NHL lockout: Owners skating circles around players in labour fight

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Columnist

Now that it's got two wheels hanging over the side of the cliff, it's clear the NHLPA's approach to the lockout was doomed from the outset.

Outmanoeuvred at every point, the players miscalculated on several crucial points.

First and foremost, they have approached this as a generic labour fight. It isn't. It isn't even a sports labour fight. It's a hockey labour fight, a completely unique beast.

Instead, they've been flipping through the Workplace Negotiations 101 playbook, where labour has the advantage over management. Take an auto shutdown.

As soon as it kicks off, GM or Ford or whomever is losing big money. Their supply channel runs dry. Their competitors pick up the slack. They need to get to back to work to satisfy shareholders and analysts, who only think as far as quarterly returns.

Labour, on the other hand, can afford to suffer in the short term. Their earning window is open for decades. Small concessions mean long-term dollars. Each passing day increases the pressure on management to resolve the problem.

In the NHL, this power balance is flipped on its head.

Ownership has a monopoly on hockey. Previous lockouts have taught them that fans will return, no matter how long they're gone. In this instance, management knows that incremental gains will spin out into tens of millions of dollars saved over the coming decade.

Players are the ones who must think short term. If an average NHL career is six or seven years long, a lost season represents as much 15 per cent of their total earnings from hockey. In many cases, it accounts for far more.

It may be antithetical to the athletic mindset ('Never stop'), but no amount of variation from the 50/50 split can uniformly benefit the union membership enough to make up for that loss. That's the whole point of unions — to spread the joy and pain around equally. At this point, the NHLPA is fighting for its 1 per centers.

Nevertheless, the union has followed the auto-fight route — dig in, and then take it to the customer. They held off real bargaining until the last minute. They continue to move forward like time is their ally, though the noose has grown so tight we can see the blue in their faces from the back of the room.

The split of the money, the 'make whole' pact, the length of contracts — these are parentheticals.

There are only two issues here, the same ones that govern all negotiations: Who wants it more? Who has the leverage?

Jay Krupin is a vastly experienced labour negotiator with the Washington, D.C.-based firm of BakerHostetler. Add this to his bona fides — he's also a hockey fan. Unlike everyone involved on the players' side just now, he's also a pragmatist.

"The owners want to change the economics of hockey. They want that more than the players want to make more money. Then it becomes an issue of leverage. And the owners have the leverage."

This is what Fehr, an American with a background in that country's national pastime, cannot see. There is no pressure from below, not in the States. ESPN doesn't give a damn about this story, as they did in similar instances with the NFL, NBA and MLB. The PA's PR machine is pumping out memos no one reads. The owners know that, and the owners are all Americans.

Far more importantly, while stoppages have badly wounded baseball and, to a lesser extent, basketball, they've been an odd spur to the NHL's business. There's a pecuniary case to be made that lockouts are good for hockey. Since the league's revenue has grown to record highs in each of the years since the lost season of 2004-05, why wouldn't owners want to access that cheap stimulus package again?

This fact seems to escape Fehr. In one of his New York news conferences on Thursday, he flippantly admitted he wasn't conversant in the particulars of the previous lockout. Fehr is a man for a fight, but given how this thing has shaken out so far, he isn't well suited to this fight.

Even the weeks spent arguing over 50/50 seem pointless in retrospect. The NBA took three months to come to roughly the same revenue split. Many of those franchises share owners and/or buildings.

Knowing that recent deals are always the benchmark for new deals, why didn't the PA retrench around that number from the outset? Duking it out on 50/50 smacks of theatre. But of course, Fehr gets paid either way.

Krupin believes there was one point on which the PA might have bent ownership to its will. That advantage passed untaken five weeks ago.

"I didn't believe they'd lose the Winter Classic," Krupin says. "When they let that go, I knew they were ready to lose the season. Now that it's gone, there's really no reason to have a season."

What would you do now?

"If I was an owner, I'd hold pat."

And if you were working for the PA?

"Try to negotiate on some small issues, to save face. Take what you can and live to fight another day."

So — give in.

What we have now is the ragged end of a chess match between a master and a novice. Ownership is chasing the NHLPA's king across the board toward an inevitable end, but the union does not have the sense to retire.

Surrender isn't their best option. It's the only one they have left.

They must now be coming to a realization that should have dawned on them from the outset, that management is not only willing to lose another season, but that it's been hoping to all along.

NHL owners are all out of tricks

JEFF BLAIR

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The seed has been sown, the manure and water to be provided by the acolytes in the media that he and Bill Daly have BlackBerried into duty. Broadcast jobs are on offer, front-office positions at the ready.

It is too early to gauge the success of this latest attempt by commissioner Gary Bettman and his owners to cleave National Hockey League players from the leadership of the NHLPA. It didn't work a few pay cheques ago when ownership ran out the notion that Donald Fehr was withholding information from his constituents, but the holiday shopping season is upon us and now we will see the resolve of the NHL players.

They can turtle as they've done in the past and continue down the gelded path to becoming an ineffectual arm of the league, just like the NB Players Association and NFL Players Association. Or they can read between all that uncomfortable anger Bettman showed on Thursday in New York when he was outmanoeuvred by Fehr and the NHLPA, and realize a deal is there to be made soon, if they hold together.

Bettman gave them the path to follow: a 48-game schedule is the least he can do to give some type of integrity to a shortened season: in other words, the sides can get a season in if they get something done by mid-January. Bettman even acknowledged that this was "very tough bargaining," which an optimist would take as a realization that some place in the corner of his heart he's developed a grudging respect for his opponent.

Do not be misled by the two-month-old press releases run out by the so-called doves among the owners who met with that group of players; this is all playing out according to plan. Give the players a strong dose of Jeremy Jacobs, then bring in the kinder, gentler owners. Get the players to waste time that should have been spent decertifying by luring them into a meeting without their union chief. It might have worked, were it not for the idiot who suggested to players representative Ron Hainsey that they might want to come back without Fehr and get the deal done.

Really: who'd want their bad, old lawyers with them when they're negotiating a contract with a bunch of like-minded good guys – Burkie and Tannie and Vinny and Chipper. Someone did inform the owners that – much to their chagrin, it's to be sure – Alan Eagleson doesn't run the union any more, right?

So that's where we are: ownership still testing the players' resolve, making behind-the-scenes approaches to orchestrate a rebellion against Fehr while doing things they swore they'd never do and make changes to their last-ever, final, not-to-be-tinkered-with, best offer; players well aware that they can keep the owners chestnuts roasting on an open fire for three more weeks or so before the doomsday clock really starts ticking.

This was all so predictable when Fehr was brought in to clean up the players association: hockey's good-guy culture running smack into the ultimate outsider, someone whose legacy can't be damaged by the brief chapter in his book that will be his tenure as NHLPA chief, because nobody who counts in the U.S. much cares. And that's what really eats away at the owners and Bettman: Fehr has no skin in this game at all, beyond his legal obligations. When he's done, he'll move to a place where people will wonder where he's been the past couple of years.

In the meantime, the owners are down to the bottom of the bag of stupid owner tricks, and while hockey players were destined to give back more than they'll ever gain in collective bargaining the second they opened the door to a salary cap, they are close to the point at which they've minimized their losses as much as possible. Let's see if they have the stones to hang in against the wishes of the hockey world; let's see if they can stop being "good guys" and act all grown up.

Owners have only themselves to blame

ERIC DUHATSCHEK

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Whenever it ends – in a week or a month or a year – I am prepared, like Fox News on election day, to declare a winner in the NHL lockout without even seeing the final collective agreement.

The players will win.

The players will win because the players always win.

The players won in 1994-95, even if the consensus was they lost by surrendering to a punitive rookie salary cap and other major concessions.

The players won in 2004-05, even though the consensus was that by agreeing to a hard salary cap, they got clobbered by NHL commissioner Gary Bettman at the negotiating table.

The players will win because the minute the ink is dry on a new collective agreement, agents and general managers will find clever ways to circumvent the spirit and language of the new deal.

This is the unchanging way of the NHL world, where 30 teams annually compete for one prize. Team owners get frustrated by losing and eventually instruct the people who work for them to do whatever it takes to stop losing.

So you get a situation where, in the 1990s, the Boston Bruins discovered the loophole that killed that collective agreement. The Bruins – run by a notoriously tough bargainer, Harry Sinden – devised a complicated system of paying high-end entry-level players a series of A and B schedule bonuses that virtually quadrupled their salaries. Contracts for Sergei Samsonov and Joe Thornton became the model for other clubs to skirt a system that was supposed to keep salaries down in the early stages of every player's career.

In the 2000s, the Columbus Blue Jackets killed the entry-level system and all its prohibitive restrictions by signing Rick Nash to a second contract worth $27-million (all currency U.S.) over five years, a practice that eventually brought riches to all the top players in that category.

The Detroit Red Wings started the process of signing players to long-term contracts (Johan Franzen, Henrik Zetterberg) to mitigate the effects of their annual salary-cap charge. Others hopped on that bandwagon until the New Jersey Devils gave Ilya Kovalchuk a 17-year deal two summers ago and the NHL said enough. The league kicked the contract back on the grounds that it was a blatant attempt to circumvent the salary cap. In many respects, that contract got the league to where it is today – stuck on an issue, contract length, that threatens to undermine the 2012-13 season.

The point is this: Whatever language Bettman and deputy commissioner Bill Daly come up with in the next collective agreement, whatever restrictions they impose, whatever they do to regulate a system designed to keep the playing field relatively even, it won't matter.

Teams will find a way to get around them. They always have. They always will.

That's not going to stop Bettman and Daly from trying to plug the most costly and egregious loopholes. It's simply their way of trying to protect the owners from themselves, and the main reason Daly described contract term limits as "the hill we will die on" as negotiations ground to a halt again.

Long-term deals were a here-and-now style of contract that gained popularity over the past two summers and resulted in some curious imbalances – Christian Ehrhoff earning $12-million last year from the Buffalo Sabres, James Wisniewski earning $7-million from the Columbus Blue Jackets. If the NHL were playing this season, the second-highest paid player in the game (tied with three others) would be Sabres defenceman Tyler Myers, because the first year of a seven-year, $38.7-million contract is valued at $12-million.

The league saw how this practice of front-loading long-term contracts evolved in the past 24 months, how it skewed NHL payrolls, and wants it stopped.

In the end, though, all Daly can do is play the part of the Little Dutch Boy in these negotiations. He can plug all the holes in the dam gushing out cash to the players, but he can't anticipate where the next crack may develop, or how costly it will eventually be.

When the witching hour does finally arrive, some time after Jan. 15, there will be one more push for a deal, likely in private, likely between Daly and Steve Fehr, the No. 2 man in the National Hockey League Players' Association. Then it'll be a flip of the coin. It'll be 50-50. It could go either way. Deal or no deal.

In 1994-95, the two sides settled and played a moderately interesting 48-game season. It wasn't a perfect agreement, but the two sides salvaged 60 per cent of salaries and revenues, plus an undetermined amount of goodwill.

In 2004-05, the opposite occurred. The two sides failed to come to an agreement and a full year of salaries and revenues was lost.

Either way, the outcome will be unchanged. The players win. No matter how many Band-Aids the owners may slap on a new collective agreement, they'll start spending like a Kardashian at Christmas as soon as they get the green light.

And that's a prediction you can take to the bank.

Who Are The Losers (And Winners) From The NHL Lockout?

November 15, 2012

The NHL player lock-out is now heading into its third month. More than $250 million in possible revenue has been foregone by the industry as the parties continue to squabble about the transition from the existing system to a new one. So who are the biggest losers? And was anyone a winner?

To begin, and perhaps surprisingly, the lock-out will have limited negative impact on overall GDP in Canada, the US and most of the cities and regions hosting NHL franchises. Here, it is important to separate the immediate financial impacts from the larger economic impacts. No doubt, there will be financial losses from the lock-out for the league and its stakeholders—the owners and their franchises, the players, and all of the leagues' various suppliers. But there will not be much of an impact for the entire economy.

Why? Because the money that would have been spent by consumers on NHL games, either directly via ticket purchases or indirectly through the purchase of related services, will largely be re-directed to other forms of consumption in the economy. There will be some "leakages" from this reallocation—like season ticket holders who don't seek a return of their payments already made. (The Ottawa Senators are paying me 5 per cent annual interest on such funds, to "buy" my loyalty as a Sens fan, so they have kept my money.)

But overall, for every financial loser, there is likely another business winner that is experiencing increased sales as consumers redirect their purchasing power away from the NHL and its suppliers during the lock-out.

So beyond the fans, who have lost the opportunity to see top-notch hockey, who are the financial losers? First, the players, who are giving up an ever-growing portion of their pay this year as the lock-out drags on. The more a player makes, the more they will lose, with no guarantee of ever making it up. Some older players are certain to be displaced after the lock-out by younger and cheaper talent, so they will be permanent losers. And of course, the players will have to live with what will likely be a 50-50 split in future NHL hockey-related revenues, once an agreement is reached and play begins again.

Owners of profitable franchises are the next set of losers. This group includes nearly all of the Canadian NHL teams, according to NHL business data produced by Forbes. The Leafs, Habs and Canucks are the Canadian teams that make the largest profits, and are therefore the biggest losers in the short-term. They and the other Canadian teams will have a chance to make this money back in future years under a new revenue-sharing formula that favours the owners, since Canadian fans will inevitably return and demand for tickets exceeds the available supply in many Canadian markets. However, in the near term the negative financial impact of the lock-out will be flowing directly to the bottom line of Canada's NHL teams.

For the half of NHL franchises that apparently lose money, according to the Forbes numbers, the lock-out could reduce their losses and even allow them to operate profitably down the road. They could thus become winners from the lock-out—which is the entire point of the exercise.

However, that result is subject to two important conditions: the expected roll-back in the players' share of revenues to 50 per cent is sufficient to bring these teams' operating costs into line with potential revenues; and, their disgruntled ticket-buying fans, corporate supporters and advertisers actually return to future games. The longer the lockout drags on, the more likely that at least some (US) fans will not return.

Mass media that broadcast games, led by TSN, RDS, CBC and NBC are also financial losers, since they are not getting the additional advertising revenue from NHL games they expect when compared to their normal programming. In some cases, there may be make-whole clauses in their contracts with the NHL, which requires the league to supply an equivalent number of games at the current

contract price to replace those that were lost. For NBC, this means the owners would have to wait for the benefits of a larger future contract, which jumps from $200 million annually to $350 million—costing the league and owners more lost revenue today.

And then there are all the league's suppliers of labour and services—team and league employees, including game officials, staff in the arenas, restaurants and bars frequented by fans, air services, hotels and restaurants used by teams for away games, parking and other ground transportation to the game, suppliers of team sweaters and caps, etc etc. Again, few of these suppliers will ever fully replace the income lost.

Finally, there are some clear winners, as noted earlier—the many businesses that are capturing the reallocated spending by consumers. Various forms of entertainment in particular will likely see a bump in revenue, including other hockey leagues like the AHL and CHL.

There may also be broader impacts on society, since NHL fans now have more discretionary leisure time to spend on other activities. Whether this increased leisure time will have an impact on general levels of fitness, or even on alcohol consumption is hard to predict.

The conclusion? The GDP impact of the NHL lock-out will not be significant, since many consumers of hockey will simply shift their discretionary leisure dollars, and time, away from NHL hockey and spend it elsewhere. But like so many other industrial relations disputes, almost everyone connected to the NHL will be a net financial loser in the near term, and many will likely be losers for years to come.

Profit by NHL Team 2011
(millions $)

Rank	Team	Profit	Rank	Team	Profit	Rank	Team	Profit
1	Toronto Maple Leafs	81.8	11	Boston Bruins	2.7	21	New Jersey Devils	−6.1
2	Montreal Canadiens	47.7	12	Calgary Flames	1.1	22	Florida Panthers	−7.0
3	New York Rangers	41.4	13	Pittsburgh Penguins	−0.2	23	Nashville Predators	−7.5
4	Vancouver Canucks	23.5	14	Dallas Stars	−1.1	24	Washington Capitals	−7.5
5	Edmonton Oilers	17.3	15	Los Angeles Kings	−2	25	San Jose Sharks	−7.8
6	Detroit Red Wings	16.3	16	St Louis Blues	−2.7	26	New York Islanders	−8.1
7	Chicago Blackhawks	8.7	17	Carolina Hurricanes	−4.4	27	Anaheim Ducks	−8.4
8	Colorado Avalanche	6.1	18	Winnipeg Jets	−5.2	28	Tampa Bay Lightning	−8.5
9	Philadelphia Flyers	3.2	19	Buffalo Sabres	−5.6	29	Columbus Blue Jackets	−13.7
10	Ottawa Senators	2.8	20	Minnesota Wild	−5.9	30	Phoenix Coyotes	−24.4

Source: Forbes.