

## ***Journal of Issues in*** ***Intercollegiate Athletics***

### **The Cartel**

By Taylor Branch. Published 2012 by Byliner, San Francisco, CA. (154 pages).

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Reviewed by

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In his book, *The Cartel*, Taylor Branch gives a vivid account of the scandal-ridden history of the NCAA. While this is certainly not the first article or book to examine problems associated with the NCAA, Branch gives a very succinct description of the problems that have plagued collegiate sport for decades and that may ultimately lead to the downfall of the NCAA.

The book begins with Sonny Vaccaro, the so-called sneaker pimp, addressing members of the Knight Commission in 2001. Bryce Jordan, president emeritus of Penn State University, asked Vaccaro why universities should be an advertising platform for the shoe industry. Vaccaro replied:

They shouldn't, sir. You sold your souls, and you're going to continue selling them. You can be very moral and righteous in asking me that question, sir, but there's not one of you in this room that's going to turn down any of our money. You're going to take it. I can only offer it.

This exchange between Jordan and Vaccaro revealed the reality that while some administrators in academia may appear to have disdain for Vaccaro and his industry, the truth is they are accepting the money from the shoe companies, the television networks, and so forth. They are willing participants in the commercialization of collegiate athletics.

Branch's first chapter goes on to further discuss the huge television contracts, facility upgrades, and the scandals that are prevalent in college athletics. Branch discusses his feeling that the real scandal is not accepting money from sport agents or trading autographs for tattoos, but the fact students are not getting paid for their athletic endeavors. He echoes the words of many scholars before him suggesting the notion of student-athlete is a sham.

The book discusses Branch's belief that the term student-athlete is nothing more than an attempt by the NCAA to fight against worker's compensation claims for injuries sustained on the athletic field. Branch uses former Director of the NCAA Walter Byers' own words to illustrate how the NCAA used the term student-athlete consistently since its inception in the 1950's to fight any lawsuits brought against the organization.

While the NCAA argues in the courtroom that athletes are not employees, the day-to-day operations and contracts that surround college athletics appear to operate very much like a business. With the multi-million and billion dollar contracts the NCAA and certain member institutions have with television networks, sport marketing firms, video game manufacturers, and so forth, it is hard for Branch to buy into the argument athletes are not employees of the NCAA corporation.

Branch goes on to discuss the athletes who have “gone beyond talk” and begun filing lawsuits against the NCAA. Branch discusses Ed O’Bannon and the class-action antitrust lawsuit against the NCAA (*O’Bannon v. National Collegiate Athletic Association, and Collegiate Licensing Company*, 2009). The central problem in this case is the use of student-athletes’ likenesses within Electronic Arts (EA) Sports NCAA Football and Basketball games. O’Bannon is quoted by Branch as stating, “Once you leave your university one would think your likeness belongs to you.” The reality is the NCAA and the institution at which the athlete matriculated continue to accumulate revenue from the sale of video games and various other merchandise and memorabilia featuring the athlete. The athlete is not allowed, even upon graduation, to “share in the revenue the NCAA generates from his own image as a college athlete.”

The legal aspect of this case centers around NCAA form 10-3a--a form athletes are required to sign every year in order to participate in their institutions’ competitions--which states, among other things, “you authorize the NCAA [or a third party acting on behalf of the NCAA (e.g., host institution, conference, local organizing committee)] to use your name or picture to generally promote NCAA championships or other NCAA events, activities or programs.” Branch poses the questions, “Does this clause mean that athletes clearly renounce their personal interest forever? If so, does it actually undermine the NCAA by implicitly recognizing that athletes have a property right in their own performance?” Thus Branch argues if the NCAA is the guardian of amateurism, they should focus on rising coaches’ salaries and holding administrators accountable in fighting corruption.

Branch goes on to state the NCAA penalizes athletes for breaking their rules, but when examined further, the enforcement seems rather hypocritical. For instance, the NCAA suspended Georgia football player A.J. Green four games when he sold his own jersey from the Independence Bowl to raise money for a spring break trip. The hypocrisy lies in the fact that the University of Georgia store continued to sell replicas of his jersey for a minimum of \$39.95. Branch goes on to state:

The moral logic is hard to fathom: The NCAA bans personal messages on the bodies of the players, and penalizes players for trading on their celebrity status for discounted tattoos – but it also codifies precisely how and where commercial insignia can be displayed on players to benefit schools. Last season, while the NCAA investigated him and his father for alleged recruiting fees, Cam Newtown compliantly wore at least fifteen corporate logos – one on his jersey, four on his helmet visor, one of each wristband, one on his pants, six on his shoes, and one on the headband under his belt – pursuant to Auburn’s \$10.6 million deal with Under Armour.

In addition to the breaking of NCAA rules by athletes, Branch delves into a discussion of the NCAA and academic standards. Branch opens the chapter with the story of Joseph Agnew, a student at Rice University, who had his scholarship revoked from the football team. He filed a class action lawsuit asking the court to prohibit universities from offering one-year scholarships.

Academic performance of the athletes was suffering and Agnew's lawsuit was meant to help athletes have the opportunity to finish their education.

Branch begins the final chapters of *The Cartel* by stating "one way or another, the smokescreen of amateurism may soon be swept away." The O'Bannon case may be the catalyst for this change because if the NCAA loses the case, they may be forced to pay millions of dollars in damages. While this case will most likely not be resolved for several years, Branch argues changes are coming in the form of paying athletes without the athletes losing their NCAA eligibility. In addition, the scramble for universities to gain acceptance into conferences with lucrative television contracts has widened the gap between the haves and have-nots of collegiate sport. Thus, many university presidents have had to quietly acknowledge that their current athletic budgets are ballooning out of control and are not sustainable. It is this financial pressure that Branch argues may lead to additional conference realignments and, ultimately, the destruction of the NCAA.

*The Cartel* is an important book for those who study or are around collegiate sport. Branch weaves together an account of the NCAA's past, the current landscape of collegiate sport, and his prediction of where collegiate sports are heading in the future. While his book does challenge the NCAA and some of their premises (i.e. amateurism), he does so while integrating facts and current events to support his arguments. While supporters of the NCAA may not like this book, it is important for all those around collegiate sport to read this book.

## References

National Collegiate Athletic Association (2010). Form 10-3a. Student-Athlete Form. Retrieved from,  
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O'Bannon v. National Collegiate Athletic Association, and Collegiate Licensing Company, CV 09-3329 (N. D. Cal., July 21, 2009).