

# Employers' Stake in Union Neutrality

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It is understandable why unions turn to neutrality, card check, and other nonelection processes to gain recognition. The law simply no longer works to protect workers' right to join a union or gain access to collective bargaining. So unions are forced to work around the NLRB's election procedures. But why do some companies agree to card checks or otherwise limit their efforts to resist or avoid unionization? I will suggest a two-element equation to answer this question: power and value added by unionism.

## **Power: A Necessary but Not Sufficient Factor**

The first element in the equation is simple: companies accept unions when union power makes it too costly to resist. Douglas Fraser's famous response to GM's "southern strategy" in the 1970s captured the essence of this. Essentially he said, "GM has to decide—does it want to fight us in one or two places or have our cooperation in all its other plants" (Katz 1985). At the time GM was trying to launch a quality of working life initiative in its United Automobile Workers (UAW) plants and had to decide which strategy was more important to its future. The answer was simple since the UAW represented essentially 100 percent of GM's blue collar workforce. More broadly a survey done with the Conference Board in the 1970s showed that the cutoff between where a company would choose to put a higher priority on working with its unions to improve its relationship versus avoiding further organizing was a union density rate of about 40 percent in the firm (Kochan 1980).

Similarly, most of the examples discussed on this panel, as well as others such as the recent Service Employees International Union (SEIU) successful organizing drive of Houston janitors, relied on employer pressures from corporate and capital campaigns and coordinated pressures from other unions, such as the Teamsters, that control key points in a firm's supply chain or its product/service delivery process.

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Unfortunately, because of the deep-seated anti-union ideology found in American management, power is a necessary condition to gain employers' attention. If the costs of avoidance or escape by moving operations are not high, American management's first and preferred response is to resist or escape.

### **Union Value**

But power is only half of the equation. The other half is the value that unions can bring to a company, its workforce, and the economy once unionized. Let me use concrete cases to illustrate the importance of this factor, not just in gaining initial recognition but in sustaining management neutrality over time.

Consider Continental Airlines in the post-Frank Lorenzo period. After two failed efforts to compete in the airline industry by breaking its unions, cutting wages and benefits, and using bankruptcy protections, a new management team at Continental decided to work with its unions to restore trust with employees. By doing so Continental became one of the most successful airlines of the 1990s. Even in the tumultuous years since 9/11, Continental has come closer to being profitable and has maintained a more positive labor relations culture and greater employee support than any of its large network carrier competitors. As such it serves well not only Continental's employees and shareholders; it serves as a model that other firms need to learn from in order to restore trust.

The UAW was accepted by Toyota and GM at New United Motor Manufacturing, Inc. (NUMMI) in 1982 and then worked with NUMMI management to transform that plant's labor-management relations to become a world-class model for productivity, quality, and labor relations. The parties have been able to sustain and evolve this model for more than two decades in the NUMMI plant. What the UAW failed to do, however, was to convince Toyota that the same results were possible when it opened its assembly plant in Georgetown, Kentucky. Here again, the lack of power (there was no GM in the background and no existing union to contend with in the new operations) limited the UAW's ability to convince Toyota to remain neutral. Now, twenty years later, we are witnessing the cataclysmic consequences of the failure to organize this segment of the industry.

The decision by GM and the UAW to form the Saturn Corporation serves as another example of the combination of power (lack of an alternative to working with the UAW) and the potential of adding value by demonstrating that a creative labor-management partnership and business model could produce and market a small car successfully in the United States. The early successes of Saturn demonstrated the potential of this approach. Unfortunately,

neither UAW national leaders nor GM executives chose to build on the early successes and instead starved Saturn of the capital and new products needed to grow the business and sustain the value-added partnership. Again, the result has been cataclysmic for Saturn, GM, the UAW, the workforce, the surrounding community, and the industry (Rubinstein and Kochan 2001).

A more recent example is the experience of Kaiser Permanente and the Coalition of Kaiser Permanente Unions (CKPU) (Eaton, Kochan, and McKersie 2002). Kaiser had a long history of working with unions, starting right at the birth of the company as a health care provider for Kaiser's steelworkers in the 1930s. Over the years Kaiser had positive labor relations but in the late 1980s and early 1990s relations turned very adversarial in the wake of increased competition in the health care industry. In 1995 the unions representing Kaiser came together under the auspices of the AFL-CIO's Industrial Union Department to counter Kaiser's adversarial approach. Once again, a dialogue at the highest levels of the company and the unions occurred over whether the parties wanted to go to war with each other or whether a better approach could be fashioned. At that time nearly 70 percent Kaiser's nonmanagerial workers were unionized. Out of these discussions emerged a labor-management partnership that has now passed its first decade and has negotiated two highly innovative national contracts. Moreover, the parties are hard at work transforming the delivery of health care. Partnership is now accepted at the top of the organization as the way Kaiser will do business. The challenge, however, is to spread this view throughout the ranks of all Kaiser managers, physicians, union leaders, and frontline employees. Doing so is a necessary condition for sustaining not just the partnership but also neutrality when Kaiser expands operations, especially in areas such as Georgia or other regions where hostility to unions is so deeply embedded in the business culture.

The building trades provide another example of both the costs of sustained management opposition and the potential unions have for adding value, in this case by serving to build and supply the human capital industry needs today. After years of fighting (indeed destroying) unions in construction the Construction Industry Roundtable (the very organization that gave birth to the Business Roundtable, which is responsible for creating the now large non-union industrial construction industry) has recognized there is a shortage of skilled construction workers and that it once again needs to work with construction unions (Erlach and Grabelsky 2005).

Thus, there are two fronts on which unions need to work to neutralize management opposition to organizing. In the initial instance they need to have sufficient power to make it costly for firms to resist. But unions can also add value by working with employers and the workforce to improve quality

and productivity, reduce turnover, and enhance workforce skills. Both fronts are essential to *sustaining* management neutrality and support over time.

### **Implications for Union Strategies**

Can unions do more on the value added front? Clearly the above examples at Kaiser, NUMMI, Continental, Saturn, and the construction industry demonstrate what can be done to expand the frontiers of collective bargaining in value-added ways. But I believe this is just the beginning of what unions can do. If unions begin to think about recruiting and organizing workers regardless of whether they have gained exclusive recognition or majority status normally required to gain exclusive recognition and bargaining rights, I believe other opportunities could be developed. Indeed, in other writing I have argued that taking this step is essential to rebuilding unions and restoring worker voice (Kochan 2005). The lesson here is that knowledge, skills, and productive workers are a source of power for unions. Investing in skill building and lifelong education is a potential lever for gaining employer support, even perhaps outside of collective bargaining. To do so unions will need to make sure union membership travels with employees to wherever they work.

Unions can also be the providers of health insurance, portable pensions, and other benefits that mobile workers need on a lifelong basis. Family memberships are another possibility, one I understand is being explored by SEIU in Houston. These are all ways that unions can work on the value-added side of the equation.

No one should be naïve enough to believe that working on the value-added side of the equation can stand alone in the absence of union power to raise the costs of avoidance. Both are important. But union power alone will not sustain neutrality over time. I believe the future of union organizing depends on creative mixing of power and value-added strategies. To be more specific, let me make three predictions:

- Unions that do both well will grow.
- Unions that try one without the other will have fleeting successes at best.
- Unions that remain mired in the confines of a failed labor law will continue to shrink.

### **Public Policy Implications**

There are implications for public policy in all this as well. I have said before and will say again that America's longstanding inability to fix the demonstrated failures in labor law is nothing short of a national disgrace. Moreover, if the analysis presented here is correct, then efforts to weaken or

limit the ability of unions and firms to negotiate or follow a neutrality or card-check strategy will only lead to greater adversarialism and lower productivity and quality by closing off the value-added union option. This is bad for workers, bad for consumers, bad for firms, and, therefore, bad for our economy. It also diminishes freedom of choice of firms, unions, and employees, and therefore it is bad for our democracy. Thus, it would be a serious mistake for the NLRB to take away or restrict this option. One could only hope that should the NLRB act to restrict freedom of choice in this way, it might further strengthen the case for policy makers to reform labor law to not only endorse freedom to choose a neutral, card-check route but to also create positive opportunities and incentives for companies, unions, and employees to expand the array of strategies to add value to their workplaces and to the nation's human capital.

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