

FOOTBALL QUEENSLAND –

FURTHER SUBMISSION

IN RESPONSE TO ISSUES RAISED BY ACCC AND SUBMITTERS

Issues raised by ACCC in correspondence dated 26 October 2011

Minimum Standard of Quality

As provided in oral submission Football Queensland makes the following points concerning quality control.

Contrary to the claims contained in submissions referred to by the ACCC, Football Queensland does work actively to ensure minimum quality standards.

Football Queensland does request of new licence applicants, the production of apparel samples.

Football Queensland does not however require suppliers who have been known to Football Queensland under previous Programs, and have been successful, to produce further samples.

Football Queensland does not place significant weight on samples (unless they are poor) as nearly universally suppliers supply a superior product for inspection. It would seem self defeating for a supplier to do any less.

Football Queensland encourages a Club or Zonal Body to raise any dissatisfaction with the supplier initially providing the supplier with the opportunity to remedy any problem. It has been Football Queensland's experience that by and large any dissatisfaction is resolved at that level.

Football Queensland has become involved on several occasions in providing assistance to its members in reaching a satisfactory solution to product quality issues.

Football Queensland provides the recent example of assisting in the replacement of a batch of defective footballs with a superior replacement football and sponsorship gift of a significant number of footballs for the next season.

It is due to the existence of the Marketing Program that Football Queensland has the ability to ensure that suppliers meet minimum standards, and if those standards are not met, to force a satisfactory resolution of the matter.

If Football Queensland did not have the enforcement power provided by the marketing agreement, then it would not be in a position to help protect its members from inferior products and poor service.

It would seem obvious, but clearly it needs to be stated considering some of the submissions made, that the purchase of football apparel from overseas directly through online websites is fraught with risk. It cannot be disputed that there is a high incidence of fraud, defective products and supply difficulties attached to any online purchase but particularly apparel purchased out of Asia.

The Administrators of community based Clubs have a fiduciary duty to ensure that members funds are expended in a low risk value for money manner. If funds are lost or inferior product is purchased (sight unseen) from an online supplier, particularly from overseas, these administrators could well place themselves at risk of allegations of improper conduct or even claims for compensation for the loss suffered.

One should also not discount the total lack of any service from suppliers located off-shore.

Lower Apparel Prices

As explained in oral submissions Football Queensland has produced to the ACCC Royalty payment data which clearly demonstrates the decline over the last three years in the actual cost of supply of apparel to Clubs with member numbers growing during the period, this data is evidence of the strength of competition in the market place.

Clearly, the guarantee of a predictable demand allows licensed suppliers to negotiate with manufacturers for best prices on the back of reasonable volume.

If the Marketing Program was not operating the current suppliers would undoubtedly be more cautious about ordering in volume and best pricing could well be lost.

Football Queensland has also acted where approached by Clubs who have sought to purchase from particular licensed suppliers to assist in securing the best possible price from those suppliers.

The prices achieved by Football Queensland have been very competitive and these savings were passed wholly to the Club or Clubs concerned.

Review

It is noted that Football Queensland has provided the ACCC with further financial information which clearly breaks down the income and expenditure from the program.

Football Queensland has explained that the change to reporting arrangements to ASIC resulted in the inconsistent figures.

Football Queensland has provided the ACCC with financial evidence of the contribution by Football Queensland to the Red Kits Program in the sum of \$556,603.08 over the 2008 and 2009 years. This sum alone is in excess of the sum earned from the Marketing Program.

Football Queensland also has provided to the ACCC evidence of expenditure on several other programs including grant writing assistance program, coach education programs, and referee education programs. Football Queensland noted specifically that 3,555 grass roots coaching courses in 2010 at a value of \$88,875 were provided for free.

It is noted as advised to the ACCC previously Football Queensland is a non-profit Corporation with specific objectives to administer and develop the Code of Football in Queensland. Accordingly, all of its activities are a benefit to its members.

Confidential Submissions

Football Queensland again notes the clear disadvantage it suffers in responding to submissions which the ACCC has elected to receive but has provided immunity from publication pursuant to the Act.

Football Queensland will respond as best as it can to these confidential submissions.

Efficiencies in Tender Process

1. **Claim**

That playing shirts and shorts could not be purchased for \$10 is refuted.

Response

Football Queensland has produced a licensed supplier brochure with such an offer.

See attached brochure.

2. **Claim**

"Bulk buying is not achieved via the Licensing program".

Response

It has been explained above how bulk buying advantages are achieved by the Program.

3. **Claim**

"Suppliers do increase the price of Team wear. For instance, suppliers add on a charge for the Q Logo"; AND

"I have been involved with soccer for long time and in various capacities. It is my experience that each individual clothing supplier builds into price of their apparel the cost of licensing program that FQ operates."

Response

Only one supplier, Veto, is known by Football Queensland to add a charge to their invoices for purchase of the Q Logo. Football Queensland is currently in dispute with this supplier over an alleged breach of the licensing agreement. Several suppliers have confirmed in writing that they do not specifically add a charge due to membership of the program.

Football Queensland understands all of its licensed suppliers with the possible exception of Veto publish a sales brochure outlining pricing for most if not all of their apparel. This apparel is available to be purchased at the advertised price by any purchaser.

This would clearly indicate that suppliers producing such material do not add any direct element of cost for participation in the Program.

Participation in the Program seen in a commercial context is no different to a business investing in a marketing budget.

The Marketing Program provides a supplier with access to a significant targeted consumer group. Considering the high cost of media advertising and the hit and miss nature of such advertising it can be seen how attractive the Program would be to a potential supplier in gaining access to a large consumer group.

It could well be argued that the Program provides a relatively inexpensive way of gaining access to a targeted group of consumers by an apparel supplier.

Barriers to Entry

1. Claim

"Football Queensland has opened the doors to anyone prepared to pay the Licence fee. This favours the big players, whereas small companies would find it more difficult to break even".

Response

Football Queensland has sought to ensure that high levels of competition remain in the market place. Accordingly, if a supplier has displayed previously an ability to perform well in the market, then they will be granted a licence.

Nearly, 75% of the licensees would fall into this group.

Due diligence checks are done on the reputation of new applicants.

Some current licensed suppliers under the Program would be considered in volume terms to be small. They have obviously made a commercial decision to participate.

The requirement to enter into the marketing agreement provides Football Queensland with an ability to influence the quality, price and service provided by suppliers whereas with no Program members would be at the mercy of suppliers. Small suppliers undoubtedly would have greater difficulty in achieving the same price competitiveness of large suppliers as well as most likely greater service and supply uncertainty.

The Program is beneficial in filtering companies potentially less capable or less committed to meeting the requirements set by the Program.

Service

2. Claim

"Regional areas are disadvantageded as few licensees service these areas".

Response

This claim is not correct.

All licensees within the program will and do supply to regional areas.

The submissions to the ACCC from the Townsville region clearly disputes this claim. Several of the licensed suppliers have sales representatives that travel to regional areas to provide professional service and to take orders. Also, other regional areas have agents operating in these areas. Due to the access provided to licensed suppliers by Football Queensland to all of its members, regional areas are actually better served than would be in a totally unrestricted market.

Market Share

3. Claim

Two licensed suppliers (Gorilla Sports and Statewide Sports) have 70% of the market, the rest of licensees compete for the 30%.

Response

Data provided by Football Queensland to the ACCC of royalty payments clearly indicates this claim is baseless.

Football Queensland Further Response

In response to issues raised at Conference held on 2 November 2011. Football Queensland provides the following further submissions:

The ACCC sought further information on the following issues:

1. How Football Queensland Brokers supply deals on behalf of Clubs.

Response

Football Queensland when requested by Clubs will act to approach a supplier or suppliers nominated by a Club to assist in facilitating the best possible terms for purchase.

2. The ACCC has requested the ranges of fees charged and if they have increased. *The range of registration fees currently charged by Clubs and whether these have increased in the last few years.*

As advised orally, fees charged by Clubs vary significantly across Clubs and age groups.

Due to the current difficult financial circumstances being experienced across Australia with the possible exception of the mining regions, some Clubs and Zonal Bodies have elected to charge no fees to entry level juniors in an attempt to attract parents to the sport for their child or children.

In making this decision Clubs are absorbing through their membership the insurance and levies imposed by Regional, State and Federal Bodies.

Clearly, these Clubs and Regional Bodies have identified the price sensitivity of the market place.

The Sunshine Coast Football Zone did not charge a fee last year for entry level junior players.

Further in the North Queensland, fees have remained unaltered for two years for a similar age group.

Junior Club fees vary, broadly speaking, would on average be in the \$120 to \$200 range in Brisbane, and \$85 to \$180 in Regional areas.

Examples of actions by members to reduce impact of price sensitivity.

From: Lisa - Sunshine Coast Football [mailto:office@sunshinecoastfootball.com.au]
Sent: Monday, 7 November 2011 11:03 AM
To: Geoff Foster
Subject: RE: Your urgent advice please.

Dear Geoff

We are happy to provide support that a \$5 - \$10 increase will have an impact on the cost of registration provided at club level.

Under 6 – provided free by Sunshine Coast Football – an increase of \$5 - \$10 would mean SCF would seriously have to re-examine providing free registration again in 2012

The following were Maleny's fees in 2011 (this includes Club / FFA / FQ and SCF portion) :

Maleny:

Under 7 - \$95.00

Under 8 - \$95.00

Under 9 - \$100.00

Under 10 - \$120.00

Under 11 - \$130.00

Under 12 – Under 15 - \$ 175.00

Under 16 - \$180.00

Under 17 - \$200.00

By our records Maleny's fees have changed very little in the past three years. SCF Zone portion did not increase in 2011 to clubs and only increased as per FQ increases in 2010. Maleny is our cheapest club on the coast so if you would like other club's for comparison please let me know.

Hope this is of assistance.

Kind regards,

Lisa Green

Senior Administrator

Sunshine Coast Football

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Far North Queensland Football Zone junior fee table:

| | |
|------|---------|
| 2008 | \$24.50 |
| 2009 | \$26.00 |
| 2010 | \$26.00 |
| 2011 | \$26.00 |

Football Brisbane Zone has not increased its fees in three years due to price sensitivity.

Football Queensland has had direct feedback from its members across the State that any fee increases at this time imposed by Football Queensland would be seriously detrimental to attracting children into the Code. With football being amongst the most popular junior sports in Queensland the impact on the wellbeing of young children

could be significant and flies in the face of State and Government programs encouraging participation in sports from a young age.

3. The ACCC has requested advice of player numbers for the last few years.

Response

As requested by the ACCC, Football Queensland provides in the table below the numbers of registered players in Queensland.

| | 2011 | 2010 | 2009 | 2008 | 2007 |
|-----------|--------------|--------------|--------------|--------------|--------------|
| Outdoor | 66991 | 66447 | 66913 | 69159 | 69445 |
| Squirts | 2463 | 2356 | 1847 | 1386 | |
| Futsal(e) | 4886 | 4036 | 2717 | 1370 | |
| | | | | | |
| | 74340 | 72839 | 71477 | 71915 | 69445 |

74340 (e) estimate final registrations outstanding.

The figures further support the success of the current Program when compared to royalty data. Clearly the implication being unit price is decreasing.

This data also supports Football Queensland's decision to expand the supplier base prior to the introduction of the current Program Football Queensland has managed to strike a balance between providing high levels of competition but still providing an infrastructure which also provides Clubs with strong support in ensuring minimum quality, service and supply standards.

4. ACCC have asked for further advice about Football Queensland's concerns as to Clubs potentially being dealt with unconscionably. For example, through restrictive long term supply agreements.

Also as to how the Marketing Program may assist in restricting such conduct.

Response

Football Queensland has had for sometime concerns about the use by some suppliers of "sponsorship agreements" which are agreements made directly with Clubs and which commit Clubs to longer term exclusive supply arrangements. The inducement to Clubs being the supply of a percentage of apparel ordered at no cost. The terms of some of these agreements for example tie the Club to the one supplier

for three years. The Club is not allowed to purchase clothing or equipment from any other suppliers nor in some cases can they accept any gifts of clothing or equipment.

Further, some of the agreements provide no protection as to price increases by the supplier over the term of the agreement, nor recourse for poor service or supply. Onerous penalties may be applied as liquidated damages if the Club should breach any of the terms of the agreement.

Football Queensland is seriously concerned that these types of agreements take advantage of the Clubs and potentially impose serious restrictions on the football apparel market.

Football Queensland through the Marketing Program has an ability to raise with any licensed supplier engaging in such conduct its serious concerns as to the unconscionability of such conduct and the potential illegality of such conduct. If persisted with, it may provide opportunity for Football Queensland to take action to cancel the Licence of the supplier.

In the absence of the Marketing Program suppliers utilising such arrangement would be free to do as they wish, short of infringing the law.

An example of such an agreement has been previously supplied to the ACCC.

Noel Woodall & Associates

Response to Submissions

Submission

Denise Bills

"In reference to your article re non licenced suppliers being able to be used by sporting clubs in the qld. Area. We feel that it would be a financial boost to our already struggling club to be able to purchase equipment from non licensed suppliers and enabling us to seek better prices online.

Denise Bills"

Response

See response to Runaway Bay Soccer Club inc. submissions below.

Submission

Runaway Bay Soccer Club Inc.

Response

Football Queensland is not certain of the status of this Submission. As far as Football Queensland is aware Mr Jarman does not hold a formal constitutional position with the Runaway Bay Soccer Club Inc.

Regardless of the above Football Queensland can state that although Mr Jarman does not describe the product purchased by the Club. Football Queensland is aware that the Club chose to purchase sub limited clothing in 2010.

This type of garment is extremely expensive due to the printing process involved. The Club had available to it good quality alternatives within the price range now quoted by Mr Jarman as the alternate price for 2011.

Again the delivery time for sub limited clothing due to the small quantity purchased is longer than a more common product.

Mr Jarman's assumption that licensed suppliers all source their product from China is also incorrect.



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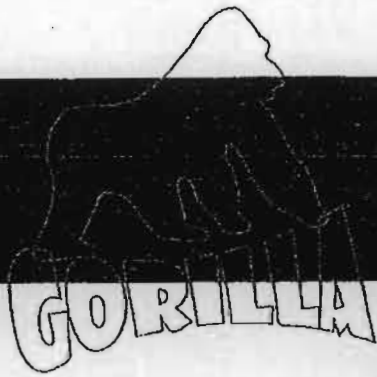


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