

Labor relations in basketball: the lockout of 1998–99

The lockout resulted in the owners losing about \$1 billion and the players forfeiting roughly half that amount in foregone salaries; the salary explosion was contained, but whether caps can effectively limit salaries in the future remains to be seen

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Until 1998, the National Basketball Association (NBA) and its players were unique in one major respect: while other major team sports—baseball, football, and hockey—were plagued with work stoppages, basketball had none.¹ Indeed, the sport was often cited as an example of good labor-management relations. What made the record even more remarkable is that basketball is the quintessential big-money game. There are ample riches to divide up between owners and players. Ticket prices to NBA games are the highest in sports, and the league has enjoyed strong financial support from television. The minimum cost of staging an event is far smaller in basketball than in other team sports that have larger rosters.² The combination of high revenues and relatively low overhead costs brought NBA salaries to the lofty average of \$2.6 million, the highest in sports.

The tranquility ended when the 1998–99 season was truncated by a 202-day lockout. This article examines the background of basketball labor relations, why the lockout occurred, its key issues, the dynamics of the bargaining process, and the eventual settlement. The saga of the league and its union is particularly interesting in that what was generally regarded as a successful structure for dividing up revenues became unglued. Besides the structural model and contested issues, an important aspect of the dispute was the negotiators and their relationships, not only with each other, but

also with the people they represented. The clash of personalities and attitudes, so familiar from other sports, came at last to haunt basketball negotiations.

Background

The National Basketball Players Association (NBPA) was formed in 1954. The association was relatively weak and ineffective, until attorney Lawrence Fleisher was hired to direct it in 1962. By 1967, the first comprehensive collective bargaining agreement in sports had been negotiated. Over the years, union relations with league commissioners were adversarial, but characterized by a good measure of trust, respect, and creative problem-solving.

The positive relations led to what may be the most innovative collective bargaining agreement ever in sports. In 1983, the Players Association and the league negotiated a contract that included (1) the inaugural sports salary cap (devised by Gary Bettman, current National Hockey League commissioner, who was then an NBA executive), (2) a revenue guarantee of 53 percent for the players, and (3) a pioneering drug control program that has been emulated in other sports and industries. A 1988 agreement refined these provisions. Following that agreement, Fleisher retired and was replaced by Charles Grantham.

Grantham's goal in the 1994 negotiations was to eliminate three provisions from the previous contract: the salary cap, college draft, and right of first refusal

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(wherein a team can retain a free-agent player by matching a salary offer from another club). Unsuccessful at the bargaining table, the union saw its players play the 1994–95 season without a replacement contract, but it filed an antitrust suit to seek the elimination of the three provisions. In July 1994, U.S. District Court Judge Kevin Duffy ruled against the players. The court cited the so-called labor exemption, holding that it conferred immunity from antitrust law on the owners, as long as there was a collective bargaining agreement between the two parties.³

Thus thwarted in its legal end run, the union returned to the bargaining table. But negotiations were interrupted by Grantham's abrupt resignation, which was prompted by divisiveness among the players. Grantham was replaced by attorney Simon Gourdine, who, oddly enough, had served earlier as deputy commissioner of the NBA, the number-two management position in the league. Gourdine pushed for a conclusion to the long-stalled negotiations, and a tentative agreement was reached.

It is at this juncture that pivotal events occurred that affected not only the 1995 agreement, but the 1998–99 negotiations as well. Players as a whole are not typically well versed in the intricacies of collective bargaining. But they are represented in their individual salary negotiations by attorney-agents. These agents realize that the provisions negotiated in a collective bargaining agreement—on such areas as salary caps and free agency—play a decisive role in determining the salary leverage players have in their individual negotiations. A group of agents objected to the proposed agreement, because it would hinder salary growth.

Under the agents' direction, a number of players sought to have the union decertified. The rationale was that, with the end of the collective bargaining relationship, the owners would no longer be exempt from antitrust immunity, and the players could bring a successful lawsuit against the league. Accordingly, a petition was filed with the National Labor Relations Board to decertify the union, a tactic that had been pursued to advantage earlier by the National Football League (NFL) players.⁴ A petition for decertification requires that at least 30 percent of the players indicate that they support an election to decertify the union, and this hurdle was easily cleared. A decertification election was set for September 1995.

The emerging battle was between the NBPA and the dissident players, but the league was concerned over the outcome as well. If the union was decertified, the league would be vulnerable to antitrust litigation. Consequently, the NBA reacted in two ways. First, it declared a lockout on June 30, 1995, freezing all dealings with players and raising the possibility of delaying the start of the 1995–96 season. Second, it sought to restructure the tentative collective bargaining agreement to make it more attractive to the dissident players and their agents.

Both of these tactics proved successful. The players were reluctant to lose any games, and the proposed contract was

revised so as to withdraw certain limits on free agency. Therefore, the players voted decisively against decertification. Then the players and owners ratified the collective bargaining agreement, the lockout was lifted, and the 1995–96 season proceeded without a hitch.

Victory for both sides came at a price, however. For one thing, the agents got their noses into the bargaining tent, a factor that would complicate negotiations in 1998–99. There was also a lingering rift within the union. Gourdine was replaced by Billy Hunter, who would lead the players in 1998. Perhaps most disturbing was that the lockout had been an effective tactic for the league, suggesting its further use down the road.

A lockout is management's counterpart to a strike. It is a preemptive measure designed to force a union to accede to management's demands. Typically used before a season starts or early in the season, a lockout seeks to forestall a players' strike later in the season, when more damage would be done to owners' revenues.

Lockouts have not been uncommon in sports. Football owners retaliated with a lockout in 1968 after players boycotted training camps over pension fund contributions. In 1970, another strike and lockout of football training camps occurred in a dispute over pensions, postseason compensation, and a grievance procedure. In 1976, baseball owners locked players out of training camps over an impasse on free agency. Another baseball lockout took place in 1990, over a variety of issues.⁵ None of these lockouts caused the loss of any regular-season games. The only one to interrupt the season in any major sport was in hockey in 1994–95, when 468 games were lost over a 103-day period. The hockey lockout, stemming largely from a payroll tax proposal by the owners, was a disastrous affair, but in the end the owners secured substantial concessions from the union. The hockey lockout provided a valuable lesson to NBA management.

The 6-year basketball agreement reached in 1995 contained a provision that allowed the owners to reopen negotiations after 3 years if the percentage of basketball-related income devoted to player salaries exceeded 51.8 percent. When delays occurred over ratification of the agreement, a lockout was imposed on July 11, 1996, concerning the distribution of \$50 million in television income. This lockout lasted for less than a day, however, before the agreement was finalized.

On March 23, 1998, the owners voted, 27–2, to reopen negotiations on the 1995 agreement at the conclusion of the season. The reason for this tack was that, during the 1997–98 season, the players had secured about 57 percent of the \$1.7 billion in league revenue, well over the 51.8 percent required to reopen the bargaining. Also, the league claimed that nearly half of its 29 teams were losing money.

Assuaging the owners' concern over losses was a new 4-year agreement between the league and the NBC and Turner television networks for a total of \$2.64 billion, raising each team's annual income from \$9 million to \$22 million. The play-

ers perceived this added television money as invalidating claims that the league was making about economic hardship. Still, the owners went to the bargaining table determined to obtain a hard salary cap that would eliminate exceptions that had increased salaries 50 percent over the previous 5 years. On June 22, 1998, the last of nine negotiating sessions ended after only 30 minutes, with the players saying they would not accept a hard salary cap. A few days later, the league announced a lock-out beginning on July 1.

Causes

Various factors led to the lockout. After nearly two decades of unparalleled success, the league had begun to show signs of strain. Attendance was down 15 percent to 20 percent in some cities during the 1997–98 season, although overall attendance remained fairly solid.⁶ Sales of NBA apparel were slumping and more teams were losing money. Taken together, all these events signaled a disaffection on the part of fans.

The 1997–98 season was successful insofar as the game itself was concerned. The Chicago Bulls won their sixth league championship in the 1990s, and the astounding performance of Michael Jordan in the playoffs helped sustain the popularity of the sport. But there also were some disquieting episodes involving players that tarnished the game, including on-the-court violence, domestic violence, resisting arrest, illegal possession of weapons, traffic offenses, and assorted other charges, prompting concern that such episodes would reduce the league to a “confederation of outlaws.”⁷ Of course, most players are not rogues, and many lead exemplary lives. Moreover, basketball is not the only sport to exhibit aberrant behavior. But so many episodes of wrongful actions hurt the game and, it was felt, might reflect on Stern and the owners.

More important as a cause of the lockout were the rapidly escalating salaries. In 1977, the NBA’s highest paid player was Kareem Abdul-Jabbar of the Los Angeles Lakers, at \$625,000 per year. Ten years later, Patrick Ewing of the New York Knickerbockers made the most, \$2,750,000 annually, and by 1997, Jordan topped the list at \$30 million per year. In 1996, Shaquille O’Neal of the Lakers signed a contract for \$123 million for 7 years, Hakeem Olajuwon of the Houston Rockets signed a 5-year, \$55 million extension, and Dikembe Mutombo signed with the Atlanta Hawks for 5 years for \$50 million.⁸ In 1997, the lid blew off when the Minnesota Timberwolves signed a 21-year-old player named Kevin Garnett for \$126 million over 7 years. Owners and general managers appeared unable to control their free-spending ways. The Timberwolves’ general manager Kevin McHale, who negotiated the Garnett deal, acknowledged that “We have our hand on the neck of the golden goose and we’re squeezing hard.”⁹

Even the union seemed to recognize the disparity created by \$100 million deals. During the 1997–98 season, the highest paid nine players received 15 percent of the players’ rev-

enue.¹⁰ The salary cap was designed to contain salaries, but its numerous exceptions provided little restraint. The upshot was amazingly high salaries for a few privileged stars, but a sizable low end, with 20 percent of the players making the league minimum salary. Both sides came to the bargaining table determined to address this problem. But how to divide the pie, always the big issue in sports negotiations, was especially troublesome this time around.

Another cause of the lockout was instability within the union. Turnover at the top creates problems because the chief negotiators do not know each other as well. Trust, respect, and cooperation take time to develop. Further complicating the situation was the role of agents. Traditionally, sports agents have not been involved in negotiating the overall collective bargaining agreement. Beginning with the 1994–95 negotiations, however, agents were in the game—not at the bargaining table, but working with the players and their negotiators behind the scene. This kind of change clouds the sources of decisionmaking authority, and once the genie gets out of the bottle, it is difficult to contain. For the players, the question that arose was “Who is really in charge?”

Issues

Neither side professed to be pleased with the outcome of the 1995 agreement. The absence of an effective salary cap meant that some owners signed players to huge contracts that raised payroll costs substantially and cut into team profitability. While these players were obviously content, the huge payments to stars meant that less money was available to pay other players. Thus, the overall objective of owners and players in the 1998 negotiations should not have been radically different: modify the salary structure so as to limit ridiculously large payouts to a handful of players, while at the same time directing a greater share of the revenue to players at the low end of the salary scale.

Numerous topics were discussed during the negotiations, but five were dominant: the salary cap, free agency, the rookie pay scale, minimum salaries, and aberrant behavior.

Salary cap. The salary cap in basketball is one of the most complex provisions found in any collective bargaining agreement.¹¹ On the surface, it is relatively straightforward. A limit is placed on team payrolls, and players are guaranteed to receive a percentage of designated league revenues. The cap favors small-market teams that might otherwise have their free agents gobbled up by the richer teams in large markets. The original salary cap, in the 1984–85 season, was \$3,600,000. By 1997–98, it had risen to \$26.9 million, and it was \$30 million in 1998–99.

What makes the operation of the salary cap complex is that it is not a hard, or fixed, cap. Instead, it is soft, allowing numerous exceptions. For instance, there is no impact on the cap

if a team signs a replacement for an injured player at up to 50 percent of the injured player's salary. Clubs could also exceed the cap to sign one free agent for \$1 million every 2 years. Most important, teams were allowed to sign their own veteran free agents regardless of salary cap constraints.

The league's objective in the 1998 negotiations was to install a hard salary cap that was tied to a designated percentage of basketball-related income and that could not be exceeded. The players, by contrast, wanted to retain the soft salary cap. Related to the cap issue is dividing up the overall pie, or setting the percentage of income that owners and players would receive. At the outset of negotiations, the owners were offering the players 50 percent, while the players wanted 60 percent.

Free agency. A major advantage to players who are free agents is that if they re-sign with their present club, their salary is not counted against the cap. This is called the *Larry Bird exception*, named after the former Boston Celtics player who took advantage of the situation. The exception was allowed in order to protect teams from losing a star player, yet at the same time permit players to reap higher salaries from the free-agency process. If the signing of a team's own free agent were to count against the salary cap, as the owners proposed, salaries would be dampened considerably. This is why the union was adamantly opposed to the elimination of the Larry Bird exception.

Rookie pay scale. Under the previous agreement, all first-round draft choices were required to sign 3-year guaranteed contracts. These contracts, however, could be extended after 2 years had passed. At the end of the 3-year contract, the players became free agents. The problem this arrangement spawned for the owners was that they signed players who showed unusual promise in their first 2 years to a contract extension, thus tying a player up for several years, but at a high price. This is what happened in the Kevin Garnett deal and is a major reason owners wanted to change the collective bargaining agreement. The league proposed a 5-year rookie pay scale with a right of first refusal for at least 1 additional year.

Minimum salaries. Both sides had an interest in raising salary minimums. With stars hogging a big share of the salary cap space, little is left over to pay the last 3 or 4 players on a 12-man team roster. The minimum salary of \$272,500 for veteran players might seem like a princely sum to the average Joe, but it reflects a sizable disparity with the salaries of star players. The average (mean) salary of \$2.6 million is pulled up by the stars' salaries. The median salary is only about \$1.4 million, so half the players make less than that and half make more. Thus, the median is a better reflection of what a typical player makes than the average salary is.¹² The imposition of a hard salary cap would exacerbate the salary disparity, causing even more players to be paid at the minimum level. The union proposed a scale that would increase the minimum salary with

a player's number of years of service in the league.

Aberrant behavior. This issue had two aspects. One was the extension of the drug control program. Since 1984, only heroin and cocaine were covered. The league's desire was to add marijuana, opiates, performance-enhancing drugs, and alcohol to the list. Marijuana became an issue as a result of the possession charges against several players. Also, a 1997 survey by *The New York Times* of current and former players, agents, and executives found that 60 percent to 70 percent of the players smoked marijuana.¹³ The second aspect of the issue was that the league sought punishment for players who were guilty of misdemeanor or gun-possession charges, players who attacked fans or team officials, and players who refused to report to a new team after a trade.

The negotiators

Intraorganizational bargaining refers to bargaining within one's own constituency.¹⁴ In this kind of bargaining, the union's chief negotiator has to deal with other union leaders and members, and management's chief negotiator needs to bargain with other members of the management group. Intraorganizational issues come up frequently in sports, because chief negotiators must unify their group behind an issue. The least bit of disunity can harm collective bargaining efforts by undermining the position of the chief negotiator.

The NBA has 29 owners, all very wealthy. Twelve are billionaires, like Portland's Paul Allen (Microsoft), Orlando's Rick De Vos (Amway), and Miami's Micky Arison (Carnival Cruise Lines), and owners from other large companies, such as Comcast, Turner Network Television, Ascent Entertainment, and Cablevision. About 410 NBA players, many of them millionaires, are represented by the union. The chief negotiator for the owners was David Stern, whose right-hand man, Deputy Commissioner Russell Granik, and legal counsel, Jeffrey Mishkin, rounded out the team. The players' representative was Billy Hunter, whose principal associates were NBPA president Patrick Ewing and legal counsel Jeffrey Kessler.

The league. Stern, a graduate of Columbia Law School, began service with the NBA in 1967 as an attorney for the New York law firm that represented the league. He became the NBA's general counsel in 1978 and, later, an executive vice-president for business and legal affairs. Over the years, Stern worked closely with Commissioner Larry O'Brien, upon whose retirement in 1983 Stern took over the post.

Stern is considered one of the great sports commissioners. Now that the NFL's Pete Rozelle is gone, he remains the last truly powerful commissioner. Stern's skills in negotiation, marketing, finance, and public relations have been widely heralded. He has led the league to a position of worldwide prominence and success, for which he is rewarded with a salary of \$8 mil-

lion a year. Stern was especially proud of the league's unblemished record regarding player relations. Referred to as "Easy Dave," he got along with everyone, could smooth over disputes, and was committed to sharing the league's wealth with the players.

While Stern kept his perfect record intact in the 1995 negotiations, trouble could be anticipated from the intrusion of agents into the bargaining process and instability in the leadership of the NBPA. Consequently, Stern began to prepare the owners for conflict. Under his direction, owners maintained solidarity, with only occasional grumbling, during the lockout.

The players. Squabbling among the players was relatively subdued until late in the negotiations. Because the union is operated on a more democratic basis than the league, decisionmaking is encumbered by taking longer to reach consensus. Chief negotiator Billy Hunter did a commendable job of trying to steer the players toward organizational solidarity. But he had to operate a large and unwieldy vehicle and face a formidable adversary in Stern.

Although not a regular member of the union's bargaining team, Michael Jordan, the league's premier star, was very much a presence. He attended two bargaining sessions, in October and December. Jordan was not as vocal on labor issues as he was in 1995, but was squarely behind the players. He had said he would probably retire from basketball, and when he did so after the lockout, it was a devastating loss to the game. Jordan's opportunities to play for enormous pay had been due to the Larry Bird rule, by whose provisions his salary as a Bulls' free agent did not count against the cap. If a hard salary cap were put in place, the Bulls could not possibly re-sign Jordan: his 1998-99 salary would have been about \$37.5 million, more than the team cap of \$30 million.

Negotiations

One of the unique aspects of sports negotiations is that they take place in a fishbowl atmosphere, with fans and the media eager to observe developments at the bargaining table. There is always a risk that this kind of attention can lead to a media circus, with various owners and players projecting their opinions on issues and events. The dickering back and forth makes for entertaining theater, but is a hindrance to the rational settlement of differences. It is customary, therefore, for both owners and players to be advised by their leaders to hold their tongues. NBA owners were made subject to fines of \$1 million by the league for popping off in the media.

Because media involvement is unavoidable in sports negotiations, the parties seek to control the flow of information. Experience is important, and Stern had a leg up on Hunter in that respect. Bargaining sessions were sporadic and often acrimonious, and relatively little time was spent in face-to-face negotiations. Much of the bargaining was done through the

media, with carefully prepared reports and quotes made available to print and broadcast sources. The league especially dominated the orchestration of the media.

The league did much to ensure its cash flow during the lockout by arranging television contracts so that it would be paid even if no games were played. The league, of course, has to repay the networks for lost games, but not for 3 years, and then with no interest.¹⁵ With income security lined up prior to the lockout, once it began, the league moved to limit costs. A key question, raised initially by the union, was whether 226 players with guaranteed contracts would be paid during the lockout. This matter was put before an arbitrator.

It is not customary for employees to be paid during a lockout stemming from a collective bargaining dispute. The distinction in this case was that the players' contracts were guaranteed, arguably justifying payment during a league-imposed work stoppage. In the arbitration, the union contended that the owners could have protected themselves against paying players during the lockout by inserting appropriate language into player contracts. This routinely happens in baseball and was done in at least one basketball player's contract.

Ironically, were the union to have won the arbitration, it might have fractured player solidarity, with some players getting paid during the lockout, while others, without guaranteed contracts, would not have gotten paid. This point, however, was rendered moot by the arbitrator's decision that the players would not be paid.¹⁶ The ruling shifted power further toward the owners.

Despite having the stronger hand in negotiations, the owners dropped their insistence on a hard salary cap in late October. With a high percentage of guaranteed player contracts, a hard cap would be difficult to enforce. Also, while a hard cap would supposedly help weak teams, these teams already had low payrolls. Instead, a hard cap would lower the payrolls and raise the profits of strong teams in big markets, with little, if any, effect on competitive balance in the league.¹⁷ Thus, the owners' hard-cap proposal came to be more an early tactical position than a realistic goal.

If not by means of a hard cap, however, how else would the owners rein in salary growth? Remaining at the heart of the dispute was the percentage of basketball-related income that each side would get. The owners revised their position upward, from 50 percent to 53 percent, while the players came down from 60 percent to 57 percent. Tied into these percentages was an escrow plan put forth by the owners for the 4th through 6th years of a proposed 7-year agreement. At the beginning of each of these seasons, 10 percent of players' salaries would be withheld and placed in an escrow account. If the agreed-upon percentage were exceeded, payments would be made to the owners out of the escrow account.

A crucial aspect of cost containment was accepted in concept by the union, albeit at lower proposed rates than those sought by the league. The provisions included a cap on indi-

vidual player salaries (based on years of service) and a limit on annual raises. Other issues debated at the outset of negotiations—the rookie pay scale, minimum salaries, and aberrant behavior—were at or close to agreement.

In an effort to show their vitality, the players staged an exhibition called “The Game on Showtime” in Atlantic City, New Jersey, on December 19. This event was originally designed to aid players with financial difficulties during the lockout. But public criticism caused the proceeds of the game to be donated to charity instead. Although Michael Jordan did not attend, the game was a modest success. The players also floated the idea of a new league being formed, a rather fanciful notion in light of stadium commitments to the NBA. For its part, the league suggested the possibility of starting the 1999–2000 season with replacement players, another implausible idea. Were the season actually to be cancelled, however, these alternatives would take on a whole new significance.

As 1998 wound down, the league announced January 7, 1999, as the date after which the season would be cancelled. Following a holiday respite, the sides returned to the table with a greater sense of urgency. The personality conflicts and restlessness that characterized negotiations to this point were blunted. However, while a framework for agreement was in place, there were still wide differences in the parties’ positions.

In a creative ploy, Stern turned up the heat by taking his case directly to the players. He mailed each of them a 9-page letter outlining the owners’ latest proposal. The union reacted by sending the players a 19-page response. But Stern’s tactic roused interest among the players. Kevin Willis of the Toronto Raptors called for a secret-ballot vote on the owners’ proposal. This act of defiance against union leadership weakened player resolve. Ever the opportunist, Stern sought to drive a wedge further into the players’ solidarity by announcing a “final offer” to the union and urging that the players be allowed to vote on this offer.

Giving in to growing player restiveness, the union agreed to allow a vote. Its 19-member negotiating committee recommended, however, that the league’s offer be rejected. The vote was to be taken on January 5, and an informal poll of several players by ESPN indicated that they would vote against the offer by a 2–1 margin. Had this scenario occurred, the likelihood is that the season would have been lost.

But in true 11th-hour fashion, Hunter and Stern met in a marathon bargaining session on the eve of the vote, reaching a compromise that led to the end of the lockout. The tentative agreement was quickly ratified by the players, 179–5, and the owners, 29–0. The season began on February 5, 1999, with 50 games to be played, rather than the traditional 82.

Settlement

With the power tilted in the owners’ favor, there was little doubt that they would prevail. Although the hard salary cap was

dropped, the league pressed for limits on spending in other ways. The big plum the owners won was the cap on individual player salaries, the first ever in sports. For players with up to 5 years of service, the maximum salary will be \$9 million. The figure is \$11 million for players with 6 to 9 years of service and \$14 million for 10-year veterans and up. Players who already make more than these new maximums have their salaries protected by a grandfather clause.

Certain restrictions on the salary cap remain. For example, any team can sign two additional players each season, one at the league average salary and the other at the league median salary, even if the team is over the salary cap. And there is no limit on total salary spending by the 29 teams in the first 3 years of the agreement. For the players’ part, they are guaranteed a total of 55 percent of the league’s revenue in years 4 through 6 of the agreement and 57 percent in year 7. (The decision to extend the agreement to a 7th year is at the league’s option.) An escrow tax of 10 percent is to be withheld from players’ paychecks if income devoted to salary exceeds 55 percent in years 4 through 6.

In the owners’ favor is a limit on maximum annual raises of 12 percent for Larry Bird-type free agents who re-sign with their old team and 10 percent for other players. This arrangement is particularly advantageous to small-market teams, which will be more readily able to hang onto their free agents with less fear of being outbid by a rich big-market team, because free agents will make somewhat more if they re-sign with their old team. Another plus for the owners is that, while the contract length for rookies remains 3 years, the club has an option to renew the accord in year 4 and a right of first refusal in year 5. Thus, teams will be able to hang on to their draft choices for 5 years before they can become unrestricted free agents, 2 years more than under the old agreement.

Because each side was in favor of raising minimum salaries, the deal increased the minimum to \$287,500 for rookies and, on a sliding scale, up to \$1 million for veterans of 10 or more years.¹⁸ Regarding aberrant behavior, players will be tested for drugs once per season, with marijuana and illegal steroids added to the list of banned substances. Longer suspensions and higher fines were established for misconduct.

The result of the lockout shows the owners losing about \$1 billion. Like the National Hockey League after its 1994–95 lockout, however, the NBA forced significant retrenchment in the new agreement. Basketball owners gained more control over player costs than in any other sport. The players lost about \$500 million in foregone salaries as a direct result of the lockout. But league officials predict that the average salary will rise from \$2.6 million to \$3.4 million during the season anyway.¹⁹

Given the falloff in fan support following the 1994–95 baseball strike, one might predict a similar fate for basketball. This is doubtful, however, as fans are typically forgiving in labor disputes. Baseball was an exception, because the World Se-

ries was cancelled. The NBA lost less than half a season, and the first part of the season finds limited interest among fans in any event. If there is a long-term decline in the league, it will be the result of factors such as high ticket prices, embarrassing episodes involving players, and loss of fan interest due to the retirement of Michael Jordan, not because the sport suffered its first suspension of play.

The agent-as-provocateur fizzled in the last month or so of the lockout. Both agents and the union began to realize that not all agents represent stars and that lesser players may have different aspirations regarding the outcome of negotiations. The objective of collective bargaining is to represent *all* the players, which, of course, is the function of the union, not the agents. The new agreement greatly reduces the influence of agents.

With regard to the future, the league seems to have contained the salary explosion. The past shows, however, that salary limits in sports can be gotten around, one way or another. Television contracts provide the fuel for higher salaries, and there will be plenty of money available from this source in the years ahead. Six or seven years from now, average NBA sala-

ries will probably have doubled. Meanwhile, in 2002, the existing television contracts will have expired, so the league should have a new and far larger bounty from television that the players will want a piece of.

The history of sports negotiations suggests that there may well be another work stoppage in basketball when the collective bargaining agreement expires. Strikes and lockouts typically occur in sequence. Baseball has had eight shutdowns since 1972. Football had strikes in 1982 and 1987. Although hockey never closed down until the 1992 strike, that was followed by the 1994–95 lockout.

An optimist, on the other hand, would say that history does not always repeat itself. Given the causes of the 1998–99 basketball lockout, the prognosis might be improved by the following actions: avoiding the strategy of seeking union decertification and an antitrust suit, eliminating turnover in the NBPA executive director position, having agents remain on the sidelines, encouraging certain players to improve their behavior on and off the court, and getting back to the idea of a cooperative partnership between owners and players. □

Notes

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¹ There was a lockout of NBA referees by the league late in 1995 that lasted a month, but did not interrupt play because the league utilized replacement referees.

² Roger G. Noll, "Professional Basketball: Economic and Business Perspectives," in Paul D. Staudohar and James A. Mangan, eds., *The Business of Professional Sports* (Urbana, IL, University of Illinois Press, 1991), p. 18.

³ This section is based on Paul D. Staudohar, *Playing for Dollars: Labor Relations and the Sports Business* (Ithaca, NY, Cornell University Press, 1996), pp. 123–26.

⁴ The football case is *McNeil v. National Football League*, 764 F. Supp. 1351 (1991).

⁵ See Paul D. Staudohar, "Baseball labor relations: the lockout of 1990," *Monthly Labor Review*, October 1990, pp. 32–36.

⁶ Stefan Fatsis, "NBA's Problems Mount," *The Wall Street Journal*, Apr. 24, 1998, p. W9.

⁷ Andrew Peyton Thomas, "NBA: Nasty, Brutish Athletes," *The Wall Street Journal*, Nov. 24, 1998, p. 22.

⁸ The figures are from Bill Saporito, "Stars' Salaries: Swish," *Time*, July 29, 1996, p. 61.

⁹ Quoted in David Halberstam, "Jordan's Moment," *The New Yorker*, Dec. 21, 1998, p. 48.

¹⁰ Mark Heisler, "The Money Says This One's a Lock to Be Lockout in '98," *Los Angeles Times*, Nov. 9, 1997, p. C3.

¹¹ While basketball had the first salary cap, a general cap now exists in football, and there is a cap on rookie salaries in hockey. For details, see Paul D. Staudohar, "Salary Caps in Professional Team Sports," *Compensation and Working Conditions*, spring 1998, pp. 3–11.

¹² The problem of the average salary growing faster than the median salary has also occurred in baseball, due to the exceptionally high amounts paid to relatively few players. (See Paul D. Staudohar, "Baseball's Changing Salary Structure," *Compensation and Working Conditions*, fall 1997, pp. 2–9.)

¹³ Reported in *The Wall Street Journal*, Nov. 24, 1998, p. 22.

¹⁴ See Richard A. Walton and Robert B. McKersie, *A Behavioral Theory of Labor Negotiations* (Ithaca, NY, ILR Press [Cornell University], 1991).

¹⁵ "Free Ride," *ESPN Magazine*, Mar. 23, 1998, p. 173.

¹⁶ *In the Matter of National Basketball Players Association and National Basketball Association*, Oct. 19, 1998 (mimeographed).

¹⁷ Andrew Zimbalist, "Let the Market Rule the Basketball Court," *The Wall Street Journal*, Nov. 10, 1998, p. A22.

¹⁸ In 1997–98, the minimum salary was \$242,000 for rookies and \$272,500 for veterans.

¹⁹ Stefan Fatsis, "NBA, Players Reach Accord, Saving Season," *The Wall Street Journal*, Jan. 7, 1999, p. A3.