

## **Submission to the Senate Inquiry into the Reporting of Sports News and the Emergence of Digital Media**

### **Introduction**

The Australian Government provides support to National Sporting Organisations (NSOs) on an ongoing basis through the Australian Sports Commission. It is the responsibility of each NSO to determine priorities within its particular sport for the distribution of these funds for purposes including, but not limited to, national/international competition, training camps, coach and officials' development and national development programs.

One of the outcomes the Australian Government is seeking to achieve by investing in sport through the Australian Sports Commission is "*an effective national sports system that offers improved participation in quality sports activities by Australians*". In delivering this outcome, the Australian Sports Commission is working in partnership with key stakeholders in the Australian sports system to: develop strategies and programs to improve recruitment of new participants, better management of clubs, accreditation of sport coaches and officials, and access to quality sport for target population groups; negotiate strategic partnerships to increase involvement in grassroots sports; design, implement and manage funding and service level agreements with NSOs and state departments of sport and recreation; and, provide leadership in the promotion of the integrity of sport.

### **Review of Sport**

The Government's policy paper on sport, "*Australian Sport: emerging challenges, new directions*", released on 6 May 2008 sets out the vision for the future of Australian sport and commits the Government to reform the delivery of sporting programs, to minimise duplication, and maximise the benefits and effectiveness of available resources.

The policy identifies the need to support participation in local and community level activities in order to achieve the objectives of developing basic skills and healthy disciplines for children, contributing to better health and prevention of chronic disease across all segments of the community and promoting a more inclusive and engaged community.

An independent expert panel chaired by Mr David Crawford (the "Panel") has been appointed to review and make recommendations on the specific structures, programs and reform required to ensure the continuing robustness of the Australian sport system.

The Panel will pay particular attention to the most effective manner in which sport and physical activity can play a strong role in building a healthier Australia and forming part of the Commonwealth Government's preventative health agenda. The Panel will also assess the structure and capability of the Australian sports system as a whole, to achieve competitive advantage in delivering nationally desirable sport outcomes from social and community levels right through to the highest levels of elite performance.

Recommendations will be particularly directed towards the following Terms of Reference, noting that Term of Reference 5 relates to the issue being considered by the Senate Inquiry:

1. Ensure Australia's continued elite sporting success
2. Better place sport and physical activity as a key component of the Government's preventative health approach
3. Strengthen pathways from junior sport to grassroots community sport right through to elite and professional sport
4. Maintain Australia's cutting edge approach to sports science, research and technology
5. Identify opportunities to increase and diversify the funding base for sport through corporate sponsorship, media and any recommended reforms, such as enhancing the effectiveness of the Australian Sports Foundation.

**Inquiry Terms of Reference:**

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

The Australian Government ensures that Australians have access to free-to-air TV sport through the anti-siphoning scheme. The anti-siphoning scheme was established in 1994 to ensure that Australians continue to have access to key sporting events on free-to-air television and that these events are available to the whole viewing public by preventing pay TV licensees from acquiring exclusive rights to listed events.

For events that are not on the anti-siphoning list, free-to-air and pay TV broadcasters can purchase the rights to televise those events based on their individual commercial interests.

Broadcasters also need to work within the terms of their contracts with the owners of the relevant broadcast rights (e.g. sporting organisations).

There needs to be a balance between the commercial interests of sporting organisations and reasonable access to content for media outlets. An appropriate balance in the reporting and broadcasting of sports news would allow sports to develop independent revenues. This balance would generate much needed exposure for sports to both national and international markets and provide media organisations the freedom to access sports news and information.

**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 internet is a technology predicated on the free flow of information and ideas. Media companies and sports organisations have embraced this technology and the opportunities it provides for delivering on-demand replays, highlights and information services to consumers for a fee.

As digital technology delivers sports news reporting, the question of who owns the content and who can use it has arisen. Media and sports organisations are attempting both to maintain existing revenue streams and to open additional, potentially profitable, online channels to deliver content to the public.

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

The impact of the internet on sports news reporting is becoming increasingly apparent. Increased public access to the internet, and improvements in technology and delivery platforms, have provided additional opportunities for sports and media organisations to sell sport to customers. This has proven to be problematic for some sports organisations and has resulted in unresolved legal disputes over who owns specific footage.

Digital technologies can potentially have an impact on commercial value of content, as it is almost impossible to maintain the exclusivity of rights on the internet. Digital footage of sports events is able to be copied, shared between thousands of users nationally and internationally, and watched via numerous sites, including official competition sites, news media sites, and video-sharing social applications such as YouTube.

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

A balance is needed between sports ability to protect their commercial rights and generate funds to promote their sport, and reasonable access to content for news reporting for media outlets.

**e. 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;**

The issue of sport news reporting and the digital media for sporting organisations relates to a conflict between the laws relating to contract and copyright. Copyright law is intended to balance the private and the public interest. The challenge faced by sporting organisations is protecting commercial arrangements and sponsorship agreements in a

context where new technologies enable access to content and information via alternative sources.

Media outlets may argue for additional regulation or amendments to the anti-siphoning provisions for sport within the Broadcasting Services Act 1992, in order to bring existing legislation inline with rapidly developing broadcasting technologies. However, any further intervention also needs to be appropriate to the market and the respective needs of those impacted, including sport.

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

Historically, broadcasters have had an arrangement that allows them to take excerpts from each other's broadcasts. This reciprocal arrangement becomes complicated when the footage taken exceeds the (unwritten) understanding or agreement. Under the concept of fair dealing, broadcasters are allowed to take a part of the broadcast material provided it doesn't exceed the amount permitted under fair dealing. Currently, fair dealing has no set time duration that differentiates the boundary between the reporting of sports news and commercial sports content. The challenge in this case is to obtain agreement in defining the concept of fair dealing and clarifying its interpretations and limitations with all relevant stakeholders, including sporting and media interests.

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

The Department of Health and Ageing is not in a position to comment on this matter.

**h. 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.**

The Department of Health and Ageing is not in a position to comment on this matter.