

Committee Secretary
Senate Standing Committee on Environment,
Communications and the Arts,

PO Box 6100 Parliament House,
CANBERRA ACT 2600

Phone: +61 2 6277 3526
Fax: +61 2 6277 5818
Email: eca.sen@aph.gov.au

Dear Mr Secretary

Media coverage of sporting events is of paramount importance in Australia and internationally. SMP IMAGES (Sports Media Publishing Pty Ltd) have been supplying editorial images to the media for approximately two years. During that time, SMP has encountered a number of differing approaches to media accreditation.

As managing director of SMP Images, this submission represents approximately 15 photographers in Australia. In this submission, I would like to address terms and conditions of media accreditation for in respect to Cricket Australia with a comparison *to* other sporting organisations.

Cricket Australia - Over the past 6 months, SMP has had the privilege of providing images to the media of the Australian Cricket. The terms and conditions that were set out for all media to sign were unequivocal and fair.

As a company, we applaud the stance that Cricket Australia has taken with enforcing their terms and conditions as it relates to all media /photo agencies. For too long, the media has dictated terms and conditions to the sporting organisations with the underlying threat that unless you comply with our demands, we will not provide coverage. Of course, this statement is anecdotal and can only be verified by managers of the sporting organisations concerned.

Point (h) on the current accreditation process:

SMP's experience with accreditation process, and the management and staff associated with media accreditation for Cricket Australia is one where I can honestly say that CA could not have done enough for SMP as a company. When

we were short staffed in Perth for the Test between Australia and South Africa, they provided accreditation on the first day of the test.

In contrast, the accreditation process with the National Rugby League is obstructionist for any non-major editorial media group. For two years, SMP has submitted applications to the NRL for media accreditation which have been turned down for no apparent reason.

SMP's experience with Cricket Australia suggests that this organisation is interested in getting the Australia Cricket message to as wide an audience as possible (within the set terms and conditions).

Prior to accreditation being granted, SMP supplied letters of commission for various publications in Australia as well as a letter of commission from a similar media agency in South Africa. Cricket Australia approved our the SMP application and images were supplied both nationally and internationally by SMP to various publications.

Point (a) seeks to address the balance of commercial and public interests.

As an editorial company, we contend that conditions that have led to the strong-arm tactics of the large media organisations is due to the fact that there are very few alternatives to the major media players in the media industry.

SMP has worked hard to position itself in the Australian media market to be an alternative supplier of editorial images. Due to the obstructionist policies of Getty, AAP, Reuters, AFP, these organisations believed that Cricket Australia would have to come running to them with the expectation that CA would back down on its terms and conditions. The tactic then applied by these organisations (as reported in the media – November 6, 2007 'Boycott may blackout Test Series' and November 8, 2007 'News Ltd Journalists Locked out of Test' – was that Cricket Australia is disrupting the balance of commercial and public interests in the reporting and broadcasting of sports news. This was and is far from the truth. If any accusations of biased reporting are to be made, then the two cited articles provide ample evidence of this fact. Cricket Australia suffered from biased reporting by the media as these media organisations had not got their own way.

Apart from the newspapers, SMP was able to be the principle source of editorial images to the South African press, and to Australian Consolidated Press as well as Wisden Cricket and the Guardian in the UK.

The result of SMP's ability to provide quality editorial images to South Africa meant that the Getty arm in South Africa (known as Gallo) broke ranks with the media agency consortium and employed a photographer in Australia to provide images of the cricket in Australia to the South African media. The point I make is that, when there is an alternative supplier (such as SMP), and there is money to be made or lost, Gallo made a market and financial decision to ignore Getty's policy.

Point (d) seeks to address the commercial interests of the media.

Cricket Australia is a 'not for profit' organisation that has a highly marketable product. As such, it is the right of Cricket Australia to set its own terms and conditions without media organisations making demands on their business. This practice does not occur in other organisations. Cricket Australia has every right to ensure that it maximises its income. If this means that CA takes a stand to ensure that another organisation does not take unfair advantage of the marketability of cricket in Australia, then SMP fully supports this move. The fact is, if Australia wants to remain strong in the sport of cricket, funds are required. One only has to take notice of the public attendance at a Shield game to know that the Sheffield Shield competition does not run at a profit. This is where CA's policy to maximise its financial income is important, rather than allowing potential income to be exploited by large media organisations.

From SMP's experience, at no stage has Cricket Australia attempted to restrict the media reporting and display of editorial imagery from cricket in Australia.

Further more, in order to understand the fairness of CA's terms and conditions, one only has to make a comparison with the terms and conditions of another major sporting organisation. Those personnel responsible for this policy in this organisation employ restrictive trade practices with other editorial media agencies. This sporting body engages in the making of arrangements for the purpose of misusing market power by forcing teams to deal exclusively with one agency. This is considered to be anti-competitive and is prohibited under the trade practices act 1974 Pt IV. How is this enforced? If a club wants to employ a photographer to cover their home matches, accreditation must be approved by the sporting organisation. I know from experience that this organisation blocks this accreditation in order to force the concerned club to use *another* photo agency.

Further consideration should be given to point 3.4 of the accreditation guidelines: "The sporting organisation will not (a) usually accredit photographers representing news agencies except for major matches".

One would expect that if the sporting organisation was intent on getting as much media coverage as possible, that they would be open to allowing news agencies access to the game.

Point (e) of the terms of reference seek to address the balance between regulation and commercial negotiation in ensuring that competing organisations get fair access to sporting events for reporting purposes.

The current arrangements that some sporting organisations have in place are far from ensuring fair access. Year after year, time after time, these sports organisations deny accreditation (and ultimately access) for photographers carrying on a legitimate editorial business. There are associated clubs that have constantly applied for accreditation for a photographer for their own purposes and each time the sporting organisation deny the application. These clubs are

afraid to rock the boat as the clubs are beholden to the sporting organisation. For example, a club does not own its own logo and does not own their uniforms.

Terms and conditions of accreditation when granted by some sporting organisations is considerably more restrictive in ways that Cricket Australia does not come close to. For example, an (with some sporting organisations) an accredited editorial photographer can only supply images to one nominated publication. Point 4.1 of the sporting organisation's photographer accreditation terms states: "an accredited photographer may only take photographs for the accredited club or accredited third party for which the photographer is accredited". Further in 4.4, it states: "if an accredited photographer is accredited to take photographs for an accredited third party, that accreditation is for the sole purpose of the editorial use of photographs and the accredited third party... For the purpose of this agreement editorial use means the use of the photograph in a print or on-line news service where the principal content is written news items, not photographs or other visual content".

Yet, this condition does not appear to apply to Getty who are able to supply multiple publications / organisations. EG. Various newspapers (News Limited, Fairfax, APN), Rugby League Week, ...

This is one of the biggest distinctions between Cricket Australia and other sporting organisations. Cricket Australia is only too happy to ensure that the Australian cricket story and images get into the press. They know that the public want to know what has happened in the last hour of play. If one agency can supply to more than one source, that is fine – there are no restrictions set by Cricket Australia where images from the cricket can be supplied to, as long as it is a 'genuine' news media source.

Point (f) considers 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.

As both a supplier of sports images to the media, our company would only want our images published in a reputable publication (print or electronic). Similarly, as a consumer of sports media I only choose to access the major daily's or established online sports news services such as: Fox Sports News, Rugby Heaven (Fairfax) for general coverage. For further news, I access the sporting codes main websites – Hockey Australia, Netball Australia, the NRL.com home page, Cricket.com, etc. The point I make as a consumer (representative of the general population) is that the sources I want need to be as direct as possible. I am a bigpond user, but I would not use the bigpond.com website to read my sports news. The fact is, bigpond is the portal I use for managing my bigpond account.

For media agencies to claim that CA has imposed accreditation terms that make it impossible for news agencies to achieve impartial and independent coverage is a ruse for not being able to supply images to non-editorial online sources (EG:

bigpond) that are competitors to sponsors of the sport. In this case, 3-Mobile are the current major sponsors of Test Cricket. Why would CA allow their images to be published on a competitor's website that does not sponsor the cricket. The answer is quite simple – they do not, which is more at the heart of the dispute between CA and the media agencies.

Conclusion

In conclusion, as director of SMP Images, I would like to thank you for taking to time to consider this submission. SMP concurs with the stance of Cricket Australia and that as an organisation they have every right to set terms and conditions that will benefit the future of their sport. For international media conglomerates such as Getty, AFP, Reuters to be able to dictate how they will provide media coverage without any restrictions is about taking unfair commercial advantage of the sport. Similarly, if Cricket Australia continues to allow these practices to go unchecked, the situation will eventually lead to the need for more and more funding to come from government bodies rather than allowing the sporting organisation to become more and more self supporting.

Kind Regards

Warren Keir (BA Hon; B Soc Sci; BTh)