Who Should Own the League? Transaction Costs and NBA Ownership Structure

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ABSTRACT

Like many professional sports leagues worldwide, the National Basketball Association is organized as a cooperative of team owners. We argue that league ownership structures must balance two types of transaction costs: the costs to league owners of collective decision-making and the costs of contracting with stakeholders of the league, importantly players, owners, and potential investors. We compare the transaction costs of the current team owned league with the alternatives of investor and player owned leagues, finding that each ownership structure reduces some transaction costs while raising others.

Keywords: Sports leagues, Cooperative organization, Governance, Transaction Costs

Introduction

The current ownership structure of North American professional sports leagues is so pervasive that to question it may seem to be too banal or trivial even to consider. However, there are compelling arguments – in the press, among players, and in the academic literature – for alternative ownership structures. In 2014, Michelle Roberts, the recently appointed Executive Director of the National Basketball Players Association (NBPA), made headlines by questioning the importance of National Basketball Association (NBA) owners. In an interview with *ESPN: The Magazine*, Roberts claimed that "There would be no money if not for the players. Let's call it what it is. There. Would. Be. No. Money. If not for the players. They create the game. Thirty more owners can come in and nothing will change. These guys go? The game will change" (Torre, 2014).

Roberts' comments were an opening salvo in the impending negotiations for the NBA's next collective bargaining agreement. But they were taken by some commentators as a more general critique of the structure of ownership in the NBA. For example, Pulver (2015) argued that Roberts' language suggested that the NBA undergo a "socialist revolution" with a "player-owned league." More recently, star player – and vice president of the NBPA – Kyrie Irving suggested to his teammates that the players should start their own league, a topic that is evidently familiar to the players he represents (Polacek 2020).

At the other end of the spectrum, Ross and Szymanski (2008) issued a "capitalist manifesto," crafting a formidable argument for an investor-owned league that creates vertical separation between team and league ownership. The investor-owners could make profit-enhancing changes without the many collective action problems that team owners with their disparate interests currently face in league management. In effect, such a change would make the

NBA less like Ace Hardware, which is collectively owned by its local franchisees, and more McDonald's, which is owned by outside investors.

Our central claim is that any ownership structure must balance a variety of difficult to measure transaction costs. One framework for organizing these costs of governance is provided by Hansmann (1988, 2012), who splits them into the costs of contracting with non-owners and the costs of ownership. These two categories of costs are well-studied in the sports economics literature. Important costs of contracting include the monopoly (and monopsony) power of sports leagues (Quirk and Fort, 1999), specific investments by team owners (Franck, 2003), and asymmetric information (Sadler and Sanders, 2016). The most important cost of ownership is the cost of collective decision-making (Ross and Szymanski, 2008).

We begin by describing the current structure of the NBA and then catalog some of the transaction costs involved in league governance. We show that any ownership change would result in a change in transaction costs on multiple margins. Given the difficulty in measuring the relative size of these costs, we remain agnostic about the overall efficiency gains from an ownership change. Evidence from the NBA suggests that current team owners are willing to incur significant inefficiencies to protect themselves from a league. Examples of experimentation from sports leagues around the world show little consensus on the direction in which ownership should change.

The Structure of the NBA

Since its inception, and like most other North American sports leagues, the NBA has been structured as a cooperative owned by team owners, with its constitution and bylaws delineating the powers and duties of the owners and the commissioner. The Board of Governors, with a representative from every team, acts like the legislative branch of the league by voting on major policy changes. For many issues, votes by the Board of Governors require a majority or super-majority to pass. For example, the votes of three-quarters of the Board of Governors are required to transfer a team to a new owner, allow a new team into the league, amend the league's constitution, and elect or terminate the commissioner. The votes of two-thirds of the Board of Governors are required to pass changes in the rules of play. A majority is required for other "questions arising at meetings" (National Basketball Association 2019).

The commissioner plays the role of the executive and judicial branches, carrying out the operation of the league and enforcing the rules made by the Board of Governors (Dietl et al., 2009). Besides "the responsibility for the general supervision and direction of all business and affairs of the League," the commissioner has the "exclusive, full, complete, and final jurisdiction of any dispute involving two (2) or more Members of the Association," "the right to investigate all charges, accusations, or other matters that may adversely affect the Association or its Members," and "the power to suspend a Player, Coach, Member, Owner, or other person subject to the Commissioner's jurisdiction" (National Basketball Association 2019, pp. 38-40). NBA commissioners have had long tenures, averaging 15 years, including the tenure of current commissioner Adam Silver.

Team owners compete and cooperate across several dimensions. As team owners, they compete for players, wins, and championships. As league owners, they coordinate activities such as scheduling, making rules, and bargaining with the players' union and broadcasting companies. They are interested in rules that increase their profitability, both by increasing league revenues and creating a favorable redistribution of revenues. This redistribution takes several forms, including the split of Basketball Related Income (BRI) between players and owners, the framework under which the salaries of the star, rookie, and other players are determined, and the revenue sharing across teams, particularly small vs. large market teams.

The NBA interacts with investors through a league-wide borrowing facility that individual teams can access when in need of capital. The league raises or lowers the amount that it borrows in response to team needs and market conditions. For instance, it raised additional money twice in 2020 in response to the COVID crisis (Ozanian 2020). Teams can borrow a maximum of $275 million from the league-wide facility. The NBA's debt is supported by pledges of broadcast rights and other team-managed revenues. These steady revenue streams and the overall good finances of the league led Fitch to rate the league's debt a stable A- in late 2020 (Ozanian 2020).

The NBPA represents NBA players. The NBA and NBPA's Collective Bargaining Agreement (CBA), covers issues such as free agency, the draft, the salary cap, and the rules of the game (National Basketball Association 2017). The parties agreed to their first CBA in 1970 and have renegotiated the contract regularly, most recently in 2016 with a deal that stretches through the 2023-24 season. Renegotiating the CBA has sometimes been acrimonious, but relations between the NBA and NBPA have mostly been good. NBA players are the highest paid athletes worldwide, with the average player earning more than twice as much as the average Major League Baseball or National League Football player (Sporting Intelligence 2019). The revenue sharing between players and teams means that players have an incentive to promote the sport, as lost revenues mean a lower overall salary pool.[1]

Collective bargaining allows the NBPA to offset some of the NBA's monopsony power. The CBA currently sets the players' share of BRI in the band of 49% to 51%. The BRI's most important components are gate receipts, broadcast rights, and concession and merchandise sales.

In 2014, the NBA announced that it had reached a new broadcast deal that would begin in the 2016-17 season. This deal increased the yearly broadcast fees from $900 million to $2.4 billion, thus ensuring a large increase in the players' salaries. These good times for the NBA contributed to the relatively easy renegotiation of the CBA in 2016.

Fans tend to be most interested in star players, but neither established stars nor highly sought-after rookies receive their market value under the current CBA. Instead, the CBA redistributes to the bottom and middle of the salary pool, supporting a median-voter hypothesis proposed by Hill and Groothuis (2001). Star players can supplement their salaries with outside deals. For example, LeBron James signed a $1 billion lifetime endorsement deal with Nike in 2015. The league's biggest stars, such as James, Stephon Curry, and Kevin Durant, can earn more from endorsement deals than in salary (Connley, 2019).

A final type of redistribution of BRI is among teams. Teams in small markets, like Memphis and New Orleans, argue that without some form of revenue sharing, teams in large markets, like New York and Los Angeles, enjoy a tremendous competitive advantage. The large market teams generally have the highest revenues and can afford the best players. Players in large markets also have the best opportunities for endorsement deals, giving large market teams an additional advantage. Through the revenue sharing agreement, teams pool together a portion of their BRI and distribute it across the league. In the 2016-17 season, the most profitable team, the Los Angeles Lakers, contributed $49 million in revenue sharing, while the least profitable team, the Memphis Grizzlies, gained $32 million in revenue sharing.

Despite the financial bonanza from the recent broadcast deal, NBA teams reportedly struggle to balance their books. Windhorst and Lowe (2017) examine internal NBA records and find that "14 of the NBA's 30 teams lost money last season before collecting revenue-sharing payouts, and nine finished in the red even after accounting for those payments." Quirk and Fort (1999) have been skeptical of the claims that many teams are losing money, arguing that BRI is easily manipulated and that owners earn money on complementary investments, like stadiums and broadcast stations, that are not included in BRI. Just like the players, NBA team owners earn money from investments related to, but not counted as part of, BRI. For example, the Brooklyn Nets were used by their owner, Bruce Ratner, as a chip to get the multi-billion-dollar Atlantic Yards project approved by state regulators (Gladwell, 2011).[2] Another measure of the strength of the teams' finances are their valuations. Badenhausen et al. (2020) report that, "NBA values are up nearly sixfold over the past decade." That compares to a roughly threefold increase in the S&P 500 over the same period.

Alternative Governance Structures

To determine whether an alternate governance structure is more efficient requires a comparative institutional analysis: How would the costs of running the league differ under investor or player ownership? Imagining new ownership structures and their resultant costs is a daunting task. To focus on the transaction costs of governance, we chose to ignore the costs of switching ownership, assuming that the relevant parties can wave a magic wand to make investors or players the owners of the NBA. In the real world, a change in the fundamental structure of governance would require institutional deepening that involved legal changes and changes in the written and unwritten agreements between the team owners, players, and investors (Alston et. al 2018). These would evolve over time in hard-to-predict ways. We therefore paint alternative ownership structures with a broad brush, taking insights, when we can, from other sports and focusing on Hansmann's (2012) comparative framework.

Investor-Owned League

Ross and Szymanski (2006, 2008) have proposed the most sophisticated alternative to the status quo, a two-fold proposal for an investor-owned league combined with a promotion and relegation system like that of European football. Promotion and relegation would affect salaries, attendance, and the monopoly power of teams, but since it could be instituted under any governance structure, we do not analyze it here, focusing instead on the transaction costs resulting from a change in ownership.[3]

One example of a league owned by a party other than team owners is NASCAR, a privately-owned company that organizes stock racing events. Other examples of sports governing bodies owned by investors include the Formula 1 racing and Ultimate Fighting Championship (Raimondi 2021). Several rugby competitions and soccer leagues have sold or have considered selling minority stakes to investment firms. For example, in 2021, the Six Nations rugby tournament sold a 14% stake to CVC Capital Partners, which also owns minority shares in England's Premiership Rugby and the Pro14 rugby tournament.

Ross and Szymanski (2006) describe how a NASCAR-like structure would operate in a major league sport.

> "Consider the alternative of a vertically separate entity (The League) that would organize the competition and determine which functions are best carried out at the club or league level. This new entity would then contract with separate firms (the clubs) as franchisees, granting clubs the right to participate in the competition that The League will organize. Franchise agreements would set forth conditions for termination, rules of the game, revenue streams that would be retained by the franchisees, and revenue streams that would be reallocated by The League back to franchisees (as revenue sharing or as prizes for competitive success). Thus, well-drafted franchise agreements would assign to

The League those marketing activities that can be most efficiently performed centrally, while preserving incentives for club innovation in any markets where such innovation is foreseeable" (p. 225).

In their proposal, current team owners would receive non-voting shares in the league, while a small percentage of shares would be issued as voting stock. The stock held by team owners would convert to voting stock if sold to "anyone not involved with club operations" (Ross and Szymanski 2006, p. 250). This structure would maintain vertical separation between team owners and decisions at the league level while still making team owners the primary beneficiaries of any improvements in league governance. Team owners would have a voice in league decisions, lobbying "the league organization for rule changes that suit their interests," even doing so in coordination with players (Ross and Szymanski, 2008, p. 139).

Player-Owned League

The other proposal that we consider is a player-owned league, which has not existed in a major team sport. The NBA is already described as a "players' league" in which players have significant bargaining power, both collectively through the CBA and individually through their own star power (Knox 2012). The NBA also has the fewest players of any major North American sports league. If any major sports league were to be player owned, the NBA would be a good candidate.

In one scenario, players could own the league while team owners continued to own their individual teams. Each of the 450 players currently on an NBA roster would receive one voting share, which they would lose when they were no longer employed by a team. A player-owned league might be democratic, requiring players to vote on all policy changes, with the most radical form of governance requiring consensus to affect any change. More realistically, it would be governed in a similar way to the current NBA, with a commissioner having significant powers to implement league rules and the Board of Directors having legislative powers to institute new rules. How much power the commissioner would have to make decisions would be an important issue to be bargained over between players and team owners.

Like an investor-owned league, a player-owned league would make rules for play, negotiate broadcast and sponsorship contracts, decide on the number and location of teams, and bargain with team owners over the distribution of BRI between players and team owners. Team owners would continue to own and manage teams, and much like in the proposal for an investor-owned league, would continue to lobby the league organization for beneficial rule changes.

NBA Ownership Costs

Ownership can be an elusive concept, but the salient characteristics are a claim on residual income and the authority to make decisions when issues arise that are not subject to any contract, generally known as residual control rights. Shareholders own corporations because they decide what to do with the profits and ultimately control who makes decisions, even if that control is limited. The corporation is the most visible organizational form in the private sector, but organizations come in many shapes and sizes, including non-profits, producer cooperatives, and consumer cooperatives. The term "cooperative" is often used narrowly to describe firms that are owned by their employees or customers, but Hansmann (2012) expands that term to describe any firm owned by a group of its patrons, defined as a person or organization who transacts with the firm. Using this definition, the corporation is a cooperative, as it is owned by the suppliers of capital.[4]

The NBA is a complex organization, characterized by idiosyncratic contractual agreements among its various patrons with ownership lying in the hands of team owners. It is the team owners who claim residual league earnings and who constitute the Board of Governors. Hansmann (2012) argues that the ownership of the firm generally falls into the hands of the group that can minimize the sum of two sets of governance costs: the costs of contracting and the costs of assigning ownership. Contracting costs include simple market power, ex post market power, and asymmetric information. If a patron group is vulnerable to exploitation by an organization, such as when a firm has monopsony power over workers, assigning ownership to that patron group eliminates those contracting costs. We analyze a single ownership cost, that of collective decision-making.[5] These costs are determined by how easily owners can agree on common goals and reach agreements to achieve them. The more homogenous the owners' interests, the more easily they can make wealth-enhancing decisions.

Table 1 summarizes our central argument by ranking the four principal categories of transaction costs in the context of the NBA. In the case of each transaction cost, we predict the costs of contracting with each patron group under alternative ownership structures. When a patron group owns the league, the costs of contracting with that patron group are zero. For example, if teams own the league, there is no cost of asymmetric information contracting with teams. While there may still be asymmetric information that leads to disagreements among teams, these costs fall under the costs of ownership as they contribute to the costs of collective decision-making. Other costs vary with the assignment of ownership. For example, we will see that the costs of contracting with investors are very low for all three types of transaction costs.

Table 1: Transaction Costs Under Alternative Ownership Structures

	Who is the Patron?	Who Owns the League?		
		Teams	Investors	Players
Simple Market Power	Teams	----	Medium	Medium
	Investors	Low	----	Low
	Players	High	High	----
Ex Post Market Power	Teams	----	High	High
	Investors	Low	----	Low
	Players	Medium	Medium	----
Asymmetric Information	Teams	----	Medium	Medium
	Investors	Low	----	Low
	Players	High	High	----
Collective Decision-making		Medium	Low	High

Simple Market Power

That the U.S. premier professional sports leagues exercise market power vis-à-vis the media, cities, fans, and players is not a mystery, and economists, labor activists, and sports commentators often cite (or decry) this power as the source of any number of persistent inefficiencies and maldistributions of income streams (Quirk and Fort 1999). As a practical matter, market power is characterized by the competitive conditions that exist between and across a given set of patrons. Changing ownership can either mitigate or enhance that power. Of the three patron groups we consider as owners of the NBA, the players are the most susceptible and investors the least susceptible to the league's market power.

The NBA has monopsony power with respect to players because playing in the EuroLeague – the next best league in the world – is not a close substitute for the salary and perquisites of being an NBA player. The players and the NBPA have long complained about the market power of the NBA. During negotiations over the CBA, NBPA President Michelle

Roberts stated that, "No one wants to say it out loud, but it's a monopoly … and were there alternatives, they wouldn't get away with it" (Torre, 2014).

Players have mitigated the NBA's market power by unionizing and negotiating a collective-bargaining agreement with the league. Through the "nonstatutory labor exemption," the collective bargaining process and agreements are immunized from antitrust claims (Feldman 2012, p. 1224, Ross n.d.). Although these are bilateral negotiations between the NBPA and the NBA, the league has more power by virtue of its deeper pockets and ownership position. As we later discuss under the costs of assigning ownership, the players are also a more heterogeneous group, in terms of their individual abilities, their numbers (450 current players vs. 30 teams), and their expected tenure in the league; the average player's career length is 4.8 years while teams operate in perpetuity. A league owned by players would still bargain with the team owners over the distribution of BRI, but the league itself would no longer have monopoly contracting costs with players.

Ross and Szymanski (2008) note that the league's power with respect to players may increase in an investor-owned league. One bargaining tactic that the NBPA currently has is to decertify and bring antitrust charges against the NBA. The option to decertify and file an antitrust action against owners "would likely be foreclosed if league rules were imposed by a single corporate entity that was not a sham for otherwise competing club owners" (Ross and Szymanski 2008, p. 146). Players would also not be able to use divide and conquer strategies against the owners, pitting large vs. small market teams against one another. A unified league would speak with a single voice. Ross and Szymanski (2008) argue that these reductions in union power would be offset by a larger pie to split and a desire on the part of league management to avoid labor strife.

Teams in leagues that are not owned by the teams themselves complain about the monopoly power of the league. For example, European football clubs seeking to break away from the Champions League complained about the Union of European Football Associations' (UEFA) "monopoly power" over clubs (Cincil 2021). We think clubs are more susceptible to ex post than simple market power, especially when one thinks of a team as an investment, comparable to many other investments. In Ross and Szymanski's (2006, 2008) proposal for an investor-owned league, team owners receive a substantial number of non-voting shares in the league. This structure mitigates the effects of contracting costs, including monopoly costs. Since team owners would recognize that most of the monopoly rents would be returned to them, they would be less ardent in fighting the monopoly power of the league. However, teams would continue to fight at the margin for a larger share of profits, particularly when league action has narrowly targeted costs.

The league currently interacts with investors through its credit facility, from which teams can borrow. Because capital markets are competitive, the league has little market power with respect to its current investors. We would not expect these transaction costs to change much in a player-owned league, as the league would continue to engage repeatedly in a competitive market.

Ex Post Market Power

Contracting parties can also gain market power when a transaction requires specific investment (Williamson 1985). Once a patron to the firm makes an investment that is specific to that firm, the patron becomes locked-in to the transaction, allowing the firm to act opportunistically towards the patron. These specific investments include investments in human capital, physical assets, and site-specific assets. Hansmann (1989) argues that making franchisees the collective owners of franchisors is a conspicuous example of an ownership structure overcoming the lock-in problem, a structure similar to that of the NBA.

Investments made by team owners are the most vulnerable to expropriation by the league. Teams make investments in brand, personnel, stadiums, broadcasting, and real estate that would be partially to completely lost were a team to be expelled from the NBA. Franck (2003, p. 230) notes that “an individual team owner has no economically viable exit option from a monopolistic major league. Terminating production and selling players is only a poor exit alternative.” In arguing against a single-entity league structure, Franck argues that the general structure of U.S. professional league sports consists of a cooperative of team owners with a commissioner assigned to enforce rules. The cooperative protects the owners from appropriation by the league, while the commissioner manages the league and maintains its integrity.

The current league ownership structure has protected owners’ specific investments well. The only NBA owner to have been banned from the NBA was Donald Sterling, the owner of the Los Angeles Clippers. In 2014, Sterling was recorded making racist comments during a private conversation that was leaked to the press (Witz 2014). Even with fan and player outrage, some owners expressed concern over expelling Sterling from the league. Mark Cuban, owner of the Dallas Mavericks, said that forcing an owner out of the league was a “very, very, very slippery slope” that would allow the league to force owners out for “something somebody said in their home” (MacMahon 2014). Adam Silver, the NBA’s commissioner, eventually garnered the necessary owner support to force Sterling to sell the team. One reading of Sterling’s case is that team owners are willing to accept poorly managed teams and owners who blemish the league’s reputation in return for substantial protection against appropriation of their investments.

Team owners would be more vulnerable to lock-in were the league owned by investors or players. An investor or player-owned league could enact any number of policy changes that would transfer quasi-rents from team to league owners. To extract quasi-rents, the league could change the revenue sharing agreement, change what counts as BRI, fail to give teams more lucrative national time slots, or threaten to let in new teams or move a team to a different city.

Ross and Szymanski (2008) argue that the lock-in problems in an investor-owned league could be mitigated with a strong constitution and well-crafted rules, like the franchise agreements commonly used in fast food or other industries. They argue that ability to contract around the lock-in problem is particularly strong in sports leagues, which are, “among the most stable industries known to man” (p.138). But even with that stability, the possibility for appropriation of investments is greater in an investor-owned league than in a team-owned league. Additional investments would need to be made to contain such opportunistic behavior.

Given the short careers of many players, a player-owned league would have a strong incentive to appropriate investments by team owners in the short term, even if doing so creates long-term harm. Extending an ownership interest past retirement might be necessary to lower contracting costs over lock-in, even though doing so would increase the number and heterogeneity of owners, thereby increasing ownership costs.

Investors do not make specialized investments in the league that can be easily appropriated. Loans made by investors are secured through league revenues, which are based on easily monitored long-term contracts. The revolving nature of the league’s debt reduces the incentive for the league to act opportunistically, since the league’s reputation for repayment affects its ability to raise additional funds. Players invest in NBA-specific skills, but since players are continuously entering and exiting the league, the simple monopsony problem is more important than the lock-in problem for NBA players.

Asymmetric Information

The costs of asymmetric information are high when patrons are “unable to observe or verify important aspects of the firm’s performance of its contractual commitments” (Hansmann 2012, pp. 900-01). Asymmetric information issues arise most notably in the current structure of the NBA because of the ease in manipulating components of BRI. Team owners can transfer income to real estate ventures, stadium management firms, concessions, and naming rights. During CBA negotiations, the NBA often claims that teams are losing money (Coon 2011). However, because doing so is difficult to monitor, “many team owners shift revenue from the basketball franchise into related business ventures. As a result, owners may misrepresent the financial condition of teams,” one of the key factors leading to breakdowns in the negotiations over the CBA between the league and players (Sadler and Sanders 2016, p. 892). Getting the league to reveal information about its finances is an important goal for the players during any collective bargaining negotiation. In contrast, asymmetric information issues between the current league and lenders are low. The league’s TV revenues, which support the league’s loans, are steady and easily monitored.

Asymmetric information problems would remain in investor or player-owned leagues. An investor-owned league would have information about revenues that it could strategically hide from players and team owners during contract negotiations. Inventive investors might find ways to shift revenues to minority outside shareholders even if teams retain non-voting shares. Similarly, a player-owned league would seek to hide information about the league’s profitability from team owners.

Collective Decision-making

In addition to the costs of contracting with patrons of the firm, there are costs to assigning ownership to one group of patrons. Hansmann (2012) argues that the most important cost of assigning ownership is the cost of collective decision-making. These costs are so important that it is unlikely to see an organization's ownership in the hands of a group of patrons whose interests are very heterogeneous. Patron groups can have opposing interests. Employees want high salaries while capitalists want high investment returns. But the interests of patrons within a class can also vary. Pilots, machinists, and stewards are all employees of an airline, but their interests can be at odds with one another. Although suppliers of capital in a corporation have varying interests – some may want the firm to be more environmentally conscious while others may want the firm to be more respectful of diversity – the homogenizing factor is that they all want to receive a return on their investment, a goal that can be more easily measured than environmental consciousness or respect for diversity. The more homogenous the interests of a group of patrons, the easier it is for them to collectively control the organization.

Ross and Szymanski (2008) document the many areas in which team owners have conflicting interests, including revenue sharing, the location of teams, the exposure of the most popular players on national broadcasts, and the adoption of revenue enhancing policies. In the current NBA, important decisions require a super-majority of the Board of Governors to pass, and owners whose individual interests are hurt by a policy change may require a side payment to induce them to agree to the change.[6] The high transaction costs of these side-payments often make them infeasible.

A salient example of the costs of collective decision-making revolves around the number and location of NBA franchises. The NBA constitution currently grants teams an exclusive territory within 75 “air miles of the corporate limits of the city of operation.” The constitution requires existing teams to consent to the addition of a new team within its territory. This exclusive monopoly makes teams located in large markets considerably more valuable than those in small markets.[7] The disparity in market size between large and small market teams also makes it hard for small-market teams to compete for championships. This disparity could be reduced by eliminating certain unprofitable small market teams, moving teams from smaller to larger markets, or switching to a promotion and relegation system.

Even if these proposals were to increase the collective profitability of the league, they face high costs of collective decision-making because current teams have entrenched interests in the current system. For this reason, Ross and Szymanski (2008) argue that sports leagues are not only monopolists, but they are “lousy monopolists,” unable to make decisions that would increase the overall profitability of the league.

Although team-ownership has high governance costs, teams may be willing to move to a team-owned league to reduce contracting costs. As noted above, a group of twelve top European football clubs recently sought to break away from the UEFA Champions League. UEFA is the governing body of European football and runs several important leagues. Clubs qualify to compete in the Champions League based on their performance in their national leagues, a practice consistent with the promotion and relegation systems of European leagues. The twelve teams sought to form a new league with permanent membership, a salary cap, and control over revenues and decisions (Morgan 2021). Due to resistance from national associations, governments, and fans, this attempt failed, but it illustrates the attractiveness of a team-owned league.

The incentives to make profit-enhancing decisions are much better aligned in an investor-owned league. Since investors are more unified in their objective to maximize profits, they would be likely to introduce profit enhancing innovations to league governance. Teams would likely move to larger cities, star players would get more national airtime, and the league would experiment more with profit-enhancing rules.

Investor ownership is not a guarantee of success. NASCAR, an example of an investor-owned sport, has had ups and downs over the past thirty years, with attendance growing rapidly during the 1990s and 2000s but shrinking since 2008 (Mather 2020). Explanations for NASCAR's current woes include changing demographics, fan dissatisfaction with rules designed to "gin up competition," and the retirement of several popular drivers (Caldwell 2018). In contrast, attendance and TV viewership for Formula 1, another investor-owned racing circuit, have either held steady or risen in the several years prior to COVID.

Besides NASCAR and F1, investors currently own few leagues around the world, but experimentation is increasing on the margins of several sports. Recent sales or negotiations for the sale of broadcasting rights in rugby and European football leagues have sought to expand broadcasting revenues over time, perhaps moving from free to pay-per-view models of distribution. Partial league ownership by private equity has led to inevitable questions about control over league decisions. A recent sale of a portion of the broadcasting rights of Europe's Six Nations Rugby tournament to CVC led the Irish Rugby Union's CEO to clarify that, "unions retain complete control of all sporting matters while all commercial and broadcast decisions, which will benefit from CVC's commercial and marketing expertise, also requires majority union approval" (Rendell 2021). While the leagues currently retain control of decisions, investors have acquired an ownership stake to have increased input on how to expand marketability.

Players' interests are unified on some decisions and divided on others. Players are homogenous in their desire to maximize the league's collective profits, which could lead to better investment decisions along certain margins. For example, without specific investments in media and stadiums, players would be more willing to move teams to more profitable locations. However, star players' marketability is partially determined by their exposure to a national audience, complicating the decisions about how often superstars should get these prime games. Additionally, a league governed by 450 players with heterogeneous skills, marketability and career length would likely increase governance costs over a team-owned league. As is currently the case, the distribution of revenue among star and journeyman players would be a point of contention. Superstars would want salaries that reflected their contribution to winning while journeyman players would want salaries that were more evenly distributed. If ownership expired with employment, players would want the league to make decisions that would generate high levels of revenues over their playing careers. This might include underinvestment in growth in favor of short-term profit taking. Current players would want rules that extended their careers and limited entry of new players into the league. We therefore predict that the governance costs would likely be highest under player ownership of the league.

Conclusion

We began this article with a quote from Michelle Roberts, questioning the value of team owners, and the insights of Ross and Szymanski (2008), highlighting the many collective decision issues in the governance of sports. Could the team owners' role in governing the NBA be replaced by the players or by an investor-owned enterprise? Following Hansmann (2012), we offer one framework for examining that question, which requires a balancing the costs of contracting between the NBA and its patrons – simple market power, ex post market power, and asymmetric information – and the cost of assigning ownership – collective decision-making. We agree with Michelle Roberts that the NBA exercises monopoly power over players and with Ross and Szymanski (2008) that team-owned sports leagues often leave money on the table when organizing their affairs. But while switching league ownership to a different patron group would lower some transaction costs, doing so would invariably raise others.

The players' biggest complaint about the current ownership structure is the monopoly power the NBA holds over players. Were alternative leagues to exist, players could threaten to move between the NBA and those other leagues to improve their bargaining power. Alternatively, if the players controlled the decisions and finances of the NBA, more of the spoils would flow to them. But a player-owned league would need to overcome hold-up problems with team owners and collective action problems in governance that might eclipse any gains from the reduction in monopoly power.

Similarly, an investor-owned league would have lower costs of collective decisions, all else equal leading to an overall more profitable league. But investors are the patron group that currently has the lowest cost of contracting with the league. The NBA's steady revenue streams and high credit rating make borrowing money in a competitive industry almost costless. We agree with Ross and Szymanski (2008) that an investor-owned league could contract around transaction costs with players and team owners, but the important questions are how large those costs are and whether the parties involved view them as insurmountable. The history of the NBA indicates that team owners are willing to tolerate some bad collective decisions and poorly run teams in exchange for the protection of their investments.

Other leagues offer mixed lessons. NASCAR and F1 Racing are both investor-owned but seem to be on different trajectories. Private equity investors have ownership interests in rugby leagues, supporting arguments for greater control by a residual claimant interested in maximizing overall league value. Alternatively, the recent failed attempt to break away from UEFA's Champions League would have moved ownership from a governing body into the hands of team owners. This recent wave of innovations leads us to conclude that the answer to the question "who should own the league?" is increasingly important and fluid. Hansmann's (2012) framework shows that patrons of the league have incentives to experiment with the reorganization league ownership as the real or perceived transaction costs of league governance change.

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[1] In 2019, Daryl Morey, the General Manager of the Houston Rockets, tweeted in support of protestors in Hong Kong. That tweet was criticized by some players, including LeBron James, who was in China at the time to play exhibition games. It was estimated that China's retaliation for the tweet cost the NBA as much as $400 million in revenues, hurting both team owners and players (Henlin 2020).

[2] See Winfree, Rosentraub and Mills (2011) for an analysis of the relationship between teams and their related investments in real estate and media.

[3] Noll (2002) argues that promotion and relegation may be more attractive in European football than American sports leagues because of the existence of extremely lucrative international football matches.

[4] Non-profits do not meet this definition of a cooperative.

[5] The costs of ownership include the costs of risk bearing and the agency costs of controlling the firm's managers, but we do not believe these are decisive in NBA league ownership.

[6] Forrest, Simmons, and Szymanski (2004) argue that the Premier League failed to expand its television broadcast deal in the mid-1990s because of conflicts over how to split the increased revenue.

[7] Forbes' ranking of team values places the New York Knicks first at $4.6 billion and the Memphis Grizzlies last at $1.3 billion (Badenhausen et al., 2020).