

Collective Bargaining in the Professional Women's Hockey League

Event date and location: September 23, 2024, Cornell University ILR School

The following is the complete transcript of the in-person panel discussion on the new Professional Women's Hockey League, including the process of negotiating the first collective agreement, gender equality issues in professional women's hockey, and the legal implications of cross-border collective bargaining in professional sports.

Professor Kelly Pike (Facilitator): Welcome to everyone, we're going to get started now with a few words of welcome from ILR Dean Alex Colvin.

00:00

Dean Alex Colvin: This is a really exciting area. Professional sports has been one of the hot areas for labor relations in recent years...the major sports in North America are unionized. They've negotiated innovative collective agreements, including ones that span both sides of the border, true international collective agreements involving Canada and the United States. This has also been an area where we've seen real innovation with women's professional sports, most famously the US women's national soccer team in the United States, being leaders in the campaign for pay equity, and also the National Women's Soccer League recently negotiated a very innovative collective agreement with their NWSL Players Association. So a lot of exciting stuff happening in women's professional sports. We're going to hear all about the great stuff going on with women's professional hockey right now. Next is my pleasure to turn it over to Nikki Moore, who is the Meakem and Smith Director of Athletics at Cornell University.

01:13

AD Moore: Thank you so much. Fantastic to get to be here and to welcome some of our really esteemed alumna back. And you too, David. It's really great to get to be around women who have gone on to do incredible things with their careers in sport and beyond sport and through sport. And so I'm excited to get to be here today, to get to learn from each of you. In intercollegiate athletics, the Ivy League this year is celebrating 50 years of women's championships. So it's pretty young still, when you think about it, only 50 years that women's teams have had championships alongside the men's teams. And so it's one of our initiatives this year to to really sort of launch and give visibility to and encourage additional fundraising and that sort of thing around women's sports, to continue to give better, bigger and better opportunities. And so it's wonderful to get to be here Kelly. I really appreciate the invitation. It's fantastic. It's new to see you again. Digit, and so now it's my pleasure to turn it back over to Kelly. I wanted to say just a couple of things. Can I introduce you a little bit? Okay, so Professor Kelly Pike, also one of our esteemed alumna, Associate Professor industrial relations, School of Human Resource Management at York University in Toronto. She is an ILRie and a women's ice hockey alumna. And she is a visiting scholar here, and done a ton of work with the local women's ice hockey community, still very involved and loves to organize people and bring people together in community. And so we are so honored to get to have you here, and thank you for organizing, facilitating this.

03:22

Kelly: Thank you very much for that introduction. Thanks for being here. Welcome to everyone in the room, to the women's hockey team, the ILR sports business society series, local women's hockey

members. It's a good crowd. Welcome to everyone online, my students back at York University, and people at U of T and wherever else you're joining from.

The idea for this event came to me while watching a Cornell women's hockey game last winter, sitting with friends from my local women's hockey team on one side and labour scholar colleagues on the other side. Everyone was super excited about the newly formed PWHL, talking about how we were going to get up to games in Ottawa, Montreal, NY...talking about the salaries, the quality of play, the breadth and depth of support from fans and sponsors... The PWHL is a force - games are selling out, they're livestreamed on TV. And the team has a collective bargaining agreement that seems fairly strong- negotiated before the start of the season – unlike other professional sports – with terms and benefits that exceed what professional female athletes have had before. But 'better than what you had before' doesn't always mean equitable. I started to think, wouldn't it be great to pull together our academic and athletic interests into an event where we could dig into these questions. And what better way to do that than with our very own legendary alumni who have played (and are playing) a key role in developing professional women's hockey in Canada and the US. There was a lot of support for this idea. To that end I would like to thank our sponsors: Cornell's ILR School, Cornell's Scheinman Institute on Conflict Resolution, York University's Sport Management Program, the University of Toronto's Centre for IRHR, CIRA, and a personal contribution from Professor Leah Vosko at York University, no stranger to the ILR School. I also appreciate on-the-ground assistance from Prof Emily Zitek who is the faculty advisor for the Sports Business Society here in ILR.

Turning to our panellists, first we have Brianne Jenner, class of 2015. During her time at Cornell, Brianne claimed two ECAC player of the year and two first team all American honours, and was the Ivy League nominee for the NCAA woman of the year award. Brianne currently Captains the PWHL's Ottawa Charge, is a Founding board member of the PWHL Players Association and was directly involved in negotiating the first CBA. In 2015 Brianne was named Assistant Captain of the Canadian national team and was named Olympic MVP for the 2022 games. She is a two-time Olympic gold medallist, and one-time silver medallist (we occasionally need to let the US win to keep it exciting). And that's just the tip of the iceberg. Brianne, we're happy to have you here.

In this corner, we have Digit Murphy, class of 1983. Most recently, Digit was the President of the Metropolitan Riveters in the Premier Hockey Federation. Before that she was founding president of the first professional women's hockey franchise in Canada and, in 2023, took her team in Toronto all the way to win the Isobel Cup (Stanley Cup for Women's Hockey). In the 2017-2018 seasons, she helped the KHL's Kunlan Red Star build women's professional hockey in China in preparation for the 2022 winter Olympics. She co-founded United Women's Sports, an innovative and disruptive model in the women's sports space. Even earlier, she coached the CWHL's Boston Blades to two Clarkson Cups and spent 24 years coaching at Brown University where she won numerous championships in the ECAC and Ivy League. Digit is a member of both the Cornell and RI Hockey Halls of Fame. She is best known for her advocacy work for women in sports and is presently working on a community-based sustainability model where sports can have a broad based health and wellness impact in the community.

And finally, a colleague of mine, David Doorey is a Professor of Law at York University in Toronto, where he's also Director of our new Bachelor of Sport Management Program. His Law of Work blog is a

multiple recipient of the best law blog in Canada and his new book, *The Law of Work*, is the leading text in the field. He served as Director of Osgoode Hall Law School's specialist LLM program in Labor and Employment Law for 12 years and is a senior research associate at Harvard Law School's Center for Labor and a Just Economy. He also formerly served as General Counsel for the United Steel Workers, before returning to academia, and his research looks at the intersection of sports, labor law and transnational law.

I would like to again thank our sponsors. There was a lot of support for this idea from Cornell's Scheinman Institute on Conflict Resolution. Thank you, Harry. Also from Cornell's ILR School, the York U Sport Management Program, the University of Toronto's Center for Industrial Relations and Human Resources and the Canadian Industrial Relations Association. And also a personal contribution from Professor Leah Vosko at York, who's no stranger to ILR. Thanks to our sponsors, thanks to our panelists, thanks to our audience.

Let's jump in with some questions. First question I would like to pose to the panel is about the journey of professional women's hockey and the Players Association. How did we get from there to here? What have been the successes and challenges along the way. I kept it purposely broad, but I think we're all curious to hear specifically about the behind-the-scenes process of negotiating that first agreement as a starting point, maybe, and then the others can jump in.

08:56

Brianne Jenner: I think it's great question to pose because a lot of what happened over the last couple of years happened really quick in women's hockey, and a lot of it happened behind closed doors. From the association's perspective, we were founded in 2019. We were at World Championships. And the Canadian Women's Hockey League, which was, you know, one of two premier hockey leagues in North America at the time, folded, and that was a shock to a lot of players. And what ended up happening at that world championship is leaders on the US team and leaders on the Canadian team actually got together for coffee, which is, if you know how bitter the rivalry is amongst those teams, that's a pretty crazy occurrence at a world championship, and we made the decision that we had to do something to build something more sustainable, because we had had so many iterations of professional hockey that just hadn't been able to be sustainable. And from that point on, we began our association. We were really, really lucky, and I think it's a piece of our success that right from the bat we had some great advisors on our side. Billie Jean King was involved right from the get go, and her partner, Ilana Kloss, and their Women's Sports Foundation. But it was a challenging road. I think, from 2019 to the success that we have now in the league, one of the biggest challenges was keeping our group together. We had about 100 players, a little over 100 in that first year. And what we were asking our players was, you know, you're not going to have meaningful hockey, but we're going to try to create a movement together. And the goal of that was, at first, it was really to attract the attention of the NHL, but that path we [didn't quite work?], I think, in hindsight, ended up being a great thing. But then our goal shifted to kind of gaining momentum, raising funds, and then building a model for a sustainable league. We went on a tour all across North America, attracted a lot of corporate sponsorships, attracted a lot of attention. And what we did with that money that we raised is we went and invested that into actually building a model that we could shop to investors. And then last spring 2023 I guess, not last spring, but the spring before, we had an investor that was on board, Mark Walter, as well as Billie Jean King and her group,

and we were able to start the process of negotiating a CBA. So it's a long winded story, but that's sort of the path that we took as a Players Association, and that's how we went from 2019 until now.

11:43

Kelly: Can I just ask, sorry I know it's supposed to be discussion, but for everyone, Brianne, can you take us to the next step of actually being in that room? Who was there, how that agreement was negotiated, the intentions, dynamics?

11:54

Brianne: For sure, yeah. So we had a group of players that had been on the PWHLPA board, five of us that negotiated on behalf of our association, and we had advisors as well that were a part of that team. Someone was mentioning the NWSL agreement in the US Women's National Team. So we had lawyers...that had been with us since the beginning, that had been through that process with the US Women's National Team, brought a lot of that experience to our CBA negotiating process. And that was sort of our team, and it took several months of back and forth. One of the biggest challenges that that we had going into that process was a lack of leverage. In a lot of ways, we were running up against a really difficult timeline. We had been an association going on four years, and, you know, it was, it was difficult. Players wanted to play hockey, and you're asking players to not play meaningful games in prime years of their career. So we knew that we didn't have a whole lot of time to get something done, and this was sort of our best shot. At the same time, there were some pillars in our negotiation that we just knew we couldn't budge on, because we needed a strong foundation for the league. To give you an example, name, image, likeness, that was something that we needed to reserve for our players. We felt it wouldn't be right or fair or the right kind of footing to begin a league on to sell that away. So as much as we didn't have leverage, there were a few things that we knew we had to put our stake in the ground and trust that just the power of us staying United would be enough.

13:42

Digit: First of all, great story. You know, when you look at Brianne's story, the first thing that jumps out at me – and I'm an advocate, a woman's opportunity creator, that's why I'm on the planet, that's in my DNA – is that you are not lucky, you are good. I arrived at Cornell in 1979 because I played hockey, had to buy my own equipment. Got here because I'm on basically a full scholarship all financial aid. You are not lucky. We are not lucky. Okay? We are good. You guys were not lucky to run into Billie Jean King. You were good. She found you. So my number one thing is we're good. Number two, as you're negotiating the CBA, I think we have to, as women, make sure that we get what we want and we need. And the one thing that I don't know how this happened, but an 8-year CBA, like, how did the eight year thing happen? Because it seems to me like that's a long time to sign [or commit to] a CBA. Is that one of the leveraging things?

14:44

Brianne: we didn't have the leverage we wanted. It was a balance between being able to renegotiate sooner rather than later, but also giving the investors enough of a runway to kind of make it work. So I think the biggest consideration there was we wanted this to be the last one.

15:07

Digit: Yeah, and, and, you know, to her point, and to Nikki's point, we've only been in existence really for 20 years, right? 1999 to 2007 we had the original. And then they went to the CWHL, which folded, and then we had the PHF, which was acquired. So I think the historical moment for us is, how do we have a sustainable league? That takes time, that takes time in the runway, money, patience, that takes lots of money, and it takes our investors making sure that they get return on investment. So when you were talking about that whole model, when were they going to get the ROI, or did they?

15:54

Brianne: I think the expectation is that it's, you know, beyond that first CBA. But I think what you raised is a really important point in that the investors are coming to us because they see economic opportunity. It's not a handout. And I think that's why we are able to attract investors like that to the table, because there was so much data coming back from nonprofits and from sports industry saying, look at the numbers and Pyeongchang, look at the viewership of that final women's hockey game. Like it's just all the data was pointing to there's money to be made here. And so I think, in part, yes, this new league has investment on a level that the others haven't, which is going to help us succeed. But I think it's just also people are starting to recognize, outside the women's hockey world, that there's a lot of money to be made.

16:48

Digit: I think that, when we look at the markets that we play in, I think they're important, and you crushed it in Canada, right? As someone that saw 100 million dollar investment from the soccer league back in 1999, like we haven't made it yet. Just because we got 100 million dollars, we have to sustain it. So if I could wave a magic wand and think of what markets would be the best markets for running the play in and, right, Minnesota, we still have so much work to do in markets like Boston and markets like New York because we're not getting those sell out crowds. So I think we have to be cautious as we think about how to grow women's sports. What markets make sense? How do we build more community based models where people are involved together, working with you guys to make an impact on local schools. How do we get public private intersection money? But I think that we have to be very cautious, because in 1999 the soccer league got \$100 million and I think we forget about that. We're very young. And AD Nikki Moore mentioned how young we are, so we have to be very cautious with our money. We need to not spend foolishly so that we can sustain so all these guys have opportunity, because right now there's only six teams, right, we want to get to 12, so you guys aren't left on the ball, not you guys. You guys are all on. There's a lot of other kids that can't play right now because there are only six teams. So I think that's something that we should be looking forward to.

18:25

Kelly: David, do you want to jump in here. You've written about some of the unique legal challenges that arise in professional sports collective bargaining when the leagues are on both sides of the border. Can you explain, at a basic level, what sort of issues arise?

18:51

Professor David Doorey: So let me just stay at the outset that Kelly asked me to be on a sports law panel. When I said, sure, I didn't realize I was going to be on a panel with two hockey legends. What

I'm talking about here is more for the law and the ILR labor relations crowd, but it's quite legally technical. What I'm interested in is what was alluded to by Alex in the opening comments about how professional sports collective bargaining is really rare and might even be the only...nothing jumps to mind in terms of an industry that has a truly transnational collective bargaining group. All the pro leagues that have teams on both sides of the border, you've got an employer, a transnational employer, or you have a transnational employer association, and then it bargains a collective agreement with a transnational union. It's very unusual. And what I'm interested in as a law professor is the law of all of that. And it's really quite fascinating, if you think about it. We take the PWHL, for example. It's got three teams in Canada, three teams in the United States. If you were to sit down and design a collective bargaining structure for that, one way to do it would have been to recognize that the Canadian teams are governed by Canadian Labor Law and the American teams are governed by American law. So you could have an American bargaining unit. If you know a little bit about labor law, you have to create a bargaining unit...so you could have an American bargaining unit for all players in the PWHL who are employed on American teams. That's one bargaining unit. But then once you cross the border, in Canada the labor laws are provincial. So what if you were designing a system in a law school class? What you would imagine is that the Toronto and Ottawa teams are governed by Ontario labor law. So you would have a bargaining unit of all employees which is all players employed by the PWHL in the province of Ontario. And you would have a bargaining unit for Ontario. Then you would need a separate one for Quebec, because the Montreal team is governed by Quebec labor law. So you've got three labor law regimes there: Ontario, Quebec and the NLRA. They're similar, but they're different. And you would have three bargaining units. They would be in like a Union Association, and the acronym right, PWHLPA, professional women's hockey league players association would be like a Union Association that would bargain on behalf of all three of those bargain units, all six teams, with the league, one collective agreement across borders. But that's not actually the way it works in the PWHL, and it's not the way it works in the other leagues. What happens if you think about the NHL, where you have way more Canadian teams? What they do, what the leagues have done historically, is they have just sort of pretended that the NLRA applies in Canada. They just sort of organized under the NLRA, the American labor law. The units are voluntarily recognized. They act as if it's one bargaining unit that crosses borders, and they bargain a collective agreement, and then they take a vote of all the players on both sides of the border and, if a majority accept it, they have a collective agreement, and everybody behaves as if that's perfectly normal and perfectly legal, and it works perfectly fine, as long as everyone agrees to play nice. If everyone agrees to play along with the fiction that the NLRA applies in Canada, then it works fine. The issues arise, and the stuff that I get interested in, when every now and then someone says, hey, it would be useful to use Canadian labor laws strategically now, and we're going to rely upon them...and you get these cases where, let me just give you a couple examples. In the 90s, Major League Baseball and the NBA locked out their referees, and they started to use replacement referees. Now, at the time, there was a Toronto team, right? So again, we're into this transnational thing. The lockout and the use of replacement referees was perfectly legal in the United States under the NLRA, absolutely illegal in Ontario when it comes to the Toronto teams, and so the unions decided they would file complaints under Ontario law, and they won the Ontario Labor Relations Board. The NLRB says these are Canadian employees working in Canada. Ontario law applies. The leagues did not go through the legal requirements to get to a legal lockout. It's illegal, the lockout's illegal, and it's got to end in Toronto. Also at the time, we had a law that said you can't use replacements, so the idea of using scab referees and umpires was also illegal. Couldn't do it. Now the fact that the Labor Board in

Ontario ruled that Major League Baseball couldn't use scab umpires led the league back to the bargaining table. They had to get a deal because they couldn't play without Toronto. So there's an example of using Canadian Labor Law as leverage in the whole system right now. That's just one example, but there's a whole bunch of other little...we all pretend that it works, that the NLRA applies. This is true transnational bargaining, and it can work forever. It can work in PWHL, but it may be that there comes a time where somebody says, wait a minute, Quebec law should apply here. And I'll give you one last example. In Quebec, where the Montreal PWHL team lives, voluntary recognition of a union doesn't exist, right? So you have this weird situation where the Montreal Canadiens in the NHL and the Montreal Victoire, what they're called in the PWHL, are in the bargaining unit, and everyone acts as if they're unionized and just part of the Union. But if you scratch a little deeper and look at the law, what you would find is that the Montreal Canadiens and the Montreal women's team are actually non-union as far as Canadian law is concerned. Now that has a whole bunch of really important implications that everyone just ignores because it suits them too, right? But at some moment it might matter. One implication is they can't strike and they can't be locked out. You can't strike if you're non union in Canada, and you can't be locked out if you're non union according to the law. So this is what I talked to Kelly about, and this is why Kelly invited me on the panel to point out that we have this very strange system where we pretend that the American law applies in Canada, but it doesn't, and so I'm always looking for examples of where this hidden Canadian law might rise to the surface and start to cause problems.

26:57

Digit: Did you read the piece that says no strikes, no lockouts?

27:01

David: That's true in Canada, you can't strike during your collective agreement. But I'll tell you one other clause that's in there. Way down at the very end of that collective agreement, it says that this agreement is governed by the laws of New York State, except where federal American law applies. None of that applies. You can't contract out of Canadian law, right? You can't just put a clause in there. It would be, imagine we did it the other way, right? What if the Players Association had gone in to bargain and said, we want Quebec law. All the professional women's bargaining is governed by Quebec law, which has much better laws in many respects than the NLRA. Canadian labor law is generally better than the American NLRA. So the union might say, well, if we could just pick a law, why don't we use Ontario law as governing, right? Well, the employers would never read it. They would say, that's absurd. But nobody thinks it's absurd to flip it around and say that the NLRA applies in Toronto. Why would the NLRA apply in Toronto? It doesn't make any sense, but we pretend it does.

28:07

Kelly: David has already known that this could become an issue, if people started not playing nice. But in your experience, Brianne, this past year, were people play nice, or were there tensions? Do you know if anyone filed a grievance against that collective agreement? Or are we still in the early days...?

28:24

Brianne: I don't think there was anything filed. At the beginning of the season, I stepped back in my role as a rep, so perhaps something could have come up, but... I was just going to say it's fair money,

right? They're all grateful. They all have an opportunity. And then once, I think, after this year, things are going to start to shake up a little bit because, if you look at the CBA, we've got six players making \$80,000 above. We've got other players that aren't making as much money, and it's just a matter of time when people start to maybe not be as collaborative. I think that we need to be cautious. We need to be careful. We need to make sure that we don't sell, we don't explode, right? We don't want to self implode, because we want the game to succeed. We want to get to another level. I just hope that everyone can unite, play well, sustain the community. So we can have 12 teams.

29:27

Kelly: That brings me to the next question. This is a question from the community. What are the characteristics of this league that are going to make it more likely to succeed than other women's pro leagues? Including earlier attempts at a professional women's hockey league. What's the most important thing determining the success or failure of this league?

29:50

Brianne: I'm just going to go back to [the other] question, because I think you raise a really good point, the honeymoon phase. And one thing that I've learned going into this, and you can correct me if I'm wrong, but I don't know if there's been another professional league that has started with the CBA from year one. And I think what I learned is that it's very much, especially in those first couple months, as things are getting ironed out, it was very much a working factor, which, when you're going through the process, you're trying to put in all these protections for your players, but there has to be that give and take, because ultimately, right now, at least in this first CBA, we're on the same team as the investors who want this to be successful, so we've got to have that give and take. It's going to look a lot different, I think, when they renegotiate. But I think, to your next question, I think it's just the investment and the marketing. I mean, every women's hockey player fan now knows where it stands. And in the past six to eight years before that, we didn't have the money. A fan who followed it didn't know who to watch or who to follow, or what teams it was. We were divided, even though we're all going in the same direction. And now you know where to find it. You see it on TV, and still think that needs to improve. You need to see more of our highlights on but it's out there, and it's marketed on the same level, as you know, in Ottawa, as the Senators the 67s so I think it's just we needed that, that upfront money. And for some reason, one of the sports investors in the past thought there has to be this burden, this higher burden of proof that I'm going to get a return. When we started, you know investors were taking the risk... They didn't need to know for sure that they were going to get their money back, like they didn't think that with women's sports. I think the mindset on that is shifting, like I talked about earlier. People are seeing the potential in it. But certainly the big difference in this league you see is, I think the marketing and just the professional environment. I've never played on a team before where we have 20 plus staff members. I'm used to buying my own tape and getting my own skates sharpened, and they've created a truly professional environment. They're living up to the things behind the scenes, but then they're also getting our faces out there.

32:29

Kelly: On that question, what's going to get more likely to succeed than others? Are you also behind this idea that it's the sponsorship and marketing, or anything to add there?

32:39

Digit: It's really going to take again time. I still don't think the audience is out there for hockey. This is what I say. We're all in the hockey community in the United States. It's football, basketball, baseball, soccer is coming out, in hockey, and Bettman's done an unbelievable job with the NHL exposing it, but I think it's very white. It's not it's not inclusive enough. We need to change that conversation to get more people watching. So again, I always caution, and I know I'm looking like gloom and doom, but it's history for me, and we need to continue to do the work to make it succeed.

33:25

Brianne: One of the things that really surprised me, in a great way, this first season was, I think going into it, we expected our fan base is going to be kind of pulling from the NHL crowd. What we noticed in the arenas and in the engagement was we created a whole new fan base. Yes, there are NHL fans that follow us, but there's a lot of people in our arena. Guys maybe don't feel as comfortable in an NHL arena that are coming towards our game. So I think that's really exciting to see. But like Digit said, I don't think we can be complacent. We have to keep trying to find ways to expand that fan base and also to connect with the young generation and how they take in sports. It's very different. I think that just past generations where to buy a ticket to be in the seat, we have to continue to figure out ways to engage them, social media, entertainment at the rink, I think when you go to a PWHL game, we're trying to create that whole fan experience. And I think we have a long way to go there, but there's certainly that, I think idea from the leadership that we need to continue to improve.

34:42

Kelly: What about with regard to collective bargaining? What do you foresee as some of the challenges ahead for you, and what is the base of comparison in those back rooms, negotiating salaries? Anything else you want to talk about on that theme?

35:00

Brianne: I think you hit on it...what I think the big challenge will be in the next collective bargaining is that everyone's going to be coming at it from an individual perspective, rather than, you know, this is a place of gratitude, where we are a collective unit, and we need to find common ground to make this happen, to make this historic investment happen. It's going to look a lot different because the next generation of players aren't going to know a time where they didn't have a professional league to aspire to, which is fantastic problem. But I think there's going to be a lot more nitpicking of those details. Where we were, we got to, we got to figure out a way to make this happen and make sure that this money isn't left on the table.

35:43

Kelly: I think it's a classic labor management problem here. And we have ILRies in the room here who know that 'better than before' doesn't necessarily mean equitable or good, right? And so it's a fine line, because you want to be on the same page and look at that investment. You want to have interested stakeholders. You don't want to piss anybody off, but you also want to be making meaningful advancements. And I guess that's what the base of comparison is- is it the PWHL as compared with prior women's professional leagues, or is there a discussion of the male counterpart in professional

hockey? Or is that just a whole other realm? To what extent does that factor in? To what extent do you talk about equity in the league?

36:24

Brianne: I'd love to say that we'd be there in 8 to 10 years to be able to compare to NHL salaries, but I think the sustainability and the return on investment is going to push against that.

36:38

Digit: I couldn't believe when I watched the handing out the ceiling caps. It's 136 years old. That's what Bettman said. 136 men have been having a ceiling cap for under those we've only been around. I mean, really, this is the only paid league that has a CBA. So we have to remember that we're not going to get there overnight. When I was in China, I worked with Phil Esposito, and we're in the room one night, you know, drinking a couple Cokes, beer, whatever... And he says to me, you know they were starting to make \$80,000 right? The Olympians. You guys had done a strike at USA Hockey and \$80,000...you know, I wasn't making \$80,000 in 1972. I believe so all I'm saying is that it takes time, and look at what happened since 1972 from the men. So it could take, sorry, guys, you're not going to make a million dollars. Maybe the Caitlin Clark effect will take full women's hockey, but it's going to take time. But we're on the right track. We're going to get there, and we just have to work together. We did anything to Adam proceed, any possible issues with collective bargaining.

38:01

David: I'm on the outside but, looking historically, it's going to be points of tension, right? There's going to be teams at full, maybe there's going to be expansion, there's going to be fights over the pie on all of those right? As expectations from the players are going up, so there's going to be challenges. And I think in terms of what I was talking about, we're probably pretty safe during the collective bargaining years, so they bought some time to sort things out. But eight years from now, you know that some of these tension points could be there, right? There could be teams in trouble. There could be teams that are unfolding, and that's going to be a tension point. And when you get into bargaining, this is where the potential issues that I'm talking about could come up, right where suddenly, if there's an expansion team, well, how is there a legal issue there. I'll stay in my lane, right? But if you're just going to sweep in a team from Winnipeg, right now, we got another labor law regime, Manitoba, right? And how's that going to play into the story? Right? And so I think where, when you hit these tension points in the growth cycle of the league...

39:19

Digit: I think there's also the one thing we're forgetting. One owner owns the whole thing. Okay, so when one owner owns the only League, it's a lot easier to dictate. Because, you know, honestly, when you look at this, everyone thinks it's good, but the league is dictated because they have the money. Okay? So, you know, it's named after the guy, Mark Walter, right? He puts his guys in place. I mean, there's a lot of other things that are in the league that we as women I think need to be concerned about, you know, in leadership roles. If it was me, I would have put Jana right in charge of the president. You know, we put Stan in there. So we have Mark that owns it. We have Stan, that's the president. We have three male coaches, only three women. There are zero NHL women coaches, you know? I think we have some key leadership, leadership experiences that we could have and do a better job of that, you

know. So I know it's only about the CBA, but it's also about the PWHL and the expansion. And I think we can get more people in the stands. We need to get some more innovative ideas, with maybe some women's leadership.

40:31

Kelly: It does have implications for the management of the whole thing. And who's really running this? Who's managing it? Is it women in management positions or just players or what? And what do you think about that? You started in on that, Digit. I don't know if you had anything else to say.

40:51

Digit: No, I just think that, you know, as you run a Women's Hockey League, women should be leading it. I think that it's about time that all of the optics on television when you have a woman on the bench on all six teams, that makes a statement. You know, you never see a woman on the NHL bench except for the Cornell Jessica Campbell, who's on the bench now. So we need more Jessica Campbell's in the NHL, and we need less guys named Dave and Jim, you know, like, let's wait. But you know, I mean, this is why I'm here. I'm here to remind people that there's a gender equity component to women's sports. I love you, Doug! [CU womens hockey coach in room] I didn't say Doug.

41:44

Brianne: I think we'll continue to see, I hope for more women in those leadership positions, especially, I mean, this is the first year that we've had a professional league and coaching being a general manager. All of these positions are brand new opportunities, really, in our sport. And so I think as players transition into their next careers, you're going to see a lot of those players move into those roles, which I think will be great for the league. We're already seeing that with quite a few players taking on positions within the league. Kristen Richards is one. She was a long time player, now advising the league. So I think we'll see more and more of that. But I think the most important thing right now is to have the right people in place, regardless of gender. I think it would be a disservice, I think, to the players, to not equip them with the best in the field. And as I said, I think that more of those best in the field are going to be women, because they're going to want to stay involved in the game and give back and that's one of the really exciting things I think about this. It's not just about the players that have an opportunity to play past college. It's going to keep so many more people in the game, as physiotherapists, as general managers, as communications talking ops, it just opens up so much opportunity inside the players that are actually lacing up.

43:15

Kelly: Let's turn it to the audience.

43:18

Professor Harry Katz: So I teach Labor Relations here at ILR, that's where I'm coming from. And I want to point out through what I'm saying that I feel your pain as a player, in that normal collective bargaining, much of the relationship is between employees and an established organization, right? They're bargaining, but they're not creating the organization. And the issue you face, and I suspect some of the tension, the ambiguity in your role, is you're trying to bargain for better employment conditions like any other union, but you're also, as you've been talking about working really hard to

create the entity in the first place, right? You've got to create the league. It doesn't really exist yet in the form that you want. So you're in this tension that exceeds normal collective bargaining. Normal collective bargaining, employees and management always have some tension, because they always are trying to expand the pie while they're fighting over their share of the pie.

48:01

Digit: [posing a question to AD Moore] if I gave Dwyer over here \$100,000 and she was on financial aid...she would have to claim that so then she couldn't get financial aid. Is that correct?

AD Moore: That's correct.

48:16

Digit: Then a certain amount of timing for when financial aid packages are reviewed, yeah, lag, yeah, but yes, crazy, right? It's so I don't know. I think, I don't think anyone knows. I don't think Charlie Baker knows.

Kelly: I see a question up on the screen. Will, do you want to try with your question?

48:38

Will, Queens U student on zoom: Brianne, Digit and Professor David Doorey, a special hello from Queen's University, School of Industrial Relations. My question is around building solidarity. So much of your discussion today has focused around building up your organization to 12 teams with sponsors and investors. But I'm wondering what role you see building solidarity with, say, other women's sports organizations or even the NHL, maybe plays in attracting sponsors or other industry players, and how that helps you guys on the union side, rather than the League side or both, really, and building it up.

49:28

Brianne: I can take a stab at it. I think it's I think it's beneficial if our clubs, can kind of align themselves with other ones within their markets. I think it elevates our league's status, that we can have our Sirens on the same level as the Liberty. I think that's great in terms of marketing, but I think it's also good to have those discussions across sports to see what's working with some unions and share those best practices. We took a lot of guidance from previously negotiated CBAs at the WNBA, and kind of use that to advise our model and what we shop to investors. So I think there's nothing but positive things to be gained from it.

50:20

Digit: From our perspective, when I was the president of the Riveters, we did some stuff with a soccer team. We would do some cross promotion with those guys. I think it's really hard though, for the sponsorship side to do it, because playing in different seasons, you have different demographics, and sponsors are looking for certain things. When you go out and you solicit sponsors, I could see it on a regional level with like healthcare company, you know, because then you could have their fans and the hockey fans together, and that might satisfy a sponsor, so you're not very far off.

51:11

CU women's hockey player in audience: Sorry, he kind of stole my question a little bit. But you know, we've seen this boom within the WNBA, and I think I've seen a bit of a partnership between NBA and the WNBA. So I guess, how much support are you getting from the NHL with this new league?

51:26

Brianne: I think there's a lot of interest from the NHL, certainly. I mean, I kind of talked about it early in our process, because there was, I think, a lot of this organization in women's hockey, and that's just the path that it took. It was hard for the NHL to completely align with what we were doing but there's been throughout a ton of interest from NHL clubs, and there's a lot of NHL clubs I think that want a PWHL club in their city. So I think there's a lot of interest there, and I think now that we started to kind of prove, at least in our first season, lots of work to do in the second season. But I think we proved, with selling out a lot of NHL rinks and even having crowds of 13,000 in the States as well, that I think they're excited to get on board and partner with us. And I also think we're doing a lot of things that that perhaps could be really good for the image of the NHL, and they want to align themselves with that.

52:26

I also think that it's good to be separate but equal. I don't think that us being under the NHL makes a lot of sense, because then the way we go, they go, they can tell us what to do. We don't want to be told what to do.

52:43

Kelly: I wonder if the NHL Players Association would have any useful insights for the PWHL Players Association?

52:52

Brianne: They actually were a huge resource for us early on, the NHLPA was a sponsor of our tour. So yeah, we definitely leaned on them a lot, and some of their key advisors helped us, for example, with group licensing and the CBA. We lean on some of their advisors. But I think Did you made a really good point. I think the way that it played out was actually to our benefit, to be able to do our own thing, like you're able to implement new rules that I think NHL they might be going to a jailbreak rule. So for those that don't know, we've we had a new rule where if you scored a goal on a penalty, if you're the team that was shorthanded, your player was released from the penalty box. We called it jailbreak goals, and it became a really popular thing. But we have that freedom to experiment, to do different things, and we don't have to necessarily follow the model of pro hockey that's already out there, which is really exciting.

53:49

Audience member: Let's continue going right off that question. So you're asking the staff of mostly AHL officials, you're using an NHL rule book without fighting and body checking, what's kind of the process of staffing a capable group officials? And then a follow up for Brianne on, you know, what were your impressions of their performance? I know consistency is kind of a buzzword that gets thrown around with officials. In your opinion, what was your impression of this group of officials that was put together this season?

54:27

Brianne: I think they were thrown into a really difficult situation because we had refs coming from the women's game, refs coming from the AHL and I don't think they had the time to go through the proper training of what was going to be called or...maybe they'll have a clear sense of what that was. I think it's going to be very different for year two. I think they're already going through, like, lots of meetings and ending on the same page in terms of what's legal body contact and what's not. And that was a challenge, I think, because it was inconsistent from game to game. I think, the first third of the year, I would say it was being reffed like an NHL game, and then towards the latter, it seemed to shift. I think it will be full body contact. I'm not sure about the fighting, maybe that's how you get in the history books, the first fight, but it is a focus on belief, and that was something that they decided to implement based on player feedback. They had talked to players and said, how do you guys feel the body contact? For most of us, it was the green light.

55:37

Digit: So I have a totally opposite opinion on the body checking. I think that, without a farm League, I think it's tough, because, you know, someone like Brianne could get drilled and injured, and now you're going to another level. I also think that when you're playing such a physical game that you got to call more penalties, because you got to score more goals. I think goal scoring should be number one priority in hockey, because we don't score enough. So if the refs have no idea what to call and they call nothing, you're playing a lot of five on five, and it's fine. It's just I don't want to watch a one or two goal game. I want to figure out a way that we could score more goals, not less.

56:25

Audience member: One thing that you mentioned was the cross border bargaining agreement that are going to probably be a point of contention in the years to come. I know we have eight years before the next agreement comes up but one point that you mentioned was keeping the peace with certainty. Like the NHL, for example, you have, you have many teams in Canada that are in different provinces with different provincial labor laws that are out there. So is this going to become something that will be what is ultimately keeping the peace...? When you have that 50-50, ratio right now, with expansion coming, I'm sure other Canadian teams are, or other Canadian cities will be, in the market for that kind of thing. When you see what is ultimately keeping the peace, and is this something you think could become...?

57:17

David: I think what keeps the peace is that it's in the best interest of both sides to make it work most of the time, right? So where you run into the problems is, you know when the NHL locks out, for example, right? Then the union starts thinking about what strategies, what tools are leverage, right? And then you start looking. Then they start looking at the Canadian laws, right? When there was a lockout, an NHL lockout, and the NHL hadn't complied with Alberta law, the Edmonton Oilers and the Calgary Flames brought unfair labor practice complaints to the Labor Board, right? And it's basically a lot of what they're doing is just trying to cause shit, you know, just be a pain in the ass to the league to get them back to the table, right? So Canadian law gets kind of used as, like, an annoyance. I'm not saying there's going to be a problem...it could all work because the parties agree to make it work, but...one last example... In Canadian labor laws, just like American laws, there's a whole bunch of requirements for votes, right? So a union certification vote, collective agreement ratification vote, strike votes, right? There's an open

lingering question of, what's the voting constituency for all of these right? When you guys ratified the collective agreement, I presume, I don't know this, but what I presume happened was they just asked everyone, all the players, to vote yes or no, right? There was no separate accounting [for each team]. What if everyone on Toronto voted no but, because of the numbers, it still passed? Has the collective agreement been ratified in Ontario? I would say probably not, because the fact that the American teams voted for it doesn't make it a legal ratification in the province of Ontario. These questions are all out there, and nobody...they just they're waiting to come up at some point, if it makes strategic sense for one of the parties to raise it. If it doesn't, they won't, and everything will...just because, at the end of the day, the Players Association and the team and the league have a mutual interest in making it work. They don't want to use the nuclear legal bomb, right? That's what keeps them working together, right? Because if you go down the road, does this model actually comply with Canadian law? The answer would be, often, no. But then what? So you want to blow it all up. Usually it's not in the interest of either side to do that, smaller little battles.

1:00:20

Question: You mentioned that currently there's one owner, and that maybe that's not ideal for the league right now. So I was wondering, though, what are the implications if there's multiple owners, and does that create more problems for collective bargaining, or what are the benefits of having multiple owners?

1:00:47

Digit: It's been talked about in the context of the weak state of law, but also, more specifically, collective bargaining, if we can address one or the other. I think that when we talked about it, I think it was good that they had one owner for the collective bargaining. I think, to your point, and if we do start to have different owners, I think we could have problems. All of a sudden, Jenner's in Ottawa, and she's like, yo, I don't like it. I'm not finding it right. And we got problems, because she's owning the team by then making this up. He's on in the team. She's like, Oh, not for me.

1:01:20

David: Yeah, we have both examples, right? In North America, like I think Major League Soccer, they're owned by and they're employed by the teams too. But the NHL, the NBA, there's basically the league which is the employer association bargaining on behalf of a bunch of franchises, right? So the more franchises there are within the employer association, the more complex it can get to make everyone...

1:01:57

Question: What if you having millions of dollars in owning your team? What kind of support is being provided to athletes from the league or through the league for you to build your personal brand and market, etc?

1:02:22

Brianne: So in the CBA, the struggle, this was actually a, sort of the biggest point of contention, or alluded to it earlier with (image?) rights. We didn't want to give all of that up to the league. And we are also thinking about the next generation, not necessarily how much it would have changed current

players, but when there's more money in the league, what future players? So we ended up coming up with a compromise whereby the league was entitled to bring to each player two sponsorship opportunities, which sounds great for the player in our generation, at fair market value. And the player had to say yes to those unless you know they disagree, for religious ethical beliefs. So it was sort of this balance that we came to whereby the league could actually take advantage of wellness player group and market that to the potential sponsors and get investment in the league, but we captain that too, so that you know, in the future, or if this is being renegotiated, or for the very few players in our league that are millionaires, they're not constantly being used on repeat by the League, and not having a choice to negotiate with a different company. So it took us a long time to get to that, to that compromise, but hopefully, I mean, for our current generation. I mean, if the league came to me with a sponsorship opportunity, I think that's fantastic, but obviously we had to consider what, you know, what that would mean if we didn't have a cap on that for the next generation of players, so in terms of how they're supporting and providing, when they come into sponsorship agreements. They're often trying to utilize players in market as much as possible. But I don't know if there's anything sort of formal in helping us make those connections. The wording in the CBA is, I think, fair market. So that's very subjective, but we kept it at two. Two of the league has the right to kind of get your own. After that. You don't have to say, yes, you can always go out and get your own, but you have to, unless for pretty legitimate reasons. If I came to you and said, look, we got Honda. We want you to be a partner with Honda and be a spokesperson for them, you have to say yes.

1:05:19

Kelly: I see more hands, but we did say that this part of the event would run until 530 and then there'd be a reception, we have the room until 6pm. I know the hockey team has to go for video. I think that we learned something today, a little bit about the social, political, economic forces around some of the negotiation processes that happened. Maybe if we do this event in one or two years from now, we'll get a little more of the nitty gritty, the dynamics, some of the tensions that are coming up. Because I do think you're right. It's the beginning, you're forming not just the agreement, but the league, and it's been interesting to learn about that. So I thank all of the panelists for being here today.

<https://www.ilr.cornell.edu/news/public-impact/ilr-panel-discusses-collective-bargaining-womens-professional-hockey>