Confronting the Problems of Professional Sports: A Public Policy Response to Franchise Relocation and Stadium Subsidization

Taylor F. Brinkman
Peabody College of Vanderbilt University

During the past decade, forty-six professional sports venues were constructed in the United States, while only 16 expansion teams were created by the major sports leagues. Nearly two thirds of these newly built stadiums and arenas were funded with public tax revenues, despite substantial evidence showing no positive economic impact of new sports stadium construction on local communities. In reviewing the economic literature, this article investigates the role of professional sports organizations in the construction and public subsidization of new sports venues. Franchise relocation and public stadium subsidization is a direct result of the monopoly power of professional sports leagues, whose franchise owners extract large subsidies from their host communities by threatening to relocate to viable alternative locations. After explaining how the most common methods of stadium subsidization project a disproportionate allocation of the benefits and costs of hosting a professional team to local community interests, this article outlines several considerations for local policymakers who seek to reinvigorate public discussion of equity concerns in professional sports finance.

I. Introduction

Sports are a cultural force in America. They are a unique occasion for bringing people together, a means by which people relate to each other, a forum for social learning, as well as a source of a large amount of perceived economic benefits to the cities that play host to them.[1] It is thus not surprising that American citizens place great value on professional sports teams, and that strong public support for a nation of hometown teams has served as the main argument for prioritizing sports policy issues on the political agenda (Johnson 1978, 326).

The most prominent sports issue to reach agenda status is the abuse of power by sports leagues due to their partial protection from federal antitrust laws. Major League Baseball (MLB), and to a lesser extent, the National Football League (NFL), National Hockey League (NHL), and National Basketball Association (NBA) have, over the years, obtained exemptions from Section One of the Sherman Antitrust Act, which prohibits any "contract, combination, or conspiracy in restraint of trade or commerce" (Johnson 1985, 149). As a result of their legal success in court, professional sports leagues are now organized as joint ventures in which franchise owners collectively make major business decisions to maximize their fiscal revenues. They collectively decide the terms under which new teams may be admitted to the league, and at what price. Many professional league organizations restrict the ownership of network broadcasting rights and decide how revenues will be distributed between the multiple teams of the league. Moreover, several critics suggest that franchise owners

[1] Recent empirical studies have concluded that professional teams are not the great engines of local economic development they were once thought to be; nonetheless, state and local politicians have not refrained in promoting economic growth and vital employment opportunities as reasons for maintaining or attracting professional sports teams to their major cities (Siegfried and Zimbalist 1999).

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engage in predatory practices that preclude the formation and success of any potential rival league to protect their negotiating power and the distribution of public revenues (Adams and Brock 1997, 723).

There are numerous repercussions of the joint negotiations by franchise owners with dramatic consequences for consumers and host cities. Perhaps the most notable result of the monopoly held by franchise owners is their consistent success in demanding large public subsidies from host cities. These subsidies customarily take the form of reduced monthly rent on the use of publicly-owned facilities, capital improvements, or most commonly, brand new stadiums financed with public dollars. A major problem with these demands, and the justification for a new public policy response to the negotiating power of professional sports leagues, is the unfair presence of an implied, if not explicit, threat for franchise relocation without concessions from city officials (Johnson 1985, 221). Many franchise owners receive vast monetary benefits from the communities that support them, but fail to provide consistent economic returns for local investment due to unbalanced finance agreements (Zimmerman 1997, 121-122). Recognizing the critical need to preserve stability in the relationship between major league franchises and their communities due to the visible role of professional sports in American culture, legislation must be put in place that "better protects the public's tax dollar and neutralizes those pressures which are built to exploit the public's intense interest in sports" (Johnson 1978, 337).

II. History

Despite the popular myth that professional sports organizations are not subject to government interference and control in the United States, this assumption could not be further from the truth (Johnson 1978, 320). The United States Congress has long considered the dilemmas of antitrust enforcement and private league deliberations on numerous occasions, beginning with the relocation of the Washington Senators baseball franchise to the state of Texas in 1972. Besides exasperating several members of Congress who happened to be baseball fans, the move sparked the first wave of congressional interest in the antitrust exemptions given to professional sports leagues. Although a congressional committee that was formed to examine this legal provision recommended a dramatic reversal of antitrust law, there was never any formal action completed against Major League Baseball (Noll and Zimbalist 1997, 503).

A second period of legislative activity began ten years later when visible tensions between local taxpayers and franchise owners entered the national spotlight. While a total of seventy-eight franchise relocations took place across professional sports leagues during the next twenty years (Noll and Zimbalist 1997), the relocation issue lay dormant until franchise owner Al Davis decided to uproot the NFL's Oakland Raiders. His business decision was precipitated by the fact that the Los Angeles Memorial Coliseum promised a more lucrative rental agreement than the one he was currently getting in Oakland. Despite league objections and one of the most rabidly loyal fan bases in the country, Davis' decision to leave the city of Oakland "stimulated a public debate over the rights of franchise owners to relocate at will" (Johnson 1985, 219). Ultimately, the Ninth Circuit Court's landmark ruling in *Los Angeles Memorial Coliseum and Oakland Raiders v. National Football League* (1982) permitted the move after classifying internal league rules, which required franchise relocation to be approved by three-fourths of franchise owners, as an unfair restraint of trade in violation of the Sherman Antitrust Act (Zimbalist 1994, 302). In effect, this ruling established a precedent saying that a league could not enforce any collective decision of its member clubs over the decision of an individual club.[2]

In response to the *Raiders* case, the NFL began lobbying vigorously for the passage of the Professional Sports Community Protection Act (S. 2784) to safeguard community interests from

[2] Senate Committee on the Judiciary, *Hearings on Professional Sports Antitrust Immunity*, 99th Cong., 1st sess., February 6, 1985.

franchise relocation and permit collective league regulation of relocation proposals. According to the NFL, the power to regulate franchise relocation was essential to the league's ability to enforce its written policy of maintaining fan loyalty. The strong advocacy of several mayoral leaders in host cities was not sufficient, however, to overcome the failure of league officials to explain their proposed solution in committee hearings and win legislative support (Johnson 1985, 231-232).

A third period of legislative deliberations on the relocation issue followed the controversial moves of the Baltimore Colts to Indianapolis in 1984 and Cleveland Browns to Baltimore in 1995. To minimize the financial and psychological consequences for local communities presented with the possibility of franchise abandonment in the future, several House members from the respective cities proposed future restrictions on franchise owners. Neither bill came to a vote in the House or Senate. Not surprisingly, the overwhelming reluctance of national lawmakers resulted from a common desire to "remain in good graces of sports owners so that their districts [would] be treated kindly by the leagues" (Noll and Zimbalist 1997, 504). In other words, few members of Congress wanted to anger franchise owners and make their electoral constituency the next Oakland.

III. Franchise Relocation and League Expansion

During the past decade, forty-six professional venues were constructed or renovated in the United States, while only sixteen expansion teams were created by the major sports leagues (Siegfried and Zimbalist 1999, 95). This problematic trend in local public finance is a direct result of franchise owner's willingness to use their monopoly power to blackmail local communities into giving franchises large public subsidies for new state-of-the-art stadiums (Zimbalist 1994, 312-313) complete with luxury boxes, contiguous parking, almost non-existent rents, low interest loans, and free land on which to build (Adams & Brock 1997, 739; Zimbalist 1994, 313).

The general success of franchise owners in obtaining new publicly-funded stadiums and substantial financial incentives rests on the fact that professional sports leagues have the power to limit the number of franchise locations in the league (Johnson 1985, 230). Both MLB and the NFL require three-fourths of the franchise owners to approve league expansion. Since an increase in the number of new franchises means that total league revenues will be more greatly dispersed across existing teams, most team owners prefer to restrict franchise supply far below demand in order to maximize their profits.[3] By restricting the overall number of franchise opportunities to certain cities regardless of local capacity, most league owners can strategically extract large financial concessions from their host communities and threaten their relocation to a viable alternate location without a franchise if their demands are not met (Johnson 1985, 230).

A recent example of coercive league power is found in professional baseball, where the cities of Tampa Bay, St. Petersburg, and Jacksonville have struggled at the negotiating table for several years to meet franchise owners' demands (Quirk and Fort 1999, 129). For example, the city of Tampa Bay financed the construction of a $138 million dollar stadium with taxpayer dollars in 1988 to serve as the new home for the Chicago White Sox, who were struggling to obtain public support for a new downtown facility to replace Comiskey Park. When the availability of a new domed stadium in Tampa put teeth into White Sox owner Jerry Reinsdorf's relocation threats, the city of Chicago faced the unenviable dilemma of paying for an expensive new stadium or risking the loss of a hometown team supported by urban voters. After resolving to maintain the economic benefits and prestige of a major league sports franchise, city and state officials capitulated to Reinsdorf's demand for a new, publicly-

[3] When league expansion does occur, the level of competition for new franchise locations can be intense. For example, Zimbalist (1994) observed no less than eighteen groups paid $100,000 just to apply for the National League's two expansion teams in 1990.

funded stadium (Zimbalist 1994, 315). Meanwhile, the presence of empty seats in Tampa Bay's brand new stadium provided five additional teams with the bargaining power to secure favorable subsidies from their host cities before franchise owners granted a new baseball team to the city after five years of failed negotiations (Ross 2003, 326).

By virtue of the monopoly power held by professional sports organizations, local taxpayers and their communities are disproportionately burdened by the fiscal incentives of private owners (Adams and Brock 1997, 741). A considerable majority of sports venues receive public funding, as distributed among American League stadiums (86%), National League stadiums (75%), National Football League facilities (93%), and National Basketball Association and National Hockey League arenas (65%), which collectively represent a total investment of approximately $500 million dollars in public subsidies each year (Quick and Fort 1992 in Adams and Brock 1997, 741). These monetary benefits are often accompanied by "sweetheart rental agreements" that may reserve all stadium revenues for team owners (Quirk and Fort 1999, 140). An unfortunate result of discretionary budgetary spending that increases the private wealth of the team owners is the gradual decline in local fiscal support for public education and subsidized low-income housing (Cagan and deMause 1998, 23).

IV. Public Subsidization of Stadiums

The exploitation of public support for professional sports competition does not simply reside with the approval of public funding for stadium construction because, more often than not, current methods of stadium bond finance generally distribute the marginal costs among citizens without regard to the distribution of benefits. A major contributor to this historical trend away from public benefits valuation in resource deployment is the decision to focus new stadium projects around the inclusion of more lucrative seats in luxury boxes, corporate suites, and premier seating. Limited space availability in new stadium construction has meant a gradual decrease in low-priced seats and that most of the consumption benefits of local fiscal investment are enjoyed by upper-middle and upper income citizens, whose relative financial wealth dictates the affordability of expensive tickets for personal use or the entertainment of business clients.

When a new stadium is financed with public dollars, the lower-income citizens of a host city are nonetheless the first to have their wallets raided (Cagan and deMause 1998, 17). Most public referendums allow for the subsidization of stadium construction through sales tax increases on hotels, car rentals, and restaurant meals, or through state lottery revenues. Local politicians often champion the lottery revenue method of financing because they claim that it does not require any financial contribution from the average taxpayer; after all, no citizen is required to buy a lottery ticket. Regardless of the total number of taxpayers, any lottery-based revenue source is considered a regressive tax because low-income citizens spend a higher percentage of their annual income on voluntary tax measures and nearly all sales taxes. These sales tax increases are typically levied in commercial venues around the stadium site, which are generally the residence of a high percentage of minority and low-income citizens, not the rich suburbanites who comprise the majority of season ticket holders.

Many metropolitan communities are secondarily the victim of wealthy sports fans who commute to the host city for an athletic competition and immediately return to their local communities without purchasing consumer goods subject to higher taxes for stadium expenditures. Thus, while the disadvantaged residents of a host city pay a greater portion of stadium costs, they are the least able to enjoy its benefits (Zimmerman 1997, 121-126).

V. Public Policy Response

The most powerful contribution to the franchise relocation problem is the artificial scarcity of franchises created by the monopoly structure of professional sports leagues. As Senator Albert Gore explained in testimony before the Senate Judiciary Committee, the simple regulation of franchise movement would thus be an "an inadequate response" to the issue.[4] A more appropriate solution would be the adoption of regulatory legislation that 1) separates "existing leagues into several competing business entities," and 2) increases enforcement against monopolistic restraints that deter market competition in professional sports entertainment (Noll and Zimbalist 1997, 505; Ross 2003, 330). The competing leagues should be permitted to jointly determine rules of play and coordinate postseason inter-league competition, but they should not be allowed to make centralized resource distributions among professional franchises, pool broadcasting rights, or designate the prospective locations for team expansion (Noll and Zimbalist 1997, 505).

A competitive market for professional teams will not resolve the need for future capital expenditures, including new stadiums, for which franchise owners will most likely attempt to transfer to local government. Although prohibiting the use of public funds for stadium construction may be the most equitable policy response, one must recognize total operating revenues are simply not large enough to pay for a modern sports venue. Because private financing of stadiums without public support is not an economically viable option, policymakers should instead consider the placement of a greater fiscal burden on facility users (Noll and Zimbalist 1997, 495). A potential avenue for congressional lawmakers is the additional passage of regulatory legislation on major league sports teams that severely restricts the use of lottery and sales tax revenues for stadium bond financing. This policy decision may be justified in the context of empirical data that shows neither of these revenue streams is consistent with the benefit principle of taxation, while both place a disproportionate burden on low-income citizens.[5] Major cities should instead derive the largest portion of their public bond payments from supplemental property taxes that encompass the entire metropolitan region served by the new stadium, private seating licenses, ticket surcharges, and additional taxes on stadium-related revenue like concessions and team merchandise. As a result of the revised fiscal arrangement, the people paying the costs of the stadium are those that come to the stadium and enjoy the majority of its benefits (Zimmerman 1997, 121-126).

VI. Consequences of Proposed Policy Response

Past deliberations of the United States Congress on the monopoly power of professional sports leagues have witnessed several attempts to carefully balance the conflicting interests of league officials and team owners with those of the representative host cities. While the previous proposals failed to generate legislative support due to conflicted opinions on their prospective outcome, the proposed policy response produces clear winners and losers.

The most obvious winners are the host cities for professional sports teams. If the current professional leagues are separated into several competing leagues without the legal capacity for revenue-sharing, for example, there will be diminished resistance to league expansion. Most likely, the number of franchises per sport would rise to satisfy demand, forcing multiple teams from different leagues to compete over the right to play in a limited number of stadiums and depriving franchise

[4] Senate Committee on the Judiciary, *Hearings on Professional Sports Antitrust Immunity*, 99th Cong., 1st sess., March 6, 1985.

[5] The benefit principle of taxation says that an individual taxpayer's contribution to the provision of a public service should be commensurate with the amount of benefits he or she derives from that service (Zimmerman 1997, 120).

owners of their monopsony power in the stadium market (Ross 2003, 328).[6] Rather than face the risk of losing their hometown team should they not capitulate to its financial demands, cities might reasonably choose not to subsidize their team and take solace in the fact that a team from a competing league may recognize the opportunity to replace the incumbent team at a lower cost. Loss of credibility for relocation threats and the related decrease in taxpayer subsidies may provide certain markets like Norfolk, Virginia and Columbus, Ohio with the chance to become "big league cities." The proposed legislation may also facilitate the flow of external benefits to consumers. For example, a competitive market would force deficient team owners to improve the efficiency of their management practices or face bankruptcy (Noll and Zimbalist 1997, 505).

On the other hand, wealthy ballpark patrons and team owners are the clear losers. Without the level of public subsidization that they have previously enjoyed, team owners will have to spend more of their private wealth to finance the construction of new facilities, causing a reduction of total team profits at the end of the season. As team profits decrease, so does the overall value of the franchise; consequently, the trend of steadily increasing franchise values that has taken hold in professional sports during the past two decades will be reversed. It will also create the conditions for higher property taxes on suburban homes, tickets, and the game day consumption, which will raise the average cost that people pay for their ballpark experience. Given that professional sports crowds are increasingly representing a wealthier and more homogeneously white crowd (Cagan and deMause 1998), many affluent white citizens will receive the majority of taxpayer expenses for stadium usage while disadvantaged urban residents will no longer be burdened with paying the cost of a facility they will probably never use during their lifetime.

Although the loss of revenues on the part of team owners and the increase in the cost of stadium attendance would be the most readily apparent consequences of policy change, a potential counterargument suggests that lower market barriers to entry would reduce the overall quality of athletic competition. This theoretical argument provides that if the number of quality players in a given professional sport is static, then an increase in the total number of teams will disperse the level of talent across eligible teams. Many opponents of regulation believe this greater dispersion would decrease the overall quality of play, resulting in lower general fan interest, decreased ticket sales, and a subsequent loss of gate and television revenues for private owners. As a result, these critics of regulation claim "league stability will descend into chaos," causing the stadium turnstiles to stop moving altogether (Johnson 1985, 238).

Despite the intuitive appeal of the loss of player quality argument, empirical data suggests that demand for sports would not decline appreciably with an expansion of teams. Sports leagues have expanded on numerous occasions in the past, and while the overall level of quality may have declined by some conventional measures of competition, it does not appear as though the revenues of the professional sports industry have suffered in the least. Moreover, some analysts believe spectator interest in sports contests is not strongly related to absolute player quality, such that the level of fan interest may actually be a function of the level of uncertainty in the outcome of the contest.[7] If the overall quality of play does in fact decline, this empirically-derived view predicts fan interest will remain strong as long as league teams are more or less equally talented. Indeed, this may be verified by the historical fact that a decline in player quality following past league expansions has not reduced the overall talent of the professional sports league (Johnson 1985, 238).

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[6] A business entity is said to have monopsony power if it is the sole buyer of the product of an industry. In this case, current franchise owners are said to have monopsony power in the stadium market when there is only one league team per city and one buyer of rights to the stadium, a position which increases their bargaining power.

[7] The example of college basketball shows that absolute quality may have little effect on demand. Although the absolute quality of a college player's skills is arguably less than that of a professional basketball player, the level of demand for tickets and crowd attendance for college basketball contests remains very high.

VII. Conclusion

In the past six years, franchise demands for public subsidization of sports facilities have reached unparalleled heights – only to be met with an unprecedented level of citizen opposition. Several grassroots campaigns in cities across the country have successfully defeated stadium funding referendums. While the public may readily begin to understand the complexity of what Cagan and deMause (1998) call the "great stadium swindle," the wide popularity of major league sports competition in American culture will maintain the negotiating power of franchise owners in the near future. Local area opposition to individual subsidization referendums may be able to reduce the amount that citizens are forced to pay; however, public subsidies will continue to be the primary means of financing the construction of professional sports venues until the legal monopoly of major league competition in the United States is changed (Noll and Zimbalist 1997, 507). The serious consideration of antitrust regulation may thus require the intervention of the United States Congress to create a more equitable future in professional sports.

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Taylor F. Brinkman *is a third-year student majoring in Human & Organizational Development and Economics in the Peabody College of Education and Human Development. A native of Flower Mound, Texas, he is a member of the Peabody Scholars Program and is consistently honored on the Dean's List. During the next academic year, Brinkman will intern in the media relations department of the Nashville Predators professional hockey franchise. He hopes to attend law school and enter the professional sports field upon graduation, with a lifetime dream of serving as general manager of his favorite major league team, the Texas Rangers.*