

Labor Relations in the NBA:
The Analysis of Labor Conflicts Between
Owners, Players, and Management from 1998-2006

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This study is focused on the evolution of the National Basketball Association between 1998 and 2006, primarily the relationships between owners, players, and management in this time period. More specifically, this study assesses the changing working conditions of NBA players during this time period, and how the actions of owners, players, and management have reduced and restricted the earning potential of NBA players.

In 1998, the NBA underwent its largest labor conflict in its recent history. The owners decided to suspend competition to enforce a new collective bargaining agreement in the NBA. Owners saw that players' salaries were being paid at too high of an expense to teams' revenues, and that this increasing percentage would hurt NBA franchises. The relationship between owners/management and players reflects the mindset of business owners in capitalism, as the capitalist's aim for profitability conflicts at times with the comfort of the laborers they employ. This conflict is shown through the Lockout, as well as other labor conflicts displayed in this study. Players were unhappy with the lockout, and felt that it had social implications as well as financial implications. Some players alluded to their race as a large influence on the enactment of the lockout. As the majority of players in the NBA are African-American (73%), and the majority of owners (1 African-American owner out of 31 teams) and NBA management are white, race was an extremely important variable to consider in evaluating labor relations between the parties¹.

Since the Lockout in 1998, players have faced many new policies that have sought to improve the marketability of the league. The player's off-court behavior has

¹ Statistics from The 2005-06 Season Racial and Gender Report Card: National Basketball Association, Richard Lapchick, June 7, 2006 (http://www.bus.ucf.edu/sport/public/downloads/2005_racial_gender_report_card_NBA.pdf)

faced new regulations. The players received a new dress code last season, which pertains to what players wear as they head towards and leave games, and are also required to perform more community service, in the aftermath of a brawl during a Pistons-Pacers game in the 2004-2005 season that severely damaged the image of the NBA. The dress code caused controversy among the league's players and the media, as it equated the casual attire of players to unprofessional behavior, and the lockout caused many fans to criticize the greed of both players and owners. In addition, in the 2006-2007 Season, NBA management has given referees more leeway to give out technical fouls to its players during a game, citing that players protested calls to a degree that disrupted the flow and entertainment value of the game. NBA management often implements controversial policies because they assert that the league stands to lose money if its image becomes tarnished. However, players felt that these policies only served to reinforce the notion in the public that players are uncivilized, aggressive and violent. This study will assess the effectiveness of these policies in improving the NBA's image and marketability, as well as the impact of these policies on the players' relationship with owners and management. This study will also assess whether NBA management is accurate in their claims of players potentially damaging the league's image, and what the league's image consists of.

These rule changes have also encompassed competitive aspects of the game. For example, hand-checking has been enforced to a greater degree since the 2005-2006 season, the NBA has increased its enforcement of offensive fouls during the 2006-2007 season, and during the 2006-2007 season, the NBA has introduced a new official basketball to be used league-wide. These rule changes were controversial, and

highlighted conflicts of interest between players and owners. The league instituted these rule changes to give players more offensive freedom, increase offensive performance, and make the game more entertaining for fans, thus increasing the league's profitability. However, players were forced to adjust their offensive and defensive skills to these rules, and some players felt that these adjustments impeded them from performing at a high level. This study will observe player perspectives on these moves, and attempt to determine what effect these policies have had on the ability of NBA players to earn salaries based on merit and playing ability, as well as the impact of these rule changes on the NBA's image.

The league also introduced an age limit last season, in which players are only eligible to be drafted in the league if they are 19 years old or over, or have played 1 year of NCAA basketball. The age limit was formed in response to claims that the league was becoming weaker and less competitive because of the influx of younger players. NBA management felt that, in the eyes of its league's fans, the quality of the game was suffering because of high school NBA draft entrants. Thus, NBA management worried that the potential for fans to lose interest in the game, and for the NBA to experience decreased television ratings and attendance, was increasing. This has led to dramatic changes in the composition of NBA teams, as potential NBA superstars and "lottery" (top 13) draft picks such as Greg Oden, Bill Walker, Kevin Durant, OJ Mayo, Josh McRoberts, Spencer Hawes, Thaddeus Young, Hasheem Thabeet, Brandan Wright, and Mike Beasley have had to forego NBA salaries directly out of high school to enroll in college for a year. The social relevance, as well as the legality of, this move have been highly debated, and will be examined in this study. The age limit is an important part of

today's collective bargaining relationship between owners and players, and this study will reveal the significance of this dynamic to the league at large.

While the policies of owners and management are crucial to determining the working conditions and salaries of NBA players, this study will also examine the perspectives of players in the NBA. In cases such as the Lockout, the introduction of the new official basketball, and the Age Limit, the player's union either did not strongly contest, or did not attempt to contest, proposed policies by owners and management. In these cases, players appeared to have strong inclinations to stand against the policies, as well as a credible legal defense. This study will observe social theory, as well as player accounts, as an attempt to explain how players feel about their working conditions and salaries, and why players have not defended their workers rights more actively.

The state of the relationship between owners/management and NBA players is complex, and the profitability of the league, perceptions of NBA fans at large, the racial and social divide between players and owners/management and the media, and the actions of NBA players influence the working climate in the NBA for players. This study will work to determine how effective NBA players are in maximizing their earning potential, as well as whether NBA management and owners propose policies that are successful at creating profitability and a stronger image for the league, in spite of the potential of alienating NBA players from their work.

Introduction

Financial States of Players and Owners post-1998 NBA Lockout

Teams in the NBA have generally been successful at generating profits in since the 1998 NBA Lockout. At the end of the 2005-2006 NBA Season, most teams in the NBA had increased their value from the previous year. Out of 30 teams, only 1, the

Charlotte Bobcats, lost value from the previous season (\$8 million). 29 out of 30 teams increased their value, while 13 out of 30 teams increased their team value by \$10 million or more². Only 7 teams had a negative operating income, and only 11 teams generated revenue below \$100 million dollars. Every team was valued at \$230 million or above, while 20 teams were valued at \$308 million or above³. Excluding the Charlotte Bobcats, an expansion franchise added in 2005, 23 out of 29 teams have doubled in value between 1998 and 2006⁴. The NBA has also seen expansion in its television deals, with larger network and cable deals (6 year, \$2.4 billion deal with ABC/ESPN in 2002⁵), as well as rising attendance figures (Teams fill up 89% of their capacity for the season on average⁶). These statistics show the growth and profitability of the NBA between 1998 and 2006, which can be credited to the shrewd decision-making of NBA management, as well as the patience and foresight of NBA owners. NBA owners consistently show perseverance during periods of short-term losses, and benefit in the long term by seeing their team's value increase. This strategy is shown by Kevin Miller, owner of the Utah Jazz, who has not been profitable over the past 2 years:

"Jazz owner Larry Miller acknowledged to The Salt Lake Tribune that the club has lost nearly \$25 million over the past two seasons..."We're losing ... blow-your-mind numbers," he said. "Being competitive on the floor is important to us, and we believe we're headed in the right direction. You have to be smart about it, and I think we have been ... (the losses are) something we were prepared for." In a nutshell, that is how to run an NBA franchise... In the Stockton-Malone glory days of long, lucrative playoff runs, Miller banked millions, knowing he would have draft-lottery seasons. He also is the principal owner of the Jazz's home building, the Delta Center, and uses the revenue from more than 200 event-days to fill in his income statements when the Jazz stumble... Miller knows that the club he bought for \$20 million is now worth at least \$300 million." Sonics should look to the Jazz, Art Thiel, May 15, 2006 (http://seattlepi.nwsource.com/thiel/270202_thiel15.html)

NBA players have received benefits from the growth of the NBA as well.

Because of the NBA's growth, the salary cap has gotten larger every year. 17 of the

² NBA Team Valuations, Forbes.com, (http://www.forbes.com/lists/2006/32/biz_06nba_NBA-Team-Valuations_Rank.html)

³ Ibid #2

⁴ Ibid #2,3

⁵ NBA TV Ratings, Wikipedia (http://en.wikipedia.org/wiki/NBA_TV_ratings)

⁶ Ibid #2,3,4

above mention 29 teams have had their player expenses double between 1998-2006⁷. Average player salaries have risen from \$3 million during the 1998-1999 season to \$5.2 million during the 2006-2007 season⁸. Most importantly, the salary cap has risen from \$30 million to \$53.1 million between these seasons⁹. The salary cap determines the amount of players a team can sign, and the amount of money a player can make. Policies in collective bargaining agreements geared around keeping teams below the salary cap create some opportunities for players to make money. For example, players have benefited from the introduction of the “amnesty clause”, introduced in the 2005 Collective Bargaining Agreement. This clause allows teams to waive one of their players, in order to keep most of this player’s salary from counting against the salary cap. However, the team still pays this player’s salary. This was created so that more teams can keep themselves from exceeding the salary cap and paying a “luxury tax”, which occurs when teams exceed the NBA’s yearly “tax level”, and which consists of the amount the tax level is exceed by. As a side effect though, the clause gives free agents more options and teams to consider, and allows players to be paid two contracts by two different teams in the same year. Notable beneficiaries of this clause include Eddie Jones, the 17th highest paid player in the league during the 2006-2007 season, making \$15,680,000, Jalen Rose (15th, \$16,040,000), Brian Grant, (11th, \$17,370,625), Chris Webber (5th, \$18,307,008), and Michael Finley (3rd, \$20,154, 625)¹⁰. Other salary cap policies that create chances for players to make money include the mid-level exception¹¹ and the \$1 million exception.¹²

⁷ Ibid #2,3,4,6

⁸ NBA Salary Cap, Wikipedia (http://en.wikipedia.org/wiki/NBA_Salary_Cap)

⁹ Ibid #2,3,4,6,7

¹⁰ HoopsHype-NBA Salaries, <http://www.hoopshype.com/salaries.htm>

¹¹ “A team is allowed to sign a player to a contract equal to the average NBA salary, even if the team is over the salary cap already, or if the signing would put them over the cap”; Ibid #8,

The NBA's increased popularity has also led to players raking in more endorsement money, with the most notable player being LeBron James, who signed a 7-year, \$90 million deal with Nike¹³, as well as deals with Powerade, Coca-Cola, Upper Deck, and Bubblicious that pushed his earnings to around \$100 million before he had played an NBA game¹⁴, and allowed him to make \$35 million in endorsements in his first year in the league¹⁵. Kobe Bryant (\$12 million in 2004¹⁶), Carmelo Anthony, Kevin Garnett (\$7 million in 2004¹⁷), Shaquille O'Neal (\$14 million in 2004¹⁸), and Allen Iverson are among other NBA stars who have amassed lucrative endorsement deals during this time period.

State of Collective Bargaining in the NBA post-1998 NBA Lockout

While NBA owners and players have strongly benefited from the NBA's growing popularity and profitability, players have still lost opportunities to make even more money in recent years, as revised collective bargaining agreements have established limitations on the salary cap, the age of NBA Draft entrants, and rookie salaries (a rookie "wage scale" was enacted in 1995). The combination of a player's union uninterested in defending the rights of future players, the power of NBA management in comparison to the player's union, and the lack of support players receive from fans and courts have allowed NBA management to dominate policy-making with little to no contestation. Even some of the aforementioned players who generate a significant amount of endorsement

¹² "The bi-annual exception may be used to sign any free agent to a contract starting at \$1.672 million in 2005-06, but cannot be used two years in a row (and if the \$1 million exception was used in 2004-05, the bi-annual exception cannot be used in 2005-06)." Ibid #10

¹³ LeBron James hits jackpot with endorsement deals, May 22, 2003, USA Today (http://www.usatoday.com/sports/basketball/draft/2003-05-22-james-deals_x.htm)

¹⁴ Illegal Defense: The Irrational Economics of Banning High School Players from the NBA Draft, Michael McCann, (http://papers.ssrn.com/sol3/papers.cfm?abstract_id=567745)

¹⁵ Telling Fortunes: Not all athletes on SI's Fortunate 50 list are created equal, Pete McEntegart, Sports Illustrated, May 14, 2004 (http://sportsillustrated.cnn.com/2004/writers/pete_mcentegart/05/14/money.list/)

¹⁶ Ibid #15,

¹⁷ Ibid #15,16

¹⁸ Ibid #15,16,17

income are limited by the NBA's power, as they cannot advertise their companies during televised NBA events if they are not official endorsers for the NBA¹⁹. As explained by Michael McCann, author of the article The Reckless Pursuit of Dominion: A Situational Analysis of the NBA and Diminishing Player Autonomy, policies proposed by NBA management are products of unequal collective bargaining, and are readily accepted by the public as legally and morally sound:

“Only those *without* a seat at the bargaining table were adversely affected by the rookie wage scale, and acquiescence to a maximum salary provision arose only after a league-imposed lock out. Despite reflecting unequal bargaining power for all NBA players and an absence of any bargaining power for those players not yet in the NBA, collectively-bargained rules tend to receive automatic, almost reflexive endorsement by courts and much of the public.” The Reckless Pursuit of Dominion: A Situational Analysis of the NBA and Diminishing Player Autonomy, Michael McCann, (http://papers.ssrn.com/sol3/papers.cfm?abstract_id=878611)

Why haven't players contested changes to their worker's rights more strongly and efficiently? One reason is that players are more concerned with rule changes that affect their salaries than changes that affect the salaries of future NBA players. Players become complacent with the money they make, and are not determined to increase their market value, regardless of their understanding that policies such as the Larry Bird rule, and unlimited rookie wages, existed in previous years. This is because players make dramatically more in the NBA than they do as amateurs at the high-school or college levels, and are in awe of how much money they are making to begin with²⁰:

¹⁹ “Adidas signed an 11-year deal with the National Basketball Association on Tuesday (April 11) to become the league's official outfitter of uniforms and apparel... Adidas' licensing agreement is presumably worth about \$400 million over the 11-year period.” Adidas Signs 11-Year Deal With NBA to Become League's Official Uniform Provider, Mark Lelinwalla, April 12, 2006 (http://www.vibe.com/news/news_headlines/2006/04/adidas_signs_11_year_deal_with_nba_to_become_leagues_official/)

²⁰ “Nuggets forward Carmelo Anthony felt like a kid when he joined the NBA in 2003 and was told the per diem amount. “It's kind of like allowance,” he said. “One-hundred dollars a day. That's crazy.”...A lot has changed in a year for Rockets rookie forward Steve Novak. He played last season for Marquette. “We got a \$110 check every two weeks,” he said. “That's about the same as we get in the NBA for one day.” NBA players cash in on daily allowance of \$106 during trips, Chris Tomasson, Rocky Mountain news, March 18,2007, (http://www.rockymountainnews.com/drmn/nba/article/0,2777,DRMN_23922_5427887,00.html)

In addition, the perceptions and biases of fans, the appearance of “collective-bargaining”, and the monopolistic nature of the NBA²¹ combine to convince players to bend to the will of NBA management. Through contestation of labor rights, NBA players risk angering fans and owners while losing a viable source of income, and thus their existing complacency with their salaries would only have to be appealed to in order to end their contestation attempts. These reasons were evident in the stance of players towards the age limit, as players were not strongly motivated to defend the rights of high school players to enter the league. Players were not unified in concern with defending rights of future NBA players, and if this case were to occur, NBA management would be confident that it could appease players enough in other ways to pass this policy:

"High school players are not even members of the NBPA, let alone influential ones. Therefore, to animate a requisite number of NBPA members, a feasible movement to decertify the NBPA would likely require the leadership of prominent NBPA members. To add credibility to the movement, it stands to reason that influential NBA players who joined the NBA right out of high school, such as Kobe Bryant or Kevin Garnett, would be particularly persuasive leaders. In any event, to realistically gain the support of a majority of NBPA members, the decertification movement would have to couple its opposition to a ban on high school players with opposition to proposed provisions of greater dissatisfaction to existing members. In other words, it seems extremely unlikely the NBPA would implode solely over an issue of no consequence to current NBPA members, particularly if the NBA makes concessions in other areas. As a result, a viable decertification effort would require a confluence of contentious labor conditions, rather than concern limited to high school players' access to the NBA Draft." (Illegal Defense: The Irrational Economics of Banning High School Players from the NBA Draft, Michael McCann, (http://papers.ssrn.com/sol3/papers.cfm?abstract_id=567745))

Since the 1998 NBA Lockout, NBA Management has dominated the collective bargaining process of determining the working conditions of NBA players. The power of NBA management, the lack of options for NBA players to make similar amounts of money elsewhere, and the amount of money players *have* been able to make in recent years, have not only forced players to sacrifice profit-making opportunities for themselves, but also made them somewhat apathetic towards losing these opportunities.

²¹ “Indeed, locked-out NBA players endure intense pressure to capitulate to league demands, particularly given the absence of viably-alternative basketball leagues. That is, the situation they encounter may distort their decision-making in ways that yield undesired “choices.” The Reckless Pursuit of Dominion: A Situational Analysis of the NBA and Diminishing Player Autonomy, Michael McCann, (http://papers.ssrn.com/sol3/papers.cfm?abstract_id=878611)

Conclusion

NBA management's domination of the collective bargaining relationship has led to league management making decisions with little or no input from players, and limiting the potential of players to maximize their market value. The growing alienation of NBA players from their work, which stems from the NBA's imbalanced collective bargaining relationship, is heavily influenced by the racial composition of the league, owners, NBA management, and the NBA's fans. This scenario poses a threat to the long-term ability of the NBA to continue to maximize its profitability.

The Lockout

The current state of labor relations in the NBA is greatly influenced by the events inside of the NBA Lockout in 1998. During this time, NBA players and owners were in a state of conflict over the state of player salaries. NBA owners voted on a "lockout" of the players, as this option was provided under the league's labor contract at the time. The owners feared that escalating player salaries were working to reduce the profitability of basketball teams and the league itself. NBA players felt that they had to protect their

current and future earnings, as well as specific worker's rights inside of the previous labor agreement, and they unionized to contest the owners' angling for a new labor contract:

“Under the players' pact of the time, players were guaranteed at least 48% of "basketball-related income" that would arise from league activities. However, that same pact gave owners the option to re-open discussions if more than 51.7% of revenues went into paying salaries. Following the 1997-1998 season, when player salaries amounted to approximately one billion of the 1.74 billion dollars in revenues (57.2% of basketball-related income), the owners, by a 27-2 margin, decided to negotiate a new pact.” (Conflict, Alienation, and the National Basketball Association Lockout of 1998: A Labor-relations Perspective, Timothy Kennerly, <http://www.ncsociology.org/himes2002.htm>)

The working environment of the NBA made the labor conflict more complex than simply a dispute over player salaries. The racial composition of NBA players and owners, the career length differences, wage gaps between players of different races and level of experience, earning potential outside of basketball for NBA players, the relationship of league management to the players and owners, and the public image of the players and owners resulting from the lockout, had an impact on the process and outcome of the NBA Lockout. The NBA Lockout helped to shape labor relations between players, owners and management in the NBA for years to come, as it reestablished the power of the owners and league management over player earnings and labor, highlighted the racial and social divides between players and owners, thus isolating each group from one another and solidifying each union, and ensured that the security and comfort of NBA workers would be devalued to maintain the profitability of the league for the foreseeable future.

Player's Perspective

The Lockout forced NBA players to fight to retain worker's rights that dictated the increasing level of income that the players were generating. At the time, a lack of a league-wide, hard salary cap, and maximum salary regulations allowed players to sell their services to the highest bidding NBA team. Because of growing league revenue, decisions of individual owners that changed the market for players (i.e. Michael Jordan's

one-year deal in 1997, as explained below) and a lightly restricted market, owners were in a cycle of paying higher salaries to free agents as the years moved on. Players were generating more basketball-related income than ever, and enjoyed contractual freedom that allowed them to maximize their income. Principal among these contractual freedoms was the “Larry Bird exception”, which allowed teams to resign their own free agents without a cap placed on their salary²². Opposing teams in free agency could not exceed contractual offers made by original teams, but were allowed to match these offers. This rule among others created a climate for NBA players that was desirable, and made NBA players feel justified in fighting potential losses of rights that allowed players to capitalize on their marketplace.

In addition to the potential loss of worker’s rights and income for the future, NBA players were heavily affected by the immediate loss of income that came from the Lockout’s 30-game interruption of the 1998-1999 Season. NBA players, whose career length averages 4.42 years²³, and whose minimum salary is well below \$1 million, were worried not only about the losses they incurred from the lockout, but whether the new bargaining agreement would allow them to recoup these losses. Marginal NBA players and NBA hopefuls lost opportunities to audition for and solidify NBA jobs, and at the time, were left in limbo wondering if they would even receive the chance to play out a

²² “An issue that became extremely important was the “Larry Bird exception,” which allowed players to stay with their original team and not have a cap placed on their salary. This clause enabled players to remain with the same team for their entire career (if they chose to do so), and still be compensated at a rate equal to what other teams would be willing to pay them, regardless of the present team salary cap. Furthermore, the players looked to protect a fair share of all basketball-related revenues and maintain a high salary cap, so as to protect their current salaries as well.” (Conflict, Alienation, and the National Basketball Association Lockout of 1998: A Labor-relations Perspective, Timothy Kennery, <http://www.ncsociology.org/himes2002.htm>)

²³ Statistic from RPIRatings.com, Where the NBA Players Come From, (<http://www.rpiratings.com/NBA.html>)

season. This situation made the NBA Lockout a potentially crippling financial blow to NBA players at the time of its enactment.²⁴

NBA players felt that the Lockout would create a more uncomfortable working environment for the foreseeable future, and force players to lose rights and privileges that would allow them to maintain the level of income they were already enjoying. This predicament, combined with the players' suffering image in the eyes of fans because of the lockout, and the large racial disparity between players and owners, made players feel alienated from their occupation, and made players angry at the owners for performing the Lockout.

Owners' Perspective

The owners enacted the NBA Lockout in order to adjust their position inside the NBA's collective bargaining agreement. The collective bargaining agreement allowed the owners to contest the amount of basketball-related income they distributed to players if this amount exceeded a certain percentage of revenues (51.7%), as explained above. The owners decided to enact the lockout not only because this percentage was exceeded by a wide margin, but also because this percentage was projected to increase in the years to come. This percentage limited potential profit gains that the owners could derive from the NBA's greatly increasing revenue:

“At the time, with revenues expected to reach two billion dollars and salaries expected to be approximately 61% of basketball-related income, the owners saw this change as worthy of locking out the players... This increase in league revenues was partially due to a 140% increase in television-related revenue, as shown by NBC's and Turner Sports' 4-year contracts combining for 2.65 billion dollars... Despite these increases in revenues, though, league profits were falling overall. Reaching a peak of \$195 million in the 1992-1993 season, overall profits for the league fell for five consecutive years, ultimately resulting in a loss of 44 million dollars in the 1997-1998 season, upon which the lockout was called” (Conflict, Alienation, and the National Basketball Association Lockout of 1998: A Labor-relations Perspective, Timothy Kennery, <http://www.ncsociology.org/himes2002.htm>)

²⁴ “For the majority of NBA players, an annual salary of tens of millions of dollars is simply not the norm. With an average salary of \$2.4 million but a minimum salary of \$272,000, the NBA wage gap is rather large... For many of these players, the lockout resulted in major financial losses that could not simply be offset by previous savings. A large amount of these players... will never make a million dollars over their short-lived NBA career.” Ibid#22

To combat the present and potential future loss of profit, the owners intended to enforce a rigid salary cap, eliminate the “Larry Bird exception”, and through these measures, to reduce the percentage of basketball-related revenue that players earn.

The NBA Lockout of 1998 was a contestation of labor rights between players and owners. Players were impacted financially by the immediate loss of income, and the future threat of losing more income, in addition to the social impact of the lockout (social differences with owners, negative image generated with fans, etc.). On the other hand, owners felt that they needed to “lockout” the players in order to regain profitability and authority over their labor, and alienated their laborers and NBA fans, and incurred immediate losses of revenue and profit (30 games), to achieve this end.

Racial and Social Differences

The racial makeup of the NBA’s laborers and owners make the NBA a unique working environment, and make the NBA Lockout an event that is worth analyzing beyond the economics of the labor conflict. At the time of the lockout, the majority of NBA owners represented one race (All majority NBA owners were white), while the majority of NBA players represented another race (77% were black)²⁵. Prior to the lockout, there was evidence of conflict between players and owners that stemmed from this racial difference. Players worried that they were treated with less respect and care by owners because of this difference, and owners were cognizant of the feelings of African-American players as they operated their teams. The lockout magnified this conflict, and brought racial issues between players and owners to the forefront. Because of the lockout, some African-American players openly asserted that they were deemed unworthy of their

²⁵ Statistics from *1998 Racial and Gender Report Card: Northeastern University*, (http://www.science.smith.edu/exer_sci/ESS200/Raceh/RRC98.pdf)

income by owners because of their racial differences. Players saw the lockout as an opportunity to express their frayed relationship with NBA owners:

“According to Miami Heat center Alonzo Mourning, "I think there is a perception from the owners...that we're blacks who should be happy with what we've got, fair or not"...New Jersey Nets guard Sam Cassell added, "I think the owners look at us as black, ghetto guys with tons of money that we don't deserve"... Furthermore, Chicago Bulls owner Jerry Reinsdorf and NBA legend Michael Jordan had a confrontation in 1997 that was covered with overtones. Reinsdorf offered Jordan thirty million dollars in order to play one additional season for the Bulls, and Jordan accepted the offer. Reinsdorf then commented, "At some point in time, I know I'm going to regret what I just did"...Because Jordan is easily considered to be among the greatest basketball players of all time, Reinsdorf's comment angered many players, including Mourning, who said, "If they feel that way about [Michael Jordan], how do you think they feel about the rest of us?"” (Conflict, Alienation, and the National Basketball Association Lockout of 1998: A Labor-relations Perspective, Timothy Kennerly, <http://www.ncsociology.org/himes2002.htm>)

The players saw the lockout not only as a threat to their income, but as a reflection of a social dynamic that dictated their inability to be justly respected and compensated for their work. This feeling made players wonder if the owners performed the lockout solely for financial reasons. Players saw the lockout as racially-motivated in addition to the financial issues presented, and this became a greater issue as the progression of NBA salary distribution between races was examined. As NBA revenue increased, and salary cap freedom increased the market value of NBA players, players of similar experience were paid relatively equal salaries, regardless of race. This was in sharp contrast to the 1980s, where white players with similar playing experience with black players were paid significantly more. The lockout revisited the issue of player salaries being connected to race, and gave NBA players another issue to consider in their defense of their worker's rights. Numerous economic studies revealed the progression of salary distribution in the NBA, and revealed the narrowing gap between player salaries of white and black players prior to the lockout:

“Matthew Dey's 1997 study regarding the effects of race on NBA salaries is extremely relevant in explaining the 1998 NBA lockout. Previous studies had found that white basketball players were paid significantly more than black players of similar experience. For example, the Kahn and Sherer study (1988) found that blacks earn 21-25% less than whites. Next, the Koch and VanderHill study (1988) concluded that white players had a salary advantage of 12%, and the Brown, Spiro, and Keenan study (1988) found that blacks were paid approximately 14% less than whites. However, Dey's study in 1997 discovered that this "white player premium" in salaries was no longer existent...As Dey says, "The racial wage differential that existed in the

NBA during the mid-1980's vanished over the past decade".” (Conflict, Alienation, and the National Basketball Association Lockout of 1998: A Labor-relations Perspective, Timothy Kennerly, <http://www.ncsociology.org/himes2002.htm>)

The lockout placed players and owners on edge, and made players skeptical of owner’s motives to enact the lockout. Players wondered if owners were personally invested in limiting the prosperity of black people, and increasing the divide between the salaries of white and black players, while owners were stigmatized as discriminatory for their attitudes towards player salaries before and during the lockout. The racial relations of NBA players and owners made NBA players feel that owners were moving to exploit them through the lockout, and this placed the players in a state of rebellion against owners.

Capital and Labor Productivity

The owners’ reaction to the dwindling profit they were generating because of salary distribution is similar to Marx’s analysis of capitalist evaluation of surplus value in The German Ideology. Marx describes the capitalist as valuing his production solely in surplus value, not merely output, and shows how the loss of surplus value forces the capitalist to see their production as worthless, and not viable to continue practicing:

“Ultimately, the surplus value of the NBA became negative forty-four million dollars in the 1997-1998 season...This, as Marx predicted, demonstrates how the capitalist will cease production when the incentive to produce disappears...Also, one can see, exactly how Marx envisioned, that the absolute value of a given commodity has no worth in and of itself; the true worth of a commodity is only in the surplus value it can provide...the 1998-1999 season was expected to generate record revenues surpassing two billion dollars. However...the owners decided to lock out the players because they knew that the overall surplus value they would receive would be very small, given that player salaries would also be at a record-high of 61% of all basketball-related income. Under the fear that surplus value would be negative once again, the lockout took place...The owners, therefore, behaved as Marx predicted in Capital.” (Conflict, Alienation, and the National Basketball Association Lockout of 1998: A Labor-relations Perspective, Timothy Kennerly, <http://www.ncsociology.org/himes2002.htm>)

NBA owners prioritized authority over their labor and creating a secure contract that would maintain a high future level of surplus value above 30 games worth of revenue and profitability losses for the 1998-1999 NBA Season. Owner’s losses for the 1998-

1999 season stemming from the lockout were estimated at approximately \$1 billion²⁶.

The owners obviously felt that this expense would be more than accounted for by the surplus value they could generate through a more accommodating labor agreement.

Representation of Owner's/Group Solidarity

The strength and unity of both the owners and player's union was responsible for the length of the lockout. The players' perceptions of the owners' social motives, as well as the threat of significant financial losses, made players come together to fight to keep their wages at the same level. The variance between minimum and maximum player salaries in the NBA was significant, and all players stood to lose different amounts of wages because of the lockout. Superstars with secure, long-term deals stood to lose no salary, superstars with contracts below market value stood to be potentially hurt by a new bargaining agreement, and thus a changing market, while minimum salary players were threatened by the loss of salary, as well as time to audition for a bigger salary and extra NBA contracts. This diversity within the player group, and their subsequent unity to fight against the owner's proposed changes to the bargaining agreement, made their group appear to be even stronger²⁷. The player's unity was established because of how they perceived the organizational structure of the NBA acting on them. The organizational structure of the NBA made them feel separate from the NBA's operation. NBA players worked under a schedule that was significantly different than that of owners and NBA management²⁸. This served to heighten the player's fear of owners and management, as

²⁶From *Labor relations in basketball: the lockout of 1998-1999*, <http://www.bls.gov/opub/mlr/1999/04/art1full.pdf>

²⁷ "The minimum salary of \$272,000 per season is vastly different from Michael Jordan's salary of \$30 million per season. So, this was simply not a situation where all of the players were the same and it was their homogeneity that caused them to unite. While this may be somewhat true in a racial context, the players were very heterogeneous economically, and yet they still truly banded together in order to gain what they felt was rightfully theirs. The decision to wait six months before reaching an agreement demonstrates the unyielding steadfastness that the players felt for their cause." Ibid #22,24

²⁸ "A player's schedule involves a lot of travelling and conditioning, and is not standardized in any real way. Also, the owner's office is very bureaucratic, as is the life of any top manager. However, the player does not experience this

their separate working schedule made players feel that their needs, their social position, and their work was not understood or respected by owners and management. This fear made players willing to go fight the owners inside of the lockout, even though their earnings/savings were far lower than the league's owners, and their living expenses endured a bigger blow than the league's owners.

The bureaucratic structure of the NBA is composed of owners and league management, and thus, the weakening of the power and capital of this structure hit was the reason that owners came together to fight for changes to the bargaining agreement. The owners were bonded by actual operations losses, as well as the threat of even greater losses posed by salary cap rules in the existing Collective Bargaining Agreement. Owners and players understood that they had no chance to achieve their goals with group dissent, even though their professions place these groups in internal competition consistently. This reflects the class dynamics depicted by Karl Marx in labor conflicts, as Marx assesses that the potential loss of capital unifies members of a working class to work against another class, even if these working classes compete against each other for capital as well:

“The working class of players recognized that they had to form a powerful, united front in order to protect their own interests, with regard to salary, but also with regard to achieving a very high level of respect that they thought that they deserved from the owners. Marx essentially predicted that this would happen when classes fought against each other. In a similar way, the owners chose to band together in order to protect their own interests against the players. Just as the players continuously battle against each other on the court, the owners are constantly battling with each other for such things as greater media coverage, a higher fan base, and getting their teams' logos on NBA products... Similarly, then, the owners set their competitive energy among themselves aside, in order to maximize their power against the players.” (Conflict, Alienation, and the National Basketball Association Lockout of 1998: A Labor-relations Perspective, Timothy Kennery, <http://www.ncsociology.org/himes2002.htm>)”

bureaucracy. There is no set structure within a team, outside of the coach's authority over the players...the players perceived disrespect by the owners and, therefore, felt isolated from their boss and the organization. Meanwhile, the owners still worked in their offices and experienced the bureaucratic structure, thereby making them less likely to feel any level of alienation resulting from workplace.” Ibid #22,24,27

Players and owners bonded through differing reactions to the NBA's bureaucratic structure. While players felt exploited and alienated by the structure, owners felt that players threatened the very existence of the structure. Regardless, both classes unified because they saw other working classes as threats to their capital. NBA management was responsible for managing this conflict, and their place inside of the bureaucratic structure as representatives of the owners played a large role in the process of, and eventual ending of, the lockout.

Management's Perspective/Outcome of Lockout

NBA management, which was responsible for providing owner's the option to renegotiate the Collective Bargaining Agreement under the conditions specified (Player salaries exceeding 51.7% of basketball related income), was greatly affected by the lost business caused by the lockout. The NBA, which at the time was generating revenue at an all-time high, was now faced with a labor conflict that tarnished the league in the eyes of fans, its participating cities, and workers/businesses outside of the NBA who relied on the NBA for some of their capital. Management was greatly worried about the future of the league, and focused on regaining the lost revenue from the Lockout, as well as restoring the profit-generating ability of the league. The reactions of NBA fans and workers scared management, as the Lockout put the NBA at risk of losing the interest of its fans, its large markets in highly-populated cities (New York, Washington D.C., Los Angeles, etc.), and its corporate partners if it could not recover from this substantial blow to its image and profitability. NBA Commissioner David Stern reflected management's views on the dire situation created by the NBA Lockout:

"Basketball fans often became disheartened with the lockout and it's 191-day duration. According to one season ticket-holder of the Chicago Bulls, "If the situation next year is anything like this year, I'm out, I'm not coming back"...Something that could not have helped the situation was the cancellation of the 1998 NBA All-Star game...Particularly hurt by this cancellation was the city of Philadelphia, which saw lost business of approximately \$35 million...Upon announcing the cancellation of this event...NBA Commissioner David Stern

said, "If we can't make this deal, I don't think there's hope for the sport itself," ...In addition, victims of the lockout included such groups as ushers, food vendors, and other coliseum workers lost large amounts of income because of event cancellations." (Conflict, Alienation, and the National Basketball Association Lockout of 1998: A Labor-relations Perspective, Timothy Kennerly, <http://www.ncsociology.org/himes2002.htm>)"

The interests of NBA management were to maintain and increase the profitability of the league. Because of this motive, and because the owners utilized their contractual power to temporarily end the profitability of the league, NBA management had a skewed perspective on the owners/players labor conflict. Management worked to protect the interests of the league's owners in lockout negotiations, while working to maintain the financial security of the league in spite of the negotiations. This work appeared to be successful, as NBA contractual language prior to the lockout, as well as good fortune, allowed the owners and management to alleviate or eliminate some potential financial complications connected to the Lockout²⁹:

The union of management and the owners made the owners even more powerful in their conflict with the players, as they depended on a more experienced and knowledgeable NBA figure, (Stern), to work for their cause, while the players' union was represented by Billy Hunter. The battle between Stern and Hunter was a crucial determinant in the outcome of the lockout, and Stern utilized the isolated nature of lockout negotiations, as well as the urgency of the players to receive paychecks for the season, to his advantage:

"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...The league especially dominated the orchestration of the media... In a creative ploy, Stern...mailed...a 9-page letter outlining the owners' latest proposal. The union reacted by sending the

²⁹ "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. 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... 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." (Labor relations in basketball: the lockout of 1998-1999, Paul D. Stoudahar, <http://www.bls.gov/opub/mlr/1999/04/art1full.pdf>)

players a 19-page response...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...Hunter and Stern met in a marathon bargaining session on the eve of the vote...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." (Labor relations in basketball: the lockout of 1998-1999, Paul D. Stoudahar, <http://www.bls.gov/opub/mlr/1999/04/art1full.pdf>)

The ending of the Lockout produced various beneficial rules for the owners, including a cap on individual player salaries based on experience (in lieu of a hard salary cap), 55%-57% of basketball related income guaranteed to players for only 3 years out of the 7 year deal (less than the 60% projected for 1998-99 season, and less than the 57.2% in the 1997-98 season), and limits on the "Larry Bird exception" (teams can sign free agents 10% beyond the player salary limit, 12% if with a players original team). Conversely, players only received one rule clearly created for their comfort (the minimum salary raised from \$272,000, to \$287,500). These rules worked to maintain and increase the profitability of the NBA, and made the union of management and owners even stronger in subsequent years.

Conclusion

The union of management and the owners, and the bureaucratic structure of this relationship with players inside of the NBA, eventually worked to dominate the players and force their spirited contestation of labor rights to deteriorate. Through the outcome of the lockout, the capital and profit-making potential of the league took an even greater precedent over the comfort and financial security of NBA players in labor relations. Perhaps most importantly, the outcome of the lockout did not increase the trust between players and owners, as players still viewed the owners as exploiting their labor, for business reasons, and because of racial and social differences. The 1998 NBA Lockout magnified this conflict, which was a crucial part of NBA management decisions to come, and the collective bargaining relationship, in future years.

The NBA's Image

The NBA's image has changed a great deal between the lockout and today. On the positive side, the NBA has become more profitable, and has grown larger. It has expanded its league with new teams, such as the Charlotte Bobcats and New Orleans/Oklahoma City Hornets (The Charlotte Hornets at the time of the lockout). It has

increased its exposure through shrewd marketing, amassing a greater international following, and through signing more international players in the league³⁰. However, this growth has produced potentially damaging social connotations in the eyes of some NBA players, fans, and analysts. Because of the growing presence of international players, and rule changes on and off the court, such as the NBA giving greater power to officials to issue technical fouls to players before the 2006-2007 season, and a new dress code for players instituted before the 2004-2005 season, black NBA players feel that they are being harshly treated, and worry that their presence is becoming gradually limited in the league. These players have proceeded to take legal action against the league for these rule changes³¹. Meanwhile, NBA management feels that the appearance and actions of black NBA players potentially scare off ticket holders, as the players appear to reinforce stereotypes of black men as being violent and uncivilized. Because of these social dilemmas, NBA management has had a tough time attempting to appease players and fans. NBA management acts in order to generate profitability for the league, and walks a fine line between promoting the qualities and traits of its players towards some of its fans, and restraining the extent of this promotion to appeal to other fans.

Stereotypes of NBA players in the workforce

The image of the NBA in the public eye directly ties to how the NBA perceives its own workers. The NBA markets the personalities of players in addition to their

³⁰ “With dozens of new European players, the 7-foot-6 Chinese sensation Yao Ming and American superstars like LeBron James, the NBA is becoming tailor-made for a diverse international market...In October Stern took Ming’s Houston Rockets and the Sacramento Kings to China for exhibition games in Beijing and Shanghai.” Bullyball, Brett Pulley, December 27, 2004, Forbes.com, (<http://members.forbes.com/forbes/2004/1227/126.html?token=MzAgTWFyIDIwMDcgMTA6MDY6NTggKzAwMDA%253D>)

³¹ “The players’ association filed two unfair labor practice charges Friday against the NBA over issues with the new ball and the league’s crackdown on player complaints. The charges were filed with the National Labor Relations Board.” Suits filed vs NBA over new basketball and technical fouls, GMANews.TV, December 3, 2006, (<http://www.gmanews.tv/story/22647/Suits-filed-vs-NBA-over-new-basketball-and-technical-fouls>)

basketball skills, as some fans are interested in learning about the character of NBA players. The NBA requires its players to interact with fans, communities in respective NBA cities, and the media in order to give fans a greater sense of who they are as people. For example, players are required by the NBA to do community service with their teams, conduct post-game interview sessions, to achieve this end. In packaging NBA players as people, the NBA makes its product more appealing to fans, as fans can relate better to players, and players reciprocate this interest through interacting with these fans.

A side effect of marketing personal aspects of NBA players is that it magnifies the racial composition of the NBA, as well as the racial divide between players, owners, NBA management, and fans. Through the 2005-2006 NBA season, 73% of the league was African-American, 30 out of 31 owners were white, and 19% of people holding professional positions in the NBA were black³². This dynamic influences how management and owners evaluate current and potential NBA players, as well as how fans perceive NBA players beyond their basketball skill.

Regardless of their status as multi-millionaires and entertainers, African-American NBA players are observed under similar parameters to other African-American workers across the country. Players are drafted and signed based on their motivation level, work ethic, personable nature, appearance, and other professional traits that accentuate their basketball talents. Unfortunately for these players, African-American workers are labeled as lacking in these professional traits, and thus potential NBA players face a tougher time gaining the favor of owners and management, and are more likely to appear unprofessional in the eyes of fans. Philip Moss and Chris Tilly, Associate Professors of the Department of Policy and Planning at the University of Massachusetts at Lowell,

³² Ibid #1

studied the image of African American workers in different employment sectors (retail clothing, public sector, automotive industry, insurance, etc.). Their studies point to the corporate mindset of these workers lacking “soft skills” needed to be successful and respected employees:

“Employers are becoming more reluctant to hire young black men because they see changes in the business environment leading to growing requirements for "soft" skills, and believe that young black men are lacking in these skills... a notable minority of respondents--19 percent--described black men as defensive, hostile, or having a difficult "attitude... The image of black men as unmotivated employees was almost twice as common...with 36 percent of respondents voicing some version of the image...Employers indicate that they base their perceptions of black men on experiences with past and present employees, impressions of applicants, and more general impressions from the media and experiences outside work. About half of respondents referred to their own employees...” Philip Moss and Chris Tilly, Soft Skills and Race: An Investigation of Black Men's Employment Problems, (New York: Russell Sage Foundation) 1995
(<http://www.russellsage.org/publications/workingpapers/Soft%20Skills%20and%20Race/document>)

NBA players feel alienated from owners, management and fans because of these stereotypes. In recent years, players have felt that their work has been unjustly criticized and manipulated by NBA management, and their character image has taken a hit in the public eye because of this. Players feel that this occurs not because they are lacking in the above mentioned “soft skills”, but because neither owners, management, nor some fans are comfortable socially interacting with players. Through an account of labor relations in the public sector, Moss and Tilly show how racial division between management and employees highlight the communications problems that management and minority employees have, and how this translates to minority employees appearing to have behavioral problems:

“A white female personnel official from a Los Angeles public sector department offered a related perspective, laying part of the blame with white supervisors:
“I also think that part of the problem is that the supervisors and managers of these people have their own sets of expectations and their own sets of goals that don't address the diversity of these people, and it's kind of like well, hell if they're going to come work for me, they're going to damn well do it my way...And my own personal feeling is that a lot of these young black men who are being tough, scare some of their supervisors. And so rather than address their behavior problems and deal with the issues, they will back away until they can find a way to get rid of them. We have a tendency to fear what we're not real familiar with.” Philip Moss and Chris Tilly, Soft Skills and Race: An Investigation of Black Men's Employment Problems, (New York: Russell Sage Foundation) 1995
(<http://www.russellsage.org/publications/workingpapers/Soft%20Skills%20and%20Race/document>)

Because the public image of NBA players, and African-American employees in the labor market at-large, is of incompetence and an unprofessional nature, the image of the NBA is constantly at risk of suffering so long as African-Americans are the dominant group of players. The race of NBA players has a strong impact on how players are marketed and managed by the league.

Marketing of NBA Players

NBA players are 73% African-American, and have an average age of 26.62 years³³, in the 2006-2007 Season. Because of this makeup, the NBA has a large appeal to younger audiences, and many of its players reflect their interest in popular culture³⁴, as well as their upbringing in predominantly African-American communities. Meanwhile, its status as the highest level of basketball in the world, and the growing popularity of basketball globally, gives the NBA appeal with basketball fans of diverse races and age ranges. This predicament has strongly influenced how the NBA has chosen to market its league. The NBA understands the importance of maintaining the interests of younger fans, and their marketing towards these fans has been reciprocated through jersey and merchandise sales. Yet the NBA risks alienating fans from other age groups and social backgrounds by highlighting the personalities of young, black athletes, and the hip-hop culture that many of these athletes gravitate towards:

“With teams dependent on wealthy fans and corporate sponsors, Stern also faces an increasingly difficult task in blending the NBA's young, urban toughness with the more conservative, mainstream tastes of many fans. Yet the basketball-hip-hop link has been a financial blessing for the NBA. League merchandise sales were up 60% two years ago, following a drought in the late 1990s. Last year they grew 20%, driven by the popularity of the team jerseys now de rigeur among young rappers and entertainers....”There are some people who might not find hip-hop to be their first entertainment option,” he says, yet “others, because of their age, move to that as their first entertainment option.” The NBA, he says, must “bridge both populations.”” Bullyball, Brett Pulley, December 27,2004, Forbes.com,

³³ Statistic from RPIRatings.com, Where the NBA Players Come From, (<http://www.rpiratings.com/NBA.html>)

³⁴ “Rappers Jay-Z and Nelly recently bought separate stakes in two NBA clubs. Basketball greats Shaquille O’Neal and Kobe Bryant made embarrassing attempts at recording rap music; when star guard Allen Iverson recorded a rap disc packed with crude and violent lyrics a few years ago, Stern helped persuade him to forgo releasing it...” Ibid #30

(<http://members.forbes.com/forbes/2004/1227/126.html?token=MzAgTWYyIDIwMDcgMTA6MDY6NTggKzAwMDA%253D>)

The marketing of these young, black athletes has been strongly impacted by recent events regarding player misconduct during games. These incidents have not only served to negatively reflect on the NBA's choice to promote the appearance and personalities of some of its most popular NBA players, but also reflects how fans have not completely gravitated towards the entertainment appeal of these players beyond their basketball ability. In fact, these incidents reflect the propensity of fans, and management, to link hip-hop culture with violent and unruly behavior. On November 19, 2004, one of the most important events in the NBA's recent history showcased the apprehension that NBA management and fans have of the marketing of NBA players, and of its players in general. A brawl occurring during an Indiana Pacers-Detroit Pistons game led to 9 players being suspended, with Ron Artest receiving the largest suspension (73 games), and the largest forfeited salary (\$4,995,000).³⁵ The incident hurt the NBA's image³⁶, and made Stern more wary of policing the on-court behavior of NBA players:

"We are reality programming, both on and off the court," Stern said. The unpredictability of the game and its players and the league's changing persona "are what make it exciting," but "one must always worry about the potential" for things to go awry... Stern got a bitter dose of reality in the now-infamous, ugly melee at a game between the Detroit Pistons and the Indiana Pacers. The video, aired around the world for weeks afterward, shows Ron Artest, Indiana's combustible power forward (and part-time rapper), charging into the Detroit stands--all 6 feet 7 inches and 250 pounds of him--to pummel mere mortals for pelting him with a cup of beer. "Shock and revulsion and fear were my reaction," Stern said later."³⁵ Bullyball, Brett Pulley, December 27, 2004, Forbes.com, (<http://members.forbes.com/forbes/2004/1227/126.html?token=MzAgTWYyIDIwMDcgMTA6MDY6NTggKzAwMDA%253D>)

Even worse for the NBA, this brawl is not the most recent event regarding player misconduct and violence on the court since the Lockout. On December 16, 2006, a New

³⁵ Suspensions without pay won't be staggered, November 22, 2004, ESPN.com, (<http://sports.espn.go.com/nba/news/story?id=1928540>)

³⁶ "Artest's incident is the latest illustration of a clashing of cultures. People paying the bills of the NBA are rejecting the NBA's predominately black style of play and sportsmanship... as long as the NBA customer base is white, the standard for appropriate sportsmanship, style of play and appearance will be set by them." Working for "The Man"? Be More Like Mike!, William Reed, November 28, 2004, (http://www.blackpressinternational.com/html/archives/article_ema112804.htm)

York Knicks-Denver Nuggets game was interrupted by a brawl between the two teams, leaving 10 players ejected from the game, 6 players suspended, and both teams fined \$500,000³⁷. Carmelo Anthony, the NBA's leading scorer at the time, received the largest suspension (15 games) of any player, causing him to lose \$640,096.50 in salary³⁸, as well as marketing opportunities³⁹. Anthony and his agent complained that the suspension for his role in the brawl was too large⁴⁰, and others argued that the length of suspension had more to do with Anthony's popularity with NBA fans, the brawl's closeness with the Pacers-Pistons brawl, and most importantly, race, than with his actions, though David Stern denied these assertions⁴¹. Some analysts⁴² and players⁴³ also argued that the suspensions were racially motivated.

The incidents of misconduct shown above are examples of the NBA attempting to appease its more conservative fans, even while benefiting from marketing its players in a hip-hop style away from these incidents. Even so, the discipline that NBA management has attempted to instill in its players has not curbed the disdain that conservative fans

³⁷ Suspensions total 47 games from Knicks-Nuggets fight

December 20,2006, ESPN.com, (<http://sports.espn.go.com/nba/news/story?id=2701228>)

³⁸ Ibid #37

³⁹ "Northwest Airlines has pulled an in-flight magazine that features NBA scoring leader Carmelo Anthony on the cover", Airline doesn't want to condone brawl, pulls feature,

December 20,2006, (<http://sports.espn.go.com/nba/news/story?id=2703887>)

⁴⁰ "Anthony's agent, Calvin Andrews, told news media in Denver there was "no precedent" for the length of Anthony's suspension to be as long. "[Anthony] obviously was not very happy. He wasn't expecting this many games," Andrews said, Ibid #37,38

⁴¹"We judged him on his actions on the court, period," Stern said. "And they deserved a harsh penalty." Ibid #31,32,34

⁴² "The NBA has become the spittoon for...racial anxiety...When Stern feeds the myth that players somehow are out of control and uncivilized, it gives confidence to the apostles of fear--like New York Post columnist Phil Mushnick, who wrote, "NBAers are showing up to speak at schools and in airports and for TV interviews looking like recruitment officers for the Bloods and Crips."...they conveniently ignore the stories that place these young men in a very different light. With next to no media coverage, Anthony last week gave \$1.5 million to start the Carmelo Anthony Youth Development Center in his home town of Baltimore." Brawl in the Garden, Dave Zirin, EdgeofSports.com, (<http://www.edgeofsports.com/2006-12-18-216/index.html>)

⁴³ "In other sports, there are incidents that are way worse than basketball," the Knicks guard (Steve Francis) said. "So many worse things happen every game or four or five times a year, but because there are more black players in the NBA, it's under the microscope more than baseball or hockey." KNICKS' FRANCIS: RACE A FACTOR, Dan Martin and Marc Berman, December 19,2006, New York Post, (http://www.nypost.com/seven/12192006/sports/knicks/knicks_francis__race_a_factor_knicks_dan_martin_and_marc_berman.htm)

have for these players. The notion that conservative NBA fans prefer to watch white players is growing among NBA analysts, as statistical trends point to this idea. The NBA's attempt to appeal to fans that are attracted to the hip-hop styled image of the NBA's players, and fans that are not, has changed the composition of NBA fans in recent years. Whites have moved away from the game, while black people enjoy the game at an increasing rate⁴⁴. This movement has sparked the controversial view that the NBA would prefer to bring more white players into the league. Sponsors, season ticket buyers, and cable viewers of NBA basketball represent "Mainstream America"⁴⁵, as opposed to minorities. Because of this, NBA management, as well as owners, are obligated to please this faction in order to generate profitability for themselves. Recruiting and signing players that represent "Mainstream America" would appear to reap profitability based on statistical evidence, though NBA management and owners claim that maintaining a high level of competition is what principally determines profitability, and thus, their personnel management:

"In 2001, Mark Kanazawa, a professor at Carleton College in Minnesota, and Jonas Funk, a financial analyst in San Francisco, published a study...that examined what effect white players have on Nielsen ratings. Using a complicated formula (and terms like "heteroskedasticity")—which took into account a team's record, number of all-stars playing, whether the white players were on the court or benchwarmers...each white player on a team increased ratings by 0.54 of a point. That would increase the number of households watching by 3,500 to 36,200 for each white player, depending on market size. According to the study, the additional revenues from the higher ratings would mean an additional \$1.1 million for the Knicks and the Nets for every white player on their rosters. There are some holes in the study (would 12 white players be worth \$12 million extra?), but it does show that race might have an effect on sports fans' viewing habits." Blacks Suck At Basketball, Dan McGraw, May 31,2003, Overthrow.com, (<http://www.overthrow.com/lsn/news.asp?articleID=5179>)

⁴⁴ "A study in 1993 said 62 percent of whites "loved or liked" the NBA. That dropped to 50 percent by 2003, with the number of whites who "disliked" the NBA rising from 21 percent in '93 to 30 percent in '03. The color contrast has the percentage of black Americans who loved or liked the NBA in 1993 going from 62 to 92 percent in 2003, and those who "dislike" it down only from 4.3 to 2.9 percent." Ibid #36

⁴⁵ "The reality is that Mainstream America is sports businesses' revenue stream. To keep them coming, NBA owners have to bring about "family-friendly" places of business and greater "internationalization" of team rosters." Ibid #36,44

While NBA management and owners wholeheartedly deny race as a factor in their hiring processes⁴⁶, studies from Moss and Tilly reflect how business management makes adjustments to its workforce in order to reflect the racial composition of its community, and thus maintain the interest of their customers. This process is needed because customers do not like the image of racial division being constantly presented to them through a business's employees, regardless of whether these employees do their job effectively or not. The findings of Moss and Tilly show that generally, business managements respect the impact of race on their ability to market themselves, and hire employees accordingly:

"The black male personnel manager of a large retail store located in a suburban mall in the Detroit area told us that because the labor market area is 90 percent black, "we are forced to have an Affirmative Action program for non-minorities in this particular store"... His implication, given that the mall sits in an integrated suburb of Detroit, is that management fears that an all-black workforce will cause the white suburban customer base to erode.

In subsequent interviews, we asked retail informants explicitly about attempts to keep the racial mix of store employees similar to that of customers. Seven of the ten retail informants whom we asked, responded that this was indeed a management concern. Not all of them approved of the customer attitudes they were responding to. For example, a white female personnel manager at a Los Angeles store said,

At [a store she was posted at previously] we had a lot of customer complaints because it's primarily white and we were always getting complaints that there were all black employees and it's because they were black. That would be the first thing the customer would bring up was "black." It was because they were black that they didn't do their job right. (33)

Nonetheless, this informant and others--black, white, and Latino alike--viewed the goal of race-matching staff with customers as a legitimate management objective." Philip Moss and Chris Tilly, Soft Skills and Race: An Investigation of Black Men's Employment Problems, (New York: Russell Sage Foundation) 1995 (<http://www.russellsage.org/publications/workingpapers/Soft%20Skills%20and%20Race/document>)

In recent years, NBA management has profited from marketing the youth and style of its players. However, this youth and style is deemed responsible for consistent player misconduct by conservative NBA fans. While this image may seem to be assessed unfairly in the eyes of some players and NBA analysts, NBA management is forced to

⁴⁶ "The key question...is whether this change in the complexion of the league is driven by money concerns...NBA Commissioner David Stern won't return the Voice's calls, but league spokesman Terry Lyons says, "Absurd..."That's the stupidest question I've ever heard," e-mailed Dallas Mavericks owner Mark Cuban...Players are chosen for their ability...Lyons points out, and marketing is secondary. "To suggest that players are being brought into this league because of international marketing and TV ratings is absurd," Lyons says. "Marketing and TV ratings come from star players who can play in this league, not the other way around." Blacks Suck At Basketball, Dan McGraw, May 31,2003, Overthrow.com, (<http://www.overthrow.com/lsn/news.asp?articleID=5179>)

market to fans on both sides of the issue. This leads to NBA management disciplining players more harshly for conduct infractions, and NBA management continuing to support the stereotype that players are uncultured through these actions. In addition, it presents the possibility that the NBA is working to limit the presence of black players, as the source of the NBA's revenue stream, "Mainstream America", appears to prefer watching representatives of itself rather than minority athletes.

The Dress Code

At the beginning of the 2005-2006 NBA Season, a new dress code for NBA players was instituted in the NBA, which demands that players headed to and from games and NBA events wear "business casual" clothing. The dress code was created as the NBA's reaction to what it perceived to be an increasingly negative image in the eyes of fans and corporate sponsors. The NBA felt that its players, who were allowed to wear casual clothing when headed towards games or NBA events, wore clothes that made them appear less professional to its customers. Specifically, the NBA felt that the way that its players dressed made them appear to embrace hip-hop culture, and made its players appear to be threatening and violent, an image that the NBA has attempted to move away from⁴⁷. The dress code appears to be contradictory in the face of NBA marketing strategies, which often celebrate NBA players' gravitation towards hip-hop culture⁴⁸. However, the NBA, in light of the Pistons-Pacers brawl, and the social image of the

⁴⁷ "Even a survey of readers of the youth-oriented Inside Hoops finds that 51 percent support the dress code. Such reflections appear consistent with views expressed in recent public opinion polls and in NBA focus groups: NBA players are the least popular athletes among the major professional sports leagues. Indeed, some fans appear uncomfortable with the hip-hop culture prevalent in the NBA, as they automatically and erroneously associate that culture with gangs, violence, truancy, and other nefarious dynamics." Ibid #21

⁴⁸ "The league has licensed a videogame called "NBA Ballers," which pitches itself as "the exclusive one-on-one basketball videogame highlighting the blingbling lifestyle of NBA superstars." In the game, players take on the identity of actual NBA stars and accumulate "[m]ansions, cars, jewelry, women -- if you've spotted it on 'MTV Cribs,' you're going to see it here... when the league exercises its authority, it celebrates "bling-bling"; when the players exercise their autonomy, the league castigates "bling-bling.'" Ibid #21,47

professionalism of African-American workers in general, felt that the league needed a dress code to alleviate some of the damage to its reputation. The code is outlined as follows:

1. General Policy: Business Casual

Players are required to wear Business Casual attire whenever they are engaged in team or league business.

"Business Casual" attire means

- A long or short-sleeved dress shirt (collared or turtleneck), and/or a sweater.
- Dress slacks, khaki pants, or dress jeans.
- Appropriate shoes and socks, including dress shoes, dress boots, or other presentable shoes, but not including sneakers, sandals, flip-flops, or work boots.

2. Exceptions to Business Casual

a. Players In Attendance At Games But Not In Uniform

Players who are in attendance at games but not in uniform are required to wear the following additional items when seated on the bench or in the stands during the game:

- Sport Coat
- Dress shoes or boots, and socks

b. Players Leaving the Arena

Players leaving the arena may wear either Business Casual attire or neat warm-up suits issued by their teams.

3. Excluded Items

The following is a list of items that players are not allowed to wear at any time while on team or league business:

- Sleeveless shirts
- Shorts
- T-shirts, jerseys, or sports apparel (unless appropriate for the event (e.g., a basketball clinic), team-identified, and approved by the team)
- Headgear of any kind while a player is sitting on the bench or in the stands at a game, during media interviews, or during a team or league event or appearance (unless appropriate for the event or appearance, team-identified, and approved by the team)
- Chains, pendants, or medallions worn over the player's clothes
- Sunglasses while indoors
- Headphones (other than on the team bus or plane, or in the team locker room)

The dress code's distinction of "appropriate" shoes, socks, apparel, etc. asserts that players may, or have in the past, attire themselves in an inappropriate and unprofessional manner. The determination of what is appropriate attire sparked controversy among NBA players and analysts. Many analysts felt that NBA players whined unjustly about the new policy, as the policy would work to increase, or at least maintain, the NBA's profitability, at a low cost to player comfort⁴⁹. However, while the

⁴⁹ "If rich people, most of whom get dressed in something other than throwback jerseys every day (say, for example, bankers who make even more money than the players but still have to adhere to a dress code), don't renew their \$200,000 luxury suites at NBA arenas, and if sponsors and TV partners don't pay the NBA hundreds of millions of dollars every season, then the generation of ballers after Iverson and Wallace might well be playing in the Rucker League and not a national league, internationally televised. Maybe their agents can remind them of that." There's No Dressing Up Bad Attitudes, Michael Wilbon, October 15, 2005; (<http://www.spurstalk.com/forums/printthread.php?t=27213>)

institution of the dress code would seem to deafen the critiques of fans and NBA analysts regarding NBA players' choice of attire, many believe that this would not increase the profitability of the NBA in any tangible way, and would not address the reasoning for this criticism, which is the racial divide between these groups⁵⁰. Many players have also spoken out about the dress code. While some players like the policy⁵¹, others have implied that the policy is racist⁵², and others imply that the code is simply an impediment to a player's ability to travel comfortably to and from games⁵³. Regardless, no player has been on record for violating the dress code for either the 2005-2006 or 2006-2007 seasons. This is reminiscent of Moss and Tilly's findings that businesses assess African-Americans lack the "soft skills" of respected and valued employees, yet African-Americans are not inclined to move where they are respected if they lack the opportunity to make more money elsewhere:

"Employers' ability to shape work attitudes is strikingly evident in the contrast between two department store distribution warehouses located in the same Latino neighborhood in the Los Angeles area. In one case, personnel officials complained sarcastically about employees' laziness, their propensity for theft, the presence of "gang bangers" wearing their gang colors, and even the poor personal hygiene of the workforce. Turnover in this warehouse stands at 25 percent, even after Personnel beefed up screening to select for more stable employees (29). In the second warehouse, however, turnover is 2 percent. Although this warehouse also employs large numbers of present and past gang members, managers have successfully imposed a dress code that bans the wearing of colors. The key to the remarkably low turnover, according to the company's Vice President for Human Resources,

⁵⁰ "More importantly, it is naïve to suggest that the current dip in ratings is directly linked to the players' sartorial choices. Such a claim would ignore the long history of racialized hatred that black athletes... have received prior to the commercial marriage of hoops and hip-hop. In fact, since the end of the civil war, black people have vigorously bought into a politics of respectability that has not resulted in full-fledged recognition of their humanity despite their concessions to mainstream values... it is absurd to expect that any amount of "appropriate attire" will mitigate the hatred hurled against black bodies within and outside of sports arenas." THE BARBERSHOP NOTEBOOKS: Thoughts on the NBA Dress Code

December 23, 2005, Marc Lamont Hill (<http://www.popmatters.com/columns/hill/051223.shtml>)

⁵¹ "Personally, I like it. I like to dress up. I kind of came in [the league] when it was ... sort of an unwritten code or law or whatever, that you look nice. It even got to the extreme, with guys [who] would go all out with the designer clothes and so forth. It was a little weird, the NBA turned into a fashion show. But I think it's good."-- Magic forward Grant Hill" One-size-fits-all dress code draws divergent views, ESPN.com, October 19, 2005, (<http://sports.espn.go.com/nba/news/story?id=2197012>)

⁵² "As far as chains, I definitely feel that's a racial statement. Almost 100 percent of the guys in the league who are young and black wear big chains. So I definitely don't agree with that at all."-- Pacers swingman Stephen Jackson" Ibid #51

⁵³ "'If you want to cut the jeans out, I think that's fine. I just don't think you should have to wear a suit and tie all the time, especially [on] plane rides.'"-- Pistons forward Tayshaun Prince" Ibid #51,52

...is simply locating your operation in an area where you don't have an awful lot of competition, and what competition you do have, you meet or exceed all pay and benefits they offer.... (28.1)

And indeed, this warehouse pays its entry level workers from 50 cents to \$2.50 more per hour than its competitor. The contrast suggests the relevance of efficiency wage models (Akerlof and Yellen, 1986) in explaining worker attitude and effort." Philip Moss and Chris Tilly, Soft Skills and Race: An Investigation of Black Men's Employment Problems, (New York: Russell Sage Foundation) 1995
<http://www.russellsage.org/publications/workingpapers/Soft%20Skills%20and%20Race/document>

The NBA Dress Code was a controversial move made by the NBA intended to downplay its hip-hop image to please fans, and has alienated some players from their work. While players, fans, and NBA analysts held contrasting views on the matter, the dress code clearly reasserted dominance of NBA management in its collective bargaining relationship, the compliance of players with NBA management in most every circumstance, and the support of the notion that NBA players and African-American workers in general lack professionalism and acceptable social behavior.

Technical Foul Enforcement

In the wake of the 2005-2006 season, in which the NBA perceived a growing image problem stemming from player's complaints to officials during games, as well as complaints of officials themselves regarding player conduct⁵⁴, the NBA asked its officials to assess technical fouls more immediately after infractions and disrespect by players for the 2006-2007 season. The NBA made no literal changes to the rule book to employ this rule, instead assessing that the refs assume greater control of technical foul rules already outlined in the rule book. In addition, players would be fined for every technical foul received⁵⁵.

⁵⁴ "Our greatest fear is that we're a step away from a referee being physically assaulted," Lamell McMorris, executive director of the National Basketball Referees Association, says. "That's the environment that's being created." Environment of hostility' festering between NBA players, refs?, Roscoe Nance, USA Today, February 28, 2006 (http://www.usatoday.com/sports/basketball/nba/2006-02-28-referees-abuse_x.htm)

⁵⁵ "Under Stern's directive, players are fined \$1,000 for each of their first five technicals. The fine increases by \$500 for each five after that, capped by a \$2,500 penalty for each one starting with the 16th. A one-game suspension also comes at that point and for every other technical thereafter." Ibid #31

This rule change generated complaints from NBA players⁵⁶. Many NBA players wondered whether greater enforcement of this rule would eliminate their option to discuss calls with officials, and try to preserve equal officiating for both teams during any given game. Others argued that the nature of technical fouls is too ambiguous to enforce, is at the discretion of the individual referee, and thus, lacks clarity. These players wondered how they could adjust to the rule enforcement if they did not understand it. The ambiguity of the rule enforcement in the minds of NBA players is shown here:

“San Antonio center Francisco Elson received a technical in the season opener against Dallas after he screamed at no one in particular as he ran down court celebrating one of his dunks. But later in the game, Spurs coach Gregg Popovich had to yank an overzealous Tim Duncan off the court when he was excessively complaining to the refs. Duncan never received a technical for his outburst. Did that have anything to do with Duncan's status as one of the game's biggest stars?

"There are a lot of gray areas, in my mind," Pistons guard Lindsey Hunter said. "You can't make a gesture if they make a call, but they say in the heat of the moment you can do it. So who's to say that you're not in the heat of the moment? I think it needs some clarification on that." (Players rage against NBA's new penalty for excessive complaining, Dwain Price, November 14, 2006, Star-Telegram.com.)

The greater enforcement of technical fouls had an immediate impact on the league, as early in the season, technical fouls and ejections were issued at a much higher rate than in the 2005-06 season:

A comparison of the number of league-wide technical fouls and resulting ejections in the first 10 days of this season and last:

2005-06: 26 technical fouls, **1** ejection

2006-07: 70 technical fouls, **5** ejections (Players rage against NBA's new penalty for excessive complaining, Dwain Price, November 14, 2006, Star-Telegram.com.)

The administration of the technical foul rule in the 2006-2007 Season also does not appear to be coincidental when viewed in a social context. Combined with the NBA's new dress code, and in light of the substantial image hit the NBA took in previous years following the Pacers-Pistons brawl of the 2004-2005 season, increased technical foul enforcement appears to serve to discipline NBA players, and make them seem more civil

⁵⁶ "To give a technical foul, it's giving money back," (Jerry) Stackhouse said. "If it's a technical foul, all right, penalize the team. But don't take guys' money for natural reactions toward heat of the moment things. We're not robots...Everything doesn't have to be we're going to show you by taking your money away. A thousand dollars is a thousand dollars, no matter whether you are making \$9 million or \$30,000." Ibid #31,55

and composed in the eyes of its fans. The apparent lack of civility that these NBA players have is tied to the racial dynamics between NBA fans and players, as well as potentially between players and referees, as 62% of NBA referees are white⁵⁷. The ruling projects NBA management's monitoring of and reaction to these dynamics⁵⁸. The NBA's reaction to these dynamics highlights the racial divide between NBA fans and players, which at times drive fans away from the game.

The ambiguity of technical foul enforcement, the impression that this rule favors star players over other players, the increased threat of players granting foul shots to the other team and being ejected from games, and the worry that players cannot tangibly alter their behavior to adjust to this change, all serve to alienate NBA players from this rule change. In addition, the rule appears to be rooted in social perceptions that fans have of NBA players, which portrays NBA players as uncivilized. The greater enforcement of technical fouls for the 2006-2007 NBA Season further alienated NBA players from their work, and magnified the division and conflict between player and management interests.

Conclusion

The NBA constantly adjusts its image and marketing strategies to accommodate its fans and corporate sponsors, with the intent of broadening its exposure globally and locally, and increasing its profitability. In recent years, the NBA has catered towards the desires of conservative fans and sponsors to see a game with less of a hip-hop image, and with less of an African-American presence in the NBA. These adjustments have allowed the NBA to successfully yield increased profits in recent years. However, these

⁵⁷ Ibid #1,32

⁵⁸ "It was Stern who last year issued the infamous dress code, banning ostentatious gold chains and medallions and mandating business casual attire off the court. It was Stern who instigated the "tough on whining" rules this season--if a player so much as sneezes in a referee's direction, he gets tagged with a technical foul... This approach, in my mind, is rooted in generational and racial anxiety, and efforts to assuage that anxiety among the folks who can afford the pricey tickets at Madison Square Garden." Ibid #42

adjustments have also reinforced the negative social stereotypes that African-American players, which compose the majority of NBA players, hold. This has hurt the ability of the NBA to market the personalities and character of its players, and has grown the discontentment of players, making them feel alienated from their work. The NBA's moves to improve its image have pleased conservative fans and sponsors in the short term, but have hurt the comfort and image of its players, a large component of its profitability, for the future.

The Game

In recent years, the NBA has enacted controversial rule changes to the game itself, which has altered the nature of the game, the market value of certain players, the satisfaction of players within this labor force, and the image of the league. Since 2001,

the NBA has either changed aspects of the game, or enforced rules more strictly from one season to the next. Examples of the NBA's changes to the game include new interpretations of blocking /charging fouls before the 2001-2002 season, a ban on hand-checking (making contact with a perimeter player with your hands on defense) before the 2004-2005 season, and an introduction of a new league-wide official basketball for the 2006-2007 season. Players have expressed varied reactions to these rule changes, as the rules have changed the makeup of the league. In the aftermath of some of these rules, players have seen their value to teams rise and fall dependent on their position and primary talents. For example, quick, scoring guards, have become more popular in the NBA as a result of the perimeter hand-checking ban, while bigger, taller guards are no longer viewed as a necessity to help teams to deal with physical perimeter defense. In addition, some of these rule changes have made the league more popular to its fan base, as ratings for the NBA's regular season and playoffs have slightly risen in the seasons that these rules were enacted. Conversely, some of these rules have not markedly affected the style of the game, the popularity of the game to NBA fans, or the market value of players, yet have made players more uncomfortable playing the game. The changing nature of the relationship between players and league management has led to complaints being made by individual players and NBA analysts regarding the rules. This in turn has generated negative publicity for the league, as the NBA projects the appearance as a corporation that treats its workers unfairly. The NBA has attempted to increase the popularity of the league among its fans with its new rules, and in some cases, this has come into conflict with its duty to ensure a working environment that players deem satisfactory. In addition, the NBA's rule changes have in some ways hurt the NBA's

image, creating the appearance that the rules are geared towards limiting the marketability of black players, and threatening to lower the level of competition in the NBA for the long-term future.

Player's Perspective

The analysis of NBA rule changes displays the relationship between NBA players and league management through providing insight into the class structure of the NBA's organizational hierarchy. League management dictates the rules and rule changes of the NBA style of basketball, and the players, while existing as a unionized labor force, are not involved in this process. The players have very little ownership over the conditions they labor in, from the actual game itself, to wardrobe regulations on and off the court (the Dress code, requirement to wear officially endorsed NBA apparel, length of jerseys/shorts, etc.), to the amount of playing time they receive on any given night. The result of this is an estrangement of the NBA player from his labor, as while NBA players are paid well, and receive high wages in comparison to other types of labor, the player's labor is not owned by themselves, but by capitalist non-laborers (team owners), and is not managed by themselves, but by league management.

Rule changes to the NBA game reflect the division of players from their labor. NBA players are forced to change their games to adjust to new rules, or risk lowering their market value, losing opportunities to increase this market value (ie. playing time, shots, defending other players), or losing employment. While new rules may grant certain types of players with advantages, and may hurt the ability of other types of players to increase their marketability, players are generally forced to accept this predicament, with few exceptions, which will be explained later. NBA league management has an obligation to please owners and fans, and this is different from the desires of NBA

players, who seek to please themselves. These motives come into conflict, but because NBA players' labor is owned by team owners and managed by a governing body, the player's wishes are excluded from labor, unless they coincide with the interests of owners and management. The relation of the player to changing NBA rules is alluded to by Karl Marx, who discussed the division of labor in capital production in his social theory. In The German Ideology, Marx discusses the separation of owner and laborer interests, which also alludes to how each player's role in the NBA is divided, and thus their work is estranged from them:

“And finally, the division of labour offers us the first example of how, as long as man remains in natural society, that is, as long as a cleavage exists between the particular and the common interest, as long, therefore, as activity is not voluntarily, but naturally, divided, man's own deed becomes an alien power opposed to him, which enslaves him instead of being controlled by him. For as soon as the distribution of labour comes into being, each man has a particular, exclusive sphere of activity, which is forced upon him and from which he cannot escape.” (Part I, A. Idealism and Materialism)

Through NBA rule changes, the NBA player is rendered powerless to change the conditions of his labor. As rules are changed, players are forced to play in a way that is unnatural to them (changing their style of defense, dribbling in a new way, etc.) in order to satisfy the interests of owners, management, and NBA fans.

Management's Perspective

NBA league management works to mold the talents of NBA players into entertaining, profit-generating labor for the financial prosperity of individual teams and the league itself. The objectives of NBA management are to serve the profit-making interests of team-owners, the entertainment-consumption interests of fans, and to preserve the NBA's status as the most attractive, comfortable, and financially beneficial wage-making option for professional basketball players around the world. The interests of owners take precedence over the other interests, as fans will not be provided entertainment unless the owners know that this endeavor will generate profits, and players may not be willing to join the NBA if they will be better compensated in other

professional basketball leagues. League management changes the rules of the game on an almost annual basis to maximize the profit-earning potential of the league. At times, this may harm the comfort level of NBA players, but this is accepted by NBA players so long as they have the opportunity to earn a high level of wages.

NBA rule changes, such as increased enforcement of offensive fouls, physical perimeter defense, and technical fouls, and a new ball geared towards increasing shooting percentages, are principally meant to generate profits for owners, and attract the interest of more fans to the entertainment product. While the individual consumption of NBA players may be affected as a result of rule changes, these interests are not necessarily in line with increasing the financial health of the league. The interests of management are also alluded to by Marx in The German Ideology, in which Marx describes how the individual interests of laborers are controlled by a governing body:

“Just because individuals seek only their particular interest, which for them does not coincide with their communal interest (in fact the general is the illusory form of communal life), the latter will be imposed on them as an interest “alien” to them, and “independent” of them as in its turn a particular, peculiar “general” interest; or they themselves must remain within this discord, as in democracy. On the other hand, too, the practical struggle of these particular interests, which constantly really run counter to the communal and illusory communal interests, makes practical intervention and control necessary through the illusory “general” interest in the form of the State.” (Part I, A. Idealism and Materialism)

Because of the conflicts between owner, fan, and player interests, and because of the importance of profit-generating towards the health and existence of the league, NBA management is forced to administer NBA rules that estrange players from their labor.

Blocking/Charging Fouls

New interpretations of blocking/charging fouls in 2001-2002 was one of the major recent rule changes to the game, as it has increased the value of defensive players who are willing to, or skilled at, taking charges, and has hurt physical and aggressive offensive players. Blocking/charging fouls are distinguished as follows in the 2005-2006 NBA Rule Book, and has remained unchanged since 2001-2002:

“A defensive player is permitted to establish a legal guarding position in the path of a dribbler regardless of his speed and distance. A defensive player is not permitted to move into the path of an offensive player once he has started his upward motion with the ball to attempt a field goal or pass”.

The “legal guarding position” established in this rule is largely influenced by the dimensions of the court, most notably the NBA’s “restricted area”. The “restricted area” was created mainly to reduce the potential of defenders impeding the progress of offensive players when they are airborne. The area is outlined here:

“An offensive foul should not be called for charging if the contact is with a secondary defensive player who has established a defensive position within a designated “restricted area” near the basket for the purpose of drawing an offensive foul. The “restricted area” for this purpose is the area bounded by an arc with a 4-foot radius measured from the face of the backboard.”

Because of the increased enforcement of offensive fouls since 2001-2002, players are more likely to attempt to draw an offensive foul, which leads to more attempts by defenders to move into the path of offensive players, and referees are more likely to assess this movement as offensive fouls rather than illegal blocking fouls. More specifically, defenders understand that in order to take offensive fouls, they must position themselves outside of the “restricted area” (with few exceptions), which influences defensive players to attempt to reach the outside of the “restricted area” faster than an offensive player can make a move to the basket. This has led to injuries being caused specifically by this combination of rules, as described here in an article by Dennis Hans, a reporter for Hoopshype.com:

“• Gerald Wallace arrives late (by the old standard) to try to draw a charge on airborne Curtis Borchardt, who is knocked off kilter and breaks his fall with his wrist, which breaks. (To add insult to injury, the ref called a charge.)

• Andrei Kirilenko breaks his wrist on a nasty spill after help defender Kwame Brown hustles from under the hoop to get outside the restricted line as Kirilenko elevates, creating the unintended undercut effect.

• Brad Miller catches a pass on the right side maybe 18 feet from the hoop and sees a clear path to the hoop. Weak side defender Dwyane Wade...sprints across the lane to plant his feet outside the restricted line just in time for a knee-on-shin collision with Miller. Wade's hurting; he'll play but struggle for a few weeks before regaining his groove. Miller's a bloody mess. He'll miss a couple of weeks, then come back – probably prematurely – and soon thereafter develop another problem with the same leg, which turns out to be a broken bone, which puts him out for a far longer stretch.

• Dwight Howard grabs a loose ball near the foul line, sees an opening to the hoop, dribbles in and elevates. Boston's Al Jefferson simultaneously rushes forward from the baseline to try to beat Howard to a piece of wood just outside the restricted line. It's a dead heat, but Howard is airborne when the two meet... Luckily, Jefferson is sprawled on the court, and Howard is able to slightly break his fall by getting a hand or forearm down just as his head is landing on Jefferson... That was one of the scariest falls I've ever seen. Who knows what would have happened if Howard had been unable to break his fall in the nick of time?" [Letter to Ronnie Nunn](#).

director of officials, Dennis Hans, December 11, 2006, Hoopshype.com, (http://www.hoopshype.com/columns/nunn_hans.htm)

All of the examples I listed, which are from the 2005-2006 season, involve players who are among the scoring, rebounding and minutes played leaders on their teams (Wade, Howard, Miller, Kirilenko, Wallace). In addition, of these players, some possessed the potential to sign contracts with their teams for the NBA's maximum salary in following years, and had not done so up to the time, namely Wade and Howard. If these falls caused severe injuries, they would be a detriment to these players' ability to obtain large pay raises for their abilities.

This rule interpretation has not only increased the injury risk of players, it has also altered the labor market in the NBA, as many players are more valued by NBA teams through the effective manipulation of this rule. While this can be hard to quantify, some argue that certain players would not even be in the NBA if these rules did not exist. Hans points to a slew of defenders that are recognized and valued more for the manipulation of blocking/charging rules than their athletic ability, some of whom double as insignificant offensive contributors to their teams (the Collins twins and Othella Harrington, for example):

“Today's “beat to the spot” nonsense makes the help defender's job considerably easier, and it amounts to a huge subsidy to mediocre defenders (e.g. the Collins twins, James Posey, Michael Doleac, Jason Kapono, Antoine Walker, Anderson Varejao, Kyle Korver, Othella Harrington – it's a long list) whose stock would plummet if in help situations they had to make a play on the ball. The NBA boasts that its players are “the greatest athletes in the world,” but this rule is affirmative action for stiffes, as well as B/C obsessed non-stiffes such as Robert Horry, Andres Nocioni, Jared Jeffries, Jermaine O'Neal and Shane Battier.” Letter to Ronnie Nunn, director of officials, Dennis Hans, December 11, 2006, Hoopshype.com, (http://www.hoopshype.com/columns/nunn_hans.htm)

Because of the injury-risk that the blocking/charging foul interpretation presents, as well as its favoritism towards defenders that move into the path of offensive players (as opposed to players who do not employ this method in their defense), increased calling of offensive fouls holds the potential to severely damage the earning potential of many

NBA players, and this serves to alienate some NBA players from their profession. On the other hand, increased calling of offensive fouls potentially allows more players with sub-par talent to receive opportunities to play in the NBA and sustain lengthy careers.

Handchecking

The ban on perimeter hand-checking, which was enacted in the 2004-2005 season, has also created unbalanced officiating of players, and thus, the alienation of some players from their work. The rule was meant to reduce the physical nature of perimeter defense, making the game more entertaining for fans, and to a degree, making the game easier for guards to play, and thus making their working environment more comfortable.

However, this rule had no impact on play elsewhere on the court, as explained here:

“b. Contact initiated by the defensive player guarding a player with the ball is not legal. This contact includes, but is not limited to, forearm, hands, or body check.” **“EXCEPTIONS:** (1) A defender may apply contact with a forearm to an offensive player with the ball who has his back to the basket below the free throw line extended outside the Lower Defensive Box.”

Some of the goals of this rule change have been achieved, as the league recovered from its lowest scoring year (2003-2004) in league history. However, the side effects of this rule have also worked to hurt the game in some regard. There is a large discrepancy between contact a player can get away with in the post, and contact a player can get away with on the perimeter. This has worked to magnify the amount of foul calls that post players receive in comparison to perimeter players⁵⁹. This discrepancy is also magnified by the blocking/charging interpretation described above. However, both rule changes have influenced teams around the league, such as the Suns and Raptors, to exclude Centers from their starting line-ups, and increase the amount of perimeter players they sign and play.

⁵⁹ “It has never been more difficult for low-post players to put up numbers. Because of the way they and their defenders are coached, foul trouble is a constant for the likes of Shaq, Yao Ming, Zydrunas Ilgauskas and Eddy Curry. Thus, they don’t get enough court time to put up anywhere near the number of shots of the high scoring “Untouchables”, and none of their un-fouled field goals are worth three points.” Letter to Ronnie Nunn, director of officials, Dennis Hans, December 11, 2006, Hoopshype.com, (http://www.hoopshype.com/columns/nunn_hans.htm)

In addition to the obstacles that post players face, the rule also creates an imbalanced game for perimeter players. Guards are more susceptible to foul calls when they play aggressive match-ups who like to attack the basket. This creates a situation where some guards are unfairly granted a large number of foul shots⁶⁰. The hand-checking rule has worked to alienate perimeter players by threatening to reduce their playing time, and by creating a large difference between post play and perimeter play. In contrast, the preservation of the right to initiate contact in the post limits post scoring. Because hand-checking is banned, the rule persuades players to utilize other means of limiting the driving ability of players, such as taking charging fouls.

In essence, the hand-checking rule threatens the playing time and market value of both perimeter defenders and post players, which alienates both types of player from their work. Players of all types are discouraged from using physical strength as a means of defending, or attacking the basket.

The New Basketball

The league introduced a new basketball for the 2006-2007 season, the first time in 35 seasons that the NBA has introduced a new basketball. League management enacted the change for various reasons, namely the uniformity of the ball around the league. The reasoning for this change is discussed here:

“”The new model” the league said in a release, “is a microfiber composite with moisture management that provides superior grip and feel throughout the course of a game”...Other factors cited by the league in changing the ball is so that ones used in games will be uniform throughout the league, and that the leather models needed a breaking-in period that won't be necessary with the composite.”(Associated Press, October, 3, 2006, Shaq: 'Whoever [changed ball] needs to be fired')

⁶⁰ “The league responded to the very real problem of excessive grabbing and holding by going too far in the other direction, making it a foul merely to touch offensive players on the perimeter. The rule change has dramatically increased the effectiveness and statistical output – not to mention market value – of a certain class of players to such an extent that historians are likely to place asterisks next to their scoring marks in each of their untouched seasons.” Letter to Ronnie Nunn, director of officials, Dennis Hans, December 11, 2006, Hoopshype.com, (http://www.hoopshype.com/columns/nunn_hans.htm)

The NBA mostly appreciated the uniformity of the ball, made by Spalding, as it would allow the ball to be replaceable with a ball with similar consistency under dire circumstances (ie. a ball being popped, becoming too slippery, etc.). The ball provided other benefits to the league, such as allowing the league to sell and make profits off of a new basketball globally, and giving the NBA a composite leather ball, which is similar material to the official ball of FIBA (Fédération Internationale de Basketball), the governing body of the rest of the world's most prestigious basketball leagues, and the basketball used by the NCAA (National Collegiate Athletic Association). This would limit the adjustment of the most prominent NBA players to International competition, as well as the adjustment of prospective college and international players to the NBA. In addition, the ball would eliminate gamesmanship performed by NBA teams regarding the old, inconsistent leather ball, as some teams, such as the Utah Jazz, would inflate the ball more in order to initiate the fast break on hard caroms off of the rim. League management thought that the ball would serve the interests of the league as a whole, as it would improve the working environment for players through a more consistent, easier to grip basketball, and this in turn would improve the games of players (shooting, dribbling, etc.), thus increasing the appeal of the game to fans, and in combination with sales of the new ball, the profit-generating potential of the league.

The NBA changed the ball without consulting its players, which is consistent with its actions towards other regulations changes. The NBA tested the ball with retired NBA players, such as Reggie Miller and Steve Kerr, who were highly respected shooters during their tenure as players. However, many current NBA players were unhappy with the change, and the new ball generated special attention from players and their worker's

union because they deemed the ball critical to their comfort level. Players felt that this rule, in combination with various other rule changes, alienated players from their labor to the point that management interests always conflicted with, and took precedent over, player interests.

“The league did not have to consult players on the changes because they're not covered by the collective bargaining agreement. And as the league has done in the past, it didn't go looking for the players' input. That pertains to the new ball, too. Believe it or not, the union has plans to file an unfair labor practice charge over the new microfiber composite ball in the coming days, claiming it is adversely affecting working conditions...

"We got blind-sided with all these new rules," said Billy Hunter, the executive director of the NBA Players Association. "This is supposed to be a partnership, but it's not working like one. The players feel left out. David just implements what he wants, when he wants." (New York Daily News, Mitch Lawrence, November 16, 2006, [Players crying foul](#))

Various star, veteran players in the NBA complained about the new basketball, including Dwyane Wade, Shaquille O'Neal, and Steve Nash (the 2004-05 and 2005-06 NBA Most Valuable Player)⁶¹, while some younger players, such as Sergio Rodriguez and Jarrett Jack, appreciated the new ball's similarity to the previous composite leather balls they used in other federations (FIBA and the NCAA, respectively)⁶². However, over the course of the 2006-07 Season, which has not ended, the ball was reported to cause cuts among its players, and even assistant coaches around the league. This led to the NBA canceling the use of the new basketball, and making a switch back to the old, leather basketball effective beginning January 1, 2007. David Stern, the commissioner of the NBA, cited the complaints and discomfort of NBA players as the primary reasoning

⁶¹ “Some of the NBA's biggest stars, including Shaquille O'Neal, Dwyane Wade and Steve Nash, have said the ball is sticky when dry and slippery when wet...O'Neal said the new basketball "feels like one of those cheap balls that you buy at the toy store, indoor-outdoor balls"” [Stern expects all the kicking about the new ball to stop](#), Neshia Starcevic, October 11, 2006, Boston.com,

(http://www.boston.com/news/world/europe/articles/2006/10/11/stern_new_nba_ball_will_be_accepted/)

⁶² “Sergio Rodriguez...loves the new ball..."We used a ball just like this in the FIBA World Championships. It's all I've ever used." And, it seemed to work for him, as Spain won the gold medal, so why would he have a problem with it?... "I absolutely love the new ball," said Jarrett. "I really don't know why so many guys have come out and complained about it. I love handling it and I love shooting it." Of course, Jack is just in his second year and played with a microfiber ball at Georgia Tech.” Portland Trail Blazers: Mike Barrett's Blog, [Keep Your Eye on the Ball](#), October 11, 2006 (http://fans.blazers.com/blogs/mike_barrett/2006/10/keep-your-eye-on-ball.html)

for the cancellation, but reports of cuts on NBA players is widely viewed as the largest reason for the move:

““Our players' response to this particular composite ball has been consistently negative and we are acting accordingly,” Stern said in a statement. “Although testing performed by Spalding and the NBA demonstrated that the new composite basketball was more consistent than leather and statistically there has been an improvement in shooting, scoring and ball-related turnovers, the most important statistic is the view of our players”... But Stern, according to sources, is not authorizing a change because of complaints about the new ball's feel and performance ... or even the widely held contention that players around the league were not sufficiently involved in the testing process. The clincher was clearly the rash of cuts, which have been likened to paper cuts, on the hands of players and coaches throughout the league...With a number of prominent stars reporting cuts on their fingertips and hands caused by the new ball's high-friction cover -- Phoenix's Steve Nash, New Jersey's Jason Kidd and Dallas' Dirk Nowitzki among them -- Stern was forced to concede that an in-season swap was unavoidable because the new ball is inflicting injuries.” (ESPN.com, Marc Stein, December 12, 2006, Leather ball will return on Jan. 1)

The new NBA basketball was changed not because it alienated players from their work, but because it threatened to harm the reputation of the NBA as an organization that cares about the well-being of its players. NBA management scrapped the new basketball because they recognized that the entertainment product would suffer if marketable NBA players were sidelined with cuts stemming from the new ball, and if fans were constantly reminded of the NBA's domination in its collective bargaining with its players.

Impact of Rule Changes on NBA Image

Rule changes have lessened the effectiveness of players who rely on physical strength through the increased hand-checking and offensive foul calls, as well as the implementation of zone defense during the 2001-2002 Season. The NBA introduced zone defense as an attempt to develop a game where more than one player touches the ball, and to react to increasingly sluggish and one-side offensive play in the league in general⁶³. Zone defenses are legal under FIBA rules, and are heavily employed by international teams. The NBA's move to allow zone defenses was met with skepticism, as it appeared

⁶³ “When the Knicks hired Pat Riley in the early 1990s, he found few players with offensive skills. So he used the athleticism of his black players to shut down the opponent's offense. Soon, final scores were in the 70s, the Knicks were winning, and other coaches followed Riley's lead...which caused teams to isolate one or two players on one side of the floor to try to generate some scoring. It was this sluggish style of play that led the league to allow zone defenses.” Blacks Suck At Basketball, Dan McGraw, May 31, 2003, Overthrow.com, (<http://www.overthrow.com/lsn/news.asp?articleID=5179>)

to limit the individual brilliance of players in the NBA. Stu Jackson, the NBA's Senior Vice President of Basketball Operations, discussed NBA management's perspective on the rule change with NBA.com:

How do you respond to the criticism that allowing zone defenses will only serve to further restrict the individuality and athleticism that makes the NBA great?

Jackson: Well, I don't necessarily agree with that because what identifies our league are the great plays and great athletic players in it. Whether you use the illegal defense guidelines or you allow any defense, those great players will still be our best players, no matter what type of defense you throw at them. On the other hand, if defenses are designed to stop a player with a specific type of zone defense, that's okay too because perhaps the byproduct of that will be that more players get involved. In five-man offensive schemes there will be more movement, more players taking shots, a different requirement to have better shooters. We think that would be good for the game. Over the long haul, you're not going to stop a great player from being great, no matter what defense you have.

Understanding the Rule Changes: NBA's Senior VP of Basketball Operations talks about the rules changes for 2001-02, NBA.com, (http://www.nba.com/features/jackson_rules_response.html)

While Jackson felt that player's individual ability would not be curbed, he clearly stated that zone defenses will force more ball movement among teams, and induce ball movement by superstars defensively schemed by these defenses. This is why the above listed rule changes, combined with the short-lived change of the NBA basketball to composite leather, are geared towards rewarding teams that utilize passing and shooting for offense rather than individual stars who use physical strength to get to the basket, or teams that use physically strong players to hinder another team's scoring prowess. The rule changes have changed the perception of the types of players that the NBA prefers to market, and represents a shift from the style of basketball played prior to the NBA Lockout⁶⁴. In the eyes of some NBA analysts, these rules were created to attract international players to its game, and through this, more entertainment value to fans. In the eyes of management, these rules were designed to create a game with better offensive

⁶⁴ "The dynamic of change in the NBA becomes crystal clear if Dallas and New Jersey both make the finals...The snarl and tattoos of Kenyon Martin, who grew up in the Dallas ghetto, with his acrobatic dunks and skying rebounds, against Dirk Nowitzki, the 25- year-old German whose all-around skills and efficient play have brought about comparisons to Larry Bird. It will be run-and-gun, once thought of as black basketball, but now played by white guys, against a slowdown deliberate game, once thought of as white ball, but now played by black guys." Blacks Suck At Basketball, Dan McGraw, May 31,2003, Overthrow.com, (<http://www.overthrow.com/lsn/news.asp?articleID=5179>)

flow, and through this, potentially more entertainment value to fans. Some NBA analysts differ from NBA management on where the entertainment value for fans lie, and even differ on the thinking that the NBA's superstars would remain great regardless of the rule changes. Regardless, the rules have a significant impact on black players in the league, and forces black players to adjust to a style they were not playing in the 1990s, an adjustment that alienates black NBA players according to Dan McGraw, a writer for Overthrow.com, and Harry Edwards, a sociology professor at the University of California-Berkeley:

"The game has suddenly opened up (for teams with the right kind of players), with more room for three-pointers, more spacing for passing, and the ability to try to hide a bad defensive player by making him responsible for an area, not an opposing player. For black players in the NBA, the changing of the rules holds an ironic truth. For years, black ballplayers were stereotyped as not being interested in playing defense. When black players became very good at defense and began to dominate the league on the defensive end, the NBA loaded the dice. And this is precisely where the Euro players stepped in...

But what of guys like Dallas's Nowitzki, who regularly gets double figures in points and rebounds, even in the playoffs? "The difference is that guys like Dirk couldn't have even gotten off the bench in the past," says Harry Edwards, a sociology professor at Berkeley, longtime activist, and consultant to players and teams, currently director of the City of Oakland Parks and Recreation Department. "Could you see him trying to guard Julius Erving or Dominique Wilkins? They would be bouncing the ball off the back of his head. No coach would allow him out there because he can't play defense. But he's out there now, and starring in this league, because the game has changed." [Blacks Suck At Basketball](http://www.overthrow.com/lisn/news.asp?articleID=5179), Dan McGraw, May 31, 2003, Overthrow.com, (<http://www.overthrow.com/lisn/news.asp?articleID=5179>)"

While the NBA's rule changes have attempted to make the NBA more fluid offensively and more entertaining to watch, the motives as well as the outcome of these changes have come into question. Black players are appearing to be slowly phased out of the league, and in the perspective of some long-time NBA followers, the quality of the game is suffering.

Conclusion

While the present has treated the NBA well in regards to profitability and fan interest, its recently instituted policies may have a larger and more pronounced impact in the future. Whether this impact is positive or negative for the NBA remains to be seen, but is heavily dependant on the quality of NBA competition. The level of competition in

the NBA is ever-changing, thanks to the NBA's constant alteration of its own rules and rapid league expansion⁶⁵. Edwards worries about the economic future of the NBA, as he feels that competition in the NBA is ultimately suffering thanks to the NBA's rule changes, and most importantly, because of the NBA's desire to expand its fanbase:

"The NBA is a uniquely American institution, and a black institution as well," says Edwards. "It's the equivalent of jazz. For many years, jazz tried to get away from its roots, to bring in a larger audience. As a result, jazz is now a marginalized music form. When you change the style of music, there are consequences, so I caution the NBA to think of what style they are changing the game into."...

But the predominant color of 21st-century NBA basketball is neither black nor white; it's green. "The race thing right now is incidental to economics," says Edwards. "The game has always changed due to market forces. They brought in the Harlem Globetrotter style of play when the game got stagnant in the '50s and '60s. They did the same thing when they emphasized Magic Johnson and Larry Bird and Michael Jordan. Their latest capitalistic ploy is globalization. The problem is the style of play has been changed to accommodate the market. Do we want to watch basketball as it is played in Yugoslavia? At some point you might be marketing garbage, and it could become so discombobulated culturally that it could become ugly." Blacks Suck At Basketball, Dan McGraw, May 31, 2003, Overthrow.com, (<http://www.overthrow.com/lsn/news.asp?articleID=5179>)

Since the NBA Lockout of 1998, the NBA has adjusted its game to maximize profits for the league, and felt that adjusting the style of basketball being played would achieve this end. The adjustments made the NBA more appealing from a marketing standpoint because it increased the importance of players' offensive skills such as shooting and ball movement, while decreasing the importance of players' use of size and strength to slow down the game. In addition, these rule changes, with the exception of the introduction of the new basketball, made the NBA more fan-friendly because it appealed to the desire of NBA fans globally to see more international representatives in the NBA game, and the desire of NBA fans in America to see a game with less black players involved. While the NBA claims that their rule changes were not guided by concerns

⁶⁵ "In 1985, there were 23 teams and many had fewer than 15 players under contract, meaning that with 30 teams today and 15 person rosters, the sheer number of players in the NBA has increased by over 25 percent over the last 20 years. On a practical, this means that a player who was the 8th or 9th guy on the bench in 1985 would likely be a starter today. No wonder why the quality of play has declined: Lesser players are expected to play greater roles. And that has nothing to do with attire or prep-to-pro players." Don't Wear That! David Stern's Paternalism Strikes Again with Dress Code, October, 6, 2005, Michael McCann, (<http://sports-law.blogspot.com/2005/10/dont-wear-that-david-sterns.html>)

about TV ratings or marketing, NBA ratings and team values have risen in recent years coinciding with these rule changes.

However, while fan interest has risen in recent years, the style of play, and arguably the quality of play, in the NBA has suffered because of these new rules. NBA players remain 75% black, but the presence of African-Americans in the league, as well as the quality of their play, is dwindling partially because of these new rules. Their awareness of this predicament alienates these players from their work, and more significantly to the NBA, forces NBA players to create a product that risks becoming unappealing to basketball fans in the future.

The Age Limit

Effective after June 28, 2006, the date of the 2006 NBA Draft, the NBA has adopted an age limit on potential entrants to the NBA Draft. Instituted under the NBA's

most recent collective bargaining agreement, which was instituted on August 10, 2005⁶⁶, the NBA has established two new conditions for players entering the NBA Draft:

- All players of all nationalities must exceed 19 years of age
- Players born in the United States must be a year removed from high school graduation

The NBA age limit allows players to do as they please during the year removed from high school graduation, including playing in other professional basketball leagues around the world, attending prep school, going to college, or even remaining idle.

Regardless, players are not allowed to enter the NBA until the age of 19. This is a movement from the rules under the collective bargaining agreement created after the lockout, which allowed players to enter the draft directly after graduating high school, with no limit on age.

Unlike the debate on salary payments and distributions prior to the creation of the 1999 NBA Collective Bargaining Agreement, the age limit was not an issue that halted or delayed the operation of the NBA for any degree of time. However, it was an issue that the player's union and NBA management were in contention over, as it would hold as significant impact on NBA competition, the earning potential of future NBA players, and the negotiating power of the player's union regarding future collective bargaining agreements. NBA management proposed the age limit because of its concerns that the level of competition in the NBA was being diluted by underage players, and also assessed that the extra year would allow potential draftees to develop into better NBA players, thus increasing their earning potential and career length. The intents of NBA management were met with skepticism from NBA players, and analysts outside of the NBA workforce. To these people, the age limit worked to curtail the earning potential of

⁶⁶ From NBA Collective Bargaining Agreement: New NBA CBA-August 10,2005
(<http://www.insidehoops.com/nba-collective-bargaining-agreement.shtml>)

players by denying them a chance to capitalize on their market value at an early age, and furthermore keeping these players from signing lucrative long-term deals once their rookie contracts end. In addition, these people assessed that the proposal of the age limit is not statistically backed by underperforming players being drafted out of high school, as high-school draft entrants have been among the most productive and well-compensated players in the NBA. In turn, these players can at times generate a great deal of revenue for their respective teams, and have a positive impact on the profitability of the league as well. Under anti-trust law, the age limit also appeared to be an illegal group boycott, calling the legality of this move in question. However, the player's union sacrificed the option to legally contest this rule by accepting it in the collective bargaining agreement. The intents of NBA management and the player's union in agreeing to this stipulation inside of the new collective bargaining agreement are complex, and reveal a great deal about labor relations in the NBA. The contestation of the age limit policy shows how the NBA has progressed from the lockout of 1999, and explains the current state (and actions) of NBA management and the player's union.

Player's/Denial of Worker's Rights

Upon the proposal of the age limit during the negotiation of a new NBA Collective Bargaining Agreement, the player's union had to weigh the potential impact of this policy on their present and future players, as well as on future bargaining discussions with NBA players. The player's union wanted to protect the ability of players to start earning NBA contracts out of high school, and being able to capitalize on more contracts based on this early entrant age. Sacrificing the freedom of future players would have to be evaluated as being in the best interests of the player's union as well as management.

Some analysis of this policy presented the assertion that the age limit was not beneficial to players. Prior to the age limit being enacted, Michael McCann, author of the law review article “Illegal Defense: The Irrational Economics of Banning High School Players from the NBA Draft” evaluated the potential impact of the age limit on NBA competition, as well as on player salaries. McCann showed that the age limit denied players a chance to be paid for their talents, and created the risk that high school superstars, who may be worthy of multi-million dollar salaries if drafted out of high school, may lose their market value entirely after a year in college, whether because of unforeseen circumstances such as an injury, or simply the reevaluation of these players’ abilities by NBA teams. McCann described the possibility of high school players losing their value in college through the story of Randy Livingston, a marginal NBA player whose career spanned through the 1990s:

“Consider the star-crossed basketball career of Randy Livingston, a point guard who starred at Newman High School (LA) in the early 1990s...Livingston was honored as the nation’s number one high school recruit in both 1991 and 1992... Livingston attended Louisiana State University (“LSU”). Right before the start of his freshman year, however, he tore his right anterior cruciate ligament...As a result, Livingston approached the 1996 NBA Draft with skepticism and regret, “I don't know if I'll make \$3 million a year or not even \$30,000 in my first job.”...He was selected 42nd overall (second round) by the Houston Rockets, prompting one draft publication to remark, “too bad Houston didn’t draft [Livingston] out of high school, when he was one of the nation’s top recruits.”...Livingston has meandered through the quintessential “journeyman” NBA career. Over the past eight seasons, Livingston has played in short stints for nine NBA teams, though has been released or waived 10 times, thereby earning only pro-rated portions of the NBA minimum.” Illegal Defense: The Irrational Economics of Banning High School Players from the NBA Draft, Michael McCann, (http://papers.ssrn.com/sol3/papers.cfm?abstract_id=567745)

Through the discussion of Livingston, McCann addresses key issues that the player’s union had with the age limit. If the policy was accepted, future draft entrants would risk forfeit the opportunity to make a substantial amount of money when they enter the league, and possibly hurt their chances of earning money in the long-term, as these players stand a very good chance of hurting their own market value in a year removed from the NBA. The example of Randy Livingston covers draft entrants that encounter unforeseen circumstances during the year delay. In the scenario that a top-flight player

would maintain or increase their market value over the year removed from draft eligibility, McCann also shows that the age limit severely harms a player's earning potential. According to McCann, the ability of players to obtain a series of lucrative long-term contracts, provided their basketball skills and health remain at a high level, is greatly harmed by the age limit:

“Indeed, a player is usually seen as entering his “prime” at about the age of 27 or 28, and the “prime” typically lasts between three and four seasons. In contrast, players older than 31 are often regarded as “teachers” or those whose glory days are behind them...players signing contracts past the age of 31 earn considerably less than they would signing deals at a younger age: A review of current NBA contracts found that no player signed a deal for terms beyond four seasons after he turned 31 years old....As noted earlier, Garnett signed a six year, \$120 million deal when he was 21 years old, and in October 2003, Garnett – at age 27 – signed a five-year, \$100 million contract extension. By doing so, Garnett fulfilled Tellem’s prediction from 2001: “In Garnett’s case, those four extra years of college could have cost him as much as \$100 million.” Illegal Defense: The Irrational Economics of Banning High School Players from the NBA Draft, Michael McCann, (http://papers.ssrn.com/sol3/papers.cfm?abstract_id=567745)

While the age limit only denies draft eligibility for a year after high school, this year has a large impact on long-term contracts. The Minnesota Timberwolves signed Garnett to the 5-year deal at age 27 knowing that they would be paying for 3 seasons in his “prime” years, and 2 beyond the “prime” years. Would Minnesota be willing to pay Garnett a maximum salary if Garnett was a free agent at age 28, and they would possibly pay for 2 “prime” years and 3 beyond? What about if Garnett was a 29 year old? A player’s age at the tail end of a deal significantly influences a team’s approach to free agent contracts, as it forces them to consider if a player would be worth a certain amount of money over the course of the deal, and if the length/value of the contract should be adjusted accordingly. The age limit stood to be a big factor in changing team approaches to free agents in their “prime” years.

In the midst of McCann’s discussion of draft entrants losing money in the extra year being excluded from the draft, arguably the most damaging critique McCann assessed to the age limit was inside of his analysis of Korleone Young, a high school

draft entrant who was cut from his team shortly after being drafted. McCann showed how Young, a player who was considered a disappointment in the NBA, made more money in the NBA than he could have attained after a year in college, and also had the opportunity to continue making money outside of the NBA at an earlier age.

“Even if Young is considered a “failure,” bear in mind that at age 19, he earned \$289,750 to play in the NBA, and over the past three seasons, has earned between \$50,000 and \$100,000 per year to live abroad and play two or three basketball games a week for eight months of the year. Compare his earnings to the median salary for single males in the United States (\$31,267), or the median starting salary for college graduates (\$41,000).²²⁷ Alternatively, compare Young’s work schedule to that of the average American, who works an average of 43.4 hours a week, 11 months a year. In other words, although Young enjoys neither the fruits of a NBA career nor the rewards of a college education, he works substantially less to earn considerably more than does the average American.” Illegal Defense: The Irrational Economics of Banning High School Players from the NBA Draft, Michael McCann, (http://papers.ssrn.com/sol3/papers.cfm?abstract_id=567745)

McCann’s discussion of Young pointed to how big of a sacrifice the player’s union would be making on behalf of its future draft entrants if it agreed to the age limit. Young made money at an early age that college students, and thus, athletes, could not match. He also had flexibility in his career that made his occupation appealing, as even after he got cut from his NBA team, he was able to play professional basketball for many years⁶⁷, which could be attributed to the exposure and prestige he received from being an NBA draft pick. With evidence such as that provided by McCann, the players’ union became familiar with the financial hit future draft entrants would take prior to entering the NBA, which has revealed itself to be true even in the upcoming 2007 NBA Draft⁶⁸. The evidence made the player’s union skeptical about management motives for presenting the age limit, as they felt that the age limit contained business and social implications that did not work towards the best interests of players.

⁶⁷ “Indeed, for the past three seasons, he has played a great deal of professional basketball, from the Continental Basketball Association to the Australian League and now in Russia...”Ibid #14

⁶⁸ “In last Saturday’s game at Texas A&M, Kansas State freshman Bill Walker tore the anterior cruciate ligament in his left knee. The injury ends the 06-07 season for the dynamic 6-6 Walker...He was considering a challenge to the new NBA age limit...But...He will probably spend the next eight months rehabbing his knee rather than dealing with a controversial lawsuit that may no longer be in his best interests...If Walker had suffered the exact same injury while playing for an NBA team, he would likely have millions of guaranteed dollars coming his way under an existing contract.” Sports Law Blog, January 12, 2007, The Legal and Social Implications of Bill Walker’s Knee Injury, (http://sports-law.blogspot.com/2007_01_01_archive.html)

Management/Improving Competition

Players in the NBA criticized the age limit for its financial impact on prospective NBA players, as well as for its social implications about the professionalism of teenage NBA players in comparison to teenage professional athletes in other sports such as golf and tennis, and other professionals in society at large (participants in the military, service employees, etc.)⁶⁹. Conversely, NBA league officials downplay the connection of societal influences to the age policy, as they assert the stance that the policy was enacted solely to improve competition in the league. NBA officials stated that the quality of the league was suffering because of the growing presence of younger players that still needed development and training to contribute to their respective teams. The League felt that as teams drafted teenage players based on their long-term effect on their team and the league, as well as for the opportunity to sign talented young players to cheaper long-term deals, experienced players who were already prepared to help teams win were slowly being phased out. Stemming from the predicament, fans of these NBA teams were becoming unsatisfied with the product, as in their view, teenage players were taking roster spots and salaries from better players, thus making teams less competitive, and games less entertaining to watch. From the League's perspective, the age policy was instituted to maintain the profitability of the league, and to restore the image of the NBA as having the best basketball players in the world.

According to the NBA, the age policy was strictly created to advance their business, whether through ensuring strong competition in the league, pleasing critical

⁶⁹ "Asked about the racial implications of the proposed age limit that the NBA plans to add to the Collective Bargaining Agreement, the Indianapolis Pacers' Jermaine O'Neal stated: "As a black guy, you kind of think [race is] the reason why it's coming up. You don't hear about it in baseball or hockey. To say you have to be 20, 21 to get in the league, it's unconstitutional. If I can go to the U.S. Army and fight the war at 18, why can't you play basketball for 48 minutes and then go home?", *The Real Color of Money: Controlling Black Bodies in the NBA*, (<http://www.popmatters.com/sports/features/050510-nba-2.shtml>)

fans, or discouraging unprepared players from trying to enter the league and/or seeking means of entering the league that provide less development and exposure than the NCAA. The league rejected the notion that the policy was enacted for social reasons. David Stern, the commissioner of the NBA, argued that the age policy benefited the League, individual teams in the League, and even the players themselves, and that management had no other reasons to propose the policy:

“This was not a social program, this was a business issue. There was a serious sense that this was hurting our game. Having an 18-year-old player not playing, sitting on the bench, is not good for basketball. If we could have these kids develop for another year, either (A) they'd see that they weren't so good, and see that they weren't so good, or (B) they would get better, and when they came, they would be able to make a contribution. And that would improve the status of basketball. ... For us, the opportunity to make them older *and* to assign players to other leagues so they could get minutes was a good thing... The other thing was that draft picks are very valuable. And the opportunity to see Darko Milicic, Martell Webster, Gerald Green, Kwame Brown, you name it, any high draft pick, for one more year, will in some cases move players up in the draft and in some cases move them down. And that's a good business issue, and ultimately leads to having better basketball players on the roster to make the basketball better... people were killing us for it, they were saying, "Oh, the basketball's terrible because the players are too young, they don't have the requisite skills, they don't have this, they don't have that." Actually, some do, some don't, a year later they're going to be better, [plus] the opportunity to send them down, like a Gerald Green, to get minutes so the team could say, "You know what, he looked good. He got his rhythm back, he got his confidence back, he got to play a few minutes." That was the whole idea. This last collective bargaining agreement was about basketball and about player reputation” (ESPN.com – Curious Guy: David Stern, February 16, 2006)

David Stern felt that the age policy was an attractive business decision, and not only did the policy's business intents supercede any potential social benefits gained from the policy, but the policy was created in the absence of social intents or influences. He stated that the age limit would increase the skills of NBA Draft entrants, the competitiveness of the game, and thus the entertainment level of the product. His discussion of “assigning players to other leagues” alludes to the power of NBA teams to send younger players to an NBA-owned minor league, the National Basketball Developmental League. While Stern does not discuss the impact of the age policy on the NBDL, the thought of older, more skilled players attempting to enter the NBA affects, and theoretically improves, the competition in both leagues. Increasing the profitability of the NBDL adds to Stern's argument that the age policy was solely business-oriented.

While the players' union and NBA analysts perceived the age limit as possibly being presented because of fan/owner dissatisfaction with young players, and attempts for NBA teams to minimize draft picks based on potential (and save money in the process) ,among other things, management's public stance was that they presented the age limit simply to improve the level of competitiveness in the NBA, as well as public perception of the quality of its players, which would benefit these players financially in the long run by increasing their shot to have and maintain long-term careers.

Production of High School Early Entrants

During the proposal of the age limit, perception of the policy outside of the players' union strongly appeared to be favorable. The age limit seemed to be a reasonable, and even desirable, policy inside of the minds of fans, and some NBA analysts and coaches, aside from the stance of NBA management. The reasoning for this was that these groups of people widely accepted the thought that high school draft entrants that stuck with NBA teams were uncompetitive, while entrants that did not make the NBA squandered chances to make more money down the road. Furthermore, the notion that unsuccessful high school draft entrants far outnumbered successful ones was also widely accepted⁷⁰.

In light of these perceptions, the age limit seemed to benefit both players and owners, while clearing up a crucial hindrance to the game: under-aged, immature, and under-skilled NBA Draft entrants. However, upon further analysis, the perceptions do not match the data on high school players, whether it is the amount of salary they have

⁷⁰ "Dick Vitale, famed college basketball coach and analyst, remarks, "For every Kobe, there is a Leon Smith and a Korleone Young." Similarly, Bob Wojnowski, a columnist for the *Detroit News*, comments, "For every Kobe, there are way too many Korleones." Likewise, Phil Jackson, head coach of the Los Angeles Lakers, notes, "I've had this argument with Kobe and he talks about how many great players have come into the NBA from high school in the last four or five years. Yet innumerable players have not been able to marshal the talent of a Garnett or a McGrady and have not made it." Ibid#14, 67

earned in the short and long term, or the statistical production of these players. As mentioned before, numerous NBA superstars, such as Kobe Bryant, Kevin Garnett, Tracy McGrady, Dwight Howard, Amare Stoudemire, and LeBron James, have been drafted straight out of high school, and some of these players (James and Howard, for example) became stars in their first year in the league. Even aside from these stars though, high school players are generally drafted higher, and earn more salary, than NBA draft entrants coming out of college:

“83 percent of high school players who have entered the NBA Draft have been drafted. In stark contrast, of the 121 college underclassmen who declared their eligibility and participated in the Draft from 2001 to 2003, only 31 percent were drafted in the first round... and 54 percent were not drafted at all. As a further point of contrast, of the 157 college underclassmen who entered the NBA Draft from 1992 to 1998, only 42 percent of them were drafted, and most of them were taken in the second round... If we compare the average professional basketball earnings of all high school players versus the average NBA salary over the three seasons, we observe that the high school players’ average closely approximates the average NBA salary (\$4,178,271 to \$4,500,000 in 2001-02; \$4,288,672 to \$4,546,000 in 2002-03; and \$4,429,895 to \$4,917,100 in 2003-04), even though these groups are separated by an average of six years in age... When we assess the high school players who have already entered the NBA, we notice a distinct trend: They struggle during their first season, and sometimes during their second season, but then explode into stars during their third or fourth seasons.” Illegal Defense: The Irrational Economics of Banning High School Players from the NBA Draft, Michael McCann, (http://papers.ssrn.com/sol3/papers.cfm?abstract_id=567745)

The statistics on the draft position, salary, and production of high school players debunk the notion that high school players enter the draft with less skill or talent than the average college player. The vast majority of high school age players get drafted, while the majority of underclassmen entrants do not get drafted. While this reflects the size of the underclass entrant pool in comparison to the amount of high school entrants, this also proves that the amount of unsuccessful high school draft entrants is limited a great deal to drafted players who become stars, and have long-term NBA careers. With this in mind, the age limit would be counterproductive in improving NBA competition, as it would risk losing a group of players that consistently get drafted, and consistently turn into NBA stars. The fact that high school age draft entrants generally become stars rapidly and at a young age means that the age limit prevents more players from entering the league who

have the potential to increase their salaries rapidly, and sign multiple lucrative contracts over the course of their careers.

Beyond the statistical production of high school players, the perceptions of NBA fans and NBA management that high school NBA draft entrants are less mature than college entrants has also proven to be statistically untrue. McCann presents statistical proof that high school NBA draft entrants are far less likely than college-age entrants to carry a criminal record, as only 8% of high school NBA draft entrants committed crimes as of the 2004-2005 season. High school NBA draft entrants are far less prominent than college-age draft entrants in the NBA to begin with, representing only 5% of the league, thus making them less likely to tarnish the image of the league.

“In regards to American players, while 41 percent of NBA players attended four years of college, 57 percent of arrested NBA players attended four years of college. In striking contrast, while 8 percent of arrested NBA players did not attend college, only 5 percent of NBA players did not attend college. Indeed, while some of the NBA’s most notorious players attended college for four years (e.g., Latrell Sprewell, Ruben Patterson, Damon Stoudamire), prep-to-pro players have been consistently praised for their community service and social contributions” *The Reckless Pursuit of Dominion: A Situational Analysis of the NBA and Diminishing Player Autonomy*, Michael McCann, (http://papers.ssrn.com/sol3/papers.cfm?abstract_id=878611)

The numerous arguments that supported the view that an age limit would have a positive impact on NBA profitability and competition appear to be undermined by statistical proof of the contrary. High school NBA draft entrants have on average become more productive NBA players, with higher salaries and career lengths, than college-age entrants, and have also kept themselves out of legal trouble off the court at a far higher rate.

High school NBA draft entrants’ high rate of production and civility off the court would seem to be very easily accessible information for NBA management to consult prior to evaluating the impact of an age limit, and reproduce for the sake of improving the image of its younger players and its league. The NBA has only grown and become more

profitable since the NBA Lockout, which has been proven through rising player salaries and the salary cap, increased team values, new television deals, and an expansion team being introduced to the league, among other indicators. However, from the perspective of NBA management, many fans of the NBA assumed that high school players do not benefit the league in these ways, because of the “knowledge structures” guiding their viewpoints that McCann alluded to. Through the age limit, the NBA seized the opportunity to manipulate the racially biased assumptions of fans into policy that limited the profitability of future NBA players, while limiting the rise of player expenses for NBA teams, according to McCann:

“Perhaps it begins to explain why society finds it imperative to protect eighteen year-old African American men—“kids”— from playing in the NBA or the NFL, but not from fighting in wars or working at McDonald’s. Or why does society describe sixteen year-old golf prodigy Michelle Wie as “precocious” and “mature” after signing a \$10-million endorsement contract,⁷¹ but express grave concerns about the welfare of a “naïve” seventeen year old LeBron James attracting mere interest from endorsers?⁷² Moreover, why does society celebrate actors like Anna Paquin and Leonardo DiCaprio when they earn millions starring in films, while it casts dispersions on African-American men for doing the same in professional sports? Our expressed convictions are remarkably vulnerable to situational influences. For the NBA, the “situation” of age enables it to exert greater control over players, while simultaneously appeasing fans and media alike.” The Reckless Pursuit of Dominion: A Situational Analysis of the NBA and Diminishing Player Autonomy, Michael McCann, (http://papers.ssrn.com/sol3/papers.cfm?abstract_id=878611)

The fact that the stellar production and maturity of high school NBA draft entrants is glaringly ignored by NBA management, analysts, and the public is not a coincidence. NBA management saw the age limit as an opportunity to limit the earning potential of NBA players. The NBA’s presentation of the age limit further damaged the image of high school NBA draft entrants in the eyes of fans, and this strategy worked because of the assumptions of NBA fans.

Legality of Age Limit

⁷¹ “It’s interesting. People don’t want to talk about Michelle Wie’s golf game. They want to discuss her presence. Graceful and confident, poised and mature.” Doug Haller, Million Dollar Baby, Arizona Republic, Oct.6, 2005; “When it comes to the precocious Wie, very little that surrounds her is routine.” Fred Lewis, Lessons Never Stop, Even as a Pro, Honolulu Advertiser, Oct. 17, 2005.

⁷² “If that’s not enough to tempt a naive adolescent, just imagine how many millions the avaricious shoe companies are ready to toss his way in endorsements.”. Ray Deering, Resisting Money Tough James Test, Chattanooga Times Free Press, Dec. 15, 2002

When the age limit was passed in 2005, the player's union did not move to file suit against NBA management. The player's union had the potential to make a strong case that the age limit constituted a group boycott, and thus deem the move illegal under anti-trust law. However, the nature and the history of the relationship between the player's union and NBA management strongly convinced the player's union to not even attempt to challenge the passing of the age limit.

It is probable that the age limit would have been deemed illegal under "per se"⁷³ and "rule of reason"⁷⁴ analysis of antitrust laws. These analyses would have to be enacted to prove the illegal nature of the age limit because of the small percentage (8%) of high school NBA draft entrants present in the league⁷⁵. However, the players' union stood to risk a lot by taking a stance against NBA management, even if they had a strong case. If the players' union were so moved to file suit against management on behalf of its future NBA draft entrants, they would have been simultaneously helped and hindered by the monopolistic nature of the NBA. The most important aspect of high school players' case for constituting the age limit as a group boycott, the NBA's substantial market power, is what would also discourage the players' union from filing suit, as they would risk losing access to the high salary ceiling that association with the NBA provides:

⁷³ "For high school players to obtain *per se* analysis of a rule banning them from the NBA Draft, they would have to demonstrate: a) the NBA possesses market power; or b) the NBA has exclusive access to either supply (players) or an essential element so that competition is affected" Ibid #14,67

⁷⁴ "When an agreement does not so clearly restrain competition in an unreasonable manner, however, courts employ the "rule of reason" to determine the unreasonableness of the agreement. Under rule of reason analysis, a plaintiff must exhibit three factors to prove the existence of an illegal group boycott: a) distinct business entities entered into a horizontal agreement; b) the agreement adversely affected competition in the relevant market; and c) either the anticompetitive effects of the agreement exceeded its procompetitive effects or the businesses could have employed less restrictive ways to obtain the same procompetitive effects... Most relevantly to this analysis, courts have excluded from a geographic market those potential sellers (players) whose product is not considered a suitable alternative to the defendant's customers (fans)" Ibid #14,67,73

⁷⁵ "Practically, the purported boycott must affect a requisite number of competing sellers and must result from an agreement of boycotting parties that have significant influence on the market. Otherwise, the boycott may not be within the scope of antitrust law... if a ban on high school players affects only a small percentage of the NBA's talent pool, it is possible that such a rule would not constitute a group boycott." Ibid #14,67,73,74

“The NBA clearly has market power in the American industry of professional basketball. There is no comparable employment substitute for basketball players... the average NBA player salary is \$4,917,100, the minimum salary is \$367,000, and the maximum possible salary under the 1999 CBA is \$14,875,000... Even if the market power of the NBA is judged against professional basketball opportunities in foreign countries, the same trend exists... salaries in European leagues typically range from \$50,000-\$400,000, with occasional exceptions for spectacular players, though even these players rarely earn more than \$1,000,000... endorsement income... dwarfs that available in other professional basketball leagues. Essentially, therefore, the NBA has a global monopoly on premier professional basketball. Simply put, the NBA possesses *the* exclusive market of the very best basketball one can see, and no other league can approach this level of quality.” Illegal Defense: The Irrational Economics of Banning High School Players from the NBA Draft, Michael McCann, (http://papers.ssrn.com/sol3/papers.cfm?abstract_id=567745)

The monopolistic nature of the NBA also would manifest itself in the potentially damaged image of NBA players through a legal contestation, a scenario that played itself out during the NBA lockout. The legal contestation process would only make supporting NBA players less appealing to NBA fans, as player would appear to be greedy and unthankful for their salaries. Most importantly, the ability of the players’ union to participate in collective bargaining with NBA management would be lost through a legal challenge. The player’s union has had a history of allowing NBA management policies to bypass legal challenges because they wanted to uphold their collective bargaining relationship, and courts did not interfere because the policies were established through collective bargaining. Like the NBA Lockout, NBA management understood that the players’ union would succumb to the will of NBA management through compromises with the players’ union, which were achieved through other aspects of the revised Collective Bargaining agreement in 2005, such as the “amnesty clause”, etc.:

“Whether a court applies *per se* or rule of reason analysis, the same conclusion will likely arise: The NBA would engage in an illegal group boycott if it imposes such a ban. Should the NBA and NBPA agree to a ban, however, it may withstand judicial challenge, as courts have already honored restrictions on the NBA Draft that result from collective bargaining... If the NBPA were decertified, it would lose its collective bargaining power, thus placing any subsequent ban on high school players under the purview of antitrust laws. If based solely on opposition to a ban, however, an effort to decertify would likely fail, particularly if in exchange for the ban, the NBA offers enhanced financial opportunities to existing players.” Illegal Defense: The Irrational Economics of Banning High School Players from the NBA Draft, Michael McCann, (http://papers.ssrn.com/sol3/papers.cfm?abstract_id=567745)

The fear of the players’ union of losing their ability to collectively bargain with NBA management, and the apathy of NBA players towards the policy because of short-

term financial compromises made by NBA management, further displays the dominance of NBA management over its players.

Conclusion

Through observing the behavioral patterns, statistical production, and salaries of high-school draft entrants to the NBA Draft, we can assess that high-school draft entrants were not responsible for making the NBA less competitive or profitable. Conversely, high school NBA draft entrants have been more likely to become stars and contributors in the NBA than college entrants, and are less likely to be undisciplined and immature off the court than college entrants as well. Considering information presented earlier regarding the NBA's image and profitability in the years following the lockout, we can assume that the NBA age limit worked more to alleviate concerns about the former more so than the latter. The racial divide of NBA players and fans, as well as players with NBA analysts, coaches, and management, explains why high school NBA draft entrants have hurt the NBA's image in spite of strong statistical proof that these entrants have improved the quality of the NBA product.

The opportunistic nature of the NBA, the biases of NBA fans, the weak nature of the players' union, and the lack of concern of current NBA players for future NBA players, combined to allow the age limit to be passed without legal contestation. This occurred despite the risk that the NBA could have been charged for an illegal group boycott, as well as the strong evidence pointing to the productivity of high-school NBA Draft entrants. The NBA age limit further reflects the dominance of NBA management over its players in their collective bargaining relationship. In addition, the NBA age limit poses another threat to the quality of NBA basketball, as the league risks losing many potential stars entering the league right out of high school.

Conclusion

The lack of power that players have in the NBA's collective bargaining relationship has put the quality of the game, and of the NBA product, at risk. The NBA has hurt its own ability to market the high level of competition in the league, because of

the age limit and rules geared towards limiting physical play on defense and offense, and has also hurt its own ability to market the image of NBA players, through various policies, including the dress code, increased technical foul enforcement, age limit, that highlight the racial divide between owners, management, players, and fans. The players' lost competitive opportunities have changed the nature of competition in the NBA, and the magnified racial divide between owners, management, players, and fans has hurt the ability of the NBA to market its league.

Bibliography

Letter to Ronnie Nunn, director of officials, Dennis Hans, December 11, 2006, Hoopshype.com, (http://www.hoopshype.com/columns/nunn_hans.htm)

Karl Marx, The German Ideology

2005-2006 NBA Rule Book

Associated Press, October, 3, 2006, Shaq: 'Whoever [changed ball] needs to be fired'

New York Daily News, Mitch Lawrence, November 16, 2006, Players crying foul

ESPN.com, Marc Stein, December 12, 2006, Leather ball will return on Jan. 1

Understanding the Rule Changes: NBA's Senior VP of Basketball Operations talks about the rules changes for 2001-02, NBA.com,
(http://www.nba.com/features/jackson_rules_response.html)

Blacks Suck At Basketball, Dan McGraw, May 31,2003, Overthrow.com,
(<http://www.overthrow.com/lsn/news.asp?articleID=5179>)

Bullyball, Brett Pulley, December 27,2004, Forbes.com,
(<http://members.forbes.com/forbes/2004/1227/126.html?token=MzAgTWFyIDIwMDcgMTA6MDY6NTggKzAwMDA%253D>)

Suits filed vs NBA over new basketball and technical fouls, GMANews.TV, December 3, 2006, (<http://www.gmanews.tv/story/22647/Suits-filed-vs-NBA-over-new-basketball-and-technical-fouls>)

RPIRatings.com, Where the NBA Players Come From,
(<http://www.rpiratings.com/NBA.html>)

Suspensions without pay won't be staggered, November 22,2004, ESPN.com,
(<http://sports.espn.go.com/nba/news/story?id=1928540>)

Working for "The Man"? Be More Like Mike!, William Reed, November 28, 2004,
(http://www.blackpressinternational.com/html/archives/article_ema112804.htm)

Airline doesn't want to condone brawl, pulls feature,
December 20,2006, (<http://sports.espn.go.com/nba/news/story?id=2703887>)

Brawl in the Garden, Dave Zirin, EdgeofSports.com,
(<http://www.edgeofsports.com/2006-12-18-216/index.html>)

KNICKS' FRANCIS: RACE A FACTOR, Dan Martin and Marc Berman, December 19,2006, New York Post,
(http://www.nypost.com/seven/12192006/sports/knicks/knicks_francis_race_a_factor_knicks_dan_martin_and_marc_berman.htm)

Reich, Robert. 1998. **The Changing Nature of Work**. Island Press (various articles, including James Rebitzer "Cooperative Model", William Julius Wilson, etc.)

Philip Moss and Chris Tilly, **"Soft' Skills and Race: An Investigation of Black Men's Employment Problems,"** (New York: Russell Sage Foundation) 1995

<http://www.russellsage.org/publications/workingpapers/Soft%20Skills%20and%20Race/document>

Environment of hostility' festering between NBA players, refs?, Roscoe Nance, USA Today, February 28, 2006 (http://www.usatoday.com/sports/basketball/nba/2006-02-28-referees-abuse_x.htm)

Players rage against NBA's new penalty for excessive complaining, Dwain Price, November 14, 2006, Star-Telegram.com)

Conflict, Alienation, and the National Basketball Association Lockout of 1998: A Labor-relations Perspective, Timothy Kennery, (<http://www.ncsociology.org/himes2002.htm>)

Statistics from 1998 Racial and Gender Report Card: Northeastern University, (http://www.science.smith.edu/exer_sci/ESS200/Raceh/RRC98.pdf)

From Labor relations in basketball: the lockout of 1998-1999, <http://www.bls.gov/opub/mlr/1999/04/art1full.pdf>

Labor relations in basketball: the lockout of 1998-1999, Paul D. Stoudahar, (<http://www.bls.gov/opub/mlr/1999/04/art1full.pdf>)

Illegal Defense: The Irrational Economics of Banning High School Players from the NBA Draft, Michael McCann, (http://papers.ssrn.com/sol3/papers.cfm?abstract_id=567745)

ESPN.com – Curious Guy: David Stern, February 16, 2006

The Reckless Pursuit of Dominion: A Situational Analysis of the NBA and Diminishing Player Autonomy, Michael McCann, (http://papers.ssrn.com/sol3/papers.cfm?abstract_id=878611)

NBA Team Valuations, Forbes.com, (http://www.forbes.com/lists/2006/32/biz_06nba_NBA-Team-Valuations_Rank.html)

NBA TV Ratings, Wikipedia (http://en.wikipedia.org/wiki/NBA_TV_ratings)

Sonics should look to the Jazz, Art Thiel, May 15,2006 (http://seattlepi.nwsourc.com/thiel/270202_thiel15.html)

NBA Salary Cap, Wikipedia (http://en.wikipedia.org/wiki/NBA_Salary_Cap)

HoopsHype-NBA Salaries, <http://www.hoopshype.com/salaries.htm>

LeBron James hits jackpot with endorsement deals , May 22,2003, USA Today
(http://www.usatoday.com/sports/basketball/draft/2003-05-22-james-deals_x.htm)

Telling Fortunes: Not all athletes on SI's Fortunate 50 list are created equal, Pete McEntegart, Sports Illustrated, May 14, 2004
(http://sportsillustrated.cnn.com/2004/writers/pete_mcentegart/05/14/money.list/)

NBA players cash in on daily allowance of \$106 during trips, Chris Tomasson, Rocky Mountain news, March 18,2007,
(http://www.rockymountainnews.com/drmn/nba/article/0,2777,DRMN_23922_5427887_00.html)

Portland Trail Blazers: Mike Barrett's Blog, Keep Your Eye on the Ball, October 11, 2006 (http://fans.blazers.com/blogs/mike_barrett/2006/10/keep-your-eye-on-ball.html)

Sports Law Blog, January 12, 2007, The Legal and Social Implications of Bill Walker's Knee Injury, (http://sports-law.blogspot.com/2007_01_01_archive.html)

The Real Color of Money: Controlling Black Bodies in the NBA,
(<http://www.popmatters.com/sports/features/050510-nba-2.shtml>)

Doug Haller, Million Dollar Baby, **Arizona Republic**, Oct.6, 2005; Fred Lewis, Lessons Never Stop, Even as a Pro, **Honolulu Advertiser**, Oct. 17, 2005.

Ray Deering, Resisting Money Tough James Test, **Chattanooga Times Free Press**, Dec. 15, 2002