

“The Benefits of the Team Salary Cap in English Rugby League”

By Paul Harris¹.
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Introduction

In the sporting world, a salary cap is a global limitation on the amount permitted to be paid to the playing staff of a team, over a given time period. In the last edition of this Journal I wrote an article about the practical and legal difficulties that would be encountered by the introduction of a salary cap into the game of professional football in Europe in an effort to improve the ‘competitive balance’ between clubs. I made a rash introductory remark, however. I said that “...Salary caps would amount to a revolution in modern, mainstream, professional team sports in Europe...”. I humbly acknowledge that both codes of rugby in this country operate a salary cap, though it is fair to say that they have not done so for very long².

The purpose of this article is briefly to explore the benefits that have resulted from, or been connected with, the operation of the salary cap in English rugby league’s Super League. The reader will see that there are significant differences between the rationale for, and the implementation of, this salary cap and the sort of typical salary cap that might be introduced into the game of professional football that I discussed in my article in last month’s Journal.

The Super League’s Salary Cap Rules

There are two principal rules of the Super League with which we are concerned.

The first is that Super League clubs are allowed to spend up to 50% of their net income³ per year on player payments (that is, all types of payments to players, and associated payments, save ‘win bonus’ payments – see below), or £700,000, whichever is the greater⁴ (“the 50% rule”).

¹ The author gratefully acknowledges the assistance of Mr. David Woods of the Rugby Football League in the preparation of this article.

² Rugby union, for example, only voted in favour of a salary cap in 1999 and it has been implemented for the first time this season. As to rugby league, the history is set out in the text of this article.

³ As defined in the Rules.

⁴ Thus, £700k operates as a ‘floor’ to the ‘cap’. There is no absolute ‘ceiling’ to the ‘cap’ though a proposal to introduce one is mentioned herein. In practice, the floor is now meaningless since 50% of net income of all Super League clubs is greater than £700K.

The second is that each club is only permitted to pay 20 players more than £20,000 per season ("the 20/20 rule"). Any and all other players can only be paid up to £20,000 each (up to the 50% level).

For the sake of completeness I should mention two other relevant rules. First, there is a 'Prize Fund' that provides 'bonus' payments to players, which Fund operates wholly outside the scope of the cap. At the end of the season, the Fund is distributed amongst the clubs (for player bonus payments) in proportion to the league finishing position of the clubs during that season. This season, for example, £290,000 will go to the club finishing in first position and £15,000 will go to the club finishing bottom of the league.

Second, there is a proposal presently being mooted to introduce an absolute ceiling level to player payments, though it has not yet been implemented.

The Genesis of the Rules

In September 1997 there was a near unanimous vote amongst clubs⁵ and player representatives for the introduction of the 50% rule. The financial state of the game at that stage was parlous. Some clubs had gone bankrupt and many others were faced with an inability to pay player wages. Partly as a result of the introduction of News Corporation Ltd money in 1996, player wages had increased significantly and little financial discipline was being practised by many clubs. In the 1992-3 season, player wages across the League averaged 58.3% of the game's gross annual income compared to, for example, 33% in rugby league in Australia and 47% in English football. Evidence was compiled indicating that a cap, like the one now in force, could be used as part of a strategy to restructure and redevelop the game through stabilising and improving the clubs' financial positions.

The 50% rule has been in place now since 1.1.98, the present season being its third. The 20/20 rule was introduced at the beginning of this season.

A number of relevant points emerge from this potted history. First, there was approval for introduction of a cap from both sides of the game, that is, both clubs and players, notwithstanding the potentially direct financial impact on players. Second, the introduction of the cap was supported by reasoned, financial, and ultimately persuasive, evidence. Third, the cap was not initially introduced as a measure to 'level the playing field' or improve league-wide competitive balance. It was introduced for a far more profound reason, namely as part of a plan to save the game of rugby league from financial disaster. Fourth, the 20/20 rule, which does contribute to competitive balance is a very recent development, but does not operate to place a cap directly on players' wages. A club can have 20 very highly paid players (up to the 50% level), and some do.

Impact of the cap: general

It is fair to say that the 50% rule has been part of a renaissance in rugby league over the last 3 to 4 years. It is generally acknowledged to have contributed to a new financial discipline amongst clubs, amongst other things preventing wages spiraling out of control and dragging more clubs into the financial mire.

Importantly, under the 50% rule players have a vested interest in the financial performance of their club. If club net revenues increase by £1m in a season, it means that there is £500,000 more to pay the players. Unsurprisingly, with such an incentive, players have been keen to contribute to all aspects of their club's financial success. Directly, of course, that means that players are all the more keen to do well on the field, which increases the level of sporting competition – an obvious benefit for the game and a plus point for the 50% rule. Indirectly, other aspects of the game benefit too. Thus, it is in the interests of the players and the club to promote rugby league in the local

⁵ 33 out of 34 clubs voted in favour of the cap.

community through, for example, youth development and the attraction of whole families to games. Again, it is generally acknowledged that rugby league has significantly improved in these regards since the introduction of the 50% rule (though nobody suggests that there have not been other factors as well).

Notably, the more grass roots and community support for the game, the bigger the net income for the club and the bigger the players' wages, but, importantly, the more money there is also to develop other aspects of the club, and to do so in a financially secure environment.

Impact of the cap: competitive balance

The 50% rule has not, though, substantially contributed to the improvement of the competitive balance, largely because it is not really a salary 'cap' at all. The bigger, richer clubs can continue to spend more money on players than the smaller, poorer clubs, because of the difference in net incomes of the clubs. There is still a huge disparity between player wage bills. In the 1998 season, for example, wage bills ranged from £900,000 to £2,500,000 and there is a similar range in today's game.

The biggest impact of the 20/20 rule on competitive balance is in preventing the biggest, richest clubs 'hogging' large numbers of the best (most highly paid) players. Thus, the pool of best (most highly paid) players must now be shared a little more evenly between clubs. While competitive balance was part of the rationale for its introduction, the 20/20 rule is really in place as much for the good financial management of clubs. If a club cannot take on a huge staff of highly paid players, it is less likely to become insolvent and is more likely to have funds available for development of other aspects of the game.

It is worth noting, though, that the proposal to place an absolute ceiling on player wages could have a direct impact on competitive balance, depending on how it is implemented and at what level it is set (see my article in the last edition of this Journal).

Conclusions

The salary cap rules in the Super League do not suffer from the most legally pernicious aspects of other salary caps, not least of all because, at present, there is no real, direct 'cap' at all, in the sense of a ceiling on payments to individual players. Thus, the restraint of trade on an individual is less direct than under a ceiling-type cap.

Further, and closely related, the cap as it presently stands is not really focussed on improving competitive balance, but rather on strengthening the financial position of clubs and the league as a whole.

That said, the salary cap rules *are* restraints on trade and *are* anti-competitive, unless it can persuasively be argued that there would be no rugby league without them.

However, and importantly from the sport/competition lawyer's perspective, there are good, powerful reasons for having introduced the cap, which reasons are supported by evidence. Amongst other things, rugby league finances were in a mess and the introduction of the cap was supported by the players themselves. Notably, rugby league finances are not perfect now, and the continued across-the-board support for similar such measures is evidenced by the recent introduction of the 20/20 rule⁶. It is no surprise that support for the salary cap remains firmly in place. It has substantially contributed to the much healthier game that presently exists.

⁶ One wonders the degree to which similar arguments could be employed in favour of salary cap rules for the lower levels of English professional football which also suffer from acute financial difficulties.

Care should be taken, however. The proposal for an absolute ceiling on player wages raises restraint of trade and other competition law concerns in circumstances when there appears to be a fully functional and less restrictive, possibly reasonable, alternative, namely the present system. Further, a ceiling would have to be implemented against a background of much healthier club finances. Needless to say, it only takes one disgruntled player to mount a challenge.

Paul Harris⁷

⁷ Paul Harris is a practising barrister specialising in sports and sports competition law and can be contacted at Monckton Chambers on (tel) 020 7405 7211, (fax) 020 7405 2084 and (e-mail) pharris@monckton.com.