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An Ethical Application to Student-Athlete Name, Image, and Likeness (NIL) Sponsorship

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Student-athletes receiving the ability to profit off of their name, image, and likeness (NIL) ignited an industry disruption in college sports. Brands using student-athletes for sponsorship became the predominant NIL activity. Student-athletes are attractive to brands because of their social media following and authentic connection with fans, alums, and youths in the community. Sponsors having a greater presence in college sports as a result of NIL raises ethical concerns on issues of student-athlete recruiting, potential negative brand associations for a university, and sponsorship revenue being diverted from a university and going to a select few student-athletes which could result in the elimination of university sports teams. The study of ethics is advanced by examining various industries, each with its unique variables. This article analyzes student-athlete NIL sponsorship activities by applying The Principles and Practices for Advertising Ethics provided by the Institute for Advertising Ethics. It is important to study ethics in the context of NIL because its marketing and regulatory implementation are still in their infancy. This timely ethical evaluation of NIL activities draws upon the literature that describes sponsorship principles, characteristics and motivations of sports fans, the economic and marketing systems of college sports, and the Institute for Advertising Ethics standard. Understanding and applying these concepts can lead to more effective decision-making and better outcomes for student-athletes, universities, sponsors, and consumers. Adopting an ethical approach can inspire trust in the practice of brands using student-athletes for sponsorships.

On July 1, 2021, college student-athletes received the ability to profit off of their name, image, and likeness (NIL). The intended outcome of NIL is for student-athletes to earn money while participating in college sports. Student-athletes can be compensated for sponsoring brands, personal appearances at stores or businesses, autograph sessions, speeches, operating sports camps, giving private lessons in their

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sport, producing instructional videos, fundraising for charitable organizations, and social media opportunities, including postings, podcasts, and YouTube videos.

Brands using student-athletes for sponsorship became the predominant NIL activity (Coffee, 2023; Higgins & Radnofsky, 2021; Jakab, 2023; Weil, 2021). One estimate is that more than $1.1 billion was spent on student-athlete NIL activity from July 2022 through June 2023, with brands accounting for 70% of that spending (Coffee, 2023). Sponsorship is an attractive marketing strategy because it offers distinct benefits for a brand. Sponsors receive product category exclusivity, which eliminates brand competition with that property (Miyazaki & Morgan, 2001; Papadimitriou & Apostolopoulou, 2009). Sponsors form a brand association and can communicate their alignment with a property (Dean, 2002; Grohs & Reisinger, 2005). Brand association is especially relevant for sports sponsorships because of sports fans' passionate and emotional characteristics, including behavior motivated by experiencing a thrill in victory (Wann, 1995; Wenner & Gantz, 1998). Sponsorship also allows for the development of a creative activation program that could help achieve brand-specific marketing objectives (Davies & Tsiantas, 2008; Fortunato, 2013; O'Reilly & LaFrance Horning, 2013). Carter (2022a) contends that student-athletes offer value as brand sponsors because they make an authentic connection with fans and alums, influence their on-campus peers and social media followers, and have visibility with youths in a community.

Sponsors having a greater presence in college sports due to NIL implementation raises ethical concerns. The study of ethics is advanced by examining various industries, each with its unique variables. This article aims to offer examples of student-athlete sponsorships since NIL's implementation and analyze these activities through the application of an ethics standard. Because sponsorship is a prominent aspect of NIL, applying an advertising-based ethics standard is appropriate for this research. The Principles and Practices for Advertising Ethics provided by the Institute for Advertising Ethics is the standard used for this article.

It is important to study ethics in the context of NIL because its marketing and regulatory implementation are still in their infancy. This article draws upon the literature that describes sponsorship principles, characteristics and motivations of sports fans, the economic and marketing systems of college sports, and the Institute for Advertising Ethics standard. Understanding and applying these concepts can lead to more effective decision-making and better outcomes for student-athletes, universities, sponsors, and consumers. This approach which describes industry activities while applying an ethics standard aligns theoretical claims with actual techniques and lends insight into what is occurring in the strategic practice of brands using student-athletes for sponsorship.

Literature Review

The Sponsorship Practice

Keller (2001) defines marketing objectives as trying to "inform, persuade, incite, and remind customers, directly or indirectly, about the brands they sell" (p. 819). In its most general description, sponsorship is another form of marketing that can help achieve brand objectives (Fortunato, 2013; O'Reilly & Lafrance Horning, 2013; Walraven et al., 2014). Meenaghan (1991) defines sponsorship as "an investment, in cash or in kind, in an activity, in return for access to the exploitable commercial potential associated with that activity" (p. 36).

The main benefit to the property (defined as any league, team, event, or individual endorser) is evident upon entering into a sponsorship agreement as it adds another revenue source to its business. The sponsoring brand also has a role in promoting the property (Carter, 2022a; Fortunato, 2013). Carter (2022a) states, "brands are the engine in the sports industry. They provide both the money and the visibility that far exceeds what an athlete or property can create on their own" (p. 22).

Sponsorship offers distinct benefits for a brand by providing creative opportunities for brand exposure and recall, enhancing brand image, communicating a brand theme, and achieving any other brand-specific marketing objectives (Fortunato, 2013; Meenaghan, 1991; O'Reilly & Lafrance Horning, 2013; Walraven et al., 2014). Brand exposure is often the most essential element of sponsorship success and has to be the initial achieved objective. Other sponsorship objectives might not be achieved if the brand is not noticed in that location.

Brand exposure is needed to achieve brand recall. It is not enough that consumers are aware of the product category (e.g., insurance); they need to be aware of and able to recall the specific brand name (e.g., State Farm) at the time the purchase decision is being made. Recall is especially vital when there are several accessible competing brands in a product category or when an individual is making a purchase in a product category for the first time.

Sponsors receive product category exclusivity to assist with brand recall. Exclusivity is valuable because it eliminates any competition a sponsor might receive from a rival brand within that product category with the sponsored property (Miyazaki & Morgan, 2001; Papadimitriou & Apostolopoulou, 2009). The result of exclusivity could be a promotional communication advantage for the sponsor. Miyazaki and Morgan (2001) note that "the ability to be an exclusive sponsor in one's product category presumably aids in avoiding the competitive interference that typically is experienced in other media contexts" (p. 10). Papadimitriou and Apostolopoulou (2009) explain that exclusivity acts as a barrier for competitors that might have tried to acquire that same sponsorship or at least diffuses the promotional attempts of competitors during the time that the brand is sponsoring the property.

Sponsorship effectiveness relies on proper property selection (Connolly & Connolly, 2014; Prendergast et al., 2010). Connolly and Connolly (2014) contend that the strategic fit between a sponsor and a property is the most critical factor of sponsorship success. As consumers perceive a relevant fit, they are more likely to view the sponsor positively, and their ability to identify and recall the correct sponsors of the property increases (Connolly & Connolly, 2014; Madrigal, 2000).

The strategic fit helps illuminate the sponsorship benefit of brand association. Dean (2002) explains, "for the payment of a fee (or other value) to the sponsee, the sponsor receives the right to associate itself with the sponsee or event" (p. 78). He adds that "by associating itself with the sponsee, the sponsoring firm/brand shares in the image of the sponsee" (p. 78). Grohs and Reisinger (2005) point out that "the aim is to evoke positive feelings and attitudes toward the sponsor, by closely linking the sponsor to an event the recipient values highly" (p. 44). Stipp and Schiavone (1996) claim that the sponsorship objectives assume that the target audience for the sponsorship will transfer its loyalty from the sponsored property to the sponsor itself.

Sponsors receive the right to use the property brand logos and footage in their marketing campaigns. Sports properties have developed iconic logos (e.g., the Olympic rings or the Dallas Cowboys star). Logos on product packaging, in commercials, retail signage, and other marketing promotions clearly communicate the brand association between a sponsor and a property.

Brand association is especially relevant in the context of sports sponsorships because of the characteristics of sports fans. Experiencing sports has been shown to satisfy many emotional needs, including self-esteem, group affiliation, entertainment, and escape (Wann, 1995; Wenner & Gantz, 1998). Satisfaction of emotional needs motivates fan behaviors of viewing, social media engagement, attendance, or purchasing team merchandise (Kwon et al., 2007; Strobel et al., 2021; Wenner & Gantz, 1998). Experiencing a thrill in victory has been identified as the primary motivation to witness sports (Wenner & Gantz, 1998). Wenner and Gantz (1998) describe that sports fans' motivations to watch games are greatly heightened when their favorite team is playing in the game, and the outcome of the competition remains unknown.

The level of fan identification with a team can predict other behaviors (Kwon et al., 2007; Wann et al., 2004). For example, high-identified fans were more likely to purchase team merchandise (Kwon et al., 2007). High-identified fans wear team merchandise to express and positively reaffirm their identification with the team (Strobel et al., 2021).

The feeling of fans toward their favorite teams is such that a brand association could help achieve the desired transfer of their support of the team to the support of its sponsors. In studying the relationship between fan identification and university sports apparel sponsors, Kirkpatrick and Eason (2019) report in their survey research that more than 70% of respondents could accurately recall the sponsor of their favorite team's uniforms, and more than 66% claimed to be more likely to buy apparel from the sponsoring brand of their favorite team. Other researchers, more importantly, indicate a brand association transfer resulted in an increase in purchasing the products of the sponsoring brands (Dean, 2002; Harvey, 2001; Madrigal, 2000; Miyazaki & Morgan, 2001). Harvey (2001) summarizes that "sponsorship changes the consumer's perception of a specific sponsor – which can rub off positively on brands that sponsor in terms of willingness to purchase those brands" (p. 64).

College sports fans, in particular, are passionate and loyal to a university. Researchers have demonstrated that these emotional characteristics lead to the purchase of the university's sponsors' products (Kirkpatrick & Eason, 2019; Madrigal, 2000). In examining college football fans, Madrigal (2000) found that fan behavior extends from the support of a team to the support of brands that sponsor that team. This positive behavior toward sponsors was more prevalent among high identified fans of a team.

The sponsorship benefits of product category exclusivity and brand association extend to individual endorsers. Researchers claim that athlete endorsements can positively influence how consumers view the sponsored brand (Bush et al., 2004; Doss, 2011; Grohs & Reisinger, 2005; Kim & Na, 2007). Stone et al. (2003) found an emotional tie can be created with consumers through the use of an athlete endorser that improves both brand awareness and brand image. Koernig and Boyd (2009) comment that athletes have a special authenticity as endorsers, "because our attitudes and knowledge about them derive not only from seeing them in contrived situations (i.e., movies or events), but also how they behave and perform in spontaneous situations on the field of play" (p. 26).

Finally, sponsorship offers the ability to develop a creative activation program designed to use the property's assets to achieve any brand-specific marketing objectives (Davies & Tsiantas, 2008; Fortunato, 2013; O'Reilly & Lafrance Horning, 2013). Fortunato (2013) explains that activation "can simply be thought of as the methods used by sponsors to communicate and associate their brand to the property and consumers" (p. 99). Activation does require an additional investment beyond paying for the rights to be an official, exclusive sponsor (Davies & Tsiantas, 2008; O'Reilly & Lafrance Horning, 2013). Researchers contend that sponsorship success is determined by both the creative design of the activation program and the level of activation investment (Davies & Tsiantas, 2008; Fortunato, 2013; O'Reilly & Lafrance Horning, 2013; Papadimitriou & Apostolopoulou, 2009).

Ethics

The potential for sponsorship to influence consumers lends itself to a discussion of industry practices from an ethical perspective. Ward (2015) defines ethics as "the activity of constructing, critiquing, and enforcing norms, principles, and aims to guide individual and social conduct" (p. 4). He describes the challenge that applies to all industries is that ethics "is both individualistic and social. It is individualistic because individuals are asked to make certain norms and values part of their character. It is social because ethics is not about every person formulating their own rules of behavior" (p. 5).

The individual and social challenges to ethical behavior center on decision-making. Jones (1991) contends, "an ethical decision is defined as a business decision that is both legal and morally acceptable to the larger community" (p. 367). Ethical decision-making is influenced by the individual and the situational factors involved in the issue (Schwartz, 2016). An individual factor is that ethics has a degree of subjectivity. Farmer (2018) explains that many ethical issues "concern the sometimes challenging reconciliation of institutional standards, which are universal in scope, and occasionally rigid and slow to change, and individual standards that lie within unique and varied paths" (p. 2). Farmer (2018) explains that "ethical issues generally arise from a gap with the standards that define an action's acceptability" (p. 2).

The concept of situational factors introduces the idea that there are industry-specific ethical dilemmas. In their writing about the advertising industry, O'Guinn et al. (2006) define ethics as "moral standards and principles against which behavior is judged" (p. 124). They contend that ethical behavior broadly includes characteristics of honesty, integrity, fairness, and sensitivity. They explain that "many of the ethical aspects of advertising border on and interact with both the social and legal considerations of the advertising process" (p. 124). O'Guinn et al. (2006) recognize that what is considered ethical is the purview of personal judgment.

Ethics in advertising focuses on the claims that brands make – are there false or deceptive statements or overstated performance claims in their advertising (Beltramini, 2011; O'Guinn et al., 2006; Snyder, 2011)? Ethics in advertising can also be grounded in how a product or brand is presented. Beltramini (2011) cautions against advertisers using emotional manipulation or gratuitous sex or violence in their marketing promotions as a method of garnering attention.

Two specific areas of concern for ethical behavior in advertising are promoting controversial product categories and advertising to vulnerable groups, especially children (Beltramini, 2011; O'Guinn et al., 2006; Snyder, 2011). Brands have a role in developing an individual's identity and serve as a means of expressing his or her uniqueness and values (Sihvonen, 2019; Schmitt, 2012). Children, in particular, view brands as an important part of their self-identity and expression (Gil et al., 2012; Guevremont & Dube-Beaudin, 2023). The role of brands in forming an identity is amplified in a social media environment where an individual can more easily receive promotional material as well as have a platform to communicate his or her self-expression (Guevremont & Dube-Beaudin, 2023).

Snyder (2011) explains that practicing ethics in advertising means going beyond being lawful. It depends on being truthful and not omitting material facts. He offers a rationale for acting ethically by advocating that honest advertising contributes to a company's ethical standing and builds consumer trust and loyalty. He believes "consumers value high ethics in companies and are willing to pay for it" (p. 480). Beyond building trust in a brand, Snyder (2011) claims that the advertising industry benefits when there is a conscious consideration of ethical standards.

Principles and Practices for Advertising Ethics

Ethical behavior in a specific industry depends on developing and communicating communal norms. The Institute for Advertising Ethics established the Principles and Practices for Advertising Ethics to guide practitioner behavior. This industry standard offers nine principles.

The first principle is that all forms of promotional communication have the common objective of serving the public. This principle indicates that there is a valuable societal purpose to advertising in that it "provides consumers with information about the products and services in which they are interested and it fosters competition" (Institute for Advertising Ethics, n.d., p. 3). This principle articulates that honest advertising assists in making a company ethical and helps build consumer trust of brands.

An ethical approach to helping build consumer trust in advertising is the foundation of the second principle. Exhibiting high personal ethics is needed for practitioners in the advertising industry. The Institute for Advertising Ethics explains that professionals "need to conduct ourselves, our businesses, and our relationships with consumers in a *fair, honest, and forthright manner*" (Institute for Advertising Ethics, n.d., p. 2, emphasis in original).

Paid promotional communication should clearly distinguish itself from news and editorial content. This third principle contends that if consumers cannot distinguish between a marketing message and a news message, they "are being misled and treated unethically" (Institute for Advertising Ethics, n.d., p. 5). The sentiment of this principle is that consumers must be able to properly evaluate the message content to which they are being exposed. Consumers need to understand if what they are seeing, hearing, or reading is a paid message expressly designed to persuade or an unpaid news story subjected to editorial rigor. The Institute for Advertising Ethics acknowledges that there is a changing marketing landscape driven by technology. The challenge of any blurring between news and promotional communication messages is exacerbated by social media.

Principle four focuses on transparency. The principle states, "advertisers should clearly disclose all material conditions, such as payment or receipt of a free product, affecting endorsements in social and traditional channels, as well as the identity of endorsers" (Institute for Advertising Ethics, n.d., p. 6). Transparency becomes the mechanism for building consumer trust of the message, trust of the brand, and trust of the advertising profession.

The fifth principle relates to two signature components of all marketing communication: 1) the audience to whom a product's messaging is directed, and 2) the nature of the product being advertised. The Institute for Advertising Ethics emphasizes in this principle that advertising ethics is pertinent when marketing to children. This principle explains that younger audiences are impressionable and cannot adequately decipher or understand message content. The nature of the product being advertised speaks to the marketing of brands in problematic behavior categories, such as alcohol and gambling. The marketing of problematic categories to children creates the most challenging condition. Social media again become a factor in targeting children with brands in problematic categories.

The sixth principle deals with companies' use of consumer data provided through clicking on online advertisements, information shared on social media, and products purchased online. The choice of a consumer to provide such personal information should be voluntary and transparent or it is a violation of trust.

In principle seven, the advertising practice must follow all laws and industry self-regulation programs. Oversight of message content claims needs to be conducted. The Federal Trade Commission, which regulates advertising, requires that advertisements must be substantiated on a reasonable basis of fact. It is noted that being truthful is not sufficient, and an advertisement should not omit material facts that would make the message false or misleading.

Principle eight describes the importance of organizations having discussions about ethical dilemmas. The Institute for Advertising Ethics declares that one of its missions is "to educate our professionals as to the importance of truthful, ethical advertising" (Institute for Advertising Ethics, n.d., p. 4). The initial step is for an organization to educate employees about its ethical standards. This training implies that ethics should be considered proactively when making decisions and engaging in actions. Industry professionals then have to be empowered to express their concerns as ethical situations arise. This principle focuses on the need to offer a forum for debate of potentially questionable organizational practices. Through this debate, more appropriate ethical standards are adopted and better practitioner behavior is developed. Ethical growth does not occur when debate is stifled.

The final principle has the objective of trust between industry business partners. This principle explains the need for the disclosure of organizational business arrangements. Transparency in an agreement for how certain issues will be mitigated helps inspire confidence for the business partners involved in the transaction. An organization should also disclose if it has a partnership with another organization that is performing duties involved in a particular business transaction.

Results

College Sports Regulatory and Marketing Environment

It is necessary to briefly describe the college sports regulatory and marketing environment before applying the Institute for Advertising Ethics standard to student-athlete NIL activity. The NCAA is the governing organization of college sports. Its mission is to, "provide a world-class athletics and academic experience for student-athletes that fosters lifelong well-being" (NCAA mission and priorities, n.d.). The NCAA has four priorities within its mission: 1) coordinate and deliver safe, fair, and inclusive competition directly and by association members, 2) provide world-class services to student-athletes and members that leverage the NCAA's collective scale, 3) grow the college sports ecosystem, and 4) deliver sustainable funding for the NCAA mission (NCAA mission and priorities, n.d.). The economic reality, however, is that more than 90% of Division I university athletic departments have expenses greater than revenue (McGinty, 2021).

Sponsors play a significant revenue-generating role in the operations of college sports (Fortunato, 2015; McAllister, 2010). The NCAA points out that its sponsors "provide a direct, positive impact on the academic and developmental opportunities afforded to nearly half a million NCAA student-athletes each year" (NCAA corporate champions and partners, n.d.). Universities sell their own sponsorships mostly through a contractual arrangement with a multimedia rights holder. In exchange for a guaranteed fee, one duty performed by the university multimedia rights holder is selling sponsorships and developing activations (Fortunato, 2013).

The role of corporate sponsors in the economic model of college sports has been questioned (Diamond & Bachman, 2023; Fortunato, 2015; McAllister, 2010; Sperber, 2000). Fortunato (2015) argues that sponsors would greatly influence the student-athlete recruiting process if the value of an athletic scholarship was altered from all being equal to each being the result of a competitive market for the services of a player, a system desired by some who initiated litigation against the NCAA. The concern of sponsors having greater involvement in college sports is undoubtedly heightened as an outcome of NIL usage for similar reasons about recruiting student-athletes.

The NCAA attempted to regulate NIL policy, but it could not pass a comprehensive set of rules (Higgins & Radnofsky, 2021). The NCAA instead offered limited guidelines, including prohibiting payment and recruiting inducements directly from the universities to student-athletes The NCAA permitted student-athletes to use agents or consultants to assist with NIL opportunities (Higgins & Radnofsky, 2021).

Most state governments passed their own NIL laws (for an updated summary of state NIL laws see: *NIL Network*). Effective July 1, 2021, student-athletes in states with an NIL law followed those regulatory guidelines. Student-athletes in states that do not have an NIL law followed the rules created by their university based on the NCAA's limited guidelines. The NCAA is concerned that the different sets of rules by the states and the universities will lead to unfair practices with student-athletes deciding which university to attend based on the most attractive environment for NIL compensation (Higgins & Radnofsky, 2021). The NCAA seeks a federal law that provides a uniform national policy. Multiple pieces of legislation have been introduced in the United States Congress, but no federal law has been enacted.

NIL Implementation: Predominant Practices and Issues

Highlighting the notable sponsorship practices and issues of NIL implementation advances this article's purpose of applying an ethical standard to this industry's activities.

Student-Athlete Brand Sponsorships

A primary attribute of student-athletes that is attractive for brands is their presence on social media (Carter, 2022a; Smith, 2023b; Weil, 2021). One early estimate was that 90% of NIL deals had a social media component (Weil, 2021). Olivia Dunne, a gymnast at Louisiana State University (LSU) gained notoriety through her social media following. Dunne had more than 7.8 million TikTok followers and 4.5 million Instagram followers (Axon, 2023). Dunne was reported to have the highest annual NIL valuation for a female student-athlete at an estimated $3.3 million (Apstein, 2023). Dunne is sponsored by American Eagle, Forever 21, Motorola, and Vuori activewear (Axon, 2023). Dunne stated, "people definitely discredit what I do. People need to understand that I've worked for everything I've earned. I've spent years building an audience, and brands pay me for what they believe is worth the reach of the demographic that I offer" (Apstein, 2023, p. 37).

Women's basketball players have been at the forefront of NIL usage. One advantage for a brand in associating with women's basketball players is that they stay in college longer than the top men's players as the WNBA's rules stipulate that a player has to wait four years from high school before turning professional (Bachman, 2023b). The women's college basketball national championship game in 2023 between LSU, featuring Angel Reese, and the University of Iowa, featuring Caitlin Clark, had a then-record 9.9 million viewers (Bachman, 2023b). The 2024 championship game between Iowa and the University of South Carolina had 18.9 million viewers (Bachman, 2024).

Resse had a reported annual NIL valuation of $1.7 million (Apstein, 2023). She had 2.5 million followers on TikTok and two million followers on Instagram (Apstein, 2023). Reese and Dunne appeared together on a regional cover of the *Sports Illustrated* money issue, and both were featured in the *Sports Illustrated* swimsuit issue. Women's basketball players try to capitalize on their years in college because their economic opportunities are not as great when they play professional basketball. Reese explained, "everybody knows the WNBA doesn't make that much money, so I just want to be able to grow my brand as much as I can in college" (Apstein, 2023, p. 37).

Reese transferred to LSU from the University of Maryland. Reese met with representatives from LSU responsible for creating NIL opportunities for student-athletes on her recruiting visit (Apstein, 2023). Hailey Van Lith, an All-American player at Louisville, transferred to LSU for the 2023-24 season. Reese implied that one factor in Van Lith's decision to join LSU was its NIL environment (Apstein, 2023).

Flau'jae Johnson is another member of the LSU women's basketball team who benefitted from NIL. Johnson established herself as a rapper who was signed by the music company, Roc Nation, before joining LSU. The arrangement with Roc Nation would have made Johnson ineligible to play college basketball before the permitting of NIL (Bachman, 2023a). Johnson was reported to trail only Reese and Dunne in female athletes' annual NIL valuation (Apstein, 2023). Among Johnson's sponsors is Puma. This contract conflicts with LSU's exclusive sponsorship agreement with Nike. LSU athletes are required to wear the Nike brand in games, practices, and official appearances (Bachman, 2023a). Johnson is still allowed to post pictures of herself wearing Puma sneakers on social media to her more than 1.6 million followers (Bachman, 2023a). Johnson is paid in the low to mid-six figures to represent Puma (Bachman, 2023a).

Caitlin Clark has a sponsorship agreement with Gatorade, Nike, and State Farm Insurance, which chose her as its first college athlete representative (Bachman, 2023b). Paige Bueckers, an All-American basketball player at the University of Connecticut, was the first student-athlete to become a sponsor of Gatorade (Smith, 2022b). Bueckers was the first freshman women's basketball player to be named Associated Press National Player of the Year after the 2021 season. It is estimated that Bueckers earns more than $1 million per year in endorsements while playing for Connecticut, more than she would earn from a professional salary (Bachman, 2021).

Bueckers signed her first agreement in November 2021 with StockX, an e-commerce platform for sneakers, apparel, toys, and electronics (Smith, 2022d). Bueckers had more than 900,000 followers on Instagram in the summer of 2021, an amount that was greater than all of the starters on the men's basketball 2021 final four teams combined (Bachman, 2021). Although a knee injury caused Bueckers to miss the entire 2022-23 season, she signed an agreement with Bose speakers during that time (Smith, 2022d). Bueckers also has agreements with Crocs, Cash App, and Chegg (Smith, 2022d).

Prominent players in the popular sport of college football have received multiple sponsorships. Caleb Williams, quarterback at the University of Southern California and the 2022 Heisman Trophy winner, has sponsorship agreements with Dr. Pepper, Keurig, United Airlines, and Wendy's (Jakab, 2023). Blake Corum, running back for the 2023 University of Michigan national championship-winning football team, is sponsored by Bose and Subway (Jakab, 2023).

Not every NIL sponsorship agreement involves a national brand and a notable athlete. One estimate is that the average per-activity payment for a student-athlete is $1,200 (Carter, 2022b). Partnering with student-athletes is a viable strategy for local brands that do not have the financial resources to sponsor the university. Student-athletes might also be the most marketable personalities if the universities are located in a geographic area where there is not a professional sports team.

The advantageous sponsorship characteristic of a creative activation has been evident in NIL deals. Athletes' names have fostered creative sponsorship opportunities for a brand to increase exposure and recall. DeColdest Crawford, a football player at the University of Nebraska, had an endorsement deal with an Omaha-based air conditioning and heating company. Leaky Black, a basketball player at the University of North Carolina, reached an agreement with a plumbing company in the state (Smith, 2022e).

Iowa is the largest pork-producing state in the United States (Portnoy, 2023). The Iowa Pork Producers Association reached an agreement with players on the Iowa State football team, Myles Purchase, Tyler Moore, Tommy Hammon, and Caleb Bacon (Portnoy, 2023). The players' names created the slogan "Purchase Moore Hammon Bacon," which was used in a promotional campaign by the Iowa Pork Producers Association. A social media post featured a picture of the four players standing with their backs turned so the last names on their jerseys were visible, while in the foreground there was a table full of pork products (Portnoy, 2023). The post had more than 3.6 million views on X, formerly Twitter (Portnoy, 2023).

NIL deals featuring multiple players on a team have been a popular sponsorship strategy. Wright's barbeque restaurant located near the University of Arkansas paid an estimated $5,000 to have the team's offensive line, one of its defensive linemen, and the starting and backup quarterback as sponsors (Higgins, 2021). The student-athletes were given $200 gift cards and merchandise to promote the restaurant on their social media platforms using #BodyByBBQ. After an initial event in which the student-athletes visited the restaurant and consumed over $1,000 worth of food, the restaurant reported an increase in its business (Higgins, 2021).

In another team example, a Texas-based automotive dealership was expanding into Oklahoma, including in the city of Norman where the University of Oklahoma is located. An agreement was reached with the players on the Oklahoma national championship-winning softball team for autograph and photo appearances at the dealership and social media postings (Smith, 2022a).

Finally, there is an opportunity for a brand to use NIL to achieve a corporate social responsibility objective. In one example, Milner Technologies, a family-run business technology company with operations in Georgia and Florida, compensates student-athletes to appear at their local YMCA to give lessons in their sport (Weil, 2021). One initiative of the Milner family, who had a son who tragically died in a drowning accident, is for college swimmers and divers to appear at a YMCA to teach kids water safety (Smith, 2022c).

NIL University Business Relationships

NIL has led to the development of businesses designed to assist both universities and student-athletes. Collectives associated with a specific university have been created. Collectives generate revenue from brands and donors to facilitate student-athlete sponsorship opportunities (Jakab, 2023; Smith, 2023a). Contributing to collectives has been described as a passion play for fans of a university's sports teams (Smith, 2021). Former student-athletes and alums have been heavily involved in creating and operating their alma mater's NIL collectives (Smith, 2021). Alums of the University of Michigan created a One More Year Fund after the football team lost in the semifinals of the 2022 playoffs to keep some of its star football players from leaving school for the NFL, including Blake Corum (Jakab, 2023; Rosenberg, 2023). Michigan went undefeated and won the national championship in 2023, with Corum leading the team in rushing yards and touchdowns.

Some collectives operate through a subscription model to raise money. For example, a collective supporting the University of Florida launched a $6 monthly subscription where fans receive meet-and-greet opportunities, exclusive content, or keepsakes (Smith, 2021). Tiers of support was the donation model of the University of Alabama collective, Yea Alabama. The collective offers a starter tier for $216 annually that provides a decal and an invitation to a player autograph session (Jakab, 2023).

Collectives were initially operating independently of their respective universities and did not have permission to use a university's logos (Smith, 2021). Collectives are now aligning with universities by becoming sponsors through an agreement with the university's multimedia rights holder. The collective markets itself as "the official collective of the university" and is able to use the university's logos in its promotional communication (Smith, 2023a).

Collectives have been stigmatized as illegitimate businesses whose fundraising endeavors only serve to funnel money to student-athletes for the purpose of winning (Rosenberg, 2023). Wealthy individual donors with newfound opportunities through NIL face similar scrutiny. For example, a billionaire donor of the University of Miami who is the chief executive of a medical records and data company reportedly spent more than $7 million for his company to sponsor Miami student-athletes. The booster claimed the desired return on investment was not team wins but social media impressions and brand recognition (Higgins, 2022). The booster's money is reported to have helped the men's basketball team recruit a transfer from Kansas State who was instrumental in Miami reaching the Final Four in 2023 (Smith, 2023b). One university president of a school in the Southeastern Conference simply claimed that financing by boosters and NIL collectives have created a pay-for-play structure in college sports (Smith, 2023a).

Student-athletes and their parents asking about NIL opportunities during the recruiting process has become common (Smith, 2021). The NCAA issued a directive in 2023 that boosters or collectives cannot meet with recruits to discuss potential NIL opportunities and NIL agreements cannot include clauses that require an athlete to attend a particular university (Murphy, 2023). When the NCAA moved to impose penalties on the University of Tennessee and the University of Virginia for violating that directive, those state attorneys general brought legal action against the NCAA. A preliminary injunction was granted by a federal judge for the Eastern District of Tennessee that blocks any restrictions on student-athletes negotiating compensation being enforced by the NCAA (Radnofsky & Higgins, 2024).

Another regulatory issue emerged when Texas A&M created the 12th Man+ Fund collective as part of its 12th Man Foundation, the fundraising organization that also serves as the official ticket provider of the university's athletic department. Texas A&M student-athletes would enroll in the 12th Man+ Fund NIL program and be compensated for helping promote and raise money for the Foundation through social media posts, appearances at events, and speaking engagements (Smith, 2023b). Fans who donated to the 12th Man+ Fund accumulated points that helped them receive preferred tickets to home games, college football bowl games, and postseason tournaments (Murphy, 2023).

The NCAA felt that a system such as the one initiated at Texas A&M was a violation of its rules. The Texas A&M arrangement, however, was permissible under Texas state law. There was a provision in the Texas state NIL law that held that the NCAA and any college conference could not punish a university for providing benefits to donors in exchange for NIL activities (Murphy, 2023). The position of the NCAA was that "schools must adhere to NCAA legislation (or policy) when it conflicts with permissive state laws" (Murphy, 2023, para. 3). Ross Bjork, then-Texas A&M athletic director, countered, "the state law is going to govern how we do business" (Murphy, 2023, para. 8).

The issue of connecting a university's fundraising efforts to NIL was settled when the Internal Revenue Service (IRS) decided that collectives cannot be structured as charities. The IRS ruled in 2023 that student-athletes were not a recognized charitable class and that donations to collectives would not be tax deductible (Rubin & Higgins, 2023). Texas A&M decided to shut down its 12th Man+ Fund after the IRS issued its ruling (Jeyarajah, 2023).

Beyond collectives, the prospect of connecting brands with student-athletes spurred other businesses. Consulting agencies were formed to help universities navigate issues related to NIL, including facilitating revenue generation opportunities for student-athletes and compliance with state laws or NCAA regulations to not jeopardize student-athletes' playing eligibility. These agencies also perform services for student-athletes, such as education on financial literacy and tax advice (Smith, 2023b). One consulting agency initiated a program that places a general manager at its affiliated university to advise the university staff, coaches, and the student-athletes, and quickly respond to NIL issues that may arise (Smith, 2022b).

A university's multimedia rights holder is expanding its services to accommodate NIL opportunities. A multimedia rights holder has the particular ability to broker sponsorship deals for student-athletes using the university's logos (Smith, 2022a). Combining assets is thought to help maximize value for student-athletes, universities, and brands (Smith, 2022a). Multimedia rights holders are now collaborating with a university's consulting agency to develop business opportunities

(Smith, 2022b). One consulting agency executive stated that if these collaborations are properly executed, “the whole pie gets bigger and all sides make more money, starting with the student-athletes” (Smith, 2022b).

Student-athletes’ ability to be sponsored by brands created a new group of prospective clients for marketing agencies. Established marketing agencies began expanding their services to include student-athletes. A South Carolina marketing agency was an early entry into NIL by representing Haley and Hanna Cavinder, twin sisters who on July 1, 2021, played basketball at Fresno State and had millions of social media followers. The Cavinder twins were in New York City’s Times Square where their names appeared on a billboard on the first day that NIL deals were permitted to announce their sponsorship with Boost Mobile (Smith, 2023b). The Cavinder twins transferred to the University of Miami to play basketball for the 2022-23 season. The South Carolina marketing agency has since created a consulting subsidiary that focuses on sponsorship deals for student-athletes at the University of South Carolina (Smith, 2023b).

New marketing agencies were formed that had a university-specific focus. A management agency was founded in Columbus, Ohio, to develop NIL deals for Ohio State University athletes. Some of the top football players who became high draft picks in the NFL were among its clients (Smith, 2023b). These agencies provided value to local brands that were new to sponsorship and may not be as familiar with executing activations (Carter, 2022b). The importance of local brand education in NIL was highlighted by Carter (2022b), who cautioned that once a brand does not find success with a student-athlete, it might retreat from using NIL as a marketing strategy. Carter (2022b) contends that repeat sponsorship is needed for universities that are located in an area where there are a limited number of brands.

Several online marketplaces were created to match brands with student-athletes (Smith, 2023b; Weil, 2021). Student-athletes create a profile for brands to see. The brands can then search these profiles and contact a student-athlete about an NIL opportunity. Student-athletes can also view posted brand opportunities and initiate contact with those companies. NBC launched a matchmaking initiative for student-athletes to partner with companies that typically advertise on its media platforms. One aspect of this initiative is using student-athletes in a campaign to promote reading and childhood literacy (Smith, 2023b).

Discussion

Ethical behavior relies on agreed-to and accepted communal norms (Jones, 1991; Ward, 2015). Situational factors bring out industry-specific ethical dilemmas (Schwartz, 2016). Researchers have identified ethical concerns for the advertising industry about brand messaging that makes false or deceptive claims, overstates performance, omits important facts, or uses emotional manipulation. There are particular advertising ethical concerns about how brands in controversial product categories promote themselves and the messages presented to children (Beltramini, 2011; O’Guinn et al., 2006; Snyder, 2011).

The Institute for Advertising Ethics Principles and Practices for Advertising Ethics articulates a detailed ethical standard designed to guide practitioner behavior. The nine principles put forth by the Institute for Advertising Ethics are an appropriate standard to examine the NIL practice of brands using student-athletes for sponsorship. That sponsorship can influence consumers lends itself to an ethical discussion of this marketing practice. The examples of student-athlete sponsorship provided in this article reveal ethical issues pertaining to NIL activity.

Each of the principles offered by the Institute for Advertising Ethics has some relevance as an indicator of ethical behavior. Certain ethical principles can be applied to what is occurring in NIL in a general sense. Principle one focuses on the societal purpose of promotional communication serving consumers with information about products and services. The second principle speaks to the value of practitioners' ethical behavior in building consumer trust in advertising. An obstacle to following any ethical standard is that individual behavior is subjective (Farmer, 2018; O'Guinn et al., 2006). The ethical standards put forth by the Institute for Advertising Ethics state, "these principles are meant to serve as guideposts for professionals in carrying out their professional responsibilities" (Institute for Advertising Ethics, n.d., p. 4). Guideposts can offer structure as to what is acceptable, but for some, they can create enough ambiguity to justify what can be perceived as questionable behavior. Ethical responsibility, thus, falls to all involved in advertising, or in the case examined in this article all involved in NIL. The actions of a singular individual could jeopardize the ethical standing of an organization and an industry.

Principle six highlights a specific example of where ethical behavior is needed. This principle explains that consumer data should be provided voluntarily and protected. Any brand messaging requesting consumer data should be clear of that voluntary characteristic and explain how this information will be used, and by whom.

Other principles put forth by the Institute for Advertising Ethics can be more directly applied to NIL. The third principle concerns the blurring of advertising and news content. One appeal of brands sponsoring student-athletes is their social media following (Carter, 2022a; Smith, 2023b; Weil, 2021). Student-athletes are being paid to post about brands on social media. Consumers might not be aware of this economic arrangement and they could think that the student-athlete uses the brand in his or her everyday life. Consumers could construe the social media posting as an authentic message, more akin to a fact-based news story than a paid endorsement. Ethical behavior would mean student-athletes disclose if brands compensate them for their social media postings.

Compensation disclosure relates to principles four and nine regarding transparency of business arrangements and partnerships. University collectives engaging in fundraising and developing student-athlete sponsorship opportunities require ethical assessment. The formation of collectives speaks to the characteristics and motivations of sports fans. Contributing money to a collective is a way to satisfy fans' passion and their desire to thrill in victory. NIL created unprecedented means for boosters and sponsors to influence recruiting and retaining players (Apstein, 2023; Higgins, 2022; Jakab, 2023). Mike Aresco, former Commissioner of the American

Athletic Conference, explicitly stated of NIL, "it's pay to play. It's pay to recruit. It's pay to retain" (Madkour, 2023). This type of instrumental role in a team's success that exists in college sports is not available for fans of a professional sports team. To illustrate, Ohio State saw a notable increase in donations to its collectives after its rival, Michigan, won the college football national championship (Higgins & Diamond, 2024). Ohio State then used this money to recruit several top players from the transfer portal. One Ohio State booster was quoted, "if we want to stay up there with them (Michigan), we better get aggressive (Higgins & Diamond, 2024). Ohio State won the college football national championship in 2024 with a reported $20 million spent in NIL to form its football roster (Portnoy, 2025).

The Principles and Practices for Advertising Ethics would advocate for transparency of collectives' business dealings. Ethical behavior means the public is informed about who contributed to the collective, in what amount, which student-athletes received the money, and for what purpose. It can be implied that ethical standards in any industry are not adhered to because of the opportunity that arises from not acting ethically, economics for many businesses, and the potential for winning in college sports. The disclosure of financial arrangements helps consumers better understand motivations for certain behaviors. Transparency could dispel false presumptions and inspire consumer confidence. The need for transparency requires that a mechanism for disclosure be developed. In this instance, a website that provides collectives' NIL activity could be created. Oversight of proper reporting also presents a challenge in that there has to be a governing body with the authority to enforce any punishment for failure to comply with transparency rules.

Transparency could be the remedy to help address the sponsorship benefit of product category exclusivity occurring due to NIL. The issue of student-athletes representing a brand different from the university in the same product category is seen in the example of Flau'Jae Johnson being sponsored by Puma and LSU being sponsored by Nike (Bachman, 2023a). Ethical behavior would mean the university is transparent by prominently displaying a list of its sponsors so that fans know which brands have an official, exclusive association.

Principle five focuses on the nature of the audience and the product category being advertised. The nature of the audience concept has to recognize that college athletes have high visibility with youths (Carter, 2022a; Coffee, 2023). The role of social media must be considered as an influential factor when it comes to children being exposed to certain messages. For example, prominent social media figures Olivia Dunne and Angel Reese, in part, developed their brands using their sexuality, as evidenced by their appearance in the *Sports Illustrated* swimsuit issue. Tara VanDerveer, national champion women's basketball coach at Stanford and Olympic gold medal-winning head coach, criticized sexuality being a focus in NIL usage and its negative impact on women's sports. She stated, "sometimes we have this swinging pendulum, where we maybe take two steps forward, and then we take a step back. We're fighting for opportunities to compete, to play, to have resources, to have facilities, to have coaches, and all the things that go with Olympic-caliber athletes. This is a step back" (Streeter, 2022).

The nature of the audience, especially children, and the role of social media become especially troublesome if student-athletes represent brands in controversial product categories. Ethical behavior would mean student-athletes refrain from sponsoring certain types of brands. The sponsorship benefit of brand association is a focus when evaluating student-athletes endorsing brands in controversial product categories. Universities would seemingly be worried about student-athlete sponsorships inviting any negative brand association. Universities certainly would not want their logo appearing in controversial content.

Principle seven identifies that laws and industry regulations need to be followed. With an unsettled regulatory environment of no federal law, a patchwork of state laws, and limited NCAA guidelines, it is more important that ethics guides NIL behavior. The argument between the NCAA and Texas A&M about following an NCAA directive or a state law is an example of confused governance (Murphy, 2023). University officials continue to advocate for Congress to pass a federal law to create a uniform set of regulations. A federal law is an opportunity to codify some of the ethical principles stressed by the Institute for Advertising Ethics, although acting ethically will still require acting beyond what is permitted by law (Snyder, 2011).

Universities do need to behave ethically toward their student-athletes. The conditions for an effective sponsorship have to be present if brands are going to use student-athletes in their marketing efforts. A sponsorship is devalued, for example, if student-athletes are not permitted to use a university logo to communicate a brand association. The solution is found in principle eight which claims that an organization should educate personnel about its ethical standards. Ethical behavior would mean universities educate student-athletes about the ethical dilemmas that arise from NIL activity. This principle also notes there should be a forum for having ethical discussions. It is incumbent on the university to allow for these ethical discussions by university officials and student-athletes to foster an atmosphere of ethical behavior. Universities also have the responsibility to communicate ethical standards to collectives and other NIL-related businesses that may be more motivated by winning games or earning a profit, and less concerned with the university's brand image and associations.

Ethical behavior from the university perspective also has to account for the best interests of all of its student-athletes. Sponsors have a significant role in the economic model of college sports. Sponsorship revenue possibly being diverted from the university athletic departments and going to a select few student-athletes is an economic concern of universities stemming from NIL. A brand could view aligning with student-athletes to be more economically efficient and more effective for achieving its marketing objectives. The loss of sponsorship revenue for a university could potentially result in the elimination of university sports teams. This presents a direct conflict with the mission of the NCAA, which focuses on creating playing opportunities for student-athletes. The financial reality is that most universities already do not make money through athletics (McGinty, 2021). With NIL, additional financial burdens are being put on university athletic departments through the hiring of staff and consulting agencies to connect brands with student-athletes and to assist with education and compliance.

Conclusion

Permitting NIL usage ignited an industry disruption in college sports that brought about a convergence of interests and behaviors by student-athletes, universities, fans and alums, sponsors, and consumers. NIL implementation is still in its infancy, but it is an evolving and growing industry. Discussing brands using student-athletes for sponsorship from an ethical perspective is necessary and timely. Sponsors having a greater presence in college sports as a result of NIL raises ethical concerns.

An ethical application has to account for the realities of the practice of NIL. It can be surmised based on NIL activities that student-athletes will be motivated to earn as much sponsorship money as they can while playing sports in college. Student-athletes choosing which university to attend based on NIL opportunities is the prime evidence of this desire. From a marketing perspective, property selection is a critical factor of sponsorship success (Connolly & Connolly, 2014). Student-athletes are attractive to brands because of their social media following and authentic connection with fans, alums, and youths in the community (Carter, 2022a). The NIL landscape will continue to prosper with student-athletes helping achieve brand exposure, especially through social media. This article provided examples of brands creatively using student-athletes' names, activations involving entire teams, or corporate social responsibility initiatives to achieve their brand objectives. Sports fans and alums will continue to use NIL to recruit student-athletes and satisfy their desire to thrill in victory.

Accepting these realities, a central theme of the article is that having an ethical focus will better shape NIL activities moving forward. The obvious positive outcome of NIL is that student-athletes are making money while participating in college sports. This is especially important for female athletes who have limited professional earnings prospects (Apstein, 2023; Streeter, 2022). Following an ethical approach, such as the principles articulated by the Institute for Advertising Ethics, does not preclude the economic benefits of NIL for student-athletes. Adopting these principles will build trust in NIL practices. The brands, universities, and student-athletes that practice ethics in their NIL activities may be rewarded by consumers (Snyder, 2011).

Adherence to ethical standards cannot merely be an aspirational espousal, but rather has to be displayed in real-time decision-making and implemented actions. In that light, NIL activities need to be continuously monitored and debated. Scholars can play a significant role in studying NIL behavior through an ethical lens. One article cannot capture all NIL activity so future research can examine the many aspects of brands using student-athletes, such as the product categories they are representing and the activations being used. How universities are educating student-athletes is important to document and analyze. A series of best educational practices for universities could be developed to help student-athletes be more aware of troublesome NIL activities. Recruiting practices through NIL are ripe for impropriety and need continuous ethical assessment. The actions of collectives should be studied to ensure appropriate behavior. The interactions between universities and collectives and education efforts by the university toward collectives can be a specific study. This research will be instrumental in producing the outcome of improved practitioner behavior and ethical growth in the NIL industry.

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