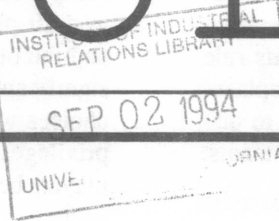


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THE ROLE OF THE NFLPA IN PRO FOOTBALL'S SALARY DETERMINATION

by *Jean Hamilton*

Troy Aikman, rookie quarterback from UCLA, received a \$11 million, six-year contract in 1988 from the Dallas Cowboys. This contract made Aikman one of the five highest-paid players in the National Football League (NFL).

Aikman's \$1.85 million a year salary was not the result of a collective bargaining agreement between the NFL and the National Football League Players' Association (NFLPA). Instead, Aikman obtained the services of a sports agent to negotiate the contract.

The existence of both individual wage negotiations and collective bargaining in professional football, as well as the other major professional team sports, is one of the unique features of labor relations in this industry. The aim of this article is to explore the role of the union in determining salaries, look at developments over time, and discuss future trends.

The Union and Salary Determination

The NFLPA can affect players' salaries and other compensation directly by bargaining over minimum salary levels, pension benefits, and play-off money. The union is able to affect salaries indirectly as well. It does so through its negotiation with the League on player mobility. The player who is free to switch teams and sell his services to the highest bidder will obtain his highest possible salary.

The NFL is a cartel; that is to say that the teams' owners belonging to the League act like monopolists and make joint decisions to maximize profits. The League decides the number of teams allowed in the league, rules for the ownership of a franchise, the rules of the game, the number of players on the roster, the draft system, and rules and compensation for player mobility. The NFL is subject to anti-trust law; however, it claims the labor exemption for restrictive practices that are a result of collective bargaining.

The League will make the most profit if it can restrict player mobility and thereby keep salaries low. How does the League restrict player mobility? A player at the end of his contract is free to negotiate with any other team; the player is a free agent. However, there are two components of the compensation that the new team will have to pay. The player requires a salary, compensation for his work, and the player's old team requires compensation for the loss of the player's services. I will call the latter component, replacement compensation. This replacement compensation is in the form of draft choices whose value is uncertain but positive. The new team cannot be guaranteed that the value of the performance of the free agent will equal the free agent's salary and the lost value of the expected performance of the draft picks; so, the new team will not be interested in the free agent. Thus, player mobility is discouraged.

If the union could negotiate a collective agreement which grants unrestricted free agency to all players, i.e., without the replacement compensation, then salaries should increase.

Historical Development

By looking at the development of labor relations in professional football, the evolution of the role of the NFLPA in salary determination can be illustrated.

The NFLPA was founded in 1956 by two Cleveland Brown players. At that time, the standard player contract included an option clause which tied a player to his team for an additional season at not less than 90% of the previous season's rate of pay. Before 1947, the year when the one-year option clause was instituted, there was a perpetual reservation clause; i.e., the player was bound to one team forever (unless the team decided to cut or trade him).

Under the one-year option system, a player became a free agent once he played out his option. The first year that a player played out his option and signed with another team was in 1962. The owners did not have a replacement compensation system in place, but quickly devised the "Rozelle Rule." This rule gave the NFL commissioner the power to decide the replacement compensation. Compensation was set at a level to discourage owners from trying to attract players from other teams.

The players and the players' association disliked the Rozelle Rule. They knew that it smothered free competition for talent and therefore kept salaries low. In 1967, the average salary was \$25,000. This was considered high compared to other sports as a result of the bidding war between the NFL and the AFL. The NFLPA could not do much because it was not yet recognized as the bargaining agent for the players. However, players brought lawsuits against the League.

Negotiations in 1968, 1970 and 1974

The NFLPA was registered as a union with the Department of Labor in 1968. The first formal negotiations took place in that year as well as the first strike-lockout, which lasted ten days. The key issues were player mobility, minimum salaries, the size of the pension fund contribution, and grievance procedures.

In 1970, when the contract expired, negotiations again came to impasse, and a 20-day strike-lockout ensued. The main issues surrounded post-season pay and pension contributions.

The union had made some gains in its first two negotiations. The average salary increased to \$35,000 in 1972. However, the NFLPA could not budge the one issue which had the greatest impact on salaries—the Rozelle Rule.

In the 1974 negotiations, the union went after the Rozelle Rule. The union and the NFL could not come to agreement so the union went on strike. The strike lasted for 42 days but failed as a result of low player and public support.

The NFLPA had in the past sought to overturn the Rozelle Rule in the courts by supporting players' lawsuits against the NFL. In 1972, John Mackey filed suit against the League charging that the Rozelle Rule violated anti-trust law. In 1976, the case was decided. The Rozelle Rule was found to be an unreasonable restraint of trade according to the Sherman Anti-Trust Act. The court found that the Rozelle Rule had been imposed on a weak union; it was not the product of bargaining between the union and the League.

Negotiations in 1977

When the union went to the negotiating table in 1977, the Mackey victory put it in a strong bargaining position. However, the union was concerned with its strength in the face of weak player solidarity during the 1974 strike. The leadership of the union decided not to pursue unrestricted free agency. The agreement reached allowed a player to become a free agent at the expiration of his contract or when he had played out his option. The player's team had the right to first refusal; i.e., the team could match the salary offer of the competing team and

retain the player. If the player's team did not exercise its right of first refusal, then the other team had to provide replacement compensation according to a formula equating the salary level to draft picks. Although the compensation rule was explicit and the outcome of negotiation, its effect was still to prevent significant player mobility because the expected value of draft choices was too high. Despite the gaining of dues checkoff privileges and concessions on grievance procedures, many players believed that the union compromised too much on free agency.

Negotiations in 1982

When the 1977 agreement expired in 1982, the union was ready to make salary improvements a top priority. The establishment of a rival football league, the United States Football League (UFL) and the NFL's new television contract, which increased the amount of money going to each team pre year from \$5.8 million to \$14.2 million, contributed to its resolve to bargain tough.

The union first demanded revenue sharing with the NFL. The union proposed that 55% of gross revenues was to be placed in a fund for players' salaries, insurance, pension, and disability payments. The distribution in salary money would be according to seniority with performance incentive bonuses. The rationale for the demand was to ensure that players received their share of television revenue increases and that the distribution of salaries would be more fair. Linemen were viewed as getting underpaid compared to other position. veteran players were often underpaid compared to rookies.

When the union could not make progress on its demand for a fixed percentage of gross revenues, it abandoned that goal but maintained its demand for a salary scale based on seniority. The union also made demands concerning free agency. All cut players were to become free agents immediately. A player would become a free agent every three years unless he voluntarily decided to stay with his team.

When the NFL rejected the demand for the salary scale, the union went out on a strike which lasted 57 days. With the threat of the whole season being cancelled, the two sides came to agreement. The NFLPA gained more money from owners—obtaining increased minimum salaries, seniority bonuses, better play-off money, severance pay based on seniority, and improved pension and insurance benefits. The average salary was \$112,967 in 1983 compared to \$90,412 in 1982. In addition, the union got the right to approve sports agents. The union, however, did not gain control over the salary determination process. The system of individualized salary negotiations remained, with the League deciding the wage distribution. The free agent replacement compensation system was modified to make it less costly for a team to sign a free agent, but the replacement compensation was still too high to permit substantial player mobility.

Negotiations in 1987

The 1982 agreement expired in 1987 and once again the key issues were free agency, pensions, and severance pay. The

concern over the share of revenue going to players was fueled by the 1987 television contract, which further increased each owner's annual share of television revenues from \$14.2 million in 1982 to \$17 million.

The NFLPA's first position on free agency was that it should be unrestricted for all players. The union later modified its demand to unrestricted free agency for players with four years seniority.

With the union and the League far apart, the union called a strike. The owners were much better prepared for the strike with a bank line of credit and strike breakers ready. After 24 days the strike was ended and the players returned to their teams with no new collective bargaining agreement.

Management unilaterally imposed new conditions of employment, including a "Plan B" frequency scheme that allows free agency to a small number of players designated by each team's owners. The union turned to the courts to resolve its disagreements with the NFL. On the day that the strike ended, the union filed a lawsuit stating that the restraints on free agency and the college draft system were in violation of anti-trust law. In 1988, a district court judge ruled that since impasse was reached in 1987, the 1982 collective bargaining agreement was not in force, and the NFL was no longer protected by the labor exemption. This ruling, however, was overturned on appeal this November. The appeal court ruled that the draft system and restraints on free agents were reasonable business practices and therefore no anti-trust violation existed.

Given this major setback, the NFLPA's current strategy is to decertify the union. This means that the association will no longer be the collective bargaining agent for the players. The association believes that decertification will prevent the League from claiming the labor exemption; thus, the restrictions on free agency will no longer be a result of collective bargaining and will be an illegal restraint of trade. Players will then be in the position to sue the NFL and obtain unrestricted free agency, or the NFL will go back to the bargaining table and offer fewer restrictions on free agency.

Future Trends

Given the recent court ruling, the future role of the NFLPA in salary determination is uncertain. If the threat of decertification is successful without the union actually decertifying and the barriers to player mobility come down, what will be the role of the union?

If unrestricted free agency is obtained, sports agents will be able to seek the highest bidder for players and so salaries should increase. The union will be able to affect salaries directly only to the extent that it bargains over minimum salaries. Not having control over the salary distribution may

turn out to be a source of conflict for the union if star players obtain large wage increases and the marginal players' salary situation worsens. A more uneven income distribution may weaken player solidarity. The average career of an NFL player is about three and a half years. The star players may not be willing to jeopardize their gains by supporting job actions to improve the salaries of non-star players. Some top players may not even be willing to strike for non-salary demands. The union needs the support of the top players if it is to have sufficient bargaining power. It is the first-string players who are hard to replace, rather than the marginal ones. In addition, the marginal players may not be keen to strike if a job action will jeopardize their chances of staying on a team.

On the positive side, once unrestricted free agency is attained, the union could focus on other issues: health and safety concerns such as the use of artificial turf, rule changes that affect working conditions, and non-salary compensation issues such as pensions and severance pay. Or most likely, the union believes it could negotiate a highly favorable contract by agreeing to relatively modest restraints in free agency.

Decertification may turn out to be unsuccessful if unrestricted free agency is not attained and the players are left without a union. It is conceivable that the salary situation could worsen in the case that the League ends up with more power to determine wages. Minimum salary levels could be eliminated, a salary scale for rookies could be established, and/or restrictions on player mobility could be tightened. Sports agents would have to negotiate non-salary compensation as well as salary. Players would have to initiate lawsuits against the NFL for the anti-trust violations. The wage distribution would be at the mercy of management and star players with strong bargaining positions. There would be no role for the union in salary determination because there would be no union.

Conclusion

The average salary for professional football players is \$302,400 in 1989. This is a great deal of money when compared to the average wage income of the average worker. However, the average salary of football players would be even higher if there were no restrictions on player mobility.

From its inception, the NFLPA has fought to increase its members' salaries in the face of a powerful league of owners. It has done so directly by negotiating increases in minimum salaries and indirectly by trying to lessen the restrictions on free agency. However, the union has not been successful in attaining unrestricted free agency for players. Most of the large increases in salary have been a result of competition for players by a rival league. In addition, current events in NFL labor relations call in to question NFLPA's future role in salary determination.

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