

ORAL TESTIMONY OF SCOTT S. COWEN
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BEFORE THE U.S. SENATE COMMITTEE ON THE
JUDICIARY

BCS or Bust: Competitive and Economic Effects of the
Bowl Championship Series On and Off the Field

October 29, 2003

Chairman Hatch and esteemed members of the committee:

Thank you for inviting me to address the issue of fairness and access--or lack thereof--in the Bowl Championship Series (BCS).

I am here today representing a Presidential Coalition from more than 50 universities, which are not part of the BCS. These universities represent approximately half of all Division I-A schools.

I want you to understand that this issue is really about creating a just system for millions of fans and over 13,000 student-athletes, including the 5,000-plus young men who play football, at the 54 schools not in the BCS.

My commitment and passion for this subject is borne out of respect for these young people. Have you ever had to stand in front of a Top 10 ranked team and tell them there was no opportunity for them to play in a BCS bowl, much less the national championship, because of an unjust system?

I have, and it is not a situation I want anyone else to experience.

The Coalition's position is simply this: The BCS is an unnecessarily restrictive and exclusionary system that results in financial and competitive harm to the 54 Division I-A schools who are not part of the arrangement, even though all of these schools must meet the same membership requirements. The BCS is unjust and unjustifiable

This issue is not about: who invests more money in their football programs, what system was in place prior to 1998 or us wanting to transfer money from one university to another. These arguments, or ones like them, are merely smokescreens that fail to address the real issues. They are intended to divert us from the fact that the BCS is an anti-competitive and highly exclusive system created, in concert, by six conferences, four bowls, and a television network. The fact that the goal of determining a national championship can be accomplished in a much less restrictive manner, makes the current BCS system even more problematic.

Our legal concerns with respect to the BCS have been thoroughly vetted by the Coalition's legal counsel, Covington and Burling, and we are convinced the BCS presents significant antitrust issues. However, we also believe these concerns can be addressed by modifying the BCS system in ways I will describe momentarily.

The BCS needs to be significantly modified because it severely limits access to post season play through its system of automatic qualifiers for favored conferences,

preferential treatment of Notre Dame, statistically suspect ranking system, and interlocking arrangements with the major bowls and a television network. This nationwide web of competitive restrictions is a far cry from the old traditional bowl system.

In the past 25 years, Florida State University and the University of Miami grew from independent regional teams into national football powers. It is unlikely they could have achieved this success in the face of today's BCS restrictions.

The current BCS system has created significant branding, competitive and financial disparities between those schools in the BCS and those outside it. For example, since the inception of the BCS arrangement in 1998, the BCS conferences' 63 schools have shared a pot of approximately \$450 million while the other 54 Division I-A schools shared \$17 million. In other words, 96 percent of the revenues go to BCS schools, and 4 percent to the remaining Division I-A schools. This financial disparity is a consequence of a highly restrictive system, not one based on free-market principles. In addition, the BCS causes disparities that go beyond money to affect Title IX, recruiting, facilities, the public perception of schools, and the very survival of many athletics' programs.

We believe the current BCS system can be fixed by replacing it with one that has the following characteristics:

1. It is fair and inclusive.
2. It fosters a unified Division I-A and enhances the vitality of all Division I-A programs.

3. It provides reasonable opportunity for all Division I-A football programs to have access to what are now referred to as the “BCS bowls,” including the national championship.
4. It meets the highest standards of legal soundness and is reasonably consistent with how national championships are conducted in all other NCAA-sponsored sports.
5. It respects the historical role of the bowl system and further enhances the value of postseason play for our fans.

Finally, it allows our student-athletes to realize their competitive dreams.

Our Coalition will offer approaches with these desirable characteristics at our next meeting with our BCS counterparts on November 16.

The Coalition believes our differences with the BCS representatives will be successfully resolved because we all share the same common goal--doing what is in keeping with the highest standards that guide our universities.

This hearing is an important part of the resolution process, and we want to thank the Committee, once again, for recognizing the importance of this issue.