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COMPETITIVE BALANCE IN NEW ZEALAND RUGBY

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Abstract

NZ rugby has been confronted with the unenviable situation where competitions have become too predictable, making it increasingly hard to maintain fan support and to attract new fans. This is further complicated by many of the unions bearing large financial losses as a result of increasing player salaries and decreasing crowd attendances. The need for change has been recognized by all stakeholders, and the NZRU have introduced competitive balance tools as a possible solution.

The objective of this study is to determine the opinion of both employees and officials on competitive balance in NZ rugby. In-depth semi-structured interviews of 17 officials and employees of NZ rugby were used to gain an understanding of participant's attitudes towards competitive balance.

Results indicate the NZRU have attempted to achieve competitive balance by the implementation of two competitive balance tools, namely salary caps and franchise contracting. The need for competitive balance was recognized by both employees and officials. Results show both parties are impacted in some way by the use of these tools. The major problem highlighted by my study is that NZ rugby is trying to balance the different (and competing) interests of all the stakeholders in order to achieve competitive balance, and this has resulted in some conflicting findings. This is illustrated by the use of collective bargaining, which was implemented to promote and protect players' rights. While players recognized this has improved their rights, officials admitted it had placed restrictions on their ability to create competitive teams. This demonstrates the inherent difficulties in achieving competitive balance while also satisfying the needs of affected stakeholders.

This study concludes that stakeholders are unified in the belief that competitive balance is necessary in NZ rugby. However, the best way to achieve this is not clear, and this is due to the competing interests of stakeholders. Furthermore, while the NZRU's efforts to date have generally been perceived as effective, there is still some progress to be made until competitive balance in NZ rugby is truly achieved.

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Table of Contents

ABSTRACT	II
ACKNOWLEDGEMENTS	III
CHAPTER 1: INTRODUCTION	1
CHAPTER 2: LITERATURE REVIEW	4
CHAPTER 3: METHODOLOGY	30
3.1 RESEARCH APPROACH	30
3.2 RESEARCH PARTICIPANTS	31
3.3 REASONS BEHIND SEMI-STRUCTURED INTERVIEWS	33
3.4 METHOD	34
3.5 DATA ANALYSIS	36
CHAPTER 4: FINDINGS	38
<u>4.1 RESEARCH QUESTION 1: HOW DOES THE NZRU ATTEMPT TO ACHIEVE COMPETITIVE BALANCE?</u>	41
<u>4.2 RESEARCH QUESTION 2: HOW EFFECTIVE ARE THESE SEEN BY THE OFFICIALS AND PLAYERS?</u>	48
<u>RESEARCH QUESTION 3: DO THESE TOOLS INFRINGE ON THE RIGHTS OF THE EMPLOYEES?</u>	60
<u>RESEARCH QUESTION 4: DOES THE COLLECTIVE BARGAINING AGREEMENT RESTRICT THE ABILITY OF THE OFFICIALS TO ACHIEVE A COMPETITIVE BALANCE?</u>	65
<u>RESEARCH QUESTION 5: IS THE EMPLOYMENT RELATIONS ACT (2000) FRAMEWORK THE APPROPRIATE FRAMEWORK FOR EMPLOYMENT RIGHTS IN THIS INDUSTRY?</u>	69
CHAPTER 5: DISCUSSIONS AND CONCLUSIONS	73
5.1 LIMITATIONS	73

5.2 KEY POINTS	74
5.3 FUTURE RESEARCH	82
5.4 CONCLUSION	83
REFERENCE LIST	86
APPENDIX A: EMAIL TO NZRU	90
APPENDIX B: INFORMATION SHEET FOR PARTICIPANTS	92
APPENDIX C: PARTICIPANTS	95
APPENDIX D: INTERVIEW SCHEDULE FOR OFFICIALS	96
APPENDIX E: INTERVIEW SCHEDULE FOR EMPLOYEES	98

Chapter 1: Introduction

The benefits of professionalism in sport are widely known – the introduction of money into sport was an incentive to players and teams to maximize their achievements and to give athletes the best resources to perform at the very best of their ability. However, although professionalism can increase the spectacle, the impact of money can also undermine the competitiveness of competitions. Several studies have shown that professional sports are burdened by what Neale (1964) termed the ‘peculiar economics of sport’. In particular, the problem of money plagues the industry, to the point that it has become a moderating factor. It is evident money and the wealth of people plays an increasingly important role in sport. In the context of professional rugby, the wealthy have the ability to purchase international rugby clubs and to have the luxury of being able to afford the top international players. In competitions where there is an imbalance of wealth across teams, money has the effect of reducing the distribution of player talent and effectively creating uneven teams (McMillan, 1997). As a result, sporting competitions require some restraints on economic competition to create competitive balance as well as to encourage sustainability.

Professional sport is fast becoming recognised as an important industry in New Zealand. In particular, rugby is widely acknowledged as New Zealand’s national sport and the All Blacks are considered a national icon. Since the introduction of professionalism in 1995, NZ rugby has been confronted with issues where the competition is too predictable, evidenced by the larger franchises and unions, in NZ’s major centres dominating competitions. This has made it increasingly hard to maintain fan support and is not made any easier with large financial losses occurring as a result of increasing salaries and decreasing crowd attendances (NZRU, 2010). In 2011, NZ rugby boasted 590 contracted professional players. This group is made up of 160 full time Super Rugby players and 15 New Zealand Sevens (NZ Sevens) players as well as approximately 145 players on what are called ‘Provincial Union Development contracts’. The rest are players who play in

the ITM Cup competition and are semi-professional. All of these players are considered employees of the NZ Rugby Union (NZRPA, 2010).

The issue of creating competitive balance has been an important issue in NZ Rugby. This was demonstrated by a review carried out by the New Zealand Rugby Union (NZRU) in 2003, which highlighted recent trends posing challenges and the need for rugby to adapt to the changing environment that professionalism has caused (NZRU, 2003). The nature of the employment market has fundamentally changed and these recent trends pose challenges to NZ rugby in trying to create a sustainable business. The report by the NZRU (2003: 96) highlighted the key feature of the success and sustainability of the professional game as “the interface and balance between the rights and interests of the owners or administrators and players”. The problem stated is that currently too many outcomes are predictable so tools are being introduced to ensure competitions are less predictable to enhance fan interest.

The growing importance of NZ rugby and the fact that players receive money for playing has created some inevitable problems as management work to ensure their teams are competitive and maintain spectator interest. It is evident that since entering the world of professionalism, NZ rugby has been confronted by huge changes. It now operates under a system where there are three major focuses: the National Provincial Competition (ITM cup), the (Investec) Super Rugby Competition and the All Blacks.

The complexity surrounding NZ Rugby as a business has created some unique contracting situations, thereby impacting on the players. However, it is not only the players that are affected; it can be argued the employers are also limited in their ability to create successful rugby competitions and teams. The NZRU are burdened with several roles including promoting the ongoing success of the All Blacks, along with ensuring rugby is sustainable (NZRU, 2003). To achieve this, it is essential that rugby competitions continue to be competitive. However, a continuous problem that has occurred is that the provincial and super rugby competitions are not competitive and thus are not attracting a large enough fan base, threatening the sustainability of NZ rugby (Owen and Weatherston, 2002; NZRU, 2003). Furthermore, NZ rugby relies heavily on media and sponsorship, as well as gate revenue, to be successful. With the huge costs that professional sports are currently operating at, some restrictions on

economics and player movement are necessary if NZ rugby is to continue to be sustainable, particularly given somewhat low gate revenues being experienced at present (NZRU, 2010). In order to ensure that NZ rugby is sustainable, there is a need to promote competitive balance and to reap the benefits that flow from an exciting, and even competition. To achieve this however, change is necessary. The NZRU (2003) competitions review recognised that the provincial competition was not sustainable in its current situation (NZRU, 2003). This saw them implement several significant changes to what was the NPC to save NZ's premier domestic competition.

This creates a rather unenviable situation for NZ professional rugby players since they are directly affected by the implementation of these tools. However, there is limited research that assesses the interests of the key stakeholders (players, employers and officials) and this is fundamentally what this research aims to achieve. Although there is a growing amount of literature surrounding the topic of competitive balance in professional sport, there are few studies that specifically assess the situation in New Zealand rugby. McMillan (1997) and Owen and Weatherston, (2002; 2004) are prominent studies conducted in this area, but are somewhat outdated given significant changes that have been made in contracting and regulations over the past six years. The question is ultimately what extent these competitive balance tools infringe on the rights of the employees (or players). This research further probes how the collective bargaining agreement limits the ability of the employers to equalise the competition.

I will achieve my aim by exploring the competitive balance tools that have been employed by the Rugby Union (both in the super rugby and provincial competition) and assess their perceived effectiveness. This will be achieved through interviewing a range of employees and officials to determine their opinion on the effectiveness of these and their awareness of the extent to which these devices infringe on the interests of employees. In addition, I will assess the impact of collective bargaining both on players' rights and the employers' ability to produce a competitive team and a successful competition. The final question will discuss if the Employment Relations Act (2000) framework is the appropriate framework for employees of NZ rugby.

Chapter 2: Literature Review

The professionalization of rugby has caused significant changes to the New Zealand Rugby Union (NZRU), who now have the job of ensuring rugby in New Zealand is sustainable as well ensuring that the All Blacks stay a winning team. Recently, the NZRU has recognized that in its current state, rugby in New Zealand is not sustainable, particularly as it struggles to compete with the increasing player and international demands. As a result the NZRU is working to achieve competitive balance in New Zealand rugby. There is limited research that assesses competitive balance in New Zealand Rugby from the point of view of key stakeholders in rugby, namely players, employers and officials. This is fundamentally what this research aims to achieve.

This chapter will essentially provide an overview of the changes professionalisation of sport has caused and the need for competitive balance in sports leagues around the world. It consists of five sections. Firstly it assesses the history of professional sport to gain an understanding of how professionalism has changed the sports industry. Next, it will assess the arguments presented on the need for competitive balance in sports competitions. The third section looks at literature concerning professionalism and money. The fourth section focuses on the competitive balance tools that have been used around the world. The fifth section will focus on competitive balance in the NZ rugby situation and the final section looks at the use of employment law in professional sports.

2.1 History of professional sport:

In order to recognise how professionalism has changed the sports industry, it is necessary to understand the history of professional sport. Professionalism in sport has a long and vast global history, extending back as far as the 1800s, and has been boosted by many factors such as media and revenue to increase its global popularity. It has progressed through several significant developments to become a hugely complex industry, influenced by many uncontrollable factors in order to be successful. These days professional sport represents a vast contrast to the way sport once was. A social occasion, or amateur event contested on pride is a far cry from the professional sports competition we see today, heavily influenced by money and advertising.

The professionalisation of sport varies from sport to sport and furthermore from country to country. It was baseball that first became professional as early as 1869. However, it was during the 1980s and early 1990s that professional sports became a viable business option (Quirk and Fort 1992). This was demonstrated by figures from July 1991, where the Financial World estimated the annual revenue of major league baseball teams at 1.35 billion and the National Football League (NFL) at 1.31 billion (Quirk and Fort, 1992).

Major sports in New Zealand varied hugely when making the change to a professional sport. For example, rugby league turned professional in 1895 which is a strong contrast to rugby union in New Zealand and Australia, which turned professional in 1995, as a way of approaching the issue of players transferring from rugby union to rugby league (Owen and Weatherston, 2002).

One of the biggest changes to NZ rugby occurred when a joint venture was agreed between South Africa, New Zealand and Australia rugby. This is highlighted by the NZRU (2003):

“The most profound change to the game came when the SANZAR (South Africa, New Zealand and Australia Rugby) Joint Venture Agreement was initiated to capitalize on commercial arrangements captured by the NewsLimited contract. This allowed each of the SANZAR partners to contract a group of professional players to play in the Super 12 and Philips Tri Nations Competitions. At that time the NZRU had five franchise teams, which meant it could effectively contract 140 professional players (128).”

Furthermore, the report highlights that the move to professional rugby immediately changed the dynamics of the domestic game in NZ. The following comment by the NZRU (2003) demonstrates the importance of ensuring NZ’s domestic competition is successful:

“The general consensus is that the establishment of professional rugby from Super12 upwards has been successful.... However, it has long been believed

that having the greatest domestic rugby competitions in the world has given New Zealand rugby its international competitive advantage (128).”

Since these developments, it is evident that the sports industry has evolved into one of the most significant mass-entertainment industries in society (Hoye, 2005). In New Zealand, sport is a significant feature of our culture and identity. This is underlined by the huge amount New Zealand will be spending on hosting the Rugby World Cup, the final expected figure of \$507.6m, demonstrates the scale of commercial activity associated with professional sport in New Zealand.

The NZRU posits *“professional competitions have been a commercial success, however, there are some elements of their integration with and impacts on the semi professional and amateur component of the game that are causing problems (NZRU, 2003: 9).”* Dabscheck (2003) suggests the need for competitions to be balanced and the issue of industrial relations in professional sports are the two primary issues that professional sports employers encounter in this new era of professional sport. Because of this, player associations have become a key feature to the professional sports industry, this notion is demonstrated by Quirk and Fort (1992: 22) who argue *“industrial relations in professional team sports has been dominated by player associations attempting to minimize the control leagues have over players, as well as trying to allow players to enjoy the same employment rights or economic freedom as other workers“*. As such, the sports industry has raised a number of issues in relation to how it operates in the area of employment rights.

2.2 The need for competitive balance:

Albeit successful, the change to professionalism has had several consequences for professional sports (and in particular NZ rugby) evidenced by significant changes in the global sports industry. It saw an activity that was once played for pride, transform into a money parade, causing professional sports leagues to become significantly more business orientated (Owen and Weatherston, 2002), with the entertainment value also being an important feature of the change in competitions (Dabscheck, 2004;Hinch, and Higham, 2005 ;Rottenberg, 1956).

The success of the professional sporting industry and competitions relies on many factors that are not faced by other industries and these impact on the employment conditions of players. These conditions were first alluded to by (Rottenberg, 1956). His research demonstrated that professional sport is a unique industry influenced by several complex rules that differentiate it from other industries. One of the major differences cited is that in contrast to other industries, the sports industry is reliant on leagues being unpredictable to be successful, whereas in other industries the prominent aim is to be better than the competition. This has demonstrated the need for the cooperation of competitors to create successful competitive sports leagues (Dabscheck, 2004).

In 1956, Simon Rottenberg published an article 'The Baseball Players' Labor Market'. It was the first professional journal article in sports economics. This article has made a greater contribution to the understanding of the sports economic field than any studies published since (Sanderson and Siegfried, 2006). His article focused on the idea that competition needs to be balanced to be successful. This idea has been referred to in following literature as competitive balance.

"The nature of the industry is such that competitors must be of approximately equal 'size' if any are to be successful; this seems to be a unique attribute of professional competitive sports" (Rottenberg, 1956: 242).

The following extensive theoretical literature predominantly revolves around the uncertainty of outcome hypothesis identified by Rottenberg (1956: 254), which states that *"uncertainty about the outcome of matches and championships enhances their appeal because spectators prefer close games and tight championship races to predictable or one-sided ones."* This is a proposition that launched a large amount of empirical literature on competitive balance in sports leagues.

Although Rottenberg's ideas form the basis of sports economics today, his ideas have evolved and been developed somewhat by other academics. It should be noted that since his article was published, sports forced to confront the fundamental issue of maintaining competitive balance in sporting competitions have found it difficult to achieve. Literature in this area highlights the need to maximise uncertainty in sport as

predictability in sporting competitions has been shown to be the factor that turns fans away (Dabscheck, 2003). As a result, some academics in this area attribute the survival of sports competitions to the controlling of players' employment contracts (Dabscheck, 1996). It is argued that such controls help to ensure player talent is spread among competing teams. Dabscheck, (1996: 602) argues "*without such limitations, it is claimed; rich clubs would secure the most skilled players, and through their continual domination of the competition destroy the sport*".

Other literature supports this notion, highlighting one of the key ingredients to attracting fans is the excitement generated because of the uncertainty of outcome of league games (Owen and Weatherston, 2004). This notion is further asserted by Quirk and Fort, stating:

"For every fan who is a purist who simply enjoys watching athletes with outstanding ability perform regardless of the outcome, there are many more who go to watch their team win, and particularly to watch their team win a close game over a challenging opponent. In order to maintain fan interest, a sports league has to ensure the teams do not get too strong or too weak relative to one another so that uncertainty of outcome is preserved. If a league becomes too unbalanced with too much playing talent concentrated in one or two teams, fan interest at the weaker franchises dries up as well (Quirk and Fort, 1992: 243)".

The analogy developed by McMillan (1997: 5), "*is a team acquiring a lot, starts increasing its share of the pie by raising its chances of winning, but it shrinks the total size of the pie by unbalancing the competition.*" Thus the predominant argument in the literature demonstrated by Sanderson and Siegfried (2003: 15) is that "*competitive balance is thought to affect attendance of fans through its influence on winning and fans' response to winning.*" This is particularly important since it has been established that fan attendance rises when a team is winning (Symanski, 2003). Similarly, the excitement of competitions can be considered even more important given that people now are faced with several other options of where they choose to watch the sports event as the advent of broadcasting rights has made it substantially easier to view a game on television. This can prevent people from going to watch a match when taking into

account other factors such as weather and the cost of the ticket to see the game live. Thus the notion has been established that *“as the relative importance of the game itself diminishes in the entertainment package, competitive balance becomes a less important determinant of demand”* (Sanderson and Siegfried, 2003: 18). Furthermore, Higham and Hall (2003) indicated that television and broadcasting have become an important part of the success of competitions.

Although there is a need to implement some control on competitive balance, the exact amount necessary is impossible to perceive. According to Zimablist (2002: 111) *“competitive balance is like wealth – everyone agrees it is a good thing to have, but no one knows how much one needs.”* On this point, Dietl, Fanck, Hansan and Lang (2009: 3) claim the absence of single teams dominating the championship is economically preferable. *“If one team is dominant, the competition becomes unattractive and demand subsequently decreases.”* Thus, it is evident that in order to create a successful competition, it is necessary for teams to possess an even spread of talent, resulting in a competition that revels in its uncertainty of outcome.

In the New Zealand context, an interesting finding by the Commerce Commission was that closely fought games were not necessarily more popular with the public. However, it found that the quality of players in a match did affect the match’s popularity. The Commission concluded that by encouraging a more even spread of good rugby players, the salary cap could increase the quality of play, and hence the popularity of rugby and the income to be earned from it (Commerce Commission, 2011).

There have been several methods that have been placed in various sporting competition leagues to maximise uncertainty in sporting competitions. Salary caps, profit sharing, free agencies, and player drafting have been important tools employed by several leagues to achieve competitive balance in sporting competitions. As such, all major professional sports in the United States (US) have implemented combinations of these tools to promote competitive balance.

Although what has been presented above is a strong argument for the need for competitive balance, it should be noted that there are two major schools of thought that have become evident in the operation of the professional sports industry namely, the

European model (that is represented by little control) and the US model (that is represented by high control) (McMillan, 1997). Ultimately, this is evidenced in the English premier league where no regulation used. In comparison, the US, Australia and New Zealand adopt several different methods of regulation used at various levels of control. As indicated by Fort (2010) competitive balance in English Premier league has declined at a rapid rate over the last decade, this can be largely attributed to having no controls in place. Despite this, European competitions are still successful in terms of fan interest (Fort, 2010). This appears to be the single factor that creates confusion in the argument for the need for competitive balance.

Statistically in Europe, it is evident clubs with more money perform better, highlighting that money plays an important role in the success of competitions. Thus it can be argued that the European fans are not attracted so much by an even competition. This allows for a controversial argument of whether competitive balance tools are needed. Studies highlight that in American sports leagues the owners hold monopolistic power which essentially gives owners the ability to implement restrictive measures on players and raise profitability (Drewes, 2005; Vrooman, 1997). In contrast, labour markets in European sports have been unrestricted since the Bosman Case was settled, (Drewes, 2005). Accordingly, collective bargaining and players associations are not required as players' rights are sufficiently protect through the individual bargaining process. In contrast, players in North America need unions in order to prevent further restrictions on player compensation. Rules in major North American Leagues such as the drafting rules, mobility restrictions and payroll caps have the effect of transferring wealth from the players to profit-maximizing club owners (Drewes, 2005).

The main issue appears to be that the monopolistic power of clubs in North America is greater than its European counterpart. This does raise some interesting questions regarding the need for competitive balance tools to be imposed on sporting competitions and whether there are other methods that could be employed to enhance fan interest. However a strong contingent of the literature in this area suggests tools to promote competitive balance are vital, particularly if leagues are under financial constraints. Today almost every major sport in America operates with some degree of control in their competition and this is becoming increasingly evident in NZ sport and rugby in particular.

2.3 Professionalism and money:

One of the major driving forces behind the need for controls to be placed is the huge amounts of money being demanded in sports competitions. The major issues that arise are that in most cases owners are operating a monopoly. However, it is also evident players with highly specialized skills have their own element of monopoly power to wield in negotiations with management (Quirk and Fort, 1992). This poses problems as economic theory argues that *“individuals or organizations with monopoly power use it to increase their incomes at the expense of the rest of the society; the theory also argues that monopoly power leads to a misallocation of resources in the society”* (Quirk and Fort, 1992: 16). The effect of this is that professional sports stars become *“insurmountable”* (Garvey, 1989: 329). Garvey (1989: 329) alludes to the significant problem this could cause, stating *“if the stars have unlimited freedom of movement there will be no money left for the non-stars”*. In addition to this, Lucifora and Simmons (2003) pose the argument that in professional sport, the most talented earn much more than those who are slightly less talented. This notion has also been alluded to by McMillan (1997) who argued that if there are no restrictions on the competition for players then players’ salaries could be driven high. Should this happen, it is inevitable that only the richest teams would be able to afford the best players, and competitive imbalances would result.

The dominance of money in professional sport is further demonstrated by Quirk, (1992) who highlighted that in the 1950s average salaries were around \$15,000. By the early 1970s, before free agency came to baseball, average salaries had boosted to around \$40,000. In 1980, after four years of free agency, the average had increased to around \$115,000. In 1991 the average baseball salary was \$851,000, demonstrating that baseball salaries increased by almost 650 per cent between 1980 and 1991. Salaries earned in NZ rugby pose a similar picture, with the minimum salary for super rugby players \$60,000 and the top players in NZ reportedly earning approximately \$800,000 a year with all their contracts combined (Zavos, 2011).

It is for this reason that tools were implemented, rather than creating a competitive balance, although this was also considered a prominent reason. The NZRU (2003) has further stated that they serve a dual purpose, in that they are also used to balance the

economic powers of the team owners and the players (NZRU, 2003). The issue of money is particularly significant in the NZ rugby context where NZ struggles to compete with the high salaries offered overseas, particularly in European countries and Japan. As a consequence NZ rugby must rely on non-monetary factors to retain their top players. This issue is highlighted by the NZRU (2003) who outline one of the major problems that has arisen is the financial issues facing NZ rugby. Both revenue and costs have risen significantly since the advent of professionalism and the NZRU state costs cannot be sustained at the current level of operation.

Following a review of literature in this area, it has been established that competitive balance techniques have been imposed in sports leagues around the world to provoke the creation of uncertainty in leagues which is perceived as an important factor in consistently attracting fans, sponsors and broadcasters (Dabscheck, 2004; Owen and Weatherston, 2002; Staudohar, 1999; Zimbalist, 2002).

2.4 Competitive balance tools used around the world:

Several methods of how to control sporting competitions have been highlighted by academics, with salary caps, revenue sharing, player drafting and free agency being the most common tools employed to prevent competitions from becoming unbalanced. However, there have been strong arguments for and against the use of these methods. As Sanderson and Siegfried (2003) outline there has not been a uniform, one-size fits all approach or set of rules to solve the problem. This has posed issues in NZ rugby as there is no international market similar to NZ rugby and it raises the question of how the NZRU best go about achieving competitive balance.

Player draft and Reserve clause:

In most professional team sports the player draft “regulates the movement of the athlete from amateur to professional status (Gilroy and Madden, 1977: 768)”. This form of control has been highlighted as being somewhat controversial because it essentially prevents a player from choosing who they seek employment with (Gilroy and Madden, 1977). When a player is drafted and signed to a contract by a team, the athlete is bound to that team by the reserve clause. This clause binds the athlete to their team unless the owner chooses to trade them to another team or release them. This is a common tool used in American professional sport. There are extensive arguments against the use of

the player draft as the restrictions are so strong it does not allow the player to choose their team, which is not common practice under normal employment law. Corcoran (1994) argued that the player draft is restrictive in that it gives only one team the right to bargain for each eligible player's services, reducing the player's potential ability to extract a higher salary from another team.

Rottenberg (1956) described the reserve contract system in American baseball as a form of monopoly. Ultimately the employers are left with 'unrestrained power' over the employment relationship. It was the result of the player draft which caused the first union of professional baseball players, the National Brotherhood of Professional Players, to be formed in 1889. This association was formed to attack the reserve system. However, they were unsuccessful in their endeavour since it was regarded as a sport, not a business.

Despite these preservations, Quirk and Fort (1999) reported that as the reserve clause was challenged in court, owners and their lawyers asserted it was necessary to preserve "competitive balance" within a league.

This notion has been questioned by Sanderson and Siegfried (2003) who argued the drafts may have a modest effect on competitive balance, but outlined that in baseball for example, the effect of the reserve clause was not significant. The interesting revelation is that the difference between teams in drafting is at most one player per year. The worst team in a 30 team league drafts 1st, 31st, 61st etc, while the best team drafts 30th, 60th etc. Thus, apart from getting the top player, there is no subsequent draft advantage to the worst team relative to the best. The net gain is simply the first pick and one extra player, which, in baseball, is unlikely make a substantial difference.

Rottenberg (1956) supports this idea, outlining that the reserve rule has not resulted in increased distribution of player talent because the richer teams are still able to purchase players off another team. This implies that there will be little effect on player distribution. While this is the generally accepted view on the use of the reserve rule, Quirk and Fort (1999) argue it is not at all clear that imposing restrictions on player mobility do not work to create competitive balance.

Several studies demonstrate that if the reserve option clause is eliminated (so players would be free to sell their services to the highest bidder) competitive balance within the league would be severely damaged (Quirk and Fort, 1992). However, the reserve option appears to have a dual purpose for owners who claim that it is the reserve clause and other restrictions on player mobility that make it possible to pay players significantly less than their worth (Quirk and Fort, 1992). Thus it is evident the idea of the reserve clause is plausible in preventing the big market teams from buying all the best players. However another problem that arises is that the big market teams could instead negotiate with small market teams to buy the player's contract, which effectively means there is still an opportunity for imbalances to occur.

Free agency:

Free agency is the free movement of labour with no restrictions. The Bosman Case is a particularly significant case in the history of professional sport. It was a 1995 case heard by the European Court of Justice. Ericson (2000: 205) outlines the details of the case, stating *"In 1995 the European Court of Justice (case C-415/93) concluded that the transfer systems applying to international football players in member states of the European Union were contrary to the free movement of workers as decreed in Article 48 in the Treaty of Rome."* The case was an important decision with regards to the free movement of labour and had a profound effect on the transfer of football players within the European Union (EU) (Ericson, 2000). The case banned restrictions of foreign EU members within the national leagues and allowed professional football players in the EU to move freely to another club at the end of their term of contract with their present team, ultimately nullifying the reserve clause of the player draft.

While several academics argue free agency can have a detrimental effect on competitive balance, Quirk and Fort (1999) assert that based on the baseball experience, there is no evidence that free agency has any negative effects on competitive balance.

In fact, free agency has become increasingly common in recent times, with restrictions being forced in other manners not directly affecting mobility, namely in the form of setting salary caps on team payrolls. Quirk and Fort (1999) argue that since the introduction of free agency in baseball in 1976, there has been a spectacular rise in player salaries. They argue the rise in salaries reflects primarily the increases in ticket

sales and TV revenue that have taken place over time, and secondly the transfer of some monopoly profits from owners to players. As salaries have continued to rise in sports, attention has been directed toward another problem, namely the concentration of salary income among a few high-priced superstars in each sport.

However, it could be argued there are alternative ways consistent with labour freedom in which sporting equality can be achieved, namely revenue sharing or redistributing income between clubs (Dabscheck, 1996).

Salary Cap:

The salary cap is defined as *a form of wage maxima, which may be imposed on total payments to players of a club or the league as a whole* (Dabscheck, 2004). “*Effectively, a salary cap restricts how much teams can pay their players, ultimately preventing the inflation of salaries*” (Staudohar, 1999: 3). The idea of salary caps was introduced by Rottenberg (1956) who anticipated salary caps “*as a possibility, let teams bid for players and players accept offers, subject only to the constraint that a ceiling is imposed on the salaries that may be paid to individual players*” (256-257). It was proposed that the salary cap allowed a team to assemble a more competitive roster paying less than the maximum. As mentioned above, the rising salaries are having huge consequences on the success of sports competitions and the salary cap is a way to limit its effect.

The salary cap was first introduced in the American National Basketball Association (NBA), in the 1983-84 season and it has been a part of the NBA rules ever since. Reportedly the years under the cap have been the most successful in NBA history with league revenues, profits, and player salaries sky-rocketing. This approach was soon followed by other leagues, for example, in 1993 the National Football League (NFL), and later the Major League Baseball (MLB) and National Hockey League (NHL). However the latter two leagues unsuccessfully forced the salary cap onto their player unions.

According to Quirk and Fort (1999) in the mid 1990s the big issue in labour disputes was the salary cap. In 1994 the NFL put its own version of the salary cap in place, arguing it was an essential step in creating competitive balance. On the other hand, the Major League Baseball (MLB) introduced a salary cap in response to the worsening

financial situation, claiming the sport could not survive without a salary cap. In retaliation, the players entered into a 232 day strike protesting against the use of the salary cap (Quirk and Fort, 1999). This situation clearly demonstrates the distinctive nature of labour relations in sport.

This year, the situation came to a head again in America, where two of the world's biggest sporting leagues, the National Basketball League (NBL) and National Football League (NFL) confront labour disputes. These disputes have already caused significant financial costs in both leagues and the possible cessation of the NBL has been raised as a possible solution as the dispute remains ongoing. The dispute is centered on how the money should be split between the players and the association, with both sides divided over two key issues: the division of basketball related income and the structure of the salary cap system. The catalyst for the dispute was the expiration of the collective bargaining agreement. The frequency of these labour disputes demonstrate the complexity surrounding industrial relations in professional sports. It is clear through the operation of NZ rugby that it is working hard to ensure such disputes do not become embedded in NZ rugby history.

Despite the threat of labour issues, salary caps have also been a common tool in Australian sports, where limits on the earnings of individual players have operated in Australian Rules Football, Rugby League and Cricket (Dabscheck, 1996). *"In a case involving an Irish soccer player, a court found individual wage maxima to be an unreasonable restraint of trade. Such rules interfered with the player's liberty to negotiate the basic matter of the payment he is to receive for his services to his employer"* (Dabscheck, 1996: 606). However, it is evident in various other courts, salary caps have been considered to be necessary in order to enhance competitive balance (Dabscheck, 1999).

The salary cap is designed to ensure that all teams are spending equal amounts on player salaries, so that money cannot be used by wealthy teams to stock their teams with the all the best players. Ideally, if all teams are spending under the salary cap and have somewhat equal resources in terms of coaches and management, the competition should be fairly balanced. Furthermore, the appeal of the cap to owners is that it is a way to

control salary costs. Vrooman (2000) also suggests salary caps act as a binding rule and restrict the mobility of professional players as well.

The overall impact of salary caps has been considered by many as a positive tool (Kesenne, 2000, Booth, 2005), as it improves not only competitive balance in a league, but it also improves the player salary distribution, the ability to limit excessive top player salaries and it can help to create sustainability. However, there have been problems that have arisen in enforcing the salary cap. McMillan (1997) states one problem with the salary cap is that it is easy enough to get around. McMillan highlights *“creative accounting, deferred payments, and unreported payments are several ways in which sports clubs can evade the full implementation of the salary cap”* (9). If clubs neglect the rules of the salary cap, negative impacts on the overall revenue of the sports league as well as on fan involvement are likely to occur. Such problems have been evident in the National Rugby League (NRL) competition in Australia, where there have been a number of high profile cases of teams breaching the salary cap.

Rottenberg (1956) presents an interesting argument as part of his research. He claims that players derive large psychic income from playing the game which suggests monetary value is not so much of an issue. He suggests players might be willing to take a lower salary contract because they derive such large psychic income from purely playing the game they love.

Revenue sharing:

Revenue sharing is another common tool that has been employed in sports leagues. Revenue sharing reduces the financial incentives of each franchise to acquire more playing talent, because the payoff to winning is constrained by the share paid to other franchises (Sanderson and Siegfried, 2003). Further arguments suggest this method also blunts the incentive to win (Vrooman, 2000). The NHL, NFL and NBA all engage in revenue sharing and there are arguments for and against the use of this tool. The most prominent being if team owners maximise profits, revenue sharing does not alter competitive balance (Quirk and Fort, 1999; Rottenberg, 1956; Vrooman, 2000). However, it has been argued with win-maximising owners, gate revenue sharing can improve competitive balance (Kesenne, 2000).

The benefits of revenue sharing have been heavily contested in the literature. There is a strong argument to suggest revenue sharing could be an effective way of enhancing competitive balance as it reduces the financial incentive of each franchise to spend large amounts of money buying all the most talented players as any profits made will be shared among other franchises (Sanderson and Siegfried, 2003). However, there have been varied arguments on the effectiveness of revenue sharing in professional sport and the negative impacts that may result. According to McMillian (1997) revenue sharing is the most effective source of competitive balance provided it is done comprehensively. However, Szymonski and Kesenne (2004) argue that under reasonable conditions, increasing gate revenue sharing among teams will produce a more uneven contest, and reduce competitive balance.

A common concern promoted within much of the literature is that revenue sharing will not work for profit-maximising owners and may result in reduced incentive to invest in playing talent (Szymonski and Kesenne, 2004). There is a feasible argument to suggest revenue sharing is the most appropriate tool in order to create competitive balance as it has limited effect on the players. However, it is clear why some owners would not be so content on its use.

It is evident there are issues surrounding the restrictions these tools place on professional sports people. The use of competitive balance tools often places economic and or mobility restrictions on players, and when subjected to legal challenges, the courts have overwhelmingly struck them down, finding them to be an unreasonable restraint of trade (Dabscheck, 1996). As a result Dabscheck (1996) posits generations of players have attempted to use collective action to respond to these and other employment problems. This is also highly evident in NZ rugby. Quirk and Fort (1992) highlight that there is no other way to solve the problem of lack of competition in sports leagues. Kahn (2000) furthers this notion, stating that sports owners are small and interconnected and they have some ability to band together and act as monopolists in paying players. Dabscheck, (1996) argues there is not enough benefit generated from labour market controls to justify the denial of 'normal' economic freedom. Despite the constraints on players, an even and economically viable competition is in the interests of the sport; however player agreement on the means by which those objectives are best achieved and sustained is often difficult (Schwab, 1998: 51). Although there is extensive documentation on this

issue and while most studies have identified that both competitive balance and the tools to be implemented are important, the literature fails to recognise the effects of these tools on the player's rights. Thus in the case of NZ rugby, they have entered into collective bargaining agreements in order to preserve their rights.

The arguments above have demonstrated that although there is a general consensus by several academics that competitive balance is important to the success of competitions, the lack of agreement on the best way to do this raises the question of what is the appropriate level of balance needed in competitions and how this is best achieved. The literature has shown opinions on competitive balance and what is and what is not effective is somewhat subjective, as a result two research questions were formulated:

Research question 1: How does the NZRU attempt to achieve competitive balance?

Research question 2: How are these devices viewed by the various parties?

2.5 NZ Rugby and collective bargaining contract of players:

For NZ rugby, the introduction of professionalism into a sport which had been amateur for the previous century has not proved to be an easy transition (NZRU, 2003). A major problem that has arisen is the financial issues facing NZ rugby, as well as the need to ensure that the game and its competitions are positioned for the optimal benefit of players, administrators, fans and sponsors (NZRU, 2003).

Rugby, much like businesses, operates in a competitive environment both on the field and off the field (NZRU, 2003). As a result it faces similar problems to those presented by professional sports around the world. The issue of competitive balance has been prominent throughout the operation of rugby in New Zealand since it became professional in 1995 with statistics revealing fan interest is higher when competition is balanced (NZRU, 2003). An NZRU (2003) report highlighted that the major problem facing NZ rugby is achieving the balance between commercial and non-commercial interests in an environment which is constantly changing.

The objective of the Competitions Review, initiated as a result of a strategic review undertaken by the Board in 2003, was:

“To conduct a comprehensive review of all NZRU competitions (including New Zealand’s involvement in international competition to ensure they provide the best possible platform for sustaining a winning All Blacks team and maintaining rugby as a game accessible and attractive to all New Zealanders (NZRU, 2003: 5).”

However this is difficult as there are several interdependencies that need to be taken into account. The report demonstrated that societal changes continue to have an influence on all aspects of participation in rugby and rugby’s place in New Zealand sport. Economic and social disparity were outlined as having a continued impact on the operation of competitions, with the big city teams continuing to dominate (Owen and Weatherston, 2002). It was recognised that factors need to be controlled in order to ensure the business of New Zealand’s national sport is sustainable.

These developments have been a catalyst for the various changes that have occurred over the past 10 years in NZ rugby. Notably, it has followed the tradition of several other sports leagues by forming a player association and adopting a collectivist model of industrial relations to protect their rights. That is, wages and employment conditions have been determined by collective bargaining between the various New Zealand sport unions (the employers) and the New Zealand Rugby Union Players Association.

The New Zealand Rugby Players' Association Incorporated, (NZRPA) was founded in July 1999. Its membership is made up of New Zealand's current, overseas based and past professional rugby players, being those who play or played in the National provincial competition and Super rugby competitions, and includes All Blacks, Junior All Blacks, New Zealand Maori and New Zealand Sevens players (NZRPA, 2010). Ultimately the purpose of the Players Association is to protect and promote the rights of NZ rugby players. It is evident NZ rugby is increasingly focusing on player welfare. This is supported by the retired players’ survey which was carried out in 2010, as well as the introduction of professional development officers in all of the unions and franchises. The introductions of these tools recognize the short-term nature of a career in professional rugby.

This issue raised **research question 3: Does the use of these tools infringe on the employment rights of the players?**

One particularly distinctive feature of NZ Rugby that is not represented in the existing literature is the importance of international success of the national team, (in this case, the All Blacks in particular) (Owen and Weatherston, 2004). Essentially, the All Blacks are an important element of the justification for some degree of restriction on free market outcomes in NZ rugby.

The emphasis on the All Blacks success has led to a player labour market with some unique features. Most notably, the NZRU have monopoly power in terms of the labour market for professional rugby union players in New Zealand (Owen, 2007). As a result, they have a potentially high degree of central control. The NZRU is aware that “*global sporting trends present both an opportunity for and a threat to New Zealand rugby*” (NZRU, 2000: 5). With the increasing global interest in rugby union, especially from television audiences, and the need to maintain the flow of media income into NZ rugby, the success of its international teams becomes more important, particularly that of the All Blacks.

As a result, quality of competition has been recognised as an essential feature of NZ rugby because it is so reliant on sponsorship, media, and broadcasting. However, in order to ensure broadcasting rights continue as it has in the past NZ rugby needs to maintain fan interest, an element that has been steadily decreasing. Currently there are few empirical findings specifically looking at competitive balance tools used in rugby, however papers suggest it is an area that requires significant attention. The NZRU itself has expressed concern over the degree of competitive balance in the National Provincial Cup (NPC), now called the ITM Cup “*the points differential in Super 15 and NPC has highlighted the need to look at ways to bring some of the weaker sides up to the levels of the top sides*” (NZRU, 2003: 10).

As previously mentioned, there are three main focuses that constitute the bulk of NZ rugby as a business: The All Blacks (national team), the 5 Super Rugby franchises and the national provincial competition. A report carried out by the NZRU in 2003 focused on these aspects and established that the lack of competition in the domestic competition and Super Rugby franchises is detrimental to the provincial competition and it was indicated that the lack of competition could impact on the All Blacks. This situation in

New Zealand is even more complex as, according to McMillian (1997) balancing the provincial competition might either strengthen or weaken the All Blacks. In an uneven competition a lot of the All Blacks would be concentrated in a few of the large unions. An uneven competition could develop bad playing habits as uneven games might not allow players to build their skill level. It was reported that as a result, although NZ rugby was not in crisis, it was not sustainable either. The report looked at overseas tools and competitions to establish the best way of approaching the problem, and to enhance consumer interest. The findings established that *“there is no off the shelf model that can be replicated in the NZ environment. As a result, the decisions in the report reflect the mechanisms that both deliver on the requirements of the terms of reference and best meet the needs of NZ rugby”* (NZRU, 2003: 10).

In 2006 under the recommendation of the report, the NZRU submitted to the Commerce Commission that the salary cap in the provincial competition would create a more even spread of players resulting in closely contested matches. It would also attract bigger television audiences and increase revenue. Previous tools that were in place limited the freedom of players to choose their employers, so a player’s super rugby franchise depended on which provincial union they were based in. McMillian (1997) pointed out that for competitive balance there must be some rules on the movement of players among teams; but these rules should not put an undue burden on the players. In other words, players should not be restricted in their choice of employer.

Although there has not been a salary cap implemented in the Super franchises, they are in a similar situation as the franchises have a budget which they must abide by. Along with a form of revenue sharing, this is a further step towards the franchises continuing to be at the top of the competition, yet remaining competitive with each other.

The need for competitive balance in the provincial competition is vital to both the sustainability of the competition itself, along with the success of NZ rugby. NZ rugby relies on teams in both the national provincial competition and the Super rugby franchises to be competitive, in order to develop the best possible All Blacks team. The intended effect of the introduction of the salary cap and the salary budget is that, over time, players will either move franchise or take less payment to stay in the franchise they want to play for.

NZ rugby is also struggling to cope with the increasing salaries that professionalism has demanded. An estimated 32 million was pumped into the professional game in 2009, with the average Super rugby player in NZ earning around \$200,000 a year. In comparison to major sporting codes around the world, this amount is comparatively low, demonstrating the lack of available money NZ rugby. A lot of this imbalance is due to many teams overseas having the support of bigger corporate markets, with access to much larger television audiences.

The small size of New Zealand's population and its distribution (population % to the five main centres with Super rugby franchises) underlies the importance of ensuring distribution of playing talent to teams from smaller population centres. This indicates there is a need for tools to be implemented to ensure that NZ rugby remains competitive not just within NZ, but on the international stage. Owen and Weatherston (2004) outline that some degree of revenue sharing is desirable, however this has not been the main approach of the NZRU. Instead they recognised the salary cap as having the biggest impact.

Another major change to the most recent collective agreement 2010-2012 is that all players are now considered employees of the NZRU and seconded to their provincial union/Super rugby franchise. There used to be a number of players who were independent contractors but that has been phased out over a number of years and all players are now employees, which has raised the argument of whether the Employment Relations Act 2000 (ERA) is appropriate for professional rugby players in New Zealand.

The information above raises some important questions in the business of professional rugby. A study by Owen and Weatherston (2004) outlined some of the tools implemented by the NZRU, however it would appear the structure of New Zealand rugby is constantly changing to try and encourage sustainability. Thus **research question 4 probes: Does the collective bargaining agreement impose on the ability to equalise the competition?**

2.6 Employment Law for professional sports people:

Professional sports teams have long asked to be considered differently from the ordinary employer (Nicolau, 1999) and the increasing literature in this area demonstrates that there are several arguments supporting this notion. Gilroy and Madden (1977) highlight one of the most rapidly evolving areas of employer-employee relationships is professional sport.

Literature highlights that the employment situation in sport presents several differences from normal employment situations. The most noticeable is the restrictions it places on the employment rights and economic freedom of players and this has been a continuing source of controversy. Ensor (1987) suggests there is a strong argument that it would not be accepted in 'normal' industries. This is evident as there are several examples where courts have viewed the compensation system as an unreasonable restraint on players' employment rights (Dabscheck, 2002). Yet despite this it is not unusual for exemptions to be given in order to place restraints on competition. This was evident with the Commerce Commission granting permission for the salary cap, recognising that it was important to help spread playing talent across provincial unions.

Although professional sports are operating more and more like a business, recent literature shows several disparities that need to be taken into account. Most obviously in contrast to conventional unions, player unions do not negotiate salary contracts for their members; rather each player negotiates their own contract. Player unions do negotiate league-wide minimum salaries for their members and standard benefit packages (eg. pensions, health insurance, dental insurance, accident insurance) as well as working conditions. However, the striking difference between player unions and other unions is that player unions have a primary objective of creating something approaching a competitive labour market for their members, while normal unions work to shield their members from competition (Quirk and Fort, 1992). This appears to be the major difference between 'normal' employees and 'sport' employees.

It is evident in terms of the ERA (2000) that there are specific areas which need to be addressed in the professional sports industry. The current operation of rugby has perhaps shown that, while the ERA (2000) can be applied adequately in the professional sports environment, it is perhaps not appropriate and certain aspects could be changed to

make it more applicable. This is illustrated by the recent issue in NZ rugby where players were moved from being classified as independent contractors to employees of the NZRU. If a worker is a contractor they are not protected by the minimum employment standards that New Zealand employment law provides. Accordingly, for a long time professional rugby players had not been afforded the rights of 'normal' employees. This change gives the players more rights as if a worker is classified as an employee they are given certain rights and obligations, and their employer is required to treat them fairly and reasonably.

Furthermore, professional sports people are constricted by other factors not usually confronted by 'normal' employees. These issues include having short careers, the ever present risk of injury and loss of form. Despite the disparities, Khoshaba (1989) argues that sportsmen should not be regarded as any different from those individuals in traditional forms of paid work, even though the ERA (2000) fails to reflect their inclusion (in terms of definitions of paid work, the modern workplace and the nature of work). Industrial relations, as a discipline, is yet to recognise that the nature of work has evolved in such a way that new forms of work should be recognised and researched - in particular in relation to sport. Although the current framework appears to be outdated, there do not appear to be any studies focusing on this issue.

Sport can be considered as an unpredictable occupation, with players being confronted with the problem of finding an alternative career once their playing days have ended. One may come to the conclusion that in such an occupation, the operation of the labour market would be in favour of the players, or at least players would enjoy the same employment rights as the average worker, for example having the right to seek employment with any prospective employer. However, at present players are economically restricted. As a result of the unique relationship, individual players (with the exception of a small group of players) have virtually no job security. Athletes are extremely vulnerable to violations of the ERA (2000) committed by their employers. As a result of the large restrictions on players, there seems to be a high exodus of players overseas where restrictions are much less intrusive. Khoshaba (1989) outlines, "*in sport the employment contract has placed a great deal of stress upon the employment relationship*" (7). The ERA (2000) outlines that the principle objective of management is to secure maximum prosperity for the employer, coupled with maximum prosperity

for the employee, however it is inevitable that restrictions on income impose restrictions on this ability.

There are several arguments that suggest it is the labour market controls that should be monitored and minimised so that they are allowed to operate with the same labour market freedoms as workers in other industries. However, other researchers outline that with the absence of restrictions on player movement, players presumably would gravitate toward the most successful franchises or those franchises in the largest markets in an effort to get top dollar for their services. This notion has been evident in NZ rugby. Further arguments suggest that restrictions on player movement are designed to enable leagues to function as a competitive environment, rather than impact them negatively. However, Khoshaba (1989) hypothesizes that a free market would destroy the professional sports leagues. Despite this, it does invoke the argument of whether broader employment rights are needed for the interests of professional sports people.

Dabscheck, (1996: 626) highlighted that one might expect that in an occupation such as this, the operation of the labour market would be tilted in favour of players, or at minimum they would enjoy the same employment rights as other workers - such as the right to seek employment with any prospective employer. In the case of professional team sports however, leagues and clubs have developed a variety of labour market controls that have curtailed the economic freedom and income earning potential of players.

Labour problems have been experienced by most professional sports across the world, and owners and players seem more at odds over the revenue issues now than ever before. Among all revenue issues, salary caps remain the most hotly debated (Kovach and Meserole, 1997). Despite this, Kovach and Meserole (1997) argue that while the prospect of a free market economy in sport seems revolutionary, the free market approach continues to be the most efficient way to run an economy.

Ensor (1987) presented one of the most interesting arguments, by demonstrating the complexity of employment law for professional sports people. He stated that when management terminates a player, one or several of the following statements often accompany the termination

- The player wasn't good enough
- The player did not fit into our plans
- The club is moving in a different direction and the player's abilities do not blend with the team's new mould
- The player has lost a step, or his skill has diminished.
- We need to create playing time for younger player

However, according to Ensor (1987), these explanations, standing alone, do not constitute "lack of sufficient skill". Nevertheless, the complainant bears the burden of showing that his termination was based on a reason other than lack of sufficient skill (Ensor, 1987). Thus it was identified by Ensor (1987) that in professional sports, management retains great discretion to terminate players for lack of sufficient playing skill. Lowell (1973) presented a similar contention, questioning whether the coverage of the National Labor Relations Act (NLRA) in the US is broad enough to include the sports industry. Currently the rights, privileges and protections provided under the United States Labour Laws for industrial and trade unions, are the same rights, privileges and protections provided for professional, major league athletes (Kovach and Meserole, 1997). Despite this the literature shows that professional sports people are constricted by several other factors. What makes complicates this situation is the potential to exploit players (Drewes, 2005). This can be demonstrated by a team's management's unlimited power to terminate a member of its team for lack of playing skill, while members of that same management team enjoy protection against termination by standard labour laws. It should be noted that interestingly the majority of player terminations occurring during the course of a playing season are uncontested which perhaps implies players do not see this as an issue, or perhaps simply accept it as part of their job.

The above literature leads to research **question 5: In light of the answers to the previous questions, is the ERA 2000 framework the appropriate framework for employment relations in this industry?**

Literature Summary

The literature presented above has demonstrated that professional sport has undoubtedly created itself as its own industry. However, there are obvious disparities between the sports industry and other industries. Specifically, the theoretical framework has showed that professional sports require constraints in order to equalise competition, with the purpose of enhancing excitement of competition and thereby attracting larger crowd attendances.

Despite the consensus that there is a need for competitive balance in order for competitions to be successful, there has been some debate over the best method to achieve this and the level of control that is needed.

Rugby in New Zealand is also establishing itself as a business and is confronting similar issues. As a result significant change will be required if NZ rugby is to continue to be sustainable going forward. Analysis of the current situation in NZ rugby has identified that the professionalisation of rugby has created a unique employment situation. Given that research specific to NZ rugby is relatively rare, there are a number of questions that remain unanswered and further research is required if competitive balance in NZ rugby is to be maximised.

This research seeks to establish the competitive balance tools currently employed in New Zealand Rugby and the perceived effectiveness of these devices by various parties. It will then assess how the devices used infringe on the employment rights of the employees. Furthermore it establishes how collective bargaining of NZ rugby players imposes on the employer's ability to create a successful competition. Finally in light of the answers to the previous question the research establishes whether the ERA framework is the appropriate framework for employment relations in this industry.

The research questions established from the literature review were:

1. What competitive balance tools are employed by the NZRU?
2. How are these tools viewed by the various parties?
3. Do these competitive balance tools used by the NZ Rugby Union infringe on the rights of employees?

4. Does the collective bargaining agreement impose on the ability to equalise the competition? How and to what extent?
5. In light of the answers to the previous questions, is the ERA 2000 framework the appropriate framework for employment relations in this industry?

Chapter 3: Methodology

The following chapter will explain and justify the methodology used to carry out this research. It has been divided into four sections. The first section outlines the sample used for the study. The second section outlines the method used to carry out this study and justify the use of qualitative research. The third section outlines how data was analyzed and the final section focuses on the weaknesses of the study.

3.1 Research Approach

In this study the use of competitive balance tools in NZ rugby was explored through an exploratory, qualitative framework. The study utilised in-depth semi-structured interviews to identify the perceptions of officials and employees of NZ Rugby on the use of competitive balance tools and the unique employment relationship that occurs in professional sport.

Due to professional sports being a comparatively new industry and a relatively new area of research, the exploratory nature of the research was justified as it attempts to understand the nature of contemporary changes in the employment situation of professional rugby and the perceptions of how stakeholders have been affected.

In acknowledgement that there may be diversity in the perceptions of each individual experience, I believe information was best obtained by conducting in-depth semi-structured interviews in order to answer the five proposed research questions, which are:

1. What competitive balance tools are employed by the NZRU?
2. How are these tools viewed by the various parties?
3. Do these competitive balance tools used by the NZ Rugby Union infringe on the rights of employees?
4. Does the collective bargaining agreement impose on the ability to equalise the competition? How and to what extent?

5. In light of the answers to the previous questions, is the ERA 2000 framework the appropriate framework for employment relations in this industry?

3.2 Research Participants

The focus of this research was on the use of competitive balance tools in NZ rugby and how they impact on employees and employers in NZ rugby from the perspectives of officials and players. Therefore, the research participants were a sample of employees and employers of the New Zealand Rugby Union. It was also important to get employees of varying experience in order to get a representative sample of the population. Each participant took part voluntarily and anonymously.

Because of the specific nature of my study I had to be particular in choosing my participants. Initially, I contacted the New Zealand Rugby Union and asked whether they would be prepared to accommodate interviews with two employers of the NZRU (Appendix A). I also asked the NZRU for permission to interview approximately 10 players employed with the NZRU and 5 further officials of New Zealand rugby. After that it was up to myself to contact the players and officials. This was done predominantly through the use of email. I emailed potential participants with a summarized version of what my research involved. When participants showed interest, they received an information sheet (Appendix B) to provide participants with as much information about the study as possible before they decided to participate. It described the aim of the project, what participants would be asked to do, eligibility for participants and contact details for both the experimenter and the supervisor, should participants have any further questions, or decide to withdraw their participation at any time. Participants were assured their participation was both anonymous and voluntary with no disadvantage of any kind if they decided to withdraw from the study.

A consent form was also emailed to participants and for those who took part in phone interviews, verbal consent was provided and recorded. From this if a participant agreed to participate, a convenient interview time was arranged. Before contacting participants, ethical approval was gained for this research from the University of Otago Ethics Committee.

The research subjects were 17 people of various experiences and titles within the NZRU (see Appendix C), some employees and some officials. Due to request, most interviewees were given a basic outline of the interview schedule so they would have some indication of the type of questions that were to be asked. This allowed participants more time to think about their answers, thus allowing for more in-depth answers which permitted further questions to be prompted and in general more information to be given (See appendix D and E for interview schedules). It was believed that 17 interviews would provide accurate and informative data, which would consequently facilitate a more comprehensive and accurate understanding of the impact of professionalism and the need for a balanced competition. Care was taken to ensure that the respondents provided information that was representative of the target population.

When appropriate interviews were conducted face to face, however given the variances in where participants were living around NZ, several interviews were phone interviews. Nine interviews were done by phone and eight were face-to-face. The advantages of face-to-face interviews were outlined by Cavana, Delahaye and Sekaran (2001) who argued that it enables you to establish a rapport and motivate respondents as well as clarifying the questions, clear doubts and add new questions. However, the use of telephone interviews was more cost effective and enabled me to reach a wider geographical region, which was important under the circumstances of my participants

Due to the nature of the research, participants were unable to be randomly selected, therefore I adopted a 'convenience sample', which can be defined as "where information or data for the research is gathered from members of the population who are conveniently accessible to the researcher" (Cavana, Delahaye & Sekaran, 2001: 454). This is identified as an appropriate method because it is easy and cost effective. Due to experiencing some difficulty in obtaining participants, in order to further increase my sample, I also relied on the snowball effect. Snowball sampling is the process whereby after observing the initial subject, the researcher asks for assistance from the subject to help identify people with a similar trait of interest (Cooper and Schindler, 2011).

Interviews ranged in time from 20 minutes to 70 minutes. The reason for the variance was because they were semi-structured interviews so some participants had more to say than others and therefore more questions developed for some participants in comparison

with others. The difference was particularly evident between the two participation groups: employees and officials, with the officials having more to discuss than employees.

3.3 Reasons behind Semi-Structured Interviews

This was an exploratory study because little is known about the situation at hand as there have been very few articles focusing on the employment relations and competitive balance in NZ rugby. In essence the study was undertaken to better comprehend the nature of the problem that has been the subject of very few studies. Extensive interviews with many people were undertaken to get a handle on the situation, as well as understand the phenomena and allowing for the research questions to be answered. The decision to use semi-structured interviews with open-ended questions was determined after research suggested this was the best way of obtaining information about a subject that has been relatively untouched (Packer, 2011). As there was little known about this research, it was paramount that research data was qualitative. The advantage of qualitative research was to amass informative and highly useful data (Packer, 2011). The main reason behind using qualitative analysis was because I was more likely to get truthful information using interviews.

Qualitative researchers recognize that “humans are complex, somewhat unpredictable beings and that individual difference and idiosyncratic needs override any notion of universal laws of human behaviour” (Cavana, Delahaye and Sekaran, 2001: 34). In similar fashion, Kvale (1996) outlines that the best way to understand people’s lives, is to talk to them, exploring their views and opinions, to unfold the meaning of their experiences. According to Packer (2011) qualitative research allows a wide range of perceptions to be explored, which is what my study was aiming to achieve. Thus having assessed the literature, this research study took a purely qualitative approach. In acknowledgement that there may have been diversity in the perceptions of each individual, I believe the information was best obtained by conducting in-depth, semi-structured interviews. This proposed methodology would enable “descriptions of the life world of the interviewee with respect to interpreting the meaning of the described phenomena” (Kvale, 1996: 5).

In addition, the use of semi-structured interviews provided the means to explore the employees and employers various opinions and experiences to a greater extent (Packer, 2011). This method provided freedom and flexibility to explore a wide range of topics and issues that arise. Furthermore, it allowed for clarification of any misunderstandings, and more detailed questions to be asked. This is highlighted by Packer (2011) who outlined as a result of using semi-structured interviews, interviewees are allowed a great deal of latitude in the way they answer and the length of their response, even the topics that they discuss. The aim of such an interview is to encourage the person to speak “in their own words” to obtain a first person account (Packer 2011: 43). Cavana, Delahay and Sekaran (2001: 34) outline the role of research is seen to be the deep understanding of human behaviour. Furthermore, it increases the opportunity for more truthful answers as according to Cavana, Delahay and Sekaran (2001:138) the use of interview provides a unique opportunity to uncover rich and complex information from an individual.

Three different interview outlines were established for the three groups (See Appendix C and D), however they all followed similar structures just varied slightly depending on the participants’ role in NZ rugby. The questions were open-ended so interviewees were given full freedom to express personal meanings and give their own truthful answers. Careful consideration was taken to ensure no leading questions were asked. In cases where interviewees had to be prompted on certain topics, it will be noted in the analysis

3.4 Method

At the beginning of the interview, participants were asked to sign a consent form indicating that they agree to participate in the study and understand the study’s aims and objectives. Confidentiality of the participant’s involvement was also emphasized here. Each interview was recorded with the permission of participants and the audio was transcribed to allow for data analysis and in-depth re-analysis to occur

First, a pilot study was completed on one of the respondents to test the interview questions. Due to the pilot being a success, no changes were made to the questions and it was included in the research.

All interviews were semi-structured in that a time was scheduled for the interview to take place and a common set of questions was used throughout all the interviews to establish some common themes. Opened ended questions allowed for more questions to develop throughout the interviews. Furthermore, open-ended questions allowed for informants to provide their own answers to questions, thus allowing for much greater depth and truthfulness in answers that were provided. Throughout the interviews, it was important that I did not ask leading questions. Thus my questions were deliberately very broad and open-ended, allowing for probing questions to be asked if needed to ensure as much information as possible was obtained. At times prompting was needed for participants to talk about certain topics and these will be outlined during data analysis. Draft and important notes were taken throughout the interview and then full versions of notes were transcribed within the next few days following the interview.

To minimize bias in responses, I attempted to establish a rapport with the respondent and ask unbiased questions. I achieved this by creating general conversation with the interviewee before commencing the interview.

Although the majority of the interviews consisted of open-ended questions, closed questions were also asked using numerical scale. This was in the form of “on a scale of 1-5... with one being not effective and five being very effective, can you rate how effective you believe the tools have been that have been introduced by the NZRU?” This type of questioning allowed for participants to specifically demonstrate their opinion and allowed for clear comparisons across stakeholder groups.

Several ethical issues were addressed when collecting data. Treating information given by the respondent as strictly confidential and guarding his privacy was key to this. The purpose of the study was explained to them to avoid misrepresentation of data. It was made clear to participants that personal and seemingly intrusive information will not be solicited. The self-esteem and self-respect of participants would also be preserved, with participants able to pull out of the interview at any time they wish without any harm.

3.5 Data Analysis

For the purpose of this study, grounded theory was used to answer the research questions proposed earlier. Grounded theory is a highly recognized tool of analyzing qualitative data. Grounded theory was employed because it was likely to offer insight, enhance understanding, and furthermore, literature also suggests it enables the researcher to “provide a meaningful guide to action” (Strauss and Corbin, 1998: 12). Furthermore, Strauss and Corbin (1998) recognize that it is more likely to resemble reality. According to Strauss and Corbin (1998: 12) grounded theory means theory that was derived from data, systematically gathered and analysed through the research process.

Grounded theory was essentially the process of looking for significant statements and key themes that emerged and comparing what was said in different interviews in order to establish common themes. Through reading the transcripts, coding systems were developed to establish common trends and differences. This process occurs generally “inductively”, seemingly on the basis of no prior theoretical framework or conceptual assumptions (Packer, 2011). Packer (2011) suggests organizing into categories and finding themes, through basically looking for regularities and patterns in the research. This was the process that I carried out. Essentially I identified themes and subthemes in the raw data that provided an understanding of the phenomenon.

No computer program was employed to carry out the coding specifically because of financial constraints. Furthermore given there is only a small sample size this will not pose any issues to the research. This was justified by Cavana, Delahay and Sekaran (2001) who stated no computer system can supplant the ability of the human brain to perceive trends in the data that are so vivid.

Due to the semi-structured nature of the interview, there were times during the interview, when analyses had to be made on the spot, based on the interviewees reactions and demeanor. A significant amount of attention was taken to ensure I was careful in my proceedings during the interview to ensure I got the best information out of my participant. To achieve successful data analysis, significant care was taken in reading through notes and transcripts whilst looking for themes to emerge. This was also evident during the interviews, where particular care was taken to listen closely to

what the interviewees were saying and the way in which they said it as suggested by Strauss and Corbin (1998). The purpose of doing this was to ensure an accurate interpretation of what participants are saying without jumping to my own theoretical conclusions. Coding was achieved through the process of open coding. Strauss and Corbin (1998: 102) state that “during open coding, data are broken down into discrete parts, closely examined, and compared for similarities and differences. Events, happenings, objects and actions/interactions that are found to be conceptually similar in nature or related in meaning are grouped together under more abstract concepts termed ‘categories’”. These themes were coded as they emerged; this was the central activity of grounded theory. Selective coding was also carried out. This is where the researcher looks selectively for evidence that illustrates or justifies themes and then makes comparisons and identifies contrasts between sub themes and between themes. Furthermore, if there was a significant finding that was different from other responses, these were also be coded.

Once data was collaborated and coded, I undertook the process of theorizing. According to Strauss and Corbin (1998: 22) “theory denote a set of well-developed categories (e.g. themes, concepts) that are systematically interrelated through statements of relationship to form a theoretical framework that explains some relevant social, psychological, educational, nursing, or other phenomenon.” This ultimately involved using mapping to investigate relationships across categories, looking for the connections or out layers. In the mapping procedure I was particularly looking for similarities or differences in the stakeholder opinions.

Having achieved data analysis of stakeholder opinions of competitive balance, I was able to present my findings. Once the findings were developed, discussion was made on the findings in relation to previous research. Finally, ideas for future research were discussed.

Chapter 4: Findings

The purpose of this section is to outline findings from the research undertaken and is structured around the research questions that were developed within the literature review. Quotes will be utilised throughout to exemplify key answers. The questions will be answered using the key themes that emerged from within the interview. Furthermore any additional key themes considered of importance that emerged throughout the process but were not related to the research questions will also be included.

Research Questions:

1. How does the NZRU attempt to achieve competitive balance?
2. How are these devices viewed by the various parties?
3. Does this infringe on the rights of employees?
4. Does the collective bargaining agreement restrict the ability to achieve competitive balance? How and to what extent?
5. In light of the answers to the previous questions, is the ERA 2000 framework the appropriate framework for employment relations in this industry?

Sample Characteristics

The population for this study consisted of 17 participants (numbered 1-17) who were officials and employees of New Zealand Rugby (See Appendix A). The sample included seven officials involved in NZ rugby. Officials are representatives of the NZRU (New Zealand Rugby Union), NZRPA (New Zealand Rugby Players Association), and CEOs of the franchises. Six out of seven of the officials can be deemed employers. Of the 10 professional rugby players, six were Super rugby players or above and four ITM Cup provincial players from various provinces.

Employee/Employer Situation

All interviews began by asking participants to explain their role in New Zealand rugby and to discuss the employee/employer situation. Our results indicate 13/17 of all participants view NZRU to be the employer in the employment relationship. However, some employees believed their provincial rugby football union was the employer despite contracts clearly stating they are not. This demonstrates some confusion and is a compelling finding. This is the result of the recent contract change that highlights all professional rugby players in New Zealand are to be considered employees of the New Zealand Rugby Union. Accordingly, ITM Cup players who are seconded to their provincial union are officially employed by the NZRU. The complex nature of the employment relationship is demonstrated by one employee who stated:

“NZRU is my employer. I know I am seconded to my provincial union for that part of the contract. I’ve never really thought about it. Obviously with my Super Rugby franchise, that is more directly while with them, and that can sort of be quite tricky, especially with three teams. Also I know I am obligated to my provincial union, even when, like at the moment is a good example, I know that it’s All Black season, so I am primarily obligated to do roles and things with them, but my provincial union can ask me and do ask me to do things like promotional activities or something” (Participant 8).

The confusion surrounding who is and who is not the employer of ITM Cup players is classified by the following officials:

“Yes and no, ultimately and technically the NZRU. The players are effectively signing an NZRU contract... But as part of the franchise, agreement and under the player management agreement, we have myself and the franchise responsible for the health and well-being of the players, we effectively do that on behalf of the NZRU” (Participant 3).

“We take over a lot of the employment responsibilities for the players at ITM Cup level, but we don’t actually become the employer” (Participant 4).

In order to understand the operation of New Zealand rugby and the interviewees' views, participants were asked what they believe are the key focus areas of New Zealand rugby. The continued success of the All Blacks and the need for exciting competitions were two common themes that were alluded to.

All Blacks

Participants' answers revealed a general consensus among all stakeholders that the All Blacks are the flagship product of New Zealand rugby. This was emphasised with 16/17 participants indicating the success of the All Blacks as being the predominant key focus area of New Zealand rugby. Reasons given centred around the idea that the All Blacks are the key income generator of New Zealand rugby and therefore, their continued success has been outlined as paramount, specifically in terms of securing sponsorship and broadcasting rights. *“The All Blacks are pretty much what you could describe as the economic engine of the organization and the money that the All Blacks, generate, basically funds the rest of the game” (Participant 2).*

In addition, interviews highlighted a strong recognition that the All Blacks success is achieved by having a strong game across all levels.

“Mainly the All Blacks, that’s what most of the way the competitions and the way the teams are set up, it all feeds into the top team being successful” (Participant 12).

The Need for Close Competitions

Another prominent answer from participants was the need for close competitions, which in turn feeds players to the top team. This was mentioned by 16/17 participants. Participants generally recognised good competitions as being exciting matches that were closely fought. This idea has been labelled as ‘competitive balance’ throughout the literature. When asked how important competitive balance is to New Zealand rugby it was a common perception among across stakeholders that it was “critical” and “hugely important”. This highlights the viewed importance of competitive balance to NZ rugby

4.1 Research Question 1: How Does the NZRU Attempt to Achieve Competitive Balance?

Of the ten employees interviewed, four had to be prompted to talk about competitive balance, which suggests employees do not immediately associate it to the success of the game. This was in contrast to the officials interviewed, who freely brought up competitive balance. However, only a low level of probing was required for the employees to discuss the issue. Furthermore, it was evident throughout the interviews that although employees were aware of some of the tools that had been introduced to encourage competitive balance, many of them did not take a significant interest. Again, this was in contrast to those officials interviewed, who had more to discuss on this point than the players. This notion is evidenced by one participant who noted:

“I’d say the majority of players have got really no idea - from lack of interest and knowledge. But the NZRPA they are completely helpful and let you know, but the problem is not enough people want to know and do know” (Participant 15).

Participants were probed further on this issue with various emergent themes established and strong contrasts among stakeholders became evident. These themes on the need for competitive balance included:

Maintain/Increase Fan Interest

A common theme that emerged following interviews was that competitive balance in New Zealand rugby is important in order to maintain fan interest. This was highlighted as an imperative issue because in recent years NZ rugby has been experiencing declining crowd statistics and research conducted by the NZRU had identified ‘even’ or ‘balanced’ competitions as a way to attract fans. The following quotes demonstrate the views of participants:

“A contest is always better than a walkover. So individual games where there is interest and attention in the result is clearly desirable (Participant 4).”

“Crucial because if it’s not balanced, you get one or two good teams and the player pool diminishes. Fewer players will get the opportunity to play and that will all affect the quality of the national team” (Participant 14).

“Well, if we don’t have competitions that give everyone a chance of winning, and have teams turning up every match with a belief that they can win, and also that their fans believe they can win, then ultimately you lose the fans and the competitions don’t work” (Participant 1).

Of the officials’ 6 /7 considered competitive balance important predominantly because of decreasing viewer numbers. All participants proposed competitive balance should be encouraged by ensuring competitions are exciting and competitive and thus increasing the spectacle for the fans. One participant stated, *“Viewership is dropping and that’s something again making sure that the competition is an exciting one and so closely contested, but also at a very high standard of rugby” (Participant 6).*

Induce Sustainability

The interviews revealed that declining crowds coupled with the effects of the global financial crisis on New Zealand rugby, had compromised the sustainability of New Zealand rugby. This has been identified as a major issue, and the need for the introduction of competitive balance tools into New Zealand rugby has been recognised by stakeholders. A major contributing factor that was indicated in the interviews is that the NZRU is competing against increasing opportunities within the entertainment market. Furthermore, financial problems emerged as another key driver behind problems in NZ rugby. Interviews highlighted some differences in opinions among employees and officials, as this problem was not alluded to by the majority of employees. A common theme generated in the interviews is that creating competitive balance is recognised as a method of getting more people going to the game and increasing/encouraging the sustainability of rugby in NZ.

7/10 employees held strong opinions that competitive balance is important in contrast to 6 /7 officials. Several officials emphasised that competitive balance has been a probing

issue since rugby turned professional and there has been diversity presented over what a good competition resembles and whether competitive balance is needed. This idea is supported by the following quotes:

“I think what we believe a good competition is one that you go in and you watch the competition and you’re not 100% sure before the game who is going to win. I find it a hell of a lot more interesting than I do if I know one team is going to give the others an arse kicking. So that anticipation of a contest is really important and it is one thing that would make a competition really valuable” (Participant 2).

One official argued that competitive balance was not essential in order to create a successful competition. This point of view focused on the success of international competitions where there is no competitive balance evident.

“One of the most successful sporting leagues anywhere in the world is the football premiership in the UK and yet year after year, the same teams dominating win it and yet no one would say that the comp is not successful and so I actually dispute the fact that you need an even comp to be successful. Having said that, there are plenty of examples where an even competition is part of a successful competition, but I just don’t think it’s an absolute requirement” (Participant 4).

Despite this he also agreed on the following:

“A contest is always better than a walkover and so individual games where there is interest and attention in the result is clearly desirable. You just have to balance it. If you start tying one hand around your back in order to be fair to one party with the condition that you can’t compete at the top of the competition.” (Participant 4).

Willingness to Play and Enjoyment of the Players

As mentioned above it has been suggested that competitive balance impacts on a player's willingness to play, however the opinion on this was somewhat divided. Although players indicated competitive balance is important in order to gain fan interest, some outlined it is not necessarily important in terms of their willingness and enjoyment in playing. 3/10 of employees mentioned that it made it more attractive to play in, which aligns with the opinions held by a number of officials. *"There's no question that fan interest and in fact player interest drops off very quickly if only one or 2 teams can win it every year"* (Participant 1). One interviewee demonstrates this notion stating: *"Obviously even teams - that's something that the fans probably want because it makes the game more exciting, but as players, that's not always the first thing we think of"* (Participant 8). Despite this, other players have highlighted positive aspects of competitive balance:

"I think it makes it much more attractive to be a part of, because no-one that tries to play rugby at sort of a competitive professional level enjoys losing, and enjoys feeling like they don't have a fair shot. And if you get into the situation where you are constantly playing teams who are better financed, getting paid more, have more resources, it sort of doesn't feel like you have a fair shot at it. And while you're on the field, it never feels like you don't have a shot it is still if you know you're in a balanced, fair competition and you know there are these guidelines and everyone's adhering to them, I think it makes it a bit more exciting, it feels like it's all up for grabs" (Participant 11).

"Now we are a lot more competitive and it seems to be a more enjoyable competition to play in, from a player's point of view. Like getting hammered every week is not much fun" (Participant 10).

Competitive balance was also considered important in terms of helping retain ITM Cup players, and to prevent players from heading overseas. *"Yeah very important, otherwise players just go. So those smaller teams need to be topped up a wee bit, in order to keep players in NZ"* (Participant 12).

It appeared the players' main concern was that competitive balance is important to help out the smaller unions. Several employees highlighted the importance of competitive balance tools so that the smaller unions could have the benefit of the same resources as the larger, wealthier unions.

Although the majority of participants indicated the importance of competitive balance in both Super Rugby and ITM Cup, a small number of officials were not convinced competitive balance was necessary in Super Rugby because it is considered to be more about the 'glitz and glamour', as well as being an international competition. *"Well we are not quite so into competitiveness at Super Rugby level because we are playing an international competition so we have to be very careful. So there is no salary cap, there are no competition management tools in that competition, other than obviously not spending more than you've got"* (Participant 1). Despite this finding, the interviews also indicated that employees have only just become aware of the salary cap in the last year since it has been lowered. Interestingly, the majority of participants also mentioned a virtual salary cap in the Super Rugby competition, which prevents a franchise from paying a player over \$180,000 (although the NZRU retains the ability to top up the payment).

Once participants had started talking about the idea of competitive balance, they were asked how they believe the NZRU go about achieving competitive balance in New Zealand rugby. It was established through the interviews that formulating a method to create competitive balance has been no easy feat. This was made even more difficult by the fact that New Zealand is a small market and that rugby in New Zealand is a massive participation sport. The findings indicate that the NZRU have attempted to achieve competitive balance predominantly by encouraging the spread of player talent. According to the various stakeholders, the purpose behind this is to prevent provinces from being able to produce super teams with high numbers of All Blacks.

The salary cap and franchise contracting were the prominent tools highlighted by all stakeholders as tools that the NZRU have implemented in order to achieve competitive balance. It is evident from the findings that these tools were implemented by the NZRU with the predominant aim of achieving competitive balance in the ITM Cup rather than the Super rugby competition. However, other stakeholders indicated that they also

believe it has been important in improving competitive balance in Super Rugby, along with financial sustainability in NZ rugby. This idea is based on the fact that:

“If you don’t have balanced teams that are competitive with each other, what will happen is, when we have a home game against the XX we have a smaller crowd because people think that teams are going to beat the XX so why would they come and watch. Whereas, when you play the XX then we get much bigger crowds because they’ve got more All Blacks in them and it’s perceived to be more of a competitive game” (Participant 3).

Salary Caps

When asked about how the NZRU went about trying to create competitions, all participants highlighted the salary cap was the primary tool; a cap of \$1.3 million or no more than 36% of the union’s commercial revenue. Officials identified that the salary cap was implemented because it was identified as being the most appropriate tool in the NZ rugby situation. This is supported by one participant:

“We thought it would be most effective here. We did look at all the tools, which we spent sometime in the US, looking at other professional sports and what they had tried, and what has worked and not worked. It’s very clear cut, perfectly understandable. It puts some mechanisms around costs which we think are useful, and in the end it was the one that the players agreed to, so it was settled pretty quickly” (Participant 1).

This research indicated another purpose (on top of creating competitive balance) was to prevent provincial unions from overspending. This was highlighted by Participant 1 who stated, *“we are stopping them from making themselves go broke and what it’s also done is that it’s actually evened up the competition.”*

The salary cap has been in place for five years but has been adjusted throughout that time in order to better create competitive balance. During the interviews, participants revealed that the cap started too high and so had little/reduced impact on competitive balance. The interviews also indicated that employees have only just become aware of

the salary cap in the last year since it has been lowered, which suggests this is when the true effect was felt.

Franchise Contracting

Franchise contracting is another tool indicated by the Participants that has been adopted to enhance competitive balance. In describing the changes that have occurred, one participant stated *“recently we’ve made a change so that the player is contracted to a particular franchise, as part of the deal, he can choose to play for whatever province he wants to”* (Participant 1). Three participants did not mention franchise contracting, however they were all ITM players who are not directly affected by franchise contracting and had little to say on the use of the tool.

Franchise contracting essentially means franchises can contract players from any provincial union; it no longer depends on what provincial union they play for, as was the case previously. It was a common belief among participants that this tool was implemented in order to encourage players to continue playing for the smaller unions, along with helping to spread player talent, rather having them all concentrated in the larger unions (essentially the ‘big five’ which are the Super Rugby franchises).

Revenue sharing and a form of player draft were also recognised as other tools that have been implemented in order to improve competitive balance, however little was mentioned about these which suggests they do not play as big a role as the salary cap or franchise contracting. An interesting point raised during the interview was that some officials *“would have liked a type of draft system, whereby the newest kid on the block gets picked and the team that finishes last gets first pick of that guy, but it’s something that the Players Association weren’t really ready to consider”* (Participant 2)

Ideal Level of Competition

Depending on their role in New Zealand rugby, certain officials were asked what they believe an ideal level of competition involves. It is evident from the following quote:

“in an ideal world the best competitions you could have for ITM Cup would be that, in the last round of competition, ten of the 14 teams are still in the hunt for making the playoffs, and the other end of the competition, you had, you know 4 teams who were still in the running to be relegated or promoted, so at Super rugby, it would be the same that we had as many of our franchises as possible in the playoffs and playing our playoff games would be in NZ, at home, so fans can go and touch and feel our players and also we don't have that horrendous travel” (Participant 2).

Furthermore, it was indicated, by officials that the ideal level of competitive balance would be that at any given fixture, both teams would be capable of winning, so no one team is dominating either the competition or individual games.

In order to implement these tools, the officials highlighted negotiations with the Players Association as being critical; the reason for this is to ensure a strong relationship between employees and employers to prevent the employment relations' issues that have occurred in a number of professional sports competitions.

“Negotiations with the Players Association are never straight-forward, and there has been a lot of angst and a lot of hard work to get where we've got to and trying to find a balance between ensuring that we can make NZ rugby, the New Zealand professional rugby market as attractive as possible and at the same time have money left over to still grow the game in NZ, as I say, that tension is always there. So its not easy, I would say that it's been really really tough to be honest” (Participant 2).

4.2 Research Question 2: How Effective are These Seen by the Officials and Players?

There were several key themes that emerged when participants were asked about their view on the implementation of the competitive balance tools. This highlights a variety of opinions are held among participants on the effect of competitive balance tools. Some

participants stated that these tools “will really affect some teams” while other participants viewed it as a good mechanism for NZ rugby. In contrast, another participant said it was “not effective at all”. To summarise the common themes in brief, the tools implemented by the NZRU are regarded as effective in creating competitive balance, and creating sustainability but there are also negative impacts.

Overall there was no general agreement across officials and employees on the effectiveness of the tools being implemented. It became clear following the interview process that some officials have more concerns about the use of the tools than other officials and employees in NZ rugby.

Salary Caps

Effective in creating competitive balance:

When asked their opinion on the use of the tools, participants demonstrated that when the salary cap was first introduced five years ago, it was not considered to be successful. Opinions centred around the idea that it was too high and therefore its impact was reduced.

“When the cap was first agreed to, we ended up with a value that was frankly too high and we heard some unions that thought, in fact, the salary cap was a budget and a target as opposed to a cap” (Participant 1).

“Well previously the salary cap, it didn’t mean jack because there was third party agreements anyway and that was all good. Yeah pretty much if your union had money, they would just buy you. Now it’s capped down, and I think it will really affect some teams. So yeah, it will change but it needed to because the previous model wasn’t viable” (Participant 15).

It is evident the cap was so high that several employees were not even aware there was a cap in place until it was lowered in 2010. Some participants argued that it was probably too early to judge how effective the salary cap had been. *“I think the salary cap is so young, it hasn’t really had an influence on anyone yet” (Participant 10).*

However findings suggest now the cap has been lowered it is starting to show some positive signs.

There was a general consensus by officials that the salary cap has been successful, as evidenced by this year's successful ITM Cup. The grounds behind this reasoning are demonstrated in the following quotes:

"I think it is still mathematically possible for the teams that are leading the premiership to still be relegated and the teams that are coming last could still end up in the final with, I think still three rounds to go, so we've been running these so called crossover games so the premiership teams play the championship sides and I think we've now had 5 or 6 of those games won by teams out of the championship, so again, another reflection of some competitive success" (Participant 1).

This year, with such an even competition and results, that's suggesting that the combination's really working in our favour" (Participant 1).

"Feedback has been incredibly strong" (Participant 2).

Spread Player Talent

Despite certain concerns that were expressed, there is a general agreement among the stakeholders that the salary cap has been effective in helping spread player talent.

"In the past, you've got successful unions, who are making a lot of revenue because they are winning and getting fans in the game and selling merchandise, can afford to recruit and pay good money for good pay, and less fortunate unions may not have had good years, and didn't make a lot of money, can't really afford to do that. Now that the salary caps are coming in, you've got a situation where if a good player isn't, like a good team can't afford a good player because its not in their salary cap, they're just going to have to find somewhere and that's going to spread a lot of the talent out around the country, and with franchise contracting coming into Super 15" (Participant 3).

The findings indicate 13 /17 participants' view that the salary cap was beneficial in that it prevented wealthy unions from buying all the stars. This was further emphasised by the employees, of which 8/10 indicated that they thought the salary cap was successful in creating competitive balance in the ITM Cup competition. These ideas are represented by the following quotes:

“Salary caps have been a good idea, just because it’s going to reduce the monopoly a lot of top teams have on a lot of the top players, it’ll spread things out a bit” (Participant 11).

“So you haven’t got the wealthy provinces being able to buy all the stars, so there is some balance through that” (Participant 3).

“I think it’s a good idea to promote players to move....and to be honest in NZ its high enough now that everyone can stay where they want to stay and get paid a fair amount” (Participant 16).

Creating Sustainability

As mentioned previously, salary caps were employed in order to induce sustainability into New Zealand competitions. Despite the fact that statistics show revenue is continuing to drop in NZ rugby, participants recognised that the salary cap was a step in the right direction in terms of creating competitive balance. One participant mentioned the salary cap as being important as some players were getting paid ridiculous amounts.

Creating Negative Impacts

Despite the strong opinions that the introduction of the salary cap into ITM Cup and the Super Rugby competition has been successful, the majority of participants also presented a number of negative aspects of the salary cap.

A number of participants expressed concern that although the salary cap has been effective in creating competitive balance, the larger unions are being impacted more heavily than the smaller unions by the use of these tools.

“I think what’s happened is the measures that have been brought in over the last 6/7 years have certainly created improved competitive opportunities for the smaller teams. But I would equally say that it has come at the expense of the appeal for the game in the major unions, so we’ve seen some fantastic individual matches and crowds and atmosphere at some of the smaller venues who have embraced the ITM Cup as an improved competition, but it’s absolutely come at the expense of the major unions” (Participant 4).

The concern expressed by this participant is that a high level of the revenue is earned in the major unions, so it is important that those unions continue to be successful otherwise the whole game will be impacted on. Participant 6 indicated similar feelings, highlighting *“I would much prefer to have a competition that’s uneven, with us winning it.”* This participant also added that in terms of reality, competitions need to be even as it creates a lot more interest. This is the view also alluded to by 5/7 officials. One employee agreed with this participant, highlighting that the salary cap will really affect some teams (Participant 14). However, surprisingly other employees did not express the same concern about this situation, which suggests employees are not so concerned about the impact on the provinces as officials are.

Despite these concerns participants, in particular officials generally recognised that some sort of control is needed in order to make rugby sustainable in NZ.

“The downside to salary caps and reducing salary caps is that you potentially punish some unions who are really innovative and can generate significant revenue. But in saying that, those are few and far between” (Participant 2).

Loyalty

In addition to these concerns, contrasting opinions have been expressed by players as to whether player movement as a result of the salary cap, can be considered a positive or a

negative factor. As mentioned above, some employees expressed their opinion that player spread is important to ensure the ‘stars’ are spread across all teams. Despite this, other players expressed concern over player movement being a negative, changing the dynamics of the games and reducing the loyalty and pride of people playing for their provinces.

“I like the idea where guys play and stick with one team, but you can already see with like super rugby at the moment there is lots of player movement. And it might end up where it’s like American sports or leagues where you change every season...I would sacrifice a little bit of unevenness if it meant there was good loyalty. And to me a good competition is where most of the team is born and bred there” (Participant 8).

“If it gets to the point where everyone is on a net salary cap, I mean it might make for an even competition but I don’t know if I’d like it that way” (Participant 8).

This idea of loyalty and how it is changing was also expressed by another player who identified that the idea of loyalty is changing with professionalism *“you get brought up on this idea of loyalty to your rugby team, to your province, and I think that’s something that’s going to have to change with players. I know guys that have been pretty loyal to teams, that have missed out on pretty significant money or life experience, because they say oh I’ve got to stay, whereas I don’t think that’s the case anymore” (Participant 11).* Another participant identified that some players have been prepared to accept less pay in order to stay at their desired union.

“Some stay because they realize that playing for their home town, or where they grew up, is more important than earning a bit more money, going away from there” (Participant 16).

Salary

Another negative impact identified in the interviews by employees, was the concern that the salary cap has impacted on their level of pay. This concern was raised by 3/10

employees. One player outlined that the salary cap can negatively impact on you depending on what union or franchise you play for. This concern was more prevalent with the salary cap in relation to super rugby because it was recognized that if you were in a team with lots of All Blacks for example, but you were still an experienced player, you would be earning less than you would if you were playing in a team with less All Blacks or experienced players.

“The bad thing is if you’re a good player, you’re not earning as much as what you deserve compared with others” (Participant 16).

One participant believed the salary cap should be higher because rugby is not a long term career. The other problem that has arisen is that there are legitimate payments that are made outside of the salary cap, which represents another impacting factor on the ability of the NZRU to create an even and balanced competition.

Bureaucratic

A number of officials emphasised the view that the introduction of such competitive balance tools has been a bureaucratic process that consumes a lot of time. In addition other officials mentioned the level of regulation as limiting the effect of the tools as they restricted the way they could operate. For example, some participants raised the issue of Southland being bailed out by the NZRU, saying it demonstrated the introduction and regulation of competitive balance tools had not been without problems.

International Competition

The ‘virtual’ salary cap in super rugby has been subject to a significant amount of scrutiny from officials. The predominant opinion held is that the NZRU are implementing regulations in an international competition where our Australian and South African competitors are not. This had the effect of limiting New Zealand against the South African and Australian franchises. This issue was not raised by any of the employees, which implies this does not represent a major concern for these participants.

“Another big concern about all of this though and that’s the idea of limits on the super rugby sides contracting budgets is fine if you are only comparing yourself with the other 4 NZ teams, but the big fear that we have is that it’s actually an international competition and the Australians and the South African teams don’t have limits or the same rule, it’s not a competition rule. When you’re playing an international competition, some of our competitors have immense wealth and extraordinary resources and if we manage to dumb down the XX or the XX just so it can be fair to the XX or the XX, then we will find that no NZ team will win it again. They are some major concerns that evening out does for us” (Participant 4).

Other problems relating to Super rugby highlighted through interviews included the concern that the salary cap was undermined by that fact that the NZRU could top up any payment to a player. So while the salary cap restricts the amount a franchise can pay a player, its impact is limited by the NZRU’s ability to pay the players more should they think it’s necessary. Concern over this issue was expressed by both employees and officials, and while it was raised in relation to both Super Rugby and the ITM Cup, it was clear from participant’s responses that this issue was more significant to Super Rugby, as opposed to the ITM Cup.

“I just don’t think the salary cap in super rugby works (Participant 14).”

It should be noted that participants were not unanimously against the salary cap in Super rugby. Some participants thought the salary cap in Super rugby worked well:

“Salary cap in Super rugby is quite good because as certain All Blacks will probably need bigger contracts, the NZRU can then stand in for that and that’ll also save a lot of the finances of the younger unions and the smaller ITM unions” (Participant 14).

“In Super rugby it’s structured differently, it’s a pool of money essentially given to each of the 5 franchises that they can shop with if they wish. There is a maximum and minimum amount of dollars that you can pay any player. It’s not

absolute though because the way it's structured, All Blacks receive more than the top individual amount. And that top up amount is paid for out of the remainder of the player payment pool, which the NZRU holds. So that's why you can end up with a situation where XX historically have held a large number of All Blacks and that because they haven't had to pay the entire amount to those All Blacks. If they had to pay the entire amount to XX and XX and a couple of others, they would probably be bust within a few years. So yes there is a central pool in there, but with the NZRU support.” (Participant 5).

Franchise Contracting

Franchise contracting was another key tool implemented by the NZRU to try and induce competitive balance. Its purpose was to encourage a significant level of player movement. This caused a major shift in the contracting process across NZ rugby. Various opinions about franchise contracting have emerged, both within and between stakeholders and no common theme could be derived following the interview process.

Officials emphasised that although it was in the early stages of use, the introduction of franchise contracting had shown promising signs as being an effective method of spreading talent and allowing smaller unions to compete with the larger teams.

“So franchise contracting we think has been another tool that we have introduced that has been very effective in creating an even competition at ITM Cup level” (Participant 2).

The major theme that could be derived from participants' responses relating to franchise contracting was the way in which it had encouraged the spread of players across all ITM cup franchises.

Spread of Player Talent

Another common theme that emerged in relation to contracting was the benefit of being able to contract players from around the country. Unions no longer had to rely on which

province players played for, which facilitated the movement of players. Employees highlighted this as being a positive, because it means all of the best players are playing, rather than some being stuck on the bench behind other players. Several participants mentioned that it encourages players to move to other provinces, which prevents one team from holding all the best players, and dominating the competition. It also stopped players from being held back behind another equally talented player. One example given was Colin Slade who moved from being Dan Carter's understudy at the Crusaders to the Highlanders, and subsequently made the All Blacks team.

The officials had similar opinions to the players, highlighting increased player movement as allowing competitions to become more even. One participant described the effect as to:

“open the boundaries a lot more and there'll be more player movement, and I think, over a period of time, there'll be equalisation through the spread of player talent so I think that's a big step forward” (Participant 6).

Although participants raised the positive effects, as mentioned earlier, the issue of loyalty was also brought up.

Impact on Players

One negative aspect mentioned by a senior employee, was that franchise contracting could impact negatively on a player if they are already contracted to a franchise and a new coach comes in and does not like you. *“There is one sort of bad point. If you're an experienced player and you're contracted to a franchise and a new coach comes in and doesn't like you so much, you have to go somewhere else so that's hard too. But it's good for the young guys” (Participant 9).* Despite this, it is evident employees believe the franchise contracting system has been good. Similarly, there was a general consensus among officials that franchise contracting was good although its full impact was still unknown as it was a relatively new phenomenon. This was also a concern expressed by the NZRU, but not by the players. Officials were generally happy with the

fact that franchise contracting gave them more autonomy and freedom in their contracting, but also agreed with the NZRU in that it was essentially a bureaucratic tool.

“They are certainly bureaucratic and we certainly spend an enormous amount of time on the process, which I think is a flaw (Participant 4).

“In essence it means it prevents any one NZ super rugby side from going rampantly building the dream team at the expense of others” (Participant 4).

Another concern raised by employees about franchise contracting from employees was that it made competition for ITM Cup players trying to gain a Super Rugby contract even more difficult because they are effectively competing against all players in their position across the county.

“Back in the day quite a while ago if you had a good season in NPC, you’d get picked up by the Highlanders, whereas now because it’s all franchised, coaches and they’re signed really early on so it makes my job a lot harder, because now everyone’s fighting it out all around the country. It makes players’ jobs a lot harder. If you don’t get your opportunity, you’ve got to go overseas really because the money’s just too good to pass up. So the franchise thing yeah I don’t really like it that much” (Participant 13).

Impact on Unions

Officials viewed franchise contracting both positively and negatively. One issue highlighted by officials was that it no longer allowed them to protect 28 players for their province, as they had been able to do previously. One participant who was a player developer discussed the negative impact, ultimately concluding *“Franchise contracting has been bad for our franchise because we aren’t able to protect our talent” (Participant 5).*

Overall it is evident the stakeholders all agree that the NZRU have been successful in promoting competitive balance in the ITM Cup. However, on the reverse some participants argued that it prevented the wealthier unions from maximising their revenue

generating potential. Furthermore, CEOs have expressed concern that although the competitive balance tools introduced have allowed teams to win individual games, it is yet to enable the smaller unions to win the competition.

“So we’ve seen some fantastic individual matches and crowds and atmosphere at some of the smaller venues who have embraced the ITM cup as an improved competition, but it has absolutely come at the expense of the major unions who aren’t responding in the same way” (Participant 4).

“It creates a lot more interest....So I am very confident that it’s the right way to go” (Participant 2).

Another tool that was briefly mentioned by two of the participants was a form of the draft. In the Super Rugby competition franchises have their choice of 28 players, and then all franchises enter the draft process to contract four more. *“There is also at a lower level some drafting that goes on to ensure the best 100-150 players are playing in the competition, so the NZRU has an overview of player movement, so we try and ensure that one team doesn’t become completely stacked with star players” (Participant 3).* This method was not mentioned by the majority of the participants, which suggests it does not play a large role. An alternative opinion raised by Participant 16 stated *“if you asked the franchises, they would probably get rid of it. But the players see it in the bigger holistic picture. We understand how important it is for the ITM Cup.”*

Participants were asked to rate on a scale of 1-5 (5 being very effective and 1 being not effective), how effective they think the NZRU has been in creating competitive balance. Results indicate a range from 1-4 with the average of 3.15. Officials ranged from 1-4 with the average of 3, while players ranged from 2-4 with the average of 3.25.

	Rating out of 5
Participant 1	3.5
Participant 2	4
Participant 3	4
Participant 4	1
Participant 5	2
Participant 6	3
Participant 7	3.
Participant 8	3
Participant 9	3
Participant 10	4
Participant 11	4
Participant 12	3.5
Participant 13	2
Participant 14	4
Participant 15	2.5
Participant 16	3.5
Participant 17	3

Table 4.1: Participants' ratings on the effectiveness of the competitive balance tools introduced into NZ rugby

The above table clearly shows stakeholders hold varied opinions of how effective the salary cap and franchise contacting have been. Interestingly, there were variances within the stakeholders, which show how divisive the subject is. For example, one official believed the tools introduced had been effective, rating it a four while another official believed it had not been effective at all. These ratings differ to the opinions expressed during the interviews which suggest participants believe it is heading in the right direction but there is still plenty of room for improvement.

Research Question 3: Do These Tools Infringe on the Rights of the Employees?

In this section questions were asked with the aim of extracting employees' opinions on how the use of competitive balance tools (raised in the previous section) impacted on their employment rights and to what extent this was considered an issue. This is an important issue, particularly after the introduction of competitive balance tools overseas

resulted in significant labour disputes. Several of the interviewees referred to the relationship the NZRU has formed with the Players' Association as a means of preventing the same situation occurring in NZ.

A number of employees expressed that they did not have any concerns regarding the use of these tools, or if they did, they attributed the issues as being a result of being an employee of the professional sports industry and just adhered to it. Specifically, 3/9 employees stated that it didn't influence them in any way. In spite of this, one official said that the implementation of the salary cap required a lot of work, in particular the participant described how the process had gone through the Commerce Commission, because *“it could have been argued that that we were introducing something into competitive rules which is technically illegal, so we had to go through that process and we got a Commerce Commission ruling in our favour”* (Participant 1).

Salary

Salary level was another common theme that emerged from the interviews. 4/9 of players were concerned by the amount of pay they received. A surprising finding from the interview process was that only one participant raised the concern that the salary from a purely ITM Cup contract was not sufficient to make savings. This is supported by the following view:

“I don't get stuff all money compared with some people. I've been here for a while now and I am still not making enough money to save anything. So it does influence me quite a bit. Some players it is all right because they get obviously a higher wage bracket, but because there is no money everyone else is pretty crap unless you make super rugby. When you buy a house and you've got kids and stuff like that, it's not financially do-able to stay in NZ now, unless you play Super rugby and then you get bumped up a bit but at a provincial level, it's just not do-able” (Participant 13).

It is possible to deduce that this could be one of the reasons that so many ITM Cup players head overseas, and suggests that there is another way the funds could be distributed to prevent this drain of players overseas.

Another player highlighted that the change in pay structure over the last couple of years, has affected what can be classed as middle tier players (secure spot in super rugby but not an All Black). It is evident instead, that the change in pay structure has benefited top tier players. *“We’ve had a big change in pay structure over the last 18 months and that’s affected me. Like it’s affected players of my level in that way. I feel like what happened there is that the All Blacks, especially the top tier All Blacks got looked after big time, and they sold it to you that everyone was getting looked after, but it’s not the case” (Participant 14).* Despite the concerns over their salary, the majority of players appear to recognize the reality that there is not enough money to go around and so just accept it. *“I am realistic, I know there is not enough to go around so nah it’s not as good for them as it has been, but I mean it had to happen” (Participant 14).*

Furthermore, another participant outlined the idea that the majority of players get paid slightly less than they used to. In contrast to these concerns, the NZRU and franchise CEOs mentioned that one of the biggest differences is that professional rugby players come into a lot of money at a young age. It is clear from the response from interviewees that although the employees consider these issues, they recognize it is a bi-product of the job and therefore just accept it and take the opportunities while they can. $\frac{3}{4}$ of these participants alluded to the idea that you cannot live off rugby for the rest of your life, unless you are part of an exclusive group of top-level players that can.

Contract Security

Further findings suggest one of the biggest issues players find is the fickleness of contracts. Players consider the short-term nature of contracts, the complexity of getting a contract and the fact that your career is so dependent on other people are the biggest issues they face. These concerns were raised by 8/10 of employees interviewed. The main point raised was the existence of several uncontrollable issues that are out of the players’ hands, and are not faced in a typical job. For example if you do not get on with your coach, or another player comes in and plays better than you there is little a player can do to retain their job. This was reflected by one participant who said *“If you do not have a good year, it’s hard to pick up a contract (Participant 12).”* On this issue 7/10

employees highlighted contract security as being one of the major issues, along with injuries which was raised by 6 out of 10 employees as a concern.

This is further emphasised by the following statements:

“Probably not knowing, you know like your contracts are year to year and it can be pretty stressful on people, when you are not signed up” (Participant 16).

“It’s the sort of job where you always have to worry where the next contracts’ going to come from. The longest amount of contract security is probably 2 years” (Participant 12).

“Trying to secure contracts and long term contracts, usually I’ve only been offered 1 year deals, so to try and get that 2 year deal or potentially more is quite hard” (Participant 13).

As a result of the fickleness that being a professional rugby player involves, one player indicated that it was important to keep yourself marketable as a player, because coaches and players are always looking for the next best thing, which makes it easy to be overlooked. This can be seen as a key reason as to why short term contracts are something players struggle to adapt to, because it means they are always kept on their toes and never know if or where their next contract will come from.

Salary caps and franchising contracts do not influence the employment rights entirely. Other factors are also capable of influencing these rights. Participant 8 clarified this position by saying:

“Yeah there are a lot of differences-you don’t have sick days, you don’t have leave. Because we always laugh, if we train on a holiday then we have to get paid time and a half and so there’s weird issues like that, but we have never. And theoretically we are allowed to take a holiday but you never say to a coach-I’ve got a bit of time off. Things like that we always laugh that someone’s going to try and use one. So a lot of those it’s totally different. It’s

still an employment relationship, so there are still some similarities, but not many.”

However when asked if this concerned him, he said *“nah because I think there’s no other way that you can do it-it is just the nature of the job and it’s not as if-you know like I think that we get compensated for that anyway, you know we get enough time off in other times and things like that.”*

In comparison to professional sports overseas, the introduction of salary caps or other amendments in New Zealand have been relatively uncontentious, and much of this is due to the relationship with the Players Association. Where overseas such changes have resulted in significant labour disputes such as strikes or lockouts, the NZRU has used collective bargaining agreements to negotiate in good faith with the players and to ensure such disputes could be avoided in New Zealand.

“It could have been argued that we were introducing something into competitive rules, which is technically illegal so we had to go through that process and we got Commerce Commission ruling in our favour. Most people agree certainly now anyway that there needs to be some control and some salary cap is sensible, but determining the level and getting some agreement about that is also subject to a fair amount of debate” (Participant 1).

Players Association

Despite the issues that were highlighted, a key theme that emerged was that recognized the importance of the players association in improving their rights. This was highlighted by 10/10 of players indicating they believe the Players’ Association has negotiate good rights on their behalf. When employees were asked to talk about the players association and why they joined, common phrases used included “the Players’ Association has awesome benefits for the players” and “they look after their best interests.”

It was outlined that the changes that have been made to the collective agreement have impacted positively in terms of giving the players strong employment rights. This idea is indicated by participant 8 who outlines: *“Yip massive changes. All positive, because*

when I first started, it wasn't even a guaranteed retainer, it was so ridiculous. If you were selected, you weren't paid. But that's all changed so now you literally, you get paid for how long you sign for, but if I'm not selected, I can still get paid." Despite this, the findings suggest there is still considerable support that suggests current employment law is not appropriate for professional rugby players in New Zealand.

Overall, there appears to be a general consensus by all stakeholders that the strong relationship between the NZRU and the players (through the Players' Association) ensures that players' interests are looked after, particularly in terms of employment rights.

Research Question 4: Does the Collective Bargaining Agreement Restrict the Ability of the Officials to Achieve a Competitive Balance?

As seen above, our findings show the employment rights of players have been affected by the introduction of competitive balance tools. Throughout the interviews, employees indicated that by joining the Players' Association they could enjoy the benefits of collective bargaining, which in turn gives them a better position to be negotiating from. On the flipside however, participant responses showed that although collective bargaining is a way to preserve players' rights, it also limits the ability of officials to create successful teams and competitions. The second section of interview questions for officials focused on the impact of collective bargaining on their jobs. The key theme to emerge was that collective bargaining gave the players more power at the expense of the officials' own bargaining power.

Summaries by officials regarding the collective bargaining agreement outlines that it is governed by NZ employment law. Our findings indicate players enter into collective bargaining in order to enhance their bargaining power. This idea was confirmed by Participant 10 who stated that the benefit of collective bargaining was "*strength in numbers*". This essentially creates a hurdle for the NZRU who are working to create a successful competition. The collective bargaining agreement ultimately restricts their ability to do so. "*It's a compromising position, um generally speaking, it is an*

agreement that we've both signed in good faith and we believe it's a strong document that both protects the players and also the way the game is administered in NZ" (Participant 2). Essentially it is a double-edged sword, players need/rely on collective bargaining to promote their rights because it is the nature of professional sport that they can sometimes be unfairly treated. However, at the same time it can undermine the professional body's ability to create a balanced / even competition, which is really in everyone's best interests.

Power of the Players

The biggest concern outlined was how much money should be spent on players. This relates back to the ongoing debate over the salary cap and what level it should be capped at. This is of particular importance in relation to NZ because of the financial pressure that is prominent in NZ rugby.

A common issue raised throughout the interviews was the impact of international competitions on NZ rugby, namely that NZ rugby simply cannot compete with the salaries being offered overseas, even more so with the restrictions in place for New Zealand teams.

"The French corporations, the Japanese corporations, the French clubs, the English clubs, they don't have a model like NZ where we have limited budgets. They have unlimited, they have big fat wealthy cats who don't operate under salary restrictions or budgets, they just keep pouring their own millions into these clubs and just buy players left, right and centre and that's a real challenge for us is to ensure that we make it worthwhile for our players to stay in NZ and play his rugby in NZ for as long as possible" (Participant 2).

Contributing to the issue is the fact that it would appear that players are not fully aware of the pressures that provincial unions are under. As they continue to demand more money, they are further eroding the limited resources the provinces have. *"I think all provincial unions are under significant pressures at the moment and not sure that the players are fully cognizant of that"* (Participant 6).

One factor that was mentioned by participants from all stakeholders was the level of involvement the agents are now having in the process of contracting and this is impacting on the level of salary players are demanding. One participant indicated that the small number of agents allow for manipulation of the market.

“In New Zealand you have a small number of agents and the top two or three companies control the lions’ share of the market. So you see all sorts of things falling out of that from a business point of view. The ability to manage or manipulate the market and that means more cost for a business like ours”
(Participant 5)

Another common theme that emerged throughout the interviews was that the players are in a strong bargaining position, and this is sure to have some impact on their ability to create an even competition. All 7/7 of the officials mentioned that players said employees have a large say and question their level of power and this is surely going to limit their ability in some way to create the most successful team possible. This idea is demonstrated by the following quotes:

“They are in a very strong position, probably a stronger position than unions in some other industries” (Participant 5).

“A collective context gives the players as a group a lot of say and power so there’s a reasonably strong and important and cohesive part of professional rugby, which from time to time, doesn’t always mean we get things the way we want. But an alternative is having to negotiate directly with every professional player would be chaos I guess” (Participant 4).

“The collective nature of it is the biggest one so every rugby player in NZ is signed up to this collective and therefore players have a lot of power in NZ rugby. A lot of power. And the collective as I say is bureaucratic, complicated, very prescriptive and make the player group very powerful” (Participant 4).

Constrained in Ability to Purchase

2/4 officials involved directly in developing teams, mentioned that competitive balance tools do impact on their ability to create a competitive team. The grounds behind this reasoning are demonstrated in the following quote:

“Yes it does because there are some things that are constrained for example, if I want to go and get someone and I want to pay them 70,000 instead of 60,000, I can’t do that. So in that sense it does ...I can’t go out and buy all of the best players even if I could afford to” (Participant 5).

No Difference

This stance does not represent the views of all the CEOs interviewed. Some did not mention the issue, stating that it is no different from other union agreements in the workforce, and that it just sets out the obligations of all parties.

“We need to behave responsibly in line with the rules that are set out in that document” (Participant 6).

“I don’t think it prevents us because we’ve got the same rules as everybody else, so no I don’t think it does in that way” (Participant 3).

Despite this, the impact that the salary cap is having on the officials is evident because several participants from all stakeholder groups mentioned the fact that provinces were trying to work around the cap. Although findings suggest it is neither common nor severe in NZ rugby, it is still being done and this indicates that the collective bargaining agreement is having an impact on the work done by officials.

While some participants said the collective agreement had little impact on them, further questioning suggests they are restricted by it. One participant stated that:

“Ensuring that you remain under the cap has been a challenge for us with the pressures that have been coming from the players and the agents, in particular, and there has been a view that players should automatically just keep

increasing their value year by year and I think there has got to be realization from both players and agents that that can't continue" (Participant 6).

Furthermore, one participant saw collective agreement as *"just more work in reality, more complicated and regulatory environment"* (Participant 4). Another theme highlighted was that franchises are not free to deal with players, as they might like.

The issue of the collective bargaining agreement is particularly restrictive for the five Super Rugby franchises in creating a competitive team, as the Australian and South African franchises are not constrained like the New Zealand franchises. As a result, New Zealand franchises are effectively competing with a self-imposed disadvantage or at least not on a level playing field compared with their Australian and South African counterparts.

Interestingly, the NZRU indicated that they are impacted on through collective bargaining in that the players were not ready for a draft system similar to that used in professional leagues in America and thus it has not been implemented,

Research Question 5: Is the Employment Relations Act (2000) Framework the Appropriate Framework for Employment Rights in This Industry?

In order to gauge the differences between being an employee/employer in the professional sports industry and an employee/ employer in other industries, participants were asked if they had ever worked in another industry, followed by what the differences were. 16/17 of all participants had worked in a different industry. One employee of NZ rugby had not been employed in another industry and this produced some interesting results. Overall it was apparent participants' opinions were somewhat divided on the topic. Overall, a significant amount of differences were revealed, along with some participants who indicate that there are not many differences.

First, the opinion expressed by some participants was that the employment framework is not appropriate to the professional sports industry particularly in terms of dealing with performance management. One major difference outlined by participants was the inability to give appropriate notice as employers are restricted by the time frame to be able to do so when you are looking at sport on a week to week basis.

“The employment framework in this country is not ideally suited to sport, but that’s just the way it is. For example if you’re trying to deal with a non-performance issue with a player, then you certainly don’t want to go through two warnings and a management workout period-you’ve got to make some decisions a bit more quickly than that so it’s a bit cumbersome for us” (Participant 1).

Furthermore, there was also a recognition expressed by officials that the nature of power and employee/employer relationships are significantly different, whereby in New Zealand rugby it was recognised that the employer (the NZRU) does not meet or work directly with the majority of their employees. Contract employment also raises questions about who controls the employee, gives orders, directs work, hires and fires.

“Pay, distribution and the nature of power and the relationships between employees, their representatives and their employers. The stuff that’s different is the stuff that is unique to sport. I guess also that rugby is the national sport which impacts on the ability to manage the business” (Participant 2).

One important difference that was outlined by one official and two employees was that employees’ employment future relies significantly on being selected for teams by the coach. *“The biggest difference is with the player-it is reasonably obvious that their employment future is dependent on them being selected for teams” (Participant 1).* In addition to this Participant 17 outlines *“that coaches can sometimes not select players because of personal/emotional issues rather than their performance on the field” (Participant 17).*

This idea is further enhanced as in general there are significant differences being an employee in the professional sports industry. However, it was a recognised that

employees are generally not concerned by the differences. And furthermore, a number of employees emphasised that one of the differences is that it is more fun and relaxed. This contrasts with the opinions of the officials who mentioned that the current operation of NZ rugby is too bureaucratic and regulated.

“Rugby is pretty unique, everything about it is pretty unique, the whole way you get paid, your work obligations, they are all pretty different” (Participant 8).

“It’s just more fun and relaxed. It’s pretty good” (Participant 14).

Other participants highlighted the rights as being ‘similar’. Overall, 6/17 of all stakeholders said the rights that employees got were “pretty similar.” This is demonstrated by Participant 2 who identified “80% of it is the same as in other industries” (Participant 2). Another NZRU member stated, “I don’t think it’s particularly different from other organizations, the fundamentals are the same” (Participant 1).

However, some participants outlined the major difference was employee agreement which was a lot simpler, and less heavily regulated. This was a view expressed by several participants; particularly the CEOs who were of the belief that more independence is required.

“We should be having a lot more independence at the governance for the NZ Rugby Union so that we avoid the traditional parochialism that we are seeing at present” (Participant 6).

This was not the view expressed by all stakeholders. According to one member of the NZRU being an employee in the professional sports industry is incredibly different in lots of ways; strong egos and characters that are common to professional sports have been attributed as the reason behind these differences. It is recognized that professional sport lures strong egos, which adds to the complex employment relationship. Furthermore, there was general consensus that being in the limelight was one of the biggest issues that employees face. This was the view expressed by both employees and officials. It should be mentioned that, although some employees mentioned having your career play out in

public being a difference, they did not view it as an issue in the way in which officials suggested it might be.

In addition one employee mentioned a concern on the short-term career that being a professional sports person denotes. *“I guess the other difference is that it’s a short term career in the sense that even if everything goes well you’ve eventually got to stop in your 30s so your momentum stops in your 30s. So just as your friends’ momentum is building and they’re advancing significantly, your career has suddenly come to a halt and you’ve got to start again” (Participant 7).* It is apparent that perhaps this is not something players are aware of now but could be significant in the future. It is evident the NZRU have an increased focus on professional development of players and this new scheme was frequently mentioned in the interviews.

Chapter 5: Discussions and Conclusions

This chapter consists of 5 sections. The first section states the limitations of the study. The second section presents a discussion of the main findings in the research. The third section discusses the main implications of the research. The fourth section will propose recommendations for future research, and lastly, the fifth section will present my conclusions on this research.

5.1 Limitations

Although this research was carefully planned and prepared, there are still limitations and shortcomings. The primary limitation is the small number of participants. Due to time, financial and access constraints, the sample population of 17 is smaller than would be considered ideal. Consequently, this limits the generalisability of the results of the study. Ideally, the study would have included more participants at different levels. However, the number and range of participants were limited given the busy period for professional rugby in 2011. This is best demonstrated by the fact that I had 3 interviews cancelled due to sudden commitments. Furthermore, only a small number of participants could be obtained because of the limited time frame in which this study was being undertaken.

In addition, because of the nature of this study and the short timeframe under which it was being conducted, I had to use convenience and snowball sampling in order to select my sample population. Convenience sampling has a low representative of the full sample and therefore is prone to bias.

Another limitation to the study was the number of phone interviews undertaken due to time and financial constraints. Literature highlights face-to-face interviews as the best way to form a relationship with the participants and get the best information. However, as a result of financial restraints, 9 interviews were conducted over the phone.

In addition, some of the topics participants were asked to talk about could be considered sensitive, particularly because of the public nature of the employment of professional

sportspeople. As a result, it could be expected that some of the participants may have been cautious with their responses – even more so given NZ rugby is very much under the spotlight at the moment. While all participants were made aware that interviews would be anonymous and confidential, it is reasonable that some participants may have been unwilling to provide all opinions, especially given the fact that my study coincided with the build up to the Rugby World Cup and the associated public and media attention.

The final limitation that should be noted regarding this study is the form of data analysis used. In this case, no software was used to help code answers and furthermore, there was no second person to read through transcripts to help decipher the results. Additional help could have avoided the degree of subjectivity that is unavoidable with only one person collating and interpreting the results.

5.2 Key points

The results for this study are centred around the 5 research questions. Firstly it will discuss the need for competitive balance in New Zealand rugby, how the NZRU have attempted to create competitive balance and how this has been received by stakeholders (officials and employees). Results will also assess how competitive balance tools infringe on the employments rights of players and furthermore, how employers are impacted through the use of collective bargaining. Finally this research discusses the findings in relation to whether the employment relations framework is appropriate for professional rugby players in New Zealand. As seen in the previous section, there were a number of key findings that emerged from the interviews. Some of these findings align with the ideas presented in the literature surveyed, while other results contrast to relevant findings.

The first key point to take from this paper is that there was an overall recognition across all stakeholder groups that competitive balance is important in New Zealand rugby in order to maintain a large fan base and ensure more people come to the games. The creation of sustainability in NZ rugby was also identified as a reason competitive balance is needed. This idea confirms the notion of Rottenberg (1956) uncertainty of outcome hypothesis, which states that uncertainty about the outcome of matches and championships enhances their appeal because spectators prefer close games and tight

championship races to predictable or one-sided ones. While, Dietl, Franck, Hansan and Lang (2009) claim the absence of single teams dominating the championship is economically preferable. These findings are evidenced by the overwhelming response of 16/17 participants mentioning the importance of competitive balance in New Zealand rugby. The need for tools to be introduced to NZ rugby was recognized, particularly because two teams had been especially dominant during the ITM Cup competition, while smaller unions were beginning to suffer financially. There were no overarching differences in the opinions of employees and officials on the need for competitive balance, although interviews suggest officials view competitive balance as more important than the employees. This finding is not unexpected as officials are likely to be impacted more heavily if their team is not competitive, as well as being hit financially.

The results indicate franchise contracting and salary caps are the main methods employed by the NZRU to achieve competitive balance, with a small amount of drafting and revenue sharing that also occurs (although these tools were not acknowledged by a large number of participants, which suggest they are not considered to be creating a significant impact). An interesting finding was that there was very little revenue sharing that occurred – and very few the participants even refereed to it. This is somewhat surprising as according to Owen and Weatherston (2004) some degree of revenue sharing is desirable as outlined in his study of NZ rugby. This notion is further emphasized by McMillan (1997) who outlines revenue sharing as being one of the most effective sources of competitive balance.

The introduction of competitive balance tools, although not new on a worldwide scale, is a relatively recent phenomenon to literature on New Zealand rugby. While the idea of franchise contracting has not been specifically touched on yet in the literature, the literature on salary caps suggests that the salary cap allows a team to assemble a more competitive playing roster. The results from this study were consistent with the literature, generally recognizing that both the salary cap and franchise contracting were implemented with the purpose of facilitating player spread of talent among unions and franchises to achieve a competition where all teams are relatively equal in ability and all teams are in with a chance of winning. Furthermore, this present research has shown that the salary cap is employed to act as a tool for preventing ridiculous sums being paid to players. It was identified in the literature that the salary cap is a key mechanism for

achieving this. This is evidenced by (Garvey, 1989: 329) who alludes to the significant problem this could cause, stating “if the stars have unlimited freedom of movement there will be no money left for the non-stars”.

Although some studies briefly addressed owners’ opinions on competitive balance, it failed to specifically address stakeholder opinions of competitive balance tools introduced into sports leagues. In particular it is believed no study addressed the players opinions. Our findings identified that the tools implemented by the NZRU were generally viewed as positive by stakeholders. These tools were commonly considered as good mechanisms for stopping teams from buying all the stars and creating a super team, along with allowing for greater freedom of movement for the players.

Despite concerns that the salary cap was initially set too high, there is a general consensus that the success of the 2011 competition shows the salary cap is beginning to show its effectiveness. An interesting aspect of this however, is that although there were some closely fought games, the winner of the competition in 2011 was the same winner as it has been for the past 5 years. This suggests that the tools the NZRU have introduced have enabled teams to win individual games however it has had little impact on the overall competition winner. This demonstrates a significantly low level of competitive balance and signifies an aspect of NZ rugby that needs to be addressed in the future. Despite this, interestingly only one participant alluded to the idea that over history the NZRU have not been very effective in creating competitive balance. From this it can be argued that participants may be concerned about winning individual games and as long as this is prevalent, the winner of the overall competition a concern.

The need for tools to encourage competitive balance was recognized by all stakeholders, but both positive and negative impacts of the tools introduced were outlined. On one hand the tools introduced were recognized as being positive because they allowed the smaller teams to create a more competitive team, as well as encouraging sustainability in New Zealand rugby. On the other hand, several negative impacts were revealed by stakeholders. These centred around the idea that the tools implemented restricted the larger more successful unions as well as negatively effecting middle tier player salaries. This idea aligns with the literature which also suggests that it limits players economically (Dabscheck, 2004). Another negative aspect suggested was that teams had been working

to get around the salary cap. This idea is alluded to by McMillan (1997) who raises the issue that the salary cap was difficult to enforce and several ways existed in which teams can avoid full implementation of the salary cap. This further becomes an issue, as it is detrimental to New Zealand rugby trying to achieve a sustainable competition.

There was strong support for the idea of franchise contracting as a method for spreading talent as well as allowing for more freedom in contracting for franchises. It was also recognized as creating improved opportunities for smaller teams and improved freedom for players. However an interesting and significant idea raised was that franchise contracting prevented franchises from protecting their 28 players, as they had been able to do in the past. This affects both players and the franchises, and ultimately reduces the incentive to develop talent. However, as this was only alluded to by one participant, the findings suggest it depends on how the franchise/union operate. This idea could be harmful in the future if officials decide against developing talent because they no longer reap the benefits. Another negative impact of franchise contracting raised only by players, was the way in which competitive balance tools have changed the idea of loyalty in the game. Essentially franchise contracting places less emphasis on loyalty and playing for your province, as a result, there is the possibility that NZ rugby may face the situation experienced in the NBL in America where players change teams every year. The idea of franchise contracting has yet to be explored in the literature and accordingly it has been of significant focus throughout this research.

Another significant finding, that was not alluded to in the literature, was the differences in opinion on the need for competitive balance in Super rugby. Interviews with some officials suggested that little was being done to achieve competitive balance in Super Rugby, despite some participants mentioning that there were tools in place. Some officials believed that because Super Rugby is an international competition, it was too dangerous to implement competitive balance tools and limit the NZ franchises against the other teams. In contrast, employees thought competitive balance was important in Super Rugby, particularly for the smaller franchises who have significant constraints both financial and otherwise. In addition to this, there was strong support to suggest the ‘virtual’ salary cap in Super Rugby does not work because there is no maximum cap, as the NZRU can supplement any payment made to players.

During this research, participants showed divided opinions over the effectiveness of these tools. This is in line with the ideas presented in the literature. Although there is a large amount of literature presented on the need for competitive balance, the exact amount necessary to maximize effectiveness is impossible to determine, and furthermore, there is yet to be consensus on how best to achieve it. According to Zimbalist (2002: 111) “competitive balance is like wealth - everyone agrees it is a good thing to have, but no one knows how much one needs.” It is evident the contrasting opinions demonstrate the rugby union has not yet found the right degree of balance.

A surprising finding was that although there were variances in opinions displayed, these were not unified across the stakeholder groups. Rather, there were some significant differences between stakeholder groups. Reasons for this could be attributed to the fact that participants were involved in different franchise/unions, and this may have influenced their opinion somewhat as it is apparent different unions and franchises have been impacted in different ways. Overall these findings provide support for the idea that there is a need for competitive balance, but that the right combination to maximize its effectiveness is yet to be determined.

Important findings on how employees are impacted by the use of these tools were also displayed. The general consensus is that players accepted any differences arising from being an employee of the professional sports industry, however the most prominent issues they had to contend with were contract security, injuries and the impact on salaries. It was emphasized by several players that never knowing where or when your next contract will come from is the most difficult aspect of being a professional rugby player, along with the risk of injuries. It is evident the NZRU are working to ensure employees experience limited impacts from the fickleness of rugby as a career. They have set out to achieve this by introducing the professional development program, which was highlighted by all participants as a positive move.

Several players expressed the concern that injuries can impact heavily on a player’s career or even end it. This idea was also recognised in the literature, and in a New Zealand rugby survey of retired players, 48% of players said they do not retire of their own accord (NZRPA, 2011). For these reasons, some question whether players deserve stronger employment rights to compensate for the threat of injuries, and the short term

nature of a sports career in professional sport. This is outlined by Dabscheck (1996), who suggests that in such an occupation, the operation of the labour market would be in favour of the players.

Salaries were also a concern of some players, whereby they recognized their salaries were decreasing over time rather than increasing. It is evident some of these issues were more prevalent for some employees over others which can be attributed to the position they hold within New Zealand rugby.

An important idea raised during interviews was the inability of players to live off rugby for their lifetime. One participant outlined that just two players in New Zealand will be able to live off rugby for the rest of their lives. As noted in the Retired Players' Survey, the average retirement age from professional rugby in New Zealand is 32. This is fundamental as it means just as most people are beginning to rise to the peak of their career, the professional rugby player's career is finishing, which is bound to have a major impact on the player. Despite these profound concerns expressed by players, our findings demonstrate that employees will just accept it because it is a feature of employment in New Zealand rugby, and perhaps a symptom of having the unique opportunity to be a professional rugby player. This idea was also noted in the literature, where Rottenberg (1956) suggests some players will be prepared to accept less salary in order to play for their chosen team. Furthermore, joining the Players Association has given players the belief that they have reasonably good employment rights.

Not surprisingly, short-term contracts were identified as the most significant concern of the employees. This has also been outlined as a significant issue in professional sports in general and raises some interesting arguments and also begins to explain why so many 'middle tier' players go off-shore to play where the money is significantly greater and they are assured of a contract.

Another finding of the research was the improved opportunity for the smaller unions and top players which in turn had a negative impact on the larger unions and middle tier players. Rather than the top players being impacted by the salary cap, it was the middle tier players who appeared to be most affected.

It was further recognised in this study that players are restricted in their right to work. It was somewhat surprising that this was not mentioned by more participants. The problem outlined was essentially that professional sports people are unable to establish their right to work; they rely on the coaches to be selected and this can also depend on their selection in other teams. Despite this, selection is never a 'given' and is largely subjective, relying on the coach's opinion. It is evident in professional sport employees are 'dropped' for different reasons, and this is not often their choice. This can be considered a huge contrast to other industries whereby employees can establish the right to work through performance. It is interesting that more employees did not express the same opinion. This idea appears even more complex given the employee/employer situation.

The interesting point that was not alluded to but should be pointed out is the idea mentioned earlier of who is the player's employer. As seen in the interviews and the collective bargaining agreement, it is the NZRU that is the employer but despite this it is the coach whom the employees rely on to be selected. It is evident professional sports people, unlike in other industries, do not have the right to continue in employment because it is always up to the coach who they believe is best and the right thing for the team. Headlines this year show this is incredibly subjective with two of the country's top players being told their chosen province did not want them after both had been with that province for 10 years. This raises some significant questions as to how performance impacts on right to work in the professional sports industry.

As a consequence, the employment relationship in professional sports presumes that teams make the necessary personnel changes in search of the right combination of talent, attitude, and leadership to produce a winning team. As a result of the unique employment relationship, individual players, with the exception of a few superstars, have virtually no job security.

Likewise, officials recognized there were some restrictions that collective bargaining placed on their ability to create a 'competitive' team; however, they saw no other option other than to adhere to it. Of this, a profound finding was that collective bargaining has given the players a significant amount of power. The history of the role of industrial relations in professional team sports has been dominated by player associations

attempting to minimize the control leagues have over players, as well as trying to allow players to enjoy the same employment rights or economic freedom as other workers (Quirk, 1992: 22). Another key finding that emerged was the view of the officials that the players have gained a significant amount of power through the collective bargaining agreement and joining the Players' Association. This was a concern expressed predominantly by officials in how it impacted on them.

Interestingly, however not mentioned by the majority of participants was that officials alluded to the fact that they wanted the draft similar to that used in the United States, but it was posited that players were not ready for such form of competitive balance tool. This is because it has been recognized as placing restrictions on player movements. This suggests officials are affected by collective bargaining more than they have indicated. However it can also be argued that employees have raised a significant point as the benefits of player draft as outlined in the literature would be minimal to NZ rugby while at the same time placing significant restrictions on employees.

The idea that professional sports teams should be considered differently from the ordinary employer is presented by (Nicolau, 1999) and the differences presented in our study suggest there is still cause to argue that professional sports people should be covered under different employment law. Although our findings show that employment law works in a professional sports sector, there is significant evidence to suggest it is not appropriate. There is a vast amount of literature that suggests that the employment situation is quite different to normal employment as a result of the restrictions it places on the employment rights and economic freedom of players. Our findings suggest the case is no different in New Zealand rugby where players do not have access to the same employment rights as normal employees. Despite this however, there was a strong consensus among the players who recognized the differences but suggested it just comes with the territory.

The recent situation whereby contention over the filming of the 'Hobbit' in NZ caused a change in the relevant legislation to keep filming in the country suggests there is a plausible argument that a change in New Zealand employment law to cater for the professional sports industry could be made. A major issue presented in our study (surprisingly only mentioned by one participant) was that the Employment Relations Act

(2000) is not appropriate in terms of disciplinary action particularly because professional sport does not allow a long enough time period for this to occur. This idea was alluded to by Ensor (1987) who states that often when a player is dropped, the termination is not legitimate. According to Khoshaba (1989) industrial relations is yet to recognize sport as an industry.

There is no doubt that professional rugby players are confronted by the unique aspects that being a professional sports person entails. It is clear that current employment law can work for both employees and employers of New Zealand rugby, with the help of the strong NZRU and Players' Association relationship. However, this paper contends there are major areas that need to be addressed to ensure there is minimal burden on both parties.

5.3 Future Research

With rugby continuing to grow in popularity worldwide, research into this area deserves a lot more scope than has been achieved to date. There are several questions that remain unanswered. It is suggested that more research should be performed on the impact of competitive balance tools in the ITM cup, with particular emphasis on crowd numbers and revenue.

Furthermore, given the debate presented in this study on whether competitive balance tools should be used in the Super rugby competition for the New Zealand franchises, there is definitely scope to research how competitive balance tools may impact on NZ's competitiveness against international teams.

Recently the NZRU have floated the idea of implementing private ownership of the NZ Super rugby franchises. This would mean huge changes in the realm of professional rugby in New Zealand. Future research could assess how private ownership would impact on competitive balance in New Zealand rugby.

Further research would benefit from a focus on differences in opinions of competitive balance across franchises or provincial unions. This would be a realistic and relevant development on this research from a New Zealand based perspective.

5.4 Conclusion

The primary aim of the study was to answer the five research questions in order to gain an in-depth understanding of competitive balance in New Zealand rugby. At present this specific topic has been the focus of little research. Semi-structured interviews were used in this study to obtain stakeholder opinions of competitive balance.

The research presented has assessed competitive balance in New Zealand rugby and how it has impacted on the employees and officials. The use of interviews identified the tools implemented to achieve competitive balance, and how these have been perceived by officials and players. Finally it investigated the effect of collective bargaining on employers in trying to create a successful competition and whether there is a plausible argument to suggest professional rugby players in NZ should be subject to a different employment law that was more applicable to their circumstances.

This qualitative research suggests all stakeholders are agreed that competitive balance is important (and necessary). The salary cap and franchise contracting have been identified as the main tools employed by the NZRU as they attempt to induce the spread of player talent across provinces as well as to encourage sustainability. The research suggests the use of competitive balance tools does not overtly infringe on the employment rights of professional rugby players in New Zealand. However, both positive and negative implications of these tools were revealed, highlighting an overall consensus that although the idea is right, there are certain aspects of the use of the tools that the NZRU would benefit from addressing in order to ensure their true effectiveness.

This research shows the 'ideal formula' has not been determined yet. The predominant reason for this is essentially because NZ rugby is trying to balance the competing interests of all stakeholders. Accordingly, satisfying all parties will be extremely difficult, particularly given the limited resources at the NZRU's disposal. This issue can be demonstrated by the impact of collective bargaining. While collective bargaining is implemented to promote the players' rights, officials argued that it makes it harder to promote competitive balance.

Another example is the salary cap. The salary cap represents a popular competitive balance tool, implemented in several sports competitions (both nationally and

internationally) to ensure the competitiveness of sports contests. However, it has the effect of essentially limiting what a player can earn, which is in direct conflict with concerns raised by many of the players interviewed regarding their salaries. Franchise contracting was another tool implemented to encourage competitive balance by facilitating the spread of players across teams; however some players argued that it undermined player loyalty in the competition. The examples above clearly highlight the issues facing the NZRU as they try to encourage competitive balance in the face of competing stakeholder interests.

The situation in New Zealand is further complicated by the fact that rugby is a worldwide sport, and both NZ Super 15 teams, and our national teams are competing in international competitions, often against teams who have significantly more money and resources, and do not have the same restrictions that NZ teams face.

Although revenue sharing does not appear to be a popular tool for encouraging competitive balance, there could be some benefits to it. This research shows that the even spread of money across teams is often a decisive factor in creating balanced competitions. Particularly with regard to the ITM domestic competition, revenue sharing could be a viable option. If revenue sharing was implemented effectively, and all unions were receiving the same amount of funding this would make things fairer, and would go some way to helping the smaller unions out. While this is a potential option to the NZRU, considerable research would be required in order to determine whether it could be implemented effectively in New Zealand.

This study (along with prior research) highlighted that some variation on the application of the Employment Relations Act could be made to better suit the needs of players. The responses of players showed that they had some concerns about their rights, particularly regarding injuries, the short term nature of their careers, and the ever-present risk of losing their spots to other players. These are all things that are not relevant to standard employment industries. While there could be some arguments made for a change in legislation, this would represent quite a controversial move, and would be quite difficult to implement.

It is noted that the scope of this research only touches the tip of competitive balance in

New Zealand rugby. The need for, and advantages of, continued research in this area is recognized. Furthermore, in addition to this study, it would be beneficial to complete a quantitative survey of all officials and all professional rugby players in New Zealand in order to develop a hypothesis about how competitive balance can be achieved in NZ rugby. Unfortunately, limited resources means this is beyond the scope of this research.

With the close of the All Blacks' successful 2011 World Cup campaign, and the resounding success of the 2011 Rugby World Cup across New Zealand, this represents the beginning of a new era for rugby in New Zealand. It could be argued that the Rugby World Cup went a long way to attracting new fans to the game, but to also regain the attention of old fans who had become disgruntled with the game in New Zealand, and had showed their displeasure by not attending ITM, Super 15 and All Black matches. This research highlighted that the tools already implemented by the NZRU had made some improvements to the competitive balance in New Zealand rugby, but that progress is still needed. Hopefully, the NZRU can capitalize on the national and international attention currently being placed on the All Blacks, and New Zealand rugby, and make further steps towards maximizing competitive balance in New Zealand rugby.

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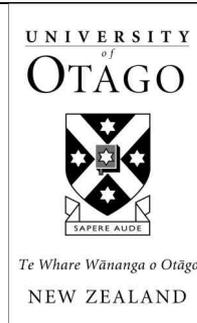
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Appendix A: Email to NZRU



Dear

I am currently completing my Master of Business at Otago University. As part of the requirement for my MBus I have to write a thesis and I am currently in the process of obtaining ethical approval. The topic for my thesis is Stakeholder Opinions of Competitive Balance in New Zealand Rugby. Below is a brief outline of what this project entails.

Competitive Balance is defined as the degree of equality of the playing strengths of teams. It is essentially concerned with inequality in match and championship outcomes. Literature has shown that professional sports require teams to be of relatively equal playing strength for competitions to be successful.

The central purpose of this project is to examine NZ rugby from perspectives of officials and players. I will be seeking to obtain information from you about NZ rugby and how influences you. It will assess how the New Zealand Rugby Union (NZRU) ensures competitions are reasonably balanced. It will also assess how the entry of players into collective bargaining impacts on the ability of the employers to equalize the competition.

To obtain in depth results from my project, I would like to interview:

- 2 NZRU personnel
- 5 Franchise CEOs
- 15 players of varying level (All Blacks, Super 15 and Provincial)

I would greatly appreciate your support in facilitating the interviewing of two NZRU personnel. The interviews would be by phone (or face to face if practical) and would

last approximately forty five minutes. Secondly, I would like to request your permission to interview players and CEOs whom I will either contact directly or through your office if you would prefer. Players of particular interest are those who are team representatives on the New Zealand Rugby Players' Association (NZRPA).

I would like to stress that this project is not intended to be controversial in any way. It is simply exploring how professionalism has changed the face of rugby in this country.

I would greatly appreciate any assistance that the NZRU is able to provide.

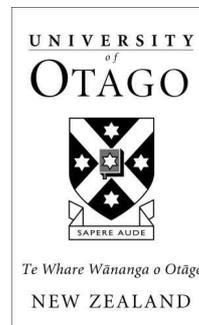
Yours sincerely

Philippa Shewan

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Phone: 027 6884509

Appendix B: Information sheet for participants



Stakeholder opinions of competitive balance tools used in NZ rugby **INFORMATION SHEET FOR PARTICIPANTS**

Thank you for showing an interest in this project. Please read this information sheet carefully before deciding whether or not to participate. If you decide to participate we thank you. If you decide not to take part there will be no disadvantage to you and we thank you for considering our request.

What is the Aim of the Project?

Competitive Balance is defined as the degree of equality of the playing strengths of teams. It is essentially concerned with inequality in match and championship outcomes. Literature has shown professional sports require teams to be of equal playing strength for competitions to be successful. Thus competitive balance tools have been placed in various sporting competition leagues to aid in maximizing uncertainty in sporting competitions. Salary caps, profit sharing, free agencies, and player drafting have been an important tool employed by several leagues to achieve competitive balance in sporting competitions.

This project will examine the use of competitive balance tools used by the New Zealand Rugby Union Executive and the perceived effectiveness of these devices. The aim of this project is to explore the need for competitions to be equal in the professional era, and how this impacts on the players and officials. Furthermore it explores how the players (employees) entering into collective bargaining agreements, impacts on the ability of employers to create a successful business. This project is being undertaken as part of the requirements for the Master of Business in Management.

What Type of Participants are being sought?

I am looking for participants who are employees and employers of the New Zealand Rugby Union Executive. This involves including stakeholders and anyone who is affected by the use of competitive balance tools by the New Zealand Rugby Union Executive.

What will Participants be Asked to Do?

Should you agree to take part in this project, you will be asked to participate in an interview where you will be asked several questions related to the use competitive balance tools in New Zealand rugby. I will start by asking some questions about your opinion of the competitive

balance tools used in New Zealand rugby. Questions will then lead to asking about how you feel of the use of these tools and how they impact on you as an employer or employee. The interview should take approximately 45 minutes of your time but you may voluntarily extend this.

Please be aware that you may decide not to take part in the project without any disadvantage to yourself of any kind.

What Data or Information will be Collected and What Use will be Made of it?

The principal data collected in this project will be interviews. It will be used to examine your perception of competitive balance tools used and how you feel about these tools in relation to your employment rights of the employees and how the employers perceive collective bargaining.

Results of this project may be published and although data included will be confidential, some data may be linked to specific participants. The results of the project may be published and will be available in the University of Otago Library (Dunedin, New Zealand) but every attempt will be made to preserve your anonymity. The interview transcripts will be returned to you should you need to clarify your position. Results will be held in the Otago University Management Library for participants who are interested.

The data collected will be securely stored in such a way that only those mentioned below will be able to gain access to it. Data obtained as a result of the research will be retained for **at least 5 years** in secure storage. Any personal information held on the participants [*such as contact details, audio or video tapes, after they have been transcribed etc.*] may be destroyed at the completion of the research even though the data derived from the research will, in most cases, be kept for much longer or possibly indefinitely.

On the Consent Form you will be given options regarding your anonymity. Please be aware that should you wish we will make every attempt to preserve your anonymity. However, with your consent, there are some cases where it would be preferable to attribute contributions made to individual participants. It is absolutely up to you which of these options you prefer.

This project involves an open-questioning technique. The general line of questioning includes...How has the role of professionalism changed the playing of rugby? The precise nature of the questions which will be asked have not been determined in advance, but will depend on the way in which the interview develops. Consequently, although the University of Otago Human Ethics Committee is aware of the general areas to be explored in the interview, the Committee has not been able to review the precise questions to be used.

In the event that the line of questioning does develop in such a way that you feel hesitant or uncomfortable you are reminded of your right to decline to answer any particular question(s) and also that you may withdraw from the project at any stage without any disadvantage to yourself of any kind.

Can Participants Change their Mind and Withdraw from the Project?

You may withdraw from participation in the project at any time and without any disadvantage to yourself of any kind.

What if Participants have any Questions?

If you have any questions about our project, either now or in the future, please feel free to contact either:-

Philippa Shewan

or

Dr Alan Geare

Department of Management

Department of Management

027 6884509

+64 3 479 8127

pipshewan@gmail.com

alan.geare@otago.ac.nz

Please note:

This project involves an open-questioning technique where the precise nature of the questions which will be asked have not been determined in advance, but will depend on the way in which the interview develops. Consequently, although the Ethics Committee is aware of the general areas to be explored in the interview, the Committee has not been able to review the precise questions to be used.

In the event that the line of questioning does develop in such a way that you feel hesitant or uncomfortable you are reminded of your right to decline to answer any particular question(s) and also that you may withdraw from the project at any stage without any disadvantage to yourself of any kind.

This study has been approved by the University of Otago Human Ethics Committee. If you have any concerns about the ethical conduct of the research you may contact the Committee through the Human Ethics Committee Administrator (ph 03 479 8256). Any issues you raise will be treated in confidence and investigated and you will be informed of the outcome.

Appendix C: Participants

	Position	Teams participated in
Participant 1	Official	
Participant 2	Official	
Participant 3	Official	
Participant 4	Official	
Participant 5	Official	
Participant 6	Official	
Participant 7	Official	
Participant 8	Player	All Black, Super rugby, ITM cup
Participant 9	Player	All Black, Super rugby, ITM cup
Participant 10	Player	All Black, Super rugby, ITM cup
Participant 11	Player	ITM cup
Participant 12	Player	Super rugby, ITM cup
Participant 13	Player	ITM cup
Participant 14	Player	ITM cup
Participant 15	Player	Super rugby, ITM cup
Participant 16	Player	Super rugby, ITM cup
Participant 17	Player	ITM cup

Table 3.1: Participants' roles within New Zealand rugby.

Appendix D: Interview Schedule for officials

This interview is looking at NZ rugby from the perspectives of officials and players.

Questions:

Do you provide consent for your participation in this project (read consent form): yes/
no

You know you can pull out of this interview at any stage if you want...

If yes proceed

This interview is looking for information from you about NZ rugby and how it influences you.

Interview questions for Officials:

First we'll start off with some general questions:

- Can you describe your role in New Zealand rugby?
- Can you describe how NZ rugby operates in the professional era?
- What do you think are the key focus areas of NZ rugby?

- What are some of the big issues you face in NZ rugby?

Competitive balance tools questions:

- How do you think the Rugby Union organize NZ rugby in order for it to be successful?

- How does NZ rugby go about trying to ensure there is reasonable balance in competitions?

- How do these influence you?

- Looking at how the NZRU does this what are your views?

- What is your opinion about the use of these tools?

- Is there anything particularly good that comes to mind?
- Is there anything particularly bad that comes to mind?

- Overall on a scale of 1-5, 1 being not effective, 5 being very effective, can you rate how effective you believe these tools have been?

- How important is keeping a balanced competition to you?
- What are some of the biggest issues you face with the use of these tools?

Contracting in NZ rugby:

- Can you describe the process of contracting that occurs in NZ rugby?
- Can you talk a little bit more about the collective agreement, what does it involve?
- Can you highlight any important changes that have been made to the collective bargaining agreement over the past couple of years?
- What were the main reasons behind these changes?
- How have these changes impacted on you?
- How does the fact that players enter into a collective bargaining agreement affect you?
- How does it affect you in terms of achieving a balanced competition?
- What are some of the biggest issues you face with the collective bargaining agreement?
- Can you name any problems that you have encountered as an employer in the professional sports industry?
- Have you ever been an employer or worked in a different industry?
- Are there any differences?
- What factors do you think impact on the employment conditions of professional rugby players?

Appendix E: Interview schedule for employees

Interview for employees of NZ rugby:

Interview Schedule:

Do you mind if I record the interview?

This interview is looking at NZ rugby from the perspectives of officials and players.

Questions:

Do you provide consent for your participation in this project (read consent form): yes/
no

You know you can pull out of this interview at any stage if you want?

If yes proceed

This interview is looking for information from you about NZ rugby and how it influences you.

General Questions:

- What is your role as a rugby player in NZ (what teams are you involved in)?
- Who do you see as your employer?.
- How do you see the NZRU, what is its role?
- What do you think are the key focus areas of NZ rugby?

Competitive balance tools questions:

- How does the Rugby Union organize NZ rugby in order for it to be successful?
- How does NZ rugby go about trying to ensure there is reasonable balance in competitions?
- How do these influence you?
- What are some of the biggest issues you face?
- Looking at how the NZRU does this what are your views?
- What is your opinion about the use of these tools?
- Is there anything good that comes to mind?

- Is there anything bad that comes to mind?

- Overall on a scale of 1-5, 1 being not effective, 5 being very effective, can you rate how effective you believe these tools have been?

- How important is keeping a balanced competition to you?

Contracting in NZ rugby:

- Can you describe the process of contracting that occurs in NZ rugby?

- Why do you join the Players Association?

- Can you describe why you enter into collective bargaining?

- How does collective bargaining influence you?

- Are there any major changes during your time as a professional rugby player to the collective agreement that have impacted on your rights positively or negatively as a player?

- What are some of the biggest issues you face as an employee in the professional sports industry?

- Have you ever been an employee in another industry?

- Do you feel there are any differences between being an employee of a professional sport and an employee in other industries?

- Have you ever had any problems as an employee in NZ rugby?

That is the end of the interview but before we conclude, is there anything you would like to add that you think might contribute, or be beneficial to this study?