

**MacLeod, Heather**

---

**From:** Alan Weir [AlanW@baseball.org.au]  
**Sent:** Friday, 11 August 2006 2:16 PM  
**To:** Adjudication  
**Cc:** Don Knapp; d.healey@unsw.edu.au; Ron Finlay; geoffp@pearcepharma.com.au; pwilliams@eqt.com.au; Colin Pitt  
**Subject:** Att Nadia Cooke - Submission from Australian baseball Federation Notification N90853  
**Attachments:** ACCC submission 11 August 2006.doc; 20060811115818474.pdf

Hello Nadia,

Please find attached our submission plus a scanned copy of all licensing badges.

Regards

Alan

---

Alan Weir  
Special Projects Manager  
Australian Baseball Federation  
Level 1, 7 Short St  
Southport QLD 4215  
**Phone Direct: (07) 5509 4111**  
**Mobile: 0414 280 426**  
Phone: (07) 5509 4144 Fax: (07) 5509 4155  
[alan.weir@baseball.org.au](mailto:alan.weir@baseball.org.au)  
[www.baseball.com.au](http://www.baseball.com.au)

*2004 Athens Olympic Silver Medallists*



Australian  
Baseball  
Federation



w w w . b a s e b a l l . c o m . a u

Level 1  
7 Short Street  
Southport QLD 4215  
  
PO Box 10468  
Southport BC QLD 4215  
  
P: + 61 7 5509 4144  
F: + 61 7 5509 4155  
ausbaseball@baseball.org.au

11<sup>th</sup> August 2006

By E-Mail

The General Manager  
Adjudication Branch  
Australian Competition and Consumer Commission  
PO Box 1199  
Dickson ACT 2602

Dear Sir/Madam

**RE: AUSTRALIAN BASEBALL FEDERATION NOTIFICATION N90853**

We refer to the Pre-decision Conference on 24 July 2006, and to make our further submissions as invited in your letter dated 28 July 2006.

**Primary Submission**

There are a number of issues we would specifically raise in relation to the Pre-decision Conference on 24 July 2006 and these are set out below.

However, the ABF's primary submissions are that:

- The Commission in its Draft Determination has overstated the anticompetitive detriment resulting from the Licensing Program. It is difficult to see how consumers are damaged by the Licensing Program. There is no anticompetitive purpose.
- Licensees and purchasers have in fact outlined circumstances where additional competition engendered by the Program has reduced prices or kept them stable, and where the ability to access goods via the website has added to competition across the country.
- The Draft does not acknowledge the fact that Licensees would be paying for advertising and publicity for products which now occurs on the ABF website.
- The money is retained in the sport.
- The number of Licensees has increased significantly.
- Administration costs of Licensees, members and clubs are small, by their admission.
- Compliance costs are overstated in the Draft Determination.





- In its draft Determination the Commission has understated the public benefit which results from the Licensing Program.
- The Draft Determination also gives little emphasis to the relationship between the Licensing Program and sponsorship which ABF has attracted following the inception of the Licensing Program.
- The Commission has not taken into sufficient consideration the significant improvement in benefits generated by the Licensing Program at this stage, or the potential for continued improvement now that the State and Territory Members of ABF are fully committed to the Licensing Program.
- The ABF has outlined some of the initial difficulties with the Program during a period of substantial reorganization, instigated by Government, within the sport, and a period of de-stabilisation within its largest state member. In the latter context we refer you to the report of NSW Baseball President Bruce Auty in the NSW Baseball 2005 Annual Report.
- The number of parties concerned about the Licensing Program is now limited and the arguments raised against the Licensing Program are in almost all cases not substantiated by fact.
- Of particular concern to ABF is the potential for the initial costs of implementing the Program of some \$200,000 which will be thrown away if the Program were to cease at this point.
- The ABF expects an increase in revenue for the Licensing Program by the end of 2007, for the following reasons:
  - (a) ABF initiatives were agreed to by the states when it took up management of the Licensing Program in January 2005.
  - (b) At that time the states signed MOU's in relation to compliance; performance targets were adopted for the My Club training and implementation; a 90% target was set for registration and insurance of members on the My Club system (which was achieved and triggered a \$50,000 bonus payment from the sponsor Financial Wealth);
  - (c) there was a state commitment of club compliance to the Licensing Program; and
  - (d) All of these will contribute to the growth of the Licensing Program.
- All of these initiatives were not fully functional until December 2005, whereas the last major buying period for uniforms was August through to October 2005.
- The ABF is of the view that the results of the uplift should be seen during the purchases leading up to the summer competition of 2007/2008.



- On the basis of potential large costs thrown away, the current improving climate for the Program, and the fact that there is little anticompetitive effect of the Program, the ABF seeks at least a stay of the revocation of the notification until 31 December 2007.
- At that time the Commission could review the Licensing Program again and revoke the notification if it was concerned.
- The ABF notes that the Commission has previously reviewed the Program and let it stand.
- It would be appropriate in the circumstances to let the Licensing Program stand for this further short period of time.

Further details and supporting information is contained the written Submission to the Pre-Decision Conference.

The ABF sets out its specific comments on matters raised during the Pre-decision Conference and by the transcript of that Conference below:

## **Page 7**

### *Paragraph 10*

Mr Almenara stated that he was offered a licence agreement in 2000 but the upfront fees payable were too great. The ABF notes that there are now no up front fees. The current BALME Agreement describing the requirements for Licensed suppliers is available for review on the ABF website. The ABF does not believe it has received a query from PCBL or from Mr Almenara or from Baseball Australia Pty Limited for admittance as a licensee since the inception of the BALME Program. ABF would be delighted to have him subject to the requirements of the Licence.

## **Page 8**

### *Paragraph 1*

Mr Almenara states that the ABF should "...focus on the propagation of the sport rather than running licensing schemes". The ABF does not run "licensing schemes"- it runs one Licensing Program which it believes is integral to the propagation of the sport, as has been addressed in ABF's earlier submissions. The Licensing Program was developed as part of the Business Development Plan developed at numerous Baseball Development forums. Appendix 2 lists the dates and participants in these Business Development Forums which were attended by a broad range of people within the baseball community.



### *Paragraph 3*

Mr Almenara states that PCBL is the only league which had not experienced a decline in membership. We are unclear how he has arrived at this conclusion. Various associations throughout Australia have experienced growth in numbers, including Queensland and ACT.

Queensland has reported a 2% uplift in numbers over the previous year and ACT has reported an increase in junior numbers of 30% over the last two years. BNSW reports an increase in registrations from 8,840 to 10,632 in the summer season 2005/6. The Ryde and Cronulla Associations have reported increases of 11% and 5% respectively in junior numbers. In NSW, some clubs have also taken advantage of ABF/BNSW supported development programs under the Playball/Try Baseball Program.

### *Paragraph 4*

Mr Almenara states that he is not aware of compliance officers being appointed in NSW, and submitted that this is another example of funds being diverted. Two separate issues should be addressed here. Glen Willott, CEO of BNSW, has agreed to become the Compliance Co-ordinator for NSW and will monitor compliance in NSW as a normal part of his administrative duties. Therefore no additional resources will be expended in monitoring compliance in NSW, and as discussed elsewhere, ABF does not believe that this will take significant time and attention. In states where the Program is working well, (such as VIC) compliance is now an accepted part of playing the game. No decision on umpire involvement with compliance monitoring has been finalized; however, umpires would be reporting and not enforcing compliance. Anomalies reported by umpires would be dealt with by a state or territory association under the Compliance Guidelines.

### *Paragraph 6*

Mr Almenara alleges that there have been 7 designs of badges since the Program's inception. There have been 3 badges in total, and two since the inception of the BALME Program. These 3 Badges are attached as Appendix 1.

A red, blue & white AB badge developed by the IBLA in 1999 is featured on the letter submitted by Mr Almenara to the Commission. That badge was not part of this Program. There may have been differing sizes of badges depending on the expected use, for example, the cap badge was smaller than the shirt & jacket badge, but the badge design was the same.

When ABF commenced the BALME Program in 2000 under the administration of Baseball Victoria, the current design for the badge was used but in red, white and blue. There was a request by Major League Baseball (MLB) to change the colour of the licensing badge on the basis that the colours were too similar to its branding. MLB is a partner of ABF in a number of player development initiatives and ABF thought this request was not unreasonable, particularly as MLB agreed to pay for all replacement badges. The replacement badges were of a green, gold and white colour scheme in the same design. All badges feature the letters AB plus a \* in place of the cross in the letter A. All badges signify licensed product. These badges are still used in the Licensing Program.



All AB badges, no matter which design, colour or size signify licensed product and therefore are acceptable for use in any sanctioned competition.

*Paragraph 7*

Mr Almenara states that he is concerned by the penalties imposed on players and clubs but the ABF is not aware of any fines or points deducted as a result of players not wearing licensed uniforms at this stage.

We are informed by Baseball NSW that PCBL is an affiliated member of Baseball NSW, which makes it and its participants members of the ABF. It is an affiliate as its constitution is in conflict with the constitution of Baseball NSW. The executive of PCBL has advised Baseball NSW that constitutional change must be put to its members and that this will take up to 6 months. On amendment and submission of a formal application it is understood that full membership should be ratified.

As a member of the ABF and Baseball NSW, PCBL is obliged to comply with the rules of both organisations. PCBL, along with hundreds of clubs and associations throughout Australia, is not compelled to belong to either organisation but if it does it belong it must comply with the same rules as all other members.

*Paragraph 8*

Mr Almenara states that the on-line registration database does not work properly but he has not given any examples of how it does not work. The ABF's online Registration system My Club has been hugely successful with at least 92% of all players nationally registered online. The ABF My Club system is often used as an example by its originator, Bellevue IT, to other sports as being a leader in this type of online registration program. Any new database such as this has some minor teething problems but ABF and Bellevue believe that these have been resolved.

Mr Almenara has been a constant critic of the on-line registration system and even though many changes were made to the system by the program developers to accommodate Mr Almenara's wishes, at no time was Mr Almenara prepared to meet with ABF Management to resolve these differences despite numerous written and verbal requests.

Mr Almenara's problems with the on-line registration database (if there are any) are not shared by hundreds of clubs and associations throughout the country.

*Paragraph 9*

Mr Almenara states that "the Masters Tournament referred to by the ABF" requires licensed product. It is only Masters' Tournaments that are sanctioned by the ABF are required to participate in the Program and it is voluntary. Not all Masters' Tournaments choose to be sanctioned by the ABF. The Alice Springs Masters, for example, is a Masters Games which has not sought sanctioning by ABF and therefore uniforms used in this competition do not need to be licensed. More than 220 players compete in that tournament.

*Paragraph 10*

Mr Almenara states that Baseball NSW Annual Report does not show the transfers of money claimed by the ABF. While ABF does not control the way in which BNSW reports financially, the BNSW Financial year finishes on the 31<sup>st</sup> March each year. The ABF payment was not received until early April 2006 and therefore the amount would not have been recorded in the 2005 Annual Report and will be included in the 2006 Annual Report. Refer to BNSW's letter to the Commission.

As to the money invested by ABF in the Program, BALME accounts have appeared in the ABF Annual report ever since ABF assumed responsibility for the Program. These accounts do not take into account the huge investment ABF has made in Business Development by providing IT support to all member clubs and associations to deliver a website s for all clubs and associations. The expenses incurred by the ABF with the Program have been expensed which is the appropriate treatment in its accounts

*Paragraph 12*

Mr Almenara states that compliance cannot be enforced. This statement is at odds with what is happening in the co-operative environment which exists in all states and the vast majority of associations. Compliance can be enforced and is not a problem when states, associations and clubs adopt a "best for baseball" mindset.

**Page 9***Paragraph 1*

Mr Almenara states that the cost of baseballs has been "relatively stable", but figures show that the cost of baseballs has been reduced as evidenced in submissions from licensed suppliers to the Commission.

*Paragraph 2*

Mr Almenara wants resources put into activities such as accreditation and coaching. ABF runs numerous national accreditation courses for umpires, scorers and coaches which have seen a significant increase in numbers over the past few years. These accreditation courses are endorsed and highly regarded by the Australian Sports Commission. In addition the ABF facilitates member state based accreditation courses conducted through state co-ordinators in all of the above disciplines. Details of these significant numbers of Coach, Umpire and Scorer Accreditation are set out at Appendix 3. In summary, coaching, umpiring and scoring courses are taking place with many participants accredited at all levels annually.

*Paragraph 12*

Commissioner King noted a difference between safety and registration requirements and uniforms, but the ABF point on this issue is that none of these checks take much time and



checking is already being done for a number of safety, uniform and registration issues in many sports at grass roots levels.

## Page 10

### *Paragraph 3*

Mr Almenara claims to be a member of the National Umpires Association, which does not exist. Comments as to what umpires are likely to do are thus unable to be verified by him. He also claims he has to organize Level 1 Umpire courses for PCBL members when in fact the only Accredited Level 1 umpire instructors eligible to conduct Level 1 courses in Australian are appointed by the ABF. An ABF accredited Umpire course will be conducted whenever an association has sufficient numbers to justify it. See Appendix 3 on training courses including umpires.

### *Paragraph 4*

The actual T-Ball levels are

NSW	Under 8
VIC	Under 8
QLD	Under 8
ACT	Under 8
NT	Under 8
SA	Under 10
WA	Under 13

It is hoped that all States will shortly adopt consistent national age groups for each level of competition. Whilst not finalized at this point it is envisaged that T-Ball equivalent competitions will continue until around the Under 12's.

## Page 11

### *Paragraph 1*

Reference is made on p11 to the Business Development Workshops run by the ABF. See Appendix 1 for dates and participants.

### *Paragraph 5*

The Conference notes refer to the "letter of support" for the Program by Williamstown Baseball Club which was tendered at the Conference, but the point of tendering the letter was its outlining of a decrease in the cost of uniforms at a reduced cost of \$23 from a Licensed Supplier. This does not appear to have been noted in the Summary of the Conference.

**NSW Junior Baseball**

Following the Pre-decision Conference the ABF noted that a submission had been received from NSW Junior Baseball about the Licensing Program. NSW Junior Baseball is not a member of Baseball NSW and is not affiliated in any way with ABF. For this reason, the ABF is of the view that it is not an interested party in these proceedings and its submission is irrelevant.

**Conclusion**

For the reasons stated in the Primary Submission, the ABF requests the Commission to adopt its position and to grant at least a stay of the revocation of the notification until 31 December 2007.

Yours sincerely

A handwritten signature in blue ink, which appears to read 'Don Knapp', is positioned above the typed name.

**Don Knapp**  
**Chief Executive**  
**Australian Baseball Federation Inc**



## **Appendix 1**

### **Scanned licensing badges**



## **APPENDIX 2**

### **BUSINESS DEVELOPMENT WORKSHOPS 28<sup>TH</sup> NOVEMBER 2003 and 5<sup>th</sup> & 6<sup>th</sup> March 2004 AIRPORT HOLIDAY INN HOTEL – SYDNEY**

#### **ATTENDING:**

Katie Bickford (Facilitator) – ABF Director

Murray Westphal – ABF Director

Chris White – ABF CEO

Don Knapp – ABF Baseball Operations Manager

Brett Pickett – ABF National Programs Manager

Jenny Stockman – ABF Communications and Marketing Coordinator

Peter Dihm – Baseball Victoria President

Scott Dawes – Baseball Victoria Executive Director

Bob Heiler – Baseball Queensland General Manager

Steve Erichsen – New South Wales Baseball League acting General Manager

Robert Taylor – Sydney Baseball

Phil Paddison – Country NSW Baseball

Shayne Bennett – South Australian Baseball League Coaching Director

Robert Cioffi – Baseball Victoria Marketing Manager

---



## **APPENDIX 3**

### **Coaching, Scorer & Umpiring Courses**

#### **Coaching Courses**

##### **Level 2**

The ABF currently runs a Level 2 course on the Gold Coast in conjunction with the Major League Baseball Australian Academy Program ("MLBAAP") each year. This course was instigated as a direct request by member states for an intensive 6 day course which features contributions lectures from the best coaches in Australia. The course is heavily subsidized by the ABF to ensure as many coaches as possible can afford to attend.

A Level 2 Course is run in Sydney for approximately 15 participants every year and is monitored by the ABF to ensure consistency with the national program.

At the recent ABF conference for state based Development Officers all participants were accredited as National presenters and Assessors which means more Level 1 and 2 Coaching courses can now be conducted at State level when required.

In addition a special Elite Player Accreditation Scheme (EPAcS) is conducted by the ABF to give accreditation to elite players with a minimum of 20 players achieving their Level 2 accreditation each year.

Therefore, a minimum of 60 Level 2 coaches are being accredited each year by ABF sanctioned coaching courses.

##### **Level 1**

An average of 4 Level 1 Coaching Courses is conducted per annum in each state with up to 8 courses being presented in some states. The Level 1 Course which accommodates 10 to 12 participants uses the ABF developed and updated curriculum.

This equate to 336 coaches achieving Level 1 accreditation each year.

#### **Scorers Courses**

Every year on conjunction with the MLB Australian Academy Program, two (2) scorers from each state & territory attend a workshop where a "Train the Trainer Course" is conducted. These ABF Accredited Scorers then conduct state based courses of up to 30 participants per time whenever required.



## **Umpires Courses**

### **Level 2 & 3 Umpires Courses (combined)**

These courses are conducted in conjunction with the MLBAAP and provide Umpire courses up to Level 3 as well as Umpire Instructor Accreditation Training. These courses are conducted annually and between 10 & 12 participants are involved. 4 of those involved in these courses are now umpiring in professional baseball in the US.

### **Level 1 & 2 Courses (combined)**

State based umpire courses are conducted by ABF Accredited Instructors with an average of 30 participants in each state. As well BNSW in conjunction with the ABF organizes an annual Umpires course which features up to 100 participants.

Therefore the total Level 1 & 2 ABF qualified umpires annually exceeds 280.

### **Level O Courses**

Local, club and association based Level "O" umpire courses are organised as required and courses of up to 30 participants are trained at a time. Dozens of these courses are conducted annually and hundreds of Level "O" Umpires are trained as a result.

## **IBLA Badge**



## **ABF Badge** Red, Blue & White



## **ABF Badge** Green, Yellow & White

