

**AFP's Submission to the Australian Senate Standing Committee on Environment,
Communications and the Arts for its Inquiry Into
The Reporting of Sports News and the Emergence of Digital Media**

In this submission, Agence France-Presse (AFP) will argue that it is severely counter to the public interest for governing bodies to use the advent of digital technology as a pretext to restrict independent news reporting of sports events in an attempt to boost commercial profitability for organisers

AFP's submission comes in two parts:

Part 1: The Facts and Arguments: A six (6) page Summary that starts on Page 3 of the document sets out all the issues at stake and outlines our arguments and views on each of them, before drawing a conclusion. The subsections of the summary are:

- Sports and the Media – The Big Picture **(Page 3)**
- The History of Sports Reporting **(Page 3)**
- A Real Threat to Independent Sports News Coverage **(Page 4)**
- Why Are Sports Bodies seeking to Restrict Coverage? **(Page 5)**
- The Public Interest **(Page 6)**
- Conclusions and requested Action **(Page 8)**

The section begins on Page 1 with a brief explanation of what AFP is and how international wire services operate.

Part 2: Appendix: Terms of Reference: (pages 9-19) This section tackles, **point by point**, all the terms of reference of the inquiry and provides greater detail about the important issues and arguments raised in the Summary. To assist members in navigating their way through Part 2, here is a brief index:

- a. The balance of commercial and public interests in the reporting and broadcasting of sports news: **(See Page 9)**
- 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: **(See Page 10)**
- c. Whether and why sporting organisations want digital reporting of sports regulated, and what should be protected by such regulation: **(See Page 12)**
- d. The appropriate balance between sporting and media organisations' respective commercial interests in the issue: **(See Page 13)**
- e. The appropriate balance between regulation and commercial negotiation in ensuring that competing organisations get fair access to sporting events for reporting purposes: **(See Page 16)**
- 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: **(See Page 17)**
- g. Should sporting organisations be able to apply frequency limitations to news reports in the digital media: **(See Page 18)**
- h. The current accreditation processes for journalists and media representatives at sporting events, and the use of accreditation for controlling reporting on events: **(See Page 19)**
- 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. **(See Page 19)**

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Agence France-Presse (AFP) would like to thank Senator McEwen and the Standing Committee for offering us this very important opportunity to air our position and views on sports news coverage in the age of digital media technology.

PART 1: The Facts and Arguments

1. AFP – History and Background

AFP, the oldest of the world's three major international news agencies, was founded in Paris in 1835 and became an autonomous organisation under French law in 1957. The law protects AFP's independence, defends the basic principles of press freedom and gives it a similar status to that of the British Broadcasting Corporation in that AFP is not a listed corporation able to raise capital, but our editorial independence is guaranteed by our status.

AFP employs more than 1,400 journalists and has a vast network of bureaus in 165 countries on six continents, operating from major news hubs such as Washington, London, Baghdad, Kabul and Sydney. But to assure regular and in-depth coverage of all types of news across the globe, we also maintain bureaus in remote places that infrequently feature on the front pages; including Sofia, Noumea, Baku in Azerbaijan, Addis Ababa, Kigali, Luanda and San Jose in Costa Rica.

AFP is bound under its charter to conduct its business in strict adherence with three fundamental principles: not to compromise the accuracy or objectivity of the news, to provide a service that is accurate and reliable and to maintain a global network of bureaus to ensure the broadest possible coverage.

2. The Role of International News Agencies

International news agencies play a crucial role in bringing an array of overseas news across all topics to tens of millions of people worldwide. We provide the core of much of the foreign news coverage published by media across on all platforms; including newspapers, press agencies, radio and television stations, magazines, news websites and mobile news services.

Our coverage includes political and diplomatic news, economics, social trends, disasters, entertainment as well as sport.

The role of agencies has always been to allow publishers who are unable to send staff on overseas assignments to offer their audiences balanced and impartial coverage of events of public interest taking place around the world. We offer independent, impartial and credible accounts and commentary on public domain events for readers who are too far away to attend themselves.

The freedom to report freely to the broadest possible audience without fear of outside influence or restrictions is therefore at the very core of AFP's reason for being.

AFP's teams around the world create text stories, photographs, videos and graphics across a full range of areas of public interest. That material is then distributed to clients globally, usually on the basis of a monthly subscription, for use in printed and broadcast media as well as on digital media. Ordinary news consumers, especially younger people, increasingly rely on the Internet and mobile devices as their primary means of accessing the news.

Some news publishers choose to use a combination of news agency content, such as text articles, photos and videos, while others may use only one type of content to tell a story. For instance, a newspaper or website may choose to tell a story in pictures alone, using our ample caption information to complement the action in a powerful picture. This has been true since the birth of photography.

AFP's thousands of clients include such well known names such as the New York Times, News Limited publications, Fairfax Media, the Times of London and its website, the Australian Associated Press, Dow Jones Newswires, Time Magazine, the Economist and the BBC and its affiliated web service. But our clientele also includes many much smaller media companies that do not generally have the resources to gather foreign news. We allow even small publishers to inform their readers of important events that are taking place thousands of kilometres away.

It is important to note that sports is only one element, albeit an important one, of AFP's rounded global news coverage and that most clients receive a mix of content.

As strictly independent and neutral news organisations, press agencies must therefore approach the coverage and distribution of all news, sports-related or otherwise, in the same even-handed way for all clients and across all media platforms.

When countries win major sporting events it is often with the aim of maximising the audience to help business, inward investment and tourism. Without international news agencies, the audience for that event is hugely limited and so is the ability of a city such as Melbourne to project its image across the world when hosting a major event such as the Formula One Grand Prix.

3. SUMMARY: The Issues and Arguments Before This Inquiry

Sports and Media: The Big Picture

Sports and the news industry have been inextricably linked for at least 150 years. It is unimaginable that a major match would not enjoy widespread news coverage, while it would be equally unthinkable for a general news service not to carry sports reports, commentary and images.

Imagine, for instance, if Australian media and fans were for some reason unable to receive full coverage of this year's Ashes in England – it would spark national outrage. If international news' agencies could not cover Cadel Evans' cycling triumphs abroad, Australian fans would find it tough to follow their hero's progress.

Sports events have traditionally drawn those fans able to make it to the ground, while news coverage has always offered the sport a far wider audience and helped build the excitement, anticipation and the group identity that makes sports such a powerful driving force in most societies.

Sports are much more than just a commercial venture for organisers. In most countries, they are fundamental cultural phenomena, transcending politics and the economy and clearly outranking individual commercial interests. Sports events are by their very nature public, especially in a country such as Australia where they are intrinsic to the very fabric of society and to national identity.

We need only to look as far as the relationship between the public and their national football (or rugby) team: It plays out almost like a soap opera that is driven by content provided by news media.

If sports events are public domain cultural events of national and international interest, then the media has a duty to report them for the benefit of the general public and the public has the right to receive those photos and stories via whatever generally-available platform they see fit.

The History of Sports Reporting

News media – newspapers and agencies at first, followed by broadcasters and later Internet and mobile news portals -- have been instrumental in building the profiles and followings of most modern sports and events. The international agencies have helped give sports such as football, cricket, tennis, basketball and golf a truly global and constantly evolving fan base.

When the first Ashes series was played in Australia in 1882 after the publication in a British sports newspaper of a satirical obituary of English cricket, fans in England were able to follow the series solely through news reports. The excitement and tension conveyed by the news coverage helped build the sport's allure around the Commonwealth.

Without coverage of Australia's earlier Test defeat of England in London -- which led to the obituary -- and without press reports of the inaugural Ashes that followed, it is doubtful that the series – or indeed cricket – would enjoy the following and profile that they do today.

Likewise, international news and photo coverage of cricket in the 1930s helped propel Don Bradman to cricketing stardom during the dark days of the Great Depression, putting the spotlight on Australian cricket. Would The Don have become the inspiration of a nation if only a small and elite group of readers had been able to receive news of his winning exploits?

A Real Threat to Independent Sports News Coverage

After a century and a half of mutually-beneficial coexistence between media and sports, some governing bodies – including several in Australia where the trend appears to have started -- have recently sought to impose unprecedented and increasingly invasive restrictions on the way news media can report matches and disseminate the news.

These multiplying restrictions have been gradually introduced into accreditation agreements that press photographers, journalists and videographers must enter into to gain access to a sports venue and report the news.

Because of the nature of their business and their large range of clients, international news agencies such as AFP have been particularly targeted by this push to artificially limit, for short-term commercial gain, how much sports coverage – particularly photos -- the general public is allowed to access via digital platforms and magazines.

The Restrictions

Cricket Australia, for instance, has sought to artificially restrict the number of photos or stories that can be sent to Internet publishers from a game, to block mobile news distribution and to prevent certain websites from receiving any Australian cricket news altogether. Cricket bodies in Australia and abroad have even launched accreditation negotiations by demanding that media simply cede their intellectual property rights to the material they create at matches to governing bodies.

Some organisers have sought to impose an arbitrary expiry date on news, claiming, that certain photos and stories stop being newsworthy after a certain period of time simply because they are sports-related. This would mean that if a famous athlete died, news agencies would not be able to send publications a photo of the seminal moment of his or her career along with their obituary, leaving some people to wonder what exactly made the sportsman great.

Many have tried to restrict the flow of news created by agencies to mobile devices or have targeted the use of our material in magazines or books. The AFL in Australia has gone so far as to shut agency photographers out of events altogether.

Several sports bodies have sought to impose additional unprecedented conditions, such as barring media from producing any material that could bring a game into disrepute, a measure that could amount to censorship.

The Effects

The result has been that news agencies have been effectively locked out of some important tournaments as they have not been able to accept conditions that threaten fundamental press freedoms and run counter to the public interest.

International news agencies were unable to cover the 2008-09 Australia cricket season for fans in other parts of the world as we were unable to sign up to conditions that we believe would have compromised our basic principles, notably allowing event organisers to pre-screen lists of all our global web clients and to veto any that they deemed unfit to receive cricket news.

Full and unfettered news media access to public domain events, including sports events, is also crucial in the event that a game is eclipsed by another, bigger, news story, such as a disaster. Stadiums filled with tens of thousands of people have on several occasions been the site of fires or deadly human stampedes, the full horror of which was reported by news media covering the match, leading to changes in regulation and boosted security features.

Some sports bodies, in Australia and elsewhere, appear to believe that limiting independent and unbiased reporting of a major sporting event could increase the commercial value of an event and generate additional revenues. They claim that the development and growth of new media platforms such as the Internet and mobile devices has changed the paradigm of how news should be reported and made certain restrictions on news acceptable.

For example, because sports bodies believe they are entitled to exclusive access to digital media for their events, many have signed multi-million dollar sponsorship deals with companies such as mobile operators, under the terms of which no news of the sponsored event may be carried on any other mobile news service in the world. This prevents news agencies from including coverage of important sports events in news feeds that may go to clients using mobile platforms.

While news organisations such as AFP do not challenge sports bodies' rights to seal sponsorship deals to help finance costly events, we firmly believe that these commercial rights must be balanced against the public interest. News (text, photo or video, used either on their own or together) of important public

domain events must be made available to the public as a whole, and not just to a small group of subscribers to one particular mobile service.

Since the advent of digital media, many sports bodies suddenly see the media as competitors in the same field. They feel news media, and agencies, in particular are hijacking revenues generated by coverage that might otherwise be theirs.

Nothing could be further from the truth. In more than a century of working together, news media have never attempted to muscle in on an organising body's turf or genuine commercial interests. On the contrary, we have helped build sports and governing bodies' businesses through our faithful and credible text coverage and internationally-circulated photographs in which sponsors' logos are often captured in the background.

It is in fact sports organisers who have branched out into the media business by becoming publishers through their websites and other platforms. They have launched sideline publishing industries aimed at generating additional commercial revenues in an arena that has for centuries been the core business, the only business, of news media.

The AFL went so far as to exclude agency photo coverage and instead proposed that media buy images of games taken by its exclusive photographic contractor.

This would be unacceptable to AFP as it would mean replacing our independent, impartial and critical news coverage with material that could potentially be quietly subverted by vested interests and become little more than self-serving public relations material. This does a great disservice to the public, who expect and deserve unbiased news reporting, and ultimately also to the credibility of a sport.

Such restrictive moves go to the heart of the issues of press freedom and access to information of public interest, central planks of a liberal democratic society. It is crucial for democracy that the media be allowed to freely, independently and accurately cover public domain events without fear or favour, to act impartially as the eyes and ears of members of the public who cannot attend.

News media must also be able to cover an event without being hamstrung by arbitrary and artificial rules that hamper or prevent the free and quick flow of news.

The Public Interest

The public-interest role of the media is crucial to AFP. We have a duty to inform the public about sporting events as part our panoply of news. We take this function as stakeholders and guardians of public interest extremely seriously.

We report events across all topics of news whether or not the cost of coverage will be covered by any potential commercial revenues.

The Westminster parliamentary system recognises this need for independent reporting, guaranteeing media access, without reporting restrictions, to parliament to ensure the public receives a free, fair and accurate account of proceedings.

Once we start curtailing these basic freedoms, we risk damaging our system. It would be all the more abhorrent to do so in the name of commercial pursuits.

It is not good enough to use the thin pretext of the advent of new technologies to limit legitimate news reporting. Methods of delivering the news to the people have been evolving since before Gutenberg invented the printing press. Past landmark innovations, such as the telegraph, have never led to limitations on what constitutes news or to restrictions on how news can be reported and transmitted to the people.

The reality is that the digital media revolution has already made it extremely difficult, and in some cases impossible, to distinguish between traditional and digital media.

In recent weeks a number of respected daily newspapers in the United States, including the Christian Science Monitor, have ceased printing their papers altogether and are instead publishing them entirely on the Internet. It would be patently unreasonable and counter to the public interest if such a newspaper were to be forced to stop covering sports for its readers simply because it has altered its production medium.

The immediate danger for the Australian public from these creeping restrictions on sports reporting around the world is that fans may find they have far diminished access to news of Australian sports teams playing abroad.

This would occur if foreign governing bodies were to take the lead from organisations such as Cricket Australia and the Australian Football League who have effectively shut international news agencies out of events that are of huge public interest.

If, for instance, news agencies had not managed to acquire accreditation on reasonable terms for the March 2009 Australian cricket tour of South Africa, Australian media clients and their audiences would have found themselves with heavily reduced coverage of the tour, rather than the wide array of news agency photos and stories that they in fact received.

Australians living abroad have already been impacted by a lack of Australian cricket coverage due to organisers' insistence on imposing unprecedented new conditions on press agencies.

But the risk goes beyond the realm of sports coverage. If, as a democratic society, we accept that all event organisers should be allowed to dictate the terms of news coverage of their own event, then we potentially run the risk of undermining the basic principles of independent and impartial reporting in other areas of general coverage.

While AFP recognises the desire of sports governing bodies to run and regulate their events and to generate gate, sponsorship and other commercial revenues, we strongly believe that sports events – like major public speeches, conferences and protests - are events of public interest and should be fully open to public view and scrutiny. Fans should be able to access a range of news about their sports via all platforms available to the public.

The need to protect public access to sports news is all the more important as many major sports around the world are no longer broadcast live on free-to-air television – they are instead broadcast by cable operators who have paid for exclusive rights to the events that are available only to their subscribers.

The commercial interests of organisers and the right of the media to report freely and independently are not exclusive. A healthy balance between them has existed for decades.

Trusted and credible news media reporting adds value to games and events by generating publicity and public interest and therefore, indirectly, more revenues for the sport. News coverage is good for sports.

It is important not to allow restrictions imposed solely for short-term commercial gain to undermine both press freedoms and, ultimately, the integrity of the very sports that governing bodies would like to protect.

Conclusions and Requested Action

AFP believes this area of dispute between sports and media should be settled under existing laws. We do not believe that regulating news coverage or imposing artificial definitions of what constitutes news is in the public interest. Regulation of something as complex as news reporting is very difficult and could lead to unintended consequences.

We would however strongly urge the Standing Committee to recognise the news media's inalienable duty to freely report on newsworthy public domain events, including sports events, on all available media platforms, without being hampered by artificial restrictions on reporting. These restrictions include frequency limits on sports news updates, restrictions on photos and other content appearing on legitimate digital news media and the imposition of an artificial shelf-life on news content.

The erosion of the freedom to report news freely, which has evolved over generations, would be detrimental to society and we invite you and the wider political community to safeguard this into the future.

PART 2: APPENDIX

The Following is Detailed Response to Each of The Inquiry's Terms of reference

a. **'The balance of commercial and public interests in the reporting and broadcasting of sports news:**

Simply put, AFP was not created with the goal of generating revenues and profitability is still not the primary objective of our news operations. AFP's priorities are instead focused on gathering and transmitting accurate, impartial and balanced news to the global public, irrespective of the cost or commercial viability of coverage.

As a consequence, AFP has regularly covered loss-making sports events around the world if these have been of general public interest, irrespective of the cost to the agency or of whether we can recoup our investment in the coverage.

Such an example is coverage of the Cricket World Cup. In 2007, we devoted very significant financial resources and sent a large number of staff to this important event in the Caribbean even though there was no sufficiently big global market to help offset the cost of such an expensive operation.

But our photos and news stories were picked up by media in several countries, including Australia, where fans wanted to see how their team was faring. It is fair to say that the coverage of that event caused us a net financial loss, but our mission is to provide comprehensive news coverage to the world.

AFP does not charge existing clients any premium for providing standard coverage of sporting events. Instead we sometimes produce special additional products, such as animated graphics, to supplement the coverage of a few major events for clients who wish to take it.

Away from the sports arena, agencies maintain round the clock coverage of the world's hotspots, notably the wars in Iraq and Afghanistan, without receiving any additional fees for providing extremely costly coverage that comes at a significant risk to our photographers and reporters on the ground.

In order to keep our global clients who do not have their own correspondents in the war zones informed, we report on these crises whether or not the story happens to be making world headlines at the time. That is the essence of our duty as primary news gatherers and distributors.

Because of the extremely high cost of producing news material – especially during long sports events such as Test cricket -- the news agencies have never been a wildly profitable business model.

But the major international agencies have survived for more than a century because they provide an essential, balanced and non-partisan service to media organisations as well as to and their readers and audiences. This commitment is in itself a strong indication that AFP regards the quick, accurate and balanced reporting of global news, rather than commercial concerns, as its primary objective.

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;

The technology used for reporting and transmitting the news has evolved for centuries and news organisations -- especially news agencies -- have evolved with it in order to keep the public informed of events of general interest.

Carrier pigeons were replaced with the telegraph, the telegraph with telephones and the telex, the telex with computers. As these technologies have evolved, so necessarily has the way in which members of the public access the news.

The aim of news is to provide an independent and balanced account or commentary of events to the public as quickly as possible. News should be transmitted to the public as quickly as technology and human physiology will allow.

The evolving technology has however never changed the basic *modus operandi*, nor the rights and duties, of news reporters in informing the public. The advent of digital technology should not be the exception. To exclude digital media as a legitimate means of receiving certain types of news when millions of people around the world depend on such media as their primary source of news is absurd, unmanageable and undemocratic.

News Must be Platform Neutral

AFP's position on digital media is based on the neutrality of the network and the platforms that we use to transmit our content. In our opinion, AFP, international press agencies and newspapers, many of which rely on agency services, must have the freedom to bring fair and balanced news to the public by whatever means are accepted as the norms of modern communication.

Increasing media convergence is in any case erasing the line between Internet and mobile news delivery as they merge gradually into one, making distinctions between different platforms ineffective and problematic.

News agencies must be able to adapt to major technological changes if they are to fulfil their roles as chroniclers of the world we live in. Any curtailment of the freedom of the public to access all legitimate news content via whatever platform they see fit would erode one of the fundamental planks of democracy.

In our view, forbidding press agencies from publishing sports news on websites or mobile phone services or in particular publications is grossly prejudicial to sports fans and the public interest. So too would be restricting certain types of content, such as photographs, from being delivered to publishers simply because they depict sports matches rather than other public domain events.

The Worldwide Web and mobile wireless devices are simply more modern, but equally legitimate ways of distributing traditional news in a constantly changing environment. The freedom to use such new platforms has been recognised by major international sporting bodies (including the IOC) that have in the recent past accredited news agency staff to cover major world sporting events without imposing strict conditions on distribution on certain platforms.

The Internet and mobile devices are very widely used to disseminate news to audiences both in Australia and overseas, just as newspapers and broadcasts bring news to others. But digital media platforms are becoming increasingly popular as fans of news and sports -- especially younger generations -- adapt fast to evolving technologies.

It would be patently unfair to sports fans to deprive them of news, whether sporting or other news, simply because they choose to, or have to, receive their news via the Internet or a mobile device.

It is misguided to make a distinction between digital and traditional media platforms when examining the distribution of sporting news, or any other legitimate news content. Such an artificial and narrow view ignores the reality of digital convergence and its enhancement of legitimate, traditional news publishing. Most media around the world routinely publish news on several platforms simultaneously to reach the largest possible audience.

Neutrality of Content Types

It is AFP's strong view that news organisations must be free to report and transmit all types of news (text, photos, video, data) on any accepted medium or platform accessible by the public.

In addition, we firmly believe that all types of news content (text, photos, video, data) are equal and should be available to publishers for use either in combination with one another or as stand-alone features. The old maxim that a picture is worth a thousand words holds true: publishers, whether traditional or digital, have always told some stories using only photographs because the power of the pictures and the caption information conveys all necessary details.

Photo-journalists frequently produce photo features that are not accompanied by text, and reporters sometimes write stories that are not illustrated with pictures.

Web publishers increasingly use a selection of editorial pictures in photo galleries to depict the highlights of an event. This is akin to a newspaper publishing a spread of photos to give readers an overall visual impression of an event. Such photos galleries usually comprise a handful of photos and are not in any way aimed at recreating a game.

We cannot apply different rules to the way that news agencies report sports news to the way they report other types of news. Agencies and their clients do not make any such distinction and neither does the public – news is news. The same fundamental principles and rigour apply to all our reporting. It is unrealistic to expect publishers or their end users to begin making distinctions between the way sports and other legitimate news topics are covered or disseminated.

News Has No Set Life Cycle

AFP's end user agreements stipulate that all our content can only be used in a news context and we apply strict archiving restrictions to all the content we produce for electronic use, which prevents the non-editorial use of the news we create. A part of our standard service, we sometimes repeat photographs as file photos to the same clients to illustrate later stories on the same subject.

News is not just news on the day it happens. Readers and audiences have for decades recognised and relied upon the fact that a news cycle includes more than just a sports match. Agencies and other media have always run illustrated previews ahead of a major match as well as analyses or commentary pieces some time after it is over. This sometimes requires that news material is used again later to, for example, give context to an analysis of a sports season, to preview of the next match/season or to illustrate a dead sportsman's obituary. The life cycle of a story is much longer than the duration of a particular game.

It is therefore a mistake to attempt to define what constitutes news or to attempt to impose a shelf-life on it.

Fears that Photos Could Be Made Into Video content?

In order to satisfy the concerns of event organisers about creating blanket coverage of events that could one day simulate live play, AFP has previously agreed not to distribute text, data or photographs where such Text, Data or Photographs are or purport to be continuous ball-by-ball depictions or accounts of any match action.

We agreed to such restrictions on text and data transmissions in good faith, even though they disadvantaged the agency because non-accredited media are free to transmit ball-by-ball copy and data throughout every match from any off-site location.

AFP expressly forbids clients from running still photographs in quick succession to simulate video clips. This is out of respect for the broadcasting rights awarded to TV networks.

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

We believe it would be dangerous and counter to the public interest to attempt to impose regulation on a complex and highly skilled trade such as journalism or to artificially attempt to limit the way members of the public choose to receive the news.

Legitimate news accounts of events of public interest, including sporting competitions, should be freely available to the public, whatever platform modern readers may choose to use to access the news.

Basic principles of press freedom should never be jeopardised by sports bodies pursuing their own commercial interests

While the means of reporting and transmitting the news have undergone major evolutions in recent years with the advent of mobile technology and the Internet, it would be unprecedented and very much counter to the public interest to use those changes as a pretext to cut members of the public off sports news or prevent them from receiving it via a widely accepted platform.

We strongly believe that public interest is best served by media – including AFP and other news agencies -- being able to operate freely while covering sports in a balanced and accurate way, subject only to existing law.

Regulation is an artificial control and cannot possibly determine what is newsworthy and what is not, nor can it judge how much news about a particular event should be made available to the public. Those questions should be left to the skilled judgements that journalists are trained over years to make.

Since history has shown that media over-regulation has tended to stifle free expression and deprive the public of information it may have needed, we believe it is undesirable to regulate coverage of any aspect of the news.

d. 'The appropriate balance between sporting and media organisations' respective commercial interests:'

Sporting organisations' commercial interests are not challenged by the activities of an international news agency such as AFP.

On the contrary, agencies have for decades been instrumental in maximising the commercial potential of sports by offering them and their governing bodies far greater coverage and exposure than could otherwise have been achieved.

Media and sports organising bodies are in different businesses and bring different products and expertise to bear in pursuit of our businesses. Sporting organisations have the ability to sell tickets to a game, draw sponsorship, bestow official sponsor status, sell television broadcast rights and grant official status to various other products including books.

News media invest our editorial and news judgement in particular aspects of a sports match to highlight the seminal moments of any event.

We are simply pursuing decades-old accepted practices and do not seek to encroach on the genuine IP rights, the brand or the underlying commercial activities of event organisers.

News media have in fact helped build the capital of major sports for decades by rigorously providing the fodder that builds fan bases and therefore sports businesses: regular and reliable news and photos of all games, including at the grass-roots level.

Organisers always position advertising billboards in sports venues so as to ensure that photographers and cameramen from news agencies like AFP will inevitably have to record them for millions around the world to see. Although we are careful not to endorse products or brands, we make no effort to conceal or block out sponsor logos and advertising in our news photographs or videos.

We might therefore be forgiven for thinking that sports governing bodies actively seek out press agency coverage when sports are not particularly popular, but that when their businesses become profitable, organisers suddenly want to limit the scope of our independent news coverage.

Commercial considerations are increasingly being cited by sports governing bodies as a reason for limiting the exercise of journalistic and editorial freedoms in covering sports events, particularly when it comes to distributing sports news via the Internet or mobile or wireless devices.

Many sporting organisations appear to be moving into the publishing business and want to block off certain sectors – such as the Internet, mobile devices, books or magazines – for themselves, to maximise their own commercial gains.

Some now appear to feel that they should directly “manage” the media coverage of their sport events rather than leaving trained news professionals to freely cover events in an objective, unbiased way before transmitting them in all generally accepted formats.

As staging sports events requires a major financial investment, many organising bodies grant exclusive licenses – usually in return for huge fees -- to television, mobile or Internet companies, giving them rights to exclusively distribute the event on a live linear basis. Media simply seek to cover aspects of a game.

If carried to excess, this growing trend of carving out exclusive rights for some stakeholders will threaten the ability of news agencies and other non-rights holders to adequately cover certain newsworthy events of public interest.

For example, in 2006 a French national soccer selector gave the official mobile partner of the sport's organising body exclusive insider details of why certain players had been selected for France's World Cup team and why others had not. No mainstream news organisations or news agencies were privy to

what was major national news story. The story went exclusively to an elite group of 3G mobile subscribers, not to the public at large, sparking outrage among French fans

Some Australian sporting bodies have aggressively sought to protect their commercial interests, including deals with major sponsors, through accreditation agreements by attempting to:

- Bar news agencies from photographing events at all (the Australian football League)
- Unreasonably limit the number of photographs, stories or items of data that agencies can transmit from a particular match for use in legitimate general news and sports news, irrespective of the newsworthiness of an event
- Ban the transmission of sports photos, data or stories on mobile devices, even when such material would simply have formed part of a general bundle of news, sports, entertainment and other stories.
- To claim ownership of news media and news agencies' intellectual property rights to content they created at matches (Cricket Australia initially sought this in 2007 but later withdrew)
- Impose limits on free and fair reporting by including very vague terms barring doing anything that could bring the sport or organisers into disrepute, leaving doubts about whether one would contravene that clause by, for example, reporting on ball tampering
- Force news agencies to submit to a sports governing body a list of global Internet sites for pre-approval if they are to be allowed to receive coverage of cricket matches (Cricket Australia), a situation that could amount to organisers censoring coverage to certain websites.
- Impose an arbitrary and artificial expiry date on news content, notably photos, preventing future use for previews, analyses etc.

Others, including the Australian Rugby Union and Tennis Australia, have been pragmatic in working with news media to find a way to ensure press freedom and bring global publicity to their events without jeopardising the genuine commercial interests of the sporting body.

Where there have been points of potential conflict, we have been able to work through them and find mutually acceptable solutions using a mixture of common sense, realism and respect for each other's positions.

But focusing entirely on commercial interests and imposing strict limits on legitimate sports news coverage can have serious potential consequences on press freedom as well as on the public's freedom to access information about newsworthy events.

The creation and distribution by legitimate news agencies of photos, text, scores or data does not undermine the value of the sport event nor does it challenge the exclusivity organisers have granted to their media partner.

AFP and other agencies currently attend matches under well-established "News Access" principles in order to take pictures and report on the action for inclusion in their news feeds.

News agencies in no way seek to recreate an event in its totality, but instead aim to capture highlights of the game in text, photo or video, for fans who are unable to attend.

Television makes this distinction clearly by contrasting live broadcasts of entire games with clips of the best moments of the match that are shown in news bulletins.

For end users, ordinary people accessing the news, this distinction is essential as the transmission of highlights and live broadcast of the game correspond to very different needs.

Avid sports fans would probably prefer to watch a game live, while less keen punters would probably be satisfied with watching the highlights on TV or the Internet or seeing reports and photos in the media afterwards.

Sporting organisations can defend their brand or their sponsors' brands through existing legal remedies to counter any brand infringements or if they feel their intellectual property rights have been breached, but it is hard to imagine such a case in the course of agency coverage of sports.

No genuine damage to event organisers or their intellectual property rights has been reported in cases where governing bodies have granted media full and unfettered reporting rights, in fact the reality is quite the reverse.

While AFP's coverage of sport events is not primarily conducted with a view to creating commercial revenue streams, we do of course supply news by paid subscription to clients in order to satisfy the needs of our clients and their end users around the world.

Most of AFP's sports coverage is provided as part of our basic service to clients. Far from being a highly lucrative commercial venture, sports coverage is perhaps the most expensive and time-consuming topic we cover. We sent around 170 staff to Beijing for more than two weeks last year to offer world audiences full coverage of the Olympics. Even during a grave global crisis such as the one we now find ourselves in, AFP does not cut back on coverage even as the turbulence damages some newspapers and agencies.

But, of course, certain areas of global coverage, including a handful of sports events of exceptional interest such as the Olympics, some World Cups and the Tour de France, generate far greater and more widespread interest from clients than others, such as the cricket World Cup.

To ensure that we are financially able to maintain our overall service, we have to subsidise loss-making coverage by developing premium news products, such as interactive applications and animated graphics, for Internet and mobile clients around more popular events that demand a range of coverage options. These products always fully respect the event's trademarks and co-exist with organisers official products and websites.

Free and balanced news coverage, un-tainted by commercial concerns, is critical to ensuring that a public event or sports remains under public scrutiny which fosters transparency and tends to discourage the growth of undesirable, dishonest or illegal actions, such as on-field violence or cheating.

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

Commercial negotiations or financial benefit should never be allowed to replace the public's right to know. Ensuring that the broadest possible public audience has access to accurate, objective and credible news reports should always be the determining factor in deciding which organisations should get access to sporting events.

It is clearly desirable to have as many unbiased news sources as possible, representing a multitude of points of view, report on an event. It is highly undesirable to implement any measures that would limit access to a sports event or limit free and fair reporting once there.

If a wide range of media is not able to cover events and the public right to know is overshadowed by the commercial aspirations of event organisers, balanced coverage could be jeopardised. A decrease in scrutiny of any organisation leads to bad habits forming within it.

AFP's sports coverage is purely editorial and is aimed at keeping the public informed. Commercial or other considerations do not form part of the equation when our editors weigh whether we should cover any particular event.

We feel that AFP and its fellow international news agencies have a strong and proven track record of reporting sports events fairly and transparently.

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;

AFP strongly believes that the public has the right to choose which news sources they wish to draw on to inform themselves of national or world events.

They also have the right to choose the means through which they wish to receive all types of news and should not be blocked from viewing some types of news simply because they use newer technologies such as the Internet or mobile devices.

It should be noted that AFP and its fellow international news agencies are a very important news source in a number of countries where many people receive their news primarily via the Internet or on mobile devices. Changing technologies have made it crucial for AFP to offer its news material over multiple platforms to continue to the many serve readers/viewers who have adapted to technological advances.

All media platforms should be treated as equally valid means of communication as the public increasingly makes no distinction between them.

We do not believe that allowing news content gathered at sporting events to be transmitted on digital media would materially damage rights holders or their sports and recent history has proven that this has

not been the case. The International Olympic Committee last year allowed international agencies to report freely from Beijing across all platforms, including internet and mobile, with no damage being done to the Olympic brand, to rights holders or to the organisers of the world's biggest sporting event.

It is clear that the IOC, which has a stated commitment to press freedom, would not have granted media rights that damaged the commercial viability of its event. We believe that the key casualty of the attempts by some Australian sporting bodies to maximise their commercial revenues by limiting the media's capacity to report freely and fairly, and via any generally accepted media platform, will be the public's right to know.

Sports organisations want to control the way their event is portrayed and ensure that their intellectual property rights are not eroded. But banning coverage in order to avoid potential damage to purported IP rights, runs contrary to freedom of speech and press freedom.

While certain sports bodies may insist that their accreditation agreements do not seek to restrict or prevent normal journalistic activities, some of the terms and conditions that increasingly appear in such documents raise serious concerns about a whittling away of freedom of expression

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

Limiting the frequency with which journalists and photographers can send updates of a match or with which Internet or mobile providers can update their platforms with photos or stories is simply placing an artificial barrier in the way of free and balanced reporting.

The live broadcast of a sports event is the very core of the exclusivity of the event and is the reason why organisers wish to limit the potential for any clash of interests between non-rights holding media and their official broadcast partners.

But AFP believes that as long as the volume of images, copy or data does not amount to continuous commentary nor emulate broadcast video, that the material is created on the basis of expert news judgment, that there should be no frequency limits to the publication and transmission of still photographs. By limiting the number of photographs that can be published or transmitted, the event organisers are in effect censoring how much news can be reported.

News agencies also cannot agree to the imposition of unreasonable limitations in respect of the number of news articles that can be transmitted from a sports event or to embargoes on the date that news of the event can be transmitted if it means artificially delaying reporting of a real-time event. We believe the setting of artificial limits, however high, could lead to a gradual diminishing of our ability to report the news.

In addition, we do not believe that these limitations work in practice, especially for news agencies, whose clients on the other side of the globe will want to inform their audiences of breaking news as it happens not when event organisers dictate it is time.

Sports event organisers in Australia and abroad who have not sought to impose numerical restrictions on the frequency of updates of news material have told us that they suffered no harm.

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

Historically, the objective of accreditation terms and conditions was to ensure the security of athletes and spectators attending the event.

News agencies have however for decades abided by the terms and conditions set out in event organisers' accreditation documents and have accepted the imposition on any reasonable conditions on entry to a venue. Organisers have a right to protect their gate receipts and broadcast rights.

But sports event organisers are increasingly using these documents to restrict coverage and specify how the content created during the event should be treated by journalists and publishers.

We cannot agree to have journalists admitted to a venue only on condition that they agree to be told how to do their jobs or their work can be distributed, especially if these restrictions are only designed to protect organisers' new internal publishing businesses.

Our position is that, other than the extremely rare occasions when there may be clear security considerations, sports organisations should avoid imposing restrictions on the way press agencies and other media companies report an event or on the way in which they transmit the news from it. Again this goes back to the basic principles of press freedom.

i. 'Options other than regulation or commercial negotiation should be mandated to manage the balance between public interest and commercial interests when covering sports.'

AFP believes that this balance between public interest and commercial interests in covering sports should be managed under current laws. Any additional guidelines for managing this must first protect basic press freedoms, including the news media's right to access and report on public domain events without facing unreasonable and artificial limits on their reporting.

We believe that with a genuine will on both sides to find an agreement that protects the rights of organisers and the integrity of the news media, a mutually acceptable agreement can almost always be brokered.

We have managed to reach agreement with sports bodies in the vast majority of these debates around the world. Only in rare cases – unfortunately at least two of these were in Australia – have media been unable to seal a deal.

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