EDITORIAL

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Welcome to the third edition of the *Australian and New Zealand Sports Law Journal* ("ANZSLJ"). The content and coverage of issues in the Journal once again underscore the diversity of legal issues confronting those at the interface of sport and law.

The global economic downturn has rocked assumptions one might have held only months ago about the likely continuing growth of the sporting economy, the expanding place of sponsorship and the explosion of broadcast revenue. Concerns about player exodus to Europe for rugby, rugby league and other professional sports appear to have diminished, and the financial power of the European football clubs looks less certain. The impact on Australian sport of the review of Anti Siphoning law to be held in 2009, and the place of sports coverage in the introduction of digital television, at this stage are uncertain. The relentless focus on alcohol consumption in mainstream media again raises uncertainties about the place of alcohol sponsorship for the future. The commencement of the 2009 World Anti Doping Code with its new requirements will impact on athletes and sports in a number of areas over the coming year. At the same time, the Minister for Sport has appointed an independent review panel to look at sport in Australia at both elite and grassroots levels, searching for better ways to run, promote and manage sport in Australia.

The dust has settled on the 2008 Beijing Olympic Games, which highlighted the amazing developments in the country and excellence in performance and organisation, but raised some concerns about human rights. The Games period is always one where the importance of sponsorship peaks for the commercial partners of the International Olympic Committee, the organisers, teams and athletes. Against this background, Professor Louise Longdin's article on New Zealand's Major Event Management Act 2007 looks at the generic New Zealand law for protecting the rights of the event holder and its genuine sponsors and commercial partners. The article thoroughly analyses the immediate practical implications of the new law, but also looks at its place alongside other more well-established legal regimes. Professor Longdin argues among other things that the enactment of the law to safeguard event owners and investors undermines existing and well established legal protections, creates new quasi property rights and also open ended criminal offences.

Legal issues relating to eligibility and team membership have been at the forefront of legal consideration and discussion during the period of the Olympic Games, as is often the case. David Thorpe provides a comprehensive review of

contractual principles in the context of athlete selection at all levels. He discusses the role of both express and implied contractual terms in the context of the selection processes and looks at the issue of discretion and the concept of good faith in a detailed and interesting paper.

Two determinations of the Court of Arbitration for Sport ("CAS") focus on athlete eligibility to participate in the Beijing Olympic Games. The Pistorius case is reported in full and discusses the eligibility of a disabled athlete to compete in the Olympics rather than the Paralympics. Oscar Pistorius, a champion sprinter and Paralympian, sought to compete in able-bodied events, and in particular at the Beijing Olympics. He was initially allowed to compete in some athletics events sanctioned by the IAAF, but eventually was found to be ineligible because his prosthetic legs were said to advantage him over other athletes during the course of a race. Mr. Pistorius challenged the ruling successfully in the CAS. Ultimately, he was eligible for the South African Olympic Athletics team but did not qualify. The D'Arcy case, which was well publicised in the Australian media, involved the termination of the Australian Swimming Team membership of an Australian athlete following a disciplinary hearing. The swimmer was charged with criminal assault over the same conduct. Mr D'Arcy challenged his exclusion in the CAS, which ultimately confirmed the exclusion on the basis that the athlete had brought his sport into disrepute. The final determination of the D'Arcy case on the merits is reported in full in the Journal.

In the context of athlete eligibility, the requirements of Racing NZ for jockeys to give urine samples on race day were challenged under the New Zealand Bill of Rights 1990 in *Cropp v A Judicial Committee*. This interesting case published in full suggests that the Bill of Rights may present further challenges for anti doping in New Zealand.

Governance of sporting organisations provides many challenges to sports administrators and Paul Horvath's practical article entitled Organisational Structure, Economics and Best Governance Practice in Non-Professional Sporting Leagues looks at possible corporate structures and practices in the context of Australian Football at grassroots level.

Finally, Braham Dabscheck discusses the issue of compensation for unilateral termination of contract in the world's most universal sport, football. The commentary also makes some observations on the development of uniform criteria across the football world in resolving the various disputes that routinely occur between clubs and players.

On behalf of the Editorial Committee I thank the anonymous reviewers for their efforts in reviewing articles submitted for publication, and the authors for their submissions. I trust that the Journal continues to operate as a significant forum for the development of ideas and intellectual debate in the area of sports law, and

I encourage you all to read and consider the important issues raised by the material contained in the Journal.

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