

WHO REALLY RUNS SPORTS?: THE POWER OF  
STAKEHOLDERS AND BENEFITS OF STAKEHOLDER THEORY  
IN SPORTS

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INTRODUCTION

Who holds the ultimate decision-making power in the world of sports? Is it the owners? The athletes? Fans? Someone else? While the average person may likely answer that it is the owners and league commissioners, that would only be partially correct. Every decision made in sports—from collective bargaining agreements between leagues and athletes, to game rules, to league handling of controversies and scandals, to the order in which games are played—is influenced by stakeholders. Keeping these stakeholders’ interests in mind through the utilization of stakeholder

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theory, which seeks to maximize consideration of stakeholders' values in an organization's decision-making, is essential for the overall success of sports corporations. The traditional theory used in American corporations—"shareholder primacy theory"—tends to focus heavily on the overall goal of wealth maximization for owners rather than focusing on how decisions will impact all of the corporation's stakeholders as so with the "stakeholder theory." The ramifications of even partial neglect of some stakeholders can result in extreme revenue loss. In the world of sports, stakeholder satisfaction is a requirement for successful operations due to external stakeholder (e.g., fans) demand and the product supplied by internal stakeholders (e.g., athletes).

Stakeholders have a considerable amount of power that can go unseen by the public without a close examination of both decision-making processes in sports and various corporate law cases involving sports. A closer look at the operations procedures of sports reveals that decisions made by commissioners and owners are usually highly influenced by the various internal and external stakeholders. Therefore, aside from the owners, commissioners, and executives, the remaining stakeholders are the ones that possess the real decision-making power in sports.

This Essay argues the power that stakeholders have in the operations and decision-making process in sports, the difference between stakeholder theory above shareholder primacy theory, the pros and cons of both theories in the sport corporation's decision-making process; making the argument as to why more sport organizations should lean toward wider utilization of the stakeholder theory. Part I discusses what a stakeholder is, explains the differences between stakeholders and shareholders, identifies the categories of stakeholders and explains each group's stake, and notes how decision-making in sports affects that stake. Part II expands on the shareholder primacy theory and the stakeholder theory. This Part recommends stakeholder theory over shareholder primacy theory as the most efficient theory to utilize when operating a team or league. Part III analyzes real-world instances where Major League Baseball (MLB), the National Football League (NFL), and the National Hockey League (NHL) activated the shareholder primacy theory and what the result would have been if stakeholder theory had instead been used.

## I. WHAT IS A STAKEHOLDER?

Because corporate law is such a shareholder-dominated area of law, the term "stakeholder" may be one that some are not as familiar with and may be overshadowed by different synonyms. Stakeholders play a large role in the corporate or operational decision-making process. Because every move that a corporation makes will affect stakeholders, stakeholders are vital to the success and general operations of a company.

Generally, a “stakeholder” is a person who is “directly affected by the acts and decisions of the corporation.”<sup>1</sup> This can include employees, suppliers, charities, communities, and anyone else “whose financial well-being is tied to the corporation’s success.”<sup>2</sup> As the name states, they hold some kind of stake in the company. This is different from the synonymous terms, “shareholder” or “stockholder,” one who owns stock in a corporation, and therefore have an equity and ownership interest in a company.<sup>3</sup> However, when shareholders or stockholders have an equity interest in the company, they are stakeholders as well. To clarify, a stakeholder is not necessarily a shareholder, but a shareholder is one type of stakeholder.

Stakeholders are generally broken down into different categories. Each of these categories has a different type of stake at interest. There are internal stakeholders, those working inside a corporation, and external stakeholders, those outside the corporation who are affected by the corporation’s decisions. External stakeholders and internal stakeholders are vital to a corporation’s success. The following list of stakeholders is guided by Ian Linton’s *What is a Stakeholder in Sports?*<sup>4</sup>

#### A. External Stakeholders

##### 1. Fans and Communities

The most obvious external stakeholder in sports are the fans. Fans are the reason that sports exist—they are the primary consumer—and satisfying fans is the glue that holds the entire industry together.

Fans can be anywhere, but they are also part of communities. Communities possess a geographical nexus to the team and hold a stake in job opportunities, economic growth, and a more local sense of pride for their team.<sup>5</sup> While fans have a stake in the entertainment value of the product that teams put out on the field, court, and ice, having a local team increases a community’s economic activity in the town through tourism and other game attendance-related spending.<sup>6</sup> The decisions that teams and leagues make affect what fans and communities see when they watch

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1. Benedict Sheehy, *Scrooge—The Reluctant Stakeholder: Theoretical Problems in the Stakeholder-Shareholder Debate*, 14 U. MIAMI BUS. L. REV. 193, 198 (2005).

2. Kathleen Hale, *Corporate Law and Stakeholders: Moving Beyond Stakeholder Statutes*, 45 ARIZ. LAW REV. 823, 825 (2003).

3. Paula J. Dalley, *The Misguided Doctrine of Stockholder Fiduciary Duties*, 33 HOFSTRA L. REV. 175 (2004).

4. Ian Linton, *What is a Stakeholder in Sports?*, CHRON., <https://smallbusiness.chron.com/stakeholder-sports-54584.html> [https://perma.cc/838C-TS2B] (last visited Jan. 10, 2022).

5. *Id.*

6. See Jason Gewirtz, *Study: \$45 Billion Spent in 2019 on Sports-Related Travel*, SPORTSTRAVEL (Sept. 1, 2020), <https://www.sportstravelmagazine.com/study-45-billion-spent-in-2019-on-sports-related-travel/> [https://perma.cc/537Y-A8V5].

and engage in the sport. When teams acquire, release, draft, and trade athletes or when teams choose their head coach and coaching staff, these decisions affect the talent, scheme, and strategy that fans see when watching a sporting event. Leagues make rules, schedules, and govern the overall operations of that league's respective sport, which are decisions that affect the way that league's game is run, and therefore, the entertainment that fans obtain from sporting events.

## 2. Television Providers

Television providers, and its employees, have a financial stake in sports. They rely on the success, popularity, and decision-making of sports to earn profits through advertisement revenue and viewership.<sup>7</sup> For example, in 2018, FOX inked a deal with the NFL to broadcast eleven of the league's *Thursday Night Football* games.<sup>8</sup> As part of the deal, FOX will pay the NFL over \$550 million per year through the end of the 2022 season to air these games.<sup>9</sup>

In this example, FOX relies on the decisions made by the NFL and its teams to have a marketable product to air on its network. If the NFL and its teams make decisions that make the games less appealing to fans, FOX may suffer lower viewership, advertisement revenue, which may result in lower profits. This is just one fish in a sea of television deals amongst every sport and television networks.<sup>10</sup>

## 3. Sports Venues, Food and Merchandise Vendors and Suppliers

Sports venues, distributors of team merchandise, and in-stadium concession vendors and suppliers have a financial and job security stake in sports. People in this group rely on teams and leagues to make decisions to increase the attraction of attending a game live. Teams and leagues affect this stakeholder interest by deciding ticket prices and planning benefits to fans who attend games live, as opposed to watching them on television. When fans attend games live, they are more likely to

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7. Billy Heyen, *Super Bowl Commercials 2021: How much does an ad cost for Super Bowl 55?*, SPORTINGNEWS (Feb. 7, 2021), <https://www.sportingnews.com/us/nfl/news/super-bowl-commercials-cost-2021/o496m61j4lkn19kxoygv9690a> [<https://perma.cc/RSV3-JZYM>] (“CBS opened the bing for 30-second commercial spots for Super Bowl 55 at \$5.6 million.”).

8. Matt Bonesteel, *‘Thursday Night Football’ Will Move to Fox Next Season*, WASH. POST (Jan. 31, 2018, 6:05 AM), <https://www.washingtonpost.com/news/early-lead/wp/2018/01/31/thursday-night-football-reportedly-will-move-to-fox-next-season/> [<https://perma.cc/GPL5-7DLK>].

9. *Id.*

10. *E.g.*, Morten Jensen, *With New TV Deal Looming, NBA Teams Could Spend Big On Extensions*, FORBES (Sept. 19, 2021), <https://www.forbes.com/sites/mortenjensen/2021/09/19/with-new-tv-deal-looming-nba-teams-could-spend-big-on-extensions/?sh=743a15d83e85> [<https://perma.cc/46EH-77T7>] (“In 2014, the NBA signed a nine-year broadcasting contract, worth \$24 billion, with ESPN and Turner[.]”).

purchase team merchandise and concessions while at the stadium.<sup>11</sup> Thus, failure to bring in attendance to live games can have a negative effect on the financial stake of concessions vendors and suppliers.

#### 4. Sponsors

Sponsors have a similar financial stake to that of television providers. Sponsors pay for advertisement space during the airing of sporting events on television and pay for signage to be placed around the stadium during games. An example of a professional sports league and its sponsor is the Ultimate Fighting Championships (UFC) and Modelo.<sup>12</sup> “The multimillion-dollar deal will place Modelo branding inside the octagon at UFC events. [Modelo’s logo] will also be visible during UFC live broadcasts and on [UFC’s] website. UFC athletes and personalities will also be featured in Modelo advertising.”<sup>13</sup> To earn the full benefit of their input into sponsoring an event, sponsors rely on leagues to instill gameday operations and procedures to ensure that an entertaining game will happen. This increases the interest of fans to watch and attend games, thus benefiting these sponsors by maximizing the audience exposure of their brand.

#### 5. Sports Betting Platforms

A newer stakeholder in sports are casinos and sports wagering platforms, sports betting apps, and websites. At the time of this Essay, nineteen states have legalized sports betting, with a majority of other states moving toward legalization.<sup>14</sup> Legal states require casinos and other sports betting platforms to pay a one-time licensing fee and a percentage of their profits from sports betting to be taxed by the state.<sup>15</sup> These platforms have a stake in the entertainment value and unpredictability ensured in sports through competitive balance—the strategy that leagues use to develop a higher level of entertainment in

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11. Jakob Eckstein, *How the NFL Makes Money*, INVESTOPEDIA (Sept. 10, 2021), <https://www.investopedia.com/articles/personal-finance/062515/how-nfl-makes-money.asp> [<https://perma.cc/6DTP-VDWL>] (“Concessions contribute only about \$3 to \$5 million to the average NFL team’s revenue, but the margins on selling food at games are extremely high.”).

12. Trent Reinsmith, *UFC Signs Multimillion-Dollar Deal With Modelo*, FORBES (Oct. 10, 2017), <https://www.forbes.com/sites/trentreinsmith/2017/10/10/ufc-signs-multi-million-dollar-deal-with-modelo/?sh=40023250b9df> [<https://perma.cc/CJB8-S7EK>].

13. *Id.*

14. Ryan Rodenberg, *United States of Sports Betting: An Updated Map of Where Every State Stands*, ESPN (Oct. 19, 2020), [https://www.espn.com/chalk/story/\\_/id/19740480/the-united-states-sports-betting-where-all-50-states-stand-legalization](https://www.espn.com/chalk/story/_/id/19740480/the-united-states-sports-betting-where-all-50-states-stand-legalization) [<https://perma.cc/56DK-BDPP>].

15. *See, e.g.*, C.R.S. 44-30-1508(1) (imposing a sports betting tax “at the rate of ten percent of net sports betting proceeds.”).

games. This ensures these platforms profit from their initial licensing fee, platform sponsors, and employee wages.

## B. *Internal Stakeholders*

### 1. Athletes

Athletes are the lifeline to the sports industry, the primary internal stakeholders, the internal glue in sports, and are the product that is put out by leagues. Athletes possess a diverse variety of stake: their safety, a salary to provide for them and their family, health benefits, and for some, maybe even the fame of being a professional athlete.

Every decision that leagues and teams make impact their athletes. For example, a team drafting a new athlete may affect the playing time and public opinion of a player of that same position. An athlete losing playing time to another player can potentially hurt that athlete's value in a league. It can also make the athlete appear less desirable to teams in the league, resulting in contracts of a lesser value. These things can decrease the popularity of the athlete, leading to loss of potential sponsorships, marketing deals, and a diminished public opinion of that athlete or team. Additionally, a league may instill rules that protect the safety of the athletes, such as the college football's "targeting" penalty and the COVID-19 vaccine mandates in the NFL, NBA, and NHL.

### 2. Team and League Ownership and Executives

This category of stakeholder contains the fan-facing, decision-makers in sports: team owners, team general managers, league commissioners, and other high-ranking executives. League commissioners and team owners are the shareholders in sports because they control a major financial stake in sports. Some may even have a reputational stake in the quality of the product that they are responsible for. Team and league owners and executives are the most likely stakeholder group to utilize a shareholder primacy theory since they would be the main beneficiary. This is also because most owners may see their ownership as a profitable-venture and believe that satisfying the fan is a step toward the goal of profits, as opposed to earning profits in the process of maximizing fan satisfaction.

### 3. Team and League Personnel

Team and league personnel consists of coaches, trainers, referees, stadium personnel, and any other league or team officials. They have a stake in their safety, job security, finances, and employee benefits. Many of the decisions made regarding this group in sports are similar to the typical ones that occur in employer-employee relationships, such as budgeting, planning, reasonableness of job demands, safety standards, and more.

Team and league personnel are internal stakeholders because they control lineups, play-calling, and penalties in games, making them a key part of the product being supplied. This stakeholder group is also responsible for ensuring that gamedays operate smoothly on the field through officiating, groundskeeping, recording statistics, and more.

## II. IDENTIFYING THEORIES IN SPORTS

There are two main theories that corporations use in obtaining its objectives: (1) shareholder primacy theory; and (2) stakeholder theory.<sup>16</sup> The shareholder primacy theory seeks wealth maximization for shareholders and is the dominant theory used in the United States. It is also the dominant theory in the United Kingdom, Canada, Australia, and New Zealand.<sup>17</sup> Stakeholder theory is the primary theory used in Europe, Germany, and Japan.<sup>18</sup> Under stakeholder theory, the duty of a corporation's management is "to create optimal value for all social actors who might be regarded as parties who can affect or are affected by a corporation's decision."<sup>19</sup>

A corporation that operates under shareholder primacy theory is seeking to primarily benefit shareholders. What owners fail to realize is that they and stakeholders have a symbiotic relationship. Owners need the stakeholders in order to function and the stakeholders need the owners' execution, coordination, and experience to reap the sports industry's full entertainment value. Corporations that prioritize shareholder primacy theory alienate key stakeholder groups and therefore stifle its ability to be successful. By shifting to the stakeholder theory that seeks to benefit everyone involved, corporations can better advocate for all its stakeholders and keep them invested.

There are benefits for corporations to utilize stakeholder theory over shareholder primacy theory. As seen above, the stake of most

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16. Andrew Keay, *Stakeholder Theory in Corporate Law: Has it Got What it Takes?*, 9 RICH. J. GLOBAL L. & BUS. 249, 249 (2010).

17. *Id.*

18. *Id.*

19. *Id.* at 256.

stakeholders to some extent depends on fans' demand for the game through attendance and viewership. Because fans are such a vital link in the stakeholder chain, the primary benefit for a corporation's utilization of stakeholder theory puts fan consideration as a top factor when making decisions. This is not to say that fans should be the *only* stakeholder that is considered in decision-making; however, fans may rank first in external stakeholder importance while weighing factors and attempting to benefit the largest number of stakeholders. Moreover, considering the needs of all stakeholders could enable decision-makers to make fully informed, educated decisions that are fair and potentially beneficial to the greatest number of parties.

A potential downside of the stakeholder theory in sports is that the decisions made under a stakeholder-dominant regime may not always lead to the highest profits. Plateau or low profits can be detrimental in the world of sports, where "flash" and "glamor" almost seem like a requirement of fans.<sup>20</sup> This argument may, however, lack merit if fans are happy, interested, and demand the product. Prioritizing fans as the consumer should be the primary step in attaining and retaining a financial form of success.

While shareholder primacy theory can certainly still succeed, the most likely way to succeed—both through profits and longevity—is to prioritize considerations towards all of a team or league's stakeholders through stakeholder theory.

### III. ANALYSIS OF REAL-WORLD EXAMPLES THAT DISPLAY THE BENEFITS OF STAKEHOLDER THEORY AND STAKEHOLDER POWER AND INFLUENCE IN SPORTS

The amount of power and influence that stakeholders possess in corporate decision-making is a unique aspect of sports operations and governance. The most practical way to show the value in considering stakeholders is through an examination of a few real-world occurrences in sports that have required leagues and teams to make important decisions that affect stakeholders.

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20. See Ryan Williamson, *According to College Football Recruits, Flashy Uniforms Matter*, THE COMEBACK (May 25, 2016), <https://thecomeback.com/ncaa/uniforms-recruits-college-football-matter.html> [<https://perma.cc/HUC6-TW8V>].



### A. *Night Games at Wrigley Field* (Shlensky v. Wrigley)

In the case of *Shlensky v. Wrigley*,<sup>21</sup> Shlensky, a minority shareholder of the defendant Chicago National League Baseball Club (Club),<sup>22</sup> sued Wrigley, the president and 80% owner of the corporation, and the directors of the corporation on the grounds that “fraud, illegality, and conflict of interest.”<sup>23</sup> Shlensky attributed the Club’s operating losses to low attendance because the team only played day games.<sup>24</sup> Shlensky brought the suit because every other team, but the Club, was playing its games at night with the intent of maximizing attendance and revenue.<sup>25</sup>

Because of the business judgment rule, the trial court’s dismissal of the complaint was affirmed. The appellate court found that Wrigley, and the other directors, were acting in the “best interests of the corporation and the stockholders.”<sup>26</sup> The court noted the defendant’s consideration of the surrounding neighborhood as an example of the defendant acting in the best interests of the baseball Club.<sup>27</sup>

An examination of the case shows that Wrigley’s consideration of the community may have totally changed the outcome of the case. Shlensky’s position seemed aligned with shareholder primacy theory, shown by his foremost concern of financial loss and eventual unsustainability of the Club. Wrigley’s position best aligns with stakeholder theory because of his concern with the well-being of the surrounding neighborhood. If Wrigley had not introduced a non-monetary stakeholder interest by voicing his concern for the surrounding neighborhood, the result of the case would have turned on whether the board had at least reasonably researched whether night games or day games were more profitable and in the better interests of the corporation—a shareholder primacy approach.

The key difference between the two parties’ arguments is the sole non-financial argument by Wrigley that installing lights would deteriorate the neighborhood. The court even found the neighborhood factor persuasive enough of a fact to cite as an example of Wrigley and the board acting in the best interests of the corporation and stockholders.<sup>28</sup> Without considering all stakeholders, each side would have had purely financial arguments surrounding the cost of the lights. In the end, the court was

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21. *Shlensky v. Wrigley*, 237 N.E.2d 776 (Ill. App. Ct. 1968).

22. Chicago National League Baseball Club then, and still to this day, own and operate the Chicago Cubs of the MLB.

23. *Shlensky*, 237 N.E.2d at 778.

24. *Id.* at 777–78.

25. *Shlensky*, 237 N.E.2d at 777.

26. *Id.* at 780.

27. *Id.*

28. *Id.*

persuaded by the defendant's utilization of stakeholder theory and consideration of an external, non-monetary stakeholder.

### B. *NFL Chooses to Pay Taxes After Pressure from External Stakeholders*

In 1966, the NFL was classified as a tax-exempt, non-profit entity under Internal Revenue Code (IRC) § 501(c)(6)<sup>29</sup> after lobbying Congress for antitrust protection during the league's merger with the American Football League.<sup>30</sup> Federal income tax exemptions falling under this subsection are given to organizations that perform operations that further the industry or profession in which they belong.<sup>31</sup> In 2015, uproar from fans and political groups commenced as the public learned of the NFL's exemption.<sup>32</sup> Goaded by some members of Congress and an online petition containing the signatures of over 430,000 people, stakeholders were voicing their beliefs that the NFL should not be benefitting from a tax-exemption.<sup>33</sup>

It is estimated that the NFL now spends between \$10 million and \$15 million per year on federal income taxes after foregoing tax exemption status.<sup>34</sup> Under a shareholder primacy theory, the NFL likely would have chosen to preserve its 501(c)(6) status, thus saving an eight-digit sum per year on taxes. In this circumstance, however, the NFL utilized stakeholder theory.

Though fans and the lobbying communities likely had no direct stake in whether the NFL pays federal income taxes or not, they eventually became the prevailing influence. The league made a profit-sacrificing decision to please fans and communities of people that voiced their opinion on the issue. This example shows the influence that external stakeholders—particularly fans and communities—can have in a league's financial procedures. The NFL made the decision to increase their expenses by millions in an effort to satisfy the stakeholders' personal beliefs rather than their stake in maximizing league profits. Although the amount of taxes now being paid by the league may not be an extremely

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29. I.R.C. § 501(c)(6) grants a tax exemption for “[b]usiness leagues, chambers of commerce, real-estate boards, boards of trade, or professional football leagues (whether or not administering a pension fund for football players), not organized for profit and no part of the net earnings of which inures to the benefit of any private shareholder or individual.” *See also* I.R.C. § 501(a) (granting the tax exemption to listed entities falling under I.R.C. § 501(c)).

30. *Id.*

31. Dylan P. Williams, *Taking a Knee: An Analysis of the NFL's Decision to Relinquish Its § 501(c)(6) Federal Tax Exemption*, 26 J. LEGAL ASPECTS OF SPORT 127, 127 (2016).

32. Joe Pinsker, *Why the NFL Decided to Start Paying Taxes*, THE ATLANTIC (Apr. 28, 2015), <https://www.theatlantic.com/business/archive/2015/04/why-the-nfl-decided-to-start-paying-taxes/391742/> [https://perma.cc/V6E3-5J99].

33. *See id.*

34. *See id.*

substantial percentage of their total yearly revenue, the NFL's devotion to the personal beliefs of a large group of stakeholders is now a multi-million dollar per year expense.<sup>35</sup>

### C. *Collective Bargaining*

In almost every professional sports league in the United States, the athletes have their own union.<sup>36</sup> Each league has an agreement with its respective players association known as a collective bargaining agreement (CBA). When a CBA expires, and a new one needs to be negotiated where the internal stakeholder, employer-employee relationship is key feature in the parties' compromise. As a result, the goal of negotiations is to put itself in the greatest position, while compromising for the opposing party's greatest position.

Although two key stakeholders are involved in CBA negotiations, all sports stakeholders have a high-level of interest in the outcome. CBA negotiations commonly impact the way the game is played and displayed to the public. For example, the latest NFL CBA will add an extra game to the league's regular season, add two teams to the playoffs, and includes a higher share of league revenues to athletes, amongst other terms.<sup>37</sup> This increases the supply of product that the NFL can put out, thus increasing the amount of games for fans to watch and attend, for sponsors to advertise during, for television channels to show, and more.

Some of the non-monetary benefits of the 2020 CBA<sup>38</sup> indicate that the needs of athletes, fans, owners, sponsors, and television providers were likely taken into consideration when negotiating the CBA. As a result, this was a successful negotiation with little tension that shows strong signs that the many stakeholders' groups will continue to benefit from the 2020 CBA.

At the opposite end of the spectrum is the infamous 2004 NHL lockout. With just under a year remaining on their current CBA, the NHL and the players union attempted to negotiate a new deal. Using shareholder primacy theory, owners attempted to save money by limiting

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35. *Id.* (As a result of satisfying these stakeholders' demands, the NFL is expected to "pay between \$10 million and \$15 million in taxes each year.")

36. The National Football League Players Association (NFLPA); the Major League Baseball Players Association (MLBPA); the National Hockey League Players Association (NHLPA); and the National Basketball Players Association (NBPA).

37. Dan Graziano, *NFL CBA Approved: What Players Get in New Deal, How Expanded Playoff and Schedule Will Work*, ESPN (Mar. 15, 2020), [https://www.espn.com/nfl/story/\\_/id/28901832/nfl-cba-approved-players-get-new-deal-how-expanded-playoffs-schedule-work](https://www.espn.com/nfl/story/_/id/28901832/nfl-cba-approved-players-get-new-deal-how-expanded-playoffs-schedule-work) [<https://perma.cc/S7YH-8ZV7>].

38. The addition of one regular season NFL game gives extra games for fans to watch, justifies increased compensation for players, and grants sponsors, TV providers, and concessions an extra game to earn profits (see 2020 NFL CBA art. 31(a)); current and former NFL players have access to favorable healthcare benefits (see 2020 NFL CBA art. 58, § 1).

athletes' salaries and insisting on implementing a team salary cap.<sup>39</sup> Eventually, after increased unsuccessful negotiations, the parties had no incentive to further negotiate in good faith, resulting in a lockout.<sup>40</sup> This led to a cancellation of the league's 2004–2005 season.<sup>41</sup> This was the first time that a labor dispute caused a North American sports league to cancel an entire season.<sup>42</sup> The parties were eventually able to successfully negotiate a new CBA in 2005.<sup>43</sup> Unfortunately, however, the cancellation of the 2004–2005 season resulted in an estimated loss of \$2 billion in revenue for the NHL, and an estimated loss of \$1 billion in salaries for athletes.<sup>44</sup>

This is an instance where using the stakeholder theory would have ultimately led to greater wealth maximization for owners than shareholder primacy theory. During the initial negotiations, the owners likely sought to use salary caps as a tool to maximize wealth under the utilization of shareholder primacy theory. Athletes were not in favor of a salary cap, and the failure of the owners to acknowledge the interests of a key internal stakeholder led to a major loss in revenue for the league.<sup>45</sup> It also negatively impacted every one of the NHL's stakeholders. That season there were no games to be aired on television, no opportunity for advertisements, no games to bet on, and no games for people to work. Had the owners utilized a stakeholder theory as opposed to a shareholder primacy theory, the 2004–2005 NHL season could have most likely been salvaged.

These two instances of owners and athletes negotiating a CBA show how stakeholder theory can relieve tension between the parties and can potentially lead to a more efficient, more beneficial agreement for both parties and all stakeholders. These two examples also show the enormous impact that these negotiations can have on stakeholders outside of owners and athletes. In the NFL's CBA negotiations, the parties came to an agreement that grants more games for fans, vendors, sponsors, and TV providers, an increased salary for athletes, and, as a result of stakeholder satisfaction, increased profits for owners.

Regardless of whether negotiating a CBA, discussing the terms of an agreement with a sponsor or TV provider, or making a vote in a league governance meeting, considering the needs of all stakeholders through

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39. Braden Shaw, *The Solution to NHL Collective Bargaining Disputes: Mandatory Binding Arbitration*, 10 DEPAUL J. SPORTS L. CONTEMP. PROBS. 53, 59 (2014).

40. *Id.*

41. *Id.*

42. *Id.*

43. *Id.*

44. *Id.* at 60.

45. *Id.*

stakeholder theory is more likely to lead to a more beneficial decision for everyone.

### CONCLUSION

Stakeholders have the power to persuade courts, influence legislation, and potentially prevent league lockouts; just to name a few things. Understanding this stakeholder power shows the importance of utilizing stakeholder theory in the decision-making process. It is extremely important for the decision-maker of the sport to make a decision that benefits as many stakeholder groups as possible, while also considering their own financial stake in the decision. Therefore, a major goal in making any corporation's determination should be coming to a decision that includes finding a sustainable balance of benefit and satisfaction for every stakeholder's interest through the stakeholder theory.

Ultimately, every stakeholder in sports has a functional purpose, especially fans and athletes. Considering each stakeholder's purpose and value should be prioritized over direct profits in any strategic decision-making process unlike the method deployed by the shareholder primacy theory. Using stakeholder theory tends to lead to a faster, more widely beneficial, more efficient, and overall better decision than the one that would have been made under shareholder primacy theory.

There is a correlation between the amount of commitment to stakeholder theory and the level of power that all stakeholders have. What does all of this mean? It means that for a sports league or team to have the best chance at making the absolute best decision for the corporation, it should use stakeholder theory in coming to that decision, which has the influence of each and every stakeholder behind it.