

Inquiry into the Reporting of Sports News and the Emergence of Digital Media

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Thankyou for the opportunity to contribute to this discussion. I have given the problem some consideration and listed my thoughts on it under subheadings drawn from the alphabetised Terms of Reference items.

a. The balance of commercial and public interests in the reporting and broadcasting of sports news;

If there is to be government intervention of any kind in this area it needs to be based on a clearly articulated point of public interest.

In order for a claim of public interest to be made, a clear definition of public interest needs to be established.

The Press Council offers the following definition in its Statement of Principles
<http://www.presscouncil.org.au/pcsite/complaints/sop.html1>:

“involving a matter capable of affecting the people at large so they might be legitimately interested in, or concerned about, what is going on, or what may happen to them or to others.”

Before accepting this definition on faith, it is important to remember that the Press Council is the representative body of Australia’s major print media companies and that its definition serves their interests. Other definitions based more on common social good also exist, such as the ones used in the Government’s privacy legislation and guidelines.

My concern about the definition of public interest used in this case rests on the malleability of public curiosity where mass media is concerned. If there is money to be made from advertising within a sports broadcast, the media organisation involved is capable of manufacturing public curiosity. The curiosity suddenly created around Grand Prix racing in Australia is a prime example of this. It is important not to confuse manufactured public curiosity with public interest.

Looking at point (a), it is possible to split the issue neatly into two and to claim that there is public interest in preserving the freedom of the press in relation to sports reporting, and there is commercial interest (that is equally deserving of protection) in sports broadcasting.

This is the point we start at, and maintaining this status quo in the face of emerging technologies would require the creation of clear categories of coverage. These could distinguish text, voice, recorded sound, recorded game or race footage, still images and video commentary. Lines could be drawn around game-in-progress coverage, and game-over coverage. Some of these forms would be tagged as sports broadcasting and some as sports reporting and different rules would apply to them. Government could protect the rights of the sports reporters and the sporting organisations would protect the rights of their clients, the sports broadcasters.

This is a simple and practical solution, but it will not settle the issue for good.

The problem is that this is a battle between three enraged and wounded bulls, all claiming sweetly to have the public interest at heart.

The bulls are:

1. The international sporting organisations who, in the face of global recession are fighting to keep revenues up. They are likely to be self serving and any claim they make to be “custodians of the game on behalf of the people” need to be questioned and verified. Likewise their claims that they trickle funding down the lower levels of sport need to be empirically established before being taken on face value.
2. The broadcasters who are fighting each other for shrinking audiences and shrivelling pools of advertisers.
3. The online and print media who are also in financial pain, clawing for audiences and the advertising dollars that the eyeballs bring with them.

At this point is it worth mentioning the public goods associated with decisions about sports reporting and broadcasting. These include:

1. Public health: Exercise is a good thing and if watching sport encourages people to play sport then it is important to get as many people watching sport as possible. I am not familiar with much of the research in this field but, from what I have seen, I am far from convinced that watching AFL and cricket makes anyone healthier. It would be reasonable for the Senate Inquiry to call for peer-reviewed evidence to support this claim.
2. Media Freedom: In principle should be protected, limitation of media freedom is a dangerous precedent, and journalism is going through a difficult enough time right now.
3. Media Funding: If facilitating free access for sports reporters frees up newsroom funds that are then spent on quality journalism then a public good is served. If protecting the rights of TV stations that broadcast sport enriches those organisations and the funds raised are used to support quality journalism, then again a public good is served. These funds could equally well be used to support grassroots level sports, but the point is fiscal accountability, rather than just sweet words.
4. The health of the economy: If the flow of money from citizens to retailers/advertisers to sports broadcasters to sporting organisations makes a significant contribution to Australia’s economic health then perhaps this is an argument for supporting the status quo.

In considering the public good in relation to these issues, it is important to contemplate alternative scenarios that may arise if the status quo breaks, as it may do given the pressure being applied by all stakeholders, in the face of shrinking pools of disposable income in the pockets of sports fans.

In order to get to this point, I posit that interest in sport is sufficiently deeply embedded in the Australian psyche that it does not need constant fuelling by mass media marketing. It is possible that if there was no mass media urging about which game is ‘the game’ to watch this weekend that Australians would watch games regardless. The difference is that many people would watch live games in their home states or neighbourhoods, rather than all partaking in a monoculture and all watching the same broadcast game.

In the way that commercial coverage of the AFL killed off interest in the West Australian Football League (WAFL), it is possible that reduced interest in the AFL may lead to a resurgence of interest in the WAFL. My question is: Which leads to better outcomes in terms of community participation in sports and the associated

public health and economic outcomes? While national broadcasting works best for businesses that advertise on television, are small local businesses that sponsor local neighbourhood teams better served if local games are better attended? I suspect that these local community-level effects have not been measured in the research to date, and that data measuring AFL audiences and claiming that the figures mean more people watch football have not taken state-level audience losses, or general population growth into account.

Another effect of the congregating of media audiences around blockbuster broadcast games has been a reduction of the variety of sports the Australian public sees, a breakdown of this status quo may see new, more niched or hyper-local media focussing more intently on covering the range of sports available in their own localities (such as ice-hockey, wheelchair basketball, lawn bowls and water polo). This shift, which is facilitated by new narrowcast technologies, may increase coverage of a wider range of sports with the potential to inspire a wider range of participants than the sports we currently see that are played by super-fit young male sport stars, who we can admire, but many of us don't dare emulate.

b. The nature of sports news reporting in the digital age, and the effect of new technologies (including video streaming on the Internet, archived photo galleries and mobile devices) on the nature of sports news reporting;

While communication technology is getting faster and crisper all the time and the distinctions are blurring between print, TV, radio and online media delivery, the future of sports coverage still involves the basic ingredients of sound, image and text. With the sophistication of audience tracking technology also advancing there is no technological reason why distinctions can't be made about when and by who voice, recorded sound, recorded game or race footage, still images and video commentary can be published, broadcast, or webcast.

That said, news is, by its nature, competitive. News organisations will always race each other to a scoop. Imposing bans on when the results of a game can be announced (mid-game, end-game, or post-broadcast) is not actually going to harm the public in any way. But news organisations will squeal if the matter is handled in a way that favours one organisation over another. If they all have to play by the same rules then I don't see why there is a problem. They are accustomed to obeying rules with court reporting and rules could be obeyed in this field as well.

They will grumble, however, and call the issue "infringement of freedom of the press" and if this is what it was then it would be of concern. But, if it is more akin to bans commonly in place with relation to the intellectual property of theatre and performance art, then as long as the playing field is flat I see no potential harm or need for government intervention, over and above assistance with drafting the guidelines and any protection of company rights that falls within the gambit of the ACCC.

c. Whether and why sporting organisations want digital reporting of sports regulated, and what should be protected by such regulation;

Sporting organisations are likely to want to limit the rights of non-paying news organisations who are using new digital technology to get as close as they can to broadcasting for free. While it is natural for news-hungry reporters to want to do this, it is also commercial good sense for sporting organisations to want to protect the exclusivity they have sold to their broadcast partners. To fail to do so would seem commercially irresponsible and it may even be in breach of the director's duties as outlined in the Corporations Act (2001).

d. The appropriate balance between sporting and media organisations' respective commercial interests in the issue;

My key concern here is with the perception that this may be seen to be an infringement of the freedom of the press, and the adverse effects that this may have as a precedent on vaguely-imagined future scenarios.

As I have said, I don't see any great public harm in delaying the release of sports results until post-broadcast.

Banning sports reportage of broadcast games entirely would be a foolish move on the part of sports organisations as they would be losing a source of free advertising but, on the off-chance that they did, the column inches would quickly be filled with articles about other sports, quite possibly more varied and local sports that would perform better as enticements to exercise. As the public attention span on sports matters is fairly short, and as Australia has a huge range of newsworthy sports and sportspeople, I doubt that public rage would be significant or sustained.

e. The appropriate balance between regulation and commercial negotiation in ensuring that competing organisations get fair access to sporting events for reporting purposes;

The key word here is 'competing'. If one organisation is paying and another is not then they are not even playing on the same field. If there is continued disagreement about these issues then it is appropriate that there are clear definitions drawn up outlining the rights of broadcasters (who have paid for exclusivity) and of reporters who have not.

f. The appropriate balance between the public's right to access alternative sources of information using new types of digital media, and the rights of sporting organisations to control or limit access to ensure a fair commercial return or for other reasons;

My concern is not so much for the public's right to use their iPhones to watch games, as their right to see games that are being played in stadiums built with public funds. If matches become pay-per-view events then the public amenity of the stadiums is reduced, especially if all the public can see/hear about those games is the limited array of options categorised as sports reporting (as opposed to sports broadcasting).

If exclusive- broadcast games are being played in stadiums built with public funds then perhaps the relevant government should be allocated a certain number of media-rights credits that the ABC and SBS could use to partially-broadcast or report on the game.

g. Should sporting organisations be able to apply frequency limitations to news reports in the digital media;

If this enables them to sell exclusive broadcast rights then Yes. They clearly can't both sell the rights and give them away.

h. The current accreditation processes for journalists and media representatives at sporting events, and the use of accreditation for controlling reporting on events; and

I am not familiar with the fine details of the current accreditation system and so I'll refrain from commenting on this point.

i. Options other than regulation or commercial negotiation (such as industry guidelines for sports and news agencies in sports reporting, dispute resolution mechanisms and codes of practice) to manage sports news to balance commercial interests and public interests.

I recommend government support and encouragement in the development of industry guidelines/codes of

practice and then leaving the matter to the broadcasters, sporting organisations and other media companies to negotiate their commercial terms.

The exception to this would be where issues of competition, cartel behaviour or breaches of corporate responsibility come into play that are already covered by Federal laws managed by bodies such as ASIC and ACCC.