA Council eventually rejected the plan in 1975 citing that if it were put up for a vote and passed as expected, it would effectively end the NCAA "as we know it."[12] This series of events provided a stimulus for the major college football programs to take up the fight to seize control from what they considered mob rule in the NCAA.

The creation of the College Football Association (CFA) in 1976 coupled with the 1946 agreement between the Big Ten Conference and what would become the Pac-10 Conference shaped the landscape of college football for the following thirty years. The CFA was made up of 61 universities from 7 conferences including the Southeastern Conference (SEC), Big Eight, Atlantic Coast Conference (ACC), Southwest Conference (SWC) as well as independents including Notre Dame, Penn State, and Florida State among others. Driving the creation of the CFA was the desire of the institutions with major college football programs to discuss discontent with the NCAA's restrictive television plan. One of their goals was to influence the NCAA to subdivide Division I. Their first attempt to garner the necessary votes failed in

[11] Watterson ..., 334-335.
[12] Dunnavant..., 119.

January of 1978 but was eventually passed later in the same year. Missing from the CFA were the Pac-10 and Big Ten who remained loyal to Byers and the NCAA where the two conferences enjoyed influence and a large number of television appearances.[13] Their alliance was inextricably linked to their Rose Bowl relationship, which by 1979 was paying out a combined $5.2 million.[14]

The bowls had steadily been growing in popularity and profitability with the growth of television. In 1958, there were six bowl games. By 1971, there were 11, and that number increased to 15 by 1978. Of those bowls, the most prestigious were the "Big Four". While television made the newer games viable, the Sugar, Cotton, Rose, and Orange Bowls were elite. During the 1970's, the bowls were paying out an average total of $15 million to the participating schools, the bulk of which was going to the members of the Pac-8, Big Ten, SWC, SEC, and Big Eight.[15] The Big Four were broadcast on national television and became synonymous with New Year's Day. Although newer bowls such as the Liberty and Peach Bowls began featuring compelling match-ups, they simply did not garner the respect of the Big Four and certainly were not to be played on New Year's Day. However, the Fiesta Bowl in Tempe, Arizona served to shake up the status quo for the bowl season as well as influence conference realignment.

The Fiesta Bowl began in 1971 with a game between Arizona State University and Florida State University. The payout for what was at the time the smallest bowl game amounted to $168,000, and the broadcast contract was worth $500 for the radio

[13] Watterson..., 336-338.
[14] Dunnavant..., 98.
[15] Dunnavant. ., 95, 99-100.

rights.[16] The Fiesta Bowl began with an automatic tie-in with the champion of the Western Athletic Conference (WAC), which perennially was won by the upstart Arizona State program. In 1975, Arizona State finished the season undefeated, and the Fiesta Bowl negotiated a deal with Big Eight commissioner Chuck Neinas to send the loser of the Oklahoma-Nebraska game to Tempe for the bowl game. The Cornhuskers lost the game, and then found themselves overmatched by the underdog Arizona State team. The win gave legitimacy to both Arizona State and the Fiesta Bowl. As a result CBS moved the game to primetime on Christmas Day. The Fiesta Bowl's agreement to move the date of the game was significant because it showed the impact of television once again: attendance would drop, but ratings would increase. The 1977 Fiesta Bowl between Penn State and Arizona State was the fourth highest rated bowl game, finishing in front of the Sugar Bowl. Arizona State's win had monumental effects: the Pac-8 absorbed the Sun Devils and their in-state rival Arizona to become the Pac-10 and the Fiesta Bowl ended its relationship with the WAC. The success of the 1977 game resulted in a contract for $400,000 with NBC for the 1978 season.[17]

The Fiesta Bowl coup not only shocked the organizers of the Big Four, but also sent a message to network executives and local businesses in big cities all around America that the market for postseason football was ripe and profitable. Over the course of the 1960's and 1970's as college football became more popular and ratings continued to rise, the bowl games created a financial and competitive advantage to the teams that qualified. Notre Dame had been absent from the post season for 45 years

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[16] *Determining a Champion*..., 35.
[17] Dunnavant..., 103-104.

on the grounds that the bowl games interfered with the academic calendar. In 1970 the university realized it could not continue this policy and remain competitive. That year the Irish played against the University of Texas in the Cotton Bowl. The Pac-8 and Big Ten had restricted their members from participating in any bowl games other than the Rose Bowl since their agreement in 1947. With the growing number of bowl games and the exposure and monetary rewards becoming more important, the conferences opened up for other bowl games beginning in 1974. Ticket sales had always provided the bulk of revenue for the bowl games, but beginning in the early 1970's it came from the broadcast rights. The payouts for the Sugar Bowl were $22,759 for Tulane and Temple in 1935. By 1967 the payout had jumped up to $236,000 and then $900,000 in 1976. The Orange Bowl payout went from $259,324 in 1967 to $1.05 million 1976. The 1974 broadcast rights for the Orange Bowl footed the bill for the payout, fetching $2 million from the networks in 1974 and then $2.8 million in 1981. With an average 21.8 million homes tuning in for the Rose Bowl in the 1970's, it is no surprise that its broadcast rights reached $2 million in 1974 and $4.3 million in 1981.[18] Exposure from a national broadcast and the opportunity to cash a huge check for the conference were vital to maintain a successful program, particularly with the passage of Title IX of the Education Amendments Act.

President Richard Nixon signed the Education Amendments Act on June 23, 1972 which dealt with a wealth of issues facing education. Title IX of the Act denies federal funding to universities and institutions of secondary education that fail to provide equal opportunities to both male and female students. The Act did not specifically address the realm of athletics, but on July 21, 1975 Congress passed

[18] Dunnavant..., 95-96, 98.

federal regulations on athletics with Title IX as the vehicle. There is a common misconception that Title IX specifically stipulates that universities spend one dollar on women's sports for every dollar they spend on men's sports, or that it dictates an equal number of teams for both genders. Such specific mandates do not exist, but universities must meet requirements in three different areas: participation, athletic financial assistance, and treatment of athletes. In regards to participation, the institution must ensure that it is meeting one of three gauges for successful equality: First, that the proportionality of male and female athletes is consistent with that of the overall enrollment. Second, that the university is making every effort to expand the programs of the underrepresented gender consistent with that group's interest. Finally that the "interests and abilities of the underrepresented sex are fully and effectively accommodated by the existing programs."[19]

The second major prong of compliance is actually the only part that dictates spending on athletes. This prong states that scholarships be awarded between males and females in proportion with the number of participating athletes between the two genders. While the second prong is in letter the only monetary regulation, in practice the third holds much greater effect on the spending practices of universities. The third prong states that facilities, publicity, equipment, coaching, tutoring, housing, travel, medical treatment, support services, and recruiting be comparable between men's and women's teams.[20] This prong creates the misperceptions of the specifics of Title IX, but the actual effect is essentially the same. Universities suddenly had a new realm of mandates and expenditures.

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[19] www.womenssportsfoundation.org
[20] www.womenssportsfoundation.org

Beginning in 1980 with the Office of Civil Rights enforcing Title IX under the authority of the Department of Education, athletic departments all across the country worked to create new women's athletic programs at the same time many were experiencing skyrocketing costs to remain competitive in football and basketball. Those costs were coupled with greater revenues coming in from television, but rather than reinvesting that revenue into the programs that raised it, a large portion of it was being pumped into programs that generated no revenue at all. Every year the number of women participating in collegiate athletics grew: women made up 37% of collegiate athletes by 1995 jumping up from 15% in 1972.[21] The new federal regulation was creating opportunities for young women to receive a college education as had never been done before, but the new costs were putting pressure on universities and specifically football programs to generate revenue like never before.

By 1981, the CFA members had finally had enough of being subject to the majority rule of the smaller schools in Division I-A and formed the CFA Television Committee at the same time Byers was negotiating a new NCAA contract. Because the Big Ten and Pac-10 succeeded in 1978 to include the Ivy League in Division I-A despite the conference's deliberate intentions to not participate in major college football, the CFA members remained the minority. Big Eight commissioner and former NCAA staff member Chuck Neinas began acting as the executive director of the CFA in 1980, and in August of 1981 Neinas signed a four year deal with NBC worth an unprecedented $180 million. The NCAA immediately threatened to expel any institution that participated in the new NBC plan, a threat that carried weight because expulsion would result in every other sports team being excluded from

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[21] Valentin, Iram. "Title IX: A Brief History," *WEEA Equity Resource Center Digest* (August 1997), 7.

participating in NCAA sanctioned events such as the basketball tournaments and the College World Series.[22] The CFA felt that the NCAA lacked a strong legal basis for such action, and in 1981 the University of Georgia and the University of Oklahoma brought suit against the NCAA in federal district court stating that they should be allowed to negotiate their own contracts. Not long after, the NCAA managed to lure some of the CFA members to Byers's plan by making concessions for payouts and cutting Division I-A to 92 institutions. Although the CFA television plan fell through, in September of 1982, Judge Juan Burciarga ruled that the broadcasting rights of Georgia and Oklahoma football games were property of the institutions and therefore were to be negotiated at their discretion.[23]

The ultimate victory for the CFA came in July of 1984 when the United States Supreme Court ruled 7-2 for the position of Oklahoma and Georgia in the case of *NCAA v. Board of Regents of the University of Oklahoma, et al.* Justice John Paul Stevens delivered the opinion of the court:

> ...There can be no doubt that the challenged practices of the NCAA constitute a "restraint of trade" in the sense that they limit members' freedom to negotiate and enter in to their own television contracts...By participating in an association which prevents member institutions from competing against each other on the basis of price or kind of television rights that can be offered to broadcasters, the NCAA member institutions have created a horizontal restraint – an agreement among competitors on the way in which they will compete with one another. A restraint of this type has often been held to be unreasonable as a matter of law...[24]

The immediate impact of the decision effectively allowed the individual institutions and conferences to begin to negotiate their own broadcast contracts.

[22] Dunnavant .., 122, 130, 133-135, 142.
[23] Watterson..., 345-346.
[24] Justice John Paul Stevens, *NCAA v. Board of Regents of the University of Oklahoma, et al.*, 1984.

Members could agree to a voluntary NCAA plan, but none would agree to one because of the NCAA's ability to use television appearances as punishment for rule infractions. The NCAA still maintained its authority, but losing control of television exposure took away one of its most powerful tools in enforcing its policies. At the same time that the NCAA lost its most significant central control, the CFA effectively ended as soon as it won. Neinas envisioned the CFA as a version of Division I-A with only the football juggernauts and desired to create a television plan for his new super-conference. The ideals that brought the CFA to the bargaining table, however, doomed Neinas's dream. In 1984, the ACC signed a contract with CBS, and Neinas struggled to maintain the union of the CFA.[25]

Neinas succeeded in keeping the SEC on board with the CFA in 1987 when the SEC attempted to consummate a deal with ABC worth $25 million. Still, without the Big Ten and the Pac-10, the CFA was simply not valuable or marketable enough to make it untouchable. The CFA's days were officially numbered in 1990 when Notre Dame decided to disassociate from the CFA and sign its own deal with NBC worth $35 million to broadcast all of its games. Immediately, the CFA had lost its one member with a truly national following. Though the Notre Dame exit was crippling as it devalued the CFA's deal with ABC, the death blow came in 1994 when the SEC signed away its television rights to CBS. Between 1990 and 1994, the landscape of college football changed more drastically than it had in the forty years preceding it.[26]

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[25] Watterson..., 347-348.
[26] Watterson..., 350.

With the market being flooded with more broadcasts of games than ever before, the rising costs of maintaining a competitive program, and the splitting of revenues with women's athletic teams, university administrators were searching for as much money as they could find, hence the Notre Dame departure from the CFA. Almost half of Division I-A institutions were operating on deficits by the late 1980's, including the University of Alabama, one of the country's perennial football powers. Though football revenues had more than tripled from 1978 to 1988, the athletic department was still losing money as a result of the skyrocketing costs of remaining competitive in football as well as a $1,368,937 price tag on women's sports programs that had generated $20,591. The immediate answer to the problem was in raising the price of priority season tickets to as much as $1,000. Fortunately for Alabama, more than 20,000 fans signed on and helped generate $7 million more a year.[27]

If Alabama was struggling to pay its bills, clearly the economic burden was hammering the rest of the SEC. In the late 1980's SEC commissioner Harvey Schiller stumbled over an obscure NCAA rule that would revolutionize college football when put in practice: if a conference had 12 members, it could put on a conference championship game. The Big Ten had expanded to 11 teams in 1990 with the inclusion of Penn State, and at the same time added an entire new region of television sets. If the SEC could convince a few more schools to come aboard, they could create a made-for-television championship game and open up their product to new regions. With South Carolina joining in 1990 and Arkansas joining in 1992, the SEC now had the requisite 12 teams it needed, and the first conference championship game was staged in 1992. The game was a huge success, making $40 million in its

[27] Dunnavant…, 185-188.

first five years with an average 10 million homes tuning in. Armed with its newfound financial success and greater geographic appeal, the SEC ventured into its own contract with CBS and effectively ended any legitimacy for the CFA.[28]

Conference realignment in the early 1990's saw the end of the SWC, the expansion of the Big Eight to the Big XII, and the emergence of the Big East as a football conference. The new landscape of college football placed an unprecedented degree of power in the hands of the conference commissioners whose primary goal in the early 1990's was to find new ways to generate revenue for their member institutions. As the institution of college football had become better marketed and more sophisticated, the customer became more sophisticated as well. Over the years, public outcry for a true national championship became louder and louder. As long as the major conferences had automatic tie-ins to the Big Four bowl games, it was unlikely that a #1 verse #2 game would occur, particularly with the emergence of the University of Miami, Florida State, and Penn State as powerful independent programs. As conference commissioners and television executives heard the complaints from fans and sportswriters, the bowl system continued to make selections long before the end of the season with selection based on economic impact rather than a team's objective success.

The NCAA men's basketball tournament had been a huge television success for decades, and fans pointed to it as proof that there was more money to be made at the same time that the desire for a true national champion could be satisfied. Chuck Neinas had actually presented a playoff model in 1984 that he believed would generate $55 million using bowl games as semifinal and final games. By his

[28]Dunnavant .., 224, 231, 236-237.

estimates, a thirty-second commercial for his eight team playoff would fetch $225,000, the same as an ad during the World Series or the NFL playoffs.[29] NCAA executive director Dick Schultz told the 1993 NCAA Convention that "Ultimately, the playoff issue will be decided on its financial merits."[30] In December of 1993, the NCAA surprised its critics when it formed a committee to determine the feasibility of a playoff in Division I-A. The committee was made up largely of NCAA administrators, but the most notable member was then-UCLA chancellor Charles E. Young, a vocal opponent of a playoff. The preceding year had seen the former NCAA executive director propose looking into a playoff as well as proposals to set one up submitted by Nike, Inc. as well as the Disney Co. The Nike proposal was even reviewed by the NCAA Presidents Commission but discarded without a vote.[31]

Young, the committee's chairman, in his reflections for *The Chronicle of Higher Education* ten years later explained the committee's findings:

> After reviewing volumes of data and conducting a number of wide-ranging discussions, the committee held a straw poll and voted, by an overwhelming majority, to support an eight-team playoff system that would rely on six bowl games (we suggested the Rose, Sugar, Orange, Fiesta, Cotton, and Citrus Bowls). Four would be played on January 1 at four bowl arenas to determine the pairings for two semifinal games to be played the following week in the two remaining bowls. The national championship would be played on the Martin Luther King Jr. holiday in mid-January in one of the major metropolitan stadiums. The eight participants each year would include the champions of five or six major conferences and two or three at-large selections...The intent of the proposal was to: (a) provide a playoff involving participants who would be required to win their conference championship to get there; (b) ensure the continuation of a strong financially viable bowl

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[29] Watterson ..., 349.
[30] Dunnavant..., 250.
[31] Maisel, Ivan. "To Carefully Go Where 1-A Has Never Gone Before," *The Sporting News* (December 20, 1993).

> structure (each of the designated bowls would be a "premier" game because each would play a major part in championship determination); (c) provide coordination of the postseason format by member NCAA Division I-A institutions, rather than by television companies and commercial sponsors; (d) provide increased revenue for a broad range of Division I-A programs within a controlled postseason environment; and (e) preserve the quality of the bowls and community interests they served.[32]

The playoff committee was broken up before it could make a formal recommendation in 1994 because the university presidents expressed concerns that a playoff would contribute to the "overcommercialization" of postseason football as well as add games that would hurt the participating students at the beginning of a new semester. The concern carrying the most weight was by power conference commissioners who wanted to maintain control of the postseason and its hefty payouts that were already guaranteed to the members of their conferences.[33]

The alternative in the early 1990's was an agreement between many of the CFA conferences that became known as the College Football Bowl Alliance. The agreement between the SEC, Big XII, Big East, ACC, and Notre Dame in 1995 removed the automatic conference championship tie-ins to set up a number one versus number two match-up that would rotate between three bowl sites. The conference champions of the Bowl Alliance conferences would be guaranteed a spot in one of the three elite bowl games, and the remaining two berths would go at large, allowing for Notre Dame or other teams that did not win their conference to participate if they met certain criteria. While automatic tie-ins were removed from the new three elite Alliance bowls, the Sugar, Orange, and Fiesta, the conferences set

[32] Young, Charles E. "College Football Could Have a Real Champion," *The Chronicle of Higher Education* (January 9, 2004).
[33] "College Football Could Have..."

up systems to create automatic tie-ins for the second tier games, leaving teams from Conference USA (C-USA), the WAC, and the Mid American Conference (MAC) to desperately find bowls that would host their best programs. The result was another jump in the number of bowl games, which reached 23 by 1996.[34]

With the creation of the new Bowl Alliance came a 30 percent increase in overall bowl revenue as a result of the new three-year deal with the networks, bowls, and conferences. However, the goal of achieving an undisputed national champion still proved problematic as the Big Ten and Pac-10 still clung to the Rose Bowl that pumped $13 million a year into the two conferences and remained isolated from the Bowl Alliance. Their position changed, though, in 1995 when Penn State and Nebraska both finished the season undefeated, but Penn State was committed to the Rose Bowl and could not play in the Bowl Alliance's national championship game. Big Ten commissioner Jim Delaney decided that in the new world of college football, it was best for the Big Ten and the Pac-10 to get on board with the rest of major college football, and the two conferences committed to become part of the Alliance following the 1997 season. The new agreement with ABC was worth $500 million over seven years and allowed for the per-team payout for those reaching the elite bowls to reach $12 million a year.[35]

The new setup created a disparity between the Bowl Alliance and the more than fifty other members of Division I-A like never before. The rewards for appearing in the Big Four bowl games became more and more staggering, and even the higher paying second-tier bowl games blocked the entry of the non-Alliance

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[34] Dunnavant , 250-251.
[35] Dunnavant..., 252-257.

leagues, despite outstanding performances by teams such as the 1996 Brigham Young University team which finished the season ranked fifth in the Associated Press poll amassing an astonishing fourteen wins and only one loss. In the 1996 bowl season, the eight schools participating in the Alliance games shared $64 million while the remaining $35 million was split among the twenty-eight other schools participating in bowl games. Less than $4 million of that $35 million was awarded to non-Alliance schools.[36] Clearly, teams were not being rewarded for their success on the field so much as their ability to generate revenue and maintain the status quo of the haves and have-nots of college football.

In the summer of 1997 the United States Senate judicial committee convened to discuss the antitrust implications of the Bowl Alliance. The committee subpoenaed administrators, conference officials, players, and coaches to obtain the perspectives of the diverse facets of college football. Tulane law professor and president of the Sports Lawyers Association Gary R. Roberts spoke before the committee about the anticompetitive impact of the Association, claiming that "it enormously enlarges the financial and prestige gap between the 'haves' and the 'have nots' of college football."[37] With pressure from the federal government mounting, the Bowl Alliance began to work out a deal that would allow for non-Alliance teams finishing in the top six to be guaranteed a spot in one of the elite bowls. Following the 1997 season, the system would take on a new name and some systematic nuances, but essentially there would be little difference.

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[36] *Antitrust Implications of the College Bowl Alliance, Hearing Before the Subcommittee on Antitrust Business Rights, and Competition of the Committee on the Judiciary, United States Senate*, 22 May 1997 (Washington: U.S. Government Press, 1997), 102.
[37] *Antitrust Implications...*, 93.

The Bowl Alliance became known as the Bowl Championship Series in 1998 with the inclusion of the Big Ten and Pac-10 as well as the potential entry of one of the teams from conferences without an automatic BCS bid. The reunion between the Big Ten and Pac-10 with the rest of the major conferences represented the end of a twenty-five year era of gridlock.[38] For the first time since 1947 the Rose Bowl could potentially host teams from conferences outside of the Big Ten and Pac-10. While the inclusion of the Big Ten and Pac-10 was the most important aspect of the new agreement, another important component was the use of a formula to determine the number one versus number two match-up. The formula has been tweaked every year to address the latest complaints with the system as it has been fraught with controversy since its inception. The 2000 season saw Florida State receive a championship berth over Miami. Both teams had only one loss, but Florida State's one loss was to Miami. In 2003, Louisiana State University won the BCS championship, but the AP determined that the University of Southern California team was the best in the country. The BCS had been designed to avoid split championships, and it had only taken five years to have one. In 2004 USC, Oklahoma, and Auburn each finished their regular seasons undefeated, and USC met Oklahoma in the BCS title game. Auburn was left to wonder what else they could have done to even have the opportunity to play for the national championship. Once again the playoff proponents complained that the system is simply a continuation of the old with a new name.

It is important to note that the current BCS is essentially an agreement between conferences, television networks, and bowl committees over which the

[38] Dunnavant..., 256.

NCAA claims no jurisdiction. Controversy surrounding the anticompetitive effects of the BCS resulted in congressional hearings in 2003 to discuss the antitrust implications of the arrangement on the Division I-A teams outside of the BCS conferences. These hearings were headlined by Tulane University president Scott S. Cowen who lambasted the BCS as an illegal trust that maintained a two-tiered system of "haves" and "have-nots" in Division I-A. The hearings led to restructuring of the BCS agreements and Cowen's complaints seem to be quelled.

In the summer before the 2007 season, the NCAA changed the names of the Division I subdivisions to Division I Football Bowl Subdivision (FBS) for I-A and Division I Football Championship Subdivision (FCS) for I-AA, sending an unspoken message that the NCAA maintains solidarity with the bowl system. The 2006 season saw the addition of a BCS Championship game that was separate from the BCS bowls but rotates between the BCS sites. Sportswriters have continued to make their arguments for and against a playoff, and fans have overwhelmingly showed support for a playoff system. The conferences and university presidents remain firmly committed to the bowl system, and it is unlikely their opinions will change any time soon without outside influences or an irresistible financial windfall.

Chapter Two

The Bowl Championship Series

The Bowl Championship Series (BCS) is often misunderstood to be an organization or an event sponsored and regulated by the NCAA. Rather, the BCS is an agreement between conference administrators, the University of Notre Dame, bowl committees, and television networks that provides for the selection of teams to the BCS bowl games, determines the distribution of cash winnings between the parties, and matches the top ranked teams within the BCS rankings system in order to name a BCS national champion. There is no BCS commissioner or even a central BCS national office with a staff.

Every year the commissioners of the Division I Football Bowl Subdivision (FBS) conferences and the athletic director from the University of Notre Dame meet to discuss and evaluate the BCS and how it best serves the interests involved. Over the years, the agreement has evolved in large part due to the questions of restricted entry by the conferences who do not receive automatic bids to the five BCS bowl games. While the NCAA does not exercise any authority over the BCS, it does help to administer the agreement's stipulations in its certification of postseason bowl games. Before the 2007 season, the champion of the SEC, Pac-10, Big Ten, Big XII, Big East, and ACC receive automatic invitations to one of these elite bowl games. If Notre Dame finishes ranked in the top eight of the BCS rankings, it will receive an automatic bid. If a team from a non-BCS conference, defined as the teams from the WAC, MAC, C-USA, Sun Belt Conference, and the Mountain West Conference (MWC), finishes in the top twelve in the final BCS standings or finishes in the top sixteen and ranks ahead of a conference champion, they will automatically qualify for a BCS game. However, no more than one team from the non-BCS conferences can qualify for an automatic invitation to a BCS game even if two teams fit the criteria. The two teams finishing first and second in the final BCS rankings are matched up in the BCS Championship Game. If the ten spots are not filled by these automatic qualifications, the team ranked fourth in the BCS standings will receive an automatic berth if it is from a conference that receives an automatic berth annually and a non-conference champion from the same conference is not playing in the national championship game.[39]

The remaining slots go to at-large teams. In order to qualify for an at-large invitation, a team must win at least nine games and finish in the top fourteen teams in the final BCS standings. Before the BCS and the College Bowl Alliance, the bowl committees had to compete against one another for teams and television contracts. Under the BCS, the Rose, Orange, Sugar, and Fiesta Bowls agree to rules governing the selection process. Each bowl is contractually obliged to select the conference champion of a particular conference as host of the game: the ACC hosts the Orange Bowl, the SEC hosts the Sugar Bowl, the Big XII hosts the Fiesta Bowl, and the Rose Bowl takes the champions of the Big Ten and Pac-10. If the champion of one of these conferences finishes either first or second in the BCS standings, the bowl that would have hosted the number one team gets the first choice of a replacement,

[39] NCAA 2006-07 Postseason Football Handbook, 10-13.

followed by the bowl tied to the number two team. If the champions of the Big Ten and Pac-10 play in the championship game, the Rose Bowl gets the first two choices of replacement teams. When choosing a replacement, the bowl committee cannot take a team from the national championship game or a conference champion hosting another bowl. If two bowls lose the host team, the bowl losing the team ranked number one can only take a team from the same conference as the number two team if the bowl losing the number two team agrees. The order of selection is based on the proximity to the championship game: the bowl taking place closest to the championship game gets first pick of the uncommitted automatic qualifiers and at-large teams. The second closest bowl has the second pick, and the bowl game slated to play immediately following the Rose Bowl has the third selection. There can be no more than two teams from the same conference participating in the BCS.[40]

Without the BCS rating system, all of these guidelines would fall apart. One of the key complaints about the pre-BCS football system was the frequency of split national championships between the AP writers' poll and United Press International (UPI) coaches' poll. How could coaches have the time to watch every other team when they were spending all their time preparing for the next game? How could the opinions of writers be taken completely seriously when their perception is going to be influenced by the region of the country where they write? There had been mathematic polls offered for decades, including Jeff Sagarin's poll which is printed in USA Today. The BCS poll seeks to utilize both the emotionless objectivity of the computer polls along with the human judgment of the USA Today Coaches Poll and the Harris Interactive Poll.

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[40] NCAA 2006-07 Postseason Football Handbook, 10-13.

A team is scored in the USA Today Coaches Poll and Harris Interactive Poll by its points in the poll divided by the total points possible. Because the number of voters is different and even varies from week to week, the scores are computed as a percentage of the possible total. The USA Today Coaches Poll is voted on by sixty Division I FBS head coaches who must be a member of the American Football Coaches Association.[41] The Harris Interactive Poll began during the 2005 season after the Associated Press no longer allowed the BCS to use its poll. The AP made the decision in December of 2004 based on a belief that the BCS "'damaged and continues to damage A.P.'s reputation for honesty and integrity in its news accounts through the forced association of the A.P. poll with the B.C.S. rankings.'"[42] The Harris Interactive Poll is made up of "a panel of former players, coaches, administrators and current and former media who are committed to ranking the college teams each week" of the football season. The voters are chosen randomly from a pool of around 300 people who have been nominated by conference officials and independent institutions. The selections are designed to achieve a statistically valid representation of all conferences and universities in Division I-FBS.[43] In addition to these two human polls, the BCS uses six computer based rankings including the Jeff Sagarin rating, Anderson & Hester, Richard Billingsley, the Colley Matrix, Kenneth Massey, and Dr. Peter Wolfe. The highest and lowest computer averages are dropped, and the remaining four values are averaged and calculated as a percentage of 100.

[41] www.usatoday.com
[42] "Associated Press Football Poll is Pulled from B.C.S. Equation," Pete Thamel. *The New York Times*, 22 December 2004.
[43] www.harrisinteractive.com

Each computer poll has its own unique formula with unique methodologies. The Anderson & Hester rankings, for instance, are not computed until the fifth week of the season. Avoiding preseason bias is a common goal of these computer rankings as well as avoiding regional, conference, and historical biases. Dr. Wesley N. Colley, who has a Ph.D. in Astrophysical Science from Princeton University, claims that his Colley Matrix is free of bias because of its focus on wins and losses. The Sagarin Ratings and the Billingsley Report take into consideration a team's status as the home team or the visitor team in their calculations. Jeff Sagarin's poll, which has been printed in USA Today since 1985, when fully calculated takes point spread into consideration in order to serve as a predictor. However, his ELO-CHESS method weighs only wins and losses, not margin of victory. The BCS utilizes only the ELO-CHESS rating in its calculations. Strength of schedule and conference ratings are used in each of the polls as one of many factors used to distinguish teams beyond wins and losses. Because there are 120 teams playing in Division I-FBS in addition to games played against the lower divisions and each team plays no more than thirteen games before the bowl season, it is impossible to obtain a statistically valid interpretation of the teams' strengths without further comparison.

While the Colley Matrix focuses on wins and losses, the poll does adjust for strength of schedule, which is adjusted on a weekly basis. The poll, however, does not change its formula throughout the season to adjust for outliers. The formula is the same, seeks to minimize assumptions, and provides reproducible results. In order to further the importance of the win or loss, margin of victory is not factored in for the

Colley Matrix.[44] Dr. Peter Wolfe's poll rates every varsity four year college team that can be connected by common opponents. For instance, because Michigan played Division I-FCS team Appalachian State in 2007, the Wolfe ratings would be used for every team Appalachian State played as well as every team their opponents played. Dr. Wolfe's formula seeks to predict which team would be most likely to win each matchup.[45]

Richard Billingsley is the president of the College Football Research Center, and his poll ranks only the members of the Division I-FBS. The Billingsley Ratings do begin with a preseason ranking because "they are not all equal." He believes that starting all teams out even is more unfair and illogical than giving them a preseason ranking. His formula works in four phases. This preseason rating makes up the first phase, carrying over the team's final ranking from the year before and ensuring that there are not drastic changes throughout the first four weeks of the season. The second phase gauges the strength of the opponent, and the third compares win/loss records. The fourth and final phase takes into consideration such factors as location of the game (home or away), defensive performance, and comparison of overall records. Teams get a bonus for winning on the road, and there is a bonus for playing on the road regardless of the game's outcome. [46]

The Massey Ratings purports itself as applicable to any competitive sports league. The difference between the Massey Ratings and a few of the others is that it does not attempt to predict outcomes. This system takes into consideration score, venue, strength of schedule, and factors such as offensive power and defensive

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44 www.colleyrankings.com
45 www.prwolfe.bol.ucla.edu
46 www.cfrc.com

power.[47] The Anderson & Hester Ratings, printed in the Seattle Times, takes into consideration wins over quality opponents rather than margin of victory. The strength of schedule is determined by the quality of opponents, opponents' opponents, and gauges the quality in light of the strength of the team's conference. Each conference is rated based on its nonconference record as well as the strength of its nonconference schedule.[48]

While these polls aim for impartiality, members of the less historically recognized conferences complain that the strength of schedule and conference ratings discriminate against their most competitive teams. For instance, in the 2007 Tostitos Fiesta Bowl, Boise State defeated Oklahoma. Boise State won all of its games and played in a BCS bowl, but because of its perceived weakness of schedule as a member of the WAC, a one-loss Florida team from the SEC played undefeated Ohio State from the Big Ten for the BCS Championship. Boise State finished with the only undefeated record in Division I-FBS with a Fiesta Bowl win over Oklahoma but still finished behind the one-loss Florida team in the final BCS standings. While Boise State may not have played as rigorous a schedule as Florida, what more could they have done to earn a spot in the championship game? While the system allows for a Boise State team to participate in the BCS, the system also makes it highly unlikely that a team from the WAC or MAC will play in the BCS National Championship Game.

Another key player in the BCS agreements is television. Whereas each bowl once had to fend for itself in marketing its broadcast rights to the networks, under the

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[47] www.mratings.com
[48] www.andersonsports.com

new agreement the five BCS games are sold as a package with the exception of the Rose Bowl. Currently, the Fox Network owns the rights through 2010 for the BCS National Championship Game as well as the Orange, Sugar, and Fiesta Bowls. The Rose Bowl has a contract with ABC through 2014. The Rose Bowl has a unique relationship with the BCS in that it is not contractually a part of the BCS. Because the Rose Bowl is contractually linked with the Big Ten and Pac-10, which are members of the BCS agreement, the Rose Bowl Management Committee agrees to essentially be a part of the BCS framework at the same time that it maintains its autonomy. Because of its dominance of the television market share brought about by the Big Ten representing the Midwestern United States and the Pac-10 carrying the West Coast, the Rose Bowl has the ability to stand alone. In fact, the Rose Bowl Management Committee maintains the right to annul its relationship with the BCS should the nature of the agreement involving the Rose Bowl and the BCS change without its approval.[49]

The Rose Bowl maintained a competitive rating in the first two years of the BCS when the Big Ten and Pac-10 were not a part of the agreement. In fact, the Rose Bowl achieved higher ratings in 1995-96 and 1997-98 than the Bowl Alliance's matchup between its top two ranked teams.[50] For that reason, the Rose Bowl would prefer the pre BCS arrangement in order to continually guarantee the Big Ten versus Pac-10 matchup every year to ensure that guaranteed viewership. While the Big Ten and Pac-10 were also content to continue splitting the revenue garnered from that annual contract, their most elite teams were being deprived of the opportunity to play

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[49] *Determining a Champion...*, 40.
[50] Sandbrook, John. "Division I-A Postseason Football History and Status," *The Knight Foundation Commission on Intercollegiate Athletics* (June 2004).

for what had become recognized as the national championship game. In effect, two of the most historically powerful conferences were becoming second-class football citizens amid the swiftly changing landscape of college football. At stake was a growing disparity of perceived prestige as well as the guaranteed paycheck for revenues from the oldest postseason football game. In the end, the Pac-10, Big Ten, and Rose Bowl got the best of both worlds because of their marketing power and the market share that the Rose Bowl commanded. The BCS conferences knew that they needed the Big Ten and Pac-10 to have a legitimate claim at naming a national champion. They also knew that simply having the opportunity for a team from the SEC or Big XII to play in the Rose Bowl would be a major coup. The eventual agreement stipulated that the Big Ten and Pac-10 maintain their spots in the Rose Bowl unless they were sending their conference champion to the BCS National Championship Game. The only loser in this situation was the Rose Bowl itself in that while the Management Committee still maintained the ability to control the bowl's television and naming rights, it now could potentially have to host a team from the ACC or Big East that would not bring along with it the guaranteed television market.

The current arrangement between the conferences and the bowl committees gives the networks greater control in the administration of bowl games. No longer do the bowl committees negotiate their own corporate title sponsorships or even receive royalties for the naming rights. Rather, the networks sell the naming rights to corporations and in turn pay a lump sum to the BCS bowls. Before the BCS agreements, the television networks were contractually obligated to broadcast the civic events connected with the bowl games. The newfound brokering status allowed

ABC to end its telecast of the Orange Bowl Parade which had been broadcast nationally, and the parade was canceled in 1996. The Fiesta Bowl Parade went from a national broadcast to a limited appearance on cable. The Rose Bowl, however, was successful in continuing its national broadcast of the New Year's Day Tournament of Roses Parade. The significance of these new agreements lies in the newfound ability of ABC to dictate the contracts with the BCS and the Rose Bowl's ability to exercise autonomy that the other three BCS bowls could not. The contracts were not even negotiated competitively until 2007 when Fox finally obtained the rights to the BCS games and ABC continued its contract with the Rose Bowl.[51]

A total of $96,160,000 was expected to be created in revenue for the 2006 BCS games. The non-BCS conference teams split $5,160,000 for agreeing to the terms of the BCS. The remaining money was divided six ways evenly for the participating teams of the Orange, Sugar, and Fiesta Bowls. The Rose Bowl has a unique contract to distribute its revenue to the participating teams. Conferences with two teams in BCS games are rewarded with an additional $4,500,000. Any other revenues after these payments are divided evenly among the six annual automatic qualifying conferences. These conferences then divide the winnings among each of their member institutions.[52]

At stake are millions of dollars and the priceless exposure that these elite bowl games provide. The non-BCS conferences, first and foremost, desire equal access to the money and publicity for their universities in order to ease the burdens on their athletic departments. As football becomes more profitable, the cost of performing at

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[51] "Division I-A Postseason Football History and Status..."
[52] Schmidt, Jude D. "A Fresh Set of Downs? Why Recent Modifications to the Bowl Championship Series Still Draw a Flag Under the Sherman Act," *The Sports Lawyers Journal* (Spring 2007).

the highest level rises and makes it increasingly difficult to win the BCS money without already having a large budget, the gap between the "haves" and "have-nots" widens each year. The programs that can obtain the most money for athletics can build the best facilities and pay the best coaches in order to recruit the most talented players When six conferences are guaranteeing financial relief every year from the BCS for their member institutions and all the rest are forced to work much harder to achieve the same financial awards, the burdens on the non-BCS institutions pile on more and more each year.

In order to avoid legal action by the non-BCS conferences and the threat of legislation from Congress, the BCS agreement was revisited once again and goes into effect after the 2007 season. Under these new arrangements, a conference's status as an automatic BCS qualifier will be evaluated annually based on its overall performance in the four preceding seasons. The champions of at least five and no more than seven conferences will be awarded an automatic bid to a BCS game. Essentially, in order for any of the five current non-BCS conferences to qualify for automatic status, they must perform on the same level as or better than at least one of the six original BCS conferences.[53] This new tweak to the BCS qualification process would seem to finally put every conference on a level playing field. The five non-BCS conferences were brought into the agreement in 2004 after the 2003 Congressional hearings which lead to the inclusion of Utah in the 2004 Fiesta Bowl, Boise State in the 2006 Fiesta Bowl, and Hawaii in the 2007 Sugar Bowl. These agreements served to silence the BCS's most vocal academic critic, Tulane president Scott S. Cowen who appeared before Congress in 2003 claiming the BCS presented a

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[53] "A Fresh Set of Downs..."

violation of antitrust law. The 2004 agreement led Cowen to state "From this day forward we'll no longer talk about two sides. We now are on one side whether we call it the B.C.S., the A.B.C. or the X.Y.Z."[54]

Are there lingering antitrust issues with the BCS agreements? It would seem that the inclusion of all eleven Division I-FBS conferences in the new contracts with the opportunity for all to earn automatic bids would silence any antitrust. In all likelihood, there will be no antitrust litigation brought against the BCS with the new adjustments. The greatest threat in that regard was posed by Cowen and his Presidential Coalition of Athletic Reform which was made up of 44 university presidents who were outside of the BCS structure. Essentially, the coalition sought equal access to the payouts available to teams within the BCS framework. While the opportunity to play for a national championship is certainly an important goal, these presidents more than anything desired a spot in the BCS in order to compete. Once these presidents and conferences entered into the BCS equation, the complaints of restricted access have ceased. However, should the new adjustments not have the desired leveling effect, it stands to reason that litigation could arise in the future.

Writing for the Sports Lawyers Journal, Jude D. Schmit believes that the new qualification framework will make it more difficult for the non-BCS conferences because of the computer poll emphasis on strength of schedule. While these polls aim to minimize any bias based on region or history, the historically powerful teams will find themselves at the top of the strength of schedule rankings every year. In order to ensure that their positions at the top are maintained, Schmit believes the

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[54] "B.C.S Adds Fifth Game And Access For Have-Nots," Joe Drape, *The New York Times*, 1 March 2004.

original BCS teams will avoid scheduling games with the non-BCS teams to keep their own schedules strong and the non-BCS schedules weak. They certainly will not play games at non-BCS stadiums. This policy will force the non-BCS teams to schedule weaker opponents from other non-BCS conferences and lower divisions or have to play games on the road against the original BCS teams. At the same time however, with the addition of the twelfth game to the regular season, BCS institutions must fill up their home schedule. In order to do so, many must schedule teams from the non-BCS conferences and in doing so pay out hundreds of thousands of dollars in appearance fees. In 2006, for example, Nebraska paid Troy $750,000 to play them in Lincoln, and Iowa paid Montana $600,000 to come to Iowa City. The fees are paid because they are for one game only rather than "home-and-home" agreements in which teams sign on to play one game at each school's home stadium. Usually there is not a significant amount of money exchanged in home-and-home contracts because both teams benefit from a home game.[55]

For Ohio State or Alabama who have no problem selling out every game, this trend is not a problem. However, for Mississippi State or Baylor, the process gets expensive. One way to cut these costs would be to agree to a home-and-home deal, but Ohio State traveling to play Kent State simply would never happen. Ohio State would have nothing to gain and everything to lose in this scenario. Thus, the system of non-BCS teams being forced to play their BCS opponents on the road will continue to maintain the gap.[56]

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[55] "In College Football, Big Paydays for Humiliation", *The New York Times*, Pete Thamel, 23 August 2006.
[56] "A Fresh Set of Downs...".

As the contracts are currently drawn up, any challenge to the BCS on the basis of antitrust violation would end in futility. The face of the agreements provides for a level playing field with pro-competitive goals. However, the effects over the next five to ten years may prove to maintain the anticompetitive two-tiered system before 2004. If the question is simply over television exposure and access to the revenue generated by the BCS games then the BCS has served its purpose. Certainly, the vast majority of university presidents are concerned with balancing their institution's budget before they talk about which team is actually the best in college football. For the presidents of the non-BCS conferences, before any other issue could be remedied, they had to find a place at the BCS bargaining table. Now that they have achieved that access, the question remains of whether they will further pursue a shakeup of the postseason structure.

As recently as January of 2008, University of Georgia president Michael F. Adams called for an eight-team playoff following the exclusion of Georgia from the BCS National Championship Game. This statement came only a year after Florida president Bernard Machen made the same overtures to his fellow presidents. However, these proposals seem to be more aimed at appeasing frustrated alumni than beginning the upheaval of the bowl system. Such an upheaval will have to come from more than one president with angry alumni. Because of the settled legal status of the BCS, it will have to come from somewhere other than litigation at this juncture. The heart of the issue deals much more with an ethical question than a legal question.

Chapter Three

Ethical Implications of the Bowl System

While a legal challenge to the BCS is highly unlikely to occur, much less topple the bowl system, there could be ethical questions raised against the system as it has evolved over the past thirty years. While every other NCAA sanctioned sport is regulated by the NCAA and names a champion, there has never been a NCAA champion in the history of the highest subdivision of college football. The Division-I men's basketball tournament generates high ratings and revenue, but the sport allows for equal opportunity for all of its members and succeeds in maintaining a perception of freedom from commercialization There is no corporate sponsor with naming rights to the Final Four, while the Sugar Bowl has a different title sponsor every year. This contrast contributes to the perception that college football has become nothing short of a big-business endeavor. Institutions and conferences seem to be concerned with ratings and advertisement sales more than the game itself or the athletes for whom the institutions are supposed to be providing an education.

To state that universities desire to maintain the bowl system simply to enrich their own pockets would be a dangerously cynical position to take, though it may carry some merit. Over the past fifteen years as the BCS has evolved, presidents and athletic directors have accumulated numerous arguments in favor of the bowl system as opposed to a playoff in any form. These arguments range from concerns for the welfare of the student-athlete to devaluation of the regular season and traditional rivalries. In 2005, University of Mississippi Chancellor Robert Khayat provided a variety of arguments against a playoff in his testimony before the House of Representatives Committee on Energy and Commerce. He invoked a commitment to academic standards, stating that a playoff would draw out the postseason far into January which would conflict with the beginning of spring semester at many schools as well as basketball season. Khayat's academic concerns are contradictory in that it supposes two separate standards for basketball players and football players. Why is it not a problem for basketball season to conflict with the beginning of spring semester but for football players it would be? The rest of Khayat's reasons prove to be difficult to support concretely, including his concerns that the "uniqueness" of college football would be lost and that it would essentially conflict with the status quo of football. Perhaps Khayat's strongest and most honest statement in the hearing is that it is every institution's goal to strengthen its conference in order to balance the budget. Because of the SEC's bowl tie-ins, its policy of dividing bowl revenues, and the SEC regular season television contract, the University of Mississippi is able to balance its athletic budget even when ticket sales are down.[57]

Khayat's arguments fit in the same framework of piecemealed excuses heralded by Jim Delaney, the commissioner of the Big Ten, one of the most outspoken opponents of a playoff. Delaney told Congress that a playoff would be out of the question because it would devalue the regular season and take money as well as the attention of fans and media away from the bowls in addition to "inevitably [altering] the character of the bowls." These contentions are simply circular

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[57] *Determining a Champion on the Field...*, 31.

reasoning: if you take away the bowls, the bowl system will be damaged. His most legitimate basis for an aversion to a playoff stems from his desire to protect the importance of the Rose Bowl and his conference's place in it. For that reason, he also opposes the "Plus One" model, which would provide for a national championship game following the bowls. He opposes this model because it could potentially devalue the Rose Bowl. Any devaluation of the Rose Bowl would be detrimental to his conference, and his primary job is to protect his conference.[58] Delaney represents two of the greatest obstacles to a playoff as a conference commissioner and a beneficiary of the historic relationship between the Big Ten and the Rose Bowl. Delaney has been quoted as saying "I don't work for college football at large." No other conference commissioner has the market power and influence Delaney holds as the commissioner of the conference with nearly 25% of American television households. This position makes the television broadcast rights for Big Ten regular season games as well as the Rose Bowl very desirable for the television networks.[59]

Like Khayat and many other university presidents, Delaney cites academic concerns with the rigors of a playoff. BCS bowl bound teams hold more than three times the normal number of practices for one game between the end of the regular season and their bowl game. Ohio State beat Michigan on November 17, 2007 in their final regular season game, and then waited nearly two months to play Louisiana State in the BCS National Championship Game on January 7, 2008. During that time, the players were lifting weights, going to practice, watching film, and attending team meetings. To say that a playoff would unduly burden students more than the

[58] *Determining a Champion on the Field…*, 25-28.
[59] Peter, Josh. "Playoff Plunderer," www.sports.yahoo.com (January 5, 2007; February 28, 2008)

current system would simply be absurd. In 2003 Myles Brand, the president of the University of Indiana from 1994 to 2002 and current executive director of the NCAA, told the United States Senate "I do not [favor a playoff], not because I believe it is academically unsound, but rather because it would diminish the tradition and benefits of the bowls." This assertion from the head of the organization charged with ensuring academic integrity in collegiate sports serves to derail the academic contentions with a playoff. The academic argument is a diversion that is invoked to create an easily agreeable line of reasoning.[60]

Another popular argument used against a system of playoffs is the potential devaluation of the regular season. Delaney believes that "A multi-game playoff format [...] will transform a season-ending showdown between an unbeaten Ohio State and unbeaten Michigan into a game over playoff seeding."[61] Harvey S. Perlman, the chancellor at the University of Nebraska-Lincoln, argues that were a playoff in place, games between lower ranked teams would lose significance because so many teams would be eliminated for losing games early in the season. The bowl system, he argues, allows for every game to be relevant because all a team has to do is win six games to achieve bowl eligibility.[62]

The real concern for the importance of regular season games stems from their value as a television package. Were a playoff instituted, the revenue distributed to all conferences would increase, but the increase in postseason money could mean a decrease in the contracts for the regular season games. Regular season broadcast

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[60] *BCS or Bust: Competitive and Economic Effects of the Bowl Championship Series On and Off the Field, Hearing Before the Committee on the Judiciary, United States Senate, One Hundred Eighth Congress, First Session*, October 29, 2003, (Washington: U.S. Government Press, 2003), 13
[61] *Determining a Champion on the Field...*, 28.
[62] *BCS or Bust...*, 30-31.

contracts are negotiated by each conference, and all revenues are split by the universities in the conference. Therefore, it is essential to maximize the value of these broadcast packages.[63] Perlman even goes so far as to state that the significance of the 2003 matchup of the unusually ranked Northern Illinois and Bowling Green teams came from the national broadcast of the game and the presence of the popular ESPN program "College Game Day." He even invoked the term "Cinderella team" to describe the accomplishment of Northern Illinois in beating three teams from BCS conferences. Certainly the achievement was significant, but ultimately neither team had any realistic opportunity to compete for a national championship.[64]

Fiesta Bowl President and CEO John Junker told a congressional committee that "[the bowl system] is something unique in sports, it is something that serves as a lifetime memory, and it is something that is well deserved by the young men who break their bones and spill their blood for the revenue necessary to fulfill all the needs that financially have [...] to fulfill obligations for Title IX, Olympic sports, and other things." Essentially, Junker's statement sums up the key reasoning behind many university presidents' desire to maintain the bowl system. Junker understands that college football has become an investment for universities to balance their athletic budgets. There is no doubt that the bowls present a wonderful opportunity for young men to be able to travel across the country and be rewarded for their hard work, but the reward for the players certainly is not the most important stimulus for the bowl games [65]

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[63] "Playoff Plunderer."
[64] *BCS or Bust...*, 30.
[65] *Determining a Champion on the Field...*, 66.

In the 2004-2005 academic year, only 23 Division I athletic departments made more revenue than they spent. In the same year 53 Division I-A football programs made more money than they spent. The excess revenue is redistributed to the rest of the university's athletic programs. The largest reported revenue by one program was $53 million with the Division I-A average for the 117 members at the time being $10 million. That distribution displays a vast disparity by the programs at the top and those at the bottom.[66] In 2002, Nebraska generated more than $50 million in athletic revenues with $21 million coming from home football game revenues. Of that $21 million, only $1.2 million came from BCS revenues. While Perlman points to this statistic as proof that the bowls are not significant in enriching their programs, that viewpoint ignores a broader perspective of the effects of participation in a BCS game, not to mention that very few BCS schools can generate the level of revenue Nebraska enjoys. The exposure and prestige of a Sugar Bowl berth, for example, helps spike sales of team merchandise and season tickets as well as encourages alumni donations, facility expansion, and the likelihood of obtaining contracts for nationally broadcast games the following season.[67] Also Perlman does not make mention of the fact that Nebraska played well enough to make the BCS championship game in the Rose Bowl that year, so revenues from football would be particularly high. Also Nebraska has sold out every home game from 1962 to 2008.[68]

In 2007 Ohio State's athletic department functioned with $109 million in operating expenses. At the same time, fellow Division I member Alcorn State had an

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[66] Brand, Myles. Letter to The Honorable William Thomas, Chairman of House Committee on Ways and Means from Myles Brand, 13 November 2006, 15-16.
[67] *BCS or Bust...*, 77-78.
[68] www.huskers.com.

operating budget of $3,172,348. In fact, the Florida basketball expense-per-player comes out to three times the entire Alcorn State basketball budget. Alcorn State is a member of Division I-FCS, but they do compete on the same level as ACC and Big East teams in basketball. Ohio State has a much larger student body and the benefit of flagship status in Ohio, but the main reasons they are able to generate so much revenue are the success and history of their football program, the capacity of their stadium, and the number of living alumni who make donations. With such a vast disparity, so few programs breaking even, the number of nonrevenue sports and Title IX to consider, the ability to generate revenue becomes increasingly important and difficult for a university struggling to balance its athletic budget.[69]

So why do Ohio State and Nebraska want to maintain their share of the BCS money if it is as insignificant to their total revenues and budgets as they suggest? As already established, the money earned from BCS appearances goes far beyond the cash rewards for participation, but just as important to those dividends is the gate-keeping ability that the bowl system provides the elite teams. So long as there are obstacles in place for teams from non-BCS conferences, the level of competition goes down and the cost of competing is lower. The notion of universities keeping athletic expenditures lower may seem ridiculous to the cynical observer as athletic departments spend more every year and head football coaches making more than $1 million a year becomes more common. While the competition at the top of FBS increases every year, those top-tier programs want to do everything to prevent having to compete with non-BCS teams. Barring these teams from substantive exposure

[69] O'Neil, Dana. "Alcorn State facing constant battles as Division I have-not," www.espn.com (February 15, 2008; February 28, 2008).

means that there are not as many teams to recruit and spend against. The comparative value of the BCS payouts also plays a large part in this dichotomy. A $1.2 million pay check is a much more significant boost for an Iowa State athletic department that generated $28 million from all of its athletics in the 2004-2005 academic year, even if $1.2 million only makes up 5% of Nebraska's football revenues. When athletic departments are unable to balance their budgets, the difference is made up in fees to students and general university funding. Of 154 Division I athletic departments studied by the *Indianapolis Star,* only 9% were able to run on their own revenues.[70]

Essentially, costs go up every year, and universities try to maximize their revenues while minimizing costs. Spending more money on the football program ideally makes it more competitive and therefore more profitable. If universities can lower the competition level, they can ideally control the cost of competition. While the prevalence of million dollar coaches has become more common, Brand explains in a letter to the U.S. House Committee on Ways and Means how these contracts are paid:

> It is incorrect to assume that the compensation packages of the three or four dozen football and men's basketball coaches that exceed a million dollars are the major contributors to their institutions' athletics budgets. Indeed, the average athletics budgets for the institutions with "million dollar coaches" is approximately $50 million, in which the compensation package represents 3.1 percent of the budgets In most cases, only a small percentage of the coaches' overall compensation packages are being paid by the institution. In addition to salaries, coaches earn income from television appearances, shoe and apparel contracts, endorsements, speaking engagements, and sports camps. This approach parallels the way in which many of the top faculty at these same institutions are compensated. There are likely to be as many as two dozen "million dollar faculty" members on <u>each</u> of these campuses who earn a relatively small salary from the institution with

[70] McCafferty, Joe "The Money Bowl: the real competition in sports is to see who can spend the most," *CFO Magazine* (August 1, 2006).

> the balance coming in the form of clinical and private practices, patent royalties, consulting contracts, books, speaking engagements, and sports camps. It should be noted, however, that faculty members have the protection of tenure while coaches are employed at will and can be dismissed for lack luster win-loss records or the inappropriate behavior of 18- to 22-year olds.

Brand suggests that coaching compensation packages "are driven by market forces" just as faculty compensation is determined.[71] While the huge contracts can still be disillusioning, the academic integrity of the institution is maintained because the vast majority of the compensation plans are coming from outside funds which are generated by the coach and would not have otherwise gone to the university. Because the successful head football coach brings in large revenue, it stands to reason that he should be compensated accordingly. Just as the university desires the best possible facilities and promotion, the best possible head football coach is instrumental in building a program that will be successful in the win/loss column as well as in generating revenue. To attract the best coaches, the market is forcing universities to offer more lucrative contracts. At the same time, alumni and media are more willing to invest in the various elements of the compensation packages because the market for college football has never been stronger.

The economics of college football fueled by television and merchandising has served to muddle the ideals of amateurism and commercialism in the college game, most ostensibly through the relationship between the universities, television, and corporate sponsors. The cynical view of the money-grubbing president fails to take a look at the larger goal. There are those who would argue that the commercialism of college football jeopardizes the academic mission of the university athletic system,

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[71] Letter to the Honorable William Thomas . . , 23.

but it is because of the academic mission that university presidents have been so willing to further the commercialization of the sport. In order to provide the best opportunities for students to receive a higher education, the university must have money for scholarships, facilities, faculty, and libraries among numerous other expenditures. The athletic scholarship presents thousands of students a chance to attend college who would not afford the opportunity otherwise. Every year $1.5 billion is awarded to students at Division I and II schools to play a sport as well as earn a degree. Any suggestion that the welfare and education of students is not the first priority of the presidents of these universities would be dangerous. They want to provide the best education possible, and particularly at state universities, to as many qualified students as possible. Especially with the implementation of Title IX, athletics has opened doors that were closed to previous generations.[72]

In order to continue to provide these opportunities and even increase them, presidents seek revenue through their football programs. The goal of furthering the university's ability to educate and research is correct, ethical, and noble. However, in the pursuit of achieving this goal, university presidents have taken on a utilitarian approach that is negative because of the disillusionment and conflict of interest it has created through entanglement with television and commercialism in general. The bowl system in particular highlights these contradictions through the way teams are selected as well as the issues with corporate sponsorship and not for profit status.

When bowl committees make their selections of which teams to invite, they take into consideration two major factors: the ability of the fan base to travel and the marketability of the matchup for television. Perlman told the Senate that "The

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[72] Letter to the Honorable William Thomas..., 1.

networks want teams that will attract a fan base beyond their own." At the same hearing Keith Tribble, the chairman of the Football Bowl Association and the Orange Bowl Committee, explained that these decisions are:

> based on a business model, a model that looks at which schools can travel, which schools have the appeal to television and so forth and so on. The one [...] good point about having a lot of potential at-larges, and yes, at some point we were looking at Northern Illinois because they had a potential in [the Orange Bowl]. But we were going to look at them just like the other six or seven schools that could have a possibility for a potential slot in our game and make a business decision based upon what is good for our area and what is good for our economy and what is good for producing the things that we need to do for the school.[73]

Tribble's explanation exemplifies why the bowl system is inconsistent with the ethical missions of the university. In every other NCAA sport, teams are placed in the post season based solely upon their performance on the field of play. With Division I-FBS, accomplishments on the field become a secondary consideration to marketability. Certainly for Tribble and the Orange Bowl, consideration of Northern Illinois for selection may have seemed like a step toward equal opportunity, but when Northern Illinois is held up to the standards of Tribble's business model it will never be selected. Every time a team is denied advancement based on marketability over actual achievements, the notions of amateurism and fair play are adulterated.

Also contributing to this dilemma of ethics are the influences of television and corporate America over the post season process and formulation. Title sponsorship for bowl games has presented itself as one of the more visible evidences of the commercialization of college football. The practice has also brought not-for-profit status into question as recently as the early 1990's when the IRS raised concerns

[73] *BCS or Bust*., 31,32.

about an agreement between the Cotton Bowl Athletic Association (CBAA) and Mobil Oil Corporation (Mobil). Because the Internal Revenue Service (IRS) has recognized that athletics have historically played an important role in higher education, much of the revenue raised by football goes untaxed because it is considered to be "substantially related to its exempt function." In this particular case, the CBAA and Mobil signed an agreement that would give $1.5 million to the CBAA in exchange for promises to display the Mobil logo prominently, refer to the bowl game as the Mobil Cotton Bowl, and mention the corporation in all of the bowl's press releases. If the game was not televised Mobil could back out, but if the game achieved a certain Nielsen rating the CBAA could collect a greater sponsorship fee. Because the agreement did not comprise a gift from Mobil to the CBAA and Mobil received significant financial benefits as a result, the IRS determined that the payments comprised income from advertising and should be taxable. Eventually, Congress acted to relax the position of the IRS, but regardless the event provided a deeper look into the nature of the modern bowl arrangement.[74]

While bowl committees are being pressured by their corporate sponsors to produce huge ratings, the television networks may have greater influence in the process. The networks have succeeded in eliminating the unwanted elements of many of the bowls, such as the Orange Bowl and Fiesta Bowl parades in order to maximize ratings. Perhaps the most intriguing statistic regarding television and the bowls is that in 2004 the Walt Disney Co., which owns ABC and the ESPN networks,

[74] Guruli, Erin. "Commerciality of Collegiate Sports: Should the IRS Intercept?" *The Sports Lawyers Journal* (Spring 2005).

also owns the television licenses of 25 of the 28 bowl games.[75] ESPN actually owns four bowl games[76], not just their licensing rights.[77] When a television network literally owns the postseason event, the game becomes a made-for-television event. A strong argument can be made that the game now becomes a made-for-profit event that serves absolutely no function in furthering the universities' athletic missions of fair play.

The NCAA sanctions and puts on the postseason tournaments for every other sport, including the lower divisions of football because it has been deemed the appropriate authority both practically and legally. The NCAA's total authority over the highest division of football effectively ended with the decision in *NCAA v. Board of Regents of the University of Oklahoma, et al.* Even efforts to enforce regulations such as limits on assistant coaches' salaries were struck down as violation of antitrust law in *Law v. NCAA*.[78] With the courts essentially handcuffing the NCAA in its administration of college football outside of rules and academic standards, college football at the highest division has become subject to the major conferences, television networks, and corporations that will put up the highest dollar. Because the NCAA does not fully administrate the bowl games, the present structure may not be in the best interest of college football as a whole. If a conference gives up an inch of autonomy to the interests of the whole, another conference will take a mile.

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[75] " Division I-A Postseason Football History..."
[76] ESPN owns the Bell Helicopter Armed Forces Bowl, the PAPAJOHNS.COM Bowl, the Sheraton Hawai'i Bowl, and the Pioneer Las Vegas Bowl.
[77] PAPAJOHNS.COM Bowl Press Release, www.papajohnsbowl.com/press_release/espn_regional.html, 9 May 2006, 28 March 2008.
[78] Letter to the Honorable William Thomas…, 24.

Conference commissioners will not make sacrifices that would diminish their constituents' earnings even if it does contribute to fair play.

No other collegiate sport brings in the type of revenue that college football accrues for many universities on a yearly basis. The money raised from football is used to provide for not only the football programs, but also the rest of athletics in a way that otherwise would not be possible. This money creates opportunities for more students to get a college education who would not have been financially able otherwise. Thus, in order to be able to provide for all student athletes, university presidents invest in their football programs to increase revenues. These football programs also serve as a unique linkage institution to alumni. The connection between the university and the alumni is maintained through the annual football schedule, which helps to bring in private donations that could be directed to scholarships, faculty pay, and capital projects to improve opportunities for research and learning. In the 2004-2005 academic year, donations contributed $845 million to Division I-A athletics, making up 21% of total operating revenue. In order to maintain the flow of these donations, football teams must be successful.[79]

As football programs provide opportunities for students, the mission of higher learning is better served as a result of the revenue generated through television contracts, merchandising, and ticket sales. The revenue generating capability and activity of college athletics is not inherently unethical. However, when this revenue is being generated through athletic events that have no greater purpose than simply generating revenue, a profound ethical dilemma is occurring, particularly when revenue is being made selling the likenesses for video games and jerseys of amateur

[79] Letter to the Honorable William Thomas.... 24.

18- to 22-year old college students. When Fiesta Bowl President John Junker makes reference to "the young men who break their bones and spill their blood for the revenue," he describes the situation with startling imagery and accuracy. Whether it is ethical for these players not to be compensated for their contributions will not be discussed in the paper, but it is certainly unethical when they are the workhorses in a process that exists solely to generate revenue for the university. I suggest that if Division I-FBS instituted a postseason playoff sanctioned by the NCAA, the ethical goals of the universities' athletic and academic missions would be better served.

Chapter Four

A Playoff Solution

The current postseason format fails to satisfy the athletic missions of Division I-FBS universities. In order to rectify the inconsistencies highlighted previously, the conferences involved must come to an agreement that is ethical, equitable, and based on more than mere revenue distribution. A NCAA sanctioned playoff could meet the monetary concerns while ensuring that a national champion is crowned based on their accomplishments on the field and not politics off the field. In order for a playoff not to have the same characteristics as the BCS, many important factors must be taken into consideration.

First and foremost, a playoff must provide equal opportunities for every team that is recognized as a member of Division I-FBS. Every player should begin the season with the mindset that he can in reality have a chance at winning the national championship. If the NCAA recognizes all 120 members of FBS as being a part of the highest subdivision of football, each should be evaluated on the same standards. A system of playoffs protects this equality and allows for true conference and team supremacy to be determined on the field of play. This point leads to the need for the system to promote competitiveness over marketability. Teams should be selected because of what they have accomplished on the field that season rather than the size of their fan bases. Teams historically regarded as "unmarketable" will become marketable in a system of playoffs because of the "Cinderella" moniker. At the same time that competitiveness on the field must be promoted, contracts for broadcasting rights and playoff hosting designations must be conducted in an open and competitive bidding process rather than behind closed doors between the same conferences, networks, and bowl commissioners every year.

The best way to ensure that these goals are accomplished would be for the system to be administered and regulated by the NCAA rather than at the conference level. Such a situation would take conferences abdicating autonomy to the NCAA, which is unthinkable at this point because of the system that has evolved since the *NCAA v. Oklahoma* decision. The Supreme Court has tied the hands of the NCAA, but if the conferences were to concede autonomy to the NCAA and the NCAA were to apply for antitrust exempt status from Congress as the NFL, Major League Baseball, and the National Basketball Association have done, the legal dilemma would be remedied. It would take pressure from the government or tremendous market forces for the conferences to undergo such a drastic change, and these possibilities are highly unlikely any time soon. However, in the interest of the entirety of college football and the ethical obligations of the universities to fair play and amateurism, the NCAA should usurp the autonomy of the conferences.

Conferences are interested in protecting the value of the regular season and especially the significance of conference games. The broadcast packages for these games are the most important source of unshared revenue for universities and therefore must remain a key element to the process of crowning a national champion. The regular season must also be prioritized to in order to make the playoffs an accomplishment for the truly elite teams. Also to consider is scheduling issues with the NFL playoffs, final exams, spring semester, and college basketball. Another question to consider is the willingness of fans to travel to multiple games all over the country if the games were hosted at various bowl sites. And what should be done about the bowls?

Before these questions are addressed, the framework for the playoff solution must be laid out. See Appendix A. Twelve teams could qualify for the playoffs. Four of these teams would receive first round byes. Each of these four teams must be a conference champion or an independent team ranked in the top four of the ranking formula. No conference can have more than two teams in the playoffs. The higher seeded teams will host the first two rounds of the playoffs at their home stadiums. Bowl sites and cities will take part in a competitive bid process to play host of the semifinal and final games of the playoffs, so three bowls will have the opportunity to host a playoff game. Playoff teams will be selected and seeded by a NCAA committee made up of administrators from the eleven different conferences, similar to the selection committee for the NCAA men's and women's basketball tournaments. The formula used for the BCS, or one like it, would be used by the committee to evaluate tournament worthy teams and seeding. The top four ranked conference champions in the formula would receive the first round byes. See Appendix B for how the playoffs would have been seeded using the 2007 final BCS standings.

The first issue to be considered is the distribution of revenues from the playoffs. A base percentage of the total revenue would be distributed evenly among all eleven conferences. Conferences with teams making the playoffs will receive a bonus for each team participating and for each round the team or teams advance. The top four seeded teams will receive the same bonus as a team advancing from the first round to the second round. The host teams will keep revenues from the game at their home stadium. Because the higher seed always hosts and the second round is hosted by the top four seeds, no team hosts more than one game. This system makes the ability of a team to go undefeated with a difficult schedule and win its conference that much more valuable. If a team can finish in the top eight, it can earn more money for itself. Bonuses are also given to conferences with teams advancing to the semifinal and final games. Any leftover revenue would be distributed evenly among the conferences.

Having the games hosted by the higher seeded teams addresses the question of whether fans will be willing to travel for four games. Fans will only have to travel long distances for the semifinal and final games, but in all likelihood these games would be sold out long before the participants of the games are even known, as happens with the Final Four in men's basketball every year. The bowl game sites acting as hosts will provide economic impact and exposure for three different cities every year and give the teams advancing the opportunity to travel and experience another part of the country.

Most importantly, however, the academic and athletic missions of the universities involved will be achieved without conflict of interest. Certainly there will always be an argument over whether a team should have been in or out of the playoffs, but the argument will carry less weight than arguments over situations like Auburn in 2004 and Boise State in 2006. It will be clear that NCAA Division I-FBS exists to have a champion, not merely to generate revenue. At the same time, the playoffs will continue to generate and distribute revenue in a way that will be fair and ethical. Revenue will be awarded fairly and based on performance on the field rather than marketability and historical success. On the issue of interference with final exams and the beginning of spring semester, the playoffs easily fit into the timeframe in which the bowls already are scheduled. See Appendix C for how the playoffs could have been scheduled for the 2007-2008 postseason. This scheduling would not conflict with the NFL playoffs as well as the beginning of the spring semester for the vast majority of universities. Even if the universities involved with the national championship game begin spring classes the first week of January, no more than two universities will be affected. Also, the BCS National Championship Game already goes into that week, so proponents of the BCS cannot use this argument against a playoff.

The question of what would become of the other bowls still looms with the creation of a postseason playoff system. Without question, the value of the most prestigious bowls would immediately drop, but in the current system there are already tiers of prestige with only five games in the top tier. The bowl games that annually match higher ranked teams from the historically powerful conferences, such as the Capitol One Bowl and the Outback Bowl, already draw larger audiences and crowds than the likes of the GMAC Bowl and the International Bowl. It could be argued that these bowl games do not lose any meaning under a playoff system because they would still be match-ups between teams from different regions of the country that do not play any part in the crowning of the national champion. With no more than two teams from any one conference making the playoffs, there will still be enough highly ranked teams outside of the playoffs to provide compelling match-ups for bowl games.

The bowls could still exist and continue to provide the same opportunities and economic impact on communities, new experiences for student athletes, and exposure for universities. The payouts would certainly decline, but the contracts and prestige of the individual bowls would be determined by the market. The Fiesta Bowl provides an example of how a bowl can rise to prominence because of the market, as it has replaced the Cotton Bowl as one of the four elite bowl games. However, as the system stands currently, it would be impossible for another bowl game to achieve such status because the BCS maintains the status quo rather than allow for prominence to be decided competitively.

Bowl games are not intrinsically unethical or crooked. They have contributed positively to communities and universities for decades. The view of the bowl game as a business investment and stimulus for community interest and improvement does not make them wrong, and in previous eras there would be nothing unethical with these postseason events being no more than that. In today's world of college athletics, the cost of competing has turned these events into commercialized contests that have nothing to do with the student athletes and cross country interaction as some may argue was the case in earlier days. The system has gone astray, and the answer is to redirect the focus of the universities to the original mission of furthering academic opportunities at the same time that student athletes work to accomplish their goals on the field is to create a new system that leaves no room for argument over who won the national championship on the field. Such a system would make enormous monetary profit, but the profit would be distributed based on performance and an outlook that treats all conferences equally. This new system would serve the best interests of all parties involved and create a new era of college football that is not tarnished by corruption, favoritism, and commercialization, but rather would be characterized by fairness, equal opportunity, and competitiveness.

Conclusion

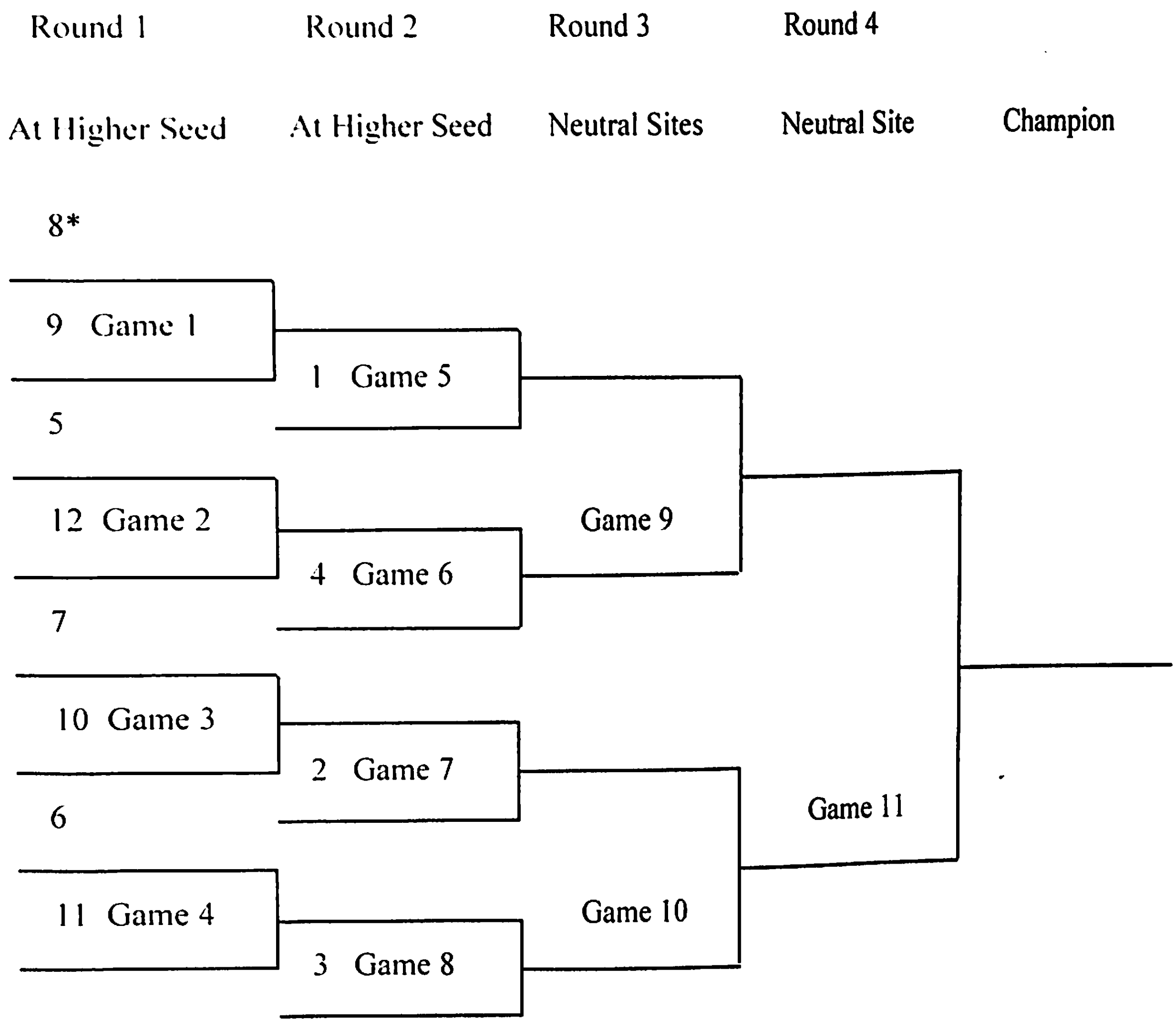
The financial leverage that the bowl system has placed hold on college athletics makes any change in the format of postseason football extremely problematic and unlikely. The relationships between the conferences, bowls, networks, and communities in many cases have existed for decades. These games have become institutions with infrastructures in place that would be difficult to deconstruct and reform. The wall of support for the current system represented by university presidents, bowl executives, and conference commissioners makes any movement to a playoff almost unthinkable in the near future. Pennsylvania and Notre Dame in the 1950's exemplify what can happen when universities act unilaterally against the majority of college football, and the courts have disarmed the NCAA from reigning in the conferences. The 2007 changes to the BCS have safeguarded it from legal action for the near future, and the NCAA continues to play a minor role in the administration of the postseason. The most successful stimulus for reform in the postseason of college football over the past twenty years has been Congress. Should the BCS continue to bar teams and conferences from substantive access at the same time that fans are frustrated by split championships, Congress could step in again and force change.

No significant change will come before 2014 when the Rose Bowl's contract with ABC runs out. Were Notre Dame to join the Big Ten within that time period, the Rose Bowl would become so valuable that the network, bowl committee, and conferences would be able to compete against every other postseason scenario without worrying about losing television market share to the rest of college football.

That situation would require Notre Dame to give up its position as the only team with its own broadcasting deal, something that is highly unlikely to happen. The way that free trade economics has been applied to college football by the courts has allowed for the system to favor the universities with the largest television audiences to do however they please whether it is good for college football as a whole or not.

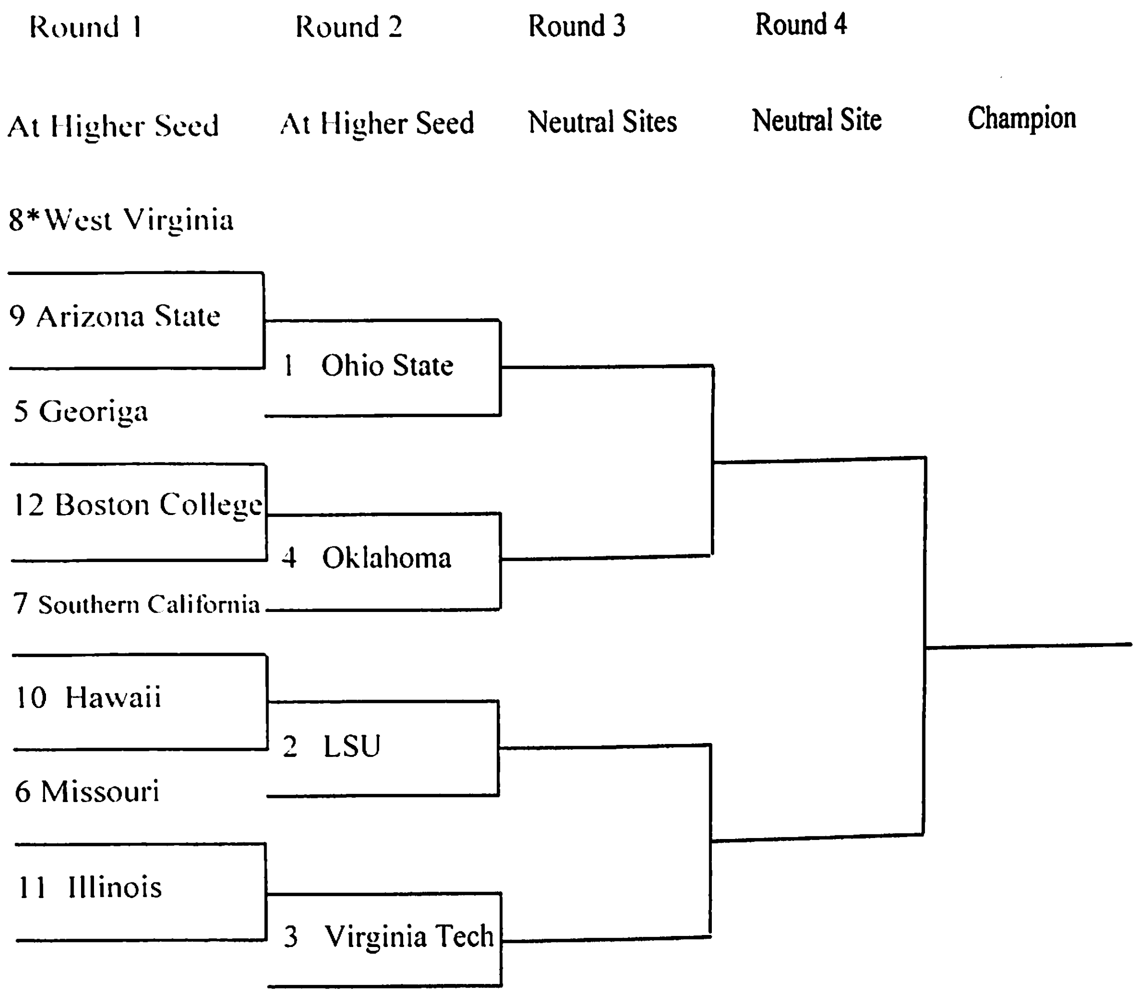
What this thesis proposes does not take away from the ability of universities to negotiate their television contracts or conference alignments. This system does not make any university tear down its facilities or give up scholarships. There are no calls for a Marxist uprising by the "have-nots" of college football or even an automatic qualifier for all conference champions into the playoffs. Rather, this system would provide a framework that would allow for every team to have the ability to earn its position in the realm of college football. The universities with the most power and prestige wish to maintain the status quo of college football because it benefits them, and they cannot afford to give up the positions they already have. For the presidents of the universities to look at the situation and consider what is best for the whole of college football will require an acknowledgement and commitment to fairness and equal opportunity. The system as it stands fails to protect these principles. Regardless of the upheaval it would require, university presidents should take the measures necessary to extend equal opportunity to all of its athletes as well as all of the academic institutions at the Division I-FBS level.

Appendix A



*Represents seeding.

Appendix B



*Represents seeding.

Breakdown by conference:
ACC: Virginia Tech, Boston College
Big XII: Oklahoma, Missouri
Big East: West Virginia
Big Ten: Ohio State, Illinois
SEC: LSU, Georgia
Pac-10: Southern California, Arizona State
WAC: Hawaii

Appendix C

December 2007/ January 2008						
Sun	Mon	Tues	Wed	Thurs	Fri	Sat
						Conf. Champs. - 1
2	3	4	5	6	7	8
9	10	11	12	13	14	Game 1/Game 2- 15
Game 3/ Game 4 - 16	17	18	19	20	21	Game 5/Game 6 - 22
Game 6/Game 7 - 23	24	25	26	27	28	29
30	31	Game 9/ Game 10 - 1	2	3	4	5
6	7	Game 11 - 8	9	10	11	12

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