

EDITORIAL

2011 was a year to remember as one of great sporting performances by Australians and New Zealanders: a year when Cadel Evans won one of the world's great sporting events, the Tour de France, and New Zealand won another, the Rugby World Cup; Samantha Stosur won the US Open; Sally Pearson was voted the world's best female athlete by the IAAF; and Casey Stoner won the world MotoGP championship for the second time.

Following the trend set in earlier years, the sixth edition of the ANZSLA Journal is again a substantial reflection of developments in sport and the law during the year. The underlying theme of the articles and commentaries reflects the growing impact and importance to sport and sportspeople of the evolving digital economy. The articles approach the phenomenon from points as diverse as video review of refereeing decisions, issues relating to the privacy of athletes, particularly in the context of on-line publication of information, the impact of electronic ticket sales and ticket scalping, restrictions by the Olympic movement on use of social media by athletes and the on-line promotion of sports. Issues relating to the taxation of athletes in a more professional era complete the content.

The first article is the winner of the Paul Trisley Award for 2011. Dave Trodden, a solicitor with strong links to the Wests Tigers rugby league club, investigates the prospects of legal action to correct an incorrect refereeing decision in the sport of rugby league. In a diverting article which explores the realms of what might have been for the Wests Tigers the technological focus is the fact that it is the conduct of a video referee which is in question. Video referees are a relatively recent development in many sports and are not yet used in others. Developments in digital technology, however, suggest that they will be used increasingly as part of the adjudication processes in sports. In a passionate examination of case law in Australia and in other jurisdictions, the author suggests that growing commercialisation and new circumstances such as the introduction of video referees may yet see successful legal claims against sports' governing bodies where referees get it wrong.

The second article by Associate Professor David Rolph investigates issues of privacy and sportspeople. Against the background of overwhelming interest in the public and private lives of athletes, and developments in digital media which broaden the scope for retrieval and publication of personal information, the article compares the position in Australia with other jurisdictions. He focuses particularly on interesting judicial developments in the United Kingdom and proposals for privacy law reform in Australia.

Taxation of sportspeople is the subject of the article by Mark Lebbon. The article looks at two recent High Court decisions: *Commissioner of Taxation v Stone and Spriggs v Federal Commissioner of Taxation*. The cases were argued against the background of increased professionalism and earning power of

athletes, and provided the first significant consideration of the area by the High Court for a number of years. The article provides useful practical information for readers in this new environment.

Daniel Stuk has written on ticket scalping. A recent Government inquiry found that national legislation aimed at ticket scalping was unwarranted having regard to the low level of scalping in the country and the adequacy of the existing legislative framework to protect consumers. The author considers the issue from the standpoint of sporting organisations, who argued in submissions to the review that national legislation was necessary. He analyses in detail issues relating to contract and concludes that if event organisers want national legislation it should be enacted.

The Journal also contains two shorter commentary pieces which look at social media from different perspectives. The first, by Joshua Gray, considers the impact of social media as a marketing tool for athletes and the impact of the Olympic movement's restrictions on its use at the Olympics in the context of common law restraint of trade. The second piece, by Daniel Threlfall, compares the approach of leading US professional sports to the broadcasting of copyright content on YouTube. He suggests that major Australian sports such as AFL need to develop strategies for dealing with their copyright in footage of games. He describes the US approach at two extremes: that of the National Football League (NFL) and Major League Baseball (MLB) which strictly police content, and the National Basketball League (NBL) and National Hockey League (NHL) which encourage fans to use material to publicise their sports. Clearly both strategies have been carefully considered by the copyright holders and the author looks at the benefits and downsides of each.

Finally this edition contains two book reviews by Dr Tom Hickie: of the 4th edition of 'Sports Law' by Simon Gardiner et al, and of 'Reading Baseball' by long term ANZSLA member and contributor to the Journal, Braham Dabscheck.

Thank you to all contributors, to the anonymous reviewers for their comments and to the Editorial Board for the assistance. Thanks to CCH for their assistance in publishing the Journal.

ANZSLA members are at the forefront of legal practice in sport. I urge you all to consider contributing an article to the Journal if you are involved in a novel or interesting area of sport law. Continued diversity of subject matter and views makes the Journal a publication which lawyers want to read, enjoy and can use as a reference. It seems to me that members sometimes forget the important role they play in the development of sport law in Australia and New Zealand.

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