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**Johnston
Withers**



Our ref: MPJ:kjw:80853

E-MAILED
21/12/09 @ 3:30pm

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21 December 2009

General Manager
Adjudication Branch
Australian Competition and Consumer Commission
GPO Box 3131
CANBERRA ACT 2601

Attention: Dr Richard Chadwick

Email: adjudication@accc.gov.au

STATEWIDE LEGAL GROUP
An affiliation of independent legal firms delivering professional services to all South Australians
Johnston Withers
Mason Westover Homburg
O'Briens
Voumard Lawyers
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Catherine Leis Barrister & Solicitor

Dear Sir,

Re: Notification N94049 lodged by Ice Hockey Australia-further submission and request for pre-decision conference

Ice Hockey Australia hereby requests a pre-decision conference in relation to the draft notice on 4 December 2009. Please cc any response to the CEO of Ice Hockey Australia Mr Don Rurak at the following email address drurak@bigpond.net.au as our office will be closed between 23 December 2009 and 5 January 2010.

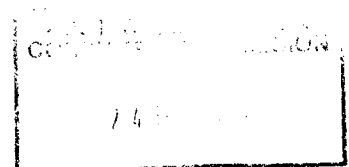
Letter from IIHF

Our client has provided a copy of the draft notice to the IIHF. In response a letter has been received from IIHF (a copy of which will be enclosed with the postal confirmation of this letter) confirming IHA's concern that should the ACCC revoke IHA's exclusive dealing notification that this could result in a loss of IHA's membership of the IIHF.

As noted in previous submissions, article seven (7) of the IIHF statutes and bylaws provides that:

“the member associations of IIHF shall recognise each other as being solely empowered to control Ice Hockey and/ or in line in their respective countries; therefore they undertake that neither they nor any of their members will in any way have relations with non sanctioned bodies or one of their members, except as permitted by the statutes and bylaws or with special permission of the IIHF.”

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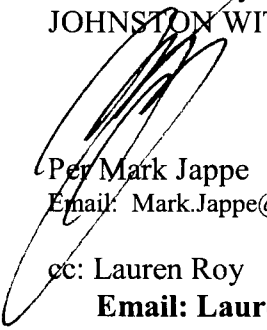
We respectfully submit that were IHA to lose membership of the IIHF due to an inability to prevent its players from competing in non sanctioned competitions, then the detriment to ice hockey in Australia would be considerably greater than any harm which is alleged to be likely should IHA's members be forced to choose between sanctioned and non sanctioned competitions.

Decision of the Competition Bureau Canada

We understand that the Canadian Competition Bureau has authorised Hockey Canada to impose upon its members a regime considerably more restrictive than that proposed by IHA. We understand that the only alteration required of Hockey Canada was to remove its sanctions of hockey venues for selling ice time to rebel leagues.

While we concede that this decision does not form a binding or persuasive precedent, we do respectfully submit that given the similarities between the section 77 of the Canadian Competition Act relating to exclusive dealing and Section 47 of the Trade Practices Act, the decision of the Canadian Competition Bureau and the subsequent apparent lack of impact upon the viability of rebel leagues in Canada provides some support for the contentions of IHA both regarding the lack of anti-competitive effect of the notified conduct and the desirability of allowing a national sporting organisation to regulate its members in this manner.

Yours faithfully
JOHNSTON WITHERS



Per Mark Jappe
Email: Mark.Jappe@johnstonwithers.com.au

cc: Lauren Roy
Email: Lauren.Roy@accc.gov.au

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F. Meredith, E. Alanca, F. Gonzalez, B. Grupp, J. Siroky, C. England, A. Medvedev, T. Rossi, M. Schoier-Schneider
General Secretary H. Lichtner

www.iihf.com

Ice Hockey Australia
Mr Don Rurak
23 Dickerson Way
Redwood Park
South Australia 5097
Australia



Zurich, 21 December 2009

Dear Mr Rurak,

The IIHF has learned about some issues your Association is having with regards to enforcing article 17 of the IIHF Statutes & Bylaws. You will understand that the IIHF Office is not in a position to provide you with a final position on what impact those issues may have on ice Hockey Australia's (IHA) membership with the IIHF as long as the IIHF Legal Committee and probably subsequently the IIHF Council were not able to discuss the matter. I can however meanwhile give you some information on what the impact could be should IHA's application be revoked by the Australian Competition & Consumer Commission. In my opinion such a decision would heavily affect IHA's ability to govern the sport of ice hockey in Australia and as such, if IHA loses the control over ice hockey in Australia this would most likely have a serious impact on IHA's membership with the IIHF. IHA would no longer be in a position to fully comply with the requirements set by the IIHF Statutes & Bylaws and would also no longer fulfil the membership requirement of being in a position to control ice hockey within the country. As such I am very concerned about the situation we have learned about and kindly ask you to please keep us informed.

I am also very concerned about the draft ACCC position which was provided to the IIHF as it questions fundamental principles of governance in sports. It is in throughout the world a widely accepted fact that sports and their respective national and international associations cannot be fully subject to antitrust/competition laws and that the sports model, the specificity and autonomy of sport must always be respected and thus taken into consideration.

With kind regards,

International Ice Hockey Federation

Horst Lichtner
General Secretary