
Players' Unions and Collective Bargaining

Chapter 22

Chapter 22: Bargaining & Negotiations

Objectives:

- ❑ Discuss the major elements of modern labor relations
- ❑ Explain the organizational problems of players unions

Lesson Direction

Scarcity



Rationing



Competition

NFL owners and players have done well under collective bargaining



Source: NFL Players Association, Forbes Magazine

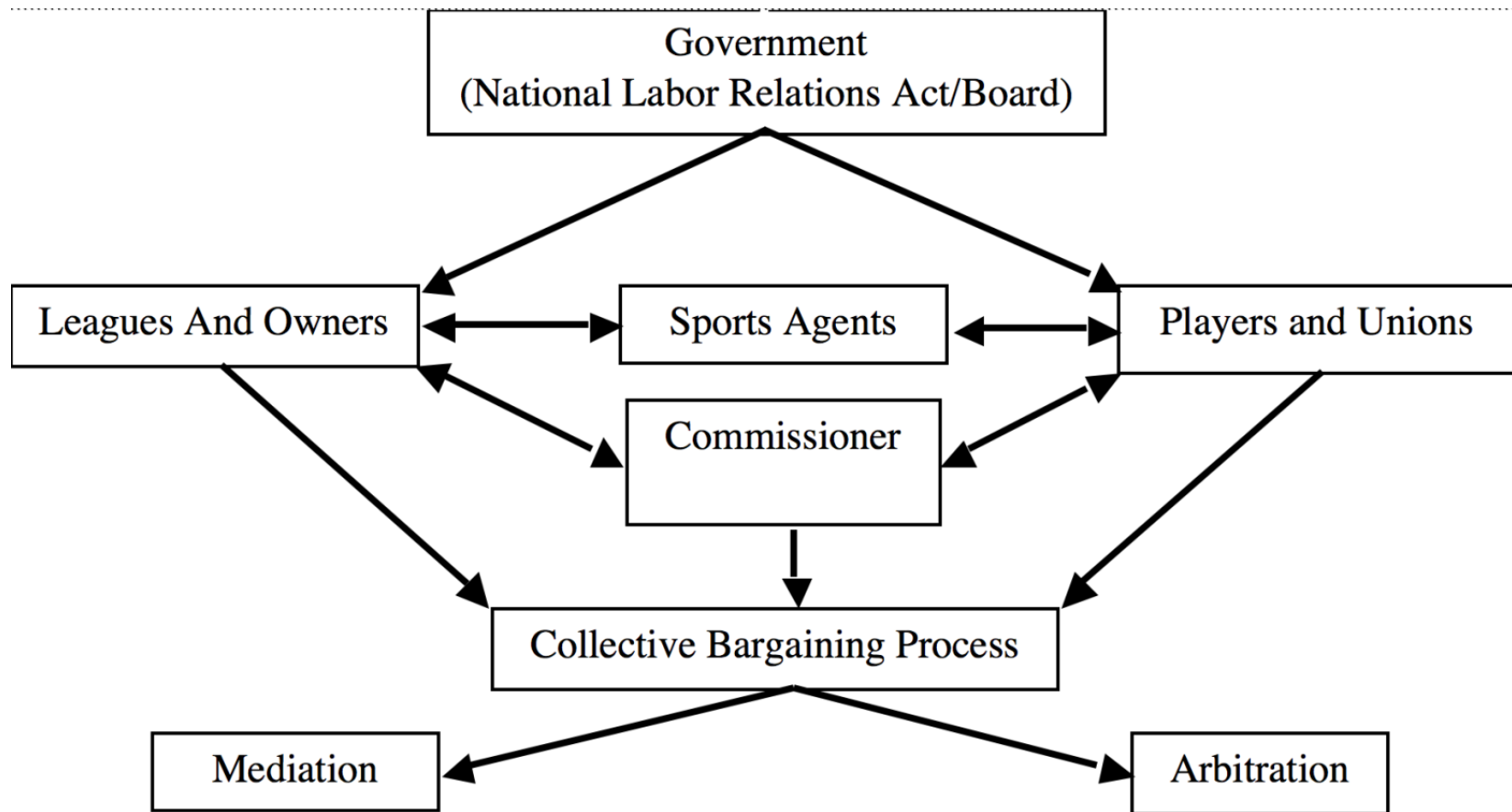


Figure 9.1, *Sports Econ 3rd Ed.*

True Story!

Robin Roberts (then-president of the MLBPA) stated in congressional testimony in 1958:

“I think if professional baseball owners are in favor of [antitrust exemptions for baseball owners], we are, because I believe -- I would say this: I think that anything that is good for them... is definitely going to be good for us.”

National Labor Relations Act (1935)

Also known as the Wagner Act, it created the National Labor Relations Board (NLRB) and guaranteed workers 3 rights:

- The right to organize and form unions

- The right to collective bargaining

- The right to use pressure tactics (strikes and picketing)

National Labor Relations Board

Enforces the NLRA by deciding grievances brought by labor or management.

Enforced through motions filed in federal court.

These enforcement policies generally seek to ensure that both parties bargain in good faith.

Owners must present team finances, so players have a basis for negotiation.

Collective Bargaining Agreement

Special type of commercial agreement, usually as one negotiated collectively between management (on behalf of the company) and trade union (on behalf of employees)

Collective Bargaining Agreement (CBA)

Determine:

- 1) Duration of the Agreement
 - 2) Reopening Clauses
 - 3) Rules and procedures governing the Draft
 - 4) Pay issues (free agency, min salaries, meal money, playoff pay, salary cap revenue %, retirement funds)
 - 5) Player location issues (veterans can say where they will or won't play)
 - 6) Channels for addressing grievances
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PLAYERS REJECT CURRENT NBA OFFER

Player representatives meeting in New York unanimously rejected the latest proposed 10-year deal offered by NBA owners.

Key comparisons from the last collective bargaining agreement (CBA) vs. the current offer from the NBA:

BASKETBALL RELATED-INCOME (BRI)

Last CBA: **vs** **Current offer from NBA:**

Players received 57% of BRI, owners 43%
(last season, of the \$3.817 billion in BRI,
players received \$2.176 billion).

50-50 split of BRI.

MAXIMUM LENGTH OF PLAYER CONTRACTS

Last CBA: **vs** **Current offer from NBA:**

Six years for players with Bird rights (the ability for a club to sign its own free agent for more money and more years than other clubs) and five years for other players.

Five years for players with Bird rights;
four years for other players.

ANNUAL RAISES

Last CBA: **vs** **Current offer from NBA:**

10.5% for Bird rights players, 8% for other player.

Current offer from NBA: 6.5% for Bird rights players; 3.5% for others.

Duration

Re-opening

**Rules &
Procedures**

**Common pay
issues**

Player location

Grievances

Basics of Collective Bargaining

Example: Expired CBA in NBA, 2011 caused player lockout

- NHL Arbitration
 - When players file for arbitration, then the arbitrator can choose any dollar value between the offer made by the team and the counter-offer made by the player.
- MLB Arbitration
 - When players file for arbitration, the arbitrator can only choose one offer or the other.

- Decertification:
 - When athletes are organized in a labor union, they forfeit their right to press antitrust charges against leagues for exercising market power.
 - By decertifying, players vote to disband the union so that they can press charges as individuals against their respective leagues.
 - This practice has been successfully used by players in the NBA and NFL.

Players' Unions in MLB

- Late 1880s: due to the reserve clause, club owners had all the power in labor-management negotiations
- 1885: First effort to form a union: Brotherhood of Professional Baseball Players
- 1900: Another effort: Players' Protective Association
- 1912: The Fraternity of Professional Baseball Players of America
- 1946 – The American Baseball Guild
 - All unsuccessful attempts to defeat the Reserve Clause
- 1965 – the modern Major League Baseball Players Association
 - Organized under Marvin Miller's guidance
 - 1968 – First Collective Bargaining Agreement (CBA) between MLB and MLBPA – raised min salary from \$6,000 to \$10,000
 - 1970 – MLBPA negotiated the right to have a player's grievance heard by an independent arbitrator
 - Result – 1975, an independent arbitrator ruled that the reserve clause could only provide the club with one added year of service. After that second year, the player would become a free agent.. Result: clubs began to offer multiyear contracts at much higher salaries
- 2006: min salary \$380,000. 2007: average salary \$2.82 mln + health benefits, pension plans, travel per diems, guaranteed contracts

Players' Unions in NFL

- 1956 – beginning of the National Football League Players' Association (NFLPA)
 - Goal – min salary of \$5,000, standard per diem for players, a requirement that club will provide equipment for the players.
 - One more requirement – “injury protection clause” – the requirement that the club should pay injured players for the balance of the season.
- The NFL did not want to recognize NFLPA, so NFLPA threatened it with antitrust lawsuits.
 - The NFL recognized NFLPA but did not renege on its agreements. E.g., they agreed on the injury prevention clause but did not put it in the standard player contract. They agreed to pay the players an extra \$50 for each preseason game, but then did not pay the players. Owners ignored the demands for health insurance and pension.
 - 1958 - Another antitrust lawsuit threat by NFLPA
- NFLPA and AFLPA were separate until 1970
- 1970: the two unions joined forces. The new NFLPA got certified as a union by the National Labor Relations Board (NLRB), which added legal protection
- NFLPA achieved its main objectives:
 - Free Agency
 - Hospitalization, health and life insurance, and pension benefits
 - Limited injury protection

Players' Unions in NBA

- 1954: Beginning of NBAPA
 - Started by Bob Cousy from the Boston Celtics
 - For 10 years the owners stalled the NBAPA efforts at gaining formal recognition
 - 1964: Collective threat by the players to refuse playing in the first televised All-Star Game
 - Demands: a league min salary, health benefits, a per diem for meals on travel days
 - 1970: A group of NBA players filed a class action antitrust lawsuit against the reserve clause
 - No result
 - 1986: Another antitrust lawsuit against the reserve clause
 - Result: NBA players got Free Agency: After the player's contract was up, they could sign with the highest bidder, bringing the wage close to MRP
 - Result:
 - Higher salaries + benefits for NBA players
 - Free Agency
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Players' Unions in NHL

- 1967: National Hockey League Player Association formed by player representatives from six NHL clubs: Montreal, Toronto, Boston, Chicago, Detroit and New York
 - Owners agreed to recognize NHLPA
 - Result: benefits, higher salaries, free agency
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Are Unions Always Efficient?

How unions work in sports

Remember that unions are trying to recover the money lost to player exploitation:

$$PE = (MRP - \text{Salary}) / MRP$$

If the players want to reduce the market power of the owners, they must find a way to increase *their own* market power.

Players can do this by forming a union.



Problems with unions

Forming a union is hard. There are three principal barriers:

Education Costs

How do you convince players they need a union?

Free Riding

How do you get players to support the union?

Owner Retaliation

How do you protect players working against the interests of owners?

How unions work in sports

Illegal Owner behavior has been historically common.

Originally, the MLB owners controlled the budget of the MLBPA.

This ended as Marvin Miller became the union leader in 1966.

Is illegal under federal labor law.

How unions work in sports

So we started a union... What now?

Elect player representatives

Who participates?

Rational Ignorance

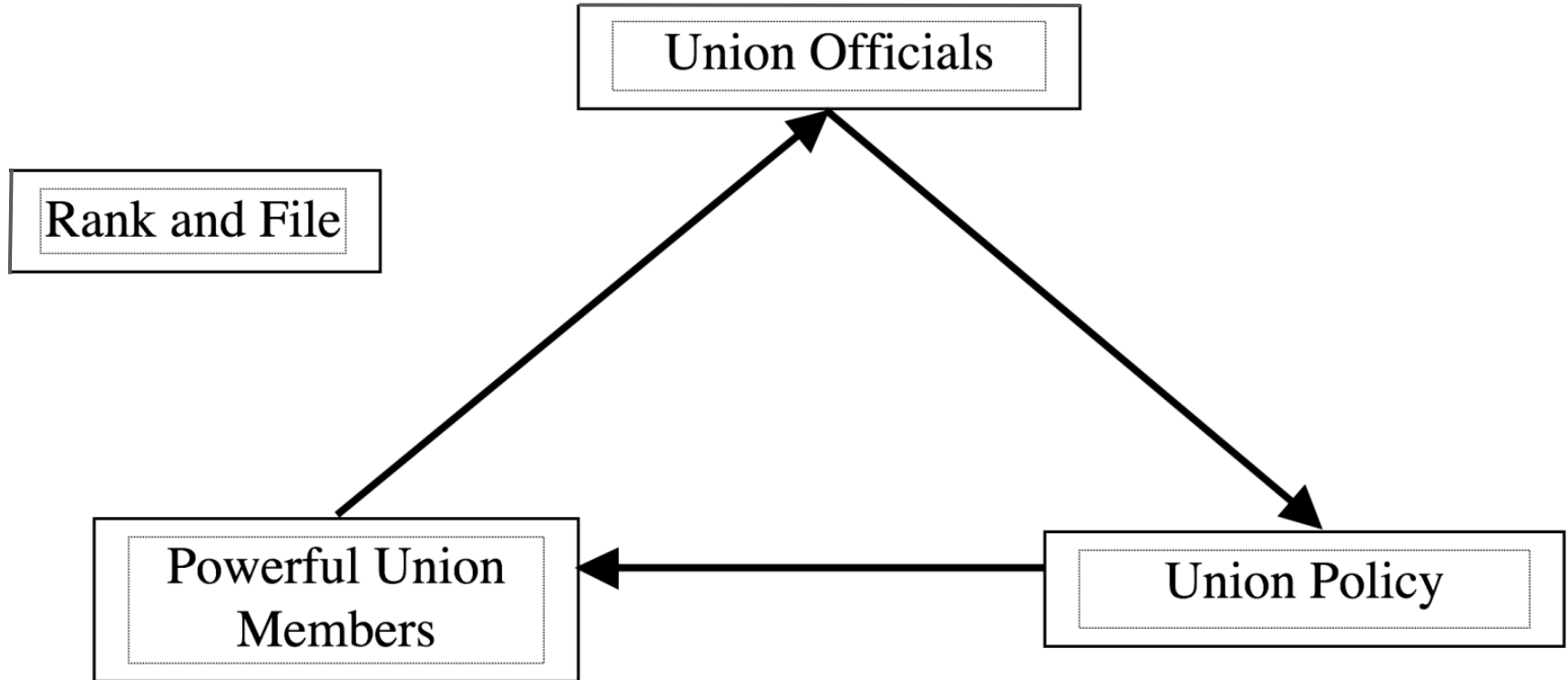
Which players have time to
care?

Concentrated benefits

Dispersed costs



How unions work in sports



Are Unions Always Helpful?

Union members forfeit their right to individual legal action when they vote for a union to represent them

Example: an individual player can sue owners under antitrust laws. Players organized in a union cannot sue owners under these laws, because they have to go through collective bargaining.

A way out: “Union decertification” (players vote to cancel collective representation by their union)

Unions and Antitrust Policy

- A player union is a cartel: athletes collude and agree to bargain collectively with the management
 - Is that illegal according to antitrust laws? In the event that a union and management do not agree, the union may organize a strike (restraint of trade)
 - Sherman Act, Section 1: “Every contract, combination... or conspiracy, in restraint of trade or commerce... is hereby declared illegal”
 - 1890: courts found that unions violated Section 1 of the Sherman Act
 - 1914: Congress passed the Clayton Act (Section 6): exempted labor unions from antitrust scrutiny
 - 1932: Congress passed Norris-La Guardia Act, which immunized union activity from antitrust prosecution
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Bilateral Monopoly in Sports

- NFLPA sits down across the bargaining table from the NFL Management Committee
 - Market power on both sides of the table: one buyer, one seller → “**Bilateral Monopoly**”
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Strikes and Lockouts

- Economic analysis tells us that both sides will agree to maximize the total surplus and then bargain over the division of the spoils.
 - Failure to reach an agreement makes no sense because that reduces the surplus.
 - Still, we see strikes by the players and lockouts by the owners (Bargaining failure)
 - 1994: Prolonged strike in MLB that caused the cancellation of the World Series
 - 2005: NHL owners locked out the players, and the entire NHL season was lost
 - 2011 NBA lockout after CBA expired
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Free Agency

- MLB
 - If a player is selected in the MLB draft, he is initially bound to the club that selected him for 6 years
 - Player can be traded to another club, which will have exclusive rights to that player's services
 - First 3 years the player has two choices: to play for his club or retire
 - The club cannot pay him less than MLB minimum (\$380,000 in 2006)
 - Second 3 years: player is not a free agent, but is protected by final order arbitration
 - After 6 years: player can become a free agent if not already under contract
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Free Agency

- NFL
 - Several categories of free agency:
 - **“Unrestricted free agent”** - player with 4 or more years of service and not under contract
Can sign with any club. If has not signed by June 1, his original club can offer him a contract that calls for a 10% increase in salary over the previous year. If still unsigned by July 15, his original club has the exclusive right to sign him to a contract for the following season
 - **“Restricted free agent”** - player with 3 years of service (less than 4)
Beginning March 1, has a 60-day window to get an offer. If he gets an offer, the original team can retain his services by matching it. If not – the player can sign with the new club, and the old team gets a draft choice as a compensation
 - **“Exclusive rights player”** - player with less than 3 years of service
Must sign with the original club. The club must offer a one-year contract and pay at least the league minimum (2010: \$325,000 for a rookie)
 - Exception: **“the franchise player”**. Each NFL club can put the franchise tag on an otherwise free agent (only one per season). The club must then pay the franchise player the average of the five highest salaries paid to players at his position.
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Free Agency

- NBA
 - “Unrestricted free agent” – free to sign without restriction
 - “Restricted free agent” – original club can exercise its right of first refusal. When another club signs an offer sheet, it offers a contract for 2 or more years. The original club can retain the player by matching the offer
- NHL
 - After 2005 lockout, the new CBA provided two ways of becoming an unrestricted free agent
 - 1) After 7 years in the NHL (irrespective of age)
 - 2) If a player is 27 years old and has played 4 seasons in the NHL

Salary Caps

- **Hard Salary Cap:** a club's payroll cannot exceed the cap for any reason
 - NFL has a hard salary cap – after 1993 CBA
 - Players receive 64% of the total estimate of the designated gross revenue. This sum is divided evenly among the 32 NFL teams. That is the maximum that a team can spend on the player payroll
 - Exception: bonuses (signing bonuses and roster bonuses)
 - NHL has a hard salary cap – after a lockout before 2005-6 season
 - The Players' share increases as revenue increases
 - An injury exception: If a player is injured severely (misses 24 days and 10 games), the player can be replaced on the roster by a player with similar salary. Once the injured player returns, his replacement must be cut from the roster
 - **Soft Salary Cap:** teams can sign the players they want (many exceptions)
 - NBA has a soft salary cap
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Luxury Taxes

- Also used to keep the payrolls down
- MLB does not have a salary cap, but uses luxury taxes instead.
- Purpose – to prevent wealthy teams from signing the best players and to improve competitive balance
- Any club with a payroll higher than a predetermined tax threshold may be subject to the tax. The tax is levied on the difference between the actual payroll and the threshold.
- E.g.: Suppose the tax threshold is \$150 mln, and the club's payroll is \$170 mln. Tax would apply to the sum of $(\$170 \text{ mln} - \$150 \text{ mln}) = \$20 \text{ mln}$
- Exceptions:
 - First-time offenders are assessed no luxury tax
 - Tax percentage depends on how many times the clubs have exceeded the threshold (0 – 40%)
- Unsuccessful attempt to equalize payrolls: the NY Yankees and the Boston Red Sox are chronically over the threshold

Revenue Sharing

- All major sports leagues share revenue.
 - Main idea: all clubs contribute to the league's success, but some have better locations and enjoy higher revenues
 - Revenue sharing acts like a tax on total revenue
 - Players / unions care about revenue sharing, as it reduces the market value of a player. A player's value is MRP. With revenue sharing (tax t), the player's value is reduced to $(1-t)MRP$
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Sports Agents

Chapter 23

Role of Sports Agents

- Sports Agents help clients on and off the field
- On-Field Performance
 - Agents can provide training support that improves on-field performance (e.g. predraft training for NFL)
- Negotiating Salaries
 - Agents negotiate salaries and other contract terms with the club. The agent's leverage can depend on the team's needs, ability to pay, and whether the player is a free agent
- Negotiating Among Several Clubs
 - A player who is a free agent can negotiate with several clubs, and find the best deal
- Endorsements and Other Opportunities
 - Agents evaluate endorsement offers and make sure that the player's endorsement portfolio generates as much income as possible while preserving a desired image for the athlete and allowing him time to enjoy it
 - For stars with a suitable image, agents can arrange appearance fees and speaking engagement fees
 - Stars in individual sports are more visible, and have a higher endorsement potential.
- Financial Management (in some cases)
 - Agents may pay the bills, make investments for the players, manage their retirement plans.
 - This fails when agents act in their own self-interest than in the athlete's interest (e.g.: Michael Vick sued his advisor Mary Roy Wong for "fraud, breach of contract, breach of fiduciary security, negligence")

Principal-Agent Problem

- Principal is the player
 - Agent is the sports agent
 - The Principal-Agent Problem arises when a player hires a sports agent to represent him/her. The issue is the asymmetric information: the player cannot completely monitor and evaluate the agent's efforts
 - This problem may be mitigated by contracts that improve the incentive compatibility between the player and the agent
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Principal-Agent Contracts

- Fixed-fee contracts
 - The fee to the agent does not depend on the payoff realized by the player or by agent's efforts
 - Flaw: Agent has no incentive to maximize the player's endorsement income
 - Hire contracts
 - The fee is a function of the agent's effort (based on an hourly wage and number of hours worked)
 - Upside: The agent has an incentive to spend more time on negotiating the contracts, while it may not be too costly for the athlete
 - Downside: No incentive for the agent to maximize the payoff
 - Contingent fee contracts
 - The fee amount depends on the realized payoff to the athlete.
 - Upside: an agent has an incentive to produce results
 - Downside: athlete and agent may have different attitudes toward risk. Also, depends on who pays the cost and gets the profit from the effort
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