

FOOTBALL LABOR RELATIONS: FROM CONFLICT TO WORKING HARMONY

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ABSTRACT

From nearly two decades of open conflict, pro football has finally transformed into labor-management peace. The transition, worked out between the NFL and NFLPA, is enabling the sport to capitalize on its strengths of marketing and league expansion. This article discusses the changes in terms of a model of workplace relations, noting strikes, free agency, court cases, and provisions of the current collective bargaining agreement. A version of this article was presented at a conference at the Pro Football Hall of Fame in Canton, Ohio, in October 1997.

One of the most interesting turnarounds in American labor-management relations in recent years has occurred in professional football. Owners and players in the National Football League (NFL) have gone from a hostile and relatively unproductive relationship to one that is in some important ways cooperative, and which has produced impressive benefits for both sides. This article examines the contrasting styles of the adversarial approach versus the cooperative approach. It reviews examples from the past of confrontations between labor and management, such as the big strikes in 1982 and 1987. These results are compared with those from greater cooperation between the parties, as exemplified by the 1993 negotiations and beyond.

MODELS OF RELATIONS

The scholarly literature offers a variety of approaches to the study of negotiation and workplace relations. One is comparison of the conflict model with the cooperation model [1, pp. 33-34]. The conflict model emphasizes the opposing

goals of labor and management. In football, goals include the players' union maximizing the economic welfare of all players and formulating favorable rules for individual salary negotiations between players and teams. The owners, on the other hand, have the primary goal of maximizing revenues and controlling costs under the constraints of the market.

In the conflict model the owners and players view themselves as adversaries and take the view that their interests do not coincide. Owners, for instance, want to acquire modern stadiums with luxury boxes galore. They want to market the team successfully, selling out games by attracting fans. The owners' eyes are on the bottom line of maximizing profitability. Players, on the other hand, realize they have short careers of only three to four years on average. Players therefore want to earn as much money as possible during this time. They don't want to limit owner revenues; they just want a bigger share of the pie.

As an alternative, under the cooperation approach the interests of labor and management are joined by concern for the overall economic health of the business. Both realize pressure tactics can lead only to lost games and disloyalty from fans. While their economic interests diverge in the sense that the more players receive in salaries the less profitable the franchise will be, players and owners have this in common: they want to survive and they want to win. The goal of every owner and player is to continue healthy operation, win as many games as possible, and have a larger overall economic pie to divide up. These objectives cannot be achieved through constant opposition and conflict.

Under both the conflict and cooperation approaches the parties recognize the inevitability of disagreement, at least some of the time. What is different is that, in the case of the conflict approach, acknowledgment of divergent interests can erupt in a test of economic strength between the sides. Alternatively, under the cooperative approach, pressure tactics are seen as damaging to both sides and are to be avoided if possible.

Another model of workplace relations that can be applied to football is the one devised by Harbison and Coleman [2]. According to their view, labor-management relations exist in three categories, along a continuum. The first stage is the "armed truce," where the parties regard themselves as adversaries and a threat to each other's existence. Moving along the continuum, progress toward a more mature, trusting relationship would be what Harbison and Coleman call "working harmony." Here each side realizes their interests conflict, but accept the other's right to exist and have differing opinions. There is also a recognition that some complex problems are of mutual interest to resolve. Under the third category, "union-management cooperation," both sides show mutual trust and respect and have joint responsibility for problem solving. Each is convinced the other wants to improve operations.

It would be too much to say that the owners and players in the NFL have reached the cooperation stage. But cooperative efforts are becoming more common, and the parties appear to have securely moved from the armed truce to

the working harmony stage. The rest of the article examines how and why this change came about and what it means for the future of the league.

OWNER-PLAYER CONFLICT

Labor-management relations in football entered the armed truce or conflict stage when Ed Garvey took over as executive director of the union in 1971. The National Football League Players Association (NFLPA) had been founded in 1956. But similar to unions in other professional sports around this time, little was accomplished, and it was difficult to overcome the long-standing paternalistic relationship that existed between owners and players. This relationship kept salaries low and made it unlikely that players would seek to defend their interests with the owners. Garvey, a labor attorney, believed in an aggressive approach both at the bargaining table and in the courtroom.

The first indication of Garvey's confrontational tactics occurred in 1974 when the NFLPA struck training camps for forty-two days. There had been earlier skirmishes, as players struck camps in 1968 over pension fund contributions and the owners retaliated by locking players out. But the whole affair lasted only ten days and was not particularly acrimonious. Two years later there was another training camp strike and lockout that lasted for twenty days. At issue were pensions, postseason compensation, and a grievance procedure. This was also a relatively mild affair.

What made the 1974 strike different is that a large number of issues were in dispute. Of particular concern to the players was the Rozelle Rule, which allowed Commissioner Pete Rozelle to award compensation to teams that lost free agents, a practice that had the effect of preventing voluntary movement of players from team to team. The 1974 strike was characterized by hostility rather than civility, and it lasted far longer than the earlier stoppages. Unable to secure their demands, the players lost the strike. It didn't help that several players crossed the picket line and undermined union solidarity.

Still, the 1974 strike affected training camps only, and did not cut into the regular season. The 1982 strike was a different story. It provided a classic matchup of feisty personalities, Garvey and Jack Donlan, who represented the owners. The centerpiece of the union's demands in 1982 was that it be guaranteed 55 percent of the league's gross revenue, which would be distributed to players in salaries and benefits. Unable to make progress at the bargaining table, the players struck after the second week of games in the regular season.

The players achieved greater solidarity during the 1982 strike than in the earlier skirmishes. They showed their commitment by staging all-star games and threatening to form a new "players league," similar to what major league baseball players did for a year back in 1890. As the strike wore on, however, player solidarity began to weaken. The owners were also concerned, lest the entire season be canceled. But as the fifty-seven-day strike ended, it was clear the

owners had again bested the players, even though the union won a total compensation package of \$1.6 billion over five years, with \$1.28 billion guaranteed.

Tactics

It is useful to view the weapons of labor-management conflict in terms of offensive and defensive tactics. Several examples of these tactics are shown in Figure 1. The purpose of these tactics is to inflict economic loss on the other side (offensive tactics) and to insulate yourself as much as possible from being damaged economically by the other side (defensive tactics). For instance, the strike is an offensive tactic available to the union, because it can cause monetary loss by depriving the owners of attendance and television revenue. The management counterpart of the strike as an offensive tactic is the lockout, which prevents players from earning their salaries. On the defensive side, the union might set up a strike fund to help insulate players from financial losses. The owners might set up their own fund or obtain insurance against a strike or perhaps arrange a line of credit to provide loans to teams during a strike.

<i>NFLPA</i>	<i>NFL Management</i>
<i>Offensive Tactics</i>	Lockout
Strike	Layoff (cut dissident players)
Picket	Withhold benefits
Urge direct boycott by fans	Fine players
Urge secondary boycott by firms doing business with owners	Influence public opinion against the union through the media
Influence public opinion against management through the media	Cancel the season
Form a new league	
<i>Defense Tactics</i>	
Set up strike fund	Obtain strike insurance
Obtain financial aid from other unions, e.g., AFL-CIO affiliates	Set up strike fund
Arrange loans for strikers	Hire strikebreakers
Help strikers find temporary jobs	Obtain mutual aid, e.g., a strike against one club is a strike against all
Sponsor all-star games	Provide loans to financially ailing clubs

Figure 1. Offensive and defensive bargaining tactics. **Source:** [3, p. 71].

1987 STRIKE

When the 1982 strike ended badly for the NFLPA, a disgruntled membership heaped pressure on Garvey. Although he could have remained on the job, Garvey elected to give up the reins to Gene Upshaw, who had been president of the NFLPA the previous three years. Upshaw, a member of the Pro Football Hall of Fame as a star lineman for the Oakland Raiders, was more moderate as a union leader. It was Upshaw who led the union during the 1987 strike [4].

The main issue in the strike was free agency. From 1977 to 1987 only one free agent, Norm Thompson of the St. Louis Cardinals, had signed with another club. The Rozelle Rule had been nullified earlier by player litigation in the *Mackey* case [5], but the 1977 and 1982 collective bargaining agreements retained stiff compensation penalties against teams that signed free agents, thus chilling the market.

The owners managed to stay one jump ahead of the players during the twenty-four-day 1987 strike. Their trump card this time was the use of replacement players. When the players struck, the owners lost only one weekend of games. By the following weekend they fielded teams stocked with replacement players who had been signed earlier in case of a strike. A few veteran players did not strike and others crossed picket lines as the strike wore on. Television ratings were down from the usual fifteen points to about eleven, and attendance fell off significantly. But playing the games increased the pressure on the union to end the strike.

Again the strike had a bad outcome for the players, especially the 84 percent who stayed out for the duration. They lost salaries and got nothing in return. Indeed, for the next several years the players would operate under the old free agency rules, as some provisions of the prior contract were kept in effect by the parties.

Powell and McNeil

Chafing at the humiliation of the 1987 strike, the players shifted their attention to the courtroom, filing an antitrust suit against the league. The suit, brought by Marvin Powell, a past president of the NFLPA, sought to invalidate the system of free agency and the college draft. A decision by the U.S. Court of Appeals, however, found that because a labor agreement had existed and even though it had expired, the league had a "labor exemption" from application of the antitrust laws.

As a result of the decision in the *Powell* case, the NFLPA decided to decertify itself as the players' representative. Then, reasoned the union, lacking any relationship with a labor representative, the league could not claim the labor exemption to insulate itself from application of the antitrust laws. Following decertification, another antitrust suit was brought by Freeman McNeil and seven other players [6, pp. 105-106]. The *McNeil* case was prompted by a free agency

system that was unilaterally established by the league, called "Plan B." Under Plan B, teams were allowed to protect thirty-seven players on their roster, with the rest of the players eligible for unrestricted free agency. Although this liberalized free agency somewhat, it was not nearly enough to satisfy the players.

The jury verdict in the *McNeil* case was for the players, finding that Plan B was too restrictive on player freedom to move in the labor market. At this juncture the league considered appealing the case and/or liberalizing Plan B further. But, sensing the risk of holding out, it began to edge back toward a voluntary settlement at the bargaining table. This was a wise decision by the league because it makes more sense for the parties to solve their own problems than to have government impose a settlement through courtroom litigation or legislation that might make operation more difficult.

WORKING HARMONY

To the surprise and delight of football fans, the league and union finally reached an agreement in January 1993, after five years of impasse. It was the *McNeil* case that motivated the agreement, plus the prodding of federal district court judge David Doty, who had an oversight role in the antitrust litigation.

Initially set as a seven-year deal, the agreement has two key features, one favoring each side. The union gained the long-cherished free agency. The owners achieved a salary cap or limit on how much teams can spend on total player salaries. Eligibility to qualify for free agency dropped to four years, so that players with four years' experience are able to change teams as unrestricted free agents when their contracts expire. Each team can designate a "franchise player," who is the only player exempt from free agency for his career, but only if that player is offered the average of the five top salaries at his position.

First used in the National Basketball Association, the salary cap arrangement in football provides that players get a minimum of 58 percent of designated gross revenue in salary guarantees. The cap, which went into effect in 1994, was initially set at 64 percent (meaning that teams spend no more than 64% of their revenues on salaries). The cap dropped to 63 percent in 1995 and to 62 percent in 1996 where it remained for the duration of the agreement.

These features are a major breakthrough for the parties. Each side gets something significant in a *quid pro quo*. The new agreement ushered in a period of stability unprecedented in recent years. Neither party has been completely satisfied with the arrangements. But, judging from how they have worked together to resolve problems under the new agreement so far, a working harmony can be seen that bespeaks a quantum leap forward in labor-management relations.

More than was initially realized, the contractual changes have caused interesting alterations in the economics of the game. An example is provided by the two new teams that came into the league in 1994, as a result of the collective bargaining agreement. The Jacksonville Jaguars and Carolina Panthers have altered

economics with their new stadiums, aggressive pursuit of free agents, and success on the field. They have forced the established teams to adopt new strategies for competing.

Free Agency

There are several reasons why one might suppose that free agency would not be as prominent in football as it is in basketball and baseball. One is that there is less incentive for a team to sign a free agent because gate receipts in the NFL are divided 60 percent for the home team and 40 percent for the visitors. This is different from baseball where, depending on the American or National league, the home team gets to keep 85 to 90 percent of its gate receipts, and in basketball and hockey, where all gate receipts go to the home team. The economic advantage to a home team in football is therefore much less from signing a free agent [7].

Second, the national television revenues from football are divided equally among teams, so there is less incentive to put a winning team on the field. Win or lose, the division of television revenues is the same. Moreover, there are no local television revenues to football teams, unlike the other sports, so a revenue advantage does not accrue to football teams in big-market locations.

On the other hand, there is a powerful incentive to sign free agents: owners' egos. While there are tax advantages to owning teams and franchise values have increased steadily, wealthy individuals and corporations have abundant investment opportunities for their money that provide an even higher rate of return than ownership of a football team. Owners may be driven by the financial investment factor, but most acquire their teams because they confer status. Owners of teams are frequently mentioned in the print and broadcast media. Some, like Jerry Jones of the Dallas Cowboys, become celebrities far better known for their team ownership than the businesses from which they obtained their wealth.

There is a strong competition factor. Ego driven, owners want to win, especially to achieve the prize plum offered in any sport: appearance in the Super Bowl. With the biggest rosters of any sport (45, compared to 25 for baseball and 12 for basketball), one player may not have as much impact as in the other sports. Also, the emphasis on team play in football provides less opportunity for an individual superstar to dominate. But the desire to win is powerful and often negates rational thinking. Free agents may not pan out, but a team that needs a quarterback or a defensive end can have a fairly high assurance that a veteran free agent can step in and contribute. Rookies acquired through the draft may take longer to develop their play at high levels. There is also a bonanza of free media publicity that accompanies the signing of a free agent, which stimulates gate receipts and makes luxury boxes easier to sell.

In years past NFL teams had waiting lists of thousands of people eager to buy season tickets, and long lines seeking tickets for individual games. Some teams still do. But league expansion and, more importantly, alternatives from other

sports have taken some of the bloom off the rose. There has been an explosion of sports franchises in recent years that compete with football for at least part of the season, particularly in baseball, basketball (2 new women's leagues), hockey, and soccer. There is more television coverage today, especially on cable, as an alternative to attending live events. Thus, fans have more ways to spend their entertainment dollars on sports. This puts a premium on fielding an attractive football team, and free-agent signings may help accomplish this. Both Jacksonville and Carolina had considerable success in rising rapidly to prominence through free-agent signings.

Football owners have therefore fallen into the same trap that baseball owners bemoan. They are victims of their own passion for excellence on the field. If there is a shortage of superior free-agent quarterbacks, teams get in a bidding war that spirals salaries upward. An example of this is the signing of Neil O'Donnell by the New York Jets in 1996. O'Donnell was a good journeyman quarterback who was in the right place at the right time in leading the Pittsburgh Steelers to the Super Bowl. The Jets and other teams coveted O'Donnell because they needed a sound player at his position. He wound up getting twenty-five million dollars over five years as a free agent, including a seven-million-dollar signing bonus. This is not to say that O'Donnell may not be worth twenty-five million dollars to the Jets, but he would have gotten far less had other teams not wanted him as well. The feeding frenzy for quality free-agent players boils down to supply and demand, plus a healthy measure of owner/general manager ego and an urge to gamble. As long as industry revenues keep rising, the free agent market will stay hot.

Salary Cap

The owners had the foresight to try to protect themselves from labor costs spinning out of control by including a salary cap in the agreement. The cap also affects low-paying teams by forcing them to spend more on salaries. While free agency is a major benefit for players, operation of the cap may affect some players adversely. For instance, to sign two attractive draft choices the Indianapolis Colts had to waive seven veteran players to comply with the 1994 salary cap. Some players complain that while they have the opportunity to change teams as free agents, they are unable to get a big salary boost if teams are restricted by the cap.

In the first year of free agency 120 players changed teams [3, p. 88]. However, there was no salary cap in the first year. In the years 1994-96 when the salary cap was in effect, there were nonetheless numerous free-agency signings because the cap rose by a generous average of 8.8 percent per year [8, p. 74]. By 1997, however, most teams were at or near the cap, and when the cap rose by only 1.7 percent (to \$41.7 million, an increase of about \$701,00 per club), teams found

it difficult to maneuver in the free-agent market. Accordingly, there was a cooling off in salary offers.

The 1997 draft saw an unusual amount of trading down by clubs, giving up high draft choices for more lower choices. This is partly due to a reluctance to pay enormous salaries to highly touted rookies, many of whom haven't lived up to expectations in recent years. Prices of first-year players have risen rapidly despite an intention to pay less to rookies and more to veteran players. This is one of the provisions in the 1993 agreement, which created a rookie wage pool in addition to the per-team ceiling. The idea was to limit the amounts paid to draftees at the 1993 level, about two million dollars per team. The salary cap for rookies was scheduled to increase along with designated gross revenues, however, so the cap for rookies went up to about three million dollars in 1997. More importantly, teams began providing rookies with signing bonuses to circumvent the cap.

This points up the difference between a hard cap and a soft cap. The salary cap in basketball is soft, meaning there are exceptions that allow teams to exceed the cap, e.g., NBA teams that sign their own free agents don't have to count these salaries in the cap. The cap in the NFL was intended to be hard, meaning no exceptions, but teams have discovered how to make it soft by paying signing bonuses. A signing bonus doesn't count fully against the cap in the year it is paid. In 1996, three of the top NFL draft choices got bonuses in the \$6.6-million range, far exceeding the rookie cap [9]. The loophole places a premium on cash for paying signing bonuses. A team that pays a large amount to a player up front in cash as a signing bonus is thus able to prorate the bonus over the life of the contract for purposes of the salary cap.

A study by the NFLPA found that twenty-six of the thirty teams in the NFL spent more than the \$37.1-million cap for 1995 [10]. The Dallas Cowboys spent the most money, about \$62.2 million, which was 67 percent above the cap. According to the NFLPA figures, the Cowboys paid \$40.4 million in signing bonuses, including thirteen million dollars to Deion Sanders. The San Francisco 49ers paid out approximately \$38.1 million in 1995, including \$12.1 million in signing bonuses. The soft salary cap has allowed deep-pocket owners like Jerry Jones and Eddie DeBartolo of the 49ers to pay their players much more than originally intended by the salary cap.

The NFLPA hasn't objected to the soft cap because it is all to the players' advantage. Cash-poor teams, however, have a problem because they cannot afford to pay the big signing bonuses. This, in turn, has increased the pressure to build new stadiums to generate large amounts of cash from luxury boxes and club seats.

The salary cap disparity problem could exist for a longer time than anticipated because in late 1996 the owners and players' union announced an extension of the collective bargaining agreement through the 2002 season. One year was added to the current contract, which was to have expired after the 1999 season, plus the

option for two more years. The salary cap will not apply to the 2002 season if that option is exercised.

There is probably no more clear sign of the working harmony spirit that has infused the NFL and NFLPA than the contract extension. It indicates that both sides are pleased with the way the agreement was working out and have abandoned the armed truce posture of the past. Problems arise, but there appears to be in place an agreement and new set of attitudes among participants that emphasizes solving problems rather than fighting over them.

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ENDNOTES

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