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## INDUSTRY SNAPSHOT

### The Code of Practice for Sports News Reporting (Text, Photography, Data) Signed March 30, 2010

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#### **Topic**

The Code of Practice for Sports News Reporting is a world-first deal struck between newspaper publishers and major sports organisations to guarantee certain freedoms to report sports news. Confined to Australia, it ends restrictive publishing conditions imposed on press and news agencies by sports administrations in return for media accreditation.

It enables media companies to collect material at sporting venues to use it themselves to report news or to sell to others to use to report news. It cannot be used for commercial purposes outside of news reporting.

The code applies to photos, text and data but does not apply to video or audio.

#### **Need to Know**

This Snapshot is suitable for senior newspaper and digital executives, legal counsel, public affairs executives, editors, sports editors, sports journalists + those interested in press freedoms. But if you are going to conduct Sports News Reporting at major events, then refer directly to the Code.

#### **Terms Used in the Snapshot**

**“Commercial Use”**: The sale or production or use of content for advertising or merchandising purposes, including photographs being use for an advertisement or for merchandise, such as memorabilia, collectors' cards etc. *(Please see Code for full definition).*

**“News Content”**: Content collected or produced by a Media Organisation that is not sold or used for Commercial Use. *(Please see Code for full definition)*

## **Bottom Line**

The Code represents many beneficial changes for publishers and news agencies. The Code states news is platform agnostic. This means publishers may not be denied access to a major sports venue on the basis of where a report may be published – e.g. in print or on any digital platform. Access may not be denied to bona fide media to the basis of any commercial arrangement with a third party that relates to the legitimate reportage of Sports News.

## **Recommended Action**

All news organisations, and individuals who are affected by Sports-related media accreditation, or are responsible for signing such accreditations, should read the Code and be familiar with its content. The Code should be referred to before individual media accreditation documents are signed.

## **Background**

The world's newspaper publishers have been fighting ever-increasing restrictions on sports reporting for almost a decade. In Australia, publishers and news agencies have faced restrictions such as:

- Declaration by news agencies of their client lists for vetting by sport administrators
- Limited number of photographs on the web
- Restriction on news and score updates to a website
- Ban on publishing to the mobile phone (Australian cricket)
- Ban on sharing/syndicating photography with other newspapers

Under the code, sporting bodies will not be able to make these restrictions a condition of accreditation.

Sports administrators are under pressure to produce continuing revenue growth. In the view of publishers, our press rights were being eroded in pursuit of their commercial growth. Further publishers felt such restrictions were being developed to allow sport to create their own, exclusive media channels, especially in digital.

## **Code Aims**

The Code – a product of a Senate inquiry and mediation by the Australian regulator – is designed to give Australians the greatest access possible to information and news about sport in the forms of text, photography and data. It winds back the restrictive practices cited above. In an effort to protect press freedom from future restriction, it defines the concepts of “News Content” and “Commercial Use” (*see Terms reference*). The Code protects readers' right to know, the concept of a free press, and sports' potential and ongoing licence revenues for radio and TV.

The Code provides guidance and transparency for media accreditation decisions; it ensures no bona fide media company is restricted from legitimate access on the basis of their geographic base, their client list, or their preferred platform for publishing of News Content.

This does not mean media accreditation for all. The Code outlines legitimate reasons for why a sports body might refuse accreditation.

All separate agreements between publishers and sports bodies relating to media accreditation must be declared under the Code, thus further ensuring transparency of process.

### **Enforcement**

The Code of Practice for Sports News Reporting is voluntary. The Australian Government has stated it will make the Code mandatory for signatories who consistently transgress Code conditions. Making the Code mandatory will involve legislation and potentially create an environment in which transgressors can be fined by the Australian Competition and Consumer Commission.

### **Signatories**

The Code has been signed by the major sports bodies in Australia, and the major newspaper publishers, plus national and international news agencies. From time to time, others will become signatories. The act of being a signatory implies an organisation's support for, and adherence to, the principles of the Code.

### **Signatory Benefits**

A signatory is permitted to leverage the benefits of the Code. First and foremost, a signatory may seek mediation (at shared cost with the other party) of an appointed mediator in the event of a dispute with another Code signatory.

Sports bodies and media companies will not always agree on the precise meaning of the Code. Therefore, an independent mediator will be appointed to try to resolve any dispute. The mediator does not have any power of enforcement. It is conceivable, therefore, that a dispute may leave the umbrella of the Code and end up in the courts.

### **Industry benefits**

Specific examples include the return of agency photographer to games of the Australian Football League after exclusions of two years for Australian Associated Press; and three years for Getty Images. These exclusions existed only after the sport's administrator has licensed syndicated photography exclusively to another company. No such rejection of media accreditation can be made on this basis under the Code. A second example: sports bodies will no longer be able to insist on agencies declaring client lists for vetting – an issue that prevented international agencies from covering Test cricket for two years.

The Code has determined that publishers and agencies will be able to licence their own News Content to third parties, but only for the purpose of News Content, rather than to be exploited for Commercial Use, such as guerrilla marketing and false association.

## **Commercial Use**

The Code provides specific guidelines around the conduct of a publisher or news agency as it relates to “Commercial Use”. These ensure newspapers and agencies do not create an environment, or encourage an environment, of “false association”; that is, making an advertiser or client appear as a sponsor, or to allow them to exploit rights normally availed only to sponsors of a sport.

## **The Future**

A committee has been established to oversee the operations of the Code. Members of the committee are:

### **Sport**

- Australian Football League
- Australian Rugby Union
- Cricket Australia
- National Rugby League
- Tennis Australia

### **Newspapers and News Agencies**

- Agence France-Presse
- Australian Associated Press
- Fairfax Media
- Getty Images
- News Ltd

The chair of the committee is Mr Kevan Gosper, of the International Olympic Committee.

The secretariat is run by Mark Hollands, of the Newspaper Publishers’ Association.

The Minister for Broadband, Communications and the Digital Economy has stated all parties must work together to make the Code successful.

Further Information, or to become a signatory, contact:

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