

Week ONE – General Overview

What is sports law?

- Ongoing academic debate about whether there is a distinct subject within the discipline of law or whether it is merely a body of jurisprudence and rules of applied law - where traditional areas of law have been applied in a sporting context.
- Sports law has been recognised as a substantive discipline in the United States since the early 1970s
- Some definitions:
 - *The application of law to the practice of sport as well as the study of laws relating to sport. It is generally not considered to be a separate branch of legal science but conveniently described as a new area of activity.* (Collins Dictionary of Law 2006 ed)
 - *'the legal issues arising out of a wide range of activities, from the local voluntary club to the fully professional commercial leagues'* (Thorpe, p2)

Is there a *Lex Sportiva* – should there be a distinct body of sports law?

Article by Michael Beloff – raises three arguments for why there should be an established body of sports law: 1) means there is an efficient process in place and principles of natural justice will therefore apply, 2) predictability and finality when it comes to decision making and 3) establishes the principle of equality for all participants
Michael Beloff concludes by asking should the law intervene in sport at all? He concludes that "it is not an issue of desirability but of inevitability". He acknowledges that sport (which was once a recreation) is now a business and there is now a lot at stake when it comes to sport. He believes that "lawyers have a duty, not a choice, to seek to bring order and justice to the table. In that valuable exercise, the development of a *lex sportiva* will play a vital part."

The right to sport

Contained within the 4th fundamental principle of Olympism in the Olympic Charter (effective July 2011)

The practice of sport is a human right. Every individual must have the possibility of practising sport, without discrimination of any kind and in the Olympic spirit, which requires mutual understanding with a spirit of friendship, solidarity and fair play.

The right to sport

- Right to sport provides the basis for European sports policy
- See **European Sport for All Charter** – discusses position of the European Union with respect to sport – recommendations in Article One of the Charter are quite significant and really spell out some basic humans rights
- **2009 Lisbon Treaty - Article 165 European Constitution**
- ... *developing the European dimension in sport, by promoting fairness and openness in sporting competitions and cooperation between bodies responsible for sports, and by protecting the physical and moral integrity of sportsmen and sportswomen, especially the youngest sportsmen and sportswomen.*

The Olympic Games

- First Olympic Games of Antiquity - 776BC in Olympia, Greece
- 300 Games ran until abolished by an Edict of Ambrosio, Bishop of Milan in 393.
- Prepared, organised and performed within a framework of rules – the Olympic laws, Olympic regulations and Competition Rules (the canons or fundamental laws of Olympia)

The Modern Olympic Games

- Re-established by historian and teacher, Pierre de Coubertin in 1894
- No Olympic law. He was against a proliferation of rules - *"the more regulations we adopt, the more we are feted. Let us allow the Olympic organisation some flexibility"* (Mestre, p1)
- First games of the modern era took place in Athens in 1896
- International Committee for the Olympic Games (now known as the IOC) established in 1908
- Mission and role of the IOC:
 - *to promote Olympism throughout the world and to lead the Olympic movement* (2nd fundamental principle - Olympic Charter)
- IOC is an international non-governmental, NFP organisation of an unlimited duration in the form of association with the status of a legal person recognised by the Swiss Federal Council in accordance with the agreement, entered into on 1 Nov 2000 (Rule 15 - Olympic Charter)

- Originally only open to **male amateur athletes** - Anti-professional stance *"professional sport turned athletes into circus performers"*
- *"eligible amateur - one who participates and always has participated in sport solely for pleasure and for the physical and mental benefits he derived therefrom, and to whom participation in sport is more than recreation but without material gain of any kind, direct or indirect."*
- **Since 1984, participation open to professionals with no gender restrictions.**
- Competitions between athletes in individual or team events. Athletes selected by the respective National Olympic Committees (NOCs) whose entries have been accepted by the IOC. They compete under the technical direction of the International Federation (IF) concerned

The Commonwealth Games

- First Commonwealth games held in 1930 in Canada - Games conducted every four years, with the exception of 1942 and 1946
- Started with 11 participating countries competing in 6 sports but now over 70 countries participating in 17 sports.
- Participating countries are part of the association of independent Sovereign States who are/were under British rule.
- Governed by the **Commonwealth Games Federation** – the supreme authority in all matters concerning the Commonwealth games.
- Constitution, Regulations and Code of Conduct (latest ed. Nov 2011)
- **Australian Commonwealth Games Association Inc. (AGCA)** – national body responsible for the games operations (funding, clothing, travel accommodation, accreditation), publicity, and development in Australia

The Commonwealth Games

- 2018 – Gold Coast - Signed a Host City Contract setting out contractual obligations for delivery of the Games.

- Draft legislation – see *Cth Games Arrangements Bill 2011* <http://www.legislation.qld.gov.au/Bills/53PDF/2011/CommGamesArrB11Exp.pdf>
- Essentially, this Bill seeks to establish the Commonwealth Games Corporation ("CGC") which will be responsible for organising, conducting, promoting, and managing the commercial and financial aspects of the Cth Games. This corporation will have the ability to establish committees to provide it with expert advice in specific areas related to the organisation of the Games.

Relevant sections of the legislation are as follows:

Part Two -

- s 6 - Establishes the Gold Coast 2018 CGC
- s 7 – discusses the application of other Acts
- s 8 – sets out the functions of the CGC
- s 9 – sets out the powers of the corporation
- s 10 – enables the Minister to give the CGC a written direction about the performance of the corporation's functions
- s 11 - enables CGC to delegate tasks

Part Three -

- ss 12 and 14 - Establishes a board of at least 8 members
- ss 15-25 – cover the finer details such as duration of appointment, term of appointment, time and place of meetings, quorum etc
- s 26 – covers the duties of members (to act honestly, exercise care and diligence etc)
- s 28 – sets out procedure when a board member has a conflict of interest
- s 29 – members of board not liable for acts done honestly and with reasonable care and skill
- s 31 – provides that CGC must have a CEO
- s 38 – CGC may employ staff
- s 40 – CGC must enter into a funding agreement with the relevant department
- s 46 – provides for the dissolution of the CGC before or no later than 18 months after closing ceremony
- s 47 – all assets of the CGC will vest in the State when wound up
- s 48 – provides Governor in Council will regulation making power

Kalmadi and the Delhi 2010 Commonwealth Games

- Suresh Kalmadi appointed Chairman of the Delhi Cth Games
- Kalmadi & senior officials arrested in 2010 for conspiracy & corruption regarding the granting of contracts - Bail refused, awaiting trial

Week TWO – Organisational Structures

Organisational Hierarchy of Sport

IOC and WADA

- **IFs (most of which adopt the WADA Code)**
- **NFs (adopts rules of the IF and add some new ones)**
- **State Organisations (adopt rules of the NF and some new ones)**

Olympic Movement (governed by the OC)

- The Olympic Movement is the peak athletic event in the world
- Many sport seeks to be included in the Olympics and feel the need to enshrine the 'olympic spirit' in their rules
- The influence of the IOC means that it plays a key role in determining the legal norms for international sport

Badminton (an example to explain organisational structures)

- Olympic sport since 1992
- Governed by the Badminton World Federation (BWF)
- BWF publishes rules for its members and those competing in the sport (members of the sport bound by these rules)
- Publishes the Laws of Badminton and Regulations for Competitions
- Australia is a member of Badminton Oceania

Different types of arrangements

- Unincorporated Association, Incorporated Association or a Company – private, public, limited by guarantee

A not-for profit organisation

- *They make profits but the profits do not go to shareholders or members. The profits go back into the organisation for the benefit of the organisation and in pursuit of the objects of the organisation.*
- *E.g. - Religion, Education, Charities etc. Bond University is NFP*
- *Generally not taxed on profit made – on basis of philanthropic vision*

Economic Characteristics

- A body that is formed or carried on for any lawful object or purpose but not for pecuniary gain to its members - **s 4(1) and (5) Associations Incorporations Act 1981**
- The aims must not involve the members making a direct pecuniary profit for themselves - **Adamson's Case** (1979)
- But this does not mean that associations cannot be involved in profit-making activities, e.g. raising money by holding fetes, selling association-related products, etc., as long as these activities are oriented toward "charitable" ends - **s 4(1) Associations Incorporations Act 1981**

Unincorporated Associations (UA's)

- **Conservative and Unionist Central Office v Burrell** [1980] – elements that show the existence of a UA
 1. Whether the association has members
 2. Whether there is a contract between all of the members (social contract)
 3. There was a moment in time when a number of persons came together and formed the association
- Procedure to form an unincorporated association:
 - Very little formality required – not a separate legal entity
 - Most important consideration is mutual understanding of members
 - For practical reasons, members usually adopt a name for the association and a constitution and/or set of rules or by-laws

Features of an UA

- Members group together to pursue similar interests, No formalities, Not a separate legal entity. Cannot sue or be sued. No capacity to enter into contracts. Association and members are one and the same
- **Carlton Cricket & Football Social Club v Joseph** [1970] – Club entered into a K to lease a football pitch for 21 years. Club no longer

- wanted to be bound, issue was whether club was bound by the K, court considered the fluctuation of members and held there was no intention to create legal relations and no capacity to enter contractual relations given fluctuating membership base - so K was unenforceable
- **City of Gosnells v Roberts** (1994) - horse escaped through a poorly maintained fence from a property that was occupied by a polo cross club - horse ran onto the road and collided with a motorcycle injuring the driver and passenger - they sued the officers of the Polo cross club which conducted its competition on the property - council had originally leased property to 2 officers of Club but had renewed lease in the name of the club – held that renewal of lease in name of the club must have been taken to be a reference to the several persons who from time to time claimed to be members of the club – settled that there cannot be a lease to fluctuating body of persons
- General members of a club will not typically be liable for contracts entered into by any member – for general members to be liable, the contract must have been made with all members - **Freeman v McManus**
- Committee members may be able to seek indemnification from the association's fund - **Bradley Egg Farm v Clifford** [1943]
- **Ward v Ethington** – executive committee members will be liable even if they aren't present

Incorporated Association (IA's)

- Governed by the *Associations Incorporation Act (Qld)* 1981
- Can have its own rules or adopt Model Rules (schedule 4)

The AIA provides:

- Committee must be appointed
- Annual general meeting must be held
- Committee members must disclose interests in Ks entered by IA
- Minutes must be kept of meetings
- There must be public liability insurance
- Financial reporting and audit requirements

Features of an IA

- Can sue and be sued, Can enter into contracts
- Is seen as a separate legal entity from its members and its committee
- The incorporated association is **responsible for its own debts and liabilities.**
- **The committee members are generally not liable for the debts of the association.**
- Members' liability is limited to the amounts they pay as membership fees - **Wise v Perpetual Trustee**
- Members liability is limited (s 27 AIA (Qld))
- *Not for Profit - s 5:*
 - An association is not eligible for incorporation under this Act if the association - is formed or carried on for the purpose of providing financial gain for its members . . .

Attributes of the corporate structure

- The law recognises a corporation as a **distinct legal entity** having a **separate existence and a corporate personality of its own** quite apart from the members who have shares in it.
- **Solomon** – seminal case that confirms that a company is a distinct legal entity and has a separate legal personality – in that case S was able to lend money to a company that he owed and take a security as they were not one and the same
- A corporation has **perpetual succession**
- A corporation can sue or be sued in its **corporate name**. The members of the company are not responsible for company's debts and liabilities
- The acts of the corporation bind the corporation alone, and not the individual members. A member of a corporation incurs no **personal liability in respect of a contract entered into by a corporation, other than his agreed liability (if any)** to the corporation itself.
- Member of corporation may enter into transactions with the corporation
- **Property belongs to the corporation and not to its members**

Why incorporate?

- Risk minimisation strategies, Limited liability of members, Perpetual succession – a change in membership or committee does not mean the end of the organisation, Fundraising – issue of debentures to raise funds to be used for expansion, development, upgrades etc

Company limited by guarantee

- **Often used by sporting bodies**
- Members do not take profits (dividends)
- **Members only liable up to the amount they agree to guarantee (usually only nominal amount e.g. \$10)**
- Company limited by guarantee is a PUBLIC company, governed by the *Corporations Act* (but it cannot raise funds like a public company)
- Must keep written records on finances, submit financial report each year, get auditors reports, directors' reports, disclose director interests
- Tiered reporting requirements under *Corporations Act* (report to ASIC)

Anti-doping Rules

- How do ADRs apply to the local cricket player on the Gold Coast?
- **WELL** - The IF usually adopts the WADA Code, the NF adopts the IF's anti-doping rules – members of state organisations will then sign a contract agreeing to be bound by the rules of the NF

Governance

- Essential to preserve the integrity of sport
- Not a legal term and no precise definition
- Corporate Governance (in a commercial sense) is concerned with the way a corporation is governed. Describes the relationship among the various participants or stakeholders and their roles in determining the direction and performance of the corporation.

Governance Principles

1. Board composition, roles and powers
2. Board processes
3. Governance systems
4. Board reporting and performance
5. Member relationships and reporting
6. Ethical and responsible decision making.

Note – Directors must comply with both the CL director’s duties as well as the statutory duties under the CA (s 180 – 184 are particularly important)
s 180 - To act with care and diligence
s 181 - To act in good faith and in the best interests of the company
s 181 - To act for proper purposes
s 182 & 183 - Not to misuse position or information that comes to a director
 Others – disclose personal interests, trading whilst insolvent - **s 588G**

Governance in Sport

- Transparency International (organisation dedicated to increasing government accountability and curbing international/national corruption)
- 47 international sporting organisations have headquarters in Switzerland - reason why is there are tax incentives (lower tax rates & tax exemptions) and less public scrutiny (no power to question internal decisions)

Week THREE – Sporting Venues

Stadiums Queensland

- Stadiums Queensland (SQ) established under the *Major Sports Facilities Act 2001* on 1 December 2001
- SQ is a Government body created to manage, operate and promote the use of major sporting and entertainment facilities on behalf of the Qld Govt
- Covers those venues declared as having the capacity to stage national or international sports events, recreational or entertainment experiences (the term ‘declared venues’ is defined in Schedule 2 of the Act)

Mettricon Stadium

- Jointly funded by the Qld Gov (\$71m), Cth Gov (\$36m), Gold Coast City Council (\$23m) and the AFL (\$13.3m).
- Seats 25 000 spectators, with plans to extend to 40 000 seats.
- Managed by Stadiums Queensland

Legal issues that may arise:

- Public liability, Spectator safety, Player injuries, Ticket scalpers and Management of alcohol

Restrictions

- **Smoking - Tobacco and Other Smoking Products Act 1998** – smoke free venues
- **Ticket Scalping prohibition** – under the object to provide fair and equitable opportunity to purchase tickets to events at SQ venues - See *Major Facilities Act* - Offence to purchase a ticket for the purpose of profiteering
- **Ambush Marketing** - See ‘Declared Event’ and advertising restrictions in *Major Sports Facilities Act - s 30F*

Other Venues

- Not all sporting venues are publicly owned/government owned corporation
- Can have Local Government Ownership or Private Ownership

Legal Issues that can arise

- First example - **Francis v Cockrell** (1870) – spectators were injured, stadium was unincorporated association (so committee personally liable) – lead to the movement to incorporate
- Spectator injuries – **Langham v Connells Point Soccer Club Inc.** [2005] - the plaintiff tripped over a rope of the same colour as the ground, which had been strung low across the entranceway to a park where soccer was being played. The Court of Appeal held that there should have been some warning of the presence of the rope.
- **Smith v Yarnold** [1969] - Smith bought ticket to attend a greyhound race meeting conducted by a Club. The Club was an unincorporated association with a constitution and an elected committee. Club Secretary was a paid employee. Grandstand collapsed. Smith injured.
- Evidence that the grandstand had not been properly maintained.
- At first instance, Committee and Club Secretary liable.
- On Appeal, held that Committee members were personally liable - vested with power to manage the club/maintain the stadium but Club Secretary was not - no evidence to suggest he was an occupier in his own right
- **UK Example** - Hillsborough Stadium Disaster – this lead towards more stadium regulation (such as regular maintenance and inspections)
- **Competitor injuries – Falvo v Australian Oztg Sports Association** [2006] – player injured on a field that had holes and divots, issue was where field was properly maintained

Latest Example – FIFA’S BLACK DAY

- Egyptian football disaster on 1 February 2012 - Game between Cairo team and Port Said team - violence erupted when referee blew the final whistle
- Port Said fans invaded pitch and began to throw rocks, bottles and fireworks at Cairo fans - Estimates 74 people killed, 1000 injured
- Questions raised about adequacy of stadium security
- Army deployed troops and planes sent in to remove Cairo team

Week FOUR – Contracts

Contracts – Essential Elements

- Offer
- Acceptance (i.e. cannot be a counter offer)
- Consideration (value passing)
- Intention to create legal relations
- Capacity (are they a minor, person under a disability, a bankrupt etc.)
- Certainty of terms (note that vague terms will be void and may be severed from the K)
- Legality (cannot be for an illegal purpose)

Contracts

- Can be written or oral - Can contain express terms (words written or spoken) and implied terms - Better to have written agreement to ensure certainty of terms and enforceability of contract

Under 18’s - a question of capacity

- At CL, a minor cannot be bound to a contract that doesn’t benefit minor
- However, the CL rule can be altered by statute - e.g. NSW *Minors (Property and Contracts) Act 1970* - a minor is presumed to be bound unless the youth of the minor meant that he/she lacked understanding
- Olympic Games Team Membership Agreement contains an acknowledgment by parents/guardian - that agreement has been read by

the minor and by them, that it was for the benefit of the athlete, and that they had received legal advice on the content

- See clauses 22 and 26 Team Membership Agreement (on iLearn)

Some Contract Law principles

- A contract made under duress cannot be enforced (particularly with junior athletes).
- A contract made in restraint of trade can also be unenforceable providing the restraint is unreasonable (e.g. unreasonably restricts the employee’s right to work).
- A contract can be avoided for misrepresentation (can render the contract voidable - where one party that’s affected can choose to avoid the contract).

Remedies for breach of contract

- The innocent party can seek legal relief from a court:
- Order that the defaulting party fulfil their part of the agreement; (Specific Performance)
- A declaration that the contract is at an end with damages being awarded to the party suffering harm; (Termination and Damages) and
- A declaration that the contract is still operative, with damages awarded to the party who is not getting exactly what was agreed (Damages)

Form of Contract

- No prescribed ‘standard form’ contract or requirements
- Open to negotiation between the parties, BUT...
- many professional sports (e.g. NRL, AFL, Rugby, NFL, CFL, NBA) have standard form players contracts and collective bargaining agreements (like a work place agreement that outlines what players can and cannot do outside of work) settled between the organising body, the club and the player (through his/her agent).

Domestic arrangements

- Where player agrees to play but doesn’t receive remuneration - might lack necessary intention to create legal relations, and is akin to a social contract

Professional Players

- The more commercial the arrangement, the greater likelihood that an enforceable contract exists.
- Professional sports have template agreements
- See **Bulldogs Rugby League Club Ltd v Williams** [2008] – paragraphs 9, 10, 14 and 32 for outline of the NRL contract

Obligations of the Player – Extract from Bulldogs v Williams - para 14

- 3.1 - General Obligations
- The Player agrees to:
 - (s) not play the Game with any person, team or organisation save for the Club or in a Representative Match or matches in the Related Competitions except with the prior written consent of the Club;
 - (t) not, without the prior written consent of the Club, which the player acknowledges will only be given with the consent of the NRL, participate in any football match of any code other than matches referred to in sub clause 3.1(s);
 - (u) without limiting subclasses 3.1(s) or 3.1(t), not participate in any sporting or leisure activities other than matches approved by the club and the NRL pursuant to sub clause 3.1(t) except where:
 - i. the chances of injury are unlikely;
 - ii. such will not otherwise limit his ability to perform his obligations under this Agreement;
 - iii. there is no pre-arranged media coverage;
 - iv. the Player is not (directly or indirectly) paid;
 - v. except with the prior written consent of the Club.”

Collective Bargaining Agreements

- Between Players Association and the Governing Body
- Covers things like:
 - Training and playing conditions and obligations;
 - Player payments;
 - Annual leave and rest periods;
 - Minimum levels of health and accident insurance; and
 - Treatment of players’ image rights

Salary

- General position is that the year is divided into the number of games paid, and the salary is paid out after each game
- Player usually only paid during the season
- Salary can be dependent on making the team or guaranteed (NBA)
- Club might wish to reserve right to ‘cut’ players (but if guaranteed payments, then more difficult for Club to carry the burden)
- CFL - player only entitled to compensation for services actually rendered
- Negotiated by player and/or player’s agent

Skill

- Premium paid for skill - Right to terminate for lack of skill (harsh but issue of competitiveness of team is paramount) - right of club to ‘cut’ player is legitimate in some cases.

Bonuses

- Can be in addition of salary or in place of salary - Based on factors such as signing agreement itself, reaching a milestone or increasing performance
- Rodriguez - 700 home runs = USD\$25m
- Performance Bonuses - making the provincial or state side. Leading in some statistical category
- Some negatives - might distract player to get to performance bonus rather than perform in best interests of team

Injuries

- Player’s undergo physical and medical examination when appointed
- In event of subsequent injury, player will usually get an agreed salary if it’s guaranteed in the contract
- Some contracts require players to pay their own health insurance
- Player must warrant that they are in excellent health, save for injuries caused in the game

Grievance Procedures

- ARL - resolve disputes within the team before going to 3rd party
- Firstly, team manager, then Rugby Players Association, then Senior Rugby body (must decide within 14 days)
- ARL does not recognise the CAS as the arbitral body of appeal

Bulldogs Rugby League Club Ltd v Williams [2008]

- In late 2006/2007 Williams and Bulldogs commenced negotiations in relation to a new contract. During negotiations Williams was represented by a manager, Gavin Orr - he was a registered player’s agent with NRL
- As a result of the negotiations, Williams signed a five year contract with the first plaintiff on 16 May 2007, due to commence on 1 November 2007. A season in the NRL competition is the period commencing on 1 November in one year and expiring on 31 October in the following year. Pursuant to the contract the first defendant was to be paid an annual salary of \$400,000 per season.
- June 2008 – French Rugby Club (Toulonnais SA) commenced negotiations with Williams to play rugby with them in France for the 2008/2009 season.
- Williams had travelled to France and on his departure card, said he was planning to stay for 8 months. Bulldogs and NRL sought injunction to prevent him from playing
- Injunction granted – serious question to be tried. Restraint of trade was discussed and court held that the restraint of trade clause was reasonable.

Player Agent Contracts

- Principal/Agent relationship based in contract - Best practice – have written agreement (mandatory in some sports e.g. FIFA)
- Mike Tyson didn’t have written K with agent (T ended up in court & lost)

Role of the Player Agent

- Represent the player, negotiate employment and endorsement deals for the player, Oversee and guide all aspects of the player’s career, Provide financial management services, tax services, estate and other planning services, Represent player in arbitrations, litigations surrounding the player’s contract, General counselling services, Immigration and drug and alcohol counselling, Talent evaluation and Strength/conditioning advice

The Agency Relationship

- A fiduciary relationship – mutual trust and confidence. Special relationship that gives rise to special obligations (fiduciary obligations)
- Duty to act in best interests of the player
- Duty to account to the player
- Duty not to benefit from their position unless full disclosure and consent

Nature of Fiduciary Relationship

- “Under an obligation not to promote his personal interests by making or pursuing a gain in circumstances in which there is a conflict of a real or substantial possibility of a conflict between his personal interests and those of the person whom he is bound to protect” - Mason J in **Hospital Products Ltd v United States Surgical Corp (1984)**

Regulation of Player Agents

- Player agent is either part of a larger group or operating alone
- Accreditation Schemes - See list of Accredited Player Agents – e.g. RUPA
- Soft law - Codes of Conduct (drawn from common law principles based on fiduciary obligations)
- No State regulation of players agents

Week FIVE – Marketing and Intellectual Property

Marketing in Sport

- Mass appeal of sport lead to investment in sport - Star attraction qualities
- Increased commerciality leads to increased complexity of legal issues, the need to protect rights and the possibility of disputes
- Legal issues involved in sports marketing originate from:
 - intellectual property laws, Australian Consumer Law (Cth legislation) and the tort of **passing off** (where one party holds out that they have a connection with another party’s intellectual property when they do not)
 - Sports marketing is dependent upon secure intellectual property rights to protect the investment

Sports Marketing and Sponsorship

- the promotion of commercial enterprise, product or service by its association with one or more of a wide variety of *elements* of sport, or
- the promotion of one of the *elements* of sport, to increase public awareness of that element which indirectly increases the awareness of a sponsor
- An *element* might be a sport, sportsperson, event, sporting venue, club etc.

What is Intellectual Property (IP)?

- Intangible property (as distinct from tangible or physical property)
- Gives a *proprietary* right to the property (e.g. the right to sell, assign, mortgage, etc) – they have a bundle of rights in the *thing*
- In a non-sports specific context, IP is described as the rights existing in:
 - Literary, artistic and scientific works; Performances of performing artists ...

Areas of IP law relevant to sport

- Copyright, Registered design, Trademarks, Passing off/misleading or deceptive conduct

Copyright

- If you originally create something written or in music, you, the author or creator, are entitled to the exclusive right to reproduce and use that written word or musical score
- Skill + creativity = intellectual property – you should have the exclusive right to exploit and reproduce what you create
- Laws of copyright protect your rights to that property.
- *Copyright Act 1968* (Cth) applies. Code that protects and regulates copyright interests in Australia.
- Must be more than an idea - Needs to have been expressed in a tangible form (e.g. written work or recorded on a disk/tape/film)

Examples:

- Photographs of the athletes or team (this might be an *artistic work*, with the meaning of that term in the *Copyright Act*)
- Rule books might be *literary works*, within the meaning of that term
- Recordings of events or races might be *sound recordings*, within the meaning of that term
- Visual films might be *cinematographic films*

Copyright

- Who owns it? Only the owner has the absolute right to deal with the interest in the IP – this is usually the person who creates the idea or expression in a material form - See **ss 32 and 35 (2) Copyright Act**