



SYDNEY ICE ARENA Pty Ltd

Trading as Sydney Ice Arena & Erina Ice Arena

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MARS/PRISM:

19 August 2009

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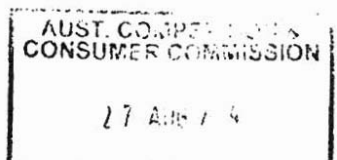
Dear Lauren

RE: ICE HOCKEY AUSTRALIA

Thank you for the opportunity to comment on the exclusive dealing notification by Ice Hockey Australia.

The proposal to sanction through suspension or expulsion, hockey players who play in games not approved by Ice Hockey Australia will have significant impact on ice rinks which rely on the revenue from games not sanctioned by Ice Hockey Australia through its state affiliates. The proposal would greatly reduce the freedom of players to choose between the various ice hockey competitions and will also greatly enhance Ice Hockey Australia's dominant power and the possibility of an abuse of that power, and will also reduce competition.

Sydney Ice Arena Pty Ltd operates two ice rinks, one located in Sydney and the second at Erina on the Central Coast of NSW. Apart from entry fees received from the public to attend general skating sessions, our ice rinks, like all others in Australia rely heavily on the revenue from ice hockey for their viability. We rent ice time to Ice Hockey NSW/Australia affiliated clubs to conduct games and training at both our ice rinks. We also rent ice time for a very significant number of privately run "non-sanctioned" games and we also operate ice rink controlled "non-sanctioned" games and activities. Players can chose any of the three types of leagues or activities and all are currently thriving. Both ice rinks would lose significant income and viability if they were forced to operate



without the revenue from the "non-sanctioned" games.

Our ice rinks are the first point of initiation for potential ice hockey players. We develop the local hockey players through providing "mini-hockey" in public sessions and school sessions. We also then offer "Hockey Development" for those wanting to get a better knowledge of ice hockey. We arrange for coaches, training and equipment. The next step is for a budding ice hockey player to enter one of the ice rink's Development Leagues or Hockey Camps or play games in our Summer Leagues. These games follow the same rules as Ice Hockey Australia, have referees, and are well organized, supervised and controlled but are not "sanctioned".

We also rent out ice time to other "non-sanctioned" leagues and conduct competitions when requested by various groups. Most of these activities run in the summer but others also run in the winter months at the same time as "sanctioned" Ice Hockey NSW games.

The players in the "non-sanctioned" leagues come from various places including currently registered players from Ice Hockey NSW/Australia clubs wanting additional games to the average one per week offered in the "sanctioned" leagues; senior players from overseas either recently emigrated, temporary workers or on holidays; players who have come through our development programs or players who have previously had membership in a club affiliated with Ice Hockey NSW/Australia.

The ice rink receives income from the "non-sanctioned" Leagues that we organise directly through the players paying game fees. Income may also be received from spectator entry fees. In a recent 14 week "non-sanctioned" competition we had over 9,000 paying spectators. Crowds at some games were far bigger than any games played so far this year in the AIHL Competition which is the highest League sanctioned by Ice Hockey Australia. This is an important part of the ice rink's annual income.

This particular "non-sanctioned" league came about when the 'Rhinos Team' which was registered with Ice Hockey NSW/Australia and based at Erina Ice Arena was excluded from the "sanctioned" AIHL competition. (see correspondence letters attached). The Rhinos were also not allowed to enter another "sanctioned" competition so the players had no alternative, if they wanted to continue playing ice hockey on the Central Coast of NSW, than to request that a new competition be established. Erina Ice Arena did not wish to lose the revenue from the AIHL games, wanted to help these local players and so assisted in the establishment of a new competition including the Rhinos players and overseas players. Application was made to Ice Hockey NSW/Australia to sanction the competition. This was rejected despite that we were willing to pay all fees and registrations including ITC cards for overseas players. The primary reason given for not sanctioning this competition was that it competed with their AIHL Competition.

The force of an approval of Ice Hockey Australia's application to the Commission may allow them to ban the Rhinos Team players and hundreds of other players, or prevent them from ever joining "sanctioned" competitions any time in the future. This would be grossly unfair and an abuse of their power. Many of these players have trained for years in the hope of representing their country or playing in state representative teams at some time in the future.

In the Ice Hockey Australia submission to the Commission, a letter written by Mr Barry Killham from D.H.B & Associates, contained some statements we would like to comment on. Firstly Mr Killham states in the opening sentence of his letter to Don Rurak of 7th July 2009 that "As requested, we provide the following to assist in the process of managing non sanctioned ice hockey activities within Australia". It appears from Mr Killham's words that Ice Hockey Australia wants to "manage" non sanctioned activities in other words "outlaw or in the least, make life difficult for "non-sanctioned" leagues rather than deal with its own members activities as outlined in its application. We believe that Ice Hockey Australia will be able to reduce or eliminate most of the "non-sanctioned" activities in Australia through the successful approval of its submission.

Mr Killham also states that, "Such insurance cover is only obtainable through sports insurance schemes arranged through national sporting bodies". We can advise the commission that our ice rinks have always been able to obtain insurance cover for our players registering in our "non-sanctioned" leagues and competitions. We have obtained these policies through SportsCover Australia Pty Ltd, underwritten by Lloyd's, the same companies covering the "sanctioned" games. The policies also appear to be identical in content.

Our ice rinks have proper risk management policies already in place which we believe make "non-sanctioned" games equally safe or safer than Ice Hockey Australia "sanctioned" games. Many of the "non-sanctioned" games are non-contact, which reduces the possibility of injury. We also require a Senior First Aid Officer at all rink operated games. Ice Hockey NSW/Australia does not require any First Aid officers apart from at the AIHL games. We have also observed that Ice Hockey Australia has allowed players as young as 16 to play against International professionals from overseas in AIHL games which presents obvious risks which we would not allow. We have not had one single insurance claim from any ice Hockey player playing in our rink run competitions whereas Ice Hockey Australia have had two major injuries recently which they have admitted is the cause of a significant increase in their Insurance premiums.

Ice Hockey Australia's submission seems to focus on player safety, insurance and risk management. In all of these areas we can confidently say that the same international rules are followed, with the same risks and insurance policies, whether the games are "sanctioned" or "non-sanctioned".

"Non-sanctioned" games are a vital part of our revenue. Along with Ice Hockey Australia we also carry out "Ice Hockey Administration" and have a 'Director of Hockey' to manage the "non sanctioned" activities. There is currently good competition between Ice Hockey Australia's affiliated competitions, rink operated competitions and privately run competitions. These three sources of options for players has kept player costs down and increased total participation in the sport.

If granted their request, Ice Hockey Australia will be able to prevent players who have previously participated in a "non-sanctioned" game from playing "sanctioned" hockey ever again. It will also scare many players into not starting out their hockey playing career with "non-sanctioned" leagues and will eliminate many "non-sanctioned" activities and therefore reduce competition. The elimination of "non-sanctioned" leagues and activities may potentially cause the closure of one of our two ice rinks if not both. This as a consequence, would cause less competition between ice rinks. The reduction in "non-sanctioned" competitions will also allow Ice Hockey Australia to increase costs for player registrations without alternatives for players.

Currently registered players with Ice Hockey NSW/ Australia play in our "non-sanctioned" summer leagues. This seems to be either allowed or overlooked by Ice Hockey Australia, but under their application to the commission they will be able to prevent the players even participating in this out of season competition. It will also put Ice Hockey Australia in a much more powerful position with regard to negotiating ice costs if the vast majority of games were "sanctioned".

Sydney Ice Arena Pty Ltd through its two ice rinks is a great supporter and contributor to the growth of Ice Hockey. Apart from providing world class facilities and venues for Ice Hockey Australia's affiliated club teams, we have also put thousands of kids through our rink run Hockey Development programs and hockey camps. We also recently sponsored the Captain of the Ice Hockey Australia's National Team to travel to the World Championships in Europe in March this year and provided financial assistance to other players who have struggled with the cost of joining fees for Ice Hockey NSW/Australia registration.

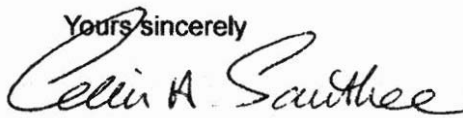
The Canadian Competition Bureau earlier this year received complaints concerning Hockey Canada's threats to ban players and ice rinks participating in "non-sanctioned" leagues. The Bureau has now forced significant changes to prevent some of Hockey Canada's threats. (see articles attached).

To resolve this matter, our suggestion would be to allow Ice Hockey Australia to adopt a similar position to Hockey Canada and conditionally allow the suspension of players registered to participate in Ice Hockey Ice Australia "sanctioned" winter competitions if the same players are found to also be currently playing in "non-sanctioned" games. The suspensions should however only be allowed for the current season and that all players must be allowed to re-register with Ice

Hockey Australia at the start of the following winter season without any financial penalty. Players should also be free without threat of penalty to enter "non-sanctioned" games outside of the Ice Hockey Australia winter competitions. Players and officials who have participated in "non-sanctioned" games anytime in the past should not be prevented from registering with Ice Hockey Australia at the start of a new winter season.

An alternative to this would be for Ice Hockey Australia to only register and insure the players for the period during which the Ice Hockey Australia winter competitions are played ie April to September. Separate insurance cover could be obtained for Australian teams if travelling overseas in the off-season.

Please do not hesitate to contact me for any further information or discussion on this matter.

Yours sincerely


Ellis Southee
Sydney Ice Arena Pty Ltd

From: icespeed@ozemail.com.au [mailto:icespeed@ozemail.com.au]
Sent: Tuesday, 13 January 2009 4:10 PM
To: Tim Frampton
Subject: Rhinos Ice Hockey Team

Dear Tim

The Rhinos Team have heard that you intend to exclude the Rhinos from the 2009 AIHL Competition. We have not heard from you regarding this matter except emails regarding the Licence Agreement which we have consistently said we can not sign based on our legal advice. Last year we requested that you respond within 7 days to our question as to whether the Rhinos may be excluded from the competition if the new Licence Agreement was not signed and we received no reply to that request. We have gone ahead and arranged everything to facilitate a great year for the Rhinos team in 2009.

We proposed a compromise Agreement in December but received no feedback. We more recently advised the Teams that we could sign the Licence Agreement, as is, but under a new Incorporated Association. We have not heard back regarding this either.

3 years ago, I received many calls from the AIHL and others desperate for someone to reopen the Erina Ice Arena and revive the Rhinos AIHL Team after the previous operators closed down the ice rink. On only a few days notice I was able to provide all the guarantees necessary and sign all documents to get the ice rink open again and confirm that The Rhinos Team would be able to enter the AIHL Competition which was to start within only 4 weeks. The situation now seems very much the reverse whereby the AIHL seem determined to eliminate the Rhinos.

The main reason you gave me for the Licence Agreement was to attract a major Sponsor. Surely a Sponsor would want to include a team:

- In one of the fastest growing areas of Australia.
- With the largest crowds of any AIHL team and an important part of the NSW Central Coast community.
- Is a financially viable team with the full backing of the ice rink operators. You and others on the Board have told me that this is the preferred model unlike some other teams which can not guarantee their existence within the ice rink facilities.
- With one of the best Hockey facilities in the Country.
- Which has already arranged the import players for 2009. Three of the four imports have arrived and are living on the Central Coast and training with the Rhinos.
- With significant existing TV and radio airtime throughout the season, fully supporting the team. These media are part of national networks which could have become involved with promoting the League.

Another important thing to consider is that the Rhinos are a significant motivating factor for the younger Hockey players on the Central Coast of NSW.

Simon Clark has confirmed with the team captain that the Rhinos can enter again in 2010. If this is the case then why not allow us to stay in the League in 2009.

We ask that the AIHL confirm our continued involvement in the League for 2009 or confirm which part of the Constitution we have breached that will exclude the Rhinos from the competition.

Kind regards

Ellis

Rhinos Ice Hockey Team

Competition Bureau
CanadaBureau de la concurrence
Canada

Canada

Home > Legal Actions and Opinions > Alternative Case Resolutions

Hockey Canada Outlaw Leagues

In July 2008, the Competition Bureau received a complaint regarding Hockey Canada's bulletin A09-02, which outlined sanctions against so-called "outlaw" hockey leagues, referring to leagues that operate outside the auspices of Hockey Canada, and in that sense in direct competition with them.

The Bureau examined the bulletin and concluded that some aspects of the sanctions gave rise to issues under section 79 of the *Competition Act*, otherwise known as the "abuse of dominance" provision.

The Bureau contacted Hockey Canada to explain its concerns with the potential anti-competitive aspects of the sanctions. The ensuing dialogue led Hockey Canada to eliminate or substantially modify, as appropriate, the sanctions so as to address the Bureau's concerns.

The revised bulletin containing the new sanctions was posted on Hockey Canada's Web site.

This issue was formally resolved in May 2009.

Date Modified: 2009-06-03

North Star, Sports, Wednesday, June 10, 2009

by Allyson Snelling

Canadian hockey with no borders

Less than one year after Hockey Canada-imposed sanctions pushed one player out of sanctioned hockey leagues for playing in the Greater Metro Jr. A Hockey League (GMHL), the federal government has intervened through its Competition Bureau to force Hockey Canada to eliminate three major sanctions against "outlaw" leagues.

A press release issued by Parry Sound-Muskoka Member of Parliament and Minister of Industry Tony Clement said that, until recently, hockey players who participated in "outlaw" leagues, or leagues not sanctioned by Hockey Canada, were penalized from playing in sanctioned leagues for up to two subsequent seasons.

Local members of Parliament and others found this rule unfair and complaints were sent to the Competition Bureau, the release said.

"In Canada, hockey is our birthright," said Clement. "Now, thanks to the individuals who put pressure on Hockey Canada, the obstacles faced by some of our young players are gone. We have restored the right of every Canadian to play hockey wherever and whenever they like. We have taken our local teams, like the South Muskoka Shield, out of the penalty box."

According to the press release, the Competition Bureau received complaints about Hockey Canada sanctioning against so-called "outlaw" hockey leagues, and the players and arenas in which they play.

The Bureau examined the bulletin and concluded that some aspects of the sanctions gave rise to issues under section 79 of the Competition Act, otherwise known as the "abuse of dominance" provision.

As a result of the dialogue initiated by the Bureau, Hockey Canada has eliminated three major sanctions: Municipalities and arenas may now offer ice time to non-affiliated leagues without the fear of losing the business of Hockey Canada-sanctioned activities.

The suspension period for a player that participates in an outlaw league can no longer extend beyond the season in which that participation takes place.

The third sanction was changed to make it clear that a Hockey Canada team would not be in violation of the bulletin merely by playing in the same arena as an outlaw league.

"I'm thrilled about this historic decision," said Clement "This just goes to show that the system works. Now it is time to get back to doing what we do extremely well here in Parry Sound-Muskoka: play hockey!"

Last July, Hockey Canada released a bulletin outlining its position on what they call "outlaw" leagues, a category the GMHL has fallen into, defined as being "all leagues which operate outside the auspices/sanctioning of Hockey Canada programs in direct competition with those offered by Hockey Canada."

Players who participate in up to five "outlaw" games were ineligible for membership in sanctioned Hockey Canada programs for three months from their last "outlaw" appearance. Players participating in more than 10 "outlaw" games would be barred for a whole year.

The sanctions hit home when Steve Vince, a player from the South Muskoka Shield in Gravenhurst, who had played 10 games for the Shield – two of which were exhibition, was forced to sit the rest of the hockey season out because of the ice time he enjoyed with the GMHL.

Vince believes the decision by the federal government is "definitely good for everyone," despite the fact it came too late to get him back in sanctioned hockey.

"I'm glad (the rule) is gone," he said. "It will help everyone else, but it's kind of too late for me. I wish they could have changed it when I was trying to go to Hockey Canada. My parents spent a lot of money (appealing the decision), trying to get it changed. We're hoping we can get some of that back."

Vince said the new rule suspends players that participate in an outlaw league from participating in Hockey Canada programs for the remainder of that season, which is the same Hockey Canada rule that applied in the 2007-08 season.

"It's more fair this way. I think it's really good they changed it," he said. "It's all over now and gives people the choice they deserve."

South Muskoka Shield general manager Gord Carey said the eliminated sanctions will ease intimidation from players' minds about playing a season of hockey in a league like the GMHL, a league that is not sanctioned by Hockey Canada.

"Most kids were intimidated from day one because of the penalties," said Carey, adding he is happy that freedom of choice has been restored.

Former Shield coach Jeff Stack, who also owns the GMHL's Oro Medonte 77's and holds the rights to put a GMHL hockey team in Parry Sound, agrees the change is monumental.

"We actually expected tougher sanctions," said Stack. "We're expecting more kids are likely to try out (for GMHL teams) because they're not scared how it may impact their hockey careers. Any 16-year-old should still have the dream of playing hockey in college, major junior or even the NHL, but they were scared that dream would be quashed when they stepped on the ice with a GMHL team."

Stack said the change also allows 16-year-old players to continue to develop outside of the Hockey Canada structure.

He said most sanctioned teams have limiting rules on the number of 16-years-olds they can sign to a team. Those who don't make the cut had no other option but to go back to midget hockey, he said, which doesn't allow them to grow at the level they should be.

"Now they can come to the GMHL and play against a higher calibre of players, who are also older and bigger," said Stack. "They will automatically become better hockey players. It's big for our league, but we've always wanted to develop kids. It opens the door for more kids to be developed."

Marshall Uretsky, spokesperson for the GMHL, said the organization is "awfully pleased" by the decision, although he believes there are still other issues to be sorted out.

As a long-time official, Uretsky said he'd like to see a stand taken on referees as Hockey Canada has rules against its officials working for outlaw leagues.

"It isn't over," said Uretsky.

"There should still be freedom to make a living as a referee or a coach."

However, he said, the decision opens the doors for players and municipalities to feel more comfortable hosting a GMHL team in their facilities and nixes statements as to who ice can be rented to.

"The whole objective from the beginning was freedom for players and we never understood how Hockey Canada and its subsidiaries and branches felt the thing to do was impose penalties against its own members," he said.

"Hockey Canada has been given a good spanking and they deserved it. We were never out to start a fight, but we wanted our piece of the hockey pie and found a niche in the market for our product because kids weren't getting those opportunities in sanctioned hockey."

The GMHL did not file an official complaint with the Competition Bureau, but did contribute to the process by providing statements and comments on the matter, Uretsky said.

"Now kids can come to our league even if their objective is to play for a sanctioned Jr. A team," he said.

"At least now they can come develop for a year and have the freedom to go wherever they want after. Tony Clement stepped up and saw that it was wrong and was in a position to do something about it."