

## Australian Professional Team Sports in a State of Flux<sup>†</sup>

Braham Dabscheck

*University of New South Wales*

Over the last quarter of a century, especially in the 1990s and continuing into the new millennium, major changes have occurred to the operation of Australia's leading professional team sports. Traditionally, with the exception of cricket, Australia developed city based competitions. Respective leagues have transformed themselves from city to national leagues — in the case of rugby union to a bifurcated international competition — in seeking to maximise revenue from broadcasting rights, sponsorship and merchandising; a process which intensified with the emergence of pay and cable television in the 1990s. Associated with this, various sports have experienced 'wars' between, and/or have been subject to the threat of competition from rival leagues. The major labour market change, in this period, has been the 'coming of age' of player associations. The 1990s witnessed the formation of such bodies in soccer (1993), rugby union and cricket (both in 1995). Organisations had been previously formed in Australian rules football (1973) and rugby league (1979). With the exception of rugby league, these player associations have negotiated lengthy, complicated and more or less sophisticated collective bargaining agreements with their respective leagues. Labour market rules in Australia were modelled on, or variations of, English, or world, soccer's transfer system. Beginning in the 1980s Australian sports, interchanged the transfer system for salary caps, drafts and, in the case of soccer, free agency after six years; labour market arrangements found in North America.

The major product and labour market changes which have occurred in cricket, Australian rules football, rugby league, rugby union and soccer will be examined

---

<sup>†</sup> Paper presented at Osaka Seminar, Sports, Tourism and Leisure in Japan and Australia, 2 December 2003, The Centre for Australian Studies, Otemon Gakuin University, Osaka, Japan

here. The presentation will draw on earlier work of the author (Dabscheck, 1989, 1991, 1993, 1996, 1998, 1999, 2000). Three 'peculiarities' associated with the operation of Australian sport should be noted. First, respective sports have different 'architectures'. Australian rules football, rugby league and soccer operate leagues which are similar to those in North America. While cricket has a domestic competition, it is essentially an international sport — especially in terms of revenue generation — where Australia competes against other nations, home and abroad. Rugby union, which only turned professional in 1995, comprises three state teams playing in an international league against teams from New Zealand and South Africa — the Super Twelve — and a national team (the Wallabies) in a regular Tri-Nations series, as well as intermittent matches against other nations. Soccer and rugby league also field international teams, and rugby league has a very popular 'State of Origin' series between New South Wales and Queensland, whose implications are ignored here.

Second, different sports, despite their transformation into national competitions, are popular in different regions. Australian rules football holds sway in the southern states — Victoria, South Australia, Western Australia and Tasmania. The two rugby codes are dominant in the northern states of New South Wales and Queensland. Soccer does not enjoy the market appeal of other football codes. Since 1989 it has been played in summer to avoid 'clashes' with Australian rules football and rugby league. Cricket is the nation's summer sport. Third, with the exception of soccer, the leagues of respective sports perceive themselves as having a pastoral role for the development of community or grassroots sport. Resources are channelled from central cash cows to the periphery for administrative, coaching and other purposes. Leagues are seeking to ensure both a ready supply of future playing talent and consumers to purchase various products associated with the production of their respective games.

### **Cricket**

Teams from the respective states compete against each other in a regular league format and against touring, usually national, teams. The Australian Cricket Board (ACB) instituted a residential rule for state selection and provided states with a right of veto against players who had represented their state, even in under age competitions, transferring to another state. In 1991 the Supreme Court of Victoria in

*Nobes v Australian Cricket Board*, No.13613 of 1991, unreported, found such rules constituted an unreasonable restraint of trade.

The best state players are selected to represent Australia. Up until the late 1970s/early 1980s players — Australian representatives, and more especially, state players — received low incomes. They were forced to supplement their income from other sources and/or retired 'prematurely'. In the late 1960s, continuing into the 1970s, players became increasingly critical of 'inadequate' payments and the poor treatment they received from the ACB. For example, in the 1974/75 Ashes series against England they received \$200 a game. The gate for the Melbourne test exceeded \$250,000, with, of course, extra income from other sources. The players received a total of \$2,400. While it is unclear what the appropriate share of player income should be, and at the risk of retrospectively putting words into their mouths, they thought one per cent was somewhat small! Representations resulted in the ACB retrospectively increasing payments by \$357 per match. Nonetheless, a strong residual of player discontent remained.

Following the introduction of television in Australia in 1956 — for the Olympic Games — cricket was shown on the publicly owned Australian Broadcasting Commission (ABC). In 1976 media magnate Kerry Packer sought exclusive rights for his Nine network. The ACB demurred, having recently 'shaken hands' on a new three year deal with the ABC. Packer responded (retaliated) by signing virtually all the best players in Australia, West Indies and other countries (the 'Rest of the World') to form a rival competition known as World Series Cricket (WSC) (Haigh, 1993, provides the best account of this dispute). Players received salaries in the range of \$16,500 to \$35,000; on average \$25,000, plus incentives. In *Greig v Insole* (1978) 1 WLR 302, an attempt by the English cricket establishment to ban Packer players was found to be an unreasonable restraint of trade (For a later case concerning 'rebel' tours to apartheid South Africa see *Hughes v Western Australian Cricket Association* (1986) ATPR 40–676). In 1977 Australian Packer players formed the Professional Cricketers' Association of Australia (PCAA) to pursue their collective interests. It enjoyed a cordial relationship with WSC.

League wars end when rivals reach an agreement and merge or the league with the 'deepest pockets' destroys its opponent. The fly in the ointment, in this case, was the ABC. Following the expiration of its contract with the ABC, the ACB granted broadcasting rights to Packer's Nine network. Per the arrangements that

had operated during WSC, the top 20 to 25 players were offered contracts by the ACB, which provided them with 'highish' incomes. The PCAA sought to continue operations after peace was restored. It effectively folded in 1982, due to internal organisational problems associated with limited income and an inability to find leadership to 'bell the cat'. The net effect of the WSC venture was to provide (future) leading players 'decent' incomes.

In the 1980s, continuing into the 1990s, there was occasional talk of establishing a new players' association. A major concern was the plight of state players. For the 1996/97 season it was estimated 60 per cent of players received less than \$20,000. In September 1995 a new players' body was formed, the (now named) Australian Cricketers' Association (ACA). In the latter part of 1997 it threatened strike action in attempting to gain recognition from the ACB and negotiate a collective bargaining agreement. The threat proved successful. The ACB eventually granted recognition, with an agreement being reached, after many months of negotiation, in September 1998.

The cornerstone of this agreement, which covered the 1997/98 to 2000/01 seasons, was a salary cap. Players would receive 20 per cent of 'Australian Cricket Revenue', up to \$60 million per annum, and 25 per cent of any income over \$60 million. For the 1998/99 season 57.5 per cent of the players' share was allocated to 25 ACB contracted players and 42.5 per cent to (approximately) 120 state players. This resulted in an approximate doubling of the income of state players. For administrative purposes assumptions would be made about total payments to players for respective years, with such payments guaranteed by the ACB. If actual income exceeded estimates, players would receive a 'top-up' on a pro rata basis. For the 1999/00 season players received an additional \$3.9 million ('\$4 m bonus for top players', *The Sydney Morning Herald*, 15 September 2000).

A second four year deal was completed in May 2001. Players are to receive a 25 per cent share, 'smoothed' over the life of the agreement. Provisions are made for adjustment, up or down, if there are substantial variations in actual from estimated income. ACB contracted players will receive 55 per cent of player income, state players 45 per cent. The agreement contains minimum payments, retainers, for both ACB contracted and state players. Twenty five players will be contracted to the ACB. Each state has between 16 and 20 contract players and between 2 and 5 rookie players (less than 23 years old); providing state squads of approximately 21

Table 1 Minimum Retainer and Estimated Average Income for Australian Cricket Board and State Contracted Players 2001/ 02 to 2004/ 05

Year	Australian Cricket Board Contracted Player		State Contracted Player	
	Minimum Retainer \$	Estimated Average Income \$	Minimum Retainer \$	Estimated Average Income \$
2001/ 02	95,000	456,000	22,500 (10,000)	74,000
2002/ 03	110,000	498,000	27,500 (12,000)	81,000
2003/ 04	125,000	539,000	32,500 (15,000)	88,000
2004/ 05	140,000	582,000	37,500 (17,000)	94,000

Source: Memorandum of Understanding between Australian Cricket Board and Australian Cricketers' Association, 24 May 2001 (mimeo). Figures in brackets are payments for rookie players.

players. Taking account of various caveats contained in the 2001/ 02 to 2004/ 05 agreement, it is possible to estimate annual earnings for ACB contracted and state players. Such information is contained in Table 1, together with minimum retainers. Compared to a quarter of a century ago current, and future, players can earn 'healthy' incomes from their cricketing careers.

### **Australian Rules Football**

Australian rules football has, is, and will probably always be Australia's most popular team sport. The Victorian Football League (VFL), which commenced operations in 1897, was the sport's powerhouse. In the early 1980s the VFL began the process of creating a national competition by moving a Melbourne based club to Sydney. In 1997 the Australian Football League (AFL), the name change occurring in 1989, comprised sixteen teams — nine are based in Melbourne plus one in Geelong (regional Victoria), two each in Perth and Adelaide and one each in Sydney and Brisbane. This transformation witnessed the demise of Fitzroy in 1996, a foundation member of the VFL.

Since the mid-1990s the AFL Commission has produced a variety of documents/ discussion papers to 'strategically' enhance the growth and commercial success of the sport. The AFL Commission champions 'equalisation' as the key to achieving such goals. In 2001 the AFL allocated slightly less than \$3.2 million (plus variable additional amounts concerning other arrangements) to each club from centrally raised revenue streams. The AFL will also provide 'hardship payments' to clubs in financial difficulties to ensure that they remain competitive on the field, subject to such difficulties being 'unavoidable' and said clubs developing business plans to

overcome such problems. For the 2002 to 2006 seasons the AFL has a broadcasting deal, with a consortium of News Limited, the Nine and Ten networks and Fox Sports worth \$500 million — approximately ten per cent being in contra.

Up until the 1980s the labour market for players combined zoning with a transfer system (and, at various times, individual wage maxima). In the late 1970s/early 1980s the courts, in a raft of decisions, found such rules to be unreasonable restraints of trade. See *Adamson v West Perth Football Club* (1979) 27 ALR 475; *Hall v Victorian Football League* [1982] VR 64; *Foschini v Victorian Football League*, Supreme Court of Victoria, No. 9868 of 1982, unreported; and *Walsh v Victorian Football League* (1983) 74 FLR 207. In the 1980s some clubs included an option clause in players' contracts. The option received endorsement from the courts in *Buckenara v Hawthorn Football Club* [1988] VR 39; also see *Hawthorn Football Club v Harding* [1988] VR 49.

During the second half of the 1980s the V/AFL substantially revised its employment rules. It introduced a common roster for clubs (initially set at 52 players), a salary cap and drafting. The salary cap originally varied between clubs, given contractual agreements with players; eventually becoming a common monetary amount. Clubs can trade current players for draft picks. The draft comprises two elements. The *external* draft, per arrangements in North American sports, involves the selection of new players. The *internal* draft, a unique contribution of Australia to the myriad of labour market rules, involves the selection of current players who have been unable to settle on terms with their clubs, and/or have not been traded.

The Victorian Football League Players' Association formed in December 1973 — changing its name to 'Australian' (AFLPA) in 1989. For the first two decades of its operation it found it difficult to obtain concessions from the league. In late 1992 it sought to negotiate a collective bargaining deal with the AFL. The AFL refused, and withdrew recognition of the AFLPA. The AFLPA responded by seeking an award from the Australian Industrial Relations Commission (AIRC). To avoid external scrutiny and the possible imposition of a quasi-judicial body the AFL, in an Australian version of what is known in North America as the 'labour exemption', decided to negotiate with the AFLPA. An agreement for the 1994 and 1995 seasons was completed. It established a minimum wage of \$7,500, with deductions for board and lodging, as well as various welfare, security and leave benefits, and a grievance procedure.

A second agreement was negotiated for the 1996 to 1998 seasons. It contained a clause whereby the AFLPA agreed that the AFL's draft(s) and salary cap were 'necessary and reasonable for the proper protection and legitimate interests of the AFL'. Other changes included increases to various minima, rules for players' intellectual property rights, allocation of funds for second career training and creating a player welfare advisory service. The 1998–2003 agreement built on many of these provisions. Payments to players, both global and minima have been increased — between 1998 and 2003 the former will increase by 52.7 per cent. Information supplied to the author by the AFLPA reveals that players share of (broadly defined) income for 2001 was 26.9 per cent (remember the league's pastoral role). The salary cap has become 'softer', with greater scope for earnings from servicing agreement and licensing arrangements. For 2001 such payments were in the order of \$5 million. Several millions of dollars have been earmarked, for each year of the agreement, for player education and welfare, to be administered by the players' association. Table 2 provides information on total player payments, club salary caps, estimated average salaries and minimum payments for seasons 2000 to 2003. Rosters for 2000 are 46; 44 thereafter. The 44 roster has two components — 38 to 40 primary players and 4 to 6 rookies. Rookies can be used to replace injured players. Their minima is half that of the minima for drafted, primary players.

In mid June 2003 a new five year collective bargaining agreement was negotiated. Three per cent increases in total player payments will occur in the first two years of the deal. An increase of 0 to 6 per cent will occur in the third year, depending on the financial health of the AFL and clubs. Increases for years four and five will be negotiated in the third year of the agreement (see AFL website — [http: www.afl.com.au](http://www.afl.com.au)).

Table 2 Total Player Payments, Club Salary Caps, Estimated Average Salaries and Minimum Payments Australian Football League 2000 to 2003

Year	Total Player Payments (million) \$	Club Salary Caps (million) \$	Estimated Average Salary \$	Minimum Payment \$
2000	76	4.75	103,261	24,000 (12,000)
2001	83	5.1875	117,898	25,000 (12,500)
2002	89	5.5625	126,420	36,000 (18,000)
2003	95	5.9375	134,943	37,000 (18,500)

Source: Australian Football League and Australian Football League Players' Association Collective Bargaining Agreement 1998–2003 (mimeo). Figures in brackets are payments for rookie players.

## Rugby League

In 1907 rugby league developed as an offshoot from the amateur game of rugby union over issues associated with recompensing players for 'lost time' from playing and injuries/medical expenses (Cunneen, 1979). A similar development had occurred in 1895 in England with the formation of Northern Union. *The professional* rugby league historically recruited players from the *amateur* rugby union. We will see later that this story has a certain sting in its tail. The New South Wales Rugby League (NSWRL) commenced operations in 1908. By 1967 it had grown to twelve teams in a Sydney based competition. In the early 1980s the NSWRL embarked on expansion into regional New South Wales, Canberra, Queensland, other states and New Zealand. In 1995, the now named Australian Rugby League (ARL), had expanded to a twenty team competition.

In 1995, with pay and cable television on the horizon, Rupert Murdoch's News Limited announced it intended to establish a new competition called Super League. The ARL's broadcaster was Kerry Packer's Nine network. Australia's two leading media moguls locked horns. The ARL, in a bid to forestall clubs jumping to Super League, requested that they sign five year commitment agreements, to play exclusively in the ARL; and later on loyalty deeds, confirming such commitments. A bidding war erupted for club, coaches and, especially leading, players, with a concomitant increase in their income (see McCracken, 1996, 112 – 123, for details). Super League challenged the commitment agreements and loyalty deeds as breaching the *Trade Practices Act 1974* (Cth.) and corporations law. The Federal Court of Australia found in favour of Super League (*News Limited v Australian Rugby Football League* (1996) 64 FCR 410; *News Limited v Australian Rugby Football League* (1996) 58 FCR 447; litigation involving players has been ignored here).

The 1997 season witnessed, the now twelve team ARL competing against the ten team Super League. Both leagues bled to death. At the end of 1997 they announced a truce and the creation of a merged competition called the National Rugby League (NRL). It would comprise twenty teams in 1998, to be reduced to fourteen by 2000. South Sydney, a foundation member of the NSWRL, found itself excluded from the competition at the end of 1999. It initiated court action, claiming its exclusion breached the *Trade Practices Act 1974* (Cth.). The Federal Court of Australia ruled



for Souths (*South Sydney District Rugby League Football Club v News Limited* [2001] FCA 862; *South Sydney District Rugby League Football Club v News Limited* [2000] FCA 1541; *South Sydney District Rugby League Football Club v News Limited* [1999] FCA 1710), who resumed playing in the now fifteen team NRL in 2002.

Rugby league's 'network wars' have not come to an end. In 2001 the NRL, which is 50 per cent 'owned' by News Limited, entered into a broadcasting deal with Fox Sport, in preference to Channel Seven's C7. On the surface, C7's offer appears to have been more attractive than Fox Sport (though both contained caveats concerning subscription levels). C7 offered a seven year deal of \$70 million plus \$10 million contra per year, compared to Fox Sport's six year \$400 million offer, which included 'high' levels of contra. C7 was forced to wind up. Its parent, Channel Seven, has commenced proceedings against the NRL and Fox Sport.

Prior to 1960 the NSWRL operated a zoning, or residential, system which required 'local' players to have lived in their zone for a year; with 28 days residency for country or interstate players. In 1960 it introduced a transfer system. In 1971 the High Court of Australia in *Buckley v Tutty* (1971) 125 CLR 353; also see *Tutty v Buckley* (1970) 3 NSW 463, found the NSWRL's transfer system to be an unreasonable restraint of trade. Following this, the NSWRL developed individual wage maxima, which it discontinued because of problems associated with enforceability. In 1975 the NSWRL introduced the thirteen import rule. Clubs would be allowed to 'import' thirteen players from outside their residential zones; with adjacent clubs 'married', or sharing zones. In late 1981 these rules were relaxed to allow an 'import' who had played three consecutive years with a club to be regarded as a 'local', and players who had been with a club for five consecutive years could freely move to other clubs.

In May 1979 a players' association; being recently known as the Rugby League Players' Association (RLPA) was formed. It initially experienced difficulties in gaining concessions for members. At the end of 1982 the NSWRL wanted to reintroduce a transfer system. Given *Tutty*, such fees could be conceivably protected from legal attack if endorsed by the players' association. The NSWRL and RLPA entered into a piecemeal bargaining relationship. Issues of concern would be discussed and considered. The RLPA never attempted to establish a comprehensive collective bargaining agreement. A formula based system of transfer fees, linked to levels of player proficiency, was introduced in 1983; with revisions, upwards, in 1986 and 1988.

At the end of the 1980s the NSWRL announced its intention to introduce a salary cap and drafting, following models earlier developed by the AFL (see above). The salary cap, introduced in 1990, varied between clubs, given existing contractual arrangements with players. The NSWRL introduced both an external and internal draft. Fears by existing players concerning the internal draft, fuelled by leading coaches, resulted in a palace revolution within the RLPA and a new leader committed to mount a legal challenge to the internal draft. The Federal Court of Australia eventually found the internal draft to be an unreasonable restraint of trade (*Adamson v New South Wales Rugby League Limited* (1991) 31 FCR 242; *Adamson v New South Wales Rugby League Limited* (1990) 27 FCR 535). The NSWRL abandoned both versions of the draft.

This was the first time in the history of Australian sport that a players' association had initiated action against a league's labour market rules; and the RLPA had been successful to boot. It might be thought that such success would have helped to consolidate the RLPA's position. Events did not turn out that way. It failed in an attempt to negotiate a collective bargaining deal in 1992. In 1993, in an apparent move to increase its organisational effectiveness, the RLPA merged with the 35,000 strong Media, Entertainment and Arts Alliance (MEAA). The next three years were devoted to disputes over members between principals of the 'old' and 'new' unions. Moreover, after 1995, players were more concerned with cashing in on the bounty thrown up by the Super League war, than worrying about player associations. In 1997 the MEAA negotiated a 'bare bones' consent award with the ARL, under the auspices of the AIRC. It contained a minimum wage of \$36,000 for a club's first seventeen players (*Australian Rugby League Players Award 1997*, AIRC, A 2491 A S Print P 5383, 25 September 1997). In August 2000 this minima was increased to \$37,245, only applying to ARL clubs in the NRL — including South Sydney, who had been excluded!, to expire in August 2001 (*Australian Rugby League Players Award 1997*, AIRC, A 2491 Print S 9850, 7 September 2000). In 2001 the RLPA severed its relationship with the MEAA. While the RLPA has access to the NRL it has been unable to negotiate a collective bargaining agreement. In late June 2003 the RLPA announced it would seek registration under the *Workplace Relations Act 1996* (Cth) (Australian Financial Review, 28 June 2003).

Since its formation the NRL has imposed a salary cap of \$3.25 million. With a squad of 25 players this translates into an average of \$130,000. The NRL provides

clubs with a \$2.5 million annual grant from its revenue sources. Most clubs also receive grants from 'parent clubs' (known as leagues' clubs) which provide food and entertainment, including poker machines, for patrons — that is, from poker machine income. In 2000 they ranged from \$1.4 million to \$4.5 million ('Clubs drop the ball on profit goals', *The Australian*, 4 August 2001). In recent years rugby union has become increasingly successful (see below). Rugby union has begun the process of cherry picking leading rugby league players — well, three so far — to join union. Despite squeals by clubs, especially those losing players, to loosen up the salary cap, the NRL has declined to do so, not wishing to enter into a bidding war for such players. Rugby league is still licking its wounds from the Super League war.

### **Rugby Union**

Rugby union has traditionally been an amateur sport (with, increasing, elements of 'shamateurism'). It has been historically vulnerable to player raids from rugby league; a fear which intensified during the Super League war. To overcome this problem South Africa, New Zealand and Australia formed a consortium and announced that they had signed a ten year agreement (with a five year option), worth US \$550 million with Rupert Murdoch's News Limited (see Fitzsimons, 1996). Rugby union turned professional in August 1995.

The new consortium had not informed players of this development and, more importantly, had not signed them to contracts — after all, the players were amateurs! To add to the confusion, a newly formed organisation, called the World Rugby Corporation, entered the market for players, offering 'generous' contracts. A bidding war for players ensued. The Australian players made a crucial decision. They would *collectively* decide on which of the rival organisations they would join. The Australian Rugby Union (ARU), in endeavouring to ensure that players signed with it, in what has become known as the Ferrier letter (Ian Ferrier being a member of the ARU board), agreed that 95 per cent of Australia's share of Murdoch's television revenue would be distributed, in accordance with, a yet to be formed players' association 'direction', and \$10,000 would be advanced by the ARU to this body to aid it in its organisation. In what can only be regarded as a freak of nature, the Rugby Union Players' Association (RUPA) achieved recognition before its for-

mation. The players signed with the ARU. The World Rugby Corporation disintegrated.

Once the dust of rugby union's rival league war had settled, RUPA experienced problems in enforcing its power of 'direction', per the Ferrier letter. RUPA decided to test the contractual validity of the Ferrier letter in the courts. At approximately the same time, the ARU indicated its preparedness to enter into a collective bargaining agreement. Tentative bargaining commenced. After RUPA achieved an initial victory, on security of costs (*The Rugby Union Players' Association v Australian Rugby Union*, Supreme Court of New South Wales, No.50225 of 1996, unreported), bargaining proceeded in earnest. An agreement was reached in October 1997, covering the next three years.

Like cricket, this agreement was based on a salary cap, or revenue sharing (being negotiated prior to the cricket deal). The players, 111, or 37 from each of three 'states' (New South Wales, Queensland and Canberra) would receive total guaranteed payments of a set monetary amount, or 25 per cent of 'player generated revenue', whichever was higher. Minimum payments were established of \$55,000 to \$67,000, increasing over the life of the agreement, for the first 21 of the 37 players on states' rosters, and \$26,250 to \$28,900 for players 22 to 37. The agreement contained clauses which said states cannot collude, in negotiating with players, and that there cannot be any transfer, draft or assignment rules introduced without the written consent of RUPA.

Rugby union has become increasingly popular with spectators and sponsors. This, no doubt, has been aided by the success of the Wallabies in the 1999 Rugby World Cup. A second collective bargaining agreement was completed in April 2001; the author being part of RUPA's bargaining team. The 2001 to 2004 agreement increased players' share of 'player generated revenue' to 30 per cent, with a more generous definition of such revenue. The bifurcated wage minima was abolished. A flat figure of \$45,000 for 2002, adjusted each year for changes in the consumer price index, was established. State rosters were increased from 37 to 40. Players could be employed on casual contracts for up to four games in Super 12 games, because of injuries. If they played more than four games (including being a reserve) they have to be offered a full-time contract, at least, equal to the minimum wage. Provision was also provided for each state trialling up to three prospective players for three months, at a wage of \$12,500, which can be repeated once. Rules were

introduced concerning the use of players images and intellectual property rights, and \$ 550,000 per annum was allocated to vocational and second career education, and player welfare. Taking account of various caveats in the agreement, estimates of average player income are \$ 135,000 for 2001; \$ 145,000 for 2002; \$ 155,000 for 2003 and \$ 160,000 for 2004.

### **Soccer**

Soccer, the world game, the beautiful game; a game, which in Australia, seems to be forever doomed, lurching from one self-inflicted crisis to the next. The National Soccer League (NSL) was formed in 1977. It has proved to be a most unstable league. It has varied from 12 to 24 teams — 40 teams have competed in the league. Clubs are forever in financial straits, on the verge of insolvency, owing monies to players and creditors. Their survival has often been dependent on transfer fees from overseas for a star player, or rich benefactors bailing them out. The NSL attracts small crowds. In recent years they have averaged 5,000 or so spectators.

In addition, there has been much disquiet concerning the 'general operation' of Australian soccer. During 1993 and 1994 there were rumours concerning mal-administration, if not malfeasance, by officials, coaches and agents in the transfer and selection of players; coaches demanding payments from players to be selected; secret commissions and significant proportions of transfer fees, from overseas clubs, being directed to other, or unknown, parties. In June 1994, Soccer Australia announced the appointment of the Honourable Donald Gerald Stewart, a former judge of the Supreme Court of New South Wales, and a former head of the National Crime Authority, to conduct an inquiry into Australian soccer.

Mr Stewart's report was not published by Soccer Australia. It feared that those named would initiate proceedings to defend their reputations. The report (Stewart, 1995) was published by the Australian Senate, under parliamentary privilege. Mr Stewart said that soccer required a 'sea change' to realise its potential, and recommended that certain persons should not be involved with the sport. Most of those named stayed put. Different leadership teams have come and gone, with disputes occurring within the board. Soccer Australia has experienced financial problems, operating at a loss in recent years. It sold commercial exploitation of its

rights to International Entertainment Corporation (IEC). In mid 2002 IEC began proceedings for an order that Soccer Australia was insolvent. The matter was stood over pending negotiations between the parties (*International Entertainment Corporation v Soccer Australia* [2002] FCA 879). They reached an undisclosed settlement whereby the agreement was terminated. To overcome its financial problems Soccer Australia has imposed increases in levies for the registration of junior and adult players in local, invariably amateur, competitions. Soccer has the distinction of being the only Australian sport that is redirecting income away from the grassroots, rather than encouraging its development, to 'pay' for errors and decisions of those at the top.

In April 1993 a players' association was formed, the now named Australian Professional Footballers' Association (PFA). It merged with the MEAA in that year; going its own way in 1998. During 1994 and 1995 it proceeded with a case before the AIRC, seeking abolition of soccer's transfer system. In June 1995 the AIRC did not accede to this request. However, and this is quiet a big however, the AIRC expressed disquiet concerning the transfer system's operation and gave the parities time to negotiate an alternative, as part of a comprehensive collective bargaining agreement. The AIRC indicated that if they could not reach an agreement it would, in all probability, abolish the transfer system in arbitrating the dispute (*Media, Entertainment and Arts Alliance v Marconi Fairfield Soccer Club*, AIRC, Dec 1285/95 S Print M 2565, 9 June 1995).

This (labour exemption type) decision considerably strengthened the hand of the PFA. Two collective bargaining agreements have been negotiated since the AIRC's decision. They contain two provisions which enhance the economic position of players. First, players who do not receive an offer of employment from their current club, 30 days prior to the expiration of their contract, on 'terms and conditions no less favourable than their previous contract', automatically become free agents. Second players who are 26, or have played six seasons, automatically become free agents for the balance of their Australian careers — fees are still payable for overseas transfers. The former clause models developments in English soccer after *Eastham v Newcastle United Football Club* [1964] Ch 413, and the latter, North American baseball following Peter Seitz's 1975 private arbitration which brought about the end of the reserve/option clause (Miller, 1991, 238 – 285).

Soccer has a minimum training list of eighteen players. For 2002 the minimum

wage is \$22,432; the same as the minimum adult wage determined by the AIRC (*Living Wage Case*, AIRC, PR 002002, 9 May 2002). There are modest payments — \$100 a week and \$200 a game — for part-time players. In 1996 the average income of players was \$20,000. By 2000 it had increased to \$42,000; by 2001 to \$43,000. In mid 2003 the PFA and Soccer Australia were in dispute over the negotiation of a new collective bargaining agreement. The PFA, in July 2003, commenced proceedings before the AIRC to establish a safety net (minimum conditions) award (see PFA website — <http://info@pfa.net.au>).

The PFA frustrated by Soccer Australia's inability to grow and develop the sport, and, hence the economic well being of members, obtained rights to the name Australian Premier League, in 2001. In 2001 it created PFA Management Limited to explore commercial opportunities for soccer. In April 2003 it launched the APL and began searching for financial backers. Several days after this launch, a committee chaired by corporate consultant David Crawford, reported to the Minister for the Arts and Sport, Senator Rod Kemp, on the structure, governance and management of soccer. The report called for the resignation of the Soccer Australia board — which occurred several months later in mid-July 2003 (Report 2003). If the PFA is successful in establishing the APL it will be the second time, since the failed attempt by the National Brotherhood of Professional Baseball Players in North America in 1890 (see Burk, 1994), that a players' league has been formed in the history of professional team sports.

### **Summary and Conclusion**

In the last quarter of a century, especially since the 1990s, Australian professional team sports, with the obvious exception of soccer and question marks concerning rugby league, have become increasingly successful. Cricket, Australian rules football and rugby union have enjoyed increasing revenue streams from spectators, sponsors and broadcasters. The Super League war of the 1990s set back rugby league, an episode from which it is yet to recover. For its part, soccer, has found itself in a sporting black hole. Leading players, particularly of cricket, Australian rules football and rugby union can earn substantial incomes from pursuing careers in their respective sports. Rugby league players have seen their incomes decline from the heady heights of the Super League war. Despite soccer's problems, players' income

has doubled over the last five years; admittedly, from a low base. With the exception of rugby league, player associations are assuming an increasingly important role in the governance of their respective sports. They have combined threats of industrial action and various legal manoeuvres in enhancing the rights, income and other entitlements of players. It will be interesting to observe how product and labour market forces will intertwine in these respective sports, as they compete with each other for their place in Australia's sporting sun.

### Bibliography

- Australian Football League and Australian Football League Players' Association Collective Bargaining Agreement 1994/95 (mimeo).
- Australian Football League and Australian Football League Players' Association Collective Bargaining Agreement 1995/98 (mimeo).
- Australian Football League and Australian Football League Players' Association Collective Bargaining Agreement 1998-2003 (mimeo).
- Australian Rugby Collective Bargaining Agreement [1997-2000] (mimeo).
- Australian Rugby Collective Bargaining Agreement [2001-2004] (mimeo).
- Burk, R. F. (1994) *Never Just a Game: Players, Owners and American Baseball to 1920*, Chapel Hill, University of North Carolina Press.
- Cunneen, C. (1979) 'The Rugby War: The Early History of Rugby League in New South Wales, 1907-15', in Cashman, R. and McKernan, M., Editors, *Sport In History: The Making of Modern Sporting History*. Brisbane: University of Queensland Press, 293-306.
- Dabscheck, B. (1989) 'Abolishing Transfer Fees: The Victorian Football League's New Employment Rules', *Sporting Traditions* 6: 63-87.
- Dabscheck, B. (1991) 'The Professional Cricketers' Association of Australia', *Sporting Traditions* 8: 2-27.
- Dabscheck, B. (1993) 'Rugby League and the Union Game', *The Journal of Industrial Relations* 35: 242-273.
- Dabscheck, B. (1996) 'Playing the Team Game: Unions in Australian Professional Team Sports', *The Journal of Industrial Relations* 38: 600-628.
- Dabscheck, B. (1998) 'Trying Times: Collective Bargaining in Australian Rugby Union', *Sporting Traditions* 15: 25-49.
- Dabscheck, B. (1999) 'Running to the Same End: The Australian Cricket Pay Dispute', *A Q Journal of Contemporary Analysis* 71: 52-56.
- Dabscheck, B. (2000) 'Sport, Human Rights and Industrial Relations', *Australian Journal of Human Rights*, 6: 129-159.
- Ericsson Cup [Soccer] Collective Bargaining Agreement 1996-1999 (mimeo).
- Fitzsimons, P. (1996) *The Rugby War*. Sydney: Harper Collins.
- Haigh, G. (1993) *The Cricket War: the Inside Story of Kerry Packer's World Series Cricket*. Melbourne: Text Publishing Company.
- McCracken, J., with Lane, D. (1996) *A Family Betrayal: One Man's Super League War*. Sydney: Ironbark.
- Memorandum of Understanding between Australian Cricket Board and Australian Cricketers'



- Association, 15 September 1998 (mimeo).
- Memorandum of Understanding between Australian Cricket Board and Australian Cricketers' Association, 24 May 2001 (mimeo).
- Miller, M. (1991) *A Whole Different Ball Game: The Sport and Business of Baseball*, New York, Birch Lane Press.
- Report of the Independent Soccer Review into the Structure, Governance and Management of Soccer in Australia (2003), Chairman D. Crawford, Canberra, Australian Sports Commission.
- [Stewart Report, 1995] Report by the Hon. D.G. Stewart, Senate Environment, Recreation, Communications and the Arts References Committee, 10 January 1995.
- The National Soccer League Collective Bargaining Agreement 1999–2003 [as extended] (mimeo).