

## Blanch, Belinda

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**From:** Anna <anna@gearonline.com.au>  
**Sent:** Friday, 9 October 2015 6:03 PM  
**To:** Adjudication  
**Cc:** 'joe romeo'  
**Subject:** N98569 - NSW Rugby League - submission

**Categories:** Submission

### RE: N98569 - NSW RUGBY LEAGUE - SUBMISSION

To Whom It May Concern,

Thank you for the opportunity to provide a submission in response to the ACCC Notification regarding the NSW Rugby League Exclusive Dealing Agreement. Through our response, Gearonline Sports Group will demonstrate that establishing this Exclusive Dealing Agreement will have a negative impact on the cost of goods, local business, local production, families and the wider community.

Firstly, the NSWRL tender document expressed that six licenses would be granted and many applicants, including Gearonline Sports Group, based their commitment, particularly financial, on the size of the market and the number of potential competitive licensees. Within the agreement, the financial commitment has a minimum guarantee component, which would still have to be paid even though there is now to be increased competition. To this end, the NSWRL has misled applicants to the potential size of the available consumer base, leaving licensees with a financial forecast that is obsolete and in a position where a lower volume of sales are likely.

While there are some positive aspects of implementing an Exclusive Dealing Agreement in this environment, the negative impact is far overwhelming and the NSWRL have definitely failed to consider these in their Notification of Exclusive Dealing.

The following is an outline of the impact of the establishment of an Exclusive Dealing Agreement by the NSWRL:

#### ***Reduced competition within the market resulting in increased pricing.***

As there are currently many suppliers of variable sized organisations, there is an excellent spread of pricing in this category. The Exclusive Dealing Agreement will significantly reduce this competition and empower the larger operators within the industry. Over the past several years, it has been these smaller operators that have been keeping the larger organisations from significantly increasing the pricing within the category.

In particular through promotions such as early bird specials, offering gifts with purchase promotions, sponsorship in both currency and kind, and volume purchasing discounts.

Reducing competition will mark the end of many of the aforementioned promotions and both in short term and over time lead to increase cost. Price rises are inevitable in this industry in the coming years due to changes in other industry influences, such as the declining Australian dollar. This has increased environmental awareness in the manufacturing industry and the natural increase in the cost of production in both raw materials and labour.

As gross profit margins have already dropped in recent times and are likely to continue to do so, kit suppliers will be in a position, where absorbing the cost of a royalty will be impossible and therefore will have no option but to pass on the cost of the royalty to the sports club and them passing this onto their players, which may lead to making it too expensive to play junior rugby league.

#### ***Negative impact to local business.***

Establishing an Exclusive Dealing Agreement with such a limited number of potential licensees is likely to rule out many smaller local businesses. Some of these businesses, including Gearonline Sports Group will suffer a negative financial impact following the implementation of such an agreement. In turn this may lead to loss of local production, reduced trade with other key industry stakeholders and loss of local jobs.

Furthermore, although this agreement does not preclude non-licensees pursuing customers for off-field and training apparel, traditionally on-field kit suppliers convert most of these needs of their clubs as well.

Many clubs now enter into exclusive kit supply agreements. This means that non-licensees will find it extremely difficult to compete in this market at all and again lead to a loss of revenue.

The NSWRL is aware of this situation, but fail to address it in their Notification of Exclusive Dealing. The direct financial impact to Gearonline as a non-licensee is an estimated revenue loss of over \$750,000 per year with respect to the consideration detailed above. The flow on effect of this agreement is far wider reaching than just a kit supplier not being able to produce jerseys, shorts and socks for NSWRL teams, it will affect their suppliers, their staff and the business and wider community around them.

***Restricting product development within the market.***

Reducing competition and increasing the cost of goods will definitely lead to less product development within the category. Seeking extra competitive advantage will no longer be strived for by licensees; a factor that will usually be the catalyst for the continual search of superior product and techniques. Rather, the quest for suppliers will now be a search for reducing costs and increasing margin. This can only lead to inferior product to their current offering. In turn, product will not endure as well and clubs will be required to purchase goods more often and at a higher cost as outlined earlier.

The NSWRL refers to a minimum supplied standard within the category, however, implementing such a program with increased cost of goods ensures that club's will only ever receive the minimum standard. Gearonline Sports Group have always prided themselves on pushing the boundaries of product development in all of the sporting apparel and equipment they produce. As Gearonline Sports Group's development of product will continue across other sporting codes, rugby league clubs would also benefit from this in an unrestricted market.

***Fulfilment of objective criteria.***

While the criteria set out by the NSWRL is in line with trying to upkeep a high standard of both product and service, there are several applicants, including Gearonline Sports Group, that satisfy the criteria and have extremely satisfied customers. Gearonline Sports Group demonstrated this through the criteria response in our application and through the customer references provided at the time of application. Gearonline Sports Group's quality in both product and service has been consistent irrespective of the size of the club or purchase made.

***Restraining Australian made product.***

The Australian apparel manufacturing industry has significantly shrunk over the past 10 years. Some of the applicants including Gearonline Sports Group, are continuing, despite market forces, to produce locally. Reducing the number of suppliers and with the majority of these being the larger organisations, will push more production offshore, leading to reduced local revenue and a financial downturn for the local industry.

***Increased funding for the NSWRL & third party revenue.***

While the increased funding that the program will generate for the NSWRL may appear to be a positive, the cost to other key stakeholders in the industry and the wider community is not an equitable trade-off for this. There are a multitude of other methods, including organisational partnerships that would return at least the same increase in funding, if not supersede it. Furthermore, the NSWRL has indicated, this increased funding will be distributed to clubs, but not how this will be implemented.

There must be intrinsic and extrinsic benefit to the sport and wider community to offset the negative impact that will be experienced by many stakeholders. The lack of transparency from the NSWRL is definitely a concerning issue. Furthermore, there will be a third party benefiting from this program as VBM will be contracted to administer the program. At the level of minimum guaranteed royalties, VBM will gain \$70,000 in revenue over the first three years. This revenue is likely to be higher as the royalty payments are likely to exceed the minimum guarantee. VBM is already the licensing manager for the NSWRL and are unlikely to incur any real increased costs in administering the program. Therefore, this revenue could be much better spent within the rugby league community.

***Impact on clubs and participation in rugby league in NSW.***

The NSWRL refer to this program as making it easier for clubs to choose a supplier as they don't need to actively acquire information from suppliers. The reality however is that suppliers approach sporting clubs and they are, inundated with the product and pricing options in the market, already making it easy for them to decide on kit supply. Furthermore, some clubs who have dealt with particular kit supplier, for many years and have been happy with the relationship they have built and the product and service that they received, will now be told, that they must

find a new kit supplier. This is a highly unfair demand to place on clubs. This a demand that is not even placed on clubs at a professional level, such as NRL, AFL or FFA.

Also, as a consequence of the aforementioned issues, rugby league participation rates in NSW are likely to decrease, leaving some smaller clubs to no longer be a viable prospect and larger clubs with shrinking numbers. This will lead to less product being sought by clubs and an overall shrinking of the market.

***Impact to the community.***

The impact of an Exclusive Dealing Agreement has a far wider potential impact than the localised ramifications mentioned previously here. We refer to the impact to the sport and general community. Increased costs of administering a junior rugby league club will in turn lead to increased cost of registrations; the result of this is increased financial pressure on families. This financial pressure may make it prohibitive for these families to play junior rugby league and consequently lead to negative physical, psychological and sociological impacts on individuals and the community. Examples of these negative impacts include decreased wellbeing and increases in obesity due to sedentary behaviour, increases in mental health issues including, depression which can be combatted by organised physical activity and increased incidents of antisocial behaviour in unoccupied youth. This is a very high potential cost for the community to potentially endure, as a result of this program.

In summary, while suppliers will be more accountable, particularly as there are minimum standards, it will overall have a severely negative effect to the industry and the community. It also, must be remembered, that accountability comes at the hands of the consumer. If you have an inferior product or service consumers will move to a different supplier. Furthermore, as the NSWRL have not addressed these issues within their Notification of Exclusive Dealing and as such, have either intentionally excluded information that could affect the outcome of their application with the ACCC or have not performed due diligence prior to undertaking the tender process. We would be keen to understand whether any community and industry impact research was performed by the NSWRL before initiating the tender process. The fair and equitable outcome would be, not restrict the number of licenses given, but to demand that all potential suppliers adhere to brand, product and service requirements.

If you wish to discuss this further, please do not hesitate to contact us via phone or email.

Thank you once again for the opportunity to submit this response and we look forward to hearing from you soon.

Kind Regards,

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