

Chapter 4

Copyright and Ethical Issues in Emerging Models for the Digital Media Reporting of Sports News in Australia

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ABSTRACT

The chapter examines the copyright and ethical issues raised by emerging models for the digital media reporting of sports news in Australia. In particular, it explores the use by news organisations of a defence in copyright law that provides protection against an infringement action for the reporting of news and the use by sports organisations of journalist accreditation to limit, by way of contract, the uses made of copyright material generated at sports events. It briefly outlines some proposed responses to these issues, including amending copyright law or establishing an industry code of conduct for the accreditation of news organisations accessing and reporting on sports events in the digital media. These matters were raised in a 2009 Senate inquiry. The inquiry attracted submissions from international news organisations concerned that a more restricted access regime established by sports organisations in Australia might influence the terms negotiated in other countries. The conflicts arising in this industry sector are a small part of a much larger international landscape in which new digital communications technologies are offering greater business opportunities but at the same time challenging existing commercial relationships.

INTRODUCTION

This chapter looks at the copyright and ethical issues raised by emerging models for the digital media reporting of sports news in Australia. A

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2009 Senate committee report highlighted the conflicting stakeholder interests affected by these developments (Senate Standing Committee on Environment, Communications and the Arts (ECA), *The Reporting of Sports News and the Emergence of Digital Media Report*, May 2009). The committee recommended sports and news

media organisations negotiate an agreement on the issues or failing this, the government take measures to establish an industry code of conduct.

Interest in the committee's consideration of these issues is not limited to Australia. The conflict between sports and news organisations is a small part of a much larger international picture, in which new digital communications technologies offer increased opportunities but also increased risks to established sports and media businesses. The popular sports like football (in all its versions) and cricket, have developed international profiles alongside the truly international sporting events of the Olympic and Commonwealth Games. Sports events are now the subject of digital piracy, involving the use of television signals, high-speed broadband and streaming technology (Mellis, 2008; NetResults, 2008) and often operating in a context where broadcasting regulation has not yet reached (DBCDE, 2009). At the same time as sports organisations are challenged by new communications technologies, established news media are struggling to contain the unauthorised use of their news content by search engines (Sinclair, 2010) and other information aggregators, as well as by bloggers, while they develop sustainable new business models (Perez-Pena, 2009). In this international context, precedents set in one country may influence the bargains being made in other jurisdictions, so there is international interest in how Australia is working towards solutions in this area.

BACKGROUND

Stakeholders in the Reporting of Sports News

Developing communications technologies are providing new ways for sports organisations to commercialise their sporting events. There are new ways for consumers to experience the events (subscription television, internet streaming, web

blogging, mobile phone), new markets for the products being developed (web sites catering for fans, social networking sites) and new methods of advertising (virtual advertising (Deutsch, 2000)). These developments mean sports organisations are able to grant rights to an increasing range of new communications platforms (for example, mobile phones) and as to particular aspects of their sports events (for example, match statistics (West Australian Newspapers Ltd, 2009)). If any of these rights are to be granted exclusively, sports organisations must deny access to others. So, for example, Hutchison Telecoms has sponsored the Australian test cricket team through Cricket Australia (Hutchison Telecoms, 2009). This arrangement gives it exclusive rights in relation to mobile phone distribution of live match footage.

There are also other interests at stake. Another commercial interest is that of the news media organisations. The commercial media in its many forms (the press (newspapers, online newspapers, magazines), radio and television) vigorously seeks content to attract a readership or audience and sports coverage is very popular. The readership in turn attracts advertisers who want to reach that audience and are willing to pay the media organisations to do so. Some of the media not only publish their own coverage of sports but they also sell their sports news products to other media organisations that are unable or unwilling to send journalists to report directly on the sports events (syndication). News agencies have developed with their main role being the supply of news product to third parties. Some media, primarily the television broadcasters, are interested in sports events mainly for their value as entertainment, attracting audiences and thereby attracting advertisers. They will generally pay for rights to broadcast the entire event, often with some form of exclusivity (ECA, 2009).

There is an associated public interest at stake in the news gathering activities of media organisations. News media play an important public interest role by reporting news and opinions to

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