

Free-agent Unionism in Professional Sports: Employee Voice in the Era Non-standard Employment

ABSTRACT

Labor unions across the globe have been in decline for decades. Coincident with their decline new mechanisms for the expression of employee voice have begun to emerge in parallel with new organizational forms and new industries. The purpose of this paper is to argue that a new species of unionism – free-agent unionism - has emerged after a century long contest between owners and workers within the professional sports industry. Drawing from Critical Management Scholarship (CMS), this paper presents a summary of key attributes of free-agent unionism, links those attributes to classic managerialism, and provides suggestions for future research in a global contest.

Keywords:

managerialism; unions; non-standard employees; free-agents; employment relationship

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For more than two decades' scholars have been calling attention to new organizational, especially those that blur the boundary between the profit and non-profit worlds. Unions, employees associations, and a wide ranging variety of employer groups fall into the category. Various labels have been used to describe the emergent forms, one of which aligns closely with the theme of this paper, namely - Hybrid Organizations.

Workers particularly those demanding “voice” have presented a persistent challenge to capitalist economies in both traditional and emerging organizations (Hirschman, 1972; Wilkinson, Gollan, Kalfa & Xu , 2018). Over the decades worker organizations have appeared in various guises - guilds, fraternal organizations, mutual aid societies, syndicates, professional associations, and in the US since passage of Wagner Act of 1935, government certified and administratively supported unions. This later form – a government certified administratively supported non-profit voluntary association -- has become so embedded as the archetype of employee representation, that variations on its form have drawn little to no attention from scholars.

Despite having established an indisputable record of success in terms of capturing a greater share of social wealth for wage earners anti-unionism, especially in the US, has remained a persistent characteristic of capitalism (Yates, 2009). In the US, private sector union membership as a percentage of the workforce has been in decline since peaking in 1955. The union membership rate fell below 11 percent nationwide in 2016, representing only 14.6 million workers. And even this number is an overstatement of union power because it includes members in the much weaker public sector unions. A mere 6.4 percent of non-government employees pay union dues or fees, a 30 percent drop from 2000 (BLS, 2017).

Coincident with the decline of private sector unionism has been a dramatic rise in the number of non-standard employment relationships. Research by economists Lawrence F. Katz and Alan B. Krueger (2017) indicates that 94 percent of net employment growth in the U.S. economy from 2005 to 2015 occurred in alternative work arrangements. Originally recognized and labeled by European scholars, non-standard employment and the attendant loss of employee voice is a global phenomenon (ILO, 2015).

The type of employment relationship forms captured under the umbrella “non-standard” is extensive and growing. Nonetheless, as argued in this paper, a theoretically significant category of workers has been overlooked, namely, professional athletes.

Reasons for failing to acknowledge professional athletes as non-standard employees are understandable. First, they represent a very small (but highly visible) segment of the workforce. Second, the most prominent members are highly compensated. And third, professional athletic workers are viewed as “players” rather than “workers” in a conventional sense.

In this article, we critically examine the unique history and work system characteristics of professional sport to highlight its utility as a lens through which to explore the allocation of power and voice in the fast growing non-standard economy. In part one we identify historical inflection points to chronicle the evolution of the sophisticated organization schemes required to control and market athletic talent. In part two we reveal the distinctive characteristics of free-agent unionism and the hybrid representation model forged in the furnace of adversarialism between players and team owners in the US over the past century. And lastly, we close the paper with suggested research options for deeper exploration and extension of the free-agent union model.

Professional Sport and Free-agent Unionism

Professional sport is a 20th Century global phenomenon with a history inextricably linked to industrial capitalism and its managerialist worldview. Of particular note are the parallels between the paternalistic industrial regimes of manufacturing and the dynastic labor practices that still persist in professional sport. Driven by the forces of profit maximization, labor practices in both sectors became excessively devoted to managerial control and stringent performance metrics. As observed by Stewart (1989), the worker efficiency demands of Taylorism coupled with the mass production demands of Fordism mimic the win/loss binary stakes of sport.

Also of note is the pattern of employee responses to these paternalist, profit-driven, managerial regimes. The history of employee relations in sport is filled with litigation, political maneuvering, discrimination, conflict, and compromise. As in the case of manufacturing, worker self-organization produced trade unions as a containment vessel for the disputation and adjudication of competing interests.

That said, professional sport is a fundamentally different from manufacturing in so far as it does not produce a tangible product. Conventional unionism has been imposed on professional sport without consideration of its unique economic character and social function.

While trade unionism in conventional industry has been in retreat for decades, pathways for employee voice in the sports industry have continued to mature and evolve. Indeed, the process has created a hybrid form of unionism. Namely, the hybrid free-agent unionism examined in this paper.

Free-agent unionism is distinguished by its oxymoronic combination of libertarian ideology of “every worker is for him/herself” and the opposing collectivist-class based ideology of “we’re all in this together.” With antecedent forms from the skilled trades and the entertainment

industry , free-agent unionism can best be understood as a non-linear evolutionary process by similar to those examined by proponents of Complex Systems Biology (CSB)(Bonner, 1988).

Non-linear Organizational Evolution

Non-linear processes are still relatively new to physical and biological sciences where the concept is used investigate highly complex physical phenomena and processes, as in the study of fluid mechanics, gas dynamics, plasma physics, nuclear physics, and turbulence theory.

In evolutionary theory, non-linearity, also known as chaos theory and complexity theory, has cast new light on how systems change. Applying non-linearity to biological systems, in 1972, Niles Eldredge and Stephen Jay Gould (2007) proposed their "punctuated equilibrium" hypothesis. The hypothesis, now largely confirmed, challenged the assumption that evolutionary change is continuous and gradual. Instead, it argues that change happens in short bursts separated by long periods of stability.

The notion of punctuated evolution and associated non-linear insights tells us it is impossible to predict with confidence how a given biological species will respond to environmental change. And likewise, in the study of organizations, it is impossible to predict with confidence how a given organizational design will respond to environmental stresses.

Free-agent unionism, therefore, cannot be viewed simply as the incrementally adaptive byproduct of conventional unionism transplanted to the sports industry. Rather, free-agent unionism is the hybridization offspring of two species once believed incompatible - unions and free-agents. *Free-agent unionism is a new species of worker organization, it is not merely a simple variant of conventional unionism.* In a continuation of the biological analogy, free-agent unionism is a genetically distinct species of employee organization where the genes of collective action have conjoined with the genes of individual self-interest.

Inflection Points in the Evolution of Professional Sport

Each of the modern professional sports has a unique origin story. Despite their obvious differences all modern professional sports embarked on the path to monetization - coincidentally known as professionalization - in parallel with the emergence of market-driven capitalism. Elements common to all include a) rule codification, b) nurturance of a paying fan base, c) amateur talent development and exploitation d) linkage to nationalism and patriotism, and d) merchandising and profit taking.

In the American context, three historical inflection points are useful for marking the pathway to commercialization as we now know it. First, the formation of profit-driven leagues and exemption anti-trust law enforcement. Second, the development of multiple revenue streams, most significantly commercial broadcasting. Third, and most importantly for the evolution of free-agent unionism, the cooptation and redirection of conventional collective bargaining.

Inflection Point #1 Power Centralization in Commercially Driven Leagues

Surprisingly, in 1871 when Major League Baseball emerged as the first professional league, it did so under player control. Equally unsurprisingly, is the discovery that the idealistic National Association of Professional Base Ball Players (NAPBBP) was displaced after only five years by the owner controlled eight-team National League of Professional Base Ball Clubs (NL).

By successfully fending off rival leagues the owner controlled National League remained the dominant major league two decades until the formation of the rival American League in 1900. When competing against each other each other for players and fans proved too costly, the two owner controlled leagues joined forces under the National Agreement of 1903.

Under this formal but fragile organizational form, the NL and the AL were recognized as separate but equal major leagues governed by a three-member national commission. Driven the

fallout of a national cheating scandal in 1920 team owners abolished the three-member commission replacing it with a single, all powerful independent commissioner. According to the official public record, the commissioner was delegated extraordinary powers to protect the integrity of the game and the “best interests of baseball” (Chafets, 2009).

Unofficially, additional forces were also at work. So much so that it required a controversial decision by the Supreme Court to insure team owner control. With the new authority, owners rationalized the game, erected higher barriers to entry, agreed on playing rules and schedules, protected one another’s players and territories, reclassified the minor leagues and pitted its best teams against one another in a national event to crown a world champion (Neft, 1993).

The other emergent professional sports major owner associations – National Basketball Association (1946), National Football League (1920) , and National Hockey League (1917) have never enjoyed the official antitrust exemption granted to baseball. But they benefited greatly from living in its shadow (Price, 2001).

Inflection Point #2: Multi-channel Revenue Streams

Revenue, the amount of money regularly coming into an enterprise and its various sources, is an essential component of any business model. Of these, broadcasting rights, sold to the major networks, provides monies in direct relationship to the overall national popularity of the sport.

Sports broadcasting began on August 5,1921(Macht, 2009) with a formal agreement between team owners that set the standard for a collusive practice; later officially sanctioned by Congress with passage of the Sports Broadcasting Act of 1961 (Anderson, 1995).

Radio broadcasting proved lucrative but arrival of broadcast television opened a revenue stream of unprecedented abundance. Beginning of the 1960s television became the engine of wealth for professional sport team owners. Sports television programming established itself as

being uniquely valuable to the networks because it's that rare type of programming that consumers watch live, making it the one type of video broadcast where viewers will reliably watch the ads.

Inflection Point #3: Non-exclusive representation

A long-acknowledged core characteristic of the US collective-bargaining system is the principle of exclusive representation. Under the Labor Management Relations Act (LMRA, 1947), the National Labor Relations Board is charged with responsibility to conduct an election among groups of employees to determine whether a union, by obtaining a majority vote, shall be the *exclusive* representative of any given group of employees for the purposes of collective bargaining with their employer.

At its core, exclusive representation transfers bargaining power and responsibility away from the individual worker to a collective body. The transfer occurs for two distinct groups of workers - the majority, those who voted to form the union and the minority, those who declined to support union membership. *Drawing upon the logic of industrial democracy all workers voting in the certification election surrender their individual right to negotiate independently from the majority.* The elected union not only negotiates collective bargaining contracts on behalf of the employees who supported it but also becomes the exclusive agent for opposition employees.

As exclusive representation continued to mature as a essential legal standard team owners learned that individual celebrity sells tickets. Celebrity athletes, those with the ability to generate fan excitement and millions of dollars in free publicity, became essential human capital assets to team owners. In the language of French sociologist Pierre Bourdieu (1984) these individual athletes possess large amounts of symbolic capital (e.g., prestige, honor, attention). Symbolic capital that would go unrecognized if left solely to the rules of traditional collective bargaining

that demands the transfer of responsibility to a single elected representative.

Traditional collective bargaining is incompatible with the goal of releasing the full value of athlete symbolic capital. In other words, traditional thinking has held the *meritocratic free-agency is philosophically incompatible with collective bargaining*.

To allow monetarization of the celebrity athlete's symbolic capital the legal principle of exclusive representation had to be overcome. Reminiscent of earlier compromises to the principle of exclusive representation, e.g. double breasting (Gall & Dutton, 2013) and two-tier wage systems (Jacobs, 2009), a work-around evolved that left the union intact but fundamentally changed its character and diminished its bargaining power.

In professional sport, the workaround became the personal agent system. Consequently, athlete representation became a keystone in a system of dependent mutualism between owners, players, player unions and agents.

Indeed, post free-agency professional athlete representation for "employee athletes" became an industry sector unto itself - a sector now dominated by large sport management agencies. Of the approximately 4,100 professional athletes in the big four leagues, more than 1,700 (40%) are represented by just 10 agencies. The top 40 agencies in the world represent some \$40 billion in active player contracts, earning them over \$2 billion in revenue.

Collective bargaining contracts in professional sport set baseline conditions. Players who earn only the negotiated rate are the non-essentials. In a Marxian sense, professional sports is distinguished by a design that purposely nurtures a robust reserve army of the unemployed. Collective bargaining in professional sports is designed to nurture and protect an sports elite of the precariously employed. All professional athletes are precariously employed in an industry where every players job is one injury or one coaching decision away from termination. The labor

market is precarious by design and unique to professional sport.

As a result of these inflection points a new species of unionism appeared. Free-agent unionism allows for existence of individual bargaining wrapped in the protective shroud of a collective bargaining. It is a systems that discriminates against every dedicated athlete except for those hand-picked by an privileged elite of collusive owners act. The system has a number of inter-twined and non-transparent features but two attributes stand out. Namely, a carefully crafted yet highly fragile system of tripartite labor market control and the subtle but sophisticated substitution of elite mutualism for the shared adversarialism of conventional collective bargaining.

Tripartite Labor Market Control

Of the many collective bargaining issues hotly debated over the decades hiring control qualifies as one of the most important — particularly as regards skilled workers.

The debate is best showcased in the history of the closed shop. Until it was banned by the Taft-Hartley Act of 1947 skilled worker unions commonly demanded and won contract clauses requiring employers to hire only union members. As intended, the post-war Taft-Hartley Act curtailed union growth and weakened the labor movement. It not only outlawed the "closed shop," which obligated employers to hire only union members and to discharge any employee who drops his/her union membership, it also inserted Section 14(b) giving individual states pre-emptive status over federal law and national policy.

The labor market arrangement in professional sport, however, is not a re-invention of the closed shop. Instead, it is a uniquely contrived private regulatory scheme to close the labor market in service to employer rather than employee interests.

While there are variations across each of the major professional sport leagues, America's

National Football League offers a telling exemplar of the Tripartite arrangement. The three members of the tripartite alliance are the 1330 member National Collegiate Athletic Association (NCAA), the 32 member National Football League (NFL), and the 53 members per team of NFL Players Association (NFLPA). The NCAA is at the center for both historical and practical purposes. The NCAA is the selection and training arm of the NFL. It provides essential skills training, but most importantly, its role is to acculturate players to the social hierarchy and control systems required by the professional league.

Career paths of professional athletes across all major sports share common attributes – preparation begins in childhood, retirement arrives early, training and playing is physically brutal, competition to secure a position is extraordinarily intense with success akin to lottery like probabilities.

Virtually every school district in the United States subsidizes a football team and in many parts of the country, high school football qualifies as a major sporting event. Of the thousands of high school players, only 6% will be recruited to play in college.

Controlled by the NCAA, college football is a prerequisite for entry into the professional league. Officially, college football is an amateur sport, but that status has become controversial and further testing is on the horizon. In 2015, a memorandum by the General Counsel of the National Labor Relations Board (NLRB) issued an opinion that college football players of Northwestern University qualified as employees (arguably another form of non-standard employment) under federal labor law (NLRB, 2017).

To become eligible for the NFL, college players must play for a minimum of three uncompensated years, as opposed to the other major sport leagues that require one year of collegiate play (NBA) and no restrictions (MLB and NHL). The three-year rule, adopted in 1925,

states that college players cannot be recruited by the National Football League without having performed as a student for three academic years. The rule was subsequently codified via a collective bargaining agreement between the NFLPA and the NFL to create the employer controlled closed labor market.

Using an informal network of contacts, professional scouts, and rapidly proliferating big data algorithms, the NFL invites 335 college athletes to the NFL Scouting Combine.

In 2016, the NCAA produced roughly 73,660 experienced players. Of those, approximately 16,369 were eligible for the NFL draft. Because the NFL Draft has only 253 slots available, the vast majority of these highly gifted and trained athletes retire from football after failing to be drafted. After years of discipline, practice, and financial investment, 99.3% of high performing college football players leave the game for good after college.

The continuously revised 88-page rulebook of the NFL draft is detailed and complex. The rules represent the results of negotiations between the NCAA, the NFL, and the National Football League Players Association (NFLPA). Every player drafted by the league automatically becomes a member of the NFLPA and falls under the collective bargaining agreement (CBA) with the NFL. By law, the NFLPA is the certified sole union for all players in the league bargaining unit. Nonetheless, the CBA allows individual players the right to negotiate personal contracts so long as they are consistent with provisions of the CBA between the NFL and the NFLPA.

Once drafted, the player becomes a professional, in other words, for the first time, he is now legally allowed to receive monetary payment for showcasing his skills on the football field. The very best athletes can become wealthy and achieve celebrity status. Most do not.

The NFL has successfully persuaded fans — who also passionately and paradoxically also

love college football — that non-NFL pro-football is per se second-rate football. For high school players who choose to avoid the all-consuming duties of being a college athlete, graduation marks the beginning of a career. Graduation for un-drafted college football players marks the end of a career. A graduated football player is part of an up-or-out labor system, either he is selected for the NFL or he is out of the game.

Elite Mutualism Displaces Shared Adversarialism

At first glance professional athlete unions appear to be the poster children for a post-New Deal paragon of employee voice. It is impossible to ignore the extraordinary salaries, 24-7 celebrity, and industry prosperity of professional sport. Compared to the most wage earners professional athletes reside in a paradise where they occupy the same rarefied social space as their franchise owning bosses.

The reported wage payments for professional sport are impressive. In 2012 the average player in the NBA earned a salary of \$5.15 million. Major League Baseball players averaged close to \$3.2 million a year (Sports Interaction, 2017). Even the lowly paid player of American Major League Soccer player, earning a meager \$160k at the bottom of the list, looks like a lottery winner to the typical American worker.

Nonetheless, a look beyond superficial macro-numbers reveals a more nuanced story. Two terms are useful for exploring the nuanced nature of professional sport free-agent unionism - “shared adversarialism” and “elite mutualism.”

Adversarial has long been associated with collective bargaining. For union opponents adversarialism leads to in overly ambitious union demands, intransigence on both sides, and a requisite cycle of decline as nimble non-union firms capture market share.

In contrast, a long-standing but now largely silenced cadre of theorists, have endorsed

adversarialism in the workplace. They liken it to the positive adversarialism that energizes courtroom proceeding and negotiations generally. For purposes of this paper, the term "shared adversarialism" has been introduced to emphasize that in collective bargaining, union members share the risks and rewards of taking an adversarial stance. Indeed, the National Labor Relations Board designates bargaining units using a community of interest test, i.e., a willingness to accept shared risk, as a necessary prerequisite for stable unionism.

Free-agent unionism is distinguished by the degree to which it has allowed "elite mutualism" to displace "shared adversarialism" as the gravitation center in the relationship between team owners and team players.

Not to be confused with the new mutualism touted as a way to re-democratize European football (Tiesler & Nuno, 2014) or the idealist new mutualism promoted by the US-based association that optimistically refers to itself as the Freelancers Union (Horowitz, 2013), the elite mutualism of free-agent unionism in professional sport is distinctive and unique to American professional sport.

In professional sport, elite mutualism is an employer-centric mechanism that exchanges exceptionally high wages for exceptionally demanding managerial control. It is a mutualism characterized by a showcase partnership between an association of powerful owners and an association of elite athletes embedded in a tactically networked social contract with a diverse community secondary interest groups.

Summary

The purpose of this paper was to demonstrate that a new form of unionism – free-agent unionism has emerged from a century long contest between owners and workers within the professional sports industry. Drawing from the analytical tool set of Critical Management

Scholarship (CMS), it has provided a descriptive summary of key attributes of free-agent unionism and linked those attributes to the “managerialist” ideology that now shapes the employment relationship across all economic sectors. An important feature of that managerialist ideology is its facilitation of non-standard employment relationships across all sectors and the associated decline of independent labor unions as a vehicle for employee voice. As presented in this analysis, free-agent unionism is offered as a representative of emergent post-industrial efforts to reconcile competing employer – employee interests. While still emergent, free-agent unionism is now sufficiently matured as a construct to provide a compelling foundation for theory development for researchers in organizational theory, industrial relations theory and forms of the employment relationship generally.

Future Research

The magnitude of current turmoil in global labor markets offers a long list of socially significant research opportunities. And likewise, within the much smaller domain of collective bargaining within professional sport, there are abundant research options. That said, an essential assertion of this paper is that free-agent unionism is fundamentally different from its predecessors. With that uniqueness in mind, the three suggestions offered below are intended to explore foundational questions and initiate and renewed effort to challenge fundamental assumptions. Asking questions about why unions exist, what networks support the current system and what kinds of public policy questions are raised by the emergence of free-agent unionism offer a good starting point.

Reasons for existence

From a critical perspective, the empirical data indicates that the union movement has lacked a well-articulated reason to exist for almost seven decades. The most recent indicator arrived in

2016 when the union rank and file turned out for Donald Trump while their labor leaders overwhelmingly supported Hillary Clinton. Historians will mark this as a stunning betrayal by workers of their own movement and its interests - at least those interests as defined by conventional union leaders and their supporters.

The apparent success of free-agent unionism in professional sport, coupled with the persistent and unstoppable decline in conventional unionism, offers an opportunity to revisit the fundamental question of why unions exist.

For decades, the American labor movement depended upon the logic articulated in Samuel Gompers (1893) in his “we want more” presentation before the International Labor Congress.

The New Deal heirs to Gompers’ business unionism legacy successfully appended a social redistribution of wealth logic to his model. The combination of “we’re going to get *you more* unionism” with “we *all deserve* a bigger share unionism” proved appealing to those with memories of capitalism’s near death during the Great Depression and its immediate aftermath.

By mid-1950s those memories began to fade and unionism began its long decline.

To no small degree, conventional unionism depended on the moral argument that employers (masters) have a threshold moral obligation to provide their employees (servants) a just wage. Unions, in post-depression logic, existed to surface and assign a price tag to that obligation. Government’s role was to be there to balance power and make the process transparent.

Non-standard employment is disruptive because it breaks the master-servant bond. By converting employees into “free agents” employers free themselves not only from the legal encumbrances associated with having employees; they free themselves from the moral obligation of having to provide for their servants. The servants are on their own, the union has no moral purpose.

Network Analysis

Over the past three decades, scholars employing the social network perspective have generated an extensive body of organizational research. As noted by various reviewers, the evidence is compelling that networks matter. Unfortunately, there isn't a consensus about why they matter (Borgatti & Halgin, 2011). Yes, networks are important but it appears that it's context that makes them important.

When considering the role of networks in professional sport a useful analogy is found in the economic development strategies of Japan and Korea. The powerful keiretsu in Japan and the chaebol in Korea offer interesting parallels to the leagues that dominate professional sport. Daniel Tudor (2012), in his book about Korea: The Impossible Country, compares chaebol to tall trees beneath whose canopy nothing else can grow. In a similar manner, the league organizations are both products of their environment and the dominant species in that environment.

Aldrich and Ruef's (2011) application of evolutionary theory to explain the emergence of new organizational populations is therefore particularly useful. As with other neo-institutional theories, the evolutionary approach allows for the use of culture, politics, and historical circumstances to explain different network patterns.

Given that social network analysis developed out of a bridging of practices in a variety of disciplines including anthropology, sociology, mathematics, and physics one would expect to find it applied to the analysis of employment relations systems in professional sport. Unfortunately, beyond efforts to showcase its utility as a research tool, the literature is sparse to non-existent (Quatman & Chelladurai, 2008; Clemente, Martins, & Mendes, 2015).

That said, there is evidence of a growing interest in sport by critical scholars as they seek to understand patterns of participation, taste, access (Warde, 2006). Researchers are using network

analysis to explore the social consequences of class, gender, education, ethnic, educational and occupational qualification.

Missing, however, is an effort to explicitly couple organizational evolutionary theory and social network analysis to test the hypothesis that free-agent unionism as a unique species within a fast differentiating population employment relationship forms.

Public Policy

As noted earlier in this paper, the origins of free-agent unionism are closely linked to the convergence of the academic disciples of Industrial Relations and Human Resource Management. Whereas specialized schools like Cornell's School Industrial and Labor Relations once sought to aggressively distinguish themselves from the Human Resource degree programs housed in departments of psychology or business, they now view themselves as allies in the study of the intentionally amorphous Employment Relations. Indeed, the Industrial Relations Research Association, founded in 1947, sealed the transition when it became The Labor and Employment Relations Association (LERA) in 2005.

A difference that once distinguished the two disciplines was a commitment to the public policy goals expressed in the National Labor Relations Act. Specifically, IR scholars aggressively embraced language in the NLRA's preamble declaring it to be "the policy of the United States to eliminate the causes of certain substantial obstructions to the free flow of commerce and to mitigate and eliminate these obstructions when they have occurred by *encouraging the practice and procedure of collective bargaining*" (NLRA, 1935).

In contrast, Human Resource Management is a discipline created to serve a managerialist agenda. For its entire history, a primary goal of HR has been to make unions unnecessary by crafting organizational policies and techniques designed to mitigate employee non-compliance

with managerial authority. And importantly HR professional associations join with like-minded interest groups to defeat labor union-friendly legislation.

The merged between IR and HR occurred in close proximity to the legitimization of Critical Management Studies by the Academy of Management. Despite its Marxist tinged origins, CMS succeeded in becoming a Special Interest Group in 2002. It grew rapidly to more than 750 members from 50 countries, making it the most diverse community within AOM. As a consequence, in significant part, because the global membership success aligned with the AoM goal of expanding beyond US borders, it became a full Division in 2009.

This background history is important because it highlights the institutional pressures that work against critical policy research targeted that might be perceived as aggressively addressing “questions of authority and relevance” (Klikauer 2007: 76-96).

The concern about self-censored CMS and self-censored employment relations scholarship research isn't new. Within the critical community, CMS has long been accused of filtering their research agenda through a managerialist set of (prefixed 'critical') interpretations of reality. (Fournier & Grey 2000: 27; Hancock & Tyler 2008: 32).

Research on the topic of free-agent unionism offers a unique opportunity for public policy research because of its hybrid character. Nothing like it exists in the economy and its existence is inextricably embedded in the public policy ecosystem in which it resides — an ecosystem largely crafted by powerful team owners with explicit assistance of legislative and judicial allies.

Professional sport as an industry offers CMS scholars and unique opportunity to respond to Kinna's (2014: 611) exhortation that CMS should “expose, subvert and undermine dominant assumptions about the social order.” Unlike most organizations in both the profit and non-profit sectors, professional sport is a non-essential industry. A researcher investigating free-agent

unionism can feel free from charges s/he is trying to subvert the dominant social order.

Conclusion

In this paper we have argued the free-agent unionism is a construct label that describes a previously unrecognized species of the employment relationship. The emergence of free-agent unionism is exhibited as the byproduct of an evolutionary process; a process driven by the managerialist force vectors of late 20th Century industrial capitalism. As presented, the analysis reveals that the free-agent unionism, as nurtured within professional sport, provides an opportunity to witness and constructively critique a fascinating example of employee voice. More specifically, free-agent unionism at first glance, appears as a possible role model for future development of employee voice. However, analysis of the historical forces that have shaped it, and the excessively narrow community of workers that it serves, reveals a rich vein of opportunity for substantive theoretical analysis and empirical research.

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Interestingly maximum agent commission is set by respective players' association: NFL (3%), NHL (4%), NBA (4%), MLB (5%), FIFA (10%). In tennis and golf, sports agents do not make commissions from their client's on-court/course earnings, but only from the marketing dollars they help generate, for which they receive an average of 20%.

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