

DEVELOPMENT, EVOLUTION, AND BARGAINING IN THE NATIONAL FOOTBALL LEAGUE

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The National Football League [hereinafter: NFL] is the most popular professional sports organization in the United States, but even with the current popularity and status of the NFL, ratings and the public perception of the on-field product have been on steady decline.¹ Many believe this is a byproduct of the NFL being the only one of the 4 major professional sports leagues in the country without a self-controlled system for player development. Major League Baseball [hereinafter: MLB] has a prominent and successful minor league baseball system, the National Hockey League has the American Hockey League and East Coast Hockey League, the National Basketball Association [hereinafter: NBA] has the 22 team development league widely known as “The D-League”, but the NFL relies on the National Collegiate Athletic Association [hereinafter: NCAA] to develop young players for a career in their league.

The Canadian Football League and the Arena Football League are generally inadequate in developing players for the NFL as the rules of gameplay and the field dimensions differ from those of NFL football.² NFL Europe, a developmental league founded by Paul Tagliabue, former NFL Commissioner, has seen minor success.³ NFL Europe, existing by various names during its lifespan, operated from 1991 until it was disbanded in 2007.⁴ During its existence, the NFL Europe served as a suitable incubator for a

¹ Darren Rovell, *NFL most popular for 30th year in row*, ESPN (January 26, 2014), http://www.espn.com/nfl/story/_id/10354114/harris-poll-nfl-most-popular-mlb-2nd, .

² *What Are the Differences Between Canadian Football and American Football*, (2016), <http://www.rulesofsport.com/faq/what-are-the-differences-between-canadian-football-and-american-football.html>.

³ Richard Sandomir, *N.F.L. Pulls the Plug on Its League in Europe*, *The N.Y. TIMES* (June 30, 2007), <http://www.nytimes.com/2007/06/30/sports/football/30nfl.html>.

⁴ *Id.*

handful of players, in particular quarterbacks such as Super Bowl champions Kurt Warner and Brad Johnson, as well as accomplished starters Jake Delhomme and Jon Kitna.⁵

The story of Kurt Warner's success is a case study in player development. Undrafted out of Northern Iowa, Warner eventually ended up with the St. Louis Rams who immediately sent him to NFL Europe to play for the Amsterdam Admirals.⁶ Warner spent one season in Amsterdam, leading the league in passing yards and touchdowns, before being recalled back to St. Louis to serve as backup to Trent Green for the 1999 season.⁷ Trent Green's season-ending injury during the preseason catapulted Kurt Warner into the starting quarterback role.⁸ In one of the most unlikely and surprising seasons in NFL history, Kurt Warner led the St. Louis Rams to a 13-3 season and a Super Bowl Championship.⁹ This undrafted Quarterback from Northern Iowa, who cut his teeth in the NFL Europe, went on to make it to 3 Super Bowls; win a Super Bowl, 2 MVPs, and a Super Bowl MVP; play in 4 Pro Bowls; and set several NFL records that remain unbroken.¹⁰

This past December, the NFL informed its teams about a private development league that will take place during the spring of 2017.¹¹ This new development league is not affiliated with the NFL in any way, and will be focusing on uncontracted NFL veterans.¹² Although the league is a separate entity from the NFL, its purpose aligns with the desires of many involved in the NFL, from the players to front office. This sentiment is the need for a developmental league, but instead focused on rookies and young players as opposed to strictly veterans.

The implementation of a domestic developmental league is not a new concept. In 2014 the Fall Experimental Football League saw

⁵ Travis Brody, *Top 10 Most Famous NFL Europe Players* (November 6, 2014) <http://www.growthofagame.com/2014/11/top-10-most-famous-nfl-europe-players>.

⁶ Associated Press, *Warner, 2-time MVP, hangs up jersey*, ESPN (January 29, 2010), <http://www.espn.com/nfl/news/story?id=4870096>.

⁷ *Id.*

⁸ *Id.*

⁹ *Id.*

¹⁰ *Id.*

¹¹ Harry Lyles Jr., *Spring football league to be introduced in 2017 for veteran free agents*, (December 22, 2016), <http://www.sbnation.com/2016/12/22/14065006/nfl-spring-developmental-league-april-2017>.

¹² *Id.*

measurable successes in getting 44 of their 126 players to make a NFL roster in some capacity.¹³ These leagues offer players without contracts the opportunity to gain more realistic game experience that could be more easily translatable to the NFL.¹⁴ Players are not the only beneficiaries of developmental leagues. NFL Europe proved that coaches, trainers, and referees in addition to players in addition to players could hone their skills. This extra experience and opportunity will ideally lead to a more refined and attractive on field product for the NFL.

Recently, franchise front offices have heavily relied on young and newly drafted NFL players to start at both quarterback and offensive line, two positions critical to the success of any football team.¹⁵ This has led to many involved in the NFL's affairs, including former and current coaches and General Managers such as Rich McKay, John Madden, Sean Payton and Tom Coughlin, as well as ownership like Art Rooney of the Pittsburgh Steelers, to push the conversation on the idea of a developmental league.¹⁶

The Rules Committee of the NFL, headed by Troy Vincent, has researched and conducted studies on the feasibility and creation of its own developmental league, with a focus on young or rookie players without an opportunity on an NFL roster.¹⁷ If the NFL does commit to creating and managing its own league for development, there would likely be a sizeable legal impact, most notably the Collective Bargaining agreement [hereinafter: CBA] between the NFL and NFL Player's Association.

Unlike the NFL product, a developmental league would not be meant to serve an economic purpose. Developmental Leagues make little to no money from ticket sales and memorabilia, so the inclusion of a new class of player in bargaining could have an

¹³ J.T. Simms, "Pro Football Development League Coming to Greenbrier," THE STATE JOURNAL, (January 8, 2017).

¹⁴ *Id.*

¹⁵ Connor Orr, Nine straight years of a rookie starting qb in week 1, (September 8, 2016), <http://www.nfl.com/news/story/0ap3000000696734/article/nine-straight-years-of-a-rookie-starting-qb-in-week-1>.

¹⁶ Jason La Canfora, NFL to present formal proposals for a developmental league in 2017, (November 27, 2016), <http://www.cbssports.com/nfl/news/nfl-to-present-formal-proposals-for-a-developmental-league-in-2017/>.

¹⁷ *Id.*

impact on overall compensation of athletes.¹⁸ That being said, an improvement on the overall on-field product could hypothetically result in total revenue growth.

The current CBA covers both active roster players as well as practice squad players, so it is likely that the creation of a spring league by the NFL would impact the CBA through the inclusion of these new players.¹⁹ The current CBA expires in 2020, so the creation of a new class of player would be a major point of discussion in the characterization of the relationship between the league and players association prior to any new agreement moving forward.²⁰

The current iteration of the NFL's CBA sets strict team rules for roster size.²¹ Each NFL team is allowed an active roster list of up to 53 players, a game day roster of between 43 and 46 players, with the remaining players placed on the inactive list.²² In addition to the active roster, teams are allowed a practice squad roster of 10 players, although heavily regulated.²³ It is likely the implementation of a developmental league would draw much of its inspiration from the practice squad rules found in the CBA. The NFL deems a player eligible for a practice squad if he has fewer than three practice squad seasons and has not been a part of a 46 man roster for more than nine regular season games, which constitutes a full season on roster.²⁴

These rules are restrictive in that an NFL practice squad is not meant to be a long-term career. Any developmental league could be expected to follow suit, ensuring a steady stream of new players having the opportunity to develop their game in an atmosphere not currently available to them. Practice squad players, although the teams they belong to have priority, are available to the entirety of the league to be signed and moved to the active roster.²⁵

¹⁸ Sean Keeler, *What killed NFL Europe*, (June 23, 2016), <https://www.theguardian.com/sport/2016/jun/23/you-didnt-play-to-get-rich-what-killed-nfl-europe>.

¹⁹ *NFL Collective Bargaining Agreement*, <https://nflabor.files.wordpress.com/2010/01/collective-bargaining-agreement-2011-2020.pdf>

²⁰ *Id.*

²¹ *Id.*

²² *Id.*

²³ *Id.*

²⁴ *Id.*

²⁵ *Id.*

Beyond the obvious and necessary changes that would be made to a CBA between players and the NFL, the successful implementation of a developmental league could have a profound impact on the landscape of college football and the NCAA as a whole. It is hard to ignore that NCAA football is the lifeblood of college athletics; providing billions of dollars in revenue, and in many cases single-handedly funding the entire athletic department of an institution.²⁶ Any impact caused by the creation of a developmental league would not only be felt by college football programs, but entire collegiate athletic departments.

Debate has taken place for many years on the merit of the idea of amateurism in college athletics. Many people believe there is a fundamental fallacy in the idea of the relationship between education and athletics. The major revenue producing sports, men's football and basketball, both require young athletes to complete a certain amount of time in college before becoming eligible to join the NFL and NBA with few alternatives. An NFL developmental league could potentially change all of that. If recruits and prospects had a legitimate development alternative to forced tertiary education, that would help them towards their ultimate goal of making an NFL roster, it could change the dynamics of college football and in turn college athletics as we know it.

That being said, there is no reason to believe that allowing young athletes to forego college before becoming a professional will have a substantial impact on the popularity of college football. The MLB and, until 2005 the NBA, have for years allowed players to become eligible for their respective drafts straight out of high-school. Popularity in these sports has remained steady, with a slew of talented players still choosing the option of college athletics over a jump straight to professional. Regardless of opinion on whether or not the NFL needs its own developmental league, as time goes on, the fruition of such an incubator league seems to become more of an inevitable conclusion.

²⁶ Marc Tracy and Tim Rohan, *What Made College Football More Like the Pros? \$7.3 Billion, for a Start*, THE N.Y. TIMES (December 30, 2014), https://www.nytimes.com/2014/12/31/sports/ncaafotball/what-made-college-ball-more-like-the-pros-73-billion-for-a-start.html?_r=0,.