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The hockey lockout of 2012–2013

Although less severe than the disruption of 2004–2005, the hockey lockout of 2012–2013 resulted in the cancellation of 60 percent of regular-season games. Owners were the clear winners, securing a 50–50 split of hockey-related revenue.

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The epic 2004–2005 lockout in the National Hockey League (NHL) caused the entire season to be lost, an unprecedented outcome in professional team sports. Lockouts have become increasingly common in sports, as illustrated by the lengthy 2011 work stoppages in the National Football League (NFL) and National Basketball Association (NBA).[1] Although the 2012–2013 hockey lockout avoided losing an entire year, nearly 60 percent of the regular season was canceled, along with the All-Star Weekend and New Year's Day Winter Classic games. This was the third major lockout in the NHL in the past 20 years.

Before the mid-1990s, major work stoppages in sports were predominantly strikes. The money pie to be divided between owners and players grew along with the expansion of leagues into new markets and the acquisition of lucrative national television contracts. This newfound wealth was hotly contested, and negotiations frequently dissolved into strikes called by unions late in the season. These strikes were especially costly to owners, who received the largest share of their television revenues from postseason play.

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The last big strike in professional team sports was in Major League Baseball (MLB) in 1994–1995 and resulted in the cancellation of 921 regular-season games, the playoffs, and the World Series.[2] Team owners came to realize that, rather than having to face crippling strikes, they would do better to seize the initiative by locking players out before the season starts. This tactic would shift the economic burden toward the players, who would have yet to receive paychecks for games played. That lockouts have given owners a bargaining edge is indicated by the substantially reduced percentage of total revenue received by players in recent settlements in the NFL, NBA, and NHL.

Another factor contributing to lockouts is the small residual effect of canceled games on subsequent attendance. Martin Schmidt and David Berri found that attendance in years following a strike or lockout does not show a significant dropoff from that during the years before the stoppage.[3] For example, attendance at NHL games in 2003–2004 was 20,356,199, and, despite the devastating lockout of 2004–2005, attendance rose to 20,854,169 in 2005–2006.[4]

Background

The National Hockey League Players Association (NHLPA) was formed in 1957 by several players, including Ted Lindsay, a Detroit Red Wings forward who became the association's first president.[5] The fledgling union was able to get its members a minimum salary of $7,000 and additional pension contributions from the owners, but after a year or so became inactive.

In 1967, the NHLPA resurfaced as a viable organization under the leadership of Toronto lawyer Alan Eagleson, who secured formal recognition of the union by the league. Eagleson, who assumed the role of executive director of the organization, also represented players—including the great Boston Bruins defenseman Bobby Orr—as an agent in their individual salary negotiations. However, when Eagleson mishandled Orr's finances and misused union funds, he was convicted and incarcerated for racketeering, embezzlement, and fraud.[6]

Bob Goodenow, a Detroit lawyer and a player agent, took over the union when Eagleson departed in 1992. Goodenow led the union in its first work stoppage, a 10-day strike at the end of the 1992 season. Following this strike, the NHL hired Gary Bettman as commissioner.[7] Bettman, also a lawyer, had previously been an executive at the NBA, serving under commissioner David Stern. While at the NBA, Bettman designed and implemented the first modern-day salary cap in team sports.

Soon after becoming NHL commissioner, Bettman had a collective bargaining conflict with league referees. When the referees struck for 17 days, he hired replacement officials and negotiated an agreement favorable to the league. With this victory behind him, Bettman entered negotiations with the players in 1994, determined to limit their salaries with a surcharge similar to the luxury tax in MLB, which penalizes teams with outsized payrolls.

In January 1995, following a 102-day lockout, an eleventh-hour settlement was reached. Only 48 regular-season games were played, the same number as was to be played in the 2012–2013 season. Although the agreement was hailed as a clear victory for the owners, they continued to pay big salaries to players. Consequently, average player salaries rose threefold, from $558,000 in 1993–1994 to $1,830,000 in 2003–2004.[8] Player salaries outstripped revenue growth, causing the league to claim in 2004 that it lost $1.8 billion during the previous decade.[9]

In the 2004 negotiations, the league was committed to the idea of "cost certainty," which would be provided by a salary cap. The union was adamantly opposed to this notion, insisting that it wanted salaries based on market conditions and that it would never agree to cap team payrolls. Goodenow and Bettman did not mix well and engaged in a battle of words in the media. In a last-ditch effort to save the season, the league dropped its demand that salaries not exceed 55 percent of revenue. In response, the union reconsidered its initial position and indicated its willingness to accept a salary cap. However, the parties were far apart on how much the salary cap should be and could not close the gap.

When neither side made further concessions, time ran out. The league canceled the 2004–2005 season, resulting in teams losing an estimated $2 billion in revenues and players giving up about $1 billion in lost salaries.[10] One consequence of the lockout was that the NHLPA agreed to a salary cap. When games resumed for the 2005–2006 season, few, if any, observers would have imagined that the league and the union would ever reach the precipice of a lost season again.

New leadership came to the NHLPA in 2005, as Goodenow was replaced as executive director by Ted Saskin, the union's senior director of business affairs and an active negotiator and media correspondent in 2004–2005. Saskin, however, was fired by the union in 2007 after being accused of spying on players by tapping into their email accounts.[11] Saskin's replacement, former U.S. attorney Paul Kelly, had earlier prosecuted NHLPA executive director Eagleson for embezzlement.[12] After less than 2 years on the job, Kelly was fired for being too closely associated with the owners.

Kelly's replacement was Donald Fehr, a lawyer and former executive director of the Major League Baseball Players Association (MLBPA) from 1983 to 2009. Fehr oversaw work stoppages in baseball, including the 1994–1995 strike. He is known as a smart, tough negotiator and, like Marvin Miller, his predecessor at the MLBPA, as a man of principle and integrity.[13]

Factors contributing to the lockout

Under the 7-year agreement reached following the season-ending lockout of 2004–2005, the league's annual revenue grew from about $2.2 billion in 2005–2006 to about $3.3 billion in 2011–2012.[14] Players enjoyed the fruits of these revenue increases, as average salaries rose from $1.46 million in 2005 to $2.17 million at the time negotiations for the current agreement began in 2012.[15] Adding to revenue was the 10-year, $1.9 billion television deal that the NHL reached in 2011 with Versus and NBC.[16] Although the new national television agreement more than doubled revenues, the money is dwarfed by the larger television packages in the NFL, MLB, and the NBA. Most of hockey teams' revenue is locally generated, through attendance at games and local television agreements.

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Yet despite robust revenue growth, the team salary cap, and a cap on rookie salaries, the league was not entirely healthy. According to an independent study by *Forbes* magazine, 13 of the 30 teams in the NHL lost money in 2011–2012 and 5 teams lost $12 million or more.[17] Also, despite the 24-percent rollback in salaries that players accepted under the previous collective bargaining agreement, the division of hockey-related revenue between players and owners favored the players by 57 percent to 43 percent.[18] By contrast, in the aftermath of the 2011 lockouts, NFL owners captured 53 percent of revenues and NBA owners captured 50 percent. Thus, not only was there a bigger pot of money to contest in negotiations, but hockey team owners were getting a smaller share of revenues than their counterparts were in other sports.

Another cause of the work stoppage was the NHL's market structure. A considerable difference exists in the economic welfare of teams. Three clubs—the Toronto Maple Leafs, New York Rangers, and Montreal Canadiens—generate about 80 percent of the league's revenues,[19] and, as noted earlier, 13 of the 30 teams lost money in 2011–2012. Much of the problem is associated with the rich–poor nature of markets. Big cities, such as New York, Chicago, and Boston, have a natural advantage over smaller market cities, such as Columbus, St. Louis, and Raleigh, NC (home to the Carolina team). Not only do large markets enjoy more attendees at games, but they also have a bigger audience for viewing games on local television, which is an important generator of revenue.

Adding to the market structure problem is the NHL's geographic predicament. Cities in Canada, where hockey is by far the most popular sport, have a market advantage over cities in the southern part of the United States. It is not surprising, then, that clubs located in Nashville, Tampa, Miami (Florida Panthers), and Phoenix lost money in the past season. Typically, citizens of these communities have not grown up playing and watching hockey and may therefore be less attracted to the sport. Revenue generation can worsen if small-market, southern U.S. teams have a poor win–loss record. Moreover, the lockouts that have fractured seasons are themselves disturbing to fans who desire accessibility to their teams.

Although there is no universal solution to the inherent structural differences in markets and teams, one helpful measure is revenue sharing. However, big-market owners—similarly to their counterparts in other sports—are disinclined to share revenues with the have-nots. But the viability of the league depends on sharing, so that teams in disadvantaged markets can thrive and be competitive.

According to *Forbes*, Toronto has the most valuable franchise, at $1 billion, and St. Louis has the least valuable, at $130 million.[20] The market model, however, does not work well with a marked rich–poor disparity. The NFL has the most revenue sharing of the major team sports, which is perhaps the chief reason for its success. One of the NHLPA's objectives in the 2012–2013 negotiations was to get clubs to share more revenue. Absent significant revenue sharing, money-losing clubs may go bankrupt, as the Phoenix Coyotes did in 2009. Another dire possibility is a contraction of teams, as contemplated by MLB in 2002, before it adopted greater revenue sharing.

Key bargaining issues

The most important issue in the hockey negotiations of 2012–2013 was how the economic pie would be divided. Under the old agreement, the players' share of hockey-related revenue had climbed to 57 percent. The league's initial offer in July 2012 was to drastically cut the players' share to 43 percent. The union expressed a willingness to move down from 57 percent, but wanted the new percentage linked to an increase in revenue sharing among teams and insisted that all existing player contracts be honored in full. (A reduction in the percentage of revenue going to players also was the main issue in the NFL and NBA negotiations in 2011.)

Another key issue was eligibility for free agency. Under the old agreement, players could become unrestricted free agents at age 27 or after 7 years of NHL service. The league initially wanted to raise the free-agency threshold to age 30 and 10 years of NHL service, whereas the union wanted to maintain the status quo. Other demands in the league's opening proposal called for eliminating salary arbitration, changing the way the salary cap is calculated, adopting a 10-year collective bargaining agreement, and limiting player contracts to 5 years with equal money paid in each year and no signing bonuses.[21] Unlike the negotiations of 2004–2005, in which discussions focused on the issue of whether to have a salary cap, the 2012–2013 negotiations centered on the division of revenue between owners and players.

Negotiations

Pitting Fehr and Bettman as adversaries in 2012–2013 was quite a contrast from the earlier era when Eagleson and league president John Ziegler placidly went about their business at the bargaining table. The law firm Proskauer Rose, which acted on behalf of the NHL, also represented the NFL, MLB, and the NBA in negotiations. Bettman, as well as NBA commissioner Stern, worked for Proskauer Rose in the 1970s. Therefore, the circumstances surrounding negotiations—circumstances created by the 2011 lockouts in the NFL and NBA and the adversarial relationship between Bettman and Fehr—contributed to the lockout.

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The owners' proposals to take a large share of money from the players were ill timed, as they coincided with a dramatic example of owner largesse. Nine days before the league made its opening proposals in mid-July 2012, the Minnesota Wild signed free agents Zach Parise and Ryan Sutter to matching front-loaded $98 million contracts.[22] Moreover, the contracts were for 13 years, making the league's proposal for 5-year limits on player contracts look oddly inconsistent.

In mid-August, the union made a counteroffer to the league, proposing a 3-year deal with an option for a fourth year. With the old agreement expiring on September 15 and the regular season set to start on October 11, the possibility of a lockout became apparent. Negotiations took place, but the parties were unable to gain any traction toward compromise. The union's counterproposal would have left the players with about 53 percent of revenues; for its part, the league moved its position to 45 percent for the players. Because the sides remained far apart, the league took the preemptive step of declaring a lockout on September 15, following a unanimous vote by the owners. This was the third lockout since Bettman became commissioner in 1993.

As it became evident that the chances of a settlement were remote, players began to sign contracts with teams in Europe and the American Hockey League. For instance, San Jose Sharks captain Joe Thornton signed with Davos in the top Swiss hockey league, where he had played during the 2004–2005 lockout. Rick Nash of the Rangers also returned to Davos. Evgeni Malkin of the Pittsburgh Penguins signed with Metallurg Magnitogorsk in the 7-nation, 26-team Kontinental Hockey League, which became a popular destination for the nearly 300 NHL players who contracted to play elsewhere.[23]

Although Bettman and Fehr were the chief negotiators, deputy commissioner Bill Daly took an active role for the league and Steve Fehr assisted his brother for the union. Jeremy Jacobs, owner of the Boston Bruins and chairman of the NHL Board of Governors, was a strong voice for cutting the players' share of revenues, as he had been in the 2004–2005 lockout. Several players—notably, Sidney Crosby of the Penguins, Ryan Miller of the Buffalo Sabres, and Jonathan Toews of the Chicago Blackhawks—were on hand to lend support for the union.

On September 28, the parties met for the first time since the lockout. Progress made on secondary issues was overshadowed by the league's announcement that the remaining preseason games were canceled. Negotiations continued regarding minor matters, but with little attention given to the core economic issues. As the start of the regular season drew near, the league announced that it had canceled the first 2 weeks of regular-season games.

A few days later, however, the NHL made a surprising offer of a 50–50 split of hockey-related revenues.[24] An important question stemming from this offer was what would happen to the value of existing player contracts. Would they be scaled down in accordance with the decrease in the players' share of revenue from 57 percent to 50 percent? This was to become a nettlesome issue. The league further proposed to increase revenue sharing from $150 million to $200 million, but short of the $240 million the union wanted.[25]

Fehr balked over the league's offer, contending that it would constitute a 12-percent pay cut and cost players $1.6 billion over 6 years.[26] The offer also did not guarantee the full value of current player contracts, or what the union called "make whole." Although both sides were ostensibly in favor of a 50–50 split, which sounded simple in principle, reaching a division of revenue deal was complicated because the parties were making different assumptions about the timing of the split and its effect on existing contracts. Frustrated with the union's response, the league withdrew its offer.

In early November, the league canceled the Winter Classic, an outdoor game scheduled for January 1 and one of the highlights of the season. Negotiations were unproductive. The make-whole issue—whether existing contracts would be fully honored by the league despite the reduction in the players' revenue share—became a major roadblock to settlement. Following more fruitless talks, the league canceled games through December 14 and called off the All-Star Weekend events. The union began to consider the possibility of decertifying itself in order to file an antitrust suit against the league.

With talks going nowhere, the parties agreed to mediation provided by the Federal Mediation and Conciliation Service, the U.S. government agency involved in the 2011 NFL and NBA lockouts. The mediators selected were Scot Beckenbaugh, deputy director of the agency who mediated the 2004–2005 hockey lockout, and John Sweeney, director of mediation services. However, the league and the union were so far apart that the mediators departed the negotiations after 2 unproductive days of talks, with the promise to stay in touch for possible assistance later.

Meanwhile, the NHLPA executive board authorized a $10,000 stipend to help players during a time when they were not receiving NHL paychecks. The owners were feeling the pinch too, as Bettman estimated that the league was losing $18 million to $20 million a day.[27] With the losses mounting, some concerned owners appeared at the bargaining table for the first time, including Mark Chipman of the Winnipeg Jets, Larry Tanenbaum of the Maple Leafs, Ron Burkle of the Penguins, and Jeff Vinik of the Tampa Bay Lightning. This involvement helped negotiations, and it appeared that a deal might be imminent.

However, the make-whole issue lingered without resolution, and another obstacle emerged regarding the length of player contracts. The players were willing to go along with a 7-year limit, but the owners were adamant that 5-year contracts were the maximum. Deputy commissioner Daly expressed the issue's importance when he said, "That is the hill we will die on."[28] When the union rejected the league's make-whole offer of $300 million, the league withdrew the offer. As to the length of the collective bargaining agreement, the owners stuck at 10 years whereas the union came up to 8 years with an opt-out allowance after 6 years.

The NHL calendar continued to melt away as the league canceled games through December 30. The season was in peril of being lost. Bettman indicated that a schedule with fewer than 48 games was not possible. The parties reconvened with mediator Beckenbaugh in early January. The pace of bargaining quickened with lengthy sessions, and the gaps between the parties' positions narrowed.

Legal Maneuvers

Frustrated with the failure of the parties to agree, and with time running out, the union prepared to decertify itself. The U.S. Supreme Court has ruled that in order for a sports union to file a lawsuit against a league on antitrust grounds, it must first decertify itself as the players' representative in bargaining with the league.[29] Following decertification, individual players can sue the league under the Sherman Antitrust Act of 1890, which prohibits combinations in restraint of trade and provides triple damages in the event of violation. In both the NFL and NBA lockouts of 2011, the unions were decertified and antitrust suits were filed by players in federal courts.

Two legal actions were taken by the union and players in September 2012. In one case, the union and 16 Montreal Canadiens players filed a motion with the Quebec Labour Relations Board to have the lockout declared illegal under the province's labor laws.[30] The case was considered by the board, but was adjourned without a decision at the request of the union and the league.[31] In the other case, players for the Edmonton Oilers and Calgary Flames sought to have the lockout declared illegal under Alberta law. However, the NHL prevailed in this litigation, as the Alberta Labour Relations Board ruled that the lockout of Oilers and Flames players could continue; the board noted that declaring the lockout illegal in the province would not help the parties reach an agreement.[32]

On December 14, the NHLPA executive board voted to allow its entire membership to vote on whether to authorize the board to "disclaim interest."[33] A vote in favor of authorization would allow decertification of the union and thus a subsequent antitrust suit. In a similar move, the NBA players had entered into a disclaimer of interest in 2010, before the 2011 lockout, so that they would be in a position to file an antitrust suit without having to go through the formal decertification process.[34]

Also on December 14, the league filed a class action suit in U.S. District Court in anticipation of a possible antitrust suit by the players.[35] The purpose of the suit was to establish that the lockout was legal. In a separate move, the league filed an unfair labor practice charge with the National Labor Relations Board, claiming that the union had not bargained in good faith as required by law. This same tactic was used by the NFL and NBA in their recent lockouts. The possibility of an antitrust suit was not taken lightly by the NHL, because, if filed and successful, a suit could result in the players receiving triple the amount of their lost salaries under the provisions of the Sherman Act. Because antitrust suits were instrumental in motivating the NFL and NBA to reach agreement with their unions, it is surprising that the NHLPA did not put this strategy into effect earlier in the lockout.

By a vote of 706–22, the players agreed to give the union's executive board the power to file a disclaimer of interest.[36] This action cleared the decks for dissolution of the union and for players to proceed to federal court with an antitrust suit.

Settlement

The players' intent to initiate antitrust litigation, along with the fact that time was running out to salvage the season, served as a catalyst to reaching a new collective bargaining agreement. The owners voted unanimously to accept the deal, while 667 players voted in favor, 12 voted against, and 84 abstained.[37] Only a week was allowed for training camps, and the 48-game regular season began on January 19, 2013. All games were to be played within the teams' conferences, in order to minimize travel and allow more back-to-back games.

The centerpiece of the deal that ended the 119-day lockout is the 50–50 division of hockey-related revenue, a provision that substantially reduces the players' previous share of 57 percent. The equal sharing is consistent with the 2011 agreement in the NBA. Because the hockey players will receive $300 million in make-whole payments over 3 years to replenish a portion of the salaries lost because of the lower salary cap, their revenue share will be slightly above 50 percent at the outset of the deal.[38] The length of the agreement is 10 years, with a mutual option to reopen bargaining after 8 years. The salary cap for 2012–2013 is $70.2 million, prorated for the shortened schedule, and will drop to its 2011–2012 level of $64.3 million for the 2013–2014 season.[39]

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Under the previous agreement, there was no limit on the duration of player contracts. Under the new agreement, contracts for free-agent players are now limited to 7 years, or 8 years if a team re-signs its own free-agent player. Clubs will no longer be able to circumvent the salary cap by backloading contracts with balloon payments.[40]

Amnesty buyouts—which enable teams to waive unproductive players—were adopted by the NHL, and two amnesty buyouts are allowed ahead of the 2013–2014 or 2014–2015 season.

Revenue sharing among clubs increased from $150 million under the old agreement to $200 million under the new one. Although negotiations took place over both salary arbitration and eligibility for free agency, these provisions remained unchanged. The minimum salary also remained unchanged for the current season, at $525,000, but was scheduled to rise to $750,000 by 2021–2022. Appeals of disciplinary suspensions of more than five games, formerly heard by the commissioner, could now be submitted to a neutral arbitrator. The annual draft of new players previously featured a lottery among the bottom five teams to determine which team had the number-one overall pick. This practice was changed so that all 14 nonplayoff teams would be eligible for the lottery.[41]

An unaddressed issue in the new agreement is whether the league will release players to participate in the Winter Olympic Games. Although players were released for the 2006 and 2010 Olympics, their 2-week absence interrupted the regular NHL season. The league has considered dropping the practice, which is popular with the players who look forward to the 2014 games in Sochi, Russia.

Although an agreement was reached in the nick of time, fans were upset that it took so long to accomplish something that might have been done months earlier, when it looked like a 50–50 division was where the sides would end up. Bettman and Fehr were criticized for risking the season, awakening the specter of the 2004–2005 breakdown. The *Hockey News* called for Bettman's firing.[42] Bettman apologized to fans, and mea culpas flowed from players and front offices around the league. It is unlikely that Bettman will be fired as a result of the lockout; that decision is for the owners to make, and they are apt to be pleased with the capture of revenue share that he orchestrated. The lockout's bottom line is that the owners prevailed by a wide margin, as did their counterparts at the NFL and NBA in 2011. Winning came with a price, however, as owners lost about $2 billion in revenue and players lost about $800 million in salary.[43]

Although league attendance rose in the seasons after the past hockey lockouts, it is not certain that history will repeat itself. Still, fans tend to be forgiving, especially as time passes. The majority of the NHL ticket base comprises season ticket holders, who, in general, are more invested and loyal than fans who purchase single-game tickets.

All major team sports—baseball, football, basketball, and hockey—now have long-term agreements that will allow the public to focus on the entertainment of sports rather than on interruptions caused by wrangling over money. Squabbles between labor and management will doubtless continue, but without work stoppages for several years.

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NOTES

[1] See Paul D. Staudohar, “The hockey lockout of 2004–2005,” *Monthly Labor Review*, December 2005, pp. 23–29; “The football lockout of 2011,” *Monthly Labor Review*, August 2012, pp. 29–34; and “The basketball lockout of 2011,” *Monthly Labor Review*, December 2012, pp. 28–33.

[2] Paul D. Staudohar, “The baseball strike of 1994–95,” *Monthly Labor Review*, March 1997, pp. 21–27.

[3] Martin B. Schmidt and David J. Berri, “The impact of labor strikes on consumer demand: an application to professional sports,” *American Economic Review*, March 2004, pp. 344–357.

[4] NHL data.

[5] The origins of the NHLPA and early negotiations are discussed in Paul D. Staudohar, *Playing for dollars: labor relations and the sports business* (Ithaca, NY, Cornell University Press, 1996), pp. 147–150.

[6] See Russ Conway, *Game misconduct: Alan Eagleson and the corruption of hockey* (Toronto, Macfarlane Walter & Ross, 1995).

[7] For a biography of Bettman, see Jonathon Gatehouse, *The instigator: how Gary Bettman remade the league and changed the game forever* (Toronto, Viking Canada, 2012; and Chicago, Triumph Books, 2012). See also Michael Farber, “Lord of the lockout,” *Sports Illustrated*, March 11, 2013, pp. 52–57.

[8] NHL data.

[9] Stefan Fatsis, “Hockey league locks out players,” W*all Street Journal*, September 16, 2004, p. D8.

[10] Stefan Fatsis, “NHL calls off its entire season with labor face-off cold as ice,” *Wall Street Journal*, February 17, 2005, p. B2.

[11] “NHL’s union’s Saskin fired,” *Los Angeles Times*, May 11, 2007, p. D4.

[12] Helene Elliott, “NHL’s union has a new man with a plan,” *Los Angeles Times*, January 26, 2008, p. D6.

[13] See Jeff Z. Klein, “Buoyed by experience, Fehr holds tight to his composure and his principles,” *New York Times*, October 22, 2012, p. D6; and David Pollak, “Fehr just the man for the job,” *Contra Costa Times*, January 1, 2013, p. C1.

[14] NHLPA data. By way of comparison, the annual revenues in the NFL, in MLB, and in the NBA are approaching $10 billion, $7 billion, and $4.5 billion, respectively.

[15] David Pollak, “How ugly will it get?” *Contra Costa Times*, September 15, 2012, p. C1.

[16] Richard Sandomir, “Networks that stood by N.H.L. secure deal,” *New York Times*, April 20, 2011, p. B12. Versus was owned by Comcast, and when Comcast acquired NBC Universal, the Versus network was renamed NBC Sports Network.

[17] “NHL team values: the business of hockey,” *Forbes.com*, November 28, 2012.

[18] Michael Farber, “Picasso of the blue line,” *Sports Illustrated*, June 25, 2012, p. 62.

[19] Jeff Z. Klein, “'Dysfunctional' business model puts the N.H.L. in peril, experts say,” *New York Times*, December 12, 2012, p. B12.

[20] Mike Ozanian, “NHL team values 2012: Toronto Maple Leafs are first hockey team worth $1 billion,” *Forbes.com*, November 28, 2012. Ironically, Toronto has not won the Stanley Cup since 1967.

[21] “Labor talks hit crucial fork in the road,” *Contra Costa Times*, August 17, 2012, p. C6.

[22] Michael Farber, “Warning shots,” *Sports Illustrated*, July 23, 2012, p. 24.

[23] Mike Sielski, “NHL races back to business,” *Wall Street Journal*, January 7, 2013, p. B1.

[24] Jeff Z. Klein, “N.H.L. proposes even split in revenue,” *New York Times*, October 17, 2012. Interestingly, a former owner of the Florida Panthers had proposed a 50–50 split and an increase in revenue sharing about 2 weeks earlier; see Stu Siegel, “The big matter of small markets,” *Sports Illustrated*, October 1, 2012, pp. 17–18.

[25] Ibid.

[26] Jeff Z. Klein, "Fehr, union leader, is critical of N.H.L. offer," *New York Times*, October 18, 2012, p. B14; and "Fehr not high on NHL offer," *Contra Costa Times*, October 18, 2012, p. D2.

[27] Jeff Z. Klein, "N.H.L. scratches more games and the All-Star Weekend," *New York Times*, November 24, 2012, p. B13.

[28] Cited in Jeff Z. Klein, "A return to stalemate after approaching a deal," *New York Times*, December 7, 2012, p. B11.

[29] The primary legal precedent is the Court's decision in *Brown v. Pro Football, Inc.*, 116 S. Ct. 2116 (1996).

[30] "Miscellany," *Contra Costa Times*, September 13, 2012, p. C2.

[31] Jeff Z. Klein, "Suddenly, signs of optimism abound in N.H.L. talks," *New York Times*, December 6, 2012, p. B13.

[32] "Sides meet but remain at odds in NHL lockout," *Contra Costa Times*, October 11, 2012, p. D2.

[33] Ken Belson, "New moves raise odds of season cancellation," *New York Times*, December 15, 2012, p. B10.

[34] Staudohar, "The basketball lockout of 2011," p. 31.

[35] "Lockout is going to court," *Contra Costa Times*, December 15, 2012, p. D1.

[36] See Jeff Z. Klein, "Board gets authority to dissolve N.H.L. union," *New York Times*, December 22, 2012, p. B10; and "Union could be dissolving," *Contra Costa Times*, December 22, 2012, p. D1.

[37] "Deal is final, Sharks open next Sunday," *San Francisco Chronicle*, January 13, 2013, p. B3.

[38] See David Pollak, "But will the fans also return?" *Contra Costa Times*, January 7, 2013, p. D1; and Jeff Z. Klein, "Shortened season is but the beginning of N.H.L. hurdles," *New York Times*, January 7, 2013, p. D1.

[39] Ibid.

[40] Sielski, "NHL races back to business," p. B2.

[41] Klein, "Shortened season," p. D2.

[42] Jeff Z. Klein, "Official vote on agreement; unofficial on Bettman," *New York Times*, January 9, 2013, p. B15.

[43] Michael Farber, "The case for expanded playoffs," *Sports Illustrated*, January 21, 2013, p. 34.

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