



# SYDNEY ICE ARENA Pty Ltd

Trading as Sydney Ice Arena & Erina Ice Arena

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**Phone:** 02 9659 5557.

26 January 2010

Lauren Roy  
ACCC  
GPO Box 3131  
Canberra ACT 2601

Dear Lauren

RE: NOTIFICATION N94049 - ICE HOCKEY

We would like to provide additional information in the above matter as a response to both the ACCC's pre-decision conference and the Submission from IHA dated 21 January 2010.

## **IIHF Sanctions**

For over 100 years, non sanctioned games and local organised ice hockey leagues have existed in Australia without affiliation with the National or International Federations. They have existed in tandem with the games played between teams registered with a state or the national body. IHA has always been regarded as the governing body for ice hockey but many players have chosen to either play in both IHA sanctioned competitions and non-sanctioned competitions in the same season, or have just played in non-sanctioned events. Some of the reasons for players choosing to play in non-sanctioned events are: lower cost, don't have to travel to away games, non-contact rules, less chance of injury and a more social environment. Non-sanctioned leagues provide players with the opportunity to choose alternative or addition games to those offered by IHA.

IHA seems to be now relying solely on "Article 7" (we assume IHA meant 'Article 17') of the IIHF Statutes and By-Laws, the letter from IIHF dated 21 January 2010, and perceived consequences on it's membership of IIHF. IHA's membership would not be in jeopardy because players are free to play in non-sanctioned games in major hockey playing nations including Canada and the USA and a long standing precedent has been set by both IHA and IIHF in allowing players to enter non-sanctioned games for many years in various member countries.

'Article 17 of IIHF Statutes and By-Laws' has two main parts. The first part requires other member associations of IIHF to recognise Ice Hockey Australia "as being solely empowered by IIHF to control ice hockey" in Australia. This is certainly not in dispute (in the past, currently and assuredly into the future) as there is no other National Federation that is purporting to also control ice hockey in Australia. No other organisation is trying to send Australian teams to the World Championships. IHA is also the only organisation in Australia running a National League, organizing state representation and interstate competitions, running National training camps etc. In a similar way IHA currently recognises other member federations.

The second part of Article 17 commences with the word 'therefore' which clearly helps to define how the words that follow should be interpreted. This is clearly in the global context of recognising national federations and has nothing to do with local non-sanctioned games or leagues and certainly gives no authority to ban players playing in local non-sanctioned events. When it mentions "un-sanctioned bodies" in Article 17 it is referring to national organisations not officially recognised by IIHF which might claim to represent hockey players on a national basis. This would prevent another country from recognising a bogus organisation which might try to send an Australian team to that other country.

Article 25 of the IIHF Statutes and By-laws lists the possible reasons for revocation of IIHF membership. These include "does not control IIHF ice hockey, or where applicable in-line hockey, in the country concerned". This article also helps to define Article 17 as it refers to "IIHF ice hockey" rather than encompassing all ice hockey games in a member nation.

Hockey Canada also may have misinterpreted Article 17. When they tried to apply the wording to local non-sanctioned games, they were forced by the Canadian Government to change their approach.

In the letter from IIHF dated 21 January 2010, Horst Lichtner provides his personal opinion on the impact of a revocation of IHA's notified conduct by ACCC. Mr Horst seems to support our above interpretation of Article 17 in that he says "if IHA loses the control over hockey in Australia, this would most likely have a serious impact on IHA's membership with IIHF". Ice Hockey Australia is certainly not losing control of ice hockey in Australia as previously mentioned above. If IHA members are allowed to continue to participate in unsanctioned events then nothing is changing in Australia, and yet we are sure that the IIHF and other member nations have never previously doubted that IHA was in control of ice hockey in Australia. Mr Horst does not specifically mention the real issue of IHA members participating in unsanctioned leagues as this has occurred over many decades in Australia and occurs already in most IIHF member nations.

The IIHF statutes and By-laws also state that "Every ice hockey player in Member National Associations of the International Ice Hockey Federation has the right to participate in a safe, positive and enjoyable environment and to be treated with respect, dignity and fairness in the process. The International Ice Hockey Federation and each of its Member National Associations do not accept and will not tolerate harassment, abuse or violence in any of its many forms, and particularly where people in positions of

responsibility unfairly exercise their power and authority over others.” IHA is in a very powerful position and its threats of banning players or not selecting players into representative teams who chose to improve their skills by playing additional games in non-sanctioned events should be curtailed. IHA is proposing to use its unchallenged national power to influence local ice hockey games, increase its power over players, reduce consumer choice, increase consumer costs, eliminate un-sanctioned leagues and reduce competition for ice time at ice rinks.

### **Public Benefit**

IHA claims in point 4 of its letter of 21 January that “the notified conduct will in no way detrimentally affect the operations of unsanctioned leagues”. This claim should be ignored because banning players who participate in unsanctioned leagues will result in less participants and will make many leagues unviable and hence unable to operate.

IHA is offering to utilise its inevitable increase in revenue, as a result of the proposed conduct, to increase funding in various areas of its operations. We believe that this should not be interpreted as being an item “in the public interest”, hence enabling IHA to unreasonably use Section 93 of the Act to support its application. The proposed conduct will not be in the public interest as most, if not all, young ice hockey players are introduced to the sport through ice rink run non-sanctioned activities including ‘mini-hockey’, Hockey Development games, drop-in games, ice rink run hockey camps and local leagues operating within individual ice rinks. To effectively allow IHA to eliminate these activities and polarise the sport could not be deemed to be “in the public interest”.

The Public interest will not be served by IHA banning players from seeking to play in more than one game per week, that is, play a non-sanctioned game whilst being entered for a sanctioned competition. There will be obvious public detriments including a reduction in the number of people playing ice hockey; a reduction in the frequency of individuals playing hockey games; a reduction in consumer choice between expensive sanctioned leagues (\$830 plus travel costs to away games) versus lower cost non-sanctioned leagues ( \$420 for SIHL and \$395 for Sydney Ice Arena League). There will also be a significant reduction in the competition for ice time, handing a monopoly to IHA.

The Australian Sports Commission will only ever recognise one National body yet it is also unable to support the notified conduct by IHA because it agrees that this will reduce participation levels which would not be in the public interest.

### **Amendment to the Notification**

The proposed amendment put to the ACCC by IHA in the letter of 21 January 2010, will have no effect whatsoever on their notified conduct because if there is a sanctioned league operating in one ice rink in Sydney in Summer, IHA will surely claim that they retain the right to ban or suspend their members who participate in a non-sanctioned league at one of the other ice rinks in Sydney. IHA states in point 7 of their letter that it “would also allow IHA members to participate in unsanctioned leagues operating in parts of Australia where no IHA sanctioned leagues operate”. It is inconceivable that players should be

forced to travel to other parts of Australia if they also choose to play in unsanctioned games.

Sydney Ice Arena and Erina Ice Arena allow, and in fact give priority to, sanctioned games on weekends in winter and both ice rinks have reserved ice time ready for Ice Hockey NSW to confirm sanctioned competition game schedules. Outside these times these two ice rinks have already taken bookings this winter for either ice rink or privately run non-sanctioned leagues, namely 'Sydney Ice Hockey League'; 'International Cup', 'Sydney Non-Contact League', 'Erina In-house Comp' and also ice hockey camps. Since Australia has a very limited number of ice hockey players, the rinks and private leagues must rely on the participation of both IHA registered and non-registered players to make these events financially viable. Since these ice rinks will have existing sanctioned events, the proposed amendment by IHA will have exactly the same impact on players as the original notified conduct and will prevent IHA members participating in sanctioned events and non-sanctioned games in the same season.

We request that ACCC also consider the impact on coaches, team managers, time keepers and other officials who participate in both sanctioned and non-sanctioned games. Under the proposed conduct, IHA will be given the freedom to ban or suspend officials who participate in non-sanctioned games. A typical example is a parent wanting to play ice hockey games in one ice rink close to home to avoid the need to travel- the only option for such a player is a non-sanctioned league played at a single rink. This parent may also wish to be a coach, team manager or simply help out as a time keeper or scorer for their child's team entered in a sanctioned league. To help out at IHA sanctioned games officials need to be members and subject to the same rules as players. This parent would be under threat of being suspended by IHA. Another example is an IHA registered referee who wishes to make some additional money refereeing a non-sanctioned event at a time when there are no IHA games. This referee would be liable to suspension and would lose access to the ability to earn money for refereeing sanctioned games.

We believe that the only circumstances in which IHA should be allowed to ban or suspend players would be for disciplinary action directly related to player behavior or where the player does not fulfill his or her obligation to attend a sanctioned game for which they had registered and had a commitment to play. IHA only offers one competition (usual only one game per week) for each player per season. Players should be free to choose to play in additional competitions. In many other countries, players get to play in up to 3 or 4 games per week.

### Other Matters

The non-contact leagues offered by ice rinks and privately run leagues provide an alternative to the higher risk of full contact ice hockey offered by IHA. An increasing number of ice hockey players are opting to choose leagues with non-contact rules in order to minimize their risk of injury. There is a plethora of data demonstrating the significant increase in risk of injury when playing in full contact leagues when compared with non-contact leagues.

Many peer reviewed studies of injuries involving both youth and adult hockey players show that, despite advances in safety equipment, the number of concussions is increasing. Findings from meta-analyses

and prospective and retrospective studies support the association between full contact bodychecking and concussion. In addition, the incidence rates of concussion and other hockey-related injuries increase with increasing age, which is also when more bodychecking is expected.

If IHA members are threatened with bans if involved with unsanctioned leagues, there will be a reduction in the number of participants and hence less unsanctioned leagues, if any at all. Many players, only playing in (unsanctioned) non-contact leagues, will be forced to play in (IHA) full contact leagues or more likely, to give up ice hockey altogether. All but one of the non-sanctioned leagues in our two ice rinks are “non-contact” competitions whereas IHA competitions from the Bantam division (14 years olds and above) up to and including the Senior leagues are full contact competitions.

### Conclusion

Our counterfactual prediction if the notified conduct or the offered amendments are not adopted is that there will be a continuation of the increased interest in ice hockey as a sport in Australia, healthy competition in the ice hockey market at a local level, freedom of choice for players and officials, and a continuation of the appropriate dominance of IHA at a national level without any interest from IIHF in local and regional non-sanctioned events.

We believe that IHA should be required to remove the threat of bans on their members if they participate in non-sanctioned events. We believe that an appropriate outcome of this matter would be for the ACCC to:

1. Refuse to allow IHA's notified conduct,
2. Uphold the rights of IHA members (players and officials) to participate in non-sanctioned events,
3. Remove IHA's ability to intimidate players by threatening their non-selection onto representative teams if players participate in unsanctioned leagues and
4. Require the removal of Rule 4.22 from the IHA Regulations.

Since players have been playing in non-sanctioned games in Australia for 100 years without fear of bans, we believe that this freedom of choice should be confirmed for IHA members and that their rights should be protected into the future.

Yours sincerely,

Ellis Southee  
Sydney Ice Arena Pty Ltd