

CFP: College Football Playoffs or Collusion for Profit

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Introduction

In the United States, the period from August to December represents one of the most important seasons for sports fans across the nation, the college football season. The College Football Playoff (“CFP”) is the culmination of several months’ worth of endless conditioning, passionate trash-talking, and for one team, the honor of hoisting the CFP National Championship trophy. The 2023-2024 college football season is arguably one of the most important seasons to date. It is the last season before the structure of the playoff goes from 4 teams to 12 teams and this season marked the end of the “Power 5” conferences and the influence those conferences hold. The Pac-12 has been put to rest, the Big 10 is adding the former powerhouses of the Pac-12 with USC and Oregon, and after the recent events, the ACC potentially saw its last season. However, “Power 5” conference shake-up is not the big reveal.

The ending of 2023-2024 season displayed a chain of events that college football had never seen. An undefeated and number 1 ranked Georgia lost to Alabama in the SEC championship. Both Washington and Michigan capped off their seasons as undefeated conference champions. Florida State not only won the ACC, but they also went undefeated, despite losing their star quarterback to injury. Earlier in the season Texas handed Alabama their only loss of the season. After the conference championship weekend, fans, the committee, and sports networks everywhere knew that this was a nightmare situation. An undefeated number 1 team (Georgia) had never dropped completely out of the top 4 after a conference championship loss. An undefeated power 5 conference champion (Florida State) had never been denied a top 4 spot to compete for a national championship. Moreover, the last time there wasn't an SEC team

in the national championship was a decade ago in 2014. The Ohio State Buckeyes of the Big Ten beat the Oregon Ducks of the Pac-12. This game was also the first college football playoff final after replacing the BCS National championship. The Ohio State vs Oregon game was the first time since 2005 that an SEC team did not make it to the national championships. Additionally, since the Ohio State vs Oregon game, there has always been a team from the SEC competing in the national championship game, and more specifically, the Alabama Crimson Tide has been a part of over half of the national championship games in the past 9 seasons. Florida State did not make it into the top 4 teams to compete for a national championship. Georgia dropped out of the top 4. The number three and the number four spots were taken by Texas and Alabama respectively. It is no secret that the national championship games that feature an SEC team generate the most viewers. Based off the numbers provided by sportsmediawatch.com, since 2015, each national championship game that features an SEC generates at least 20 million viewers. The only two exceptions to this are the 2020 game which featured Ohio State vs Clemson (no SEC team) and the 2022 game which featured GA vs TCU. TCU's placement in the playoff was wrought with controversy, especially since that game produced lowest rated and least-watched national championship of the BCS/CFP era.

Following the playoff snub, Florida State University voted to sue the ACC over the grant of rights. According to ESPN, "The school alleged restraint of trade, breach of contract and failure to perform over what it describes as years of mismanagement that has locked ACC schools in a 'deteriorating' media rights agreement while preventing schools from leaving with 'draconian' withdrawal penalties." One can try to blame TCU's embarrassing loss on why FSU was snubbed. One can also point to the statistics. Certain teams and certain conferences bring in more viewers and more money, thus providing an incentive to the committee to collude and

ensure certain teams and conferences are in the playoffs and others aren't. Even though the NCAA is moving to a 12-team playoff, the problem that Florida State is highlighting will persist. What happens when teams ranked 6-12 all have the same record, or all come from the same batch of conferences? What happens if there is another nightmare scenario in which the most profitable conferences are not in the national champion game? The answer is not in expanding the number of teams in the playoff. The answer is to eliminate conferences altogether.

I. BACKGROUND

A. WHY CONFERENCES WERE CREATED

In its constitution, the NCAA defines conferences as:

[A] group of colleges and/or universities, created and operated in a manner governed by the policies of its division, that conducts competition among its members, determines a conference champion in one or more sports in which the NCAA conducts a championship, and meets the conference membership requirements established by its division.

This broad definition gives conferences flexibility as governing bodies, as they meet the divisional requirements and crown a conference champion through competition. For Division I, multi-sport conferences, the constitution requires at least seven member institutions, and the conference must sponsor at least twelve sports. Of the twelve sports, a conference must sponsor six men's sports, one of which must be men's basketball and football. Although the NCAA both defines what conferences are and regulates them, conferences existed before the NCAA was established as a body. The oldest Division I conference, the Big Ten, was founded over 100 years ago in 1895. During this early stage, the faculty created rules to regulate their sporting events, such as restricting athlete eligibility to ensure that only full-time students in good academic standing participated in the sporting events. This mirrored a major concern among institutions that some athletes competing were ineligible in that they were not actually students, but outsiders or professionals. These regulations were made to

keep the competition among institutions fair to benefit all member schools, just as college sports, particularly college football, were increasing in popularity and a became a way for these institutions to bring in money. The historical motivations for the existence and regulation of conferences are still seen today through the NCAA compliance videos that most if not all amateur athletes watch, and through the growing call to regulate the new NIL platform.

While interconference rivalries such as Michigan and Ohio State and Georgia and Alabama are great displays of school pride, one cannot ignore the monopoly that the “Power 5” conferences have exacted on the NCAA in college football. In addition to building these rivalries and fostering good athletic competition, conferences seek to “optimize revenues,”²⁴ and “encourage responsible fiscal management and further fiscal stability[.]” These statements demonstrate that one of the main purposes of conferences is to enhance the business side of college sports for its members.

Ultimately, the NCAA’s purpose as a governing body, is to promote player safety, well-being, and amateurism. The main purpose of an athletic conference is to benefit its member schools and generate revenue by commercially promoting the sports it sponsors. As a result of the difference in purpose between the NCAA as a whole and the individual conferences, the conferences in college athletics, particularly in football can formulate their schedules in ways that produce the most profitable matchups. Recently, there has been conflict between what conferences are profitable and which teams rightfully deserve to play in certain games.

B. WHEN THE PENDELUM SHIFTED

The formation of the Power 5 conferences can be traced back to the early 20th century when colleges and universities began organizing themselves into regional athletic conferences. Over time, and with constant realignment, these conferences gained prominence and evolved into the Power 5 we know today. The Power 5 refers to the five athletic conferences that are considered the most dominant and influential in NCAA Division I sports. These conferences are the Atlantic Coast Conference (ACC), Big Ten Conference (Big Ten), Big 12 Conference (Big 12), Pacific-12 Conference (Pac-12), and Southeastern Conference (SEC). The schools in these respective conferences represent the best institutions in college sports and possess some of the most historic programs in the college sports ranging from Pat Summitt's Tennessee dynasty in women's basketball to Dan Gable's dynasty in men's wrestling.

Before the 4-team college football playoff, the NCAA instituted the BCS (Bowl Championship Series). The BCS was the first true postseason football championship arrangement in the history of the NCAA's highest division. Since the 1970s the NCAA's lower divisions—the Football Championship Subdivision (FCS), Division II, and Division III—and the National Association of Intercollegiate Athletics (NAIA) determined their national champions through single-elimination tournaments with brackets ranging from 16 to 32 teams. Before the introduction of the BCS, the title of Division I-A “national champion” was given on the team (or teams) that ended the season at the top of one of the polls taken of a fixed pool of coaches or sportswriters. Usually, the teams ranked first in the Associated Press (AP), United Press International (UPI), and coaches' polls were given the greatest claim to the national champion title, but various other polls also named national champions throughout the years. As a result, many seasons ended with split national champions. There was a burning desire amongst players,

coaches, and fans to crown one national champion and on national champion only, and thus the 4-team college playoff was born. This shift gave to certain conferences the opportunity to create a monopoly on college football through lucrative TV/Network deals.

II. ANALYSIS

A. IT'S A NUMBERS GAME

The power 5 conferences not only dominate on the field, but also possess substantial financial power in college athletics. They generate significant revenue through highly profitable television contracts, sponsorship deals, and ticket sales. The power of television networks is not a new concept. They play a pivotal role in the finances of major conferences, further widening the gap between the Power 5 and other conferences such as the SWAC and the MEAC. These networks, with their widespread reach and resources, offer huge sums of money to secure exclusive broadcasting rights for specific college football teams and specific conferences.

At the birth of the College Football Playoff, ESPN and CFP signed a 12-year contract allowing it to air the two semifinal games and the title game. This deal was worth \$5.64 billion and held an average of \$470 million annually. In February 2024, *The Athletic* reported ESPN and the CFP agreed to a six-year, \$7.8 billion extension that ensures the CFP stays on ESPN through the 2031-32 season. However, those details are still being finalized since the CFP has not stated how the 12-team playoff will operate. While all the power 5 conferences have extensive TV Network deals, these deals don't mean anything if people aren't watching. While the Michigan vs Ohio State games was the most-watched game of the season, Alabama was the most-watched team. Alabama averaged 7.12 million viewers per game, according to a list tallied by the Action Network. The Top 10 most watched teams included three from the SEC, two each from the Big

Ten and Pac-12, one each from the ACC and Big 12, and Notre Dame (Independent). Moreover, the top ten most watched games featured 4 games on the FOX network, 3 games on ABC, and 1 game each on ESPN, CBS, and NBC. These numbers confirm that fans want to watch the most highlighted programs and rivalries the most, regardless of record or playoff implications.

Additionally, these metrics show that there was no way that the CFP committee was going to leave out the most watched team in college football, The Alabama Crimson Tide, in the biggest games of the season.

B. LEGAL IMPLICATIONS

Collusion among opponents is the practice of coaches, athletic directors, players, and industry officials working together to manipulate the scheduling of games, the recruiting of players, or the outcomes of games. While collusion is a violation of NCAA rules, it is difficult to detect and enforce.

The Sherman Antitrust Act refers to a landmark U.S. law that banned businesses from colluding or merging to form a monopoly. Passed in 1890, the law prevented these groups from dictating, controlling, and manipulating prices in a particular market. Section 1 of the Sherman Antitrust Act states:

Every contract, combination in the form of trust or otherwise, or conspiracy, in restraint of trade or commerce among the several States, or with foreign nations, is hereby declared to be illegal. Every person who shall make any such contract or engage in any such combination or conspiracy, shall be deemed guilty of a misdemeanor, and, on conviction thereof, shall be punished by fine not exceeding five thousand dollars, or by imprisonment not exceeding one year, or by both said punishments, at the discretion of the court.

If it is found that people within the NCAA people involved in ESPN worked together to guarantee that Alabama made it into the CFP while other deserving teams liked Georgia and Florida State were snubbed and to ensure that the most watched team in CFP (Alabama) was put

on the stage to further guarantee millions of dollars in revenue went to ESPN and favored conferences (the SEC), those involved could be in violation of the Sherman Act. It is unlikely that anyone involved would serve jail-time, however, this could ruin college football for the fans, players, coaches, and everyone else who has a stake in college football. A scandal such as this one would cause people to lose love for game and in turn not play to highest level. Next, athletic programs would decline, and money becomes lost on all fronts. The legal implications as far as punishment might not be a deterrent, but the social and economic implications could have drastic results. The discovery alone would cost millions of dollars. The college football season itself would most likely be suspended until the litigation ends and by that time, the damage is already done, and the most affected class would be the players.

III. PROPOSED SOLUTIONS

A. NO CONFERENCES, ALL COMPETITION

The solution to the problem of potential collusion is to dissolve conferences altogether. Television networks would be forced to do business with individual teams and not the conference. The dissolution of conferences would remove all biases that the CFP committee or the tv networks have regarding specific conferences. Teams would be forced to formulate their own competitive schedules and the safety net of making a CFP birth through winning a conference champion is removed. Without conferences, teams are free to form their own contracts with other teams, tv networks, and ultimately retain their autonomy to act in a way that benefits their institution and its student/athletes. Teams would still be governed by the NCAA and the NCAA would be free to spell out the terms and conditions of a conference-less space, like but the main goal behind a conference-less space is to remove all the passes that certain

teams and conferences currently receive and make everyone just shut-up and play. There wouldn't be any excuses as to why Georgia couldn't play Ohio State or why Michigan couldn't play LSU. In this outlook, coupled with the 12-team playoff, teams can make better arguments as to why they belong in the CFP and the CFP will have an easier job determining who makes it into the CFP since the cloud that conferences created is removed and all they must look at is the games themselves.

IV. CONCLUSION

This past college football season was historic, and while many great things happened, this season will forever have the shadow of what should've happened. Florida State should've made the playoff. Georgia should not have dropped out of the top 4. Alabama is a great team. Nobody is disputing that, but fans and opponent players are tired of Alabama and the SEC always having a safety net. What more could the Florida State Seminoles have done? They had a perfect season. Both Alabama and the SEC did not but on their best this year and that's okay. If college football is going to be the pinnacle of amateur sports in this country, something must change. Teams and fan bases alike must learn to lose and understand that it's okay and that's part of the game. The CFP is going to ruin college football if what happened this year continues with the 12-team playoff. The last thing anybody wants is for the game to stop being fun.

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