



Protecting and Promoting the
Health of NFL Players:
Legal and Ethical Analysis and Recommendations

Chapter 16

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SUMMARY:

Equipment Manufacturers



This document is a summary of the full chapter on equipment manufacturers in the Report Protecting and Promoting the Health of NFL Players: Legal and Ethical Analysis and Recommendations. The full chapter includes the following sections: (A) Background; (B) Current Legal Obligations; (C) Current Ethical Codes; (D) Current Practices; (E) Enforcement of Legal and Ethical Obligations; and, (F) Recommendations. Here, we provide our Recommendations, with only the minimum necessary background information. For more information and analysis of the role and responsibilities of equipment manufacturers, including relevant citations, please see the full chapter.

The football equipment market is dominated by Riddell and Schutt, each of which hold at least a 45% share of the football equipment market, across all levels of football. Riddell and Schutt offer all pads necessary for the game of football, including but not limited to helmets, faceguards, chin straps, mouth guards, shoulder pads, hip pads, thigh pads, knee pads and rib pads.

Equipment manufacturers have not surprisingly had important interactions with the NFL. In 1988, the NFL and Riddell entered into an agreement without duration whereby Riddell provided free helmets, pads and jerseys to all NFL clubs in exchange for Riddell receiving the exclusive right to display its logo on NFL helmets. Players were still nonetheless free to wear a helmet from any manufacturer, provided it met NFL standards. Schutt unsuccessfully challenged the NFL-Riddell agreement as a violation of antitrust laws. After litigation was initiated against both the NFL and Riddell concerning concussions (see Chapter 7: The NFL and NFLPA), the NFL renegotiated the agreement to conclude with the 2013 season. Following the expiration of NFL's deal with Riddell, the NFL said it would no longer have an official helmet sponsor. Similarly, the NFL does not have an official equipment sponsor. Players are permitted to wear whatever equipment they like, provided it meets the standards of the National Operating Committee on

Standards for Athletic Equipment (NOCSAE), as will be discussed below.

The safety standards for athletic equipment that currently exist are almost exclusively determined by NOCSAE. NOCSAE is a non-profit organization with the stated purpose of improving athletic equipment and reducing injuries through equipment standards. NOCSAE was formed in 1969 in response to more than 100 high school and college football players killed by skull fractures and acute brain bleeding during the 1960s. NOCSAE's funding is derived from manufacturers' use of the NOCSAE logo as a symbol of certification. NOCSAE enters into licensing agreements with sports equipment manufacturers whereby the manufacturers are permitted to place the NOCSAE logo on its equipment provided the equipment meets NOCSAE's standards. Compliance with NOCSAE standards must then be confirmed by the Safety Equipment Institute, an independent organization that specializes in testing and certifying personal protective equipment. The licensing agreements also impose ongoing quality control and assurance requirements on the manufacturers. If the equipment does not meet NOCSAE standards, then the manufacturer cannot use the NOCSAE logo, and presumably, NOCSAE does not receive any licensing money from the manufacturer.

Recommendations Concerning Equipment Manufacturers

It appears that equipment manufacturers are generally working to create the safest equipment possible. Equipment manufacturers for a variety of reasons (including both liability and brand image) have generally sought to make equipment safer, and the recent increased emphasis on player health and safety can only have accelerated that interest. We thus expect and recommend that equipment manufacturers continue to invest in the research and development of safer equipment. Similarly, at present, it appears that equipment manufacturers have been more careful in ensuring they accurately convey the benefits and limitations of their equipment. In this regard, equipment manufacturers should continue to do what they have been doing and there is no need for formal recommendations.

NOCSAE has minimal enforcement authority against equipment manufacturers. As mentioned above, NOCSAE can only prevent non-conforming equipment from using the NOCSAE logo, substantially precluding the product from being sold. Since all NFL equipment meets NOCSAE standards, there is nothing further NOCSAE can offer in terms of player health, other than continued research.

Considering the public interest at hand, football equipment might be an area where additional regulation would be appropriate. Nevertheless, it is unclear who might fill this role of regulating equipment manufacturers. One possibility is for the government – including the Consumer Protection Safety Commission – to play a greater role in establishing and enforcing equipment standards. For this and other reasons we have included the government as an interested party in Part 7.