

March/April 2014

# Collective Bargaining League of Legends Article Series

By [Stephen D. Fisher](#)

While *League of Legends* (“LoL”) is not yet the most popular video game ever created, its prominence as a spectator sport is entering uncharted legal territory. As an emerging sport, LoL has the unique opportunity to learn from the history of other sports and their ongoing market innovations, legal battles, and collective bargaining. [See [The Rise of eSports](#) to read the first article in this series.]

However, the differences between eSports and more “mainstream” sports result in legal climates that are also quite distinct. This article outlines the bargaining opportunities available to the essential parties in the professional LoL community. It then compares the two primary bargaining alternatives, analyzing how the different paths have the potential to affect the sport and the legal relationships between the game’s creator, Riot Games, Inc. (“Riot”), the teams, and professional players.

## THE BARGAINING LANDSCAPE

Before discussing the bargaining options available to the parties in the LoL-eSports professional environment, it is important to understand the current circumstances surrounding the professional LoL league. Riot has already begun to blaze its own trail by structuring the *League of Legends Championship Series* (“LCS”) in a manner that deviates from other professional sports leagues, which are often owned and governed by the team owners and their representatives.

The owners therefore have a stake in both their individual teams and the league itself, and bargain collectively with representatives of all players.

Professional LoL, on the other hand, involves a third essential party: Riot. Unlike other professional sports franchises, LoL team owners do not have an ownership interest in the LCS. Riot also owns the game being played and therefore has heightened control over the game itself, including the creation of alternative competitive leagues. This level of control

provides Riot with a stronger bargaining position than the teams and players.

Riot has not abused this power, especially when compared with other sports. During the early years of many professional sports, leagues exercised extreme control over the players. Player contracts included reserve clauses, which gave teams the absolute right to re-sign players when their contracts expired. Players were not free to negotiate with other teams and had no leverage to either force a trade or increase their market value. These restrictions were so severe that the players in each sport formed a players association and aggressively pursued legal relief, alleging antitrust and other statutory violations.

The short history of LoL tells the opposite story: players frequently change teams, often moving to the highest bidder. LCS rules do not obstruct player mobility; they don’t cap the number of players that can be transferred or the manner of transfer (players can even be sold for cash). Additionally, there is no amateur player draft, allowing players to enter the market on their own terms and choose their employer. LCS rules also do little to protect competitive balance among teams – a hallmark of other professional league regulations. There is no salary cap to stop a team from outbidding all competitors to stack its lineup with five all-stars, and teams lack the protections enjoyed by other professional sports franchises, such as the opportunity to match offers or hold onto players for a season using the “franchise tag.”

This lack of regulation has pros and cons for both players and teams. Players are free to move around the market in search of the highest possible salary and the best personality fit, but they have very little job

March/April 2014

## Collective Bargaining: League of Legends Article Series

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security. Players can be fired in the middle of the season and are only entitled to a *pro rata* share of the minimum-required compensation (around \$450 per game played). As a result, the only significant protections for players come from the individual contracts signed with their teams.

### WHY BARGAIN COLLECTIVELY?

Players and teams have independent communities of interest – they face similar challenges and sign contracts with overlapping provisions. However, perspectives within the communities of teams and players sometimes diverge. Star players have the potential to negotiate for higher salaries and more flexible contracts; teams are similarly more likely to engage in additional negotiations with players that have a larger impact on team performance and sponsorship fee income. As a result, the bargaining model in other professional sports permits players and teams to create minimum standards for all contracts, while granting players the freedom to individually seek more advantageous provisions.

There is also the possibility that LoL players and teams can unite in bargaining with Riot.<sup>1</sup> Player and team interests overlap in many respects. Both groups sign agreements with Riot and participate in the LCS, yet lack the leverage necessary to affect the terms governing those relationships. There are also several areas where players and teams act in direct competition (the most obvious example being salary negotiations). Bearing this in mind, it will be crucial for players and teams to consider whether their interests are sufficiently aligned to bargain collectively as a single unit.

Collective bargaining allows players and teams, whether jointly or as separate entities, to present a united front, shielding them from individual backlash and increasing their bargaining power. When a single player or team challenges the status quo, the party implementing the policy (either Riot or a team) has the ability to simply ignore the request; this type of enforcement becomes less feasible when any combination of players and teams act together as a cohesive unit.

In [a recent Reddit post](#), star player Stephen “Snoopeh” Ellis recognized this value:

*I'm currently deliberating the formation of a player association to help standardize contracts and create transparency between players and teams. It would also help to provide power to the player which typically they lack in their current contracts between team owners and themselves. Comparing eSports contracts to sports contracts such as the NBA, NFL or MLB is genuinely laughable - even if they should really follow the same premise (of course the money is less significant, but principals the same).*

Ellis' comments are spot-on – all that remains is for the parties to recognize the benefits associated with collective bargaining and develop a system that meets the unique needs of the professional LoL community.

### WHAT WILL BE BARGAINED FOR?

In other sports, the two most prominent bargaining topics are (1) the minimum terms and conditions of employment; and (2) the means of allocating players and restricting their mobility. The subtopics within these two broad categories include sponsorship rights, revenue sharing, entry of amateur players (usually through a formal draft), trade rules, minimum and/or maximum salaries, disciplinary procedures, and a host of other issues. These subjects will be addressed more directly in the next installment of this LoL article series.

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<sup>1</sup> Though this article will discuss bargaining with Riot, it is important to note that Riot does not directly employ the players or legally interact with the teams. Instead, Riot created a separate company, known as the League of Legends Championship Series LLC, to promulgate LCS rules and sign contracts with the players and teams (Foster Pepper has not been able to confirm that teams sign independent agreements with Riot, but evidence strongly suggests that they do). Whether or not this LLC is merely a legal shell depends on a variety of factors, including the level of control Riot exercises over the entity, whether the LLC has independent employees, and if the LLC raises capital to function independently. Unfortunately, these facts are not publicly available. For the purposes of this article, references to Riot also include the LLC – one of these entities creates LCS rules, manages the league, and is therefore directly implicated by the bargaining opportunities discussed.

March/April 2014

## Collective Bargaining: League of Legends Article Series

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### BARGAINING OPTIONS

The unique needs of professional sports leagues – such as maintaining competitive balance and fostering cooperation among competitors – have given rise to atypical bargaining structures. Sports leagues have created a system of self-regulation, involving external legal systems only in extreme situations (though the threat of litigation has remained as an effective negotiation tool). LoL shares many of the traits that compel other sports to self-govern.

#### The Representative System

In the 1940s, baseball players united under a representative system. While its successes were limited, the representative system allowed players to seize more bargaining power in the transition period before the advent of the modern-day players association. This model could also be beneficial for the burgeoning eSports scene. In a representative system, each team elects a single player to act as a spokesperson for the players' interests. These representatives meet regularly to discuss and prioritize the collective needs of professional players. The representatives, backed by the collective weight of all players, can then relay key demands to team owners and league officials.

Baseball players achieved some major successes under the representative system, including the imposition of a minimum salary, the creation of the MLB pension plan, and the allocation of spring training allowances. Although these concessions were largely voluntary – the representatives had no formal say in the MLB's decision-making process – the creation of a formalized structure was a big improvement. It presented a strong, unified front on legal and economic issues and the representatives galvanized the MLB into instituting policies beneficial to the players.

LoL teams could benefit similarly. Most players are in their late teens and early 20s, rarely hire attorneys to review their agreements, and lack the benefits of a standard player contract. Other professional team sports use standard player contracts, primarily to define the minimum terms applicable to all players – an area that needs more consideration in the eSports environment. The representative system would allow players to come together to discuss issues, seek advice, and share ideas about how to improve player

contracts, sponsorship arrangements, and LCS regulations. This type of informal negotiation process has the potential to efficiently and peacefully settle disputes among the players, teams, and Riot.

The representative system also has some flaws. Non-binding negotiations will do little where the parties refuse to compromise. Without the legal and economic tools available in more formal collective bargaining, the players and teams would likely have to cede to Riot's decision-making. However, as was the case for MLB, implementation of a representative system could be a necessary first step toward more equitable negotiations.

#### Players Association

Players associations are a specific type of union formed within professional sports. Like other unions, players associations are governed by the National Labor Relations Act ("NLRA"), a federal statute that establishes the rights of many employees to organize into trade unions and engage in collective bargaining.

Once a players association is certified by the National Labor Relations Board, all matters related to wages, hours, or other terms or conditions of employment become mandatory subjects of bargaining. This imposes a duty on all parties to engage in good faith negotiations on these issues. Certification also requires the selection of a bargaining agent for all employees within the unit. When this agent is selected, individual players no longer have complete freedom to bargain on their own. Players are still permitted to negotiate individual salaries and provisions, but they cannot agree to contracts that are less advantageous than the agreement reached by the chosen bargaining agent.

There are several significant differences between the creation of a formal players association and the representative system. Players Associations allow players to directly participate in the decision-making process, rather than offering suggestions from the outside. Once a unionized bargaining relationship is created, employers (in this case, either the teams or Riot) are barred from engaging in unfair labor practices, which includes refusing to negotiate in good faith. Players therefore obtain a legal tool for compelling negotiations on the mandatory subjects of bargaining – league and/or team owners can no longer establish rules unilaterally and ignore player concerns.

March/April 2014

## Collective Bargaining: League of Legends Article Series

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Players associations are also more tightly organized; they typically have working funds, meet more frequently, and create bylaws to govern their internal decision-making. Finally, the creation of a unionized bargaining structure empowers both sides to use the economic weapons expressly permitted under the NLRA: the strike and lockout (though no-strike clauses can be negotiated into a collective bargaining agreement).

The formation of a LoL Players Association is significantly more complex than in other sports, primarily because three parties would need to be involved in the bargaining process. The players and teams sign two sets of contracts – one with each other and the other with Riot. The two primary bargaining topics within professional sports leagues are similarly split: player-team contracts govern the majority of the terms and conditions of employment, while the LCS rules and the contracts signed with Riot control the means of allocating players and restricting their mobility. This complexity would not prevent the three parties from engaging in formal collective bargaining; however, the precise structure and nature of the bargaining would need to be carefully considered.

Should the players and teams unite to collectively bargain with Riot? Does it make more sense for Riot to join the teams in bargaining against the players? Do separate bargaining relationships need to be created? The answers to these questions extend beyond the scope of this article, but are worth addressing.

### FINAL THOUGHTS ON BARGAINING

Steps toward improved bargaining practices within the eSports community appear both necessary and inevitable. As LoL continues to grow in prominence, so too will the economic significance of the LCS structure and the agreements signed by the players, teams, and Riot. While the current relationships between the parties appear far less strained than their historical counterparts in other sports, there is great value in proactively addressing bargaining issues in order to maintain positive working relationships with the ability to handle new, more complex challenges as they arise.

Improving the bargaining process also has the potential to benefit all parties involved in eSports – professional LoL can gain external legitimacy by

incorporating feedback from the players and teams and increasing transparency surrounding the legal relationships between the parties. Riot seems to recognize this value, and [recently released the contract lengths](#) of all LCS players.

Borrowing from the history of other sports, it will be critical for star players and popular teams to take the lead in establishing the representative system or collective bargaining, awakening public interest, and pushing for increased input in decision making. The most prominent teams and players have more secure positions, more clout, and more bargaining power that they could use to help develop an equitable, transparent, and long-lasting LCS.

There is little discernible downside to the players and/or teams unionizing or implementing the representative system. An equitable dynamic between players and owners is just another form of maintaining competitive balance and fostering cooperation among competitors. These negotiation structures support the ongoing success of other sports; the players, the teams, Riot, and the rest of the eSports world can achieve that success as well.

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