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IHA EXCLUSIVE DEALING NOTIFICATION N94049

With reference to your letter dated 04 August 2009, addressed to Ice Hockey Queensland (IHQ) Vice President Norman McLeod, you have requested our position on the public benefits, the effects on competitions and any/or other public detriment should Ice Hockey Australia (IHA) have governance over all Ice Hockey games, competitions and leagues in all States and in Australia. To this I provide the following response.

Although it may appear, on the face of it, that there would not be any immediate or direct benefit to the general public, or alter the effects on competition, or have any other detriment for IHA to have exclusionary powers in managing Ice Hockey in Australia, it does however have an impact on the expectations of the Ice Hockey community and its current members. The current requirements and standards from sporting institutions such as International, Federal and State Sports Institutes, with which Ice Hockey Australia is a member, are of a high standard and I would not like to see this standard diminish in any capacity. Things that need to be considered include; appropriate governance, the managing and administering Ice Hockey in accordance with the current policies and regulations of these institutions and the Australian Associations Incorporations Act (1991).

One of the key governing elements crucial to the expectations of these institutions is that Ice Hockey Australia and the Member State Associations have the ability to provide a safe and risk free sporting environment for its members, especially those of minor age. Operating in the current environment where players are wishing to participate in unsanctioned competitions or events whilst they are current members of IHA is problematic. By this I mean that both IHA and the Member State Association Board and Directors are obligated to meet the expectations of providing a safe risk free environment to its members, insurers, sponsors and the general public. Having no governance over unsanctioned games, competitions etc would mean that there is no obligation to anyone to meet these requirements.

Failing to meet these requirements/expectations has and will continue to impact heavily on our current members insurance costs, this is evidenced by our current insurers having already demanded a comprehensive Risk Management Policy for our sport. A Risk Management Policy has been developed by our Federated body and has been adopted by all Member State Associations and Affiliates. This has been done to ensure that we are all committed to providing our members with the safest and risk free environment possible. It is expected that the Member State Associations and Affiliates do everything possible to support this Plan, keeping in mind that any increase in costs ultimately impacts on each and every membership regardless of age or gender. Ice Hockey Australia cannot afford to be in a position where they have increased costs from injury and litigation claims if the sport wishes to increase membership and expand its program to allow members to participate to the best of their ability in a safe competitive environment.

In the past we have asked that members who wish to participate in unsanctioned competitions or events also seek Ice Hockey Australia accreditation as a safety net against litigation and injury. Our findings have suggested that a greater majority of the organizations staging unsanctioned events are not a registered associated body, have no safeguards (policies and regulations) or insurances in place to protect the players and/or participants.

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Although the State Associations attempts to manage and safeguard its responsibilities to the best of their ability, there is, on occasion, whereby some members seek refuge under Ice Hockey Australia's protection when suffering an injury or fear litigation whilst participating in an unsanctioned event. Players that participate in these unsanctioned events, whilst being members of Ice Hockey Australia, places the member State Association in a conflicting position where by it is required to comply with Ice Hockey Australia and the state sports institutions, yet has no governance or control over the way these unsanctioned events are being run. Our powerlessness to have governance in this area places Ice Hockey Australia in a difficult position with the International Ice Hockey Federation and Federated Sport Institutions. Any non-compliance with either the International Ice Hockey Federation and/or the Federated Sport Institutes places any reduced participation cost, financial subsidies, national and international participation at great risk to the future of our membership.

There has also been occasions when an unsanctioned competition is designed to attract foreign players (imports) from other International Ice Hockey Federation Member Countries. These competitions are not the sanction of Ice Hockey Australia, the International Ice Hockey Federation and the players Home Country, are led to believe Ice Hockey Australia is benefiting from these players in non-compliance with their International Transfer Policies. The International Ice Hockey Federation and a majority of the Member Countries have extensive penalties and sanctions in place for players who participate without proper transfer to another country. This creates a great deal of difficulty between our State Association with prospective import players, when they see other import players participating without compliance.

Even more concerning, is the participants in these unsanctioned competitions have no way of knowing if the imported player is under suspension, some other sanction, or of good character which is a requirement under the International Ice Hockey Federation's and Ice Hockey Australia's Risk Management Policy. Our State Association has no option but to report such players to Ice Hockey Australia.

There is also an assumption the foreign players are financially compensated either directly or indirectly to attract them to the competition. We believe such compensation, is at the detriment to not only our member players, but also to all Australian players. However, this is a choice that players will need to make should they choose to support unsanctioned competitions.

It is for these reasons that Ice Hockey Queensland has the view and supports Ice Hockey Australia on seeking Exclusionary Powers to compel Ice Hockey Australia members to make a determined choice on either only participating in Ice Hockey Australia sanctioned events or to participate in an unsanctioned event as a non-member of Ice Hockey Australia, but not both.

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