



Baseball



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RESTRICTION OF PUBLICATION OF PART CLAIMS PP 7, 8

27th April 2006

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Mr Gavin Jones
Director
Adjudication Branch
Australian Competition & Consumer Commission
GPO Box 520
Melbourne
By fax: (03) 9663 3699

Dear Mr Jones,

**RE: NOTIFICATION N90853 LODGED BY THE AUSTRALIAN BASEBALL
FEDERATION INC (ABF)**

We refer to your letter of 6th April 2006 requesting additional information in relation to the review of the notification granted to the Australian Baseball Federation (ABF) for its Baseball Australia Licensing and Merchandising Enterprise (BALME) Program (the **Program**).

We have provided specific answers to your queries as well as comments on the three (3) submissions received by the ACCC about the Program from NSW.

1. What are the procedures for non compliance with the Licensing Program?

Our earlier submission alluded to the initial reluctance of State and Territory Associations to fully support the Program and the reasons for this. As stated, the States have now realised the whole of sport advantages in the Program. There has been strong compliance with the Program at national level.

The slower-than-expected uptake of the Program and initial issues with suppliers as well as the changeover in administration, have meant that it has not been appropriate to this point to apply non-compliance sanctions at grass roots level. Rather State & Territory Associations have been followed up by Baseball Victoria and the ABF, and strongly encouraged to comply. In most cases this has occurred after a reminder from the State or ABF.

The appointment of ABF as Program administrator has led to new efforts by ABF to police compliance. Since assuming responsibility for the Program, the ABF has concentrated efforts on setting up an efficient administration for the management of the Program. This administration includes regular consultation with State and Territory Associations on managing compliance at State and Association level, review of procedures for the investigation and the handling of compliance, as well as penalties for non compliance. The ABF Program Manager has recently contacted State and Territory Associations regarding the



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appointment of local Compliance Officers to work with the Program Manager to review compliance at a local level. These Compliance Officers will be in place in the next few months, well before the major summer season. They will be nominated by their State or Territory, appointed by ABF and trained by the ABF Program Manager. It is intended that each Compliance Officer will attend random games during both summer and winter seasons at least weekly to audit compliance and provide a report to the State or Territory Association on breaches of compliance.

Compliance requirements are currently set out in documents including the Guidelines for National Championships and the National Royalty Policy Guidelines. Each State and Territory reconfirmed their acceptance of these Guidelines in January this year.

Prior to the commencement of the summer season in around September 2006 (times vary slightly from State to State) the ABF Program Manager will have visited each State and Territory to ensure that each Association and club understands compliance and that signed club compliance forms are clear. ABF will continue to communicate the Program and the issue of compliance to all stakeholders. The Program Manager will be focussed on ensuring understanding at both State and grass roots levels.

Details of the Program are also contained on the ABF website, along with Frequently Asked Questions (FAQ's) and an invitation to send individual inquiries to the Program Manager for response.

Currently the winter season is underway. It has a smaller number of participants. The main competition will commence in around September, and it is expected that State Associations will have their full compliance audit processes in place by then.

ABF employees will in the meantime continue to randomly audit compliance during their visits to State and Territory members. ABF staff members regularly visit each State and Territory. These visits occur at least every 2 months of each year for one reason or another. When ABF staff visit State and Territory Associations they conduct spot checks on compliance with the Program. Where any variances occur, they are immediately reported to the Program Manager who follows up with the Association concerned. This occurred most recently in January 2006 at the under 14 National Championships in January on the Gold Coast where the Executive Officer of the NSW team was advised some players and coaches were not wearing licensed uniforms. All non-licensed apparel was withdrawn immediately and no action taken due to the cooperation shown by BNSW in resolving the situation.

A hindrance to ABF efforts to consult with State and Territory Associations in relation to compliance has been the appointment of new Executive Directors for 4 of the 7 member State and Territory Associations in the last 6 months. This is not unusual in sport, where individuals work long hours for small remuneration and burn out quickly. These new appointees require time and assistance to understand and implement any compliance procedures. You should also note that State and Territory administrations usually consist of only one or two staff members, which makes all of these issues more difficult. However, each State and Territory administrator has been contacted over the last 3 months to ensure that the issue of compliance is given prominence.



2001	SP Baseball Club Qld	\$ 110.00	Written off
2003	Players First	\$2,366.54	Closed down
2003	PSL Digital WA	\$3,308.38	Closed down
2004	Born to Play Vic	\$5,982.66	Company liquidated
Sub-Total		\$19,605.08	
GST adjustment		(\$1,782.28)	
Total		\$17,822.80	

12. Does the ABF expect bad debt write off's to occur in future? If so, please estimate the proportion of licensing income this will affect.

Whilst the ABF employs prudent business practices in following up any outstanding debts, it is not always possible to guarantee payment from some licensees. Recalcitrant licensees with outstanding amounts payable to the program are contacted after 30 days to determine their payment schedule. ABF intends to police any such outstanding licensees and terminate them quickly in future, so that the previous situation of write off should not recur.

Current Program licensees have proved to be very reliable in regard to payment of accounts since ABF assumed responsibility for the program. The ABF does not expect any bad debt in the foreseeable future however that can never be guaranteed.

13. Now that the ABF manages the Licensing program, what does the ABF estimate to be the annual cost of administering the program? Please identify the cost sources.

The main areas in which a cost is incurred in relation to managing the Licensing Program include the following with an estimate for a 12 month period:

Licensing logos	\$5,000
Cost of travel to meet with constituents and licensees	\$1,000
Bank fees	\$ 100
Miscellaneous	\$ 500
ABF Administration costs	Unspecified but not passed on (see below)
Total	\$6,600

14. How does the ABF intend to cover these costs?

The ABF intends to provide for hard costs identified above such as licensing logos and bank fees by revenue derived from royalty fees paid by licensed suppliers.

Otherwise, the cost of administering the Program will be absorbed by the ABF until such time as total revenue achieved from the Program exceeds \$80,000, as described in the original agreement signed with Baseball Victoria. This is despite the saving of management



Compliance was again raised at the annual Council meeting of State and Territory Association members in January this year and they were advised by the ABF Board that compliance would be a major focus for 2006. This was accepted by all States and Territories without debate.

It is intended that a compliance report will be presented at each annual Council meeting by the Program Manager.

2. In practice, how are these procedures implemented?

The written procedures for the investigation and implementation of sanctions for non-compliance of the Program are outlined in Attachment 1.

Now that State and Territory Associations have re-affirmed their support for the Program and they can see a direct financial benefit, they will appoint Compliance Officers almost immediately. Breaches of the compliance policy will therefore be reported, investigated and resolved almost immediately, supported by the mechanisms outlined in the previous response.

3. Since assuming responsibility for the Licensing Program on 1 January 2005, has the ABF been required to follow non – Compliance procedures for any matter? Please provide details.

The ABF has direct control of all National Championships through the Guidelines for National Championships developed by the National Tournament Committee. These Guidelines stipulate the requirement for licensed uniforms for all participants.

The ABF representative at these Championships ensures each team participating is wearing licensed uniforms and informs team management of any breaches that need to be addressed.

For example, a Compliance Officer was appointed for the Claxton Shield held in January 2006. He checked each player every day over the course of the Championships. He reported two anomalies to the Program Manager, one from Victoria and one from South Australia, which were immediately rectified on site without the need for further action.

No further action was required to be taken at any of the other 2006 National Championships including all Junior Tournaments and the Senior Championships as all players and on-field coaching staff from all States and Associations were compliant.

4. Does the ABF intend to maintain non-compliance procedures in the future? If not, please describe how the ABF intends to enforce compliance with the Licensing Program?

The ABF intends to maintain non-compliance procedures and to actively enforce compliance at all levels. Consultation with State and Territory Associations however will provide further



feedback on any modifications which might be necessary. As noted above the ABF also intends to implement penalties as necessary.

5. What resources will be required to ensure compliance?

State and Territory Associations will be charged with the primary responsibility of enforcing compliance within their areas however ABF will audit their compliance statements. ABF will also conduct random audits at grass roots level by way of its employees. In addition Compliance Officers will work with the Program Manager to review and report on compliance issues at all levels of the game. ABF will train the Compliance Officers and continue to provide information and support to the States and Territories to implement the Program.

6. What are the current penalties that may be imposed for non-compliance with the Licensing program?

The penalties for breach of compliance are determined by the Board of the ABF and may include loss of points, players ineligible for representative teams and possibly fines if the breach is deemed serious enough. Failure to lodge a compliance statement relating to player registration and commitment to the Program will result in failure to receive payment of some royalties under the Royalty Policy.

These penalties are outlined in Attachment 1.

7. Since assuming responsibility for managing the Licensing Program on 1 January 2005, has the ABF imposed any penalties on players, clubs, leagues or associations for non-compliance? If so, please provide details

The ABF has not imposed penalties on any player, club, league or association since assuming responsibility for administration of the Program due to the previous difficulties in implementing the Program. Now that State and Territory Associations have reaffirmed their support for the Program and received additional financial incentives to comply via the National Royalty Policy, the ABF expects that there will be a new enthusiasm on their part to ensure compliance. As noted above, all States and Territories were informed at the time they reaffirmed their support of the Program earlier this year that 2006 would see a significant emphasis on compliance by the ABF. Since that time, all compliance issues have been resolved as they arose with no need for penalties. Furthermore a recent ABF Board meeting resolved to circularise the States and Territories reiterating the importance of compliance.

8. If possible, please provide details of revenue raised by the Licensing Program for the 2003 -2004 financial year.

Revenue for 2003/04

Licensing	\$50,854.10
Miscellaneous	\$ 3,159.32



Total \$54,013.42

Figures sourced from the ABF Annual Report 2003-04

9. If possible, please provide details of expenditure associated with the Licensing Program for the 2003 -2004 financial year.

BALME Expenses for 2003/04

Management Fees*	\$80,000
Dividends to States	\$17,000
Misc	\$2,909.32
Legal & Accounting	\$45.45
Travel & Entertainment	\$410.18
Bank Fees	\$145.60
Total expenses	\$100,510.55

Figures available in the ABF Annual Report 2003-04

* The Management fee of \$40,000 per annum for Baseball Victoria had not been paid the previous year.

10. Please provide details of all funds transferred to state and territory associations as a result of the Licensing Program from the program's inception (excluding the management fees paid to Baseball Victoria)

2001/02	(\$2,410.39) Loss (no distributions made)
2002/03	No distributions
2003/04	\$17,000 distributed to states
2004/05	\$50,000 - ABF assumed responsibility for program in January 2005 and distributions relating to 2005 were made in early 2006

11. If you are aware of any reason for this bad debt write off, please provide details.

Listed are the bad debts incurred by the program over the past few years. Some of these debts had been carried forward in the hope of retrieving at least some of the outstanding amounts. With the change of management of the Program from Baseball Victoria to the ABF it was deemed appropriate that the Program accounts should reflect current and accurate numbers.

Year	Licensee	Amount	Reason for bad debt
2001	HP Sports WA	\$2,887.50	Closed down
2001	Star Sportswear NSW	\$4,950.00	Closed down



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fees previously paid by ABF to Baseball Victoria in order to maximize the payment to State and Territory Associations via the National Royalty Policy.

15. Please specify the reasons for the increase in revenue expected to occur as a result of the introduction of a national baseball league?

The ABF has adopted a proactive commercial approach to recruiting new licensees which has led to the recruitment of 11 new licensees in the last 18 months. With the payment of further funds to the States and Territories, the expected additional enthusiasm for compliance, and the additional emphasis on compliance by ABF, it is expected that more funds will be generated as licensees come on board.

Of greater significance, ABF has been negotiating with Major League Baseball for several years to come up with a workable model and business plan for the reintroduction of a national baseball competition. The new league has a working title of Australian Baseball League (ABL).

The previous national baseball competition, also called the Australian Baseball League (ABL) existed for 10 years from 1989 until 1999 and during this time player registrations, particularly junior registrations, were the highest the sport had ever experienced. That increase in registrations was directly attributable to the exposure of the game of baseball to the Australian public created by the national league.

Negotiations are well advanced with MLB for their support for a new league to commence in late summer 2007 which should replicate the popularity of the previous league and promote additional player registrations. It is expected that the ABF logo and identification will play a significant part in the branding of the new competition. This in turn will generate additional business for licensees which will therefore result in additional license fees for the Program.

The Program will not only benefit from the increased exposure of baseball but also provide additional retail outlets for licensed products at games and special events.

[Confidential]

Submissions received by ACCC

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PUBLIC REGISTER**



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PUBLIC REGISTER**

1

Response to Hills Juniors

The Hills Junior Baseball Association has only recently re affiliated with Baseball NSW after a long running dispute with the Baseball NSW. The disaffiliation occurred in 2003 and as a result of this estrangement it would appear they are unaware of certain changes made to the Program.

Page 1 - We don't believe that BALME delivers a net public benefit in NSW

The assertion made by Hills Juniors that the Program doesn't deliver a benefit in NSW appears to be based solely on the fact that the association doesn't feel as if it has directly benefited financially from the program. Unaffiliated Associations cannot expect to receive any benefit from the peak body of the sport whether it be the ABF or Baseball NSW. Due to lack of initial real commitment to the Program, particularly in NSW, expected benefits across the board were reduced. That situation has now changed with the new administration.

As stated to the ACCC in previous correspondence, one purpose of a 'whole of sport' Licensing Program was for Baseball to market the sport to potential sponsors, and create a recognizable brand for the game as well as generate revenue for member State and Territory Associations. The ABF secured a 'whole of sport' sponsor with Financial Wealth which was the direct result of the Program. Sponsorship funds from this program are being paid to State and Territory Associations via the National Royalty Policy which this year distributed over \$100,000. The other benefits provided to State and Territory Associations for the benefit of their members were outlined in a previous submission.

The AB licensing logo is now a well recognised "brand" for baseball and compliments the 'whole of sport' approach the game is taking to promote baseball to the wider community.

The revenue generation component of the program has not been as effective as hoped due in part to previous administrations in NSW actively campaigning against the program. Once the current NSW administration implements the ABF compliance policy and follows up on



non compliance across the state then the Program should generate in excess of \$130,000 in licensing fees in NSW alone. This will result in substantial National Royalty Policy payments to BNSW and will alleviate the concerns of Hill Juniors. Whether individual associations or clubs receive payments in relation to the Program depends upon Baseball NSW.

Page 1 - There are some, albeit minor, public detriments flowing from the programme...

There is now zero start up cost to a licensed supplier. Any supplier who wishes to supply licensed uniforms signs a Licensing Agreement and pays a royalty if and when they sell product. No upfront fee is required.

Club officials generally purchase on behalf of their teams. The cost of compliance for a club official is alleviated by simply buying product from a licensed supplier. A listing of licensed suppliers appears on the ABF website and is updated regularly. The lists include suppliers from inside and outside the State each of which compete for business throughout the country. These suppliers must be competitive in their pricing as they could not expect to remain in business given the number of competitors.

Baseball NSW, for example, has reported that it tenders for uniforms Australia wide using the list of licensed suppliers to achieve the best price possible. Baseball NSW reports they are satisfied with the pricing outcome.

Baseball Victoria also regularly tenders its uniform and competition baseball requirements and has found that significant savings can be made by opening the tender nationally to all licensed suppliers.

In return some licensed suppliers have found they can maintain support from their local association by entering into sponsorship arrangements for the supply of uniforms or equipment. Wilson Baseballs in Victoria and Diamond Ace Baseballs in Western Australia are examples of this practice. Sponsorship arrangements such as this may not have been possible prior to the setting up of the Program.

Page 2 - We remain unconvinced that the ABF's management of the programme will change the situation from the past years...

The most obvious immediate change with ABF management is the removal of the administration fee of \$40,000 which was paid to Baseball Victoria as administrator of the Program. The ABF has assumed responsibility for management of the Program and until such time as the program is working to its optimum and generating at least \$80,000 in royalties, the ABF is absorbing all other administration fees. This allegation of Hills Juniors is thus clearly unsupportable.

Page 2 - There is one other issue we would like the ACCC to consider. It is the alternatives available to the ABF to achieve BALME goals that can now only be financial in nature.

As previously stated in correspondence to the ACCC the purpose of the Program is not limited to royalty generation (although that is important) but extends to providing an identity for marketing and sponsorship opportunities. The ABF would not have secured an



'all of sport' sponsor without a 'best for baseball' focus, and a single identity, which is what the Program provides.

If the sole purpose of the Program was to raise revenue, then the Hills Juniors suggestion for the ABF to simply raise affiliation fees to the state body could in some ways be justified. The ABF however is always looking to alternate means to fund the growth of the sport rather than simply raising fees. Additionally, a fee rise is always a contentious issue with participants, particularly with parents of children. Competition between sports for participants is very strong.

Page 2 - History

The International Baseball League of Australia (IBLA) was a company owned by David Nilsson, a former high profile player, which had a license to conduct a national baseball competition in Australia. The IBLA were awarded this license in 1999.

The ABF supported the concept of a Licensing Program instigated by the IBLA on behalf of the ABF however it quickly became apparent that the revenue projections proposed by the IBLA were not achievable. These projections were based on the concept of an IBLA national baseball competition and the inclusion of hardware such as bats, gloves and other equipment into the program.

The ABF assumed direct responsibility for the Program when the IBLA ceased trading in 2001 and made numerous changes to the Program including appointing Baseball Victoria as managers, dropping the up front fee, regional and national licenses and monthly sales reconciliations. In addition the license for equipment sales was withdrawn with licenses for apparel and baseballs retained.

See also issue of proposed new Australian Baseball League discussed above.

Page 3 - Background Data & Assumptions

The player figures supplied by Hills Juniors derived from the AGM "Voting Entitlement" spreadsheet posted on the Baseball NSW website does not tally with the number of registered players on the ABF My Club system. The number of players registered on the My Club system is 10,632 Summer registrations with an estimate of an additional 2,500 for Winter registrations making a total of 13,132 and verified with Baseball NSW. The ABF does not believe there is any point in engaging in further discussion on player numbers.

Page 3- Uniforms

A very convoluted process has been used by Hills Juniors to arrive at an assumption that uniforms last for 3 years. It could be argued that uniforms can last up to 5 years or even more.

The ABF believes the savings made by increased competition between licensed suppliers more than exceeds the royalties paid by licensed suppliers to the Program. If all players in NSW used licensed suppliers for their uniform requirements then the revenue generated to



the Program would be increased and a corresponding increase of royalty payments to State and Territory Associations.

The Hills Juniors could also avail themselves of the opportunity to tender their uniform and equipment requirements to national licensed suppliers as have BNSW and Baseball Victoria thereby garnering additional sponsorship support.

Page 5 – Balls

The point of the discussion on baseballs provided by Hills Juniors is not clear.

What is clear however is a tangible benefit of the Program which is the increase in the number of baseball suppliers from 3 to 8 under the Program. The ABF believes that without securing this increase in competition the price of baseballs would have increased at a much greater rate.

Page 5 - Other Equipment

The ABF removed hardware (bats, gloves, catching equipment) from the Program when it assumed responsibility for the Program from the IBLA in 2001.

No plans are in place nor contemplated for the licensing of hardware.

Page 6 - Conclusion

The figures provided by Hills Juniors suggest the annual national turnover for licensed products should be between \$1.46M and \$1.83M.

If this is correct then licensing fees calculated at 7.5% for apparel would generate between \$109,500 and \$137,000. This achievement would see the Program exceed the \$115,000 to \$130,000 level as suggested by Hills Juniors to be successful.

The only thing stopping this achievement is the lack of compliance in NSW which has been an issue for that State since the inception of the program. As outlined above, this will continue to be addressed by the ABF and BNSW in the coming months but there is no doubt that the States and Territories are appreciative of the benefits of the Program.

Response to Pacific Coast Baseball League

It should be mentioned at the outset that the President of the Pacific Coast Baseball League Inc (PCBL), Mr Luis Almenara, is currently in dispute with the ABF over the use of the name *Baseball Australia* and any comments made by Mr. Almenara should be read with this in mind. The ABF has offered to meet with Mr Almenara on numerous occasions to resolve differences on a range of issues but these requests have been rejected.



Page 1 Paragraph 3

Acceptance of Program

The submission from the PCBL highlights the situation that licensing has been a problem in NSW from inception of the Program for a number of reasons. The Board of Baseball NSW is aware of problems with the lack of compliance in NSW and is working to resolve this situation including that of PCBL.

Lack of jurisdiction

The ABF denies that ABF has no "enforcement or compliance capability over independently incorporated baseball clubs and league/associations". If these clubs and associations choose to compete in ABF sanctioned competitions then they must comply with the rules and policies of ABF. Jurisdiction over such bodies is conferred by the ABF Constitution, which was developed from an Australian Sports Commission model. As a condition of funding by the ASC, the ABF must have power to enforce rules and discipline players and associations at grass roots level if necessary. Under the ABF Constitution, the States and Territories are voting members of the ABF. Their members and all registered participants are non-voting members of the ABF, must abide by its rules and may be disciplined by the ABF. Additionally, each of the State and Territory members of ABF are signatories to the Royalty Policy which requires compliance with the Program.

ABF has contacted Baseball NSW to discuss issues raised in this paragraph.

Page 1 Paragraph 4

Support for Program in NSW

Baseball NSW in fact supports the Program and has along with the other States and Territories signed the National Royalty Policy and agreed to comply with the requirements of the Program.

Number of licensed suppliers in NSW

The number of licensed suppliers available to BNSW members for the purchase of licensed uniforms in NSW is six (6). This does not include all other licensed suppliers from interstate who are now very active in the NSW market.

Page 2 Paragraph 1

Previous arrangements

The ABF assumed direct management for the Program with all revenue generated from royalties now being distributed to State and Territory Associations via the National Royalty Policy. As can be seen from the accounts, the amounts paid to Victoria to administer the Program were taken from the royalties paid. There was no suggestion that Victoria benefited individually from the Program aside from the administration fee and Royalty



payments which were due to it as a participant. As highlighted in previous correspondence to the ACCC, Baseball Victoria employed a program manager to implement the Program. This employee was also engaged in other programs for Baseball Victoria. As well it should be highlighted Baseball Victoria did run its own scheme prior to taking over the Program on behalf of the ABF.

Page 2 Paragraph 2

Costs of playing baseball including insurance

The change in Insurance Cover and the withdrawal of Excess Medical Cover and Loss of Income was the direct result of skyrocketing insurance premiums and approved by all State and Territory Associations. This was against the background of the well-documented so-called "insurance crisis" triggered by the collapse of HIH and withdrawal from the Australian market of other sports insurers which ultimately led to changes to tort law Australia-wide. ABF did not generate the changes nor have significant control over the outcomes. Most sports have found that loss of income policies have become prohibitive and have left this type of insurance to the players themselves.

It should also be highlighted that fees paid by participants in NSW had not changed significantly in the previous 5 years. A substantial increase in fees in 2005 was required to bring NSW fees up to a level commensurate with other states and to cover the cost of Baseball NSW administration services. These increases were not to pay for ABF services.

Page 2 Paragraph 3

Supply of logos

It is presumed the reference to the 'supply of logos' refers to approximately 120,000 interim logos supplied to NSW Baseball in 2001 for players to affix to uniforms bought prior to the implementation of the Program. This was a way to ensure NSW players were able to adhere to the compliance policy without having to purchase a new uniform.

As stated previously, at the time of introduction of the Program, some NSW Baseball administrators were actively campaigning against the Program. A subsequent investigation by Program staff suggested that the supply of interim logos to be affixed uniforms may not have been distributed despite it being reported to the ABF that they had been.

As it has been almost five years since the introduction of the Program the necessity to supply interim logos is no longer apparent.

Page 2 Paragraph 4

Distribution of royalties

Since inception, \$67,000 in royalty payments related to the Program has been distributed to State and Territory Associations. Unfortunately due to its lack of compliance to the Program, Baseball NSW only received the \$454.55 mentioned. Baseball NSW has confirmed its



support for the Program and can expect future payments from the National Royalty Policy relating to compliance should this support continue.

Page 3 Paragraph 1

Issue of financial benefits to local associations and clubs

The ABF distributes revenue generated by the Program directly to State and Territory Associations for the promotion of baseball, and details of these payments have been provided. The PCBL should address its concerns of no direct receipt of royalties with Baseball NSW; however, it was not necessarily envisaged that individual associations would receive royalties. It is up to Baseball NSW how these payments are distributed.

The ABF is quite clear that the costs of the Program do not outweigh its returns as suggested by PCBL.

Page 3 Paragraph 2

Issue of equipment

The reference to the increase in the cost of equipment is confusing as the Program only licenses apparel and baseballs. As stated previously the cost of baseballs has not increased significantly, a fact which is attributed to increased competition among suppliers. The global manufacturer referred to is not a licensee. The number of suppliers of baseballs in Australia has increased under the Program to 10.

Page 3 Paragraph 3

Allegations of demise of the Program

The Board of the ABF and all State and Territory Associations are committed to the success of the Program and are supportive of efforts by ABF staff to promote the Program. The whole of sport sponsorship has allowed ABF to appoint a commercial Program Manager to manage the Program. It is impossible to answer the rest of this allegation as we are unable to understand it.

Page 3 Paragraph 4

Program not in best interest/impasse in the promotion of baseball

The Board of Baseball NSW has responsibility for determining the future requirements of affiliation which include compliance with the Program. Baseball NSW agrees with ABF that the Program is valuable and supports it. We are unclear how the Program is divisive; on the



contrary, it is ABF's view that it has assisted to foster a whole of sport approach which has given the sport a major sponsorship opportunity and will benefit all within the sport.

Page 3 Paragraph 5

General comments

The ABF strongly disputes the allegation that the information supplied to the ACCC in submissions is 'misleading and inconclusive'. The ABF has set out in detail the difficulties which have arisen in developing and implementing this ambitious Program but has not wavered in its view that the Program will benefit all within the sport. The State and Territory members of ABF have reconfirmed their support for the Program in signing the Royalty Policy in January of this year. The major sponsorship gained by the sport with its whole of sport marketing approach, and additional member benefits available from the Player Registration Scheme, immediately demonstrate the benefits of the whole of sport approach which depend upon the development of the ABF identity. Continuing and improved compliance within the Program will benefit members by way of increased royalties. Better compliance should attract other sponsorship opportunities and additional suppliers into the Program.

Response to Kay's Custom Sportswear

Kays Custom Clothing has repeatedly been given the opportunity to sign a Licensing Agreement but it has chosen not to take up that opportunity. Approaches have been made by BALME representatives over many years and most recently by the CEO of Baseball NSW. The response has always been in the negative.

The submission by Kay's sets out a general complaint based on vague generalisations and innuendo without any supporting information of significance, so it is difficult to provide additional comments at this point.

Conclusion

We trust the information we have provided has given the ACCC a better understanding of the Program and ABF's intention to retain it for the benefit of the Baseball community.

Should you require further information or if you believe a meeting is appropriate please don't hesitate to contact me or our Special Projects Manager – Alan Weir, on (07) 5509 4144.

We look forward to your response.



Yours Sincerely

A handwritten signature in black ink, appearing to read 'Don Knapp'.

DON KNAPP
Chief Executive
Australian Baseball Federation

encl: Attachment 1

cc: Alan Weir
Geoff Pearce
Ron Finlay
Deborah Healey

Attachment 1

Australian Baseball Federation Compliance Procedures

1. The Australian Baseball Federation is committed to the introduction of a national Licensing and Merchandising Program.
2. Member State and Territory Associations have all unanimously endorsed the Program.
3. Players who compete in a competition game under the auspices of the Australian Baseball Federation are required to register through their respective club and /or association to the State Body and Australian Baseball Federation under the National Registration and Insurance Scheme. Registered members are required to wear licensed uniform pants, tops, caps and jackets. Licensed uniforms will display the Australian Baseball Federation Trade Mark Logo. (Tee Ball exempt) Licensed baseballs are to be used in competition games under the auspices of the Australian Baseball Federation.
4. A listing of Licensed suppliers is available on the ABF website - www.baseball.com.au
5. Existing uniforms purchased prior to the introduction of the program in 2001 will be issued with an interim logo, which will authenticate the uniform under the Licensing Program.
6. Should a non-compliance matter be brought to the attention of the Australian Baseball Federation the following procedures will be undertaken.

- 1st Notice – Non compliance identified

An infraction notice will be sent to the non complying members club noting the infraction.

The non-complying member will be requested to advise within seven days how the problem is to be rectified.

- 2nd Notice

Should the matter fail to be resolved within seven days, a second infraction notice will be sent asking why penalties/sanctions should not be imposed?

- 3rd Notice

Infraction has not been rectified and appropriate penalties will be applied by State or Territory Association.

Penalties may include

1. Members – Players

- Ineligible for State Teams
- Ineligible to be included in Intensive Training Centre Programs
- De registration

2. Clubs

- Inability to gain points in competition games
- Ineligible to compete in post season play
- Financial penalties such as removal of discounts for National Insurance Scheme
- Members ineligible for any representative teams
- Disaffiliation from Association

3. Associations

- Members ineligible for inter association representative games
- Members ineligible for State and National Representative
- Financial penalties such as removal of discounts for National Insurance Scheme
- Disaffiliation from Association

4. States

- Members ineligible to play in National Championships
- Members ineligible to join National Intensive Training Centre Programs
- Financial penalties such as removal of discounts for National Insurance Scheme
- Distributions from National Royalty Policy withdrawn

Compliance Procedures

