

26 January 2007

Commerce Commission
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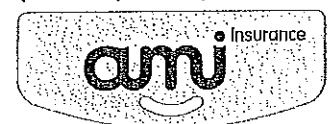
Attention: Mr Jeff Hamilton

We refer to your letter of 17 January 2007 in relation to the application by the NZRU to vary Commerce Commission Determination Decision 580 and, in particular, your invitation for initial submissions.

Our initial submissions are set out below:

- We support the NZRU's view that there has been a material change of circumstance since the authorisation was granted. The implementation of the conditioning programme removing 22 prospective All Blacks for the first half of the Rebel Sport Super 14 competition and the proposed agreement by the NZRU and the NZRPA to conditionally vary the CEA to acknowledge the likely absence of the All Blacks for the whole of the Air New Zealand Cup in 2007 are in our view significant material changes in circumstances since the authorisation was granted.
- The CRFU supports the NZRU's proposed relief for removing the notional values for the 22 Rebel Sport Super 14 replacement players as set out in Appendix One of their application. Further, and by way of clarity, in determining the notional value of the 2007 "replacement players" in subsequent years, their appearance in the Super 14 Competition in 2007 should be ignored.
- The CRFU supports the proposed relief for removing the additional costs incurred by Provincial Unions as a result of the absence of the All Blacks from the 2007 Air New Zealand Cup Competition but does not believe the relief should be limited to a flat discount of \$18,000 per current All Black (plus Greg Somerville). The relief should be equivalent to the amount of additional costs that are actually incurred by a Provincial Union as a result of a contracted All Blacks being absent during the Rugby World Cup 2007.

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- In addition, the CRFU submits that in making the salary cap calculation in 2007, a Provincial Union should be entitled to exclude from that calculation:
 - the notional value of a player that is included in the All Blacks 2007 World Cup Squad; and
 - the actual payments made by that Provincial Union to that player.

Provincial Unions have taken commercial positions and entered arrangements with players, taking into account the limitations imposed by the salary cap, with the expectation that those players would be available for the Air New Zealand Cup competition. With respect, it is not appropriate for a Provincial Union to be required to include a player's notional value and actual payment in the salary cap calculation when the Provincial Union does not receive the commercial benefit of having the player appear for their representative side. To be required to include such amounts places considerable constraints on a Provincial Union that has lost one or more of its players to the All Blacks 2007 World Cup Squad. These are constraints that were not contemplated at the time Decision 580 was determined. That is, the Commission appears to have fairly assumed in arriving at its conclusion in Decision 580 that a Provincial Union would receive the benefit of having a player with a notional value appear for them in the Air New Zealand Cup Competition.

Furthermore, a Provincial Union when contracting with a player also expects that player to be available for the Super 14 Franchise that pertains to that Provincial Union. The payment to the player reflects that availability. To require the payment to be included in the salary cap calculation when they are not available for the entire Rebel Sport Super 14 competition is, with respect, inequitable.

We look forward to hearing from you further with respect to our submission. Please let us know if any matter requires clarification.

Yours faithfully

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Hamish Riach
CEO