IN THE SUPREME COURT OF THE UNITED STATES

Nos. 20-512 and 20-520

NATIONAL COLLEGIATE ATHLETIC ASSOCIATION,
PETITIONER

v.

SHAWNE ALSTON, ET AL.

AMERICAN ATHLETIC CONFERENCE, ET AL.,
PETITIONERS

v.

SHAWNE ALSTON, ET AL.

ON WRITS OF CERTIORARI
TO THE UNITED STATES COURT OF APPEALS
FOR THE NINTH CIRCUIT

MOTION OF THE UNITED STATES FOR LEAVE TO PARTICIPATE IN ORAL ARGUMENT AS AMICUS CURIAE AND FOR DIVIDED ARGUMENT

Pursuant to Rules 28.4 and 28.7 of this Court, the Acting Solicitor General, on behalf of the United States, respectfully moves that the United States be granted leave to participate in oral argument in this case and that the United States be allowed

ten minutes of argument time. Respondent has consented to the allocation of ten minutes of argument time to the United States.

This case presents the question whether certain rules adopted by the National Collegiate Athletic Association (NCAA) to limit the compensation and benefits that member schools may offer student-athletes violate Section 1 of the Sherman Act, 15 U.S.C. 1. Section 1 prohibits "[e]very contract, combination in the form of trust or otherwise, or conspiracy, in restraint of trade or commerce among the several States." 15 U.S.C. 1. This Court has understood Section 1 to outlaw only unreasonable restraints, and it has in most instances applied the rule of reason to determine whether restraints are unreasonable. See, e.g., Ohio v. American Express Co., 138 S. Ct. 2275, 2283-2284 (2018). The question presented here is thus whether the courts below appropriately applied the rule of reason to determine that the challenged NCAA restraints are unreasonable. The United States is filing today a brief as amicus curiae supporting respondents, arguing that the courts below appropriately applied the rule of reason to the challenged restraints.

The United States has a substantial interest in the question presented. The Department of Justice and the Federal Trade Commission enforce the federal antitrust laws and have a strong interest in their correct application.

The United States has often participated in oral argument as amicus curiae in cases involving the proper interpretation and application of the federal antitrust laws. See, e.g., Apple Inc. v. Pepper, 139 S. Ct. 1514 (2019); American Needle, Inc. v. National Football League, 560 U.S. 183 (2010); Leegin Creative Leather Prods., Inc. v. PSKS, Inc., 551 U.S. 877 (2007); Bell Atlantic Corp. v. Twombly, 550 U.S. 544 (2007). We therefore believe that oral presentation of the views of the United States is likely to be of material assistance to the Court.

Respectfully submitted.

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Acting Solicitor General
Counsel of Record

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