



FILE NOTE

ACCC OFFICER:	DAVID HATFIELD, IMOGEN HARTCHER-O'BRIEN		DATE:	24 NOVEMBER 2011
<input checked="" type="checkbox"/> PHONE TO <input type="checkbox"/> PHONE FROM <input type="checkbox"/> MEETING	FILE NUMBER:	C2010-1015	TRACKIT:	44065
SUBJECT:	N95172 – QUEENSLAND RUGBY FOOTBALL LEAGUE LTD			
OTHER PARTIES:	MR ROBERT MOORE, CEO, QUEENSLAND RUGBY LEAGUE LTD MR BRETT BOLTON, LEGAL REPRESENTATIVE, QUEENSLAND RUGBY LEAGUE LTD			
PHONE/LOCATION:	By phone			
TIME FROM:	10.30 am	TIME TO:	11:10 pm	

1. David Hatfield (DH) and Imogen Hartcher-O'Brien (IHO) held a teleconference with Robert Moore (RM) and Brett Bolton (BB) of Queensland Rugby League Ltd (QRL) to discuss the ACCC's review of QRL's notification N95172 covering QRL's licensing arrangement for apparel and equipment.
2. DH provided background information on the analytical framework that the ACCC uses in reviewing sports licensing arrangements, including its assessment of the benefits and detriments flowing from QRL's licence program. If the detriments outweigh the benefits, then the ACCC may move to revoke a notification.
3. DH noted that the ACCC considers the benefits and detriments in relation to what is known as the counterfactual, that is, the most likely scenario if the licence scheme is not in place. In relation to the counterfactual in this matter DH queried whether the most likely situation absent the QRL licence scheme would be an increased levy and what impact such an increase may have on players and parents. In this regard, he was interested in whether this group was more likely to be price sensitive to an upfront increase rather than to any increase in the price of jerseys which one might see if the costs of the license scheme were passed on to clubs and on to players by the suppliers.
4. DH went on to discuss the factors that the ACCC considers as part of its framework in reviewing licensing scheme notifications. These include on the benefits side:
 - a. Revenue raised by the scheme which QRL then provides back to the clubs.
 - b. Any increase in the quality of the apparel and service provided by suppliers to clubs compared to what clubs would get on both fronts if they were to negotiate with suppliers in the absence of the scheme.

Signed:

Imogen Hartcher-O'Brien – 1 December 2011

Page 1 of 5

- c. Whether the scheme results in greater buying power leading to lower prices – the impact that the tender process has on price competition. DH indicated that providing greater certainty of volume for suppliers has the potential to deliver cost savings that can be passed on to clubs as lower priced apparel. DH mentioned that one of the submissions received from a supplier indicated that there was a degree of price discipline operating as a consequence of the scheme being in place.
5. In relation to the detriments that are considered as part of the ACCC's framework, DH noted:
 - a. Absent price discipline, the ACCC is interested in examining the extent to which the scheme reduces competition among suppliers and increases the costs and prices of supplying apparel to the clubs. This includes whether suppliers treat the upfront licensing fee as a business cost and simply pass it on to the clubs through higher apparel costs.
 - b. The cost of administering the scheme. One of the interesting points raised by QRL in its last submission was that there was no direct cost of administering the scheme. DH indicated that we were interested in understanding how this occurred – were the costs of running the tender process and following up with disputes absorbed by QRL or was it done by volunteers?
6. In response to DH's outline of the framework, BB noted that the ACCC appeared to consider the revenue benefits were present for QRL and noted that quality was an issue that we had raised and queried whether we required further information on that.

Quality

7. DH said that further information on how QRL manages quality under the scheme would be useful. On this issue, in the absence of the scheme would clubs buy from suppliers they like? If left to their own devices would they achieve similar quality? If so it would be more difficult to see how the scheme is delivering significant benefits.
8. QRL noted that the licence process is upfront. BB indicated that his understanding is that the key drivers are a demonstrated ability to supply quality and a proven ability to supply on time.
9. RM confirmed this view and went into greater detail regarding each element. He indicated that all licensees provide a number of levels of jerseys and that, because of the physical nature of the game of rugby league and the demands the game places on playing apparel, most clubs pick the best quality of jersey offered by the licensees to ensure durability. In relation to providing on time, the licensees need to be able to supply jerseys on short notice and the vast majority shortly before the season commences each year.
10. RM said that in relation to licensees the price is often the same or less than non-licensed suppliers but that the quality was better. RM noted that QRL had recently increased the number of licensed suppliers to 6 and that this had put pressure on the existing 4 suppliers with more competition as a result. For example, incumbent licensees are now offering better deals to clubs on non-licensed products to clubs.

11. DH asked about QRL's monitoring of licensed products being supplied to the clubs.
12. RM stated that QRL does not check the jerseys before they go out to the clubs. He pointed out that all licensees invest heavily in product research and development. He noted that suppliers won't stay competitive for long if they supply poor quality product to the clubs or do not keep up with the latest developments in jersey technology.
13. DH queried whether in the absence of the scheme the suppliers would still have to supply quality goods to continue to get business.
14. RM stated that without the scheme, new suppliers would supply really cheap quality goods and clubs would all buy from them because they were cheapest. In a couple of seasons, the clubs would want to go back to the quality suppliers, but none of them would be in existence. RM referred to an incident a number of years ago before the scheme was operating where clubs were left high and dry by a supplier who had offered very cheap products and then had not been able to cope with the demand. The supplier went out of business. QRL is seeking to prevent this scenario happening again and this is why it focuses on the two factors mentioned before.
15. DH asked about the tender requirement that a supplier have local manufacturing capabilities. Is this to deal with peak demand times and being able to source the products quickly or does it have more to do with a desire for products being 'Australian made'?
16. QRL indicated that the changing technologies made it more effective to supply from Australia and also indicated that a consideration was timeliness of supply which is far easier to achieve if a licensee has manufacturing capacity in Australia. The innovative technologies and their impact on the quality of jerseys are more important for the higher end of the market where unique design may be more important, for example, with Indigenous tournaments and highly complex design patterns being required for jerseys.
17. QRL confirmed that it was not a requirement that a licensed supplier have a particular percentage of manufacturing in Australia. The majority of jerseys are in fact made in Asia. Having local manufacturing capability, however, ensured that suppliers were better placed to meet peak demand if necessary and to meet small orders to top up jersey numbers for clubs as required.

Lower prices

18. DH mentioned that QRL's submissions over time had indicated that licensed suppliers were required to supply products at wholesale prices. He asked QRL to expand on this.
19. QRL noted that the majority of the licensed products are not able to be bought in the shops. Players may be able to get shorts and socks at retail providers if shorts tear or socks are lost. Prices that licensees supply jerseys to clubs for are typically a lot lower than retail prices for comparable products. Retail is around \$130-\$180 whereas licensees are supplying at between \$40 and \$60.
20. In relation to price, DH asked whether QRL monitors or requires suppliers to offer a particular price or whether QRL simply allows the suppliers to compete against

each other on price. RM said that the QRL left it to market forces to determine the price and that an approved licensee would very quickly lose market share unless it was competitive on price with the other approved licensees.

21. BB noted that it is competition that keeps the prices low.
22. DH came back to this issue later in the discussion and asked again about the statement that competition was driving the price of the licensed goods. If this is the case, then why has QRL decided on 6 suppliers, why not 10 or 15?
23. RM responded noting that it was a balance between volume and price. QRL spoke at length to the clubs and felt that going to 6 suppliers with the last tender was as far as QRL would go at this stage. RM reiterated that the suppliers are competing for clubs' business by supplying equipment to support the clubs given there is now greater competition with 6 licensees.
24. BB noted that there is still the issue of certainty of volume for suppliers, which is critical. If QRL were to open it up as a free for all, suppliers would be unable to engage in forward planning because they wouldn't have any degree of certainty. It is a commercial judgment that QRL makes at the time in relation to the number of suppliers it licenses and while this may change in the future, QRL needs to consider the question of suppliers' ability to forward plan.
25. DH noted that this element, namely a suppliers' ability to forward plan, may be a significant factor in the ACCC's assessment. It would help us to understand the benefits of forward planning and the impact if the scheme were not in place.
26. RM indicated that in relation to licensees, garments are made offshore for the majority of the goods they supply under the scheme. The QRL noted that rugby jerseys were a less commonly produced garment and required specific time to be booked in factories to enable the quantity desired to be able to be produced in time for the start of the season.
27. If the licensees are not sure of their market share then it is difficult to book times in with the factories to get what they need made and it would then need to be made in Australia which would push prices up significantly. Suppliers need certainty from year to year. Contracts, designs and new sponsors all require a lot of work in a relatively short timeframe. Suppliers need to understand numbers and clubs ahead of time to be able to meet demand. The licensing scheme is important to providing a sufficient level of volume certainty for suppliers. Without this certainty it would be extremely difficult for suppliers to buy time in the factories to get the apparel to the clubs on time for the season start.

Cost of administering the scheme

28. DH came back to the issue raised earlier as to QRL's statement that it has no direct costs in administering the scheme. He asked for clarification.
29. RM said that the clubs will usually go to the supplier first with an issue and if the outcome is not satisfactory they will then come to QRL. Most of the licensees are good and know what they are doing. There is not a lot for QRL to do in administering the scheme, apart from the awarding of licences every three years and QRL absorbs the cost of doing so.

Concluding comments

30. DH clarified that the ACCC would prepare a file note of this discussion to be placed on the public register once QRL had had an opportunity to consider its accuracy.